

MINUTES
LEGISLATIVE FINANCE COMMITTEE
May 23, 2007 - May 25, 2007

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Wednesday, May 23, 2007, at 8:25 a.m.

The following LFC members were present on May 23, 2007:

Senator John Arthur Smith, chair; Representative Luciano “Lucky” Varela, vice chair; Representatives Don E. Bratton, Rhonda S. King, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Timothy Z. Jennings, Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, and Pete Campos. Senators Cisco McSorley and Justine Fox-Young attended the meeting as guest legislators.

New Mexico Corrections Department Performance Audit.

Chairman Smith welcomed Secretary Joe Williams and other members of the Corrections Department (NMCD), including the wardens serving in both private and public prisons. Chairman Smith expressed the committee’s desire to take a less adversarial position during committee meetings and the committee’s goal to work together to ensure that New Mexico state government functions efficiently and economically. Chairman Smith expressed his hope that the performance audit can be used by both the committee and NMCD to focus on the common goal of efficiency and what is good for the taxpayers of the state of New Mexico.

Manu Patel, LFC deputy director for performance audits, thanked Secretary Williams and the NMCD staff for their cooperation and professionalism during the performance audit.

Charles Sallee, LFC auditor, presented the findings and recommendations contained in LFC Report No. 07-04, titled *Corrections Department: Review of Facility Planning Efforts and Oversight of Private Prisons and Health Programs* and dated May 23, 2007. Mr. Sallee reported that 27 years ago New Mexico was reeling from the aftermath of the nation’s bloodiest prison riot and the conditions that contributed to the violence at the Penitentiary of New Mexico. In response, the State began a long, expensive and massive prison construction process and expansion of services for inmates. Mr. Sallee commended the department for achieving full accreditation by the American Correctional Association, but noted that public concerns continue regarding the cost, quality, adequacy and effectiveness of New Mexico’s prison operations. He said the review assessed the department’s oversight of basic medical, mental health, addiction and food services to inmates; the impact and costs of contracted (private) prison facilities; and the adequacy of facility planning efforts in light of the projected 40 percent increase in the prison population over the next ten years.

Mr. Sallee reviewed the major report findings as follows:

- New Mexico's private prisons cost more than other states and contracts provide an automatic price increase, contributing to a 57 percent since 2001. Mr. Sallee noted that New Mexico's private facilities are more staff intensive, which could also result in higher cost services. He noted private prisons are not required justify annual price increases based on performance and that facilities often run high vacancy rates, which do not benefit the department programmatically or financially.
- Mr. Sallee reported that department contracts with Lea and Guadalupe counties do not include a separate per diem for facility debt service or lease costs to prevent inadvertent price increases on what should be fixed costs. As a result the department may pay an estimated \$34 million more than it should for private prison construction costs. Mr. Sallee said the department, nor the contracts, ensure that the counties' contractor uses price increases only for operational costs. He reported that in 2000, the Independent Board of Inquiry (IBI) review noted this contractual flaw but that the department has not corrected these agreements.
- Restructuring agreements could lower private prison costs an estimated \$60 million during the next ten years without sacrificing quality and safety. Mr. Sallee reported that using the contract with Clayton as a model price agreement structure for Lea and Guadalupe county agreements could result in annual estimated savings of at least \$4.9 million or \$49 million over the next ten years and the department could save an additional estimated \$11 million over the next ten years by not increasing facility use per diems.
- Mr. Sallee reported that the state's approach to prison planning and construction is not in the taxpayers' best interest. Mr. Sallee reported that the cumulative effect for lack of planning and prison leases with local government results in higher long-term costs and paying for three prisons the department will never own: Clayton, LCCF and GCCF. He said the prison in Clayton will cost about \$61 million to construct but the department will pay \$132 million over twenty years for construction and financing charges and not have ownership.
- The department needs better oversight to contain medical costs and ensure the provision of adequate care. Mr. Sallee reported that staff contracted with nationally recognized medical experts to assist with the review and they concluded that Wexford's health care staff includes many highly qualified professionals, but the quality of the care provided is inadequate.
- Inmates generally have sufficient access to behavioral health services, but better monitoring is needed to ensure the effectiveness of services.

Mr. Sallee covered major report recommendations and said staff would be proposing specific legislation for consideration later in the fall regarding the department's authority over prison planning and financing.

Secretary Williams distributed a NMCD publication titled *From the Ashes: 27 years of Progress in New Mexico Corrections*.

Secretary Williams stated NMCD plans to examine each finding and recommendation contained in the performance audit before it makes policy decisions to enhance and improve the functioning of

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NMCD. Secretary Williams drew attention to the response at the back of the LFC report outlining the department's plans to address deficiencies. The response also includes highlights of the administration's recent accomplishments.

The committee also heard discussion as follows:

- How claims resulting from litigation are paid;
- How chronic illnesses such as hepatitis C are funded and carried out;
- Whether the department houses undocumented immigrant inmates;
- How comparisons might be made to prisons in other states;
- Health care and mental health services for inmates;
- The status of performance measures;
- Operating within the budget without the need for supplemental appropriations;
- The status of the FY 07 external audit;
- The status of the financial, human resources, and payroll records under the new accounting system;
- The effect of local anomalies in housing, local wage rates, and unemployment rates on contracts negotiations with private prisons;
- The need for checks and balances in the planning of correctional facilities, as well as the quality of health care and mental health services for inmates;
- Whether private prisons cost less to operate than state-operated prisons;
- The availability and cost of treatment programs in private and public prisons;
- The need for consistent planning for future prison growth.

Representative Varela asked the status of the population control committee because legislation extending the committee was vetoed during the last session. Secretary Williams stated that the population control committee will continue to operate under his direction. Representative Varela asked Senator McSorley to bring the issue of a population control committee to the Courts, Corrections and Justice Committee for a determination whether further legislation needs to be introduced in the upcoming session.

Senator Smith thanked Secretary Williams for his candidness in addressing the committee and expressed his hope that the performance audit can be used as a positive tool for improvements to NMCD. Senator Smith also stated that by working together, the executive and Legislature can work together to fashion a long-term plan for the department.

Senator Smith recognized John Snowdon, chair of the National Alliance on Mental Illness-Westside Rio Rancho/Sandoval County Mental Health Services Improvement Advocacy Committee, for public testimony. Mr. Snowdon presented a letter to the committee, requesting that the Legislature consider legislation to create a prerelease planning program in all New Mexico jail and prisons facilities. Additionally, Mr. Snowdon asked the Legislature to appropriate full funding for the mental health court in the 13th Judicial District Court.

Committee members requested the following information:

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- Senator Beffort requested information on the number of undocumented citizen inmates in New Mexico prisons.
- Representative Varela requested a copy of the request for proposals for the external audit.
- Senator Griego commended the department on the work it has done to improve the Springer correctional facility and expressed his wish to tour the facility and speak with inmates housed in that facility
- Senator Rawson requested data on the number of escapees over the years and the results of those escapes; the number of deaths in New Mexico prisons and whether the deaths occurred naturally, by suicide, or by homicide; and the family services currently being provided by NMCD.

Adult Parole Board

Susan Fleischmann, LFC auditor, presented the findings and recommendations contained in LFC Report No. 07-15, titled *Parole Board: Review of Management and Video Conferencing Readiness* and dated May 23, 2007.

Ella Frank, executive director of the New Mexico Parole Board, addressed the committee, stating that the Board has taken on increasing duties over time and that the board anticipates more duties in the future, largely due to the management of sex offenders. Ms. Frank stated the board is using video conferencing to the extent it is able, but bandwidth is limited at this time. Additionally, Ms. Frank reported that the addition of a new staff person has enabled the board to clear the backlog of parole certificates. The board is now in compliance with its 10-day internal policy for issuing parole certificates.

The committee heard discussion as follows:

- An inmate who serves his or her entire sentence in prison is not required to report to the probation and parole office.
- It is difficult for inmates to find housing when they are released from prison. There is a shortage of halfway houses and other services to assist inmates released from prison.
- The board solicits input from victims to before it makes a decision to grant parole to inmates
- Indigent inmates who are placed on an ankle bracelet after release from prison need assistance with the installation and monthly fees.
- The probation and parole office has redoubled its efforts to ensure that the Parole Board is notified of active warrants on a candidate for parole.
- Probation and parole officers in New Mexico are the only officers in the country who have the capability to run criminal background checks from their desks.
- Members of the board need access to training.
- The board currently relies on NMCD for its information technology support, including connectivity issues, personal computer support, and archiving needs.

- It is important the board members attend hearings and meetings. Ms. Frank reported that by and large, board members attend hearings appropriately. The Board exceeds quorum requirements at board meetings.

Chairman Smith thanked the Parole Board for its testimony before the committee.

Chairman Smith welcomed Representative Bratton and Senator Carlos Cisneros to LFC. Chairman Smith also welcomed LFC staff analyst Brian Schuss, who worked for LFC during the recent legislative session, and Jeremy Hanika and Ramon Taylor, who are serving as interns this year.

Quarterly Performance of Key Agencies.

Gene Moser presented preliminary performance report cards for key agencies that give an executive summary of key measures to assist the committee in reviewing performance measures. LFC staff will meet with key agencies over the next few weeks to discuss the report cards; therefore, the data presented may change in the next few weeks. Mr. Moser called the committee's attention to a draft letter to Katherine Miller, secretary of the Department of Finance and Administration, that outlines areas that can be improved, thereby saving taxpayer dollars.

Secretary Miller addressed the committee in response to the preliminary performance report cards, stating that reports alone do not reflect the activity and progress agencies are making in providing better service to New Mexicans. Secretary Miller stated that the performance reporting process works well when agencies develop their own measures that can be used to direct program decisions.

Secretary Miller stated that the process is limited when measures are developed by an outside entity, when it is unclear what change in the data is desirable, and when it is unclear how data can be used to make program or policy decisions. Additionally, turnover in DFA and LFC staff and at agencies limits the process.

Secretary Miller gave examples of specific performance management issues and concluded by saying DFA is working with agencies and legislative staff to make performance data more effective for internal agency management, to define measures that are useful for agency budget development and policy decisions, to use measures to focus attention on issues of concern to policy makers, and to separate periodic reporting of explanatory data from measures that can be used to drive agency performance. Secretary Miller suggested that by working together, agencies, DFA, and Legislative staff can identify next steps to improve the performance process.

Representative Varela asked whether internal performance measures are available for review by the State Auditor. Secretary Miller answered that all measures should be available to the State Auditor.

Stan Howard, director of Office and Policy for the Department of Health, presented the agency's FY07 third quarter performance report dated May 14, 2007. Mr. Howard stressed the importance of

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a meaningful strategic plan in the performance measure process, stating that measures should measure the mission of the agency and the data must be reliable and trustworthy. Mr. Howard also stated the Department of Health is in the process of reviewing its performance measures to determine which measures are working well, which need to be changed, and which need to be replaced.

The committee discussed the importance of agencies meeting with DFA and LFC staff to identify appropriate performance measures. The committee was also informed that some agencies report they have met with resistance when proposing changes to performance measures.

Chairman Smith expressed his hope that the performance reporting process will serve as a tool for management and for the Legislature to identify issues and find solutions to improve the efficiency of New Mexico government.

Review 2007 Interim Analyst Work Plans.

Catherine Fernandez, LFC deputy director, presented the 2007 staff interim work plans. The work plans include audit follow-up, continued examination of the capital outlay process, especially in terms of budget requests, and follow-up on projects that have already been funded; accountability for new initiatives; and improving performance measures.

Representative Saavedra requested that LFC meet in executive session to further discuss the work plan. Representative Saavedra also requested a summary of meeting materials be provided to members prior to the meeting.

The committee directed LFC staff to revise the work plan to include the following:

- A more in-depth work plan for public education and higher education, including a review of large versus small school districts, an evaluation of the level of special services that schools provide to students, consolidation of school districts, and capital outlay;
- An assessment of consolidating the magistrate and municipal courts in Dona Ana County into a metropolitan court in the judiciary work plan;
- An assessment to return risk management funds to solvency;
- An update on projected recurring revenue;
- Development of a planning strategy for universal health care, an issue that may be introduced in the upcoming session.

The meeting adjourned at 4:00 p.m.

May 24, 2007

The Legislative Finance Committee (LFC) met in executive session at 8:30 a.m.

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Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Thursday, May 24, 2007, at 9:51 a.m.

The following LFC members were present on May 24, 2007:

Senator John Arthur Smith, chair; Representative Luciano “Lucky” Varela, vice chair; Representatives Don E. Bratton, Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Timothy Z. Jennings, Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson and Pete Campos. Senators Cisco McSorley and Mary Kay Papen attended the meeting as guest legislators.

State Personnel Office - Compliance Review of Internal and External Personnel Rules and Regulations.

Sylvia Padilla, LFC performance auditor, presented the findings and recommendations contained in LFC Report No. 06-95, titled *State Personnel Office: Enforcement of and Compliance With Statutes, Rules and Regulations* and dated May 24, 2007.

Phil Ewing, chair of the State Personnel Board, expressed his confidence in the SPO board and the direction of the State Personnel Office (SPO).

Representative Varela asked the status of the external investigation. State Personnel Board member Gene Valdes stated the external investigation is complete and will be presented in executive session to the SPO board at its June 1 meeting in Grants. Mr. Valdes stated that the report cannot be released before that time because the report may contain confidential personnel matters. Mr. Valdes stated the independent review commenced on March 27, 2007, and date of the report is April 23, 2007. Sandra Perez, State Personnel Office director, stated she has not reviewed the report on the external investigation because the report may contain allegations of wrongdoing on her part. Rather, she directed the report be submitted to the SPO general counsel and then to the SPO board. Ms. Perez invited members of LFC to attend the June 1 meeting but noted the report will be presented in executive session to the SPO board and she could not predict the board’s decision on whether the report will be released to the public at that meeting. Mr. Ewing assured the committee the SPO board will take appropriate action for any allegations that prove to be true, and he will keep the committee informed of its actions in response to the report.

Ms. Perez presented the SPO responses to the compliance review, contained at the end of the LFC report.

Chairman Smith stated that the committee expects to see corrective action on deficiencies in all agencies, including the SPO.

The committee heard discussion as follows:

- Violations of the procurement code,
- Violations of the Per Diem Act,
- Amending the statute to reflect the actual operations of SPO as they has evolved over the years,
- Using the SHARE software to perform the initial screen of applicants for employment,
- Nepotism,
- Incomplete records,
- The extent of the state's vulnerability because of the lack of accurate records at SPO,
- The single-point-of-contact model currently being used at SPO,
- The status of the SPO team working on SHARE issues,
- A discrepancy in a form given to the LFC staff by an anonymous SPO employee and a different form produced at a later date by SPO staff,
- The SPO guide book released to all agencies on best practices on reference checks,
- The number of exceptions granted by SPO between the time of a computer crash and the time the SHARE accounting system went online,
- Temporary salary increases given to SPO employees,
- The qualifications of board members to serve on the SPO board and the benefits of diversity of board members,
- The core functions of SPO.

Senator Beffort stated her intention to reintroduce the whistleblower act during the upcoming session and invited recommendations from SPO on how the bill could be enhanced.

Senator Griego asked for the number of new hires during the past year and the number of those new hires the SPO staff reviewed to ensure the agencies used proper hiring practices and hired the best qualified candidate.

Representative Varela asked that SPO provide the committee with copies of the external review report and directed Mr. Abbey to investigate the legal issues surrounding confidentiality issues.

The committee raised the following concerns:

- SPO is failing in its responsibility to provide qualified applicants for positions in the classified system.
- SPO enforces its rules for state agencies and does not seem to be in compliance with its own rules.
- SPO should be the example for the rest of state government of being in compliance with statutes and rules. How can other agencies be in compliance if SPO is not?
- The committee is concerned about the unprecedented level of unauthorized hires. SPO needs to deal with this issue.

- When the previous system of grading levels of applicants became inoperable, it appears that all levels of grading were thrown by the wayside, which from an outside eye seems to promote unauthorized hires of unqualified people.
- The committee is concerned about the decentralization of hiring because of consistency and parity issues.
- The committee asked for precise information on the liability the state may face for the past two years where less qualified applicants may have been hired or inappropriately promoted because of the lack of oversight from SPO.
- The committee asked whether the director of SPO would be able to stand up in court and state that new hires and promotions for the past two years were made in accordance with the statutes, rules and regulations.
- If SPO is not following the statutes and rules but are making decisions based solely on its needs, other agencies may be encouraged to make incorrect interpretations of the statutes and rules.

Mr. Valdes agreed that SPO should be a model for other state agencies.

Senator Smith thanked Ms. Perez and the members of the SPO board for their testimony and expressed his hope that by working together, these issues can be resolved to ensure that New Mexico government operates more efficiently.

The Statewide Human Resource, Accounting and Management Reporting System Status Report.

Manu Patel, LFC deputy director for performance audits, presented a brief history of the SHARE project, stating the project has cost \$30 million -- \$20 million from the state and \$10 million of federal funding. Mr. Patel stated the SHARE system was implemented to consolidate statewide human resources, payroll, and financial accounting functions into a centralized system. Mr. Patel reported LFC staff is currently reviewing the entire SHARE project and anticipates the review to be completed in fall 2007.

Mr. Patel gave the following briefing on the status of the SHARE project:

- Since July 2006 there have been problems with payments to employees and vendors, lack of information regarding the current status of agency budgets and finances, unreliable data and federal reimbursements to the state.
- The number of manual warrants issued as a result of payroll errors has decreased from a high of 1,080 in August 2006 to 40 in May 2007.
- Complaints by vendors have decreased over the past few months, although deficiencies in the data make it impossible to make comparisons.
- Some agencies have resorted to maintaining parallel systems to ensure the ability to track payments to vendors.

- DFA believes problems with payments to vendors exist largely because of agency input errors.
- Training is critical to ensure proper functioning of the SHARE system.

Mr. Patel reported agencies are experiencing difficulty managing budgets because of the lack of timely and accurate financial reporting. No financial reporting has been available to state agencies since implementation of the SHARE system in July 2006. Mr. Patel reported that agency budget status reports will be available to agencies by the third week in May 2007; cash reconciliation reports will be available to agencies by June 30, 2007, and audit packages will be ready for distribution to agencies and to external auditors by mid-July 2007.

Mr. Patel reported that DFA has contracted with Ernst and Young to review SHARE and document internal controls to enable management to evaluate the design and operating effectiveness of internal controls in the reliability of financial reporting, effectiveness, and efficiency of operations and compliance with applicable laws and regulations. This review should be completed by June 30, 2007, and the final report will be issued by July 31, 2007.

Mr. Patel relayed the following other areas of concern:

- The Public School Insurance Authority is using a parallel system for its Health Benefits and Risk programs, which bypasses the SHARE system.
- The State Purchasing Division of GSD is using a paper backup system to track more than 8,000 contracts.
- Initial training of employees in using SHARE was inadequate. Ongoing training, including updating reference manuals, is crucial to existing and new employees.
- The SHARE team does not communicate timely or fully with agencies regarding sources of information for reports, changes to the system or system outages.
- SHARE requires that job applicants apply online. LFC staff projects that FY07 applications will be 51 percent below the previous year. SPO believes that the drop in applications is due to agencies focusing on SHARE issues, rather than posting vacancies. SPO recognizes the need to improve the job application process and is developing an action plan to address this issue.
- The federal government has expressed concerns the SHARE system does not produce cost accounting reports necessary for federal reimbursement to the state. To date, \$49 million of federal highway monies is being held in suspense pending the receipt of appropriate cost accounting from the state Department of Transportation.
- The State Treasurer's Office reports that positive pay for all warrant series, except for payroll, is operational and appears to be working well. Interest calculations for interest bearing accounts were not part of the initial SHARE implementation, even though it is a major function of the State Treasurer's Office (STO). Manual reconciliation of these interest-bearing accounts delays operating transfers to agencies. The SHARE auto-reconciliation of accounts does not function consistently, requiring STO staff to research each entry manually.

- The cash balance report needs immediate attention because that report offers essential information regarding the status of funds in state government.
- There is no data available that allows comparisons to be made to measure whether the SHARE system is as efficient or effective as the accounting, purchasing, and payroll systems SHARE replaced.

Chairman Smith directed that in the future, all projected completion dates for SHARE issues should be reported realistically so the committee has a clear understanding of when the system will be operational.

Roy Soto, state chief information office and executive sponsor for SHARE, gave the following update on SHARE activity:

- Engaged a consulting firm to evaluate the purchase and payment cycles statewide,
- Engaged the services of a national accounting firm to perform and evaluation of internal controls within the SHARE system,
- Is currently evaluating audit preparedness,
- Is implementing a reverse hosting agreement through Maximus.

Mr. Soto also reported that new budget reports are now in production to augment the reports already in production and that the new reports will require clean-up of data entry errors. A group of state agencies, working closely with the SHARE team, have recommended possible solutions to problems with the HCM system. Additionally, SHARE has procured services to assist some agencies with grant accounting. The project team has completed and implemented the reconciliation process and is currently completing the July 2006 reconciliation. Mr. Soto concluded by stating the project team is focusing on training key users of the system. A training initiative scheduled for June will focus on the annual audit. The project team is in the beginning planning stage of a comprehensive training program for all users.

The committee heard discussion as follows:

- Whether the decision to implement the system in July 2006 without complete testing was a wise decision,
- Whether running parallel systems during the implementation of SHARE would have been a wise decision,
- The line-item veto of the funding to perform an audit of the SHARE system,
- The availability of the State Auditor to give input to the committee on the SHARE system,
- Reversion to the legacy systems and the work it would create to duplicate all entries for the past year into the legacy systems,
- The status of the cash balance report and how the State Treasurer can maintain daily cash accountability when it is unable to determine cash balances. Representative Varela asked for a copy of the latest cash status report.

- Allegations of retaliation against employees who provide information regarding deficiencies in the SHARE project. Mr. Soto assured the committee he has directed that staff provide all information requested regarding the SHARE system.
- Problems in the district court with reconciliation of reports. Most of those problems were due to input errors into the system. The judiciary is providing additional training to district courts to correct those input errors. The judiciary is working with the Financial Control Division to resolve discrepancies in reports so that the State Auditor can audit the records.
- The status of positive pay for payroll,
- Reconciliation problems in the Public Employee Retirement Association funds.
- The yearly maintenance fee for the SHARE system.

Representative Lundstrom requested the SHARE project provide the committee with its comprehensive training plan.

In response to the issues surrounding federal reimbursements for Department of Transportation road projects, Gary Giron reported that the following:

- \$25 million typically resides in the suspense fund in the course of normal business.
- \$10 million has been billed successfully to the federal government and that payment is pending.
- The federal government has decided to review the SHARE data for certification. The SHARE team is working with the federal government to identify the audit elements they plan to review to ensure that the system meets the requirements.
- Reverting to the legacy system, which worked very efficiently, is an option, but it was noted that converting data to the legacy system will require a great deal of work. Mr. Soto noted reverting to the legacy system is a last resort to ensure that federal funds are not lost.

Chairman Smith thanked the presenters for their testimony.

Legal Issues Related to Partial Vetoes.

Paula Tackett, director of the Legislative Council Service (LCS), stated the committee asked LCS to determine if the governor's veto of the language without vetoing the actual appropriation negates the appropriation on page 180 of the enrolled and engrossed General Appropriation Act for an appropriation of \$14.5 million to accelerate the educational retirement board contribution.

Ms. Tackett stated, because the appropriation is intact and its purpose is easily ascertained and because the money appropriate cannot be used for anything else, the appropriation is valid and must be expended for its intended purpose of the accelerated educational retirement board contribution.

Ms. Tackett stated the committee also asked LCS to determine whether the line-item veto of an appropriation to the higher education department of \$41 million is valid.

Ms. Tackett stated LCS believes the Legislature made a clear choice on how the \$41 million should be expended (to be distributed based on the facility condition index) and, although subject to a proper veto by the executive, the appropriation cannot be altered by the executive in such a manner as to change the legislative choice. Ms. Tackett stated LCS believes the effect of the veto is to decrease the appropriation by one-half and leave the remaining \$20.5 million to be distributed according to the building renewal and replacement formula.

Judith Amer, general counsel of DFA, presented DFA's opinion that the governor's intended to nullify the \$14.5 million appropriation to accelerate the educational retirement board contribution but inadvertently did not line out the corresponding language in the table of appropriations. Ms. Amer believes DFA's construction of the veto is supported by past practice.

Ms. Amer stated DFA believes the \$41 million appropriation should remain intact and the entire amount should be distributed according to the building renewal and replacement formula. Ms. Amer stated DFA believes the condition imposed by the Legislature on how the funding should be distributed intrudes into the executive managerial function. Ms. Amer stated DFA's construction of the veto is supported by past practice.

Chairman Smith noted that allocating the entire \$41 million appropriation according to the building renewal and replacement formula significantly changes the legislative intent that half of the appropriation was to be used to address critical repairs for the New Mexico School for the Blind and Visually Handicapped.

The committee heard discussion as follows:

- The Legislature can call itself into extraordinary session to attempt an override of a veto.
- Secretary Miller stated that, at the time the veto of the \$14.5 million, the Legislature was still in session, it was unclear how much revenue would be available for bills that had not yet reached the governor's desk, and the governor signed legislation in 2005 to correct the deficiencies in the education retirement fund.
- Vetoed appropriations revert back to the state's reserves.
- The education community needs to take a more active role in pursuing funding for its retirement fund.
- Deficiencies in the state's retirement funds could affect the state's bond rating.

Chairman Smith directed that the issue of the line-item vetoes will be discussed in executive session at its next meeting.

Chairman Smith thanked the Legislative Council Service and the Department of Finance and Administration for their testimony.

Miscellaneous Committee Business.

Action Items.

Senator Smith moved, and Senator McSorley seconded, that the minutes of the January 15, 2007, meeting be approved as written. The motion carried unanimously.

Mr. Abbey informed the committee of a \$5 thousand contract that the LFC has entered into to address issues surrounding public-education-related performance audits and issues surrounding the Albuquerque Public School district. Mr. Abbey informed the committee that both DFA and the Legislative Education Study Committee are participating in the plan to address public education issues.

Mr. Abbey informed the committee of a \$5 thousand contract to review and document past and present funding processes for state university research and public service projects.

Mr. Abbey requested approval from the committee to enter into a \$20 thousand contract with the New Mexico Institute of Mining and Technology to review the current state of information systems and network, perform penetration testing and analysis of the security of information systems, review internal and external security standards and practices, and recommend perimeter defense and network performance enhancement. Chairman Smith moved, and Representative Moore seconded, that the contract be approved. The motion carried unanimously.

Mr. Abbey requested approval from the committee to pay for tuition for Paul Aguilar to attend the Program for Senior Executives in State and Local Government, to purchase a color copier, and to purchase replacements laptop computers and monitors. Senator Jennings moved, and Senator Cisneros seconded, that the purchases be approved. The motion carried unanimously.

Information Items.

Mr. Abbey reported that arrangements have been made hold the June LFC meeting in Las Cruces, the July meeting in Ruidoso Downs, and the August meeting in Red River.

Mr. Abbey recommended to the committee that it travel to Casas Grande in September to educate the committee on economics on the border. Mr. Abbey noted that attendance at the September meeting would be optional and that no minutes would be taken at the meeting.

Mr. Abbey reported that LFC staff has developed a publication titled LFC Finance Facts that will be posted on the LFC website as a service to the public.

The meeting adjourned at 5:27 p.m.

Friday, May 25, 2007

Chairman Smith called the LFC meeting to order at 8:25 a.m.

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Senator John Arthur Smith, chair; Representative Luciano “Lucky” Varela, vice chair; Representatives Don E. Bratton, Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Mary Kay Papen (for Timothy Z. Jennings), Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, Clinton D. Harden, Jr. (for Leonard Lee Rawson) and Pete Campos. Senator Cisco McSorley attended the meeting as a guest legislator.

Manu Patel, deputy director for performance audits, reported that LFC staff conducted a review of the Facilities Management Division of the Department of Health (DOH) to determine whether the division is meeting its statutory purpose, whether the six facilities it oversees have performance measures that align with the facilities’ missions, whether the facilities are adequately staffed to provide services, whether the facilities have systems that meet their needs, and whether facility infrastructure needs are being addressed.

Consuelo Mondragon, LFC auditor, presented the findings and recommendations contained in LFC Report No. 07-01, titled *Department of Health: Review of Facility Management Division* and dated May 25, 2007. Scott Roybal, LFC auditor, presented the performance measures and capital needs portion of the review contained at page 26 of the report.

Duffy Rodriguez, DOH deputy secretary of finance administration and Katrina Hotrum, DOH deputy secretary of facilities, presented responses to the review, contained at the back of the review.

The committee heard discussion as follows:

- The veterans retirement home in Truth or Consequences could be moved to the U.S. Department of Veterans Affairs.
- Senator Beffort requested information on the increased costs at the Bayard facility.
- The Las Vegas hospital is facing a number of issues, including low employee morale. Senator Griego requested that LFC staff provide monthly status reports on the Las Vegas facility.
- Senator Griego requested a time line and target dates for the completion of construction at the Bayard facility.
- Each facility needs a strategic plan.
- Meaningful performance measures are important. Ms. Hotrum stated DOH is currently drafting performance measures based on national performance measures. Ms. Hotrum stated that, while the national performance measures are good indicators, the data will differ from the national numbers (based on nursing homes) because of the population DOH serves. Ms. Hotrum stated DOH will report in its next quarterly report on any data it has gathered.
- DOH decided to focus its resources to address immediate needs of its clients before it started looking at administrative issues.

- Miners Colfax Hospital is experiencing problems with recruiting qualified staff. Ms. Rodriguez committed to meet with hospital administration to determine whether DOH and SPO can provide further assistance to the hospital.
- Senator Beffort requested a copy of the management letter between DOH and ValueOptions when it is finalized.

Chairman Smith directed LFC staff to examine closely future capital outlay and operating expense requests for the Bayard facility. Chairman Smith also stated LFC committee members and staff will be visiting the veterans home as they travel to Las Cruces for the June meeting. Chairman Smith expressed the need for communication among the Legislature, the executive, the city of Truth or Consequences, and the Department of Veterans Affairs to ensure that the needs of veterans are met.

Senator Griego stated he spoke at the recovery center in Espanola about three weeks ago and heard concerns from the clients there that DOH was planning to close the facility. Ms. Rodriguez stated she would draft a letter to all recovery centers in the state, including the Espanola facility, assuring them DOH plans to continue providing services at the recovery centers. Ms. Rodriguez stated she would forward copies of the letters to Senator Griego.

Chairman Smith thanked the DOH for its testimony and expressed his concern that capital outlay projects such as facilities cannot be completed because of partial funding. Chairman Smith stated further his hope that future capital outlay appropriations will address fundamental needs first.

Review 2007 Interim Audit Work Plans.

Manu Patel, deputy director for performance audits, presented the performance audit work plan for the 2007 calendar year.

Mr. Patel reported he is working on a report to show the impact of traffic fine revenue from stoplight cameras on the debt service for the Metropolitan Court building in Albuquerque.

The committee discussed the issue of monitoring capital outlay and other appropriations to ensure funding is expended appropriately. Chairman Smith expressed his belief LFC needs to expand its duties to include more audits and to monitor appropriations.

Senator McSorley stated he will coordinate with the LFC auditor who is performing the Judicial Information Division review to schedule the judiciary's Courts, Corrections and Criminal Justice hearing after the review is complete.

The committee discussed the need to communicate with the judiciary's chief information officer on data integration.

The committee discussed the need for committee members to receive meeting materials in advance of the meetings so that they have time to read and understand the materials. Mr. Patel stated LFC is working to revise the audit or evaluation procedures manual to allow committee members to receive reports in advance of the meeting. Currently, the reports are not distributed to members early because the documents would become public record at the time of distribution.

Senator Smith directed LFC staff to conduct further research into the issues of confidentiality surrounding the SPO external review in anticipation of further discussion of the issue at the June meeting.

The meeting adjourned at 11:09 a.m.

 6-22-07
Chairman Date