

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

**August 20-21, 2007
Room 307, State Capitol
Santa Fe**

The eighth meeting of the Legislative Structure and Process Study Task Force was called to order by Thomas A. Donnelly, co-chair, on August 20, 2007 at 1:20 p.m. in Room 307 of the State Capitol in Santa Fe.

Present

Thomas A. Donnelly, Co-Chair
Richard E. Olson, Co-Chair
Rep. Janice E. Arnold-Jones
Rep. Ray Begaye
Max Coll
Marie Eaves
William R. Humphries
Bill King (August 20)
Rep. Larry A. Larrañaga
Willard Lewis
Sen. Gerald Ortiz y Pino
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor
Anthony Williams
Rep. Peter Wirth

Absent

Sen. Mark Boitano
Linda M. Davis
Charles Dorame
Tommy Jewell
Judy K. Jones
David McCumber
Brian McDonald
Sen. Cynthia Nava
Sen. Steven P. Neville
Sen. William H. Payne
Murray Ryan

Advisory Members

Rep. Donald E. Bratton
Sen. Stuart Ingle (August 20)

Marilyn O'Leary

Kim Seckler

(Attendance dates for members attending part of the meeting are shown in parentheses.)

Staff

David Abbey, Director, Legislative Finance Committee (LFC)
Raúl E. Burciaga, Assistant Director for Drafting Services, Legislative Council Service (LCS)
Cathy T. Fernandez, Deputy Director, LFC
Ric Gaudet, LCS

Paula Tackett, Director, LCS
John Yaeger, Assistant Director for Legislative Affairs, LCS

Guests

The guest list is in the meeting file.

Handouts

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

Monday, August 20

Committee Business

Mr. Yaeger described for the task force the most recent draft proposals generated by previous task force meetings. The proposals include:

- six recommendations (proposal #15) to restructure interim committees, including repealing most statutory interim committees and creating committees for a two-year period at the beginning of each legislature; having no more than 12 substantive interim committees each year (exclusive of the Legislative Council and the ethics and compacts committees); appointing members to committees that take into consideration the size of each legislative body, but maintain each body's ability to block motions; directing the three permanent committees to work together to staff the various substantive interim committees; allowing legislators to attend more meetings of interim committees of which they are not members; and limiting the number of advisory members of interim committees;
- a joint resolution (proposal #16) to amend the state constitution to give the governor 30 days to sign or veto legislation, which is an increase from the current 20 days;
- a joint resolution (proposal #17) to amend the state constitution to provide for an automatic three-day session of the legislature devoted exclusively to considering veto overrides of the previous regular legislative session;
- a joint resolution (proposal #18) to amend the state constitution to allow the legislature to consider veto overrides during special sessions;
- a bill (proposal #19) to grant subpoena power to the Legislative Council pursuant to a majority vote of the members appointed to the council;
- a bill (proposal #20) to allow the LFC to receive confidential material from governmental agencies;
- a bill (proposal #21) to codify the LFC's program evaluation function and adding governmental instrumentalities to agencies that can be audited; and

- a recommendation (proposal # 22, not printed) to the Legislative Council to provide two orientation sessions of two days each for legislators-elect and to reimburse them at the public per diem rate.

Representative Larrañaga said in regard to the interim committee restructuring proposal that the tendency in the past has been to create an interim committee for every conceivable problem. He prefers to create several committees with sufficient scope of study to cover every issue.

Mr. Coll said that although cutting back on the number of interim committees is a good idea and will save much legislative time, it will be politically difficult to do. He also said that he prefers a statute that creates the several interim committees. The legislature could still create single-purpose committees that have a definite sunset date.

Representative Wirth asked what entity would enforce a subpoena that the Legislative Council issued. Ms. Tackett said the district court would.

Mr. Coll said he favors a veto-override session because it would force the governor to negotiate with the legislature. Representative Larrañaga agreed, saying that currently the legislature does not have the practical ability, except by calling itself into an extraordinary session, to override vetoes from a 30-day session.

Open Conference Committees

Ms. Tackett gave the task force a presentation on the nature and history of conference committees in New Mexico. A conference committee is formed when one house refuses to concur with the other house's amendments to a bill and the other house likewise refuses to recede from those amendments. Each house appoints members to a conference committee, which usually consists of a total of six conferees. The conference committee decides which amendments to keep and which to reject and may additionally amend the bill. A majority of the members from each house on the committee must concur with the agreement for it to be reported to the floor of each house for adoption. Ms. Tackett said that each year only a few conference committees have been necessary, but that the general appropriation act (also known as HB 2) goes to conference nearly every year. She said that conference committees are not required to be held in public. Several attempts to require conference committees to be open to the public have not succeeded.

Representative Saavedra said that he does not have a problem with letting the public into conference committees, but he cautioned that having a room full of people at the meeting could distract the committee from its business. He said HB 2 is usually amended in conference committee to include additional programs legislators feel are urgent to include in the budget. The base bill is almost always not in contention; the committee just makes minor changes.

Mr. Coll said he favors open conference committees. He thinks that, in general, not very many people will actually attend a conference committee meeting, and the chair of the committee can restrict or allow public input, just like other standing committees.

Representative Arnold-Jones suggested that results of conference committees be posted publicly and on the legislature's web page at least 30 minutes before the full bodies can take any action on the conference committee reports.

Representative Wirth spoke in favor of opening conference committees to the public, and related how he allowed some interested public members to attend a conference committee he chaired last session regarding eminent domain. He said the net result was a law that not everyone liked, but that they were able to live with, partly because they were included in the negotiations.

Representative Larrañaga said he supports open conference committees in order to alleviate public suspicion about "back-room deals". He said the credibility of the legislature is not good in the public's eye.

Representative Taylor said that although he really does not care if conference committees are opened, it would become impossible for members to have the kinds of frank conversation that currently occur. He also said there are only a few conference committees each year, so opening them would not do very much to reform the system. The real problem, he said, is the fact that the public is so uninvolved in the legislative process. There needs to be more time for the legislature to deliberate and to involve the public.

Mr. Williams said that conference committees should be open to the public. He said that any decision that involves public money needs to involve public scrutiny.

Representative Bratton said that a conference committee consisting of six members and attended by 150 members of the public would be counterproductive. He said conference committees need to have the ability to close if they so choose, and they also need the ability to limit public comment. A bill that has made it to conference already has had multiple chances for public input.

Staff was directed to investigate how other states notify the press and public about upcoming open conference committees.

Legislative Compensation

Mr. Yaeger described for the task force the history of legislative compensation in New Mexico. In 1971, the attorney general opined that the legislature may enact a law to reimburse members for expenses incurred while performing legislative duties between legislative sessions. The legislature then proposed an amendment to Article 4, Section 10 of the Constitution of New Mexico, which was later adopted by the voters, that raised the per diem rates for legislators but

also limited reimbursement during the interim to "service at meetings required by legislative committees established by the legislature to meet in the interim between sessions". That section was again amended in 1982 to raise the per diem rate from \$40.00 per day to \$75.00, and was last amended in 1996, when per diem and mileage rates were tied to the federal reimbursement rate for the City of Santa Fe, currently set at \$142 per day and 48.5 cents per mile. The New Mexico Supreme Court also ruled in 1995 that the statutory legislative retirement plan does not violate the constitution. Benefits were increased for retired legislators in 2003.

Representative Larrañaga asked how it was possible for a legislator also to receive a salary as a school teacher. Mr. Yaeger said that the New Mexico Supreme Court has ruled that public school teachers are not state employees. Representative Larrañaga said he believed that the main argument for allowing school teachers to be legislators hinged on the fact that legislators do not receive a salary, but are merely reimbursed for service; thus, any discussion involving legislative salary may need to explore that relationship. He then asked whether legislators who receive a salary would also receive per diem. Mr. Yaeger responded that in most states that have a legislative salary, members are also entitled to some form of per diem reimbursement.

Representative Bratton said that most out-of-state travel does not cover the actual expenses legislators incur. He also said that the restrictions on the use of rental cars have caused problems when legislators have to travel many miles from their hotel room to get to a conference site. Mr. Yaeger said that in order to compensate legislators any more for out-of-state travel, the constitution would have to be amended.

Representative Saavedra said that legislators are allowed by state law to reimburse themselves from their campaign funds to pay for certain costs related to performing the duties of their office, such as attending conferences.

Representative Arnold-Jones said that the current state employee reimbursement rate is woefully inadequate. Mr. Yaeger said that rate is set by statute.

Representative Larrañaga said that any legislator who advocates receiving a salary would probably be committing political suicide.

Mr. Olson said he would support an amendment to the constitution to allow for more flexible per diem compensation in order to cover some of the more expensive travel costs. He also suggested investigating whether to set up expense accounts for legislators to cover bona fide expenses.

Representative Saavedra said that, currently, legislators do not even have the tools to return letters to constituents. He advocated giving legislators staff to help them do their jobs better.

Representative Arnold-Jones suggested looking into establishing a legislative compensation commission that could set a salary for legislators.

Staff was directed to provide draft proposals regarding a compensation commission and to provide more flexibility to cover out-of-state travel expenses.

Tuesday, August 21

Technology and Increased Public Participation

Overview of Technology in the New Mexico Legislature

Ralph Vincent, information systems contractor, LCS, presented an overview of the information technology (IT) infrastructure for the New Mexico Legislature. He described information that is available on the legislature's web site, including bill and amendment texts, locator information and capital outlay requests.

Senator Ortiz y Pino requested that IT staff develop a tool to retrieve information easily about legislative funding of individual projects. Representative Arnold-Jones agreed, saying that it is nearly impossible to fund projects fully that have multiple sponsors because figuring out who has allocated funding for a project is difficult. She suggested having an interactive capital outlay database. Mr. Yaeger said that sort of system is technically possible, but the legislature would have to address confidentiality concerns before it could be implemented.

Representative Bratton said that it is much more important that projects get fully funded than trying to get credit for funding such projects. Funding capital outlay projects in order to get reelected brings up ethics issues, he said.

Mark Guillen, information systems manager, LCS, described to the task force the system in place to provide laptop and notebook computers to legislators. He also said that the proposal to webcast floor sessions of the legislature is still being investigated. He said that New Mexico is one of a few states that does not yet broadcast its floor sessions.

Mr. Olson asked about webcasting committee hearings. Mr. Yaeger said that is possible, but the \$75,000 appropriation would probably not be enough to cover the cost.

Representative Wirth said that the New Mexico Legislature is very far behind other states in access to legislative hearings. He said that even the Santa Fe School Board webcasts its meetings, while the legislature remains in the Stone Age.

Legislative Education Study Committee Experience with "Paperless Committee" Project

Francis Maestas, deputy director, Legislative Education Study Committee (LESC), gave an overview of the LESG's recent attempt at reducing the amount of paper being generated at its meetings. In 2005, most members of the committee agreed to receive documents presented to the committee in an electronic form. Presenters to the committee were instructed to provide

committee staff with electronic versions of handouts before meeting days, and committee members were provided with a CD version of all handouts the day of the meeting. Problems occurred when the committee traveled, because each meeting location had different IT capabilities. So committee staff still had available printed copies of all handouts in case there were IT problems.

Ms. Maestas said that the paperless committee project was successful and made it easier for members to organize and review the myriad documents the committee uses. Paper use was reduced somewhat, but she said that the computers sometimes were a distraction for legislators, who did not always seem to be paying attention to what was being said. Additionally, if a legislator forgot to bring the computer to the meeting, staff would scramble to provide paper versions of handouts.

Finally, Ms. Maestas said that the LESC is now requiring all handouts to be approved by the director before being distributed. If presentation materials are not sufficiently succinct, LESC staff will revise those handouts to give the important information quickly.

Ms. Eaves said she is concerned about possible partisan influence the LESC staff might bring to such editorializing of handouts. Ms. Maestas responded that the LESC staff is by statute nonpartisan, and they take great pains to ensure the fairness of information they produce. Representative Wirth said he would like some sort of information winnowing to take place for the House Appropriations and Finance Committee (HAFC), since that committee receives a staggering amount of information each session. It is physically impossible for an individual to read all that information in the short span of a legislative session, he said.

Discussion of Potential IT Reforms

Mr. Burciaga discussed several possible IT changes that have been identified by the task force as desirable. The first item, having a web site legislative primer, is already underway and will continue to improve over time. The second, having real-time alerts for legislators so they can be informed of upcoming attendance requirements at committee, can easily be accomplished with pagers or cell phones. He cautioned, however, that quick notification of members still does not guarantee the legislative process will be any more efficient. Legislators may still have to wait to testify at a committee hearing for any of a number of reasons, which no amount of technology can fix. That is because the legislature's very structure is designed to be effective but not necessarily efficient, he said.

The third reform possibility involves real-time editing of legislation in committee hearings. The idea is to have proposed amendments incorporated into the bill text quickly so that the committee can easily review it. That type of system would require quite a few more trained staff members, and it would lead to more frequent errors, since staff members would essentially be drafting, proofreading and word processing instantaneously, without the usual consideration given to such changes.

Representative Bratton said that the HAFC has a huge volume of proposed amendments, and it needs to make changes to text quickly, most of which are not substantive in nature. He suggested having an LCS staff member attend the committee's meetings to help review those amendments.

Representative Arnold-Jones said that real-time editing would merely be a tool for legislators to collaborate better in bill passage. She does not want to adopt a system that would lead to more errors, however.

Representative Bratton said he would like committee agendas to be posted electronically in committee rooms so they could be easily changed according to need during the meeting. He also suggested having a committee staff member dedicated to retrieving the text for the next agenda item for members' attention, and then sending those documents electronically to each member's computer.

Representative Taylor said that he is forced to carry two computers around the capitol: one issued by the LCS and his own computer for his business. His private computer is not allowed access into certain parts of the legislative information system. Mr. Vincent said the legislature is in the process of acquiring the correct infrastructure that will allow certain private computers to gain access into the legislative system. Representative Taylor asked that, in the meantime, certain information he regularly needs, such as the minority analysis reports, be posted to a secure web page that he can access using a password.

Consideration of Next Steps

After a lunch break, the task force discussed all of the draft proposals it has heard in the past several months. Mr. Olson recommended that a subcommittee of the task force meet in September and try to make all the proposals work together so they can be officially adopted by the full task force in October. Several proposals, while not conflicting with other proposals, need to be adjusted so that they all work together. The task force discussed each proposal briefly and indicated to the subcommittee which direction to take. The discussion that ensued used the proposed reform numbers taken from the task force document entitled "Reforms Under Consideration", dated August 20, 2007. Only proposals that were discussed or rejected are mentioned. The other proposals are still included in the task force's tentative recommendations.

Limit Legislation Introduced (Proposal #2)

Representative Saavedra expressed concern that bill introduction limits will unfairly penalize members with geographically large districts. Ms. Tackett said that capital outlay requests are not included in the limit. Mr. Lewis said that bill introduction limits, coupled with unlimited pre-filing of bills, will solve that problem. Legislators will learn to file all their appropriations bills before the session, which will have the added benefit of allowing the legislature to be better prepared to address those bills when it convenes.

Expand Ability to Cosponsor Legislation (Proposal #3)

Representative Arnold-Jones suggested that if more members are allowed to cosponsor legislation, that cosponsorship should actually mean something substantive, like each cosponsor working to get the bill passed. Mr. Yaeger said that the current proposal was written mainly as an attempt to reduce the amount of duplicate legislation introduced.

Prohibit Memorials Requesting Agencies to Act (Proposal #4)

Representative Wirth said he is concerned that if the legislature inserts money into an appropriation bill for a specific purpose, it often wants to include language with the appropriation, which is where memorial language is sometimes helpful. Ms. Tackett said that a bill with specific language and an appropriation should get introduced; in the appropriations committees, the appropriation part gets rolled into an appropriations bill and the original bill gets passed without the money in it. That way, the money is there for the agency to spend with the specific language the legislature wants. Mr. Coll said that the chair of HAFC or the Senate Finance Committee can always write a letter to the agency specifying how the legislature wants that money spent.

Discourage Tabling Motions in Committee (Proposal #5)

Representative Wirth said that the proposal to have an automatic Do Not Pass committee report generated after five days of a bill being tabled will create a procedural nightmare. Mr. Yaeger said that the proposal will not cut down on the workload of the legislature, but it may cut down on worries that a bad bill will suddenly be resurrected at the end of session and forced through the legislature.

Representative Arnold-Jones said that if the current proposal is rejected, another method of killing bills in committee needs to be drafted that works better. Mr. Coll suggested that committees be allowed to table a bill for just a few days, after which they must issue a Do Pass, Do Not Pass or Do Pass Without Recommendation report. Further tabling of the bill would be prohibited.

Crossover Deadlines (Proposal #9)

Representative Arnold-Jones said she is willing to take this proposal off the table, especially the confusing and complex two-house crossover deadline draft.

Restructure Interim Committees (Proposal #15)

Representative Larrañaga suggested that the proposed Legislative Health Committee and Legislative Human Services Committee be combined into one Legislative Health and Human Services Committee, reflecting the current status of that committee. He also suggested changing the name of the proposed Environment Committee to the Water, Energy and Environment Committee.

Veto Overrides During Special Sessions (Proposal #18)

Representative Wirth said he prefers a dedicated veto-override session instead of allowing it during special sessions. He said that special sessions need to be limited in their scope

to the subjects contained in the governor's proclamation. Allowing veto overrides could extend those sessions much longer than desired, he said.

The task force agreed to remove Proposal #18 from consideration.

Legislative Subpoenas (Proposal #19)

Ms. Eaves said she does not want the Legislative Council to have the ability to issue subpoenas because she fears it would lead to abuse.

Representative Saavedra said that the chair of HAFC should serve on the interim Revenue Stabilization and Tax Policy Committee.

The co-chairs of the task force appointed the following members to the subcommittee: Mr. Donnelly, Mr. Olson, Mr. Coll, Representative Wirth, Mr. Humphries, Senator Ortiz y Pino, Representative Begaye and Mr. Williams.

Representative Arnold-Jones asked staff to provide advance copies of the subcommittee recommendations to the rest of the task force.

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