Legislative Finance Committee
Meeting Minutes
Room 307 - State Capitol - Santa Fe, New Mexico
December 2, 3, 4, 6, 7, 2010

Thursday, December 2

The following members were present on Thursday, December 2: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Speaker Ben Lujan, Representatives Jimmy Hall, Larry Larrañaga, Danice Picraux and Senators Cisco McSorley, Linda Lovejoy, and Phil Griego, attended as guests.

Chairman Varela recognized Secretary Designate Dannette Burch, Department of Finance and Administration, for her years of services and dedication to state government and the state of New Mexico on behalf of the committee and staff.

FY11 General Fund Revenue Report and FY12 General Fund Revenue Projections. Dannette Burch, secretary designate, Department of Finance and Administration (DFA), reported general fund estimates were recently developed by the Consensus Revenue Estimating Group (CREG). The new estimates revised the October FY11 general fund recurring revenue estimate upward by $55.8 million, reflecting continuing slow improvement in the New Mexico economy. The FY12 recurring revenue less FY11 recurring appropriation is $187 million.

The estimate, a 1.1 percent upward reversion of the October estimate, marks the third consecutive estimate showing very nearly the same level of growth in general fund revenues in FY11 and FY12. Evidence now suggests the bottom of the economic cycle has been realized and by some measures, New Mexico is among the leaders in personal income growth and employment.

The largest revisions in the current estimate are for gross receipts taxes (GRT), a $30 million increase in FY11 and a $31.6 million increase in FY12; personal income tax (PIT), a $12 million decrease in FY11 and a $13 million decrease in FY12; federal mineral leasing (FML), a $20.9 million increase in FY11 and a $26.8 million increase in FY12; and for the State Land Office (SLO), a $10.1 million increase in FY11. The figures presented for the fiscal year ending June 30 are preliminary unaudited estimates based on the Financial Control Division's monthly general fund report. The FY10 audit is on schedule and will be completed within the next couple of weeks.

The FY11 estimate for GRT increased $30 million from the October estimate, a projected 6.5 percent increase over FY10. Essentially, there is no change from October for compensating tax and selective sales taxes. Only PIT and interest have been revised significantly downward, $12 million and $2.8 million, respectively, but increases in rents and royalties combined with the projected increase in GRT result in a net improvement of $55.8 million in recurring revenue for the December FY11 outlook compared to the October forecast.

The LFC and DFA have conducted multiple line-by-line reviews of the general fund financial summaries (GFFS) and their separate assessments of the general fund status are within a fraction of 1 percent. State general fund reserves will end FY10 at 5.2 percent of FY10 recurring appropriations and FY11 at 4.5 percent of FY11 recurring appropriations, prior to making any provisions for expenses of the 2011 legislative session and addressing any supplemental appropriation needs. Over time there will be a need to restore general fund reserves to an appropriate level. Nearly $25 million will be required to restore FY11 reserves to 5 percent of current year recurring appropriations, $155 million to 7.5 percent, or $285 million to 10 percent.

The executive's budget outlook for FY12 indicated a shortfall of roughly $450 million. The numbers do not represent any sort of budget scenario or budget plan; they are based on available revenue, the most recent available Medicaid projections, state agency requests, and the costs associated with expiring solvency initiatives and statutorily required increases in employer contributions for retirement and retiree health care. The executive did not make any assumptions about how such growth or expiring solvency initiatives contained in the outlook would be addressed by the new administration. Governor-Elect Martinez' transition team is aggressively pursuing options to balance the FY12 budget. Ms. Burch noted the budget request for public school support was received earlier in the week. The Public Education Department (PED) recommended a general fund increase of more than $145 million, $100 million of which was included in the executives FY12 outlook. DFA is currently in the process of analyzing the details of the request.

The Legislature authorized $247 million general fund reserve transfers to the appropriation account in FY10 and FY11. The executive estimates it will transfer $172.6 million in FY10 and $37.4 million in FY11, leaving a balance of $37 million. Section 14 of the General Appropriation Act of 2010 requires the governor, with Board of Finance approval, to proportionately reduce FY11 general fund allotments for most general fund appropriations in the aggregate amount of a projected deficit when revenues and transfers to the general fund are insufficient to cover appropriations. Based on the July 2010 consensus general fund revenue estimate, general fund allotments were reduced $151 million. The October 2010 consensus general fund revenue estimate indicated an additional $18.5 million shortfall; however, the administration delayed action to further reduce allotments until FY10 general fund results and the December 2010 general fund consensus revenue estimates are available. Based on this forecast, additional allotment reductions are no longer required and $37 million in authorized general fund reserve transfers will not be used.

Most all the nonrecurring initiatives of nearly $480 million relate to the final FY10 solvency plan results. In addition, nearly $17 million in FY10 fiscal year-end reversions were scored nonrecurring. Over the past six years, reversions averaged about $40 million per year; the amount scored as nonrecurring is the amount over and above the annual average.

The consensus revenue estimate for FY12 recurring revenue is improved by 0.8 percent for the October estimate. The largest sources of increase occurred in gross receipts, $31.6 million, and federal leasing, $26.8 million. Personal income tax collections led all categories, showing a decline with a downward revision of $13 million for FY12. The trends from FY11 are expected to continue through FY12, driven primarily by increases in personal income and an improved outlook as the recovery enters an expansionary phase.

Duffy Rodriguez, secretary designate, Taxation and Revenue Department (TRD), reported the current general fund estimates are based on New Mexico economic conditions forecast in November 2010. The University of New Mexico's Bureau of Business and Economic Research (UNM-BBER), indicates that New Mexico's economy continued to improve during the third quarter of 2010.

revenues now expected to be only $956.6 million, significantly down from the October estimate.

The current forecast makes no changes to the corporate income tax estimates developed in October. The December forecast, therefore, anticipates an increase in corporate income tax revenues from the $125 million in FY10 figure to $220 million in FY11, a 76 percent increase, followed by an 18 percent increase in FY12 to $260 million, and a 15 percent increase in FY13.

Selective excise taxes are expected to generate greater revenue in FY11 than in FY10. In general, revenues are expected to rise 16.4 percent to $434.1 million in FY11 from $372.9 million in FY10. FY12 is expected to be only slightly stronger than FY11 for selective excise taxes. Revenues are expected to rise only 2.8 percent to $446 million in FY12 from $434.1 million in FY11.

Natural gas volumes fell by 7.5 percent in FY10 and are estimated to trend downward at a rate of roughly 3 percent per year after FY11. New Mexico gas rig counts are down by more than 60 percent since the November 2008 high of 32 percent to a monthly average of 12 percent in November 2010. However, the volume of natural gas liquids produced by the state has been increasing, and because liquids are earning a significant premium relative to dry gas, these increases make an out-sized contribution to taxable values. Overall, natural gas prices show a modest growth.

Oil volumes are projected to increase in FY11. Unlike the October forecast, which predicted continuing volume growth in future years, the current outlook is for production to decline at an average annual rate of 1 percent. Oil prices are projected to rise, though not as quickly as forecasting in October. The NYMEX futures market, a key indicator of near-term price, pulled long-term price downwards in recent weeks. A positive risk is the potential for commodity price inflation when the economy finally pulls out of the recession.

Tom Clifford, chief economist, LFC, reported there is virtually no difference between the DFA and the LFC budget summary. Revenue enhancements approved by the Legislature in 2010 totaled $184 million of recurring revenue. The GRT revenue estimate was revised upward in response to a slightly higher forecast of wages and salaries, as well as a robust increase in first quarter payments. General fund revenues are up $49 million compared with the same period last year. Personal income tax income was revised down based on disappointing payments in the first quarter of the fiscal year. Energy revenues were increased due to a correction of the model for federal lease revenues. Mr. Clifford noted the State Land Office (SLO) generated a $10 million payment of interest on a royalty settlement.

Severance Tax Bond and General Obligation Bond Capacity. Mr. Clifford reported LFC agrees with Board of Finance (BOF) estimates. Senior long-term capacity estimates total $180 million in FY11, up slightly from the previous year. Given this amount, the senior sponge capacity would be $84.2 million and the supplemental sponge capacity would be $148 million. After subtracting earmarked funds, net senior capacity is $238 million.

Dannette Burch, secretary designate, Department of Finance and Administration (DFA), said because of the failure of the general fund obligation bonds, there is an increase of $306 million in the general obligation bond capacity for FY12.

Senator Beffort asked what the repercussions to New Mexico small businesses would be because of the tax cuts on the national level. Mr. Clifford said the federal tax impacts to New Mexico have not been analyzed; however, IHS Global Insight identifies a significant risk to the forecast if tax

According the Department of Workforce Solutions (WSD), New Mexico's labor force currently consists of approximately 957,500 people, of which roughly 80,430, or 8.4 percent, were unemployed in October 2010. The New Mexico labor force consists of about half of New Mexico's approximately 2 million population; therefore, a 1 percent reduction in the unemployment rate requires an increase of 9,575 jobs. Reducing the 8.4 percent rate of employment to 4.5 percent would require increasing the number of New Mexicans who are employed by 37,343 people. Moreover, as the economy improves and people re-enter the labor force, a higher number of jobs may be needed to reach the full employment level.

The 8.4 percent October 2010 unemployment rate is 0.2 percent higher than the employment rate in the previous month. Analysts at WSD view the increase as an anomaly; however, they expect the state's unemployment rate to continue trending downward after reaching a peak of 8.8 percent in March 2010. Current WSD data reports return to job growth, as opposed to job loss, after 23 months of year-over-year employment declines. Although jobs lost during the last two years have not been restored, current job gains outnumber current losses, suggesting economic recovery has begun.

Recent national economic indicators signify that projected growth in real gross domestic product in FY11 will increase slightly from 2.25 percent to 2.46 percent; however, overall growth from FY10 through FY15 is expected to be less robust than earlier anticipated. The December estimate of the national inflation rate is slightly higher than the October consensus estimate, while the estimate for the federal funds rate is essentially unchanged. Projected growth in New Mexico's nonagricultural employment is now assumed to average approximately 1.08 percent between FY11 and FY15. The new assumption for New Mexico personal income and private wages and salaries growth are also slightly higher on average than the October figures.

The December forecast made only slight modifications to oil and gas commodity prices, given that there have not been any significant changes in the energy markets in the past two months. Oil is expected to be $76.87 per barrel for FY11 as compared with $76.50 per barrel, forecasted in October. The price assumptions were revised downward for FY12 through FY15 but by amounts that average less than 1 percent. Similar minor revisions were applied to New Mexico taxable oil sales assumptions. New Mexico gas price assumptions were revised upward slightly for FY13 and FY14 but reduced slightly for FY15. Minor adjustments were also made to New Mexico taxable gas sales volumes. The December estimate assumed they would average 1,164 billion cubic feet in FY11 through FY15.

Gross receipts and compensating taxes are the largest source of general fund revenues and consistently generate more than one-third of total recurring revenue. After decades of positive growth, these revenues began to stumble in FY09 with a 1.1 percent year-over-year drop. This was followed by a devastating 11.4 percent drop in FY10. The momentum in taxable gross receipts deteriorated rapidly in 2009. The rate of decline finally began to slow last winter. In FY10, overall gross receipts and compensating tax collections dropped by 11.4 percent from FY09, the largest drop in recent history. Since the summer of 2010, an overall upward trend began; however, the construction sector is still struggling. In FY08, construction activity slowed but in FY09, construction became a significant drag on the taxable sales, helping lower GRT revenue year-over-year for the first time in decades.

Personal income taxes comprise approximately 20 percent of general fund recurring revenues. The recession has negatively affected personal income tax revenues in a variety of ways, including slowing personal income growth, reducing capital gains, and raising unemployment levels. FY10 provisions expire.

Taxation and Revenue Department (333). Duffy Rodriguez, secretary designate, Taxation and Revenue Department (TRD), reported the department requested a budget with increases related to health insurance premiums and driver and vehicle system maintenance costs. The department's current vacancy rate is running 10 percent to 20 percent in some program areas. The treasury offset program (TOPS) based on an agreement with the Internal Revenue Service (IRS) allows the department to receive an offset of federal tax refunds against New Mexico income tax debt. TRD mailed 16,555 letters for a total of $27.4 million to taxpayers. If taxpayers do not respond or set up payment arrangements within 60 days they will be forwarded to the U.S. Treasury Department for possible offset. Since the program's inception in 2004, 9,653 accounts have been resolved and $18.1 million has been collected. Thirty-four thousand accounts are outstanding at treasury totaling $61.8 million.

Ms. Rodriguez clarified the Tax Fraud Investigations Division funded through general fund appropriations is a statutorily authorized division within the department. The division had 13 successful prosecutions, nine prosecution referrals to the district attorneys, and completed 33 cases. The division provides financial investigations and forensics audit training to law enforcement officers, prosecutors, investigators, auditors, and compliance agents. Representative Tripp asked if a tax liability is accrued on tax embezzlement. Alvin Romero, director, Tax Fraud Investigation Division, said judges and the district attorneys recommend that monies are restituted back. In addition, taxes are owed on the embezzled funds. Mr. Romero discussed highlighted several prominent tax fraud prosecutions.

Department of Public Safety (790). John Denko, secretary, Department of Public Safety (DPS), provided an overview of the department's mission, organizational structure, core policy agenda, and primary initiatives. DPS is requesting an FY12 general fund base of $88.5 million, which includes an increase in General Services Department (GSD) risk rates and decrease in rates from the Department of Information Technology (DoIT). The FY12 requests include $1.3 million for satellite modem replacement in law enforcement vehicles, $3.6 million for the Criminal Justice Information system, and $7 million for the records management system computer-aided dispatch. Capital project requests include $4.3 million for annual fleet replacement of 193 vehicles, $2.1 million for Law Enforcement Academy dorm renovation, and $6.8 million to construct a new NMSP district office in Espanola. DPS held an audit exit conference on November 23, 2010, and received an unqualified opinion. To date, DPS has cleared 16 of 21 prior-year findings; one finding was cleared after June 30, and one new finding pertained to IT network access.

In response to Senator Beffort, Mark Rowley, lieutenant colonel, DPS, said the permit office collected over $3 million in FY10 and ports of entry collected over $6 million in trip taxes. The majority of carriers are registered for the weight-distance tax; however, some carriers continue to file zeros. The license plate reader project is able to supply data to TRD auditors who can identify carries who are under reporting.

Representative Bratton asked about the status of the location of the DNA crime lab. Secretary Denko said the DNA crime lab is currently located at the Albuquerque Police Department crime lab, which acts as a flowthrough for the state. DPS provides an appropriation of $400 thousand a year to the Albuquerque Police Department for services. DPS determined services could be provided through the Santa Fe crime lab at no additional cost to the state and services could be processed within one week as opposed to eight weeks.

Senator Cisneros asked about the status of the police academy. Faron Segotta, deputy secretary, DPS, said an academy began on October 31 and is scheduled to graduate in March. DPS received $800 thousand in federal stimulus funds for the current year to run the academy. The department does not intend to pursue additional training in the next fiscal year.

Energy, Minerals and Natural Resources Department (521). Jim Noel, secretary designate, Energy, Minerals and Natural Resources Department (EMNRD), reported the department's FY12 budget request includes a $488 thousand general fund increase.

The Energy Conservation and Management Division (ECMD) manages the renewable energy and energy efficiency programs implemented across the state. The FY12 budget request including the 3.2 percent reduction is a reduction of $275,600 for ECMD. Because 85 percent of the division's budget is used for salaries and benefits, the reduction could likely result in potential layoffs. A loss of this magnitude will impact the program's ability to implement and manage the Department of Energy (DOE) federally funded projects, as well as impact the ability to meet state matching fund requirements for federal grants.

The State Forestry Program Division promotes healthy, sustainable forest in New Mexico by providing technical assistance for sound forest and water shed management and assisting in protecting communities from wild land fires. Six hundred eighty-one fires burned over 100,000 acres. The division currently maintains a high vacancy rate of over 10 percent. The FY12 request does not include funding for 15 vehicles needing replacement in FY12 due to high mileage and maintenance issues.

The Mining and Minerals Division (MMD) regulates coal and hard rock mine sites and reclamation of abandoned mines to protect the environment and ensure responsible reclamation of land and resources enacted by mineral extraction. The majority of MMD funding is from federal funds and permit fees; however, some staff positions are covered by general funds. The 3.2 percent reduction will be absorbed by shifting personnel costs to federal grants, reducing progress on the abandoned uranium mine assessment work. Further reductions may present problems with meeting state matching fund requirements for federal grants. MMD has also experienced an increased workload due to recent renewed interest in uranium exploration and mining.

The Oil Conservation and Management Division (OCD), regulates oil, gas, and geothermal activity and gathers oil and gas well production data, permits new oil, gas, and injection wells, and enforces regulations and ensures abandoned wells are properly plugged and land is restored. Of the division's 62 FTE, seven are vacant, representing an 11 percent vacancy rate impacting the division's ability to meet critical mission requirements. Permit approvals will be delayed due to a lack of adequate staffing levels. The FY12 request includes an increase of $152 thousand from the Water Quality Act fund to cover costs associated with administration and enforcement of the division's discharge permits.

The State Parks Division includes management of 35 state parks that attracted over 4.7 million visitors in FY10. High rate of vacancies are putting immense stress on staff at the same time state park visitation rates are up. The FY12 request includes a $115 thousand increase for GSD property insurance, as well as to offset the expected $30.4 thousand increase for the division's retirement cost.

New Mexico Environment Department (667). Ron Curry, secretary, New Mexico Environment

Department (NMED), reported the FY12 budget request includes a reduction of $181.6 thousand from the FY11 adjusted operating budget. NMED is requesting three expansions totaling $399.7 thousand to the Water and Wastewater Infrastructure Development program. NMED received a clean audit with an unqualified opinion for the fifth consecutive year. Secretary Curry noted that from FY03 to FY11, general fund appropriations have decreased affecting funding for water programs including permitting, septic tank inspections, groundwater permitting, and groundwater inspections.

Status Report on Information Technology Projects and Funding Requests. Aurora B. Sánchez, IT program manager, LFC, reported LFC received 42 requests from state agencies for information technology (IT) projects totaling $82 million; $56.3 million from the general fund, $4.7 in other state funds, and $21 million in federal funds. LFC recommendations include projects that will achieve savings or limit penalties to the state:

- Administrative Office of the Courts (AOC) – $942 thousand from the general fund for E-filing for 12 district courts,
- General Services Department (GSD) - $1.2 million from other state funds for changes to SHARE benefits and COBRA,
- State Records Center and Archives (SRCA) – $1.272 from the general fund for a electronic records repository, and
- Education Retirement Board (ERB) – $3.5 million from other state funds to upgrade the Integrated Retirement Information System (IRIS)

Marlin Mackey, secretary, Department of Information Technology (DoIT) reported it recommended three projects:

- Taxation and Revenue Department (TRD) – $3.2 million from general fund for the GenTax System,
- Educational Retirement Board (ERB) – $3.5 million from other state funds to upgrade the Integrated Retirement Information System (IRIS), and
- Human Services Department (HSD), Income Support Division (ISD) - $1.8 million from the general fund and $2.4 million from federal funds to upgrade the Integrated Service Delivery System.

Ms. Sánchez informed the committee that staff did not support the TRD and HSD requests because the TRD replacement tax system requires $2.7 million annually to maintain and support 82 percent of the cost of the software, well above the industry standard of 18 percent to 22 percent and HSD currently has $30 million to contract with a vendor and start the project and should structure its contract accordingly.

Ms. Sánchez reported on the New Mexico Computing Application Center's inability to generate sufficient revenue to continue to operate and that serious consideration has to be given to the state divesting itself of the asset. In response to Vice Chairman Smith, Ms. Sánchez said the state owns the supercomputer; however the nonprofit is responsible for the operations. The three research universities are nonprofit board members. The universities use the supercomputer at no cost. Committee members asked how much the state could get from selling the supercomputer that has gone from the fastest in the world to 32nd. Secretary Mackey responded that he would have to research the open market value.

Secretary Mackey reported that DoIT is six months ahead of schedule creating the transparency portal required by Senate Bill 195. DoIT used $180 thousand of internal funds to contract for the development of the portal and state agencies donated their time to ensure data was correct and to provide needed guidance.

Friday, December 3

The following members were present on Friday, December 3: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Representatives Jimmy Hall, Larry Larrañaga, Danice Picraux, and Senators Cisco McSorley, Linda Lovejoy, Phil Griego, and Rod Adair attended as guests.

Children, Youth and Families Department (690). Bill Dunbar, secretary designate, Children, Youth and Families Department (CYFD), reported the department's modified FY12 general fund request totals $202 million, reflecting a 9.3 percent increase over the FY11 adjusted operating budget, and includes an increase of $17 million to replace Temporary Assistance for Needy Families (TANF) federal funding for the childcare assistance, domestic violence, and prekindergarten programs. The FY12 total budget request is $375 million or a decrease of 0.3 percent over the FY11 adjusted operating budget. The request funds 2,119 FTE with an overall vacancy rate of 9.21 percent. An additional $8.6 million in federal TANF contingency funding in FY12 will reduce the original general fund request. The 4 percent provider decrease in reimbursement rates and the 10 percent increase in client co-payments also reduced the original general fund request by an additional $3.6 million. The FY12 request also includes a general fund increase of $1.7 million for Protective Services for salaries and benefits to address the increase in serious child abuse and neglect cases occurring statewide. The remaining FY12 budget request is flat for all other programs. Mr. Dunbar noted that from FY09 to FY11, CYFD's base budget has been reduced by $23.4 million. An additional $6.7 million reduction in fund balances occurred during the same time period. Funding balances do not include reductions to TANF. Additional reductions will affect core service areas. Since June 2008, the department's vacancy rate increased to over 13 percent statewide.

Public comment:
Marie Ortega, Working Parents Association, provided testimony in favor of permanently funding early childhood care.

Senator Beffort expressed concern with unfunded mandates imposed on childcare centers. Mr. Dunbar said not all mandates are imposed by the department; however they are working with providers to address them.

Chairman Varela recognized Gary Chabot, principal analyst, LFC, for his dedication and years of service to the state of New Mexico on behalf of the committee and staff.

Department of Health (665). Mike Mulligan, acting deputy secretary, Department of Health (DOH), reported that the FY12 budget request totals $306 million in general funds, an increase of $46.2 million. The increase is due to changes in the Medicaid federal participation rate and the loss of federal stimulus funds. Approximately $40 million of the request is for the Developmental Disabilities (DD) Waiver program. The current rate for the federal matching assistance percentage (FMAP) is 80.49 percent. On January 1, 2011, the rate will drop to 77.6 percent, drop another two points April 1, and return to its original rate of 69.8 percent on July 1. The request also includes a $4 million increases associated with the lease of the new Fort Bayard medical facility. The department is requesting $220 million in personal services and benefits and $1.8 million for GSD unemployment insurance rate increases. Total authorized FTE is 4,159; the current vacancy rate is 13.5 percent.

As a result of the cost-containment measures, the department estimates a savings of $5 million in the waiver program for FY11 and a savings of $10 million in FY12. As a result, the department will revise its budget request for the DD waiver program from $40 million to $30 million. Primary components of the cost-containment include the following:

- Reducing annual resource allocation (ARA) budget caps,
- Provider rate reductions,
- Enforcing ARA caps

The Human Services Department (HSD) is also in the process of submitting the DD waiver renewal application beginning July 1. The primary components of the waiver affecting the budget:

- Emphasis on appropriate assessment based on need,
- Cost-effective measures,
- Emphasis on promoting independence, skill building, and education,
- Utilization of technology,
- Simplified billing structure and regulatory requirements

The FY11 DD waiver appropriation was based on a federal matching rate of 80 percent for the entire fiscal year. The department is projected an $8 million deficit in the current year and has submitted a supplemental appropriation request of $2.3 million. The department is also requesting a $1 million supplemental appropriation for FY11 to cover the costs of the Jackson lawsuit. The federal court mandated the hiring of 6 FTE to monitor the clients and potential litigation.

Mr. Mulligan noted the hiring freeze has impacted the ability to hire hospital administrators at the Fort Bayard Medical Center and the Los Lunas Community programs jeopardizing new federal grant awards.

<u>Miscellaneous Committee Business</u>

<u>Information Items</u>

Review of Possible Committee-Sponsored Legislation. Director Abbey highlighted proposed legislation from the committee including adjustments for the Napropathy and Animal Shelter boards, continuing the retirement swap, continuing use of tobacco money, and government accountability.

<u>Review of Monthly Financial Reports</u>

FY11 LFC Budget Status Report. Director Abbey reported a projected surplus of $44 thousand for the current year's budget.

Full-Time Employees by Agency. Director Abbey reported since the beginning of the hiring freeze, 2,400 FTE positions have been eliminated without layoffs resulting in significant savings to state government.

LFC Program Evaluation Status Report. Director Abbey reported staff is prepared to present the performance evaluation for the Coordination of Long Term Services (COLTS) program and three southern New Mexico school districts at the January meeting. Beginning in January, staff will begin working in collaboration with the University of New Mexico (UNM) and the Legislative Education Study Committee (LESC) on high school review. Staff will also begin reviewing the effectiveness of efforts to combat health care fraud and abuse. Staff will also evaluate child protective services.

November BAR Report. Director Abbey reported BAR activity relates to federal funds and government services funds.

Human Services Department (630). Katie Falls, secretary, Human Services Department (HSD), provided a brief overview of budget reductions from FY09 to FY11. Because of the shortfall in the Temporary Assistance for Needy Families (TANF) budget, significant cuts were made to the program. HSD received $30 million in federal stimulus funds for the TANF program; however, the department is in a position of losing ARRA funding and not having general funds to fully replace it. Total revenue available for the current year is $137.6 million, $24.5 million less than appropriated. HSD reduced funding for child care by $13.5 million and proposed regulations to reduce cash assistance benefits by 15 percent effective January 1, 2011. HSD also eliminated the January clothing allowance for school-aged children, eliminated the transition bonus program for families, and reduced or eliminated non-cash services. TANF was reauthorized on September 30 through December 3. New Mexico will receive $3.6 million in contingency funds for October and November. Based on the most recent information from the federal government, HSD anticipates receiving $3.3 million in a population supplement grant. HSD will be able to restore $3.1 million to child care; however, that will use all contingency funds in the population supplemental grant and will leave none of the funds for FY12.

In FY12, total recurring revenue is estimated at $117 million, including a population supplemental grant of $6.5 million. TANF funding for child care would be reduced by $26.4 million. Secretary Falls noted there is still an opportunity for the federal government to add contingency funds, restoring $8.6 million in child care funds. However, if funds are kept level, FY12 will have a deficit of $3.4 million. HSD requested an additional $360.7 in general fund appropriations for FY12, mostly for Medicaid; however, new Medicaid budget projections for FY11 estimate a shortfall of only $7.9 million, reducing the general fund need in FY12. Cost-containment savings are up to $49.5 million.

Under the Patient Protection and Affordability Care Act (PPACA), states cannot reduce eligibility except for certain adults over 133 percent federal poverty level (FPL), cannot raise income eligibility guidelines or resource tests, change enrollment or renewal procedures, raise premiums or enrollment fees in Medicaid, change aggregate cost neutrality in the waivers to individual cost neutrality, or reduce the number of waiver slots for home- and community-based services. In addition, states cannot eliminate mandatory benefits or impose significant caps or limits on certain benefits, significantly increase co-pays, or eliminate even most optional benefits for children.

New Mexico receives $3 to $4 for every dollar spent in the Medicaid program. Medicaid funding has a significant role in supporting jobs, incomes and purchases across the healthcare delivery system, associated with businesses and vendors, and on household consumption, tax collection and the New Mexico economy as a whole. New Mexico needs to expand its healthcare delivery system to prepare for the numbers of uninsured who will be covered in 2014 and take advantage of grants and other funding available through PPACA. Secretary Falls noted that HSD formed an advocate's workgroup, as well as a tribal-state workgroup and a provider workgroup to discuss short-term and long-term cost-containment. Secretary Falls also provided suggestions on increasing revenues.

Secretary Falls emphasized the HSD IT eligibility system needs replacement. The department is requesting $15.84 million thought an infrastructure capital improvement plan (ICIP) and a C2 nonrecurring general fund request. The federal government issued a proposed regulation increasing the federal match for the project to 90 percent.

Secretary Falls noted the department has a vacancy rate of 17.46 percent. Chairman Varela expressed concern with the vacancy rate.

Recommendations of Interim Committees

Government Restructuring Task Force. Raul Burciaga, director, Legislative Council Service (LCS), reported the Government Restructuring Taskforce was created by House Bill 237 during the 2010 regular session. This taskforce follows several prior efforts to organize state government. The taskforce understood its mandate to increase efficiency and improve the way services are delivered to the state and to find ways to reduce the cost of government given the current and projected revenue estimates. The value maintained by the taskforce throughout its deliberations was to assure the fundamental responsibilities of state government are retained. However, the taskforce found that every interest in government is entrenched and every interest believes it is vital. Presenters were either unable or unwilling to offer practical suggestions or changes that would lead to efficiency, effectiveness, accountability, or transparency. State officials and employees were provided multiple opportunities through testimony, comment, or survey to propose ways to streamline government or provide ideas on how to reform government. The taskforce received few or limited recommendations from government, institutions of higher education, or public schools. The taskforce will encourage the incoming administration to make a continued study of government one of its top priorities.

The taskforce made a concerted effort to seek input from across state government, higher education, public schools, and across the public. Several requests were made of all executive and judicial agencies to identify programs that could be provided more efficiently or simply eliminated. The Legislative Council directed all other interim committees to focus their interim work on ways to make departments they oversaw or worked with more efficient, effective, accountable, and transparent. As a component of transparency, the taskforce was one of the first interim committees to begin audio casting meetings. In addition, all the information received or created by the taskforce is available on the Legislature's website.

The taskforce agreed that one core function of government should be to protect vulnerable populations, such as the elderly, the young, and the poor. All agreed on the need to have an educated workforce and citizenry. The taskforce deferred to the Legislative Education Study Committee (LESC) to make recommendations to streamline public school funding and governance. The taskforce is also depending on the Higher Education Department's (HED) master plan to lead the way in reforming higher education funding. The taskforce also expects HED to not only stop the proliferation of campuses and off-campus instruction but to require a significant contraction of bricks and mortar campuses. All members agreed on the need for public safety and security and concurred with the high potential for cost savings, as well as efficiencies, by having a centralized Department of Public Safety that would include homeland security, emergency management, state police, motor transportation, and state fire marshal functions. Members also agreed to strengthen financial controls and fiscal oversight of state agencies, expressing grave concerns over scandals that have rocked the state in the last several years. The taskforce also put together two-year and five-year goals and was focused on the executive reorganization as its primary task. Director Burciaga noted the last reorganization, in 1977, recommended 12 cabinet departments, including the Department of Agriculture, four noncabinet departments, and several adjunct agencies. To date, the state has grown to 23 cabinet departments, the original four noncabinet departments, and at least 33 adjunct agencies; eight cabinet departments were created within the last eight years. The number of boards and commissions has also grown.

The taskforce found that the magnitude and complexity of restructuring efforts are nearly overwhelming and recognized that restructuring would not save large amounts of money and acknowledges that its reorganization recommendations are just the beginning; however, the taskforce encourages the governor and the Legislature to continue what it has begun since even more streamlining is not only possible, but necessary in an era of declining resources. Director Burciaga noted the final report is still under development and will be finalized on December 20. The report will be issued to Governor Richardson, the incoming Governor-Elect Susanna Martinez, and the Legislature. The report will be made available on the web and hard copy to the Legislature and any member of the public who requests it.

Chairman Varela expressed concern with public employees not providing information on the survey. Director Burciaga said information was sent to the Department of Information Technology (DoIT). The governor's office declined the offer to issue an e-mail with the survey to all state employees; therefore, the taskforce made the survey available through the LCS website. In addition, a press release was issued advising state employees and the public of the survey. Director Burciaga noted the survey was not scientific and could contain duplication. The taskforce received close to 1,000 surveys from state employees and 200 to 300 from the general public.

Tobacco Settlement Revenue Oversight. Representative Gail Chasey, co-chair, Tobacco Settlement Revenue Oversight Committee, reported the FY12 appropriation for tobacco settlement revenue is estimated to be $39.6 million; $19.8 million is dedicated for distribution into the program fund. The original FY11 appropriations for tobacco cessation programs were 26.5 percent less than the amounts originally appropriated in FY10. In addition, all programs were required to return an additional 7.9 percent. For FY12, the committee recommended appropriations at the same level, with the exception of Medicaid.

The committee believes strongly in the mission and importance of tobacco cessation programs and the tobacco use and prevention programs. Each pack of cigarettes sold in New Mexico costs the state $14 in health-related costs and loss of productivity. Since the creation of the programs, the adult smoking rate dropped 5.9 percent. Representative Chasey noted the importance of funding for cancer research and other programs at the University of New Mexico (UNM). UNM estimates that the recent reductions in the program resulted in a loss of 122 jobs in scientific fields. For every dollar cut, the UNM program for Genomics, Biocomputing, and Environmental Health Research loses $7 in federal funds.

Representative Saavedra expressed concern with taxing tobacco and not having inside locations to accommodate smokers. Representative Chasey said the destructive effect of second-hand smoke is better proven than in the past.

Legislative Health and Human Services. Representative Danice Picraux, chair, Legislative Health and Human Services (LHHS) Committee, reported in addition to the committee's oversight of health and human service agencies, the committee was directed by the LCS to review three major areas:

- Restructuring of the Medicaid program,
- Provisions of the federal Patient Protection and Affordable Care Act (PPACA),
- Restructuring of health functions for state government.

The committee raised concerns about maintaining the state's health and health infrastructure, the continuing role of for-profit managed care and Medicaid, Medicaid fraud, and the difficulty of deciding what services could be cut. The committee received updates from the joint legislative-executive healthcare reform working group and testimony from national and local experts on various provisions of PPACA, including models put forward by experts and advocates and other state's experiences. The committee also heard testimony on Senate Joint Memorial 1 (SJM1), which created the health reform working group. SJM1 provided guidelines on what type of exchange it desired for the state. The committee requested and endorsed a bill draft for a health insurance exchange operating as a nonprofit entity and providing for a single robust exchange for individual and small group markets. The committee discussed the healthcare workforce supply and noted the imbalance of primary healthcare providers and specialists and plans to collect data statewide on provider numbers and expects to have reporting from a taskforce that seeks to support nursing education in the state. The committee heard testimony from state agencies and educational institutions on applications for the federal act and the federal stimulus health care workforce development grants.

The committee also reviewed health insurance rates and the possibilities the federal act has for increasing or decreasing rates in the state, as well as changes in the New Mexico insurance code. The federal mandate offers Medicaid to all adults and children with incomes at or below 138 percent of the federal poverty level (FPL).

In addition, the committee reviewed the impact of individual mandates to obtain insurance coverage, increases in the numbers of insured individuals in the state, and presents opportunities or challenges for the state's governance of healthcare finance and administration. The committee considered the possibility of consolidating the interagency benefits advisory committee (IBAC) agencies, including the Risk Management Division, Public School Insurance Authority (PSIA), the Retiree Health Care Authority (RHCA), and the Albuquerque Public Schools insurance program. The committee considered the impact of administrative and risk integration among these agencies and the transfer of Medicaid home- and community-based waiver administration from the Aging and Long-Term Services Department (ALTSD) and the Department of Health (DOH) to the Human Services Department (HSD) as proposed by the Government Restructuring Taskforce or vice versa. The committee looked at consolidating all medical assistance programs, including waivers, public employee and retiree health benefits, Health Policy Commission functions, behavioral health purchasing, and an all-payer claims database and workforce data collection functions into one larger agency to be known as the Health Policy and Finance Department. The committee endorsed eight bills and one memorial.

SJM1 – Healthcare Reform Working Group. Deborah Armstrong, executive director, New Mexico Medical Insurance Pool, reported Senate Joint Memorial 1 – the Healthcare Reform Working Group – included the superintendent of insurance, participants from the Medical Insurance Pool, the Health Insurance Alliance, HSD, DOH, and representatives appointed by LCS. The group was charged with receiving input and recommendations from the public and advisory groups to make recommendations regarding the creation of an exchange or other entities, regulatory changes necessary to reconcile federal and state conflicts, strategies for accessing federal funds, and restructuring of Medicaid to maximize federal funds.

The working group's recommendations include

- Coordination of efforts with the Legislative Health and Human Services (LHHS) Committee and the executive leadership team,
- Comparison of insurance provisions with the New Mexico Insurance Code,
- Designation of an executive agency or office to track grant funding opportunities and coordinate responses,
- Formalizing the Health Care Reform Working Group on an ongoing interim basis, and
- Taking full advantage of funding opportunities to maximize federal funds to plan and implement PPACA.

The working group spent a significant amount of time discussing health insurance exchange. It was recommended that New Mexico operate its own exchange, operate a single exchange for individuals and small groups, operate a single statewide exchange, be open to the possibility of interstate partnering, and designate a legislatively created quasi-government nonprofit entity to operate its exchange.

Saturday, December 4

The following members were present on Saturday, December 4: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Representative Jimmy Hall attended as a guest.

Higher Education Institutions (952). Dan Lopez, president, Council of University Presidents, reported that institutions of higher education had absorbed a 16.1 percent reduction over the last two years and that further reductions would endanger accreditation, present difficulties in maintaining quality faculty and hiring of new quality faculty, and cause the institutions to become less competitive in sponsored research. Mr. Lopez also noted that research and public service projects are core missions of an institution and needed to be considered in the totality of reductions to higher education.

Mr. Lopez reported that enrollment at the four-year institutions had grown by 63.3 percent over the last five years. This growth, coupled with the fact that more than 90 percent of the appropriation reductions since FY09 have come from the four-year institutions is causing considerable concern regarding fairness and equity at the four-year institutions. Mr. Lopez also noted that as much as 85.3 percent of the budget is devoted to instruction, research, and public service with an average administrative cost of less than 10 percent. Tuition remains among the lowest in the country and over 50 percent of students receive financial aid. New Mexico has a highly diverse population and all institutions qualify for the designation of Hispanic-serving institutions. Of concern to the presidents is that faculty salaries are 14 percent lower than peer institutions across the country. At least 84.5 percent of current students and over 90 percent of alumni are satisfied with their education.

With regard to completion, Mr. Lopez explained that on average, the United States has about a 39 percent two-year or four-year degree attainment rate. He discussed the escalating importance of degree attainment and noted that high school dropouts generally experience a 15 percent reduction in average salaries while high school graduates realized about a1 percent increase in salaries within the last five years and college graduates more than 19 percent. Four-year degrees and master degrees are becoming more important for the future workforce. By 2018, 33 percent of jobs will require a master's degree or a bachelor's degree and 29 percent will call for some college or associate degree.

Mr. Lopez expressed concern with the financial condition of the Educational Retirement Board (ERB) fund and suggested plan modifications. Chairman Varela said ERB has not communicated correct information regarding plan modifications.

Mr. Paul Roth, executive vice president, University of New Mexico (UNM), reported the budget impact to UNM including the Health Sciences Center has resulted in a $50 million reduction in state support. UNM has delayed filling vacant positions for faculty and staff reducing expenditures to $7.5 million. In addition, UNM made substantial reductions in overall institutional support, overhead, and energy conservation.

UNM used American Recovery and Reinvestment (ARRA) funds and building repair and replacement (BR&R) funds as a nonrecurring revenue source to help reduce the impact of reductions and has drawn on centralized balances to carry several aspects of the institution.

Barbara Couture, president, New Mexico State University (NMSU), reported state appropriations for NMSU were reduced 14.7 percent in the past two fiscal years. To assume reductions, NMSU has eliminated 110 positions, 70 staff, and 40 faculty, at a time when the Las Cruces campus has continued to increase fall enrollment annually. Since FY09, NMSU has realized a decrease of about 14 percent in instruction and the general appropriations while student credit hours increased 4.5 percent. Several services funded by Research and Public Service Projects (RPSP) budgets are mandated by the state and are central to university missions. NMSU spends an average of 60 percent general fund on instruction.

For the last several years, as revenues have decreased, the formula as applied has created inequities across the higher education system. The formula recognizes differences in funding across disciplines and lower and upper division courses but does not represent the large difference between cost of operating a two-year college and a comprehensive four-year college or research university. The assignment of a tuition credit to sand budgets also creates inequities. Tuition credit takes away a percentage of state appropriation to an institution with the expectation that lost revenue will be made up by raising tuition. Tuitions raised beyond the credit required are taken as an additional credit by the state in future years. The state appropriation reduction by virtue of the credit further shifts costs away from the four-year institutions to the two-year institutions. There are opportunities to gain efficiency and effectiveness at the state level in the administration of higher education. University systems save the state money through decreased administrative costs and central administration of campuses.

Cedric Page, president, New Mexico Association of Community Colleges (NMACC), reported NMACC has made a significant impact on the adult basic education needs of the state. Community colleges work closely with public school districts to provide dual credit opportunities for interested high school students. NMACC institutions served over 28,000 students statewide in credit courses. New Mexico small business management centers managed by NMICC institutions served nearly 2,200 individual clients. NMACC colleges are extensively involved in a range of economic development partnerships in their service areas.

NMACC's legislative priorities address efficiency and cost-containment and support the Higher Education Department (HED) funding recommendation workload for FY12. They recommend that any additional cuts be at equal percentage across-the-board for all institutions. NMACC encourages a minimal tuition revenue credit for FY12 and requests that HED and the Public Education Department (PED) remain separate. NMACC recommends a complete review of the funding formula for higher education and encourages the Legislature to consider adverse impact on current and future employees.

Steve McCleery, New Mexico Independent Community Colleges (NMICC), requested that NMICC and NMACC be given consideration for growth through the funding formula. NMICC recommends looking at the two-year average suggested by the Funding Formula Task Force for recognizing workload. NMICC recommends that cuts be made across the board through instruction and general spending (I&G) expenditures. NMICC also recommends looking at a modest increase in tuition credit. Two-year schools are committed to a national agenda for producing 50 percent more degrees by 2020. Additionally, the formula has to be re-examined. NMICC expressed that the merger of HED and PED is a mistake and is not in the interest of higher education, citizens, and the Legislature.

Viola Flores, secretary, Higher Education Department (HED), reported the department submitted an FY12 flat budget recommendation of $762 million for higher education and special schools. The I&G workload of $45 million was reduced by $21 million as a result of changes to the formula methodology. The balance was eliminated by cutting all higher education and special schools by 3 percent. The state master plan includes both short-term and long-term recommendations that will lead to budget savings. HED is making a strong recommendation to revisit the funding formula and provide a cost study for student education. HED recommends giving institutions the flexibility to make adjustments within their budgets. HED does not recommend moving finances from HED to the Department of Finance and Administration (DFA). Strong recommendations were also made to work collaboratively with PED on dual credit, transition, articulation, and assessment and create a P-20 council through legislation to address ongoing transitional issues.

Richard Wood, professor, University of New Mexico (UNM), provided a faculty perspective on higher education. Faculty is working on identifying savings, as well as identifying new revenues. Over the last 10 years, student credit hours have grown by 25 percent and the number of tenured faculty has been stagnant. During the same time, research revenues increased.

Vice Chairman Smith and Representative Bratton expressed concern with ERB membership and underfunding of the program. Vice Chairman Smith also expressed concern in regards to the funding formula. The Legislature has tried to be fair as a legislative body and refrain from moving ahead; however has not received work product from higher education.

Special Schools -- New Mexico School for the Deaf (980), New Mexico School for the Blind and Visually Impaired (979) and New Mexico Military Institute (978). Ronald J. Stern, superintendent, New Mexico School for the Deaf (NMSD), reported NMSD is celebrating its 125th anniversary. Student enrollment is stable and NMSD recently opened a new preschool in Farmington; there are currently eight students enrolled in that campus. Forty families requiring services are currently on the waiting list statewide. Because 73 percent of revenues are received from the permanent land fund, NMSD is concerned about projected cuts to the fund. NMSD also faced a decrease of $3 million as a result of the bond failure.

Linda Lyle, superintendent, New Mexico School for the Blind and Visually Impaired, reported the school began receiving funding from I&G in 2007. In the last year, the early childhood program served 750 families. The preschool program has 64 students with another five entering in January, and another 20 served in an outreach model. Ms. Lyle also discussed capital needs at the schools and noted that the walk-in education building on the residential campus remains vacant because of health and safety deficiencies.

Major General Jerry Grizzle, superintendent/president New Mexico Military Institute (NMMI), reported the school experienced an increase in enrollment while absorbing a decrease in funding. Major General Grizzle also expressed concern with reductions to the permanent land grant fund. In response to Chairman Varela, major General Grizzle said the legislative scholarship program has made a tremendous difference to the state.

UNM Health Sciences Center. Paul Roth, executive director, University of New Mexico (UNM), Health Sciences Center, provided an overview of revenue sources supporting the Health Sciences Center. Two-thirds of the overall operating budget is provided through clinical revenues. Medicaid funding provides 30 percent of the total operating budget for the hospital, medical school, and faculty. The Health Sciences Center is dependent on a separate line item in House Bill 2 in the form of I&G, as well as tobacco settlement funds. Mr. Roth noted that staff identified $1 million of recurring dollars to eliminate from the budget by looking at nonsalary expenses. A total of 100 positions were eliminated throughout UNM hospital; those included 20 layoffs. Further reductions may reduce Medicaid funding by over $20 million. In the process of reductions, UNM hospital has been able to accommodate increased patient volume.

Mr. Roth addressed concepts for healthcare reform. Based on healthcare reform, 350,000 more New Mexicans will have health insurance by 2014; half will be on an expanded Medicaid program and the other half will be on a state-based insurance exchange. An additional 50,000 New Mexicans will remain without coverage. Many aspects of healthcare reform will remain universal access.

Staff Reports:

Legislature (111-131). Director Abbey provided a staff recommendation to reduce legislative agency operating budgets by 3 percent in FY12. Reductions are consistent with all other agencies in state government.

Chairman Varela will send a letter to Legislative Council Service (LCS) regarding consolidation of subcommittees and taskforces for monetary and budgetary reasons.

Review of Special, Supplemental and Deficiency Requests. Director Abbey reported New Mexico Finance Authority (NMFA) agreed on a target of $40 million to transfer to the general fund in June. The remaining balance of $15.3 million will be recommended from the college affordability act.

Accountability in Government Act (AGA) Activity. Director Abbey referred members to the Accountability in Government Act (AGA) to be used in the budget document as a boiler plate for agency report cards.

Attorney General (305). Gary King, attorney general, Office of the Attorney General (AG), presented a general fund base budget request for FY12 that was flat to the adjusted FY11 budget. Including an additional $364 thousand increase in the consumer settlement fund, the total request represented an overall increase of 1.1 percent. The AG is currently operating at a 6 percent vacancy rate. The Medicaid Fraud Unit in the AG is a requirement under the federal budget; every state has to have a Medicaid Fraud Unit separate from the provider of Medicaid. The FY12 base budget request includes a 27 percent reduction from the FY10 revised operating budget due to the elimination of $200 thousand in recoveries allowed to be used for administrative purposes. Total requested budget for the Medicaid Fraud Unit is $2.1 million, with $492 thousand in general fund and $1.5 million in federal revenue. The AG used $4.6 million in FY10 and $4.9 million in FY11 from the consumer settlement account to cover general fund reductions in the Legal Services Program. Mr. King noted the AG has 11 active multi-year grants and awards totaling over $3 million.

Monday, December 6

The following members were present on Monday, December 6: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Jim Trujillo (for Nick L. Salazar), and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Carroll Leavell, Howie Morales (for John M. Sapien), Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Representative Jimmy Hall, Larry Larrañaga, Jane Powdrell-Culbert, and Senators Richard Martinez, and Phil Griego attended as guests.

Public School Support (993). Susana Murphy, secretary designate, Public Education Department (PED), reported over the last two years, student membership increased and public school funding formula units also increased. Growth units remained between 2,000 and 3,000 each year. Under the funding formula, small and rural districts will continue to struggle to meet state mandates as student population declines. Ms. Murphy noted FY11 units are still preliminary and have not been adjusted for actual growth or new charters. Units are anticipated to increase by approximately 4,000 after the 40th day data is finalized.

Steve Burrell, interim deputy secretary, finance and operations, PED, provided a comparison of 2009-2010 to 2010-2011 budgeted membership (MEM) (total enrollment of qualified students) and grand total units. The FY12 budget request of $2.4 billion includes a $145.1 million or 6.4 percent general fund increase over FY11. The request includes funding increases for enrollment growth, fixed costs, the employer share of increased insurance costs, and increases in the employer's contributions to the Educational Retirement Board (ERB).

Linda Goetze, project co-director, New Mexico K-3-Plus Validation Project, Center for Persons with Disabilities, Utah State University, reported that New Mexico received a $19.1 million five-year validation grant to evaluate the cost and effects of K-3-Plus for high need students. Funding flows through the Utah State University and will be subcontracted with four school districts; Albuquerque, Gadsden, Gallup-McKinley, and Las Cruces. The university also has a subcontract with New Mexico State University (NMSU) to help with assessment and individuals from New Mexico will be hired to conduct assessments and classroom observation. Included in the total grant amount was a required private sector match of $3.4 million from private foundations. Chairman Varela asked about outcomes to measure the success of pre-k to three programs. Ms. Goetze said she will be evaluating pre-k programs, as well as K-3 Plus. Ms. Goetze noted for every dollar invested in prekindergarten there is a $5 return to the state.

Senator Morales expressed concern with Graduate New Mexico. The program was set up to attract 10,000 individuals to complete their general education development (GED) by the fall of 2010.

Currently, that number is between 300 and 400. The state originally received little more than $9 million in ARRA funding for the program that was later reduced by $1 million. Ms. Murphy clarified that over $6 million of the $8.3 million received has been allocated; $3 million will be expended by December 31. Part of the monies has gone into funding IDEAL New Mexico, an online course project. PED projects up to 670 students enrolled in the program. Senator Morales said he has been in contact with school districts and the number of students enrolled in the program is much lower than PED's projections.

Representative Saavedra expressed concern with superintendents' salaries and requested information for all charter school superintendents and principals to include names, degrees, retirement status, and salaries. In addition, Vice Chairman Smith requested budget information for all administrator salaries at all schools statewide. Representative King also requested PED work with staff to make budget information available on the Sunshine portal.

Capital Outlay.

Quarterly Status of Outstanding Capital Funds. Jeannae Leger, fiscal analyst, LFC, reported as of November 18, 2010, approximately $688 million for 1,546 projects remain outstanding. The total excludes $19.7 million in general obligation bonds ratified by the electorate in November. Of the $688 million outstanding, approximately $52.5 million for 698 projects appropriated from the general fund. The percentage of outstanding funding sources is as follows: general fund (8 percent), severance tax bonds (69 percent), general obligation bonds (21 percent), and other state funds (1 percent).

In accordance with the LFC budget guidelines, staff is in the process of reviewing projects with no activity or expenditures according to the capital projects monitoring system for void or reauthorization for solvency. LFC staff anticipates that $37.6 million from the general fund for 445 projects will revert on June 30, 2011, assuming projects are not extended by reauthorization. LFC staff also anticipates $14.9 million in general fund for 253 projects will revert on June 30, 2012. Of the $52.5 million, $17.9 million for 259 projects according to the capital projects monitoring system shows zero expenditure.

Review of 2011 Capital Outlay Requests. Linda Kehoe, principal analyst, LFC, provided an overview of the 2011 capital outlay requests and noted the net amount available for severance tax bond capacity is $237.8 million. The amount available for public school construction through supplemental severance tax capacity is $147.7 million. State agencies, higher education institutions, and special schools requested $1.5 billion in projects. LFC staff recommendations for consideration by the full Legislature total $237.5 million and were based on criteria and guidelines approved by the committee and narrowed down to the most critical public health needs.

Other Issues. Ms. Kehoe briefed the committee on the discussions of the Capital Building Planning Commission that included continued review of the Capitol Master Plan, acquisition of Las Soleras property, legislation to strengthen current infrastructure capital improvement planning, and capital funding requested by General Services Department (GSD) and Cultural Affairs Department. The presentation was concluded with a briefing of office space utilization by GSD and LFC staff during the interim. The data demonstrates the need for GSD and the executive to re-evaluate space needs and identify opportunities to reduce lease costs. Also of importance is the need to evaluate future needs for space statewide as downward pressure on employment continues to drive up vacancies throughout state government.

Department of Transportation (805). Gary Giron, secretary, Department of Transportation (DOT), reported the department receives no general fund support for state roads. Federal funds comprise 40 percent to 45 percent of the department's budget and are received on a reimbursement basis. The economic downturn led to a reduction of $120 million in budget and spending over the past three years. The federal funding bill authorizing payments to DOT expired on September 30, 2009, and a new funding bill is not expected for the next one to two years. Secretary Giron noted that DOT has $140 million to $150 million available for the Statewide Transportation Improvement Program (STIP) for future years. Approximately $391 million of GRIP (Governor Richardson Investment Program) projects remain incomplete. GRIP legislation authorized the department to spend $1.585 billion worth of bonds; however, the department and the commission decided not to issue the last round of bonds in the amount of $234.6 million. The department significantly reduced its role over budget during the last several years. The department cut $47.1 million in FY09, $40 million in FY10, and $43 million in FY11.

DOT analysis shows a $200 million gap in funding to adequately address maintenance in the state. An additional $50 million annually is needed for bridge replacement and major repair. Prior to the GRIP program, DOT had $977.5 million of outstanding debt. During the creation of GRIP, DOT refunded $437.9 million in 2004 generating capacity to issue the authorized $1.585 billion in bonds. In 2006, DOT issued $400 million in bonds for new construction and in 2008, DOT refunded $470.4 million in bonds. In 2009, DOT refunded $112.3 million of old non-GRIP debt netting a savings of $6.1 million. In 2010, DOT converted the $200 million line of credit to bonds with favorable rates. DOT also refunded $461 million in bonds to achieve a net savings of $26.7 million, reducing the annual debt service over a 10-year period. For DOT to earn the amounts needed to cover the shortfalls, the state road fund will need to contribute $40.7 million annually. An interest-bearing account will be set up through New Mexico Finance Authority (NMFA) with DOT as trustee. All earnings placed in the account will be used for the state road fund debt service of the bond program. The commission adopted the new debt policy instructing DOT to create the reserve fund.

Domingo Sanchez, deputy secretary, business support, DOT, reported actual year-to-date revenues through November 2010 reflect a collection of $98.3 million. DOT is requesting an FY12 operating budget in the amount of $809.8 million. Of that, $400 million is federal funds; the remainder is made up of restricted and unrestricted state road fund revenues. The department is requesting 2504.5 FTE, reflecting a reduction of 250 positions. The total operating budget reflects three primary program activities: planning and infrastructure, transportation highway operations, and business support. DOT is requesting expansions for a technical adjustment to FTE and $2.2 million for bond interest revenue.

Max Valerio, chief engineer, DOT, reported $1.585 billion of bonds were authorized to fund GRIP construction of 37 highway corridors throughout the state. Forty-three of those projects valued at $765 million are currently under construction and 73 projects valued at $733 million have been completed. Seven remaining projects will be authorized and let out to bid within the next few months. Mr. Valerio noted $421 million was used toward the establishment of the Rail Runner. Nineteen projects valued at $391 million have been deferred due to the lack of funding.

GRIP II legislation listed 116 local lead projects with a total estimated amount of $180 million; however, DOT was not successful in receiving the full amount of funding. Projects were funded in the order that applications were submitted and complete, as well as having a required match. A total of 86 projects were funded in the amount of $110 million.

The American Recovery and Reinvestment Act (ARRA) provided the state $322.6 million for transportation-related projects. All projects had to comply with the existing federal highway program planning and selection process, be selected and approved by the Highway Commission, and be certified by the governor prior to use of funds. Ninety-two projects were selected and certified by the Governor. As of September 30, 2010, 91 projects have been put out to bid; one project was withdrawn. Due to low bid savings and project under-runs, DOT was able to re-distribute $16.1 million to 12 new projects. Mr. Valedio noted $12.25 million was provided for transit capital assistance; a total of $9.1 million has already been expended.

Chris Blewett, director, Transportation and Planning Services, Mid-Region Council of Governments, reported in FY10, the Rail Runner transported approximately 1.24 million people with an average trip length of 47 miles one way. The Rail Runner is part of a larger public transportation system. Fourteen new bus routes have been put into place to connect to the Rail Runner. In addition, the Rail Runner service was integrated with New Mexico Park and Ride routes.

In response to Representative Larrañaga, Secretary Giron said the acquisition of the line for the Rail Runner was broken up into three phases: phase one from Belen to Bernalillo, phase two from Bernalillo to Lamy, and phase three from Lamy to the Colorado boarder. The department does not intend to purchase the line all the way to Trinidad. The $75 million has been paid; however, the agreement on the terms of the last line from Lamy to Colorado has not been signed off on due to the department not receiving environmental clearance. Representative Bratton expressed concern with entering into an agreement without having the environmental assessment as a condition of the purchase. He also expressed concern with entering into an agreement with Amtrak to provide an additional 182 miles of maintenance at the cost of $6.2 million a year. Representative King requested information on the current status of the environmental impact assessment, as well as projected costs for future environmental liabilities.

General Services Department (350). Arturo L. Jaramillo, secretary, General Services Department (GSD), presented a flat budget request for FY12 with the following exceptions:

- A 5 percent increase to the Health Benefits Program,
- A $17 million increase for the Risk Management Division (RMD) reserve funds,
- A $4 million increase for the Property Insurance fund, and
- A $366.5 thousand increase for the Property Control and Building Services Division.

Secretary Jaramillo noted the department recently recovered $5.6 million from a 1996 Cigna claim; therefore, the 5 percent increase to the Health Benefits Program could be reduced. The department also decreased the public liability fund by $1.9 million and the workers compensation fund by $2.7 million. The department currently has an overall vacancy rate of 20 percent.

GSD is also requesting reallocation for 2 FTE for the Technical Services Bureau. Additional funding is not required.

Representative Bratton requested information on various fund balances and premiums over the last ten years.

Executive Compensation Report. Sandra Perez, director, State Personnel Office (SPO), provided information for classified employees, including average annual salaries, total compensation costs, number of employees, vacancies, and classified temporary employees. Ms. Perez noted the current compa-ratio on average is above mid-point. Ms. Perez also noted that temporary salary increases are due to expire December 31, 2010, and January 31, 2011, with the exception of those at the Department of Transportation (DOT), which isin line with the collective bargaining agreement. Temporary recruitment differentials have staggered end-dates over the next year.

In response to Representative Bratton, Ms. Perez said SPO has been working with the Risk Management Division (RMD) to improve comparison of data to determine if an individual is eligible for unemployment.

American Recovery and Reinvestment Act Update. Toney Anaya, executive director, Office of Recovery and Reinvestment, reported the stimulus act had a $5 billion economic impact to the state. Funding was received directly through state agencies, federal and local grants, and tribal grants. The recovery act supported the state general fund by more than $1 billion over three fiscal years. Mr. Anaya noted Congress allocated stabilization funds through Medicaid and school stabilization funds in the amount of $325 million. The act provided New Mexico with 25,000 jobs through June 30, 2010. The government services fund received $58 million; $20 million was allocated to budget deficit reductions. Of the $58 million, all but $1.1 million has been allocated and will be available for the incoming administration. Representative Bratton and Senator Beffort expressed concern with unemployment claims and creating a deeper recession for the state.

Tuesday, December 7

The following members were present on Tuesday, December 7: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Jim Trujillo (for Nick L. Salazar), and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Carroll Leavell, Howie Morales (for John M. Sapien), Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle).

Review of Special, Supplemental and Deficiency Requests. Christian Sanchez, fiscal analyst, LFC, reported LFC received 16 special, 19 supplemental, and two deficiency requests totaling $38.6 million; requests included $26.5 million of general fund. LFC staff review included detailed projections of shortfalls, relevant performance data, and cost benefit analysis. In addition, staff considered if critical or mandated services were in jeopardy. Director Abbey added that the projected carry-forward for Medicaid was estimated at $15 million. Staff recommended using nonrecurring revenues to cover the shortfall in FY11 rather than carrying it into FY12.

Senator Cisneros moved to accept the LFC recommendations for special, supplemental, and deficiency requests, seconded by Representative Saavedra. Motion carried.

Final Review

Director Abbey reported the committee adopted LFC budget guidelines in August to assist in developing the budget recommendation for FY12. The budget recommendation prioritized public education, health care, and public safety by maximizing other state funds, eliminating management positions and long vacant positions, reducing contracts, holding rates for General Services Department (GSD) at or near FY10 levels, and continuing retirement contributions. Staff recommendations fit within available revenues and produce a target general fund reserve amount in FY11 and FY12 of 5.0 percent.

Representative Saavedra move to adopt the FY12 budget recommendations seconded by Senator Cisneros. Motion carried.

Director Abbey suggested appointing Representative King, Representative Wallace, Senator Cisneros, and Senator Beffort to review technical adjustments to the budget recommendation as needed.

With no further business, the committee adjourned at approximately 10:15 a.m.

Chairman

2/21/2011
Date