

**MINUTES
of the
SIXTH MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE**

**November 8-10, 2010
Room 309, State Capitol
Santa Fe**

The sixth meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Representative Danice Picraux, chair, at 9:14 a.m. on November 8, 2010 in Room 309, State Capitol.

Present

Rep. Danice Picraux, Chair
Sen. Dede Feldman, Vice Chair
Sen. Rod Adair
Sen. Linda M. Lopez
Rep. Antonio Lujan
Sen. Gerald Ortiz y Pino

Absent

Rep. Nora Espinoza
Rep. Joni Marie Gutierrez

Advisory Members

Sen. Sue Wilson Beffort
Rep. Ray Begaye (11/9, 11/10)
Rep. Eleanor Chavez (11/9, 11/10)
Rep. Nathan P. Cote
Rep. Miguel P. Garcia
Rep. Keith J. Gardner
Rep. Dennis J. Kintigh
Rep. James Roger Madalena
Sen. Cisco McSorley
Rep. Rodolpho "Rudy" S. Martinez
Rep. Bill B. O'Neill
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Rep. Gloria C. Vaughn

Rep. Jose A. Campos
Sen. Clinton D. Harden, Jr.
Rep. John A. Heaton
Sen. Gay G. Kernan
Sen. Sander Rue
Rep. Jeff Steinborn
Rep. Mimi Stewart
Sen. David Ulibarri

Guest Legislators

Rep. Gail Chasey (11/9)
Rep. Edward C. Sandoval (11/8)

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Michael Hely
Karen Wells
Zelda Abeita
Rebecca Griego

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Guests

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file.

Monday, November 8

Welcome and Introductions

The chair welcomed the committee and members of the audience. She reviewed the agenda for the day.

Staff Report of Government Restructuring Task Force

Raúl E. Burciaga, director, Legislative Council Service (LCS), updated the committee members on the actions and progress of the Government Restructuring Task Force (GRTF). He reviewed the purpose of the GRTF, its membership and the topics covered to date, noting that it will meet for an additional two meetings during this interim. Areas covered by the GRTF were highlighted, with education and health care emerging as the top two items of discussion. Mr. Burciaga described testimony provided to the GRTF, including that from Kathryn "Katie" Falls, secretary, Human Services Department (HSD), who provided an overview of the status of the Medicaid budget and identified areas that could result in greater efficiency. Secretary Falls identified concerns and areas that should not be subject to restructuring due to requirements of the federal Patient Protection and Affordable Care Act (PPACA). The GRTF explored opportunities to relocate the home- and community-based services (HCBS) waiver programs from the Aging and Long-Term Services Department (ALTSD) to the HSD. Mr. Burciaga noted that Ms. Wells, LCS, presented information to the task force on the PPACA, the current structure of health care in New Mexico and ideas for restructuring identified by the LHHS. Brent Earnest, Legislative Finance Committee (LFC), together with Mr. Hely, LCS, also presented opportunities for consolidation of Medicaid programs, consolidation of Interagency Benefits Advisory Council (IBAC) agencies and programs and the potential for a health care administration and financing department. Mr. Burciaga briefly described other areas for possible consolidation that have been considered by the GRTF, noting that no final recommendations have been made. Final recommendations will be considered at the GRTF's last two meetings. Greater legislative oversight is being considered over both executive salaries and benefits as well as regulatory control. He concluded by stating that the GRTF is hopeful that recommendations

regarding restructuring health care will be forthcoming from the LHHS.

Committee members had questions and made comments in the following areas:

- whether cuts to Medicaid will result in hospitals refusing to accept Medicaid patients; probably not; federal law requires hospital emergency departments to admit patients for the purpose of stabilization and transfer;
- whether the GRTF has discussed state government taking over the provision of the Medicaid program from managed care organizations; no;
- whether there is a list of which commissions and boards are being considered for consolidation or elimination; yes;
- clarification regarding changes that can or cannot be made to Medicaid as a result of the passage of the PPACA; Secretary Falls stated that eligibility categories cannot be changed; however, benefits can be changed;
- clarification regarding the higher education funding formula, and whether consideration is being given to altering it;
- concern regarding whether any of the recommendations will save enough money to solve the state's budget problems;
- an observation that four areas contribute major costs to the state: private prisons, branch colleges and universities, Medicaid and managed care and public school funding, none of which are likely to be politically acceptable to change;
- agreement that expansion of college campuses without legislative approval has led to budget obligations and should be discussed;
- clarification regarding consolidation of the IBAC agencies and which agencies are in IBAC; they are the Risk Management Division of the General Services Department, the Retiree Health Care Authority (RHCA), Albuquerque Public Schools and the Public School Insurance Authority;
- clarification regarding the extent to which IBAC agencies are already consolidated; procurement for purchasing of insurance is consolidated;
- a request for Wayne Propst, executive director, RHCA, to clarify the anticipated impact of consolidation on retirees; Mr. Propst noted that the board of the RHCA opposes consolidation and would have many questions if a bill is introduced;
- whether IBAC consolidation would result in savings to the state; Mr. Propst suggested that consolidation would initially cost money, if for no other reason than that the need to consolidate information technology systems would cost millions of dollars;
- whether combining risk pools of the IBAC agencies would result in lower premiums; probably, but no significant savings are anticipated;
- what opportunities remain for consolidation; consolidated purchasing is a good idea, governance restructuring and administrative consolidation is not;
- whether the IBAC agencies are cooperating on legislation that they would jointly support; Mr. Propst is not aware of any such efforts;
- whether the GRTF requested information regarding public relations, administrative functions and legislative liaison positions that exist in state agencies; no; and

- an assertion that restructuring efforts should be reasonable and make sense; the effect on constituents must be considered before any restructuring is done.

Mr. Burciaga noted that he will bring the comments and concerns expressed by the committee back to the GRTF. Many of these concerns have also been recognized and expressed by the GRTF.

Senate Joint Memorial 1 Health Care Reform Working Group (SJM 1 HCRWG) — Final Report

Deborah Armstrong, chair, SJM 1 HCRWG, provided an overview of the process of the working group in addressing the requirements of the memorial. She reviewed the schedule and work plan, identifying the topics that were covered at each meeting. She described the self-formed advisory groups and recognized the work they did and the recommendations they made.

General recommendations were highlighted, including the following:

- continued coordination with the LHHS and the Health Care Reform Executive Leadership Team (Leadership Team);
- careful comparison of PPACA insurance requirements with the New Mexico Insurance Code;
- appointment of an executive agency to be tasked with coordinating and tracking grant opportunities and to take full advantage of these opportunities; and
- establishment of a single New Mexico health insurance exchange that administratively combines both individual and small group markets, that is operated by a legislatively created, quasi-governmental entity, that is open to interstate partnering and that performs robust functions.

Ms. Armstrong, along with Mike Nunez, executive director of the New Mexico Health Insurance Alliance (NMHIA), reported that the New Mexico Medical Insurance Pool (NMMIP) board met jointly with the NMHIA board to discuss opportunities to partner on the operation of an exchange. Both boards agreed that they are ready, willing and able to work jointly to implement an exchange for New Mexico. They are committed to transitioning their current statutes and administrative structures in whatever ways would be needed to accomplish this. They noted that both boards currently accomplish many of the required elements of an exchange, and both support a merger in the future.

A question was asked regarding whether the true cost of establishing an exchange is known; no.

Report — Leadership Team

Secretary Falls provided a general overview of the components of health care reform that have been addressed by the Leadership Team, including Medicaid reform, a health insurance exchange, health care delivery system reform and insurance reform. She noted that required expansions in Medicaid eligibility will substantially reduce the number of uninsured people in

the state. The primary cost of the Medicaid expansion will be borne by the federal government. She highlighted areas about which there are still outstanding questions, including the full impact on the population and on the Medicaid budget, specifics regarding what is called a "benchmark" benefit plan for newly eligible Medicaid recipients and many questions regarding how the interface between the exchange and Medicaid will be accomplished. The Leadership Team recommends using the exchange planning grant to conduct population and fiscal mapping to identify the needs of New Mexicans and the cost to the state. The Leadership Team believes a decision should be made as soon as possible regarding what entity will operate an exchange to facilitate coordination with the HSD, invest in and develop information technology systems and adopt policies to facilitate coordination of coverage. As best as possible, the Leadership Team urges Medicaid cost containment consistent with implementation of the PPACA. Secretary Falls reviewed options and opportunities for establishing a health insurance exchange for New Mexico. Legislation is needed in this upcoming session to ensure adequate time for planning and implementation of an exchange. New federal funding is being made available to assist in building an exchange as well as to replace Medicaid eligibility systems. The HSD will need to release a request for proposals to replace the department's information technology eligibility system in order to meet the PPACA time frames. She noted that numerous things are not yet known about exchanges, including the perspective of Governor-Elect Susana Martinez. A tribal consultation will be held to discuss tribal options in operating an exchange. The options that New Mexico chooses regarding an exchange will guide the ways in which the planning grant money is going to be spent. Secretary Falls noted that much overlap exists between the insurance reforms required by the PPACA and the requirements for a health insurance exchange. In spite of requirements and incentives in the PPACA, adverse selection can threaten the success of a New Mexico exchange and must be addressed carefully. To be successful, the exchange should attract healthy, young people to serve a more robust function to manage the market and ensure that the exchange does not merely become a high-risk pool. The Leadership Team believes that the tax credits to lower the cost of health insurance are probably not sufficient to drive people to purchase health care coverage. Initially, the penalties for not purchasing insurance are minimal, and many people may choose to pay the penalty rather than purchase insurance. The Leadership Team believes a strong and healthy exchange should be established that will create continuity between plans offered within and outside the exchange. A comprehensive consumer education plan should be developed. Incentives should be created to attract young, healthy individuals to participate in the exchange, and a vigorous marketing plan will be needed. Health care delivery system reform was briefly addressed. A key issue is access to health care providers in order to meet the needs of new enrollees. Between now and 2014, New Mexico should aggressively seek to increase the health professional work force in the state. Secretary Falls concluded by stressing the critical need for the executive and the legislature to work together in planning and implementation of the PPACA. Appropriate staffing will be needed and expertise and leadership developed in order to move forward. Support for updated information technology and education and outreach to constituents is critical.

Representative Picraux interrupted the agenda to read a certificate of appreciation for Representative Vaughn and recognize her contribution to the committee. Members of the committee offered personal reflections and memories of Representative Vaughn, including a

remembrance of her husband, Jim. On behalf of the committee, Senator Feldman presented Representative Vaughn with the certificate and a gift. The committee and audience members gave her a standing ovation. Senator Feldman additionally extended thanks and appreciation to Representative Cote. Representative Picraux read a certificate prepared for him. The certificate was presented and a standing ovation given. Senator Feldman also recognized Representative Heaton in his absence and read a certificate prepared for him. These members will not be returning next year.

Returning to the presentation of Secretary Falls, committee members had questions and made comments in the following areas:

- thanks were expressed to Secretary Falls for her great contributions to the HSD and to the implementation of the PPACA in New Mexico;
- support for the concept of a central health care planning agency;
- clarification regarding what is known and what is not known about the PPACA and how it will impact New Mexico;
- whether Medicaid or the exchange should screen individuals for Medicaid eligibility; coordination will be essential;
- whether there is a potential to combine the eligibility and claims information technology systems in Medicaid; the ISD2 eligibility system will have to be replaced, regardless of the PPACA;
- whether there is a provision in the PPACA requiring plans that contract with Medicaid to offer a plan through the exchange; no;
- clarification regarding the amount of PPACA grant dollars received so far in New Mexico; close to \$63 million;
- clarification regarding the option for a basic health plan to be offered to individuals whose incomes fall between 133% and 200% of the federal poverty level;
- clarification regarding the extent to which the state can control health plans offered within and outside of an exchange;
- whether health savings accounts (HSAs) will be required to be offered in the exchange; no; however, people under the age of 30 will be offered a catastrophic plan through the exchange; HSAs could be looked at as a way to attract healthy, young people to participate in the exchange;
- incentives for individuals to purchase private insurance rather than be covered under Medicaid;
- a request for an update on the behavioral health contract; progress has been made to restore edits into the system; oversight of OptumHealth will be ongoing until the HSD is satisfied that OptumHealth is in compliance with the contract; OptumHealth is currently in the second year of a four-year contract; and
- concern regarding the potential negative impact of cutting prevention and wellness efforts as basic benefits; the PPACA requires a list of benefits that must be offered in Medicaid as well as in private insurance plans.

Public Comment

Jim Stower stated that efforts and funding to support emergency medical services will again be brought before the legislature in the upcoming session.

Dick Mason, Health Action New Mexico (HANM), presented principles upon which the HANM believes an exchange should be based. Numerous entities have signed a letter of support for the HANM's concepts.

Lydia Pendly, HANM, spoke to the issue of the cost of establishing exchanges. The HANM held a conference call with Frederick Isassi, health aide to U.S. Senator Jeff Bingaman, in which it learned that money for subsidies and to establish exchanges has been appropriated through 2014.

Raphael Nevins, Andele Tutors, spoke in favor of behavioral health funding for tutoring of underserved New Mexicans.

Bill Wiese, associate director, Robert Wood Johnson Foundation Center for Health Policy, raised the issue of the cost of health reform efforts. He testified that the current method of reimbursement for health care coverage is inherently inefficient and costly, and that through the exchange, these inefficiencies can be addressed.

Nandini Kuene, health policy consultant, urged the committee to endorse a strong exchange and legislation that holds the exchange accountable for its results. Additionally, she would like to see opportunities embraced to expand medical homes.

Dana Middleton, National Organization for Women, spoke in favor of the Health Security Act. She urged the committee to obtain accurate cost predictions of the anticipated cost of implementing an exchange.

Discussion of Legislative Endorsements on Restructuring and Health Care

Mr. Hely, staff attorney, LCS, oriented the committee members to a packet of bill drafts and a matrix that briefly describes the bills in the packet. He noted that only three bills are intended for discussion at this time. He began with the bill to phase in consolidation of purchasing and administrative functions of the IBAC agencies (.182941.2). Mr. Hely presented a time line and graphic depicting the proposed actions in the bill. He noted that the bill was drafted for the GRTF, but no action has yet been taken by it.

Committee members had questions and comments as follows:

- clarification regarding when various provisions in the bill would be implemented;
- clarification regarding the governance of the IBAC agencies; in the bill, the IBAC agencies will develop and make recommendations on this topic by November 1, 2012;
- an observation that the bill does not repeal the IBAC agencies or their governance;
- clarification regarding statutory authority over the Albuquerque Public Schools; it is a

- local body and an instrumentality of the state;
- concerns regarding whether quality, conflict of interest, governance and accountability measures should be included in the bill;
- whether the GRTF gave any direction regarding this bill; the GRTF has not seen this bill and is looking to the LHHS for direction;
- whether considerations regarding the establishment of an exchange as suggested by Mr. Wiese should be incorporated;
- whether the requirement for an actuarial analysis should not precede the requirement to consolidate purchasing and administrative functions;
- clarification regarding the position of the RHCA board; the board supports consolidated purchasing and that some administrative activities be conducted jointly; it opposes further consolidation;
- whether the bill permits benefit packages that more uniquely meet the needs of the different populations;
- clarification regarding an amount of \$3,500, which appears in existing law and which was originally intended to cover the cost of early intervention services for insured, developmentally disabled children; the amount was established in negotiation with insurance companies; many eligible children are covered from federal and other funds; a desire was expressed to add a clause that allows for a cost-of-living index adjustment to that amount; no action was taken on that point;
- a suggestion that the bill be divided and the more controversial elements postponed; Mr. Propst noted that the RHCA supported specific language included in a previous bill, HB 662, introduced in 2009, and that this 2010 bill currently under consideration seems to go beyond what was previously supported;
- a suggestion that the LFC be included among the legislative entities to which the parties must report; and
- an expression of support for HB 662 instead of this bill.

A motion was made by Senator Feldman, seconded by Representative Picraux, to direct staff to work with Mr. Propst to develop a bill that reflects the provisions of HB 662; the motion was unanimously accepted. Mr. Hely noted that he would not be able to accomplish this by Wednesday. A request was made for a letter to be drafted to the GRTF to reflect the concerns on this bill, the support for HB 662 and a desire to work with the IBAC agencies to draft such legislation.

Mr. Hely then described the bill to transfer the HCBS waivers and other long-term services programs from the ALTSD to the HSD (.182859.5), and he noted there is a graphic depicting the proposed change. This measure has already been endorsed by the GRTF. He described the services and programs that would be transferred and the steps the HSD would be directed to take to effectuate the transfer.

Committee members discussed various aspects of this proposed bill as follows:

- clarification regarding the number of full-time-equivalent personnel in the ALTSD whose jobs would be eliminated with this transfer; Michael Spanier, secretary of aging and long-term services, testified that approximately 25 employees currently work in that division; Mr. Earnest stated the LFC analysis indicated that 16 employees would lose their jobs to achieve \$1.4 million in savings;
- whether the HSD has the resources to accomplish this work with no new personnel; no; Secretary Falls suggested that a better approach would be to redo the waivers into a different type of waiver that would allow for greater administrative efficiency;
- recognition that the GRTF probably anticipated consolidation of office space and other administrative functions, but that not all personnel would be eliminated;
- an observation that the GRTF discussed this bill in the context of consolidation of entire departments, and there was an expectation that further analysis would be needed;
- Mr. Earnest noted that the intent of the bill was to transfer personnel through the budget process;
- Sam Howarth, Department of Health (DOH), noted that the ALTSD performs many functions in administrating the waivers that are not currently being performed by the HSD; to move the programs without explicitly moving personnel would be dangerous; and
- Senator Feldman suggested that the bill be amended to include the transfer of an appropriate number of full-time-equivalent employees; no action was taken in response to this suggestion.

Representative Lujan moved and Senator Ortiz y Pino seconded a motion that the bill not be endorsed by the LHHS but that modifications to how waivers are managed be considered; Representative Lujan stated he felt a consolidation such as this puts vulnerable populations at too great a risk. The motion not to endorse the bill was unanimously adopted.

Mr. Hely directed the committee's attention to the bill (.183052.4) and accompanying graphics to create the health policy and finance department. The bill would transfer a number of divisions and programs to this new department. He reviewed the time line of events to implement the transfer and establishment of the new department.

Committee members had questions and comments in the following areas:

- recognition that this proposal represents an enormous expansion of state government;
- an observation that the proposal needs a provision for evaluation;
- an observation that the inclusion of an all-payer claims database is a measure within the bill that will be essential to future health care and policy planning for a number of years due to the volatile nature of health care reform;
- an observation that this bill repeals the IBAC agencies and instructs an advisory council to make recommendations regarding consolidation of these entities;

- whether any preliminary fiscal impact report has been developed; no;
- whether this bill eliminates the Interagency Behavioral Health Purchasing Collaborative; no; it identifies the new department as the entity to operate the collaborative; and
- an observation that a new agency of this magnitude places a lot of power with one secretary and flies in the face of recent years' trends in the legislature.

Senator Feldman moved and Senator Lopez seconded that the bill be presented to the GRTF without endorsement. Mr. Hely suggested that the date of repeal of the IBAC be changed in various places in the bill to January 1, 2014 to allow time for the legislature to act on the recommendations of the advisory committee on how to consolidate functions. (Page 22, line 4, from 1/1/13 to 1/1/14; page 31, line 23, from 1/1/13 to 1/1/14; and page 32, lines 6, 12 and 17.) The technical amendment was accepted as part of the original motion. By a roll call vote, the motion passed by a vote of four in favor and with Senator Ortiz y Pino opposed.

Mary Feldblum asked which bills are expected to be presented on Tuesday and which on Wednesday. Mr. Hely noted the exchange bill and the patient protection measures were previously requested to be heard on Tuesday. Ms. Feldblum requested that the Health Security Act and the memorial to delay the waiver for innovation date be heard on Wednesday. There being no objection, those bills will be heard on Wednesday.

There being no further business, the committee recessed for the night.

Tuesday, November 9

Call to Order — Welcome and Introductions

The meeting was reconvened by the chair at 9:15 a.m.

HM 50 (2010): Statewide Nursing Education Plan

Deborah Walker, R.N., M.S.N., director, Board of Nursing, Pat Boyle, R.N., M.S.N., director, Center for Nursing Excellence, Nancy Ridenauer, R.N., Ph.D., dean, University of New Mexico College of Nursing (UNM/CoN), and Pamela Schultz, R.N., Ph.D., interim dean and associate director, School of Nursing, New Mexico State University (NMSU), were invited to make a presentation on the findings and recommendations of HM 50, which called for the development of a statewide nursing education plan. Ms. Walker provided an overview of the purpose of the memorial. She thanked the members of the legislature for their strong support for nursing education, which has led to a steady increase in the number of nurse practitioners practicing in the state. She described the composition of the HM 50 Task Force, which included nurse educators, the hospital association, the Higher Education Department (HED) and the DOH. Dr. Ridenauer spoke about the New Mexico Nursing Education Consortium, which served as the core membership of the task force, meeting on a regular basis to address the goals of HM 50. The goal of the consortium is to increase the number of baccalaureate and graduate-prepared nurses to improve the quality and educational outcomes of nursing education and to increase workplace diversity. Consortium member schools represent nursing education across the state.

Goals have been pursued through the development of partnerships that facilitate nurses to progress from R.N. to B.S.N. status. Dr. Schultz noted that collaborations among nursing programs have been greatly enhanced and are now well established in the pursuit of improved nursing education. Tele-education and simulation partnerships have been developed to promote opportunities for nursing education in remote and rural locations. A simulation institute was held in Las Cruces in August of this year to assist faculty and nurses in the use of simulation for clinical education. She stressed that NMSU and UNM/CoN have strengthened their collaborative efforts for efficient use of faculty and other resources and to further opportunities for B.S.N.-educated nurses becoming Ph.D. nurses. Ms. Boyle noted that many collaborative relationships have been developed through the consortium. A goal of the task force was to develop a uniform, statewide curriculum within 18 months. She identified the challenges and recommendations that emerged from the work of the task force. Recommendations included the development of policies and procedures to address administrative issues such as workload, salaries, funding challenges and core curricula among nursing education institutions and student financial aid; the development, by the HED, of a compensation package for nursing faculty; and development of a report on the economic benefit and impact of nurses in New Mexico. Legislative support was requested for health care professional work force planning statewide, including improved data collection efforts and partnerships with licensing boards to collect and analyze data.

Representative Chavez, sponsor of the memorial, congratulated the task force for the work that has been accomplished and for the report that was presented. She noted the importance of the availability of nursing education in rural areas and the importance of supporting job growth in the field of nursing because health care is one of the few occupational areas experiencing growth in the current economy. Ms. Boyle noted that rural nurses must have a different skill set than nurses in urban settings, and that one of the goals in a rural nurse residency program is to develop the skill set needed in those locations. Much of this is accomplished through tele-education and simulation models. Representative Chavez also addressed issues of burnout and the possibility of using older nurses as faculty.

Questions and comments focused on the following areas:

- whether data are available regarding the number of students who drop out of nursing education programs and the number of nurses who leave the profession; approximately 13% of nurses leave their jobs within four years, but it is unclear how many leave the nursing profession;
- whether students are adequately prepared to expect the rigors of the professional world; modifications to the clinical training of students, particularly through simulation models, is enhancing critical thinking for student nurses; and
- whether any nursing educators have been invited to become members of the state workforce development board; no.

Senator Beffort suggested that the LHHS write a letter to the secretary of workforce solutions requesting representation of health professionals on the state workforce development board. Representative Lujan made a motion to this effect, and Senator Feldman seconded the

motion. Mr. Howarth clarified that the Workforce Solutions Department (WSD) applied for a workforce planning grant, which will lead to an implementation grant through the PPACA. In the planning grant application, the WSD created an advisory committee that includes health professionals. He noted that the money to fund regional workforce development centers has been authorized but not yet appropriated in the PPACA. He suggested that the letter include a request for an update on the status of the planning grant. Senator Beffort stated her belief that the state workforce development board, with or without the planning grant, should include health professional representation. Representative Lujan offered an amendment to his motion to request a status update on the implementation of the grant, including when the nursing community would be contacted for inclusion. Senator Ortiz y Pino seconded the motion. The amendment was adopted. The original motion passed without objection.

Questions and comments were as follows:

- recognition of the budget challenges that will impact the HED, and a request that the HED focus on funding education in areas where it is known that jobs exist, such as health care education;
- acknowledgment that the nursing education community has instituted many initiatives to expand access to nursing education; however, funding will likely not be available to increase the number of funded slots for students;
- clarification regarding the funding formula for higher education; the formula is currently being reviewed and priorities reexamined;
- a reminder that a strong and consistent stand by the LHHS made a difference in the funding of social workers in years past and could have a similar effect with funding for the nursing profession;
- whether veterans who have served in the military and now are seeking to enter nursing school are being supported; yes; they can receive advanced placement and be put on a fast track for admission;
- whether PPACA funds are available to enhance faculty salaries; grants are available to develop new programs but are not ongoing sources of funding, and they probably cannot be used to increase salaries for existing faculty; and
- whether any nursing education programs include a community service component to encourage students to remain in New Mexico upon graduation; there are two loan-for-service programs that repay nursing loans upon service in a rural community.

Reports: Substance Abuse Services for Pregnant Women (SM 19 — 2009) and Economic Security for Women and Families (HM 35 — 2010)

Giovanna Rossi-Pressley, executive director, Office of the Governor's Council on Women's Health, began with an overview of HM 35, noting that many women are facing major challenges in balancing education, work and family. A facilitated task force examined six areas that impact the economic security of women and families, including compensation; family-friendly workplaces; benefits and supports; business development and education for women in the work force; education for future workers; and dependent care for working families. Lee Reynis, UNM Bureau of Business and Economic Research, spoke about the gains made by

women in New Mexico in improving wages and economic security; however, earning gaps remain for women in the workplace. Ms. Rossi-Pressley identified the short- and long-term policy goals that arose from the work of the task force in the six categories of the study. On a short-term basis, the task force recommends establishment of an advisory group to report regularly to the legislature on this topic and the development of a program to reward family-friendly businesses in both the public and private sectors. She briefly highlighted several long-term goals that are listed in the report.

Committee members had questions and made comments in the following areas:

- an expression of thanks for the work of the task force;
- an observation that the data may change with the publication of census data;
- recognition that cuts to the temporary assistance for needy families (TANF) program and child care reimbursement rates constitute a crisis with no easy solution in the upcoming legislative session; disenrollment of children from child care is anticipated without additional funding;
- recognition that 24,000 children are currently receiving subsidized child care services per month, and 3,900 children are on the waiting list; a request was made for the number of children who will be disenrolled with program reductions; and
- recognition that reimbursement reductions may result in daycare centers closing and many other trickle-down effects.

Susan Loubet, New Mexico Women's Agenda, noted that the WSD now has more available data to inform employers and to promote more equitable economic policies for women and families.

Ms. Rossi-Pressley described the findings and recommendations that arose from SM 19. This task force worked for two years to address the issues and problems of pregnant women with substance abuse problems. A comprehensive state plan was developed with recommendations, including reducing unnecessary referrals to the Children, Youth and Families Department (CYFD), increasing home visitation, increasing access to substance abuse treatment and family planning services, increasing access to supportive services, increasing treatment over incarceration for non-violent drug-related crimes, education to change attitudes about substance abuse and increasing research and data collection. Angie Vacchio, co-chair of the task force, spoke about the need for proactive systems to ensure that high-risk women receive prenatal care and treatment for their substance abuse issues. Currently, the system is reactive and expensive and results in many women with substance abuse problems being incarcerated and separated from their children. She stressed the importance of increased availability of contraception when requested.

Committee members had questions and made comments in the following areas:

- clarification regarding federal legislation that requires states to report drug use as child abuse, and the requirement to adopt this federal language to receive federal

- funding; the definition in federal law is misleading; the task force is working to provide education regarding the real impact of the federal law;
- recognition of the critical need for women to be able to self-disclose an addiction without fear of reprisal to avoid the birth of addicted babies;
 - an observation that the Commission on the Status of Women is being considered for sunset or consolidation by the GRTF;
 - congratulations on the comprehensiveness of the report;
 - clarification regarding the number of women in New Mexico who were addicted and pregnant teenagers; there is a very high correlation between addicted teens and addicted adults; more treatment options are needed to prevent addicted teens from becoming addicted adults;
 - whether there are treatment options available for addicted adolescents; very few; and
 - recognition of the importance of prevention and safe after-school programs to keep adolescents from becoming addicted in the first place; the relationship between the need for family-friendly workplaces and this problem was identified.

Francis Mulligan offered public comment supporting the work of the task force and highlighted the unique needs of individuals enrolled in a methadone program.

Calvin Boyd, M.D., who is currently pursuing a master's degree in public health at UNM, provided historical perspective on cocaine use in St. Paul, Minnesota, among pregnant women. Efforts to provide an avenue for women to self-disclose their addiction in Minnesota failed to pass the legislature and generated legislation of more punitive measures. He recognized that the effort is likely to face an uphill battle in New Mexico, and he supported the recommendations of the task force.

Update: Federal High-Risk Pool

Ms. Armstrong, executive director, NMMIP, provided an update on the implementation of a federal high-risk pool, now called the preexisting insurance program (PCIP), comparing and contrasting it to the well-established NMMIP. The establishment of a federal high-risk pool was the first provision of the PPACA to be implemented in New Mexico, and it now has approximately 150 enrollees. It is ultimately projected to serve 1,000 enrollees, capping enrollment in 2012. New Mexico is allocated \$37 million through the life of the program, which will end in 2014 when the PPACA is fully implemented. Ms. Armstrong highlighted the differences in eligibility requirements between the NMMIP and the federally funded PCIP. New Mexico elected to offer low-income subsidies to PCIP enrollees, as is the practice in the NMMIP. Numerous other efforts were implemented to ensure that the two risk pool programs were similar and easy for potential enrollees to understand and access. She noted that although enrollment in PCIP around the country has been slower than expected, in New Mexico, enrollment is close to what was projected, perhaps due in part to the low-income subsidies that are available here.

Committee members had questions and comments in the following areas:

- clarification regarding out-of-pocket costs in each pool; the NMMIP strives to keep them similar;
- whether the coverage through the pools is comparable to what can be obtained on the private market; yes;
- clarification regarding the standard risk rate; it is what a healthy individual would have paid for a comparable product in the private market; the federal PCIP requires premiums to be capped at 100% of the standard risk rate;
- clarification regarding the use of state funds to offer subsidies to low-income individuals; the federal government denied New Mexico's request to use federal funds to offer low-income subsidies, so the NMMIP board elected to use state funds to provide that discount;
- an observation that funds unspent in other states for the PCIP could be diverted to New Mexico;
- recognition that assessments on insurance plans, and the federal allocation, cover the difference in the cost of coverage and the premiums paid by enrollees;
- whether other states have state high-risk pools; 35 states have them, although in many states, the premiums are unaffordable; 21 states elected to use their high-risk pools to implement the PCIP;
- clarification regarding the ultimate disposition of the NMMIP and the PCIP; the PCIP will be abolished when the PPACA is fully implemented; the NMMIP may continue to exist for a while longer;
- whether affordable plans will be available through an exchange for individuals who are now helped by the premium subsidies in the NMMIP; yes;
- concern that the NMMIP, a successful system of covering the uninsurable, may be at risk with the implementation of the PPACA;
- whether an exchange could offer a high-risk policy; potentially, yes, through the NMMIP; and
- clarification regarding the ultimate disposition of the premium tax credits and assessments that insurance plans pay to the NMMIP when the PPACA is implemented; it is possible that the assessments will be used to fund the exchange.

Treatment Foster Care Legislation

Representative Chasey stated that her co-presenter, Michael Hart, was unavailable today. Additionally, there is no new proposal to offer. Julianna Koob was available to answer questions on the issue. Representative Chasey noted that the state has a legal obligation to any child in the state's custody. Treatment foster care children are largely cared for under private contractual situations, thereby shielding the state from the potential risk of lawsuits. Had the children been in foster care through the CYFD, the state would be held liable and the children offered greater protection. Representative Chasey carried legislation in 2009 that attempted to address this issue. A possible solution is to require treatment foster care providers to obtain insurance for intentional acts of abuse. Anna Otero Hatanaka, Association for Developmental Disabilities Community Providers (ADDCCP), testified that many years ago there was a lawsuit against a community provider due to a disagreement between the family and the provider regarding the needs of a developmentally disabled child. The courts decided that DDCPs can be held liable.

Ms. Koob stated that the real problem is that treatment foster care children and children who are in foster care through the CYFD are being treated differently. The legislature may wish to clarify that there is no intent to treat abused children differently. Questions were asked about the background checks to which treatment foster care providers are subjected. The level of skill is higher than foster parents. Ms. Koob will provide clarification.

My Community Task Force: HM 49 — 2010

Leora Yeager, consultant, provided background information about My Community, New Mexico (MCNM), its partnership with the DOH and a task force that was convened to assess the benefits of MCNM as the state's comprehensive, bilingual resource directory for underserved populations. Hundreds of organizations are currently collecting information, and millions of dollars are spent each year to collect this information. MCNM has a free, online database that could be better used to consolidate and disseminate information. Ms. Yeager identified numerous partners with which MCNM collaborates, including the New Mexico Coalition to End Homelessness and the Indian Affairs Department. Plans are under way for adding more partners, especially in research and training organizations, and developing a community calendar, customized reports and linkages to other resources. Through surveys, the task force identified valuable information about the needs for community data collection efforts, highlighting the need to avoid duplication of efforts and costs. Seventy-eight percent of community organizations with data needs have stated that budget cuts negatively impacted their ability to collect data. Most organizations are actually collecting very similar information. MCNM is seeking legislative support to encourage state agencies, committees and contractors to utilize them in collecting and sharing information in support of underserved New Mexicans. MCNM is hoping for in-kind support from state agencies. Information entered into a centralized database would belong to the state and, therefore, be protected from loss. As an example, managed care contractors could be required by contract to utilize this database. Additionally, MCNM is seeking funding in state agency budgets to cover the cost of data entry customization tools and to provide technical support.

Venice Ceballos, community health worker trainer, noted that a big role of the community health worker is to link clients to services. Wider use of MCNM would assist community health workers to be much more efficient in assisting clients to find services.

Madeline Krasner, Children's Medical Services, is a social worker involved in serving children with special medical needs. Centralized data such as this would make her job of making appropriate referrals easier. She hopes this resource directory grows in partnerships.

Committee members had questions and comments in the following areas:

- agreement that data required to be collected under a state contract should belong to the state;
- recognition that the work of MCNM is very important and should be supported; and
- clarification regarding how private information is protected in the database.

Ms. Yeager closed by saying that legislative support is critical to expanding this effort statewide. No money is currently being requested, as the database can charge for its services.

Ending Child Homelessness in New Mexico: HM 7 — 2010

Representative O'Neill made introductory comments about the importance of addressing this topic. Kim Cobbs, bureau chief, Community-Based and Behavioral Health Services Bureau, CYFD, introduced Wendy Wintermute, statewide coordinator, New Mexico Campaign to End Child Homelessness. The issue of child homelessness generates great support from all quarters once people become aware of the problem. Between 2008 and 2009, over 14,500 children and youth in New Mexico were homeless. Families with children now comprise one-third of all the homeless people in the state; 40% of the homeless are under the age of six. It is known that the current number of homeless children is already larger than 14,500 and will grow this year. The impact of homelessness on children is traumatic and leads to more trauma. Ms. Wintermute presented a set of recommendations to end child homelessness in New Mexico, beginning with a comprehensive, coordinated approach among state agencies, services providers and community leaders. Legislative support is sought for a stable, fully funded continuum of services for children and their families, including housing, early childhood development and care, education and health care, and for the establishment of a New Mexico interagency council to end homelessness.

Committee members asked questions and made comments in the following areas:

- information was provided about Cuidando Los Ninos, a program that serves the needs of 500 homeless children with a budget of \$1.2 million to \$1.4 million;
- an observation that 20 times that amount would be needed to meet the needs of 14,500 children; it would be much less expensive to prevent homelessness in the first place;
- clarification regarding the cost to provide services for the children who are currently homeless; the amount is not known; however, a council on homelessness could develop and identify that figure;
- clarification regarding the cost per child of caring for a homeless child and whether or not they are in school; the number is not known; and
- whether graduation rates for homeless children is known; no.

Hank Hughes, New Mexico Coalition to End Homelessness, testified that he believes the cost will be less than expected.

A quorum being present, a motion was made and seconded to approve the minutes for the October meeting; the motion passed.

Discussion and Approval of Legislative Endorsements

Mr. Hely directed the committee to a bill to enact the Health Care Work Force Data Collection, Analysis and Policy Act (.182459.2), a new version of which was distributed. Dr.

Dan Derksen was present to answer questions. Dr. Derksen noted the New Mexico Medical Society is in support of the bill, and that a planning grant for work force development awarded under the PPACA should fund this effort. The bill requires the DOH to collect specific data from professional licensing boards. It will facilitate the collection of real-time data to be used in planning and implementation of efforts to meet the current and future health professional work force needs of New Mexico.

Senator Feldman moved and Representative Lujan seconded a motion for adoption of the bill, with an amendment for a technical correction. The motion was endorsed unanimously.

An observation was made regarding the current difficulty of licensing health care providers. A concern was expressed that this requirement could further delay the licensing of needed practitioners in the state. An additional concern was expressed that a provider who declines to fill out the survey required in this bill would not be licensed.

Mr. Hely then described a bill that amends the existing law regarding medical homes to require managed care organizations that contract with Medicaid to include specifications for funding and tracking the implementation of medical home models of care (.182663.2).

Questions and comments were offered as follows:

- clarification regarding the HSD's requirements in this bill; the HSD is requested only to make contract specifications regarding medical home implementation; it puts current practice in statute;
- whether other health plans besides managed care will be subject to this requirement; no;
- whether the bill would require OptumHealth to put all its discretionary funds into core service agencies; no, the bill does not specify amounts, and it is not clear that core service agencies qualify as medical homes;
- whether the bill, as written, would apply to behavioral health services; yes, to the extent that they provide primary care medical homes or a component of the health commons model; and
- an observation that home care is added to the list of providers that can qualify as medical homes.

Representative Lujan moved and Senator Ortiz y Pino seconded a motion to endorse the bill. The motion passed without objection.

Mr. Hely described a bill directing the secretary of human services to establish an accountable care organization task force in Medicaid, the state children's health insurance program and the state coverage insurance program in Hidalgo County (.183222.2). Charlie Alfero, executive director, Hidalgo Medical Services (HMS), provided background information about accountable care organizations, which are intended to link health care provider reimbursement to quality outcomes. HMS wants to work with Medicaid and Medicare to design

the features and develop a health care delivery system model that will work in New Mexico. HMS has been engaged in similar projects for the last two years and has demonstrated an ability to reduce the cost of care for individuals with chronic illnesses through care management. The bill makes no general funding request; funding would come through managed care organization contract requirements to use discretionary funds to fund the task force. Mr. Hely noted that HMS would assume risk under the model.

Questions and comments from committee members covered the following areas:

- a statement of support for this innovative approach;
- clarification that the model is intended to include primary care; it would include primary medical, dental and other services; patients are referred to specialists, so by extension they would be included as well;
- concern that a system not be developed that discourages physicians from accepting the sickest patients; the model allows the full costs of all levels of care to be delineated and accounted for; the model is based on best practices;
- clarification regarding the assumption of risk by the accountable care organization; the development of the model would identify how that would occur;
- whether there is grant funding available in the PPACA to fund such an effort; the demonstration projects funded by the PPACA are for implementation, not planning; and
- an expression of thanks and appreciation to Mr. Alfero and the services and work of HMS.

Representative Lujan moved and Senator Ortiz y Pino seconded a motion to endorse the bill. The motion passed without objection.

There being no further business, the committee recessed for the night.

Wednesday, November 10

Call to Order

The meeting was reconvened by the chair at 9:30 a.m.

Discussion and Approval of Legislative Endorsements

Kim Bannerman, staff attorney, LCS, described a bill (.182632.2), to enact the Health Care Provider Protection Act. This act provides protections for health care providers working with managed care plans, including provisions addressing reimbursement, recoupment of payments, technical assistance and training, credentialing and re-credentialing. The ombudsman provision in the act is closely modeled after legislation previously introduced in 1999, which passed but was vetoed by Governor Johnson. Senator Ortiz y Pino, sponsor of the measure, noted that the bill does not make any changes to the Patient Protection Act. The bill has been reviewed by a variety of interested parties, including the Insurance Division of the Public Regulation Commission (PRC/DOI), the New Mexico Medical Society, the New Mexico

Hospital Association and other advocates.

Question and comments were made as follows:

- whether the ombudsman office is a duplication of the office of managed care within the PRC/DOI; this bill would fund that office, provide protections and expand the authority of that office;
- clarification regarding the funding mechanism; it is funded through a surcharge paid by insurance plans;
- whether there is any potential conflict between this act and the PPACA; according to the PRC/DOI, probably not;
- clarification regarding who would actually be the ombudsman; that person is designated by the superintendent of insurance;
- clarification regarding the location of the fund; the state treasury;
- clarification regarding how much, in dollars, the assessment represents; it is based on 1% of the annual insurance premium, which could be as small as \$10.00 per year; and
- concern that accumulated fees and assessments will translate into increased premiums for consumers.

Senator Feldman moved endorsement; Representative Lujan seconded the motion. The motion was unanimously adopted.

Ms. Bannerman then described a bill (.180628.1) that mandates insurance coverage for amino-acid-based nutritional formulas that are exempt from federal Food and Drug Administration nutritional labeling requirements. These formulas are expensive and are necessary treatment for the management of specific disorders. Surrounding states, including Texas and Arizona, already mandate this coverage.

Committee members had questions and made comments in the following areas:

- clarification regarding the number of children who need the formulas; according to the Kaiser Family Foundation, a very small number of children, perhaps between 100 and 600 in the state;
- whether the PPACA prohibits states from adopting new insurance mandates; no; however, state mandates that exceed the essential benefit package that are offered through the exchange must be paid for by the state;
- recognition that the essential benefit package required by the PPACA has not yet been determined;
- whether this is already a benefit of Medicaid; yes;
- whether the formulas require a prescription; no; however, in order for insurance to pay for a formula, a physician would have to write an order indicating it is medically necessary;
- whether the formulas are covered by the Women, Infants, and Children program; yes, up to 185% of the federal poverty level; and

- concern regarding adding another mandate and the potential increased premium cost.

Doris Husted, public policy director, ARC of New Mexico, stated that coverage for this already exists in statute; it was passed in 2003. Based on that information, bill endorsement will be deferred until the drafter can review the existing statute.

Mr. Hely described a bill (.182696.2SA) amending the Motor Vehicle Code to provide for a fee to be assessed on driver's license renewals to fund the Disability Fund, which funds disability-related activities. Jim Parker, director, Governor's Commission on Disability (GCD), identified some of the purposes to which such funds could be used, including home modifications, guardianship, sign language interpreters and accessible rural transportation. This bill was previously presented to the Disabilities Concerns Subcommittee of the LHHS.

Questions and comments were offered as follows:

- whether the bill would add an administrative burden; no; the GCD would establish an oversight committee to determine and oversee the uses of the funds;
- clarification regarding the Motor Vehicle Suspense Fund because a portion of the fee goes to that fund; it is used by the Motor Vehicle Division (MVD) of the Taxation and Revenue Department for administration;
- how much the fee is expected to raise; approximately \$10 million, \$6 million of which would go to the Disability Fund;
- a suggestion that the amount of the fee be reduced, and either no amount or a much smaller amount be given to the MVD for administration; support for this was expressed by several committee members;
- an observation that the Disability Fund exists but has no money and no mechanism to put money into it; this bill provides such a mechanism and would fund essential activities and services;
- clarification regarding a previous measure that provides services for people living with disabilities that is also unfunded; according to Secretary Falls, it is the People with Disabilities Act; and
- clarification regarding the way in which funds are to be distributed and by whom; the fund is not managed by the MVD.

Senator Feldman moved and Senator Ortiz y Pino seconded the motion to endorse the bill. After discussion regarding the amount proposed to go to the Disability Fund and the amount to go to the Motor Vehicle Suspense Fund, Senator Feldman withdrew her motion to endorse the bill. Representative Lujan moved that the bill be endorsed, with an amendment to reduce the amount to go to the Motor Vehicle Suspense Fund from \$2.00 to \$1.00 with \$4.00 to go to the Disability Fund. Senator Feldman seconded the motion. Senator Adair opposed the motion, and Senators Ortiz y Pino and Feldman and Representatives Picraux and Lujan supported it. The motion was adopted. Senator Adair noted the merits of the bill; however, he feels the budget process should reflect priorities and include services for the disabled and that services should not be funded through expansions such as this. It is not correct to assume that all

good things should be funded.

Mr. Hely next presented a new version of a bill (.183271.1) dealing with the rate review process for health insurance. It establishes greater transparency and requires a greater burden of proof by clear and convincing evidence to justify premium rate increases requested by insurance companies. Mr. Hely compared and contrasted the current process with the new standards proposed in this bill. This bill states that the superintendent of insurance shall disapprove a request for an increase if certain conditions are not met or if the increase is not found to be actuarially sound.

Questions and comments by committee members covered the following areas:

- an observation that the bill is modeled after language in an application the PRC/DOI submitted to the federal Department of Health and Human Services for a PPACA grant and that the bill has been reviewed by the PRC/DOI;
- whether the solvency of the insurance companies is ensured in this bill; yes;
- whether insurance companies would be penalized by a decision to withdraw their business from New Mexico due to these new requirements; no;
- a suggestion that the bill requires that insurance companies demonstrate that they are following existing insurance mandates;
- agreement that insurance companies may not be following current mandates and that the PRC/DOI should provide better oversight over this;
- clarification regarding the role of the Office of the Attorney General (OAG) in representing policyholders in disputes and whether OAG representation of individual policyholders violates the anti-donation clause; the OAG would only represent a class of policyholders and not individuals;
- whether the OAG also has the responsibility to represent the state and the superintendent of insurance; that conflict would have to be resolved;
- clarification regarding how classes are established; by the OAG;
- clarification regarding the requirement to provide information on marketing when requesting a premium increase, and whether this information should not be protected as confidential;
- concern regarding the requirement to disclose business expenses generally considered to be proprietary;
- an observation that not all requests for rate increases represent profiteering; there was a concern that this bill would eliminate competition in the market;
- whether the provisions of this bill would affect Medicaid contracts; possibly;
- an observation that Medicaid and other publicly financed insurance coverage plus the uninsured constitute approximately 85% of the population of the state; this bill unfairly targets insurance companies covering only 15% of the population; and
- recognition that the bill is aimed at the individual and small group markets that have sustained 75% increases over the last three years.

Senator Ortiz y Pino moved and Senator Feldman seconded a motion to endorse the bill.

Clarification was sought regarding limiting the amount of rate increase requests to the medical price index; the sponsor requested that language be included to keep rate increases within a range of affordability. The motion to endorse was approved by a vote of five to one, with Senator Adair opposed.

Mr. Hely directed the committee members to the Health Security Act (.182913.3), which provides for a system for comprehensive statewide health care coverage, health care planning and cost-containment measures. It directs the LFC to develop and make recommendations on financing of the plan. If it is found to be feasible to be implemented, a commission would implement the act. The bill includes a November 2012 implementation date, but with a five-year phase-in plan for implementation. Comprehensive benefits are identified in the bill, as is a plan for collecting premiums, which would be maintained in a fund. The commission created by the bill is also charged with data collection duties. A prescription drug committee would develop a formulary of covered prescription drugs. The commission is charged with submitting waiver requests to the federal government to accomplish several of the provisions of the act and to allow coverage for individuals covered by the federal Employee Retirement Income Security Act plans. Agreements with the HSD would be necessary to allow the Health Security Act to provide Medicaid coverage.

Committee members had questions and comments as follows:

- whether this represents an approach of conducting health care business that excludes the governor; no; a nominating committee would recommend members of the commission that would then be appointed by the governor;
- recognition that this bill reflects a paradigm shift that is based on a citizen's board, rather than a state agency or the governor; it has legislative and executive checks and balances;
- clarification regarding the number of people who would be covered; it is not specified;
- clarification regarding the number of commission meetings; at least monthly;
- whether passage of this bill precludes proceeding on establishing a health insurance exchange; no; the Health Security Act would require the passage of a waiver and demonstration that this approach meets the goals of the PPACA; and
- recognition that it is impossible to know what the new Congress will do relative to the PPACA.

Representative Lujan moved and Senator Ortiz y Pino seconded a motion to endorse the bill. Senator Adair opposed the motion; five voting members voted in favor. The motion carried.

Mr. Hely next presented a memorial requesting the New Mexico congressional delegation to actively seek to amend the PPACA to remove the 2017 date for states to request a waiver of innovation to implement alternatives to a health insurance exchange (.183089.1). Currently, the PPACA is implemented, along with exchanges, in 2014, but waivers of innovation

may not be sought until 2017.

Committee members had questions and comments as follows:

- whether the congressional delegation has been queried about its support of this proposal, and what the reaction has been; the delegation and Congress in general have been very supportive; U.S. Senator Ron Wyden is introducing language to remove the 2017 date; and
- clarification regarding conditions that must be met to have a waiver approved; budget neutrality and coverage of the same number of people with comparable coverage.

There being no quorum present, no action was taken.

Mr. Hely presented .183033.5, the health insurance exchange bill. He provided background information regarding the PPACA requirements for exchanges. He identified required elements of a health insurance exchange, as required by the PPACA. He noted the bill addresses the recommendations of the SJM 1 HCRWG for New Mexico to have an exchange, for the exchange to be operated by a not-for-profit, quasi-governmental entity, for the individual market and the small business market to be administratively combined in one exchange and for the exchange to have robust authority and act as a market regulator rather than restricting its activity to merely organizing and distributing insurance products.

Senator Feldman made a motion to endorse the bill; the motion was seconded by Senator Ortiz y Pino. Technical amendments were offered and accepted by the committee.

Questions and comments from committee members covered the following areas:

- whether the bill provides for New Mexico to offer a basic health plan; no; there was no direction from the SJM 1 HCRWG to do so; Secretary Falls noted that the state should analyze the pros and cons of offering a state basic health plan; Mr. Hely noted the exchange is required to enroll people in state and local health plans, so if New Mexico chooses to offer one, the exchange would have to offer it as well; the bill does not provide for the exchange to create the basic health plan;
- clarification regarding whether individuals must be enrolled in Medicaid by the exchange; Sec. 1311, D4f of the PPACA was read; exchanges must screen and enroll eligible individuals in Medicaid;
- recognition that many details still must be clarified by the federal government;
- clarification regarding the inclusion of pediatric dental benefits; it is required by the PPACA;
- clarification regarding the requirements for health plans to participate in the exchange in order to do business in New Mexico;
- concern regarding the cost of providing access to basic benefits required in the bill and in the PPACA;
- concern that the PPACA only requires a state to establish a framework at this time

- and that this bill explicitly creates an exchange absent rules and guidance from the federal government;
- an observation that now the federal government is recommending an exchange be up and running by October 1, 2013;
 - Secretary Falls noted that information regarding the business rules of an exchange are expected to be available by early 2011;
 - whether the bill is more detailed than what was recommended by the SJM 1 HCRWG; no;
 - an observation that the bill is actually not overly detailed for a complex health care bill; much of the language is general and "boiler-plate";
 - support for the concept of an exchange and a general willingness for bipartisanship efforts in establishing an exchange;
 - clarification that the bill does not preclude cooperation with other states in a regional exchange;
 - whether the committee desires to change the date of the creation of the board to reflect the emergency clause;
 - whether the Native American community is being consulted in establishing an exchange; Secretary Falls reported that the HSD held a tribal consultation and discussed many options that are open to tribes; and
 - an observation that this bill reflects the principles recommended by the SJM 1 HCRWG as directed by the LHHS at the October meeting; other provisions in the bill are either in the PPACA or in a model bill developed by the National Association of Insurance Commissioners.

Technical amendments were offered to align establishment of the board of the exchange with the emergency clause and to correct a few typographical errors. Senator Feldman moved and Senator Lopez seconded a motion to adopt the recommended amendments. Senator Adair opposed the motion; five voting members voted in favor. The amendments carried. Senator Feldman moved endorsement of the bill as amended and the motion was seconded by Senator Ortiz y Pino; Senator Adair and Senator Lopez opposed the motion. Representatives Picraux and Lujan and Senators Feldman and Ortiz y Pino voted in favor of the motion. Two voting members were absent; the motion carried.

A quorum being present, Senator Ortiz y Pino moved and Representative Lujan seconded a motion to endorse the memorial urging Congress to delay the date for submission of a waiver of innovation. Senator Adair opposed the measure. Senators Feldman, Lopez and Ortiz y Pino and Representatives Picraux and Lujan voted in favor of the motion. The motion carried.

Mr. Hely noted that a bill endorsed at the October meeting to align the New Mexico Insurance Code with insurance requirements in the PPACA violates the Constitution of New Mexico, which prohibits legislation that incorporates federal law by reference. Other states can do this type of bill; however, the Constitution of New Mexico precludes this action. Senator Ortiz y Pino noted that Ms. Bannerman is still researching the bill on nutritional supplements.

Senator Feldman thanked the staff and committee for their hard work during the interim. Representative Vaughn was again thanked for her participation on the LHHS. Representative Picraux thanked all members. There being no further business, the committee was adjourned at 1:15 p.m.