

LEGISLATIVE FINANCE COMMITTEE
Clovis Convention Center
801 Schepps Blvd.
Clovis, New Mexico 88101
June 3, 4, 5, 2009
MINUTES

June 3, 2009

The following members were present on Wednesday, June 3: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Richard D. Vigil (for Rhonda S. King), Don Tripp, Edward C. Sandoval, Jeanette O. Wallace, Ray Begaye (for Nick L. Salazar), and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell, Timothy Jennings (for John M. Sapien), Clinton D. Harden Jr. (for Stuart Ingle), Pete Campos, and Howie Morales (for Mary Kay Papen). Senator Vernon D. Asbill and Representatives Dennis L. Kintigh and Anna M. Cook attended as guests.

Welcoming Remarks. Gayla Brumfield, Clovis mayor, welcomed and thanked the committee for visiting Clovis.

Mark E. Lansford, finance director, Curry County, welcomed the committee on behalf of Chairman Frank Blackburn of the county commission and encouraged the committee to visit the landscape including farming, agriculture, dairy, and the cheese plant.

Mayor Brumfield said the city of Clovis celebrated its 100 anniversary in 2007. Clovis is beginning its next century on a positive footing with a new mission at Cannon Air Force Base and positive signs of economic growth in both industry and redevelopment projects in existing areas for revitalization. The city of Clovis is currently working on several projects that the state has helped to fund, including ongoing infrastructure projects.

Funding was received through the Statewide Transportation Improvement Program (STIP). In the past two years the city has also been successful in obtaining community development block grant funding for two separate street improvement projects in the downtown area.

The waste water treatment plant is over 20 years old and is in need of more than \$8 million in repairs; the city increased its sewer and garbage fees to pay for the repairs. The project is currently under design, and it is anticipated repairs will be complete by December 2010. Once repairs and improvements are made to the plant, the city is scheduled to accept the affluent from Southwest Cheese, the largest manufacturer of cheddar cheese in North America. Southwest Cheese is currently undergoing a \$100 million expansion bringing in an additional 40 to 50 jobs.

The Eastern New Mexico rural water system will provide a sustainable resource to the residents of Eastern New Mexico. The project estimated at \$443 million was authorized at the federal level in March 2009. Program management of the pipeline from the Ute reservoir will provide water for Clovis, Portales, Grady, Melrose, Texico, Elida, Curry County, and Cannon Airforce Base.

Since receiving notification of Cannon Air Force Base's new mission, the city of Clovis has been working with the city of Portales and Curry and Roosevelt counties in addressing the expanded needs of the incoming 27 special operations mission. Areas identified through a federally funded regional growth management plan include education, housing, and quality of life issues.

The city has been fortunate in receiving funds through the Economic Development Department for revitalization of the downtown district with the biggest renovation of the nine story Hotel Clovis. Future projects for the city include obtaining funding to complete the Eastern New Mexico rural water system, completion of the wellness center and soccer fields, expanding arterial streets, and addressing drainage and other infrastructure upgrades and repairs.

City and County Financial Update. Joe Thomas, Clovis city manager, reported on demographics for the Clovis community and said estimated population for 2009 is just below 42 thousand with median age of 30. Major employers include Cannon Air Force Base, the municipal school system, Cannon civilian personnel, Plains Regional Medical Center, Burlington Northern Santa Fe railroad, Wal-Mart, the city of Clovis, Southwest Cheese, Eastern New Mexico Rural Cooperative, and Plateau telecommunications. About 929 businesses employ 11,000 people and an annual payroll of \$242 million. The unemployment rate in Curry County in March 2009 was 3.5 percent.

The city of Clovis receives 61 percent of its annual operating budget from governmental funds through gross receipts tax. Annual gross receipts tax total \$22 million; a 2 percent increase from 2008. Total cash as of April 30, is \$27.8 million with an outstanding bond balance of \$15.3 million. The city faces a challenge for the funding of Eastern New Mexico rural water system. The estimated cost for delivery of water from Ute reservoir totals \$443 million assuming a 75/15/10 federal, state, and local split. The members of the Eastern New Mexico rural water authority are responsible for \$49 million. Clovis is responsible for 75 percent and plans to issue \$8 million in bonding.

Status of Capital Outlay Appropriations. Mr. Lansford reported on capital outlay projects including the Prince Street project (part of the Governor Richardson Investment Partnership II program) totaling \$3.3 million, the Brady Street project (ongoing) totaling \$2.7 million, and remediation projects at Hotel Clovis totaling \$663.5 thousand. Community development block grant funding was received for the last two years, allowing for reconstruction of streets in the downtown area. Notification of a \$500 thousand award in block grant funding was received for reconstruction of Pile Street; it is intended to match that with an additional \$160 thousand of city funding. The final engineer's estimate after completion of design for the Hull Street bridge project totaled \$6 million and an award of \$831 thousand in stimulus funding was received. Demolition of the old structure and design for replacement of the new structure total over \$1 million. Repairs and upgrades at the waste water treatment plant will be funded through bonding or federal stimulus funding. Stimulus funding totaling \$139.8 thousand for energy efficiency is intended to replace overhead street lights with LED lights, resulting in significant electrical savings. Installation of solar panels for city-owned facilities to offset energy costs will also be explored.

Performance Effectiveness Report. Steve Gamble, president, Eastern New Mexico University, reported that the university is celebrating its 75th year. The university is a teaching institution providing research and is designated a Hispanic-serving institution. More than 600 degrees are awarded per year and tuition and fees are the second lowest in the state and the fourth lowest in the entire Southwestern region of the College Board. Current enrollment is at 4,300 students; 700 are graduate students with a majority in the discipline of education. Four out of five students attending school are New Mexico citizens. Eighty-two percent of students receive a form of financial aide and 50 percent are Pell grant recipients. General obligation (GO) bonds allows for refocus on infrastructure to campuses every two years.

The university is driven by a strategic plan placing student learning at the center of every institutional action and activity. The university has nine current accreditations in the best standing possible. Academic quality includes participation in statewide general education assessment, assessments of student learning in each department to strengthen programs and curriculum, personalized outreach to students, monitoring of progress, scholarship incentives, and technology to enhance learning and instruction.

The university has bonded \$22 million to complete projects. Roosevelt County ranked in the top five counties for the pass rate of 60 percent or higher for the past four GO bonds. In addition, a \$3.5 million bond was floated for energy conservation.

The university collaborates and partners with community colleges and has had 437 transfers this year. High school seniors are receiving college credit through the dual enrollment program. From 2000-2008, the university has grown 700 in head count and the full-time equivalency (FTE) has grown 10 percent.

Evidence of effectiveness and accountability includes an increase in online offerings, administrative costs (less than 10 percent of total budget), institutional cost per FTE, well-maintained facilities, and a perfect accreditation track record. Accountability measures include retention, graduation rates, and access for first-year Hispanic students.

Approximately every four years, the Higher Education Department (HED) requests all schools in the state submit a satisfaction survey of students. ENMU has always ranked number one in the state in terms of graduating senior satisfaction.

Senator Beffort inquired about the college of education and the means for graduating students taking the national teaching exam. Mr. Gamble said some schools have restrictions on who they allow to test. Senator Beffort asked if students who are not graduates of the education program take the test. Peter Winograd, director of the Office of Education Accountability, responded that in New Mexico prospective teachers have to take the state test (National Teachers Exam). All institutions review results and identify students to submit to the Public Education Department (PED) for teacher licensure.

Senator Asbill said an issue the HED has had is the alignment of curriculum for transfer of credits and the loss of credits and asked how institutions are making sure there is transfer ability. Mr. Gamble said all general education is freely transferable.

Accountability Report and Enrollment Update. John Neibling, president, Clovis Community College (CCC), reported on demographics and major economic activities. Unemployment remains low and the local economy is good with strong home building activity and expanding businesses. The college and Cannon Air Force Base continue to have a vital relationship.

Ethnic diversity mirrors that of its tax district and primary service constituency. Approximately 65 percent of students are female and the average age of a student is dropping from previous levels. In almost every vocational area with certification exams, scores are among the highest in the state. There are several academic support programs as well as several non-academic programs and services with four university partners. Campus technology includes the banner digital campus implementation and the luminous web portal implementation. Safety and security for students, faculty, and staff is a priority; increased building entry security and electronic surveillance has been improved.

The college has one of the highest success rates in attracting outside funds through grant writing allowing technology upgrades without using state funds. The Clovis Community College Foundation has had a significant increase in its holdings over the last four years. Participation in the GO bond process is a great advantage for higher education allowing funding for phase I of the Allied Health Center and partial funding for phase II.

Challenges for the college include increased enrollment, financial conditions for the college and state, maintaining and improving program quality, supportive state initiatives in nursing and teacher education, serving unprepared students, and attaining greater student retention, success, and degree completion.

Nearly 75 percent of nurses working at Plains Regional Medical Center and Roosevelt General Hospital are graduates of CCC. The college continues to have strong collaboration with school districts and conducts a faculty-led annual accountability program. Outside entities are used on a regular basis to test student satisfaction.

Status Report of the Clovis Public Accountability Report Card and Educational Programs. Rhonda Seidenwurm, superintendent, Clovis Public Schools, reported the district currently has 10 schools making adequate yearly progress and six schools are not. Schools not making AYP are large enough to have English as a second language and special education populations that count in the accountability report. There is 7 percent more poverty than the state average, a lower percentage of special education students, half the average rate of English language learners, and the largest percentage of African-American students of any district in the state. The Public School Finance Authority (PSFA) has approved Clovis for growth for additional classrooms and multi-purpose rooms.

Leaders of PSFA were consulted to consider a lease or purchase of a new school in the district. Stimulus funds will be distributed to public schools in three phases. The first phase includes

funds the federal government understood every state in the union was going to need. Funds were aimed at saving and creating jobs. Clovis received \$3.53 million and used it to save 90 jobs, including first-year teachers and educational assistants. General funding replaced all but \$129 thousand in cuts from the legislative session. Special education received \$1.1 million and the Title I program for low-income students received \$722 thousand. The federal government was very clear that funding was not to be used for programs disappearing in two years. Funds are to be used to make an impact on drop-out rates, early childhood, and creating intellectual capacity. Monthly onsite trainings for teachers are given during class and planning times. The high school will receive a new career counselor and six elementary instructional specialists will be hired.

Using Data To Drive Instruction for Top Student Performance. Carrie Bunce, principal, Barry Elementary School, reported on student data and how it is analyzed. Beginning assessments include the student, classrooms, and schools to make projections towards the Standards-Based Assessment (NMSBA). During the first two weeks of school, assessments are compiled to determine whether students will need remediation or interventions. After school scores are assessed, individual goals are set for students involved in the process. Progress is monitored in weekly segments and data is assessed at nine-week intervals to determine what expected performance should be. Student data cards are sent to parents informing them of student progress above or below levels, performance in relation to an expected level, and student growth. Individual classrooms are compared to look for above- or below-average growth, student benchmarks, and progress made from interventions. Comparing classes of the same grade level determines discrepancies, such as content area and how far below a grade area a particular class is on average. Inter-programs are used to determine cut scores predicting how students will do on the NMSBA. Scores are reviewed by grade level and are compared to national performance requirements. Data is used to set reading and math goals for the year; teams meet monthly to monitor progress with representation from every grade level.

Data is reviewed to take the focus off demographics that cannot be controlled. Data focuses on curriculum, increased time, and quality of instruction that can be controlled. Data also helps managers plan for the future and determine the right direction to follow.

Mr. Winograd reported on implementing changes to ensure that all principals have accurate, timely, and useful data on student performance. Principals not only need data on students, they need data on teachers' effectiveness. New Mexico has had a Wallace Foundation grant for the last five years to support principals. Staff has worked with 82 districts and developed an Excel spreadsheet data tool and feels it is essential for PED to incorporate this tool into student accountability database.

Good data about student performance is crucial to effective instruction and strong leadership. Effective data systems are a requirement of the American Recovery and Reinvestment Act. ARRA requires data systems include 12 components from the federal America Competes Act. After data is received, principals have to answer instructional, policy, and political questions to help teachers improve student achievement. Mr. Winograd also provided information on superintendents and said 40 percent of New Mexico's districts have had three or more over the last five years.

Update on Cannon Air Force Base Mission and Community Planning.

Introduction. Colonel Stephen Clark, 27th Special Operations Wing commander greeted, welcomed the committee, and introduced General Hanson Scott, director, Office of Military Base Planning and Support. General Scott presented the history of Cannon, including the efforts to save the base from closure during the Base Realignment and Closure Commission realignment

Cannon Mission Briefing. Colonel Stephen Clark presents data regarding the growing mission of Cannon, the size and type of aircraft that will be housed at the base, and the housing and personnel needs of the airmen.

Overview of Regional Growth Management Plan. Lonnie Leslie, chair, Local Growth Management Organization, summarized the Regional Growth Management Plan and the effect the new mission will have on housing, land use, public and private utilities and infrastructure, education, transportation, health and social services, and public safety and emergency services.

Tour of Cannon Air Force Base. Colonel Ruedi Kaspar, 27th Special Operations Wing vice commander, guided the committee members on a bus tour of the various facilities on the base. The tour included a walk-through of a C-130M aircraft.

Tour of Blackwater Draw Clovis Man Archeological Site. President explained that Blackwater Draw, near Portales, is one of the more significant sites in North American archaeology. Early investigations at the site recovered evidence of a human occupation in association with Late Pleistocene fauna, including Columbian mammoth, camel, horse, bison, sabertooth cat and dire wolf. The site is overseen by the university. Dave Simon, state parks director, discussed regional state park operations, particularly with respect to Oasis State Park adjacent to the Blackwater Draw. Simon indicated the division has been talking to ENMU officials to include Blackwater Draw in the state park but additional study was needed. Jennifer Hoffman, deputy secretary, Department of Tourism, provided a brief overview of ecotourism, suggesting that by branding and marketing New Mexico as an ecotourism destination, the state will stand to gain sustainable tourism that values scenic beauty, wildlife, outdoor adventure, and cultural heritage.

June 4, 2009

The following members were present on Thursday, June 4: Chairman Luciano “Lucky” Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Patricia Lundstrom (for Rhonda S. King), Don Tripp, Edward C. Sandoval, Jeanette O. Wallace, Ray Begaye (for Nick L. Salazar), and Henry “Kiki” Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell, John M. Sapien, Clinton D. Harden Jr. (for Stuart Ingle), and Howie Morales (for Mary Kay Papen). Senator Vernon D. Asbill and Representative Anna M. Crook attended as guests.

Welcoming Remarks. Manuel T. Pacheco, interim president, New Mexico State University (NMSU), thanked the committee for its hard work on behalf of the state university. NMSU is in every county in the state through various entities. Agricultural extension offices of the College

of Agriculture and the Department of Agriculture (NMDA) are an asset and the fact that there is presence around the state is essential for the university to carry out its mission. The land grant university mission is one of the best providing education forming good citizens and sharing knowledge and research. The mission has expanded around the country to be more than just avocation of agricultural concepts, engineering, and the mining industry. NMDA is a producer, consumer, and a regulatory agency playing a fundamental role in multiple sectors of the state's agricultural and consumer service industries.

Representative Lundstrom asked Mr. Pacheco if he would be working on graduation rates. Mr. Pacheco responded that access has to be provided to a broad variety of students. While the measure of graduation rates is usually over a five- or six-year period of time, many NMSU students take nine or 10 years. Mr. Pacheco said he would like to look at re-establishing four-year tracks.

Vice Chairman Smith asked if there are models to re-establish leadership stability. Mr. Pacheco said leadership stability is a national concern. The average tenure of a university president at a large university is less than five years. Senator Sapien added that compensation packages also have to be addressed to be more diligent in creating incentives to stay.

Agriculture and the New Mexico Economy. I. Miley Gonzalez, secretary, New Mexico Department of Agriculture, reported there is a joint effort to address respective mission areas of the college and the department to take advantage of science, technology, and the creation of new knowledge on campus. The Department of Agriculture was established constitutionally by the territorial Legislature in 1911. The College of Agricultural and Consumer and Environmental Sciences are both constitutional and statutory. Mr. Gonzalez provided statistics for agriculture, livestock and crops, and an overview of production expenses. Cost of production in all agricultural practices has increased dramatically in recent years.

Tour of Curry County Agriculture.

Southwest Cheese. Southwest Cheese is one of the largest cheese producers in the country, responsible for 7 percent of the nation's dairy products. The plant is currently in the process of a \$100 million expansion. The plant supports a variety of local subcontractors from hauling, steel work, electrical, sanitation and training. In addition to producing cheddar, Monterey jack, pepper jack, Colby jack and Muenster, the plant produces whey protein, milk, and yogurt.

Rajen Dairy. Randy VanderDussen provided a tour of Rajen Dairy. New Mexico dairies average about 1,800 to 2,000 cow herds and produce about 80 million gallons of milk per month. It is the largest agricultural center in the state with about 15-20 inches of rain per year. Most dairies recycle and use water three to five times for cooling, sanitation of equipment, flushing of feed lanes, and fertilized irrigation.

Curtis and Curtis Seed. Blake Curtis provided a tour of Curtis and Curtis Seed. Native plants and wild seeds are hunted and harvested to restore natural cover to gaping wounds in the earth left by strip mining, highway and pipeline reconstruction, drilling activity, windmill installations

and a multitude of other assaults. Product includes grasses, legumes, trees, shrubs and wildflowers.

The Three-Tiered Licensure System and the Achievement Gap. Craig Johnson, program evaluator, LFC, reported that teachers have an enormous impact on student learning and closing the achievement gap. The disparity between the most effective and least effective teachers is large; distribution of quality teachers is unfavorable to high-poverty children and schools. Research shows that looking at a student growth model; quality instruction is 15 to 20 times the impact of other variables often cited to describe student achievement. The Legislature has invested more than \$278 million in general fund appropriations to implement the three-tiered licensure system and boost teacher pay. Teacher effectiveness needs to be identified, developed and rewarded. The licensure advancement process, specifically the professional development dossier (PDD), also has to be reviewed for improvement. The state has invested heavily in the three-tiered system because it was intended to increase student achievement by recruiting and retaining quality instructors. Of the \$278 million, \$82 million was appropriated to implement the minimum salary schedule. Legislation creating the system began with an emphasis on student success.

In 2007, LFC worked with the Legislative Education Study Committee (LESC) and the Office of Educational Accountability (OEA) to conduct an evaluation of the three-tiered licensure system, which found it has had a positive impact on teacher recruitment and retaining quality teachers, but was inconclusive on the impact on student achievement. A growth model looked at 2,336 teachers in fourth, fifth, and sixth grades and over 40,000 students. The NMSBA was used as a measure for student performance, the key accountability measure for the state. Performance was analyzed by the change in the scale score and proficiency levels. Tests that comprise the NMSBA in grades 3-8 are vertically equated. Scale scores within the same subject at adjacent grades are in the same matrix and can be compared. Student growth can be monitored across time as a student moves from one grade to the next.

Growth and assessment scores can be used to identify effective teachers. All groups of teachers produced average increases in student test scores; however, most were not large enough to see dramatic increases in percent of students proficient and above. Level three teachers who completed the dossier process were the most effective group of teachers and were the only group to have more students improve in both math and reading. For students to maintain proficiency levels, test scores must be increased, but to improve proficiency levels test scores must be increased by a much larger amount.

Level-three teachers had better performance than every other group of teachers; however, the difference is not significant considering the minimum salary for a level-three teacher is \$50 thousand with the minimum salary for a level-one teacher is \$30 thousand. No group of teachers produces an average test score increase near the level to move a majority of students forward. Level-three teachers have more students likely to see large scale score increases.

It is recommended that PED study and develop performance-based bonus pay pilot program seeking federal stimulus funding. The program should provide bonuses or incentives to high-

performing teachers in general and greater incentives to high-performing teachers that relocate to high need schools.

There are effective and ineffective teachers at every licensure level. Several teachers at all licensure levels produced negative average scale score changes and a few teachers produced large scale score changes. Guidelines do not make student performance on assessments a central or integral part of the PED submittal or teacher evaluation process. Documenting student achievement is part of the process, but is a minor factor in advancement through the licensure system and increasing salaries.

that the LFC reviews recommends PED convene a workgroup to discuss proposals that include more evidence of student outcomes in the dossier submission and teacher evaluation and establishing goals for expected growth on the NMSBA, grade levels, and content areas. It is also recommended that PED give districts more guidance on how to use student performance data to target instruction and professional development and continue to study the link between teacher effectiveness and student outcomes. PED should ensure principals review and verify the dossier is the teacher's actual original work and consider establishing penalties for submitting false dossiers. PED should also establish clear guidelines for districts regarding the proper level of assistance teachers can receive when developing and submitting dossiers. The LFC requests for data helped to identify quality control mechanisms and continually refine and improve data quality and functioning of the STARS system.

Students with advanced licensed, level-three teachers generally outperform their peers. Teachers at all licensure levels produce gains in student achievement; however, the differences in student achievement between licensure levels were not substantial. Variation in teacher effectiveness is wide and beginning teachers are over-represented in high poverty classrooms. Teacher accountability needs to be based on teacher performance as measured by student outcomes.

David Craig, program evaluator, LFC, provided an update on the achievement gap. The achievement gap between socio-economic groups has the most consistent impact on student achievement regardless of race or ethnicity. The achievement differences among low and high socio-economic groups exists within racial or ethnic subgroups, indicating the achievement gap between non-low income and low income students is the largest challenge in closing gaps. The achievement gap stays highest as students advance in grade levels. Student performance decreases as the achievement gap stays high.

LFC staff measured proficiency levels in the associated gaps and found they stayed high throughout a student's elementary school career. Although this methodology did not control for student mobility or variations in population size the decreasing levels of achievement and stable gap may be the foundation for future studies using a more controlled cohort.

Mary Rose C'de Baca, assistant secretary, Educator Quality, Public Education Department (PED), said PED expanded its capabilities in terms of reporting and is working towards the same goal as LFC. Three-tiered licensure was seen as a way to recruit and retain teachers of the highest quality. Since three-tier licensure took effect, New Mexico has seen an increase of over 27 percent of core classes taught by highly qualified teachers. Reciprocity has also improved

and salaries are more comparable. The state ranks third in the percent change for average teacher salary. The three-tier licensure system has met the legislative intent to elevate the teaching profession by shifting to a professional educator licensing and salary system. The system contains five levels of responsibility, including teachers, principals, superintendents, department administrators, and dossier reviewers. PED is committed to student learning being an integral part of teacher evaluations. Through the oversight of the Priority Schools Bureau, placement of experienced teachers in high-needs schools is improving. PED will act on the LFC's recommendation to convene a task force this interim to consider strengths and weaknesses of the dossier system.

PED does not dispute LFC's findings regarding the achievement gap. A number of reforms have been instituted over the last five or six years, including a school improvement framework and revamping the status of math and science education. Improvement has been seen in the NMSBA tests, the National Assessment Education Progress (NAEP) exam, and the ACT. Evaluations for the NMSBA only considered student test scores in reading and in math for fourth, fifth, and sixth grade. A more accurate analysis would be to have a measure of students that stayed in the system for three consecutive years. While scale scores are consistent throughout the state, the purpose of the psychometric characteristics of the NMSBA supports LFC's interpretation only in large groups. State standards become more stringent as students progress from grade to grade. Local and national evidence exists indicating generally all students experience a decrease in achievement in sixth grade. PED is investigating the alignment of the scores with the standardized tests and curriculum.

Growth in student proficiency has been a concern of PED. In 2008, PED received notice that its proposal to move to a growth-based accountability model was not approved by the U.S. Department of Education. Under the current system, adequate yearly progress assesses individual school performance based on current year information. The growth-based model would have allowed the state to measure a school or districts growth improvement over three years. The average 2 points improvement in reading for certain students can represent tremendous improvement. It is agreed that other systems to improve teacher performance in the classroom could be reviewed.

More time is needed to conduct a quantitative evaluation of the three-tier licensure system. A future need is to identify an assessment tool that would accurately measure student progress. Student learning is a complex process involving many components.

Senator Harden asked if there is reluctance to look at performance-driven data as a method to determine whether teachers move from level one to level three. Ms. C'de Baca responded that when the three-tier licensure system was developed it recognized that there had to be a factor for student performance. There is a requirement in the system requiring evidence of student growth.

Senator Morales asked if there has been improvement with the student data system called STARS. Ms. C'de Baca said STARS has tremendously improved. Districts have access to new reports so they can look at data to make changes in their curriculum and instruction. The state is depending on the quality of the data to have accurate information. The district has a responsibility in inputting correct data. Professional development opportunities are available

twice a year in a formal setting and individuals are available on a daily basis to talk to STARS managers. Senator Morales asked if there are incentives or discussions to distribute higher performing teachers to lower performance schools. Ms. C'de Baca said it occurs on a district-by-district basis and unions have a say on how additional funds are distributed.

Vice Chairman Smith asked if there was difficulty in exchanging information with the Legislative Education Study Committee (LESC) and LFC using the STARS program. Ms. C'de Baca said any request for information is provided; however, users do not have immediate access to data. Vice Chairman Smith said both committees should have instant access to information.

Third Quarter Accountability Reports from State Agencies. Dannette Burch, state budget director, Department of Finance and Administration (DFA), reported that accountability in government requires development of strategic planning, development of performance measures and targets tied to goals and objectives, interim reporting for key agencies, and year-end reporting by all agencies. Opportunity exists to improve annual program structure and performance measures. The executive has instituted a performance and accountability project providing an opportunity for DFA to work in six key areas, including education, safety, health, economic development, protection of the environment, and services. The reporting process requires agencies to track performance on a regular basis providing a comparison in quarterly reports and an established target. It also provides management information to evaluate efficiency and improve quality. Information is provided to the governor and the Legislature to make funding and policy decisions.

A majority of agencies report timely and are using a variety of reporting formats. Many agencies are meeting or exceeding many of their FY09 targets; however, some results are not optimal. Some agencies are challenged in meeting measures due to budget reductions and austerity measures. Agencies report the hiring freeze has affected their ability to maintain or acquire the resources necessary to meet performance targets and assure data quality. Most agencies are using performance measures and data to manage operations on a continuous basis. Information is used to make improvements, set goals, and strengthen procedures. Other agencies use information to identify additional resources and few agencies are still struggling to effectively use performance results to manage daily operations. Although most agencies state their measures are relevant, some of the measures may not be indicative of an entire agency's operation.

Agencies have raised concerns that quarterly reporting does not correspond with federal reporting periods. The process also needs greater transparency, uniform standards and a process for assessing the impact of outside factors to lessen the appearance that the rating process is subjective.

The system does not include incentives or disincentives for agencies to meet targets. Performance is given less attention and consideration during the budget process than funding issues. Measures often address very specific areas without reflecting overall agency operations and the process of measures is perceived by agencies as restrictive and cumbersome.

Agencies are asking for feedback on quarterly reports. Recommendations include the following: DFA and LFC should jointly prepare and implement an annual plan for performance reporting. Key agencies should continue to report quarterly as a performance management tool within state agencies and consider adjusting FY09 targets and expectations. Procedures should be developed to improve quarterly reports. Interim hearings should continue and continuation of interim hearings.

Accountability systems are important to demonstrate how public resources are used and hold the government accountable for resources. Most agencies report they are using performance information to manage programs.

Cathy Fernandez, deputy director, LFC, reported that the report card initiative began in 2006 to add clarity and emphasis to performance measures. Report card ratings show if a particular measure reached its target, if a target was narrowly missed by factors not in the agency's control, or if an area needs improvement. LFC intends to partner with DFA and agencies to improve measures and look at more meaningful measures if needed.

Representative Lundstrom asked what is used to build budgets if performance measures are not used. Ms. Burch said a hybrid method is used and is incremental with performance attached to it. Agencies are instructed to build budgets by identifying staffing needs (salaries, benefits) and an incremental basis providing information about their performance.

Update on Federal Stimulus Funding. Paul Aguilar, Principal Analyst, LFC, reported that education funding has to be encumbered within that amount of time with an extra three years for districts to spend it.

Fiscal stabilization was divided into two parts: \$260 million includes funds appropriated in HB2 for the funding formula as well as the hold back and \$57.9 million for the governor's discretion. According to press releases, \$2 million has been set aside for the Human Services Department general assistance program and \$4 million for the College of Santa Fe. DFA reports the due date for state applications is July 1 and the governor is still considering how funds will be expended. About \$165 million has been budgeted by school districts. PED is very concerned that distribution will be sent out on July 1 and federal funding will not be available.

Half the funds for Title I and IDEA-B grants are available for FY10 and FY09 if districts can spend them. PED has submitted a budget adjustment request (BAR) to DFA; however, it has not been submitted to LFC for review. School districts are still considering using the stimulus funds to pay for teacher pay increases or bonuses to make up for the retirement contribution swap passed last session. Nearly \$1 billion is available for competitive grants for education.

Children, Youth and Families Department (CYFD) submitted a \$1.2 million BAR increase for funds received from the federal medical assistance percentage rate increase for adoption and foster care services retroactive to October 1. The department received a \$1.2 million supplemental distribution for the same purpose in the last session and plans to submit a letter documenting the intent to revert funds to the recovery and reinvestment fund. LFC staff recommends funds revert to the general fund.

Grants are subject to the Brown amendment requiring funding to be appropriated by the Legislature; LFC staff is not planning on objecting to BARs in order to ensure timely distribution of funds. The majority of funding is expected to be distributed through contracts. Several communities are receiving grants from the safe drinking water and improved waste water treatment plant.

Representative Lundstrom asked if performance measures or report cards particularly for education are going to be required for the federal stimulus funding. Mr. Aguilar said it is clear that PED has oversight responsibility; however, funds will be distributed through existing formula channels. As long as districts align themselves with applications for special education and Title I, it can be expended in any manner they choose within set parameters.

June 5, 2009

The following members were present on Friday, June 5: Chairman Luciano “Lucky” Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Patricia Lundstrom (for Rhonda S. King), Don Tripp, Edward C. Sandoval, Anna M. Crook (for Jeanette O. Wallace), and Henry “Kiki” Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell, John M. Sapien, Stuart Ingle, and Howie Morales (for Mary Kay Papen).

Miscellaneous Committee Business.

Action Items.

Approval of LFC Minutes – May 2009. **Senator Cisneros moved to adopt the May 2009 minutes, seconded by Senator Leavell subject to review by Helen Gaussoin. Motion carried.**

Information Items.

May BAR Report. Director Abbey reported \$280 million in BARs were submitted in May; \$270 million were federal revenue. A majority of federal revenue was related to federal stimulus funding.

May LFC Budget Status Report. Director Abbey reported that a \$40 thousand reversion is expected at the end of the fiscal year.

April Cash Balance Report. Deputy Director Patel reported that as of the end of April 2009, 43 agencies had negative cash balances totaling \$1.7 billion in 97 funds. DFA stopped releasing warrants for agencies that have not provided information on how funds will be covered. Chairman Varela requested a status report for the end of the fiscal year by the next meeting from DFA and the State Treasurer’s Office. Vice Chairman Smith said a letter needs to be sent to DFA indicating the reports are unacceptable. Senator Cisneros recommended a copy of the letter be sent to the Attorney General’s Office making them aware of the inquiry.

LFC Staff Interim Plan for Capital Outlay. Information Item.

Review of Statewide Transportation Improvement Program. Manu Patel, deputy director, LFC, reported that the commission approved several Statewide Transportation Improvement Program (STIP) projects for ARRA approximately totaling \$179.1 million; allocations of funds were not equal for each district.

The Federal Highway Administration (FHWA) visited the state Department of Transportation to certify the SHARE financial management computer system. As of April 2009, approximately \$48 million in unbilled receivables were pending from the federal highway department due to issues with documentation from the SHARE system.

Approximately \$40 million was received in 2008 and 2009 and expended in FY07; however, it was not reflected in audit financial statements. The independent auditing firm will recall the FY07 report and reissue it to include expenses. In addition, the department's suspense accounts receivable has a balance of approximately \$13.1 million.

LFC staff will revisit the U.S 550 warranty issue; Mesa's contract included a performance warranty for pavement and structures valued at \$62 million. Eight years have gone into the warranty with \$9.4 million in expenditures. Mesa is offering to back out of the warranty for \$35 million. NMDOT has contracted with a private company to analyze the proposal before making a final settlement.

Brenda Fresquez, program evaluator, LFC, reported that the FY08 through FY11 STIP was established in June 2007. The department presents quarterly and out-of-cycle amendments for approval to the commission and to FHWA. Nine amendments were processed between June 2007 and February 2009, resulting in 560 program changes. The department does not have documentation supporting the decision-making process for project selection and prioritization. This is a previous finding. Each district uses a subset of the STIP database for managing programs, a process improvement put into place December 2007. Prior to that, one individual was responsible for entering all data and project information.

New Mexico has five Metropolitan Planning Organizations (MPOs) in Farmington, Santa Fe, Las Cruces, El Paso and Albuquerque. All MPOs, with the exception of the Mid-Region Council of Governments in Albuquerque, submit project changes for the STIP database to the districts. In November 2008, FHWA expressed concern that the Mid-Region Council of Governments was not using the database and district three had not provided timely financial information to the commission on three consecutive amendments.

The estimating process for highway construction projects needs improvement. Estimates are completed to ensure sufficient funds are allocated to complete a proposed highway construction project. The estimating process at the conceptual level is difficult and is a common issue in the highway construction community. The department recognizes that inflation, oil, and concrete price increases and sites and market conditions have influenced estimates. Although the department has tools in place, it appears the data available is not compiled or analyzed.

The design engineering procurement process needs improvement. The department follows a proposal process using qualification-based evaluation procedures to award professional service contracts for design engineering services. The department spent approximately \$77.7 million for design services between FY05 and FY08. According to the department, 11 out of 138 design projects valued at \$18.3 million were moved to construction between FY05 and FY08. The department could not provide completion dates for the design projects and a current inventory pending construction without manually reviewing each contract file. The documentation to support a fair and reasonable price for the design engineering services was limited and not within the permanent contract file located at the general office. Project manager's files contain evidence that hours were negotiated, but not the overhead rate and fee. There is not a standard process for conducting negotiations nor is it clear who is responsible for conducting negotiations on behalf of the department.

Miscommunication with the department's Contract Management Bureau (CMB) and the Office of Inspector General (OIG) has caused inefficiencies in audit tracking and risks of unnecessary expenditures. OIG is responsible for auditing professional service contract projects over \$250 thousand. CMB and OIG maintain separate lists of completed overhead rate audits that are not comprehensive or reconciled. The OIG audit process and overhead rate audits also need improvement. The standard audit program needs to be revised to include specific steps for auditing indirect costs.

The performance measure process needs improvement. The department's monitoring plans were incomplete; performance measure definitions were not always specific and clear.

It is recommended that the department develop detailed procedures, methodologies and documentation standards to support the selection, prioritization, and reprogramming of STIP projects to ensure the critical needs of the transportation system are addressed. The department should provide bi-weekly updates to the amounts billed and payments received from FHWA and ensure the economic analysis of the warranty by-back offer is thorough and conclusive. It is also recommended that the department develop a management report comparing the final construction costs with the engineer's estimate on highway construction projects. The information would improve the estimating process, limit the risk of higher bid prices, and provide performance measure data demonstrating improvement in the engineer's estimate. The department should develop a standard process and procedures for negotiating professional service contracts to include detailed documentation for the overhead rate and profit or fee. The department should centralize all negotiation documentation within the permanent contract file retained at the department's general office. The department should review and perform a comprehensive update of the OIG's standard audit program to include specific procedures for auditing and direct costs. It is also recommended that the department ensure the indirect costs are evaluated thoroughly including review of supporting documentation and review and update all monitoring plans to include accurate measure definitions and detailed methodology ensuring validity and reliability of the performance measure.

Max Valerio, deputy secretary, Programs and Infrastructure, Department of Transportation, said a lot of resources have been expended to conduct manual efforts satisfying FHWA in billing requirements for reimbursement. The department conforms to state and federal requirements

making sure it is eligible for all available funds. A working committee involving district engineers is assembling a new commission policy governing how STIP projects and the process are prioritized.

Representative Bratton asked if funds were set aside or put into a trust fund for the U.S. 550 warranty. Mr. Valerio said the state of New Mexico paid \$62 million for a 20-year warrant and in return will receive \$114 million for a limit of liability. Currently, the limit of liability is at \$118 million and continues to grow.

LFC Staff Objection to Budget Adjustment Request for Department of Health Trauma Care.

Gary Chabot, principal analyst, LFC, reported that the department requests a BAR transfer of \$800 thousand from the other finance and uses category in the Developmental Disabilities Program to the Administration Program to pay for expenses charged to the trauma system fund. The purpose is to increase cash balances in the fund for use in FY10. Funds became available due to a retroactive increase in the federal Medicaid matching rate (FMAP) under ARRA. The transfer will limit the reduction in the trauma fund to approximately \$475 thousand or 8.8 percent in FY10. Objection to the BAR includes language in the 2008 General Appropriation Act (GAA) stating that, unless otherwise indicated, appropriations are for expenditure in FY09. Language in the 2008 GAA also states appropriations to the Developmental Disabilities Program in the other financing uses category is for Medicaid waiver services. Laws 2009, Chapter 126 (HB920), requires unexpended balances attributed to an increase in FMAP be credited in the New Mexico Recovery and Reinvestment fund to be used for shortages in general fund revenues in FY09, FY10, and FY11. Additional considerations include the decline in revenue forecast and a large waiting list for the in-home care program for the developmentally disabled. LFC staff feels it is not legislative intent to establish a precedent to be able to BAR out of other finance and uses program to any other program. Staff agrees that trauma authority needs additional funding and recommended maintaining the program at \$5.5 million, the original FY09 appropriation. The executive recommended reducing the appropriation to \$4 million, which was adopted by the finance committees. Other alternatives were offered such as using emergency supplemental funds, fiscal stabilization funds under ARRA, and other sources within the Department of Health. A supplemental appropriation could also be requested to restore funding in the 2010 legislative session.

Ms. Burch said the department disagrees that the BAR is legally deficient. Stimulus funding provides an opportunity to lessen the impact in FY10. Expenses to be paid are from May 15 to June 30, 2009, and any remaining balance will revert to the general fund or the New Mexico Recovery and Reinvestment fund. The action will create a fund balance in the trauma fund from the general appropriation fund in FY09 carried to FY10 and will also be expended for equipment, lessening the impact of FY10 reduction.

Duffy Rodriguez, deputy secretary, Department of Health, said DOH had full agency, category and program transfer authority. The legislation concerning the transfer of surpluses created by an increase in the FMAP does not preclude those surpluses from being expended; rather, it directs what is to be done with the unexpended balance of an appropriation attributable to an increase in the FMAP. By virtue of the budget adjustment authority in HB10, the Legislature has authorized surplus general fund appropriations attributable to the increased FMAP to be expended on

purposes other than those for which they were originally appropriated. Using the \$800 thousand in this manner is consistent with the stated purposes of the ARRA, which includes stabilizing budgets and minimizing the reduction in essential services. Using the surplus general fund to reduce the waiting list would not be prudent at this time and could create a funding cliff in the next or future fiscal years. The waiting list is necessary to keep costs within available resources. Enrollees in the in-home care program for the developmentally disabled cannot be removed from the program once enrolled. The waiting list can only be responsibly reduced if funding is available to meet the cost associated with increased enrollment in the long term. The Legislature did not provide sufficient funding to cover increased enrollment in FY10 and the prospects of such funding in future fiscal years are not great.

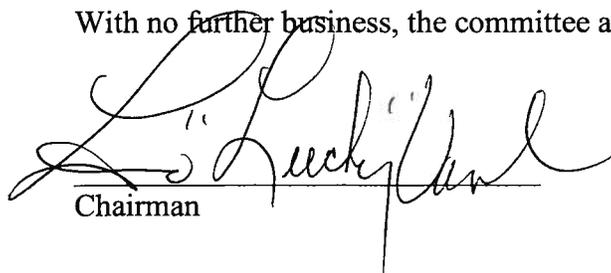
Mr. Chabot said there are over 80 instances of language in the GAA where the Legislature directs appropriations to be used for certain items. It is not the intent of HB10 to negate language and the meaning of that language. With regard to the waiting list, it would be a bad precedent to allow transfers out of other financing uses in the developmental disabilities program for other use. The intent of the Legislature was never to allow agencies to use savings from FMAP any way they wanted but to create a fund to be used by the governor with concurrence of the Board of Finance to meet shortages in revenue. Remaining funds would be available in FY10 and FY11 for appropriation by the Legislature for usage in shortage of revenue.

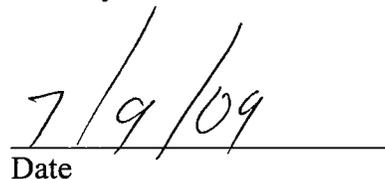
Dan Weaks, registered lobbyist, New Mexico Hospital Association, testified that hospitals appreciate the effort being made to restore funds. The result from the appropriation made by the Legislature was a 35 percent reduction from the FY09 budget.

Mike Miller, registered lobbyist, testified that the fund started with three trauma centers in the state. Two level-three trauma centers have been added and three level-four centers have been established.

The committee objected to the BAR.

With no further business, the committee adjourned at approximately 10:40 a.m.


Chairman


Date

