

**MINUTES**  
**LEGISLATIVE FINANCE COMMITTEE**  
**October 23-26, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Tuesday, October 23, 2007, at 8:15 a.m.

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

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Bernadette Sanchez (for Timothy Z. Jennings), Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson and Cisco McSorley (for Pete Campos).

Oil and Natural Gas Market Outlook

J. Todd Creeger, general manager of ConocoPhillips' San Juan business unit, gave an overview of ConocoPhillips operations in New Mexico. Sufficient capacity exists for all New Mexico gas to flow to markets. Extensive infrastructure makes the San Juan and Permian Basins attractive to producers. Total production for the San Juan and Permian Basins has likely peaked and will either flatten or decline slightly over the next decade. Drilling activities should remain aggressive in existing fields. Increased legislative and regulatory requirements will impact future drilling in New Mexico. Mr. Creeger expressed concerns the proposed pit rule could reduce ConocoPhillips' drilling activities in New Mexico.

Corrine Foster, Independent Petroleum Association, stated oil and gas businesses are leaving New Mexico because of natural causes and because of the regulatory atmosphere in New Mexico.

The committee allowed comments from the public. Bob Gallagher, president of the New Mexico Oil and Gas Association, believes the proposed pit rule as designed will cost small oil and gas businesses a minimum of \$100 thousand per location in addition to existing costs. He also believes there will be less drilling activity in future years because of the pit rule.

The committee heard the following discussion:

- There should be no shortage of natural gas this winter.
- The committee requested information from the Oil Conservation Department (OCD) regarding the proximity of landfills to drilling sites, whether those landfills are located over aquifers, whether landfills are lined with products to avoid seepage of drilling waste, whether highways are in place to handle the magnitude of trucking the drilling waste,

whether the trucking industry is able to haul the drilling waste safely, and the names of the companies that own the landfills.

- The legislature should investigate how the proposed pit rule will affect other industries, such as the trucking and landfill industry.
- There should be an independent review of the impact of the pit rule including an economic analysis showing how gross receipts will be affected.
- There are no landfills located north of I-40 that are currently licensed to accept drilling waste.
- OCD should appear before the committee to respond to questions on the proposed pit rule.
- The committee directed LFC staff to investigate whether agency rule-making authority is illegal if there is no supporting legislation granting that authority.
- The committee asked for the methodology used to create the pit rule.
- When a company deposits waste in a landfill, that company assumes liability for all waste deposited in the landfill.
- The proposed pit rule requires remediation on reserve or over-work pits currently not in use.
- Mr. Gallagher stated no water delivered to consumers in New Mexico has ever been shown to contain oil and gas industry pollutants.
- Senator Bernadette Sanchez requested OCD be prepared to answer questions at the Economic Development Committee meeting on Friday.
- The committee directed staff to investigate what the Legislature can do to assure agency rulemaking authority does not adversely affect the economy of the state.
- Mr. Gallagher stated OCD was created in the late 1930s as the regulatory agency over oil and gas industry. The OCC was created by statute as a three-person board to serve as the rule making authority for OCD. The director of OCD serves as chair of the OCC, and the other two members are appointed by the state land commissioner and the governor. OCC hears appeals from decisions made by OCD.
- The Legislature should create an interim committee to examine rules and regulations promulgated by state agencies to ensure the rules and regulations are not in conflict with state or federal law.

Chairman Smith stated there should be a balance between responsible use of New Mexico natural resources and environmental concerns. Regulations are creating burdens on many industries in New Mexico. The Legislature should work to resolve this issue in the upcoming session to ensure the proper use of New Mexico resources.

### General Fund Revenue Estimate

Norton Francis, LFC Chief Economist, stated FY07 general fund recurring revenues are expected to total \$5.75 billion, which is 3 percent higher than FY06. Actual revenues are available through May 2007, and preliminary figures are available for some revenues in June. The conversion to SHARE and the switch to modified accrual accounting have delayed accurate

reporting of general fund revenues. Katherine Miller, secretary of the Department of Finance and Administration, stated the books have not been closed for FY07.

Mr. Francis stated recurring revenue is expected to increase by 2.6 percent in FY08 to \$5.90 billion. The gross receipts tax estimate fell by \$31.8 million, but that decrease was offset by higher expectations for corporate income tax and energy-related revenues. Nonrecurring revenue in FY08 increased by \$47 million to include a federal Minerals Management Service settlement made by Burlington Resources Oil and Gas Company for claiming unallowable deductions on royalty payments between 1998 and 2005. In FY09, recurring revenue will grow by 2.8 percent to \$6.06 billion. In FY10-FY12 projected revenue growth is below the 18-year average of 7.1 percent.

The US GDP growth slowed to 1.9 percent in FY 07 and is expected to be just 1.8 percent in FY08. Growth will rebound to between 2.7 and 3.0 percent in FY09 through FY12. The housing downturn was the primary reason for the slowdown in FY07. The New Mexico GSP has been growing faster than the US economy in recent years and state economic growth is expected to continue outpacing national economic growth. New Mexico employment grew 2.4 percent in FY07. Employment growth is expected to decelerate to 1.5 percent in FY08 and stay between 1.4 and 1.8 percent over the forecast period.

National gas demand remains strong but not as strong as anticipated at the time of the last consensus estimate. The October 2007 natural gas price forecasts of \$6.40 in FY08 and \$6.65 in FY09 are \$0.15 and \$0.40 lower than the July 2007 estimate, respectively. These reductions still leave the natural gas price forecast significantly higher than the December 2006 forecast. The oil price forecast for FY08 rose \$8.00 to \$72.00/barrel and the FY09 forecast rose \$7.00 to \$71.00/barrel.

Declining energy revenues and construction activity combined with the top rate falling from 5.8 percent in tax year 2005 to 5.3 percent in 2006 and 2007 resulted in personal income tax revenue growth of 3.1 percent in FY07. Corporate income tax (CIT) collections grew 56 percent in FY06 and 21 percent in FY07 due to energy profits, growth at larger manufacturers, and broad-based economic growth. The consensus group expects CIT collections to decline by 3.7 percent to \$440 million in FY08 and hover around \$450 million in FY09 and beyond.

Gross receipts tax (GRT) grew in FY07 to \$1.8 billion. Much of the GRT growth is attributable to mining and construction. Legislative changes negatively impacted GRT revenues. There were over 30 changes to the Gross Receipts and Compensating Tax Act, most of which were deductions for specific industries or occupations. The October 2007 GRT forecast for FY08 is \$1.89 billion, \$31.8 million lower than the July 2007 estimate. The October 2007 estimate also reduces the FY09 GRT estimate by \$44.1 million.

Total general reserves are estimated to be 12.4 percent of recurring appropriations in FY07 and 15.4 percent in FY08. Total general fund reserves in excess of 10 percent of recurring

appropriations are \$307.9 million in FY08. New money for the FY09 budget is expected to be \$387.7 million. This will allow a maximum 6.8 percent increase in recurring appropriations. At least \$80 million of this new money will be needed for prior year commitments to ERB, Medicaid and corrections programs. Current LFC estimates indicate approximately \$164.4 million in net severance tax bond capacity (after already committed appropriations for the Water Trust Fund and GRIP II) and \$112 in general fund will be available for capital outlay.

Secretary Miller stated the revenue projections reflect a strong and growing state economy embedded in an extremely nervous and weakening national economy. Secretary Miller gave an overview of the New Mexico economic outlook. Chairman Smith encouraged the executive to work together with the LFC in releasing economic forecasts.

The committee heard the following discussion:

- DFA is unable to close the books for the fiscal year until oil and natural gas receipts are reported, which is 55 days after the end of the fiscal year.
- If the state follows the current rate of revenue growth, it will be unable to sustain its current rate of expenditures.
- Forecasts in December will reflect job cuts at Intel and the national laboratories.
- There may not be enough revenue to fund universal health care, transportation, education, and other needs.
- The total effect of subprime mortgages in New Mexico is unknown at this time.
- The committee asked for more information on the amount of disposable earned income available to New Mexicans.
- Staff will provide information on the automobile sales in the December forecast.

#### Corrections Department – Preview of FY09 Budget Request

Joe Williams, secretary of the New Mexico Corrections Department (NMCD), presented a preview of NMCD's FY 09 budget request of \$332.9 million from all funding sources, including a general fund increase of \$32.3 million or 11.6 percent over the FY 08 operating budget. The request includes 2,581.5 FTE, 79 of which are expansion positions. Capital outlay requests included \$4.5 million for emergency kitchen renovations; \$9.0 million for security upgrades; \$6.5 million for statewide facilities repair and equipment. Expansion requests total \$5.1 million in general funds and \$0.6 million other state funds. NMCD is not submitting a supplemental appropriation request for FY 08; however, NMCD is requesting that \$3.1 million be set aside in the event it cannot make up the shortage in inmate medical care. NMCD is asking for maximum BAR authority to balance its budget.

The committee heard the following discussion:

- NMCD plans to move its sex offender treatment program to Santa Fe County so it can use the personnel administering the penitentiary to administer the sex offender treatment program.
- Secretary Williams stated funding for housing inmate population growth, treatment and

medical services is its highest priority.

- NMCD used a 2 to 5 percent vacancy rate in its budget request.
- NMCD received a \$37 million supplemental appropriation in FY 07.
- NMCD has closed its books for FY 07 and should be able to submit its audit in a timely fashion.
- NMCD is evaluating its prescription drug program to ensure the best cost benefit for the state.
- Random drug tests in prison facilities shows an average of 1.85 percent of the inmate population have used illegal drugs in the facilities.
- NMCD will lose approximately \$400 thousand in federal funds this year.
- NMCD is the way it feeds inmates in high security prisons from a dining room setting to meals in units to reduce security risks.
- NMCD will work with LFC staff to clarify the status of prior year capital outlay appropriations.
- The committee stressed the importance of expending capital outlay appropriations in a timely fashion.
- Sex offenders should begin treatment immediately upon entrance into the prison system, rather than beginning treatment as offenders near the end of their prison term.
- NMCD is currently in rate negotiations with companies operating private prisons in New Mexico.
- NMCD plans to present its ten-year plan to the Courts and Corrections Interim Committee in early spring.
- NMCD has done nothing to address LFC audit concerns regarding procurement code practices because three attorney general opinions stated it is complying with the state statute on procurement.
- The request for capital outlay funds for Corrections Industries will be used to develop new programs at the Clayton and Springer facilities. It was noted startup funding for new programs should be paid back to the general fund as the programs become self-supporting.
- NMCD has no plans to house New Mexico prisoners in out-of-state facilities.
- NMCD is working with the Parole Board to ensure parole certificates are being issued in a timely fashion and to ensure the Parole Board functions as a separate entity with no undue influence from NMCD.
- The vacancy rate for corrections officers is 21 percent.
- New correction officers undergo an intensive eight-week training course for new corrections officers, 80 hours of training and orientation at the facility after graduation, and additional field training with an experienced officer to acclimate them to working in a prison.
- Pay increases for corrections officers working in private prisons should be included in the NMCD budget to ensure those officers receive the same pay increases state employees receive.
- NMCD does not receive money from the film industry for using its buildings, nor does it receive money when the National Guard uses its facilities as a training center.

- NMCD uses GPS monitoring on 375 sex offenders at the present time. The average stay in prison for non-violent sex offenders is 43 months. The average stay in prison for violent sex offenders is 11.2 years.
- NMCD will provide information to the committee on the number of sex offenders who reoffend after release from prison.
- There was a discussion of the importance of treatment for inmates for drug and alcohol abuse and for mental health disorders.
- The ECHO program could be used in the prisons to treat inmates suffering from hepatitis C.

### Report of the Retiree Healthcare Task Force

Danielle Wilson, chair of the Retiree Health Care Authority (RHCA) Board of Directors, presented a preliminary report and recommendations of the Retiree Healthcare Task Force on retiree healthcare. The solvency period for the RHCA fund has declined from 25 years in FY 06 to seven years in FY 08. The decline is due primarily to a recalculation of the participation rate from 35 percent to 75 percent. The current system provides virtually no pre-funding of future benefits, and the gap between the annual required contribution and current revenues is \$178 million. Recent reporting requirements have identified New Mexico has a \$4.1 billion unfunded accrued actuarial liability. New Mexico's bond ratings may be affected by the unfunded accrued actuarial liability. Expenditures are outpacing revenue streams, and the premium subsidy provided to retirees, spouses, and dependents has been applied without a correlation to the underlying true cost of the subsidy. The system was not adequately funded at inception. As a result, the active employer/employee contributions are being spent to provide benefits to retirees and their families. The gap between RHCA revenues and the annual required contribution necessary to fund the system is \$178 million.

The work group recommends that everyone should contribute to the fund, the deductible should be raised, the Medicare benefit should serve as a partial subsidy, changes should be made to the age and service requirements, the HB 728 appropriation should be maintained in future years and should be used to pre-fund future benefits, contributions to the fund should be increased, and the state subsidy should be standardized.

Other options that may improve the solvency of the fund include rebalancing RHCA board composition, adopting effective disease management, contracting with fewer carriers, requiring attestation regarding other coverage, creating a state formulary, consolidating administrative functions, and consolidating pools.

The work group identified for future consideration setting full subsidy to 25 years of service, changing from defined benefit to defined contribution for future hires and non-vested employees, and arbitrage bonds.

The work group plans to finalize its report and present it to the executive and Legislature by December 15, 2007.

Katherine Miller stated bonding agencies do not expect the fund to become solvent overnight, but are more interested in knowing the state is working to make the fund solvent over the next several years.

Gary Peterson stated recent changes in accounting standards required the fund be measured on health trend assumptions and allocate those trends to current service rather than to defer it to when the individual retires. In terms of whether the programs have been funded, GASB created the standard if you put money into a revocable trust, then it considers that money you can pay for something. If you don't put it in irrevocable trust, then the money is not considered in the same standard. In crafting the statement GASB created a second class that requires an irrevocable trust or equivalent arrangement. Mr. Peterson believes these assets are only being used for retirees because the money and the assets cannot be given back to the retirees. The assets are being held only for use of retirees, which makes it an equivalent arrangement. GASB has not defined it but has left it up to the auditor to determine whether it is an equivalent arrangement. The benefit to the equivalent arrangement is a single GASB evaluation can be done for the entire program. Mr. Peterson does not believe an irrevocable trust creates additional obligations to the state. Rather, when the funds are exhausted, the benefits would cease.

The committee heard the following discussion:

- RHCA requested an opinion from the attorney general on the issue, but the attorney general declined to comment until it receives a request from a legislator or LFC staff.
- Retirees should be informed of the impact changes will have on the fund.
- While administrative functions could be consolidated, a separate accounting of funds should be maintained.
- The task force was not subject to the Open Meetings Act
- Larger pools result in fewer choices, less competition and no personal responsibility.
- Concrete proposals for making the Retiree Health Care Authority solvent should be made to the Pension Investment Committee.

#### Department of Health Preview

Dr. Alfredo Vigil, secretary of the Department of Health (DOH), presented its preliminary FY 09 budget request of \$580.6 million, a 3.6 percent increase over the FY 08 operating budget. The general fund request of \$308.4 million represents a 7.6 percent increase over FY 07. DOH presented an expansion request of \$12.3 million to fund 15 items. Federal funds are projected to decline from \$105.1 million in FY 08 to \$102.9 million in FY 09.

The committee heard the following discussion:

- School based health clinics should be the point of concentration in rural communities.
- Morale is improving at the Las Vegas state hospital.
- The AIDS advocate position was moved from DOH to Agency and Long Term Services to eliminate conflict of interest concerns.

- DOH will provide to Senator Griego a complete breakout of all HIV/AIDS services available in New Mexico.
- DOH will investigate why dental providers in northern New Mexico are experiencing difficulty in receiving payment for services and report back to Senators Griego and Cisneros.
- The Behavioral Health Collaborative has recently completed a review of rates for services. Each agency is including in its FY 09 budget funding to equalize the rates paid for providers.
- DOH will provide a list of dentists and oral surgeons practicing in Santa Fe and Las Vegas who accept Medicaid patients to Senator Griego.
- The obesity program should be renamed.
- DOH should allocate funding to assist patients with cleft palates.
- Turnaround times at the state crime lab have been reduced to six to eight weeks turnaround time, which is within national averages.

The meeting adjourned at 4:50 p.m.

### **October 24, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Wednesday, October 24, 2007, at 9:30 a.m.

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

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Bernadette Sanchez (for Timothy Z. Jennings), Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson and Carroll Leavell (for Pete Campos).

#### Follow-up Review of the Behavioral Health Collaborative (ValueOptions)

Charles Sallee, program evaluation manager, gave a brief history of the creation of the Behavioral Health Collaborative and gave a status report on the progress made by the collaborative in implementing the recommendations contained in the November 16, 2006 LFC report entitled "Review of the Interagency Behavioral Health Collaborative." The collaborative has implemented or partially implemented three recommendations and has not implemented ten of the recommendations. One recommendation was not applicable during the review period. Mr. Salle reported the following:

- The recommendations from the 2006 staff report that were included in HB 727 from the 2007 session are still necessary and appropriate. The bill provisions included providing the

collaborative with rulemaking authority, requiring a consolidated budget submission, quarterly performance reports and annual report – in addition to legislative provisions.

- Behavioral health appropriations and performance measures remain fragmented despite legislative efforts to streamline programs and the report recommends continuing consolidating appropriations in the GAA.
- The Collaborative's payment and business practices continue to cause concerns. Pre-paying ValueOptions for services not yet rendered is still contrary to best practice as specified by the Procurement Code. The Collaborative may need to recover an estimated \$1.7 million in FY07 overpayments for non-Medicaid services as a result of pre-payment arrangements in the ValueOptions contract. The Collaborative has expanded the poor practice of pre-paying ValueOptions for services not yet rendered by advancing about \$6 million from the general fund for the Medicaid fee-for-service program.
- The Collaborative has not fully implemented recommendations to improve oversight of access to care and quality of services and that these changes need to occur sooner than later, particularly as they relate to assessing the adequacy of ValueOptions provider network.

Linda Roebuck, CEO, Behavioral Health Purchasing Collaborative, distributed a spreadsheet reflecting the collaborative's budget compilation for FY 09. The collaborative has made progress in writing contracts, training providers, and consolidating multiple rates. Adequate staffing is an issue that still needs to be addressed. Legislation is being drafted to clarify rule-making authority for the collaborative. Ms. Roebuck believes further discussion is needed on the concept of a unified behavioral health budget because the structure currently in place provides each department with a voice in the collaborative and a means to accomplish its mission through the collaborative.

Matt Onstadt, chair of the collaborative oversight team, stated the collaborative has had many discussions on payment and business practices and continues to disagree with some of the LFC recommendations. The collaborative continues to provide up-front payment for services because it believes that practice is not contrary to the procurement code. Additionally, changing the form of payment would cause a disruption in services to clients. The collaborative plans to move to a fee for service system at some time in the future. Mr. Onstadt explained the processes the collaborative uses to monitor ValueOptions's practices and the methods of correction when the collaborative identifies ways to improve practices. Mr. Sallee reported an excellent working relationship between the collaborative and member agencies and clarified the LFC recommendation addresses how the state pays ValueOptions, not how ValueOptions chooses to pay providers.

The committee heard the following discussion:

- Peter Cubra, chair of the Bernalillo County Mental Collaborative, provided the committee with a list of six recommendations from a 2002 study which the Bernalillo County Mental Collaborative feels should be implemented immediately. Mr. Cubra also provided the committee with a list of expansion items it feels should be included in the FY 09 budget.

- Lori Chapman offered to work with the Legislature to resolve problems with RTC program for adolescent
- The collaborative should provide the Legislature with reports of the types of services being rendered by ValueOptions.
- The public finance statute requires a certificate of payment for services rendered.
- Collaborative staff should be paid from collaborative funding rather than using staff on loan from other agencies.
- The collaborative should work to ensure the next RFP contains more detail on the types of services to be rendered.
- The committee directed LFC staff to investigate how collaborative agencies demonstrate compliance on certification of services rendered.
- The committee requested information on the number of clients served before and after ValueOptions was awarded the contract.
- The committee heard information on the 40 categories of eligibility for Medicaid.
- The committee requested information on the justification for the 25 percent capitation rate increase for Medicaid.
- The committee requested information on the amount of penalties and interest submitted to providers for late payments.
- The committee requested information on how funding is being provided for detox centers.
- ValueOptions hires its CEO, with input from the state.
- The CEO of the collaborative reports to the co-chairs of the collaborative on a day-to-day basis.
- The collaborative is trying to implement a rate equalization bring all providers up to Medicaid rates.
- The collaborative is meeting on a monthly basis to ensure money is spent in a timely fashion to provide firstborn services.
- Safeguards should be established to ensure ValueOptions provides high quality services and to ensure it delivers the services it for which it is being paid.
- 8 to 10 percent of the funding provided to ValueOptions goes to administrative costs.
- The collaborative concept has the potential to be successful.
- No hold-back provisions were made in the current ValueOptions contract.
- The LFC should be afforded the opportunity to review the next contract before it is signed.

### Public Defender Department

John Bigelow, chief public defender, Public Defender Department (PDD), reported its expansion request is to implement the recommendations of the recently completed New Mexico Sentencing Commission Workload Assessment Study. The PDD FY 09 budget requests a general fund increase of \$5.5 million or 13.4 percent over the FY 08 operating level. PDD requests expansion of \$2.6 million for 54 FTE and authorization for 80 FTE. Additionally, PDD requests \$1.5 million to increase rates for contract attorneys.

The committee heard the following discussion:

- Only 30 contract attorneys participated in the workload study, even though efforts were made to include contract attorneys in the study.
- The committee directed NMSC to investigate whether a formula could be drafted based on caseload for proper funding for contract attorneys.
- The committee requested information on the total number of cases handled by contract attorneys versus the total number of cases handled by contract attorneys that pled and did not proceed to trial.
- PDD implemented a data collection effort and oversight program in its central office to monitor the work of contract attorneys more closely. PDD has also revised the contract it uses for contract attorneys to more clearly define the scope of work of those attorneys.
- Attorneys working in district attorney offices and PDD earn less money than attorneys working in other state agencies.
- The vacancy rates reported by state agencies should reconcile with the vacancy rates reported by the State Personnel Office (SPO).
- The committee should make a request to SPO to reconcile its TOOL report with all state agencies' reports to ensure the committee has accurate information on which to make funding decisions.
- The committee requested PDD to prioritize the positions in its expansion requests.

#### Game & Fish Department

Bruce Thompson, executive director of the Game and Fish Department, presented its FY 09 budget request to the committee. The department requests a \$400 thousand increase over its FY 08 operating budget. Expansion requests total \$1.9 million, including \$800 thousand in general fund requests and an expansion of 8.5 FTE. The department continues to focus on staffing and expansion for increasing public demand for wildlife and recreation.

The committee heard the following discussion:

- The department should take steps to ensure its personnel are properly trained to interact with the public.
- The department gave an overview of how it is managing the capital outlay funding it has received in previous years.
- The department continues to work with land owners to resolve issues without destroying game animals.
- The department is working to resolve issues surrounding a master plan issue in the Upper Pecos Watershed area.
- The Game Commission agreed to address concerns of poorly maintained and overcrowded state campsites and recreation areas at its next meeting.

Chairman Smith noted the Legislature's responsibility to craft a balanced budget and noted recent revenue projections have dropped and may drop even more in the coming months.

## Department of Cultural Affairs

Stuart Ashman, secretary, Department of Cultural Affairs, presented its FY 09 budget requesting a 15 percent budget increase from FY 08 levels with 20 expansion items and 26 additional FTE. The department also requested \$18 million in capital outlay funding for repairs, maintenance and preservation of facilities; preservation of collections; completion of projects and new projects. The department is currently planning the 100<sup>th</sup> anniversary of the Museum of New Mexico.

The committee heard the following discussion:

- The department should expend capital outlay funding appropriated in prior years in a timely fashion.
- The department works closely with LFC staff to identify critical needs.
- The history museum is currently under construction and is scheduled to open to the public in May of 2009.
- The process for naming museum was discussed.
- The committee requested information on the fundraising activities of all museum foundations in New Mexico.
- The committee heard a brief overview of the Explora center.
- The committee requested a list and locations of all museums in New Mexico.

## Regulation and Licensing Department

Edward Lopez, Jr., superintendent, Regulation and Licensing Department, presented its FY 09 budget request for a 4.8 percent increase over the FY 08 operating budget. The department's expansion request includes requests for FTEs in its financial institutions division; expansion in the construction industry division call center including IT equipment upgrades.

The committee heard the following discussion:

- The department included in its expansion request four inspectors to service construction projects taking place in rural areas.
- CID is working to implement new programs to share inspectors with counties and municipalities.
- The mortgage bureau expansion request was discussed.
- Issues surrounding predatory lending practices were discussed.
- The department will provide statistics on turnaround time for requests for inspection on a district by district basis during the upcoming Legislative session.

## Indian Affairs Department

Benny Shendo, secretary, Indian Affairs Department, presented its FY 09 budget request, stating the departments greatest need is for administrative support staff. The department also requests meeting facilities in Albuquerque. The committee stressed the importance of expending capital

outlay funding in a timely fashion. Mr. Shendo gave an overview of outstanding capital outlay project.

Action Items:

Representative Saavedra moved, and Representative Salazar seconded, that the October 5 LFC minutes be approved as written. The motion carried unanimously.

Representative Saavedra moved, and Representative Moore seconded, the four subcommittee reports be adopted. The motion carried unanimously.

The committee directed LFC staff to request from DFA the status of the trial balance report.

The meeting adjourned at 4:30 p.m.

**October 25, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Thursday, October 25, 2007, at 8:15 a.m.

The following LFC members were present on October 25, 2007:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Bernadette Sanchez (for Timothy Z. Jennings), Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, David Ulibarri (for Leonard Lee Rawson) and Carroll H. Leavell (for Pete Campos).

Report of the Higher Education Funding Formula Enhancement Task Force

Curt Porter, chair of the Higher Education Funding Formula Enhancement Task Force, reported on the recommendations of the task force for the 2008 Legislative session as follows:

- Workload and associated full funding, including changing enrollment bands and "soft landing" for institutions with declining enrollment
- Continuing to provide inflationary funding (cost of opening the doors)
- Encourage dual credit programs to provide a tuition credit offset for student credit hours taken as dual credit
- Advance recurring performance funding

The task force plans to continue to study a cost analysis of the funding matrix and athletics

programs.

Reed Dasenbrock, secretary designee of the Department of Higher Education, reported the preliminary estimate of the cost of the recommendations is \$17.4 million.

The committee heard the following discussion:

- Reasons for declining enrollment in colleges are a low employment rate, a flat high school graduation rate, and fewer students taking the SAT.
- Representatives from colleges and universities gave a brief status report on their institutions' enrollment.
- Universities and colleges can increase enrollment by introducing new courses designed to assist people who are laid off from their jobs.
- The proposed funding formula proposes to retroactively adjust funding for institutions that experienced a decline in enrollment last year.
- Dual enrollment will result in more students going to college.
- Efforts should be made to ensure students graduate from high school.
- The formula needs to address technical and specialized training being offered at institutions for which college credits are not granted.
- Schools of education should conduct best practices training for students studying to become teachers to ensure teachers are properly trained when they graduate from college.
- PED and HED are working together to ensure students are adequately prepared for colleges and are working together to ensure that placement scores among colleges are consistent.
- Extended loan for service agreements should be used to ensure doctors are able to practice in New Mexico after they graduate.
- Teachers should increase contributions to their retirement fund instead of expecting the taxpayers to shoulder the burden of making the ERA solvent.
- Universities should become more creative to attract students to maintain enrollment population.
- HED hopes to work with PED, workforce development and economic development over the next year to analyze the issue and develop a strategy to increase education attainment for more New Mexico students.
- Vocational-technical schools can play an important role in educating New Mexico students who do not wish to go to college.
- Distance learning is available for some high school students to earn dual credits.
- The committee requested information on the student population from kindergarten through high school graduation and where students are dropping out of school.
- The inequity in funding athletics programs in institutions of higher learning should be addressed.
- Low faculty salaries at universities make it difficult to attract and retain qualified faculty.

Higher Education Department

Reed Dasenbrock, secretary designee of the Higher Education Department, presented its FY 09 budget request for a 2.3 percent increase in general fund from its FY 08 operating budget. Expansion requests include funding for a policy development and institute financial oversight program and 17 FTE. HED also requests funding to consolidate its staff in one facility.

The committee heard the following discussion:

- HED will provide to the Legislature a concrete plan for a new facility in November.
- College affordability scholarship monies could be used as an outreach and recruitment tool.
- HED is working to reconcile its FY 07 actuals with SHARE reports.
- It is important audits are conducted in a timely manner to ensure actuals can be validated for the year.
- HED is working with PED to link the two data systems.

The committee adjourned into subcommittees for the remainder of the afternoon.

### **October 26, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Friday, October 26, 2007, at 8:10 a.m.

The following LFC members were present on October 26, 2007:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Larry A. Larranaga (for Don E. Bratton), Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Mary Jane Garcia (for Timothy Z. Jennings), Sue Wilson Beffort, Carlos R. Cisneros, Phil A. Griego, Joseph J. Carraro, and David Ulibarri (for Pete Campos). Representative Mimi Steward and Senator Bernadette M. Sanchez attended as guest legislators.

#### Tourism Department

Mike Cerletti, secretary, New Mexico Tourism Department, presented its FY 09 budget request in the amount of 5.3 million, 300,000 of which is for personal services and employee benefits. The budget request is flat, except for \$286,000 for increased GSD rates. Additionally, the department requests \$5 million is for advertising and promoting the state of New Mexico.

The committee heard the following discussion:

- The committee requested briefings from the six tourism councils in New Mexico.
- The department requested expansion funding for a staff attorney to review contracts and other legal issues.

- The department believes for every dollar it spends in advertising, New Mexico realizes a return on investment of \$40.
- The departments' advertising is generic in nature and does not focus on specific areas of the state.
- The increase in advertising budget would enable the department to advertise nationally and worldwide, rather than on a regional basis.
- The department is working with researchers to determine the economic impact of the film industry and various events across the state, including the balloon fiesta.
- The department should work with the Economic Development Department to focus attention on New Mexico.
- The department should work with DOT to construct facilities at the Rio Grande Gorge.
- The department is beginning to plan the celebration for New Mexico's centennial.

### Review of Albuquerque Public School (APS) Funding

Manu Patel, LFC deputy director for program evaluations, presented LFC Report 07-10 entitled "Albuquerque Public Schools – Review of Selected Operations of Albuquerque Public Schools" dated October 26, 2007. APS responses to the review are due in 30 days. LFC staff continues to work with APS to get updated financial information.

Elizabeth Everitt, APS superintendent, reported APS will return excess funding. The excess funding issue was caused by a software error. Ms. Everitt spoke briefly about the insurance program for APS employees, the impact of experienced teachers on student's' education, conducting professional development on non-school days, and monitoring Title 1 funds.

The committee heard the following discussion:

- APS's first priority in fiscal accountability should be to separate and segregate funds.
- PED should investigate whether it is cost effective to reconsolidate into the school insurance authority.
- APS has a greater proportion of special education and disabled students because of the proximity of health care.
- Enabling legislation should be passed to tie funding for special education to caseload.
- The issue of teacher absenteeism and substitute teachers was discussed.
- Teachers should schedule professional development on their own time, rather than attending the training during school hours.
- APS teachers are qualified in the areas they are assigned to teach.
- Business efficiencies were not evaluated as part of the LFC review.
- PED is currently developing a rule regarding dual credits. The proposed rule is out for comment at this time.
- The committee discussed why the number of special ed students has declined and the ancillary service provider numbers have increased. The committee noted several schools with high poverty are meeting AYP.
- The issue of substitute teachers should be reviewed statewide.
- Professional development should take place during the summer months to increase teachers

presence in the classrooms.

- New Mexico tests consist of descriptive type questions which take longer to correct, therefore testing company is unable to provide test results before the school year starts. But PED will continue to work with testing companies to get test results before the school year starts.
- Teacher in-service days and professional development days create problems for parents who must find day care for their children.
- The committee requested information on the amount of total funding (federal, local and state) received by school district.

#### Public School Funding Outlook including Formula Funding Taskforce

Paul Aguilar, LFC analyst, reported on the analysis of the public school funding formula outlook for FY 09. PED is working with LFC to provide data. PED plans to submit its budget request at the end of November. Staff continues to work on opening the doors cost estimates, insurance costs and cash balances.

Representative Stewart thanked Mr. Aguilar for his service to the Funding Formula Task Force. The task force plans to present its recommendations in December.

The meeting adjourned at 11:30 a.m.



Senator John Arthur Smith

11/15/07  
Date