

**Legislative Finance Committee  
Meeting Minutes  
State Capitol Room 307  
Santa Fe, NM 87501  
October 28-31, 2014**

**Wednesday, October 29**

The following members and designees were present on Wednesday, October 29, 2014: Chairman Luciano “Lucky” Varela; Vice Chairman John Arthur Smith; Representatives Larry A. Larrañaga, Edward C. Sandoval, Nick L. Salazar, Don L. Tripp, James E. Smith, Jimmie C. Hall, and Patricia A. Lundstrom; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell, Howie C. Morales, George K. Munoz, William F. Burt, and Pete Campos. Guest legislator: Senator Mary Kay Papen.

**Program Evaluation: County-Financed Health Care and the Local DWI Program.** Maria Griego, program evaluator, LFC, and Charles Sallee, deputy director, LFC, presented a report titled, “County-Financed Health Care and the Local DWI Grant Program.” The evaluation reviewed the current state of county indigent programs and the impact of statutory changes related to supporting New Mexico hospitals. The evaluation also assessed how the state and counties manage programs funded through the Local DWI Grant Program.

The evaluation found counties allocated more revenues for indigent care than were generated by a designated 1/8<sup>th</sup> gross receipts tax increment, due in part to using other taxes and revenues from hospitals. The evaluation concluded statutorily mandated funding of the Safety Net Care Pool and Medicaid by counties would require reprioritization of how indigent funds are used, as well as identifying new sources of revenue because counties can no longer use funds obtained from their local hospitals.

In relation to the Local DWI Grant Program, the state enacted various interventions to address the critical public safety issue of DWI, including funding county-level programs to prevent incidents of DWI, monitor and treat offenders, and assist in enforcing the state’s DWI laws. The evaluation found there is not sufficient review of county program outcomes or an emphasis on investment in programs proven to work. Moreover, the state does not have a strong mechanism for assessing where the greatest need is related to DWI, and funding has not always gone to these areas of the state.

The report recommendations included amending statute to sunset the Indigent Hospital and County Health Care Act in 2020, including the Safety Net Care Pool and related rate increases for hospitals, and require counties report on indigent funds as part of the annual budget process. Additionally, for the LDWI Grant Program, recommendations included creating a risk assessment tool to identify areas of greatest need for DWI funding across the state, requiring standardized outcome data to analyze program performance, and establishing a requirement for counties to use evidence-based practices.

Agency responses were presented by Deputy Secretary Brent Earnest of the Human Services Department, Secretary Tom Clifford of the Department of Finance and Administration, and Steve Kopelman, executive director for the New Mexico Association of Counties.

Mr. Earnest stated, in general, HSD supported most of the report's recommendations, stating the new Safety Net Care Pool application process requires hospitals submit more information so HSD can track trends. He also agreed that additional general fund monies should not be used for the Safety Net Care Pool program and that HSD has to be vigilant about Medicaid costs. Mr. Earnest also advised there will be a funding gap for FY16 for the Safety Net Care Pool. He closed by stating HSD is happy to work with counties and the DWI grant council related to the LDWI program.

Secretary Clifford from DFA responded next, stating there has been a huge improvement in New Mexico DWI. Alcohol-related deaths have dropped 80 percent and are now at the national average and the LDWI program is successful. He also noted DFA is using offender characteristic data from the Department of Health to improve the LDWI program. Secretary Clifford noted that DFA has no problem asking counties to report on outcomes, and county LDWI grant applications must show how funds are addressing problems. In response to the LDWI program not prioritizing evidence-based strategies, DFA is using strategies that experts have identified, as well as national measures. DFA is asking counties to report outcomes and measurements. Secretary Clifford agreed there is a need to identify good programs and identify high-risk areas. A lot of progress has been made, but there is room for improvement.

Mr. Kopelman responded last, stating he appreciated the recommendations and noted a lot of them are already in process. Mr. Kopelman next spoke of county commitment, stating a lot of experts are working on improving programs. He also noted the LDWI program just released an extensive strategic plan. Each county is unique; some have more resources than others, and smaller rural counties are collaborating with larger counties. In reference to the recommendation of at least 50 percent of strategies should be evidence-based, he stated this is in process. On indigent health care, Mr. Kopelman expressed concerns in sunseting the program in 2020, feeling five years was not enough time to see how the ACA will impact safety net programs. County government is able to work closely with target population. Mr. Kopelman concluded that indigent programs should remain at the local county level.

Representative Larrañaga commented on the complicated nature of indigent health care. He asked if there is a need for a healthcare council to look at this overall. Secretary Clifford mentioned the DWI Council and noted extreme complexity makes it a huge undertaking. Mr. Earnest also responded that HSD collaborates with several agencies and boards to address issues, and there are existing relationships in place to deal with complexity. Representative Larrañaga then asked LFC staff if there was a reduction in indigent patients seen at the University of New Mexico Hospital, as it has to pay for much of indigent care. Ms. Griego responded that Medicaid and insurance exchange will absorb many uninsured eventually but this will take time. LFC staff recommended a sunset review in 2020 to give time to see if current efforts will be successful. However, undocumented persons would likely continue to be uncompensated care costs to hospitals. Representative Larrañaga then asked Mr. Kopelman where counties are getting relief if they cannot afford to pay additional mandated obligation for the Safety Net Care Pool, for

example San Juan County. Mr. Kopelman responded that this was a high cost for counties, and counties were enacting GRT increments reluctantly to keep budgets balanced. Mr. Earnest noted that nothing has changed in law for transfers from counties to support hospitals -- if it was legal before, it is legal now. Mr. Kopelman noted with counties are now legally obligated to make payments equivalent to 1/12<sup>th</sup> GRT. Hospital payments have stopped, creating a large burden on certain counties such as San Juan.

Senator Morales noted legislation asking for a 1/8<sup>th</sup> GRT equivalent county payment for hospitals did not pass, leaving a gap and asked how HSD is addressing this. Mr. Earnest responded the gap was filled for FY15, but there will be gap for FY16. Senator Morales asked if LFC staff recommends not using general fund to fill the gap and to expand the program. Mr. Sallee responded LFC evaluation staff does not recommend additional general fund monies be used for the Safety Net Care Pool program, as it has always been a county responsibility. Senator Morales asked for a definition of evidence-based programs. Ms. Griego responded the definition of an evidence-based program is the program has been studied with a certain level of rigor, demonstrating the impact of the program. Senator Morales then asked if there were examples of evidence-based programs that work. Ms. Griego referred to a list of evidence-based programs counties are currently using for DWI are in the appendix of the report. Senator Morales proceeded to ask if DWI courts are funded through county programs. Ms. Griego responded they are not. Senator Morales then asked what happens if patients do not sign up for Medicaid. Ms. Griego answered counties would likely continue to pay from LDWI or county indigent funds for treatment services, but counties should make effort to encourage Medicaid enrollment. Senator Morales then asked Mr. Earnest why jails are not eligible for Medicaid reimbursement. Mr. Earnest responded federal law prohibits inmates from being covered through Medicaid. Senator Morales inquired if the Legislature can do anything to make jails eligible to bill Medicaid. Mr. Earnest advised the Legislature could advocate change in federal law.

Senator Wilson Beffort commented there are not enough people around the state to treat substance abuse, which requires a two-year degree to practice. Senator Wilson Beffort then asked how many higher education institutions in the state offer programs to train substance abuse treatment providers. Mr. Sallee advised he did not know answer but would investigate further. Senator Wilson Beffort stated the state does not have its arms around substance abuse problem around the state and she does not know if it ever will. Ms. Griego commented there is a disconnection between epidemiological data and actual results of DWI programs, meaning evaluators cannot tie programs to results currently. Senator Wilson Beffort then asked if DWI funds can be used for drug treatment. Ms. Griego responded the statute speaks of substance abuse leading to DWI and domestic violence. Senator Wilson Beffort proceeded to ask about less money going to rural hospitals now under new program and what the funding gap is. Mr. Sallee responded there is a \$30 million gap. In the old program (Sole Community Provider), some hospitals were overcompensated. Senator Wilson Beffort concluded by commenting on expanding detoxification outside of emergency rooms. Emergency rooms cannot turn patients away. She expressed concerns about law enforcement looking for other places to drop people off for care. Mr. Sallee commented Medicaid will pay for medical detoxification but not long-term social detoxification.

Senator Papen responded to Senator Wilson Beffort's comments, stating Doña Ana County has a vacant treatment center. A six-month contract was recently put into place for operations that could be replicated down the line if successful.

Secretary Clifford clarified most LDWI resources go to alcohol programs, not drug programs.

Representative Lundstrom agreed with Representative Larrañaga that the hospital and indigent care issue is complicated. She then asked if all the counties have paid the match for the Safety Net Care Pool. Mr. Earnest responded no. Representative Lundstrom then asked, assuming the state is footing the bill, how do you get counties to pay their share. Mr. Earnest answered that there is no perfect answer, but he hopes the new 1/12<sup>th</sup> requirement will work. It is now part of law that counties make the transfer. Mr. Kopelman commented that a handful of counties have not paid yet. Representative Lundstrom referred to McKinley County data in the report appendix asking if statistics are tied to vehicles or all alcohol-related deaths. Ms. Griego responded alcohol death rates relate to DOH data on all alcohol-related deaths including diseases and crash fatalities. Representative Lundstrom commented Gallup second most dangerous place to live in New Mexico, asking if this is related to alcohol. Ms. Griego offered to take question to DOH for further information.

Representative Tripp inquired what the requirements were for indigent fund reimbursements. Ms. Griego responded counties set up programs in different ways. Representative Tripp followed up, asking if it is up to county to leverage Medicaid, and if indigent care funding cannot be used for undocumented persons. Mr. Kopelman referred to Doña Ana County, and county representative then commented, stating Doña Ana County does not have citizenship requirement for indigent care program. Applicants just have to prove they are residents of county. Representative Tripp then asked if on DWI programs, 65 percent has to be for treatment, and if services contracted out if there are not enough providers. Ms. Griego commented with an example from the report about services in Catron County. Representative Tripp concluded with asking if offender monitoring required or if it was up to counties. Ms. Griego responded if it is judicially mandated, then it is not a choice for counties.

Senator Muñoz started by referencing DWI information on McKinley County in the report. He then asked if counties use LDWI money for law enforcement. Ms. Griego responded law enforcement is an option for LDWI funding; however, other sources of funding are also available through the county DWI program administered by the Department of Transportation, and therefore counties do not use LDWI funds for this purpose as much. Staff from McKinley County responded that the county receives adequate funding from other sources so they do not use LDWI funding for that purpose. Senator Muñoz then inquired if evidence-based programs are reducing DWI indicators. Ms. Griego commented that LFC staff can make general observation that evidence-based programs can reduce DWI indicators but cannot make definitive statements based on available data. Senator Muñoz then asked Mr. Earnest about the funding gap for the Safety Net Care Pool. Mr. Earnest advised the gap was filled for FY15. Senator Muñoz followed up asking if the state is tracking counties in trouble and whether HSD fund balance will be used for these counties instead of reverting funds. Mr. Earnest responded he was unsure if HSD was tracking hospital by hospital, but HSD did know what uncompensated costs are.

Senator Muñoz concluded by inquiring if there is a cap from the federal government on uncompensated care payments, and Mr. Earnest confirmed there is a cap.

Chairman Varela began by asking what the total cost and economic impact of healthcare spending was for New Mexico. Ms. Griego offered to research more recent data for the committee. Chairman Varela C staff to follow up on recommendations by the time the legislative session begins. Chairman Varela next inquired if there was a representative from the State Auditor at today's hearing. While there was not, Mr. Sallee advised LFC staff had been in contact with State Auditor's Office in reference to the report. Chairman Varela then asked Secretary Clifford if DFA's Local Government Division was well-staffed. Secretary Clifford responded the division was well-staffed with one vacancy. There is a \$250 thousand request for budget software to process information collected from local governments. Chairman Varela asked Mr. Kopelman how the Legislature is working with counties and hospitals for proposals related to rural hospital funding and ways for the Legislature to develop a plan for the problems that counties are facing. Mr. Kopelman responded he hopes to reinstate a sunset clause of three years related to county payments into the Safety Net Care Pool so counties can see where they are. Chairman Varela wants a report by the end of the year to see how the recommendations are being implemented.

#### **New Mexico Finance Authority Budget Overview FY15-FY16 and Activity Update**

Marquita Russel, NMFA, chief of programs, introduced members of the board, Mr. John E. McDermott, chairman, and Mr. William Fulginiti, vice chair. Ms. Russel stated the mission of the authority is to assist New Mexico's communities with access to low-cost financial assistance for infrastructure through their major financial programs. Ms. Russel gave a brief overview of all the program activities administered by NMFA, including the following: 1) the public project revolving loan fund (PPRF), 2) local government planning fund (LGPF), 3) colonias infrastructure fund, 4) drinking water state revolving loan fund, 5) water project fund, 6) acequia project fund, 7) primary care capital fund, 8) behavioral health capital fund, 9) new markets tax credit program, 10) economic development revolving fund (Smart Money initiative), and 11) collateral support participation program.

Ms. Russel reported the NMFA's flagship program, the PPRF, assists eligible entities with low-cost financial assistance for capital equipment building and infrastructure projects. The projects reviewed for financial assistance require prior authorization by the Legislature. The LGPF provides upfront capital to allow for proper planning of vital water and wastewater projects, master planning, and conservation and economic development plans. The Colonias Program is funded from 5 percent of senior severance tax bonds annually and is overseen by the Colonias Infrastructure Board, administered by the NMFA. The NMFA and the New Mexico Environment Department partner together to administer the drinking water state revolving fund capitalized by federal dollars from the Environmental Protection Agency. In the previous year the Office of Inspector General reviewed the program in five states, including New Mexico, and reported a high level of unspent federal dollars for the program. Ms. Russell indicated New Mexico's spending pace has increased in the last six months and is on target to meet obligations by the end of FY15. Ms. Russel briefed the committee on the New Markets Tax Credits (NMTC) program. Finance New Mexico, an entity of the NMTC program, has received two allocations of federal tax credits totaling \$156 million, of which most has been invested. Ms.

Russel summarized program activities in projects closed in FY13 and FY14, which indicate relative growth from previous years.

Referring to the audit, Ms. Russel said NMFA is working to finalize a contract for an internal audit position with an outside firm. All other internal activity findings have been addressed with the exception of the database system. NMFA will create a comprehensive database that will help alleviate heavy staff reliance on on spreadsheets of program activities. Ms. Russel highlighted the FY14 budget; five employee vacancies remained throughout the year resulting in decreased personnel expenses, grant revenue and expenses were up as activity increased in some of the programs, and \$115 million in PPRF bonds were defeased, thereby increasing capacity and reducing interest costs in the future. The NMFA is requesting a near flat budget in FY15 with only a 1 percent increase.

In response to Chairman Varela, Robert Brannon, interim chief financial officer, stated he has been in his position for about a week. NMFA will determine in the next couple of weeks how the position will be filled.

In response to Chairman Varela, Ms. Russel said, depending on the type of funds an entity is looking to access, capital may be available fairly quickly if they are using the PPRF and there is legislative authorization.

In response to Chairman Varela, Representative Lundstrom said the NMFA Oversight Committee has had preliminary briefings on the NMFA's budget request, which will be discussed again in the Committee's final hearing at the end of the year.

In response to Representative Hall regarding the internal audit contract, Ms. Russel said final language and scope has been agreed on and is being prepared for signature. NMFA expected the contract to be complete by the end of the following week.

In response to Representative Hall, Ms. Russel said certain programs have demand that exceeds the amount of available capital. Because the Drinking Water Program has now been fully obligated, NMFA is doing more precise cash-flow modeling to understand what type of loans they can make from the program. NMFA has the ability, particularly in the Drinking Water Program, to issue bonds against that program. While NMFA has done some things to increase their reach in some programs, available capital in other, particularly the grant programs, is far less than the demand. The PPRF does have additional capacity. Ms. Russel said activity across the state has been relatively flat in the last couple of years. NMFA is increasing its efforts to educate people on the benefits NMFA offers.

In response to Representative Tripp, Ms. Russel said NMFA had intended the planning grants would be used in applications for federal dollars, but it didn't work out as such, but with upfront planning, NMFA has seen a greater increase in projects being completed in the last several years.

In response to Representative Tripp, Ms. Russel said most federal and state programs require a preliminary engineering report and must be updated if the report is older than five years to make sure costs are relatively the same, population projections for the project still fits the needs of the

community, and that there are no new regulatory issues. Ms. Russel said NMFA has not been asked to fund the updates.

In response to Representative Tripp's question regarding a particular project in Silver City, Ms. Russel said the project did not use Smart Money. The construction period took longer than expected and the project was funded by a bank rather than the NMFA.

**Workforce Solutions Department (631)** Secretary Celina Bussey of the Workforce Solutions Department (WSD) began her presentation with an overview of programs and current operations and performance within the respective programs. Secretary Bussey talked about great strides WSD has made including reducing unemployment insurance (UI) fraud by as much as \$10 million, or 60 percent, (from 5.22 percent in 2012 to 2.11 in 2013.) New Mexico's UI program was ranked number one in the United States by the U.S. Department of Labor for quality claims determinations (quarter ending September 2013) and continues to be ranked in the top ten. The Unemployment Insurance Tax and Claims System recently received two national recognitions. Secretary Bussey updated the committee on the UI trust fund and benefits. The trust fund has begun to incrementally regain in its balance and is monitored closely. The state continues to show progress as the number of individuals certifying for UI benefits continues to decline. Secretary Bussey talked about the progress of implementing the new tax rate reform initiative. Secretary Bussey informed the committee of a new effort to automate the UI appeals tribunal to eliminate manual hands-on processes that can lead to data entry errors and delays. Secretary Bussey moved on to employment and workforce development initiatives. With federal dollars, WSD heavily invests in WorkKeys, a job skills assessment system that helps employers select, hire, train, develop, and retain a high-performance workforce. Secretary Bussey then highlighted areas of performance in the Labor Relations Division. Secretary Bussey moved on to results of the FY15 appropriation and reported on requests the Legislature made after increasing general fund appropriations to WSD in FY15. A Project Management Office was created, which eliminated contractual services for project management. Secretary Bussey then summarized the FY16 appropriation request. WSD requested an increase from the general fund totaling \$3.3 million. WSD is proposing department reorganization. Secretary Bussey moved on to talk about the reduction in the federal funding streams, including the unemployment insurance funding stream, which is their largest source of funding. Secretary Bussey provided FY14 BAR activity and concluded her presentation.

In response to Senator Munoz, Secretary Bussey said she is not aware of a \$1.5 million request from the Northern Area Workforce Development Board made to the agency. The four local boards receive formula funding from the federal government. Because the funding is direct flow-through, the agency does not reserve any additional money for distribution. The secretary suggested the board may be asking to shift money from one funding stream to another, and WSD would look into the request.

In response Senator Munoz, Secretary Bussey said the Public Works Minimum Wage Act requires the Labor Relations Division (LRD) to do on-site compliance and desk audits for projects that have more that \$60 thousand of state funding. WSD offers to do presentations for employers on why LRD is on-site, what the purpose is, and how they can help educate their employees on how to respond to such questions as what their pay is.

Secretary Bussey then responded to Senator Munoz's questions regarding contractors. Contractors wishing to bid on a state-funded prevailing wage project must be registered with WSD. A bi-annual fee of \$400 is assessed, which essentially binds the contractors to an understanding that New Mexico is a prevailing wage state. WSD can investigate and has statutory authority to seize retainage monies from contractors who are not compliant.

In response to Chairman Varela, Secretary Bussey said the state's unemployment rate from August to September went down from 6.9 percent to 6.8 percent. The overall state job number was an increase. The private sector shows a substantial increase while government continues to see job losses.

Chairman Varela expressed concern about the type of jobs being created. Secretary Bussey said the education and health services arena continues to add jobs that are medium- to high-income positions. Manufacturing facilities are expanding in New Mexico and shows promise in job growth in the future.

In response to Chairman Varela's question regarding the FY16 appropriation request and the penalty and interest fund, Secretary Bussey said it does not put the agency in a good position to use the penalty and interest funds to react to a shift in the agency's business outside the typical appropriation cycle when that funding and balance continues to decline.

Chairman Varela encouraged WSD to clean-up the vacancy report.

In response to Senator Leavell, Secretary Bussey talked about recruitment in his area. Some regions have a more difficult time recruiting regardless of high-paying jobs being offered, as opposed to other regions where they are desperate to create jobs because there are so many bodies. WSD will look more into recruiting outside the state.

**Indian Affairs Department (609)** Arthur Allison, secretary, Indian Affairs Department (IAD), began his presentation with challenges IAD faces, including job losses and an average 30 percent unemployment rate among the tribes, pueblos and nations. The Navajo Nation is currently experiencing over a 50 percent unemployment rate. Job losses from Arizona Public Service and BHP coal mining company have greatly impacted the San Juan Tribe in Arizona and Navajo communities. Secretary Allison touched on the challenges in health care and education in native communities. Drug, alcohol and mental health issues are increasing in native communities. The secretary said tribal economic pursuits are static and many tribal enterprises and businesses have not been able to flourish because of economic downturn. The tribal infrastructure fund (TIF) has helped develop tribal infrastructure needs and in turn build a platform for economic development. Secretary Allison mentioned the annual Tribal Leadership Summit and American Indian Days, which both help build tribal relationships and programs.

Moses Winston, general counsel for IAD, gave a brief background of the IAD and talked about the department's strategic goals. Mr. Winston touched on the special projects funds and tobacco cessation programs. IAD was appropriated \$615 thousand in special projects funds and \$249 thousand for tobacco cessation in FY15. Regarding the TIF, Mr. Moses noted since 2005, the state has awarded more than \$69 million in tribal infrastructure projects and has assisted 54 tribal

communities. IAD currently has 13 FTE employees and three vacancies, or an 18 percent vacancy rate. Although the department is asking for a flat budget in FY16, it is working with DFA for a special appropriation request of \$100 thousand to support the TIF program.

In response to Representative Lundstrom, Secretary Allison said they make a presentation to the Indian Affairs Committee on the appropriations process and what is being awarded. IAD works with the LFC analyst when identifying and prioritizing projects. Representative Lundstrom said the Legislature should be more involved when funding is disbursed and suggested legislators receive a report on where dollars are going and why. Senator Cisneros said they do receive a report on projects.

In response to Representative Lundstrom's question regarding the special appropriation request, which would also increase their contract with the Economic Development Department (EDD) to provide technical services, Secretary Allison said a representative from IAD works with five tribal liaisons from EDD. Representative Lundstrom requested a copy of the most recent list of projects.

Senator Cisneros asked what IAD's involvement is, if any, concerning current litigation with various northern pueblos within the service area of the Jemez Electric Co-op and also issues concerning the Indian water rights settlement agreement. Secretary Allison said IAD has spoken to tribal leaders and has offered assistance to parties on both sides of the argument.

In response to Senator Munoz, the TIF does not provide for administrative support for oversight of TIF projects.

Chairman Varela commented that the TIF drives capital outlay issues for Native Americans and asked why the Santa Fe Indian School (SFIS) is not part of that process. Secretary Allison said SFIS is a federally funded school. Mr. Moses said they are working with SFIS, DFA, and LFC staff to look at the opportunity to hold a hearing with SFIS and IAD. It may require a statutory change to IAD to have a hearing every year. David Abbey said a letter from the superintendent of SFIS was presented to the Public School Capital Outlay Council saying the school did not intend to pursue public school capital outlay at this time.

**Veterans' Services Department (670)** Timothy Hale, secretary of the Veteran's Services Department (VSD), briefed the committee on the FY15 appropriation request. The department is requesting essentially a flat budget from last year's operating budget of approximately \$3.7 million. There is an expansion request that brings the total request to approximately \$4.4 million, primarily for funding FTE for a cemetery program costing approximately \$663 thousand. Secretary Hale updated the committee on the cemetery program. The Gallup cemetery is on the funding list for the federal government.

Secretary Hale said the original expansion request was for cemetery applications received from Gallup, Fort Stanton, Carlsbad, and Angel Fire. Carlsbad and Angel Fire have been deemed acceptable cemetery applications by the VA but they are well below the funding line for this year. VSD will make an adjustment to the expansion request reflecting FTEs needed only for Gallup, Fort Stanton, and two headquarters employees to manage the program.

In response to Chairman Varela, Secretary Hale said there are six funded vacancies at the moment. VSD has hiring actions underway. VSD is requesting funding for 10 new FTE associated with the cemetery program. The request for 10 new FTE is before an adjustment will be made to reflect what the VA just granted VSD for the cemetery program. The adjustment will bring the request from 10 to 6 FTE.

Chairman Varela requested VSD bring the number of funded FTE it will be hiring by the end of the fiscal year to the appropriations committee in the next legislative session. Chairman Varela said they are looking at moving money out of personal services if it's not being used.

Secretary Hale said the national cemetery administration is funding the program. After the cemeteries are built, the burial fees the VA pays to the state will cover the vast majority of the cost for continuing operation of the cemeteries for the use of veterans' and their families.

Representative Lundstrom thanked the secretary and the department for working with the legislators. Representative Lundstrom said it is a big responsibility for the local community because there are several standards and costs associated with building a national cemetery. Representative Lundstrom is proud to have the new cemetery in Gallup.

Senator Burt said a bill that was passed a couple of years ago that had an expedited licensure transfer into the state for spouses as they are assigned to one of our military bases is working well.

Senator Munoz said that while it does cost money, building the cemetery in Gallup was the right thing to do. Senator Munoz suggested the cost for the state should be put in a 10-year plan.

In response to Senator Munoz's question on the veterans' service aid vacancy in Gallup, Secretary Hale said the department is looking at numbers from all areas of the state to best place an appellate reserve service officer.

In response to Representative Hall, Secretary Hale said until the state instructs, the other cemeteries will remain in the VA's queue. Secretary Hale said with the current funding levels for the National Cemetery Administration, they can anticipate one or two new cemeteries per year. Every July, the VA does a reanalysis of the list and the additional applications.

### **FY13 Comprehensive Annual Financial Report and Update on SHARE and Cash**

**Reconciliation** – Tom Clifford, secretary of the Department of Finance and Administration (DFA) briefed the committee on the first audit of the New Mexico Comprehensive Annual Financial Report (CAFR), which was then talked about in detail by State Controller Ricky Bejarano. A draft report was submitted to the Office of State Auditor (OSA) in July. Since then, the audit firm, OSA, and DFA have worked to finalize the report, which is expected to be completed soon. Prior to FY13, the report was only reviewed and not audited. Mr. Bejarano talked about the resources needed to support the CAFR audit, including staffing increases. An expansion will be requested during the upcoming legislative session. Hyperion software has been purchased to enable automation of the CAFR preparation process. DFA's budget request includes a special nonrecurring appropriation request of \$1.2 million to implement Hyperion.

In response to Chairman Varela, State Auditor Hector Balderas said his office has completed a review of the CAFR audit and will immediately release it as soon as they receive the final hard copy from the audit firm. Mr. Balderas said that auditors are not going to render an opinion on what the financial position is of the state due to extensive cash control and financial reporting problems in the state that undermine the reliability of the state's financial statements, so the report will be released with a disclaimer opinion. Numerous material weaknesses were identified in the audit, including difficulties in maintaining fiscal management, lack of internal controls, and compliance with core financial accounting principles. Mr. Bejarano said that although there are benefits from this audit, it will be a number of years before the reasons for the disclaimer and the material weaknesses are fully addressed. Mr. Balderas said that while he agrees the CAFR report should be audited, if the audit is a year or two late and continues to show these material weaknesses, the auditors will continue to issue disclaimer opinion. As a standard benchmark throughout the country, the state should have a financial report on the state's transactions three to six months after the close of the fiscal year. The FY13 audited CAFR was released about 16 months after the close of the fiscal year.

In response to Chairman Varela, Secretary Clifford said it is the responsibility of the State Auditor to make sure the state CAFR is audited. The secretary added that it was DFA who brought the issue forward, identified the weakness, and are working to correct it.

David Abbey asked, while progress is being made, if the \$4 million requested is enough to accept the recommendation and when would they know. Secretary Clifford said they will get a report from their consultant (Deloitte) for the historical cash remediation project in November, which they will share with the committee. At that point, they will make a decision about what the next steps are.

In response to Representative Hall, Mr. Bejarano said information is being fed into a statistical software system (SAS) that is trying to match up the transactions in batches. A group has been working since July to analyze the data.

In response to Senator Munoz's question on bond ratings, Secretary Clifford said New Mexico has a strong credit rating for a number of reasons. The pledges the state makes are very strong. We have to continue to talk to the rating companies and show progress on the work being talked about today. While the rating companies are concerned, they have not threatened to downgrade.

In response to Senator Munoz, the \$4 million is continued cleanup of the system. After that, they upgrade and the system gets back on track.

Secretary Darryl Ackley briefed the committee on the SHARE system. Secretary Ackley detailed the stabilization of the SHARE system, which is now complete. The total processing hours for payroll, time administration, and financials from the old SHARE system to the current system have greatly improved. Secretary Ackley talked about the improved operational readiness. The SHARE system is now in a maturing stage where cross training is happening, upgrading will be considered normal routine, and Enterprise Learning Management will be rolled out. Secretary Ackley talked further about Enterprise Learning Management, a training system that

automatically gets placed into one's personnel record. The upgrade progress may take more than 12 months to complete and will require training and process change by users across the state.

Mr. Bejarano then presented a report on cash remediation and reconciliation. After an independent diagnostic report in June 2012 revealed that statewide cash balances in the general fund investment pool had not been reconciled since at least the inception of SHARE in July 2006, DFA implemented phase one of cash remediation. Phase one implemented statewide business process changes and corrected problems with the configuration of the SHARE system during FY13. DFA's Financial Control Division (FCD) began reconciling the state's fiscal agent bank to SHARE general ledger activity on a point-forward basis beginning February 1, 2013. Mr. Bejarano talked about the historical cash reconciliation project. FCD has contracted with Deloitte & Touche, LLP, on the project. The purpose is to match transactions reported by the state's fiscal agent bank to SHARE general ledger for the period July 1, 2006, through January 31, 2013. Work should conclude in November 2014. Phase two of the cash remediation project is scheduled to begin in November 2014. The goals of phase two will be implementation of critical business process changes and remediating systemic issues that still exist within the SHARE system. DFA has negotiated with the Department of Transportation for \$1 million for resources. DFA will request an additional \$4 million in the next legislative session.

In response to Chairman Varela, Mr. Bejarano said that after work concludes on the historical cash reconciliation project in November, they will be able to see what the differences are between the general ledger and cash on hand.

In response to Chairman Varela's question on monthly reconciliation reporting, Mr. Bejarano explained that there are listings of various transactions that affect cash; when these transactions are processed, there is an upload prepared for the fiscal agent. When these transactions hit the bank, they are matched up. If they don't match up with certain criteria, the bank will not honor them. FCD does its own comparisons to what has hit the bank to determine what is outstanding and what the balances are at the various departments.

In response to Chairman Varela, Mr. Bejarano said DFA has six cash accounts. Bond accounts are separate. Melissa Spangler from OSA said when an audit is done on an individual agency, the auditors look for a reconciliation. They look at their SHARE balance in comparison with the balances in their general ledger. The State Treasurer's Office (STO) said staff uploads the bank statement electronically into SHARE daily and run auto reconciliation process that does a comparison between outstanding warrants and warrants that have been issued. They do the same thing on the depository side. STO said cash going in and out is being reconciled on a monthly basis.

In response to Senator Munoz, Ricky Bejarano said with 129 business units in SHARE now set up with the STO, a decision has to be made regarding what those beginning balances are.

In response to Chairman Varela, Secretary Clifford stated that they should have a number soon on what the impact will be to the reserves.

### **Thursday, October 30**

The following members and designees were present on Thursday, October 30, 2014: Chairman Luciano “Lucky” Varela; Vice Chairman John Arthur Smith; Representatives Larry A. Larrañaga, Edward C. Sandoval, Nick L. Salazar, Don L. Tripp, James E. Smith, Jimmie C. Hall, and Patricia A. Lundstrom; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell, Mary Kay Papen, George K. Munoz, William F. Burt, and Pete Campos.

**Program Evaluation: A Case Study of Elementary Schools in New Mexico.** Madelyn Serna Marmol, lead program evaluator, LFC, and Yann Lussiez, program evaluator, LFC, presented a report titled, “Implementation and Performance Trends: A Case Study of Elementary Schools in New Mexico.” Key findings included high-performing schools target funding and resources and use best practices to effectively maximize student achievement, many schools face challenges associated with student poverty but can still attain high levels of achievement with modest improvements in performance, effective leadership and teachers are key factors in creating a framework for improved student performance at high-poverty schools, and implementation of turnaround strategies in schools statewide are varied and costly.

Among other recommendations, the study suggested that, in order to increase the achievement of at-risk students, the Legislature should prioritize K-3 Plus funding and pilot a 4-5 Plus program in high-poverty schools and prekindergarten for districts willing to implement in all high-poverty schools, continue to increase formula funding for at-risk students and modify the public school funding formula to align the training and experience (T&E) to the three-tiered licensure system, and add an adjustment factor for effective teachers and leaders at high-poverty schools (\$5 thousand to \$15 thousand stipend) or factor an extra weight in the training and experience (T&E matrix) for teachers at high-poverty schools.

To increase student achievement statewide, the Public Education Department (PED) should use the budget process to hold districts accountable for using best practices at high-poverty and under-performing schools, as authorized in the School Finance Act, create guidelines for placing highly-effective teachers and principals at low-performing schools, and collapse a number of initiatives aimed at targeting under-performing, high-poverty schools to a streamlined program providing flexible assistance, reinforcing best practices, and requiring district support.

Ms. Lenti, Deputy Secretary, Public Education Department, stated PED is concerned about the size of the case study; 15 schools was too few. PED is concerned about a single turnaround program in the recommendation section.

Chairman Varela said LFC needs a better way to work with staff to ensure accurate data wants the executive and regular branches working together.

Representative Hall asked why the state needs a 4-5 Plus if it has an effective K-3 Plus and prekindergarten. Representative Hall stated the education community has known about the eight factors for a long time but asked if they were now being taught in the colleges of education. He also asked if there was there a noticeable difference in principal choice. Ms. Marmol responded that there was a major difference in principal choice, specifically in turnaround schools. Some schools in the study targeted school leaders and staff. Representative Hall asked if there was talk

regarding using the budget to bring about change. Ms. Lenti responded PED has taken concrete steps to go in this direction. She said that districts must prioritize funding to low-performing schools. Representative Hall said he dislikes the one-size turnaround program.

Representative Smith asked about teacher licensure levels, specifically if different outcomes observed in various licensure levels (differences between level two and three). He stated that we need to look at the certification process and Partnership for Assessment of Readiness for College and Careers (PARCC). Responding to Representative Smith, Ms. Marmol students change school mostly because of poverty. Representative Smith said focused professional development and collaboration was needed and asked if districts have the funding to do this. Ms. Marmol responded due to funding constraints, high-poverty schools use the train the trainer model.

Senator Leavell state the group left out is local school boards and said our superintendents have two bosses. Senator Leavell said he is not sure local school boards know where we are trying to go. Ms. Marmol responded board members were invited to participate in interviews. She stated that the team met with three school board presidents during the evaluation and the LFC asked principals about school board leadership through a principal survey. Ms. Marmol stated principals say board leadership is effective. Ms. Lenti responded that Senator Leavell's point is well taken. PED can see the gap created when boards aren't engaged. Ms. Lenti stated training is required to bring school board members a positive response. Senator Leavell stated more communication with schools boards is needed and the school boards in all 89 districts need a copy of this report.

Responding to Representative Lundstrom, Ms. Marmol said there is a correlation between poverty and low school grades. Ms. Lenti responded PED doesn't create grades based on the student population. Representative Lundstrom would like PED to provide poverty information and correlation. Representative Lundstrom stated she feels the the Legislative Education Study Committee should participate.

Senator Beffort said Albuquerque Public Schools (APS) doesn't want to participate in the University of Virginia (UVA) school-turnaround model is going to develop their own school-turnaround model. Senator Beffort would like to send a message to the APS school board and would like the report presented to them. Ms. Brunder, APS legislative liaison, said the new APS administration is applying for UVA with the change in administration and will talk to the board about a presentation. She expressed concern and interest and said APS needs to be methodical about which schools are selected for turn-around when the new leader is ready. Beffort stated that this is a pivotal time for APS.

Representative Larrañaga asked if the right people are getting the message. He said he would like PED to speak to school districts, LESC, and school boards and ask for feedback. Representative Larrañaga stated local boards have a lot of control especially over the budget. He said if you don't test, you don't know, and what gets measured, gets accomplished. Representative Larrañaga stated poverty is more the needle through education and is glad to get cooperation from APS.

Senator Burt asked why math scores were declining. Ms. Mármol responded the state has possibly had more of a focus on literacy. Senator Burt stated he was concerned about science and stated schools that make the best out of initiatives do better. He said that schools run into problems when rank and file doesn't understand and schools need to communicate and make things happen. Senator Burt stated one size does not fit all and funding that runs the state comes out of rural New Mexico.

Representative Salazar asked what made the biggest difference in school performance. Ms. Mármol responded the emphasis on culture and climate and high expectations. Representative Salazar stated parents have a lot to do with performance. Ms. Marmol responded high-performing schools find ways to engage parents.

Representative Tripp said the report contained a lot of information, and he would like more time to read it. He asked how the eight characteristics are relayed to school districts and if LFC shares information with superintendents, principals, and the district office. Representative Tripp stated he doesn't think the Legislature has a way to communicate with school boards and superintendents are required to bring board members to training. He wondered who implements best practices in a school district.

Gadsden Superintendent Efren Yturalde stated his district has its own turnaround model. He believes his district is successful because of the intensity and fidelity to the state and district programs, concentration on good development, and lots of data. He also stated poverty is no excuse and the eight points are important; the district bring them up in every school. Superintendent Yturalde said teachers in his district are required to be TESOL-endorsed. Representative Tripp asked if Gadsden is placing teachers, like level three teachers, because of pay. Superintendent Yturalde said level one teachers have high expectations, and the district is able to train them. He stated some established teachers are harder to train. He said he doesn't evaluate principals until report cards are out and principals didn't rate level three teachers highly. Superintendent Yturalde said his principals have only one supervisor; district administrators are not supervisors.

Senator Muñoz asked if PED followed the code of ethics. Ms. Lenti responded PED always follows the law. Senator Muñoz asked if teachers are given a code of ethics. Ms. Lenti responded that districts hire and are in charge of distributing a code of ethics. Senator Muñoz stated parents need to want kids in school and said there are problems with teachers who don't respond. Ms. Lenti said that the PED had the SBA last year and PARCC this year. She stated that in 2010 the PED adopted the Common Core; PARCC aligns with the Common Core. Senator Muñoz said 17 tests are administered, one test every two weeks. Ms. Lenti responded she couldn't tell which tests are required by state or federal law and said short-cycle assessments review data to make instructional decisions. Senator Muñoz asked how many. Ms. Lenti responded the state has three to eight tests, including early childhood screening and final exams for high schoolers. She stated the PED website outlines required tests.

Chairman Varela asked what LFC found for the Santa Fe Public Schools (SFPS). Ms. Mármol stated SFPS had a plan for distributing funds for schools by performance level. Chairman Varela

asked SFPS Superintendent Boyd what would have happened this year if \$15 million was given to at-risk and what impact did veto have on at-risk kids.

SFPS Superintendent Boyd said SFPS has three zones with different levels of financial flexibility. He stated there was a teacher shortage in Santa Fe and SFPS had transformation, strategic interventions, extended learning time, non-instructional supports, parental engagement, and school advisory councils. He said SFPS is \$2 million short for turnaround. Santa Fe outpaced state average for improvement, and transformational schools outpaced other schools. Chairman Varela asked about teacher evaluations and data problems. Superintendent Boyd responded there is generally a good dialog, although he sometimes disagrees, but SFPS has not yet resolved how data should be used. He stated evaluations were delayed and asked which evaluations should be used. Chairman Varela stated his understanding from the executive veto of funding is not needed because effective date of change for FY15 and asked what the formula changes were. LFC Director Abbey stated the estimated FY16 bill will require \$13 million. He suggested continuing to boost this index over several years.

Chairman Varela asked how LFC could have a better sample. Ms. Mármol stated the case study looks at a concentrated number and the team sent out a survey to all elementary school principals in the state and 43 percent of principals responded. Chairman Varela asked what would be a better indication and are staff better prepared. Ms. Lenti responded that there is a concern the evaluation concentrated on 15 schools. She said the PED tries to work with every district and the PED performs a complete budget review for 89 schools districts.

**Public Defender Department (355)** Introductions were made by Chief Public Defender Jorge Alvarado. Michael Stout, chairman of Public Defender Commission, began the presentation with a brief background of the commission and its obligations. The commission has set standards when determining the budget request. Mr. Stout says the commission wants to work with the Legislature but added that it should be recognized that the Public Defender Department (PDD) has not been adequately funded for 50 years. Mr. Stout hopes the new commission changes that.

Chairman Varela said most of the complaints made under the prior Public Defender were about the lack of continuity between attorneys and their clients. Chairman Varela asked what the new Public Defender will do to improve those relationships. Mr. Stout said they recognize that the relationship is critical to having effective representation. The commission set performance standards for all PDD attorneys.

Chief Alvarado said when he talks about the law offices of the Public Defender (LOPD), he is referring to both the office and the contract counsel. Chief Alvarado said there is a crisis in the contract counsel system brought on by inadequate compensation of counsel. Chief Alvarado noted PDD contract pay rates are far lower than the pay rates for attorneys contracted with the Risk Management Division of the General Services Department and stated that the problem is particularly acute in rural areas of the state. To address the crisis in rural counties, PDD plans to implement an \$85 hourly rate for five counties: 1) Eddy, 2) Lee, 3) Roosevelt, 4) Lincoln, and 5) Luna. Mr. Alvarado said a well-functioning criminal defense system

- Is good for the state of New Mexico;
- Helps enhance public safety;

- Creates efficiency for clients, victims, and the community;
- Is more efficient for taxpayers; and
- Makes it dignified for everyone in the system.

Mr. Alvarado then referenced an LFC program evaluation, noting the average cost per inmate in New Mexico was \$34 thousand; A 25 percent reduction in the number of incarcerated offenders would save nearly \$57 million annually. Mr. Alvarado contended that adequately funding indigent defense will help achieve this reduction.

Mr. Alvarado presented the PDD request for a budget increase of \$51.7 million. Mr. Alvarado said the PDD request for additional FTE focuses on providing additional support staff. Mr. Alvarado gave a comparison of staff levels and staff-to-attorney-ratios between PDD and the Administrative Office of the District Attorneys (AODA). The PDD request provides 1 investigator for every 3.6 attorneys. In comparison, the AODA currently has 1 investigator for every 6 attorneys. PDD requested \$490.5 thousand for administrative staff. Mr. Alvarado said the department is also requesting approximately \$565 thousand for salary increases. Mr. Alvarado concluded his presentation by reading news article clips highlighting the crisis the public defense system faces throughout country.

Following Mr. Alvarado's presentation, Chairman Varela asked Henry Valdez, director of the AODA, to comment on the presentation given. Mr. Valdez said he agreed with Mr. Stout, contract counsel is in need of an increase. Mr. Valdez stated the DA's concern is if contract attorneys are paid an hourly wage, it may create an incentive to prolong cases and cost more as cases are no longer resolved earlier in the process. Mr. Valdez said he spoke to Mr. Alvarado and Mr. Dangler about measures that would need to be taken to prevent fraud and waste. Mr. Valdez feels an hourly contract attorney reimbursement system would be difficult to monitor. Mr. Valdez cautioned LFC about comparing resources within the DA's Offices to that of the Public Defender.

In response to Chairman Varela's question on timelines of resolving cases, Mr. Alvarado said the Supreme Court has developed a new timeline as a pilot project in Bernalillo County through the activities of the Bernalillo County Criminal Justice Review Commission. Mr. Alvarado said the pilot program intends to implement very strict timelines.

In response to Chairman Varela, Mr. Alvarado said PDD will bring a proposal to amend both the Indigent Defense Act and the Public Defender Act so that only clients who are indigent are represented by PDD. Currently, if a person is not indigent, they may still receive a public defender by executing a reimbursement contract, which is often not paid.

In response to Chairman Varela's question regarding supplemental appropriation, Mr. Alvarado said to address the crisis in rural counties, PDD has implemented an \$85 hourly rate for five counties. As a result, Mr. Alvarado said if expense projections are correct, the PDD may be up to \$2 million over budget and would therefore need to make supplemental request. The PDD is requesting a base increase of \$2.5 million for FY16 that would help meet the cost for those five counties.

Chairman Varela commented on appealing the death penalty and said it has been an extended and expensive proposition. Mr. Alvarado said those attorneys are being paid on an hourly rate.

In response to Senator Cisneros, Mr. Alvarado said for the last 40 years, PDD has not been adequately funded. For the last five years, PDD has had an average increase of 5 percent.

Senator Cisneros asked Mr. Alvarado what would put PDD in a position to be in compliance with court requirements if the Legislature is not able to meet their budget increase. Mr. Alvarado said it's a difficult question to answer because the analysis is based on where they are currently and what is necessary to achieve the objective as required under the constitution to provide adequate assistance of counsel.

In response to Senator Cisneros' question regarding the consequences of not having adequate attorney representation, Mr. Alvarado stated consequences include high attorney workloads, poor representation, unreasonable delays, unfair trials, and wrongful convictions.

Senator Cisneros asked if there are cases or circumstances where a defendant has been sentenced and put in jail for lack of adequate representation. Mr. Stout said there are cases where that has occurred but the number of those of cases is unknowable.

Senator Smith talked about the downturn the Legislature faced in the last six years. Senator Smith said the Legislature is aware that the issue needs to be addressed responsibly.

**Department of Health: Preview of FY16 Appropriation Request** Secretary Retta Ward with the Department of Health began her presentation listing the department's eight program areas that provide a broad range of public health and health system services. Referring to a map in the presentation, Secretary Ward explained that the stars in the map indicated the location of DOH facilities, including satellite services provided by the Behavioral Health Institute in Mora and Guadalupe counties. The 54 public health offices around the state provide vital public health services that prevent disease and injury and promote healthy behaviors. Secretary Ward provided a current organizational chart of DOH. Secretary Ward introduced Lynn Gallagher, deputy secretary, Leonard Tapia, ASD director and CFO, and Brad McGrath, chief deputy secretary. Secretary Ward said the department's vision, mission, and results shown in the presentation slide were developed by the department's strategic planning council. Secretary Ward listed 10 priority health indicators, which were selected based on New Mexico Health Status data, Healthy People 2020 indicators, and the CDC's Winnable Battles. Secretary Ward talked about the department's major functions and then highlighted the Healthy Kids New Mexico program. New Mexico is making strides in preventing prescription overdose deaths. Enrollment in the Developmental Disabilities Waiver Program (DDWP) grew by 613 individuals in FY14 and the waiting list has been reduced. Secretary Ward spoke briefly about the great strides she said have been made to improve performance measures. Secretary Ward talked about the department's commitment to achieve and sustain the status of accreditation for the department, the Scientific Laboratory Division, and each of their health care facilities. Secretary Ward handed over the presentation to Mr. Tapia to talk about the FY16 appropriation request and the FY15 supplemental request. DOH is requesting a general fund increase of \$6.65 million. There is a \$3.8 million decrease in the amount of other revenues compared with the FY15 operating budget. There is an increase of

\$1.5 million in personal services and employee benefit costs, \$5.2 million increase in contractual services, and other costs would decrease by \$4.9 million.

In response to Chairman Varela, Mr. Tapia said the increase to contractual services is due to areas using clinical services where there is a shortage of nurses and other clinicians. DOH is in competition with all other providers of care. Mr. Tapia said DOH has experienced an inability to hire nurses and other clinicians and, therefore, contracts out to maintain the level of. Referring to a recent article in the *Albuquerque Journal*, Mr. Tapia said the federal Veterans' Administration (VA) chose to diminish the amount of services it provided because of its inability to hire nurses. DOH does not want to diminish the amount of services they provide and are therefore seeking contract labor which is more expensive.

Mr. Tapia detailed the appropriation increase request of \$6.65 million. The increase will restore funding for the Facilities Management Program and its seven state hospitals and facilities, including the Los Lunas Community Program, and for a pilot medication dispensing system. The Facilities Management Program's general fund budget for FY15 was reduced by \$4.7 million from FY14. Mr. Tapia talked about the reduction in general fund from FY14 to FY15. Similar to the base increase request for FY16, the supplemental appropriation request for FY15 of \$6.4 million is needed to restore the Facilities Management Program budget to FY14 levels. Referring to a graph in his presentation, Mr. Tapia showed the department's reversion was down to \$2 million in FY14 from \$27 million in FY13. Mr. Tapia moved on to talk about Human Resources. DOH has reduced its number of vacancies from previous fiscal years. Currently, DOH has a 12.6 percent vacancy rate. Mr. Tapia summarized activity in the Administrative Services Division.

Deputy Secretary Gallagher gave an overview of FY14 accomplishments. Deputy Secretary McGrath briefly talked about the seven safety net facilities: 1) Turquoise Lodge Hospital, 2) New Mexico Behavioral Health Institute, 3) NM Rehabilitation Center, 4) Sequoyah Adolescent Treatment Center, 5) New Mexico State Veterans' Home, 6) Fort Bayard Medical Center, and 7) Los Lunas Community Program. DOH received conditional approval from the VA for a \$15,614,314 matching grant to build the new Alzheimer's/skilled nursing building. The state match is \$8.34 million.

In response to Chairman Varela, Lori Montgomery, administrator for the State Veterans' Home in Truth and Consequences, said the majority of veterans in the facility receive care at the VA medical center in Albuquerque. The Veterans' Home also works with local clinics in Truth or Consequences, Las Cruces, and El Paso.

In response to Chairman Varela, Ms. Montgomery said the Alzheimers population in New Mexico is increasing. When the grant to build a new Alzheimer's/skilled nursing building was applied for over 10 years ago, there was a need of over 400 beds. Ms. Montgomery said it is very important the state of New Mexico and DOH continue to have the Alzheimers population on radar. The Veterans' Home facility to care for veterans' with Alzheimers is currently full with only 20 beds. There is a waiting list. Mr. McGrath spoke briefly on the committee on the FY16 capital improvement request. DOH will be requesting over \$20 million to do phase three of the long-term care facility in Las Vegas.

Director Cathy Stevenson of the Developmental Disabilities Supports Division (DDSD) presented the accomplishments in the DD Waiver Program. Enrollment in DDWP grew by 613 individuals in FY14. The waiting list has been reduced. Average cost per person on the traditional DD waiver is down from \$74,381 in FY12 to \$71,000 in FY14. In FY15, the cost has dropped below \$70 thousand for the first time in a decade. The Medically Fragile Waiver Program served 228 participants in FY14. Ms. Stevenson discussed the DDSD rate increases. The Legislature allocated \$500 thousand for the FIT Program and \$500 thousand for the DDWP. As a result of a rate study in FY12, about \$800 thousand was added to the system in the form of rate increases in FY13. Ms. Stevenson spoke briefly about DDSD partnerships and then briefed the committee on the Jackson litigation. There are four major areas of court orders that are not disengaged: 1) joint stipulation on disengagement; 2) plan of action; 3) appendix A; and 4) 1998 audit. DOH has made significant progress in disengagement. Ms. Stevenson said DOH hopes to completely disengage by the end of this year. DOH is currently under a remedial plan that was issued by the court in 2011. In a new court order issued this past September, DOH must file “evaluative components” with the court that serve as disengagement criteria for the objectives from the Jackson compliance administrator by November 21, 2014.

Peggy O’Neill, provider representative from Alamogordo and chief executive officer of Zia Therapy Center talked about the services the center provides. New Mexico’s Family, Infant, Toddler (FIT) Program is consistently ranked among the best in the nation. In 2002, New Mexico contracted with Solutions Consulting Group to perform a complete perspective rate study. Ms. O’Neill said the results released in 2003 indicated provider agencies were underfunded. Appropriate rates were recommended along with an annual cost of living adjustment to further provider’s sustainability. Ms. O’Neill said to date, only one of those suggested rates was implemented and thus provider agencies are now operating in crisis mode. Ms. O’Neill went on to say the inadequate funding has also had a detrimental effect on agencies’ ability to attract and retain vital therapists, especially difficult in rural communities.

Mike Kivitz with Adelante talked about the DDWP. In January 2011, DDWP rates were cut 5 percent and the individuals’ programs were cut 8 percent. That resulted in about \$18 million taken from the DD system. Mr. Kivitz said he wanted to know where the \$800 thousand is that DOH says is in the system. Mr. Kivitz talked about what he is seeing across the state resulting from the cuts. Adelante had a \$600 thousand operating deficit last year. They are serving more people with less money. Mr. Kivitz said providers are desperate for support and are requesting \$5 million for early childhood, \$5 million for adult services, which will be matched, and \$5 million for services not matched with federal Medicaid funds.

In response to Chairman Varela, Mr. Kivitz said his driving issue is rate increases and explained that while the requirements have gone up, the amount of dollars they have to provide those services has gone down.

In response to Senator Leavell, Mr. Kivitz said he sent an email to Secretary Ward concerning the Leaders Industries in Hobbs. Senator Leavell invited representatives from Leaders Industries in the audience to speak about the current situation.

The representative from Leaders Industries said that in addition to rate decreases, other factors add to the challenges. The representative said that insurance and gas have gone up as well as the cost-of-living. She said that if they stay on the current course, they will end the year \$318 thousand in the hole from where they started this year. She is not sure how long they will keep their doors open. Her biggest concern is what will happen to the lives of those individuals they are serving. They are the only provider in Lea County.

Senator Leavell said he was confused about the reversions and the cuts in the programs. Chairman Varela asked if there had been rate increases for the program at the time the reversion happened. Chairman Varela said the Legislature will need to figure how they find the funding for rate increases.

In response to Senator Smith, Secretary Ward said she would get him a percentage on how many facilities are using contract nurses. Secretary Ward said there are a number of initiatives to increase the nursing workforce in New Mexico.

In response to Representative Sandoval, Ms. Stevenson said there will be approximately \$5 million reverted from the DD Waiver Program this year. Ms. Stevenson explained that funding for waiver programs is received as a Medicaid service and, therefore, the department receives the funding through interagency transfers. DOH uses that money to draw down federal Medicaid matched funds. For each person who is enrolled into the program, they allot a certain amount of funding that essentially belongs to them. They stay on the waiver for their lifetime. They don't use all their services until year three. Ms. Stevenson continued, if all the money is spent that's locked up for them in year one on another individual, it will increase their debt in the future. Because they have been so aggressive with their allocation, Ms. Stevenson said they project no reversion in FY16.

In response to Representative Sandoval, Ms. Stevenson said there was a rate increase for FY15. The program received \$500 thousand last year and DOH matched it with Medicaid funding.

In response to Representative Sandoval, Ms. Stevenson said the reversion goes back into the general fund but it stays in the base so that DOH gets the same budget appropriation next year and then that money is used to serve that person the money was allocated for.

In response to Representative Sandoval, Ms. Stevenson said there are 6,052 applicants on the DD central registry as of August 15, 2014. Slots open up when a person dies or leaves the program, which amounts to about 70 people a year. Periodically, changes in the cost of doing business lowers the cost per person and, therefore, opens slots. Representative Sandoval said the Legislature needs to be made aware of what those needs are.

In response to Representative Sandoval, Ms. Stevenson said the Burns Rate Report refers to the study conducted in FY12. Ms. Stevenson said she stands behind the report.

In response to Representative Hall, Ms. Stevenson said there is no scheduled rate increase. The DD Waiver received a rate increase in FY15. DOH does not have funding to provide additional rate increases. Ms. Stevenson said that when the Legislature gives funding to the program, it is

appreciated. However, the funding is sometimes received in a way that limits DOH's ability to use it to its maximum capacity. Ms. Stevenson suggests not putting all the money in the interagency transfer category but instead place some of it in the personnel and contracts category so they can do infrastructure development to support a healthy system.

In response to Representative Hall, Ms. Stevenson said the FY15 rate increase is currently in process of being finalized. The rate increase comes through the Medicaid claims system. The rates and codes have been established and provider training is underway. Those payments will be retroactive to July 1, 2014.

In response to Representative Hall, the \$5 million appropriation request is recurring.

In response to Senator Papen, Mr. McGrath said, of the seven facilities, Los Lunas Community Program is the only one eligible for the CARF accreditation.

Senator Burt commented that he is greatly concerned about the agencies from Hobbs and Alamogordo.

Chairman Varela requested Secretary Ward provide the committee a budget projection for the current year. Chairman Varela said he wants to know if reversions are going to happen. Chairman Varela also requested a plan on filling the vacancies.

### **Friday, October 31**

The following members and designees were present on Thursday, October 31, 2014: Chairman Luciano "Lucky" Varela; Vice Chairman John Arthur Smith; Representatives Larry A. Larrañaga, Edward C. Sandoval, Nick L. Salazar, Jason C. Harper, James E. Smith, Jimmie C. Hall, and Patricia A. Lundstrom; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell, Mary Kay Papen, George K. Munoz, and William F. Burt.

**Racing Commission** Vince Mares began his presentation stating that the New Mexico Racing Commission has been proactive and progressive in cleaning up the industry. The commission continues to adopt the Association of Racing Commissioners International (ARCI) rules. New Mexico has been a part of the association for two years. As part of the association, New Mexico's uniform penalties and sanctions are consistent with national standards. Mr. Mares said the problem is that the individuals issued sanctions are getting court injunctions against the commission and are allowed to continue racing on the tracks. Mr. Mares said the commission does not have the authority to stop district courts from issuing those temporary injunctions. The commission hopes the issues are addressed in the next legislative session. Since its adoption of the ARCI rules, the commission has assessed more than \$500 thousand in fines in the past 18 months. Mr. Mares said the commission was recognized nationally for bringing integrity back to the sport. One of the problems the commission is trying to address is counterfeiting of old licenses. The commission has revamped their licensing program to work with ARCI to make the licenses more difficult to counterfeit. Because of a budget increase, the commission now has five investigators. Mr. Mares said the commission is also taking a proactive approach in making sure these offenders are also charged criminally. The commission is currently advertising for an in-house auditor and a financial assistant who will oversee the oversight for the race tracks on the

financial part. The commission is requesting funding to hire a full time medication manager with a veterinary degree. Mr. Mares said the medication manager will serve as another enforcement official for the commission. The commission is also requesting additional funding in their contractual services to do more testing. Mr. Mares talked about why there is a need for more office space for the commission. The commission is requesting to have their rent money back.

In response to Senator Smith, Mr. Mares said Bernalillo County District Court has mainly issued the court injunctions, particularly in relation to one attorney, Cody Kelly.

In response to Senator Smith, Mr. Mares said, out of the \$500 thousand in fines issued, the commission has received \$200 thousand in paid fines. Mr. Mares said another \$281 thousand is pending because those individuals have been issued temporary restraining orders against the commission. Mr. Mares said it is going to be difficult to find legislation that denies the constitutional right to appeal the sanctions. Mr. Mares said other states are experiencing the same problems.

Senator Smith asked what the status is of the sixth racing license. Mr. Mares said the commission and representatives from the industry including the New Mexico Horsemen's Association, the New Mexico Horse Breeders Association, the National Jockeys' Guild and all five racetracks met last year to determine justification of a sixth race track. Mr. Mares said the commission will meet again and will get public input on whether a sixth license is needed in New Mexico.

In response to Senator Smith, Mr. Mares said a track is allowed 600 machines. A race track may lease up to 200 machines to another track. Albuquerque currently has machines leased from Farmington.

In response to Senator Smith, Mr. Mares said Hobbs, Lordsburg, Clovis, Tucumcari, and Raton have shown interest in getting the additional track.

In response to Senator Papen, Mr. Mares said they have more than 200 doping cases filed this year. Mr. Mares said about 50 percent of those cases have been appealed. The commission hears an average of two cases a week.

Senator Papen asked Mr. Mares his opinion regarding eliminating hearing officers and replaced by a judge to hear the cases. Mr. Mares said he thinks it would be a great idea.

In response to Senator Papen, Mr. Mares said they test both blood and urine. Mr. Mares said to the best of his knowledge, they are following all ARCI standards and requirement for equine testing.

Senator Papen asked if all the horses were tested in the All American a couple of weeks before the big race. Mr. Mares said not all of them were tested because of funding. Mr. Mares said all of them were tested in the trials. Mr. Mares said increased funding in January will allow the commission to increase testing significantly.

In response to Senator Papen, Mr. Mares said he would get the number of quarter horses and thoroughbreds that were out of competition tested this year.

In response to Senator Papen, Mr. Mares said the commission does not support the program trainers. Mr. Mares said program trainer is a problem throughout the country. The commission has adopted a rule to address the program trainers.

In response to Senator Papen, Mr. Mares said currently the rules don't allow them to take hair samples but Commission is planning on discussing it in their next meeting.

Senator Papen asked if the horse in the picture at the All American that looked to have different markings was tested. Mr. Mares said the horse was in distress, but they did manage to get blood. Mr. Mares said the rumor was that the horse had been cloned.

In response to Senator Leavell's question on outlaw tracks, Mr. Mares said he currently knows of six bush tracks. Mr. Mares said some trainers are running horses at these bush tracks without the owner's knowledge. Mr. Mares said the commission doesn't have the jurisdiction to investigate those tracks but hopes there will be legislation in the next year that will change that.

Senator Munoz would like for LFC staff to put together a report on how we can process those cases quicker for the Commission.

Director David Abbey of LFC said he has asked LFC analyst Jonas Armstrong, also an attorney, to work with LFC analyst Clint Elkins and program evaluator Maria Griego and bring back a report to the LFC November meeting on the issues, including illegal race tracks and expediting disposition of the fines and enforcement actions.

Senator Munoz made a motion for LFC or Legislative Council to appoint a subcommittee made up of people in the horse racing industry and legislators to oversee or take comment from the LFC's report and draft legislation that supports the commission. Representative Hall seconds the motion.

Because the issues involve penalties, Senator Smith suggests the Criminal Justice Committee be included. Senator Smith said several attorneys should be involved and suggested the motion is three weeks too soon.

Senator Munoz said Mr. Mares is reaching out for help.

David Abbey said staff will work on a report and suggested meeting the Monday afternoon before the November meeting.

Senator Cisneros suggested the vice chairman select the subcommittee and not wait until the next Legislative Council Service (LCS) meeting.

Senator Papen suggests Representative Candy Spence Ezzell be appointed to the subcommittee.

Representative Larrañaga suggests Representative Zachary Cook who is also an attorney be appointed to the subcommittee.

David Abbey said he will write a letter to the Legislative Council, the Senate president pro tem and the Speaker on the chairman's behalf letting them know what the concerns are and that a committee of four has been appointed and when they plan to meet.

Senator Papen said people from the industry need to be on the subcommittee. Senator Papen said she would like to see General Manager Rick Baugh of Sunland Park on the subcommittee. In response to Senator Munoz, Mr. Mares said horses are not required to be chipped when they enter the track.

Raul Burciaga, director of LCS, said if the LFC wishes to appoint a subcommittee, it can. If the subcommittee includes legislators not on the LFC, it should be approved through the Legislative Counsel. Tentative approval could probably be given. In terms of counsel, Mr. Burciaga said he and David Abbey can look into hiring an attorney on contract to assist the subcommittee. Mr. Burciaga said given the unique circumstances, if the Speaker and president pro tem agree that this is an urgent matter, they can make temporary appointments contingent on subsequent approval.

Senator Smith said if some of the members from the Criminal Justice Committee are part of the subcommittee, they might be able to get it on a faster track.

Senator Munoz changed the motion to reflect that the president pro tem and Speaker appoint a subcommittee made up of industry leaders and legislators that will review the issues and concerns of the State Racing Commission. The motion will also recognize the role that LFC and LCS.

Representative Larranaga seconded the motion.

Chairman Varela appointed three members from the House: Representative Larrañaga, Representative Tripp, and Representative Hall.

Chairman Varela appointed three members from the Senate: Senator Papen, Senator Munoz, and Senator Leavell.

Chairman Varela said LCS will appoint outside members. Chairman Varela said they will expect legal counsel.

There was no objection.

Motion was forwarded.

In response to Senator Papen, Mr. Mares said the commission currently has a memorandum of understanding contract with the University of California Davis laboratory and hopes the decision on the contract will be made in November.

**Gaming Control Board (465)** Frank Baca, executive director and general counsel of the Gaming Control Board (GCB), highlighted revenue generated from the racetrack and tribal industry. Of \$1 billion generated, \$130 million is paid to the state general fund. Mr. Baca commented that the GCB is still below the level of funding that occurred in FY09 and FY10. Mr. Baca said it is the mission of GCB to ensure the integrity of the gaming industry using three methods. 1) GCB does an extensive background and investigation of people before they enter the gaming industry. 2) GCB conducts inspections and audits. 3) GCB's Enforcement Division, statutorily staffed by certified law enforcement officers, has authority to investigate criminal matters and submit cases to the District Attorney's Office. Mr. Baca addressed recommendations made in the LFC program evaluation on operational effectiveness of gambling oversight in New Mexico presented to the committee in May 2013. Mr. Baca says GCB is working toward filling their vacancies. GCB's FY16 budget request includes a special appropriation for purposes of litigation arbitration.

Jessica Hernandez, general counsel and deputy chief of staff for Governor Martinez, addressed the committee on compacts expiring in June 2015 for the following tribes operating casinos in New Mexico -- Acoma, Navajo, Mescalero, Pojoaque, and Jicarilla. New compacts will need to be approved in the upcoming legislative session. Two new tribes, Zuni and Jemez, have asked for a compact. Pojoaque stopped negotiations and filed a lawsuit against the state in an attempt through the U.S. Department of Interior to force a compact on the state that would not include significant policies of interests to the state. Federal law says compacts are to be between a tribe and the state. To protect the state's role, the state filed a lawsuit against the Department of Interior and the federal court determined the department is not allowed to substitute its judgment for New Mexico's judgment. Ms. Hernandez said negotiations are in progress with the other tribes and will submit the compact to the committee on compacts upon agreement before the upcoming session.

In response to Chairman Varela, Ms. Hernandez said negotiations continue with the Navajo Nation on the number of gaming facilities the tribe wishes to operate.

In response to Senator Cisneros, Ms. Hernandez said negotiated terms are individual to each tribe to address their unique interests and needs. Jeremiah Ritchie, legislative liaison for the Governor's Office, said the state's own compact negotiation act permits any tribe to sign a compact negotiated and passed by the Legislature. They work to keep negotiations consistent, uniform, and universal while still accommodating the unique interests expressed by the tribes. As amended in the compact negotiation act in 2007, any new compact passed is available to all the tribes with the exception of the 2007 compact.

In response to Representative Hall, Mr. Ritchie said the Fort Sill Apache tribe currently does not have Indian lands in the state approved for gaming by the federal government. The tribe filed a lawsuit against the National Indian Gaming Commission (NIGC) to determine lands eligible for gaming. To Mr. Ritchie's knowledge, the issue is unresolved.

In response to Senator Beffort's question on racing, Ms. Hernandez believes the 2001 and 2007 compact has an option where the state could do central monitoring but has not been used. Ms. Hernandez said it would be an expensive process to put in place and there would be differences

in how it would be implemented. Negotiations in the Navajo compact proposes that, in the event that the state does not do central monitoring, the tribe would agree to provide more specificity in the monthly or quarterly reports to GCB.

In response to Senator Munoz, Mr. Ritchie said, within the Indian Gaming Regulatory Act (IGRA), states are not permitted to restrict tribes on where they locate their casinos on tribal lands. Provisions added to a compact to regulate where a tribe places a casino would most likely be rejected by the Department of Interior.

In response to Senator Smith, Mr. Ritchie said state law allows a tribe to opt into a new compact regardless if they are currently on a compact.

In response to Senator Smith, Ms. Hernandez believes recommendations and actions of current legislative members should not affect the approval process as a new legislative body enters the upcoming session. The compact negotiation act as it is written clearly contemplates that negotiations and the approval process will stand multiple sessions.

In response to Representative Salazar, Ms Hernandez said the state and tribe are in agreement on what language will be included in the new compact on free play.

In response to Representative Larrañaga, Ms. Hernandez said there is a provision in both the 2001 compact and 2007 compact that requires tribes to take a quarter of 1 percent to fund problem gambling treatment programs.

**New Mexico Lottery Authority** David Barden, chief executive officer of the New Mexico Lottery Authority (NMLA), discussed the NMLA's financial information, stating operating revenues over the past quarter are doing well considering Powerball has not seen a recent run-up. Instant ticket sales are up \$1.9 million for the first quarter, and scratch ticket sales are 9 percent above last year. Gaming expenses are down due in large part to Powerball sales being down \$6 million. Because Powerball is a 50 percent gain for the authority, Mr. Barden said when the authority loses \$6 million in sales it loses \$3 million in returns, which affects the transfer to the scholarship fund. Mr. Barden said Mega Millions play is increasing, but he added that it is a \$1 game compared with the \$2 Powerball game. Based off the consolidated income statement, gross revenues are anticipated to be \$142.8 million in FY15, compared with \$136 million in FY14. In FY14, of \$136 million in gross revenues, \$74.1 million (54.4 percent) went to prizes, \$40.9 million (30.1 percent) went to the lottery tuition fund, \$8.8 million (6.5 percent) went to retailer commission, \$6.8 million (5 percent) went to cost of product, and \$5.5 million (4 percent) went to administrative costs. Addressing internal controls and expense management, Mr. Barden noted NMLA changed its approach to media procurements, saving approximately \$900 thousand in the past year. Mr. Barden mentioned additional savings in instant ticket contracts, advertising, the back office system, and drawing automation. Referring to a map in his presentation, Mr. Barden said the average payout for scratchers in New Mexico compared to bordering states may lead to potential lost sales. Mr. Barden explained the average payout for a \$20 game is the average payout for all of Texas's and Arizona's scratcher tickets. Mr. Barden said many people in Carlsbad, for example, go to Texas to buy scratchers because the prizes are better. Mr. Barden said that the authority's marketing needs to appeal to Generation Y, a

generation that relies heavily on technology. He suggested expanding sales to more mobile solutions by, for example, implementing lottery play at gasoline pumps. Mr. Barden provided the committee with legislative options that could help the lottery increase profitability and returns to stakeholders and gave an example from Pennsylvania, where the statutorily required profit margin was lowered from 27 percent of all lottery sales at present to 25 percent.

In response to Senator Smith's question regarding Mr. Barden's background, Mr. Barden said he started with the South Carolina lottery and then helped start the Arkansas lottery.

Senator Smith commented that, at one time, the lottery's profit margin here was at 27 percent. After being raised to 30 percent, Senator Smith said they are finding out that it is actually more detrimental to the kids. Senator Smith said it would be prudent and wise to go back to 27 percent. However, his only concern is whether they recapture market share.

In response to Senator Cisneros, Mr. Barden said players have to be 18 or older to buy a lottery ticket. Mr. Barden said the technology does exist that would prevent a person under the age of 18 from purchasing a lottery ticket from a mobile device.

Referring to the statutory considerations, Senator Beffort said she likes the suggested amendment to item D. of Section 6-24-15.

“D. Tickets may be purchased only with cash, ~~or a check~~ or debit card and shall not be purchased on a credit card, unless the lottery purchase is twenty dollars or less.”

In response to Senator Burt, Mr. Barden said when paying at the pump, players would have to insert a driver's license to verify age.

Representative Harper commented that he too was impressed with the presentation and echoed the sentiments of Senator Beffort and others with the way Mr. Barden has been able to make progress on internal costs and be innovative with the product.

In response to Representative Harper, Mr. Barden the demographics of Powerball players include many upper- and middle- players.

Representative Harper said there needs to be analysis on a proposal that says reducing the percentage that is being put into the lottery would in fact increase the amount going into it. Mr. Barden said he has a packet of information that he can provide to the committee. Mr. Barden said in every state that has reduced the percentage has shown higher profits.

In response to Representative Hall's question on how the lotteries in other states have been affected by economic downturn, Mr. Barden said that, over the past seven years, the growth throughout the country on average has been 3 percent to 4 percent a year on scratcher products.

In response to Representative Hall, Mr. Barden said the \$2 Powerball has been beneficial from a revenue standpoint, but the higher cost decreased the number of players.

Representative Hall expressed concern over a proposal to go from 30 percent to 27 percent and said the lottery needs more attention and care. Representative Hall said his concern is the greater needs of the lottery and what needs to be done to make it a viable program for the students in New Mexico.

**Public Regulation Commission (430)** After introductions were made, Chair Theresa Becenti-Aguilar for the Public Regulation Commission (PRC) thanked her colleagues and said she is proud of the agency. Ms. Becenti-Aguilar then updated the committee on the transition of the Insurance Division to the Office of Superintendent of Insurance (OSI) and the Corporations Bureau from PRC to the Secretary of State. While the transition for the Corporations Bureau is complete, OSI will continue to share PRC's e-docket system until the end of 2014 before it will migrate to a new case management system. Ms. Becenti-Aguilar reported PRC acted on numerous high profile cases in the past year including the acquisition of the New Mexico Gas Company by Teco Energy.

Ms. Becenti-Aguilar said the commission thanks the committee for working together and taking the initial steps towards restoring PRC's budget to appropriate levels and enabling them fulfill their constitutional charge. Ms. Becenti-Aguilar briefly talked about the FY14 supplemental appropriation. While PRC lost administrative funding in FY14 due to the Insurance Division becoming a stand-alone agency, PRC received \$498.5 thousand in supplemental funding to offset the salary and benefits shortfall in FY14. Ms. Becenti-Aguilar said PRC continues to have a shortfall in the current fiscal year in personal services and employee benefits primarily due to the 10 percent vacancy rate assessed on PRC's operating budget. Ms. Becenti-Aguilar talked about the FY16 budget request. PRC is requesting an overall base increase of \$2.8 million and is requesting a capital appropriation in the amount of \$2 million to construct a new fire training burn building for the New Mexico Fire Fighter's Training Academy in Socorro.

Administrative Services Director Mathew Lovato talked about how the FY14 supplemental appropriation of \$498.5 thousand helped the agency. Mr. Lovato said PRC continues to struggle in the personal services category. Mr. Lovato talked about the increasing GSD risk rates. PRC is requesting supplemental funding in the amount of \$480 thousand for FY15 to continue to hire qualified staff above the 10 percent vacancy rate assessed and cover the increased GSD rates in order to meet its statutory requirements.

In response to Chairman Varela's question on the increased rates, according to the lists of claims with GSD, Mr. Lovato said some GSD claims involved staff hired under the Insurance Division when it was under PRC. Because of a difference of opinion with OSI, GSD has currently left those claims under PRC, resulting in an increase in rates, but is working to figure out which claims should be transferred to OSI as determined in the law. Mr. Lovato said they have done everything they can to reduce the shortfall, including a request for additional BAR language to allow them to transfer any unobligated or unexpended balances from other programs.

Mr. Lovato talked about the FY16 budget request of \$22.4 million. PRC is requesting a general fund increase of \$1.5 million, which will cover funding for all authorized FTE for PRC. Mr. Lovato said PRC needs to be competitive with the industry in hiring highly qualified people to

do analysis determinations and testimony on rate cases. Mr. Lovato said a large portion of these rate cases comes from their Utility Division, funded by the general fund.

In response to Representative Larrañaga, Mr. Lovato said most of their divisions indirectly supported the Insurance Division when it was under PRC. When the Insurance Division left PRC, it took with them the \$1.4 million appropriated to them for administrative funding, which resulted in the shortfall in FY14. PRC brought the shortfall down to \$498 thousand by holding vacancies and getting authority to transfer vacancy savings from other programs.

Mr. Larrañaga asked why they didn't see a reduction in FTE at PRC when the Insurance Division was transferred. Mr. Lovato said they didn't see a reduction primarily because of increase risk rates. Vincent Martinez, chief of staff, said the costs for the Insurance Division were spread out throughout PRC. Those positions did not go away because those functions did not go away.

In response to Mr. Larrañaga's question on why the high increase to risk rates, Mr. Lovato said the premium liabilities was the largest portion of where those increases came from. Mr. Lovato said worker's compensation claims also went up. Mr. Lovato believes there are about seven claims for employees who worked for the Insurance Division that are still being applied to the determination of the risk rates to PRC. Mr. Lovato said that GSD is determining that worker's compensation claims stay with PRC regardless if they were with the Insurance Division or Corporations Bureau because the employees were injured while they were still under PRC.

Senator Beffort asked what type of lawsuits and worker's compensations claims caused the increase in rates, and Legal Director Patrick Lopez said that when the Corporation Bureau and Insurance Division left PRC, there was transitional language that provided that all existing cases and matters would continue in the name of either corporations or OSI. OSI has resisted taking cases that were already in the district court during the time the Insurance Division was under PRC. Mr. Lopez said it's a situation that may end up in court in order to force OSI to take the cases.

In response to Senator Beffort, Mr. Lopez said he is talking about personnel cases such as sexual harassment, whistleblower, and hostile work environment.

In response to Senator Beffort, Mr. Lopez said the cases involve employees who were part of the Insurance Division, which is now OSI. Mr. Lopez said he would be happy to provide information on the cases.

In response to Chairman Varela's question on the FY14 supplemental appropriation, Mr. Lovato said it was used for salaries and benefits.

In response to Chairman Varela, Mr. Lovato said the fire protection fund support the Fire Marshal's Office and the training academy. The fire protection grant fund transfer from the fire protection fund is increasing by 6.4 percent each year, ultimately reducing what reverts back to the general fund.

In response to Chairman Varela, Mr. Lovato said all the field work for the FY14 audit was completed the previous day. Atkinson & Company is now compiling the field work into the schedules to provide a draft of the financials by November 15.

Chairman Varela requested a projection during the legislative session showing six months of actuals and a projection of the estimates so they can determine how much of a shortfall might occur.

### **Miscellaneous Business**

#### **Action Items**

Approval of August 2014 Meeting Minutes Senator Cisneros moved to approve the September 2014 meeting minutes, seconded by Representative Salazar. The motion carried.

Approval of Subcommittee Reports Senator Cisneros moved to approve the September 2014 Subcommittee Reports 2014 meeting minutes, seconded by Representative Salazar. The motion carried.

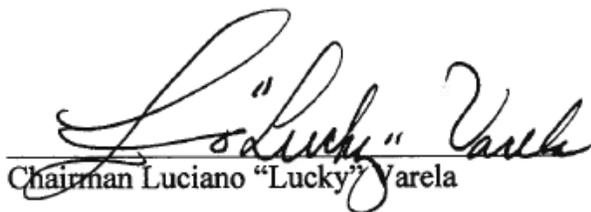
Contracts – FIR Manager, FIR Tax Analyst Senator Cisneros moved to approve the contracts, seconded by Representative Salazar. The motion carried.

#### **Information Items**

##### **Review of Monthly Financial Reports**

David Abbey, director, LFC, briefed the committee on information items highlighting the response to HM44.

With no further business, the meeting adjourned at 12:37 p.m.

  
Chairman Luciano "Lucky" Varela

  
Vice Chairman John Arthur Smith

Representative Luciano "Lucky" Varela  
Chairman

Representative William "Bill" J. Gray  
Representative Larry A. Larrañaga  
Representative Henry "Kiki" Saavedra  
Representative Nick L. Salazar  
Representative Edward C. Sandoval  
Representative Don L. Tripp  
Representative James P. White

*State of New Mexico*  
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David Abbey  
Director



Senator John Arthur Smith  
Vice-Chairman

Senator Sue Wilson Beffort  
Senator Pete Campos  
Senator Carlos R. Cisneros  
Senator Carroll H. Leavell  
Senator Howie C. Morales  
Senator George K. Munoz  
Senator Steven P. Neville

October 30, 2014

**MEMORANDUM**

TO: Legislative Finance Committee

FROM: Subcommittee A

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

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

**SUBJECT: Subcommittee A Report**

- (308) **State Auditor.** Carla Martinez, deputy state auditor, presented the agency's flat budget request for \$3.8 million. The agency requested one position reclassification from term to perm because the position is already funded through general fund rather than a temporary funding source and is filled by the office receptionist who works full-time. Ms. Martinez noted the FY16 request included recurring funding of \$160 thousand to assist small political subdivisions in meeting financial reporting requirements. Evan Blackstone, chief of staff, explained that the application process for receiving assistance has opened and that after this year there will be a better sense of whether \$160 thousand is adequate to assist all entities in need. Chairman Varela pointed out that the budget request may be subject to change as a courtesy to the new state auditor in 2015.
- (337) **State Investment Council.** Stephen Moise, chief investment officer, presented the council's budget request for \$61.6 million, a 23 percent increase over the FY15 operating budget. The request included \$47.6 million to pay external management fees, which

drove the majority of the increase in the agency's budget request, based on estimated growth in the market value of State Investment Council (SIC) investments. Senator Munoz asked about the agency's request for attorney fees and their FY16 over FY14 actual expenditures, to which Evan Land, general counsel, responded the agency had been budgeting \$2.5 million in the event of taking pay-to-play-litigation to trial. Any unused budget capacity in a fiscal year would revert to the investment funds managed by SIC. Chairman Varela raised concerns about the proposed constitutional amendment limiting the cap on foreign investments, to which Mr. Moise responded the SIC would be required to invest pursuant to the Uniform Prudent Investor Act. Mr. Moise added that the standard among peer investment funds was 10-20 percent allocation to foreign investments, well above the 15 percent cap in New Mexico. Representative Sandoval asked about the agency's options if its budget is insufficient to pay the costs of investment manager fees, to which Brent Shipp, chief financial officer responded the agency could use up to \$5 million in BAR authority.

- (352) **Educational Retirement Board.** Jan Goodwin, director, presented the FY16 request. The agency requested an increase in the base budget and expansion for 2 FTE that, if granted, would increase its budget 3 percent. The agency is transitioning some portfolio areas to internal management, explaining the decrease in contracts and increase in personal services and employee benefits for new investment staff. However, a higher ratio of assets are now invested with alternative investment managers, and because those fees have a profit-sharing component, they are not part of the operating budget. Representative Sandoval asked if the additional internal managers will be less costly and perform work of similar quality as external managers. Ms. Goodwin said the salary will be about \$100 thousand each and performance should be the same.
- (366) **Public Employees Retirement Association.** Wayne Propst, director, presented the agency's FY16 request. The Public Employees Retirement Association requested an increase in the base budget and expansion for additional FTE that, if granted, would increase the budget 16 percent. The increase is attributed to asset management fees as a result of the fund's current market value and a future earnings assumption of 7.75 percent. Mr. Propst provided highlights from the new valuation that included increases in funded ratios, and decreases in accrued liabilities and amortization periods for all plans except the Municipal Fire Plan which remained relatively unchanged. The changes were in line with expectations based on the passage of Senate Bill 27 in 2013 and recent investment performance.
- (369) **State Commission of Public Records.** Melissa Salazar, administrative services division director, presented the budget request for the Commission for Public Records (CPR). The request included increase of 7.5 percent from the general fund to allow the agency to fill all seven currently vacant positions. The agency also reiterated their request for a capital appropriation to allow for the expansion of the records and archives facility in Santa Fe.
- (378) **State Personnel Office.** Justin Najaka, executive director, presented the budget request for the State Personnel Office (SPO). The request included an increase of \$114.5 thousand, or 2.7 percent, from the general fund. The majority of the request, \$112

thousand, was related to two expansion positions, one paralegal, and one quality assurance position. Senator Leavell asked Mr. Najaka where the non-general fund revenues in the SPO budget are derived from. Mr. Najaka reported the non-general fund revenues were related to shared service agreements between agencies and SPO. Senator Morales raised a concern that qualified people are not seeking employment with the state because the SPO qualification criteria exclude a number of candidates prior to the interview process.

- (394) **State Treasurer.** James B. Lewis, State Treasurer, presented the Treasurer's budget request for \$4.1 million, a 5.4 percent increase over the FY15 operating budget. The request included a 5.5 percent increase in the personal services and employee benefits category for salary increases for employees earning less than \$50 thousand annually and a 9 percent increase in the contractual services category to fund an annual review of the IT system. Treasurer Lewis emphasized staffing challenges related to considerable turnover. Committee members were interested in the office's ability to recruit and retain qualified employees given current salary levels and economic conditions. Treasurer Lewis was confident personnel issues are being addressed and assured the committee the new elected treasurer will need to be active to ensure the agency is staffed adequately to meet responsibilities. Mr. Lewis underlined the importance of ongoing collaboration between his office the Department of Finance and Administration (DFA), the Board of Finance, and LFC to correct the amount of earnings on state balances. The current amount reported by the Treasurer's Office is approximately \$24 million less than DFA reported in FY14. The Treasurer is currently awaiting results from its auditors in order to implement corrective measures.
- (417) **Border Authority.** Bill Mattiace, executive director, presented the flat FY16 budget request for \$492 thousand including an appropriation from the general fund of \$331 thousand. Mr. Mattiace briefly discussed current activities at the border, including traffic at the Santa Teresa, Columbus, and Antelope Wells ports of entry. He mentioned the agency has completed all the projects discussed at last year's hearing. Terry Trujillo, administrative services director for the Economic Development Department, mentioned most of the Border Authority's revenues come from internal sources, such as leases and parking fees. The committee noted the highway near the Santa Teresa port of entry needs to be upgraded at an estimated cost of \$2 million.
- (490) **Cumbres and Toltec Scenic Railroad Commission.** Randy Randall, commissioner, presented the FY16 budget request for the Cumbres and Toltec Scenic Railroad Commission for \$210 thousand from the general fund, a 70 percent increase over the FY15 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 and retail sales. Mr. Randall reported the agency hit its revenue target for FY14 but not the passenger count target. The operations generated a small surplus for the first time in several years. Committee members asked about an issue with gift shop sales, and Mr. Randall reported they removed any products from the gift shop that did not have logos, resolving the matter to the satisfaction of the commission but not the community.

- (495) **Spaceport Authority** Christine Anderson, executive director, presented the Spaceport Authority's request for \$6.9 million, with a general fund appropriation of \$463 thousand, which represents a flat general fund appropriation compared with the FY15 operating budget. Ms. Anderson said the budget request assumes Virgin Galactic will begin commercial flights in June 2015, the visitor centers open April 2016, SpaceX begins flight testing March 2015, and one new customer begins flying in FY16. She reported construction and pre-operation work involved more than 140 New Mexico companies from nine counties, employing over 1300 state residents to date. Ms. Anderson also noted event, merchandise, and sponsorship opportunities. Committee members mentioned SpaceX is building its own spaceport in Texas, and Ms. Anderson said the company will use both spaceports for different purposes. Members also discussed concerns regarding flight delays by Virgin Galactic, southern road issues, the need to work better with the pilots' association, and the ongoing need for support from the general fund despite multiple new revenue sources. Members also mentioned the New Mexico Finance Authority Oversight Committee held a day-long hearing about the spaceport but still needs to approve a budget recommendation. Members requested the minutes from that committee hearing be made available to LFC.
- (508) **Livestock Board.** Ray Baca, interim director, provided an overview of the board's FY16 request for \$6.1 million, or 3.7 percent increase over the FY15 operating budget. Mr. Baca discussed the board's plan to increase salaries for brand inspectors and livestock inspectors. The board is concerned with the increasing number of animal cruelty and abandonment cases. Chairman Varela asked if the board has done anything to maximize its resources to care for abandoned livestock. Mr. Baca responded that the board must feed, house, and provide veterinarian care for abandoned livestock.
- (522) **Youth Conservation Corps.** Wanda Bowman, chair of the Youth Conservation Corps (YCC) Commission, presented on behalf of YCC, noting the program has employed nearly 13 thousand New Mexico youth since 1992. YCC requested \$4.7 million for FY16, a 1.6 percent decrease from the FY15 operating budget. President Salazar of the New Mexico Association of Conservation Districts, testified to the benefit of a YCC project in Rio Arriba County stating it allowed youth an opportunity to become involved in soil and water conservation efforts they otherwise would have missed out on.
- (538) **Intertribal Ceremonial Office.** Mary Jean Christensen, vice president for the Gallup Inter-Tribal Indian Ceremonial Association, a non-profit organization, represented ICO because there are no FTE authorized for the agency. The Intertribal Ceremonial Office (ICO) requested \$105 thousand from the general fund for FY16, which represents flat funding compared with the FY15 operating budget. Ms. Christensen said the association requests continuation of the \$105 thousand and asked for a special appropriation of approximately \$60 thousand to support the event. She also mentioned they will soon begin planning for the 100<sup>th</sup> ceremonial and would need additional funds to prepare for that event. She thanked the committee for its support and also thanked all the volunteers who assist with the ceremonial. Committee members reported the group is instrumental in supporting Gallup-McKinley Day, is possibly the oldest event in the state. The city and

county assist in funding the event, and there is a need for additional funds for the agency. The annual event typically costs in excess of \$400 thousand.

- (668) **Office of Natural Resources Trustee.** Ryan Flynn, Environment Department secretary, presented the agency's request for \$2.3 million, an increase of \$2.5 thousand over the FY15 operating budget. Secretary Flynn emphasized the agency's near self-sufficiency through natural resource damage settlements. Representative Varela asked if the agency had any pending settlements, to which Secretary Flynn responded an agreement with Chevron Molycorp valued at \$4 million was approved and is out for public comment in federal court.

**Renewable Energy Transmission Authority.** Jeremy Turner, executive director, presented RETA's request for a \$350 thousand special appropriation for FY16 operating costs. While RETA does not project to be self-sufficient until FY18, Mr. Turner stated applications are forthcoming from the SunZia project and a wind power project in Curry County which could increase RETA's revenue.

Representative Luciano "Lucky" Varela  
Chairman

State of New Mexico

**LEGISLATIVE FINANCE COMMITTEE**

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

October 30, 2014

**MEMORANDUM**

**TO:** Legislative Finance Committee

**FROM:** Subcommittee B

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

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.** Nathan Gomme, executive director, presented the FY16 agency budget request of \$3.8 million including an expansion for 2 FTE funded with fund balance usually transferred to the Division of Vocational Rehabilitation. 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. Director Gomme noted priorities and accomplishments regarding advocacy, technology, communication access, and education and outreach. Mr. Gomme noted concerns over the agency's declining revenues from the telecommunications access fund, and stressed the need to use fund balance to hire an agency interpreter and expand services in Las Cruces. Subcommittee members questioned if the Taxation and Revenue Department (TRD) could be tasked to improve revenue collections for the telecommunications access fund. Mr. Gomme indicated he would work with TRD on this effort.

(606) **Commission for the Blind.** Greg Trapp, director, presented the agency's flat budget

request of \$12.8 million including a request to add 1.5 FTE to convert 3 part-time FTE to full-time. Director Trapp 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 the agency needs continued budget adjustment authority to add federal flow through funds for the Law Enforcement Training Center where the agency has the contract to feed detained immigrant women and children. Mr. Trapped recognized commissioner Jim Babb who 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; staff person Jim Salas spoke about the commission's successful federal performance indicators; and staff person Kelly Burma discussed the agency's education program to use technology for sight-impaired students.

- (632) **Workers' Compensation Administration.** Darin Childers, director, presented the FY16 agency budget request for \$11.7 million supported with non-general fund revenues. The request was flat compared with the FY15 appropriation. LFC staff noted the request did not reflect the transfer of \$900 thousand to the Workforce Solutions Department (WSD) for FY16 but was included in the operating budget for previous years. Mr. Childers presented an overview of the agency mission. Representative Larrañaga requested the agency update the committee regarding possible legislation regarding claims for employee's whose injuries are a result of drug or alcohol use. Director Childers responded the advisory board was working on the issue.
  
- (644) **Division of Vocational Rehabilitation.** Veronica DeLeon-Dowd, acting executive director, presented the Division of Vocational Rehabilitation's (DVR) \$47.2 million request including an increase of \$649 thousand in federal funds for the Disability Determination Program. LFC staff noted DVR has struggled to maintain a staffing level that uses all available state and federal funding, and the transfer of telecommunications access funds from the Commission for Deaf and Hard-of-Hearing Persons is based on declining revenues and is not sustainable. Ms. DeLeon-Dowd noted the agency serves all categories of disability except the blind, and 15 percent of the agency's federal funds are used by the Public Education Department for students' transition services. Ms. DeLeon-Dowd noted the state has a positive return on its investment in vocational rehabilitation and there is no waiting list for services.
  
- (645) **Governor's Commission on Disability.** Karen Courtney-Peterson, executive director, presented the commission's FY16 request of \$1.9 million including an expansion request of \$71.5 thousand for 1 FTE, an architectural specialist. Ms. Courtney-Peterson discussed the work the commission does to help architects and builders meet the Americans with Disabilities Act (ADA) access requirements for the disabled, noting the expansion request is needed for this purpose. She added that the Brain Injury Advisory Council (BIAC) was transferred to the agency from the Developmental Disabilities Planning Council in FY14. Representative Tripp asked how the agency selects people to help with home accessibility projects, and was told the program is not means-based, and is open to all.

- (647) **Developmental Disabilities Planning Council.** John Block, executive director, presented the Developmental Disabilities Planning Council's (DDPC) FY16 request of \$8 million, a 28 percent increase over FY15 and funded primarily with general fund and Medicaid revenue. LFC staff indicated the agency had fiscal and contract management difficulties for the previous two years, and a high staff turnover rate. Mr. Block testified he has hired a deputy director, chief financial officer, and an attorney manager, and the agency executed its delinquent contracts and payments for guardianship services. He indicated the agency is implementing a new guardianship tracking database with the help of the Department of Information Technology. Mr. Block reported the agency is renting 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. Senator Papen requested the agency move into state-owned space and redirect rent funds to guardianship services. Mr. Block recognized Daniel Ekman who spoke about how important the advocacy center is in his life and the lives of other developmentally disabled people. Mr. Block also recognized DDPC Chairwoman Sandy Skar and three interns. Mr. Block indicated the agency's FY16 request fully funds FTE and the Albuquerque lease, guardianship services for all requesting assistance, an increase in the rate paid to guardianship contractors, an increase in the rate paid for legal service contractors, and includes an expansion request for 2 FTE for guardianship intake and contract compliance. Senator Beffort questioned if Medicaid funds could be increased and stated pro bono legal services are widely available around the state and would check with retired Judge Baca for assistance with the guardianship program. She suggested the legal contract costs of \$315 thousand might be better expended for guardianship services. Representative Larranaga indicated he too could ask Chief Justice Vigil about pro bono legal services for the guardianship program, and suggested the LFC or agency write a letter asking for help with guardianship legal assistance for those unable to afford it. Representative Lundstrom suggested more general fund revenue be added to the staff recommendation for guardianship service contracts, and subcommittee Chairman Salazar suggested DDPC's budget is complicated and maybe should have a hearing before the full LFC.
- (516) **Game and Fish Department.** Alexandra Sandoval, executive director, presented the Department of Game and Fish FY16 budget request of \$39.2 million. Director Sandoval discussed the department's plan to increase salaries for game wardens, biologists, and IT personnel. Chairman Varela asked about the department's vacancy rate. Director Sandoval responded the department's current vacancy rate is 17 percent and she thinks the vacancy rate will decrease with the new pay plan. Senator Papen asked if the department was responsible for investigating poaching cases and Director Sandoval confirmed poaching cases are the department's responsibility.
- (705) **Department of Military Affairs.** Andrew Salas, Adjutant General, presented the department's budget request for increased support for the New Mexico Youth Challenge Academy (NMYCA), employee liability, property insurance, and employer support of the guard and reserve program. Representative Tripp asked about the department's efforts to increase the number of cadets graduating from the NMYCA and stated the program was really good. Senator Papen also commended the work done at the NMYCA. Senator

Beffort asked if any of our troops will deploy to Liberia. General Salas stated no National Guard soldiers have received an order to do so.

- (795) **Department of Homeland Security and Emergency Management.** Gregg Myers, secretary, presented the department's request for a \$561.7 thousand expansion for an FTE and an emergency notification and warning system. Representative Tripp asked about the alerts that he receives on his cell phone and whether the department provides these alerts. Secretary Myers stated these alerts come through the National Oceanic and Atmospheric Administration. Tripp asked if the proposed system would alert people of a mass shooter incident and Secretary Myers replied it would. Representative Larranaga asked about emergency funding and about how state funding is matched by the federal government. Secretary Myers stated that when a disaster declaration is issued, the federal government covers 75 percent of the cost of damages, local governments cover 12.5 percent, and the state covers the remaining 12.5 percent through executive orders issued by the governor with a maximum of \$750 thousand allocated for each executive order.
- (940) **Public School Facilities Authority.** Bob Gorrell director, Presented the Public School Finance Authority (PSFA) FY16 budget request for \$6.5 million, a 12 percent increase from the FY15 operating budget and 27.8 percent above FY14 operating expenses. The request includes \$472 thousand for five expansion term positions. LFC staff noted FY14 and year-to-date FY15 vacancy rates in the agency are 14 percent. LFC staff also noted measures would be updated when information was received from the agency. Mr. Gorrell noted the Public School Capital Outlay Council (PSCOC) has provided important jobs in the construction sector. He also noted that PSFA is currently working to improve maintenance of school facilities in the state, and the condition of schools has improved but has leveled out since 2010. Finally, Mr. Gorrell noted PSFA is working with the State Investment Council to insure a healthy Severance Tax Permanent Fund. Senator Beffort asked about the Zuni lawsuit. Mr. Gorrell explained Gallup was re-filing the lawsuit and wants to fund various facilities above adequacy. Mr. Gorrell also discussed the problem of districts not taking care of their facilities with local funds.
- (949) **Education Trust Board.** Kevin Deiters, executive director, presented the board's FY16 request for \$1.5 million from fund balance. The \$1 million budget reduction was due to finalization of litigation. Mr. Deiters discussed the function of the Education Trust Board as a college savings plan with \$2.3 billion in assets, the expiration of Oppenheimer Fund's contract in June 2015, and that New Mexico participants in the program do not currently pay fees. Representative Tripp asked whether the lawsuit with Oppenheimer had been resolved, to which Mr. Dieters said that a \$36 million settlement was reached in 2012. Mr. Dieters also stated that the board would be happy to present in members' communities about the benefits of college savings plans.
- (954) **Cooperative Extension Service/Agriculture Experiment Station.** The Higher Education Department (HED) will submit the FY16 budget request for higher education institutions and affiliated agencies on November 3rd. Agencies submitted FY16 requests to HED in late September 2014.

The Cooperative Extension Service (CES) requested a total FY16 operating budget of \$29.2 million, with \$13.8 million in general fund appropriations. This is a \$230 thousand, or 1.7 percent, increase over the FY15 general fund level. The proposed increase would fund modest increases for operations at each of the 33 extension offices.

The Agriculture Experiment Station (AES) requested a total FY16 operating budget of \$30.6 million, with \$15.1 million in general fund appropriations. The request is a \$375 thousand, or 2.5 percent, increase over the FY15 general fund level. The AES' proposed expansion would support 15 graduate student research opportunities throughout the state.

- (954) **New Mexico Department of Agriculture.** Secretary Witte presented the department's FY16 budget request of \$11.7 million from the general fund, a 2.2 percent increase over FY15. Secretary Witte reported the increase is for targeted compensated increases for certain hard to recruit and retain inspector positions and staff at the Veterinary Diagnostic Services. In addition, the secretary noted the department's capital request of nearly \$1 million to replace diesel engines used by the Petroleum Standards division to validate fuel quality and gas pump accuracy.