

MINUTES
LEGISLATIVE FINANCE COMMITTEE
January 12, 2008

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Saturday, January 12, 2008, at 8:30 a.m.

The following LFC members were present on January 12:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Sue Wilson Beffort, Bernadette Sanchez (for Timothy Z. Jennings), Phil A. Griego, Joseph J. Carraro, Carol Leavell (for Leonard Lee Rawson), Carlos Cisneros, and Pete Campos.

Review of Selected Research and Public Service Projects – Manu Patel, deputy director, LFC Program Evaluation; Donna Hill-Todd, program evaluator, LFC; and Reed Dasenbrock, secretary designee, Higher Education Department. Ms. Hill-Todd and Mr. Patel gave a presentation regarding the LCF’s review of certain Research and Public Service Projects (RPSPs). Ms. Hill-Todd began by reporting that funding for RPSPs in New Mexico are line-item appropriations. Line-item appropriations serve the following functions:

- They fund start-up and expansion educational programs that would not initially receive funding under the instruction and general purposes (I&G) formula system.
- They fund higher education activities not covered by the I&G formula, such as providing services to the noncampus community or conducting research.
- They provide greater accountability by targeting appropriations to specific programs.

However, line-item appropriations also have the following drawbacks:

- They tend to result in fragmented programs.
- Line-item appropriations can be abused by post-secondary institutions to circumvent the funding formula.
- Proliferation of line-item appropriations may reduce fiscal oversight.
- Small line-item programs may divert oversight from larger issues.
- Line-item appropriations move limited state resources away from strategic priorities.

Next Ms. Hill-Todd reported on the key findings identified during the fieldwork. The four key findings identified are as follows:

1) HED has not conducted RPSP evaluations since 2003. The last RPSP Evaluation Report was published in 2002 by the Commission on Higher Education (CHE), the precursor to HED. HED could not provide any information regarding the 2003 evaluation cycle. However, a former employee of CHE provided the evaluation training document, which listed the 19 programs scheduled for the 2003 evaluation cycle. According to HED:

- CHE files and records are not organized in a manner for easy retrieval.
- Due to high staff turnover at HED, no one can determine if the 2003 evaluation report was ever finalized and published.
- The institutional auditor position provided to HED in FY08 has not been filled even though one individual would not be sufficient to fulfill all of the designated responsibilities.

2) RPSPs do not fulfill their basic purposes as appropriation mechanisms.

From the perspective of higher education institutions, RPSPs exist to provide funding for research and public service projects that do not receive funds under the funding formula. From the perspective of the Legislature, RPSPs provide a mechanism to specify legislative priorities in higher education. The review of randomly selected RPSPs found many inconsistencies in implementation of RPSP appropriations that substantially undermine achievement of both purposes. The following eight inconsistencies were identified:

- RPSPs are not being used exclusively to support research and public service projects. They have become a tool to breach the funding formula by providing funding for new and expanded academic programs, and athletic teams, or they simply do not fulfill RPSP requirements like the RPSP funding for athletic field maintenance at Western New Mexico University (WNMU), which is not a program.
- There were multiple RPSP programs providing the same type of services, an indication of poor coordination within institutions, and duplicate funding.
- RPSP performance measures, quality indicators and annual targets are not consistently developed and reviewed by each program.
- Use of funds has been sporadic and inconsistent, leaving large unexpended balances for multiple projects at several institutions).
- Purchasing and travel policies were not consistently followed by several programs.
- Some RPSP funds were spent for purposes contrary to the appropriation.

3) RPSP funding of UNM-HSC programs results in disjointed priorities and undermines its

strategic approach to health care for New Mexicans. No RPSPs directly address half of the top major causes of deaths in New Mexico. Growing use of RPSPs to fund HSC operations is restrictive and creates administrative burdens to management. Additionally, the following concerns were identified:

- HSC programs typically had weak strategic plan components.
- Appropriations were not always expended effectively.
- Multiple rural counties receive few or no services even when requested via the Locum Tenens program.

4) Funding for new and expansion programs needs annual monitoring and review by HED. Effective for the 2009 funding request, HED has reinstated a review process for funding recommendations as required, however similar project evaluations of all prior years are not available.

Mr. Patel also reported on his recommendations for LFC, Department of Finance and Administration (DFA) and HED. Mr. Patel recommended that the agencies should consider appointing a joint task force during 2008 to

- Review best practices applicable to the post-secondary education to determine how to implement best practices in New Mexico that help promote global competitiveness of state workforce, assure access and affordability to students, encourage innovation, and provide flexibility with adequate accountability of public funds.
- Revisit the institutions of higher education funding formula to determine whether or not current funding formula is generating sufficient resources to sustain critical academic programs, distribution of available funds is equitable and long-term integrity of the funding formula is maintained.
- Streamline RPSPs and other projects funding process to encourage best research practices, technology transfer, innovations and centrally coordinated initiative for outreach programs needing statewide impact.
- Determine evaluation processes, frequency, and sufficiency of resources to evaluate RPSPs, other projects and academic programs at institutions of higher education.

Ms. Hill-Todd then reported on the LFC's recommendations for the University presidents and boards of Regents. They should

- Institute and strengthen review processes of the RPSPs and other projects' funding requests to ensure that all requests are in conformance with the institutions' and statewide priorities.
- Make sure that program performance measures are developed, appropriate data captured, analyzed and reported to assess whether the program is effective and the costs outweigh the benefits.

- Eliminate or consolidate duplicate program requests.
- Establish sufficient internal and management controls to provide accountability of funds and ensure programs are complying with applicable laws, rules and regulations.
- Initiate periodic internal review and evaluation of RPSPs and other projects to ensure programs are achieving its missions, goals, objectives and stated outcomes.

Ms. Hill-Todd concluded with the LFCs recommendations for the Higher Education Department (HED). They should

- Verify the continuing need for each program's existence and determine how effective its relationship is with the mission and strategic goals of the institution.
- Evaluate the program's performance and financial results and how the program relates to statewide priority needs. Based on this evaluation HED should make recommendations to LFC and DFA for program continuation, a program improvement plan or recommend termination of funding.
- Develop performance criteria and outcomes and report on financial accountability to ensure efficient funding allocation for the special projects expansion initiated by Senate Bill 190 and ensure each program received the correct allocation from the institutions' special projects expansion line-item appropriation.
- Expand on the CHE evaluation process to evaluate all existing RPSPs, conduct random on-site reviews of programs annually, and ensure each program submits its annual RPSP appropriation request in a timely manner.
- Ensure that performance measures, outcomes, and quality indicators have been developed.
- Develop a process to review RPSPs at the HSC and consolidate the RPSP line items based on their common service goals, disease type, or research focus. This will give HSC greater flexibility in financial and program management so to more easily achieve its institutional objectives.

Review of Selected Capital Outlay Projects – Charles Sallee, program evaluation manager, LFC, and Katherine Miller, secretary, DFA, gave a review of selected capital outlay projects and included recommendations for improving the capital outlay process in future years.

Recent one-time revenue surpluses and bountiful bonding capacity have allowed New Mexico to make unprecedented commitments to capital investments to both state and local entities.

Since 1998, the Legislature has appropriated about \$4.3 billion for capital outlay projects, but only \$1.6 billion has been reported as spent by state, local, and tribal entities as of June 2007.

Concerns have historically been raised by legislators and executive branch officials, as well as other research and financing organizations, about the methods for allocating these resources inadequate planning, oversight, and execution of funded projects.

LFC has issued two previous reports in 2003 and 2006 on capital outlay planning and oversight. This current review sought to complement previous evaluations by assessing the planning and implementation of selected capital outlay projects and reviewing any progress made to improve the overall system.

Among the significant findings, the review found nearly all sampled projects met their intended purpose, but improvements are needed to complete many on time and within budget. More than a third of projects appear successful or on track. Almost half of sampled projects have mixed results, with about 84 percent experiencing some type of delay in completing the project. Insufficient funding was the most prevalent factor for projects with less than ideal outcomes/progress ratings.

The review also found New Mexico has taken some steps to improve its capital outlay process but needs to do more to ensure efficient and effective use of state resources.

Recent changes have attempted to address the need for the Legislature to have better information about proposed and active projects before making funding decisions. However, the Legislature, and state, could still benefit from a consolidated master planning process to aid in making capital investment decisions.

The evaluators recommended the Legislature study, through the interim Capital Outlay Subcommittee, creating a permanent capital outlay planning commission made up of legislators and executive officials representing the Board of Finance, State Treasurer's Office and DFA. The commission could serve as an umbrella advisory committee charged with planning and screening capital projects for consideration before the full legislature convenes. Creation of the commission would result in consolidating the multiple current processes used by the legislative and executive branches into a single process. The commission should have jurisdiction to screen, plan and recommend funding participation requirements for all non-state entities, including local governments or citizen groups, seeking project support from the state. The commission could also be given jurisdiction to review lease-purchase agreements from state or public education agencies seeking approval prior to full legislative review.

Approval of Proposed LFC Sponsored Legislation

Norton Francis, chief economist of LFC, presented an LFC staff proposal to amend the Tax Increment for Development Act to increase state participation in the creation of incremental tax development districts and limit state funds to such districts.

SunCal lobbyist Dan Weeks reported that all of the governance issues were acceptable to SunCal, a tax increment development district (TIDD) recently formed by Bernalillo County, but that they could not support the prohibition of capital outlay and the increment equalization provision. The remaining discussion centered on individual legislators' ability to provide capital outlay for their districts, and the committee tabled the motion.

Next, Brent Earnest, senior fiscal analyst, presented legislation for committee consideration to

place a \$30 million cap on the film production tax credit. For FY07, the state approved \$17.6 million in refundable tax credits to production companies, which spent \$158.7 million in the state. The 25 percent credit became effective at the beginning of 2007, and in the first five months of FY08 tax refunds totaling \$30.4 million have been approved for 18 film and media projects. At this pace, the film production tax credit will cost the general fund more than \$70 million in FY08.

Under the proposed legislation, refunds up to \$15 million would be approved for productions twice per year and would be allocated on a prorated basis. All approved applications would receive a credit, but the effective rate of the credit would vary based on the number of applications. The bill has a positive revenue impact of \$21.4 million in FY08, \$50.2 million in FY09, and \$58.2 million in FY10.

Mr. Francis discussed the need for an economic impact analysis of the film industry. A preliminary analysis by LFC staff found that the revenue to the state generated by film and media activity is about half of what the state refunds to production companies. Mr. Francis also noted that the fiscal impact report for House Bill 839, which made permanent the 25 percent tax credit, showed a \$24 million cost for FY08.

The committee heard comments from the public regarding the proposal. Rick Clemente, a long-time film professional, stated that he moved from California to New Mexico to open a studio and work in the industry here. He expressed concern that the cap would result in the loss of film productions and impact his business. Jerry Fuentes of Truchas stated that he believes the industry helps New Mexico communities. Jon Hendry, business agent for the International Alliance of Television and Stage Employees 480, stated the success of the incentive program has led to this discussion. He objected to the proposal because a detailed economic analysis has not been completed and criticized the hearing as premature and harmful to the state. Eric Witt, director of Legislative Affairs and Media Arts and Entertainment for the governor, reported that a study by Oxford University found that the film industry in Britain contributed \$4.3 billion to the economy and returned \$1.1 billion to the Exchequer. Finally, a real estate agent informed the committee that she lost the sale of a home because the buyer's employer, Pangea Productions, decided to move its production when the LFC began discussing a cap.

Representative Saavedra reminded Mr. Witt that he and the LFC requested an economic impact study in November. Several members agreed that an economic impact analysis needs to be performed. Senator Cisneros made a motion to reject the proposal, and the committee adopted the motion unanimously.

Miscellaneous Business

Senator Cisneros moved for the approval of the December 2007 minutes. The motion was adopted.

Senator Campos moved for contract approval. The motion was adopted.

Senator Campos moved, and Senator Cisneros seconded, to adopt the LFC FY09 budget

recommendation. The motion was approved.

The committee was presented with information on the following:

Budget Adjustment Request Report
July 2007 Cash Balance Report
LFC FY07 Financial Audit
LFC Monthly Budget Status Report

The meeting adjourned at 2:17 p.m.

Chairman



3-17-08
Date