

Representative Luciano "Lucky" Varela
Chairman

State of New Mexico

LEGISLATIVE FINANCE COMMITTEE

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Representative William "Bill" J. Gray
Representative Larry A. Larrañaga
Representative Henry "Kiki" Saavedra
Representative Nick L. Salazar
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Representative James P. White

David Abbey
Director



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Senator Carroll H. Leavell
Senator Howie C. Morales
Senator George K. Munoz
Senator Steven P. Neville

October 24, 2013

MEMORANDUM

TO: Legislative Finance Committee

FROM: Subcommittee A

Senator Carlos R. Cisneros, Chair
Representative Edward C. Sandoval, Vice-Chair
Senator Steven P. Neville
Representative James P. White
Senator Carroll H. Leavell
Representative William "Bill" J. Gray
Senator George K. Muñoz

A handwritten signature in black ink, appearing to read "C. R. Cisneros".

Representative Luciano "Lucky" Varela, Ex-officio
Senator John Arthur Smith, Ex-officio

SUBJECT: Subcommittee A Report

(337) **State Investment Council.** The FY15 budget request decreased \$1.7 million, or 3.6 percent, from the FY14 operating budget. Representative White asked for clarification on the SIC's one-time international equity transition costs, to which Chief Investment Officer Steven Moise responded the agency contracted with a transitional manager to move from passive, or indexed management to active management. These costs are budgeted for FY14 and not requested for FY15. Representative Bratton asked whether the investments included stop-loss measures in the event of a market downturn, which Mr. Moise stated the SIC portfolio did not have and added the portfolio is diversified through alternative and fixed-income investments that would provide lower returns but would also hedge against losses in a downturn. Senator Leavell inquired about the funding source for the SIC's budget, to which Chief Financial Officer Brent Schipp responded the funds largely come from the land grant and severance tax permanent funds in the proportion of their respective net asset values.

- (352) **Educational Retirement Board.** The agency requests \$36.6 million, an increase of \$4.6 million compared with FY14. The request included increases for investment management fees and office space, including an off-site location that supports core business functions in the event of a disaster. For FY13, management fees for alternative investments were \$106.9 million and for traditional assets were \$18.6 million. Investment gains were \$1 billion. The ERB, funded at \$10.4 billion exceeds pre-recession levels. However, the agency's peer ranking has been in the 73rd percentile the last three years and in the 26th percentile the last five years. Mr. Scroggins said the agency is waiting for the New Mexico Supreme Court to rule on whether legislation changing the cost-of-living adjustment is constitutional. Senator Munoz asked for more detail on the increase for an off-site disaster recovery site. Mr. Scroggins said the main servers in a basement are vulnerable to water damage. He also noted that the FY13 audit is complete. Once approved by the State Auditor, the agency will work with participating school employers to prepare them for the implementation of new governmental accounting rules for FY15.
- (366) **Public Employees Retirement Association.** The agency requested a base appropriation of \$41.5 million, an increase of \$6.1 million, and included increases for investment management fees, 3 FTE and office space. For FY13, management fees for alternative investments were \$41.5 million and for traditional assets were \$24.8 million. Investment gains were \$1.2 billion. The PERA fund, at \$13.9 billion, exceeds pre-recession levels. However, the agency's peer ranking is in the 51st percentile the last three years and the 89th percentile the last five years. Director Wayne Propst said the requested increase for FTE and office space is due to more traffic at the Albuquerque office. The agency is working with the judiciary and the Investments, Pensions and Oversight Committee (IPOC) to propose a bill to reform the judges' and magistrates' pension plans. Chairman Varela asked if there was support from the board for defined contribution (DC) plans. Mr. Propst said the board knows that defined benefit plans are the best, 401(k)s have a mixed history, and the board has shown no desire to look at DC plans. Responding to Chairman Varela, Mr. Propst said PERA does not manage any assets in-house. Mr. Propst said no and noted updated actuarial valuations that reflect recent pension reform legislation will be presented at the next IPOC meeting.
- (369) **State Commission of Public Records.** The LFC staff provided an overview of the FY15 \$3.2 million request, which is \$299.4 thousand, or 10.5 percent, above its FY14 operating levels. The request included a \$273.2 thousand, or 10.4 percent, increase in general fund appropriations above the FY14 operating budget, almost entirely for personal services and employee benefits. Chairman Varela asked about vacancies and Director John Hyrum Martinez reported 12 vacancies existed at the time of the budget submittal, but 5 FTE have since been hired, and adequate funding exists in the current budget to hire another four positions, leaving only three vacant. Varela asked Director Martinez to provide the committee with a vacancy analysis before the start of the 2014 session.
- (378) **State Personnel Office.** Director Abbey informed the committee LFC staff will be conducting a review of the state's on-line application process called NEOGOV. Gene Moser, director, State Personnel Board (SPO), reported on recruitment efforts and said turnover is due to retirement system changes, an aging population, and increased

competition for applicants. Since FY10, the number of new hires (8,223) fell below the number of separations (9,943), resulting in a net decrease in state employees. Findings from a compensation and classification study including recommendations will be presented to the LFC in December. Mr. Moser detailed employee development programs, including pilot projects with the Taxation and Revenue Department to improve customer service at the Motor Vehicle Division and with the General Services Department to implement a competency-based assessment tool to provide employees feedback on leadership skills. Another project involves nine smaller agencies sharing human resource functions at a reduced cost. Eve Banner, chief financial officer, SPO, presented the FY15 budget request, which included funding for 6 FTE unfunded in FY14. Of the 11 current vacancies, eight are in the process of being filled and three are pending reclassifications. Chairman Varela asked what is contributing to state employee turnover with a job market that is so limited. Mr. Moser said he is seeing changes in how new applicants view jobs. Pension plans no longer carry the weight due to school debt. Retirement reduces take home pay by 17 percent. The trend is people are staying in jobs three to five years then moving, so they like portable pension plans. Mr. Moser said new hires are often hired at mid-point, but applicants see jobs advertised at entry-level wages and are discouraging. Chairman Varela also asked if the governor's or SPO board's goal is to capture employees at a certain level. Mr. Moser said because SPO is participating in a major study, hiring is being delayed until that effort is completed. In the meantime; however, SPO has increased salary levels in areas where compensation levels are an issue. Mr. Moser also said a probationary period of one year is too long, for most organizations its six months. The state also needs a better performance appraisal system.

(417) **Border Authority.** The Border Authority requested an operating budget for FY15 of \$508 thousand, with a general fund appropriation of \$330.1 thousand, a decrease of \$7.3 thousand, or 2.2 percent, compared with the FY14 operating budget. Executive Director Bill Mattiace discussed current activities at the border, including the expansion of commercial and passenger lanes at the Santa Teresa border crossing, the ongoing Santa Teresa rail bypass study, construction of a new truck inspection facility, and a new duty-free store at Santa Teresa. He also discussed flooding issues at the Columbus port of entry and the agency's capital outlay request to perform a study to address the flooding issues. Director Mattiace briefly described a future capital outlay request for east-west border access roads through the proposed bi-national master plan community at Santa Teresa. Representative White inquired if the Border Authority will receive any revenues from the duty-free shop. Mattiace responded the agency will not receive any revenues; it is a private shop, but the agency assisted the developer with permitting issues.

(419) **Cumbres and Toltec Scenic Railroad Commission.** The FY15 budget request for the Cumbres and Toltec Scenic Railroad Commission of \$210 thousand from the general fund is an increase of \$111 thousand, or 113 percent; however, the total request is 3.8 million, an increase of less than 1 percent compared with the FY14 operating budget. The commission is also requesting \$210 thousand from Colorado. New Mexico and Colorado jointly own and fund the railroad; the agency is primarily supported with enterprise revenue from ticket sales. Commission Chairman Billy Elbrock discussed the updated Infrastructure Capital Improvement Plan request and reported Colorado and New

Mexico now supply roughly equivalent funding. He mentioned ridership dropped slightly in 2013 to approximately 34 thousand riders, but he expects between 37 thousand and 40 thousand riders in 2014. Mr. Elbrock also discussed the commission's recent formation of a limited liability corporation (LLC) to operate the train after the previous management company departed.

- (508) **Livestock Board.** Agency Director Ray Baca provided an overview of the board's FY15 request of \$6.3 million, a \$412.4 thousand, or 7 percent increase, over the FY14 operating budget. Because the board's request did not use fund balance and decreased other revenues by \$455.4 thousand when compared with the FY14 level, the general fund request increased 155 percent, or \$1.5 million, to \$2.5 million. The agency's request fully funds the personal services and employee benefits category and, keeps the contractual services category and the other category effectively flat. Chairman Varela asked about vacancies and Director Baca reported there were 14 at the time of the budget submittal, but 4 livestock inspector FTE have since been hired, and another three inspector positions are currently being advertised.
- (522) **Youth Conservation Corps.** The Youth Conservation Corps (YCC) requested a FY15 budget of \$4.75 million, a \$444.1 thousand increase from the FY14 operating budget level. YCC is funded primarily with government gross receipt tax (GGRT) revenues and the request includes no general fund. Ralph Gallegos, the designee for the Commissioner of Public Lands to the YCC Commission, reported YCC provided 11 thousand employment opportunities since 1992, and in FY13 employed more than 803 youth. Executive Director Wendy Kent introduced Michael Feulner from Santa Fe County Fire Department and Porfiro Chavarria from City of Santa Fe Fire Department who testified to the success of the program with the youth in their communities. Chairman Varela asked what the GGRT breakout is between YCC, State Parks and other entities. Agency staff responded that the YCC receives 10 percent of the GGRT annually, the State Parks receives 14 percent, the Department of Cultural Affairs receives 1 percent, and the New Mexico Finance Authority receives the remainder.
- (538) **Intertribal Ceremonial Office.** The Intertribal Ceremonial Office (ICO) requested \$105 thousand from the general fund for FY15, which represents flat funding compared with the FY14 operating budget. Aaron Anderson, board member for the Gallup Inter-Tribal Indian Ceremonial Association, a non-profit organization, represented ICO because there are no FTE authorized for the agency. Anderson said the association requests continuation of the \$105 thousand and asked for an additional \$50 thousand for marketing. The 2013 ceremonial marked the 92nd year of the event; the ceremonial had 400 volunteers; people from up to three generations from across North America attend the event each year, which takes place over four to five days. Anderson noted funding for ICO flows through the Tourism Department, which oversees expenditures, and Secretary Jacobson attended this year's event. Senator Munoz asked questions about budget numbers in documents supplied by Anderson, and he noted in-kind donations are not documented appropriately.

- (668) **Office of Natural Resources Trustee.** The Office of Natural Resources Trustee (ONRT) requested a total of \$2.3 million for FY15, which includes a slight increase for health insurance. Although the agency projects its total fund balance from restoration settlement funds at the end of FY15 will be \$13.1 million, that balance is restricted by federal law and court orders for restoration projects. During the past several years, cost recovery funds supplemented ONRT's operating expenses and will be depleted by FY15. Therefore, the agency's FY15 request included a decrease of \$180.6 thousand in fund balance revenue and a corresponding increase of \$184.7 thousand in general fund support to maintain the same level of operations in FY15. The vacant trustee position duties are performed by Ryan Flynn, the secretary designate of the New Mexico Environment Department. As a result, ONRT requests no personal services and employee benefits funding for that position. Representative Saavedra asked the agency to brief him about the nitrate plume groundwater restoration project that the ONRT is conducting in Albuquerque's South Valley. Director Neri Zagal said because there were no other sources of funding available for cleanup of the nitrate, ONRT is funding this project as a groundwater restoration project. The plume occupies a volume of approximately 1 square mile and approximately 30 feet thick. The maximum nitrate concentration in the plume is approximately 350 mg per litre; the standard is 10 mg per litre. The contaminated groundwater has affected one municipal well and at least two domestic wells. ONRT contracted with the New Mexico Environment Department (NMED) to plan and oversee the technical aspects of the project.
- (000) **Renewable Energy Transmission Authority.** The Renewable Energy Transmission Authority (RETA), a quasi-governmental agency, intends to request a special appropriation of \$444 thousand from the general fund to support 3 FTE and operational costs in FY14 and FY15. Since FY08, a total of \$2.25 million has been appropriated from the general fund for RETA's operations. In FY13, the agency budgeted \$493.3 thousand and 4 FTE, using existing fund balance. The agency projects fund balance to be \$37.6 thousand at the end of FY13, insufficient to support RETA operating costs. Senator Leavell asked if transmission lines were planned from the southeast to Clovis or Albuquerque. Executive Director Jeremy Turner informed the committee an infrastructure study completed by the Los Alamos National Laboratory included a 20-year statewide plan for New Mexico and included transmission lines to southeast New Mexico.

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October 24, 2013

MEMORANDUM

TO: Legislative Finance Committee

FROM: Subcommittee B

Representative Nick L. Salazar, Chair
Senator Howie C. Morales, Vice-Chair
Representative Henry "Kiki" Saavedra
Senator Sue Wilson Beffort
Representative Don L. Tripp
Senator Pete Campos
Representative Larry A. Larranaga

DA for Rep. Salazar

Representative Luciano "Lucky" Varela, Ex-officio
Senator John Arthur Smith, Ex-officio

SUBJECT: Subcommittee B Report

- (604) **Commission for the Deaf and Hard-of-Hearing Persons.** The FY15 agency budget request of \$3.7 million was flat compared with the FY14 operating budget. Staff noted concern over fluctuations in revenue for agency operations from the telecommunications access fund, which is funded by a surcharge of 0.33 percent on telephone and mobile phone services. Lisa Dignan, acting executive director, noted four major priorities for the commission: advocacy for the deaf and hard-of-hearing population, providing technology to facilitate communication, education and outreach, and interpreter professional development.
- (606) **Commission for the Blind.** The agency's budget request of \$12.8 million was an increase of 3.9 percent, primarily due to an increase in federal funds. Greg Trapp, director, discussed the importance of technology to the sight impaired and blind. He mentioned the success of the commission in placing its blind vocational clients in

employment with competitive salaries and noted vocational services were provided to 400 individuals in FY13. Commission Chair Arthur Schreiber noted the commission's skills center is a national model for teaching blindness skills to sight-impaired people so they can stay in their homes.

- (632) **Workers' Compensation Administration.** The FY15 agency budget request of \$11.7 million is supported with non-general fund revenues. The request was flat compared with the FY14 appropriation. LFC staff noted the request did not reflect the transfer of \$900 thousand to the Workforce Solutions Department (WSD) for FY15 but was included in the operating budget for previous years. Ned Fuller, director, had no further comment.
- (644) **Division of Vocational Rehabilitation.** The Division of Vocational Rehabilitation's (DVR) \$46.6 million request for FY15 includes a general fund increase of \$649 thousand. LFC staff noted \$470 thousand of the requested increase in general fund was for the Rehabilitation Services Program but that DVR has struggled to maintain a staffing level that uses all available state and federal funding. Ralph Vigil, executive director, noted the agency had made progress in working with the State Personnel Office to get staff hired and is working to reduce the rate below 10 percent. Mr. Vigil noted the state has a positive return on its investment in vocational rehabilitation and there is no waiting list for services. In addition, Mr. Vigil noted DVR was requesting a \$178 thousand increase for the five independent living services organizations, which provide support services to the disabled.
- (645) **Governor's Commission on Disability.** The commission's FY15 request of \$1.9 million included an expansion request of \$371.7 thousand and 2 FTE. Jim Parker, executive director, discussed the work the commission does to help architects and builders meet Americans with Disabilities Act (ADA) access requirements for the disabled, noting that 1 FTE in the expansion request is needed for this purpose. He also noted the commission provides a lot of assistance in interpreting ADA requirements, particularly in the area of accommodations for the disabled in workplaces and service animal access. He added that the Brain Injury Advisory Council (BIAC) was transferred from the Developmental Disabilities Planning Council in FY14 and stated a \$100 thousand supplemental budget request would be submitted to fund a statewide concussion study.
- (647) **Developmental Disabilities Planning Council.** The Developmental Disabilities Planning Council's (DDPC) FY15 request of \$7.2 million was a 22 percent increase over FY14 and is funded primarily with Medicaid and general fund revenue. LFC staff indicated the agency had fiscal and contract management difficulties for the past two years, and as a result has had a high staff turnover rate. The newly appointed executive director, John Block, testified he is experienced in rebuilding troubled agencies, such as the DDPC, and will focus on hiring a deputy director, chief financial officer, and an attorney manager. Mr. Block indicated the agency executed its delinquent contracts for guardianship services and is awaiting approval from the Department of Finance and Administration (DFA) to process a BAR so it can use fund balances to pay its outstanding prior-year bills. Mr. Block reported the agency moved to a single location in Albuquerque and is paying more rent than when it was located in both Albuquerque and

Santa Fe, but the agency now has more classroom space and is paying less per square foot. Adam Shand and Daniel Ekman spoke about how important the advocacy center is in their lives and the lives of other developmentally disabled people. DDPC Chairwoman Sandy Skar stressed the importance of funding the agency's advocacy and guardianship services. Senator Padilla stated he carried a bill last session to create an office of guardianship fund that would be non-reverting, accrue all revenue for the program, and not be subject to legislative appropriation; however, the bill was amended to only include gifts and bequests in the fund, and it did not pass. He asked how much in gifts and bequests are received by the Office of Guardianship. Mr. Block said he would get back to him with the amount. Representative Tripp asked what family guardianships were and was told by Ms. Skar that when a family is indigent and cannot afford an attorney to have a guardian appointed, even if it is a guardian from their own family, they may use attorney services from the Office of Guardianship, which requested \$315 thousand for these and related legal services in FY15.

- (705) **Department of Military Affairs.** The department's request of \$19.3 million included increases of \$120 thousand for the Youth Challenge Academy (YCA), \$40 thousand for the Civil Air Patrol School Enrichment Program, and \$88.4 thousand for risk management premiums. LFC staff noted the increase for the YCA will add 25 FTE in FY15. Senator Smith voiced his concern about uncertainties with federal funding and asked how many federally funded staff are in the department. Senator Beffort wanted to know how the YCA recruits cadets. Adjutant General Salas stated there are several recruiters that work for the academy and probation officers recommend cadets to the academy. Representatives Tripp and Hall asked how much capacity the program has to expand. General Salas replied that there is enough capacity for 200 cadets and that requested funding levels would bring the academy to 200 cadets.
- (940) **Public School Facilities Authority.** The Public School Finance Authority (PSFA) FY15 budget request of \$5.9 million is a 5 percent increase from the FY14 operating budget and 12.7 percent above FY13 operating expenses. It includes \$298 thousand for three expansion positions. LFC staff noted a large FY13 reversion, movement of employee salary funding to other categories and the expenditure of a large sum in the last quarter of FY13 on two non-recurring contracts. The agency has a historical vacancy rate between 10 percent and 14 percent and currently is at 12 percent. Director Bob Gorrell noted much progress has been made on improving school facilities. He also noted the agency continues to reorganize to address both budget constraints and appropriate oversight of school facilities and construction. Senator Padilla asked about broadband capabilities of schools. Mr. Gorrell noted the Public Education Department is conducting a study that will identify where the gaps are but likely not what the gaps are. Senator Beffort asked about the status of a standardized lease for charter schools. Mr. Gorrell noted a standardized lease has been drafted and a meeting to discuss the draft was held yesterday.
- (949) **Education Trust Board.** The board's FY15 request of \$2.6 million from fund balance included legal costs associated with the *Ping Lu v. Education Trust Board* litigation. While parties recently reached an agreement, a court must approve it, and issue an order. The settlement would give the Ping Lu plaintiffs \$3.75 million as compensation for some

of the Education Trust Fund's investors' losses experienced as part of the Oppenheimer Fund Inc.'s core bond performance in 2008 and 2009. The board and state are indemnified from any further action resulting from losses experienced during this time. Executive Director Kevin Deiters also discussed the board's plans for redirecting their education outreach efforts, from supporting the Education Pathways Scholarship program (\$500 thousand annually) to working with institutions, schools, and non-profit organizations to facilitate college savings.

- (954) **Cooperative Extension Service/Agriculture Experiment Station.** The Higher Education Department (HED) will submit the FY15 budget request for higher education institutions and affiliated agencies on November 1. Agency directors presented their submission to the HED.

The Cooperative Extension Service (CES) requested a total FY15 operating budget of \$26.2 million, with \$13.5 million in general fund appropriations. This is a \$675 thousand, or 5.2 percent, increase over the FY14 general fund level. The proposed increase would fund 3 FTE focusing on health care outreach, economic development, and urban horticultural.

The Agriculture Experiment Station (AES) requested a total FY15 operating budget of \$29 million, with \$14.7 million in general fund appropriations. The request is \$334 thousand, or 2.3 percent, increase over the FY14 general fund level. The AES' proposed expansion would support 2 FTE: an agronomist in Clovis and pest management/horticulturalist in Alcalde.

Subcommittee members voiced concern with the amount New Mexico State University assesses these agencies for institutional support (about 3.2 percent of each agency's budgets, or \$500 thousand or more annually).

- (954) **New Mexico Department of Agriculture.** The department's FY15 budget request of \$11 million from the general fund was flat. For FY13 and FY14, the department has realized savings by upgrading the department's information technology and infrastructure and used savings to expand FTE serving more areas of the state.