

**Minutes
of the
Fifth Meeting
of the
Government Restructuring Task Force
August 19-20, 2010
Room 307, State Capitol**

The fifth meeting of the government restructuring task force was called to order on August 19, 2010 by Senator Tim Eichenberg, chairman, at 10:15 a.m. in Room 307, State Capitol.

Present were:

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

Absent were:

Rep. Rick Miera
Sen. Steven P. Neville

Advisory members:

Sen. Carlos R. Cisneros
Sen. Stuart Ingle (August 19)
Sen. Lynda M. Lovejoy
Rep. Jeannette O. Wallace

Sen. Mary Jane M. Garcia
Rep. Joni Marie Gutierrez
Rep. James Roger Madalena
Rep. Al Park

Legislative guests:

Rep. Nora Espinoza
Sen. Timothy Z. Jennings

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

Staff: Raúl E. Burciaga, Jonelle Maison, Kim Bannerman and Leslie Porter for legislative council service (LCS); David Harrell and Eilani Gerstner for legislative education study committee (LESC); Cathy Fernandez and Brent Earnest for legislative finance committee (LFC);

Stephanie Lenhart and David Hadwiger for department of finance and administration (DFA); Scott Hughes for office of education accountability; and Tim Karpoff, contract task force facilitator.

Thursday, August 19

Task Force Business: The minutes were approved as submitted. Copies of presentations and handouts are in the meeting file.

Mr. Karpoff reminded the task force that the goal of restructuring consists of four elements: organizational improvements; administrative, or functional, efficiencies; financial savings; and operational improvements. In addition, the task force should be asking the key question, "What are the essential services state government must provide, and how can it provide those services in the best, most efficient way?".

Proposals to Address State Government Restructuring — Cathy Fernandez, Deputy Director of LFC, and David Hadwiger, Deputy Budget Division Director, DFA

The presenters updated the spreadsheet provided at the last meeting that showed restructuring ideas that LFC and DFA had analyzed and the actions taken or to be taken by the task force.

✓ A. Move programmatic administration of E-911 from local government division (LGD) of DFA to homeland security and emergency management department (HSEMD) and designate the department of information technology (DOIT) as technology provider to coordinate and overlay all telecommunications needs on a consolidated network in the state.

Mr. Hadwiger said the proposal would provide for coordination of infrastructure and leverage state communication infrastructure to hold down costs; move the state police dispatch operation into E-911; and provide a way to develop E-911 response technology for the next generation of technology. While there may not be any savings in this item, it should improve services and efficiency.

Senator Lovejoy noted that E-911 remains an incomplete emergency response system as long as rural addressing is not complete. In discussion, Representative Lundstrom noted that aligning the system would be an important efficiency move. Representative Gardner suggested the need to consolidate all state and local dispatch on a county or regional basis; he argued there should be a central dispatch and a single system so all public safety agencies could talk to one another. Ms. Lenhart noted that DOIT has received a large stimulus grant to look at the next generation, which should help answer some of the questions raised.

Representative Varela requested that the drafter and analysts involve the New Mexico municipal league, the New Mexico association of counties and the information technology commission in the drafting discussions. Senator Cisneros noted that moving HSEMD to the department of public safety (DPS) may have an impact on this proposal as well. Senator Smith

recommended a five-year implementation plan. Mr. O'Neill noted that for **Option 3**, the taxation and revenue department had similar problems with the gross receipts tax and staff could look to those statutes for a model.

★ After discussion of the proposal, the task force requested more information but asked staff to draft **Option 1** and **Option 3**, which would move the programmatic administration of E-911 from LGD to HSEMD and designate DOIT as the provider of the technical infrastructure (**Option 1**). A joint powers agreement between the two agencies that currently allows them to work together may need to be amended to include this new mandate. The recommendation also included amending the E-911 statute to allow use of E-911 funds for purposes other than to reimburse local governments and private businesses so that the funds may be contributed to a single public safety network. Also, it was requested to amend the definition of "PSAP" to cover all agencies that provide emergency response service. The task force recognized that it is considering merging HSEMD with DPS; in which case, the draft should provide for that eventuality. The task force also agreed to **Option 3**, to expand statutory language to apply E-911 fees to voice over internet protocol and prepared phone card services as well as future technologies. **Option 2**, legislation to require all statewide telecommunications initiatives to be coordinated on one backbone that leverages current infrastructure, will remain under consideration.

✓ **B. Establish a central office in DFA for administrative functions, including purchasing, budget, personnel and accounting, to serve small agencies.**

This item will cost additional resources to establish and maintain the office in DFA, which may or may not be offset by reductions in the agencies. The primary benefit of the office is that it will provide greater accountability and transparency; free up program staff to provide better service to constituents; and maintain some semblance of independence rather than administrative attachment to a larger agency.

★ After a brief discussion, the task force asked for a draft of **Option 1**.

C. Consolidate the economic development, tourism, workforce solutions and regulation and licensing departments, workers' compensation administration and border and spaceport authorities into one department.

The analysis evolved from the Carruthers report recommendation on cost savings to one of considering span of control, i.e., the size, efficiency and functions of one or more consolidated departments. Staff presented an alternative restructuring option that would include three departments with more concentrated functions, revenues from a common source and missions and mandates of internal organizations that support one another. The three departments would be: economic development and tourism department (ED&TD), regulation and insurance department and employment services department.

Mr. O'Neill said he preferred the new option over last year's Senate Bill 242, which had been the Carruthers report recommendation for a commerce and economic development department. Representative Lundstrom expressed her support of an ED&TD. She also

questioned whether moving quasi-government agencies, like the spaceport authority and the border authority, had been examined. David Lucero, LFC analyst, noted that the special bonding authority issue had been noted in the proposal. Representative Varela said the regulation and insurance department is premature because of the constitutional barriers to moving the insurance division from the public regulation commission (PRC). Senator Smith noted a conflict between the gaming control board and the state racing commission. Mr. Gasparich and Senator Cisneros had a discussion about combining state monuments and state parks. On questions from them, Anne Green-Romig from the cultural affairs department said the state monuments are Lincoln, Jemez, Ft. Selden, Ft. Stanton, Coronado, Taylor Reynolds Barela Mesilla and El Camino Real. She noted that the monuments have an interpretive, rather than recreational, function. Regarding the option to combine cultural affairs, state parks, department of game and fish, welcome centers and rest areas into ED&TD, Representative Bandy noted that the department of game and fish is not a tourism-type agency. Mr. Gasparich demurred, saying they are all about recreation in one form or another.

★ After discussion, the task force asked for drafts of an ED&TD and an employment services department. Because the regulation and insurance department will first require a constitutional amendment, that will be considered later. The task force also asked staff to examine moving the cultural affairs department and monuments into the new ED&TD.

✓ **D. Merge the energy, minerals and natural resources and environment departments.**

★ After a brief discussion, the task force asked for a draft that included the department of game and fish.

E. Repeal the general services department (GSD) in favor of moving functions to other departments, notably DFA, or privatizing functions.

Representative Varela recommended that the state personnel office be moved to DFA as well. He stressed that DFA should have a strong oversight function for all state government. Mr. O'Neill concurred. Ms Lenhart asked whether some of the property control issues in this proposal will be part of the proposed infrastructure agency. Ms. Fernandez said that the issue will be examined at the next meeting. Representative Lundstrom supported moving transportation services to the department of transportation and the rest areas to ED&TD. Senator Jennings took a contrary position that motor pool and aviation should stay at the GSD and all state aircraft should be under its control. Representative Lundstrom asked staff to look more closely at cost comparisons of all options, particularly as they relate to privatization.

★ After discussion, the task force asked staff to provide cost comparisons and provide bill drafts to move state purchasing and state personnel to DFA, move risk management to a new employee benefit agency that includes the interagency benefits advisory committee (IBAC) agencies and provide further research on other combinations.

F. Close or consolidate seven magistrate courts.

The courts to be considered are Bayard, Eunice, Estancia, Jal, Pojoaque, Tatum and Questa.

Senators Ingle and Payne questioned the caseload statistics provided in the analysis; it was later clarified that the numbers indicated minutes, not cases. The task force deferred consideration of this item until hearing from the judiciary.

Structure and Efficiency in the Judiciary — Chief Justice Charles Daniels and Mr. Arthur Pepin, Director of the Administrative Office of the Courts (AOC)

Chief Justice Daniels said the judiciary agrees with the goals of the task force to make state government more efficient and effective. He noted that the financial crisis has been such that the state will have limited resources for years to come. The constitution of New Mexico requires that courts be open for speedy justice and the enforcement of the laws. The judiciary has addressed all the low-hanging fruit of fiscal conservatism, such as recycling, reducing utility use and eliminating cell phones, and it continues to look for ways to be efficient and effective. The judicial branch does have a strategic plan, the supreme court long-term strategic plan, and the judicial branch has for several years been focused on creative, innovative ideas to streamline the delivery of essential services, provide meaningful access to justice for all who come to the courts and eliminate inefficiencies. Through its strategic plan, the judiciary has broadened the scope of its constitutional mission in an effort to redress the causes of disputes by providing solutions that prevent future disputes. However, he said, the judicial branch is inadequately staffed and inadequately funded to accomplish all the efforts it has undertaken. While fiscal reality suggests it may be time to retreat from some of those efforts, the judiciary is not prepared to do so. Innovative efforts, such as problem-solving courts, pro se clinics, electronic filing and document management, mediation programs and myriad other efforts to modernize and improve New Mexico's justice system will continue. To accomplish this with shrinking resources, the judiciary has a number of efforts underway to increase efficiency in all courts.

Mr. Pepin explained the effect of budget cuts on the courts. With the upcoming 3.2% cut, the judiciary faces furloughs for 67% of its employees and court closings statewide. In most courts, 90% or more of the budget is dedicated to paying employees and judges. Spending has been reduced in every possible category prior to implementing furloughs and closings. Most courts have reduced public hours in an attempt to keep pace with rising case filings while maintaining vacancy rates of more than 10%. Furloughs are expected to result in a loss of more than 36,000 hours of productive time during fiscal year 2011. The judiciary has borrowed more than \$1.25 million since the start of fiscal year 2009 to make jury payments. A professional, independent study shows district and metropolitan courts have only 75% of the judges needed to adjudicate the existing case filings in those courts. Some magistrate courts are also understaffed in employees and judges. The courts have undertaken several measures to ameliorate the effects of budget cuts, including:

- ▶ eliminating or delaying maintenance contracts, which creates risk of expensive repairs or replacements later;

- ▶ severely limiting in-state travel and virtually eliminating out-of-state travel;
- ▶ severely limiting purchases of supplies;
- ▶ eliminating projects to microfilm court documents, which has a cascade effect of requiring storage of bulky paper files;
- ▶ requiring judges and attorneys to pay their own bar dues and legal education courses and eliminating dry cleaning of robes in most courts;
- ▶ continuing to hold vacant positions;
- ▶ reducing most drug courts and other problem-solving courts;
- ▶ laying off domestic violence hearing officers and drug court employees;
- ▶ eliminating the domestic violence family assessment and intervention resources program in Albuquerque;
- ▶ reducing services for court-appointed special advocates, safe exchanges and supervised visits and medication in abuse and neglect cases;
- ▶ retaining mileage at \$.32 instead of the internal revenue service rate;
- ▶ charging statutorily authorized fees to problem-solving court clients;
- ▶ reducing court hours for the public;
- ▶ reducing phone and fax lines in courts;
- ▶ eliminating pro tempore magistrate judges and requiring elected magistrates to travel to other courts;
- ▶ restructuring jury orientation processes and reducing jury pay and travel;
- ▶ holding magistrate court vacancies open unless court is staffed below 80% of staffing need and holding all magistrate court vacancies open at least 120 days;
- ▶ negotiating with magistrate court landlords to forego annual lease increases and in some cases reducing lease payments; eliminating Tatum, Vaughn, Cimarron and San Jon courts;
- ▶ increasing fees for court automation and magistrate court operations, judicial education and jurors' pay; and

- ▶ by supreme court order, increasing jury demand fees for litigants by 50%.

Mr. Pepin told the task force of four efficiency categories the judiciary has or will implement that will save money in the long run, including implementing the Odyssey case management system in all state courts; implementing electronic payments by credit card and direct bank transfer; expanding the judicial video system to improve court operations; and other efficiency measures such as a plea cutoff pilot project, restructuring penalty assessments, reevaluating the trial de novo process, studying the judicial structure, coordinating PRC bondsmen data with court filings, reexamining bond practices, implementing criminal felony case settlement weeks, appointing pro tempore judges to resolve probation violations, expanding digital recordings, preserving problem-solving courts, suspending or eliminating magistrate circuit courts and holding quarterly warrant amnesty programs. Some propositions, like implementing the Odyssey case management system, will require one-time funding. AOC estimates that \$5 million more a year could be collected through the use of credit card and direct bank transfers. Greater use of video for meetings and training could save about \$170,000 in travel and lost productivity costs.

On questions from Representative Lundstrom, Mr. Pepin explained that closure of the Questa and Anthony circuit courts, both of which are about 26 miles from their main courts, would save \$100,000. Senator Smith opined that there has to be a better way than the current political system to create courts and allocate resources; he invited more structural suggestions from the judiciary. Mr. Pepin observed that court closure recommendations would also be difficult for the judiciary; he suggested the legislature consider a process similar to that used by congress to close military bases, so that the legislature could vote only "yes" or "no" to recommendations by an independent group.

In response to another question by Senator Smith, Mr. Pepin said AOC had renegotiated several long-term leases on magistrate facilities and had reduced costs by approximately \$150,000.

Senator Eichenberg asked why AOC is not considering consolidating Aztec and Farmington, Los Lunas and Belen, and Silver City and Bayard courts. Mr. Pepin said all those courts have high caseloads, and court facilities would have to be expanded to accommodate the consolidations. Senator Eichenberg asked whether AOC had considered reducing the work week in rural courts. Mr. Pepin said the furloughs would be accomplished by reducing the work week throughout the remainder of the fiscal year but that all magistrate courts, not just rural courts, would be treated the same. After further discussion on the topic of furloughs, Chief Justice Daniels said the concerns about furloughs revolved not just around employees losing income, but that the courts will be closed to people seeking justice. He noted that cases do not go away while the court is closed; furloughs simply put courts further behind. The chief justice said he has asked the governor for American Recovery and Reinvestment Act of 2009 funds to mitigate the budget reductions in the judiciary.

Structure and Efficiency in the Legislative Branch — Raúl E. Burciaga, LCS

Mr. Burciaga presented a summary of the recommendations of the legislative structure and process study task force (LSPS) that met in 2006 and 2007. The national conference of state legislatures (NCSL) assisted LSPS by conducting a survey that also helped to identify some recommendations. Numbered below are the recommendations and Mr. Burciaga's comments on each one:

Session Workload and Schedule

1. Lengthen 30- and 60-day legislative sessions to 45 and 75 days, respectively.

There was a belief that greater deliberation could be fostered by lengthening the sessions, which would be coupled with an automatic recess each session during which committees could meet but no floor sessions would be held. A constitutional amendment would be required. Session expenditures would be increased. A number of the LSPS members commented that regardless of the length, most legislation does not move to final action until the last week.

2. Lengthen the governor's "bill-signing period" from 20 days to 30 days, post-adjournment.

This proposal would have little or no impact because the period begins after the legislature adjourns.

3. Shorten the bill introduction period by one-third.

Currently, the bill introduction deadline is at the midpoint of the session. This proposal would reduce the amount of legislation and allow more time for deliberation.

4. Prohibit memorials that request state agencies to act.

Memorials, whether simple or joint, do not have the force of law but are used frequently as requests for unfunded studies. At one point, simple memorials were generally ignored and action was taken only on joint memorials because they had the approval of both houses. Agencies, however, are responding to simple memorials, many of which are not presented to committees but only delivered to the memorial's sponsor as well as any person designated in the memorial.

5. Establish deadlines for legislation to pass in the house of origin.

NCSL survey results showed that 70% of respondents felt that deadlines would improve the process. This would force the legislature to act more quickly on legislation that does not leave the house of origin until the last week.

6. Provide for three- and six-day recesses in short and long sessions, respectively.

This would allow legislators to return to their respective districts and discuss legislative proposals with their constituents because so many constituents cannot travel to Santa Fe.

7. Prohibit committees from reporting legislation "without recommendation".

This proposal would seek to keep committees from "passing the buck" to the next committee and not dealing with the issue in an up or down vote.

8. Expand opportunities for members to cosponsor legislation.

This proposal was adopted as a joint rule in 2007 so that house members can sign on senate bills and senate members can sign on house bills as cosponsors. This appears to have helped reduce bill introductions. A separate rule states that agency-requested and interim-committee sponsored bills can only be introduced in one house.

9. Establish a deadline to introduce memorials.

Currently, there is only a deadline for introducing bills. A deadline on memorials may reduce the amount of memorials and allow more time for substantive deliberation of bills.

10. Limit the number of bills and memorials introduced.

The number of bills considered by the legislature grew from 1,788 in 2001 to 2,182 in 2005. In even-numbered years, the number of introduced bills grew from 900 in 2002 to 1,623 in 2006. In 2001, the legislature approved more than 480 measures — a record high that was eclipsed just two years later with the passage of 523 bills. Yet in 2006, just 125 bills were approved by the legislature — the lowest number for a 30-day session in two decades. Twenty-one chambers currently impose limits on the number of bills introduced. Sixty-two percent of the NCSL survey respondents felt that there should be bill limits. Several LSPS members commented, however, that the legislature, as an institution, should not be in the business of constraining its duties under the constitution of New Mexico.

11. Expand the ability to prefile legislation in the house of representatives.

The ability to prefile bills was available to the house since 1989 but was rarely, if ever, used. The house rule on prefiling has been updated, and the number of bills prefiled has slowly increased in the last two or three years. Prefiling helps to front-load the bill drafting workload so that there is less of a bill-drafting crunch at the beginning of session.

12. Give priority to prefiled legislation in the senate.

The senate did not have the ability to prefile until 2007, but it was not used until 2008. Prefiling has increased over the last couple of years.

13. Discourage the introduction of guests and performances on the floor.

The introduction of guests, pages and performers on the floor takes up a considerable amount of time that is lost from floor and committee debates. A draft proposal was reviewed by LSPS, but no action was taken.

14. Ensure that committee hearings convene as scheduled.

The length of floor sessions, including ceremonial and introductory activities, caucus meetings and other functions, often contributes to delays in committee hearings. This would probably be quite difficult to enforce, but a reduction in nonlegislative activities could help keep committee start times closer to the times scheduled.

Interim Structure

15. Reconfigure the interim committee structure by limiting the number of interim committees to 12, reducing the number of advisory members appointed to interim committees, coordinating

staffing needs among the permanent staffs, respecting the different sizes of the houses and increasing the number of days members may be reimbursed for attending meetings of committees to which they are not appointed.

Over the last several years, more than 20 committees have been appointed during the interim. Currently, there are 25 interim committees — 16 created by statute and nine created by the New Mexico legislative council. The 16 statutory committees include the legislative council, LESC and LFC, all of which have year-round legislative staff. One of the 16, the interim legislative ethics committee, only meets if an ethics complaint is filed. Perhaps the strongest argument for limiting the number of interim committees is that the increased demands of the interim dilute the legislature's ability to make policy effectively by spreading the legislature's attention too broadly.

Relations with the Executive and Public

16. Convene a veto override session after every session unless three-fifths of the members of either house decides against it.

Currently, the legislature can only override a governor's vetoes in a 30-day session from the previous 60-day session. In a 60-day session, the legislature cannot override bills from the previous 30-day session. The only other way to override vetoes is in an extraordinary session, which requires three-fifths of members elected in each house to certify the need for an extraordinary session. There has only been one extraordinary session in the history of the state.

17. Limit partial veto authority to items of appropriation.

The idea of this proposal is to narrow the governor's ability to veto items of appropriation so as not to alter the legislative intent of the appropriation.

18. Create a legislative compensation commission, or, alternatively, increase the reimbursement rate for out-of-state travel.

This was part of the consideration regarding reimbursement or compensation for legislators, which had more support or merit when state coffers were not where they are today.

19. Codify LFC's program evaluation function.

Currently, LFC's program evaluation function is not in statute, but it does provide needed oversight of state agencies and their respective programs and budgets.

20. Codify LFC's ability to receive confidential material.

LFC has been unable to obtain certain information because it is deemed confidential by state agencies.

21. Grant the legislative council the authority to issue subpoenas.

Currently, only LFC has the authority to issue subpoenas during the interim. The legislature can issue a subpoena, but only during session.

22. *Open conference committees to the public.*

Conference committees are now open to the public pursuant to Section 10-15-2 NMSA 1978. Still, a joint house and senate rule could be passed that would indicate which conference committees are open to the public and which are not.

23. *Require conference committee reports to be available 30 minutes prior to a vote.*

Because conference committees often meet late in the session, and often the morning of the last day that always ends at noon, there is little time to review the conference committee reports that spell out the changes to the legislation under consideration.

24. *Expand new-member orientation to a couple of two-day sessions.*

Currently, new members have just one orientation day in December. The idea is to allow two days in December to focus on session issues and two days in the spring for interim issues.

25. *Develop a primer for citizen participation in the legislative process.*

There is often a concern that citizens are very disengaged from the legislative process.

26. *Use technology to make the legislative process more accessible to the public, including more timely and accurate notices of hearings and broad dissemination of legislative proceedings.*

Floor sessions in both houses and in house committee meetings are now webcast, as are interim committees, when practicable.

27. *Provide more public parking near the state capitol.*

A new parking structure is now in place across the street and provides public parking as well as parking for other state agencies in the area.

Committee members generally commented on the importance of the work that is done in the interim, especially preparation for the session. Questions were raised regarding audio or video conferencing by legislators and whether that participation could be used to establish a quorum. Mr. Burciaga advised that he would discuss those issues with the leadership. Representative Bandy indicated that he favored implementation of recommendations 9, 10 and 13.

Other Business

★ Mr. Gasparich requested that higher education be on the September agenda. Senator Smith expressed concern that the task force is not moving into areas it needs to in education and health care. Dr. Lopez said the university of Denver has put together a team to look at the entire financial system of Colorado, and he suggested that staff find out what that team is doing. He gave staff a contact for information.

There being no further business, the task force recessed at 4:10 p.m.

Friday, August 20

The task force reconvened at 9:10 a.m.

Staff Reports — Follow-Up

Health and Human Services — Brent Earnest, LFC; Michael Hely and Karen Wells, LCS

Mr. Earnest presented the staff analysis on the idea to consolidate the management of medicaid waivers, which are currently jointly managed by the human services department (HSD) and the aging and long-term services department (ALTSD), in HSD and to consider the future move of developmental disability waivers to HSD. The analysis also looked at whether ALTSD should be merged with HSD or have programs transferred to the children, youth and families department (CYFD). The recommendation comes in part from the committee on government efficiency's report, *Recommendations of Improving Government Efficiency*, January 14, 2010, which recommended merging HSD and ALTSD, and from task force discussions regarding elimination of overlapping medicaid funding in both departments.

Mr. Earnest addressed three possible options for restructuring of HSD and ALTSD.

- ▶ Option 1: Consolidate the long-term services program and medicaid waivers with HSD medical assistance program so all waivers are administratively managed by HSD.
- ▶ Option 2: Move the ALTSD long-term services program to HSD and adult protective services and consumer and elder rights programs to CYFD.
- ▶ Option 3: Merge ALTSD into HSD.

Mr. Earnest said the first option has the most advantages because this is where the most duplication in the two agencies exists. Moreover, this option carries the least disruption to clients and programs, as well as requiring very little implementation costs. Moving the medicaid waivers to HSD would save \$900,000 in general fund revenue. The second option will result in very little, if any, savings for the state. The third option would also result in very little savings and may be very disruptive to those receiving services.

Noting that adult protective services was once located in CYFD, Representative Varela asked whether the agencies had a preference regarding where the program should be located. Ms. Wells noted that the legislative health and human services committee (LHHS) did not discuss that specific recommendation, but, in general, LHHS is reluctant to consolidate adult protective services with HSD. LHHS members think that such a reconfiguration would be disruptive to vulnerable populations. Ms. Wells also noted that, having worked for ALTSD, she feels the needs of adults and children are very different and better served by keeping them separate. Representative Varela continued by addressing the need to get input from the aging population on these requests. Mr. Hely agreed with Representative Varela, but noted that, to date, there have been no proposals given to LHHS that are solid enough for the community to

react to the proposals. Ms. Wells pointed out to the task force that the LHHS has devoted a day at the end of August to addressing long-term care issues.

Mr. Earnest reviewed the proposal to consolidate the employee benefit programs currently administered by the risk management division of GSD, public school insurance authority, Albuquerque public schools (APS) and retiree health care authority, collectively referred to as IBAC. By consolidating IBAC groups, there is an opportunity to create a uniform plan design and funding structure for all plan participants. This would ensure that employee benefits are uniform and would eliminate the disparities between subsidy levels for state employees and public school employees. Consolidation would also provide a central authority to manage public liability, public property, workers' compensation, unemployment compensation and surety bond coverage for all public employees. Mr. Earnest addressed two options for the consolidation of IBAC groups.

- ▶ Option 1: Consolidate all the groups into one executive agency that would be directly accountable to the governor and legislature and reorganize the governance structure to eliminate board participation.

- ▶ Option 2: Consolidate the groups into an executive agency or authority that is governed by a board with representatives from each of the existing groups, and include participation from the secretary of finance and administration or the state budget director.

★ Representative Lundstrom said the proposal is complex and will need a proper time frame for implementation. She asked staff to get input from the current boards during the process to determine a reasonable goal for implementing such a change.

Mr. Gasparich pointed out that attempting to consolidate APS into the one agency would be complicated because it would involve local government, not just state government. He asked whether APS participation in the program would be voluntary and whether it is amenable to such a change. David Archuleta of the LFC responded that APS could be forced to participate in the consolidated agency, but right now it is not clear if APS agrees with the consolidation. Senator Payne agreed that APS is not on board with the plan because of concerns regarding a raise in its rates if it were to consolidate. Mr. Earnest responded that an actuarial assessment will need to be completed to determine if the rates will rise or not.

Dr. Lopez asked whether the consolidated agency would cover higher education employee benefits. Mr. Earnest answered that the current proposal does not include higher education employees because those entities are currently self-insured. However, if higher education employees are brought into the consolidated agency, more savings may be realized. Mr. Archuleta noted that, currently, New Mexico state university is in agreement with the GSD plan to consolidate while the university of New Mexico is not.

Ms. Wells informed the task force that LHHS had spent another full meeting day this past month addressing restructuring ideas. LHHS will continue examining restructuring ideas and

will endorse certain ideas at its August 31 meeting. The first proposal Ms. Wells highlighted involves consolidation of medicaid waiver programs and restructuring the personal care option program. Both of these items are areas that must be addressed because of the federal Patient Protection and Affordable Care Act (PPACA). She asked the task force to postpone action on these items in anticipation of the major reform in the health care system that will occur over the next two years under PPACA. She also highlighted the LHHS proposal to consolidate health care administration and financing. LHHS wants to pursue this option, and she offered the following suggestions:

- ▶ consider models that have already been developed in other states that could meet New Mexico's needs;
- ▶ review and incorporate, as appropriate, past work done in this area by insure New Mexico! and others; and
- ▶ review and incorporate, as appropriate, recommendations in the SJM 1 (2009) health care services common interests report on this topic.

Ms. Wells' final highlight from LHHS involved consolidation of benefit committees, which was previously addressed by Mr. Earnest. She pointed out that this issue is being studied pursuant to SJM 1 (2009). She said LHHS will be looking at several other topics at future meetings that may be of interest to the task force, including:

- ▶ implementation of insurance reimbursement reform by establishing accountable care organizations, bundled payment arrangements and expansion of the medical home model of service delivery; and
- ▶ creation of a health insurance exchange as provided in PPACA.

Mr. Hely said that insurance reimbursement reform may come up against constitutional limitations because PRC is given the power constitutionally to regulate the insurance industry. LHHS is looking at the health insurance exchange issue in depth. The federal regulations on the matter are not available, but there are several models around the country for such exchanges.

Ms. Wells concluded by informing the task force that LHHS will be looking at bill drafts for many of these items in the coming months.

★ Representative Lundstrom complimented the panel on presenting big ideas that include fairly big savings. She asked that staff continue to examine the IBAC consolidation because of the possible savings involved. She also expressed concern regarding LHHS's unwillingness to examine ideas that may affect vulnerable populations. Ms. Wells clarified that several members of LHHS are against wholesale consolidation of the entire aging department into HSD. They feel that such a large change affecting such a vulnerable population should be done very carefully. That said, some LHHS members do support moving certain functions between the

departments. Mr. Hely emphasized that no final vote on such an idea has been taken. The views of the panel were based on LHHS discussions, not official actions.

Senator Smith asked the panel which of the recommendations could be accomplished without legislation. Ms. Wells responded that use of prescription benefit services at the university of New Mexico health sciences center for prisons could be achieved without legislation. She said that the restructuring of the state workforce development board to ensure representation for health professionals is already being done with a grant awarded under PPACA. Ms. Wells noted that IBAC entities may consolidate on their own, but they have not so far come to agreement on such a consolidation. She emphasized that several of the recommendations are part of or will be included in future reform under PPACA. Senator Smith inquired further about whether LHHS is conducting an analysis on how much money the committee's proposals would save the state. Ms. Wells answered that LHHS staff and Mr. Earnest are working on that analysis, but it is not complete yet. Senator Smith emphasized that time is of the essence in getting such an analysis done.

Ms. Grisham asked whether there would be any savings due to the mandated health care exchange system under PPACA. Mr. Earnest responded that it is unclear what the savings will be, but it is an important issue to consider in restructuring. Ms. Grisham asked that LHHS and the task force work with the group setting up the exchange to ensure that the new system addresses the task force's concerns.

Mr. Earnest discussed briefly the issues brought up at the last meeting regarding medicaid funding and how the program is administered. The majority of medicaid spending goes to physical health managed care under the Salud! program and long-term care. By far, the most expensive services per enrollee are the long-term care services and the developmental disability waiver program.

At the conclusion of the panel's discussion, Mr. Karpoff asked the task force members for feedback on what staff should continue examining in this area.

★ Representative Lundstrom asked staff to continue examining the IBAC idea and consolidating the medicaid financing and administration aspects into HSD.

Representative Gardner emphasized that the task force should understand the new organization needed for the health care exchange and that the legislature will be dealing with a new executive on the matter. Accordingly, there may not be a lot to accomplish on this issue right now. Mr. Earnest said there is a deadline for the planning grant for the exchange, but any changes will require legislation in the next couple of sessions. Thus, there will be another opportunity for legislative insight on that issue in the future. Mr. Hely clarified that the federal grant to study the exchange issue is part of PPACA, but any final plan proposal for the health care exchange will require legislative approval.

Senator Smith again noted concern that these ideas receive hearings prior to the session. He emphasized the need for expertise on these matters and asked that LHHS move quickly on getting restructuring proposals to the task force, even if not fully examined. Dr. Lopez agreed, noting that premature proposals are better than no proposals.

Ms. Maison informed the task force that LHHS is meeting at end of August and, accordingly, the task force should have its solid recommendations by the end of September.

★ Senator Smith asked staff to look at the items that do not need legislation and pursue those as well.

★ Representative Varela asked staff to look at the limitations of the Executive Reorganization Act in consolidating departments.

Mr. Gasparich asked the panel for clarification regarding the health care exchange, including whether it is required and who would set one up. Ms. Wells responded that under PPACA, the state must choose an exchange program or the federal government will take that responsibility from the state.

★ Mr. Baca urged staff to look at what is not needed and where items may be eliminated. He said the elimination of unnecessary programs and agencies is an important part of consolidation that is being overlooked currently.

★ Representative Lundstrom asked staff to pursue the first option discussed in Mr. Earnest's presentation, the consolidation of all waivers administered by ALTSD to HSD. Ms. Grisham agreed but asked for further analysis on how the waivers would be administered by a single agency to ensure that services are not threatened.

★ Representative Gardner asked for more information on how many full-time-equivalents are involved in administering medicaid. He would like to know which programs could be privatized or outsourced. Representative Lundstrom recommended that this discussion be added to the privatization of GSD services.

Public Education — Jonelle Maison, LCS

Ms. Maison presented three remaining executive reorganization analyses before proceeding to public school issues.

An office of state attorneys could handle legal matters for all agencies.

State agencies have their own legal staffs or use the attorney general, and many contract with private attorneys as the need arises. School districts contract with private attorneys to represent them in legal matters, particularly special education due process hearings. Task force members had suggested an office separate from the attorney general to provide legal services for all agencies.

Representative Lundstrom expressed support for the idea. Senators Smith and Payne recommended an alternative, which is to move all attorneys back to the attorney general, who could then determine if there is a need for contracts. Ms. Grisham said government would be stopped because agencies would not be able to function if they had to wait for the attorney general's office to respond. She suggested the issue is one of right-sizing rather than removal from agencies. Representative Bandy agreed that agencies need their own attorneys, but he suggested that contract attorneys be solicited, employed and monitored by the attorney general. Dr. Lopez concurred with Ms. Grisham and Representative Bandy. Mr. O'Neill said the biggest issue is that if attorneys are sent to the attorney general's office, they would not be located with the people who have a need for their services.

★ Representative Bandy proposed that routine legal work be provided by agency attorneys but that bigger issues be assigned to the attorney general, who could then decide if the necessary expertise resides in his office or in the agency or only with private attorneys. Mr. O'Neill suggested both options be prepared. Secretary Burch advised that staff do an inventory of in-house and contract attorneys so that the task force has an idea of the magnitude of the issue before it makes a decision.

✓ **Combine all hearing examiners and hearing officers into one separate agency.**

There are many agencies that use hearing examiners or officers for decision-making such as DWI license revocation or the conduct of public hearings. Examples of agencies that have hearing officers are the office of the state engineer, PRC, taxation and revenue department, ALTSD and the environmental improvement board. Staff indicated there needs to be more research into moving the hearing officers from constitutional agencies. The hearing office could be combined with the state attorneys or kept separate.

Representative Lundstrom supported the idea of separating hearing officers from state agencies. Mr. O'Neill pointed out that the legislation would include transferring personnel as well as money, so subject-matter expertise would be included in the new agency. He also recommended that the hearing officers be required to attend judge school. Ms. Grisham noted that such an office removes actual and perceived conflicts of interest between hearing officers and the agencies.

Staff was asked to move ahead on the proposal.

Combine the gaming control board and the state racing commission.

This is an LFC recommendation to move all functions of the state racing commission to the gaming control board. The estimated savings is approximately \$1.4 million but assumes eliminating the three full-time gaming control board members. The estimate also assumes that operations will be moved from Albuquerque to the PERA building. A bill has been drafted.

★ Representative Lundstrom asked that a copy be emailed to the members. Senator Smith cautioned against the merger, saying there may be little incentive for a combined board to regulate each other actively.

Combine the public education department (PED) and higher education department (HED).

Originally a Carruthers task force recommendation, the analysis indicated that a better option would be to review each department's internal structure to determine if internal restructuring, including the possible elimination of divisions or staff, would result in significant savings or better alignment with statutory duties. The option also included a proposal to narrow the statutory focus of each department so it can better serve the core mission and to move public school and institutional finance to DFA.

Dr. Lopez agreed the option has merit and suggested staff provide an inventory of what is being asked of PED. Mr. Ortiz noted the need for a constitutional amendment either to combine PED and HED or move public school finance to DFA. Senator Smith mentioned that public school finance could be overseen by the state auditor until a constitutional amendment could be passed. Senator Smith asked if LESC had considered this issue. Ms. Gerstner said LESC is discussing it at its next meeting.

On questions from Representative Lundstrom, Ms. Maison said the public education commission, which is an elected advisory commission, has been given statutory authority over vocational education and state chartering of charter schools. A constitutional amendment would be necessary to move public school finance. Senator Smith suggested that it might be a good idea to return public school control back to a state board of education because the current structure is not working. Senator Lopez proposed that the task force reject the merger of the departments in favor of the options provided. There was no disagreement expressed.

Tie teacher performance to student growth and establish a link between teacher performance and teacher preparation programs.

This recommendation was originally a Carruthers task force recommendation. The analysis pointed out that some work on the issue had been done for the state's race to the top application, but more study would be needed before a high-stakes evaluation and pay/tenure system could be put in place, and much more work would then be needed to tie college preparatory program effectiveness to teachers. The central problem the initiative seeks to address is how best to correlate student academic achievement with the performance of individual teachers and, consequently, to identify teacher preparation programs in the state that are persistently underperforming as measured by the in-class performance of their graduates. The legislature would need to fund a process similar to the funding formula study to design an evaluation system, and appropriate stakeholders should be involved. More research on various schemes in states with such systems needs to be conducted to determine what would work for New Mexico.

Senator Lopez expressed reservations about an evaluation system tied to adequate yearly progress (AYP); she said the system would have to consider student growth as well as other factors. Dr. Lopez agreed that teachers must be accountable, but there must be recognition of student and family responsibility as well. He suggested that an evaluation system be holistic and involve students and families.

On questions from Representative Lundstrom, Mr. Hughes explained the current teacher evaluation system and its relationship with licensure. Representative Lundstrom asked for a copy of the process and procedures. Representative Varela proposed that the task force ask LESC for direction on this item. Senator Eichenberg asked for a comparison of other states' programs that tie teacher pay to student performance.

Reduce the number of school districts.

This also was a Carruthers task force recommendation, and the task force had asked staff to consider administrative consolidation as an alternative. Of the 89 school districts, 35 have student populations under 500 and another 13 have student populations under 1,000; seven districts have fewer than 100 students. There are necessarily small districts, for such reasons as distance or topography, but this does not describe all small districts. The assumptions are that merging school districts would reduce overhead, put more money into classrooms and lead to better education and more effective and efficient delivery of education services. Ms. Maison noted that the expressed desire of the legislators not to close schools may be untenable; for example, if two or three small districts consolidate but still have fewer than 1,000 students, future legislatures may not be able to justify funding two or three separate high schools. Consolidation may not save much money if schools are not closed. She also noted that school districting has not been a legislative task in the past; the legislature has simply directed that it be done. There are basic issues that must be resolved for redistricting, including indebtedness, debt capacity, tax base, student and community demographics, growth patterns, capital assets, transportation and the cost of abandoned assets. Redistricting may result in lawsuits. The analysis offered two schemes for redistricting; one using county boundaries and the other based on student location and tax base. The analysis includes the pros and cons of each. Another option for the legislature is to force or strongly encourage district consolidation by changing the small district size adjustment, removing statutory barriers to consolidation or by encouraging larger districts to perform administrative or "paperwork" functions for smaller districts. The third option is to beef up regional educational cooperatives' ability to provide administrative services.

On a question from Representative Lundstrom, Ms. Maison said the funding formula study task force did not look at redistricting; the American institutes for research (AIR), which is the funding formula contractor, did develop a cost for small districts, but it did not look at changing them. Senator Cisneros asked if APS should be broken into smaller districts. Ms. Maison answered that the AIR study showed that APS was just at the point where economies of scale start to reverse, but it was not yet over that point. If redistricting were based on county lines, APS would not be affected; the school district and Bernalillo county have coextensive boundaries.

Representative Bandy asked about administrative consolidation. Ms. Maison said that, essentially, administrative consolidation is redistricting without closing schools but would include the loss of one or more school boards, superintendents and administrative staff.

★ In response to a request by Ms. Grisham, Ms. Maison said that staff would provide information on the ratio of administrative positions to teacher positions in each school district. She noted that in small districts, superintendents and others perform multiple functions.

Mr. O'Neill asked if school districts could enter into joint powers agreements. Ms. Maison answered in the affirmative. He observed that there is no incentive for school districts to combine administrative chores. He suggested a delayed repeal of the small district size adjustment to force consolidation. Senator Smith concurred that some incentives need to be provided to encourage school districts to merge. Mr. Gasparich noted that emergency supplemental funding may also have to be adjusted to provide incentives to small school districts to consolidate. Senator Eichenberg agreed that incentives are a better option than full-scale redistricting. Senator Payne also agreed, saying the legislature should simply provide the framework and let districts determine how they should be combined. Representative Wallace remarked that the task force needs to consider the fact that administrative consolidation may not result in significant savings.

Mr. Ortiz asked if the measures would apply to charter schools. Ms. Maison explained that charter schools do not receive small district adjustments, but they do receive small school size adjustments.

Mr. Karpoff asked if there were directions to staff in the discussion. Mr. Ortiz responded that most districts would oppose consolidation and it will be a difficult fight. Senator Payne said that is why the task force needs to figure out how to push the issue without having to make all the decisions; leave the actual decisions to redraw district lines to the districts themselves.

★ Senator Payne suggested a statute that specifies the minimum size of school districts with a delayed effective date of five years.

Discussion Drafts — Jonelle Maison, LCS

Ms. Maison presented several bill drafts of ideas developed by the task force. She stressed that the form of any bills may change based on further decisions of the task force.

.182720.1 — Intertribal Ceremonial Act repeal. The functions will go to the proposed ED&TD.

.182721.1 — juvenile public safety advisory board repeal. The repeal is based on the board not being necessary.

.182729.1 — combining the mining and coal surface mining commissions. This bill is a Carruthers report recommendation.

.182713.1 — requiring departments to provide administrative and clerical services to administratively attached agencies. This bill originated with Representative Varela, who asked staff to look at the Executive Reorganization Act.

★ **.182712.1 — eliminating the personnel board's authority to exempt positions from the covered service.** In particular, this bill will limit the creation of governor-exempt positions. The task force had a protracted conversation about exempt employees being able to sell back sick leave and annual leave at the end of each year.

★ **.182734.1 — a memorial requesting the state personnel office to conduct a review of exempt and classified positions and salaries.** The task force asked instead for a bill to change the law to put salaries, not salary ranges, in the governor's annual executive budget.

★ An additional request is for a bill to move the state fire marshal to DPS.

Public Comment

Mr. Joe Guillen, director of the school boards' association, speaking about the issue of school district consolidation, encouraged the task force to look to the cooperative approach with districts rather than mandating a particular redistricting.

Mr. Tom Sullivan, director of the coalition of school administrators, concurred with Mr. Guillen. He explained that administrative savings from consolidating small districts may not amount to much because administrators perform several functions. In San Jon, when a principal retired, the superintendent became the principal so the superintendent would not have to lose a teacher. He expressed concerns about using county boundaries for districting, saying that, for example, the Moriarty school district has physical facilities in three counties. He also noted that small rural school districts are performing well on AYP.

Anna Otero Hatanaka, director of the association of developmental disabilities community providers, commented on the need to include all programming affecting developmental disability services when considering consolidation of waiver programs.

Debbie Armstrong, former secretary of aging and long-term services, agreed that there are problems with having waiver programs split among several departments. She noted that combining the developmental disability waiver programs into ALTSD had been planned for but not realized. That department is a better choice for the programs than HSD.

Mr. Ched MacQuigg, blogger, suggested the task force create a subcommittee on public employment, reconsider more sweeping changes to public education, create a subcommittee on transparency and have an open, honest discussion of transparency in government, particularly in public records.

There being no further business, the task force adjourned at 2:45 p.m.