

**MINUTES
of the
FIRST MEETING
of the
LEGISLATIVE STRUCTURE AND PROCESS STUDY TASK FORCE**

**August 4, 2006
Room 307, State Capitol
Santa Fe**

The first meeting of the Legislative Structure and Process Study Task Force was called to order by Richard E. Olson, co-chair, at 9:20 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Thomas A. Donnelly, Co-Chair
Richard E. Olson, Co-Chair
Rep. Janice E. Arnold-Jones
Rep. Ray Begaye
Max Coll
Linda M. Davis
Charles Dorame
Marie Eaves
F. Chris Garcia
William R. Humphries
Tommy Jewell
Judy K. Jones
Rep. Larry A. Larrañaga
Willard Lewis
Brian McDonald
Sen. Steven P. Neville
Sen. Gerald Ortiz y Pino
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor
Anthony Williams
Rep. Peter Wirth

Absent

Sen. Mark Boitano
David McCumber
Sen. Cynthia Nava
Sen. William H. Payne
Murray Ryan

Advisory Members

Rep. Donald E. Bratton
Sen. Stuart Ingle
Rep. Al Park
Kim Seckler

Marilyn O'Leary

Staff

Paula Tackett, Director, Legislative Council Service (LCS)
Pauline Rindone, Director, Legislative Education Study Committee (LESC)
Evan Blackstone, Staff Attorney, LCS
Raúl E. Burciaga, Assistant Director for Drafting Services, LCS
Cathy Fernandez, Deputy Director, Legislative Finance Committee (LFC)
Ric Gaudet, LCS
Frances Maestas, Deputy Director, LESC
John Yaeger, Assistant Director for Legislative Affairs, LCS

Guests

The guest list is in the meeting file.

Introductions and Charge to Task Force

Co-chairs Olson and Donnelly welcomed members to the inaugural meeting of the task force, and then the members introduced themselves. Mr. Olson then described the charge by the New Mexico Legislative Council to the task force, which is to:

- review and evaluate past and present organizational and operational practices of the New Mexico Legislature for regular, special and extraordinary sessions and also for the critical work of interim committees and the relationship of the interim committees to the next regular session to which they necessarily report;
- review constraints on operational structures and processes contained in the Constitution of New Mexico and statutes, as well as those set out in the rules and policies of the legislature;
- review the operational structures and processes of comparable state legislatures;
- concern itself with ensuring public participation in and public understanding, confidence and regard for the processes of the legislature;
- obtain public comment on its study and preliminary recommendations; and
- report regularly to the New Mexico Legislative Council on its progress, issue a preliminary report of any conclusions and recommendations that can be addressed during the 2007 legislative session and produce a final report of all of its conclusions and recommendations, including a summary of any public comment, by December 21, 2007 for action during the 2008 legislative session.

Evolution of Legislative Structure and Process

Following Mr. Olson's introductory remarks, Ms. Tackett gave a presentation on the evolution of legislative structure and process. A copy of Ms. Tackett's prepared remarks are in the meeting file. Ms. Tackett pointed out that it is not necessarily the job of the task force to make proposals to make the legislature more efficient, but rather to make it more effective. Ms.

Tackett gave a brief history of some of the changes that New Mexico has experienced since statehood, and especially since the 1970s, that have created new challenges for the legislature.

The number of bills introduced in 2006 was 600 percent over the 1970 session, and the number introduced in 2005 was twice the number introduced in 1971. However, the time the legislature gets to address that work has remained constant. The number of duplicate bills introduced has also risen dramatically, just since 2001.

Interim committees have proliferated since the 1970s, and the membership on those committees, both voting and advisory, has increased. This has led to legislators serving on more interim committees, making scheduling conflicts inevitable and putting undue strain on the legislature's 112 citizen members. However, the need for more substantive interim committees reflects the legislature's need or desire to make informed policy decisions on a broader range of issues and to exercise greater oversight of the executive branch.

The state's population has also grown since the 1970s, resulting in a higher number of constituents for each legislator and increased demands on the legislature and its staff. Constituents today also tend to have more ideas that they want implemented, and they tend to want those ideas enacted relatively quickly.

During legislative sessions, the number of standing committee referrals for a bill has also increased from one or two to three or even four today. Today, additional committee referrals for a bill is used as a "clean" way to defeat undesirable bills, but this practice slows down the system, making it more difficult for any legislation to work its way through both chambers before the session ends.

Ms. Tackett then identified several process and structural reforms that have been implemented over the years to address some of these changes, including:

- establishment of a deadline for legislators to request bills to be drafted;
- amendment of the constitution to allow the Senate Rules Committee to meet in the interim;
- change in the capital outlay process to produce "capital outlay requests" instead of the huge number of introduced bills to fund individual capital projects;
- reorganizing standing committees in the 1950s;
- reestablishment of certificates of condolence and congratulations instead of introducing memorials to honor constituents;
- creation during the 1950s of the LCS as a nonpartisan professional agency to support the legislature;

- creation of the LFC and LESC to focus specifically on budget and education issues;
- employment of permanent staff in the offices of the leadership positions and the chief clerks to handle constituent services and other duties year-round; and
- implementation of an integrated information system for use by the public and the legislature.

Ms. Tackett concluded her presentation with a list of other reform initiatives proposed in the past that had either not been adopted or had not been fully implemented. Some of those previous reform proposals include:

- limiting the number of bills members may introduce and prohibiting introduction of duplicate bills;
- allowing legislators to designate a limited number of "priority" bills entitled to speedier drafting and committee hearings;
- allowing house members (and this year, senators) to prefile legislation. This practice has been allowed in the house since 1989, but no one has ever exercised that right;
- extending the 30-day session (and sometimes shortening the 60-day session), as well as splitting up sessions with recesses;
- removing restrictions on the subjects that may be considered during the 30-day session;
- capping the number of interim committees, only letting New Mexico Legislative Council members serve as advisory members to interim committees and letting all legislators attend other interim committees during the interim;
- converting to a "paperless" legislature;
- shortening the deadline for introducing bills; and
- requiring a lengthier review of proposed constitutional amendments prior to a final vote by the legislature.

Representative Begaye expressed his enthusiasm for the work of the new task force, with hope that it could include a discussion on including tribal governments in the legislative process.

Representative Wirth inquired about the number of appropriation bills during 2005-2006. Mr. Burciaga responded that of 2,200 bills introduced in 2006, between 700 and 900 were

special appropriations. That figure did not include capital outlay requests, which are introduced separately.

Senator Rodriguez stated that some committees just pass through many bills on their way to the Senate Finance Committee, because there is no time to review them. Senator Ingle agreed that bills usually do not get killed in committee anymore, and added that usually when there is more money available for the legislature to spend, more bills get introduced.

Representative Begaye expressed concern about the Capital Outlay Subcommittee of the House Taxation and Revenue Committee (HTRC), in which he spent many hours hearing testimony from constituents who often had to wait hours or come back another day to give a five-minute presentation on a project. However, toward the end of the session, each representative was told to just choose five projects. Representative Begaye felt that the subcommittee process was a waste of time, since that subcommittee never made any decisions.

Task Force Schedule and Discussion

Representative Park suggested that the task force come up with recommendations for the 2007 session, rather than waiting for 2008. Ms. Tackett responded that the New Mexico Legislative Council left to the task force the decision to present piecemeal reform over two sessions or to present one package in 2008.

Responding to a question from Senator Ortiz y Pino about capital outlay, Ms. Tackett said that the interim Capital Outlay Subcommittee of the New Mexico Legislative Council will be addressing the issue of reforming the capital outlay process.

Representative Bratton then discussed the Capital Outlay Subcommittee of the HTRC. He said that it was unfair to make hundreds of people wait for hours or days to testify about individual projects. He also expressed hope that the task force can come up with some truly bipartisan proposals that the voters can support, should any proposal be in the form of a constitutional amendment.

In answer to a question from Representative Begaye about professional mediation, Ms. Tackett responded that New Mexico First would be contracted to be involved with the task force during the 2006 and 2007 interims.

Representative Taylor suggested that a special session be called in September 2007 to address all of the issues regarding reforming the legislative process and structure. He said that the previous reform effort he was involved in presented 17 bills, but only one bill managed to work its way to the governor's desk. The task force was reminded that constitutional amendments cannot be proposed during special sessions of the legislature but that it could be handled that way if the legislature convened in an extraordinary session.

Constitutional Constraints on Legislative Reform

Mr. Burciaga presented information about the constitutional provisions and restraints regarding legislative reform. A copy of his prepared remarks are in the meeting file. He began by noting that while the federal constitution generally grants powers, the Constitution of New Mexico generally sets limits on powers of the state. Thus, if no limitation exists in the constitution regarding a specific power, then that power may be exercised by the state.

Mr. Burciaga then reviewed various provisions of the state constitution that may be the focus of the task force in terms of its work. They include:

- time, length and scope of regular sessions;
- special sessions of the legislature and extraordinary sessions;
- per diem and mileage for legislators;
- the requirement that all legislation be read three times before passage;
- limitations on the scope of individual bills and general appropriation bills;
- the prohibition on "blind" legislation;
- provisions for vetoes, line-item vetoes and overrides, including specific limitations imposed by the New Mexico Supreme Court on the other two branches; and
- creation of the Senate Rules Committee during the interim.

Mr. Burciaga also noted that in the 2005 interim, an interim committee and special counsel were appointed to consider issues surrounding the possible impeachment of an elected official. He noted that there are no provisions in the constitution that deal with impeachment of an elected official in a legislative interim, but that the New Mexico Legislative Council was able to be prepared in advance of such a necessity, without specifically contravening any constitutional provision.

Representative Arnold-Jones commented that she believes legislation is not carefully read and analyzed in committee and that a legislator's duty could be made easier if mock-ups were available to show how adopted and proposed amendments fit within legislation. She noted that technological advances may make that process easier.

Mr. Williams noted the constitutional prohibitions against special legislation and suggested that the legislature is overwhelmed by bills that are introduced contrary to this principle.

Consideration of Survey Instrument

William T. Pound, executive director of the National Conference of State Legislatures (NCSL), presented a draft of the survey that NCSL will conduct during August and September. The survey will be administered to legislators, legislative staff, key staff in various executive agencies and others. The survey is divided into five main categories: general institutional issues, time frames, staff resources, legislative process and procedures, and demographic information on the survey respondents. The legislative process and procedures category has three subdivisions: issues relating to standing committees, issues relating to the interim and legislative rules and procedures.

Mr. Pound stated that the survey will be mailed out within the next week, if the task force approves it, and the results of the survey will be ready for the October 30-31 meeting.

Representative Arnold-Jones said that, in general, session staff lack information technology resources or training. She requested that data analysis questions be included in the survey.

Ms. Jones asked whether there have been nationwide studies of factors that indicate "good" legislatures. Mr. Pound responded that there have been some, but that each state needs to look at its own constitution, history and committee system to determine effectiveness. Ms. Jones recommended looking at various factors of good governance before the task force makes any proposals.

Direction to Staff for Subsequent Meetings

LCS staff then fielded numerous questions and requests for information or action from members of the task force.

Senator Neville asked for clarification on what subjects an extraordinary session of the legislature may address. Ms. Tackett agreed that when the legislature calls itself into an extraordinary session, it is treated like a regular session, and all subjects, including proposed constitutional amendments, may be addressed. Senator Neville then asked whether there are any constitutional limitations on the legislature going "paperless". Ms. Tackett responded that there probably are not any, but that staff would look into that subject further. Finally, Senator Neville asked whether the legislature could stop in the middle of its session, go home for a break and then return to finish the session, thus keeping the 30- or 60-day limitation intact. Ms. Tackett responded that as the constitution is now written, the New Mexico Supreme Court has ruled that the legislature ends exactly 30 or 60 *calendar* days after it starts.

Representative Arnold-Jones requested information on the benefits and drawbacks of requiring the executive branch to have all of its legislative requests ready by the first day of a legislative session.

Mr. Coll suggested looking at the idea of amending the constitution to allow the legislative session to be extended, in order to stop an "end-of-the-session" filibuster by a member.

Representative Larrañaga requested that the task force also study the legislative process as it occurs during the interim, including its oversight role. He said that currently only the LFC has subpoena power.

Mr. Jewell suggested the task force look at the legislative reform process underway in Oregon.

Representative Park wondered why the task force is not going to meet until October 30. Ms. Tackett responded that due to delays in appointing the initial task force, staff needed time to develop the ideas presented at this first meeting, and time to tabulate the survey results. Mr. Olson then said that task force members should send any issues they want staff to research, preferably within the next two weeks, and then staff should compile that research list and send it to the members. Representative Park replied that he already has two such ideas, which are to look into providing district staff for legislators and increasing session staff for rank-and-file members.

Representative Saavedra said he supports Representative Park's idea of providing a staff person to every legislator during session, and some sort of staff support during the interim, at least to help legislators respond to the 10-15 letters they receive every day.

Mr. Williams stated that the legislature needs to move away from its tendency to micromanage the budgeting process, especially with regard to capital outlay. He said that any amount of legislative process change the task force may come up with will not help so long as the legislature micromanages the appropriation and capital outlay process.

Representative Begaye suggested looking at standing committee structure and jurisdiction. He said the House Judiciary Committee (HJC) is constantly overwhelmed with work. He also recommended the elimination of duplication of committee jurisdiction over subject areas.

Representative Arnold-Jones commented that committees tend to pass flawed bills, instead of fixing them or issuing a DO NOT PASS recommendation. Representative Wirth lamented the lack of legal expertise on some standing committees, especially those in which he finds himself the "legal expert" having to make judgments by himself on some tricky legal issues. He said that more bills need to be sent to HJC and that maybe committees should only focus on that particular part of a bill within its purview.

Mr. Coll then said that the House Appropriations and Finance Committee and the Senate Finance Committee end up being the "dumping ground" for all the bad bills previous committees could not find the courage to defeat. He also said committees should not table bills as a way of defeating them. Tabling motions should only be made if the committee actually intends to rehear a bill at a later date.

Senator Ortiz y Pino said that multiple bill introductions adds to the problem because members know that they will be able to hear the bill again later.

Representative Begaye said that the legislature could save one week of time just by streamlining the appropriation process.

Representative Wirth said that the interim Courts, Corrections and Justice Committee would benefit from having the power to subpoena witnesses.

Representative Taylor then commented that New Mexico involves the public less than other states do. He suggested that the legislature take breaks in the middle of sessions in order to have town hall meetings and to gather public input on proposed legislation. But, he cautioned, extending the length of sessions will not solve the problem. As an example, he stated that the HTRC often has 30-40 agenda items every day it meets, which means that by giving 15 minutes to each bill, the committee would need to meet up to 10 hours every day to accomplish its daily agenda.

Senator Neville requested that the survey include questions about salary issues for legislators. He commented that if there were a salary for legislators, there probably would be more contested legislative races. Representative Saavedra agreed, saying that legislators at least need a better per diem just to cover their own expenses. He also suggested that the business, appropriations and tax committees start meeting five to seven days per week during the session and that legislators should not be sent home for a long weekend on the Thursday of the first week of session anymore.

There being no further business, the task force adjourned at 12:00 noon.