

**Minutes  
Of the  
Sixth Meeting  
Of the  
Government Restructuring Task Force**

**September 16-17, 2010  
Room 307, State Capitol**

The sixth meeting of the government restructuring task force (GRTF) was called to order by Senator Tim Eichenberg, chairman, on September 16, 2010 at 10:15 a.m. in room 307, state capitol.

**Present**

Sen. Tim Eichenberg, chairman  
Rep. Patricia A. Lundstrom, vice  
    chairwoman  
Mr. Patrick Baca (9/16)  
Rep. Paul C. Bandy  
Rep. Keith J. Gardner  
Mr. John Gasparich  
Sen. Linda M. Lopez  
Ms. Michelle Lujan Grisham (9/16)  
Rep. Rick Miera  
Sen. Steven P. Neville  
Mr. Jim O'Neill  
Mr. David Ortiz  
Sen. William H. Payne (9/16)  
Sen. John Arthur Smith  
Rep. Luciano "Lucky" Varela

**Absent**

Sec. Dannette Burch  
Dr. Dan Lopez

**Advisory Members**

Sen. Carlos R. Cisneros  
Sen. Mary Jane M. Garcia (9/16)  
Rep. Joni Marie Gutierrez (9/16)  
Sen. Stuart Ingle (9/17)  
Rep. James Roger Madalena  
Rep. Al Park (9/16)  
Rep. Jeannette O. Wallace

Sen. Lynda M. Lovejoy

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

**Staff:** Raúl E. Burciaga, Jonelle Maison, Kim Bannerman and Leslie Porter for legislative council service (LCS); Frances Ramírez-Maestas and David Harrell 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.

Minutes of the fifth meeting were approved as submitted on the second day of the meeting. Copies of presentations and handouts are in the meeting file.

### **Thursday, September 16**

#### ***Health and Human Services Issues — Brent Earnest, LFC, and Michael Hely, LCS***

Mr. Earnest presented the staff analysis on several of the task force's earlier proposals addressing the restructuring of health care financing, administration, policy and function. He gave a basic introduction on health care financing and administration in New Mexico. The analysis examined the multiple sources of funding for health care in New Mexico, including state, federal, county and private sources. He also addressed the multiple entities that are currently involved in financing health care in New Mexico. These entities include: medicaid, the interagency benefits advisory committee (IBAC), the university of New Mexico (UNM), the department of health (DOH), the counties, the interagency behavioral health purchasing collaborative and the corrections department (CD). Mr. Earnest summarized how health care funding moves through each of these separate entities.

The conversation turned to the entities involved in ensuring access to health insurance in New Mexico. The human services department (HSD), public regulation commission (PRC), New Mexico medical insurance pool (NMMIP) and the New Mexico health insurance alliance are all involved in insurance coverage in New Mexico. Mr. Earnest explained that along with the entities that fund health care and provide for health insurance, multiple agencies administer health care or other health-care-related programs in New Mexico. These entities do not receive direct financing, but they administer health care programs. The entities include the aging and long-term services department (ALTSD), children, youth and families department (CYFD), CD, department of environment (NMED), DFA, general services department (GSD), DOH, HSD, regulation and licensing department and taxation and revenue department (TRD). Mr. Earnest also listed the programs that deal with health care in New Mexico that are administratively attached to various New Mexico agencies or are adjunct entities.

Mr. Earnest turned the task force's attention to the various areas of overlap and duplication of administration of health care among the agencies. He noted that these are the areas where consolidation or restructuring may be advantageous. He then reviewed these areas along with possible restructuring ideas. Mr. Earnest proposed the following restructuring ideas:

- consolidating the medicaid program so that it is run by HSD/medicaid and DOH, with DOH only dealing with certain medicaid waivers;
- reorganizing the IBAC agencies (the group benefits committee for state employee health coverage, New Mexico public school insurance authority (NMPSIA), Albuquerque public schools' health coverage plan and retiree health care authority) into a single agency; and
- creating a health care financing agency that is either governed by an appointed board or by a secretary of an executive agency.

Mr. Earnest summarized the IBAC consolidation option and suggested a phase-in. The first phase would involve consolidation of purchasing and would occur July 1, 2011. The second phase, which would occur July 1, 2012, would consolidate all the administrative and board functions, including customer service, billing and information technologies. The final phase

would involve the consolidation of the risk pool. This phase would require a comprehensive actuarial analysis to determine the feasibility and impact of such consolidation, and it would not occur until July 1, 2013.

In relation to the IBAC consolidation, Ms. Lenhart asked what the cost savings would be for each phase of implementation. Mr. Earnest replied that LFC will look at costs if the task force chooses to pursue the option.

Senator Neville asked whether all the medicaid functions could be given to a single agency, rather than follow the current proposal, which leaves medicaid in both HSD and DOH. Mr. Earnest indicated that such administrative consolidation may be possible. However, he warned that there will always be some overlap of functions when it comes to medicaid because several agencies have clients in their care that fall under medicaid and those services cannot be reshuffled.

★ Senator Smith inquired whether other states had decentralized their health care functions and moved those responsibilities to the counties or other local entities. Mr. Earnest replied that there is not a current trend to move health care to local government, and he could not think of any states that had done so recently. However, many states do opt for more local control over health care matters, which is a policy issue that could be examined by the task force. Senator Smith said that he is not advocating for such a move, but doing so would be a restructuring decision. The current options are more reorganization-driven, rather than really restructuring government. He asked for further feedback on such a possibility to determine if it could work.

Mr. Hely discussed possible restructuring ideas related to the federal Patient Protection and Affordable Care Act (PPACA). He pointed out four main areas involved in PPACA reform that may lend themselves to possible restructuring and addressed each of them in depth. The four areas are:

- health coverage access — public and private, including health care exchanges;
- health insurance regulation (rates and mandates);
- health information technology; and
- health care delivery and work force planning.

Mr. Hely also gave a presentation on state entities related to disabilities. The DFA, HSD, DOH, veterans' services department, ALTSD, CYFD, public education department (PED) and higher education department (HED) are all involved in providing services to or funding for those living with disabilities in New Mexico. Along with these departments, the interagency behavioral health purchasing collaborative and the interagency committee on long-term care are also involved in providing services. Several boards, commissions and councils target disability issues, and many state educational institutions are targeted to persons with disabilities or, at least, serve those with disabilities. Mr. Hely noted the possible areas of overlap between these entities.

Discussion was held regarding the financial accountability of all the entities involved in health care in New Mexico after Senator Payne expressed concern that it is difficult to ensure proper oversight because so many entities are involved in health care. Concern was expressed that LFC did not have the budget to track so many entities properly. David Abbey, director of

LFC, addressed the budget concerns. He agreed that it is difficult to track the money going to health care in New Mexico, but he was of the opinion that LFC has sufficient staff assigned to the issue. He and the analysts look at the state's 138 pages of contract listings per month as part of their oversight function. He pointed out that the state budget division of DFA tracks finances and budgets as well. Senator Payne opined that even if the money is tracked effectively, it is still unclear if the services are being adequately provided. Representative Varela replied that the Accountability in Government Act requires agencies to establish performance measures, which are determined as part of their budget process and are considered by the DFA, LFC and the standing finance committees.

Senator Neville expressed concerns that the large medicaid appropriations are not being spent well. Mr. Abbey stressed that duplication is always an issue to look for and to try to eliminate; however, changing the organization of the agencies that handle health care may not take care of that duplication. He noted that agencies are taking extraordinary steps to try to save money during this economic crisis, and those changes should be examined carefully to determine if some should be permanent.

On questions from Senator Neville and Mr. Gasparich, Mr. Earnest addressed the additional funding that will be needed to deal with federal cuts to medicaid matching funds and the PPACA. The PPACA will cost the state around \$200 million over the long run. Based on the proposed federal cuts to medicaid matching funds, the state will also need to come up with \$300 million in the next few years to fund medicaid adequately.

★ Representative Gardner initiated a discussion of the federal medical assistance percentages extension and the eventual loss of that revenue. He said the task force should consider if the benefits to clients outweigh the cost for all the departments, boards and commissions related to disabilities. He asked for costs and the number of people served for all the stand-alone disability-related boards and commissions.

Mr. Hely called the task force's attention to the bill drafts relating to health and human services.

#### **Move the ALTSD Coordination of Long-Term Services (CoLTS) Program to HSD**

This bill moves the ALTSD's CoLTS program to HSD. Specifically, the bill directs the transfer of the program and requires HSD to make plan amendments and medicaid waiver applications.

★ Representative Madalena said it is difficult for the task force members to vote on proposed bills without having a full fiscal analysis of the bill. Mr. Earnest answered that the proposed bill is estimated to save \$960,000 in general fund dollars. Staff was asked to include a fiscal impact report (FIR) with each proposed bill given to the task force for review.

Mr. Gasparich asked whether the bill only applies to medicaid funds. Mr. Hely indicated that the CoLTS program deals with medicaid waiver programs and the non-waiver personal care option. Mr. Gasparich expressed concern that the effective date is January 1, 2012 instead of the upcoming fiscal year. Mr. Hely said the delayed effective date will give adequate time for the program to be transferred. Mr. Earnest mentioned that with the delayed effective date, the cost savings would need to be adjusted. On questions from Mr. Gasparich, Mr. Hely explained that

personnel are not being transferred from ALTSD to HSD because HSD has the staff to manage the waiver program. Mr. Hely explained that personnel at ALTSD may not necessarily be eliminated when the CoLTS program is moved, but they will be moved to other areas where more services are needed to run ALTSD programs efficiently. Ms. Lenhart pointed out that the original bill proposal on this issue did include transfer of personnel. Mr. Earnest responded that he will work with Mr. Hely to ensure the bill matches the original proposal.

Senator Eichenberg harkened back to a statement by Mr. Abbey about the difference between reorganizing and restructuring and asked for examples of restructuring. Mr. Abbey said the higher education funding formula is one area in which money could be saved if it is restructured to change the way higher education is funded. He said there is not much savings to be had in reorganizing, though it may lead to better efficiency; creating a health and human services department would not save money because administrative costs of combining the four largest agencies would be similar to current spending. Another restructuring idea is to rethink how and where agencies are housed, building leases and how the state maintains property. He suggested that all chief information officers could be eliminated.

Representative Miera asked if LFC would be providing FIRs on bills under discussion by the task force. Mr. Abbey answered yes, that they will be provided at the next meeting after the bills had been discussed.

★ Mr. Baca initiated a discussion regarding the general growth of state government. He noted the huge growth in the last eight years and suggested the task force examine the growth to determine what level of government the state can now go back to during these difficult times. Mr. Abbey told the task force that LFC has some documents on this issue that can be prepared and presented at the next meeting.

★ Representative Gardner asked for a bill to put a staggered sunset on all boards and commissions.

In regard to health care reform, Senator Payne warned the task force not to get too far ahead of the curve on implementing changes to state law based on the PPACA because it is currently being challenged. He encouraged the task force to wait on implementing any reforms until it is clear the law is going to be upheld.

### ***General Government Reorganization Options — Discussions and Drafts***

Mr. Karpoff led the task force in a discussion of the materials that staff members assembled relating to previous suggestions on general government restructuring. He noted that the task force's objective is to make specific decisions about earlier recommendations and decide whether bills should be drafted based on those recommendations. He also reminded the task force members of their charge: improve government service and cost savings/efficiency. In relation to the discussion of the task force's charge, Senator Smith asked staff to give Mr. O'Neill's list of essential government services to the task force members.

#### **A. Restructuring of the DFA**

There are several possible options for restructuring DFA.

Option 1: Move GSD functions to the DFA (at least the property control division and the purchasing division).

Option 2: Move state personnel to DFA.

Option 3: Create an educational finance oversight division of DFA to oversee the finances of the HED and the PED.

Option 4: Move the local government division (LGD) of DFA to a new community services department.

Option 5: Create an agency administration division to govern small agencies.

Option 6: Move administratively attached agencies to proper departments.

Mr. Karpoff asked the task force to review the various options and advise staff regarding what options to include in the DFA restructuring bill.

Representative Miera said moving all financial oversight to DFA would help the state track where money is spent. Representative Varela noted that moving the property control division to DFA would certainly help provide oversight of how money is spent on state property. Senator Smith agreed, but he stressed that courts control their own property even though it is still state funds that are spent on that property. He suggested the judicial property control system be reformed as well.

Mr. Baca expressed concern over whether reorganization of DFA would save any money. Senator Eichenberg reminded the task force members that it will not be possible to do a full fiscal analysis on each reorganization option until the task force decides on what to include in the bills, which will allow staff to do an FIR.

Representative Lundstrom recommended that the task force adopt all the options in this proposal, except removing LGD from DFA. Representative Varela responded that the purpose of DFA is oversight, not to administer programs, and line functions should not be a part of DFA. He further pointed out that property control and purchasing clearly go to DFA. He noted that it is unclear how much money this proposal will save because it depends in large part on the number of personnel and how they are classified. He asked staff to examine the Personnel Act again to determine how to amend it in a way that will keep agencies from growing out of control.

Mr. Ortiz reminded the task force that GSD functions had been in DFA at one time, but the legislature created GSD so those functions could be performed more efficiently and effectively; a move back would create a bigger, more unwieldy and unresponsive department.

On a question from Mr. O'Neill, Senator Eichenberg said moving the state personnel office to DFA and making the director classified and confirmed fits with Representative Varela's points about removing politics from state personnel actions.

★ After further discussion on keeping LGD at DFA, Senator Lopez made a motion to adopt the proposal, with LGD remaining at DFA. Representative Lundstrom seconded. Mr. Ortiz and Mr. Baca both opposed the motion, but with a majority of the task force agreeing with the motion, it was passed.

## **B. Creation of a Community Services Department (CSD)**

The possibility of creating a CSD came out of the original proposal from the task force to consolidate administrative services for small agencies into one division of DFA. The CSD would move those small agencies' functions into a cabinet department structure and repeal some commissions.

Representative Lundstrom was of the opinion that the Indian affairs department (IAD) should not be included in this proposal. She advised the task force that IAD has the important task of dealing with sovereign nations and, accordingly, government-to-government relationships. She also indicated that the interim Indian affairs committee would be weighing in strongly against any proposal to eliminate IAD. On that point, Senator Eichenberg notified the task force that numerous letters from various tribal governments had been received protesting the proposal. Mr. Baca, Senator Garcia and Senator Cisneros also spoke out against placing IAD within another department.

Representative Wallace expressed concern about moving the commission for the blind and the commission for deaf and hard-of-hearing persons into the proposed CSD because those commissions are not connected in any way to the other areas addressed in the CSD.

Senator Smith reminded the task force that its charge is to determine how to deliver services more efficiently. While he does not support repeal of IAD because it has created a more efficient system of addressing tribal nations, he noted that completing the task force's charge may require elimination or movement of some entities that are very important to people. Opposition is going to occur, but the budget will not support the current level of government. The budget process may end up choking out some of these small agencies and commissions if decisions are not made prior to that time. Senator Payne agreed with Senator Smith's sentiment; however, he thought the elimination of these departments and commissions had not been fully examined. As an example, he noted that the veterans' services department deals with a lot of federal money, and it may be very detrimental to the state to eliminate that department.

★ Mr. Karpoff and Senator Eichenberg asked the task force to determine how it wants staff to proceed with the small agency administrative problem. Mr. O'Neill made a motion for staff to explore the task force's original proposition to create an administrative services division of DFA to handle administrative services for all these small entities, leaving the small agencies and departments intact. Senator Lopez seconded the motion. After a brief discussion, the motion was approved.

## **C. Elimination of GSD**

This proposal would eliminate the administrative services division of GSD and move the other divisions that currently exist in GSD into other departments. The purchasing, property control, building services and state printing divisions would move to DFA. There are options regarding where to move the risk management and transportation services divisions. Risk management could be moved to DFA or made part of a new single IBAC agency. The transportation services division could be moved to DFA or the New Mexico department of transportation (NMDOT).

Representative Lundstrom asked for clarification regarding moving risk management into a IBAC agency. Ms. Maison said the task force had discussed moving all the IBAC agencies into

one department and removing insurance regulation from the PRC. Risk management was part of that option.

Ms. Lenhart questioned whether the proposal creates efficiencies. She stressed that the task force had originally proposed that DFA pull in all pertinent agencies, not these additional changes. Mr. Ortiz responded by informing the task force that the proposed functions were part of DFA at one time. They were removed because attention could not be given or DFA could not deal with the administration; to move them back now does not seem logical. Also, he said, consolidating all insurance functions in one agency will be difficult because they all have special needs. Ms. Lenhart agreed, noting that the proposal moves administrative functions to DFA rather than keeping DFA as an oversight agency. On this point, Representative Varela was of the opinion that the building services division is not an oversight division, and accordingly, it should not be moved back to DFA.

★ After a brief discussion on moving risk management, the task force asked that the IBAC agency be created with the phases discussed in Mr. Earnest's presentation. The task force also advised staff to move the transportation pool to NMDOT. The task force could not agree on how to deal with printing and building services. One idea was to privatize both while another was to move printing to the department of information technology. Staff was asked to report back on these topics at the next meeting.

#### **D. Merge the Economic Development and Tourism Departments**

Representative Varela expressed concerns that tourism will be overlooked if it is merged with the economic development department, but he acknowledged that overlap between the departments needs to be addressed. Representative Gutierrez and Senator Garcia shared the concern about tourism being combined with economic development.

★ Representative Lundstrom suggested a return to the original idea that a commerce department be formed to include both economic development and tourism along with the workforce solutions department. She expressed the opinion that all these departments deal with the creation of wealth and economic security for the people of the state and would, therefore, be good departments to merge. Representative Bandy agreed, noting that the proposal creates fewer cabinet-level positions. He made a motion to combine the three departments into one commerce department. Mr. O'Neill seconded the motion. The task force discussed the motion to clarify which departments will be included in the commerce department. Representative Lundstrom clarified the motion, stating that economic development, tourism and workforce solutions should all be combined in one commerce department. The motion was approved by the task force.

#### **E. Reorganization of the Department of Public Safety (DPS)**

This proposal moves the homeland security and emergency management department, fire marshal division and firefighters' training academy and E-911 from each entity's current location to DPS. There remained a question from prior meetings of whether the motor transportation division (MTD) of DPS should be moved to NMDOT.

★ In regard to the proposal to move MTD to NMDOT, Mr. O'Neill said that prior to the division being moved to DPS, consideration was given to moving it to NMDOT; however, the trucking companies opposed that move. Mr. Gasparich suggested that all police functions should be in one department. Representative Lundstrom said that MTD is more regulatory than

law enforcement. Representative Varela said that when the task force considers moving insurance premium payments to TRD, it should look at that dual function of MTD at the same time. He suggested the task force consider moving the motor vehicle division out of TRD as well. Representative Lundstrom asked if there was consensus to the proposed reorganization, with MTD moving out of DPS. The task force concurred.

#### **F. Merging the Energy, Minerals and Natural Resources Department (EMNRD) with the NMED**

Four options were presented by staff regarding this proposal.

Option 1: Merge EMNRD and NMED.

Option 2: Merge EMNRD and NMED and include the department of game and fish (DGF); repeal the state game commission.

Option 3: Create an environment and natural lands management department to include all of NMED, certain portions of EMNRD, the state engineer, the interstate stream commission and DGF.

Option 4: Along with an environment and natural lands management department, create an extractive industries department to include the oil conservation division, mining and minerals division and a natural gas division.

★ Representative Bandy and Senator Neville strongly opposed merging EMNRD with NMED because doing so will lead to many conflicts because one is the extracting entity and the other is the environmental control entity. Senator Neville noted that he did not like any of the options, but if he had to choose, an extractive industries department was better than a total merger. Rick Martinez, DFA, said he had experience working at both departments and opined that they should not be combined. He did note that there is some overlap between the departments' bureaus; for example, both regulate ground water and surface water quality. He suggested that staff examine both departments' bureaus and divisions to determine areas of overlap and restructure in those areas. Representative Gutierrez added that she would like staff to look at moving food and restaurant inspection from NMED to the New Mexico department of agriculture. Representative Lundstrom instructed staff to keep the departments separate but examine where the two departments' divisions and bureaus may overlap. She asked for a presentation at the next meeting.

Representative Wallace indicated that DGF should not be combined with EMNRD and NMED because the state does not fund it. She recommended that DGF continue as a stand-alone agency.

#### **G. Reorganize the PRC**

This proposal would eliminate the PRC as a constitutional body. Doing so allows the legislature to recreate the PRC or successor agencies and, accordingly, have more control over the entity. The proposal would take several years to institute. If passed by the legislature, it would go to the voters in November 2012. If passed, in 2013, a legislative committee could examine how to organize the PRC, similar to the committee that proposed the enabling legislation for PRC, and report to the 2014 legislature. Once legislation is passed, the executive

will need time to organize the reorganization; thus, full implementation would not take effect until January or July 2015.

★ Senator Lopez made a motion to move forward with the proposal. Ms. Grisham seconded, and the task force agreed to move forward with the constitutional amendment portion of the proposal.

### ***Public Comment***

Susan Loubet, executive director for the New Mexico women's agenda, spoke against repeal of the commission on the status of women and office of the governor's council on women's health. She noted that women in New Mexico still face many hurdles and these services are needed. She said both are working together to make sure they are run as efficiently as possible.

There being no further business, the task force recessed at 3:30 p.m.

### **Friday, September 17**

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

### ***General Fund Recurring Revenue — Cathy Fernandez, LFC***

Ms. Fernandez briefly reviewed the recurring revenue numbers for the state. The long-term growth rate through FY 2010 is 5.1%. However, since 2003, the revenue growth rate has decelerated from 6.1% to 3.4%. She also addressed one-time funding that has supplemented the general fund during the past several years, noting that funding from the federal American Recovery and Reinvestment Act of 2009 is not expected to recur in fiscal year 2012, and, accordingly, the state's budget will have to be reduced.

★ Senator Eichenberg asked how much government has grown in the last 10 years. Ms. Fernandez did not have an exact comparison, but she noted that since 2002, the number of full-time-equivalent (FTE) positions has grown by 4,500. Mr. Gasparich clarified that the 4,500 FTE number is based on positions created, not actually how many new people are employed by the state because those positions may be vacant. Senator Eichenberg asked for a report showing state agencies from 2000 and 2010. Representative Varela asked that it include total budget by agency, broken down by general fund, other state funds, federal funds, contracts and salaries and benefits, so the task force will have a complete picture. He also asked that the report include public and higher education.

Representative Varela said that LFC is working on a report that addresses how much of the state's budget goes to salaries and benefits as compared to contractual services. Ms. Fernandez said the report is nearly final, and it can be presented to the task force at the October meeting. Representative Miera asked Ms. Fernandez to make sure she includes in her report state employees that are paid with federal money. She said those employees will be in the report because they receive a state benefits package, but they will be listed as term employees because they are hired on for as long as the federal government will pay their salary.

★ Representative Gardner requested a list of authorized FTEs. He said he had heard that agencies are using the money saved on not filling positions to hire contract employees. Ms.

Fernandez replied that this would require a budget adjustment request (BAR) and she could show him a BAR report. Anecdotally, her sense is that this is not happening, but she can report back to the task force.

★ Senator Eichenberg referenced the contract report Mr. Abbey spoke about on the first day of the GRTF meeting and asked for an electronic copy of the report before the next meeting. Senator Cisneros suggested the report be burned onto a CD and distributed to the task force members. Senator Eichenberg requested that the LFC reports be sent to members before the next meeting as well.

Mr. Karpoff reminded the task force to keep four items in mind as the discussion regarding restructuring continues: the department or agency organization; the financing source; the functionality of the entity being examined; and possible operational improvements. He advised that there are several restructuring ideas on the table regarding education that need to be discussed, but that members should feel free to continue thinking of additional restructuring ideas.

### ***Public Schools — Discussions and Drafts***

Senator Neville said the state needs a new philosophy of education and how to deliver public education. He suggested looking at the Japanese and European models, with vocational and college tracks, as a place to start. Representative Lundstrom noted that much of the state's system is driven by the federal government.

#### **A. Restructuring the Public Education Commission (PEC)**

The proposed joint resolution is a constitutional amendment to provide that members of the PEC be appointed by the governor and confirmed by the senate, rather than elected, and to remove financial control from the secretary of public education.

Discussion was had about the functions of the PEC. Dr. Harrell said the PEC administers charter schools and the Carl Perkins funds. These functions would remain with the PEC, but PEC members would be appointed rather than elected. Representative Lundstrom expressed support for appointing PEC members because it can be difficult to get people to run for PEC positions. Senator Smith argued that the PEC should be eliminated. He reminded the task force that the former state board of education was converted to the PED to give the governor control over public education policy in the state; however, PED often responds that it does not have authority or says the PEC has authority over something, like state-chartered charter schools. He said it is important to restructure the system in a way that clarifies who is in charge of education and suggested that the constitutional amendment be changed to abolish the PEC. Representative Gardner agreed, noting his concern over giving the governor appointment control over the PEC. Senator Lopez also agreed but said that if PEC is not abolished, there should be parameters for appointments. Representative Bandy and Mr. Ortiz also supported the proposal. Senator Smith moved to eliminate the PEC; Representative Varela seconded and the motion carried. Senator Eichenberg asked staff to change the draft for the next meeting. Staff asked for clarification regarding control over educational finance. Representative Varela asked whether PED should be stripped of all financial control in favor of DFA control. Dr. Harrell noted that once the constitution is amended, the legislature could determine how to deal with educational finance because such matters would, at that point, be exclusively within the purview of the legislature. Staff was directed to keep those provisions.

## **B. Limiting Size Adjustment Program Units**

Ms. Maison explained that this bill would make two changes to the funding formula: (1) limit the small school size adjustment; and (2) limit which school districts would qualify for small district size adjustment. The bill limits the small school size adjustment to towns, villages or rural communities with a population of less than 3,000 and located at least five miles from another public school offering a similar academic program. She noted that the definition of public school includes charter schools, and, accordingly, charter schools would be included in these new limitations. The goal is to limit small school size adjustment to those necessarily small rural schools rather than schools that are small by choice. The small school district adjustment would be limited to school districts with a student membership of less than 3,000 and whose central office is located more than 15 miles from the central office of another school district that is also smaller than 3,000 MEM.

Representative Bandy pointed out that the bill would encourage school districts to consolidate without mandating it. The choice for small schools and small districts will be left to local control, but the state would not continue to pay for the inefficiencies of too-small schools and districts. He asked which schools would be affected by the bill. Ms. Ramírez-Maestas said LESC has started examining which schools would lose small size adjustment under the proposal, but further analysis and clarification of the bill requirements are needed. She added that the proposal is estimated by the LESC to save around \$5 million. Peter VanMoorsal, LESC, said the LESC needs to compile information on which specific communities fall under the size limit in the bill. Representative Bandy and LESC staff suggested clarification of what is considered a small town or village. Clarification is also needed on how to measure the distance between districts or schools. Senator Smith said the intent of the bill is not to save money, but to eliminate duplication and put more money into the classroom.

★ Representative Miera and Ms. Ramírez-Maestas asked that the task force seek feedback from the LESC regarding any issue affecting the funding formula because the specifics in the bill need to be based on what is best for restructuring, not just random numbers. Senator Smith said he wants LESC and LFC to give the task force recommendations, to collaborate and to come back with an analysis and refined draft that will meet intentions. Senator Cisneros asked that a new draft be accompanied by an FIR. Representative Gardner pointed out that the proposed bill will be affected by the new census numbers and perhaps anything dealing with school district size should be put off until after the census. Representative Bandy said the goal is not to consolidate schools, but to consolidate school districts. Mr. Ortiz said the school boards association opposes the consolidation of small school districts. Representative Miera said the topic is not simple; there are many issues that must be considered, including having to consider debt obligations of current school districts and taxpayers. Senator Smith said there is no intention to hurt legitimately small schools; the intention is to stop districts and charter schools from gaming the system. Representative Lundstrom asked that the questions be put on the October agenda. After further discussion regarding the proposal, the task force asked Representative Miera, LFC and LESC to review this proposal in depth and be ready to present findings at the October meeting. Senator Eichenberg asked that when they have something to give it to staff to send to the members.

### ***Other Educational Issues***

Based on questions raised by Mr. Ortiz, the task force and staff discussed the use of permanent funds. Mr. Abbey presented a brief primer on the purpose of the permanent funds.

★ The task force members discussed briefly the need to examine education issues in depth. Senator Smith said the point of the 2003 constitutional amendment was an attempt to pinpoint responsibility, but that did not happen; the secretary still says, "I don't have the authority.". Senator Lopez said the legislature should look at the winning "race to the top" applications for ideas. She noted that Michelle Rhee in Washington, D.C., has made strides in turning around that system. She made the point that if children can teach themselves Nintendo and computers, schools should be able to bridge the gap and teach them math and reading. Mr. Ortiz agreed with Senator Lopez and suggested convening stakeholders and having the task force hear from the school boards association and the superintendents association. He agreed that the task force should look at race to the top applications. Representative Lundstrom said just because the task force brings people to the table, it does not mean they agree to anything. The education committees have the expertise and need to provide the task force with proposals. No one will be held harmless in the next budget cycle, and everything has advocates. She said the task force is beyond the point of hearing more presentations from advocates; the task force needs ideas and solutions. She noted that her school district is 5,000 square miles and has very little population outside Gallup. Representative Varela asked for a report on the use of money from the 2003 increase in land grant permanent funds for educational reform. He suggested that the legislature tie appropriations to achievement/performance. He noted that the race to the top winners were all in the eastern United States and asked if New Mexico had adequately planned for its application and what it had learned from the process.

Senator Cisneros redirected the task force's attention to the PEC/PED issue. The legislature had expectations that changing from the board-superintendent model to a cabinet department would improve performance and accountability; however, that does not appear to have happened. He asked if going back would be an improvement or if there is a totally different model to consider. Representative Madalena suggested that state resources might be redirected; for example, using lottery and Indian gaming revenue for public schools. Mr. O'Neill picked up on Senator Cisneros' point and suggested an official set of expectations the secretary must meet. Mr. Ortiz raised the issue of linking teacher evaluation to student performance. Representative Miera agreed that teacher evaluation methods should be examined this year because it is a topic many states are examining and the teachers' unions are willing to look at the matter. Mr. Abbey said that Dr. Linda Paul at the leadership institute is working on teacher performance. Representative Miera said LESC is hearing from Dr. Paul at the September meeting. Senator Eichenberg reiterated his request that LESC provide the task force with proposals.

★ The task force then discussed the funding formula. Representative Miera pointed out that the reason so much state money goes to public schools is because New Mexico made the choice in the 1970s to have equalized funding. If the legislature does away with the funding formula, school districts will have to rely on localized funding, which is clearly unequal across the state. Representative Varela agreed, saying that if the legislature had not passed equalized funding, the state would have been sued and would likely have lost, given the constitutional mandate to provide a sufficient education. He said the state still has the new funding formula, and its implementation should be examined. He noted the need for small class sizes at the early grades, core curriculum and standards, saying money must be shifted into the classrooms.

★ Regarding specific recommendations for saving money in public schools, Senator Lopez proposed consolidating all information technology (IT) needs for school districts by using the state's supercomputer. She asked LESC to examine the suggestion, including a full analysis of

how much each school district is currently spending on IT. Representative Miera agreed that consolidation of IT is a good idea, but added that higher education IT should be consolidated as well. Representative Lundstrom suggested phasing money out of remedial education and into pre-K programs. Several task force members then discussed how remedial education is paid for by the state. HED will address the remedial education funding issue at the October meeting. Mr. O'Neill agreed that lottery scholarship funds should not be used for remediation. Senator Eichenberg proposed that the state not pay twice for the same course. Representative Wallace pointed out that the lottery funds are not used in a student's first semester. Tino Pestalozzi of HED said the lottery only pays for courses leading to a degree or certification. On questions from Senator Eichenberg, Mr. Pestalozzi said the lottery scholarship rules define "full time" as 12 hours. Representative Lundstrom suggested that students should have a longer period after high school graduation to qualify for lottery scholarships. Senator Eichenberg requested that the lottery scholarship program be addressed more fully at the October meeting, when HED makes a presentation. Representative Lundstrom asked for data on addressing graduation rates and the lottery program. She also asked that restructuring teacher preparation be examined along with the HED discussion, including the curriculum from the teachers' colleges. Senator Lopez said regents' qualifications and the management level are important components of quality higher education.

Mr. Karpoff asked if there were more specific recommendations. Representative Varela said that when PED approves district budgets, it should be able to tell what amounts are going to the classroom. He suggested that funding concentrate on primary grades and the classroom. Senator Neville said that there is something wrong if a child reaches fourth grade without being able to read. He pointed out that some of the best schools in the state are small. He suggested that the state focus on standards and proficiency, not grades and graduation rates, and reward teachers on how well their students do to meet standards.

★ Mr. Gasparich expressed concern regarding the amount of money going into education without any clear improvement. Dr. Hughes acknowledged this concern, but said many states are spending more money on education with no improvement due to social changes. Representative Lundstrom inquired about how much pre-K is helping improve student performance. Dr. Hughes replied that pre-K spending is a good use of educational dollars and many studies recommend funding pre-K programs. In New Mexico, the pre-K programs are so new that there are no data yet to support pre-K programs. At the end of the current school year, the state will be able to test its first group of third graders who went through the pre-K programs. Representative Lundstrom asked about the possibility of year-round schooling for the early years of education. Dr. Hughes advised the task force that Utah state university had received a grant to study K-3 plus, and \$9.6 million will be used in selected New Mexico school districts to support those programs in a randomized study. Senator Smith said pre-K studies have not shown improvement in kindergarten for pre-K students. He asked Dr. Hughes to research whether full-day kindergarten is providing any better results. Senator Lopez expressed support for year-round schooling, especially during the early years. Representative Lundstrom supported the proposition. Representative Varela pointed out that too many days in a school year are not instructional days. Representative Miera reminded the task force members that under current law, if a school district wants to go to year-round schooling, it can do so. However, both Representative Lundstrom and Senator Lopez want the legislature to mandate year-round schooling. Representative Varela asked if vocational education is optional in schools. Representative Miera said it is and that offerings depend on the availability of teachers.

Representative Varela said vocational education should help with district dropout rates. Mr. O'Neill suggested that the number of school days be increased from 180 days to 200 days and that professional development be outside of those days.

★ The task force discussed tying teacher evaluation to student performance. Senator Neville and Representative Bandy proposed that the task force consider legislation to establish school goals and teacher performance in a value-added system. Staff advised that several states have plans that were recently enacted to address this issue. Senator Eichenberg said such a plan must include the requirement that parents cannot opt out of a school's decision to hold back a student; currently, parents can require schools to promote their children, which continues to allow failure. Representative Gardner suggested reviewing licensing requirements for teachers, moving toward something similar to the national board for professional teaching standards. Mr. O'Neill moved that a bill be drafted based on Representative Gardner's proposal. Senator Lopez and Representative Bandy seconded the motion, which passed.

★ Representative Bandy moved to have a bill drafted for the next meeting on teacher evaluation tied to student performance. He suggested looking at the Colorado, Louisiana and Florida models. He also asked staff to include administrator evaluation in the bill. Senator Neville seconded the motion. Representative Gardner cautioned that a single person cannot be 100% responsible for student progress; students need to be assessed periodically so teachers and parents have timely notice of how well they are doing. Representative Varela said parental involvement is vital if teachers are being evaluated; any high-stakes evaluation should include the teacher's attempts to involve parents. Senators Neville and Smith pointed out that school principals are also responsible for student improvement. They suggested that principals be evaluated on how well their schools do, then the principals would evaluate the teachers. Ms. Lenhart said PED and the office of education accountability must be consulted in the drafting of legislation. Ms. Ramírez-Maestas advised that LESC will be examining this issue at its November meeting. The motion passed.

Senator Smith suggested that the task force consider penalties for school districts that are found to be gaming the system and the funding formula. He noted particular abuses in special and bilingual education programs. Ms. Ramírez-Maestas agreed, noting that a couple of years ago, LESC found that Pecos had a 33% special education rate, compared to Albuquerque public schools' and Rio Rancho's rates, which were closer to 13%.

★ Representative Bandy moved for a draft bill to merge PED with HED. Representative Lundstrom seconded, and the motion passed. Senators Lopez and Smith voted no.

### ***Public Comment***

Glen Carlberg, New Mexico state employee alliance, CWA 7076, asked the task force to continue tapping the knowledge of state employees in this process. In regard to teacher evaluation, he noted that in all jobs, multiple performance measures must be used to evaluate an employee. He also spoke about the need to reform the educational system completely and not in the manner that No Child Left Behind supposedly reformed it. Mr. O'Neill asked Mr. Carlberg to talk to alliance members about restructuring and to then pass their ideas on to the task force.

There being no further business, the task force adjourned at 3:15 p.m.