

MINUTES
LEGISLATIVE FINANCE COMMITTEE
June 18-20, 2008

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) to order on Wednesday, June 18, 2008, at 8:45 a.m.

The following LFC members and designees were present on June 18:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Don Tripp (for Brian K. Moore), Rhonda King, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Sue Wilson Beffort, Mary Kay Papen, Bernadette Sanchez (for Phil A. Griego), Leonard Lee Rawson, H. Diane Snyder (for Joseph J. Carraro), Carlos Cisneros,. Senator Cisco McSorley (for Pete Campos) Representatives Larry Larranaga attended as a Guest.

Welcoming Remarks and Community Input. Chairman Smith thanked the University of New Mexico for hosting the June Legislative Finance Committee (LFC) meeting.

University of New Mexico (UNM). Dr. David Schmidly, UNM President, provided welcoming remarks and gave a copy of UNM’s 2007 annual report to the committee. Dr. Schmidly began with a synopsis of activities as his first year as President of UNM. The University is very concerned with the impact of the high cost of gasoline for commuting students. A mass transportation system is being designed to make more extensive use of the Railrunner and city and university bus systems. UNM is also experimenting with a 10.5 hour 4 day work week for certain staff to give relief.

Other initiatives were detailed to the committee. A major energy conservation program may save as much as \$50 million in energy costs over the next ten years through various efficiency measures. The University is working toward more performance based budgeting and accountability. The University has also increased recruiting efforts in the eastern part of the state. There is room for growth particularly in graduate school programs. Public education and community college partnerships remain important for STEM growth. The new campus in Rio Rancho will further enhance the partnership with Central New Mexico community college.

City of Albuquerque and Albuquerque Public Schools. *City of Albuquerque.* Mayor Martin Chávez gave welcoming remarks and an update on the city’s economy. Mayor Chávez reported that, construction industries are performing weakly. The city closed a \$64 million gap in the city budget this year due to the slowdown in construction and gross receipts tax reduction put in place last year. The city has worked hard to attract new industries and jobs to the community. Mayor Chávez expressed concern over the nation’s dependence on foreign oil and encourages the state to continue to look at alternative energy sources. Mass transit is becoming increasingly more important. The city is working toward becoming more sustainable economically as well as environmentally. Four major film projects in Albuquerque have resulted in \$160 million direct spending

due to film credits. Mayor Chávez believes the state is in a good position to encourage capital outlay investments from energy resources.

Albuquerque Public Schools (APS). Linda Sink, interim APS superintendent, introduced the leadership team and read a letter from Winston Brooks, the new Superintendent. Ms. Sink stated that superintendent Brooks is experienced with working in a school district with diverse and economically disadvantaged students. APS is the largest school district in the state, and the 34th largest district in the United States. Superintendent Brooks requested to meet with the LFC soon to review goals. The committee heard further detail about new and newly expanded schools. In May, \$16.5 million was invested in the community through construction projects. Schools are being redesigned in the community schools concept for community joint use agreements. APS is also pursuing extended evening and summer learning opportunities for children and adults.

Chairman Smith stressed cautious optimism as oil and gas revenues are non-recurring. New revenue projections show that the state has been hit hard from a decline in gross receipts, corporate and personal income taxes. Oil and gas production have been on the decline in the state for 20 years. The state does need to move more toward renewable sources of energy but it can not be done overnight. There will be many demands on the budget next year for education, universal health coverage, retiree health care, and highway department dollars. There will be a greater shift to local governments to help address the state's funding needs. The LFC requested reports from the City of Albuquerque regarding tax improvement districts (TIDS) projects.

Rio Rancho Public School Program Evaluation. Charles Sallee, LFC program evaluation manager, presented a LFC review of Rio Rancho Public Schools (RRPS). LFC wanted to evaluate the operations of a school district to identify best practices. RRPS was selected for review because of size of student population, amount of state revenue, and experience with school construction. The program evaluation assessed district governance practices, resource allocation and spending decisions, and efforts to improve teacher quality and student performance.

RRPS focuses effort and resources on the classroom which has helped produce positive student outcomes, while relying almost entirely on state equalization guarantee (SEG) funding for operations. The district is not disadvantaged by the funding formula in how it treats student population growth. The district does need to improve its financial planning practices for opening new schools. RRPS needs to maximize its general obligation bond and 2-mill levy property tax revenue for capital costs and ensure modest cash balances are available to cover less costly items. Low income and other special needs students lag behind their peers and are not making achievement gains at a fast enough rate to close the gap. Financial resources and more qualified teachers are not always aligned at schools with the highest concentration of low-income students.

Craig Johnson, LFC program evaluator, presented key findings on the district's finances. The current funding formula does not under compensate RRPS for student population growth. The current funding formula provides districts with 1.5 units for each student

over one percent, plus .5 units for all growth students. To receive funding for growth, a district must meet the requirement of student growth that is equal to or greater than one percent. Between school year 1996 and 2008, enrollment at RRPS has grown an average of 6 percent per year. Since school year 2004, the public school funding formula has provided Rio Rancho the same revenue per student for growth as per student revenue generated from prior year membership. This suggests the current formula funds rapidly growing districts at a level commensurate with or better than districts with stable enrollment.

Better budget planning could ease financial pressures of opening new schools. RRPS capital program is in a good position to fund and manage future growth, but property tax yield controls will limit growth in SB-9 funding for ongoing maintenance and equipping new schools in the near future. Since 1999, the state has invested significantly in RRPS schools, with the Public Schools Capital Outlay Council funding over \$118 million in projects. The district continues to benefit from a 67 percent state matching rate of projects, partly as a result of undervalued vacant non-residential property. The way the state calculates the matching rate tends to stabilize the rate over time because it uses a three year rolling average. Rio Rancho will not feel the effects of its rising property values for three more years. The LFC encourages the county assessor to keep Rio Rancho property at their current and correct value so public school capital outlay has the most current information to make local match decisions.

RRPS uses an annual incremental budgeting process, which does not lend itself well to a fast growing district. Failure to budget expected costs allowed RRPS to claim and receive emergency supplemental funding totaling \$1.9 million from the PED. To date, RRPS had not budgeted the funding for items identified in the approved application. LFC will follow up and report to the committee if the funding was spent as intended, and whether any will remain for the next fiscal year.

Mr. Sallee presented key findings on student achievement. RRPS exhibits many of the best practice qualities for successful districts and schools. The long tenure of administrators is a key contributing factor to the district's success. Better use of financial data would help RRPS make certain that instructional costs yield desired academic benefits and align resources with student needs. RRPS student achievement exceeds state scores and most peer schools in Albuquerque, but more progress is needed to improve student achievement levels for low-income students.

Closing the achievement gap is a stated policy goal for the State of New Mexico. The greatest predictor of student achievement appears to be the percentage of low-income students in the schools. The three tiered teacher licensing system has shown progress in boosting compensation and student achievement. Students in Rio Rancho classrooms with teachers who had completed the professional development dossier perform at a higher level than district and statewide averages. RRPS reports 122 teachers that have moved through the dossier process.

Rio Rancho Public School District (RRPS). Dr. Sue Cleveland, RRPS Superintendent, provided a response to the LFC review of RRPS. The district will incorporate the committee's insights into continuous improvement efforts. Dr. Cleveland reported that RRPS has not been fully funded for growth. In the years prior to 1999, RRPS was able to cover all costs with the average unit and the additional .5 units. During the years of "prior year funding", RRPS students were getting two thirds less than any other comparable student in New Mexico. This year, RRPS broke even with \$3 thousand remaining for the opening of new schools. Next year RRPS will take a loss because the district will need to grow 6 percent to break even. Dr. Cleveland asked for the legislature to look at the issue of one-time start-up funding for new schools.

Dr. Cleveland identified other areas of concern. Bonding capacity has not been able to keep pace with growth in Rio Rancho. County assessors should be held responsible for keeping property value tax databases current. RRPS has had to work within negotiated union agreements when relocating teachers. A strong school is a mix of experienced teachers, young and dynamic teachers, and mid-career teachers. RRPS is working towards putting extra resources in schools depending upon student needs.

Public Education Department (PED). Dr. Veronica Garcia, PED secretary, provided the PED response to the LFC review of RRPS. The New Mexico Standards-Based Assessment is a summative assessment to provide a snapshot in time of student performance and to meet the requirements of No Child Left Behind (NCLB). The PED has been encouraging districts, particularly those that are low performing, to implement short-cycle or what is known as formative assessments quarterly. These assessments provide timely input to teachers to modify instruction. RRPS uses the Northwest Evaluation Association for its short-cycle assessments, which are administered three times a year. The district has also developed its own short-cycle assessment for math, which is administered quarterly.

PED agrees that RRPS year-end cash balances have steadily declined since 2002. A school district that has experienced significant growth also incurs additional expenditures in providing student programs at new schools. Regarding RRPS utilizing the emergency supplemental in its cash reserve, PED did not believe it was prudent to allow the district to utilize it for recurring expenditures. The district's dangerously low cash balance put it in danger of a lower bond rating, which meant that tax dollars for capital outlay would not be maximized for their intended use.

The committee feels that discussions over statutory changes and PED rule changes are warranted to better clarify the intent of supplemental distributions, and reconcile with the General Appropriation Act.

Representative Varela requested a report from the Santa Fe public schools regarding equity for custodians, secretaries and clerks despite funding in the General Appropriation Act specifically set aside for that purpose.

Chairman Smith encouraged cities and counties to keep school districts in mind when issuing industrial revenue bonds, and school districts to coordinate the planning of new school sites with other local governments to ensure proper infrastructure.

Status Report on the Implementation of Cyber Academy/Innovative Digital Education and Learning. Aurora Sánchez, LFC information technology evaluation manager, began the status report with a history of the development of digital education in New Mexico. In 2006, educational entities in both public and higher education were already delivering some form of digital education. Ms. Sánchez provided a hand out of digital education-related or IDEAL-NM (Innovative Digital Education and Learning) related funding over five years of \$50 million.

The Cyber Academy Act was enacted in 2007 to establish a distance learning course delivery system. The Act required selecting regional hosts, providing technical and program support, ensuring that all distance learning courses are taught by highly qualified teachers, giving priority to students with the greatest need, ensuring that the selected learning management system is compatible with school district data collection analysis and reporting systems, ensuring deficiencies in infrastructure, hardware and software are corrected, and complying with rules about confidentiality.

In 2007, HED received \$7.5 million of a \$10.8 million request to implement IDEAL New Mexico knowing that in the next five years they would be requesting another \$28 million. In 2008, HED received \$750 thousand for the New Mexico Cyber Academy, which is part of IDEAL-NM. The Cyber Academy program is being established as a collaborative effort between PED and HED. Technical deficiencies at the public schools are being addressed through the Ed-Tech fund at a cost of \$5 to \$6 million per year. Non-dedicated telecommunication connections may degrade course delivery.

The learning management contract for \$7.8 million is in place for statewide use. A breakdown of what the contract will pay for, and which deliverables retainage can be applied against was provided. The system will replace 22 separate individual learning management systems in public and higher education. Inter-government agreements (IGAs) with New Mexico State University (NMSU) and the regional education cooperatives (REC) are in place to provide teacher training, and fiscal agent services totaling \$354 thousand. To date there have been 38 teachers trained from 20 districts. Teachers are paid \$150 per student per class. In the spring of 2008, IDEAL-New Mexico offered 55 courses to 186 students from 13 districts, 49 students participated in credit recovery courses.

Ms. Sánchez detailed issues identified in IDEAL. Required rules have not been published and disseminated to avoid program replication. PED has statutory responsibility, but HED received the funding. A stronger governance structure may be required to ensure the statutory requirements are followed and the funding is being used as intended. No sustainable funding source has been identified except for legislative appropriations. Costs to create courses may exceed fees generated. Technology is constantly changing so

standards for districts have to keep pace. IGAs required NMSU and RECs to report back to PED, but no reports are available as of yet.

Higher Education Department (HED). Dr. Reed Dasenbrock, HED secretary, stated that New Mexico is the first state in the nation to create a statewide eLearning system to provide online learning from PreK through college and into the workforce for continuing education and professional development. HED and PED are providing P-20 support through a common statewide eLearning technology infrastructure, and eLearning service center for P-20. Dr. Dasenbrock summarized key deliverables that have been met. A live web portal for school and student access is active and was shown to the committee.

The signing of the statewide learning management system contract begins with vendor hosting. A plan to move to in-state hosting in 2 to 3 years will require a \$2.5 million capital investment and is within the original budget request.

The initial plan for IDEAL-NM proposed a \$5 million operating budget to be supplemented by fees from schools districts. PED and HED have each received only \$1 million, and a \$1.5 million gap still exists for each department.

Public Education Department (PED). Veronica Garcia, PED secretary, responded to the LFC status review. The High School Redesign Act requires each school district to offer a program of distance learning, advanced placement and dual enrollment courses. PED expects IDEAL-NM to reduce geographic and capacity barriers particularly for smaller districts. Curriculum developers must use NM standards and benchmarks with performance standards and ensure students will do well on state assessments.

The cyber academy rule was vetted through the executive team, and a public hearing is scheduled August 19 and will replace the distance learning rule. PED sent non-regulatory guidance to districts to prepare in advance of the rule. State-wide communication is in process to prepare for opening day of the IDEAL-NM cyber academy in August 2008.

The committee heard discussion on various benefits of on-line learning. There is no significant difference between the performance of students in an on-line class as opposed to face-to-face instruction. Some of the advantages of an on-line class include better access for administrators to review teachers, students and classroom learning environments. Administrators can also better ensure that what the teacher's are teaching align to the standards. On-line classes are also an opportunity to engage more parents in their child's learning. Homeschoolers will be allowed to access IDEAL-NM courses by registering with their local school district.

IDEAL-NM may be able to support adjudicated youth in the Children, Youth and Families Department as early as next year. The state may also be able to use IDEAL-NM to reduce recidivism rates for incarcerated adults due to access to basic and higher education. More complex issues exist for these populations due to internet access.

The committee is concerned about the need to ensure external oversight in the approval process for information technology projects.

The committee heard from a high school student and a school-site coordinator regarding their positive experiences with using the IDEAL-NM cyber academy during the pilot process.

University of New Mexico Hospital Financial Update. *University of New Mexico Hospital (UNMH).* Steve McKernan, UNMH vice president of clinical operations, presented a report on the financial status of the hospital and the Health Sciences Center. State capital appropriations this coming year for medical equipment provided \$2.4 million for expansion of the cardiac catheterization lab for heart and vascular services, and \$2.6 million for expansion of PET/CT imaging for the diagnosis and treatment of cancer, heart disease and neurological diseases. Each year 200,000 patients are treated at UNMH.

An income statement was provided and various expenses and revenues further detailed. The hospital experienced enormous growth between 2007 and 2008. Revenues grew almost \$80 million and are projected to be \$356 million in FY08. Much of the growth is due to a substantial increase in business, mainly related to opening of a new wing. Closing the Lovelace facility on Gibson had a significant change in the admission patterns for Albuquerque.

The hospital has been receiving funding from the state coverage initiative (SCI). The SCI is an outcrop of the SCHIP program that allows adults not otherwise eligible to enroll in Medicaid. Enrollment in the program has been growing and without it the hospital would have seen greater uncompensated care costs.

There are about 14,000 New Mexicans enrolled in the program, and additional enrollment is expected. When Congress takes up an SCHIP reauthorization bill next year, the state will not likely be able to use SCHIP funds for the SCI program.

In addition to Medicaid payments for services, UNMH receives graduate medical education (GME) funds, indirect medical education (IME) funds, disproportionate share hospital (DSH) funds, and an annual upper payment limit (UPL) payment.

In a federal cost savings effort, the Centers for Medicare and Medicaid Services (CMS) proposed new rules in 2007 to reduce Medicaid payments. UNMH will be impacted significantly by rules governing the UPL for government-operated hospitals and providers. Under the new rule, government providers will not be allowed to claim the upper payment limit, which exceeds actual costs, to subsidize uncompensated care. Another rule will eliminate payments. If the rules are implemented, UNMH stands to lose about \$40 million in federal Medicaid revenue. The federal rules, originally scheduled to take effect May 25, 2008, have been delayed until August 1, 2008, and Congress is still considering legislation to extend the current moratorium until April 2009. [Subsequently,

Congress passed and the President signed a supplemental appropriation bill that included the moratorium on implementation of the Medicaid rules.]

UNMH is partnering with UNMH providers to build and manage a for-profit, acute care teaching hospital on the new UNM campus in Rio Rancho. The hospital is expected to open in 2010.

A state regulation requires health plans to pay the hospital billed charges for trauma care. Because the regulation is promulgated by the Department of Health (DOH), it is not binding on insurance companies in the State of New Mexico. UNMH is working with health plans to be compliant with state regulation. Trauma care at rural hospitals would be significantly enhanced if they received the level of trauma care reimbursement required from insurance companies.

Action Items

Chairman Smith moved to adopt the May 2008 minutes, Vice Chairman Varela seconded the motion, and it passed with no objection.

David Abbey, LFC director, presented to the committee the FY09 professional services plan. Recommended contracts included \$28 thousand to Ralph Vincent for information technology support; \$29 thousand to Helen Gaussoin for editing and public relations; \$27.6 for UNM economic forecasting (with DFA and TRD); \$10 thousand to Anne Hanika-Ortiz for recording secretary; and \$20 thousand to Pamela Galbraith for a nursing home regulation study. The committee also recommended an increase in the hourly wage from \$21 to \$24 for the recording secretary. Senator Cisneros made a motion to adopt the contracts, Senator Papen seconded the motion, and it passed with no objection.

Proposed changes to the LFC policies and procedures manual were detailed to the committee. The employment policy has been updated consistent with the Fair Labor Standards Act. Two new sections were added to be consistent with the Government Conduct Act. A section was added to prohibit outside employment which would interfere with the performance of official duties, or be prohibited by law or professional ethics, and further requires staff to disclose outside employment; and, a section was added to address "conflict of interest" conduct for staff. LFC received ethics training and have signed the ethics "code of conduct" required for all state employees. The committee requested an update as to how agencies are meeting that statutory requirement.

Information Items

Director Abbey presented highlights from the 3rd quarter FY08 investment performance report for the State Investment Council, Education Retirement Board, and Public Employees Retirement Board funds. All funds missed their respective benchmarks for the one and five year periods. Results reflect continued turmoil in financial markets as well as a "flight to quality" in the credit markets. Some active manager underperformance has

also contributed. All agencies should reconsider allocations to active managers compared to passive management.

The May 2008 cash balance report excluding capital project and debt service accounts was provided. The committee heard discussion on various agency accounts of interest.

The May 2008 budget adjustment summary report showed total budget decreases of \$37.4 million, increases of \$81.2 million, transfers within divisions of \$48.3 million, and transfers between divisions of \$5 thousand. The BAR activity for the month of May is greater than other months as agencies prepare for year-end expenditures and align revenues with projected expenditures.

The May 2008 LFC budget status report showed a surplus of \$70 thousand.

Mr. Patel updated the program evaluation work plan as of June 15, 2008. Current priority program reviews include Department of Health and nursing homes; General Services Department procurement division effectiveness; Higher Education Department student financial aid; Human Services Department and effectiveness of physical health managed care, use of Medicaid funds and services provided; and, Workforce Solutions Department performance measures. Current priority information technology reviews include determining if Department of Information Technology (DoIT) information systems and communication rates are reasonable, supportable and competitive; and, Department of Public Safety Automated Fingerprint Information System (AFIS), and status of implementation.

Chairman Smith adjourned the committee at 5 p.m.

Chairman Smith called the LFC to order on Thursday, June 19, 2008, at 8:30 a.m.

The following LFC members were present on June 19:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Don Tripp (for Brian K. Moore), Rhonda King, Henry "Kiki" Saavedra, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and; Senators Sue Wilson Beffort, Mary Kay Papen, Bernadette Sanchez (for Phil A. Griego), Leonard Lee Rawson, H. Diane Snyder (for Joseph J. Carraro), and Carlos Cisneros. Representatives James Roger Madalena, Nathan Cote, Raymond Begaye and Senators Ryan, and Lovejoy attended as a Guest.

Members of the UNM student union welcomed the LFC to the University. The students encouraged the legislature to look at tuition in progressive ways to keep tuition costs down. Other areas of interest to students included expanding work study programs and mass transportation.

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Alternative Energy Production and Electricity Transmission.

Economic Aspects of Electricity Transmission. *National Renewable Energy Laboratory.* Dr. David Hurlbut, senior analyst, presented a high level review of alternative energy production and electricity transmission. The next day's wind and sunshine can be difficult to forecast. When these resources become a larger portion of energy production, unexpected weather variations can matter. Improved forecasting is a significant area of research. An accurate forecast for wind and sunshine can increase the amount of balancing reserve needed. Operators also maintain spending reserves to regulate the quality of the electrical grid. Electrical equipment works more efficiently with less wear and tear if the power itself is at a constant frequency and optimal voltage. There are costs related to congestion management and too much power flowing over transmission lines of insufficient capacity that can cause equipment to burn out.

Texas is the first place in the country with a large scale integration of wind power. The 5.3 GW Texas has today is now twice what is installed in California. Next month, Texas public utility commission will likely approve a transmission plan that could double or triple that amount. The first high dollar transmission cost Texas encountered was due to transmission congestion. The first wave of wind power construction took place in 2001 and 2002. The existing transmission system was designed to bring in a maximum of 400 MW of power to a local economy based primarily on oil and gas exploration. Almost overnight, independent power producers added 755 MW of wind power capacity. Including wind forecast in the operation planning is critical. The congestion costs came to around \$5.5 million per year. Texas learned it is good to address congestion issues ahead of time.

Counterbalancing the grid related costs are the sources of grid related value, the most important of which is the generator's capacity value. This is the amount of power that a grid operator can bank on being available during the one hour of the year the system demand is the greatest. A generator with high capacity value reduces the need to have other units to cover peak use. Utilities need to maintain a certain reserve margin to ensure peak-period reliability.

The Role of State Government. *Renewable Energy Transmission Authority (RETA).* Robert E. Busch, chair, provided a report on the role of state government. RETA obtains financing through revenue bonds, contracting, and eminent domain powers to develop projects. Storage projects include technologies that convert, store and dispatch electricity with a renewable energy emphasis. Thirty percent of energy in RETA must be renewable. Up to 70 percent may be from traditional sources. Solar has potential to generate 10,000 MW, and wind 15,000 MW. New Mexico at peak only needs 65 percent of that amount. RETA will allow New Mexico's surplus solar and wind energy resources be exported to out-of state markets.

Mr. Busch provided detail on the role of state government. One can create a wind generation project that can compete with today's energy sources of fossil fuels. Most solar and wind resources are in largely isolated areas of the state. High voltage

transmission lines are needed to get power to the market place. A 1,000 MW transmission line, a third of all power used in the state, costs \$1 million per mile to build, not including maintenance. Generally developers of modest size projects have difficulty getting into the grid to sell their power in a way that is economic. RETA facilitates getting the power out in an economic way.

Drivers for renewable power include fuel price uncertainty and an imminent state and federal carbon emission policy. Twenty percent wind will reduce electric sector CO₂ output by 25 percent; reduce electric sector water use by 8 percent; reduce natural gas consumption by 11 percent; support nearly 500,000 jobs often in rural areas; generate \$500 million per year to landowners; and generate \$1 billion per year in local property taxes.

A 204 MW wind project was built in 2003 in DeBaca and Quay counties for PNM. This project generates \$550,000 per year in lease payments to landowners, \$450,000 per year in payments in lieu of taxes to county and school districts, and will provide \$40 million in economic benefits for the area over 25 years.

Development of Transmission Capabilities. *Tri-State Generation and Transmission Association.* Joel Bladow, senior vice president for Transmission, Tri-State Generation and Transmission Association, provided a high level review the development of transmission capabilities. The committee heard discussion about the process, technical issues and challenges in planning, producing and delivering wholesale electric power to members in a reliable way. Developing transmission is a mass interconnected system, which addresses security issues and makes transmission more affordable. If you are not interconnected and have enough resources idling, you cannot lean on your neighbors when things go wrong. What happens in California, for example, can impact New Mexico.

The Energy Policy Act of 1992 began the transmission planning process to allow wind and solar developers to put their generators on the grid and sell to someone else; however, a local utility could oppose the effort. The committee heard discussion on various issues that have impacted planners:

- Previously, there was a process in place that only allowed for sharing of limited information. The incumbent utilities had all the knowledge, and planners on the outside did not know the transmission plan.
- In the Energy Policy Act of 2005, the Federal Energy Regulation Commission (FERC) issued standards and made reliability mandatory as opposed to voluntary. Previously, the industry set standards and everyone observed it. FERC imposed a \$1 million fine per instance per day for violations.
- FERC issued planning standards that forced an open forum for developers for access to information to build projects and reliably connect to the grid.
- Rural Utilities Service (RUS) now requires 5 and 10 year work plans. FERC requirements prohibit the release of certain data, while RUS requires all data to be released.

- The Western System Coordinator Counsel participation is now mandatory and is the organization responsible for coordinating the reliability of the grid.
- State requirements that impact identifying the transmission line, financing, permitting, right-of-ways, and construction costs are detailed. Start to finish transmission may take as long as ten years. The challenge is bringing renewable resources on in a timely fashion.

Regulatory Issues. Pat Wood, III, former chairman of the federal energy regulatory commission (FERC), discussed regulatory issues. No more than 10 percent of a customer's retail bill pays for transmission costs. By the end of this century, power will be generated by nuclear, wind and solar, and the bridges to that end will be natural gas and coal.

The Public Regulation Commission (PRC) sets the retail rates for companies, and provides permits to cross New Mexico jurisdictional land. In 2005, the federal government passed the Energy Policy Act which allowed for limited federal citing authority over specific corridors that have been designated as national interest transmission corridors by the Department of Energy (DOE). In Arizona, the DOE designated a national interest transmission corridor from southern California eastward to Arizona. The Arizona Corporation Commission denied a permit application year. Any denial by a state or a state's failure to act on a permit application within one year can be heard under the Energy Policy Act. This hearing will test the impact of the federal role in permitting a local right-of-way.

FERC's role sets wholesale transmission rates that are less than 10 percent of customer retail rates. Open access requirements make sure the grid is used fairly on behalf of all generators. The Bureau of Indian Affairs (BIA) role in the permitting process is clearly defined, and adds another layer of federal government involvement in getting transmission lines built. States in the southwest have adopted a renewable portfolio requirement for the future.

New Mexico's transmission capabilities are old, and any potential new generation additions will not fit onto the existing grid. In Texas, the state instructed the utility commission to get the transmission built ahead of time. The key issue and biggest obstacle in establishing transmission is cost allocation. One way is to put it in the utility company's rate base. Concern was raised over customers in other states benefiting but not paying by way of a rate base. FERC came up with multi-utility regional tariffs to spread the cost throughout the region. Another way is for utilities to agree in advance and split up the costs. This way, the utilities that build it and people that invest and back it, are going to realize a return on their investment as there is a customer base to pay for the grid. Merchant transmission is another avenue.

Obtaining Rights-of-Way Corridors and Land Owner Rights. *State Land Office.* Pat J. Lyons, Commissioner of Public Lands, (CPL), provided a report on land owner rights and obtaining rights-of-way corridors in New Mexico. Private land is 43 percent, BLM land 34 percent, tribal land 10 percent, trust land 11 percent, and state land 2 percent. A

detailed listing of land office trust beneficiaries was provided. Revenues from renewable resources such as leases, rights-of-way and interest, are distributed through the land maintenance fund (LMF). Revenues from non-renewable resources such as royalties, and land sale proceeds, are distributed to beneficiaries through the land grant permanent fund (LGPF).

Oil and gas activities on state trust lands account for 94 percent of land office revenues. Distributions from the two funds for FY03 to May 2008 were \$2.7 billion and a listing of the top 10 beneficiaries was provided. UNM received \$47 million and public schools \$2.2 billion over the past six years. Land office revenues have been up 94 percent since 2003. Revenue projections are expected to be \$540 million in FY08.

Year-to-date FY08 oil and gas revenues are \$500.6 million. There will be a revenue loss of \$5.5 million per year from two existing wells due to oil production on the Texas side of the Otero Mesa. A bureau of land management plan authorizes 141 wells for \$282 to \$423 million per year.

The cultural properties review committee declared 400,000 acres in the Mount Taylor area as a temporary cultural property. This impacts two mining leases, as well as agriculture, rights-of-way for energy corridors, and economic development.

Other revenues were detailed. Year-to-date FY08 commercial revenues are \$34 million which has generated new jobs and growth for business. A further breakdown of business leases was provided. Year-to-date FY08 renewable energy revenues are \$322 thousand. State trust lands under lease for wind are 115,000 acres. Another phase will add 110,000 acres. Bio-energy on trust lands has taken a setback due to funding issues. Solar energy on trust lands include projects by El Paso Electric Company and Mesa del Sol.

FY03 to FY08 rights-of-way revenues are \$18 million. There is over 16,000 current active rights-of-way, 241 active water easements, and 66 active rights of entry. All easements are being imaged and will soon be accessible online.

Maps of proposed transmission line corridors for access to renewables were provided. There has been opposition by lessees of state trust lands for a proposal to extend a transmission line through the central part of the state. The SLO prefers a proposal for a 500 mWh transmission line beginning at Fort Sumner, with feeder lines to pick up wind and solar, bio-mass, geo-thermal, gas, and finally, nuclear from the Palo Verde plant in Arizona. This transmission line avoids national forest and tribal lands and should take ten years to complete. Commissioner Lyons believes this proposal is New Mexico's best alternative to produce energy and get it to the marketplace.

Year-to-date agricultural leasing revenues remain the same, at \$8 million. There is less livestock due to drought conditions. Commissioner Lyons reserves the right to execute mining leases on state trust lands granted through agricultural leases, sell or dispose of natural surface products, grant rights-of-way and easements through state trust lands, and

withdraw up to 640 acres for energy projects, but not more than half, of the land held by an agricultural lease.

Electrical Transmission: LANL Perspective. *Los Alamos National Laboratory (LANL).* Duncan McBranch, deputy principal associate director for Science, Technology and Engineering, provided a high level overview of electrical transmission. Climate computer modeling and effective electrical energy storage use science and technology to effectively harness renewable energy production. Today's computer technology is working towards making reliable predictions for water, wind and solar availability.

New Mexico has an opportunity to be an exporter of renewable energy, as well as an exporter of technology to harness renewable energy. Technology needs include developing an effective way to integrate renewables into a regional grid. The change in climate impacts infrastructure. Sandia Labs and LANL have programs to evaluate infrastructure and their vulnerabilities to natural disasters. Flooding and changes in water resources impact electrical infrastructure. A GW coal fired power plant uses 2 billion gallons of water per year.

Wind energy does not use water, but requires substantial changes in the electrical grid. New Mexico has a strong resource in wind. Today's electrical transmission grid is insufficient to carry the load for a potential of 20,000 square miles of new wind generation capacity across the Rocky Mountain west. A map of areas of potential transmission overloads for this region was provided. New Mexico has the opportunity to use the best science to model the availability of wind and solar, and consequences of different location sites, to build infrastructure and be a global leader in renewables.

New Mexico needs a robust energy storage capacity to take advantage of the state's wind and solar resources. PNM has 200 MW capacity today, but only generates 60 MW. The variability for wind resource leads to accelerated wear and tear on generation facilities. Science can be used to provide for a forward looking prediction of wind availability so gas fired turbines can be turned on more intelligently to reduce wear and tear and carbon emission.

The committee heard discussion about various short and long-term storage technologies that included compressed air, advanced batteries and molten salt. The ability to store electrical charge and chemical energy at the nano scale and recover with high efficiency is one of the science breakthrough areas that the nation needs to invest in.

The United States is becoming a smaller player in the global energy market. The growth of energy demand in the developing world is driving the cost of fossil fuels worldwide. The United States has lost the technology leadership and capacity to build nuclear powered plants with the current generation of technology. The United States cannot afford to ignore nuclear because it is a clean baseload. Nuclear generates 20 percent of electrical energy for the nation, and 15 percent worldwide. It is not possible to grow renewables to meet energy needs, and we will always need a baseload. The nation is less and less willing to accept new coal-fired power plants as that baseload.

The committee encouraged the community to keep them informed on what the body can continue to do to facilitate building transmission lines and supporting the industry.

Cost Projections for Water Settlements and Other Major Projects. *Office of the State Engineer.* John D'Antonio, New Mexico State Engineer, provided a report on the Interstate Stream Commission's strategic plan. Mr. D'Antonio began by detailing agency goals. The 2003 state water plan is in the process of being renewed. Connected to the state's water plan are 16 regional water plans. A water cabinet was established by executive order to align policies that are consistent across all agencies.

A table of multi-year infrastructure cost projections and appropriations to date was provided, with detailed information for each line item. Multi-year cost share estimates for Indian water rights settlements and projects are between \$312.9 million and \$497.9 million. Multi-year federal cost share estimates for these same projects are between \$1.63 billion and \$1.75 billion. The state needs to put \$15.2 million per year toward the Indian rights settlement fund to pay for the state's share.

State funds appropriated to date toward the Navajo Nation Settlement are \$31.2 million. The projected state share is \$50 million. The total project cost is \$984 million. The anticipated federal share is between \$867 and \$886 million. State appropriations have supported the design for the pipeline system, and drafted the environmental impact statement with Endangered Species Act consultation. Federal legislation is pending to authorize the Navajo Nation settlement and construction of the Navajo Gallup Water Supply Project.

State funds appropriated to date toward the Taos Pueblo Water Rights settlement are \$1 million. The projected state share is \$14.5 million. The total project cost is \$133.8 million. The anticipated federal share is \$119 million. New Mexico's congressional delegation is preparing draft federal legislation for the Taos settlement expected to be completed prior to June 30, 2008, and be introduced before the end of the current session in Congress.

State funds appropriated to date toward the Aamodt Indian water rights settlement is zero. The projected state share is \$50 million. The total project cost is \$292 million. The anticipated federal share is between \$159.8 and \$175 million. New Mexico's congressional delegation is preparing draft federal legislation for the Aamodt settlement that is expected to be completed prior to June 30, 2008, and be introduced before the end of this current session in Congress.

In the 1990s, the legislature expressed interest in pursuing negotiations to resolve the Indian water rights claims across New Mexico. Since the mid-1990s, the OSE and Interstate Stream Commission (ISC) have actively engaged in such negotiations, resulting in three settlements agreements now pending before Congress. In support of this effort, the 2005 Legislature enacted the Indian Water Right Settlement Fund Act to provide a

mechanism to fund the state's share of the implementation costs of Indian water rights settlements.

The Ute Lake was to be a source of renewable surface water supply for many of the communities in eastern New Mexico. The state needs to construct the Ute lake pipeline to communities in eastern New Mexico so they have a renewable surface water supply. State funds appropriated to date toward the Ute pipeline are \$12.4 million. The projected state share is \$65.4 million. The total project cost is \$436 million. The anticipated federal share is \$327 million. The local share is \$43.6 million and is being passed to the rate payers of the water users in those communities.

Existing state appropriations are sufficient to complete a 30 percent design for the Ute pipeline system. Bureau of Reclamation has indicated that the level of design will satisfy requirements for a feasibility study. State funding is supporting necessary on-going NEPA activities. Federal legislation is pending to authorize the construction of the eastern New Mexico Rural Water Supply Project.

State fund appropriated to date for the Pecos settlement are \$69.8 million. The projected state share is \$96.5 million. The total project cost is \$98 million. The anticipated federal share is \$1.7 million as this is primarily a state project. Settlement implementation efforts to date have:

- acquired 11,400 acres of land and water rights;
- developed augmentation well-field capacity greater than 25,000 acres feet per year;
- built a cumulative compact credit of 67,300 acre-feet;
- avoided interstate litigation; and
- developed a better understanding of surface and ground water interconnection in the Pecos basin.

State funds appropriated to date for the Middle Rio Grande Endangered Species Collaborative Program are \$8 million. The projected state share is \$30 million. The total project cost is \$120 million. The anticipated federal share is \$90 million. To date, efforts have resulted in:

- endangered species compliance for the Rio Grande silvery minnow and the southwest willow flycatcher;
- all fish and wildlife biological opinion requirements have been met;
- ISC completed construction of a second silvery minnow refugium and captive propagation has succeeded in providing one million fish to the middle Rio Grande;
- ISC and others have completed several significant habitat restoration projects;
- significant middle Rio Grande Conservancy District irrigation improvements have been made to prolong irrigation season in dry years;
- increased the numbers of silvery minnow and southwest willow flycatchers; and
- prevented the taking of water from New Mexico water right owners.

State funds appropriated to date for the Gila River and Arizona Settlement Plan are \$800 thousand dollars. Federal funds appropriated to date are \$600 thousand. The 2004 Arizona Water Settlement Act provides New Mexico the right to use an additional 14,000 acre-feet per year of water from the Gila and San Francisco Rivers. The primary questions for the current planning program are whether and how to develop additional water in the Gila Basin without impairing the unique and valuable ecology, and how to utilize between \$66 and \$128 million of federal funding that New Mexico is entitled to receive beginning 2012. The state wants to be able to use the water without the need for a diversion dam.

State expenditures on water rights adjudications provide a significant benefit to individual water right owners, because these expenditures completely cover costs that individual water right owners otherwise would have to bear through private lawsuits. Judicial determination of water rights through adjudications also increases the OSE's efficiency with water right application and transfer application proceedings.

OSE performs an average of 170 inspections each fiscal year to verify dams are being constructed and maintained in a safe condition with 142 dams identified as being deficient within OSE and federal design standards. One of the biggest problems is recruitment and retention of qualified dam safety engineers. A change to the size of a jurisdictional dam will help prevent OSE resources from being inundated with hundreds of existing wastewater ponds approved by the Environment Department. The cost to provide a risk-based prioritization of the 142 dams identified as deficient is \$1 million per year with \$5 million per year needed to plan and design construction upgrades for deficient dams.

The state has spent \$7.5 million for the pilot channel connecting the Rio Grande with the Elephant Butte dam which is New Mexico's delivery point into Texas. This has saved 15,000 to 20,000 acre-feet of water per year, and helped build substantial compact credits.

Lower Rio Grande funding of \$4.4 million to the New Mexico Attorney General's Office has avoided interstate litigation, developed a better understanding of surface and ground water interconnection, and established the collaborative Salinity Control Program with Texas, Colorado, and others.

In the Pecos Basin, the state has acquired 11,400 of land and water rights of the 12,000 needed in the Pecos Basin to get to settlement minimums. A cumulative compact credit is expected to be 67,300 acre-feet. This effort has helped preserve the Pecos Bluntnosed Shiner, prevented the taking of water of New Mexico water right owners, and allowed New Mexico compliance with the Pecos Compact.

In the Colorado Basin, the state has put in \$2.74 million leveraged heavily with power revenues from the Colorado system and the federal government has put in \$18.5 million. This effort has helped preserve the Colorado Pike Minnow and Razorback Chub, allowed

New Mexico and Colorado compliance with the Colorado Compacts, and preserved New Mexico's option to continue water development to meet needs.

In the Eagle Next Reservoir, the state has put in \$.4 million that settled long-running litigation among water users, better utilized the available water supply, and avoided potential New Mexico liabilities.

The Acequia Program has received \$16.1 million and there have been 291 capital appropriations to individual acequias in the last 5 years. The state has put in \$1.62 million for the United States Army Corp of Engineers program. The federal government has put in \$6.95 million. The state receives \$4.28 of federal dollars received for every \$1 of state funding. There have been 18 major projects completed in the last 3 years.

Taxation and Revenue Department Review of Processing and Distribution of Selected Taxes. Manu Patel, LFC program evaluation deputy director, reported on key findings in the LFC review to assess the department's accuracy and timeliness of processing, accounting, reporting and distribution of taxes and fees.

The department processes tax revenues in a timely manner. The department complied with the State Public Money Act with one exception. In August of 2007, the State Treasurer's Office (STO) transferred unidentified deposits totaling \$65 million into the department's general operating fund. In March, 2008, the department worked with STO to identify and correct those transactions.

Significant weaknesses exist in processing Motor Vehicle Department (MVD) payments, including penalty assessments. LFC staff could not review MVD payments to ensure that the payments are processed timely and accurately. The department requested to postpone the review of the MVD payment processing until a new point-of-sale system is implemented.

The department has good internal accounting controls in place to ensure reliable and accurate financial data. GENTAX cannot produce detailed distribution reports showing CRS tax collections and distributions to various beneficiaries due to taxpayers confidentiality requirements. The department produced redacted screen prints of various steps from GENTAX to facilitate the LFC review.

The department does not have written policies and procedures relevant to the enhanced tax collection initiative. The department relies on the GENTAX data marts system to track 88 percent of the delinquent collections from taxpayers. Accounts are delinquent after being past due for 30 days. The department received a total of \$9.1 million to fund the delinquent tax collection initiative since its inception in FY05.

The department has been maintaining an average of 17 percent vacancy factor since 2004 except for 2005. In 2005, the department's vacant positions were at 12 percent. The department has projected a 2008 vacancy rate of approximately 13.4 percent.

Recommendations for the department were provided. Provide status reports on point of sale system deployment quarterly to LFC to ensure that the system is implemented as soon as possible. Conduct a study six months after implementing point of sale system to ensure that all weaknesses are identified and addressed. Provide a copy of the report to the LFC.

Recommendations also included analyzing cost and benefits of interfacing “WAUSAU” and GENTAX. Interfacing may reduce chances of error, and staff time can be used in conducting other important tasks. Consider re-submitting a legislative request to amend Section 7-1-13.1 NMSA 1978 to lower the threshold from \$25 thousand to \$10 thousand for electronic filings.

The department should also develop a written policies and procedures manual to document methodologies used to track delinquent collections. The department should also work with LFC and DFA staff to reduce the staff vacancy rate.

FY08 3rd Quarter Performance Report Card: Key Agencies. Wayne Propst, LFC analyst, presented the LFC agency performance “report cards” to the committee. Report cards condense agencies’ quarterly reports into a one or two page synopsis based on key performance measures. These “report cards” are tools for the Legislature to focus resources where most needed, and will be posted on the LFC webpage to provide information to the public about the performance of state government.

Report card green ratings indicate success in achieving a targeted level of performance. Yellow ratings highlight narrowly missed targets and red ratings indicate areas in need of attention. Red is not a sign of failure but indicate areas requiring further analysis and discussion. Draft copies of the report cards were sent to agencies for their review and agency comments were later incorporated into the “comment” section of the “report card”. The committee heard discussion on some of the comments.

Human Services Department (HSD). The department did not meet many of its performance measures in key areas. Measures align with the agency’s strategic plan but additional measures to better gauge outcomes are warranted. MAD should add measures for cost-effectiveness of Medicaid.

Department of Health (DOH). Most of the measures in the Public Health Program are reported annually instead of quarterly, making assessment difficult. Agency strengths include a detailed quarterly report and experienced core staff charged with performance reporting. Many measures are tied to key agency priorities, particularly in the public health area. Weaknesses include too many annual-only measures for large dollar programs, and measures the department has limited ability to influence.

Children, Youth and Families Department (CYFD). The Family Services Program is not meeting its target in the domestic violence program. The agency should develop a quarterly measure to assess the effectiveness of the state-funded Pre-K program on preschool readiness for kindergarten. CYFD proposes the redeployment of 39 therapists

for Family Functional Therapy (FFT) due to poor results. A more intensive program is being implemented.

Public Education Department (PED). There are inconsistencies between the department's reporting of results and targets tracking the implementation of the STARS data warehouse measure. The staff vacancy rate is 15.8 percent, well above FY07 averages where a three-months hiring freeze elevated the rate.

Public School Support. Public school support accounts for over half of the state's budget with limited accountability because most measures are reported annually. The number of students and schools failing to meet achievement standards required by the federal No Child Left Behind Act continues to grow. The 4th quarter report for FY08 will mark the first time more accurate graduation rate data will be available since the measure was changed in 2004 to a cohort methodology.

Higher Education Department (HED). HED did not submit a second quarter report, and the third quarter report was late. Notable improvements were made in its "latest" quarterly report in response to LFC analysis in the budget recommendation, but the report remains incomplete, difficult to interpret and misleading in some instances. HED is attempting to improve its accountability reporting, but continues to experience significant challenges in this area.

Universities. The three research universities showed stable or improved retention from fall 2007 to spring 2008 for first time, full-time, degree-seeking freshman. Regional universities showed mixed performance on student retention, and there may be continued concern about enrollment trends at Western New Mexico University (WNMU.)

Corrections Department (NMCD). NMCD has developed well diversified key quarterly measures; however, the measures do not address the agency's key goals to lower costs and reduce exposure to litigation. Measures pertaining to adequate health services and timely release of inmates should be considered. The turnover rate for correctional officers through FY08 was 14.9 percent in Q3, from 12.1 percent in Q1.

Department of Public Safety (DPS). DPS key quarterly performance measures were revised for FY07 to focus on five key goals and initiatives: reduce alcohol abuse, reduce illegal drug abuse, reduce violent crime, and ensure traffic safety. Although the backlog for the DNA caseload remains high, the agency maintains that additional resources provided to the lab in FY08 will allow it to reduce this rate to zero. If achieved, new measures will be needed to track performance in that area.

Economic Development Department (EDD). The JTIP program is not expected to meet the target for workers trained. The department indicates the target of 4,000 was set in anticipation of program funding growing to \$20 million; however, funding in FY08 was far less with the targets not being readjusted. The number of rural jobs created is projected to miss target levels. A slowing economy has presented an additional challenge regarding job creation.

Taxation and Revenue Department (TRD). A significant challenge for the department has been reducing wait times for the call center and field offices of the Motor Vehicle Program. TRD's Property Tax Division has focused on resolving higher-dollar delinquent accounts, increasing the amount of delinquent property taxes collected by about \$2.5 million from last fiscal year. However, these efforts caused missing other targets.

Energy, Minerals and Natural Resources Department (EMNRD). The agency is meeting FY08 targets. The goals for the Renewable Energy and Energy Efficiency Program need clarification.

Office of the State Engineer (OSE). The Water Resource Allocation Program is not expected to achieve the target for the number of protested and aggrieved water rights backlogged. A more accurate measure of this activity may be needed for the future. The Water Resource Allocation Program will most likely meet the target regarding the percent of applications abstracted into the water administration technical engineering resource system database, but the target remains low.

Department of Environment (ED). The agency exhibited improvement in almost all bureaus, particularly the Water Quality Program. Data reliability is an issue for reporting.

New Mexico Department of Transportation (DOT). Ridership on both commuter rail and "Park and Ride" continues to grow as gas prices increase.

Department of Information Technology (DoIT). The slow collection of fees from agencies for services rendered continues the pattern experienced by the General Services Department previously responsible for providing these services.

State Personnel Office (SPO). Problems with implementing the SHARE recruitment model contribute to the number of employment applications for positions in state government lagging behind prior year activity. Both SPO and DoIT are aggressively working on resolving this issue.

General Services Department (GSD). GSD has improved its quarterly reporting with more measures and reliable data. Unfortunately, many of the most important measures, such as the financial condition of the major risk funds, are reported annually.

Administrative Office of the Courts (AOC). This "report card" acknowledges AOC's initial efforts as reporting as a key agency. LFC will present proposed measures to the AOC Performance Review Committee in the upcoming months.

The committee is encouraged by the "report card" format and believes it will be helpful in improving communication between agencies and the committee.

Chairman Smith adjourned the committee at 5:00 p.m.

Chairman Smith called the LFC to order on Friday, June 20, 2008, at 8:30 a.m.

The following LFC members were present on June 20:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Don Tripp (for Brian K. Moore), Rhonda King, Henry “Kiki” Saavedra, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and; and Senators Sue Wilson Beffort, Mary Kay Papen, Bernadette Sanchez (for Phil A. Griego), Leonard Lee Rawson, Carol Leavell (for Joseph J. Carraro), Carlos Cisneros, and Cisco McSorley (for Pete Campos). Representative Raymond Begaye attended as a Guest.

Proposed School Funding Formula. *American Institutes for Research (AIR).* Dr. Jesse Levin, AIR principal research analyst, presented findings from the AIR independent study of the proposed public school funding formula for New Mexico public schools. Dr. Levin delineated the costing-out methodologies used to determine what sufficient funding can buy in terms of resources. Public input through town hall meetings and stakeholder surveys determined goals for professional judgment panels (PJPs) of experienced educators. Panelists looked at resources of elementary, middle and high schools performing better than their peers given their needs, and reviewed literature of effective best-practices.

Panelists were asked to design sufficient instructional programs, and specify resources to deliver these programs. The panelists considered: low poverty/high poverty, high poverty/high ESL, high special education, high mobility, and small school size to further determine how resource necessity differs across urban, rural and suburban school districts. In general, PJPs called for: 1) an increase in the length of the school year, 2) lower teacher-pupil ratios, 3) an increase in levels of support staff for at-risk students, and 4) support for native language and cultural education.

Resource profiles driving calculations of sufficient per-pupil cost were not meant to be prescriptive, but informative. A summary of a programmatic resource profile for an “urban, low poverty, elementary school” prototype was provided as an example of one of many prototypes developed by the PJPs. The profiles considered demographics (enrollment, poverty, English language learners, special education, mobility), various per-pupil-teacher ratios and aides, resource teachers (art, music, PE), special education teachers and aides, pupil support staff (nurse, librarian, counselor), non-personnel expenditures, professional development, extended day and extended year programs.

A stakeholder committee review of program designs and preliminary cost estimates, followed by a project advisory panel (PAP) review process, was put in place to ensure resources for school prototypes were realistic and efficient. PAP resource modifications to initial PJP designs included both increases and decreases to specific resources.

The committee heard discussion on implementation issues. The funding formula calculations provide sufficient funding levels that are less than what four districts are actually spending. The state will need to decide if it wants to hold these four districts

harmless, and for how long; or, provide the current level of funding even though the formula says they can do with less. The second question is how to phase in increases in new funding levels to allow for the development of plans to allocate new resources. Some additional hold-harmless costs in the first year will most likely occur if the state agrees to phase in increases in funding levels.

The importance of the need for a comprehensive accountability system to ensure resources are spent wisely was recommended by AIR, but not within the scope of the study. AIR recommended expanding the existing Education Plan for Student Success (EPSS) to implement accountability measures. Suggestions for accountability components included supporting data systems, cyclical evaluations with technical assistance teams, and establishing a process to address building capacity for struggling and failing school districts. This information could be used over time to develop profiles of resources that work best for certain types of schools.

Legislative Education Study Committee (LESC). Dr. Pauline Rindone, LESC director, detailed the efforts of the committee to facilitate a stakeholder review of the proposed public school funding formula. School districts were invited to work with the committee to examine the potential impact on student outcomes if the proposed formula was implemented with the additional dollars needed to reach sufficiency. A questionnaire was provided to school districts to be used as a guide in preparing for discussions. To date the LESC has heard from 38 (out of 39) school districts (87,000 students), and 10 (out of 64) charter schools. Questions included how additional funding might be spent, FTEs, accountability and the EPSS.

The majority of the small school districts have been receiving emergency supplementals for many years because the existing funding formula does not provide enough support. Ms. Maestas emphasized some of the differences in concerns raised between large, medium and small school districts. The LESC will provide a final report on these discussions once presentations are complete.

The LESC has established a subcommittee of members and superintendents to determine if an addendum to the EPSS can capture accountability. Bilingual stakeholders have reported support for the proposed funding formula. The LESC will address gifted education stakeholders concerned with losing programs if an IEP process is no longer needed to access gifted programs.

New Mexico Coalition of School Administrators. Bud Mulcock, school administrator, voiced support that the proposed funding formula will be flexible enough to put resources where the real needs, and achieve better student outcomes. School administrators will continue to ask superintendents to go directly to their legislators to answer questions about how any increases due to a new funding formula would be spent.

Office of Education Accountability (OEA). Dr. Peter Winograd, OEA director, provided questions to consider when determining if the proposed funding formula can achieve accountability for student achievement. New Mexico's current system of accountability

includes No Child Left Behind (NCLB) which demands schools make annual yearly progress (AYP). A goal within AYP is to have 100 percent of students in public proficient in math and reading by 2014.

Additional goals within NCLB, AYP and HB 212 include a *school improvement framework* and *schools in need of improvement framework* to address schools that do not meet AYP. Five levels within the framework provide for intervention and include: school improvement for year one and year 2, corrective action, restructuring for year one and year 2. Last year, 442 New Mexico public schools (out of 800) did not make AYP. Fifty schools (out of 800) have been in “restructuring” for either 1 or 2 years. If the federal law does not change and current trends continue, 644 or 80 percent of New Mexico public schools will not be making AYP by 2014, and will require intensive support. Dr. Winograd stated that the current approach within NCLB to make all students proficient in math and science by 2014 could make all of the state’s efforts seen as failures. Dr. Winograd further states New Mexico needs to put more resources in high needs schools.

AIR’s accountability recommendations include:

- requiring districts to align spending plans with EPSS priorities,
- establishing clear guidelines for district and charter schools to ensure funds align with EPSS, and
- developing an information system to link student performance with school resources to better target resources to areas of student need, and monitor progress.

In addition to reading and math scores, AIR recommends tracking changes over time for:

- student achievement test scores,
- student attendance rates and suspensions,
- graduation rates,
- outcomes for various subpopulations, and
- interest and availability of advanced placement or career education classes in high schools.

Accountability recommendations further require PED to use personnel data systems to track resources being expended at the state, district and schools levels; and, develop standardized reports that link fiscal, personnel and student outcome data at the school-level.

A spreadsheet of the current structure of the EPSS next to the proposed requirements in section 4 of HB 241 was provided to the committee. The current EPSS is focused on meeting math and reading AYP goals for NCLB and will need to be expanded to include a focus on funding. The LESC subcommittee on accountability and the EPSS held its first meeting last week to further consider questions about spending plans, measuring student performance and the EPSS.

Public Education Department. Mr. Steve Burrell, School Budget and Finance Analysis Bureau director, presented a report on implementation funding issues. PED will need one year to implement due to the need to:

- test data collection reports within STARS,
- validate data,
- train school staff in data and how new formula is calculated,
- train PED staff in data and how new formula is calculated,
- determine how the hold-harmless will be implemented and its impact on the base cost, and
- determine how growth would be implemented and its impact on the base cost.

Legislative Finance Committee, Paul Aguilar, LFC analyst, provided an informative brief to assist in improving understanding of the funding formula, associated costs and accountability issues. Costs for implementing the formula fall into two areas, additional instructional days and program cost. The proposed funding formula in House Bill 241 includes five additional instructional days and as many as four professional development days projected to cost approximately \$126 million.

The intent of the funding formula taskforce was for the extra instructional days to increase the annual total number of instructional days from 180 to 185 for schools on a five day week, and from 150 to 155 for districts on a four day schedule. A less costly option would be to postpone implementation of the extra instructional days and consider a change to existing statute that would require all schools on a five day school week to provide 180 instructional days. Mr. Aguilar provided a graph showing the number of additional days needed to provide 180 instructional days for a 5 day school week, and 150 for a 4 day school week. Current statute provides for districts to substitute a prescribed number of hours for the 180 instructional day requirement. In FY08, 59 of 89 districts provided less than the number of days prescribed by law.

A less costly option would be removing the additional instructional days and professional development days from the proposed formula and require all districts on a five day schedule to provide 180 instructional days, and districts on a four day schedule to provide 150 instructional days without the option of substituting equivalent hours. Under this option, 66 percent of 59 schools districts would automatically increase the number of instructional days for their students from one day to as many as 20 days at no additional cost to the state. In the future when funding is available, the Legislature could consider adding the other instructional days.

Since FY99, the legislature has appropriated \$14.9 million into the state equalization guarantee (SEG) for professional development. It is unclear how funds are being spent on professional development. An option would be to use those funds to pay teachers at their daily rate to receive professional development outside of the instructional school year.

The committee is concerned New Mexico public school students are falling behind and may not be able to compete in today's marketplace. For the Legislature to justify support for more funding there needs to be greater accountability.

Chairman Smith adjourned the committee at 11:30 a.m.


Chairman

7-10-08

Date