

**Legislative Finance Committee
November 19, 20, 21, 22, 2013
State Capitol Room 307
Santa Fe, NM 87501**

Tuesday, November 19, 2013

The following members and designees were present on Tuesday, November 19, 2013: Chairman Luciano “Lucky” Varela; Vice Chairman John Arthur Smith; Representatives Henry “Kiki” Saavedra, Larry A. Larrañaga, Don L. Tripp, Edward C. Sandoval, Nick L. Salazar, James P. White, and William “Bill” J. Gray; Senators Carlos R. Cisneros, Mark Moores, Howie C. Morales, Steven Neville, William F. Burt, Peter Wirth, and Mary Kay Papen; and guest legislators: Representatives Paul C. Bandy and Gail Chasey.

Administrative Office of the Courts (218). Petra Jimenez Maes, chief justice, Supreme Court said budget priorities include base budgets, judicial compensation, new judgeships, drug courts, and retirement. She said the Judicial Compensation Commission recommends an 11 percent salary increase. However, the judiciary is seeking an increase of 5 percent. Chief Justice Jimenez Maes said New Mexico ranks last in the nation in district court judge salaries. Chief justice Jimenez Maes said the judiciary is seeking five new judgeships in the 1st, 2nd, 5th, 13th districts and Dona Anna County magistrate courts. Chief Justice Jimenez Maes highlighted the importance of drug courts and asked for \$1.5 million to fund them. Also included in the budget request are funds to cover Public Employee Retirement Association (PERA) rate increases.

Artie Pepin, director, Administrative Office of the Courts (AOC), detailed the unified judiciary fiscal year 2015 budget request. Mr. Pepin said AOC has four budgets that fund the Judicial Information Division, Magistrate Courts, Special Court Services and Administration. The judicial information budget request includes a general fund increase of \$388.6 thousand to fund a lease on the building, video equipment for the video arraignment network, and a computer revamp. The judicial information budget request also includes \$336 thousand for new information technology specialists to run the statewide automation system in appellate courts. The magistrate court budget request includes approximately \$800 thousand for facility leases and \$260 thousand for the PERA premium increases. The special court services budget includes an increase to fund drug courts at a cost of \$1.5 million and a \$237 thousand increase for court appointed attorneys representing children in abuse and neglect cases. The administration's largest increase is in the jury and witness fund which has grown to \$480.4 thousand. Mr. Pepin stated the requested increases for AOC total 5.57 percent above FY14. He discussed FTE requests are 5.7 that have no general fund impact and 9 that will have general fund impact.

Representative Tripp asked for clarification regarding funds received by the NM Finance Authority from the courts. Mr. Pepin explained when the metropolitan court building was built in Albuquerque, the NM Finance Authority issued bonds paid for by revenue obtained through court activities, fines, and fees. That money comes to AOC's fiscal division and was transferred to NM Finance Authority. The authority, in turn, pay \$4.6 million per year on the bonds. If there is money left over, it is returned and to spend in magistrate courts.

Senator Wirth asked for an update on water adjudication and asked whether the court should create another water judge for two districts. Chief Justice Jimenez Maes said in 2003 and 2004 there was a similar initiative from the executive to create water law judges. At that point, the judiciary designated water law judges in each judicial district. In addition, the court appointed Judge James Wexler to handle some large adjudications throughout the state. She said they have had contacted the State Engineer Office and will have a meeting next month to find out how to get cases moving. At this point, additional judges are not needed.

Representative Chasey asked if \$237 thousand for court-appointed attorneys is to increase contract amounts or to add more attorneys. Mr. Pepin said it is to increase funds available. It is possible more contract attorneys are needed in a particular district. Representative Chasey highlighted the importance of additional court-appointed attorneys in abuse and neglect cases and explained how much it affects money spent on foster care, which is disproportionately high.

Senator Neville expressed concern with water adjudication throughout the state and the need for a resolution before it becomes a very critical issue. He spoke about the Navajo settlement and the fact that every drop of water in San Juan County has been adjudicated, including the water that serves Santa Fe and Albuquerque through the Chama River.

Chairman Varela asked for clarification regarding the 20 percent increase in the magistrate warrant programs. Mr. Pepin said those are revenues generated through warrant clerks in magistrate courts. The increased budget reflects the activity in the warrant program. He said 40 clerks and a staff in Santa Fe are funded solely through collections on warrants in district courts. The 20 percent increase would assist in making the program more efficient and help pay for lease costs. Chairman Varela asked about the vacancy rate. Mr. Pepin said the current vacancy rate in magistrate courts is 10.5 percent.

District Courts (231-243)

5th Judicial District (235). William G.W. Shoobridge, chief justice, stated the district is experiencing a great deal of growth and case filings have increased. Judge Shoobridge highlighted the 5th district's record of having tried 204 cases in FY13 with only 10 judges, the second most in the state, and the request for one more judge. He said a new judicial complex will be built in Lea County with construction to start in 2014. Judge Shoobridge also discussed a concern regarding compensation issues.

Senator Smith spoke expressed concern that, if an additional judge is funded, it would be hard to cover other parts of the state in the future if changes are needed. Judge Shoobridge said the need for an additional judge is pointed and projected to be so in the future as well.

Chairman Varela asked about the district's vacancy report, Rita Johnson, financial officer, said the district has three vacant positions. Chairman Varela asked if there were any transfers out of personal services and benefits. Ms. Johnson said \$146 thousand was transferred out of personal services and benefits into other costs.

6th Judicial District (236). Judge J.C. Robinson said the district is asking for a 2 percent increase for FY15. He said the request includes 5 percent for judicial increases, which is \$27.4 thousand,

and \$50.3 thousand for General Services Department rate increases. In addition the district requests that two court positions be reclassified to permanent positions. Representative Tripp asked if they have experienced a large increase in pro se cases. Judge Robinson said it is a universal problem and is the reason filing fees are down and litigation is harder.

Chairman Varela asked if there were any reversions made in FY13. Melissa Frost, chief executive officer, said \$24 thousand was reverted because two employees retired. David Abbey, LFC director, clarified these reversions were reported by DFA through September and many agencies have yet to complete their audits. He said almost every agency will have some reversion when the audit is completed. Connor Jorgensen, LFC staffer, said the budget adjustment report shows \$82 thousand transferred out of personal services and employee benefits. Ms. Frost said that was correct; it was transferred to other costs.

12th Judicial District (242). Karen Parsons, chief judge, said the 12th district covers Otero and Lincoln counties with four judges. Judge Parsons told the committee her district is requesting a \$222.1 thousand, or 6.7 percent, increase. She said there are employees leaving the district who were not receiving benefits, resulting in a cost savings to the district. However, in rehiring for these positions benefits will have to be budgeted. She also stated the district has the second highest vacancy rate at 13.2 percent. With the 6.7 percent increase, they can fill 1.5 vacancies. Chairman Varela asked why \$35 thousand was reverted. Ms. Parsons said the primary reason was a district judge resigned too late to ask for a budget adjustment; the funds that would have been paid toward his salary are primarily what was reverted. Chairman Varela asked how much was transferred out of personal services and employee benefits. Connor Jorgenson, LFC staffer, said \$82 thousand was transferred into other costs. Ms. Parsons said a portion of that was an emergency budget adjustment and a portion went into contractual services to fund a pro tem judge during the transition.

3rd Judicial District (233). Chief Judge Douglas R. Driggers said the district suffered a cut in FY10 through FY12 of \$894.1 thousand, or 13.3 percent, and has recouped \$408.5. The district's request of \$6.5 million is 3.3 percent below the FY09 general fund appropriation. Under the requested FY15 appropriation, the court will be unable to fill its deputy chief executive officer position, court clerk 2 position and a half-time drug court surveillance officer position. Judge Driggers stated the new case filings between FY09 and FY13 have remained approximately constant. Judge Driggers discussed the district's capital outlay request of \$49 thousand to replace two vehicles in FY15. Senator Papen expressed her hope in getting the 3rd district another judge in the future and validated the need for new vehicles.

Senator Smith asked if there were any attempts at a joint agreement to hear trials in either Otero County or Dona Anna County. Judge Driggers said it is a question of venue and not jurisdiction. He is not aware of any efforts to try to work out an memorandum of understanding to allow persons to file in either county; however it can be done if both parties wave the venue on a civil case but cannot be done in criminal cases.

Senator Wirth asked how the lower Rio Grande adjudication is being handled since the retirement of Judge Valentine and asked for comments on a proposal from Senator Sanchez and Senator Neville to create a dedicated half-time water judge. Judge Driggers said historically the

Supreme Court had designated six sitting district judges as water law judges. Two or three years ago that changed from having six dedicated water law judges to appointing Judge Wexler to oversee all of the water law adjudication cases. The Supreme Court has requested the district judges designate a water law judge. Judge Manuel I. Arrieta is the designated water law judge for the 3rd judicial district.

Senator Neville asked who is responsible for getting these adjudications resolved. Judge Driggers said depending on the type of water suit, the Supreme Court has indicated Judge Wexler would hear those cases. As to reasons for delays, the district has not experienced delays because a judge is not actively participating; it may be for lack of judges available. Senator Neville expressed frustration in the resolution of these water adjudication issues.

Senator Cisneros asked for thoughts on the creation of water masters across the state. Chief Justice Jimenez Maes discussed other issues the State Engineer Office has to deal with, such as permits, titles, drilling, etc. She suggested water masters may be helpful but suggested a meeting with the State Engineer to develop a plan of action.

11th Judicial District (241). Chief Judge John Dean said the requested 5.4 percent increase will be used to decrease the number of vacancies. He said historically the 11th district carries several vacancies to keep drug court programs and treatment court programs running. They are now at a point where they need to fill those vacancies and also fund PERA increases. Capital outlay requests include \$190 thousand for the redesign of the clerk's offices in Gallup and Farmington.

Senator Neville discussed water adjudication issues and asked Judge Deans opinion. Judge Dean said it is his understanding it is a joint effort between the state engineer's office and the judiciary to resolve these cases but highlighted their complexity and the fact of these cases are very fact-, data- and engineer-driven. He suggested there may be cases that would work for a water master or someone specialized in water issues, then the legal issues could be brought to a judge at a later time.

Senator Neville expressed concern with sole community provider funds, an indigent fund that may be discontinued and how it can affect drug court and other treatment programs. Judge Deans spoke about these programs successes and stated these programs would be in dire jeopardy with those changes.

9th Judicial District (239). Judge Steve K. Quinn introduced Louis Moore, court administrator, who discussed the district's growth from three to five judges before the economic downturn. He said contractual services has been cut 78 percent from \$108 thousand in FY08 to \$23.9 thousand in FY14, with other costs cut 40.3 percent from \$225.4 thousand in FY08 to \$134.6 thousand in FY14. To cope with the changes, the district has undergone significant reorganizations, downgraded positions, and divided duties. The district requests a no-budget-impact expansion of a 0.8 FTE security bailiff to a 1.0 FTE, as well as the conversion of an unauthorized term to an authorized term court clerk 2 in Taos. Mr. Moore pointed out the district reverted \$815 and transferred only \$7.3 thousand out of personal services and employee benefits into other costs for office supplies.

10th Judicial District (240). Chief Judge Albert Mitchell said the requested \$96 thousand, or 18 percent, of additional general fund revenue will be used to fund a financial specialist and two court clerks. Judge Mitchell said with the state's accountability and reporting requirements the district will need additional help for the person currently managing these duties. Judge Mitchell spoke about recruitment issues and stated historically the courts have used retired law enforcement officers for security. This is no longer possible because they would have to give up their retirement to take the job. Judge Mitchell spoke about the inadequacy of the space the county has provided the court and security issues. Representative Tripp asked if they had considered combining with another district. Judge Mitchell said they have considered it, but it would not result in a cost savings.

7th Judicial District (237). Jason Jones, court executive officer, requested a 2 percent increase over the base budget in FY14. Mr. Jones said the increase includes a 5 percent increase for three district judges and increased GSD rates. He said the district currently has five vacancies, two of which are clerks, and anticipate filling those fairly quickly.

8th Judicial District (238). Judge Jeff McElroy's request includes a reauthorization of a bailiff FTE to serve in both Union and Colfax counties. His request includes a total base budget increase of \$94.8 thousand, with an expansion request of \$20 thousand.

4th Judicial District (234). Chief Judge Abigail Aragon requested \$2.4 million, including an additional \$10 thousand to fund the court mediation program. Chairman Varela asked about the prior judge in San Miguel County and who his replacement is. Judge Aragon said Judge Mathis retired in March 2013 with Judge Gerald Baca taking his place. Senator Wirth asked what the \$10 thousand would pay for in the mediation program. Judge Aragon said the district contracts with SR Solutions to provide mediation in custody and visitation cases with the majority of mediation taking place with pro se litigants.

Senator Cisneros asked for an update on the Mora County courthouse. Judge Aragon said Mora County and the AOC have signed a memorandum of understanding and are currently looking for a project manager to complete the project.

Chairman Varela asked if the Mora County Commission has filed a lawsuit for energy exploration in the area. Judge Aragon said the suit is in the federal court and the time has not yet expired for the county commission to file a response.

13th Judicial District (238). Louis McDonald, chief judge, said the district grew by 46 percent between 2000 and 2010 and has the fourth fastest growing county. He said case loads have increased 200 percent since 1996 but the district has received only two additional judges since 2006. Each judge carries an active caseload of approximately 1,800 cases each. A case load study indicates the need for an additional 3.6 judges. Judge McDonald requests a base budget of \$6,507.9 from FY14, \$415.7 thousand for an additional judgeship and an increase of \$266.1 thousand to cover increases in fixed costs and overall operating costs. He reviewed the district's Capital outlay request for a Cibola County courthouse, stating the courthouse is a remodeled school that is outdated and has flooding issues. The district is currently working with Sandoval County to expand the existing courthouse to include magistrate courts in the same building,

which would provide needed security for magistrate court. Judge McDonald highlighted his support of the \$237 thousand requested from AOC to support respondents' attorneys in neglect and abuse cases. Chairman Varela asked where a new job would serve. Judge McDonald said the new judge would be in Sandoval County where the caseload has grown.

Representative Tripp asked about pro se litigants and if they are referred to legal fairs to learn about pro se litigation. Judge McDonald said the district holds monthly pro se legal fairs in each county. The district also has monthly family law dockets primarily for pro se litigants. He said the 13th judicial district has one of the best programs to assist pro se parties.

Representative Sandoval asked for clarification on mental health court programs. Judge McDonald said the purpose for the mental health court in Sandoval County is to ensure that those who are in the criminal justice system with mental health issues see their doctors, take their medications properly, and connect with support systems to manage life with their disability. Representative Sandoval asked how these issues are addressed in the other two counties. Judge McDonald said the district simply does not have funding or staff to provide services in all three counties.

2nd Judicial District (232). Ted Baca, chief judge, gave a brief overview of the district, which has 26 judges: 10 in the criminal division, nine in the civil division, four in the domestic relations division and three in the juvenile court division. He said they operate a drug court, a mental health court, a felony DWI court and a veteran's court with 325 general fund FTE and 50 term or contract employees. Judge Baca said while caseloads have gone up over 15 thousand since 2002 only three judges have been added highlighting the need for an additional judgeship. He stated another district priority is funding \$245 thousand to increase the ability to monitor guardianship and conservatorship cases. Chairman Varela asked if a salary increase was provided in FY14. Greg Ireland, court executive officer, said they provided a 3.5 percent to 4.5 percent increase. Chairman Varela expressed concern with the number of vacancies and the transfer of \$1 million out of personal services and employee benefits. Mr. Ireland said the district has 24 positions that are vacant, with the vast majority being court clerks; the district is trying to run at an 8 percent vacancy rate.

Representative Saavedra asked if salaries are the reason for the high vacancy rate. Mr. Ireland said the district discovered the starting wages for clerk who may be a single parent with one dependant would qualify under the federal poverty guidelines for welfare benefits.

Representative Sandoval asked for a synopsis of how veteran's court works. Judge Baca said the program started two years ago with an appropriation from the Department of Health. When a veteran has a problem with the criminal justice system, they are identified through the pre-trial program and in working with the veteran's hospital are referred to a treatment program to address what are usually some mental, health or substance abuse issues.

Representative White asked if the court has seen a trend in workload highlighting the possibility of an increase as more and more veterans return home. Mr. Ireland said it is a fairly new program that is not yet at capacity but suspects the number of participants will grow. Representative

White asked if veterans from other counties have been referred to Bernalillo County. Judge Baca said judges would not have jurisdiction over cases in other counties.

Metropolitan Court (244). Julie Altwies, chief judge, said the court averages 5,500 cases per judge per year. The court has 19 judges and 341 funded positions and is unique because it is a court of record for DWI and domestic violence cases. She said 3,500 to 4,500 people visit the court daily and it operates seven days a week and 24 hours a day to accept bonds. It includes seven specialty courts and is requesting funding to fill six vacant court clerk positions. Chairman Varela asked if salary increases were given to employees and Judge Altwies said the Legislature granted a 1 percent raise and the court added 2.5 percent.

1st Judicial District (231) Raymond Ortiz, chief judge, said the court is asking for a 3 percent increase in the base operating budget. The increase will pay for a new judgeship who will be assigned to the civil division where largest shortage is. The new judgeship will also have staffing requirements, including a secretary, a court reporter and a half-time bailiff. The court also asked for 2 additional FTE for the jury division and a 0.5 FTE for the ADR service program. He said the shortage of judges affects not only the time and delay to trial but also a reduction in the amount of time for trial. Judge Ortiz said the number of criminal case filings has risen 60 percent between FY10 and FY13. Senator Wirth asked about the status of treatment courts since Judge Michael Vigil's retirement. Chief Judge Ortiz said they did not receive a \$100 thousand federal grant for the program and will have to either ask the Legislature for the funding or reduce services.

Chairman Varela asked Judge Dwayne Castleberry, president of magistrate judges association, and Judge Karen Mitchell to brief the committee on concerns of magistrate judges. Judge Mitchell said they need the base budget to decrease vacancies and attract and retain employees. She also discussed facility needs throughout the state and asked that the magistrate court operations fee not sunset in 2014 because it provides \$500 thousand for operations. Chairman Varela asked to meet with the chief justice after the legislative session to discuss magistrate functions statewide.

Joint Session with Science, Technology and Telecommunications Committee

Department of Information Technology (361). Daryl Ackley, secretary, Department of Information Technology (DoIT), gave an overview of the functions of the department, including providing services to state agencies such as Internet, radio communications, email, web hosting, main frame services, and data center hosting. The department provides central planning of information technology projects throughout the state through an oversight process and strategic planning. Mr. Ackley discussed the department's accomplishments over the past year, including plans to improve public safety communications for police officers and first responders. He said the department has leveraged \$43 million to design and construct radio towers and shelters and will have an entire radio network operating in a full digital capacity within months. He said the department made improvements to customer service with a focus on modernizing the way expenditures, payables and bills are managed and tracked with the implementation of online billing. Mr. Ackley said a chief information security officer will be loaned to the state by one of the national laboratories under the intergovernmental personnel agreement, which is a

tremendous opportunity to have cross-flow with some very high technology organizations in the state. Mr. Ackley said the information technology commission membership is nearly fully appointed with one governor appointed position left to be filled. Mr. Ackley discussed department goals, which include financial management cost recovery and portfolio management, better asset management and improved communications to agencies. He said strategic broadband planning will become more important over the next year with technology driving education, healthcare, public safety and economic development. Mr. Ackley said the department would like to put SHARE on a path to being sustainable and useful.

Mr. Ackley discussed the agency's budget request of \$3.2 million for program support, \$52 million for enterprise, which includes phone, web, police radio, data center, etc. He requested \$800 thousand for the oversight and compliance division and \$7 million in equipment replacement to be split between enterprise operations and share equipment replacement. Mr. Ackley said the state was recently awarded \$1.9 million from national telecommunications and information administration to prepare digital broadband in public safety. Mr. Ackley also requested \$15.6 million in capital outlay funds for radio modernization. He said in FY11 the department asked for \$25 million to modernize the state's radio system and think it is a reasonable request. Next Mr. Ackley discussed SHARE and the department's goal of getting SHARE on a more stable platform. He said the department was given \$5 million in special appropriations to upgrade the system but has suspended upgrades until the program is stable.

Chairman Varela asked for the status of an FY12 audit, which had a qualified opinion and expressed concern with the overspending of the budget in the areas of other financial uses and personal services. Charles Martinez, chief financial officer and deputy director for administrative services, said the overspending was due to the lack of funds to transfer into the equipment replacement fund for SHARE and for the enterprise fund as well as the funding source for program support. He said the qualification itself is on the accounts receivable and reconciliation. Chairman Varela asked the department to comment on capital asset management. Mr. Martinez said capital asset management continues to be a problem; the department has implemented the asset management module within SHARE and was able to scrub approximately 11 thousand lines of asset data and continue to make improvements. Chairman Varela asked why funds have been transferred out of personal services and employee benefits. Mr. Ackley said the department has to set next year's rates using last year's data. He said it is a side effect of being a cost-recovery agency that has to meet a fixed budget with fixed categories. Chairman Varela asked what transfer authority the department has. Mr. Martinez said the department is allowed to transfer within category and asked for 10 percent BAR authority equal to the total amount of the operating budget. In addition, the department asked for \$2 million of authority if the department had sufficient fund balances to budget. Chairman Varela asked the LFC staff to revisit transfer authority.

Representative Trujillo asked if any new hardware had been purchased since 2006. Mr. Ackley said the department has made other hardware purchases based on the recommendations of Oracle, which were primarily memory and additional network components. Mr. Ackley discussed an initiative to upgrade the department's storage solutions. Representative Trujillo asked how long the SHARE stabilization project has taken. Mr. Ackley said it has been ongoing since FY11 with several phases. Senator Padilla asked for the status of a report detailing project

implementation and mitigation steps for unfinished projects. Mr. Ackley said he would provide a matrix, which keeps track of projects. Senator Padilla asked that the department provide that report on a monthly basis to the Science, Technology and Telecommunications Committee.

Representative Rodella asked about security concerns, storage issues and the status of a memorandum of understanding with the General Services Department for off-site management. Mr. Ackley said the department began to monitor the state central Internet service provider and various connections with agencies. He said historically the agency relied on external vendors and contractors to perform security assessments but through strategic hiring the department has performed its first comprehensive security assessment of another agency at their request using internal resources. Representative Rodella asked the status of the department's limited backup capability. Mr. Ackley said the department has limited capability in disaster recovery and business continuity in Tewa building in Albuquerque and is evaluating as part of a capital request to invest jointly with the Workforce Solutions Department to upgrade some chillers and enhance the capability of the data center in the Tewa building. The initial aspect of that was to have an engineering contractor evaluate a proposal. Their recommendation was that the building would need to be remodeled in its entirety. At this point the department is analyzing the data and working to develop a plan.

Representative Trujillo asked if there is a contract with *PeopleSoft* to help with the SHARE stabilization. Mr. Ackley said the license is perpetual. As long as we keep in reasonably current configuration we are eligible for the upgrades. The *PeopleSoft* software the department is currently using is out of support because of its age but we have received tremendous support from the vendor through the stabilization effort at no cost. In addition, the department has contractual support services in place that are providing support for the stabilization. Representative Trujillo asked when the stabilization project would be complete. Mr. Ackley said the department is hopeful the project will be complete in December but noted any delay at this point could set them back a week or so easily.

Review Information Technology Requests. Christine Boerner, LFC analyst, reported an overview of technology requests. She stated 13 agencies submitted 22 requests for FY15 information technology (IT) funding for a total of \$46.8 million. The request for general fund revenue is \$26.1 million: \$16.5 million for other state funds and \$4.2 million in federal funds. She said staff evaluates information technology (IT) funding requests in terms of how well they conform to the state IT strategic plan, agency goals, and other criteria indicative of successful projects, such as executive commitment, evidence of effective project management, and a clear well-defined project business case containing cost estimates and cost-benefit analysis, timelines, and deliverables.

The Taxation and Revenue Department (TRD) submitted a request for the new Motor Vehicle Division driver and vehicle system, which includes \$4.9 million in general fund revenues and \$8 million in fund balance from the sale of drivers' data. Another \$11 million in general fund would be requested in FY16. The project scope includes all driver and vehicle transactions; management of third parties that provide or receive data from MVD, including the Department of Public Safety, courts, and insurance firms; and all financials, including point-of-sale and SHARE interfaces and all web-based transactions. Ms. Boerner said there is reason to be

optimistic about the new MVD effort in light of the serious commitment the Taxation and Revenue Department (TRD) has put into defining the project, analyzing alternatives, vetting potential vendors, contract development, and the concerted effort to understand past mistakes and learn from them. TRD expects to begin by the end of the month and complete the entire project by June 2016.

TRD also submitted a request for GenTax, the tax system of record for the state, and are trying to upgrade the system from version six to nine. In September 2013, TRD reported to DoIT's project certification committee it had begun the third phase of upgrades to GenTax called the business credit manager. The module replaces manual processing and will track and control the validation and offset of business credits, improve reporting, and reduce over distribution and duplicate tax credit claims. Additional new tools in the system will allow TRD tax experts to better analyze the business credits and provide a more timely and accurate fiscal impact and forecast revenue projections for the Legislature. Ms. Boerner reported the project is within scope, schedule, and budget. TRD reported \$5.8 million in increased revenue since it began the upgrade. General fund appropriation was \$6 million in 2012. In 2013 the department requested an additional \$1 million to purchase "enhanced maintenance" for the system, which includes four dedicated contract developers to support system upgrades and increased functionality, such as improved fraud detection. The department states the total annual cost of maintenance for GenTax is \$2.75 million.

Brenda Fresquez, LFC program evaluator, reported on the TRD request for ONGARD, the oil and natural gas administration and revenue database. She said ONGARD is responsible for approximately 30 percent of all New Mexico state revenue collections. Ms. Fresquez said \$6 million was appropriated in FY12 for stabilization and modernization. This would address changes to the mainframe operating system and database management system. The \$6 million appropriation expires in FY14 and it is expected TRD will request an extension in the FY15 budget. The ONGARD independent verification and validation contractor reports the project is on schedule and within budget. The stabilization portion of this project is scheduled through March of 2014. Ms. Fresquez said in early May the ONGARD executive steering committee redirected the project team to focus on developing specifications and design documents for the expansion of the American petroleum institute well number by four digits as well as specifications for horizontal drilling requirements. The specifications and design were complete in September 2013. A request for proposals is in development and the agency anticipates issuing the RFP by January 2014.

Ms. Boerner spoke about SIRCITS (statewide integrated radio communication internet transport system) and pointed out the independent verification and validation (IV&V) contractor downgraded the overall status from "green" to "yellow" in August 2013 because the project lacked both an updated project schedule and an executive steering committee. DoIT states it is using an alternative method to track and maintain the project schedule and an abbreviated steering committee (of two people) is closely monitoring the project -- staff shortages necessitated the alternative management approaches. Fire dangers and the seasonal monsoon caused delays but project crews were able to visit sites. Project is tracking within budget and scope but is slightly behind schedule.

Next Ms. Boerner discussed the SHARE cash reconciliation project that would correct business processes and improper configuration of the original SHARE system that prevented timely and accurate cash reconciliation. An end goal for the DFA on this project is an audited comprehensive annual financial reports (CAFR). Ms. Boerner said a significant amount of progress has been made toward identifying and correcting the problem that the general ledger cash account balances do not match balances in the state's cash accounts at the bank. However, the department continues to work on outstanding issues identified in the contractor's close-out report and the goal of clean monthly cash reconciliations and an audited CAFR. Ms. Boerner noted DFA's request of \$2 million in a special appropriation to address historical un-reconciled balances. She noted in the request that a 100 percent book-to-bank reconciliation would be cost-prohibitive but the requested funds would be used to procure skilled personnel system resources and possible data acquisition charges that would be necessary to review six years of data two banks and a SHARE system that was continually modified during this time.

Ms. Fresquez reported the Human Services Department's the \$115 million ASPEN project replacing the integrated service delivery is on time and on budget. The project, paid for with 82 percent federal and 18 percent state funds, is one of the most expensive IT projects in the state and was very well managed and a model for best practice in project management. While this system has its benefits it does not appear it will reduce staffing needs, particularly in the light of Medicaid expansion. The project is scheduled for completion in FY14 and is being implemented in four phases.

Senator Padilla expressed concern with the lack of a qualified audited CAFR. Boerner said it is her understanding that reading agencies will look unfavorably on this situation, in the past New Mexico has had a reviewed CAFR but not audited. Representative Trujillo asked what the un-reconciled balances are. Ms. Boerner said she believed it is \$100 million they have put against the state's general fund with \$70 million FY12 and another estimated \$30 in FY13.

Chairman Varela requested more information regarding the FY13 audit and asked if the lack of qualified employees affected his department. Mr. Ackley stated information technology is an industry that has not seen decline and it is probable programmers leave public service for private sector positions. He noted the agencies commitment to providing best IT staff and the department continually refines job classifications to meet demand.

Public Regulation Commission (430). Ben Hall, commissioner, briefed the committee on the agency's FY15 budget request. Commissioner Hall said the Division of Insurance and Corporations Bureau was removed from PRC in July 2013 with a smooth transition of fiscal and operational information. He said during last legislative session \$1.4 million was moved from PRC's budget to the Office of Superintendent of Insurance. An attempt to have that money restored was unsuccessful, resulting in a shortfall. The agency is requesting a supplemental FY14 budget request of \$678 thousand to help cover the \$1.4 million loss. The agency's FY15 request is \$15.7 million, an overall increase of \$100 thousand in comparison with the FY13 actual expenditures. Commissioner Hall noted without adequate funding they would be insufficiently staffed and risk burning out highly qualified engineers, economists, accountants, and attorneys who provide technical expertise necessary for the commission to complete its function. He also noted unfilled vacancies in the Transportation Pipeline Safety Division will mean longer

inspection cycles, heavier burdens on existing staff, and costly overtime and comp time. Most importantly, it could risk public safety.

Pat Lyons, commissioner, briefly discussed why the agency is requesting a supplemental budget request of \$678 thousand to help cover the \$1.4 million loss during the last legislative session. He said PRC generates close to \$100 million but finds itself begging to keep employees from being furloughed. Chairman Varela asked if the staff needed time to assess the request. David Abbey, LFC director, said it will initially reduce the general fund revenues directly from fees then come back as reversions. The LFC policy generally opposes earmarking money. Mr. Abbey said the staff is aware of the supplemental request and expects to recommend a significant supplemental to address the shortfall and prevent a furlough.

Office of Superintendent of Insurance (440). John Franchini, superintendent, said the Office of Superintendent of Insurance (OSI) created on July 1, 2013, pursuant to the passage of a constitutional during the 2012 general election and subsequent enactment of House Bill 45 from the first session of the 51st Legislature. These actions removed the insurance regulatory function from the PRC. Superintendent Franchini stated OSI was not given or able to purchase any new equipment but will use current appropriations and FY15 budget to update equipment. He said OSI currently uses PRC's e-docketing system and is in the process of obtaining its own system by June 2014. Superintendent Franchini reviewed organizational functions, including company licensing, producer (agent) licensing, examinations, life and health product filings, property/casualty product filings, consumer assistance, managed health care, investigations, insurance fraud, title insurance, worker's compensation, and financial audit. Superintendent Franchini discussed Affordable Care Act programs, stating OSI has received grants under the Affordable Care Act to help enhance its health rate review process and to assist consumers with understanding their healthcare options. These grants have allowed OSI to hire additional staff and actuarial consultants to develop the website that provides consumers with information and feedback opportunities on health rate filings. Next he discussed patient's compensation fund, which provides medical malpractice insurance coverage to 1,800 New Mexico physicians and one large hospital with \$50 million in assets. The fund currently runs with 1 FTE and no director.

Jolene Gonzales, chief administrative officer, said OSI is funded entirely from other state funds. While the numbers reflected in the agency request is for a total budget of \$34.6 million, the actual request to support the agency is \$26 million, of which \$9.3 is for overall agency operations and \$16.6 million is for the patient's compensation fund. The request shows \$8.6 million in other revenue to account for the generally accepted accounting principles method of accounting for the transfers used for the budget for OSI. Ms. Gonzales said it is difficult to completely rely on the FY13 and FY14 budgets because OSI was not an independent agency and was not in complete control of its budget and expenditures.

Next Ms. Gonzales discussed personal services and employee benefits stating OSI has 96 FTE, not including federal positions, and 27 vacant positions, resulting in overtime for staff. Ms. Gonzales stated the agency is requesting an increase in personal service and employee benefits of \$576.2 thousand over FY14 to pay for an additional 8 FTE. Ms. Gonzales said the agency is requesting \$412.6 thousand over the FY14 for contractual services. She noted the request can be reduced by \$287.7 thousand for IT services, which will be covered through the special

information technology appropriations previously appropriated. The increase in expenditures includes \$41.1 thousand for the annual financial and compliance audit, \$100 thousand for an audit of premium taxes, and an additional \$50 thousand for complex rate hearings due to the implementation of the affordable care act. Other increases are attributed to information technology expenditures, which include \$100 thousand for transitioning to a web-based software system and maintain its current and new systems.

Superintendent Franchini discussed consideration of potential legislation stating an update to the insurance code with model act revisions promulgated by the National Association of Insurance Commissioners (NAIC) is required for accreditation. Superintendent Franchini said Senate Bill 412 amends the insurance code to incorporate updates to model laws by the NAIC in the following areas: risk-based capital requirements, valuation of life insurance reserves to incorporate principle-based reserving, credit allowed to insured for obtaining reinsurance, insurers in hazardous financial condition. Superintendent Franchini then discussed the affects of Affordable Care Act in New Mexico

Senator Moores asked about the recent announced merger between Blue Cross and Lovelace. He asked if the agency is investigating potential impact of rates on consumers and what may happen to the provider network around the state. Superintendent Franchini said he approved asset purchase of the Lovelace Health Plan by Blue Cross Blue Shield but the federal government has not approved it yet. He went on to say Lovelace lost all Medicare business when they weren't approved as a provider under the new health plan. They sold half to Molina Healthcare and found a partner to buy all their assets, keep all coverage's in place, and keep policyholders on for another year. Superintendent Franchini said Presbyterian, Blue Cross Blue Shield, and Molina are fairly equal and the new health connections company will make it competitive.

Representative Larranaga asked for clarification of federal funds the agency may receive. Ms. Gonzales said the department has to wait for PRC to close out grants to determine expenditures to budget them in the FY15 request. Chairman Varela asked for an updated budget request to include an estimate for federal funds.

Wednesday, November 20, 2013

The following members and designees were present on Wednesday, November 20, 2013: Chairman Luciano "Lucky" Varela; Vice Chairman John Arthur Smith; Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Don L. Tripp, Edward C. Sandoval, Patricia A. Lundstrom, and William "Bill" J. Gray; and Senators Carlos R. Cisneros, Pat Woods, Howie C. Morales, Steven Neville, William F. Burt, George K. Muñoz, and Mary Kay Papen.

Department of Public Safety (790). Gorden Eden, secretary, Department of Public Safety spoke about reasons for a high turnover rate and expressed difficulty hiring for positions in the New Mexico State Police Department, Motor Transportation Police, and Special Investigations Division. He said the department has analyzed recruiting techniques and the issue has to do with the pay plan and the fact that it is so compressed. Secretary Eden said officers are being targeted by other law enforcement agencies with incentives from \$5,000 to \$20 thousand signing bonuses.

Neville Kenning, compensation consultant, presented a proposed law enforcement pay plan. Mr. Kenning stated the pay plan issue is a combination of the lack of market competitiveness and the lack of funding, which creates a significant impact on the department's ability to attract and retain the quantity and quality of law enforcement commissioned officers it needs to fulfill its mission. Mr. Kenning said a number of other law enforcement jurisdictions are "front-end loading" their pay structures to provide significant movements in steps for the percentage increases in the first few years. Not only are they putting an increased emphasis on attracting employees but they are also working to keep their employees in their first few years when they potentially may leave for other jurisdictions.

Mr. Kenning stated there is an anticipated acceleration of retirements of officers, particularly in the next year due to the change in PERA cost-of-living adjustment (COLA). He then discussed the features of a law enforcement step plans. Mr. Kenning said the feature of a step structure is there should be movement to higher steps because of experience. He said there are 74 officers on patrol who are anywhere between having been hired in July 2008 and June 2012 and all are on the same step. Mr. Kenning stated another reason for a new pay plan is the cost of attrition. The investment in officer training is approximately \$65 thousand per officer with 52 officers projected to leave in 2013. He also stated the level of retention of those going through recruit school needs to be improved; most attrition occurs within the first four to six weeks of recruit school.

Mr. Kenning went on to outline the goals of the new pay plan stating competitiveness with the relevant market in New Mexico, easing of compaction with ranks, meaningful promotional increases, accelerated "front-end" pay movement, more competitive recruit rate, rebalancing between investment in retention versus cost of replacement and annual funding for the plan. He said this plan will make the department more competitive but will not place state police at the top in terms of salaries within the state. Based on the recommended pay structure and the allocation of employees to their appropriate step, the estimated cost of implementation is \$10.8 million inclusive of salary and benefits. Mr. Kenning stated the investment should be seen from two perspectives: 1) the amount required to close the gap from an uncompetitive market position and 2) \$10.8 million is equivalent to approximately 3 percent funding over a six-year period with the majority of the cost at the patrolman rank.

Senator Cisneros asked if other high paying jurisdictions would take steps to elevate their salaries to maintain that competitive nature. Mr. Kenning said the department has not seen evidence that other jurisdictions will increase their rates to be competitive. Senator Cisneros asked why the department is not offering signing bonuses to attract officers, particularly to the rural areas. Pete Kassetas, deputy cabinet secretary and chief of the State Police, said the department offers a remote-duty incentive for rural areas but it is sometimes disheartening for veteran officers to see a new recruit receive a bonus. Senator Cisneros said the problem seems to be others are attracting our better officers using the same tactic and it seems that we need to take the lead and not lag behind in initiatives to attract and retain officers. Mr. Kenning added it is not just an issue of issuing signing bonus but needs to be seen in light of having a more competitive rate structure.

Representative Larrañaga discussed an idea called the “drop program” in which retired officers work for a five-year period and have their retirement frozen but have the opportunity to continue to work. He said the benefit to the department would be the savings of training dollars. Representative Larrañaga said 23 states have this program and it is proving to be successful. Mr. Kenning said the intention is sound, however, the headlines related to these programs read as if these individuals would be double dipping into the state purse. He said he would rather focus on recruiting new individuals rather than bringing back the retiree who has worked in a physically and mentally challenging environment for 30 years. Representative Larrañaga said it is not double-dipping in that the retirement is frozen while they participate in the program.

Chairman Varela asked about transfers out of personal services and employee benefits. Secretary Eden said the total transferred out of personal services and employee benefits was \$2.2 million to pay for maintenance on vehicles, replacing aging radar units, upgrading laptop computers, the purchase of canopies for motor transportation police, support for the share grants project, the purchase of a security camera system for district offices, building and structural repairs, and the replacement of some DWI checkpoint lighting systems. Chairman Varela suggested LFC analyze the possibility of overfunding personal services and employee benefits.

Department of Tourism (418). Monique Jacobson, secretary, Tourism Department, discussed the importance of the tourism industry, vital to the economic success of the state. Secretary Jacobson said the department drove the largest number of people to the state, maxing out at 32 million domestic visits on top of a growth year leading to a two-year growth rate of 7.4 percent. She stated the department saw an 11 percent growth rate in marketable trips in 2012 versus Colorado, which saw a 2 percent increase. Secretary Jacobson said 2012 had a record number of visitors but also had a record number in spending, resulting in \$1.3 billion in taxes, \$612 million of which are state and local taxes. Secretary Jacobson said statewide lodging tax receipts for the summer of 2013 are up 8.9 percent. She went on to explain the New Mexico True campaign, media plan and a new partnership with Southwest Airlines. Secretary Jacobson said the department’s budget request is an additional \$2.5 million to go directly to advertising.

Several members of the tourism community discussed their support of Secretary Jacobson’s request as well as commended her service, stating the economic impact of tourism creates return on investment for every community.

Senator Burt asked what the proposed advertising budget is for the department. Secretary Jacobson said the total advertising budget is \$7.9 million. Senator Burt asked how that compares with our surrounding states. Secretary Jacobson said Utah is the lowest at approximately \$10 million, with Arizona and Colorado closer to \$13 million or \$15 million.

Representative Lundstrom asked for an update on the infrastructure plan. Secretary Jacobson said the department worked with each of the six region boards and had them prioritize what the capital and infrastructure needs are in their areas. She said the department is in the process of discussing those needs and will put together an overall list of prioritized infrastructure and capital needs from a tourism perspective.

Economic Development Department (419). John Barela, secretary, Economic Development Department, discussed the economic overview, stating he is cautiously optimistic that New Mexico's economy is on the mend. He said the over-the-year job growth as of August 2013 is 0.9 percent, representing a net 6,900 new jobs offset by the loss of 3,100 jobs in the government sector. He said out of all 50 states New Mexico is the most reliant on federal funding, with government employment at 19.75 percent. Secretary Barela said the strongest growth sectors are in financial activities at 5.8 percent, leisure and hospitality at 4.9 percent, education and health at 3 percent, construction at 2.9 percent and mining and logging at 1.2 percent. New Mexico has a declining unemployment rate of 6.8 percent, well below the national average and trending downward. Secretary Barela said Albuquerque metro area's economy is predicted to grow by 2.7 percent in 2014, with Las Cruces at a predicted 3.5 percent, Santa Fe at 3.1 percent, and Farmington at less than 2 percent.

Secretary Barela discussed the department's achievements, stating their programs created 3,093 jobs exceeding its target of 2,500 with 1,440 of them being rural jobs. He spoke about the border-plex, a master plan bi-national community aligning utilities infrastructure, work force development efforts, and sustainable environmental processes that will make Juarez, San Jeronimo, and Dona Ana County the gateway for North American commerce. He said New Mexico moved from 38th to 1st in export growth with \$3.2 billion in 2012. Secretary Barela went on to discuss other department achievements, including JTIP (job training incentive program) and MainStreet initiatives.

Secretary Barela briefed the committee on a five-year economic development plan that includes creating a culture of innovation, less reliance in a single sector, the creation of career opportunities to retain our graduates, a focus on growing business within the state, and small business support. He highlighted the establishment of a rural council that provides priorities for a rural renaissance plan. The rural renaissance plan has a commercial district revitalization component as well as rural business incubation services. Secretary Barela noted the importance of extractive industries in New Mexico, stating they are critical to the economy, especially in rural areas where extractive industries create jobs and bring rural communities back.

Secretary Barela outlined the department's FY15 budget request of \$9.2 million, an increase to the base budget of 26 percent. The request would fund 52 FTE and provide \$1.5 million for JTIP, \$500 thousand for MainStreet, and \$100 thousand for international trade to support Mexico and Brazil trade offices.

Chairman Varela discussed the agency's request to move JTIP, MainStreet and the international trade programs from nonrecurring special appropriations to a recurring item in the economic development budget.

Representative Lundstrom asked if the department would request funding for the New Mexico Partnership. Secretary Barela said the department does not anticipate additional funding for the NM partnership. However, the department suggested members of the board consider raising private sector money to supplement state funds.

Representative Larranaga cited a Jobs Council study that said the state\ would require 160 thousand jobs over the next 10 years to reach levels seen eight or nine years ago. He asked if this goal was realistic. Secretary Barela said it will be challenging but with the right policies and philosophy it can be done. He highlighted the states success in establishing a more competitive tax environment and streamlined regulations as incentives for new companies.

Senator Neville informed Secretary Barela of an opportunity to sell coal, natural gas, pecans and copper to Taiwan. He said they are very interested in working trade arrangements with New Mexico. Secretary Barela said he met with individuals in the Taiwan council and discussed preliminary trade missions. Senator Neville discussed a need in the northwest for a railroad to assist in the movement of oil and other resources. Secretary Barela said he agrees there is a vital need and will play a large role in economic development for the area. He said after the legislative session the issue will be a focal point and coordination will determine who will construct and fund the project.

Senator Morales asked if the \$500 thousand for the *MainStreet* program will be used for operational or capital expenses. Secretary Barela said it will fund operational expenses. Senator Morales asked if the department will make a request for capital projects on a separate bill or separate tax bond. Secretary Barela said they will request approximately \$1 million for capital expenses and have a program to incorporate private sector funds.

Senator Munoz asked if the department has seen an increase in incoming calls for businesses looking to expand. Secretary Barela said they have seen a dramatic increase in inquires to the partnership and also to local economic development organizations at a conservative rate of 20 percent to 30 percent. Senator Munoz asked if the governor will begin broadband initiatives in the state's infrastructure plan and if there is a way for the state to generate revenue off that broadband infrastructure. Secretary Barela said there is a return on investment especially in rural areas. To quantify the return is difficult but connectivity for businesses in rural communities will be a significant issue.

Senator Smith spoke about the reliability of the state's electrical energy and asked how the state taps into this resource to attract industry and generate jobs. Secretary Barela said the state has to generate as many sources of energy and transmission as possible. He said our issue isn't energy production but potentially about transmission.

Energy, Minerals and Natural Resources Department (521). David Martin, secretary-designate, reviewed the overall base budget request for FY15 of \$64.2 million, a \$5.5 million decrease from FY14. The decrease is due to federal funding cuts from \$25.6 million to \$18.4 million. Included in the base budget request is a \$1.7 million increase over FY14 in general funds. Secretary Martin said \$1 million in general funds will support the Healthy Forest Program, a pilot program in which 42 veterans participated in fighting 13 fires in New Mexico, Oregon, and California in 2013. In addition to the general fund increase, the department requests \$474.9 thousand in the Forestry Division to reduce vacancy rates, \$100 thousand in the State Parks Division to supplement a Youth Conservation Corps transfer and \$200 thousand in program support to restore funding that was reduced in FY14.

Secretary Martin said the department's overall vacancy rate is 5.9. He said the State Parks Division revenues were down due to the severe drought and the division is working with the Tourism Department to analyze how other states draw visitors to state parks. In 2013, 420 fires burned 8,800 acres, costing the state \$10.5 million. Secretary Martin said the Forestry Division is the lead on watershed protection and management and noted the expectation of a capital outlay request next year. He said because natural gas prices have decreased the gas production in northwest has also decreased, affecting revenue, production and price for the Oil Conservation Division. He noted recent activity and interest in oil stating indications are encouraging with major companies looking at increasing exploration and development. Secretary Martin said the southeast is thriving, with oil production expected to approach 90 million to 100 million barrels monthly in the coming year. Secretary Martin discussed the development of a state energy policy and implementation plan. The department is following a model Colorado used and has had a series of listening sessions around the state to gather input and discuss economic development and revenue to the state.

Toney Anaya, former governor of New Mexico, presented on behalf of the New Mexico Express (TNME), a plan to use buried HVDC (high voltage direct current) technology and state right-of way (ROW) combined with railroad ROW. TNME will extend from Gallup to Clovis, with a line to Four Corners from Gallup and another line from Clovis into southeastern New Mexico. TNME will facilitate the export of electricity generated in the state, especially from the state's clean energy resources. He said past efforts to develop additional electricity transmission capacity in the state using traditional overhead transmission lines have taken from seven to 12 years. Mr. Anaya said the buried cable technology, combined with the use of public road and private railroad ROW, can significantly expedite the process with easement approvals possible within six to nine months. Mr. Anaya said the developer has agreed to share or pay a user fee to the state in an estimated amount of \$12 million to \$15 million per year.

Laura McCarthy, Nature Conservancy, discussed the problems created by overgrown forests that act as fuel for damaging wild fire that in turn threatens water sources. The Nature Conservancy's goal is to scale up the pace of forest restoration tenfold over current rates. She stated the plan would 1) secure water 2) healthy forests and 3) new industry to provide jobs. The challenge of scaling up forest thinning and having a consistent wood supply to foster industry is critical to success. She said the next year is best spent to develop a bipartisan solution in collaboration with the Legislature, the administration, and all stakeholders. Ms. McCarthy said the Nature Conservancy is ready to generate private revenue for additional leverage to state and federal revenue and is actively exploring a potential permanent state revenue source.

Representative Larranaga asked former governor Anaya if TNME is proposing a bill for a private-public partnership as a pilot project. Mr. Anaya said no further legislation is going to be required, except perhaps a bill from the New Mexico Finance Authority Oversight Committee to allow the Department of Transportation to accept the user fees. The next step would be to determine which fund the fees are deposited.

Chairman Varela asked what kind of response the developer has received from the Renewable Energy Transmission Authority (RETA). Mr. Anaya said RETA supports the addition of

increased transmission capacity and also has the support of the Department of Transportation. He highlighted the proposal does not request any public funds.

Responding to Representative Gray, Mr. Anaya said there was no problem with the anti-donation clause because the public gets a benefit for them having the utility lines on public ROW. Representative Gray noted petroleum pipelines have always been charged for ROW and they have the same condemnation and eminent domain rights as this developer. Mr. Anaya said the developer of this project would not have eminent domain authority and would be determined by the approval process within the Department of Transportation.

Senator Smith asked if the Burlington Northern Railroad will allow a ROW. Mr. Anaya said there will be some payment. He said Burlington Northern has been ordered by federal regulation to provide for better communications within their system, part of their discussions are installing additional fiber for the railroad as part of the offset for the fee.

Senator Munoz asked if the department of transportation will claim eminent domain if it doesn't have the easement for this utility. Mr. Anaya said the proposed route would use existing state road ROW and there would be no additional condemnation.

Public Education Department (924). Hanna Skandera, secretary designee, briefed the committee on general fund appropriations from FY10 through FY14, reporting the PED budget is 24 percent less than in FY10. She highlighted the department's targeted efforts and goals including a smarter return on New Mexico's investment, real accountability with real results, a ready for success initiative, rewarding effective educators and leaders, and effective options for parents. Secretary Skandera noted department successes, such as receiving \$37 million in Race to the Top competitive grant funding, receiving a federal waiver from No Child Left Behind requirements and reducing the burden of reporting by districts by 16 percent.

Secretary Skandera reviewed a history of legislative requests, stating the department has met 98.7 percent of requests in the timeframe requested. She then discussed the department's constituent services records, highlighting the departments help desk response time excluding licensure department requests which averages between 27 and 30 thousand per year. She said the department implemented a new statewide school accountability system, trained more than 2k,000 educators from low-performing districts, and trained more than 2,000 school leaders in conducting observations, instructional leadership, and targeting student achievement.

Secretary Skandera reported the department's general fund appropriation base request is flat year-over-year with the exception of \$241.6 million from the general fund for increased GSD rates and other mandatory costs. She stated the department's base request reflects 272.3 FTE for FY15. Currently 199 positions are filled and 51 positions are in various stages of hiring, for a total of 250 FTE with 22 unfunded FTE. The department is requesting \$861.5 for 11 expansion positions.

Maddie Redman, president, New Mexico DECA (formerly Distributive Education Clubs of America), spoke about advantages of membership and asked for support in funding six New Mexico career and technical student organizations.

Chairman Varela asked about \$800 thousand in transfers out of personal services and benefits in FY13. Paul Aguilar, deputy secretary, said the funds were transferred into other costs category. Chairman Varela asked about the department's teacher certification process. Secretary Skandera reviewed the certification process and highlighted the department's work with the Higher Education Department to prepare teachers and raise the bar around expectations so teachers leave teacher preparation programs ready for success in the classroom. Chairman Varela asked for an update on the teacher evaluation system. Secretary Skandera said the past system was subjective where 99.9 received the highest rating possible, which was strictly meeting competency. The department implemented a new evaluation system as a requirement to receive the No Child Left Behind waiver. The framework was approved by the U.S. Department of Education and recommended by a working group in New Mexico, she stated the change has been difficult and the department is working across the state to ensure all districts understand the new system. In response to Chairman Varela, Secretary Skandera said the department has had two lawsuits, one having been rejected and closed and another pending.

Senator Munoz expressed concern with the number of hours spent testing students. Secretary Skandera said the department has decreased testing time by 30 percent, highlighting the goal is not more testing but a true assessment of student ability. She discussed short-cycle assessments and end-of- course exams, stating some testing is a choice at the district level. Senator Munoz asked why the teacher evaluation system was not gradually implemented, giving teachers time to understand the system. Secretary Skandera said the department made three commitments to the U.S. Department of Education: implementing a school accountability system and new teacher evaluation system and embracing high standards for all students. She said the department conducted a pilot of the program in 2012.

Senator Morales asked if the department is going to introduce a teacher evaluation bill. Secretary Skandera said the department is implementing the teacher evaluation system and does not have plans to introduce a teacher evaluation bill. Responding to Senator Morales, Secretary Skandera said she could not go into detail because Senator Morales is among the members suing the department and the case is unresolved. She said PED believes it has the authority to implement the rules around the implementation of the evaluation system.

State Treasurer (394). James Lewis, State Treasurer, introduced his staff and reported the department's FY15 budget of \$3.9 million includes \$122.3 thousand generated from the local government investment pool. The department's general fund request for FY15 is \$3.8 million, 2 percent over the current budget. Mr. Lewis reported 40 FTE and five vacant positions. Two positions are funded for FY15 and the agency is not seeking funding for the remaining three vacant positions. He said the department reverted \$127.5 thousand in FY13, mainly due to vacancy savings and retirements.

Mr. Lewis said the department convened a strategic planning committee of all senior staff to discuss proposing legislation to review statutes in the constitution. He said the treasury appears 500 to 600 times in the constitution and suggests an evaluation to determine duties of the treasury. Mr. Lewis said the department is working on a remediation project with a quick strike initiative that identifies and corrects issues dealing with book-to-bank reconciliation.

He discussed the treasury management system initiative, on hold until SHARE's re-platform is stable.

Chairman Varela asked why the department has a vacant exempt position. Mr. Lewis said the person in that position passed away and the department will fill the position as soon as possible. Chairman Varela expressed concern with the lack of cash control at the Department of Finance and Administration. Mr. Lewis said the treasury is working with DFA to reconcile cash accounts.

Miscellaneous Business

Action Items

Approval of October 2013 Meeting Minutes – Senator Cisneros moved to approve the October 2013 meeting minutes, seconded by Senator Smith. The motion carried.

Approval of Subcommittee A Report – Senator Cisneros moved to approve Subcommittee A Report, seconded by Senator Smith. The motion carried.

Approval of Subcommittee B Report – Senator Morales moved to approve Subcommittee B Report, seconded by Representative Saavedra. The motion carried.

Information Items

Director Abbey stated the FY13 LFC financial audit is complete and reported no findings. Chairman Varela asked about the October 2013 cash balance report. Mr. Abbey pointed out a \$105 million fund balance in the waste water facility construction loan fund highlighting the difficulty of moving money out even as an initiative is announced and noted the need to monitor fund balances.

Thursday, November 21, 2013

The following members and designees were present on Thursday, November 21, 2013: Chairman Luciano "Lucky" Varela; Vice Chairman John Arthur Smith; Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Don L. Tripp, Edward C. Sandoval, Jim R. Trujillo and William "Bill" J. Gray; and Senators Carlos R. Cisneros, Pat Woods, Mary Kay Papen, Steven Neville, William F. Burt, and George K. Muñoz. Guest Legislator Senator Ron Griggs.

Program Evaluation: Water Trust Board. Jeff Canney, LFC program evaluator, presented his evaluation of the Water Trust Board (WTB). The report reviews the seven funding programs that exist for water infrastructure funding. These programs are fragmented and lack coordination because they are independent and no one agency is accountable for coordination. The WTB increased requirements on communities to implement best management practices and is using financial audits and asset management plans to ensure compliance with state and federal laws. WTB is required to prioritize the financing of water projects necessary to implementing the state water plan with the assistance of the Office of the State Engineer (OSE) through a centralized review process.

The report included the following key findings:

- New Mexico's high rate of grant awards for water projects adversely impacts the effectiveness of related loan programs.

- To maximize the use of available state and federal funds, the state needs to match the supply of funds with the demand for projects.
- The key causes fragmented water project funding because the grant and loan programs operate independently, compete for the same customers, have widely different eligibility criteria, and no single agency is accountable for coordination.
- WTB's loan forgiveness policy is fiscally irresponsible. Debts may be waived due to hardship. For example, the Ciudad Soil and Water District has not made a payment in over three years.
- WTB has not provided the Legislature with a statutorily required annual report since October 2006. These reports are to include total expenditures, purpose of expenditures, what was achieved with the funds, and recommendations for legislative action.

The report included the following recommendations:

- WTB should establish a centralized funding process for projects statewide, require the use of a single application process for all water funding programs, provide loans with interest rates consistent with law and rule, continue to require technical oversight for projects, remove exceptions to policies, e.g. loan forgiveness, hire the vacant WTB staff position to assist with oversight, and use the local planning grant fund to contract with third-party providers to assist with asset management plans, source water protection plans, and user rate analyses
- The Legislature should require a single application process for all water infrastructure projects, establish an interagency committee to coordinate all water funding programs, and prioritize and fund water capital outlay projects only when loan and grant programs cannot.

Questions by members included the following:

- Chairman Varela asked whether there is a lack of resources at NMFA to oversee the WTB. John Gasparich, CEO of WTB, stated that agreements now exist with the Environment Department to provide technical oversight of all WTB projects and the state drinking water revolving fund. This is a change from past practice when WTB did not have outside technical oversight.
- Senator Cisneros asked why WTB has not submitted the statutorily required annual report since 2006. NMFA reports to the NMFA oversight committee on a regular basis. WTB has also reported to the Water and Natural Resources Committee on request but feels it does not have enough resources to provide a more formalized report.
- Representative White asked for a status update on the Ute Lake project. There is an expectation at WTB that the federal government will provide its share of the funding, but no guarantee that this will happen and no figure has been provided by the Eastern New Mexico Water Authority.
- Representative White asked which agency should take the lead in a centralized committee for project funding. First, the Water Project Finance Act assigns to WTB the responsibility of coordinating water projects statewide in accordance with the state water plan. Updated regional water plans will allow a better idea of what water projects are necessary. This will identify demand and allow the supply of project funding to be matched accordingly by an interagency committee without changes to the various water project funding programs.

- Representative Larranaga asked how the state ensures that projects receive proper maintenance after the initial project funds are awarded. The WTB is amending its application requirements to include an asset management plan and rate base plan to show an ability to maintain a project after completion. However, other project funding programs may not have such requirements.
- Representative Tripp asked about the statute behind the permanent fund. Mr. Gasparich stated that the fund must be drawn down by \$4 million or 4.75 percent annually, and amending this requirement might improve the fund's future solvency.

Aging and Long-Term Services Department: FY15 Budget Request. Secretary Gino Rinaldi, Deputy Secretary Miles Copeland, Chief Information Officer Cathleen Hart, Consumer and Elder Rights Division Director Carlos Moya, and Jason Sanchez presented the request. ALTSD requested \$47.9 million from the general fund appropriation, a \$2.9 million increase from the department's base budget. New Mexico is undergoing a demographic shift and is projected to be the fourth oldest state by 2030. ALTSD requested a 5.2 percent increase for Adult Protective Services to increase home care services to expand the services and provide these services to 100 additional clients. The Aging Network Division requested \$1.8 million to continue developing capacity to serve a rapidly growing senior population and restore cuts made in past years. ALTSD requested \$150 thousand to advance evidence-based health promotion to address rising healthcare costs by providing assistance for enhanced fitness and managing chronic disease. The department also requested \$200 thousand to help realize the first portion of the state Alzheimer's plan. ALTSD's final special request was for \$300 thousand to support senior centers and allow them to continue to provide services, e.g. meals and transportation, not covered by bond offerings.

Representative Rodella and Senator R. Martinez discussed the Santa Clara Regional Adult Day Care Center with the committee, remarking on the center's potential for cost savings and the lack of resources hindering that benefit. The center lacks operational funding, which Representative Rodella and Senator Martinez requested from the committee. Former Santa Clara Governor Michael Chavaria stated that the center requires \$207 thousand in recurring operational funding. Representative Trujillo inquired as to the availability of Medicare or Medicaid funds for the center. The center's director, Norman Martinez, provided that the center is looking to the second year of funding to incorporate second party billing and generate revenue from Medicare and Medicaid.

Senator Smith asked how quickly New Mexico is aging, and Mr. Rinaldi responded that the 65+ population will grow by 36 percent nationwide between 2010 and 2030. He also stated that the 65+ population will outnumber New Mexicans 18 and younger by 2030. Senator Smith expressed his concern that the Legislature must address the need to care for the state's aging population and his concern that there may be a need for the half of the population that is working to support the elderly through increased taxation.

Senator Cisneros mentioned his concerns about the prevalence of diabetes in northern New Mexico, the need to care for those individuals living with diabetes, and that he would like to see insulin covered by Medicare and, if so, how that funding is spent. Mr. Rinaldi's response focused on prevention, specifically education and training for managing chronic disease. He also noted

that ALTSD funds do not pay for treatment. However, the department does direct individuals with chronic diseases to other agencies and organizations that can help with providing treatment.

Representative Trujillo asked how many of the state's senior centers have a medical component. Mr. Rinaldi was unaware of any such center but mentioned that community health centers do provide medical services and that centers do invite the medical community to provide services such as blood pressure checks and health education. With the coming changes in healthcare law, the department is exploring the model of providing healthcare services in senior centers.

Representative Tripp inquired as to the number of New Mexicans that receive services from senior centers and the breakdown of services by county. Mr. Rinaldi explained the department's database records each service provided and the proportion of seniors served varies depending on the community served. Representative Tripp noted that the department's recording method skews data because it does not differentiate an individual who receives a single service in a year from one who, for example, goes to a center multiple times a week. Mr. Rinaldi responded that it is very difficult to drill down into the data to distinguish such customers.

Department of Finance and Administration (341) and Special DFA – Appropriations (344).

Secretary Tom Clifford, Deputy Secretary Andrew Jacobson, Deputy Secretary Rick Bejerano, Division Manager Wayne Sowell, Chief Financial Officer Sanjay Backta, Deputy Director of the Board of Finance Jeff Primm, Deputy Director of the State Budget Division Richard Blair, and Tim Court presented the request. The department is focused on improving cash reconciliation with the general ledger and requested \$101.7 million, an increase of \$31.7 million, to do so. To prepare an audited comprehensive annual financial report (CAFR), a critical performance measure, the department requested \$1.15 million. Secretary Clifford suggested this could eventually result in a cost savings by removing the need for individual agency audits. DFA submitted a special request for \$2 million for contractual services to assist with historical analysis of cash remediation. DFA requested three additional FTE for the Local Government Division to continue to provide financial reporting assistance to communities throughout the state, 16 of which cannot prepare audits. DFA interacts with more than 800 local entities, e.g. Big Brothers Big Sisters, and Secretary Clifford expressed concerns that this was an unfunded mandate and that these efforts may be understaffed and taking away resources from local government oversight. The State Budget Division (SBD) dealt with high turnover, is working with LFC staff to update Government Accountability Act measures, and assisting state agencies on capital outlay reform initiatives. SBD requests 1 additional FTE to assist with capital outlay projects.

Secretary Clifford stated the FY13 revenue forecast is proving to be very accurate and described reserve levels as "healthy." The Legislature required the department to assess the effectiveness of the film credit and will be providing a preliminary report during the session and an updated report by the end of the fiscal year. The department is working with the LFC and other counterparties on an updated tax policy study, taking into account recent changes and their impact on the New Mexico's competitiveness with other states. In overseeing boards and commissions throughout the state, the department hired a new CEO to help continue to stabilize NMFA, is assisting the State Investment Council with financial management, and works with the Public School Capital Outlay Council on financial reporting. Secretary Clifford noted the state's

budget challenges and the potential impacts of reduced federal funding through sequester or shutdown. The department has not completed its analysis of which programs are most vulnerable, but Secretary Clifford expressed his concern that such reductions are likely and an urgency to complete the analysis. Due to statutory requirements and a \$20 million reduction in tobacco settlement revenue, DFA must pro rate reductions in related appropriations to HSD, Indian Affairs, tobacco cessation programs, the lottery, and CYFD for child support programs. This will require the suspension of funding for the remainder of the fiscal year. The tobacco settlement reduction combined with the lack of sufficient lottery scholarship funds will result in a \$16 million shortfall for the lottery scholarship program. Expenses from the union lawsuit are not yet reliably discernible, but DFA will have an estimate during the session.

Angela Reed Garcia, CEO of Big Brothers Big Sisters of Central New Mexico, expressed her concern that funding for BBBS is late. BBBS, “in good faith,” provided services since July 1, under the assumption that the agreement would apply retroactively. Chairman Varela asked if this was possible, to which Secretary Clifford responded that, because this program is funded by a single sentence in the budget, the agency must essentially invent a program and take time to do so in developing a contract.

Ed Marks, director of New Mexico Legal Aid, detailed the services his organization provides and the \$900 thousand reduction in federal funding. Chairman Varela asked about the status of pro bono services available in New Mexico. Mr. Marks responded that NMLA and the state bar association are working together, and 700 attorneys provided pro bono services in the past year. Chairman Varela remarked on the need to increase the availability of pro bono services provided by the private sector.

Senator Cisneros asked for specificity on the \$112 million in water infrastructure project funding that Governor Martinez announced, whether it was tabbed for certain projects and what those projects were. Secretary Clifford responded that a list is in development, and that the main criterion for creating this list was identifying communities that have an Environment Department drinking water advisory. Senator Cisneros then asked if there was a statutory requirement that the CAFR be done through an audit rather than a review. Secretary Clifford responded that statute requires an audit, and the department is requesting \$1.3 million to fund the required audit. The statute went into effect in 2003, but no audit has been completed. While the state auditor is responsible for the audit, DFA supports these efforts. Senator Cisneros asked if funding should be directed to the state auditor instead of DFA, to which Secretary Clifford responded that that would be a question to ask the auditor’s office.

Senator Smith expressed his concern about audit deficiencies, especially in communities within his district, and his hope that these could be reduced. Secretary Clifford suggested using capital outlay as a carrot to encourage communities to complete audits, as done by executive order. Reflecting on the program evaluation of the Water Trust Board and the reported inefficiency of water infrastructure project funding programs, Senator Smith encouraged the administration to look toward these sources. Secretary Clifford noted the “red-tape” that holds up these funding sources, but agreed with LFC staff’s finding that the loan/grant process for water infrastructure projects needs clarification and improved oversight. Senator Woods asked if there was a shortage

of auditors, to which Mr. Bejerano responded that it is not cost-effective for private CPAs to perform small-scale audits.

Chairman Varela asked how many vacancies DFA currently had. Secretary Clifford responded that there are 26 funded vacancies, and that the Budget Division lost many positions following the 2013 legislative session. He noted that these positions are misclassified by SPO, causing a lack in qualified applicants, and that DFA recently asked SPO to correct the mistake.

District Attorneys/Administrative Office of the District Attorneys (251-265).

8th Judicial District. Donald Gallegos, district attorney, provided a written request and sat for questions from the committee. The increase in funding requested is to cover a corresponding increase in insurance premiums.

11th Judicial District. Connor Jorgenson, LFC fiscal analyst, said district requested \$2.2 million from the general fund, a \$100 thousand increase. The majority of the increase would go to reduce vacancy rates. In response to a question from Chairman Varela, Mr. Jorgenson noted that the district had four vacancies and a vacancy rate of 3 percent to 4 percent.

12th Judicial District. Diana Martwick, district attorney, said the district's attorneys are handling an average caseload of 393.62, more than twice the recommended 180. The district has seen an increase in violent crime and a corresponding increase in jury trials. Chairman Varela asked about vacancies, and Ms. Martwick noted that the district's vacancy rate is 8.5 percent. She also raised her concern that salaries are not competitive, hurting the district's efforts to retain and recruit attorneys. An AODA study showed that prosecutor salaries are 28 percent below market, and support staff salaries are also noncompetitive.

5th Judicial District. Janetta Hicks, district attorney, expressed her concern that, even with no vacancies, the district is understaffed based on last year's caseload. The request includes funding for an additional three attorneys and three support staff positions. Even with these increases, the district would be understaffed.

10th Judicial District. Henry Valdez, director of the Administrative Office of District Attorneys, said the district, like other rural districts, has difficulties recruiting attorneys and has one vacancy for a prosecutor. The request includes increased funding to provide a competitive salary for this vacant position.

7th Judicial District. Cliff Wellborn, district attorney, presented the request. He expressed his disagreement with the report that classified the district as overstaffed as it has recently lost many attorneys and will have six prosecutors at year's end. The request includes an increase in funding to support two vacant support staff positions.

2nd Judicial District. Kari Brandenburg, district attorney, said the request includes increases to compensate attorneys, improve the district's computer system, and to purchase new vehicles. Since 2010, the district has lost 44 attorneys. Ms. Brandenburg also noted that the district has taken on responsibilities previously handled by the courts and being burdened with cases brought

to it by the federal Drug Enforcement Agency and Secret Service that occur in Bernalillo County but are not being handled by the U.S. Attorney's Office. In response to a question from Representative Saavedra, Ms. Brandenburg noted that the starting salary for an attorney in the district is \$42 thousand. Representative Sandoval asked how many attorneys are employed by the district, to which Ms. Brandenburg noted that the district is the third most understaffed in the state – having 120 attorneys out of a recommended 138. Representative Larranaga expressed concern that the understaffing could cause the district to drop cases due to time limitations and speedy trial requirements, which Ms. Brandenburg affirmed.

6th Judicial District. Francesca Martinez-Estevez, district attorney, relayed her concerns about increasing drug use and violence in the district to the committee. The request does not include any additional positions but does include a 5 percent increase to attract and retain prosecutors. There are currently five, soon to be four, vacant attorney positions in the district.

3rd Judicial District. Mark D'Antonio, district attorney, said federal agencies recently notified him that there is an increase in marijuana trafficking through Dona Ana County and that these agencies plan to increase the minimum amount of marijuana that they will prosecute from 50 lbs. to 225 lbs. This will increase the burden on the district. Senator Cisneros inquired into the impact of legalization of marijuana on prosecutorial efforts. Mr. D'Antonio said marijuana legalization would lead to a shift in the types of illicit drugs trafficked by criminal enterprises rather than a decrease in illegal activity.

13th Judicial District. Lemuel Martinez, district attorney, presented the request. Chairman Varela asked why 16 of 82 FTE positions were vacant. Mr. Martinez responded that funding cuts in the last few years have limited the district's ability to fill these vacant positions.

4th Judicial District. Richard Flores, district attorney, presented the request, which included a small increase to cover rising premiums and other costs. The district had four vacancies, two attorneys and two support staff.

1st Judicial District. Angela Pacheco, district attorney, presented the request. Like the other district attorneys, she noted that her office faces the difficulty of training new attorneys who then move on to other positions, mostly with state government agencies, within a year.

11th Judicial District, Division 1. Rick Tedrow, district attorney, presented the request with Connor Jorgenson, LFC fiscal analyst. Mr. Tedrow reiterated the problems concerning the other district attorneys' offices – specifically combating substance abuse and drug trafficking and the difficulty in recruiting and retaining attorneys.

Association of District Attorneys. Henry Valdez, director, AODA, presented the request. AODA's primary function is to provide information technology support to district attorneys' offices throughout the state. The request includes funding for a database administrator, a position that had been but is no longer grant funded. AODA also seeks funding to replace aging desktop computers, servers, networking equipment, and software. Senator Cisneros asked what the average salary is amongst the district attorneys' offices. Mr. Valdez responded that the range in attorney salary is broad – starting at \$42 thousand. Chairman Varela expressed his concern that,

while the district attorneys worried about attorney salary, ensuring competitive support staff salary did not seem to be a priority. Senator Papen asked about the victim notification program in Dona Ana County and whether it could be shared with other jurisdictions. Mr. Valdez informed the committee that the victim notification program is available to all district attorneys.

Regulation and Licensing Department (420). Dee Dennis, superintendent, presented the request with Alexis Otero, Clay Bailey, and Chris Moya. Chairman Varela inquired about the department's high vacancy rate, and Superintendent Dennis and his staff agreed that the rate was high but noted that the department is in the process of recruiting for and filling these positions. Chairman Varela then expressed concern about the oversight of the liquid propane industry, and the many complaints he has heard from rural New Mexicans about their experiences purchasing liquid propane.

Friday, November 22, 2013

The following members and designees were present on Friday, November 22, 2013: Chairman Luciano "Lucky" Varela; Vice Chairman John Arthur Smith; Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Don L. Tripp, Edward C. Sandoval, and Jim R. Trujillo; and Senators Carlos R. Cisneros, Mary Kay Papen, Steven Neville, Clemente Sanchez, Ron Griggs, and William H. Payne.

Program Evaluation: ASPEN (Automated System Program and Eligibility Network)

Project. Maria Griego and Andrew Rauch, LFC program evaluators, presented the evaluation *Interagency Benefits Advisory Committee: Oversight of Public Employee Health Benefits Plans*. The report reviewed the four member agencies of the IBAC: the New Mexico Retiree Health Care Authority, the New Mexico Public Schools Insurance Authority, the Risk Management Division of the General Services Department, and Albuquerque Public Schools. Since member agencies of IBAC were evaluated by LFC staff 2010, IBAC has continued to fail to maximize purchasing power for health benefits or take advantage of comprehensive quality improvement initiatives that would better contain costs. Agencies focus little on the price of medical care or the outcomes the care provides.

The report included the following key findings:

- Lack of effective oversight of provider rates and quality improvement has made employee health care less affordable.
- Healthcare spending for IBAC agencies has continued to rise at unsustainable levels.
- Both the Risk Management Division (RMD) and the Public School Insurance Authority (PSIA) have implemented or plan to implement premium increases between 19 percent and 25 percent.
- Continued price increases, not utilization or enrollment, are driving rising costs.
- Healthcare costs have continued to increase despite a decrease in the number of claims and enrollment.
- Previous studies and legislation sought to improve the state's healthcare purchasing power.
- Consolidating NMPSIA and RMD into a single entity is still a relevant recommendation.
- Further examination of health care costs and plans shows that Albuquerque Public Schools is now a viable candidate for consolidation with NMPSIA and RMD.

- The Affordable Care Act (ACA) continues to impact public employee health benefits.
- The Affordable Care Act includes a mandate on affordability and adequacy, creating maximums on employer and employee healthcare costs.
- The ACA will have budgetary impact for IBAC agencies through research and transitional reinsurance fees.

The report offered the following key recommendations:

The Legislature should

- Create a consolidated healthcare finance entity to administer health benefits on behalf of governmental entities, including state and local governments, school districts, and institutions of higher education. Merge the employee health benefits function at APS into this entity as well. While risk funds managed by IBAC agencies were not reviewed in this evaluation, the Legislature should consider moving the management of risk funds into the newly established entity or consider other viable options for oversight of these funds.
- Require the New Mexico Retiree Health Care Authority to participate in the joint purchase of health care and ancillary services with the consolidated healthcare finance entity; and
- Include responsibilities to coordinate and where appropriate, consolidate purchasing, quality improvement, and fraud and abuse surveillance activities with other state-funded health programs, including Medicaid. Direct the new authority to evaluate the feasibility of a data warehouse and claims processing function using the existing systems in Medicaid.

The Interagency Benefits Advisory Committee (IBAC) should

- Actively participate in provider rate development by establishing acceptable rates for state-sponsored programs, allowing no rate changes without state approval, continuing active involvement in negotiations with high-cost providers, and developing contractual reporting mandates for insurance companies for more in-depth reporting on cost drivers including regional data;
- Consider incentives or disincentives to health plans relating to the increase or decrease of provider rates;
- Update health plan contracts to require health outcome performance measures based on a uniform set of criteria such as HEDIS measures; and
- Partner with Human Services Department (HSD) to inform state employees of Medicaid coverage expansion available beginning in January 2014.

Chairman Varela asked for a cost analysis of what savings may be realized by implementing the key recommendations in the evaluation. Charles Sallee responded by clarifying the recommendation that the retiree healthcare program should not be merged at this time but agreed that a forward-looking analysis of the cost savings of such action would be beneficial.

Christiana Edwards, deputy director, PSIA, agreed with Chairman Varela that a cost analysis would prove beneficial by providing direction and structure of how fund balances would be separated. She disagreed with the evaluation's recommendation to consolidate the risk and benefits programs.

Mark Tyndall, executive director of the Retiree Healthcare Authority, expressed agreement with the evaluation's findings and recommendations – especially those regarding the lack of oversight and the need to change the fee-for-service reimbursement methodology. Mr. Tyndall expressed concern that a firm requirement of state approval for all rate increases carries a risk of driving away providers.

Carrie Robin-Menapace, legislative liaison and policy analyst, responded on behalf of APS. She agreed with Chairman Varela's desire to see a cost analysis to allow APS to gauge the impact on its employees. APS agrees that the increasing costs of healthcare and premiums are unsustainable and is making efforts to negotiate the best possible rates with metro area providers.

Chairman Varela asked why New Mexico is not pursuing a portion of \$300 million of funds available under the ACA. Ms. Griego responded that IBAC had not decided which agency would lead such efforts. Senator Smith asked to see the correlation between the cost per claim at different hospitals and how the sole community provider amount was established. Chairman Varela then asked LFC staff to identify the total healthcare expenditures and to provide a list of IBAC members. Representative Larranaga noted that the number of changes imposed under the ACA will be difficult to implement and expressed his reservations about the speed with which these changes will be made. Ms. Griego responded that the evaluation does note that cost savings are difficult to predict because of the uncertainty regarding the impacts of the ACA implementation. Representative Trujillo disagreed with Representative Larranaga's assertion that premiums will rise across the board. He noted that a major driver of premium increases is the requirement that emergency rooms provide care to the uninsured – forcing providers to pass those costs on to insured patients – and that the ACA addresses this by expanding the number of insured patients. Senator Sanchez commented on the seeming resistance to consolidation, and urged IBAC to not fight these changes and to work cooperatively and with providers going forward.

Retiree Health Care Authority (343). Ann Hanika-Ortiz, LFC fiscal analyst, presented the report. The agency's request included an increase of \$23 million, or 9 percent, for the Healthcare Benefits Administration Program to fund an increase in retiring membership and cover medical inflation.

Mr. Tyndall and David Archuleta commented on the report. Mr. Archuleta explained that the agency's request totals \$281.3 million to cover prescription drugs, medical costs, voluntary benefits, and program support. In addition to this funding, the agency requested 3 additional FTE

to handle an increased workload. The agency has begun discussions with LCS to develop such legislation. Representative Larranaga asked if the agency had a firm proposal, to which Mr. Tyndall responded that the proposal consists of looking at reducing subsidies paid to pre-Medicare retirees premiums, instituting a minimum retirement age, expanding the number of years of service required to qualify for the maximum subsidy, reducing the subsidies paid toward spouses, and contribution increases.

Public School Insurance Authority (342). Ms. Hanika-Ortiz reported on and Sam Quintana, PSIA director, presented the request which included increases of \$3.89 million for the benefits program and \$3.84 million for the risk program. Ms. Hanika-Ortiz stated that discussions regarding limiting the availability of full benefits to part-time employees working less than 30 hours a week are currently on hold but could potentially save up to \$2.5 million. Some districts have expressed a concern that this change would harm recruitment efforts. Most school districts are covered by PSIA risk insurance policies. Since FY09, workers compensation claims have decreased by about 15 percent and liability and property claims have increased by about 7 percent. However, excess insurance carrier premiums have increased 38 percent since FY10 due to carriers' concerns regarding improper terminations, bullying incidents, expenses dealing with extreme weather events, and IDEA administrative claim costs. Mr. Quintana discussed the impact of premium reductions in FY13 on the risk fund balance and the role of inspectors at PSIA.

Christiana Edwards detailed the benefits program for the committee. The program covers 58 thousand employees and their dependents. The fund balance at the beginning of the year was \$33 million, but there is an average of \$22 million in claims per month. With such a low balance, actuaries are projecting a 12 percent premium increase in two years. Still, Ms. Edwards was confident in the potential for savings from the pharmacy management/drug proposal.

Senator Payne noted that he was concerned about large premium increases due to the implementation of the federal Affordable Care Act and asked how the actuaries projected the 12 percent premium increase. Ms. Edwards responded that an average annual increase is 6 percent. The rest of the increase comes with PSIA's expectation to spend \$5 million to 6 million in complying with the ACA's provision requiring providers to cover individuals with pre-existing conditions which will also contribute to increased premiums.

Homeland Security (795). Eric Chenier, LFC fiscal analyst, presented his report of the agency's budget request to the committee. The request includes \$3.7M from the general fund, a 50.4 percent increase, for a statewide emergency notification system, to contract federal grant administrators, to contract for a paralegal, and to increase FTE by 10. Additionally, the department submitted a \$250 thousand special request to create an emergency activation fund to cover salaries when the department's emergency operation center is activated.

Secretary Gregory Meyers discussed the department's request with the committee. In the past year, the department has addressed disasters from fires to flooding and has undertaken significant operational reorganization. This required the re-classification of some positions, leading to a high vacancy rate at the moment but will hopefully improve long-term departmental efficiency and effectiveness. Secretary Meyers informed the committee that the fire-flooding in 2013 may be

the most significant disaster in New Mexico's history, with preliminary projections around \$100 million. An increase in the frequency and severity of disasters has highlighted the lack of a notification system. To address this, the department included \$600 thousand in its request to provide unlimited minutes, email, and texting to an unlimited number of people who register through an application to serve as a notification system during disasters. The response and recovery division is currently staffed by 2 FTE, and would be supplemented by some of the additional FTE that the department requested.

Representative Tripp asked what jurisdiction the department has during emergencies. Secretary Meyers responded that disasters are managed locally, and that the department provides assistance to local authorities. Representative Tripp then asked whether the department coordinated emergency plans with local communities. Secretary Meyers responded that, while they are not required, many communities do have such plans.

Representative Larranaga asked what authority or ability the department has to request other state personnel to assist with emergency assistance, and whether the department needed additional FTE or could make better use of other state personnel. Secretary Meyers responded that other departments make their personnel available, but that his department needs additional FTEs for preparation for and management of emergencies.

Senator Cisneros asked for details regarding the proposed emergency notification system. Currently, the department is using a pilot program that allows a single individual to receive notifications through various mediums according to his or her own preferences set upon registration. An application is in development to expand the system's availability.

Chairman Varela inquired about the department's role and suggested an assessment of the department's duties and responsibilities.

Attorney General (305). Gary King, attorney general, presented a budget request and a report on tobacco settlement revenue. The request includes \$2.1 million for the Medicaid Fraud Unit and \$19.4 million for legal services. It also includes 2 additional FTE to deal with the increase in sex offender parole hearings that are now available, under statute, every five years.

Mr. King detailed special requests for funding to provide assistance to and a hotline for New Mexicans dealing with foreclosure (\$4 million over three and one-half years), to carryover remaining Attorney General and State Engineer balances for water litigation (\$2.1 million), to provide salary increases (\$469 thousand), and to perform a comprehensive salary and classification study (\$100 thousand).

Mr. King explained that an arbitration panel ruled that New Mexico did not "diligently enforce" the tobacco settlement as required in 2003 and this led to a reduction in settlement revenue for next year. Mr. King estimated the reduction to be between \$12 million and \$24 million.

In response to a question from Senator Payne, Mr. King predicted that further arbitration regarding enforcement in later years is likely as is a reduction in revenue. However, he noted that he has recognized the significance of ensuring diligent enforcement since he took office in 2007.

Senator Papen asked when the Attorney General's findings on the Medicare fraud case will be made available to the Legislature. Mr. King stated that there are several cases he wants to speak with the committee about but noted that these disclosures are sensitive to the status of the particular cases and would not put a date on when he would be able to share such information. Chairman Varela asked specifically about the behavioral health audit that has only been partially released. Mr. King noted that, in response to a suit brought against the Human Services Department, a Las Cruces judge ruled that the unreleased portions were protected from Inspection of Public Records Act under the law enforcement exception. A ruling is not yet available for a similar suit brought in Santa Fe.

Senator Sanchez asked which manufacturers participated in the settlement, to which Mr. King responded that the settlement is with major manufacturers (e.g. Altria) that accounted for approximately 80 percent of sales. Sandia Tobacco is a non-participating manufacturer, and such manufacturers have taken the position that the settlement was meant to encourage smaller operations. Mr. King firmly opposed this position and stated that the purpose of the settlement was to ensure that tobacco companies, regardless of size, pay for the fair share of their products' impacts on New Mexicans' health. Senator Sanchez then asked if this caused any problems in relationships with Native American tribes. Mr. King stated that the arbitrator's ruling approving New Mexico's practice of not accounting for units sold by tribal sellers in calculating settlement revenue due helped ease the state's relationship with the tribes.

With no further business, the meeting adjourned at 11:50 a.m.


Chairman Luciano "Lucky" Varela


Vice Chairman John Arthur Smith