

MINUTES
LEGISLATIVE FINANCE COMMITTEE
November 13-16, 2007

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Tuesday, November 13, 2007, at 9:15 a.m.

The following LFC members were present on November 13, 2007:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Ben Altamirano (for Timothy Z. Jennings), Sue Wilson Beffort, , Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, and Pete Campos. Senator Clinton Hardin Jr., attended the meeting as a guest legislator.

Administrative Office of the Courts

Patricio M. Serna, Senior Justice of the Supreme Court, presented the agency’s budget request noting a significant increase in the base budget. Justice Serna requested \$2.1 million to make necessary modifications for Metro Court, \$1 million to pilot an electronic filing system in the Thirteenth Judicial District, and \$1.7 million from the General Fund for employee salaries that were formerly funded by the Supreme Court Automation Fund (SCAF). Justice Serna produced a chart showing NM’s judicial salaries along with those of comparable states, noting that NM salary levels are next to last. He recommended that judicial salaries be raised to the average regional level of \$134 thousand.

A study contracted by the judiciary reflected the need for over 30 judges. Taking into account available facilities, the agency is requesting nine. The conversion of term employees to permanent status and 59.75 new FTEs are also included in the agency’s request.

\$2.3 million was requested to help provide quality legal representation to families in children’s court cases. An additional \$365 thousand was requested for supervised visitation to provide a safe place for parent/child interaction.

Justice Serna referenced a five-year plan to establish a drug court in every county and requested \$1.6 million for the project. An additional \$641.6 thousand was requested for mental health courts. The average cost for 2007’s 662 drug court graduates was \$25.27 per client per day, which, when compared to the \$81.35 per client per day for incarceration, represents substantial savings for the state. Further, an estimated 40 percent of drug court graduates would re-offend were it not for the drug court program, producing \$7.7 million in savings through avoided incarceration costs. These results are reflected in the mental health programs provided by the courts which boast an 87 percent graduation rate; in avoiding incarceration, these programs save an estimated \$641 thousand.

\$787 thousand in funding was requested for: access to justice; court reporters; court interpreters; a child support hearing officer program; an associate staff attorney to carry out Supreme Court

recommendations; to accommodate court reporting transcription fees; require transcripts on all murder cases; increase the hourly rate for spoken language interpreters; and an increase for signed language interpreters. Capital Outlay requests include \$6.6 million for the Court of Appeals and \$4.4 million for a fourth floor addition to the Metropolitan Courthouse.

Arthur Pepin, Director, presented the budget for the Administrative Office of the Courts (AOC). Mr. Pepin stated the district court's need to increase funding for the jury and witness fund, the minimum wage judge pro-temp fund, and an 11.8 percent increase in magistrate courts to pay for the modification of existing buildings. An additional \$1.7 million was requested to increase the judicial information division and deliver judicial services.

In regards to the location of the Court of Appeals facility, Representative Sandoval stated a potential problem with its proximity to a golf course and had questions concerning the funding of child support programs. Judge Wexler responded that the judiciary will abide by previous allocations of space and that child support money would be allocated to the department though the courts would utilize funding. As these funds are federally matching, the department would add an additional 5.5 FTEs. To Representative Sandoval's questions regarding funding for supervised visitations and mutual zones, Judge Wexler responded that there are currently no programs in some judicial districts making the transference of children, from programs to parents, unsafe. The \$365 thousand requested will be broken up between four judicial units to provide service hours for supervised visitation and a neutral place for exchanges. The process of contracting service providers was discussed along with proposed locations.

Representative Sandoval asked for an elaboration of Priority 7 regarding the problem solving courts. Judge Wexler detailed the diversion program plan and explained the mental health court in relation to savings for the state. He reported that Bernalillo does not have a program of this nature. Representative Lundstrom noted that McKinley County lacks public defenders, supervised visitations for children, and drug courts.

Senator Wilson-Beffort stated that New Mexico has a 20-year retirement that they don't have in other states and wanted confirmation that retirement funds are coming in with good returns and requested that a packet be prepared. Arthur Pepin stated that NM ranks much higher than other states in comparison. Representative Varela replied that per capita income, no other states have the same retirement rates.

Representative Bratton had questions regarding operational funds versus general funds and questioned the 40 percent success rate in preventing drug court re-offenders. An unidentified speaker reiterated the issues of detention costs.

District Courts

Fifth Judicial District

Gary L. Clingman, Chief District Judge, and Rita Johnson, Financial Officer, presented the FY09 budget request. The district currently has ten judges and one law clerk responsible for three counties within 100 miles of each other. \$177.5 thousand, \$27 thousand recurring, and \$8.4 thousand non-recurring funds are requested for two new staff attorneys and to reclassify the current law clerk to a staff attorney.

Representative Bratton asked if the staff attorneys represent themselves and how their positions relate to the public defender. Judge Clingman stated that the district's law clerk is hired on a one-year contract.

Representative Sandoval inquired if the district plans to use the Gold unit FTR, a digital recording machine in place of a court reporter. The district responded that the unit would be funded from the general funds.

In response to Senator Smith's questions concerning case load, the district responded that most cases come from Chaves County.

Sixth Judicial District

Administrative Assistant Melissa Cook requested a 3 percent increase and two expansion requests: \$10 thousand for teen court and \$270 thousand for the restorative justice program. Capital Outlay requests include \$400 thousand for furniture in Luna County, \$275 thousand for furniture in Grant County, and \$37.5 thousand for security equipment in isolated Hidalgo County. FTE expansions including a financial specialist and a court monitor position for special masters and judges.

Senator Smith questioned the case load and daily fees. The court is located in Luna County though Hidalgo County has the highest case load due to trafficking. Representative Varela had questions regarding the video equipment installation which requires additional funds to install. Senator Smith noted that the video security system renders the bailiff position not as necessary as the law clerk position. The district currently has two security officers.

Third Judicial District

Chief Judge Robert E. Robles and Court Administrator Nadine Sanchez requested funding for Dona Ana County, one of the sixth fastest growing areas in the country. Expansion includes an additional district judge, four clerk positions, a legal office specialist, a procurement specialist, and an HR specialist. The district reported problems with SHARE.

Twelfth Judicial District

Chief Judge James W. Counts requested a base budget for FY09. Judge James requested the conversion of a part-time administrative assistant to full-time. \$126.8 thousand was requested for the drug court program and \$20 thousand to convert two full-time term positions to permanent status. Capital outlay requests include \$30 thousand for file tracking as well as evidence and asset management for both Lincoln and Otero Counties. Additionally, a new judgeship is requested for Otero County.

Senator Smith asked about the number of judges versus the district case load as they were not listed. Otero County has three judges and Lincoln County has one. In response to Representative Bratton, Judge James responded that the district is in the process of acquiring a federal building that will be given to the county.

Tenth Judicial District

Court Administrator Diane Ulibarri reported a new district judge. The district is requesting one FTE and capital outlay money for security upgrades.

Representative Saavedra had questions regarding the district's major city, Tucumcari, and security. Ms. Ulibarri responded that a lock is needed to secure the judge's chambers.

Eleventh District Court

Judge Bill Birdsall and Weldon Neff presented the budget and requested position expansions for a human resource analyst, IT specialist, and a Security Bailiff.

Representative Lundstrom asked about their supervised visitation program. The district would like to contract a provider to run the program. Representative Lundstrom advised the district to find a provider before submitting their request.

Representative Saavedra stated that he is not in support of splitting the district and noted that the district had repeatedly applied for funding for a supervised visitation program.

Eighth Judicial District

Judge Sam Sanchez requested a court clerk II, bailiff, secretary, and increases for contractual positions. The district is requesting two judgeships as they have the facilities to house them. Judge Sanchez expressed the need for TCAAs, court reporters, as well as additional funding for contracts, computers, wiring, desks, equipment, and office supplies including \$4.2 thousand for six surveillance cameras.

Senator Cisneros had questions regarding the need for judicial positions in Taos County. A gross receipts tax increase of .25 and .8 percent would generate \$30 million to build a new complex, jail, sheriff's office, courts, and a DA's Office. Architects have been consulted with the project scheduled for completion in the summer of 2009. The complex has been designed with future needs and growth in mind.

Ninth Judicial District

Ted Hartley requested two court clerks and an administrative assistant. To address security issues, the district would like to install a security checkpoint, secure judge chambers, and install an x-ray machine. Currently the bailiffs provide all security for both counties. They also requested a new phone system, a microphone reader/printer, and a FTR Gold.

Representative Moore wanted to know how many judges they had received lately and the answer was two in the last three to four years.

Seventh Judicial District

Peter Brochert presented the budget request which includes funding for IT video equipment and flat panel screens to publish exhibits during trials.

Senator Wilson-Beffort asked for case load information and was advised that there are methamphetamine problems in Torrance County though Socorro County has the highest case load.

In response to Senator Carraro's questions concerning methamphetamine offenders, Mr. Brochert stated that there are alternatives to prison time for non-violent offenders. A committee in each county decides who gets accepted into the drug court; generally, addicts are given preference to sellers. The district requested funding increase for positive reinforcement programs and outpatient treatment including drug testing and surveillance.

Thirteenth Judicial District

Chief Judge Louis McDonald requested a .5 percent increase to fully fund drug courts and a drug court expansion. FTE requests include an administrative assistant for Sandoval County, two court clinicians, a budget analyst, a programs division director, and a court security officer. He also requested two additional judges and a \$500 thousand IT request in addition to capital outlay funds currently funds appropriated for IT needs.

Senator Wilson-Beffort asked about the budget to pay for service providers. Court Administrator Gregory Ireland responded that monies are available and Peter Brochert stated that service providers are paid through the court budget.

Fourth Judicial District

Court Administrator Fred Sena reported the district's move to their new 23,000 sq/ft judicial facility. Upkeep of IT equipment received in the previous year reflects the increase in the district's base budget. Expansion requests include: four FTEs including a staff attorney. Further funding for an IT specialist is requested to operate audio and video equipment. Finally, the district is requesting \$214 thousand for a juvenile drug court expansion.

Second Judicial District

Chief Judge William Lang and Juanita Duran reported six expansion FTEs due to case load and population increases. The district reported that judgeships are understaffed by ten.

Representative Saavedra questioned a request for an additional probation officer position and was advised that the officer is a response to the growing domestic violence problem. Ms. Duran noted that the district is considering building another facility for family and children's court, for which a study is underway.

Senator Wilson-Beffort asked for additional information on the cost of metal detectors and x-ray machines. Metal detectors are \$5 thousand each and x-ray machines are between \$35 and \$40 thousand per detector. Ms. Duran noted that most courthouses have metal detectors but lack the staff to operate them.

Representative Varela asked about the district's 24 vacancies and was told that retention, rather than hiring remains a major concern for the district.

First Judicial District

Chief Judge James A. Hall presented the budget including one new judgeship and \$361 thousand for therapeutic courts including mental health court. \$263.8 thousand is requested for family court services and jury selection services.

Senator Smith asked about the new courthouse to be built in 2010 and the additional judge request which is included in the unified budget report.

Bernalillo Metropolitan Court

Chief Judge Judith Nakamura requested \$26.6 million which is a 4.3 percent increase over the FY08 budget. Expansion requests include one maintenance person, a procurement specialist, and a background investigator. Included in the request is \$4.3 million to build additional courtrooms as well as furniture and court monitoring equipment. She advised that their federal grant money is expiring despite their need to continue the DWI first offender ignition interlock program. \$26 million is requested to renovate the fourth floor and to build three courtrooms.

State Land Office

Commissioner Patrick H. Lyons announced that 2007 revenue was \$475.8 million, including \$398.6 million from nonrenewable sources deposited into the Land Grant Permanent Fund. Revenue for FY08 continues to be strong and a total of \$167 million has been collected as of October 31, 2007. The agency requested a flat operating budget of \$13 million for FY09, and a special appropriation of \$500 thousand to continue asset inventory, forest health, and other necessary remediation projects.

Senator Joseph J. Carraro noted decreases in the price of gas and increases in the price of oil and asked for information regarding the outlook for the permanent fund for the next three to four years. Commissioner Lyons said that it would depend on the harshness of the winter months.

Representative Varela commented on the status of replacing or enhancing the ONGARD service system, and received an explanation of the agency's Section 29, Internal Revenue Code, an FY09 language request.

In response to Senator Sue Wilson-Beffort, Commissioner Lyons explained that tree thinning is a viable method to acquire fuel for biomass and electricity production. There is a second biomass lease in Angel Fire and funding for the agency's renewable energy efforts is included with the \$13 million FY08 budget request.

State Engineer/Interstate Stream Commission

State Engineer John D'Antonio, Jr., presented the agency's FY09 budget and expansion requests.

Representative Sandoval asked several questions regarding the funding and monitoring procedures for the agency's capital projects. Mr. D'Antonio responded that procedures were applied in accordance with the specific project and timelines.

Chairman Smith requested the balances of the current funds. Mr. D'Antonio responded that though the balances are not known at this time, information will be made available to the committee.

Representative Sandoval stated that the agency should not ask for additional funding for projects that are not ready to be initiated, such as the Indian Water Rights settlements.

Senator Griego commented on the processes and responsibilities of the new water cabinet, and the progress of the potential new adjudication protocols for the Middle Rio Grande Basin.

Representative Wallace had a question about the Ponderosa Dam being declared unsafe and the lack of funding available from the State Engineer's Office. Mr. D'Antonio said he believed it was included in the capital improvement plan and would have staff look into the matter.

Wednesday, November 14

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Wednesday, November 14, 2007, at 9:30 am.

The following LFC members were present on November 14, 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 Bernadette Sanchez (for Timothy Z. Jennings), Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson and Cisco McSorley (for Pete Campos).

Department of Workforce Solutions

Chairman Smith discussed the revenue outlook and encouraged all agencies to temper their appetites for spending. Revenue available for capital outlay may be half of what was available last year.

The Department of Workforce Solutions (NMDWS) Secretary, Betty Sparrow Doris, introduced staff including Deputy Secretary Raymond Gonzales and Administrative Services Director Lloyd Garley. Other staff members in attendance include Francie Cordova, Lala Garcia, Gary Chabot, and Debbie Vering.

Secretary Doris gave an overview of House Bill 1280 authorizing the consolidation of the Department of Labor and the Office of Workforce Training and Development. The newly consolidated department is organized by functional area instead of a "silo" structure and includes five program divisions:

- Workforce Transition Services Division: demand driven workforce development services
- Business Services Division: business solution strategies and labor market information
- Workforce Technology Division: customer tracking services and data management
- Labor Relations Division: provides human rights, labor, and industrial activities

- Program Support Division: administrative support to other program areas

Additionally, the department's new performance measures are responsive to both federal and state requirements, while allowing the department to measure the effectiveness of the work force system and services.

Secretary Doris stated that a significant portion of the increased general fund request replaces federal workforce revenues and a special one-time allocation of Reed Act revenue. Workforce Investment Act (WIA) revenue is down from a high of \$37.8 million in FY01 to a projected \$14.3 million in FY09. To replace declining WIA revenue, the department was allowed to use non-recurring Reed Act federal funds for operational expenses, but those too have been depleted and are not available for FY09. The department projects a salary shortfall in FY08 and submitted a supplemental appropriation request to replace non-existent federal funds and reduce vacancy factors.

Representative Varela asked if the actual expenditures in the appropriation request were correct and if they included both the Department of Labor and OWTB. He also expressed concern for how the audit was proceeding. Secretary Doris explained that the expenditures identified in the request were based on their financial accounting system. The FY09 general fund request of \$6.2 million includes \$3.2 million of increased based funding, and expansion requests totaling \$2.9 million. The Secretary testified that the overall base budget request decreased by \$3.3 million from FY08. A majority of the decrease is attributed to reduced WIA and Reed Act grant revenues. The increased general fund base is composed of \$2.5 million federal fund, \$691.5 thousand workers' compensation revenue replacement, \$75 thousand for Senate Bill 611 appropriations, and \$9 thousand for a green energy initiative.

A \$2.9 million expansion request funds six initiatives including \$300 thousand for data management, \$800 thousand for the Governor's Initiative for Next Generation training (GIANT), \$100 thousand for life skills training for young adults, \$1 million for career cluster curriculum development, \$500 thousand for career readiness certificates and Work Keys, and \$250 thousand for career clusters.

Secretary Doris described the newly created State Unemployment Insurance (UI) trust fund established in the 2007 legislative session by House Bill 247. The trust fund consists of a portion of unemployment tax revenues which are invested by the State Investment Council. Though funds are not anticipated until FY09 and will not be significant until FY10, interest earned by the trust would be used for work force transition services.

Secretary Doris stated that the agency's high vacancy rate allows the department to contain costs and remain within their budget. For FY08, the agency has 118 vacant positions constituting a 21 percent vacancy rate. The agency is in the process of hiring additional staff and has requested a supplemental appropriation to reduce the vacancy factor. NMDWS applied an eight percent vacancy rate to the budget request totaling 45 vacant positions. The Secretary requested that the agency's authorized FTEs not be reduced until the transition year is completed and the needs of the department have been studied. The results should be complete by 2010.

Senator Griego expressed concern that the Department of Workforce Solutions has been in transition since it was created by executive order and that the LFC has yet to see results. He questioned the lack of benchmarked performance measures and the delay of accurate reporting.

Secretary Doris stated that since FY07, the department has been working to ensure information is provided and stated a list of clear expectations from the local workforce boards and administrative entities including the consequences if expectations are not met. The Secretary offered to provide a comprehensive report with the information that is available.

Senator Harden voiced his concern for the lack of justification concerning performance measure outcomes, stating that some measures remained the same especially in the human rights, labor, and industrial programs. Senator Harden suggested the new UI trust fund money could be used for other purposes as long as it stays within the parameters set by the federal statute. He requested historical performance data and balances on all trust funds. Francie Cordova, Division Director for Labor Relations, responded that performance measures have been met and the program operates without a back log.

The presentation was paused momentarily while Representative Wallace introduced four visitors from Russia studying economic development.

Representative Lundstrom requested information on Individual Development Accounts (IDA), and specifically how many accounts are open, and where the money has gone, and to which providers. She expressed concern that the IDA oversight committee is inactive. Secretary Doris agreed to follow up with data for the committee.

Senator Rawson expressed concern that the apprenticeship program seems to have lost focus and direction. The Senator voiced objection to the workers compensation transfer and the 21 percent vacancy rate. Additionally, Senator Rawson noted that compliance officers aren't enforcing the laws and asked about labor enforcement compliance, the number of compliance officers, and why fees were raised despite non-compliance. He recalled that public works contractor fees were intended to support compliance efforts and general operating expenditures. Further, he stated that compliance investigations have decreased.

Secretary Doris responded that funds have not been diverted. Division Director Cordova confirmed that there are not enough compliance officers though the number of officers has been increased by two, totaling nine in all. Senator Rawson asked if there are a mandatory number of calls and miles driven by officers in the division, as well as information concerning the history, tenure, and credentials of officers.

Senator Rawson expressed concern over the sub-prime effect on UI claims, noting that construction in the state has decreased and that layoffs at Sandia National Labs, Los Alamos Labs, and Eclipse Aviation have increased. The Senator requested a weekly update on unemployment levels and performance outcomes leading up to the HAFC hearing. The Senator questioned the need for building security, organizational development, employment, data research, outside legal representation, strategic planning, and federal lobbying contracts. He also questioned why ASD contracts are increasing when revenues are declining and stated that some

contracts seem to duplicate services the department should be doing itself. The Senator would like to know where the contract money is going and what the deliverables are before appropriating funds for contracts. Secretary Doris agreed to provide the requested information. Representative Varela and Senator Altamirano requested that the LFC receive more detailed information on contracts.

Senator Beffort suggested that the department provide:

- Concrete numbers in regards to increased productivity
- An update listing accomplishments, improved performance, clients served, etc.

Representative Varela questioned the agency's creation under House Bill 1280 and whether the programs within the agency are viable and fit within the department.

Department of Environment

Secretary Ron Curry, Department of Environment, alluded to the agency's fiscal accountability, noting "clean" audits for the past 3 years, with this year's audit revealing no major findings thus far. For the fourth consecutive year, funding was used at appropriated levels, reverting less than 1 percent. The agency continues to fill vacancies, and has a vacancy rate of less than 10 percent.

The department's main goal is water quality—management and implementation conducted by the Construction Programs Bureau amounted to \$75 million in water and waste water infrastructure. The department is continuing work on regional water system planning assistance and coordination for 17 rural water systems.

The department has issued 990 groundwater discharge permits including 200 for dairies in NM. A groundwater discharge permit for Louisiana energy services in Eunice NM has been issued and a variance for Phelps Dodge was constructed to allow mining.

Concerning watershed protection, the department is managing and distributing over \$2.3 million from the Governor's River Ecosystem Restoration to 11 projects statewide. The department provides technical assistance in rural water programs to over 1,100 systems throughout NM and has conducted more than 6,159 water sampling events, most of which were free to the public.

Work is being done with the Elephant Butte irrigation district on salinity control in southern NM in an effort to lessen the litigation involved in the lower Rio Grande and Texas. The department has also issued the remote handled waste permit to the waste isolation pilot plant in Carlsbad and issued a draft permit for the overall operation of Los Alamos. At Sandia National Lab, a final order for the mix waste land fill in Albuquerque has been issued.

Among other accomplishments, an e-waste recycling policy has been drafted for the department, the state agency recycling program has been increased, and a number of compliance orders have been issued to chronic violators under various statutes in NM. The department continues to be a climate change leader for NM and the western United States.

Deputy Secretary Cindy Padilla recalled the department's 2007 commitment to the legislature, promising to visit communities throughout the state to discuss environmental protection. Senior

staff members and bureau chiefs visited over 14 communities during the summer of 2007 and received adequate feedback. Issues discussed included liquid waste issues for septic tanks, illegal dumping, food safety, and petroleum storage tank cleanups.

Secretary Curry spoke about an executive order recently signed by the governor regarding waste water and the establishment of a water cabinet. The department plans to complete implementation by the end of calendar year 2007. The water cabinet was a result of House Bill Memorial 86, with the intent to better coordination between agencies with water responsibilities.

Secretary Curry explained that the Construction Bureau's placement within the Environment Department would provide increased efficiency due to the over 1,200 water projects being administered through the Bureau, and would provide a centralized application to better serve the drinking water bureau.

Representative Varela expressed concern over the department's high vacancy rate. Secretary Curry responded that most vacancies are within the ground water bureau. Heavy turnover rates and recruiting difficulties remain of concern to the agency though recruiting is conducted across the state.

Representative Bratton expressed concern over the economic cost to the state, and stated the need for a balance between environmental protection and cost. Regulations need to be enacted with regard to cost benefit and adjusted for long term financial impact.

Senator Griego confirmed that the water cabinet will assist in combining the funding and application processes for water projects. He noted that assistance will be available to small communities to ensure that the application process runs smoothly. He requested that the water cabinet report project progression and successes at least three times a year.

Sandra Ely, Environment and Energy Policy Coordinator, responded to questions about the proposed California Clean Car rules, implemented through auto manufacturers. Arizona, Utah, and Colorado have committed to collaboration with the intent to reduce pollution. The committee expressed concern over enforcing vehicle standards by denying registration. Representative Lundstrom stated that she doesn't support the ruling due to increased consumer costs, estimated at \$300 and requested a cost benefit analysis.

Senator Lopez inquired about the status of federal energy bills. Secretary Curry reported that the bills are moving "sideways" and have received little support. NM was the first state to join the Chicago Climate Exchange.

Senator Rawson expressed concern about monies being taken out of the capital outlay water projects fund by the executive board and used for non-water projects. Secretary Curry did not have information on the issue, but stated that the cabinet would address the issue in the future.

Veterans' Services Department

Secretary John Garcia, Veteran's Services Department, gave an overview of the state's veteran population consisting of about 185,000 persons. The Department served 32,556 veterans in

FY07, about 18.3 percent, and filed 3,107 new claims in 18 field offices totaling \$84 million in compensation.

The department reported \$744 million in costs for 2006 to serve more than 173,000 veterans. Last year, 58,600 veterans received health care and 32,900 veterans and survivors received disability compensation or pension payments. More than 4,900 veterans, reservists, and survivors used GI Bill payments for their education; 23,900 purchased homes through home loan guarantees; and approximately 1,650 were interred in Ft. Bayard and Santa Fe National Cemeteries.

NM veterans generate an estimated \$1.2 billion dollars of economic development through pensions, disability payments, retirements, dependent payments, educational benefits, and other compensation benefits and services.

Secretary Garcia gave an overview of the following accomplishments:

- NM ranked at the top in terms of per capita claim amounts for veterans receiving compensation and pensions
- Approximately \$10 million a year goes into a veteran education training program
- Veteran owned businesses are growing and generating economic development
- A veteran's business resource office in Albuquerque has been established
- The patriot plate program has been launched and receives \$7 for every plate purchased
- 13,000 veterans of Iraq and Afghanistan have returned to the state and received services. Currently, 13,586 OEF and OIF veterans are being treated at the VISN 18 Southwest Healthcare Network facility. Mental illness remains the department's biggest issue.
- The first outreach conference was attended by over 200 Iraq veterans
- The 2nd annual women's conference was a success.
- 21 Native Americans attended and were certified at the first Native American Veterans Services Officer Training and Accreditation program
- A veterans' business conference was held
- Secretary Garcia was elected chairman of the National Association of State Directors of Veterans Affairs

Dan McCormick, Administrative Services Director, gave an overview of the finance report. The appropriation request for FY09 is flat relative to FY08, the only difference being GSD mandated insurance coverage costs. Expansion requests for FY09 represent a 29 percent increase over the FY08 general fund appropriation, and include:

- \$100 thousand for outreach to injured veterans
- \$300 thousand to replace federal funds for a veteran's homeless program
- \$150 thousand to expand the veteran's business resource center
- \$70 thousand for a veterans' education and training program
- \$106 thousand for training of staff and new personnel
- \$30 thousand for video conferencing equipment
- \$24 thousand to provide service officers with wireless laptop equipment

Director Abbey suggested the department submit the request for video teleconferencing equipment and wireless laptops as a late special appropriation request because they are nonrecurring items.

Representative Varela expressed concern about the department's difficulty hiring veteran's services officers. Lou Helwig explained that it takes three years for a service officer to become completely competent in the area and it is difficult finding someone interested in doing outreach. Representative Varela inquired about protecting the veteran's memorial at the Bataan building from skateboarders. Secretary Garcia promised to follow up on funding to put a fence around the memorial.

Economic Development Department

Cabinet Secretary Designate Fred Mondragon reported that the state's economy is strong and is 5th in the nation for overall economic growth. The department's priorities are as follows:

- rural economic development
- technology based economic development
- community development and capacity building
- film and digital media
- international trade and foreign direct investment
- small business support programs
- tribal economic development
- sustainable economic development
- Spaceport America
- public-private partnerships

Dr. Kelly O'Donnell, deputy secretary, reported the following expansion requests associated with the Office of the Secretary, the Office of International Trade, and the Office of Mexican Affairs:

- \$93 thousand for an FTE to provide legal counsel to the agency concerning contracts
- \$80 thousand to expand services to Europe and the Americas, \$70 thousand for an additional FTE, and \$50 thousand to support increased costs for increased staff, including costs of travel, marketing, telephone, etc.
- \$58 thousand for the Office of Mexican Affairs for an additional FTE to expand services and \$40 thousand for the renewal of the International Business Accelerator contract.

Stuart Paisano, assistant secretary for economic development, discussed the expansion requests associated with the Economic Development Division:

- \$62 thousand for the Mainstreet program for an assistant to the director. This position will provide administration and oversight for the 16 contractors and 26 communities
- \$50 thousand to allow the Rural Communities Economic Assessment to conduct two community economic assessments
- \$70 thousand for a retention and expansion database manager to implement the legislative requirements for the Minority Business Development program.
- \$50 thousand for business and community workshops for 16 communities
- \$75 thousand for certified community initiative program expansion

Representative Varela explained that despite New Mexico's economic growth, the Legislature is looking at a reduced revenue estimate for FY09 and expressed the need to provide economic activity across the state, especially in rural areas.

Representative Lundstrom expressed concern over the application process for the Certified Community Initiative Program. Many communities do not apply because they lack the required infrastructure. She suggested that a database be compiled to show which communities qualify. Secretary Mondragon responded that it is important to send PRO's to all communities and that staff will train communities on how to respond.

Secretary Mondragon discussed the Mainstreet program, explaining that some communities are great at maintaining these programs, while others are not. National requirements include an executive director in collaboration with a non-profit community organization. Problems include retaining volunteers and staff turnover.

The following discussions on the Spaceport Authority were heard:

- Dona Ana County passed a referendum imposing a local option gross receipt tax to fund the spaceport which required the formation of a spaceport district. Sierra and Otero counties plan to hold elections for the tax.
- The cost of the spaceport is about \$200 million dollars, of which roughly \$125 million has been secured from the state legislature. Schematic design has been finished and is in full scale design.
- There are substantial increases and shortfalls in GRIP II. A monthly budget report has been received from the spaceport design team which reflects.
- An FAA license needs to be obtained and a lease needs to be entered into. Major construction projects will be deferred until there is a legal contract. There is a memorandum of agreement with Virgin Galactic and it is anticipated to be signed by December 2007.
- Senator Rawson encouraged a reassessment of the location of the spaceport visitor center in Hatch.
- The first passenger flight is scheduled for 2010 if the construction of the spaceport goes as planned.
- The spaceport is going to be focused on point to point travel.
- The NM spaceport is looking toward commercial space tourism, while other spaceports are geared toward defense. The department's goal is to make sure the NM spaceport is operational before anyone else's. At this point in development, NM is in the lead.
- The space port has had inquiries from small start up companies for alternative uses of the spaceport. The challenge is to balance the needs of these smaller companies against the environmental impact contract.
- A spaceport director recruitment is underway
- Once the facility is operational there will be launch fees and lease fees which should cover the cost of operation, while tax revenue will be retained as capital.

Stuart Paisano touched on the outreach work that is being done to assist the pueblos. The focus right now is on tribes that don't have gaming.

Secretary Mondragon confirmed that Tesla Motors, an auto manufacturing company, is on track to locate in New Mexico.

NM Film Program

Eric Witt presented the film program:

- Approximately \$60 million dollars has been paid out through the rebates program
- The film program is considering a comprehensive, third party financial analysis on the film industry's economic impact on the state
- Studios from California are looking to NM as a primary place location because of long-term sustainability
- Other states spend twice as much as New Mexico to recruit films
- Two of the largest movies filmed in the last year were filmed in New Mexico

Homeland Security and Emergency Management Department

Timothy Manning, director, gave an overview of the \$37.1 million budget request which includes a \$717.5 thousand, or 21.6 percent, increase in the general fund. The Homeland Security and Emergency Management Department (HSEMD) requested \$111.7 thousand or 3.3 percent general fund base increases, which includes the following:

- \$62 thousand in additional GSD rates
- \$19 thousand to replace five fleet vehicles in excess of 100,000 miles
- \$30 thousand in audit costs

The department is requesting a total of five new expansion positions and the conversion of three term employees to permanent status. \$304 thousand is requested for the Intelligence and Security Bureau; \$182 thousand for Response and Recovery Bureau; and \$66 thousand for the Office of the Director. Additionally, the department is requesting \$52 thousand in new IT network costs associated with the creation of the HSEMD to provide physical network connectivity to all locations of the agency.

The agency submitted capital outlay requests in the amount of \$2.2 million for the expansion of the Santa Fe Operations Center and \$490 thousand for the expansion of the Albuquerque Mobilization Center.

HSEMD will receive federal funding this fiscal year for the Public Safety Interoperable Communications grant estimated to be \$8.3 million over three years. The grant requires a 20 percent state match. The eight expansion requests submitted in the FY09 budget request provide the matching funds for the grant.

The meeting adjourned at 5:21.

November 15, 2007

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Thursday, November 15, 2007, at 9:15 am.

The following LFC members were present on November 15, 2007:

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

Share System Implementation Update

Representative Varela requested that the committee receive reports from the State Treasurer and State Auditor concerning SHARE’s impact on year-end financial audits and daily operations.

Aurora Sánchez, LFC Performance Evaluation Manager, presented the results of the SHARE review, conducted to determine if SHARE was properly planned, procured, and managed to ensure its successful implementation and continued agency operation. The Laws of 2004 appropriated \$20 million in severance tax bonds toward the project and agencies have contributed an additional \$11.7 million from 2005 through 2007. Of the \$31.7 million, \$27.4 million has been committed to contracts with a remaining balance of \$3.8 million and over \$800 thousand paid in salaries and benefits to five employees. The \$2.3 million retainage withheld on the integrator, Maximus, has been paid out. Additionally, agencies have entered separately into SHARE-related contracts totaling \$952 thousand to prepare for the transition or assist with issues after go-live. Ms. Sánchez told the committee that despite all of the difficulties with SHARE, state employees have shown perseverance and commitment to state government. For the most part, employees remain optimistic that once they are trained, system issues are resolved, and better reports are available, they will be able to do their jobs better and the system will be successful.

SHARE was planned and procured properly, but the project was not managed well—sponsor commitment was lacking, the project director was not fully qualified, all contractor staff did not have statewide implementation experience, and risks identified were not mitigated; additionally, the contract was amended 22 times since April 2005. Among the risks identified were loss of decision-making data, inadequate training, lack of system interfaces, and decline in employee morale. Currently, management reports are not available, timely, reliable, or complete. Issues persist with the budget status reports, monthly cash reconciliations, organizational listings and vacancy reports. There is no cash balance report, STO cannot calculate interest on approximately 150 self-earning accounts (as of June 2007 about \$2.5 million in monthly interest had not been distributed), DOT cannot track federal-aid financial events, third-party transactions are not posted timely to agency books, and employees remain improperly trained. The human resource group is now offering hands on training, but the financial group continues to offer only auditorium-style training. Agency processes were not properly reengineered to fit how SHARE works which has negatively impacted employee morale. Further complications include the system's poor response time and lack of governance structure which has split decision making between DFA and DoIT. However, 99.7 percent of payments made to vendors in nine agencies are completed on time.

Hector Balderas, State Auditor, reported to the committee that it was too early to tell if the audit reports would be late this year. About eight audits of small agencies are complete though the opinion for all is unqualified.

Orlando Romero, STO Cash Manager said that the project has been a learning experience and agreed with the content of the LFC's report. Coordination between DFA and STO has improved and they are addressing major issues though the biggest concern remains book-to-bank reconciliation. Mr. Romero informed the committee that positive pay has been implemented and is working. State Treasurer James Lewis reported that although progress has been made, implementation is not complete. He stated that DFA is performing the reconciliation and new reports should provide outstanding warrants and in-transit items.

DFA Secretary Katherine Miller, Comptroller Anthony Armijo, DoIT Deputy Secretary Connie Maki, and State Personnel Director Sandra Perez presented their response to the report. Secretary Miller respectfully disagreed with the report. She said that SHARE does have a governance structure that is divided across the three agencies, the reports are functioning and the errors are due to users, they have implemented positive pay, are reconciled across all state agencies, and they can now produce a comprehensive annual financial report. She admitted having problems with implementation and reported that those transactions are being cleaned up. Mr. Armijo informed the committee that they are clearing reconciling items. He said that the project team was qualified, the sponsors were committed and that the State Purchasing Division was unable to participate because of budget cuts. He admitted that training had been an issue and stated that DFA is now conducting forums though the best training is performed on the job. Moreover, agencies are providing their own training. Ms. Perez agreed that state employees are dedicated, want to understand the system, and that more training is needed. She said the current classroom-style training is a reaction to what employees need and is working well. Mr. Armijo reported that the final independent validation and verification report from Gartner will be available in December 2007. The status as of October 2007 is timely payments, corrected payroll interfaces, completed cash reconciliations and system updates, workflow processes redone and published, timely payment loads and deposits, re-engineered operating transfers, and reports that will be available soon.

To Senator Griego's questions regarding full functionality, hold back provisions, warranty, training, and cost overruns, Mr. Armijo responded that the generally accepted accounting principals and management reports were included in the system, but federal reports were not. The 15 percent hold back on the Maximus contract was paid in September 2007 based on issues they had taken care of and warranty work they completed. Training was part of the contract and seemed to have worked well for the financial control division staff, though not for others; funds appropriated for training were deemed insufficient. Mr. Armijo reported zero for cost overruns since amendments to the system were simply for additional functionality. Representative Bratton questioned whether DOT was part of the initial business case, and if so, why the amount was so grossly understated. Mr. Armijo said that DOT was included and that increased costs were for configuration.

All the committee members expressed concern about DOT's inability to report accurately to the federal government and the strong probability that federal payments to New Mexico will be suspended. According to Mr. Armijo, DOT should have used project accounting, not grant accounting. Now it will require more resources to convert the data from grants to projects and to train the staff. How much and for how long is an unknown. Mr. Armijo told the committee that DOT had the option to opt out of SHARE and they chose not to. He assured the committee that New Mexico would not lose \$15 million in federal funds. Representative Lundstrom stated that manual spreadsheets to report data to the federal government are not a solution because it is time consuming and subject to error. DFA and DoIT representatives were unable to provide a cost or a schedule to address DOT's needs.

Representative Varela asked about the leave liability report, who was responsible for SHARE, and if any edits were suspended. Ms. Sánchez told the committee that the information on the report was not reliable when compared to that in the system. Mr. Armijo said he was the project lead, John Prihoda was the project director and Karen Kendall was the Financial Support Unit lead. He told the committee that no edits were suspended and all were working.

The committee turned its attention to Secretary Miller's letter denying LFC analysts access to SHARE. Representative Bratton asked if the time between the end of the month and when the reports are provided to analysts will serve as time to manipulate the data. Senator Wilson-Beffort asked why it will take so long to have access to reports. Secretary Miller said that the budget status report would be ready November 19, 2007, and the hope is that all other FY08 reports will be available by the 21st of each month to allow DFA staff sufficient time to post adjustments. Free access cannot be granted because of the confidentiality of the data.

Senator Smith asked the Administrative Office of the Courts to comment on SHARE. Jeff Varela, Deputy Director, said that cooperation from DFA was satisfactory, but court frustration necessitated that the AOC provide further training. About half of the 13 judicial districts are running parallel systems and initially there was no way to check payroll. Mr. Varela reported that things have gotten better and that organizational listing has improved, but that pension payroll contributions are still not being posted in a timely manner. Mr. Varela reported that the state is in the testing phase while in production. Oscar Arevalo, budget director, stated that basic transaction processing and high level reports are better, but managers still don't have access to quick and timely information. The AOC has committed to the SHARE project since the beginning and provided the project its initial 18 FTE. Senator McSorley asked how much of the system is working to which Mr. Arevalo guessed about 50 percent as reporting issues still need to be resolved and further training is needed.

Aging and Long-Term Services Department

The Secretary presented the following expansion items:

- \$1.2 million for 14 FTE to implement the Coordinated Long Term Services program (CLTS) and \$450 thousand for 6 FTE to administer the Mi Via self-directed waiver. Funding for the FTEs is 50 percent general fund with matching federal funds.
- \$3.2 million for Aging Network programs including a home modification program, health and wellness programs, the gold mentors program, volunteer programs, and senior employment. Priority is given to senior centers who have received capital funds but no

operational dollars. Senior centers report escalating costs.

- \$260.6 thousand for Zero Tolerance and Access to Services including 5 FTE to support the Ombudsman program, a volunteer coordinator, increased site visits, and a nursing home advocacy program. Funds are Medicaid matching.
- \$327.3 thousand for the Aging and Disability Resource Center and to support Benefits Counseling including 6 FTE. The agency needs additional staff based on increased call volume, the implementation of CLTS, need projections, and a growing aging population. The Benefits Counseling program is in need of additional funds to recruit volunteers for Medicare outreach and education.
- \$3 million for the D&E waiver program whose waiting list is currently at 6,000. The expansion request covers about a third of the list's 2000 eligible applicants.
- \$1 million for the Brain Injury Trust Fund. The fund is currently supported by a \$5 assessment on traffic violation fines in non-metro areas. The agency reported a decline in revenue despite growing demand. The requested funds are in addition to the \$2 million previously appropriated, and as intake is continuing, the agency requests that monies not be reverted to the General Fund.
- \$1.1 million for workforce development and civic engagement
- \$250 thousand for Native American Disability Services including independent living centers and coverage for two additional pueblos.

The agency's base budget from the general fund is \$48.5 million which represents a 3.4 percent increase over the current operating level. The base request includes \$75 thousand to cover cost increases for the agency's annual Conference on Aging, \$375 thousand to address a minimum wage increase in the state's senior employment program, and \$150 thousand to lease additional office space. The agency has a self applied vacancy factor of 2 percent in most divisions, and a 4 percent vacancy rate in the Adult Protective Services division. Additionally, the agency is requesting the conversion of 17.5 term positions to permanent positions.

Special appropriation requests include \$100 thousand for micro-boards to establish an alternative model of guardianship; \$200 thousand for a Guardianship study to provide oversight of guardians; and \$250 thousand in APS Network upgrades.

Secretary Armstrong stated that by 2030, 1 out of every 4 New Mexicans will be over 65 years of age and noted that the agency's request, while significant, maximized other funding sources including federal dollars, Medicaid match, and volunteer support.

In response to the agency's request, Chairman Smith noted a significant downturn in new dollars; despite increases in oil prices, new dollars have decreased to \$300 million. Historically, Higher Education and Aging have received funds, and though decreases in revenue are both state and national, the committee will do their best to accommodate agency requests. Senator Smith noted that the NM budget is required by statute to remain in balance.

Senator Rawson requested that accountability be in place to ensure the quality of services provided through the department. Secretary Armstrong stated that agency staff participates as much as possible in holding providers accountable fiscally without cutting services, and though close scrutiny is in place, direct oversight of services is not possible in local areas. Senator

Rawson requested assurance that new money would provide the services necessary and specifically requested information on adult daycare in Las Cruces. The Secretary stated that adult daycares are struggling throughout the state and that funds appropriated to the agency don't increase all the programs the agency oversees. The Secretary agreed to speak with the Senator about enforcement and oversight of the program

Senator Wilson-Beffort stated her concern for long-term care management groups utilizing an HMO model. She expressed her hope that contracts will be diligently worded to protect providers and ensure availability of services. She stated that contracts were made under the assumption that services would increase in terms of number and quality; in reality, providers are going out of business and clients are being denied. The Secretary stated that she shares the Senator's concerns. The aging population is being served by at-risk providers who have an incentive to keep clients out of nursing homes to keep costs low. She stated that she is cognizant of the need to pay attention to the system as a whole and stated that it is an agency goal to better consumer-provider relations and increase accountability of system infrastructure.

Larry Hayek, HSD, stated that CLTS contractors will sign an initial two year contract and are eligible for two, one year renewals, though the state retains its option to terminate contracts. Senator Wilson-Beffort requested that final drafts of provider contracts be made available to LFC analysts prior to signature and approval, to which Hayek agreed.

Representative Saavedra complemented the agency and staff. Secretary Armstrong stated that issues among the aging population will keep growing and that the agency will make the best use of whatever funds it receives.

District Attorneys/Administrative Office of the District Attorneys

Clint Welborn, 7th District Attorney and President of the District Attorney's Association, stated that recruitment and retention of employees and increased expert witness fees continue to be major problems for the agency. In the past, Southwest Border Prosecution Initiative (SBPI) monies have been used to pay for expert witnesses but DFA requires reversion of these funds. The agencies would like legislation passed to make the monies non-reverting. SHARE continues to cause difficulties in completing end of the year reports and \$50 thousand of the agency's budget was reverted by mistake due to errors in SHARE reports.

Randy Saavedra proposed a twenty year retirement for DAs funded by attorney contributions and the DA's office. He reported that judge salaries rise every year while DA salaries remain flat. An HR consultant reviewed job specifications and salary schedules and advised the agency to raise minimum salaries for new attorneys. Mr. Saavedra reported that remaining at the minimum salary level prohibits hiring, while raising the minimum would increase the agency's competitiveness. Currently, a \$1.7 million special appropriation is in a liability account should the DOJ request payment of questioned Southwest Border costs. The agency would like to use these funds for IT needs.

Ms. Newell reported her findings of the SHARE program as experienced by the 6th DA's office. She stated that since trainings are only in Santa Fe and Albuquerque, agencies located in other parts of the state have to be out of the office for more than a day to attend a one to two hour

seminar. Because employees have to maintain parallel accounting systems, double records cost agencies double time and decrease productivity. SHARE requires that payroll be completed every week rather than every 2 weeks, increasing the time and cost burden on employees who can no longer perform multiple tasks. Finally, stresses caused by SHARE caused an agency employee to quit.

Ms. Newell agreed with the findings of the LFC report and stated that the majority of SHARE problems are caused by the system and not users. Reports of data disappearance and system failure occur frequently and require telephone assistance to recover lost data. Since DFA payroll adjustments aren't communicated back to the agency, their records may not match. Ms. Newell stated that users need more on the job support rather than just more training. Additionally, since all agencies are funded differently, generic instructions aren't effective. She stated that resources should be allocated to have one person dedicated to the DA's specific SHARE problems.

Representative Varela expressed concern that the system isn't working properly and noted that Anthony Armijo from DFA and the state auditor should work with the DAs to accommodate agency difficulties with SHARE.

Susanna Martinez, the 3rd DA, stated that the Southwest Border Fund has been used to fund parts of the budget the Legislature cannot accommodate, noting increases in expert witness fees, and problems with DNA testing labs. As computer upgrades, IT expenses, special cases, term employees, vehicle expenses, etc. were formerly funded by the SWBPI, a request has been filed with the U.S. DOJ to prevent reversion of these funds.

Senator Wilson-Beffort stated that SWBPI funds are used to prosecute federal cases that the federal prosecutors cannot accommodate and that funds have been constant for the past three years. Ms. Martinez requested LFC support for a measure in House Bill II that would prevent reversion of SWBPI funds.

BUDGET REQUESTS:

3rd District—Dona Ana County:

Ms. Martinez stated the need for additional funds to support DWI, police blitzes, checkpoints, & hotline reports. She reported an increase in the number of DWI cases (500 more this year) and the corresponding need for additional attorneys. As DWI penalties have increased, the number of trials has increased as well. The district is requesting an additional senior attorney to focus solely on repeat offenders and one additional judge as the county is growing and the number of cases is increasing.

Senator McSorley acknowledged difficulties in retaining judges and DAs in rural areas. He recommended that a formula be configured to tie judgeships, case-load, etc. to DA salaries. The Senator acknowledged a huge deficit in the judicial system and stated that local crime labs should be fixed to avoid out of state lab fees and associated costs.

6th District Attorney:

Ms. Newell requested support for case management data entry, fiscal employees to accommodate SHARE, an FTE for Luna County, and a district office manager to assist the district's 3 counties.

Senator Altamirano stated that this is his district and that the DA does a terrific job with limited resources.

12th District Attorney: Mr. Scott reported the district's need for additional secretaries, difficulty retaining attorneys, and increases in PERA and insurance costs.

5th District Attorney: Budget increases are based mainly on inflation and include 4 expansion FTEs. An independent consultant found that the district can support 2 attorneys and 3 secretaries; the agency's request includes 1 attorney and 3 secretaries. The district would like to go paperless to reduce costs but needs additional staff. The county has 4 offices (Hobbs, Lovington, Artesia, Roswell,) 58 employees, and is involved in prevention programs including outreach to high school students and the Legacy program.

Representative Bratton noted difficulties in obtaining lab services in a timely manner and the need to reduce costs to tax payers by keeping lab work in state.

9th District Attorney: Mr. Chandler requested a flat budget with a slight increase to accommodate compensation and insurance. He stated his support of a 20 year retirement to help with retention rates. Nationwide, the average life of a prosecutor is 2 years.

Senator Smith noted that early retirement may preclude retirees from state retirement healthcare benefits. Mr. Chandler responded that the early retirement proposal would only include the most dedicated attorneys as opposed to all staff. He noted that there has not been a single retiree from the 9th judicial district.

10th District Attorney: Ronald Reeves requested one FTE for a secretary.

8th District Attorney: Donald Gallegos requested one attorney for Colfax County based on a workload assessment finding that 2.2 attorneys are needed for the county.

Representative Moore noted that Colfax County is up for a new judge and corresponding staff who could assist with the workload.

11th District Attorney #1: Lindy Bennett requested three expansion FTEs for San Juan County: a victim advocate; a financial assistant; and an Attorney to keep up with domestic violence cases, crimes against police officers, and homicide increases.

11th District Attorney #2: Karl Gillson requested two expansion FTEs for McKinley County and the Navajo nation: a DWI subpoena clerk and an information systems manager. McKinley has been proclaimed a DWI hotspot and the District is having trouble recruiting new attorneys despite a nationwide advertising system.

Senator Wilson-Beffort noted that Native Americans receive their own federal domestic violence monies. Mr. Gillson informed the committee that domestic violence is rampant in Indian Country because of a lack of resources including phones, hospitals, law enforcement, victim

advocacy, and legal services. The Senator suggested the creation of a taskforce to engage in the sharing of domestic violence records to aid in tracking offenders. She noted the significant domestic violence tragedy and stated that it would be beneficial to the Legislature to improve the system and ensure that victims receive services. Mr. Gillson is currently in the process of a Navajo Nation law enforcement and McKinley County Sheriff Department collaborative to allow jurisdiction in both counties.

Representative Bratton stated the need for PDD to ensure fair representation for criminal defendants. Gillson noted that defendants are underserved in McKinley County and suggested a field office open 8-5 to improve access to services. Mr. Gillson noted that 80 percent of defendants are Navajo though only one law firm in the county has a Navajo speaking attorney. Mr. Gillson stated that a regular full-time staff would be preferable to contracted public defenders.

13th District Attorney: Lemuel L. Martinez stated that his district is the second largest district and contains two of the fastest growing counties. Mr. Martinez noted a 75 percent increase in cases from 2001-06, with a continuing upward trend. The district is requesting 12 expansion FTEs: 3 trial attorneys, 5 secretaries, 1 program assistant, 1 investigator, 1 information system manager, and 1 financial assistant.

Representative Saavedra noted concern for the Meadow Lake area which is a distribution center for methamphetamines from Mexico. Mr. Martinez remarked that the area has a significant gang problem for which federal gang task force funds have been applied.

Senator Griego expressed the need for crime prevention programs and suggested that different districts work together for crime prevention and cost sharing.

7th District Attorney: Clint Welborn requested additional funds for audits, expert witness fees, and \$50 thousand to replace three high mileage vehicles.

4th District Attorney: Richard Flores reported no expansion requests and lent his support to the parity bill to combat difficulties in the recruitment of attorneys for Santa Rosa and Las Vegas. A bill has been introduced to raise minimum salaries by 20 percent, with costs totaling \$250 thousand.

Director Abbey stated that 10 percent raises were given to DAs last year without raising the minimum, only the mid and high points. Abbey suggested that SPO should boost minimum pay in tandem with the average pay increase.

Representative Saavedra expressed concern over low DA salaries. Representative Varela suggested a loan repayment program in conjunction with the UNM law school and the judiciary in exchange for a commitment to the state. Mr. Welborn stated that employees in service to the state are currently eligible for loan repayment and suggested continued funding and expansion of the program. Senator Griego expressed concern that increased crime in District 4 would affect the DA caseload. Mr. Flores responded that the case load is increasing though he remains unable

to fill attorney positions in the area. Though sufficient funding is available, the district will be unable to accommodate additional arrests if unable to recruit additional staff.

Representative Bratton expressed concern over low salaries and stated that since the 10 percent increases were not granted to minimum salaries, some positions must have received higher than 10 percent raises. Mr. Saavedra stated that this had occurred as minimum salaries had remained consistent with agency's recurring budgets.

2nd District Attorney: Kari Brandenburg reported 13 expansions including a request to convert four term employees to permanent staff. Since the Metro Court workload is significant, the agency has had difficulty retaining FTEs. Children's court cases have increased by 45 percent and gang problems are increasing exponentially. Brandenburg reported no hiring difficulties in Bernalillo County. \$95.6 thousand was transferred out of personnel services into other agency needs.

Representative Saavedra expressed concerns over defendant's ability to post bail after the commission of violent crimes. Brandenburg stated that the court sets the bond but prosecutors can monitor defendants in case they violate the conditions of their release.

1st District Attorney: Henry Valdez reported a budget increase of 2.6 percent over the FY08 budget partly due to increases in GSD fees. Three expansion items include a prosecution specialist for DWIs; a victim advocate for domestic violence; and a senior trial attorney for felony domestic violence cases. In response to Senator Smith, DA Valdez reported, the public integrity unit has three of the four agency vacancies.

Representative Varela noted the agency's unreasonably high 20 percent vacancy rate.

AODA: Randy Saavedra reported an expansion request for an administrative secretary, program administrator, database administrator, and a financial assistant.

Senator Smith noted that there have been increases for the agency in the past. Mr. Saavedra stated that \$1.5 of \$1.7 million from the FY08 Special could be used for IT needs and stated that money owed back to the U.S. DOJ for SWBPI is being taken from future awards.

Public Regulation Commission

Chairman Ben R. Lujan presented the agency budget request along with Vice Chairman Jason Marks and Commissioner Sandy Jones. The agency's total request of \$39 million included \$13 million from the General Fund and supports four program budgets. The agency reported increases in GSD, DoIT, and IT costs. Expansion items include 18 additional FTE and total \$2 million.

Chairman Ben R. Lujan noted the following PRC accomplishments over the past year:

- Resolution of the Qwest AFOR-I investment shortfall to benefit consumers and the state. Qwest has been ordered to pay over \$20 million in credits to customers for poor quality service.
- Qwest AFOR-II order requiring a three year rate freeze for basic services

- A renewable energy workshop
- The passing of rules requiring phone companies to demonstrate their use of Federal USF funding to improve services
- An open investigation into prison phone providers and rates
- Open investigations into utility fuel clauses
- Net Metering Rules
- RPS Rules
- Requirement that utilities assess carbon dioxide emissions in long-range plans
- Electrical and gas energy efficiency plans
- Lowered Title Insurance rates by 11 percent over the last two years
- Increased consumer outreach
- Stopped no-bid practices for insurance program contracts
- Increased services to Native Americans through a Native American liaison

Additionally, the PRC has begun investigations into the PNM Gas Rate, NMA Water, and El Paso Electric. The agency has filled six expansion FTEs from FY06, and five of the seven FTEs appropriated in FY07.

Carol Rising, of the PRC legal division responded to Representative Varela's request for an update on the title insurance case. Ms. Rising stated that as of November 13th, a District judge held a hearing on the state's motion to dismiss the title case. There are currently three lawsuits pending in federal and district courts.

In response to several questions, the committee heard the following discussion on the regulatory authority of the PRC:

- The PRC has oversight of many telecommunications providers with the exception of wireless communications.
- In order for states to regulate cell phones, the FCC would have to relax laws concerning cell phones and allow that oversight be ceded to the states—actions the FCC has not taken.
- The PRC doesn't have the authority to regulate cable or television including local franchises, a concern for Representative Varela. However, local governments who impose franchise fees can regulate the franchise as far as FCC rules allow. Mr. Lujan noted that franchise fees are a growing problem in NM, and smaller municipalities are at a disadvantage in dealing with the fees. The PRC is in the process of generating solutions for presentation to the legislature.
- The PRC does not provide oversight for gas and oil; currently, the only state in the US to regulate gas is Hawaii due to transportation issues.

Representative Lundstrom raised the question of the rural telephone fund. Mr. Lujan referred to legislation proposing to do away with the rural extension fund and the PRC ruling that Qwest stop collecting the rural extension fee. Currently, \$10 million remains in the fund which may become available in \$25 thousand grants.

Senator Griego raised concerns about the PNM rate increase. The PRC has been advised not to talk about case details. The commission has received support of the rate increase and invited the senators to state their opinion on the issue for the record.

Representative Rawson stated his concern that businesses don't locate in Dona Ana County because of high electric rates.

Senator McSorley complimented the PRC in terms of respectability, professionalism, and public perception. He stated that the US is losing technological supremacy and expressed an interest in the development of solar panels. Mr. Marks stated that PNM shouldn't be held responsible for the state's energy goals, but would like NM to become a solar leader.

Senator Smith raised concerns about the effectiveness of the consolidated PRC and inquired about the fire protection grant fund and the new Fire Protection grant council. The State Fire Marshall responded that the Fire Protection Grant Fund didn't indicate who would make legal determinations, be responsible for meetings, make appointments etc. and as such, the task force is still in the implementation stage of awaiting appointees and hasn't established a time frame. Senator Smith stated his concern over the next fire season and the readiness of the task force and encouraged expediting the process.

In response to Senator Smith's questions, Mr. Lujan stated that the PRC does not conduct cosmetic investigations. Requirements must be met to open an investigation through a petition or by order of the commission. The target of the investigation needs to have the opportunity to respond and usually has 30 days to do so. Investigations take up to six to nine months depending on the level of difficulty. Senator Smith noted that investigations should be reflected in performance measures and requested information on the oldest open investigation being conducted by the PRC.

The meeting adjourned at 5:45 p.m.

November 16, 2007

Senator John Arthur Smith called the Legislative Finance Committee (LFC) meeting to order on Friday, November 16, 2007, at 8:14 a.m., in Room 322, State Capitol, Santa Fe, New Mexico.

The following LFC members were present on November 16, 2007:

Senator John Arthur Smith, Chairman, Luciano "Lucky" Varela, Vice Chairman, Senators: Ben D. Altamirano, Sue Wilson Beffort, Phil A. Griego, Pete Campos, Joseph J. Carraro, Cisco McSorley, Leonard Lee Rawson, and representatives: Rhonda King, Donald Bratton, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra.

Senator Chairman Smith moved to approve the minutes. Representative Moore seconded, and the motion carried.

Secretary of State

Secretary of State, Mary Herrera, presented the agency's FY09 budget of \$5.8 million which included:

- \$4 million for paper ballots and advertisements for the presidential election in November of 2008, noted as a reoccurring expenditure
- \$148 thousand was requested for a permanent staff manager and clerical position and for the operation of House Bill 236 which provides a substitute address for victims of domestic violence to be maintained by the office
- \$92 thousand for two additional accountant and auditor positions for automatic recounts and paper ballot rechecks
- \$40 thousand for an accountant and auditor position for the Ethics Division
- \$60 thousand to train 33 county clerks, staff, and poll workers on the new paper ballot system
- \$45 thousand to promote quality awareness and to publicize quality strategies
- \$991 thousand for IT plan upgrades to fix the problems with their servers, for developments related to the statewide Voter Registration Election Management System (VREMS), and for computer room enhancements
- \$154 thousand special appropriation request to develop software enhancements and \$176,500 for upgrades. In summary, the total base budget request is.

Representative Saavedra advised that the committee needs the funded mandates and wants a breakdown of the exact number. Chairman Smith inquired as to the agency's staff. Senator Cisneros asked about problems with the county clerks and the ballot process. He was advised that the equipment's one-year warranty has expired and will not be renewed due to high costs. The county clerks are responsible for purchasing and maintenance on the machines. All voting machines are tested and all are reportedly in compliance. Cost reductions are being considered in terms of maintenance contracts for which the agency is under negotiation. Senator Cisneros suggested that every county have a 12-month contract.

Representative Sandoval had questions concerning the new ballot machines. \$3.4 million was paid through HAVA and State funds and a balance is still owed on the old machines. The Board of Finance will address the issue in January. The old voting machines are in storage and the agency is analyzing their usage to minimize debt. Representative Sandoval inquired as to the possibility of selling the machines, but there has been little interest among buyers as only the hardware, and not necessary software, is owned by the state. Representative Sandoval also inquired as to how many machines were new or old and never used but that number is unknown because they have never been counted and are stored in a warehouse in Los Lunas. Representative Sandoval wanted to know the warranty negotiations by the former Secretary of State as to maintenance agreements including the amounts of the original purchase.

Representative Bratton requested the annual cost for the maintenance agreement but the exact cost is unknown. The Representative Bratton stated that tax payers are entitled to this information.

Representative Varela had FTE budget questions regarding the 34 of 60 agency vacancies. The figures were deemed incorrect and Representative requested accurate information and

recommended reconciling with the LFC, TOOL report, and SPO. The system will be up and running by December 12, 2007.

State Auditor

Hector Balderas reported it is the mission of the state auditor to protect public resources and Mr. Balderas requested input from the state for a contract compliance division. The agency is requesting an attorney and it was noted that there is a burden upon the state auditor to call on regulations and jurisdictional issues. Additionally, the agency is requesting two additional audit managers and a management analyst as over 500 contracts are reviewed annually. The Santa Fe office currently consists of 27 FTEs and 31 employees in an internship program, of which three employees are stationed in the agency's conference room due to limited office space. The agency requested \$105 thousand for the fraud hotline, peer review, and training.

Representative Varela asked about the additional contracts needed to conduct audits as not all agencies have the resources to accommodate the requirement and how other resources are validated assistance. Mr. Balderas advised that the agency has approved contract amendments for the SHARE system and will have a report submitted by December 12, 2007 concerning additional staff training.

Senator Griego noted that small communities have problems with their books and suggested that a team put the books in order in preparation for government auditing. Mr. Balderas stated that the agency has been very successful on education and support and will give recommendations for pre-audit functions as well as checks and balances. The Senator stated that liaison relationships and the sending of letters is a proactive step.

Senator Smith requested a list of those political subdivisions which had not completed their audits for 2006. He stated that there are four state agencies that are lacking in audits and that legislative members should be aware of them. Representative Varela requested access to records, and made post audit recommendations. Senator Smith requested a list be provided for the next capitol outlay subcommittee meeting.

State Treasurer

James B. Lewis, Treasurer, thanked the DFA and LFC staff for their professionalism and candor and introduced his staff. He noted that self-earning accounts had not been reconciled since July, 2006 and asked the blue ribbon commission for a list of available options. The agency is requesting a \$4.6 million budget for maintenance, 42 FTEs, for the conversion of BAI files to paid-check files, for the implementation of disaster recovery plan, and an online banking system.

Representative Varela requested information on what needs to be done to make calculations in a timely manner. It was noted that the state treasurer is looking for an independent consultant to replace manual calculations done in-house.

Representative Bratton asked about the capabilities of SHARE and the option of hiring a consultant to write a software program to allocate independent funds where proposed interest is due. Currently, it is manually posted to each account because there is limited access to SHARE.

Public Input

Julio M. Carattini III introduced himself and the New Mexico Museum of Military History. The museum houses a huge collection often sought after by other museums. Mr. Carattini expressed his desire to keep the entire \$5 million collection in the state, referring to items such as a B29 bomber and other aircraft items, over 100 vehicles, and various uniforms. They have acquired land and are going to build a storage facility which will require \$8 million in additional funds for completion. He strongly requested the support of the LFC to keep New Mexico's rich military history alive and announced that veterans compose 12.8 percent of the state's population. The museum's primary motivation is education.

In response to Senator Smith inquiries as to the land acquired by the museum, Mr. Carattini responded that the land will be under the ownership of the New Mexico National Guard. The Senator advised looking for secondary funds for the project.

Senator Griego inquired as to the total price of the project, to which Mr. Carattini responded \$12 million for the projects two phases.

Representative King urged museum staff to report funding needs with the executive.

Staff Reports:

Educational Retirement Board

Jeff Riggs, Executive director and Bob Jacksha, chief investment officer, presented a base request of \$2.1 million and reviewed the packet of assets.

Senator Smith addressed concerns about the staffing timeframe had questions about benefit loopholes.

Senator Sue Wilson Beffort advises that the general fund is running on limited resources and asks if the board is looking at future employees and their contribution to these funds.

Representative Varela inquired about the position of a permanent member and the response was undetermined if that position will stay. Representative Varela also asks whose decision it is and requests information on that meeting.

State Investment Council

Gary Bland, State Investment Officer requested a \$35.6 million FY09 budget and refers to tab 3 of their presentation for the performance report and announces that at the end of the month they will have updated September numbers.

Chairman John Arthur Smith asked about the market. Gary Bland advised it has exploded to the downside with a loss of over \$600 million over the past quarter. Senator Smith also asked about the status of Eclipse and was advised that they are working together on a private equity program but they are struggling and have taken positive steps to hire new help.

Senator Joseph J. Carraro wondered whether they should be more conservative and Mr. Bland stated that funds are still up due to alternative investments and that they've cut equity

investments in half this year. Carraro suggests that it may be a good idea to take monies out of equities and requested an explanation of the different funds. Bland indicated that he did not see the need to be very aggressive and that they are trying to cut the equity position and move those funds into absolute return hedge funds.

Senator Leonard Lee Rawson asked about the Region III housing authority and Bland reported that they are being cautious because it is in litigation but SIC expects to recover some of the funds in the future. Rawson asked if there were other state agencies SIC has invested in and he would like to keep track of and monitor those monies.

Public Employees Retirement Association

The agency presented a budget request of \$40.4 million including a 17 percent increase and additional funding for legal fees. Investment fees were requested as well as four additional FTEs.

Executive Director Terry Slattery stated that a formal presentation was not prepared but that PERA is in a strong financial position with \$13.5 billion funded at a 93% ratio on assets to liabilities.

Representative Vice Chairman Luciano “Lucky” Varela addressed questions about the retirement benefits impact and the status of the new building. Land has been purchased and is located in the southwest business park.

Senator Leonard Lee Rawson made inquiries as to lobbyist contracts and was told that there are two: One on the benefits side and the other on the budget side. Rawson also asked about contracts for employee mediation and arbitration and the process of it being done in house. It was advised that they need to use management for mediation with the state agency.

Chairman Smith asked about the judicial retirement age for the 20-year plan and was told that it was not actuarially sound. There is a 7.5 percent gap over the next year to fund the costs. Judges earn 37.5 percent after five years after age 60.

Retiree Health Care Authority

Board member Danielle Wilson presented the agency’s budget and requested \$29.2 million to support their mission for affordable health care. The agency has five sources of funding and \$189.4 million in revenue, but is experiencing cost overruns. The market value of investments was reviewed.

Representative Varela addressed a letter from Express Scripts that indicated opting out options and stated that he hasn’t received a response concerning the letter. He requested an explanation as he doesn’t feel it is fair that there should be a additional funds to pay for increases in GSD rates for employees. The agency is not requesting any additional FTEs though they requested funding for new computer phone systems.

Senator Leonard Lee Rawson asked about the salary of the directors and for a list of premiums since inception. The director’s salary is \$110,000 and they agreed to provide a list of premiums.

Public Input

NM Tech and ICASA want to help the state with information security related to homeland security. An assessment was done on SHARE as well as for DPS and for the Department of Labor. They are not security certified but top students are trained and highly qualified for assessments of security.choice. The Representative requested a resolution. It was advised that participants do not have to opt out and can still continue with the program which is paid by Medicare first.

In response to Representative Varela's inquiries about the agency's 10 percent budget increase, Ms. Wilson responded that increases are for salaries and contractual services. The agency needs

The meeting adjourned at 12:10 p.m.



Chairman

12-7-07

Date