

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

**May 17, 2007
Room 307, State Capitol
Santa Fe**

The fifth meeting of the Legislative Structure and Process Study Task Force was called to order by Thomas A. Donnelly, co-chair, on May 17, 2007 at 10:25 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
Rep. Larry A. Larrañaga
Willard Lewis
Sen. Gerald Ortiz y Pino
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor
Anthony Williams

Absent

Sen. Mark Boitano
William R. Humphries
Tommy Jewell
Judy K. Jones
David McCumber
Brian McDonald
Sen. Cynthia Nava
Sen. Steven P. Neville
Sen. William H. Payne
Murray Ryan
Rep. Peter Wirth

Advisory Members

Kim Seckler

Rep. Donald E. Bratton
Sen. Stuart Ingle
Marilyn O'Leary

Staff

Raúl E. Burciaga, Assistant Director for Drafting Services, Legislative Council Service (LCS)
Cathy T. Fernandez, Deputy Director, Legislative Finance Committee (LFC)
Ric Gaudet, LCS
Paula Tackett, Director, LCS
John Yaeger, Assistant Director for Legislative Affairs, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of handouts given by meeting presenters are in the meeting file.

Co-Chair Olson informed the task force that Bill King had been appointed by the Legislative Council to serve as a voting member to replace Chris Garcia.

Review of Draft Proposals from May 3-4, 2007 Meeting

Mr. Yaeger presented six draft proposals to the task force that were requested at the previous meeting. The proposals include:

1. House and Senate rules to make the prefiling process substantially the same in both chambers, including a new provision for the Senate to give prefiled bills priority in the standing committees to be heard.

2. House and Senate rules to limit the number of bills a member may introduce during the session. Exceptions are allowed for prefiled bills, interim-committee-endorsed bills and bill allotments that were transferred from another member. The actual number of bills a member may introduce is still a matter of consideration.

3. House and Senate rules to provide that after a committee has tabled a bill or resolution for five days, a Do Not Pass committee report is generated and sent to the floor. Bills and resolutions in the Senate Finance Committee, House Appropriations and Finance Committee (HAFC) and House Taxation and Revenue Committee (HTRC) are excluded from the rule.

4. House and Senate rules changes to allow co-sponsorship by members of the same chamber of bills, resolutions and memorials by the member filing notice with the chief clerk prior to third reading in that chamber.

5. A joint rule to prohibit the LCS from drafting a memorial that requests state departments, institutions or agencies to act.

6. A bill to reduce the bill introduction period to one-third of the session length, reduced from the current one-half length limitation.

Item 5 generated discussion by the task force. Mr. Coll said that the rule as drafted does not prohibit asking local governments to act. Senator Rodriguez suggested that the rule be drafted to list the specific purposes for which memorials can be drafted, which would exclude everything else.

Ms. Tackett said that the use of memorials increased several years ago, when there was very little money for the state to spend, so the legislature started asking agencies to study

something instead of appropriating money for a study or action.

Senator Rodriguez cautioned against a complete ban on agency-study memorials, and described how a memorial she ushered through about American Sign Language actually changed the way the language is taught in public schools. She said that a bill probably would not have passed that year, which would have meant that the issue would still be a problem.

New Mexico Legislature's Session Schedule and History; Related Cases

Mr. Burciaga reviewed the 1974 New Mexico Supreme Court case *Dillon v. King*, in which the court warned the legislature that legislation passed after the 60-day or 30-day calendar limitation on the session would be invalid. The court said that if such a case were heard, it would rule that such legislation would be void. The time limitation set forth for legislative sessions in Article 4, Section 5 of the Constitution of New Mexico is to be computed in calendar days, and not legislative days.

Ms. Tackett gave a brief history of legislative session length in New Mexico. From 1912 until 1941, New Mexico had 60-day sessions every odd year. In the 1940s, the state experimented with split sessions. After a few years, the feeling in the legislature was that the recess did not help the process much, and the legislature proposed a constitutional amendment dividing the split session differently, so the second portion was longer than the first. Voters rejected that change, however, and ultimately the constitution was changed to its current structure of 60-day and 30-day sessions in alternating years.

Senator Ortiz y Pino asked why the legislature needs to roll the clock. Ms. Tackett said that the constitution requires that legislation be introduced and voted upon on different days. So, rolling the clock is a legal fiction that most state legislatures use to quickly pass bills, especially near the end of the session.

Mr. Williams suggested that the prohibition against same-day passage of legislation hearkens back to the time when the technology to print bills was much slower than it is today.

Mr. Coll suggested cleaning up antiquated constitutional sections. He also said that maybe the constitution could be revised just to say that a bill cannot pass both houses in the same day, but the other out-of-date and burdensome language could be eliminated.

Ms. Tackett then described what happens during a typical 60-day session, and where time problems seem to occur. She said that the floor and committee schedules are already difficult to maintain, but when leadership meetings, caucuses, breakfast meetings and evening social events are thrown into the mix, it becomes inevitable that delays occur as the session progresses. She said that those types of events also need to be part of the overall scheduling process.

Senator Ortiz y Pino said that last year, the number of messages from the governor overwhelmed the legislature with extra work.

Representative Larrañaga asked about the history of New Mexico's split budget process. Ms. Tackett said that in the 1980s, the budget process was split up between education and the rest of state government. Mr. Coll said that the capital outlay process was taken away from HAFC and moved to HTRC in order to mollify some disgruntled House members, but that it further fragmented the budget process.

Ms. Tackett suggested another idea to improve the legislative process, which many other states use. Bills that have not made it through the process one year could be held over until the next year, in the same place that they were when the session ended. Mr. Olson thought that, since many bills are introduced with no intention of their passage being pushed, each chamber would need to specify which bills it wants to continue the following year. Representative Larrañaga asked how this change would fit into the current 30-day and 60-day structure. Ms. Tackett said that either the constitution would have to be amended, or that some bills would not fall within the scope of the 30-day session.

Senator Ortiz y Pino said that he favors having two 60-day sessions with unlimited scope. He also suggested giving certain committees a target budget figure to work with, and those committees could recommend funding priorities within that number.

Representative Taylor agreed with the committee budget idea, and said that the budget problem also extends to HTRC, which does not know what to do with all of its tax bills until a budget is worked out. Mr. Coll said that HAFC used to give dollar figures to committee chairs.

The task force recessed for lunch until 1:50 p.m.

Consideration of Task Force Proposals

Mr. Yaeger, Ms. Fernandez and Brenda Erickson, National Conference of State Legislatures (NCSL), led the task force discussion of the various proposals it had identified regarding session time issues.

Separating Legislative Days from Calendar Days

Representative Taylor asked if most legislatures take weekends off. Ms. Erickson said that most do, especially during the first part of the session. She said that some legislatures can extend the session for up to 30 extra days by extraordinary vote. Representative Taylor said that with New Mexico's unsalaried legislature, it would be very difficult for members to reschedule their professional lives around a longer session or around a session with an uncertain adjournment date.

Ms. Erickson said that all legislatures face end-of-session logjams, no matter how long their sessions last. She also said that the average length of time that part-time legislatures meet is 120 days. Mr. Williams said that until committees actually deliberate bills, adding days to the session will not help anything.

Senator Ortiz y Pino suggested including "working days" with "calendar days", so that

the legislature could exclude weekends and holidays from its time limit.

Mr. Coll said that more important than extending the session is the need for committees to deliberate and reject bad bills.

Representative Taylor said that since there is not enough time now for the legislature to deliberate issues, there certainly is not any time for the legislature to involve the public. He proposed having at least two to three days off periodically, so legislators can go home and get input from the public.

Mr. Olson said that including some days just for committee hearings and some days to gather public input necessitates some extension of the current session length.

Mr. Lewis said that 30-day sessions are clearly not working. He proposed that the task force adopt a recommendation to extend the current 30-day session to 60 days, with a maximum of 45 days in which floor sessions can occur. The current 60-day session should be extended to 90 days, with 60 days of floor sessions allowed. No consensus was reached on the actual time periods, but staff was instructed to draft legislation that would serve as a starting point for discussion on that concept.

Representative Arnold-Jones said she likes the idea of taking a break from floor sessions after the bill introduction deadline. She said that period could be used for ceremonial events.

Representative Larrañaga said that if the legislative session is extended, then New Mexico will cease to have a "citizen" legislature.

Mr. Coll suggested swearing in the legislature in December, and electing leadership then. That way, committees can be appointed, and could start hearing prefiled bills early. He also endorsed Mr. Lewis' proposal of extending the sessions with working day limits. He said that prefiling and bill introduction limits are essential also.

Representative Saavedra said that he wished journalists would attend interim and standing committee meetings, which would improve attendance and behavior of legislators during those meetings. He said that legislators should not come to committee meetings for merely 15 minutes, and then claim their per diem. Having a journalist in the room would quickly put a stop to that practice, he said.

Time Management Issues

Mr. Olson asked whether other state legislatures have good methods of managing their time. Ms. Erickson said that some states issue pagers to members, so they can be informed quickly if their presence is needed in committee. Some states also meet in floor session on Monday and Thursday only, which allows for committees to meet the other days, and it avoids the three-day recess without permission prohibition that many states have.

Representative Arnold-Jones asked whether states that have multiple deadlines built in find that to be helpful or burdensome. Ms. Erickson said that those states are used to those deadlines, and it becomes part of the institutional structure of the legislature.

Mr. Coll said he wants the legislature to have crossover deadlines, which require a bill to be out of its house of origin by a certain date.

Ms. Fernandez spoke briefly about Legislative Joint Rule 9-1, which provides time lines for the legislature to act upon the general appropriation bill. She said that in 2007, the legislature met the deadlines, and got the bill to the governor in time to require his action within three days.

Staff was directed to come up with proposals for a crossover legislation deadline, and to develop a plan to distribute pagers to legislators.

Re-evaluate Honoring Memorials

Mr. Yaeger reviewed Legislative Joint Rule 6-1, which prohibits memorials being used for honoring purposes. He said that although that rule is in place, it is regularly violated.

Mr. Olson suggested setting aside ceremonial days in which the legislature can honor individuals or groups. Representative Saavedra said that there is no time at all for ceremonial days during the 30-day session. Currently, entire days are spent in ceremonial purposes, and precious floor time is wasted. Ms. Erickson said that some states do not allow groups onto the floor, but just acknowledge them on the chamber billboard.

A discussion ensued about the time spent introducing pages during floor sessions. Representative Arnold-Jones suggested that page introductions not be allowed during the last days of a session. Staff was instructed to develop a proposed rule for page introductions.

Senator Ortiz y Pino said he supports limiting the number of memorials that may be introduced.

Committee Business

July Meeting

Representative Saavedra moved that a letter be written to the LFC, asking it to change its July meeting date, so members could attend the task force meeting. Representative Arnold-Jones seconded the motion, and it passed unanimously.

Application of the Fair Labor Standards Act (FSLA)

The task force was presented with a copy of an NCSL report on legislative pay. Mr. Yaeger reported that in New Mexico, House and Senate employees get paid straight time, but usually not overtime.

The task force asked staff to estimate the cost of paying session staff time-and-a-half for

overtime.

Prefiling Methods in Other States

Mr. Yaeger presented research done by LCS staff investigating other states' use of prefiling and staff opinion of its use.

The minutes of the May 3-4 task force meeting were approved.

Having no further business, the task force adjourned at 3:50 p.m.