Legislative Finance Committee
Meeting Minutes
Room 307 - State Capitol - Santa Fe, New Mexico
September 29, 30 – October 1, 2010

Wednesday, September 29

The following members were present on Wednesday, September 29: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Clinton Harden (for Carroll Leavell), John M. Sapien, Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Senator Linda Lopez attended as a guest.

Overview of Workforce Investment Act Funding and Challenges Faced by Local Workforce Development Boards. Ken Ortiz, secretary, Workforce Solutions Department (WSD), introduced workforce development board chairs and staff from WSD. Mr. Ortiz said the Workforce Investment Act (WIA) is administered by the U.S. Department of Labor (USDOL). The goals of the act are to increase employment retention and earnings of job seekers in New Mexico, increase occupational skill attainment of job seekers, improve the quality of the workforce, reduce welfare dependency and enhance productivity and competiveness of businesses. Benefits of the system and the act include preparing the workforce to meet the current and emerging business needs of employers.

WSD is the state administrative entity responsible for the oversight of the WIA. WSD monitors the program and the fiscal dollars spent, provides technical assistance to the local boards and local workforce connection centers, develops policy to administer the program, provides training, and provides data collection and reporting to USDOL. Mr. Ortiz noted Arizona, Utah, and New Mexico receive direct funding for the Navajo Nation. New Mexico received approximately $1.1 million in FY11. Workforce connection centers in the northeast part of the state also serve Navajo Nation members.

Workforce boards are responsible for selecting and contracting one-stop operators and providing oversight and operational direction to the workforce connection and business centers, contracting for the administrative entity, being the fiscal agent on behalf of the local boards and local chief elected officials, and contracting for providers. They are also responsible for the local area budget, setting priorities of expenditure of the local administrative and program funds within the region and directing training funds based on local area needs and targeted industry within the region. Workforce boards develop the local strategic plan, coordinate workforce investment activities, and develop and execute memorandums of understandings (MOUs) within workforce and business connection centers including all partners. New Mexico has workforce connection centers.

Between FY10 and FY11, the workforce boards experienced a decrease of 9.1 percent in adult-services funding; however, the central area saw a 5 percent increase. Mr. Ortiz noted the funding allocated by region is calculated by a formula created by the USDOL. In FY10, the state received an overall increase of 44 percent in funding for dislocated workers due to the high unemployment rate in New Mexico; each area received anywhere from a 33 percent to 67 percent increase for core intensive and training services. FY10 funding for youth decreased 9.5 percent. WSD saw an $8.6 million reduction in total funding from FY04 to FY11 with an average of 1.2 percent decrease in funding each year.

According to USDOL, a state meeting 80 percent of its negotiated level is considered to meet its performance measure. New Mexico met or exceeded negotiated levels for each program. WIA challenges include lack of employment, increase in numbers served in the workforce connection centers, and declining federal and state revenue resources.

In response to Chairman Varela, Mr. Ortiz said the state board met four times in the last year to focus on board member orientation of WIA, the unemployment issue, service successes, and issues such as the decline of the trust fund. State board hearings are held at local community colleges throughout the state, providing an opportunity for local university presidents to provide presentations to the board. Mr. Ortiz noted there is no representation on the State Workforce Board from the local workforce boards other than Senator Sapien. Mr. Ortiz recommended having a larger presence of local workforce board members on the State Workforce Board to make policy decisions to the workforce system.

Lou Baker, board chair, Northern Area Workforce Development Board, expressed concern with resource sharing between WSD and mandated partners. WIA clearly identifies agencies that should be part of a seamless system of delivery service that will enhance access to the program and improve long-term employment outcomes for individuals seeking assistance. Ms. Baker noted the Economic Development Department has never worked with the workforce boards and the Human Services Department, TANF program; it has only participated with the boards when they were sure to benefit from WIA funding. Neither the State Workforce Board, the Legislature, nor the governor's office has shown this to be a concern. The state board and the four local workforce boards should be built into key roles in a new structure linking workforce funding and economic development within state.

Ms. Baker said Section 166-H of the Workforce Investment Act establishes a requirement that an agreement must be established between the Navajo Nation and the states of New Mexico, Arizona, and Utah whereby the Navajo Nation receives WIA funding from each state for the number of Navajo citizens that reside in the identified state and meet WIA funding eligibility. Because this is not done, a number of non-Native American clients cannot be served because funding is not available to them. The Northern Board has been unofficially informed that the Navajo Nation has returned WIA funds to the USDOL because funding reached the maximum expenditure period of two years and was not expended. Additionally, the Northern Board approached the Navajo Nation to attempt to become a Navajo Nation contractor to deliver WIA services; however, this has been unsuccessful. The Northern Board requests LFC to assign staff to study this issue and make a recommendation to the newly elected governor regarding the negotiation of a new 166-H agreement.

Jimmy Shearer, board chair, Eastern Area Workforce Development Board, provided an overview of mandated partners, as well as un-mandated partners, in the WIA. The board continues to minimize duplication of services with the continued decline of funding. The board secured facilities to house the TANF Works, WIA, and Wagner Peyser programs and moved the programs under one roof. TANF is no longer being integrated into the one-stops. Remaining partners were forced to absorb the costs of the now-vacant space. TANF has now hired job developer positions that duplicate the functions of the business units. Customers referred to the business and career centers will now be required to repeat assessments and provisions of demographic information due to overlapping program requirements. Employers will now have an additional agency contacting them for placement and job development activities. Workforce development programs have similar service delivery requirements for customers. Local boards do not have the authority to require partners to align programs and eliminate duplication. No single employer outreach system or approach results in ineffective business and employer services.

Economic advantages to state level integration of programs include

- Elimination of territorial funding issues,
- Increased efficiency and productivity of staff,
- Increased ability to serve growing numbers of customers with declining funds,
- Increased efficiency for the customers of the programs and systems,
- More funding spend directly on customer training programs and employer services and less on staff and administration,
- Increased services available to the business community,
- More prepared and better trained workforce translating into increased economic development potential,
- Uniform set of services available to the business community,
- More effective and efficient services for customers in one location.

Advantages to the business community include

- Single point of contact for hiring employees,
- Decreased costs with screening applicants,
- Assistance with deferring costs associated with training new employees,
- Overall better trained workforce.

Roque Garcia, board chair, New Mexico Workforce Connection Southwestern Area, testified the board has met or exceeded all its performance measures. The board's greatest challenges include a decrease in available jobs, an increase in the demand for jobs, and a decrease in federal funding. The southwest area experienced employment loss. Grant County lost 15.4 percent of its jobs; Catron and Luna counties lost 9.2 percent and 6 percent, respectively. Currently, Luna County has the highest unemployment rate in the state at 18.6 percent. Workforce center activities include over 66,000 visits to employment training services in 2009 and over 56,000 visits in 2010. Staff also visited employers at a rate of over 3,600 contacts. The current funding allocation totals $2.3 million, a decrease of 9.83 percent from the previous year's allocation. The board continues to work with employers to provide a better match with job seekers through skills assessments. WIA funds offer a 50/50 match in training funds for employers to assist them with labor costs. Additionally, the board has begun to work with the Upper Rio Grande Workforce Board on job fairs and summer youth programs and is working in collaboration with partners to apply for federal competitive grants to bring additional resources to the state.

Senator John Sapien, board chair, Workforce Connection of Central New Mexico, testified the central board acts as a one-stop operator. Without collaboration of different departments and team members within those departments, the board is not as effective as it could be. The Albuquerque Metropolitan statistical area reported 47 percent of the unemployed in the state reside in the central area. The central area received federal stimulus funds and regular funding to meet the needs of an almost 50 percent unemployment increase. Because of the way WIA is written, it is-ill advised for the state board to mandate the individual boards change their programs. The central board also faces a decrease in available jobs and an increase in the demand for jobs.

Chairman Varela expressed concern with the Tourism and Economic Development departments not interacting with the local workforce boards. Some policymakers have suggesting consolidating the departments to create a commerce department and combine resources. Senator Sapien said there would be a dilution in effort with consolidation unless the power was handed down to a local board to manage the day-to-day operations through a provider.

In response to Senator Beffort, Mr. Ortiz said the state will move from a schedule zero tax to a schedule one tax beginning January 1, 2011, and the funding will keep New Mexico's unemployment insurance trust fund solvent through October or November 2011. The average cost per employee will increase by $45 per year.

Apprenticeship Training Programs. Celina Bussey, executive director, Independent Electrical Contractors Association, testified on behalf of the entire apprenticeship community and requested continued support of the Apprenticeship Assistance Act during the 2011 legislative session. During the 2010 legislative session, the act was cut nearly 70 percent. The act was enacted in 1983 with a small amount of funding allocated to the Department of Education to help offset the cost of funding to employers. Apprentices have jobs working full time and attend training programs administered through local community colleges.

In response to Senator Beffort, Pat Numan, executive director, Workforce Connection of Central New Mexico, said during the past four years customized training contracts were in place with the Associate Builders and Contractors. Customized training contracts are used to help avert potential layoffs and help retrain or retool existing skills. Currently, eight on-the-job-training (OJT) contracts deal with apprenticeship and trades.

Review of New Mexico's Tax Expenditures. David Lucero, principal fiscal analyst, LFC, reported $941 million is the estimate of what will be spent through the tax code for 2012. Tax expenditures generally bypass the annual legislative review process. New Mexico does not have a systematic way of reporting and analyzing tax expenditures. The Legislature passed House Bill 235 in 2007 that would require a tax expenditure budget report on an annual basis; however, the governor vetoed the bill. In 2009, Chairman Varela carried HB320, a similar bill.

In most cases, once a tax expenditure is enacted,generally no agency is held responsible or accountable for its effectiveness. Although TRD administers the tax code, it is not necessarily responsible for every tax expenditure within the code. A tax expenditure budget report would improve transparency and help to avoid cross-agency or cross-governmental subsidies to the same taxpayer. LFC staff recommends ending some of the current tax expenditures and reevaluating their effectiveness, appointing a task force to review tax expenditures, consider pay-as-you-go (PAYGO) rules, considering the tax code in its entirety rather than scrutinizing each individual tax expenditure in a piecemeal fashion, implementing a tax expenditure budget report, requiring that all new tax expenditures include a thorough review, and requiring caps and sunsets on all future tax expenditures.

Duffy Rodriguez, secretary designate, Taxation and Revenue Department (TRD), provided a list of descriptions and characteristics of New Mexico credits, exemptions, deductions, and rate differentials, as well as estimated revenue impact of select credits, deductions, exemptions and rate differentials for which direct data exists.

Tom Clifford, chief economist, LFC, provided a list of economic development tax expenditures ranked by the size of fiscal impact. Almost all the impact is against the general fund in FY12. Most economic development incentives were created within the last 10 years. Tax expenditures targeting poverty relief, improving health, or improving education total $367 million of general fund. Mr. Clifford noted when reducing state revenues a significant portion goes to healthcare providers and reduces available funds for state funded health care programs such as Medicaid. Mr. Clifford also reviewed renewable energy and energy conservation tax expenditures totaling $26 million. Concerns include benefits to the state's environment and economy associated with provisions. All other provisions total $465 million; $445 is against the general fund. The largest single impact is the food tax deduction from the gross receipts tax (GRT).

Medicaid and TANF: Preview of FY12 Appropriation Request.

Shortfall of TANF Carry Forward. Katie Falls, secretary, Human Services Department (HSD), reported that the Temporary Assistance for Needy Families (TANF) program receives a $110 million federal block grant and $6.5 million in supplemental funds, for a total of $117 million in funding. In January 2006, the caseload totaled 17,000 households; $5.3 million a month was spent in cash assistance. In December 2006, the caseload dropped; therefore, expenditures dropped. In July 2007, the caseload dropped to 13,518 households. TANF funds include cash assistance, child care, supportive services (TANF and non-TANF specific), and administrative costs. As the caseload declined, the carry-forward funds grew. The state began to use these additional funds by increasing the amount of cash assistance by 15 percent, as well as increasing the school clothing allowance to twice a year, and increased support services, like childcare funding to CYFD.

As the economy changed, the caseload increased. Currently, all TANF block grant funds are being spent, as well as the carry-forward funds. The American Recovery and Reinvestment Act (ARRA) included funding for the TANF programs. New Mexico was able to pull down an additional $55.2 million through two mechanisms. In federal fiscal years (FFY) 2009 and 2010, $16.5 million was used for a revenue swap with TRD to help the general fund. An additional $9.7 million was used for cash assistance. The remaining funds will be used in FY11.

Currently, Congress is considering a bill to extend TANF funding; however, it is unlikely the bill will pass. If the bill does pass, it will provide an additional $33 million for New Mexico in FFY11. It is expected that a continuing resolution will be done extending TANF until December 3, 2010; however, it does not include the emergency contingency fund. It is also uncertain what will occur with the supplemental population grant. Projections assume the state will receive the grant. TANF appropriations in the General Appropriation Act for FY11 total $162 million, providing $88 million for cash assistance, but available revenue is $137 millione. Several actions have been taken to avoid running out of funds by April 2010. HSD will propose regulations to reduce the monthly cash assistance benefit, eliminate the second clothing allowance, and eliminate the transition bonus program. In addition, a notice was issued to Children, Youth and Families Department (CYFD), indicating a reduction of $13.5 million in childcare funds. Other proposals include

- reducing support services,
- eliminating funding for domestic violence, pre-kindergarten and other education programs as of October 31.

Update on Federal Reporting and Negative Cash Balances. Secretary Falls reported HSD deals with two separate systems when drawing down funds for the Medicaid program. In FY09, the department recognized there was an issue with the state cash balance report. The department noted discrepancies between the reporting of the federal system (CMS-64) and the state system (SHARE). The department hired Myers of Stauffer, LLC, to perform a detailed evaluation, and the department will need to evaluate every quarterly report submitted back through FYY09 to find the errors. In addition, an internal task force was created to implement quality control procedures, develop a special tool to identify differences in reports, and reconcile reports weekly rather than quarterly.

Michael Johnson, manager, Myers and Stauffer, LLC, testified that one quarter's transactions amounts to 118 million records; however, not all transactions paid out are qualified for a federal match and the transactions cannot be aggregated. To determine complete and accurate information, the information was tied to the cash books. It was determined there were discrepancies between what was reported on the CMS-64 and what is recorded in SHARE as a federal receivable for federal revenue. In FFY09, the total recorded as a federal receivable not supported by expenditures on the CMS-64 totaled $89.9 million; it is likely the amount includes expenditures that might have occurred in FFY07 and FFY08 not drawn down by the department. In FFY10, the difference between what was reported on the CMS-64 and revenues in the SHARE system totaled $4.2 million. In conclusion of the analysis, two distinct problems were identified: under-reporting on the CMS-64 and an incorrect matching rate in the SHARE system. It is anticipated there will be adjustment to the SHARE accounting system, as well as the CMS-64; HSD will change its methodology for completing withdrawals. Secretary Falls added that a complete analysis of all quarters will be complete by the end of October.

Secretary Falls reported the FY12 Medicaid budget request does not assume tobacco settlement funds in the amount of $23 million or the enhanced ARRA funding totaling $333 million. Beginning January 2011 through June 2011, ARRA funds will be phased out. Medicaid will also have a new FMAP resulting in an increase of general fund of $26.8 million. Also built into the budget is an increased need of $25.9 million due to recipient and utilization growth. It is estimated $33 million will be pushed forward from FY11. The FY12 budget request assumes that cost-containment activities begun in FY11 will reduce expenditures in FY12 by $240 million saving $62 million in general fund. The general fund appropriation request totals $360.7 million, after the assumed cost containment. Secretary Falls highlighted examples of cost-containment measures already implemented by the department.

Comparison of Benefit Provisions to Other States. Secretary Falls reported New Mexico provides limited preventive care services for adults and all plans provide emergency services. The biggest difference between New Mexico's Medicaid plan and the commercial plan are in behavioral health and long-term services. Forty-nine other states cover mental health and substance abuse services like New Mexico. A large portion of funding from Medicaid is used for long-term services; it is the most costly service provided and has growing enrollment. Medicare does not provide long-term services. Other commercial markets do not provide long-term services.

In response to Senator Beffort and Representative Bratton, Elaine Olah, deputy director, Administrative Services Division, HSD, said the department's previous request for the carry-forward was overstated. Part of the shortfall in the accounting error resulted from the estimated federal funds; however, no funding was lost. Cash assistance used more carry-forward and depleted balances quicker than anticipated. Secretary Falls added that more than $116 million of the block grant was spent for several years. Ms. Olah noted available grant balances are now reviewed and updated on a monthly basis.

Comments on Medicaid and Healthcare Funding. Ruth Hoffman, director, Lutheran Advocacy Ministry, reported Medicaid provides healthcare coverage for over half a million New Mexicans who would otherwise be uninsured. In some counties, as much as 40 percent of the people are covered by Medicaid. Sixty percent of people on Medicaid are children. Half of the funding goes to the elderly and the disabled. State funding for Medicaid has dropped partly due to stimulus funding. By reducing Medicaid, the state loses more than what is saved. It would create a widespread job loss; 50 people will become unemployed for every $10 million reduction in state funds. It would damage the healthcare system, and providers and communities would directly lose money. It would also create a deeper recession. Cutting services would force New Mexicans to go without health care or seek more expensive healthcare.

Sireesha Manne, staff attorney, New Mexico Center on Law and Poverty, reported the healthcare reform bill places restrictions on the Medicaid program. If Medicaid does not receive adequate funding, the program will be forced to cut healthcare services. Ms. Manne proposed three strategies to prioritize Medicaid as an investment:

- Save costs in Medicaid by improving health care instead of cutting services,
- Maximize federal funding opportunities,
- Prioritize Medicaid by finding new sources of revenue.

Mary Feldblum, executive director, Health Security for New Mexicans Campaign, reported the Patient Protection and Affordable Care Act, the federal healthcare reform legislation, calls for state insurance exchanges created to help solve the problem of the uninsured and contain healthcare costs. New Mexico will have to make a decision whether to invest in a healthcare exchange and address the cost of setting up and operating an exchange, possibly impacting the general fund and slowing the increase of healthcare costs. National law provides many opportunities for states to receive needed funds through planning and establishment grants; however, New Mexico has no guarantee it will receive grants to cover all or any expenses. The federal government has provided no grants to states for developing IT systems to be used by the exchange. If the exchange is not self-sustaining, the cost could also impact the general fund. Nationally, the initial start-up exchange costs from 2011 to 2014 is estimated at a total $4.4 billion, excluding federal Health and Human Services Administration costs. The state's exchange administrative estimated costs from 2014 to 2019 are $33.3 billion. If an exchange is not effective in controlling overall healthcare costs, the general fund could be hit by rising Medicaid, state employee and retiree health costs.

Janice Torrez, New Mexico Chiropractic Association and Health Improvement Network, reported conventional medical strategies for clinical improvement and cost containment have failed to reach their target. Costs in health care and premiums continue to escalate and there is a shortage of primary care physicians.

Giovanna Rossi Pressley, Council on Women's Health, reported the Council on Women's Health is created in statute to work on policy issues and consumer education for the health of women and girls in New Mexico. The council recommends the following:

- System enhancement and development,
- Risk management issues resolution,
- Other efficiencies.

Angie Vachio, Taskforce on Substance Abuse in Pregnancy, added that early intervention during pregnancy, specifically prenatal care, has enormous benefit to the mothers and fetuses. By ensuring that alcohol and other drug treatment are initiated prenatally, the likelihood of a healthy birth outcome is increased. Comprehensive medical care and treatment for alcohol and drug addiction is essential to start substance abusing women on the road to recovery. There are nearly no referrals to substance abuse treatment from physicians. Recommendations are to remove unnecessary barriers to services; prioritize pregnant women for treatment services to optimize on the greatest chance of treatment success; establish a means of efficient connection between physicians and treatment services, and establish gender-specific treatment centers. Recommendations also address preventing unintended repeat pregnancies by providing timely family planning and contraception shortly after birth. Further, recommendations address risk management tools be developed to avoid potential discrimination lawsuits by establishing uniform practices for drug testing pregnant women and newborn babies.

Patricia Anders, NM Law and Poverty, reported the TANF caseload increased over 50 percent since the start of the economic downturn. The increase reflects the growing need of families experiencing a reduction in work hours and job losses. New Mexico continues to lead the country, with the third greatest rate of poverty and the second greatest rate of increase in poverty.

Follow-Up: Program Evaluation of Charter Schools. Lisa Grover, chief executive officer, NM Coalition for Charter Schools, reported charter school proponents have extensive and analyzed the charter school report since its release in July. They support the following:

- Creating more stringent conflict of interest policies for charter school governing council members,
- Amending statutes to improve charter school performance,
- Creating statutes to help with school-closure protocols,
- Creating school performance contracts,
- Studying further the 2015 deadline for all charter schools to be in public facilities.

Areas open to further discussion include the following:

- Different funding streams
- Small-school size adjustment

Ms. Grover noted approximately 25 percent of charter schools are designed to serve severely at-risk children.

Todd Ziebarth, vice president, State Advocacy and Support, National Alliance of Public Charter Schools, added that quality is more important than quantity in the charter sector. The primary aim of charter schools is to pursue academic achievement for all students. Because charter schools are public schools, students who attend charter schools are entitled to the same level of financial support as students who attend other public schools. Recommendations from the National Alliance of Public Charter Schools include

- Required performance-based contracts,
- Monitoring and data collection by authorizers,
- Provide equitable funding including funding facilities.

Michael Vigil, incoming chief executive officer, NM Coalition for Charter Schools, reported the state equalization funding formula has been determined by independent reviewers to be one of the fairest formulas in the nation. The formula provides differentiated funding among students.

Charles Sallee, deputy director, LFC, reported the number of charter schools has grown to over 80 in the state and, because of some of the formula funding adjustments, the per-student funding is about as much as some of the smallest school districts in the state. That level of funding is not sustainable. It was not intended by the Legislature to give extra subsidies for intentionally small programs. The Legislature already excluded alternative and vocational education from the small-school size adjustment.

In response to Representative Saavedra, Mr. Vigil said the individual governing council of each school determines the salaries for each charter school. The Charter School Act establishes that the governing council is the governing body for each individual charter school. Salaries and budgets are submitted to the Public Education Department (PED), reviewed by the budget analyst, and approved by PED.

Thursday, September 30

The following members were present on Thursday, September 30: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, Clinton Harden (for Carroll Leavell), John M. Sapien, Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Senator Linda Lopez and Representative Danice Picraux attended as guests.

Children, Youth, and Families Department (690).

Changing Workload for Child Protective Services. Jared Rounsville, acting division director, Protective Services Program, reported on the following three core concepts within the program: promoting and enhancing safety of children, ensuring lasting permanency for children in contact with CYFD, and enhancing families' capacity to safely meet the well-being of their children

The vast majority of services are provided by staff across the state to investigate, provide supports and other services, and help serve children. Staff members are required to have a social work or related degree or a social work license. New employees are required to attend a rigorous eight week training that includes four weeks of classroom training and four weeks of on-the-job training. In addition, specialty training is required for specific program areas. A 15-hour annual training per employee is also required to continue enhancing skills and knowledge. From January through August 2010, 68 employees have resigned from Child Protective Services as a result of burnout, high caseloads, more difficult cases, or stress.

Lisa Madrid, metro regional manager, Protective Services Program, reported the program has seen a huge difference in the type of cases brought to the program's attention. Case severity for mental and behavioral health needs of children, as well as the parents' substance abuse use, physical abuse of children, and medical needs has increased. Staff has experienced struggles in accessing an array of services for families from service providers, resulting in an increase in waiting lists and a delay in services. Other challenges include preserving sibling connections, placement stability, worker sustainability, and worker safety.

Mr. Rounsville reported the number of overall reports of abuse or neglect over the past four years has been fairly stable; however, there is an upward trend in the number of reports screened for investigation has grown. The majority of reporters are anonymous, making the ability to investigate more difficult. Reports are identified by priority level. Priority one requires a three-hour response time; priority two reflects the need to respond within 24 hours; and priority three requires a five-day response time. Priority two categories and reports are typically neglect situations. Approximately one-third of all screened reports require a 24 hour or less response time. There is a correlation between the number of open investigations and the vacancy rate.

The in-home services program is designed to prevent the removal of children from their parents and caregivers when there are concerns for their safety. Most often, it is a substantiated investigation of abuse or neglect. Staff helps parents learn how to safely parent their children in their home and will often involve absent parents who do not live in the home and other extended family members to ensure safety is monitored and provided for. These services are voluntary and are not court-ordered. Families can decline services; however, the risk to children will increase and other decisions may be made. A total of 2,736 children were served in this program in FY10 at a cost of $1.1 thousand per child to CYFD. The cost to maintain a child in foster care is between $6 thousand and $7 thousand annually. Once children are taken into foster care, it is mandated to help them be reunified with their parents or relatives or achieve other types of permanency, such as adoption or guardianship. Approximately 50 percent of foster children have a reunification plan followed by an adoption plan. Approximately 80 percent of children are placed in a family setting. Since 2003, the number of finalized adoptions has doubled. With more difficult and complex cases, challenges are greater due to a decrease of resources, a reduction in incidental allowances, less ability to respond to needs, and reductions in other public and private services. Strategies include refocusing and redirecting contract funds to support foster parents and holding county-based foster parent forums to improve efforts to better collaborate with foster parents. The number of adoption providers has increased significantly while the number of foster families has decreased slightly.

Impact of FY11 TANF Funding Reductions on CYFD Programs. Bill Dunbar, secretary, Children, Youth, and Families Department, (CYFD), reported in August 2008, the Legislature authorized an additional $7.2 million of TANF funds to be used for childcare expenses for a total of $39 million. In 2009, CYFD received $13.1 million of ARRA funds to pay for new individuals on the program with incomes between 100 percent and 200 percent of poverty. A waiting list was implemented in January 2010 for individuals with income above 100 percent poverty. Between FY09 and FY11, the department lost $30 million: $24 million in operating costs and $6 million in fund balances. As a result, the department initiated reductions to 5,000 families with incomes between 100 percent and 200 percent poverty. Providers recommended reducing provider rates by 10 percent rather than cutting families, and the department accepted the recommendation. In addition, the governor provided $2 million in nonrecurring ARRA governor discretionary funding that reduced the provider rate reduction to 8 percent; however, an additional $7 million is still needed to finish out FY11.

Preview of CYFD's FY12 Budget Request. The department is faced with a $27 million shortfall in FY12. Chris Romero, general counsel, CYFD, reported the department will be required to publish notice of the provider rate decrease to realize savings effective November 1, 2010, and mail notice to individual clients and providers regarding interim regulations. Proposed rules will be available for review by any interested member of the general public no later than October 25, 2010. Mr. Romero noted interim regulations are only effective for 90 days; therefore, additional notice will be provided indicating the department intends on making the rules permanent.

Public comment:

Crystal Sandoval, New Mexico Childcare and Education Association, provided testimony in opposition to additional reductions and indicated the main goals are to not compromise the level of quality in programs, to continue to maintain low child-caregiver ratios, and to maintain programs at the highest level to provide health and safety to families.

Kim Grider, Toy Box Preschool, Las Cruces, testified 75 percent of income is dependent on subsidy care. Additional reductions will directly affect the quality of care provided.

Eileen Martinez, representing three non-profit centers in Albuquerque, requested the Legislature determine a permanent means of funding for childcare providers.

Carter Bundy, AFSCME, representing home-based childcare providers, requested considering the impact on the providers. The childcare program is an important part of economic development. Home-based providers, on average, make less than $15 thousand annually.

Al Padilla, director, Boys and Girls Club, Santa Fe, testified the club was able to provide more than 110,000 meals to children throughout the county of Santa Fe with affiliation to CYFD, child licensure, and child nutrition.

Ray Jaramillo, director of a nationally accredited center in Las Cruces, testified that children must be a priority in the state of New Mexico. As a result of reductions, teachers are losing jobs, quality childcare centers are closing, and children are at risk.

Baji Rankin, executive director, New Mexico Association for the Education of Young Children, testified that supporting early childhood invests in young children and is a way of closing the achievement gap.

Alan Sanchez, executive director, Conference of Catholic Bishops, testified the solution is a challenge not only to the state, but to all nonprofits, faith-based organizations, and citizens.

Jaime Tamez, executive director, Cuidando los Niños, requested support for early childhood services. Cuidando los Niños focuses on children and families experiencing homelessness in Bernalillo County.

Rosa Barasa, Early Care and Learning Association, testified 56 percent of students do not graduate from high school due to a lack of access to high-quality programs. Shortfalls and reductions prevent high-quality programs in childcare centers and home programs.

Elise Larson, municipal judge, Grants, provided the committee with a letter requesting continued funding for childcare.

Maria Sanchez, Early Education, requested the support of permanent funding solutions for early education.

Chelsea Sanchez, single mother, testified in support of keeping childcare fully funded.

In response to public comment, Vice Chairman Smith said the state has not seen this type of economic condition in over 54 years. Since 2007, the budget was reduced by close to $800 million because of the lack of revenues. The unemployment level is approaching 10 percent. The permanent fund is delivering close to $500 million a year to the general fund. Increases to the gross receipts tax and the food tax were introduced into legislation; however, they were vetoed by the executive. In addition, there was a proposed tax increase on cigarettes, with a good portion of funding directed at early childhood and daycare programs; however, that legislation was also vetoed. If reserves are not maintained, the state jeopardizes the bond rating for education. The Legislature is required to balance the budget within the resources of the state. With a budget of $5 billion, 65 percent is delegated to public and higher education, 25 percent is delegated to health care and social services, 7 percent is delegated to corrections and law enforcement, 3.5 percent is delegated to the judicial branch, and 1.5 is delegated to the legislative branch of government.

Senator Beffort requested statistics for private salary ranges in childcare centers, information on the level of insurance and how much is paid for the childcare providers and pensions, as well as information on regulations imposed by various regulatory groups on the private childcare industry. Mr. Dunbar responded that CYFD will work with LFC staff on the requested information. CYFD is also working with childcare providers on unfunded regulations.

Representative Picraux asked if there have been any discussions to reduce the cost of child care by relaxing the standards. Mr. Dunbar responded that providers were requested to submit specific examples or recommendations that do not jeopardize the health and safety of children.

NM Lottery Authority Update. Tom Romero, chief executive officer, NM Lottery Authority, provided an update on the lottery's financial health. The sales and cost-cutting measures resulted in a record return of $43.6 million in FY10. The NM Lottery completed its first full year under contract rates for a new gaming system. The gaming system is a sophisticated communication network that enables 1,100 stores statewide to sell tickets and pay prizes. Under terms of the seven-year contract, the lottery agreed to pay a base price of 1.5 percent, or $18.2 million, on projected net sales totaling $1.15 billion. These terms represent a savings of approximately $35.4 million over the previous contract rates. Under the new rates, the Lottery saved $4.6 million in vendor fees for equivalent fees in FY08. Savings were returned to the New Mexico lottery scholarship fund.

In FY10, the Lottery completed a competitive process to identify a primary supplier to print scratcher games. The Lottery's printing contract is the second largest for the agency, behind the gaming system contract. G-Tech was the lowest bidder and offered a package of services that will help grow sales responsibly and maximize revenues for the scholarship program. Over the contracts term, the Lottery will pay G-Tech Printing Inc., a base price of 1.48 percent on total net scratcher sales. The base price includes annual sales training, market studies, and discounts to use copyrighted game titles. The Lottery's previous vendor was paid a rate of 1.75 percent of gross scratcher sales. Under the new contract, the lottery projects saving a total of $835,000 over four years based on projected net sales of $322.7 million. The new contract rates for both the gaming system and scratcher ticket printing are key factors in helping the lottery fulfill obligations to return at least 30 percent of gross revenues to the scholarship fund.

The Lottery redesigned Roadrunner Cash by adding more numbers, increasing the starting jackpot from $20 thousand to $25 thousand, eliminated Sunday drawings, and changed the game's overall odds from 1 in 66 to 1 in 8 to create more opportunities to win. In FY10, $7.6 million in tickets were purchased; up $1.2 million, or 19 percent, from the previous year. The Mega Millions game was also introduced in January after two industry trade associations agreed to allow state lotteries to sell both Powerball and Mega Millions. In FY10, Mega Millions contributed approximately $3.8 million to total net lottery sales. At the end of June, the New Mexico Lottery announced a licensing deal with the rock group KISS to launch lottery KISS scratchers. The KISS scratcher has been among the five top selling games for New Mexico Lottery. To help turn player awareness into ease of purchase, the Lottery set a goal to increase retail presence by 5 percent. During the year, the Lottery acquired 50 stores as new lottery retailers; however, gains were cut in half due to the closing of the Chevron Redi-Mart chain closing its New Mexico stores. Chevron's 27 stores contributed yearly lottery sales of approximately $4 million.

The Lottery deployed devices allowing players to check tickets for prizes in 725 stores statewide. Since beginning the gradual roll out in March, ticket checkers have completed more than 200,000 transactions; more than 43,000 identified winning tickets. In FY10, the Lottery continued to use new technology capabilities to print the "U Drink, U Drive, U Lose" logo on drawing game tickets.

After three years of flat sales, net ticket sales in FY10 totaled $143.6 million. Hot Lotto, Pick 3, and Roadrunner Cash provided an additional $2.4 million. Powerball sales were down $2.8 million for the year. For the third consecutive year, scratchers suffered a sales loss. In FY10, sales were down $2.15 million and have dropped nearly $13 million since FY07. Fortunately, sales increases outweighed sales losses for the first time in three years. At $143.6 million, sales were up $1.3 million from $142.3 million the previous year. The sales gain did not enable the Lottery to fulfill its obligation to return at least 30 percent of gross revenue to the sScholarship fund. The Lottery spent $650,000 less in advertising and froze employee salaries and postponed filling vacant positions among other cost cutting efforts. Discipline and fiscal management along with other cost-cutting measures enabled the delivery of record scholarship revenues of $43.6 million.

Net sales of $146 million are projected in FY11; a $2.4 million increase from the previous year. FY11 activities include

- Increasing the number of lottery retailers by 5 percent,
- Getting new players involved in lottery games and the Lottery's mission,
- Identifying subject matter and second chance merchandise prizes,
- Engaging more retailers in a player loyalty campaign,
- Piloting a retail signage program.

At the industry level, the New Mexico Lottery Authority is working with other U.S. lotteries to evaluate a $2 price point for Powerball or Mega Millions. The industry is also discussing a new national drawing game. Lottery senior managers were recently invited by HED to participate in the HED's legislative lottery study committee to determine what changes, if any, need to be made to scholarship eligibility. Mr. Romero noted Lottery profits since 1996 total nearly $453 million and more than 61,000 students have attended college on legislative lottery scholarships. Vice Chairman Smith suggested a letter be sent to the Legislative Education Study Committee (LESC) to suggest modifications to the scholarship fund.

Status of FY11 Operating Budget and Allotment Reductions. Dannette Burch, secretary designate, Department of Finance and Administration (DFA), reported as a result of the 3.2 percent allotment and budget reduction the general fund reduction totaled $151 million; state agencies portion totaled $49 million. Allotments for state agencies were reduced on September 1 and budgets were reduced effective August 24. Higher education institutions totaled $24 million in budget reduction. Budget reductions plans from higher education institutions were submitted to the Higher Education Department (HED) on August 30 and are pending approval by their boards of regents. Public schools reduction totaled $77 million. Implementation was delayed by Executive Order 2010-033 due to appropriated funds by the U.S. Education Department. Funds awarded to New Mexico totaled $65 million. The Public Education Department (PED) will begin processing school budget adjustments for federal fund increases and corresponding general fund decreases on October 1. DFA will reduce public school support budget and allotments out of the general fund effective November 1.

Tobacco Settlement revenues were short more $4.5 million, according to the July revenue estimate. Budgets and allotments were reduced on July 31 to account for reductions. Additional nongeneral fund shortfalls include

- TANF - $28 million
- Medicaid - $82 million
- DD Waiver - $9.3 million

The Human Services Department (HSD) is working on new projections; the cost-containment plan will affect the amount of federal funds needed. HSD is also working on the cost-containment plan for TANF. The 50 percent rule will apply to operating budgets. HSD may qualify for an exemption to the rule.

The department requested state agencies to determine the impact of a 3.2 percent budget reduction. Not all agencies were requested to comply. Plans were adjusted to account for funds allocated from the governor to avoid layoffs and furloughs.

Ms. Burch noted to date, DFA has approved nine exemptions to the 50 percent rule. Several agencies are still working on compliance.

David Abbey, director, LFC, added it is important to monitor agencies progress implementing reduction plans. Agencies should prepare for the prospect of additional reductions similar to the 3.2 percent. In October, employment growth and personal income growth are expected to be lower than the July revenue estimate.

In response to Senator Beffort, Ms. Burch said reports for the quarter ending December 31 will provide information on compliance with the 50 percent rule. DFA analysts are working closely with agency staff to ensure that agency proposals do not violate the rule.

Representative Bratton expressed concern with the administration having $57 million of discretionary funds and using it to supplement an agency's budget and whether the 50 percent rule is applied.

FY10 Performance Report on Key Agencies and DFA Approval of FY12 Performance Measures. David Hadwiger, assistant state budget director, DFA, provided an overview of the accountability process and highlighted the fourth quarter performance of key agencies. Almost all key agencies are reporting timely and were successful in meeting or exceeding targets. Chairman Varela suggested using reports to measure performance for funding.

Cathy Fernandez, deputy director, LFC, reported on key agency performance highlights for the fourth and cumulative quarter of FY10. The overall program rating takes outside factors into consideration.

Friday, October 1

The following members were present on Friday, October 1: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Sue Wilson Beffort, John M. Sapien, Linda Lopez (for Mary Kay Papen), Timothy Keller (for Pete Campos), Carlos Cisneros, and Steven Neville (for Stuart Ingle). Representative Danice Picraux attended as a guest.

Proposed Regulations for Cap and Trade of Greenhouse Gas Emissions. Jim Norton, director, Environmental Protection Program, Environment Department (NMED), provided an update on climate change issues. Effects of climate change in New Mexico include hotter temperatures of 6 to 12 degrees, reduced snow pack, which will affect the stream flow, scientists indicate the number of forest fires will increase, and New Mexico is likely to see severe disruption of natural habitats, including the bark beetle infestation. Climate change has been linked to the elimination of piñon due to hotter temperatures making trees more susceptible to insect outbreaks.

Economic costs of warming are estimated at $3.4 thousand extra per household by 2020 and are related to increased wild fires, increased health affects, higher energy costs, and lost recreation opportunities in forests and trout streams, as well as heavy rains resulting in storm damage.

According to the Sandia National Lab study, New Mexico will experience negative climate impacts to the economy between 2020 and 2050. The study also predicts losing 217,000 labor years of work, and 8,300 people will leave New Mexico to find better opportunities in other states.

The Legislature has already taken a number of positive actions that will help to promote renewable energies and reduce greenhouse gas pollution. NMED is working on a cap and trade program to reduce emission from the largest industrial sources. The cap and trade program is the most cost-effective way to obtain reductions. By providing a cap and a slight decline each year, companies will be allowed to trade among themselves for pollution allowances. It also provides more flexibility than traditional regulatory programs. New Mexico joined with other states and Canadian provinces in the Western Climate Initiative (WCI) to collaboratively design a cap and trade program consistent among all partners.

Mr. Norton provided an overview of NMED's proposal for the cap and trade program. It would begin in 2012 only if it is big enough within the WCI for a trading system to work. NMED's proposal does not include Bernalillo County and tribal lands because they are not part of the state's jurisdiction for air quality. The proposal includes a 2 percent reduction per year until 2020, at which time it would level out. The affected facilities are large industrial sources that emit more than 25,000 tons of green house gases. NMED is concerned with keeping costs as low as possible and is allowing a three-year compliance period. Mr. Norton provided information on the rule-making process. The Environment Improvement Board (EIB) will review all transcripts and papers filed by all parties to make a decision on November 2. The proposal relies on existing legislative authority to regulate air quality.

Darren Smith, the environmental manager for Devon Energy, the second largest gas producer and seventh largest oil producer in New Mexico, testified the industry is very concerned with the impacts of the proposed rule and its ability to conduct business in the state. Oil and gas producers operate in a commodity market and are not able to set a price. The proposed rule does not intend to aggregate individual oil and gas facilities. Under the design of the WCI, the expectation is to regulate the emissions from individual well sites. Eighty percent of the gas in New Mexico is produced by 10 companies and 80 percent of oil is produced by 13 companies.

Cindy Bothewell, manager, Integrated Resource Planning, Public Service Company of New Mexico, testified that New Mexico represents only one-half of 1 percent of the carbon dioxide emissions in the United States. The impacts related to climate change will not be achieved through the development of the proposed rule. The proposed rule does not allow building of new sources for leakage to offset existing sources within the state. Impacts associated with the rule are unknown and do not have a good handle on the costs. The economic analysis included the entire region as participants however, participation is limited. The costs of allowances for trading are also unknown. With other environmental rules, technologies are available to retrofit plants to achieve objectives. Ms. Bothewell provided information on economic assumptions. Public Service Companies of New Mexico customers could have to bear compliance costs of at least $500 million and up to $1 billion.

Senator Sapien expressed concern with moving forward with the cap and trade program, given the current economic situation. Representative Bratton also expressed concern with the effective date of the proposed rule. Mr. Norton said the process began in 2005 with an executive order. The WCI initial design was released in 2009 and the detailed design was released in the summer. Two additional executive orders were signed by the governor during the interim addressing cap and trade. Representative Bratton said if companies are put at a competitive disadvantage, funds will not be invested in New Mexico. Vice Chairman Smith also expressed concerns with the timing of the proposed rule.

Mortgage Finance Authority Overview: FY11 and FY12. Joseph Montoya, deputy director, Mortgage Finance Authority (MFA), reported MFA has provided several billion dollars worth of financial assistance to low and moderate income people in New Mexico.

Gina Hickman, deputy director, finance and administration, MFA, summarized graphical representation on home ownership rates, comparing New Mexico with the national average. In 2009, home ownership rates were 69.1 percent while the national average was 69.4 percent. Between 2000 and 2005, first mortgage production was stable between $100 million and $120 million a year. MFA is anticipating a production of $180 million for 2009 and a slight decrease of $150 million for 2010. The average annual production is $180 million.

Mr. Montoya indicated there will not be any major production in building permits. MFA has received four types of direct ARRA funding for the following

- The weatherization program,
- The homeless prevention and rehabilitation program,
- Tax credit assistance program, and
- Tax credit exchange program.

Mr. Montoya noted funding for the Tax Credit Assistance Program (TCAP) and exchange programs did not include administrative funding, costing MFA more than $.25 million to administer the programs. MFA has expended 18 percent of the total amount of funds for the weatherization program and over 23 percent of the numbers of units are above the anticipated target. The homeless prevention and rehabilitation program have produced jobs and is on track with spending. Productivity and capacity of non-profits and for-profits were increased due to new regulations.

Ms. Hickman reported on production highlights for the home ownership program. Using tax-exempt, single-family mortgage bonds, MFA financed more than 1,400 first time homebuyer loans in 2009 in excess of $175 million. MFA has also purchased more than $2.3 million in loans and down payment assistance for teachers, nurses, public safety workers, etc. MFA is the only organization in the state offering down-payment assistance programs. In 2009, MFA provided $6.7 million in down-payment assistance. Funding for rehabilitation and energy efficiency improvement for over 2,000 owner-occupied homes was also provided.

Mr. Montoya continued with the 2009 production highlights for rental housing. MFA provided both rehabilitation and new construction for more than 1,600 units and issued $7 million in tax-exempt multifamily bond caps leveraging over $4.2 million in other federal funds, as well as private sector funds. Almost $24 million was provided in rental assistance payments. MFA also provided funding in the colonias and is one of the largest suppliers of financing for Native American lands in the nation. In addition, MFA has also begun to target land grants.

Ms. Hickman reported on estimated funding sources for 2010. Federal resources total $146 million and include $25 million ARRA weatherization funding, as well as $7 million in homelessness and rapid re-housing. Ms. Hickman highlighted MFA's general fund financial summary for FY08 through FY12.

Ms. Hickman discussed the estimated funding resources in 2010 to be $361.7 million. Ms. Hickman informed the committee that in 2009 MFA had a deficit of $324 thousand attributed to a high cost of issuance of the agency's bonds. For 2010, budget projections show the agency will have revenues of $5,847; asset transfers improved the yield on MFA loans that drastically cut cost of issuance. The increase in revenues for 2010 is attributed to ARRA funding.

General Services Department FY12 Proposed Rates. David Archuleta, senior fiscal analyst, LFC, provided an update to the proposed FY12 employee group health benefits, risk rates, and rates charged for transportation services. The General Services Department (GSD) requested a 5 percent increase in premiums charged for the employee group health benefits to offset projected costs of the program. In addition, GSD proposed to use a fund balance to supplement the remaining costs. GSD proposed a 44 percent increase for risk rates. The majority of the increase is related to rising unemployment compensation claims. Other proposals included: a reduction in rates charged for workers' compensation; an increases to rates charged for public liability and public property.

The LFC staff analysis and recommendation related to the employee group health benefits program is to keep rates and funding flat for FY12. LFC staff also recommends: an additional $1 million reduction to the rates charged for workers' compensation; hold rates flat for the public liability program, a $6.1 million increase for the public property. In addition, the LFC staff recommendation supports the proposed rates for the transportation program.

Arturo Jaramillo, secretary, General Services Department (GSD), added national healthcare rates continue to increase from 8 percent to 12 percent annually. GSD is projecting claims of $351 million in group health benefits for FY12. It is also projected to expect an $8 million deficit between revenues and projected expenses reducing the fund balance from the current level of $52 million to $44 million. The Risk Management Advisory Committee recommended 50 percent for public liability and workers' compensation programs.

Miscellaneous Business

Action Items

Approval of Minutes – August 2010. **Senator Cisneros moved to approve the August 2010 minutes seconded by Senator Beffort. Motion carried.**

Information Items

Review of Monthly Financial Reports. Ms. Fernandez referred members to the ARRA Status Report, the July 2010 Cash Balance Report, the July 2010 BAR Report, FY11 LFC Budget Status, the Full Time Employees by Agency, and the LFC Program Evaluation Status Report.

With no further business, the committee adjourned at approximately 12:50 p.m.

L. "Lucky" Varela
Chairman

11/17/2010
Date