

MINUTES
Legislative Finance Committee
Truth or Consequences, NM
September 27 - 29, 2017

Wednesday, September 27th

The following members and designees were present on Wednesday, September 27, 2017: Chairwoman Patricia A. Lundstrom; Vice Chairman John Arthur Smith; Representatives Jim R. Trujillo, Larry A. Larrañaga, Jimmie C. Hall, Doreen Y. Gallegos, James G. Townsend, George Dodge Jr., and Rebecca Dow; and Senators Carlos R. Cisneros, Steven P. Neville, Carroll H. Leavell, Jacob R. Candelaria, George K. Muñoz, William F. Burt, and Pete Campos. Guest legislators: Representative Rodolpho “Rudy” S. Martinez; and Senators James P. White and Pat Woods.

Welcoming Remarks. After welcoming the committee, Steve Green, mayor of Truth or Consequences (T or C), talked about Spaceport America. Mayor Green said he is thankful for the Legislature’s support of Spaceport America. Spaceport America is currently employing 34 people in T or C, which Mayor Green said is a significant benefit for the rural community. Public tours of the spaceport will resume October 28.

Mayor Green invited committee members to visit T or C’s hot springs, brewery, shops, and museums.

Kenneth Lyon, chair of the Sierra County Commission, gave a brief update on Sierra County activity. Commissioner Lyon said federal overreach is negatively influencing the ranching industry, a major contributor to the county’s economy. The Spaceport recently held the world’s largest rocket engineering competition. The Sierra County fair will be taking place next week. Construction of the new Sierra Vista Hospital is underway. County officials are working to establish a minimum pool for Elephant Butte Lake. A minimum pool will help maintain tourism activity, also a major contributor to the county’s economy.

In response to Representative Martinez, Bruce Swingle, manager of Sierra County, said he will look into the county’s support of promoting the museum in Hillsboro. Vice Chairman Smith said the anti-donation clause in New Mexico’s constitution applies to the museum because it is privately owned.

Vice Chairman Smith remarked on other activity and issues in Sierra County, including the revitalization of Copper Flat mine and the reclamation of Elephant Butte dam. Vice Chairman Smith said legislators need to be cognizant of issues affecting rural New Mexico. Commissioner Lyon said, if reopened, the mine would create over 700 jobs in the first year; however, its revitalization is being hindered by water rights issues.

Children, Youth and Families Department - Child Protective Services. Monique Jacobson, secretary of the Children, Youth and Families Department (CYFD), said, of the approximate 40 thousand reports of suspected child abuse or neglect CYFD receives a year, about 20 thousand are

investigated by the agency. The others considered criminal reports are routed to law enforcement for investigation.

Secretary Jacobson gave an overview of CYFD's investigation process. The agency must first determine if a report is substantiated or unsubstantiated. If substantiated, CYFD then determines if there is an imminent safety risk to the child or children in the case. If there is, the agency works with law enforcement and the courts to bring the child or children into custody, who are then placed with relatives or foster parents. After placement, CYFD works with the courts to establish a long-term plan. CYFD currently has about 2,600 children in custody. However, most cases are resolved by connecting families to services.

Secretary Jacobson said CYFD is executing four strategies to meet its mission of improving the quality of life for New Mexico's children: shoring up core functions, implementing services that help prevent child abuse or neglect, improving financial controls, and engaging communities and stakeholders. Secretary Jacobson gave an overview of how the agency is implementing these strategies for child protective services. Shoring up core functions, CYFD increased its staffing levels and improved its training, supports, and compensation for workers in its child protective services program. The agency added 77 new field worker positions. Secretary Jacobson reported the vacancy rate decreased from 24 percent in FY15 to 10 percent in FY17. The turnover rate decreased from 33 percent in FY14 to 25 percent in FY17. Working to prevent child abuse and neglect, CYFD implemented an at-risk childcare program. In addition, CYFD's Behavioral Health Division clinicians are now also serving clients of the Child Protective Services Division. To improve financial controls, CYFD created an internal fraud, waste, and abuse referral line and increased contract provider accountability by establishing a review process. In addition, CYFD is monitoring overtime and overpayments. CYFD's Pull Together initiative is working to engage communities and stakeholders. The initiative increases public awareness and simplifies navigation of existing services for people. Engaging law enforcement, CYFD created a database portal to give police officers access to CYFD records, equipping law enforcement with potentially crucial information when responding to a call.

Secretary Jacobson reported positive results from CYFD efforts. Since FY15, the number of field workers increased 33 percent, the number of foster families increased 22 percent, and the number of relative foster care placements increased 22.7 percent. Secretary Jacobson noted that children respond better when placed in relative foster care. CYFD improved eight out of 10 performance measures in FY17, including declining repeat maltreatment from 12.3 percent in FY16 to 11.1 percent in FY17, and increasing the percent of children adopted within 24 months from 23.3 percent in FY16 to 24.6 percent in FY17.

Secretary Jacobson said CYFD recently opened a children's receiving center in Albuquerque. The 3,000-square-foot center was created from existing CYFD space, which Secretary Jacobson said does not yet meet all needs needed for the center. For example, the center has no bathrooms.

Lastly reporting on new initiatives, Secretary Jacobson said CYFD is implementing a new evidence-based safety tool and practice training for managers and staff. The training will improve the quality and consistency of child safety assessments. Other initiatives include increasing county office accountability by establishing a performance review process using report cards and

developing a comprehensive recruitment and training program. Secretary Jacobson said CYFD's strategic plan and information on initiatives can be found on the agency's website.

Briefly addressing the committee, Francine Anaya, director of the Child Protective Services Division, said significant progress has been made to shore up core functions but more work needs to be done. Ms. Anaya said CYFD is focused on administering evidence-based programs to measure progress.

In response to Representative Dow, Ms. Anaya said CYFD has streamlined the relative foster care placement process, expediting placement. Ms. Anaya said, in many cases, children are placed with a relative immediately following removal from their home.

Senator Muñoz recommended more advertisement of #SAFE, a user-friendly hotline number for public reporting of child abuse and neglect.

In response to Senator Muñoz, Secretary Jacobson talked about creating children's receiving centers in other places in New Mexico by working with lessors on renovating space at the time of a lease renewal or issuing a request for proposal for new space.

Vice Chairman Smith expressed concern about the state not having enough revenue to fund basic needs, noting the \$67 million "swept" from the fire fund to the state general fund. The sweep forced the T or C fire department to freeze spending, halting several projects, including acquiring needed fire equipment. Vice Chairman Smith requested LFC staff look into which projects are actually being impacted by the sweep.

Representative Townsend asked why CYFD's caseload is increasing while New Mexico's population growth continues to be stagnant. Secretary Jacobson attributed the increased caseload to a variety of factors, including more children being born into families already in the system and the longer time periods families are in the system.

Sierra Vista Hospital. Greg D'Amour, chair of the Sierra Vista Hospital Governing Board, reported that several organizational changes are currently taking place within the board and hospital's administration. Quorum Health Resources (QHR) has been contracted to conduct analysis on hospital management.

Mr. D'Amour said construction of the new Sierra Vista Hospital building is underway, replacing the existing 60-year-old building. The hospital already has a new emergency room. Mr. D'Amour said the new facilities ensures the highest quality of healthcare will continue to be delivered in the rural community.

Thomas Dandridge said QHR, a company he retired from, appointed him as interim chief executive officer of Sierra Vista Hospital. Mr. Dandridge said he is impressed by the dedication of hospital staff. Mr. Dandridge remarked on the changes occurring in health care.

Sharon Finarelli, director of Sierra Vista Hospital's ancillary services, talked about the hospital's initiatives to expand its behavioral health services. Ms. Finarelli noted that Sierra County has an

especially high population of special education students. The hospital is providing school counselors training on identifying behavioral health, maltreatment, and substance abuse issues in children. The hospital is collaborating with providers on addressing behavioral health issues in the county. The hospital is forming a crisis response team.

Bruce Swingle, Sierra County Manager, talked about the county's high need for behavioral health services. Mr. Swingle reported that Sierra County currently ranks first in the state for the highest number of alcohol-related deaths, substance abuse deaths, and youth attempted suicide. Reporting other statistical data, Mr. Swingle said Sierra County's behavioral health issue is critical. Mr. Swingle pointed out that rural communities do not have the same resources as urban areas to address these type of issues. Senator Leavell said the work being done to address the behavioral health issues in southeastern New Mexico might provide Sierra County ideas on how to address its behavioral health issues.

In response to Representative Martinez, Mr. D'Amour said Sierra Vista Hospital is a critical access hospital. Ms. Finarelli said all the clinics in county are rural health clinics, giving them the advantage of more favorable reimbursement rates.

Sierra Health Care Center. Juliet Sullivan, executive director of the Sierra Health Care Center, introduced the chefs that prepared breakfast for the committee. Ms. Sullivan remarked on the talent recruited for the center.

The number of younger clients the center serves has increased significantly over the years. Ms. Sullivan said budget reductions have made it difficult for the center to maintain the more expensive services its younger clients receive. Ms. Sullivan asked legislators to be cognizant of the challenges rural communities face when determining budget reductions.

LFC Program Evaluation Progress Report: Dual Credit. Micaela Fischer, program evaluator for LFC, reported on the progress of New Mexico's dual credit program since LFC staff last evaluated it in 2012. Dual-credit courses, college-level classes taken by high school students for both high school and postsecondary credit, are part of a strategy to address weaknesses in New Mexico's educational pipeline. These include high need for remedial college coursework and students taking too many credits and too long to earn a certificate or degree. However, LFC's 2012 evaluation of dual credit found a lack of shared goals, performance measures, and oversight were undermining the justification for the dual-credit program costs.

Since the 2012 evaluation, state and national policy changes have resulted in increased participation in dual credit, a shift of dual-credit courses from the high school to the college campus or online, and a decrease in the funding higher education institutions receive per dual-credit course. Along with participation, total state spending on dual credit has increased from an estimated \$34.4 million in FY12 to an estimated \$54.4 million in FY16. Moreover, while high schools still receive full funding for dual-credit students, funding formula changes have resulted in colleges and universities receiving significantly less for each course they offer in excess of FY13 levels.

An updated review of student performance found that, as in 2012, students who take dual-credit courses tend to require less remedial coursework and earn postsecondary credentials in less time

than their peers who do not. However, additional analysis now shows that students who choose dual-credit classes tend to have higher academic aptitude, which may better explain their college performance rather than dual-credit experience alone.

Finally, while some conclusions can be reached with the information available, monitoring of dual-credit has so far yielded insufficient data to definitively determine its success. Current efforts by the Public Education and Higher Education Departments to revise dual-credit standards present an opportunity to incorporate monitoring requirements into state administrative code.

Barbara Damron, secretary of the Higher Education Department (HED), said New Mexico's dual-credit program is successfully providing early access to college and reducing student costs; however, issues with articulation and delivering consistent quality of dual credit need to be addressed.

Secretary Damron talked about establishing a successful dual credit program. To ensure high quality, rigorous dual credit, courses taught offsite must meet the same standards and learning outcomes as those taught at the college campus. Instructors must have a master's degree in the discipline or subfield in which he/she teaches or a master's degree in any discipline plus 18 graduate credit hours in the discipline or subfield in which he/she teaches. Instructors must participate in orientation, have opportunities to discuss concerns with other faculty, have access to mentoring, and be evaluated by the department in which they teach. The higher education institutions need to be accredited. Students must take courses in the area they are interested in majoring. HED is working with higher education institutions to establish degree plans and meta-majors. Meta-majors are one-semester academic plans that count toward multiple degree programs. HED is also working on establishing common course numbering to improve articulation between institutions. Secretary Damron said the Public Education Department and HED are implementing many of the changes recommended by the Dual Credit Council.

Rene Scott, president of Dona Ana Community College (DACC), talked about the dual-credit program at DACC. The community college is serving students from several high schools and four early college high schools. The number of dual-credit students DACC serves increased from 3,562 students in the 2012-2013 school year to 5,656 students in the 2016-2017 school year. DACC's dual-credit students are similar in demographics to regular campus students; approximately 73 percent are Hispanic and 17 percent are white. Overall student achievement is better for students with dual-credit than students with no dual credit. For example, DACC students with dual credit need remediation less often than students with no dual credit. Also, the graduation rate is higher for students with dual credit.

Reporting on dual-credit program costs, President Scott said over 50 percent of DACC's dual credit courses are being taught by the college's instructors, a direct cost to the college. DACC provides advising support to dual-credit students, also a direct cost. Mandated by the state, waived tuition and waived general fees for dual-credit students currently amounts to a loss of \$1.1 million annually for DACC. President Scott talked about the impact of changes made in the funding formula and budget reductions. Colleges are no longer receiving direct formula funding for dual-credit courses and base funding for the number of courses offered. The reduction of funding is making it difficult for colleges to serve the growing number of dual credit students.

Samantha Sengel, chief advancement and community engagement officer for Central New Mexico College (CNM), reported on the dual-credit program at CNM. All CNM dual-credit students are being instructed by certified faculty. The early college high school on CNM's campus received A grades the past four school years and has a 100 percent graduation rate. Sixty-eight percent of the students enrolled at the early college high school receive free or reduced lunch, 27 percent are first generation college students, and 11 percent did not speak English as their first language.

Like DACC, overall student achievement at CNM is better for students with dual credit than students with no dual credit. According to measures, students with dual credit are more successful in obtaining and retaining the lottery scholarship than students with no dual credit.

Ms. Sengel said the dual-credit program is providing all students the opportunity to succeed, especially those that would otherwise be disengaged from their educational experience.

Vice Chairman Smith expressed concern that standards of New Mexico's dual-credit program are weakening due to a potentially high number of unsuitable students participating. Secretary Damron said some dual-credit students are entering college needing remediation. Some high school freshman and sophomores are participating in the program. Secretary Damron said, at a recent meeting, a superintendent remarked that a student in his district was taking 28 hours of dual credit, an amount Secretary Damron said is impossible to accomplish. Secretary Damron said HED recommends the program serve only high school juniors and seniors who meet certain guidelines. Vice Chairman Smith requested LFC staff provide the committee the number of students per grade level that participated in dual credit during the 2015-2016 school year.

In response to Representative Woods, Ms. Sengel said the high school coursework taught at the early college high school on CNM's campus is funded by PED through Albuquerque Public Schools.

Chairwoman Lundstrom requested LFC staff provide the committee information on the early college high schools receiving small school size adjustments.

Chairwoman Lundstrom pointed out to President Scott that the amount of FY17 performance funding stated in her presentation was incorrect.

Veterans' Home Transition and Tour. Jack Fox, secretary of the Department of Veterans' Services (DVS), welcomed the LFC in the chapel of the new Alzheimer's skilled nursing facility where he made a short presentation on the progress of the transfer of operational oversight of the Veterans' Home from the Department of Health to DVS. Secretary Fox also talked about how important Veterans' Homes are and how the agency plans to renovate the existing veterans' home and possibly build new ones in the future. Secretary Fox then asked LFC to break up into smaller groups and tour both the new and old facilities.

Thursday, September 28th

The following members and designees were present on Thursday, September 28, 2017: Chairwoman Patricia A. Lundstrom; Vice Chairman John Arthur Smith; Representatives Jim R. Trujillo, Larry A. Larrañaga, Jimmie C. Hall, Rodolpho "Rudy" S. Martinez, James G. Townsend,

and Rebecca Dow; and Senators Carlos R. Cisneros, Steven P. Neville, Carroll H. Leavell, Howie C. Morales, George K. Muñoz, William F. Burt, and Pete Campos. Guest legislators: Senators Sander Rue, James P. White, and Pat Woods.

Spaceport America Update and Tour. Daniel Hicks, director of the New Mexico Spaceport Authority, said New Mexico's spaceport (Spaceport America) is creating jobs, growing the state's economy, and building the commercial space industry in New Mexico. A chart in the presentation showed the growth of aerospace activity at the spaceport since its inception in 2007. The spaceport is estimated to generate 100 new jobs in FY18.

Director Hicks said New Mexico's space activity began long before the spaceport was built. New Mexico is one of only three states that so far have a significant footprint in the commercial space industry, an industry currently spending \$330 billion a year on investments and growing. Director Hicks said New Mexico must work to keep its spaceport competitive as other states work to capitalize on the industry. Director Hicks talked about the advantages New Mexico offers the commercial space industry. The state has 6,000 square miles of restricted airspace and the location of the spaceport is remote and isolated. Other advantages include the state's weather and elevation.

Director Hicks reported on the type of activity currently occurring in the commercial space industry. Investments are being made in suborbital and orbital spaceflight. Spaceport America has three of the top four suborbital launch operators as tenants. Technologies are being developed to conduct orbital spaceflight. Director Hicks envisions Spaceport America becoming a full service spaceport and serving as the nation's aerospace hub. By 2030, Space America may be transporting humans to Mars, a goal NASA is working on.

Phillip De Leon, associate dean of research of the College of Engineering at New Mexico State University (NMSU), talked about NMSU's space research and development. The university has a long history of conducting space research. The Manuel Lujan Jr. Center for Space Telemetry and Telecommunications program has been developing advanced electronics, optical communications, and other technologies for NASA the past 20 years. Another NMSU program is developing small, nano, and micro satellites. Mr. Leon gave an overview of the faculty serving NMSU's College of Engineering. Mr. De Leon said Spaceport America is a tremendous asset for the state. The spaceport's close proximity provides NMSU the opportunity to do more research and development.

Director Hicks talked about the research, development, and testing taking place at the spaceport. Sounding rockets are being launched at the spaceport. Boeing is collaborating with Spaceport America and White Sands Missile Range to conduct multiple drop tests of its new crew transportation capsule for the International Space Station. Reporting other activity, Director Hicks said the international intercollegiate rocket engineering competition was held at the spaceport this past June. Ninety-one college teams from around the world participated in the competition. The event brought over 1,600 visitors to the spaceport and generated \$189 thousand in revenue.

Director Hicks said the Spaceport Authority requests a budget of \$7.6 million for FY19. The request includes \$1 million from the state general fund, a \$624.1 thousand increase over FY18's general fund appropriation. The increased funding is requested for expanding business at the

spaceport. Director Hicks said failure to expand would result in stagnant activity levels and loss of business to other states. Director Hicks talked about the capital outlay funding needed to build the infrastructure for the expansion of business.

Jonathan Firth, executive vice president of Virgin Galactic, reported on the business Virgin Galactic is conducting at the spaceport. Virgin Galactic is working to transform access to space for the benefit of life on earth. To achieve this, Virgin Galactic is developing suborbital spacecraft to take people to space and orbital spacecraft to launch small satellites. So far, over 600 people have paid for a space flight reservation.

In 2014, Virgin Galactic's SpaceShipTwo crashed during a test flight. Internal and external reviews found that the crash was result of pilot error. Virgin Galactic has since made improvements to its spacecraft. Test flights are currently taking place. Mr. Firth talked about what passengers can expect on a space flight and showed images of what passengers will see. A passenger's journey will begin with a three-day orientation. Passengers will be able to get out of their seat to experience weightlessness.

Virgin Galactic is currently employing 26 people in New Mexico. As the test flight program progresses, approximately 85 Virgin Galactic jobs in Arizona will move to New Mexico. Virgin Galactic has been conducting business at the spaceport for five years, paying Spaceport America over \$7 million in rent and fees. Virgin Galactic has so far spent almost \$10 million on other expenses in New Mexico, not including salaries.

In response to Representative Larrañaga, Mr. De Leon said NMSU is working to expand programs in its College of Engineering, especially aerospace engineering. The university is looking into increasing the number of aerospace engineering faculty from four instructors to 12 instructors. Representative Larrañaga asked about collaborations in research. Mr. De Leon said NMSU has a strong partnership with Sandia National Labs. Mr. De Leon also said NMSU's College of Engineering is working to establish collaborative research with the University of New Mexico.

In response to Senator Morales, Director Hicks said about 25 percent of the commercial space industry's spend is government dollars.

Representative Townsend asked why the progression of New Mexico's spaceport is slow despite its many advantages. Mr. Hicks said New Mexico is capitalizing on the advantages it offers. For example, the infrastructure already in place at the spaceport provided the opportunity to host the international intercollegiate rocket engineering competition. Mr. Hicks remarked on the increased aerospace activity at the spaceport.

In response to Senator Cisneros, Director Hicks said there are about 12 spaceports outside the United States.

In response to Senator Cisneros regarding the southern road improvement project, Director Hicks, said the request for proposal (RFP) process began a month ago. The bid selected is awaiting approval. Mr. Hicks said the appropriation for the project will pay for paving the road.

The committee then toured the spaceport.

Water Resources and Water Litigation Update. State Engineer Tom Blaine said relationships between the Office of the State Engineer (OSE) and several stakeholders, including the Elephant Butte Irrigation District and Rio Grande Compact Commission, have improved. State Engineer Blaine talked about the communication and work being done to address the many water issues in southwest New Mexico.

Deputy Attorney General Tania Maestas gave an update on the status of the New Mexico's motion to dismiss the *Texas v. New Mexico* case. Deputy Attorney General Maestas stated the motion to dismiss will be addressed by the Supreme Court, which will either require the state to answer the original complaint or ask New Mexico to present oral argument on the motion to the court. Ms. Maestas said the Attorney General's Office is prepared should the Supreme Court request oral argument or an answer to the original complaint.

State Engineer Blaine talked about water management in New Mexico. In 2004, OSE launched active water resource management (AWRM) to manage the state's limited water resources. During times of water shortage, OSE is compelled to do priority administration. Priority administration refers to the temporary curtailment of junior water rights in times of shortage, so that more senior water rights can be served by the available water supply. Priority administration is currently being used for the Cimarron and Rio Costilla stream systems. OSE recently established water basin guidelines for AWRM.

Greg Ridgley, general counsel for OSE, talked about water rights adjudication in New Mexico. Water right adjudications are judicial proceedings to determine elements of water rights in a particular geographic area. Mr. Ridgley said 11 adjudications are currently pending in New Mexico and provided a map showing the status of adjudications by basin.

In July, final determination was reached for the Aamodt adjudication, a case pending since 1966. Also this year, partial determination was reached for the Pecos adjudication concerning the Carlsbad Irrigation District. A magistrate judge's proposed ruling for the Jemez adjudication concerning aboriginal water right claims will be decided by the district judge, Mr. Ridgley said the final determination will impact future claims.

Mr. Ridgley talked about improving the adjudication process in New Mexico. New Mexico's 1907 water code, which governs the states adjudication process, is outdated. A subcommittee of the Legislative Water and Natural Resources Committee is working to implement changes that will reduce time and cost of adjudications.

Representative Larrañaga expressed concern for a proposed settlement agreement to merge groundwater and surface water south of the Elephant Butte Irrigation District. Representative Larrañaga said the agreement would lead to more litigation with Texas.

In response to Representative Townsend, State Engineer Blaine said stacking water rights is only permitted when applied to beneficial use.

In response to Senator Neville, State Engineer Blaine said \$60 million is needed for the Aamodt settlement.

Representative Trujillo voiced concerns that the Aamodt settlement water system would be of limited use to the people of Pojoaque and that the agreement significantly reduced the amount of water residential users were entitled to.

State Parks Lease at Elephant Butte. Neal Brown, president of Lago Rico, said Lago Rico has three concession agreements in the Elephant Butte area: two are with New Mexico State Parks and one with the U.S. Bureau of Reclamation (USBR). Mr. Brown talked about the process and objective of establishing a concession agreement. The interests of both parties in a concession agreement must be unified. The goal of a concession agreement should be to provide the public a quality service.

Mr. Brown said the concession agreement with USBR is a good agreement because it allows Lago Rico to succeed. However, Lago Rico's concession agreements with NMSP are reportedly in trouble. Mr. Brown explained that NMSP is not working with Lago Rico on existing issues.

Chairwoman Lundstrom asked Mr. Brown to report the issues to LFC staff. LFC staff will inform the committee about the issues, including those occurring at Navajo State Park that Senator Neville mentioned. The issues will be discussed during the Energy, Minerals and Natural Resources Department's budget request hearing in December.

FY17 Fourth-Quarter Agency Performance Report Cards. David Abbey, director of LFC, presented FY17's fourth-quarter agency performance report cards, highlighting key performance information.

The Human Services Department (HSD) continues to maintain relatively high vacancy rates, and this resource limitation may be impacting HSD's ability to meet performance targets. Performance declined in most measures of HSD's child support enforcement program. Performance outcomes of HSD's Medicaid program continue to lag below federal, state, and contract targets in many areas. The number of individuals receiving behavioral health services has declined.

The Department of Health (DOH) recently boosted its performance monitoring capabilities by investing in a performance management system. The new publicly available online system allows DOH and the public to track strategic plan related outcomes and initiatives that influence important health indicators. The system also allows DOH to provide action plans, data history, best practices, and strategies.

The Children, Youth and Families Department's juvenile justice services program has improved recidivism rates but continues to miss targeted performance levels for violence in the youth facilities and staff turnover.

Violence in state prisons continues to alarm. Inmate-on-inmate assaults occurred 13 times in FY15, 21 times in FY16, and 15 times in FY17. In FY15, inmate-on-staff assault was committed twice, nine times in FY16, and six times in FY17. Drugs in state prisons is also concerning. Five percent

of the inmates tested in the fourth quarter tested positive for drug use. The rate was as high as 6.7 percent in the second quarter of this year. To help combat the rise in drugs, The New Mexico Corrections Department (NMCD) has bolstered intelligence-gathering practices, including working to install full-body scanners at all state-run prisons. In response to Chairwoman Lundstrom, Director Abbey said he will follow up on a letter sent to the State Personnel Office concerning the high vacancy rate at NMCD.

Despite rising crime rates in the state, the Department of Public Safety (DPS) appears to be keeping up with the number of crime scenes investigated, rising 88 percent over FY16, and the number of criminal cases investigated rising 39 percent in the same time period. DPS personnel spent 262.4 thousand hours investigating criminal cases, a 48 percent increase over FY16. DPS scientists cleared 27 percent of laboratory cases received this quarter as measured by statutory performance measures but cleared an average 136 percent of all cases received this quarter.

Regarding public education, statewide proficiency rates on standardized assessments show marginal improvement, despite reductions to public school appropriations in FY17. About three-fourths of all students are still not proficient in English language arts or mathematics; however, graduation rates have increased to a record high of 71 percent. About half of New Mexico high school graduates who attend higher education institutions in-state must take remedial courses, suggesting that many students are not ready for college on graduation.

Higher education enrollment has declined steadily since 2010. This may reflect stronger employment opportunities in the U.S. economy, tuition increases for New Mexico institutions, and reductions in the lottery contribution to tuition. The downward trend affects tuition revenue, need for capital projects, and instructional costs. Budgeted instruction and general (I&G) expenditures declined 6.4 percent between FY15 and FY18. Director Abbey said LFC program evaluators are completing an evaluation on cost drivers in higher education and efforts to improve efficiency and reduce duplication. The evaluation will be presented to the committee in October. Chairwoman Lundstrom requested LFC staff include the graduate rates of higher education institutions in their report.

Regarding natural resources, for the first time since the early 1990s, the state fell short by 20 thousand acre-feet from meeting Rio Grande Compact water delivery requirements. The Energy, Minerals and Natural Resources Department's Oil Conservation Division continued a high pace of field inspections in FY17, resulting in 2,700 violations issued, a threefold increase from FY16.

The Economic Development Department's (EDD) performance results for FY17 are below target for a significant number of agency measures, including jobs created, rural jobs created, and jobs created due to use of Local Economic Development Act (LEDA) funds. In response to Senator Cisneros, Director Abbey said \$34 million of LEDA funds is unspent.

Workforce Solutions Department's unemployment insurance trust fund balances have risen from about \$50 million in 2014 to over \$400 million in January 2017.

Regarding investments, ERB underperformed the median for all periods except the three-year, and PERA underperformed the median for every period.

The State Personnel Office did not meet performance targets for statewide vacancy rates, comparatives, or overtime. The average new hire receives 97 percent of the mid-point of salary range, with the likelihood that incumbent employees with more experience and tenure are paid less. In response to Representative Townsend, salaries of New Mexico state government jobs are not at market level.

Regarding the Department of Transportation (DOT), the number of lane miles in deficient condition increased by 16 percent, or 600 miles, between FY14 and FY16. Chairwoman Lundstrom asked if the relinquishment of most agency human resource (HR) duties to the State Personnel Office is impacting DOT. Connor Jorgenson, analyst for LFC, said the secretary of DOT said at a recent transportation commission meeting that the agency is unsure it has enough remaining HR staff to handle the HR duties DOT is still responsible for.

Committee members were given a spreadsheet that provided information on current IT projects. Director Abbey mentioned issues with the oil and natural gas administration and revenue database (ONGARD) project.

Chairwoman Lundstrom asked that future report cards include the agency's latest budget request.

Miscellaneous Business.

Action Items. Senator Cisneros moved to adopt the August 2017 meeting minutes, seconded by Senator Neville. The motion carried.

Senator Cisneros moved to adopt LFC's policies and procedures, seconded by Senator Leavell. The motion carried.

Review of Monthly Financial Reports and Information Items. David Abbey, director of LFC, briefed the committee on information items.

Friday, September 29th

The following members and designees were present on Friday, September 29, 2017: Chairwoman Patricia A. Lundstrom; Vice Chairman John Arthur Smith; Representatives Jim R. Trujillo, Larry A. Larrañaga, Jimmie C. Hall, Rodolpho "Rudy" S. Martinez, James G. Townsend, and Rebecca Dow; and Senators Carlos R. Cisneros, Steven P. Neville, Carroll H. Leavell, Howie C. Morales, William F. Burt, and Pete Campos. Guest legislators: Senators Sander Rue, James P. White, and Pat Woods.

Managing Caseloads in the Judicial Branch. Raul Torrez, district attorney for the 2nd Judicial District, first reported on New Mexico crime rates. New Mexico's property crime, currently ranked first in the nation, and violent crime, currently ranked second in the nation, is predominantly occurring in Albuquerque. Homicides in Albuquerque spiked in 2016. Total Albuquerque homicides in 2017 is expected to surpass the 61 homicides in 2016. Albuquerque's share of crime in the state is more than half but state funding the 2nd Judicial District receives to prosecute these crimes is only 26.5 percent of the state's total spend on crime prosecution, according to the district attorney.

Mr. Torrez talked about the 2nd Judicial District's case management order (CMO). The CMO imposes strict timelines and deadlines for the timely resolution of criminal matters. Mr. Torrez said the CMO is impacting operations of the Bernalillo County District Attorney's Office (BernCO DA). The CMO has increased work for attorneys. The number of active felony cases attorneys are able to handle has decreased from about 130 cases to about 50 cases. The district's limited number of attorneys to handle the increased work is leading to a backlog of cases and fewer court filings. Mr. Torrez said the district's personnel budget needs an additional \$9.5 million annually to handle the current incoming volume of cases and clear the backlog. The increase includes \$5 million for 34 additional attorneys.

Artie Pepin, director of the Administrative Office of the Courts (AOC), said BernCO DA indicted every case prior to the CMO, resulting in the backlog of cases in the district court because BernCO DA could not proceed with prosecuting most of them due to lack of substantiation. When the CMO was implemented, the court's trial rate increased 250 percent. Mr. Pepin said the district was able to clear the backlog without additional resources. Mr. Pepin said cases should only be charged if there is enough evidence.

Mr. Pepin said, in addition to the Legislature, BernCO DA may be able to obtain additional funding from other sources, such as the city of Albuquerque and Bernalillo County.

Mr. Pepin talked about how the CMO has improved the district's system. No cases are at a standstill. The Metropolitan Detention Center's population has decreased because detainees are being processed through the system more efficiently. Mr. Pepin said BernCO DA would improve its discovery process by using vertical prosecution and improving its working relationship with police.

Mr. Pepin said the Bernalillo County Criminal Justice Review Commission loosened time requirements of the CMO for some felony cases at the request of BernCO DA. Mr. Pepin said the commission is continuing to work with BernCO DA to address issues. The commission will discuss at its next meeting more changes recommended by BernCO DA. Changes to the CMO must be adopted by the Supreme Court.

According to a chart provided, overall arrests in Albuquerque have decreased year-over-year since FY12. The number of felony arrests has decreased 4.9 percent since FY12. The number of misdemeanor arrests have decreased most significantly. Mr. Pepin said this data indicates that overall workload for the system has decreased.

Mr. Pepin pointed out evidence can still be developed for a case dismissed without prejudice, which can happen if deadlines are not met, and the case can be recharged.

Mr. Pepin said the constitutional amendment, passed in 2016, has also improved the system. Mr. Pepin briefly reported on other activity, including possible changes to pretrial services and a current study assessing where crime is occurring most in Albuquerque.

Nan Nash, chief judge of the 2nd Judicial District Court, said the court was not interested in making changes to the CMO. Clearing the backlog of cases was a great undertaking. Judge Nash said the court has implemented a number of initiatives to improve the system without additional resources, including developing a jail overflow mechanism, increasing access to medication for defendants with behavioral health issues, and creating an early plea program.

Judge Nash said the CMO essentially accomplishes two things: It ensures cases are ready for prosecution when brought to the court and ensures the court processes cases in an appropriate timeframe. Judge Nash said much of the attorneys' workload prior to the CMO included the stalled cases in the court. Many of these stalled cases resulted in individuals taking pleas just to be able to get out of jail. Judge Nash said the CMO is essential for the 2nd Judicial District.

Bennett Baur, chief public defender, said the CMO does not decrease the system's workload; however, it was necessary to implement to eliminate the issues that had been existing in the system. Mr. Baur said, to manage the CMO, the focus of BernCO DA and the Public Defender's Office needs to be on prioritization.

Chairwoman Lundstrom asked LFC staff to provide the committee more information about the CMO and its impacts, including information on the difference between a caseload and workload and a flowchart on the CMO, to get a better understanding of the issues discussed.

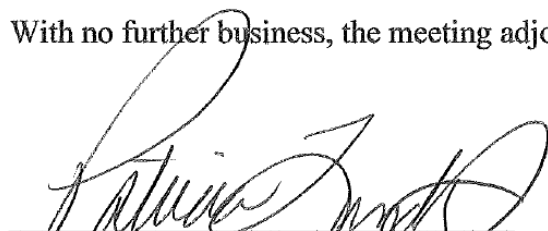
Representative Larrañaga expressed concern that the increased crime in Albuquerque may be resulting from the CMO and the constitutional amendment.


Representative Larrañaga asked what BernCO DA is doing to manage the CMO. Mr. Torrez said BernCO DA is following the lead of many states using big data and analytics to achieve efficiency and effectiveness in their judiciary. Mr. Torrez said BernCO DA is building its crime strategies unit to achieve quicker discovery and developing the alert system to achieve timely information about repeat offenders. Mr. Torrez said the scan system is providing police officers access to surveillance cameras of private businesses and homeowners. Mr. Torrez said BernCO DA needs more resources to administer these tools. Mr. Torrez said reforming the state's judicial system to one that is driven by big data and analytics would lead to the efficiencies and effectiveness other states are experiencing, such as New York.

Vice Chairman Smith said the quarterly performance reports agencies submit to LFC is used by legislators as a tool to facilitate in their decision-making. Information the reports provide helps legislators formulate questions for agencies about where the state needs to go and what kind of resources and policy changes are needed to make that happen. Vice Chairman Smith said BernCO DA and the Public Defender's Office are not consistently submitting their quarterly performance reports, making it difficult for the Legislature to know what the issues are so they can address them.

In response to Senator Morales, Director Abbey said the state imposes a fine to a correctional facility if it does not meet the contractual staffing requirement. Director Abbey said LFC staff will update the committee on the status of unpaid penalties correctional facilities owe the state.

With no further business, the meeting adjourned at 10:59 a.m.


Patricia A. Lundstrom, Chairwoman


John Arthur Smith, Vice Chairman