



LFC Newsletter

A publication of the

Legislative Finance Committee

Senator John Arthur Smith, Chairman

Representative Luciano "Lucky" Varela, Vice Chairman

David Abbey, Director

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May 2007

From the Chairman Measuring Up

The agenda for the first interim meeting of the LFC stands out because it is dominated by perhaps the most controversial of committee duties: oversight of state agency management. The agenda includes hearings on the performance reviews of the Corrections and Health departments and State Personnel Office, the quarterly performance report from the Health Department, the use of report cards to measure agency performance, and the status of the statewide finance and human resource computer system called SHARE.

Clearly, the committee's financial management responsibilities include keeping an eye on the efficiency and effectiveness of state government operations, and some agency reports to LFC – specifically, quarterly performance reports – are required by law. That doesn't mean all this review goes down easy with all agencies.

LFC analysts and auditors have been accused of witch hunts and micromanagement. But the intent of any audit is to look for ways to improve government services. Without an audit of the State Personnel Office, the agency might have never launched an internal investigation into allegations of favoritism, nepotism and sexual harassment. Without quarterly performance reports, policy-makers might not have seen the signs that a higher-than-expected influx of inmates is straining prison resources or that the crime lab backlog is getting worse because of staff vacancies.

Most importantly, the LFC oversight function shines a light on issues that otherwise might escape public scrutiny. The committee's overriding responsibility is to the public, the taxpayers. The LFC and the executive agencies must ensure their hard-earned tax dollars are spent wisely.

Senator John Arthur Smith
Chairman

New Members

House leadership has appointed the House members of the committee. They will serve for the next two years. The members:

Donald E. Bratton, R-Hobbs

Rhonda S. King, D-Stanley

Brian K. Moore, R-Clayton

Henry "Kiki" Saavedra, D-Albuquerque

Nick L. Salazar, D-Ohkay Owingeh

Edward C. Sandoval, D-Albuquerque

Jeannette O. Wallace, R-Los Alamos

The new vice chairman is Representative Luciano "Lucky" Varela, D-Santa Fe.

Please note: The LFC newsletter will be distributed by an email-based automated mailing list starting next month. Printed copies will not be distributed except by special request. To get on the list server, please call the LFC at 986-4550.

Executive, Legislative Analyses Differ on Impact of Vetoes

Two of the governor's vetoes to the General Appropriation Act passed earlier this year have drawn contrary legal interpretations from the Department of Finance and Administration and Legislative Council Service.

The legal questions raised by the two vetoes will be discussed during the first interim meeting of the LFC at a hearing scheduled for 3:30 p.m. May 24. The hearing will look at the constitutional parameters for vetoes and the impact of prior court cases that challenged vetoes.

The General Appropriation Act adopted by the Legislature earlier this year included \$14.5 million to double the scheduled increase in the public school's contribution to the pension fund for education employees. The funding would accelerate a schedule adopted in 2005 to gradually increase the state's contribution to the Educational Retirement Board pension fund to restore the fund's solvency.

The governor struck language in the FY08 appropriation to the Public Education Department that specified \$14.5 million was included to "provide in advance for the fiscal year 2009 cost of the employer share of contribution increases." However, the governor did not veto the actual appropriation, and the Council Service interprets that as leaving the appropriation intact.

The Department of Finance and Administration argues the veto of the language should be interpreted "as destroying the \$14.5 million appropriation" and did not include the funding in the department's operating budget for FY08.

A second legal question has been raised over the governor's veto of language concerning \$41 million for deferred maintenance for the state's colleges and universities. The General Appropriation Act specifies that half of the appropriation be distributed through the higher education building replacement and renewal formula and half through a different assessment of facility condition. The governor vetoed the language concerning the use of the facility condition index. The DFA argues the veto of the language did not affect the dollar amount, while the Council Service concludes the appropriation was cut in half.

The state Constitution authorizes the governor to veto "parts" of appropriation legislation, apparently to prevent the Legislature from attaching objectionable provisions to critical funding bills. Lawsuits have established the governor can use this "line-item" veto authority to prevent the Legislature from infringing on the executive's management authority but not to distort legislative intent.

SHARE Still in Spotlight

An inability to generate the right financial reports to claim millions in federal highway funds is among the continuing problems with the state human resources and finance computer system called SHARE.

The state has been unable to secure reimbursement for the highway construction costs that qualify for federal funds because the system cannot produce the documentation needed.

The LFC will hear more about the status of SHARE – the Statewide Human Resource, Accounting and Management Reporting System – during a hearing scheduled for 1:30 p.m. May 24.

The Department of Finance and Administration started using the \$20 million system on July 1, 2006, and immediately

experienced widespread problems.

SHARE operators were unable to make payroll, were undertrained, could not process state checks, and could not produce financial and other reports.

Four months into the implementation, budget analysts still did not have access to revenue status reports, cash balance reports or other critical information. Some agencies, legally limited to spending no more than half of the agency appropriation in the first half of the fiscal year, could not track spending.

During the legislative session, more than six months after the system went online, operators testified problems with SHARE's human resources functions were hampering efforts to implement pay and other incentives to recruit and retain employees.

Capital Outlay Package

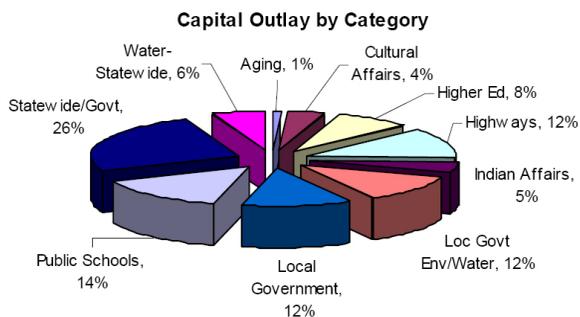
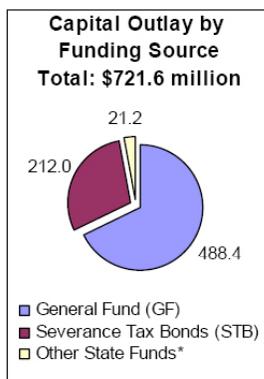
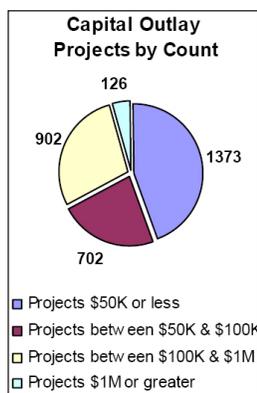
Totals \$721.6 M, 3,000 Projects

Two of the capital outlay bills passed during the 2007 legislative session contained the majority of the authorized capital outlay spending. Senate Bill 827, enacted as Chapter 42, authorizes \$622.1 million for 2,453 projects. The authorized projects would use \$405 million from the general fund, \$201 million from severance tax bond proceeds, and \$16.2 million from "other" state funds – the state road fund, miners' trust fund, education retirement fund, legislative cash reserves, capital buildings repair fund, and public employees retirement association fund.

Senate Bill 710, enacted as Chapter 2, appropriates \$82.5 million from the general fund for 645 new projects or projects vetoed following the 2006 session.

Senate Bill 1061, enacted as Chapter 64, authorizes \$11 million for construction of the state science laboratory and \$1 million from the general fund to plan and design a state police crime laboratory. Other legislation authorized an additional \$5 million in capital outlay spending.

Of the more than 3,000 projects authorized in the three bills, nearly half were funded for \$50 thousand or less while 126 projects were funded for \$1 million or more.



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On the Table

Inmate Assaults more than Double

The Corrections Department reports 14 serious inmate-on-staff assaults for the third quarter of FY07, twice the total for FY06. The department attributes the increase to an unusually high number of new inmates.

Crime Lab Misses Target on DNA Tests

The state crime lab missed its 70-day target for completing DNA tests six out of seven times in the third quarter of FY07, the Department of Public Safety reports. Just 13 percent of the DNA results were complete within 70 days of being submitted. The agency says the seven-person DNA unit was down to three analysts during the third quarter, with three positions vacant and one analyst on maternity leave.

State Owes Millions on Unemployment

The General Services Department owes the state Labor Department more than \$7.5 million in unemployment taxes it failed to collect from state agencies and pay to the Labor Department between 2001 and 2005, the GSD reports.

The Labor Department has assessed the GSD \$9 million for the unpaid taxes and penalties and interest but recently agreed to drop the late penalties, but not interest, after the GSD paid \$2.5 million of the amount.

The GSD plans to pay the remaining amount with cash reserves and collections from some of the state agencies. The unpaid amounts include nearly \$880,000 from the University of New Mexico and \$310,000 from the city of Santa Fe.

SHARE Stalls Federal Highway Money

The inability of SHARE to accommodate federal billing has resulted in at least a \$49 million shortfall in federal reimbursements to the state Department of Transportation so far this year. The state agency is paying contractors but SHARE, the systemwide financial and personnel computer system, does not produce the proper documentation to get reimbursement payments from the Federal Highway Administration. If this is not resolved by the end of the federal fiscal year, the Transportation Department could lose as much as \$300 million in federal reimbursements.

State Park Accredited

The Living Desert Zoo and Gardens State Park near Carlsbad has been granted accreditation by the Association of Zoos and Aquariums independent accreditation commission.

Transitions

Josh Rosen, deputy secretary for the Tourism Department, has resigned for a job in the private sector.

Richard Akeroyd, the state librarian, has retired after a 39-year career in library services.

Rey Romero, previously general counsel with the Department of Transportation, is the new legal counsel for the New Mexico Finance Authority.

Mike Sanchez, recently administrative services director at the Labor Department, is now at the new Department of Information Technology.

Len Malry, a former Labor Department deputy secretary, is now director of workforce development and outreach at the Higher Education Department.

Former Higher Education Department Deputy Secretary Miguel Hidalgo is working for the University of New Mexico in its capital outlay unit.