

**MINUTES
LEGISLATIVE FINANCE COMMITTEE
October 24, 25, 26, and 27, 2006**

Representative Luciano “Lucky” Varela, chairman, called the Legislative Finance Committee (LFC) meeting to order on Tuesday, October 24, 2006, at 8:45 a.m.

The following LFC members were present on October 24, 2006:

Representative Luciano “Lucky” Varela, chairman, Representative Henry “Kiki” Saavedra, vice chairman, Representatives Nick Salazar, Rhonda S. King, Brian Moore, Jeanette O. Wallace, Edward C. Sandoval, and Sandra Townsend, and Senators Sue Wilson Beffort, Phil Griego, Pete Campos, John Smith, Joseph H. Carraro, Timothy Z. Jennings, and Ben Altamirano, ex officio.

The following LFC members were present on October 25, 2006:

Representative Luciano “Lucky” Varela, chairman, Representative Henry “Kiki” Saavedra, vice chairman, Representatives Nick Salazar, Rhonda S. King, Brian Moore, Jeanette O. Wallace, Edward C. Sandoval, and Sandra Townsend, and Senators Sue Wilson Beffort, Phil Griego, Pete Campos, John Smith, Joseph H. Carraro, Timothy Z. Jennings, Lee Rawson, and Ben Altamirano, ex officio.

The following LFC members were present on October 26, 2006:

Representative Luciano “Lucky” Varela, chairman, Representative Henry “Kiki” Saavedra, vice chairman, Representatives: Pete Wirth for Nick Salazar, Rhonda S. King, Brian Moore, Jeanette O. Wallace, Edward C. Sandoval, and Sandra Townsend, and Senators: Sue Wilson Beffort, Phil Griego, Pete Campos, John Smith, Joseph H. Carraro, Timothy Z. Jennings, Lee Rawson, and Ben Altamirano, ex officio, and Representative Janise Arnold Jones and Senator Michael Sanchez, as committee guests.

The following LFC members were present on October 27, 2006:

Representative Luciano “Lucky” Varela, chairman, Representative Henry “Kiki” Saavedra, vice chairman, Representatives: Nick Salazar, Rhonda S. King, Brian Moore, Jeanette O. Wallace, Edward C. Sandoval, and Sandra Townsend, and Senators: Sue Wilson Beffort, Phil Griego, Pete Campos, John Smith, Joseph H. Carraro, Timothy Z. Jennings, Lee Rawson, and Ben Altamirano, ex officio.

Tuesday, October 24, 2006, Room 307, State Capitol

Chairman Varela distributed an Associated Press article on the revenue estimates.

FY06 General Fund Revenue Report and FY07 and FY08 Outlook.

Norton Francis, LFC chief economist, presented the October 2006 consensus revenue estimate. Revenue is expected to decline by 1.3 percent in FY07, largely due to declining natural gas prices. Oil remains flat, due to the forecast of prices. This represents some risk in the forecast, but the prices have fallen substantially and are expected to level out at the present price. Slower

revenue growth is also due to the personal income tax cuts.

Mr. Francis outlined risks to the forecast, including a sharper than expected decline in energy prices, inflation pressures that cause the economy to contract, weaker than expected corporate profits, and a sharp decline in construction activity. Turning to the updated general fund financial summary, Mr. Francis explained that new money for the FY08 budget is expected to total \$574 million. Reserves in excess of 10 percent are expected to be \$597 million at the end of FY07. \$140 million to \$150 million is expected to be available for severance tax bonds, and there is about \$134 million in committed projects, such as the spaceport and water projects. Representative King requested a list of the committed projects from LFC, which Norton Francis suggested Linda Kehoe could provide.

Katherine Miller, secretary designee, Department of Finance and Administration (DFA), proceeded to highlight the economic outlook and describe special projects.

- GDP grew in excess of 3 percent over the last three years but is expected to slow to 2.2 percent in FY07.
- Job growth data showed falling wages and expanding employment rates.
- Lower gasoline prices helped overall consumer prices. Although headline inflation fell, core inflation (excluding food and energy) remains at the highest levels in 10 years.
- Recession dangers are real, which suggests the Federal Reserve Board will be decreasing the federal funds rate.
- Employment growth is expected in New Mexico until a slowdown in FY09. The labor market remains strong.
- The decline in crude oil and natural gas prices is due to positive news in inventory levels, but prices are not expected to remain low indefinitely. Crude oil prices have fallen \$20 per barrel, but prices remain bullish, due to supply disappointments.

Representative Varela asked when the committee could expect audited FY06 revenues to be available. Ms. Miller responded that the department is waiting to finalize the July figures.

David Abbey, LFC director, informed the committee that LFC had received the May general fund report the day before. LFC has pulled together preliminary figures for June, July, and August from different sources. He reminded the committee that the federal government just reported September's figures.

Representative Varela asked for more timely reports, and expressed the need to resolve the accounting problems with SHARE.

Ms. Miller said she would get the final FY06 figures to the committee as soon as possible and will also report on how to straighten out the SHARE problem. She added that the state's revenue forecast is consistent with national level trends.

Jan Goodwin, secretary, Taxation and Revenue Department (TRD) reported the following:

- Gross revenue tax (GRT) and compensating tax revenue is expected to grow by 6.5 percent in FY07 and 6.0 percent in FY08.
- Net revenue from personal income tax would grow about 3.7 percent and would have been higher, except for the low-income personal tax exemption and the personal income tax cuts passed in 2003.
- Corporate income taxes were revised downward by \$30 million in FY07 and \$52 million in

FY08.

- Slightly lower gas and crude oil prices reduced the forecast by \$87.9 million in FY07 \$79.5 million in FY08.
- Earnings on state balances were revised up by \$18.4 million for FY07 and \$12.8 million in FY08.

Ms. Goodwin described the governor's tax proposals as aimed at low and middle income New Mexicans. The first initiative is modeled on the federal earned income tax credit (EITC). Taxpayers would be allowed to take a credit in the amount of 10 percent of their federal EITC or Low Income Comprehensive Tax Rebate (LICTR), whichever is greater. This measure is expected to cost \$22 million. The second initiative would allow middle income New Mexicans to take a \$2,500 personal exemption. Next, Goodwin described an income tax exemption for active duty military pay up to \$50 thousand. An estimated 12,000 people would benefit from this exemption and it would cost about \$9 million. Next, she described a phased-in exclusion from the gross receipts tax (GRT) for for-profit hospitals, which would cost about \$4 million.

Representative King asked if there would be a sunset on these tax provisions. Goodwin thought people would be more comfortable if the bill did not have a sunset.

Representative Salazar asked how the military retiree exemption would affect employees earning very high salaries, for example at Los Alamos National Laboratory. Secretary Goodwin replied they would receive up to a 50 percent exemption on their salaries.

Senator Beffort suggested that the GRT exemption for for-profit hospitals be revised to exclude boutique hospitals such as the Heart Hospital in Albuquerque, because the rationale for the exemption is to make it easier for hospitals to provide uncompensated care.

Another proposal would alleviate some pyramiding for small businesses with receipts less than \$300 thousand per year. They would be able to take a credit on GRT paid. The estimated cost of this incentive is \$1.3 million.

The last proposal would exclude mutual funds located in New Mexico from GRT. This would cost about \$100 thousand. New Mexico would like to attract more of these businesses to the state because they offer high paying jobs and have a low environmental impact.

Senator Altamirano wished to know the total costs of these incentives. Senator Griego replied \$69 million.

Senator Griego argued that the Legislature might have to make the decision to reverse the tax breaks, given the economy could take a turn for the worse. He is concerned for future years, if these bills do not have a sunset, so that the committee could review them every four or five years, based on revenue estimates.

In responding to Senator Smith about the incorrect estimate of the food deduction, Secretary Goodwin remarked how difficult it is to estimate the amount of food purchased in New Mexico from different sources: groceries stores, convenience stores and shopping membership clubs. At the time, the department suggested a best estimate on the food tax.

Senator Smith asked why the governor's proposal does not include accelerating the last year of the phase-in of the personal income tax cuts. Secretary Goodwin explained that these

components would affect over 50 percent of the New Mexico citizens, mostly from lower income levels. The level will reach 4.9 percent in 2008, without any legislative action.

Representative Varela asked about the status of the governor's universal healthcare initiative. If the Legislature is going to act on that proposal in the 2008 session, he questioned whether it is prudent to propose more tax cuts this year. Another issue to look at is the minimum wage. The state almost has a flat tax now.

Secretary Goodwin restated that low and middle income New Mexicans are the target of this package.

Retiree Health Care Authority (343).

Marie Thames, executive director, Retiree Health Care Authority (RHCA), noted RHCA has seen significant change in the agency in the year since she took over and has made progress in meeting challenges facing the agency. A systems review of the organization is complete. In the interest of improving access for its customers, RHCA is considering opening an office in Las Cruces.

The growth in the agency's budget is fueled by three factors: increasing costs of health care, increasing numbers of new retirees, and entities petitioning to become members. Premium increases to retirees were 3.5 percent in 2006 and 6 percent in 2007. Funding streams involve retiree contributions, the federal Medicare Part D prescription drug program, returns on investments, current employer and employee contributions, and a small general fund (GF) appropriation.

In response to a question by Representative Varela, Ms. Thames said pension tax receipts are slated to increase 12 percent per year, but the budget does not reflect this information. The agency began its FY06 audit yesterday. Ms. Thames receives a report every month on new retirees and presumes the Tax and Revenue Department (TRD) does as well. Retirees, who receive a pension from the Public Employees Retirement Association (PERA) and the Educators Retirement Board (ERB), pay the pension tax.

In response to a question from Representative Varela, Ms. Thames informed the committee that United Concordia provides the dental plan.

Prescription Drug Discount Card. The prescription drug benefit is a small program. The information technology director is devising better ways to distribute the prescription drug discount card. The age limitation was removed, yet the allocation was reduced. This is the agency's only GF distribution. In response to the chair's question why this distribution was cut, Cathy Fernandez, deputy director, LFC, suggested it was due to "sanding," i.e.: all general fund (GF) budgets were shaved to balance the budget.

Representative Varela inquired about concerns regarding reporting on this fund and an idea to propose placing the fund in a trust. He was informed the agency plans to propose legislation creating an irrevocable trust.

Trust Fund Balances. Representative Varela inquired whether the State Investment Council (SIC) could help the agency find the estimated balance at the end of FY07 in the trust fund, as the committee needs that information. Mr. Abbey suggested the actuarial report of December 1

should include this information.

In response to Representative Varela's question about independent evaluation of investments, Ms. Thames explained the mandate binding the agency to measure investment options available from SIC. The agency will develop a set of performance measures to more accurately project long-term solvency, fund balance, and necessary premium and benefit adjustments.

Representative Varela asked for an estimated unfunded liability for the state in response to a new federal accounting requirement, Governmental Accounting Standards Board (GASB) 45. Ms. Thames responded tentatively with an estimate of \$1 billion. The ratio of unfunded liability over known reserve is approximately 10 percent, which she said is better than many other states.

Senator Beffort requested clarification. Ms. Thames explained that unless the fund is protected by the state's Constitution or placed in an irrevocable trust, the unfunded liability must be booked against the state with possible negative ramifications for New Mexico's bond rating. She is optimistic that legislation to establish an irrevocable trust will pass and the fund ratio will improve.

Representative King asked about advantage of protecting the fund through legislation versus a constitutional amendment. Ms. Thames replied that, because of the immediacy of the change required, as a result of GASB 45, the agency felt it would be quicker to act through the legislative process and only pursue a constitutional amendment if absolutely necessary.

Representative Varela asked for the target date for the FY06 audit and was informed that the final presentation would be on Monday, December 4, 2006, after which it would be available to LFC.

Representative King inquired about the amounts state retirees pay for their healthcare premiums. The subsidy is at 54 percent. On the average, it is 66 percent. The agency is notified before a person approaches the age of 65 and sends out a packet for the client to make the selection of products for full coverage. The premium and the rate do drop significantly when a retiree becomes eligible for Medicare.

Representative King inquired about restrictions on the prescription drug program and the impact of Wal-Mart's new generic drug program. Ms. Thames explained the plan covers drugs that other plans do not cover. The card has a pre-negotiated discount. It is connected to the contract the retirees have with the preferred provider organization (PPO). The prices range according to the drug. The agency does not directly negotiate with the pharmacies. The contracted pharmacies are invited to participate with various programs.

Representative King asked some clarifying questions about the advice from SIC and how an individual benefits from the discount drug card, and how it is received. She commented that awareness of the availability of the discount drug card might be low and that the agency should inquire about the possibility of using public service announcements to better publicize its availability.

Representative Varela asked about the offices currently open in Santa Fe and Albuquerque. He asked about the status of previous efforts to build a new building for RHCA. Representative Varela recalled authorizing bonding capacity for a new building, but if the agency is not going to use it, there is no reason to keep that active. The department representatives said the

Albuquerque location is working well and they had negotiated a good lease rate. Representative Varela suggested surveying the membership to determine how they felt about building a new facility, because the money to pay for it would ultimately come from the agency fund balance.

Mr. Tomas Rodriguez, information technology director, RHCA, addressed the upgrades of the system equipment, and the servers' technical difficulties at this agency. Mr. Rodriguez said that at this time no additional funds were needed for IT upgrades.

Carmen Roybal, fiscal director, RHCA, spoke to the reviews and projections being prepared. The auditors have prepared the financial statements for the agency in the past, but the agency is considering taking over this task.

Representative Varela is concerned about the assessment of the payouts with the SHARE system. Ms. Roybal suggested the agency does not have the problems of other agencies because they are working from a single fund. Ms. Thames reported that the incentive to hire Ms. Roybal was to create internal financial reports.

The agency's goal is to review the report today and pass it over to the board, and then the agency could share it with Legislature. Representative Varela asked for a copy of the report as well as the FY06 audit. Per Carmen Roybal, closing balances are reviewed on a monthly basis. Ms. Thames summarized the reconciliation process enacted to find an accurate picture of the balances with internal documents and the differing SHARE figures.

Representative Varela stated that the committee needs to understand the role of SHARE in these reports and payroll.

Department of Cultural Affairs (505).

Stuart A. Ashman, secretary, Department of Cultural Affairs (DCA), said the strategic plan encompasses six major components for the upcoming year. He said the department the FTE being sought by the department is the conversion of temporary employees to permanent status.

He said the department's No. 1 priority for capital outlay is statewide maintenance and repairs. A new initiative is the \$3 million acquisition of a privately owned collection of Santos in Arroyo Hondo, valued at \$5 million. The list also includes descriptions of 14 other requests for lower priority projects, such as State Library's shelving, landscaping and the plaza in Santa Fe.

Senator Altamirano requested a copy of the audit and was offered a summary of the issues by the department, in lieu of the actual audit, which is to be submitted to the State Auditor's office today. The secretary announced the final completion of the FY05 audit is due on December 15, 2005. Mr. Ashman also stated that FY06 audit would be completed by the December 5, 2006, deadline.

Senator Smith said some museums are funded less than others, mentioning the deplorable condition of the Space History Museum in Alamogordo, and pondered whether the Farm and Ranch Museum would ever be finished.

Responding to Representative Sandoval, Secretary Ashman said the National Hispanic Cultural Center is almost complete and he does not anticipate future capital improvement requests for this project.

Senator Jennings also expressed concern that the materials already owned be properly maintained. He is reluctant to fund some new acquisitions if old acquisitions are neglected.

Representative Saavedra asked about helping the State Library employees with a salary raise. Secretary Ashman reported that the State Personnel Office (SPO) would include that in their budget. Representative Saavedra requested the department follow up with that request.

Senator Griego inquired about the department's responsibility for legal representation. The secretary said the department has always had attorneys on retainer for different reasons. The understanding now is that each department is responsible for legal counsel. All contracts are handled with in-house counsel. The board of the Hispanic Center is represented by the Attorney General's (AGs) office.

Senator Griego inquired about the use of the Film Museum. Secretary Ashman reported that the Economic Development Department (EDD) houses its office on the upper floor of the old movie theatre. The landlord has renovated the ground floor, which is used for film festivals, the Design Week film events, and will be valued for future use. It exists to provide a location for educational programs. Questioned as to whether it could be an income-producing location, the secretary suggested that would be hoped. EDD is leasing the space from the Cultural Affairs Department (DCA).

When asked about the Roughriders Museum, the secretary explained that of the 140 museums in New Mexico, only eight are operated by the department. Questioned by Representative Varela about money spent on tourism, the secretary explained that marketing funds were spent on a booklet that provides access to all museums and billboards on the highway to Albuquerque.

Katherine Slick, state historic preservation officer, reported the scenic and historic marker system is in concert with the Department of Transportation (DOT). A memorandum of agreement with DOT develops the historic information with the counties, who are submitting their information and women's names to put forward the text and names for the markers. Colfax County recognized the women along the Santa Fe Trail.

Representative Varela asked about problems with the SHARE program status, along with the human resources requirements involved. Secretary Ashman had some problems with accounts payable. Some of the vendors were not filling out the vendor information properly. Representative Varela reported that this was a conversion problem. Some of the vendors are not being paid. He asked about the payroll component within the departments. Emilio Martinez, administrative services director, DCA, stated that there are problems every pay period, with manual warrants having to be issued in some cases. Each pay period, the department is learning to resolve these issues.

Representative Varela asked if journal entries have been compiled since July. If the Legislature could have copies of some of the audits before the deadline of December, they could make some policy decisions in time for the next session.

Representative Varela asked for an update on the Palace of the Governors, additional costs and other issues affecting the museum's progress. Fran Levine reported on the progress and the expectation to complete the construction on time. She believed that the funds currently allocated would be sufficient for the completion of the state history museum.

Senator Jennings asked for a list of the lowest salaries at the Department of Cultural Affairs (DCA). Representative Varela suggested a human resources (HR) pool among all agencies, for efficient redirection. The vacancies seem to be increasing across all agencies. He requested Mr. Abbey begin looking at personnel and how the allocated funds are often not utilized.

Kansas Legislative Audit of Public School Instruction Costs and Implications for New Mexico; Schools in Need of Improvement in New Mexico.

Manu Patel, deputy director for performance audit, LFC, summarized the Kansas legislative audit. During 2005, the Kansas Legislature authorized a study to analyze the cost of elementary and secondary education in the state, which had experienced an overall \$289.5 million budget increase. The study assumed two methodologies, input based and similar to the method used in New Mexico, and outcomes based, which would utilize the state benchmarks. The study utilized eight prototypes that included student size, poverty and special needs information.

Although the trend in Kansas in 2002 was that students were making progress, the biggest problems involved students from poverty and with special needs. For example: in eighth grade math, students from Kansas, in general, were performing at national levels, yet when special at-risk students and high-poverty students are taken into account, levels drop. A budget, focusing solely on this student population was developed, however the study identified that there is no guarantee that the services required by these students, would be provided.

Paul Aguilar, principal analyst, LFC, presented how the Kansas study might be applied to the New Mexico context. In New Mexico, a large portion of minority children and particularly Native American children live in poverty. The correlation between reading scores and poverty rates is noted. Poverty is the significant factor in student achievement, with almost half of New Mexico's student population eligible for free lunch, placing them at risk for achievement. A part of the risk factor is the disparity in finding highly qualified teachers.

A cost study comparison reflecting how much additional funding would be needed to positively impact these students is noted. New Mexico expends between \$450 and \$672 per student, well below the Kansas increment of \$1,407.

Approximately \$55 million would be needed if a 10 percent increase were considered. Funding at-risk services, however, has no relationship to the actual services. Schools have the tendency to use those funds for purposes other than the original purpose.

Peter Winograd, director, Office of Education Accountability (OEA), Department of Finance and Administration, presented a study measuring student progress in two critical ways: (1) adequate yearly progress (AYP) and (2) student proficiency in reading and math.

Thirty-seven indicators are required to meet AYP. If only one indicator is missed a school will not make AYP. For FY06, 54 percent of New Mexico schools did not make AYP. OEA is focusing on tracking 130 schools rated on the bottom and have received some interventions in the last few years. Students in some schools are testing proficient in both math and reading, yet, because they miss one indicator, the school does not make AYP.

Forty schools of the 130 studied, with at least 25 percent Native American students, raised their math proficiency. Senator Jennings requests the full report to be given to David Abbey, director,

LFC.

Mr. Winograd noted the need to celebrate the schools that have met AYP for two years and come out of the designation of a school in need of improvement (SINOI). Ninety schools have come down in school designations. Leadership, teacher quality, and intervention at these improving schools should be studied and funded to make a significant difference.

Responding to Representative Saavedra Mr. Winograd explained New M has addressed its teacher shortage, yet particularly in rural areas, there remains a deficit of math teachers. The money for the school improvement framework only supported SINOI schools and did not specifically support the math teachers.

Representative Saavedra suggested Legislature could compensate math and science teachers to avert this trend.

Mr. Aguilar noted \$15 million is dedicated for professional development, within the formula. Perhaps schools are not taking advantage of these funds.

Representative Saavedra was told that poor performing schools are obligated to report failure of AYP in the paper. He suggested that this leads to mocking “stupid” schools among the youth and is detrimental for their self-esteem. Mr. Winograd believes that the federal No Child Left Behind (NCLB) act requires that these scores are published, and Katherine Cross, deputy secretary, PED, reported that the school choice provision in the No Child Left Behind Act (NCLB) requires this information be published.

Responding to Senator Carraro, Mr. Winograd said it is unlikely certain sectors of student populations will ever reach 100 percent proficiency by 2013 or 2014, as mandated by NCLB.

Responding to Senator Carraro, Mr. Aguilar reported \$111 million is currently the level of additional funding for the at-risk population. He said the funding formula could be changed to redirect funding.

Senator Carraro said the Legislature couldn't just keep throwing money at a formula. The concept of the NCLB speaks to identifying the problems. The idea is to use this information to impact the sectors that need a hand up.

Representative Moore inquired how the money is allocated.

Catherine Cross-Maple, deputy secretary, PED, reported the school improvement framework was allocated \$8 million. Schools that are in greatest need for meeting their objectives are earmarked for these funds. There are many interventions, including longer school days and implementing a systems approach to data analysis. Responding to Representative Moore, she said the department uses engagement of successful programs, such as the Reading First Program, which shows progressive data in over 90 schools.

Representative Wallace asked if the federal funding flows through PED, or goes directly to individual schools. Mr. Aguilar reported \$378 million flows through PED every year. Representative Wallace requested a report on how this funding will be affected next fiscal year.

Senator Beffort expressed concern about funding the act with \$55 million without more technical

requirements. The punishment of not achieving AYP, state intervention, seems to have been eliminated, without much information.

Mr. Winograd explained 200 schools are not a lot of schools to monitor. The point that they are trying to make in Kansas, and here in New Mexico, is that the PED will make an effort to target the 200 of 800 schools most needing intervention.

Senator Beffort asked about what language the tests are given in. New Mexico assessments are given in English and Spanish. She is concerned that the Navajo students may need a test in Navajo, or a good job in quickly teaching those students English. Mr. Aguilar explained English language learners are allowed to have the questions read to them in their native language.

Senator Beffort has not seen any recommendation from the Higher Education Department (HED) about a best practices curriculum for teacher education. The new secretary has not forced this transition of coursework, so that teachers are properly trained to teach math, science and reading. She feels this is a systemic problem.

Ms. Cross-Maple revealed there are several workgroups between PED and HED. The alignment workgroup is looking at high school graduation requirements to align them for university needs, and works on the dual enrollment taskforce, a program wherein students receive dual credit in high school for college courses.

PED has a fairly rigorous alignment with the accreditation agency for teacher accreditation. This department is working with HED to improve the skills of new teachers, and focusing on professional development, important for veteran teachers.

Mr. Winograd explained OEA is working with the PED to examine specific interventions. It seems to depend on the location; you cannot just take a successful program and put it elsewhere to expect the same results. Turnover of principals is also considered. In these schools, administrative leadership turns over every 1.8 years.

Senator Jennings wondered if the study should focus on the teachers' practices, which have actually raised the proficiency levels. Then maybe we could identify master teacher ratings. The ability to relate to children is not always reflected in teacher education degrees.

Representative Varela asks about the funding level for SINOI and asked when the committee could look at the effects of that funding.

Ms. Cross-Maple said she would provide the list of these schools to the committee. She reported that the funding does not go directly to the schools; they receive a direct benefit from special training programs.

Mr. Aguilar replied those courses start in pre-kindergarten and kindergarten. The difficulties with math achievement begin with elementary schools, as those teachers are not required to have a content-certified degree.

Ms. Cross-Maple explained PED relies on our state performance standards and benchmarks and the assessment tests are aligned with these standards. The teacher in the classroom is responsible for the program. The statistics show that elementary programs are establishing a higher percentage of students achieving proficiency, but this percentage loses ground in middle schools

and recuperates in high schools.

Representative Varela would like to see these figures. He would also like to look at the time spent doing research or actually spent in the classrooms, and perhaps change this.

Fiscal Overview and Outlook of the Health Sciences Center.

Dr. Paul Roth, executive vice president, University of New Mexico Health Sciences Center, said the center does not plan to request more funding for the hospitals. The agency prefers to wait to see how the state coverage initiative plays out.

The agency is requesting state funds to fill the gap of \$11 million in instruction and general (I&G) needs, specific to the request of the School of Medicine (SOM), and had been hoping that the county would continue would begin paying the county supported Medicaid tax directly rather than the current arrangement under which University of New Mexico Hospital pays the county portion to the state.

In response to the question by Representative Varela, he said the expansion of Medicaid to include adults up to 100 percent of poverty should be very beneficial for the hospital with an impact between \$20 million to \$25 million. The Cancer Center has a request of \$10 million for patient care equipment. The completion of the education facility in the final phase needs \$5 million.

UNM was asked to do a side-by-side comparison of the impact of the non-compensated care between this year and last. New nurses were hired full-time in anticipation of GRT revenues from the county, paying back the indigent fund for hospital care delivered. The county missed the timeframe, and the tax can be posed by January, but the funds cannot be used until the last quarter.

The Trauma Center's level one designation was preserved through funds from Legislature for equipment improvement. If trauma centers outside of Albuquerque are improved, fewer transfers will be necessary.

Physician compensation has lagged, while nurses' compensation is now just below market, improving the retention rates. UNM has not been able to hire new physicians.

Senator Griego asked about salaries. The range from \$80 thousand for general pediatricians to \$400 thousand for highly specialized neurosurgeons is still in the lowest percentile of all public medical schools. Responding to Representative Saavedra, Dr. Roth said private industry doctors could be paid substantially more, with salaries in seven digits common for certain specialists. New Mexico has the sunshine factor, and the quality of the facilities at UNM is also attractive to potential staff.

An outside firm came to examine the hospital's billing procedures. Along with the anticipation of the GRT, other elements enabled the physician salaries to increase 4 percent. Half of the request would enable new SOM positions.

The bachelor of arts/medical doctorate (BA/MD) program is a highly successful program in recruiting more medical students throughout rural New Mexico, with a preference for underprivileged, Native American or Hispanic students. The first class of 25 students starts in

the fall. This program was designed to encourage doctors to return to their roots.

Senator Jennings refers to the request for the Nursing School. There have been a lot of problems getting cooperation with students from other schools: occupational and physical therapists (OTs and PTs), who need to be certified through UNM. Roosevelt, Chaves and Dona Ana counties are also shifting costs of non-compensated care to Lubbock and El Paso, Texas, and to the northern area of the state.

Senator Jennings said the shifts in uncompensated care have to be addressed. If UNM could look through their records to judge the portions of care from the counties, it would help create proportion. It would play a role in how Legislature would come up with the funding levels, whether from indigent funds or county taxes.

Dr. Roth said the information would be easy to track. Out-of-county indigents are not the main focus. Almost half of uncompensated care is delivered to the two neighboring counties. The university is trying to partner with Valencia and Sandoval counties to provide more care, and these partners are looking at partnership strategies now.

Responding to Representative Sandoval, Dr. Roth said the cost of the program includes scholarships. Today, graduating from an undergraduate program takes more than the usual four years because students have to work to provide for themselves and their families. This program pays for all tuition and student support services, such as tutoring, so that students can become residents as quickly as possible. UNM could offer scholarships for medical school that require graduate service in the community as a return. The other method for incentive for health professionals is the loan forgiveness program. New Mexico has a program, but it is not sufficient at this time. Student debt is around \$95 thousand in UNM's program, which is like a second mortgage.

Representative Sandoval asked about the tuition. State residents pay about \$10 thousand per year; out-of-state residents pay twice that sum. No student requesting financial aide is denied. Payments on medical school loans are usually equal to the annual income of a physician starting up in practice. This is a national problem.

Corrections Department (770) Preview of FY08 Budget Request.

Joe R. Williams, secretary, Corrections Department (NMCD), reported that the inmate population drives the budget. New Mexico's population growth has slowed. As of June 30th, 2006, the total numbers of offenders on supervision is 13,422.

The prison population is projected to grow at a rate of 3.2 percent in the next 10 years. The total operating budget request for all funding sources is 14.2 percent over FY07, with an expansion of 26 FTE.

The \$34 million increase includes \$15.8 million for population growth. Other items include the medical contract, utilities and fuel costs, overtime for correctional officers, building maintenance, and data system upgrades.

The funding request for probation and parole includes three in-take and processing centers, funding to make up for the expiration of a federal grant, and additional probation and parole officers.

The department's capital outlay requests total \$49.1 million. The secretary addressed the governor's announcement today that he is supporting the Santa Rosa expansion by 340 beds. He described negotiations with other counties fell through and the Hobbs and Santa Rosa facilities provided quick solutions.

With Clayton, Springer, and Santa Rosa, we would eliminate the temporary beds. In January, a national conference of the American Corrections Association will give New Mexico an award and accreditation of all their facilities. All prisons are smoke-free and family visits are facilitated through videoconferences.

Representative Varela asked about the funds for the Santa Rosa facility and said paying private prison contractors is just a way to say the state is not building prisons. Responding to Varela, department managers said the Clayton facility is 16 months away from opening. The per diem cost is about \$75. The vacancy rate in the department is about 14 percent.

Representative Varela asked if the agency had filled the parole officers position previously funded with a \$900 thousand appropriation from the Legislature. Jolene Gonzales, deputy secretary for finance, said NMCD had filled one of the 15 positions created. She said the vacancies have been posted and recruitment is ongoing.

Representative Varela requested a budget status, or quarterly report. Departments are being asked for these to understand how to convey to the SHARE contractors the training issues or vendor file problems. The deputy secretary said NMCD is not able to run reports right now.

Rafael Torres, information technology technician, reported that some reports could be run; the initial payrolls through SHARE have errors, and the department is trying to correct the errors now. NMCD is current on the vendor contract payments and prioritized the larger contracts, but had some vendor contract delays. Minimal problems occurred with payroll, but these problems have been resolved. Ms. Gonzalez would say that human resources staff had adequate training. The audit for FY07 could be expected by November of this year.

Senator Smith asked about the announcement for Santa Rosa and when the facility is expected to be online. GEO's offer came in at 90 days, which made it very attractive. Responding to Senator Smith, the department managers explained the prisons have two different capacities: operational and correctional. Some of the facilities are at 90 percent of capacity. To alleviate the overcrowding in the gymnasium, NMCD decided to put in daybeds. Santa Rosa would have a very secure dorm style with 340 beds.

Responding to Senator Griego, Mr. Williams said the primary focus of the Springer facility would be DWI offenders, but other offenders would be housed there as well. Senator Griego said the Legislature was led to believe the transition of Springer from a juvenile to adult facility would be rather inexpensive.

Mr. Williams responded the \$5 million request is for a year's operating funds, lower than the Children, Youth and Families Department operating costs. The infrastructure at Springer was in bad shape. It is still a bargain to take over the facility; there is already a warden there, and NMCD is ready to move forward when it takes it over in January.

Senator Griego asked about the status of the employees at Springer, and to the young adults

moved to Youth Development and Diagnostic Center and J. Paul Taylor facilities. He said the Legislature was told the move would allow first-time juvenile offenders to be closer to family for visits but he has heard stories of juveniles rooming with adults and reports of rape. He was so concerned that he is looking into recreating the Springer facility.

The secretary stated that he is working very hard with 24 employees along with the State Personnel Office. The transition to the physical plant is going ahead as planned. He cannot speak to the transition, as far as the offenders in custody.

Representative Varela suggested the issue is not the adult facility. The issue is the transition of the youth offenders to Albuquerque. Senator Jennings complained that the department has neglected the Roswell facility.

Senator Altamirano expressed concern about the Springer decision. Though the present secretary was not involved in that decision, he would not turn down the facility. Senator Altamirano reported that the clearing out of Camino Nuevo and other decisions also reflected upon the Legislature. This branch should have been in the loop when the transitions and placement of youth offenders would take place.

Senator Altamirano questioned where the director of probation and parole works. Department managers said the central probation and parole office is in the central administration building in Santa Fe and the works out of the probation and parole offices in Albuquerque. The leases on the two offices are running at around \$672 thousand a year, as reported by the analyst. Senator Altamirano reported the Legislature is trying to get the governmental facilities into check.

Senator Smith would like LFC staff to report on how many years the leases have been in place to find out the inflation index.

**Wednesday, October 25, College of Santa Fe, Shellenberger Tennis Center
1600 St. Michaels Drive, Santa Fe, NM**

The Legislative Finance Committee (LFC) resumed on Wednesday, October 25th, 2006, at 9:25 a.m.

Public Defender Department (355).

John Bigelow, chief public defender, Public Defender Department (PDD), introduced Brenda Salazar, fiscal officer. He said the department has improved services through collaboration with other agencies in the criminal justice system. The Legislature has listened to the Public Defender Department in the past, and appropriations last year allowed FTE increases in staff offices, which Mr. Bigelow appreciated.

Leasehold and expert witnesses are areas experiencing cost increases, along with contract attorney costs, based on caseload projections and insurance rates, for a total of about \$1.3 million increase to the base budget.

Expansion requests:

- 1.) FTE increase, based on national standards of caseloads. Last year some were granted and today the request is to complete this staffing.
- 2.) The overall amount of money paid to contract attorneys increased by 20 percent, or \$1.96 million.

- 3.) To establish a Gallup office in McKinley County, currently entirely staffed by contract attorneys. This office is expected to handle 70 percent of the cases in McKinley County and hear more than 2,000 cases per year. This amounts to a \$604,000 request.
- 4.) Transfer FTE costs from the Metro Court budget to this agency's budget.

The agency's total general fund request is \$41.5 million, an increase of 12.8 percent over the FY07 operating level, which includes a base expansion of \$3.4 million to fund 23 additional FTE, 9 of which are for opening a McKinley County office, transfer of funds for 2 FTE and a 20 percent increase for contract attorneys.

Representative Varela asked whether the figure 14 represented seven attorneys and seven staff. Mr. Bigelow responded that nine employees would be the initial staff in the McKinley office: five attorneys and four support staff; however, they would still need contract lawyers there.

Representative Varela inquired what type of positions the 56 vacancies reported on September 1, 2006 represent. Mr. Bigelow responded there were only seven vacancies left. Representative Varela explained the committee is trying to reconcile the report with current staff. Mr. Bigelow informed the committee that the large percent of vacancies is due to the Legislature's creation of new positions, which came on line on July 1, when the agency started recruiting for them.

Representative Varela requested a report to LFC on what positions are still needed. The committee would like to see if it could transfer some of these positions from other departments. Tracking these individuals, along with their qualifications and the status of parity between the district attorney office and other agencies, would be reported before December.

He also asked if Mr. Bigelow had heard any comments about the need for the public defender to be an independent government agency. These comments have been heard, but the chief public director has not seen any proposed legislation. Comments are welcomed from the audience.

Testimony by Homer Robinson, New Mexico Center on Law and Poverty was heard. The public delivery system should follow the principle of independence for the basic reason that political considerations should not be driving the needs of the department. The three-legged stool of the justice system has a short leg in the Public Defender's Department.

Mr. Robinson indicated that proposed legislation for this year will suggest creation of a commission with nine to 13 commissioners who would hire the Public Defender (PD), and therefore avoid the governor's appointment, as well as to submit an independent budget focused on the department's requirements. Training and other oversight would also be done along with the PD.

Senator Griego recognized the governor appoints the PD, yet fears such a commission could become another form of hinging any real autonomy on other political influence. Representative Varela expressed concern about the type of independent representation the public should receive, in terms of plea-bargaining, etc.

Representative King asked Mr. Robinson how many other states have an independent PD. Mr. Robinson said different states have different ways to fund this office. As an example, he offered that 40 states have some kind of statewide oversight and fund 50 percent of the indigents' costs.

Representative King verified that 22 states have a PD independent from the state. The

Administrative Office of the Courts (AOC) and the Administrative Office of the District Attorney (AODA) are examples and Mr. Robinson was asked to provide the information to the LFC staff to review, in order to meet Representative King's concern to achieve parity and fund the departments properly.

Senator Altamirano inquired how a person would get representation if he does not want a public defender. At what point is such an attorney appointed by the court?

Senator McSorley, committee guest, responded: normally a respondent meets the public defender just before the hearing in court. Senator McSorley suggested the Courts and Corrections Committee would consider this issue, at LFC's pleasure. The system is not working at this time, he added.

Senator Griego suggested considering the PD position as an elected position, to attain true autonomy.

Mr. Robinson explained that the justice community does not look at this suggestion with approval. The PD position is very politically unpopular, and it would be difficult to campaign for this position.

Civil Legal Services Fund.

Justice Edward Chavez, New Mexico Supreme Court, discussed the Civil Legal Services Commission (CLSC) and introduced guests in support of these services: John Arango, Margaret Card, Kim Posich, executive director, and Stuart Bluestone, board member, New Mexico Legal Aid; Joe Conti, executive director, New Mexico State Bar Association, Kathleen Brockel, Law Access New Mexico, and Homer Robinson, staff attorney, New Mexico Center on Law and Poverty; Judge Frank Sedillo, Metropolitan Court, and Justice Petra Jimenez Maes, New Mexico Supreme Court, and CLSC clients Jenny Urquhart, and Alfonso Tenorio.

Justice Chavez said less than 20 percent of the needs of low-income families are being met; more than 8,000 families are being turned away from legal services every year. The ratio of attorneys to cases is 1:5,000 on such issues as employment, family law, and victim support among other issues. The reduction in funding by the federal government has affected the services, as well as the population growth of those needing them.

The state court developed pro bono and pro se clinics to help people have access to the court system. It is still studying the way that the court can better help the people because pro bono and self-representation techniques are not going to solve the problem.

Mr. Bluestone said the program meets a substantial legal need among the poor. Over 20 percent of the population, more than 400,000 citizens qualify for assistive services. At this time, LCSC turns people away for lack of staff. The \$4 million request would improve this situation, barely increasing services from 20 percent to 35 percent to meet civil legal needs, not criminal needs.

Judge Sedillo, a civil judge at Metropolitan Court, said he has heard 95,000 cases in six years with no lawyers involved. His experience has been that people are not aware of their rights, are unfamiliar with the law, and are not aware of the court processes. He strongly supports this funding so that those who come before him can have access to information that will enable them to understand the process and meet justice.

Alfonso Tenorio, a LCSC client from Santa Domingo pueblo, bought a house in 2003 and refinanced in 2006. They used a non-existent escrow account and he lost his equity. He was assisted by Legal Services in this matter.

Jenny Urquhart, another LCSC client, testified about her son being beaten by his father. Even though the doctor substantiated the abuse, the police stated they refused to file a police report. Child Protective Services claimed they could not provide services because this client filed a restraining order. Ms. Urquhart recounted in tears she was only able to follow the advice to hire a lawyer, because New Mexico Legal Services was present and available.

Representative Varela asked if the Department of Finance Authority (DFA) has a half-time position working on this fund. Testimony indicated \$71,000 was the amount requested, partly for salaries and partly for administrative costs. Representative Varela requested Mr. Abbey to examine this issue and suggested he work with DFA to accommodate the needs of this agency.

Senator Altamirano remarked on a female client with an immigration case and his ability to find an attorney kind enough to take this case. The client in question, who has a low-paying job, could not qualify for Legal Services. The senator suggested examining the criteria. He suggested the executive and the judiciary should collaborate on a solution.

Representative Salazar expressed concerned about the thresholds of the poverty level: \$25,000 income, or less, for a family of four, and \$12,500 for individuals. He said it is misleading to refer to hourly wages: the annual take-home salary is more significant. Such families could have a single parent and three children, who are not receiving justice. Mr. Bluestone explained that the federal government sets down these thresholds.

Representative Wallace reviewed the funding level numbers. Looking at the great decline in federal support comparatively among the states, she suspected a larger cut relating to New Mexico. Mr. Arango explained that 1981 was the high point of the federal budget. Then in 1996 the formula was changed to a population formula. New Mexico has not decreased more than other states.

Representative Wallace wanted to know how a citizen gets the phone number for Legal Services. Mr. Bluestone explained that Law Access New Mexico and New Mexico Legal Aid has coordinated a toll-free telephone number for all these cases, whereby the Senior Citizen Law Center, and other specific cases are directed through coordination of all the legal providers throughout the state. He emphasized that the telephone is not sufficient to cover cases on the Navajo Reservation. Alfonso Tenorio, from Santa Domingo Pueblo, recounted his arduous attempts, starting at the Attorney General's Office to contact a legal services agency.

In response to Representative King's questions, Mr. Bluestone informed the committee that a federal Legal Services Corporation determines the allocation of federal funds to eligible programs. Sarah Singleton from New Mexico is a new board member. She requests phone numbers for the list of service providers from the providers. Kim Posich, New Mexico Center on Law and Poverty, said the toll-free number for services and services are given in English and in Spanish.

Representative King suggested approaching the media for public service announcements, which could be helpful for public outreach. The governor may have vetoed some of the funds allocated

by legislators. Mr. Bluestone reported these were supplemental allocations; \$200,000 was appropriated by the Legislature last year. Liza Luboff, management analyst, DFA, reported a bill was introduced for \$2 million, yet only \$200,000 was appropriated.

Senator Beffort believed this issue needed emphasis. Legislators did not know of the massive need and the federal cuts. She asks if adjustments in the Children, Youth and Families Department (CYFD) budget are needed to respond to domestic violence victims. She would like to see a breakdown of the \$4 million budget request to reflect the categories and to identify the FTE needs.

Amy Propst, a domestic violence attorney for the state, responded that the problem in the Urquhart case was that it was a short-order restraining order, needing confirmation for the long term. Justice Maes reported that CYFD is very limited in the services that they could provide. Their guidelines prevent them from involvement in cases where restraining orders are issued.

Senator Smith clarified with Mr. Bluestone that the \$200,000 was the first state appropriation to this agency; \$1.8 million was received by the increase of the filing fees. Senator Smith explained the agency is asking for recurring funds and suggested that the LFC staff could work with the agency to present this request. He asked if the client receives all the money in cases with substantial awards. Mr. Bluestone suggested and the director of Legal Aid confirmed that the Legal Aid attorneys do not receive fees.

Senator Rawson asked for figures about what percent of plaintiff or defendant claims are actually legitimate. Justice Chavez responded, given the number turned away, the attorneys must make a good faith judgment on the cases and suggested that 100 percent of the cases are legitimate.

Judge Sedillo reported that, of 35,000 cases, he would only consider two frivolous. Most people have an idea of right and wrong and approach the system to resolve the conflicts of varying degrees. The advantage of having more funds for Legal Services would be the ability to screen the cases for the most merit.

Senator Rawson wished to reveal if a case against the state would be brought forth and whether this also applies to municipalities and state agencies.

Angelica Anaya, attorney, explained the definition of the State of New Mexico is not interpreted to include appeals to state agencies. When asked about the UNM hospital risk management, she offered the understanding that it is a private corporation. She explained further: Legal Services do not handle cases that a private bar would handle like tort claims for malpractice. This language was written by the commission when the agency was first created by statute.

Senator Rawson referred to a chart that showed an increase in funding and objected to the misrepresentation of the terminology "funding cut" to these increases. He said it should be represented in terms of rising costs, or growing population. Controlling costs can also help meet the need.

In response to the question on court fees, current civil filing fees are \$107 with \$25 from a prior increase; \$22 of these fees goes to the general fund, \$38 to a retirement fund, \$25 to the Legal Services Commission, and the rest to the Compilation Commission. Senator Jennings suggested raising the court fees and seeing how to return the \$22 that goes to the general fund. He asked if Metro Court maintains the same fee levels as District Court. Judge Sedillo reported of the \$67

fee in magistrate court, \$10 goes to the legal services fund, and the remainder goes to other entities like the Brain Trust Fund and building costs, as well as other judicially created organizations.

Senator Jennings asked if Legal Services is banned by law from treating immigrations cases.

Ms. Anaya reported the prohibition to represent illegal aliens, except in cases of domestic violence. There is a separate program that will represent documented immigrants or represent those seeking to legalize their legal status, such as agencies like Catholic Charities. A representative of Catholic Charities reported that his agency receives funding that applies to legal residents. This agency has federal and state funding that is reduced by 10 percent each year.

Senator Jennings said his concern is to find a permanent solution, which could mean another fee increase, to resolve issues among the immigrant community, especially to prevent abuse of immigrant workers.

Claudia Medina, from Enlace Comunitario, explained this organization provides services largely to immigrants, who are reluctant to report crimes to the police for fear of deportation.

Representative Townsend referred clients to Consumer Protection services in the Attorney General's Office. She asked if Mr. Tenorio's case would be better served there. Mr. Bluestone referred to mediation at the Attorney General's Office in consumer disputes. They are not allowed to represent victims as attorneys. There are private lawyers allowed to cover fees. He called Mr. Tenorio's case as a landlord-tenant dispute, which cannot be served by the AG's office because this office does not have the resources to address such cases. Such cases are referred to Legal Services.

Representative Varela asked if the 7,000 attorneys active are required to provide pro bono services. Each member of the bar is asked to contribute \$350 or provide 50 hours to a legal services program.

Report on State Building Master Plan.

House Speaker Ben Lujan, co-chairman, Capitol Building Planning Commission (CBPC), described the responsibilities, members and staffing for CBC and then introduced the consultants hired to update the Santa Fe master plan and to develop a master plan for Albuquerque. The planners updated the committee on the progress of the plans. The Santa Fe master plan included purchasing the Public Employee Retirement Association building, National Education Association building, and the Jaguar property. The planners indicated the overall plan for Santa Fe is in good shape and is now a working document and resource tool for staff. However, the property on the south side of the Capitol is still needed for a parking structure.

The Department of Transportation independently commissioned a public/private collaboration to work on its transit-oriented site for mixed use: housing, office and commercial components in conjunction with the General Services Department (GSD). The commission is working closely with contractors to prevent conflicts within the master plan. In this upcoming election, a constitutional amendment is on the ballot that would supersede the Montano agreement and allow the state and public schools to lease/purchase properties.

GSD Secretary Arthur Jaramillo, co-chairman, CPBC, reported that GSD has issued a request for

proposals for a super complex idea to allow one-stop shopping and to facilitate space needs for state agencies.

The state currently spends \$47 million to lease office space. Of the amount, \$17 million is spent in Santa Fe and \$6 million in Albuquerque, for a total of \$23 million in leases each year. Serious needs for upgrading and addressing the sites leased are needed. The owner of one leased building in Albuquerque, Bank of the West, is offering the sale of his facility. The master planner, John Petronis of Architectural Resource Consultant, discussed other properties in Albuquerque that need attention.

Implementation and coordination of the master plan requires asset management and project oversight. The Property Control Division (PCD) has statutory responsibility for design and master planning. There are 20 FTE, with an average 20 percent vacancy rate over the past 20 years, due to the lack of expertise in the real estate area and design field. Since 1990, when PCD received its last FTE increase, additional duties have accrued. The state has added 186,000 square feet and 175 projects for a total budget of \$144 million. This is task-intensive labor. The department will ask the Legislature again this year for additional FTE.

Mr. Petronis indicated items listed on the Capitol Buildings Master Plans. He indicated the items listed have been accomplished already. Now, there is work being done on a more detailed plan for the Albuquerque area. There was reference made on how to update the Master Plan periodically.

Representative Saavedra asked about facilities currently vacant at the Youth Diagnostic Development Center (YDDC). Mr. Petronis described the old Camino Nuevo site adjacent to two unoccupied sites. Representative Saavedra called the attention of the committee to the possible use of these buildings for the purposes of the Corrections Department.

A consultant reported that the buildings are quite old and do not comprise a great deal of space. Development potential on the west of the YDDC site and on 10 acres in the eastern section of this site is noteworthy. The state owns quite a bit of land in this area. Mr. Petronis reported change in uses of this site was the recommendation to the commission. Bill Taylor, Property Control Division director, indicated he would like to see this prime development property in use for a state agency campus.

Representative Sandoval expressed his opinion that, with the hospital setting, YDDC would be convenient to replace the Springer juvenile detention center with its dormitory type setting and treatment areas.

Speaker Lujan said so much property is being leased by the state in the city. This is why the commission brings this information before the committee. One prime property of 76 acres by Candelaria and the interstate could also be used for offices and should be brought forward for consideration.

Representative Saavedra recalled that agencies claimed they were out of space before Springer was exchanged. He suggests bringing the secretaries of CYFD and Corrections together to discuss these available locations.

Representative King recommended better communication and more coordination on available space. Other options for Springer and Santa Rosa may have been considered with better

communication. She asked if the Department of Health (DOH) could be making decisions independently. Mr. Jaramillo reported that there is a landlord-tenant relationship with DOH with regular communication and frequent discussion on program functions. Representative King understood if the commission cannot meet the needs of the department, they could seek other options, and not leave state-held property without use. She recommended the committee stay more aware of these moves.

Representative Varela inquired as to the functional process of the commission, particularly in relationship with DOH. He is concerned that the commission has some authority over property control and architectural design with all the departments' state facilities.

Mr. Taylor reported that this department has identified significant deficiencies throughout the state and is developing a master plan. This department has done great renovations on some facilities and he needs more information on the status of their property leases.

There is the dilemma of an empty building representing a cost to the state, and the decision necessary to either divest of the property, or identify another agency needs for occupation.

Responding to Senator Carraro, Paula Tackett, director, Legislative Council Service, said the lease-purchase policies that would be authorized under the proposed constitutional amendment would not authorize financing debts. Many states use this mechanism. Private people can build a building and lease it to schools.

Senator Smith spoke about unintended consequences of the amendment, which would affect the rural areas, making it more cost attractive to some entities to go outside for property purchases. Senator Smith asked about the amount in the fund and which fund was robbed for past purchases.

Ms. Tackett reported the funds came from the \$75 million New Mexico Finance Authority revenue bonds authorized, which were increased to \$90 million for construction of the west capitol campus and purchase of property.

Senator Smith asked for additional information on the Gaming Commission and probation office leases. He said he is suspicious about some leases and whom they may benefit.

Senator Griego requested information about what would happen to the current landlords within the master plan. Mr. Taylor reported that this is a phased project and meetings with such individuals are taking place.

Mr. Taylor said a new software package has been obtained that will assist the GSD in the maintenance area and review of the leases, updates and renewals.

Following a question by Senator Rawson regarding the CBPC role in Las Cruces, Ms. Tackett informed Senator Rawson that the commission only has jurisdiction in Santa Fe and Albuquerque.

Game and Fish Department (516).

Representative Varela requested an update on the Monastery Lake and any assistance needed by the Office of the State Engineer (OSE). There is a diversion structure being built. This job is on status with no assistance necessary. The lease is being negotiated for a longer term and Mike

Gustin, Conservation Services Division, is having continuing discussions with Abbott Christopher about the matter.

Representative Varela is disappointed with the work performed, which he judges will not last long. He suggested it is in the best interest of the department to invest some money to maintain this lease and engage in collaboration with OSE. He could envision a dam built for diversion purposes. He requested an analysis on what funds might be needed to divert the water.

Bruce Thompson, director, New Mexico Department of Game and Fish (NMDGF), presented a flat budget request. Successes were highlighted as follows: Eight new conservation positions were implemented, enabling eight new conservation districts, for a total of 67.

The warm water hatchery division is moving forward. The Rock Lake Trout Rearing Station in Santa Rosa, whose construction will be completed by December of this year, will be available for stocking by April. The GAIN program, which provides opportunities to access nature, was made possible by a past appropriation. A new service is available online to purchase a broad spectrum of special licenses. The department is in the process of implementing a mandatory harvest-reporting process for elk, deer and fur-bearing animals. This will improve the ability to estimate the resources being removed. Hunters are required to report populations to enhance sustainable harvest opportunities. Game management units are coordinated to estimate the state natural resources being removed. An employee compensation plan was put in place by Legislature in FY06. The department also has dam safety issues.

Representative Varela asked how the Energy, Minerals and Natural Resources Department (EMNRD) is involved in land conservation funds (\$5 million). NMDGF has worked with a variety of agencies to identify specific projects; 45 proposals were received and 14 projects identified, of which two have been processed.

A native vegetation project was implemented with the collaboration of EMNRD. The Valencia Soil and Water Conservation District is working with the department on a project. The endangered species protective services have a million dollars dedicated to this end.

Representative Varela asked about a problem with the commission. Mr. Thompson denied this was a problem, but an evaluation process to identify the best projects. They received additional project proposals that are being scrutinized now. These projects do involve purchase of, or easement, of land. One has already been done.

September's report showed 14 vacant positions. Pat Block, administrative services director, explained the Sport Hunting and Fishing Department comprises two-thirds of the department FTE. These vacancies are not unusually high or problematic. These positions and those in the administrative program are being filled as they occur. He reported business as usual and no request for FTE in this budget request. The vacancy rate is calculated at 7 percent and an explanation is offered about the volatility of this rate. Mr. Block reported that conservation positions are vacant, but there are five trainees currently being trained.

Responding to Senator Carraro, Mr. Thompson said the opportunities for hunting in New Mexico are highly sought. The amounts are fairly high. Bighorn sheep licenses have returned \$185 thousand, deer or elk between \$30 thousand and \$40 thousand. Senator Carraro questioned whether the licenses are sold or whether speculation occurs. Mr. Thompson reported these are transferable authorizations.

In response to a question by Senator Carraro, Mr. Thompson informed the committee that hunting opportunities of all kinds are available to everyone in the state starting from nominal fees valued at \$10 in a raffle.

Responding to Senator Smith, Mr. Thompson said a \$903 thousand expenditure was made for the forest legacy protection project on a ranch owned by two men from Arizona. When asked about the uses of the conservation easement, Mr. Thompson reported it provides for continual ranching operations within the forest legacy preservation principles. Senator Smith asked about a gift inclusion with this purchase. Mr. Thompson said the \$903 thousand was the figure of the value of the conservation easement, valued through a commercial appraisal, and passed by an obligatory state review. Additional projects are being considered for the use the remaining funds.

The Rio Bajo Project is being done in conjunction with the oil and water conservation district in Valencia County, with the stipulation that the conservation district will manage the project. This is a bargain sale at \$400 thousand less than its commercial value.

Prior concerns about commissioners using legislative appropriations led Senator Smith to encourage the director to submit to public scrutiny to avoid future suspicions. Senator Smith would like information on prior ownership and any additional information on price inflation of this property. Mr. Thompson promised due diligence in providing this information. The state, through NMDGF, and also the State Game Commission and the Valencia Soil and Water Division, will own this property.

A question on the other project's appraisal elicited an answer that the director did not suspect any speculation. The development rights would be foregone completely on the easement. These properties were identified via a proposal process, with an open request for public proposals. The director cannot confirm if any real estate agents were involved or commissions paid.

Senator Smith also asked a question about the phenomenal prices paid on the hunting permits. He asked for a comparison among states. Mr. Thompson agreed that the state is using natural resources to provide "phenomenal" funds to conservation purposes. The raffle comes with a nominal fee, widely accessible through the public draw, with a percentage of the permits dedicated to New Mexico residents. To maintain a successful program, the limitations on opportunities must be strictly kept. The high fees for Bighorn Sheep permits reflect the high demand for a rare hunting opportunity.

Representative Moore requested information on the Comprehensive Wildlife Conservation Program. In six territories throughout the state a comprehensive strategy has served the state, which is awarded recognition throughout the states for its successful management. He referred to a letter a few months ago to several partners in an attempt to engage in collaboration. Representative Moore verified that the dept is looking for matching funds from the state for a federal funds request. He said a phrase in the letter sounds like extortion. Mr. Thompson suggested the private partners are not always willing to contribute to the project. These two projects will have \$2 million in revenues.

Responding to Senator Rawson, Mr. Thompson said the department is requesting that the performance measure for fish hatcheries be reduced because whirling disease has killed fish.

Senator Rawson commented the drug test prices listed in the budget request are probably twice those in the marketplace. In response to a question from Senator Rawson about the \$100 thousand contract for the conservation services program listed in the budget request, Mr. Block responded that these funds are for the completion of 80 conservation projects within the year and this money is dedicated for environmental analyses and other specific monitoring services.

Representative King referred to the letter sent out to private partners, which reviews the listing of revenue sources and expenditures of state funds. Mr. Block conferred that no state fund would be expended. Representative King suggested she is not greatly concerned about NMDGF requested matching funds to federal revenues but the information of revenue sources should be provided to the LFC for review.

Senator Jennings required an explanation of the contract in the amount of \$60 thousand spent on preventing Desert Bighorn Sheep depredation by cougars. Thompson reported the cougars are selectively removed from Bighorn Sheep habitat in conservation efforts. This occurs during the restoration phase of the population. This public program is perhaps deemed beneficial to the greater populace, though Senator Jennings, as a sheep rancher, described the need for compensation for the damage the department inflicts on private property owners by failing to protect them from animals.

Responding to Representative Wallace, Mr. Thompson said a variety of staff manage the contracts and duties of managing the Bighorn Sheep population. Representative Wallace reiterated the department might be relying on contract to resolve staffing issues.

Representative Varela inquired whether department funds are being used by other entities not mandated by the Legislature. Mr. Block explained that, for example with the Hunter Education Program, these are mostly services used to match federal funds, not cash transfers.

Mr. Abbey read the statutes on the authority of the department to solicit volunteer funds, and why these funds should be deposited in the State Treasury. Mr. Thompson provided an explanation that non-federal funds are often distributed to match others.

Representative Varela inquired about fiscal reporting and accountability, to which Mr. Block responded with an accounting of the preparation before the software system's conversion and the attention given to training for and processing with the SHARE system. The federal funds coordinator (grants specialist) has been very aggressive in working with the SHARE system. The department vendors are being paid, but the department is still having problems getting reports. Changes in payroll were apparently done with no reason. With 300 employees, the largest part of the department's budget is \$19 million. The department had some errors in initial payroll periods that have been resolved. A separate workgroup is being formed for exempt employees. Accurate documentation is being requested on the repair work being done on the system. Representative Varela asked about the need for training. Mr. Block reported that it is not necessary.

Public School Insurance Authority (342).

Sammy J. Quintana, director, Public School Insurance Authority (PSIA), presented an overview of the agency that provides health and risk insurance to public schools and their employees. Mr. Quintana reviewed recent increases in premiums to the health benefits program, as well as the status of the risk program. PSIA provides these services to 88 school districts, 61 charter schools

and 14 other educational institutions. Albuquerque Public Schools does not participate in PSIA.

Mr. Quintana reported that the agency budget request for FY08 is \$321.4 million, a 6.5 percent increase over the FY07 operating budget. The majority of the increase is in the benefits program while the risk program request is actually a 6.9 percent decrease over FY07.

Mr. Quintana noted that property and civil rights claims made up the majority of risk claims. Of particular concern over the past few years are water damage, including hail, and sexual molestation claims. Damage to schools in Hatch as a result of flooding this year was extensive. The risk program fund balance has been negative for several years. However, as a result of legislative action last year and projections going forward, the risk program should show a small positive fund balance in FY08. At the request of LFC staff, PSIA reviewed its actuarial assumptions and projections again to ensure that the agency FY08 request would not result in a return to negative fund balances.

Christy Edwards, deputy director, PSIA, presented information on the benefits program. PSIA provides comprehensive health coverage to more than 25,000 public school employees and basic life insurance to more than 35,000 employees. Medical claims make up the bulk of expenses, 72 percent or \$225 million. One percent of the total budget is dedicated to the Healthy Vistas prevention program, which implements lifestyle changes and disease management elements. The proposed increase in benefit premiums to members for FY08 is 10.6 percent. PSIA proposes using \$7 million of fund balance to offset the need for higher premium increases.

Senator Jennings inquired about roof inspections of schools. Mr. Quintana reported that PSIA requires all schools to have maintenance plans in place and that awareness of the need for preventive maintenance has increased over the past couple of years. Senator Jennings noted that part of the problem is schools being located in areas that are prone to flooding. He inquired whether school districts have deductibles. Mr. Quintana stated deductibles are \$12 thousand or \$25 thousand, depending on the district's size.

Senator Jennings inquired about increasing damage awards particularly in the area of civil rights. Mr. Quintana noted a recent case, involving a Farmington substitute teacher where the Supreme Court upheld a \$2.6 million award for improper touching. PSIA is looking to increase training and awareness programs to help reduce future claims.

Senator Rawson inquired as to the methodology to determine the premiums, particularly workers compensation. Mr. Quintana explained there is a complex formula, developed by PSIA's actuary that incorporates many criteria. He said he would be happy to provide the formula to Senator Rawson. Senator Rawson asked if PSIA insured non-school district owned school buses and Mr. Quintana responded that they did. Senator Rawson requested the class codes used in workman's compensation cases, and a list of the top 10 claims. Mr. Quintana responded that he would be happy to provide that information.

In response to Senator Rawson's concerns, Robert Romero, comptroller, PSIA, reported the workman's compensation is fully reserved, compared with the property and liability, generally far more costly. Senator Rawson requested the names and addresses and status of the 11-member agency board. He also requested information on how many public school employees opt out of the health benefits insurance offered by PSIA.

Mr. Romero informed the committee that PSIA does not receive general fund dollars.

Regulation & Licensing Department (420).

Sunrise Review of Sign Language Interpreters Board. Two letters in support of the sunrise proposal were distributed: one from Justice Patricio Serna of the New Mexico Supreme Court and from Mary Keener Beresford, PhD, Director of the New Mexico Governor's Commission on Disability.

Kathleen O'Dea, sunrise manager, RLD, provided the committee with a list of the pros and cons of the issue on this re-licensure in her report. She focused on the disagreement in the way the licensure process is perceived, which has led to the numerous proponents' and opponents' to the legislative proposals presence. She suggested that more in depth community surveys might be important.

Representative Varela appointed Senator Griego and Representative Salazar to a sub-committee to return a decision to the full committee.

Senator Altamirano inquired as to the controversy, and Ms. O'Dea suggested that clear communication, with children in schools, and adults in a medical context for life and death decisions, is clearly meeting the statutory criteria to establish licensure. She yielded to public comments.

Two proponents and two opponents were requested from the audience. Mr. Abbey recognized Mr. Ron Stern, president, School for the Deaf. Luke Walker, also a proponent, began. He identified himself as president of the Association of the Deaf. They have a taskforce in place, involving many organizations, including the UNM interpreter-training program. Many issues have come forward over the years through town hall meetings. Many negative effects have been identified and this organization tries to meet all the concerns. The first town hall meeting had the effect of turning opponents into proponents of licensure. Over the long range, the interpreter's services need improvements.

There is so much at stake for the native deaf community. Three generations of deaf compose the Walker family. There is nothing more dehumanizing and marginalizing than the lack of access of quality communication, though interpretation is a diminished form of communication. Qualified interpreters are imperative to raise the quality of this communication.

An opponent, Josh Dawson, said he grew up in public schools without interpreters. He said the Commission for the Deaf does not even include deaf members. More political process is not needed; better distribution within the state is needed.

Caroline Tenaka is opposed to the licensure because she feels there are enough certified interpreters, graduating from different programs. She would ask that the committee give deaf people an opportunity to improve the quality. As the committee can see, these two interpreters present and many other professionals do not understand the deaf community. Criteria for licensure levels are not well defined.

Representative Varela proposed that deaf representatives work with the subcommittee for resolution. Representative Wallace reported that the Legislature has been working hard for a long time, since 1996. She is unclear why postponement of another year is needed because there has been work on this legislation for the past two years.

Representative Saavedra requested information on the institutions that provide a degree. Ms. O'Dea outlined the three interpreter programs in the state at this time: a bachelors degree program at UNM and two associate programs at SFCC.

Mr. Abbey read the letter from Justice Patricio Serna out loud to the committee members and others present.

Representative Varela spoke about high school graduates who are fluent in the language and would like to be interpreters.

Ms. O'Dea said RLD looks at the harm element primarily, and reports of harm. The interpreters present in the room are certified, yet the communications problems are not always linked to the interpreter, but also to the parties communicating. Ms. O'Dea was not able to obtain reports of harm. The biggest issue in this struggle is the diminished supply of certified interpreters. Only 89 of 250 interpreters in the state are certified, according to the Registry of Interpreters. There does appear to be a shortage in the capacity of interpreter training programs, which are working at full capacity. A weight against licensure is also the fact that the certification is only in American Sign Language, whereas there are other languages used. A pool of applicants may need to be addressed.

If a complaint is made about an interpreter, their certification could be taken away, yet there is no enforcement capability to prevent this interpreter to continue to work. There is a referral network done by the community outreach program of the deaf. They do screen applicants, but cannot guarantee enforcement either. As an agency dedicated to the safety and welfare of the public, Ms. O'Dea is reluctant to make a recommendation.

Representative King confirmed that the deaf community feels they have not had enough participation in the process, and that interpreters do not sufficiently communicate their statements. Ms. Tenaka responded that the interpreter is oppressing the deaf, because she uses her vocal capacity at the same time she is trying to voice my words. The interpreters are not skilled enough. Interpreters do not let me know everything that you are saying.

Representative King saw the sense of frustration, but suggested standards ensure better communication and service. Representative Varela appointed Representative King to the subcommittee, as well. Ms. Tenaka complained about the interpreter again and Representative Varela reminded the audience they could submit their concerns to the subcommittee, in Room 317 at the Capitol, on November the 21st at 1 pm.

Senator Altamirano reminded the audience the goal is a resolution by the stakeholders served. He suggested preliminary meetings before this hearing and requested Ms. O'Dea organizes this. Representative Salazar claimed the best elected officials could do is vote for or against the legislation and leave the criteria for qualifications up to the board.

Regulation and Licensing. Edward Lopez, Jr., superintendent, Regulation and Licensing Department Robert Cardon of RLD said the agency's three legislative priorities are tougher liquor control regulations, unlicensed contracting, and predatory lending. Payday lending and car title lending practices are concerning the department more and more as they are getting more information on them.

A strategic business model is being worked on. The Construction Industries Division (CID) is requesting additional funding for technology and systems work. The Alcohol and Gaming division and superintendent are requesting expansion to address the DWI problem and to meet the need of prosecution of the Alcohol Control Act. The Boards and Commissions Division is experiencing increased licensing growth. Safety and quality of customer service is of concern.

Representative Varela asked Lisa Martinez, director, CID/Manufactured Housing Division, about the progress on hiring new building inspectors. She said 14 have been hired.

Senator Altamirano discussed the need in Grants County, where the only inspector comes from Las Cruces. The building industry there is wooing the CID to meet this need. She reported that the problem in Silver City is mostly due to the plumbing and electric inspections. An inspector there was on medical leave and has recently retired but will be replaced.

Representative Wallace said she is concerned about the nine to 12 vacancies. The only way to hold the budget was to keep the vacant positions open. The existing deficit had been in place for a number of years. The future years will still exhibit this problem, as the baseline figures do not reflect filling these positions. We have enough funding for the FTE but not full-time throughout the year. The deficit amount is around \$600 thousand, Ms. Martinez reported.

Senator Griego wished to follow up on Representative Wallace's questions with an explanation of the occupation and wondered about the possibility of entering into part-time contracts with local governments, rather than entering into deficit budgets. Ms. Martinez said counties are overwhelmed with inspection needs and salary expenses. CID is mandated to cover the loss of county inspectors.

Senator Jennings requested information about the failure of the agency to meet the performance measures on issuing licenses. Ms. O'Dea addressed this issue with an explanation of partial applications, and the wish to develop different timeframe measurements, currently at 24 clock hours.

Representative Salazar questioned the vacancy status at the CID/MHD and Ms. Martinez responded with an explanation of the difficulties in distribution of new inspectors in four districts at the new salary levels approved by the commission.

Responding to Representative Varela, Tom Keesing of the Real Estate Commission reported tremendous turnover in investigative staff needed to monitor the agents not serving the public. This leads to a budget request to raise the salary classifications of the educators and the investigators to enable retention and the expansion of 4 FTE. Consumers are not getting the quality of service that they deserve. This commission charges fees, which means that they do not require state appropriations. There is a surplus of over \$2 million that requires some attention or reduction in fees.

Representative Varela discussed the problem of raising property taxes in cases of repeated bidding on property. He requested the Real Estate Commission return to help develop the rule to address this problem.

The department is asking for 16 FTE in expansion. The department has nine vacancies in construction industries and 21 in the Financial Institutions Division (FID). Representative Varela suggested eliminating vacancies before seeking additional positions. Representative Varela reported that we need a consistent study on state employees. State departments cannot attract employees with the current base salaries.

Representative Moore asked Gary Tamada of Alcohol and Gaming about the price of alcohol licenses. He reported a range of price from \$200 thousand to \$275 thousand, or \$600 thousand for those that cannot be transferred within district considerations.

Senator Smith is starting to see cycles in financial institutions; he said he sees the potential for double contracts and out-of-state mortgage brokers, who are completely deregulated and acting in violation of federal standards. Some real estate offices are tied in with such mortgage companies. He warned those present about the pending repercussions in this sector. Senator Smith appreciated the response of CID. The budget on fuel and travel affecting this industry was created when prices were at a peak and might be corrected during session. Senator Smith inquired about delays in club licenses.

Mr. Tamada responded that these club license renewals have problems with the paperwork due to the requirement to report board membership. Convicted felons cannot stand on the board. Temporary licenses will be issued to prevent licensure lapse. In response to Senator Smith's question why it takes so long to acquire beer and wine licenses for certain vineyards, Mr. Tamada suggested that this would apply to off-site locations for wineries. The department

usually meets benchmarks of 100 to 129 days in licensure procedures. Senator Smith knows a Catholic church awaiting their license and will have them call Mr. Tamada.

Tourism Department (418).

Mike Cerletti, secretary, New Mexico Tourism Department (NMTD), stated that tourism is a \$5 billion industry and the largest private sector employer in the state. He highlighted several events the agency is working on, including the X-Prize Cup, the World Peace Conference, an off-road race between Deming and Chihuahua City, Chihuahua, Mexico, and the Great Santa Fe Trail Horse Race from Santa Fe to Independence, Missouri.

The Federal Highway Administration awarded about \$500 thousand to New Mexico's scenic byways. The secretary recently attended the Travel Leadership Conference in Washington, DC, to urge more federal support of tourism. Finally, the sport of golf has become a \$1 billion industry for the state, and the department has sponsored tournaments.

NMTD has reorganized from seven programs into four: Marketing and Promotion, *New Mexico Magazine*, Tourism Development, and Program Support. NMTD has a five-year joint powers agreement for approximately \$140 thousand per year with Corrections Industries to provide consumer fulfillment services for NMTD, and NMTD has not historically been adequately funded for this agreement. NMTD requested an increase of \$15.1 thousand to cover this JPA. Additionally, NMTD is seeking increased spending on international promotional contracts by \$81.2 thousand and has requested the increase in FY08.

Two performance measures are the print conversion rate and the broadcast conversion rate of tourists to New Mexico. NMTD spends between \$20 thousand and \$50 thousand to do a conversion study and does not currently have the funding to do this study. It should be noted the industry generally mandates a study occur at least annually.

The secretary outlined the need for additional budget adjustment authority for *New Mexico Magazine*, New Mexico Clean and Beautiful, and the Off Highway Vehicle programs.

Historically, *New Mexico Magazine* and New Mexico Clean and Beautiful have had budget increase Budget Adjustment Request authority above the 5 percent limitation. NMTD requests the language for additional FY07 and FY08 budget adjustment authority. Additionally, the Off-Highway Vehicle Program has a dedicated funding stream from the user permit fee of off-highway vehicles in New Mexico and permits for out-of-state vehicles. As of June, the revenue stream generated \$190.3 thousand. NMTD anticipates revenue up to \$360 thousand in FY07. NMTD requests increased budget adjustment language for this program for FY07 and FY08.

NMTD is a title sponsor of the New Mexico Bowl, and the department is requesting a supplemental appropriation for the first \$300 thousand due in FY07 and the remaining \$600 thousand as a multi-year nonrecurring special appropriation. Even only partial funding of this event from operating revenues will deal a severe blow to the department's advertising and marketing efforts.

NMTD is requesting the \$1.5 million special appropriation be included in the Marketing and Promotion Program base in the FY08 request. NMTD relies on this funding to provide basic services, such as salaries and benefits, promotions contracts, cooperative advertising, and marketing.

TD has an ongoing significant shortfall in personal services and employee benefits and has requested full funding for existing FTE in the FY08 request.

In FY06, NMTD spent \$118 thousand on market research. In FY07, NMTD expects to spend approximately \$234 thousand, of which \$83.5 thousand is contracted labor costs. Approval of the FTE for market research will save approximately \$50 thousand, which NMTD could use to purchase additional primary research data as well as conduct pre- and post-research for the new marketing campaign.

Other requests included six new staff in Visitor's Information Centers, open 362 days a year and \$250 thousand as a special appropriation for the state float in the Rose Bowl Parade. The off-road race will take place between Deming and a city in Chihuahua, and also needs a special request for promotion. The department also requested a full-time attorney (\$54 thousand) to handle the new responsibilities the department has been given: the Sports Authority, the Inter-Tribal peace conference etc., and an additional \$34 thousand for a new marketing assistant, and \$28,500 for half the cost of 1 FTE for a financial specialist.

Chairman Varela requested the information on the marketing collaboration with the State Parks Division and Department of Cultural Affairs. The secretary reported \$100 thousand was used for each of those efforts. In response to the chairman, the secretary reported that about \$300 thousand of the \$1.5 million appropriation was used for salaries and benefits and went on to explain that DFA permitted use for this purpose as the language in the bill was broadly written. The chairman believes this was a misuse of the appropriation, and the funds should have been used strictly for marketing and promotion.

Senator Altamirano addressed the special appropriations requests such as the New Mexico Bowl contract and others listed. He asked the chair if these issues came before the Legislature. Neither the bowl, nor the Rose Bowl campaign, had come before the Legislature. He suggested information be presented to Legislature, before this branch sees the news in the papers.

Senator Rawson reviewed the Tournament of Roses and the Rose Bowl expense figures. The expense for the last float was taken from the advertising campaign funds. Senator Rawson asked for the figures that represent the reported "huge success of the Rose Bowl Parade."

Mr. Cerletti, secretary suggested it represented over one million dollars of advertising value, along with additional articles in magazines throughout the country. There was a 31 percent increase in calls requesting information about the state in the month after the parade. The total expense of the float was \$160 thousand, offset by the sponsorships attached to this project. A special version of *New Mexico Magazine* was produced on game day. Mailings with sponsor's cards were distributed in the southern California area.

Senator Jennings said both the *New Mexico Magazine* calendar and Department of Cultural Affairs calendar should have more from southern New Mexico. At least a third of the images should be from southern New Mexico, which could help the area's image and perhaps the economy.

Chairman Varela asked about an older proposal to connect the Camino Real to California; the governor vetoed \$100 thousand funding for this project in the past legislative period. There had been a process initiated to invite the other states to unite along the Old Spanish Trail going north and along the Camino Real. The chairman emphasized the historical importance, and recalled

that Janet Green, prior NMTD secretary, was involved in preparing a reception with Missouri where the trail originated.

The committee adjourned at 6:12 pm.

Thursday, October 26 - Room 307 - State Capitol

Public School Support (993) - Preview of the FY08 Budget Request.

Veronica Garcia, secretary, Public Education Department (PED), said this year has been the most difficult of the past three, mostly because of conversion to SHARE and other data systems. But in the long run, the Legislature will be provided with more valuable data.

Responding to Chairman Varela, Don Moya, deputy secretary, PED, said preliminary figures for public school support indicate the state will have about 630 thousand units in FY08. Chairman Varela was concerned future budgets could be affected by the Zuni lawsuit. Ms. Garcia informed the committee that this case will be heard by the Supreme Court early in January. Chairman Varela requested the committee take into consideration the impact of this case.

Noting the difficulty of receiving data, Mr. Moya reviewed the categorical items in public school support.

- Transportation may decrease a bit. Driver safety fees may decrease because licenses are renewed for a longer period of time.
- Emergency supplements were to deal with districts with difficulty (\$7 million in this category is more than ever in the past).
- The average per pupil cost in math, music and the arts is \$65-\$67.
- Technology funding would increase from \$1 million from last year.
- Money to help schools in need of improvement is provided for the first time this year.

Ms. Garcia suggested the executive would request funds for the pre-K program, but does not know the figure. The school improvement program (\$7.5 million) includes summer programs, after-school enrichment, high school redesign to include more advanced placement classes, and other elements.

Representative Wallace inquired about the amount of federal dollars running through the schools and the anticipated cuts. Mr. Moya is still trying to figure out the impact of reduction. An error in Title I represented \$360 million in federal funds. Representative Wallace requested a list of which programs are funded through federal dollars.

In reference to the compensation package that the executive is preparing, Ms. Garcia did not know the date for a firm commitment and said she would share the initiatives prepared by PED with the LFC and the Legislative Education Study Committee.

On the extended school day and year, she highlighted after-school programs and extensive remediation in reading and math, which is not the same as tutoring, as research-based methodology to improve achievement. Teachers are voluntarily working outside the regular school day.

Retirement Program. Senator Smith explained the efforts to try to address the membership

obligations with more financial expertise.

Ms. Garcia, who serves on the Education Retirement Board (ERB), said the investment target was met at an 8 percent aggregate this last year. Senator Smith said the \$4 billion shortfall will be difficult to reduce.

Representative Varela would like a comparison performance on the retirement fund, the ERB, and the State Investment Council investments. Mr. Abbey reported the ERB outperformed the others by a slight percentage. Ms. Garcia reported due diligence is done to find money and market managers.

Senator Smith inquired if the breakfast program in schools is mandated by PED. He heard some feedback about the difficulty of having the breakfast served in the classrooms. Ms. Garcia explained that the districts make decisions locally about how this will be served. Gilbert Perea, assistant secretary, PED, explained the options that districts may choose from. Ms. Garcia suggested she could send out a memo clarifying this issue.

Senator Smith inquired about the commercial driver's license (CDLs) for school bus drivers, the retesting per federal mandates being performed in Albuquerque on a weekend, and the loss of previous drivers. Mr. Perea explained the collaboration with the Department of Transportation (NMDOT), the Motor Vehicles Department (MVD), and other agencies to review the New Mexico test requirements resulted in proving the state's test did meet the federal criteria. PED has authority to provide the retesting component of skills test. The CDL program has experienced great changes in the skills component. If the department is not in compliance, it could lose substantial federal highway funds.

Senator Griego said he is concerned about school improvements, particularly in regard to teacher qualifications. He asked about the process of teacher certification and regulations or state statute requirements of teacher attendance. He also inquired about substitute teacher qualifications. Considering the budget requirements for school improvements uses almost half the state budget, he finds this issue may defeat the investment.

Ms. Garcia said substitutes are scarce in the state and tougher requirements would make that problem worse. There had been some proposals for creating incentives to avoid sick leave. Teachers are required to leave lesson plans for substitutes.

Senator Griego said incentives may not work as well as regulations and policies. He inquired about monitoring data on substitute teacher presence in the schools. He requested the secretary provide some ideas about classroom attendance requirements for teachers and monitoring of substitute teachers.

Representative King inquired how many of the 89 school districts have applied for emergency supplemental funds. Mr. Moya reported four charter schools and 19 schools (primarily from small rural districts, with declining enrollments, facing salary and fuel costs increasing), had applied for a total of \$7 million. School districts budget their requests, and the department is confident these will be met.

Representative King asked when a request from Moriarty School District (with 4 percent declining enrollment) might be met. The second quarter financials are due on January 30, and a decision will be made around mid-February. Her concerns are about unfunded state and federal

mandates being made on schools. Mr. Moya believes that such items as utility cost increases or mandated salaries and benefits may not be met. He asked the representative to weigh whether districts are also trimming costs to live within their means against the increasing requests.

Representative King described the history of the Moriarty School District, which now faces potential growth in enrollment, and suggested they are taking steps to work within their means. She described the school as the backbone of the community and suggested stop gap measures may be indicated. Larger school districts can absorb the impact of funding shortages, but smaller school districts cannot. Closing a school sends the signal that business is poor and employment is unavailable in the district, which would stop further development. She would like to see a moratorium on school closings. She suggested executive vetoes have affected economic development in the rural communities. Under current statutes, a district could convert to a charter school district, which would exacerbate the problem. Many district decisions are counterproductive.

Senator Altamirano spoke with empathy about rural districts, but reminded the committee of the serious situations in large urban areas.

Representative King remarked about the growth of supplemental funding. Mr. Moya reported supplemental requests were not made last year and the Legislature and the department were concerned that the schools were not informed of these funds. There is also a certain stigma attached to supplemental requests, which may cause districts to be reluctant to make these requests. Now, the word may have spread, which has resulted in the growth of requests.

Senator Altamirano called these issues timely because the formula is being developed. Senator Jennings asks about impact aid. Mr. Moya reported a decrease in impact aid, largely due to cuts in federal funds. Los Alamos does not receive impact aid but receives a sizeable defense grant. In response to another question from Senator Jennings, Ms. Garcia responded the federal Title I allocation requires an amount for supplemental funds for transportation. State school improvement funds of around \$4 million go back to the districts. Senator Rawson remarked on the need for a pay scale for substitute teachers to find quality staff.

Senator Griego gave accolades to the achievement results and the history of the Acequia Madre Elementary School in Santa Fe and inquired about whether the PED can influence the local district's plan to close this school. He declared he planned to bring a proposal to Legislature regarding the preservation of this successful school. Ms. Garcia reminded the committee that the authority over these decisions resides with the local boards.

Senator Griego called the policy regulating inter-zone transfer ridiculous. Overcrowding could be relieved by keeping the smaller school open, allowing for these transfers. For economic reasons, one school board member is pushing for this closure. He presented a letter addressed to Leslie Carpenter, superintendent of the Santa Fe Public Schools, and copies to the Santa Fe legislative delegation. Representative Peter Wirth also seconded the concern about this school and the plan for action. He explained the local school board wishes to sell the valuable land at this location to resolve budgetary issues in other areas.

Senator Smith spoke about an appalling case of certain groups trying to shut down a brand-new school, due to the interference of a State Fire Marshal, who had not been included in the construction phases. The prescriptive plans and inspections regulating school construction are quite strict.

Senator Beffort inquired if the State Fire Marshal supersedes local fire marshals authority and inspections. She described a school in her district forced to move a collection to the library, after capital outlay funds dedicated to this school were vetoed. PED representative explained the differences of codes between communities and the State Fire Marshal's attempt to reconcile between them.

Higher Education Department (950).

Beverlee McClure, secretary designee, Higher Education Department (HED), said the department has become more policy-making than regulatory through incorporating the stakeholder participation. She said the department is asking for another \$50 million for the College Affordability Scholarship program. She said 48 percent of the lottery scholarship is reaching lower and middle-income students. If tuition increases are limited for the next three years, the life of the lottery fund will be extended significantly.

An equity and access division was created within the department to meet the needs of special students. Action plans for minority student improvement allow the department to have access to the data on achievement and expand the Indian Education Act.

Senator Mike Sanchez, committee guest, informed those present that the Los Lunas school district reduced the hours for at-risk kids from 30 to 23, seemingly to encourage this sector of student population to leave the program and work on their general education diplomas. He requested the secretary inquire about this process with the superintendent of the Los Lunas district.

The budget request reflects a 6.3 percent increase in general fund revenue, or \$1.6 million with \$500 thousand recurring, plus the basic expansion positions. The department needs other income to compensate for the anticipated gap, not otherwise received from grants and other sources.

Representative Sandoval posed a question about the lottery scholarships and other scholarship programs. It seems other institutions such as the regent's scholarship supplement, or the Fulbright program, take credit for the lottery awards. His concern is about depleting funds from the lottery.

Ms. McClure explained the lottery scholarship begins in the second semester for a sophomore with full-time attendance, for tuition only. Other scholarships exist for books, fees, and living expenses. There is a data verification made of the expenses. An accountability mechanism confirms the institution distributes the money to that student awarded. For example the regent's scholarship would not cover the tuition if the lottery scholarship is paying for it. The secretary knows the accountability and qualifications measures should assuage the concern about lottery depletion.

Senator Carraro also spoke about rumors about the lottery system not being sufficient to cover the needs of students. It was designed to serve all students who wanted to attend higher institutions within the state, but particularly those students whose families could not afford tuition. He asked the secretary to address other costs, such as books.

Ms. McClure addressed the deficit. The department developed a model to predict the lottery funds generated and those necessary to meet the population's needs with financial agencies.

There are several proposals on the table to increase the lottery revenue. If the governing boards adopt the resolution to limit tuition increases mentioned above, the funds should suffice. Other state agencies and institutions are investigating how to help students supplement revenue to cover rising costs, other than tuition. The issue of books has been of concern in education for a long time and has been constantly debated. The department hoped to have the capacity to find aid for students to purchase materials and books, as well as tuition.

Senator Carraro requested Ms. McClure return to legislative session with some suggestions to resolve this gap. Ms. McClure suggested the Legislature could provide more funding for this issue.

Senator Beffort suggested higher institutions should be evolving a curriculum for schools of education, which might be used in a timely manner to fill deficits in highly qualified, professional staff for schools.

Ms. McClure reported the Ready for College study gave PED and HED the data to use to develop policy over this issue. PED actually has oversight over the curriculum even though HED has the funding oversight. She also highlighted the problem of attracting quality teachers to the rural areas.

Senator Beffort reiterated that there exist resources that could be involved in the discussion with college and university presidents to provide excellent education to prepare math and science teachers. She felt that this should occur on a voluntary basis and perhaps legislation could be enacted to stimulate this development

Ms. McClure reported neither PED nor HED was given the authority to dictate curriculum, though funding incentives can be stimulating. Teacher education and professional development opportunities are high priorities for this department. The student achievement at the high school level ensures the preparation of the students for the college level.

Chairman Varela asked about the vacant positions in the budget. Arley Williams, LFC analyst, reported the steps taken in delivering budget requests. Chairman Varela requested that she work with the department to reconcile them.

Chairman Varela asked about individual trust funds balances. Representative Varela requested a copy of these accounts.

Responding to questions, Ms. McClure said the department is asking this year to expand the Teacher Loan For Service program by \$400 thousand.

Responding to committee concerns, Tino Pestalozzi, chief financial officer and director of the Budget and Finance Division, HED, said the agency can generate quarterly reports on budget status, cash balances and other items but was preparing them as needed because the staff is still on a learning curve with the SHARE financial system. They are successful in getting millions of dollars out of the door. Mr. Pestalozzi is on loan to the SHARE Task Force for additional training. Chairman Varela recalled that many FTE cannot use the resources because of a lack of training. His suspicion is that additional training will be requested.

Ms. McClure said an internal review of finances is likely to show the agency needs to clean up management of financial aid.

Domingo Martinez, state auditor, reported that the audit was sent over to the State Controller's office, but it has not been approved as yet. Chairman Varela declared that this is a problem across departments.

Senator Smith inquired about the working partnership between PED and HED. HED implements test-based funding and is able to roll these funds into the formula, because institutions are in compliance. The secretary would like to prepare initiatives to distribute the dual-enrollment programs through out the state and this will be proposed in legislative session.

Information has not been received completely on declining enrollment but can be expected from flat high school enrollment levels.

State Fair (460).

Fred Peralta, State Fair manager, reported the State Fair's budget remains flat; however, as an enterprise agency, it can differ from year to year. At the end of FY06, there was a profit of approximately \$400 thousand. The annual audit has been completed and will be delivered in compliance.

The annual fair, which occurs in September, earns 53 percent of its revenue. A 10 percent attendance increase was predicted; paid attendance increased 8 percent.

Profit increased this year by \$400 thousand, which will give the agency a little buffer for next year to cover minimum wage costs. In Albuquerque, the minimum wage increased by city ordinance and the State Fair organization will increase its wages. The labor pool for this year's State Fair was considerably lower; one of the motivations to increase staff wages.

The new coliseum in Rio Rancho is taking away the customer base, which will be reflected in the upcoming year's income base. Some customers are using the Rio Rancho facility on a trial basis, though there are concerns about its location.

Mr. Peralta directed the attention to a survey of 1,200 customers conducted during the State Fair. The economic impact on the metropolitan area was rated substantial from these customers, who attended the fairgrounds. It also showed that those attending the New Mexico State Fair visited up to three times during the time span of the fair.

Senator Carraro reported the State Fair represents competition to local restaurants. He noted the changes he has observed in the food providers over the years. It seems out-of-state providers come to staff the food booths. Local providers complain about rising costs and the obligation to purchase tickets for their staff to enter the fairgrounds.

The race track needs maintenance, Senator Carraro continued, and asked about past legislative support for improvements. Mr. Abbey, LFC director, recalled a tax credit. Mr. Peralta reported the track is a tenant. Senator Rawson reported the tax credit is shared between the State Fair and the tracks. The State Fair thus receives \$1.2 million in parimutuel tax from all the tracks. Senator Carraro suggested the State Fair might look at taking over the track again. He also inquired about the development of the contract with the Scorpions with the facility in Rio Rancho.

Mr. Peralta reported the team wanted to ensure principal control of the facility. Regarding the housing requirement, Mr. Peralta described a five mile radius requirement for this component. Senator Carraro described the area on the West Side as available and his constituency desiring the State Fair to be moved there.

His next question was about the location of the Afro-American Center, next to the Afro-American Pavilion. Mr. Peralta described two different functions of these locations. The pavilion is used for meetings throughout the year and specific functions at the Fair. The center, to be built on San Pedro, will have a performance facility.

Senator Carraro also commented about the bathrooms cleanliness and sanitation at the fairgrounds.

Secretary Peralta reported the need for another \$25 million to \$30 million to upgrade the facilities, specifically describing the sprinkler system to comply with fire codes, changes in the water distribution program, and redesigning the water system (a \$4 million project). He also described new buildings to add to the facility, requiring another \$25 million to \$30 million. Senator Carraro inquired whether these funds would be returned through the State Fair's annual income

Mr. Peralta highlighted the savings that have occurred through the investment of capital improvements. He emphasized that the agency does look at New Mexican vendors first. The State Fair had not increased parking rates since last year, and these are competitive with other venues. He agreed that food is expensive at the Fair, but in comparison to other entertainment or sports activities, the costs are comparable. The State Fair is a 17-day event, which allows the vendors ample opportunity to realize profits. Senator Carraro urged the manager to use fairness in pricing decisions.

Representative Varela inquired about the budget request to reclassify 18 term positions. Mr. Peralta indicated he would like to be granted the request because of limited funds for term employees. The preference is to have all term employees re-classified to permanent status. Representative Varela questioned if term employees have benefits. It was confirmed that term employees do receive benefits. Representative Varela acknowledged the financial reports received by the committee from the agency. Mr. Peralta reported that the Fair only uses the SHARE system for payroll, an independent financial reporting system is used by the agency.

Working Lunch – SHARE System Implementation Update.

Representative Varela requested representative from the judicial, legislative and executive branches provide the status of SHARE in their agencies. He also asked that the state auditor, state controller and the state chief information officer provide a report to the committee. Domingo Martinez, state auditor, Aurora Sanchez, LFC information technology (IT) auditor, Anthony Armijo, state controller, and Roy Soto, chief information officer (CIO) were all present to respond to questions. Representative Varela began by asking what kind of guarantees were provided in the contracts, the length of time until the system is fully operational with reliable reports, and what assurances are there that there is fiscal control.

Roy Soto, CIO, explained the need for a state resources accounting and reporting system (SHARE) was to streamline the state's core financial and human resources and processes. He

went on to explain how the project was structured. After the appropriation, the state went through a two-phase process: (1) to select the software, PeopleSoft, for \$3.7 million, and (2) to select an implementer, Maximus, at a current cost of \$14.2 million, which included additional modules from state departments' specific needs. The total cost of the project is \$17.8 million. The PeopleSoft contract was for 12 supply chain modules and five HCM modules. The Maximus contract was for training, technical support, conversion, and implementation services. The Maximus contract contained a 15 percent holdback, or \$1.8 million, but does not have a performance bond. There are issues about whether Maximus has met its contract deliverables.

The state implemented the software without any modifications. Implementation of the software was going to require agencies to change their business processes. Most of the implementation has gone successfully, according to the plan in place, which was deemed adequate. The system has not been accepted. It is in a validation phase, not in production. The Office of the Chief Information Officer has instituted greater accountability, more aggressive remediation of problems, and new training methodology because the train-the-trainer approach did not work.

After going live, issues of vendors and state employees not getting paid arose, and agencies did not have reports to use and training had not worked. To address these issues they are now using a multi-pronged approach. Working with Mr. Armijo and the executive sponsors to address issues, a website has been set up to report payroll issues and other problems, they have visited with agencies and helped them with payment issues and brainstormed for training using seasoned veterans in accounting and human resources. The IT team of chief information officers is looking at the configuration. Training labs have been setup at DFA, GSD and NMDOT.

Anthony Armijo was asked to report from his experience running financial control division.

DFA was taking three weeks to get a vendor into the system, now it takes three to four days. Today there is training for Human Resources.

Representative Varela spoke about the need to have the Budget Division perform monthly oversight of agency budgets by matching appropriation to reports online, checking whether the agency accounting systems are certified, and performing other tasks. Mr. Armijo replied that Budget Division can look at budget reports monthly, and financial control can track expenditures. He confirmed that the certification of agency accounting systems is being done by accepting the chart of accounts in the subsidiary systems.

Domingo Martinez explained his agency is mandated to remain independent, and thus he chose not to participate in the development of the SHARE system. Reports are not available through the SHARE, causing audits to be late, and next year probably requiring validation of errors corrected. The closer to tax season it gets the less likely it will be that certified public accountants will be available to complete FY06 audits. Mr. Martinez said that agencies that have kept separate books will have their audits completed by the statutory due date.

Mr. Armijo and Mr. Soto were asked (1) who was involved in procurement and planning of the system, (2) if agencies were allowed to opt out of using SHARE. Mr. Soto said he did not understand why a parallel implementation was not considered, why the vendor list was riddled with errors, why the reports were not ready sooner, and why the time to go-live was not moved back to allow for more training and was doubtful that the system complied with all the statutory requirements. Mr. Armijo and Mr. Soto said that the executive sponsors were involved in the procurement, and that all three branches of government had a seat on the steering committee,

meetings were well attended, no agencies were not allowed to opt out of using the system, they are proceeding with getting reports that are accurate, and the training manuals were revised to make them more user friendly.

Jeff Varela, deputy director of the Administrative Office of the Courts, identified the problem as lack of planning and problems with implementation. He foresaw these problems coming down the pike, because this is a major endeavor. More training may not resolve the inconsistencies of the reality of training with the system. He is concerned about more testing.

Manu Patel, LFC audit section deputy director, explained that the problem with some of the transactions is that the parent-child relationships were not set up properly, creating orphaned transactions and, in turn, inaccurate reports. The problem is issues with date-range parameters. An attempt to reconcile LFC's budget status report came within \$120 thousand. The same problem is occurring with the LFC's sister agencies. Payroll is posting incorrectly and will require adjustments. He estimated that it will take more than a month to come up with accurate reports. The agencies will not be able to produce the federal reports, due at the end of this month, and will have to request an extension.

According to Mr. Soto, 23 agencies have federal reporting due on October 30 and November 1; one agency has requested and received an extension and another is requesting one.

Chairman Varela asked if the implementation timetable had been extended to one year. Mr. Soto stated that the state is taking the role of client and asking Maximus to do what is needed. Maximus must have spent \$300 thousand that the state will not be reimbursing them for. Serious negotiations are being held with Maximus, which will not conclude until the state is satisfied with the product, but his agency did not have a timeline.

Chairman Varela requested Mr. Soto have a timeline by the November 13 meeting. He advised the committee and audience that this may well come into the courts for resolutions.

Senator Griego recalled the LFC meeting in Gallup where Mr. Soto and one of his assistants assured him that IT contracts would be stronger, that it would never happen again. He told Mr. Soto that his concern then and now is involving experienced people in contract negotiations. Senator Griego wanted to know who was involved in the negotiations, in the vendor selection (did any of those people have a technology background), and who signed the contract. He also wanted to know what the cost has been of having to re-run checks, employees having to enter information into two systems and the inability of State Auditor to complete the audits on time. A 15 percent holdback is not enough if the state has to go to court. Senator Griego would like the contractors to come before the Legislature to answer questions. He is concerned that cabinet secretaries spend large sums of state funds without regard to results. Taxpayers are not being served.

Mr. Soto had said that he has an oversight role, he signed the contract after staff made sure it complied with the IT Architecture Plan, and the executive sponsors, secretaries from DFA and GSD and the SPO director, were involved in the negotiations.

Mr. Armijo provided additional information to the selection of the software. There was a committee involved in the negotiations, with a satellite group providing a review of the performance. He could provide the list of members, all with extensive technology and state department experience, as well as the review. This is a very big complicated system, with a

sharp learning curve. At this time, the state is moving through the sharp learning curve.

Representative Varela reported Carroll Cagle, chair, Information Technology Commission, was requested to be present. Mr. Soto informed the chair Mr. Cagle had a prior commitment in Las Cruces. Representative Varela said that it might be best to allow the IT Commission to sunset.

Mr. Soto informed the committee that Phil Ferguson with Gartner, an internationally known IT consulting company, was the consultant on the next phases. He has not been fully paid. The state does not have a warranty, holdback percentage, or performance bond on his \$450 thousand contract. Mr. Soto explained that he would be meeting with one of the top vice presidents of Gartner the following day. He indicated his displeasure and unwillingness to pay further money on this contract.

Senator Griego declared that the state has no recourse against this consultant. He suggested that the state needs to change the way it conducts business. He talked about the responsibility to protect the money of the state taxpayers in these IT purchases, without involving pertinent expertise.

Representative Janice Arnold Jones, committee guest, asked whether the resource guides had been updated and validated so that they looked like the system. Mr. Soto believed so. Mr. Armijo looked at the training material and suspected it matched the purpose of integration, but in other areas the integration of this material was not done so well. Mr. Soto explained the documentation was too complicated and too cumbersome, according to state employees he spoke to.

Representative Arnold Jones was surprised that the state's Chief Information Officer did not know that the train-the-trainer approach was not a good training form and that full buy-in was not sought. Mr. Armijo stated that by holding sessions with agencies, demonstrating the systems, and getting the hundreds of employees present to give their feedback about the selection of software, he felt the work was done. All the processes of agencies were documented. These sessions were held prior to the finalization of the contracts. The vendor set up labs to allow for state personnel to get a feeling for how the software works. Later, on-the-job training was conducted, which improved the production rates enormously.

Representative Arnold Jones asked if the project team considered the employees' daily work and who on the team had system administrator qualifications. She confirmed that PeopleSoft software is well-known and well-respected business software. She knows that many businesses have rolled out this software package with few problems. The CIO's response was to bring in systems administrators as consultants.

Senator Beffort inquired whether there is any remuneration in place on late vendor payments or late personnel paychecks, and inquired about the state paying interest on them. Mr. Soto reported that some vendor problems were not caused by SHARE. Mr. Armijo reported that those vendors, who have billed the state, have been paid. Justin Najaka with SPO will discuss the issue with the director. Mr. Soto reported most state employees are receiving their checks over the last three payrolls. Senator Beffort feels a memorandum or note to all the state agencies, or some sort of bonus, would lift morale of state employees.

Senator Carraro stated that a parallel system should have been maintained, knowing that problems would arise. He worried that the state government appears to repeat mistakes with

such purchases. Mr. Soto informed the committee that the past Legacy system was inadequate for the needs of the state. This antiquated financial system was on the verge of crashing. Moreover, running a parallel system was too costly.

The state auditor supplied a list to Mr. Armijo of those agencies who need their audits approved, which should be finished in a week. Mr. Armijo confirmed they could have them approved in a week.

Friday, October 27 - Room 307 - State Capitol

The meeting reconvened at 8:29 am on Friday, October 27, 2006, in Room 307 of the State Capitol Building

Miscellaneous Committee Business: Action Items.

1) Approval of LFC Minutes – September 2006: At 8:49 am the minutes were adopted by the committee, with a motion by Chairman Varela, seconded by Representative Sandoval.

2) Approval of Subcommittee Reports Senator Altamirano moved to adopt the subcommittee reports, Representative King seconded the motion.

Senator Griego inquired about the surveyors' board. Does passing this motion prevent the surveyors to come before the committee again? Mr. Abbey said they could come before the committee in December.

3) Approval of Contracts: Luciano Baca was contracted to help do the fiscal impact reports (FIRs) during the time LFC staff is working on the General Appropriation Act. No objections were heard from committee members. Chairman Varela moved to approve the contracts; Senator Carraro seconded the motion, which passed the committee.

Human Services Department (630).

Preview of the FY08 Budget Request for the TANF Program. Pamela Hyde, secretary, Human Services Department (HSD), said Education Works and the TANF Works requirements will have to be modified, due to the impact of the federal Deficit Reduction Act (DRA). Performance requirements to meet 90 percent of the objectives are determined highly unlikely to be met, so states are likely to receive a penalty of corrective action within a year. New Mexico could then be penalized \$329 thousand in federal funds in the second year, to be replaced by the state, which really results in a double paid penalty of over \$600 thousand. The department must also increase the proportion of maintenance of effort (MOE), for the following period. The qualification of MOE will have a financial impact from then forward, which amounts to a double reduction in funds.

Senator Altamirano asked about the effects of federal budget reductions on the department. The secretary explained that impacts on FY08 have been analyzed and HSD is working on FY09. She predicted legislative changes needed and proposals to be brought forward. Charles Sallee, LFC performance auditor, reported the audit done by LFC was accepted and its recommendations are being put into place.

Representative Saavedra inquired about a shift in responsibilities for career development specialists. Ms. Hyde informed the committee of the need to reduce spending to the 2003 levels, due to past accounting inaccuracies. The department is requesting an expansion of \$3.5 million to increase staffing for these positions. This shift is where MOE dollars are counted. She said

HSD needs to change its IT systems and implement a job retention bonus program.

Chairman Varela inquired about potential federal reductions. The secretary explained the government would reduce their own costs in FFY08. Ms. Hyde reported \$6.5 million was re-appropriated, but the department anticipates the loss of this entire sum, or a portion of it, in FFY 09. She said clients are already under pressure to meet work activities and this law more narrowly defines work activities. The state will no longer define these parameters. The state is required to provide higher levels of documentation and will need to be in contact with clients more frequently to gather such information, which could be beneficial in the end. The pending penalties for non-compliance were reaffirmed.

Katie Falls, deputy secretary of programs for HSD, reported the department will ask for a budget adjustment if they feel they will fail two years consecutively. Ms. Hyde said it will be a neutral cost issue and referred to the department's pending IT changes.

Ms. Falls said the plan would not cost more money but could reduce the amount of revenue coming into the department. She said a fiscal impact report is being prepared and can be presented at the November meeting of the welfare oversight committee.

Chairman Varela inquired after the transportation component of the TANF program, with the concern of providing the rural areas with mobility to the services. Transportation is a constant and necessary factor to take advantage of Human Services programs, or to reach the employment sites. Ms. Falls reported HSD has not spent all the transportation dollars, due to a reduction of providers. HSD will study a more effective use of the money for the future.

Chairman Varela suggested a collaborative effort between transportation and the private sector, with mechanics and perhaps even local town matches. Ms. Falls expressed agreement and said that the current ways of providing transportation for welfare participants are not working at this time. The department uses local providers, using public bus tokens and bus passes, for example. Senator Altamirano reported that some local providers are having trouble maintaining services. There is a proposal before the Legislature relative to this issue.

Senator Griego asked about the staffing of the Santa Fe office. The secretary said that the office is using experienced staff from other locations and looking for a permanent leadership at this time. A caseload ranging from 400-800, depending on the caseload mix, or an average of 600 cases, is far too demanding of the personnel, relative to the salaries offered. The department is asking for 122 new staff, particularly in outlying areas. Senator Griego inquired about the undocumented immigrant regulation and volume. Ms. Hyde reported in most cases, illegal residents are not able to participate in the programs.

Senator Altamirano remarked that HSD has the largest budget request, after New MexicoDOT, with a \$3.5 billion budget

SHARE experience within DHS. Darrell Schwebach, deputy secretary of finance, HSD, reported on the progress the department has made with the SHARE program. He is currently helping agencies with their grant management and reports. Connie Maki, HSD IT manager, is looking at the system's configuration and hardware components to analyze what is needed. Overall, he reported, the department system is functioning well, with brief moments of downtime. He emphasized the advantages of the new financial system with vendor payments and payroll, with only isolated problems related to payroll error. He responded to a question about vendor

payments by explaining HSD clients are receiving third party payments and have not seen any interruptions.

Chairman Varela expressed concern about reporting requirements particularly for federal reports, due on Monday. He recalled reported processing problems and training problems.

Chairman Varela asked if the department can actually create a detailed report in terms of cash balances and encumbrances with this system. Chairman Varela said the committee does not feel comfortable that it can analyze general fund balances in due time with erroneous SHARE reports, which is debilitating, considering the state budget comes strictly from that fund.

Mr. Schwebach confirmed he had run the reports that were available, which had to be checked for errors in the data. Four such reports were considered inadequate, and further explanation about attempts made is needed to compensate for the errors.

The next order of committee business was to approve the report on performance review work plan for the calendar year 2007. A motion, made by Senator Altamirano, seconded by Senator Carraro, passed with unanimous consent.

Aging and Long-Term Services Department (624).

Deborah Armstrong, secretary, Aging and Long-Term Services Department, focused on the expansion elements initiated in her budget request and the base budget highlights. Four initiatives were described:

- The resource center fields up to 300 calls per day and the department is requesting three counseling positions to increase capacity. A centralized statewide intake for adult protective services would also increase the workload there.
- Services for brain-injured people had received a previous nonrecurring appropriation and another expansion request is to have this recurring. Representative Saavedra discovered there is no age limitation for these services. Nine positions are requested for a new program, three of which have been funded by grants in the past.
- Coordinated long-term care is an initiative discussed for many years. HSD had issued requests for proposals for coordination of services in this program. The vendors have been selected. Legislation was introduced this year to support this program. The department is applying for a demonstration grant from the federal government and is also asking the Legislature for some positions for planning and design.
- Previously, the department transferred funding over to HSD to be used for long-term care, which is currently not in this agency's budget. It receives a 50/50 match for direct services. The program is still being designed and developed.

The staff expansion request for IT would allow the department to track data with the FACTS system. The department would begin to process the statewide intake referrals for adult protective services independently, instead of relying on the Children, Youth and Families Department, and also increase staff in training and human resources, the Office of Indian Elder Affairs, and the prescription drug and benefit outreach, as well as the GOLD mentor program, and transitioning youth out of foster care.

There is a \$3.25 million expansion in the aging network core services in the interest of maintenance of effort (MOE) to serve more people with existing services, meeting the growing demand and rising costs. The base budget request is just under \$60 million, reflecting a 2.5 percent increase over last years, of which the general fund portion shows a 3.5 percent increase. The conversion of 18 positions from temp to perm is requested. The conference on aging is always sponsored, but \$90 thousand is requested to be recognized in the budget, so the department has budget authority.

Rep. Sandoval referred to previous legislation he sponsored about an agreement to be ironed out with provider's involvement in a controversial role in nursing homes wherein the department is responsible for capturing all the comments from the stakeholders. Rep Sandoval feels it is wrong to do this after the fact, rather than stick to the agreement negotiated.

Senator Smith asked about figures projected on the population increase in this sector. Ms. Armstrong said she will provide these projections to the committee. The committee learned that the elderly population in New Mexico will grow from 39th in the country to 4th in the country by 2030, with a share of more than 40 percent of the population over the age of 65. The department has also analyzed the constant decrease in the percent of the eligible population served.

Senator Altamirano asked about the effect on the program if the brain injury funds were not available. Ms. Hyde explained the services from this program would disappear. The senator suggested such nonrecurring appropriations for recurring programs are not good business practice.

At behest of Representative Sandoval, Ms. Hyde explained the department would pay for and provide home-based care services, similar to Salud providers.

The secretary committed to put together a one page summary of all these requests.

Indian Affairs Department (609).

Theresa Gomez, deputy secretary, barely four months with this department, introduced. Ross Cheney, chief financial officer (CFO) of the Indian Affairs Department (IAD), who presented highlights of the budget. He reported that they have submitted a flat budget and described the program elements. A request for additional FTE was also reported. Mr. Cheney reviewed the line items, noting \$500 thousand of other transfers is from the tobacco settlement program fund for tobacco cessation programs on Indian lands.

Senator Carraro, who serves on the Tobacco Fund Settlement Committee, asked about proposals on a tobacco cessation project. Stephanie Kiger, general counsel for IAD, reported she had met with TUPAC and tribal entities. \$ 270 thousand is available for tribal communities for any such tobacco cessation program grant. Another grant for culturally sensitive cessation, focusing on traditional use of tobacco, is mentioned. Tribal entities do not have the capacity to maintain granted programs, she explained, and they would like to build performance measures to be included in the requests for proposals.

Senator Carraro asked for comment on this department's ability to serve a legislative directive, to direct a project, and conduct research on the use of the tobacco fund in service of such educational programs. Ms. Kiger suggested the best directive could be a study mandated by the

Legislature.

Chairman Varela reviewed the department's organizational chart. Ms. Kiger explained her position was created when the agency was elevated to a cabinet-level agency. Chairman Varela suggested Mr. Abbey look at how many departments could be served by the Attorney General's Office.

Chairman Varela asked about capital outlay and some \$38 million in projects that have been encumbered. Rebecca Martinez of IAD confirmed the outstanding figures. Chairman Varela would like IAD coordination with the DFA to provide legislators with status reports on uncompleted projects.

Ms. Martinez reported this is a slow-moving issue with the tribes, due to the many elements required before a contract is drawn to begin the project: a narrative, budget, performance measures, and points of contact, etc. A compliance staff member works with the capital outlay manager to oversee this scope of work. Since IAD sent out letters to each tribal entity after last year's legislature, 71 scopes of work remain delinquent, relative to 134 with project readiness, by June 1.

Representative Sandoval inquired how long it could take to initiate a letter. Ms. Martinez informed the committee the letters will be ready next week. The representative requested she point out to the tribes that the Legislature has to keep tabs on the process of these expenditures.

Senator Altamirano described the grueling process of project proposal and approval as jumping through multiple hoops. He inquired whether the Legislature could make accommodations to ease this bureaucratic relationship with the counties.

Representative Sandoval explained the need for extra steps in administrative process for the transfer of funds from the Navajo Nation to local chapter houses. The process has 16 administrative reviews and can take up to two years. The chapter houses are very poor and have high priorities, while the nation's priority is low.

A great length of time is taken for a vital community project to reach implementation, said Senator Altamirano, who requested that the department look into the problem. He recommended the department investigate the water supply problem on the Alamo reservation, preparing for the Year of the Water in 2007.

Benny Shendo, secretary, Indian Affairs Department, apologized for his tardiness. He said he wished to emphasize the importance of the capitol outlay work that is done by the department, and the problem of bureaucracy with the Navajo Nation. He informed the committee of a legislative proposal to streamline their process and move projects forward more rapidly.

Mr. Shendo briefly touched on a present staff expansion request. There are only 13 staff members working on many projects that require interdepartmental collaboration with most other state agencies. The department's program could be built up with the unit's expansion to properly serve the projects or issues. The department has received a Kellogg grant to develop a tribal leadership program.

Senator Griego recalled agreements and commitments that IAD made to LFC in Gallup three years ago. The process of building up to a joint powers agreement that would be brought to

Legislature was discussed, which would allow New Mexico legislators to go directly to the chapter houses to allocate the funds for specific projects. If capital outlay projects are not built on time, these funds are swept and must be reallocated.

Mr. Shendo explained the complicated process of allocation and reimbursements with the Navajo Nation. Ms. Martinez explained the reality of the working joint powers agreement. The contract with the builder has provisions of advance payments and timed payments during construction. The Navajo Nation is billed throughout the process. Senator Griego explained the state could pay monthly or quarterly, without money advances or reimbursements to be made.

Chairman Varela suggested bringing in DFA and reviewing the JPA process with them. He reported on the swept accounts, a funds surplus at the Navajo Nation, and the unnecessary authorization process to the chapter houses because Arizona is not expeditious.

Senator Griego recommended bypassing this process, that the department could be the primary funding source to the chapter houses. He also inquired about voter registration efforts and information outreach on the ordinances about the borders of the sovereign nations and any other influence present on those issues. The secretary responded that there is a strong training component with voter registration programs throughout the tribes.

Senator Griego also had a concern about sharing records about DWI offenders to acquire the statistical information to prepare the programs necessary to treat offenders. How would the tribes disseminate and share this information?

Mr. Shendo reported that the sharing of accidents and DWI incidents are being discussed from tribe to tribe, which are beginning to understand that funds for roads and other revenues would be linked to sharing this information with the state.

Representative Sandoval lamented the \$2 million approved funding not being spent; tribes are having trouble accessing their money. Linda Kehoe of the LFC had distributed a list of approved projects that have not been funded, yet some of those projects have been finished for two years, and the money stays on the books as unspent. It is not a big problem, it is a small problem. If the Navajo Nation has not certified each tribal nation, they cannot work directly with state funds.

Chairman Varela declared the backlog is created through the process. The question is how to better improve the process to allow the funds to flow to the projects. It is a small problem that is big.

Representative Saavedra remarked that Window Rock and the state of Arizona do not seem to recognize that New Mexico helps the Navajo projects. He suggested that politics plays a role in the distribution of funds to the chapters that do not vote for the president of the Navajo Nation. He expressed empathy with the New Mexico tribes that are working hard to pass these bills for capital projects and are then delayed by tribal "politics." He reported his concern to educate Navajo youth to become teachers and interpreters. He inquired about recruitment efforts and participation of higher institutions, such as the medical school at UNM; fearing Native American students are falling behind in enrollment.

The secretary reported progress in this area: 1,600 Native American students are currently on the campuses of UNM and a language immersion program is being supported by the department. The teacher preparation program is now in the second year.

Tax Increment Financing (TIF) and Development of Mesa Del Sol.

Norton Francis, LFC economist, made some brief remarks on the expected legislation in the 2007 session regarding a tax increment for development district. The municipalities of Las Cruces and Farmington are studying tax increment financing and the city of Albuquerque has issued a related ordinance.

The Taxation and Revenue Department is also working on regulations for the project, which will have to undergo a review from the Board of Finance and the DFA before the session. The business plan involves issuing 25-year bonds for infrastructure investments that will take place over a period of 15 years. The state share of \$210 million general fund revenue is the largest share of the incremental revenues. The project is predicted to create thousands of jobs and income tax revenues would be anticipated. The cost of maintaining facilities is in question, as is the impact on the counties, whose public services will be needed.

Michael Daly, chief executive officer of the Mesa del Sol Development Project (a LLC project of Forest City Covington New Mexico) reported the results of the legislative support last year, which was greatly appreciated. Mr. Daly updated the committee on the University Blvd extension. He spoke of two current clients: Advent Solar, a solar cell and equipment manufacturer and the Culvert City Sound Studios, a large project for post production and digital production facilities to be rented by the movie industry.

Sheila A. Duffy, director of finance, FCC New Mexico, presented the estimates of the flow of TIF dollars. With a \$781 million investment, 25 percent of the gross receipts tax (GRT) and the income tax generated on the premises would benefit the state over 25 years. The development company is asking for \$585 million, or 75 percent of the incremental gross receipts tax revenue. Mesa del Sol has already invested \$40 million of its own equity investment, including \$5 million for the University Boulevard extension.

Representative Saavedra asked about the figures on previous state investment. Mr. Daly reported that \$8 million helped build the road, shared by the Journal Pavilion. The total public subsidy from city, state and federal funds amounts to \$24 million so far.

Representative Sandoval asked if Mesa del Sol is a private enterprise and Mr. Daly explained that UNM has a 15 percent interest, and the State Land Office has a percent of participation in profit on land appreciation, as public-private partnerships.

Chairman Varela requested a report with quantitative analyses: a dynamic analysis of the project, with specifics on the direct economic benefits to the state of New Mexico.

Mr. Daly indicated that the company is committed to work with the state economists and will present this request in the near future. He added that this model could benefit schools as well. He expressed the need to move fast on the TIF bill, in order to provide the infrastructure to serve the current tenants.

Senator Smith asked about industrial revenue bonds involved. The committee was informed that Mesa del Sol includes language in contracts discouraging application for industrial revenue bonds (IRBs) for the base construction. However, Advent Solar, an equipment-intensive industry, applied for an IRB for the equipment. Senator Smith wished to verify that Culver City Studios would pay real estate taxes and GRT. All tenants will pay GRT and property tax but the

total amount they pay will not flow to the state and local governments if the TID is approved; 75 percent of the revenues will come back to Mesa del Sol to finance infrastructure.

Senator Smith reminded the committee that a preliminary tax package had been presented by the governor, and he anticipated reviewing the score, with which Mesa del Sol is “included in the pot.” The governor has received information that the TIF concept has worked in other states. He wants to see direct economic impact on the state, informed Mr. Daly. The senator expressed his interest in seeing what endorsement is finalized with the executive office, which would affect legislative support.

Representative Wallace expressed her concern about the effect of portions of state revenues from the GRT being dedicated to specific purposes, providing an example of an Espanola proposal to redistribute the state share of GRT from Los Alamos National Laboratory. She feels this sets a terrible precedent that will affect the general fund revenues in the long run, and therefore the ability of the state to provide services.

Mr. Daly reported the limitations of a \$3 million return on the \$40 million investment: \$8 million to build infrastructure to create critical mass, \$3.7million in sale of the land.

Senator Carraro attributed such results to most business speculations and inquired why the company needed state and city participation. He explained the problem that limited state funds invested in this project would be taken from somewhere else.

The committee was informed 48 states utilize TIF plans in development because land value or the public sector could never cover the expenses of infrastructure such as roads, utilities, and schools otherwise. The company takes 75 percent and the state 25 percent incremental revenue, revenue the state would never have had without this public-private developer model. This model can also work throughout the state on a smaller scale.

Representative King inquired about the next step. Mr. Daly informed the committee, if the company cannot secure funding of \$600 million to \$700 million dollars, the project would be in jeopardy on the large scale and probably convert to a land sale project.

Replying to a question from Representative King, Mr. Daly suggested after the bond expiration on the projects specific bond, the state would collect 100 percent and if the project is not able to develop, the 25 percent in GRT participation would not come to the state. The bonds would default.

Representative King inquired whether the company would always be guaranteed that 75 percent GRT revenues. If GRT revenues fall, would that percent change? Would the city be able to meet other obligations to capacity? She also recognized the assumption that the Taxation and Revenue Department would track these GRT levels.

Mr. Francis suggested if Mesa del Sol prospers and the city of Albuquerque does poorly, that portion of the tax increment cannot be used to shore up other needs. Peter Franklin, counsel for Mesa del Sol, explained the tax increment statute authorizes the tax increment district, with language referring to meeting the financial obligations of the city’s needs, at the time the district is formed. The city’s obligations are senior to the district’s and so if the city could not meet its debt service obligation, the revenues being distributed to the TID could be intercepted.

Mr. Daly described a master plan including jobs first, then schools and residential villages. Commercial activity represents 75 percent of the revenues. Roads, waterways, sidewalks, sewer will be dedicated to the City. Mesa del Sol has calculated that the 25 percent of gross receipts tax revenue will be sufficient to providing City services in the development. Norton Francis, LFC economist, informed the committee that the city council will bring their recommendations before the council in November. Mr. Daly expects final approval from the city by Dec 18th.

When Representative King asked about bond purchases in other projects, the committee was informed that, initially, FCC bought the bonds. Mr. Daly also explained the two elements of land sale with SLO and UNM carrying a 15 percent interest on any profit as a partner.

Representative King asked about protection UNM might have against FCC allocating their expenses to the extent that UNM might never realize profits. Mr. Daly informed the committee FCC spent 14 months with those state agencies mentioned in the toughest negotiations this company had ever handled. Other universities, such as MIT, Johns Hopkins have also partnered with FCC, a company, which thrives on public-private partnership.

Representative King requested copies of the agreements with UNM be provided to the LFC economist. She also stated that she will have to review the innovative proposal, with the support of other legislators.

Mr. Daly's said the Board of Finance would have the overall review by January, a possible NMFA approval is expected in January and some sort of legislation should be expected by February, perhaps in the form of a joint resolution, as Senator Carraro suggested. Over 50 years, 6,000 additional acres are available to be developed, Mr. Daly continued, and described the breakdown of leases and ownership portions throughout the whole area Senator Griego expected the project would take 20 years to cover the utilities and public services needed, including teacher salaries and school maintenance. Mr. Daly offered to demonstrate that the 25 percent of GRT provides enough money to cover the public services needed for the development.

Mr. Daly assured the committee that \$564 million projected in profit over the years through this new infrastructure could more than cover projected expenses. Even with a 50 percent error margin, \$250 million revenues would still flow to the state. Senator Griego challenged the company to pay \$250 million upfront, and FCC responded with the question whether any other developer had made such a large private investment upfront. Senator Griego asked for Mr. Abbey's and Mr. Norton's guidance in protecting his district's constituency.

Representative Varela decided to recess the committee first at 12:23 pm with the invitation that members remain to see the video at will.

Chairman

Date