MINUTES
LEGISLATIVE FINANCE COMMITTEE
September 24-25-26, 2008

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) to order on Wednesday, September 24, 2008, at 8:30 a.m.

The following LFC members were present on September 24:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Larry A. Larranaga (for Don Bratton), Don Tripp (for Brian K. Moore), Rhonda S. King, Edward C. Sandoval, Jeannette O. Wallace, Peter Wirth (for Nick L. Salazar), and Henry "Kiki" Savaadra; and Senators Sue Wilson Beffort, Mary Kay Papen, Phil A. Griego, Leonard Lee Rawson, Stuart Ingle, Carlos Cisneros, and Pete Campos. Senator Cisco McSorley attended as a guest.

Medicaid: Preview of FY10 Appropriation Request. Human Services Department (HSD). HSD secretary presented Medicaid projections for FY07, FY08 and FY09. Secretary Hyde reminded the committee that as claims come in it takes a year or two before prior year actual expenditures are reconciled. For FY07 the total expenditure projection is $2.7 billion. A $1.2 million general fund shortfall in FY07 will be charged to FY08. The $4.8 million in general fund reversion is because of specific legislative language preventing certain amounts earmarked for special programs from being expended due to lack of enrollment.

The FY08 total expenditure projection as of September 1 is $3.1 billion. A $2 million general fund deficit in FY08 will be charged to FY09. The FY09 (current year) total expenditure projection is estimated to be $3.4 billion. A $14.4 million general fund shortfall in FY09 will be charged to FY10. This is less than the $27 million shortfall reported for FY09 because of program changes implemented to hold down costs. However, recent SCI enrollment changes will mostly likely cause that deficit to go back up. The FY10 total expenditure projection is $3.6 billion and the growth is expected to be less than in prior years.

The special session appropriation was not reflected in the September 1 budget submission for FY10. The FY10 Medicaid program projection as of September 1 is $853 million general fund to keep the existing program growing at the same rate. This amount is $65.9 million general fund over the FY09 appropriation. Causes for this increase include $17 million due to anticipated reductions in Federal Medical Assistance Percentages (FMAP); $36 million due to traditional growth in membership and utilization; $3.3 million due to Medicare premium increases; and, $9.4 million from prior year expenditures. Since the September 1 projection, new Federal Funds Information for States (FFIS) projections suggests that the State's FMAP may increase slightly. Final FMAP percentages will not be released until January 2009.

Carolyn Ingram, HSD/Medical Assistance Division (MAD) director, provided more detail on oversight activities that look at program cost effectiveness, health plan solvency, quality of care, and member satisfaction within the physical and behavioral health programs. The committee received a consumer pamphlet on how New Mexico's HSD measures quality and monitors effectiveness for the State's Medicaid managed care programs. Ms. Ingram outlined initiatives for a state-wide outreach project involving various state agencies, schools and stakeholders to enroll more children in Medicaid.

Secretary Hyde highlighted various Medicaid budget expansion requests. Twelve additional full-time employees (FTE) are requested to support more targeted financial analysis and manage new services and programs such as CoLTS at a cost of $462 thousand general fund. Five additional FTE are being requested to support *Insure New Mexico* efforts to direct consumers to insurance products at a cost of $183.6 thousand general fund. Additional expansion requests include $2.3 million general fund to support Medicaid operations and oversight contracts, and $750 thousand general fund to implement a clinical universal assessment tool (UAT) to assist in determining Medicaid medical eligibility. The UAT is expected to help eliminate duplication on the various waiver waiting lists.

Ms. Ingram gave an update on the current status of the State Children's Health Insurance Program (SCHIP) funding. SCHIP funding has been used to provide coverage to adults through the State Coverage Initiative (SCI). Secretary Hyde stated that federal opinion on using SCHIP funds for adults has changed. The federal waiver allowing this use of SCHIP funding expires in 2010. The SCHIP annual allotment from the general fund is about $52 million each year. HSD and a congressional delegation are pushing for shortfall funding that was set aside by Congress when SCHIP was reauthorized in the past. Shortfall funding is for this current federal fiscal year only and at the discretion of the federal health and human services secretary.

Secretary Hyde stated that SCI is a waiver program designed as a public-private partnership with the State, Federal government, employers and individuals to serve low-income, working adults in New Mexico. SCI is not an entitlement program and is dependent upon the availability of state general fund dollars to access a federal match. Approximately 35,000 individuals are currently enrolled on the program. Several thousand more applications are still in process. At this rate, enrollment will far exceed previous projections and available budget. In response, HSD will implement a registration policy to cap enrollment at about 40,000 clients.

Secretary Hyde and Ms. Ingram concluded their presentation with a list of stakeholder concerns and requests legislators may hear about in their communities that may impact the Medicaid program. Fiscal impact to the State for these and other requests will be provided as they are requested through fiscal impact reports during the legislative process.

Brent Earnest, LFC analyst, provided a background brief on the FY10 Medicaid appropriation request. Mr. Earnest reported that of the $3.6 billion request, $2.25 billion will be expended through contracts with seven managed care organizations. Mr. Earnest further reported that in April 2009 several new federal Medicaid rules are scheduled to take effect. Of the six rules currently under moratorium, two carry a potentially significant impact of more than $225 million in lost federal revenue for New Mexico in FY10. The largest could be to the sole community provider fund ($175 million) and changes to upper payment limits at public hospitals ($46 million), primarily for the University of New Mexico Hospital.

Senator Wilson-Beffort supported for Medicaid enrollment outreach activities at school-based health centers. Senator Wilson-Beffort encouraged HSD to work with Federally Qualified Health Centers on behalf of persons potentially affected by changes in the SCI. Secretary Hyde said that until new Federal rules regarding how State's may use SCHIP funds are known, the Department will try to keep as many adults as possible covered under SCI with existing funds between now and then.

Representative Varela asked if FY09 projections reflect special session dollars. Secretary Hyde said it did not. The Special Session ended with $22.5 million to be spent over an eighteen month period for children enrollment in physical and behavioral helath Medicaid programs and $10 million for the DD waiver. HSD is working with the Department of Finance and Administration, the Department Of Health, and LFC staff to determine how to account for those dollars going forward. New projections reflecting those amounts will be available before the budget is finalized in December. Representative Varela asked about the Department's vacancy rate. Secretary Hyde stated it averaged about 7 percent.

Senator Papen asked about duplication for persons on multiple waiver waiting lists. Secretary Hyde stated that the new universal assessment tool should help the Department better assess needs and more accurately manage those waiting lists. Senator Papen asked how the recurring $10 million from the special session will be used to serve individuals on the DD waiver waiting list. Secretary Hyde said the Department is looking at how to serve more individuals on the DD waiver waiting list with the non-recurring $10 million appropriation without negatively impacting State revenues in FY11. Chairman Smith stated that it was the intent of the Senate that the $10 million directed toward the DD waiver program be recurring.

Representative King asked how the Department tracks enrollment of new children with the $22.5 million appropriated for that purpose during the special session. Secretary Hyde said the Department assumed 300 thousand children with no new growth in enrollment, and growth above that amount should be due to the new funding. The Department expects to be able to track new children provided coverage, and will provide the committee additional information about those efforts.

Senator Griego asked about the status of Medicaid eligibility for children cared for by grandparents and foster parents. Secretary Hyde said there has been an issue for children who live with grandparents or other relatives and how they get counted for purposes of Medicaid eligibility. Grandparents or other relatives granted guardianship over children do have their income counted toward Medicaid eligibility. Foster parents' income is not counted toward Medicaid eligibility, and foster children access Medicaid through TANF.

Senator Rawson asked what the cost is to the State per member per month (pmpm) to subsidize the SCI program. Ms. Ingram said the employer pays $20 to $75 per month, and the employee pays a portion of that share up to $20 per month. The state provides a portion and the Federal government matches at 80 percent. Ms. Ingram offered to provide the committee more detail on the actual investment made by the State pmpm to provide these benefits.

Chairman Smith concluded by stating that people who are most at risk will be the first priority of the LFC this legislative session. Chairman Smith further encouraged the Department to have a back up plan if the State is unable to provide funding for expansion requests because of decreased State revenues and the need to prioritize budget requests.

Program Evaluation of Department of Health Licensing. Department of Health (DOH). Pamela Galbraith, LFC contractor, presented a review of the Department of Health, Division of Health Improvement (DHI) to examine the oversight and regulation of long-term facilities and community-based waiver programs. Ms. Galbraith thanked DHI staff for their collaborative efforts. Ms. Galbraith began by stating that the issues identified in the review were also identified in the Department's FY10 strategic plan.

The review identified the following:
1) DHI is most vulnerable in the areas of complaint and incident management, and the survey process. Not resolving complaints and incidents exposes the public to potential harm, and not meeting federal regulations could result in sanctions being imposed on DHI and the state.
2) Not monitoring provider solvency creates a burden for state funding needed to take control of provider programs and move clients to new services.
3) DHI has an opportunity to provide the public with more healthcare information about facilities, the quality of programs, and the Department's own performance.

Ms. Galbraith detailed key findings to the committee. DHI does not provide accurate and timely complaint investigations according to the Centers for Medicare and Medicaid Services' (CMS) annual review for FY07. Delays, poor prioritization, and quality of reporting can lead to potential or actual harm to clients receiving long-term care or community-based services. Multiple state agencies have federal and state regulatory authority for investigation and resolution in the "complaint" management process. "Incidents" are handled very well by DHI. State agencies have a Joint Protocol Committee (JPC) in place to establish agency authority within the complaint system. The JPC has not laid out a joint complaint process, or way to share and use data. The JPC meets to address issues but does not maintain meeting minutes partially due to confidentiality issues.

The U.S. Government Accountability Office (GAO) identified New Mexico as one of nine states found to have missed identifying serious deficiencies in nursing homes. The report found that DHI had less than satisfactory ratings on general investigation skills and deficiency determination. Ms. Galbraith reports that funding is inadequate to conduct annual surveys for all facilities and agencies. The state has always piggy-backed the state review for licensure with the CMS funded certification survey to minimize cost to the state. The State requires that all facilities are licensed annually which requires an inspection. Ms. Galbraith stated DHI could set up a funding plan and look at prioritizing surveys based on quality of care concerns. Facilities that have national accreditation standards could be low priority.

Agencies that receive Medicare and/or Medicaid funding are subject to a civil penalty and fine for failure to perform. Federal requirements call for 70 percent of civil monetary sanctions imposed upon nursing homes be returned to HSD/MAD, which in turn, should transfer to DHI for client relocation, client reimbursement, or facility operations during corrective actions.

Conflicting information from MAD and DHI does not confirm that penalties are being used for this intended purpose.

Ms. Galbraith stated that the use of numerical quotas in monitoring performance is important, but does not inform as to how DHI dollars and resources spent impact public health. Few DHI performance measures address the quality of services delivered by either providers or the Division. Federal and state-generated data affords opportunities to develop measures more relevant to consumer outcomes.

Ms. Galbraith also stated that DHI does not have an early warning system to monitor nursing home solvency. Medicaid does not require a provider to submit evidence of financial solvency. Four nursing homes have closed in the past 4 years because of financial distress. Nursing home receiverships have cost the State as much as $1.5 million per year. DHI posts all facility survey results online. DHI also offers links to CMS websites for consumers to investigate nursing home and home health agency placement options.

Ms. Galbraith elaborated on key recommendations:

- Implement routine performance monitoring for complaints. Respond appropriately to deficiencies.
- Improve the function of the JPC as the monitoring entity for complaints.
- Evaluate existing interagency agreements and address accountability.
- Clarify CMS directive regarding control of the complaint process to ensure the State is complying within federal regulations.
- Develop a survey funding plan for legislative review that identifies all facilities covered by state and federal regulations.
- Consider increases in licensing fees for facilities and agencies to offset survey costs.
- Use dollars from civil monetary penalties for corrective action plans.
- Enact legislation to create a fund from the sanction dollars exempt from reversion to the general fund for future community-based program quality improvement needs.
- Explore the concept of "amelioration" which mandates facilities use the amount they would be "sanctioned" for quality improvement.
- Ensure inclusion in legislative appropriation requests, accountability goals and performance measures and outcomes.
- Validate the use and division assignment of civil monetary penalties to ensure compliance with federal regulations.
- Promote the use of standing orders to increase adult vaccination rates.
- Develop an early warning system to determine the need for financial solvency verification.
- Change regulation for initial provider application to include an external source of solvency determination.
- Identify who in state government is qualified to interpret provider financial information.
- Develop a New Mexico specific user-friendly consumer website to aid consumers in selecting providers.

Mr. Galbraith concluded by stating that DHI would benefit from a better data management system.

Dr. Alfredo Vigil, DOH secretary thanked Ms. Galbraith and LFC staff for the opportunity to work together. DHI takes very seriously that the licensing and inspection process has to do with the safety and welfare of the citizens of New Mexico. Dr. Vigil also stated the Department's commitment to assist facilities with improvement. Healthcare is in crisis and providers are under tremendous stress from a management point of view. There is increasing interest for individuals to want access to information to assist them in participating in their own care.

Dr. Vigil introduced Jessica Sutton, DOH deputy secretary, and David Rodriguez, DHI director, who provided further discussion on the report. Mr. Rodriguez stated that the Division's infrastructure did not allow utilization of staff and resources in an appropriate manner. DHI has moved its complaint investigations from the incident management bureau, to licensing and certification to combine resources and staff sharing the same type of work. The transition was completed this September. Extensive staff training was provided in responding to and conducting investigations, and using software to objectively document findings.

Mr. Rodriguez addressed provider solvency. The last two nursing homes that closed were due to financial insolvency. The committee heard discussion on the disruption to resident's lives when relocation is necessary. DHI does not have the expertise to evaluate provider solvency but will be looking at ways to support that effort. Mr. Rodriguez stated that DHI will be making changes to the current website to make it easier for consumers to access information.

Mr. Rodriguez stressed that in doing surveys DHI inspectors had the same findings as the federal inspectors, but the federal inspectors assigned a higher severity rating to the findings. In addition, New Mexico has been selected by CMS as a pilot state for using the Quality Improvement Survey (QIS) methodology which uses a computer program and data entry process to improve consistency of evaluators.

Representative Varela asked how many nursing homes are licensed statewide and what kind of care is being provided to residents. Mr. Rodriguez responded that DOH currently licenses 74 nursing homes, and 72 receive care through Medicaid and Medicare programs. None of the nursing homes are not-for-profit. The Department also licenses adult residential care and adult day-care facilities, and oversees and regulates group homes for DD community providers. Mr. Rodriguez said there are ten nursing home facilities that at any given time are identified as being poor performers.

In addition, New Mexico currently has 287 adult residential facilities. Many of the smaller providers have had violations in the past because of benign neglect as a result of DHI staff not performing routine inspections. Staff has been working with these small providers to help reduce negative outcomes.

Representative Sandoval asked how many residents in nursing homes are Medicaid eligible. Linda Sechovec, New Mexico Health Care Association director, stated that 75 to 80 percent of the nursing facility residents in New Mexico are funded by Medicaid. About 7 to 8 percent are funded by Medicare. The balance is funded through commercial insurance and private pay. Medicaid reimbursement is $140 per day whereas Medicare reimbursement is close to $400 per day. Ms. Sechovec stated that facilities are underfunded by the Medicaid program when compared with actual cost reports by $11 per day, and rely on Medicare patients to help balance out revenues.

Ms. Sechovec said that gross receipts taxes are applied to nursing home services for proprietary facilities. Non-proprietary facilities are exempt from gross receipts taxes. Chairman Smith expressed concern that there may be a disparity in our tax system. Chairman Smith asked Representative Sandoval to research that issue as chair of the tax committee and report back to the LFC.

Chairman Smith also commented that during the 2008 session statutory changes were made to the nursing home property tax exemption. Chairman Smith stated that it was his understanding the rules of the property tax division have not yet been adopted and asked LFC staff to provide an update.

Fiscal Condition of New Mexico Cities and Counties, FY08. Department of Finance and Administration (DFA). Robert Apodaca, Department of Finance and Administration/Local Government Division (LGD) director, began an brief overview of the statutory authority of DFA/LGD's Budget and Finance Bureau. LGD requires local government budgets to be filed by June 1 each year; makes amendments to proposed budgets; certifies final budgets by September 1 each year; requires quarterly financial reports; supervises disbursement of funds; and makes rules regarding budget procedures.

DFA/LGD has been working with LFC staff to analyze three taxes: gross receipts tax (GRT), lodgers tax, and gasoline tax for the second quarter of FY07 ending December 31, 2006 through the second quarter of FY08 ending December 31, 2007. The analysis looked at the largest municipalities in each of the 33 counties.

The aggregate GRT was $208.6 million for the second quarter of FY07 compared with $208.5 million for the second quarter of FY08. This represented a change of minus a 1 percent. The aggregate lodgers tax was $7.8 million for the second quarter of FY07 compared with $8.5 million for the second quarter of FY08, an increase of 8.5 percent. The aggregate gasoline tax was $6.5 million for the second quarter of FY07 compared with $5.1 million for the second quarter of FY08, a decline of 21.5 percent. The totals for these selected taxes for the 33 counties were $223 million for the second quarter of FY07, compared with $222.2 million for the second quarter of FY08, a decline of 0.4 percent.

Mr. Apodaca concluded his presentation by stating that LGD does not project revenues for local governments. DFA economists have developed a GRT forecast model for local governments that has been implemented at San Juan County, Farmington, Aztec and Bloomfield. Expectations indicate a flat GRT for calendar year 2008.

New Mexico Municipal League. William Fulginiti, executive director, presented a report on fiscal conditions across the state. The committee heard a brief overview on the history of tax policy decisions, composition of revenue sources, and local government tax authority and capacity. Mr. Fulginiti provided a chart on local tax options available and amounts generated for each municipality.

Mr. Fulginiti provided more detail on how the financial turmoil is impacting investments for our cities. Mr. Fulginiti reported statutes are fairly conservative. Most municipalities cannot by statute invest in the equity market. Investment options are very restricted except for the Home Rule governments.

The committee heard further discussion on investment options available to municipalities. Investments are secure. Bank-backed municipal bonds under $10 million are selling fairly well in the marketplace. Municipal bonds over $10 million are being held waiting for market conditions to change. The State will not realize losses in 93 of the 103 municipalities because they are not in the equity market. Of the remaining ten Home Rule municipalities that can get into the equity market, only two are doing so through the State Investment Office. The rest of the local money is with the State Treasurer's Fund which to date has not experienced a downturn. Mr. Fulginiti concluded by stating that the flat GRT tax revenues indicate a slowdown in the economy, and finance officers are monitoring the situation very closely.

New Mexico Association of Counties. Paul Gutierrez, executive director, stated that the counties are also conservative by nature and have not seen a huge negative fiscal impact. Property values in some areas are going down, but in other areas values are holding steady. Detention center costs and road costs continue to be big issues for counties. Construction, maintenance and gasoline costs have also increased. Counties have not received an increase to the local government road fund since 1993.
Mr. Gutierrez stated that counties have been working with the Secretary of State's office to address concerns with the State's voting machines. The Secretary of State has stepped up to pay for the maintenance of voting machines this year. The counties still owe $3.4 million in debt to the state Board of Finance that needs to be retired. Legislation was passed to move to all paper ballots and counties held harmless on the debt. The Association will be coming to the legislature this year to request a mail-out ballot to accommodate absentee and early-voting requests.

Mr. Gutierrez highlighted other legislative priorities for the counties. The Association will be looking to move all counties to a computer-assisted mass property appraisal system. Bernalillo County has a lack of space for the inmate population and will ask for a quarter cent GRT to generate additional operating funds.

In the past, counties have received most of their operating revenues from property tax. Today, 40 percent of county revenues are now from GRT. The Association has been working with the congressional delegation to increase funding for the payment in lieu of taxes program. The Senate just passed a bill that would create full funding for the payment in lieu of taxes program. New Mexico currently receives about $22 million in payments to counties. Secure Rural Schools generated $2.5 million and expired in October of 2007 because there were no timber sales in those counties.

Michelle Aubel, LFC fiscal analyst, highlighted key areas of interest from a background brief prepared by LFC staff for the committee. Local governments have a restricted base of revenues to provide stability during down economies. In the past few years, local governments have enjoyed significant GRT revenues due to construction which has now dropped off. In April, LFC staff requested LGD provide preliminary data on local government finance. In response, LGD submitted preliminary data for two quarters for lodgers' and gasoline taxes and indicated that complete information will not be available until December of 2008.

Ms. Aubel reported that the LFC analysis is based on the 2nd and 3rd quarters and is a "snapshot" of the same 33 municipalities LGD discussed earlier. Based on information received from the Tax and Revenue Department (TRD), municipalities with GRT revenues less than FY07 range from a negative 14.8 percent for Los Alamos to a negative 0.2 percent for Albuquerque. Overall, the majority of the municipalities reported decreases in gasoline excise tax revenues in both quarters. In the 2nd quarter of FY08, five municipalities reported a decrease in all three major revenues discussed today.

The gasoline excise tax is based not on the value of gasoline but on the quantity. Increases in the price of gasoline have dampened the demand and lowered the quantity subject to tax. The volume of gasoline is estimated to have declined by 4 percent in FY08 and revenues to the state road fund are expected to decline by almost 5 percent. Twenty-two municipalities lost revenue in the 2nd quarter while twenty lost in the 3rd quarter. Most of the gas tax revenue goes to maintain and build local roads.

Ms. Aubel stated that property taxes are a tremendous revenue source for local governments. Despite the housing crash, property values reported by LGD have not declined. Growth in property value ranged from 0.4 percent in Las Cruces to 26.6 percent in Roswell. Ms. Aubel reminded the committee that much of the data about property values is lagged due to the time to collect the appraisal and process the information.

Ms. Aubel reported on the erosion of the tax base through various economic development provisions. Industrial revenue bonds remove significant property from the property tax base. Tax increment for development district (TIDDs) financing diverts GRT and property tax revenues for economic development purposes. There is currently no state oversight for either of these programs.

LFC staff recommendations included the following:

- LGD should set a goal for quarterly reporting of government revenues to identify trends early;
- Reporting on revenues and expenditures should be uniform across local governments;
- LGD should prepare mid-term reviews of budget variances and cash balances;
- LGD should dedicate resources to monitoring and reporting on economic development programs that affect state revenues; and
- LGD could assess the cost/benefit of modernizing the reporting process.

Representative Varela asked about the condition of local government audits for FY08. Mr. Rodriguez responded that LGD is working with the State Auditor regarding greater oversight and has drafted an "audit rule" to help local governments with timely reporting measures. Representative Varela asked Mr. Rodriguez to provide a list of audits that have not been completed for FY07.

Quarterly Report on Capital Projects Greater than $1 Million. Linda Kehoe, LFC principal analyst, along with Jeannae Leger and Kyle Burns, LFC fiscal analysts, presented the September 2008 Capital Outlay Quarterly Report. An analysis of this quarter's capital outlay report indicates the State still has $1.8 billion for 7,685 projects that remains unexpended. Of the $1.8 billion, $109.1 million accounts for 3,897 projects funded for $50 thousand or less. These numbers do not include $223 million that is yet to be decided by the voters in November for general obligation bonds issues.

LFC staff tracks projects that are funded for $1 million or greater, currently 376 projects that total $853 million. Thirteen projects funded for $1 million or greater that total $75.5 million closed since the July 2008 quarterly report.

Ms. Leger highlighted four projects that achieved major milestones last quarter. The Court of Appeals building had $15 million appropriated since 2006. Construction has begun on the 33,000 square foot building scheduled for completion by September 2009. The agency will be requesting $400 thousand for furniture, fixtures, and equipment.

The Cannon Air Force Base had $5 million appropriated in 2006. A Memorandum of Understanding was signed between DFA and the United States Air Force to establish project milestones and to identify potential land for acquisition.

The New Mexico School for the Blind and Visually Impaired had $8.5 million appropriated since 2006 for the Early Childhood facility. The building is scheduled for completion December 2008.

The New Mexico History Museum at the Palace of the Governors had $13.5 million appropriated between 2003 and 2006. All of the 2003 funds have been expended as of this last quarter. Installation of exhibits should occur this fall, with opening scheduled for the summer 2009.

Ms. Leger highlighted four projects that were either completed or had significant expenditures last quarter. The Miners' Hospital had $6.9 million from the Miners' Trust Fund appropriated since 2003 for the Miners' Colfax Medical Center. Over $6.5 million was expended in the last quarter. The agency has occupied the new facility and the project is in its final closeout phase.

The Santa Fe Rail Yard and Farmers' Market had $2 million appropriated in 2006. These funds have been totally expended. The farmers' market has been completed and is drawing vendors and crowds. The Rail Yard is near completion.

The University of New Mexico had $7 million appropriated in 2007 for the Cancer Center & Research Center. The facility is 76 percent complete and all state funds have been expended. A 2008 general obligation bond issue awaiting voter approval contains $17 million for Phase II of the project.

The State Laboratory Services Building had $80 million appropriated since 2002. In the last quarter $9.1 million has been expended. The project is expected to be completed in April 2010. Agencies will request $6.7 million in 2009 for furniture, fixtures, equipment, and moving costs.

Ms. Leger highlighted two projects experiencing delays. The South Valley Multi-Purpose Health Center had $5.4 million appropriated since 2005. The project is expected to bid in October of 2008, and begin summer of 2009.

The Water & Wastewater Grant Fund had $40.9 million appropriated since 2001 with $6.3 million unexpended. The New Mexico Finance Authority is developing a plan to reallocate unspent funds.

Ms. Leger highlighted three projects that need additional funding. The Eastern New Mexico Rural Water Authority had $1 million appropriated in 2007 for the Ute Pipeline. The design of the pipeline is 30 percent complete and project funds have been expended. The project is expected to cost an estimated $436 million with completion in 2019.

The Game and Fish Department had $2.8 million appropriated in 2005 from the game protection fund for Lake Roberts Dam spillway improvements. Funds will be used to tear down the existing dam. An additional $3.5 million is needed for the reconstruction and the project cannot proceed without the additional funding.

The Mora County Judicial Complex had $2.3 million appropriated since 2006 for construction of a building to house courts, county offices, and with leased space. The project is expected to bid in November 2008. In 2009, Mora County will request an additional $10 million from the State to complete the project. There is a possibility the county may choose to phase this project.

Ms. Leger highlighted three projects with no activity since last quarter. The Sandoval County Broadband project had $1 million appropriated in 2006 and $832 thousand has been expended. DFA general counsel advised to seize all payments and stop the project until further notice. The State Auditor's office has not completed the audit of this project.

The Indian Water Rights Settlement had $10 million appropriated in 2007 for the water rights settlements in the Navajo Nation, Aamodt, and Taos. The project will not move forward until federal legislative authorization and funding passes.

The Game and Fish Department had $1 million appropriated in 2006 for Bear Canyon Dam spillway improvements. This project is on hold until the Lake Roberts Dam spillway project is completed. Federal regulations prevent both dams from being empty simultaneously.

Representative Varela stated that given the State's capacity, legislators should be prioritizing projects already in progress before looking at funding new projects. Ms. Kehoe reminded the committee that LFC staff provides legislators a list of projects by sponsors to look at before they consider funding new projects.

Ms. Kehoe reported that the Infrastructure Capital Improvement Plans submitted as of July 1 indicate nearly $1.5 billion in capital needs will be requested by state agencies and local entities in the 2009 legislative session. State agencies will be requesting $733.5 million, while local entities will be requesting $731.3 million.

Mr. Burns reported that LFC is performing site visits of state agency and higher education projects to identify critical issues. Mr. Burns provided a slide-show of certain projects. The first photos were of the Las Lunas State Campus which has 46 buildings on a portion of 140 acres. The demolition of four buildings including asbestos abatement is their top priority due to health and safety issues. A swimming pool inside a natatorium serving as a rehabilitation center requires serious upgrades to remain operational. Repair costs for the pool alone are estimated at $250 thousand.

Other photos were of buildings within the Southern New Mexico Correctional Facility which currently houses 700 inmates. The facility sits on a portion of 324 acres which could be purchased from the Bureau of Land Management for $1500 hundred. Southern's top priority is replacing the HVAC system for $2.2 million, in conjunction with the rebuild of a pipe chase and sewer system for an additional $1.2 million. The HVAC and pipe chase are part of the original facility and have not been replaced in 25 years.

More photos were from the New Mexico Farm and Ranch Museum which was damaged from flooding following a breach of the Tortugas Arroyo. The damage is projected to cost $50 to $100 thousand, including $25 thousand in damage to new sheep, goat and beef barns. The $25 thousand will be recovered by Risk Management, but the additional damages will not be recovered.

The Las Cruces State Police District Office project has a proposed building site directly across the street from the Farm and Ranch Museum. The site is located in a major drainage problem area and could incur significant costs for site preparation. Mr. Burns stated that additional site visits for projects of interest will be completed before December.

Ms. Kehoe said that legislators may want to consider other revenue sources for capital outlay requests. One option is reauthorizing previously funded projects no longer viable or that have remained unspent. Ms. Kehoe provided a list of examples:

- The Equestrian Facility had $24 million appropriated between 2006 and 2008, and $22.3 remains unexpended.
- St. Vincent's Medical Center had $1.8 million appropriated in 2007 for renovations and equipment which remains unexpended. There is no grant agreement in place and the hospital is now under new management.
- Department of Information & Technology had $1 million appropriated in 2008 to purchase a computing system contingent on a National Science Foundation grant. The grant was not awarded to the State.
- The Bernalillo County Automobile Facility (Tesla) had $8 million appropriated in 2007 and 2008. Tesla chose to build in California rather than in New Mexico.

- The Film & Media Initiative had $8.7 million appropriated in 2007 and 2008. To date, funds have not been allocated.
- The Water Innovation Projects Fund had $6.5 million appropriated in 2007 and 2008. To date, funds have not been allocated.
- The Bear Canyon Dam Spillway for $1 million. The project cannot proceed until Lake Roberts Dam Spillway improvements are completed.
- The Clayton Lake Dam for $1 million. The Dam Safety Bureau designated this dam as "low hazard".
- The Gila River Water System Improvement for $1 million. There are disagreements within the community as to how the funds should be used which is delaying the project.
- Dam renovations and repairs for $4 million. The project has been unable to commence due to staff vacancies.
- The Eclipse Aviation Maintenance Center construction for $2 million. Recent news articles question viability of the company.

A record number of 444 capital outlay projects were reauthorized in 2008. Ms. Kehoe's concluding remarks encouraged members to look at some of the outstanding projects and consider reauthorizing those funds for projects that have a higher public benefit. Representative Wirth stressed the importance of providing the LFC Capital Outlay Reports, forecasts and spreadsheets detailing projects to the entire legislature.

Chairman Smith reminded the committee that special use buildings depreciate 4 percent per year. The State invests heavily in capital outlay for buildings that also require funding for maintenance to preserve the State's interest. Chairman Smith challenged legislators to encourage their district entities to execute on capital outlay projects.

University of New Mexico (UNM) Club Sports, Rugby. Senator Shannon Robinson introduced two University of New Mexico Lobo women rugby players. The New Mexico legislature appropriated $100 thousand in the 2008 legislative session for the sport of rugby at UNM. Senator Robinson would like to see this appropriation become recurring and provided more detail about why that would be important to New Mexico.

Across the country there are 8,700 women that play collegiate rugby in the United States. Rugby is the fastest growing college sport for women in America today. There are 320 women rugby teams at the collegiate level. There are 85 Division 1 women rugby teams in the United States. In the Western Conference, there are 18 college women rugby teams.

Last year, 48 teams came to Albuquerque for four days to compete for the "Sweet Sixteen". The Sports Authority projected $500 to $700 thousand in economic impact from that event. Senator Robinson believes that event would not have been held in Albuquerque if the UNM Lobo women's rugby team was not so well known nationally.

Last year, UNM gave $30 thousand to New Mexico State University (NMSU) to bring back the sport of rugby. Today, NMSU has 25 women rugby players and 30 male rugby players.

The committee heard more about the financial impact of running a club sport from UNM Lobo women's rugby captain and manager Maria Kliffcorn. The committee also heard about the benefits of playing rugby including opportunities for social, academic, and athletic growth from UNM Lobo women's rugby All-American star player Jullion Potter.

Chairman Smith thanked Senator Robinson for 20 years dedicated public service on behalf of the citizens of New Mexico.

Chairman Smith adjourned the committee for the day at 5:30 p.m.

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) to order on Thursday, September 25, 2008, at 8:30 a.m.

The following LFC members were present on September 25:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Larry A. Larranaga (for Don Bratton), Don Tripp (for Brian K. Moore), Rhonda S. King, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Patricia A. Lundstrom (for Henry "Kiki" Savaadra); and Senators Sue Wilson Beffort, Mary Kay Papen, Phil A. Griego, Clinton D. Harden (for Leonard Lee Rawson), Stuart Ingle, Carlos Cisneros, and Pete Campos.

Chairman Smith thanked Value Options and the Developmental Disabilities Planning Council on behalf of committee members for providing breakfast to committee members. Chairman Smith began by stating that the LFC has not been able to fund programs at the level desired, and has tried to spread out resources as fairly as possible and achieve a balanced budget.

New Mexico Mortgage Finance Authority Overview: FY09 and FY10. Jay Czar, MFA executive director, along with Joseph Montoya, MFA deputy director of programs, and Erin Quinn, MFA senior policy and program advisor, presented the state of housing in New Mexico. Mr. Czar began by stating that MFA bond products continue to be rated AAA by Standard and Poor's rating agency and have a high demand in the marketplace.

In 1975 the New Mexico state legislature created MFA with the power to raise funds from private investors to finance the acquisition, construction, rehabilitation and improvement of residential housing for persons of low or moderate income within the state.

Mr. Czar reported that NM is experiencing continued job growth. MFA staff travel the state to learn what the needs are and creates programs to help address those needs. Homeownership is 72 percent in New Mexico and is higher than surrounding states, and much higher than the national average with is 68 percent. New Mexico is fairing better than the naton for all loans, prime and subprime loans. The rate of loan foreclosures for subprime loans is 6.89 percent in New Mexico, whereas in the United States it is approaching 12 percent. The rate of loan foreclosures in New Mexico for all loans is 1.35 percent.

Housing challenges in New Mexico include lack of affordability, limited availability, lack of sustainability, and reduced liquidity and credit resulting from financial market instability. Mr.

Czar believes in preserving the state's older housing stock as it is less expensive to preserve good solid housing than to create new housing.

Mr. Czar provided discussion on home prices versus income. In 2004 home prices began rising sharply, however incomes were not increasing similarly. MFA's concern is that fewer people can afford to buy homes. The median average sales price for a home in Santa Fe is $412,500. Estimated monthly payment on that home is $3,048. The annual income needed to afford that home is $121,932.

Mr. Montoya reported that MFA can assist with lowering finance costs which makes single family or multi-family housing units more affordable. MFA programs include supply-side programs and demand-side programs. Supply-side programs provide loan products to qualified entities that create housing. Demand-side programs include mortgage products with low interest, down payment assistance, or geared to essential personnel. MFA also buys mortgages and services those mortgages, with partners such as Habitat for Humanity.

Mr. Montoya discussed housing production in more detail. Of all owner occupied housing in the state, 18 percent is manufactured homes. In 2005, there has been a steady decline in new single family residential building permits for major metropolitan areas. However, since 2005 there has been a steady increase for some of the more rural areas. MFA sees more opportunities in some rural areas for new housing development, and for MFA to provide both supply-side and demand-side products.

Ms. Quinn reported on housing sustainability. It is important to preserve owner-occupied and rental housing stock. It is extremely difficult to find capital to finance housing rehabilitation. More than half of the State's housing units are 30 years old. Much of it is concentrated in the eastern and southeastern parts of the state. Older housing stock tends to be resource inefficient which counteracts gains achieved with housing subsidies. MFA provides incentives to developers and entities that conduct housing rehabilitation to incorporate energy efficient measures.

Foreclosure rates were kept at a minimum in New Mexico because there were not as many "exotic" loan products being marketed. In addition, New Mexico did not experience the sales price appreciation to the degree that other states did. For the month of August there were 493 foreclosures statewide, equivalent to one foreclosure for every 1,724 households. New Mexico is ranked 38th nationally in terms of foreclosures.

MFA provides "Energy$mart" loan products which are only available to household incomes that do not exceed 150 percent of federal poverty level. "Energy$avers" is an incentive program available to developers who are incorporating energy efficient upgrades. Mortgage$aver Green programs are available to first time home-buyers purchasing a home that meets certain energy standards.

Mr. Czar reported that MFA funding uses during calendar year 2007 totaled $434 million. Homeownership programs were $319 million or 73.5 percent of funding use; rental housing programs were $111.7 million; and, targeted initiatives were $3.2 million. MFA products provided for 2,135 first-time home buyers. MFA products also provided for 2,500 units of multifamily rental housing. Targeted initiatives include financing rehabilitation and reconstruction efforts in the colonia of Vado-Del Cerro.

Mr. Czar also reported that funding sources in 2008 include $312 million in bond issues or 71.2 percent of funding sources; $96.5 million in federal housing programs; $8.7 million state appropriations; $8.9 million private; and, $12 million MFA general fund.

Representative Lundstrom asked MFA to provide a listing of contracts with private non-profits including dollar amounts. Representative Sandoval asked for a detailed listing of loans being serviced including interest rates. Representative Varela asked for a copy of the current budget for MFA including estimates for next year.

Senator Papen asked about the status of the regional housing authorities. Mr. Czar responded that MFA will be approaching the legislature next session to address using housing authorities more for comprehensive delivery of services. Regional housing audits and plans are currently being completed. Chairman Smith asked about the status of the investigation of unethical practices of certain regional housing authorities. Mr. Czar responded that this issue is in the hands of the state Attorney General and MFA is only providing oversight activities. MFA will be addressing the legislature with recommendations to improve how regional housing authorities work in the future.

New Mexico Lottery Authority Update. Tom Romero, Lottery CEO, presented a report on the financial health, and current activities of the Lottery. Mr. Romero stated Senate Bill 364 signed into law in 2007 required the Lottery to return 27 percent of monthly gross revenues to the legislative Lottery Scholarship Fund starting July 1, 2007, and increasing to 30 percent in January 2009.

When the Lottery Authority began making numerous changes to prepare to return 27 percent of monthly gross revenues. Lottery staffing was reduced. Incentives for retailers and staff sales were eliminated. Scratcher prize payouts were reduced. The advertising budget was cut by $800 thousand, a reduction of 25 percent. The return requirement was achieved for FY08.

Ticket sales in FY08 totaled $147.1 million, down $900 thousand from FY07 sales. Of that total, scratcher sales totaled $86.6 million, down $4.8 million from FY07 sales. Thanks to several Powerball jackpot run-ups, drawing game sales totaled $60.5 million, up $3.9 million from FY07 sales. At the end of FY08, the Lottery returned record profits of $40.8 million, up $5.98 million from FY07, at an average 27.61 percent of gross revenues.

In January 2009, the Florida Lottery will join Powerball. This will add an additional 15 million potential new players. It is expected the average jackpot will increase from $95.5 million to $141 million. The changes will add more non-jackpot prizes for players.

The Lottery will convert to a new state-of-the-art gaming and communications network beginning Sunday, November 16, 2008. The new supplier is Georgia-based Intralot. Over seven years, Intralot will be paid a base price of 1.5 percent of total net sales, which is estimated at

$18.2 million on projected total net sales of $1.15 billion. The base price includes in-store self-service sales terminals, peripherals, and communications network. The Lottery expects to save $35.4 million over existing contract rates.

FY09 year-to date, the Lottery returned $6 million to the state treasury, an average 27.59 percent of gross revenues. As of August 31, 2008, Lottery net sales year-to-date are down 17 percent, or $4.5 million. Scratcher sales year-to-date totaled $13.6 million, down $715 thousand from FY08 sales. Overall, drawing game sales are down. Powerball sales year-to-date are at $6 million, down $4.4 million from FY08 sales. Roadrunner Cash sales year-to-date are at $927 thousand, down $124,400 from FY08 sales. Hot Lotto sales are up 30 percent.

Mr. Romero reported if the current sales situation persists, the Lottery projects $137.2 million in sales, compared to $147 million for last fiscal year. The Lottery further projects net revenues of $38.5 million, off $3.5 million from the forecast of $42 million. That would also be $2.3 million below the $40.8 million returned to the legislative Lottery Scholarship Fund in FY08.

Mr. Romero stated that Lottery staff has been unable to pinpoint the reason for declining Lottery ticket sales. Twenty-nine of the forty-two lotteries in the United States reported increase sales, and 22 of those lotteries set new sales records. Mr. Romero further stated that the Lottery made a number of changes and cuts heading into an unforeseen economic downturn, and in the middle of a major conversion.

Senator Papen asked about the impact of legislation adding new groups to the pool of potential lottery recipients. Lottery staff replied that as potential lottery recipients increase, there may come a time when awarding partial scholarships will be considered. Representative Varela asked Mr. Romero if the Lottery has prepared any estimates for FY10. Mr. Romero said that budget forecasts were sent to the LFC, as the oversight authority.

Chairman Smith encouraged the Higher Education Department (HED) to monitor the potential for decline in revenue for scholarships. HED staff replied they are developing a lottery projection model, and the variables include high school graduation projections and tuition increases at 5, 7 and 9 percent. Chairman Smith requested Mr. Romero keep LFC informed of trends early to facilitate future debate.

FY08 Performance Report on Key Agencies and DFA Approval of FY10. Arley Williams, LFC fiscal analyst, began by stating that 22 key state agencies report quarterly to the LFC on their performance outcomes. In turn, LFC staff develops performance "report cards" and attach color ratings to reflect progress in each of three areas: process, progress and management. A green rating indicates an agency's performance is either on or exceeds the target, data is reliable and of good quality, and the agency is managing for results. Ms. Williams highlighted key concerns and accomplishments of various agencies to the committee.

Public Education Department (PED). Students in schools failing to meet achievement standards required by the No Child Left Behind Act (NCLB) continue to grow. Elementary school proficiency in reading and language arts was 46.1 percent. Middle school proficiency in reading and language arts was 42.6 percent. Elementary school proficiency in mathematics was at 34.5

percent. Middle school proficiency in mathematics was 22.4 percent. Paul Aguilar, LFC fiscal analyst, suggests that measuring proficiency year to year in the same student may be a better method.

Representative Varela asked if the State could report annual yearly progress (AYP) for NCLB and measure proficiency year to year in the same student, to give recognition to the progress being made in public schools. Mr. Aguilar replied that the unique student identifiers PED now has in place to track each student can assist with that effort.

Higher Education Department. Year-end reports are not available as year-end data is received in mid to late fall to reflect enrollment data. Most first-time full-time freshman that started in the fall were retained to the spring at most universities.

Aging & Long-Term Services Department. The number of individuals calling the Aging and Disability Resource Center in need of two or more daily living services that received information, referral, and follow-up services exceeded the target. Nearly 13,000 people received these services in FY08, compared to about 7,500 in FY07.

Human Services Department (HSD). HSD is not meeting many of its performance targets in key areas. The Medical Assistance Division performance slipped from the prior year. For instance, the percent of children in Medicaid managed care receiving early and periodic screening, diagnosis and treatment services in FY08 was significantly below target. The number of adults in the State Coverage Insurance initiative was 23,060 in FY08 and is expected to grow beyond an effective cap of 25,000.

Children, Youth & Families Department. The percent of child support owed that is collected was 58 percent in FY08, slightly above prior year and moving toward the national average of 61.2 percent. CYFD expects improvements in turnover for child welfare workers and juvenile correction officer journeymen due to additional funding in FY09 for advertising and implementing a new screening tool. The percent of children with substantiated maltreatment while in foster care dropped significantly from 0.83 percent in FY07, to 0.34 percent in FY08.

Department of Health (DOH). The Department of Health exceeded most of its performance targets in FY08; however, the eligibility determination for developmentally disabled waiver applicants dropped significantly compared to the target for the year. New Mexico improved its ranking for fully immunized children moving from 40th in FY07, to 31st in FY08. The percent of preschoolers fully immunized was up to 78.4 percent, compared to 76.3 percent in the prior fiscal year.

Department of the Environment (ED). Ninety percent of new septic tank inspections were completed compared to 79 percent in the prior year, due in part to a slowdown in construction. The percent of high risk food-related violations corrected within appropriate time frames was only 71 percent for the year, but improved significantly compared to 48 percent in the 1st quarter of the fiscal year.

Department of Corrections. There was a decline in the number of serious inmate-to-inmate assaults both in the private and public prisons, a key indicator of safety in the prisons. Reincarceration rates posted poor performance reflecting concerns about recidivism in FY08.

Department of Public Safety (DPS). DPS is reluctant to commit to whether a lower number represents an improvement or worsening of a measure's results. An important indicator for the department in achieving its mission, the percent of strength of DPS commissioned officers, was 87.6 percent and missed the annual target.

Department of Transportation (DOT). The ride quality index for new construction will be reported in November. DOT indicates the rating will be red, because contractors were grinding pavement to reach the 4.3 target level because of pay-for-performance incentives within their contracts. DOT has ceased paying incentives and will reset the targets for next year accordingly. The number of statewide improved pavement surface miles was 96 percent of the annual target due to rationing of asphalt imposed by contractors during the last quarter of the fiscal year. The number of alcohol and non-alcohol-related traffic fatalities were significantly below targets for FY08.

Ms. Williams restated that performance report cards represent an ongoing process to strengthen accountability across state government. Red ratings are not a sign of failure but indicate a need for attention and provide opportunity for dialogue between the agency and the Legislature. Ms. Williams highlighted other programs and internal services that received red program ratings.

Representative Varela said the committee needs to allow more time for these performance hearings to discuss report cards and hear agency responses. Representative Varela also said the committee wants to hear the successes, not only the criticisms. Senator Wilson-Beffort remarked on how improved this process has become in addressing accountability. Ms. Williams responded that there is strong collaboration between state agencies, DFA, and LFC staff to establish what the key measures are that reflect what state government is trying to accomplish.

Representative Lundstrom asked LFC staff for more information on red ratings for particular agencies that had been the subject of special focus in the past. Senator Harden asked if LFC staff can provide report cards to all legislative members as they attend interim committees.

Representative Larranaga asked why some of the performance measures for public education are not being reported. David Abbey, LFC director, responded that students take proficiency tests in the spring one time a year. Some schools are doing well with short cycle assessments every few months to find out how their students are doing in the interim. Director Abbey and LFC staff have been challenging PED to work on a method to compile short cycle assessment results.

Chairman Smith adjourned the committee into subcommittees at 12:00 p.m.
The following LFC members were present on September 26:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Larry A. Larranaga (for Don Bratton), Don Tripp (for Brian K. Moore), Rhonda S. King, Edward C. Sandoval, Justin Fox-Young (for Jeannette O. Wallace), Nick L. Salazar, and

Patricia A. Lundstrom (for Henry "Kiki" Savaadra); and Senators Sue Wilson Beffort, Mary Kay Papen, Phil A. Griego, Clinton D. Harden (for Leonard Lee Rawson), Stuart Ingle, Carlos Cisneros, and Pete Campos.

The Legislative Finance Committee meeting began at approximately 8:05 a.m.

Children Youth and Family Department (690) – Preview of FY10 Appropriation Request. CYFD Secretary Dorian Dodson said the economic forecast is followed very carefully. CYFD does an internal scrub and looks at what could be done better with the resources that are available. If functions need to be changed to be more effective and efficient it is done even if it is unpopular. The functional family therapy program was changed last year because it was not pulling its weight, not getting results and it was not economically viable. Another unpopular item that the department is doing is making staff share vehicles; nobody has a vehicle assigned to them. The department will continue to do its part to make decisions better.

The department has reorganized and created an Early Childhood Services Program. All early childhood programs have been placed into one division. The acting director is Ms. Diane Gonzales.

The department is requesting a 4.5 percent general fund increase in the base. The increase is over the FY09 operating budget. The entire FY10 total budget increase is 2.84 percent over FY09. CYFD has many other revenue sources including federal funds. Two-thousand and seventy FTEs are being requested and the requested overall vacancy rate is 6.3. The current vacancy rate is over 8 percent.

The Juvenile Justice Services Program now reflects the facilities and the operation with $46 million which is not enough to run those facilities. The Early Childhood Services is the highest dollar amount because it administers the Federal Food Program of over $40 million. The Childcare Assistance Program is also administered through this program and is $80 million. The Protective Services Program is in line with last year with some increase. The Youth and Family Services Program has become larger because probation and parole, as well as, all later care services are in this division. Program Support did ask for a modest increase.

Funds are being reallocated from the Santa Fe County Juvenile Detention Center contract to staff Camino Nuevo. A six percent vacancy factor, revenue replacement and other types of expenses related to risk management for Youth and Family Services Program is being requested.

Program Support must do something about its IT system. The department is at the point where it cannot continue to support hardware and software. IT deals with reports that are a matter of life and death. The department receives vital reports from other agencies and cannot be opened because the software is too old.

There are more and more children who are in the system in adoptive placement. The average age of a child when adopted is seven and support is provided until the age of 18. As more hard to place children are placed, there are more children in the system that require special and higher subsidies. The amount for FY05 was approximately $4,500 per child; in FY08 that number has gone up to $5,800. In May 2008, changes were made in services provided to families. Families cannot be denied the support they need, but the department has to be careful and mindful for example, of medical and other expenses.

Expansion one requests $13.2 million for child care subsidies. In the special session the legislature passed the 200 percent of Federal Poverty Level for child care subsidy. Good child care is needed so that parents can go to work. It is known that if parents have child care, they will still be employed after two years. Subsidized childcare does keep people employed. It also helps parents increase their income because it allows them job stability and economic advancement.

Expansion two deals with the implementation of Cambiar New Mexico and smaller facilities with only 12 clients per unit to guarantee programming and safety. A five year plan for regionalization was developed for smaller facilities in northeastern New Mexico. Twelve additional positions are being requested. There is a no cost conversion of the unauthorized term FTE created to run Camino Nuevo into perm. Money was taken from the Santa Fe county contract to create positions.

The next expansion is for a regional center and $900,000 for six months of operational costs. The department has an incredibly skilled, economic and data group. Population is currently between 235 and 239; it is projected to go up. The females in the system represent anywhere between ten and 13 percent of the committed population. The diversity of girls programs are working, but it is a challenge because equal programming must be provided for them. Girls will not be regionalized because there are not enough of them. Over 60 percent of the population is 18 and older; another 21 percent is 17.

In expansion three, an increase rate for the foster and adoptive parents program is requested. Foster parents have to pay out of their pockets in order to maintain children. In the last three years, an increase has been received in the amount of $75, but the cost of providing care to children keeps going up. The current rate paid is approximately $336 below the 1980 level of funding.

Expansion four ensures field staff safety. There have been incidents of staff going out into the field because of household situations that they encounter. Other states have lost field workers in probation and parole and the social work arena. Clients come into offices and are very angry; they come in sometimes with guns. Cell phones, car radios and safe vehicles are being requested. An FTE is also being requested to examine and determine where and how the system could be safer.

Expansion five is different than the refresh for IT. Reporting requirements have to be met in order not to be penalized. If IT technology cannot be kept current, the mandatory data and information cannot be provided.

Expansion six standardizes behavioral health service rates. Different departments that are members of the collaborative pay different rates; it rakes havoc for providers and for the department.

Expansion seven is an increase in home visiting. Although there is a very healthy debate on the focus of home visiting, it is agreed how important it is to have good home visiting, preventive services, as well as, making maximum use of the federal dollar. Six other expansion requests were mentioned briefly.

Vice-Chair Varela asked how the organizational chart aligned with the statutory organization. Secretary Dodson said the statute has not been deviated.

Vice-Chair Varela asked how many employees fall under the collective bargaining agreement. Secretary Dodson said approximately 900. Vice-Chair Varela said the union was concerned about not receiving what was given in the Appropriations Act and the response from State Personnel was the Legislature didn't give enough money to be able to implement the additional one half percent. Agencies that had vacancy savings were allowed to pay the differential of salary increases for those employees that belong to the Union. Secretary Dodson said that even though the department was not able to fund it through vacancy savings, every employee received the salary increase that they were legislatively supposed to get.

Vice-Chair Varela asked about budget adjustment increases for FY08 and if there was a better way of estimating federal dollars. Mr. Dunbar said a contract was in place with Maximus Corporation to provide revenue maximization. Some of the big BARs are due to the revenue maximization. Other BARs reflect Juvenile Justice where monies were being moved from contracts to salaries and benefits to meet a shortfall. This year's budget is a more realistic view of programs because the additional revenue being received from the federal government is no longer there. Vice-Chair Varela said he would like to see the dollars up front so that when the budget is heard in December there is a better number for other state and federal funds.

Senator Wilson-Beffot said in last week's Welfare Reform Oversight Committee, it was brought to their attention that the Pre-K bill had a provision for parity for CYFD and PED for three years. Secretary Dodson said as of the end of FY08, it was the last time in the bill that required statutorily parity. CYFD, PED, and the Governor's office have committed to continuing the parity. Senator Wilson-Beffort said language is not as tight as it needs to be and asked the committee to consider endorsing a bill for parity in perpetuity. The Welfare Reform Oversight Committee also learned there was consideration to require child care centers to have a school bus as opposed to a van. These unfunded mandates will end up putting child care centers out of business. Secretary Dodson said the National Traffic Safety Bureau is looking at providing the same requirements for vans for child care as for school buses.

Senator Wilson-Beffort asked what type of young people would be committed to Camino Nuevo. Secretary Dodson said Camino Nuevo is a two year program and higher risk, higher needs youth will be put there, as well as, the central intake unit children. This will allow focus on children in that setting while decreasing the population at YDDC. Senator Wilson-Beffort said it concerns her that girls will be housed there also. Secretary Dodson said girls are housed at YDDC and the separation between the girls and the boys at Camino Nuevo is at or greater than it is at YDDC. All the children eat together and go to school together, but the dorms, pods, and cottages are more separate and more secure. Senator Wilson-Beffort said at some point there needs to be discussion to have a separate institution for girls.

Senator Papen said she receives requests from people on a constant basis regarding foster homes and adoption and grandparents raising grandchildren, many of them live on retirement income and do not have additional support. Secretary Dodson agreed that the role of grandparents and how many of them are raising children is a challenging issue. If a child has been adjudicated as abused or neglected and is put in a relative foster home, very frequently that foster home is a grandparent. CYFD can not pay unless the children are in their custody. If they are in their custody, then licensing for grandparents as foster parents is looked into. At that point, they would get the same amount that any other foster parent receives. If there is no finding of abuse or neglect, but the family through informal mechanisms has the children dumped on them, resources are not provided. If they are low income, they would qualify for more food stamps and other public assistance benefits.

Senator Papen asked if a child is abandoned by the parents where the fine line is that determines abuse. Secretary Dodson said if a referral is received and the courts determine it is neglect or abandonment, the grandparents can get services. Often grandparents do not want to go through the motion of being part of saying that their own children are abusing or neglecting their grandchildren. If they go through the court system and the court finds neglect or abuse, then the children become part of the system and support is provided. Senator Papen asked if the J. Paul Taylor Center is the only center fully implemented in the Missouri model. Secretary Dodson said fifty percent is in the Missouri model, the third pod will begin October 14th and the last pod will be done by January.

Representative Lundstrom complimented Secretary Dodson on her department and asked if the referrals from Protective Services were being done by the Value Options staff or by the CYFD social workers. Secretary Dodson said staff and physicians refer the children to Value Options for services. Representative Lundstorm said she would like the department to provide a flow chart on how it works and asked how existing facilities would be integrated into the new model. Secretary Dodson said all base community services will be integrated into the model as much as possible. Representative Lundstrom said she has a provider in her community that is completely empty; there are two children in the facility and asked Secretary Dodson to provide the referrals to Protective Services from the Northwest New Mexico area for the last two fiscal years.

Senator Harden asked if the department is doing anything that focuses strictly on gang intervention. Secretary Dodson said gangs remain a huge issue in all juvenile justice programs both in the community and in the facilities. There are gang specialists who know what to look for and how to intervene. The Cambiar Missouri model replaces the gang. The whole culture is to create a unity among all the youth in that dorm or pod and to replace it with belonging and togetherness which is essentially what a gang is, but with a positive one.

Senator Griego said there is a policy under the Adoption Policies for grandparents who want to become foster parents and want to move towards adoption. If a grandparent wants to become a foster parent and wants to adopt, the children would have to be given up to another foster family until the adoption papers are complete or if the grandparents just want to adopt and have been raising the children, they would have to give them up to another family and then move toward the procedures of adoption before they can get the children back. CYFD reported for a foster family raising a grandchild that is a licensed foster family, an interruption of that bond and relationship would not occur. The grandparent has an option of coming into the state system or foregoing that process and interference.

Chairman Smith asked if any resources have had to be spent on the incident that is taking place at Las Vegas public schools. Secretary Dodson said yes, they are involved in that case. Chairman Smith said the biggest bite out of the budget will be coming from education and there are various agencies that interconnect with education that should be perceived as overall education funding.

<u>**Action Items**</u>

1. Approval of Minutes – August 2008

   Senator Cisneros moved to approve the August 2008 meeting minutes, seconded by Representative Salazar. Motion carried.

2. Approval of Subcommittee Reports – August 2008

   Senator Wilson-Beffort moved to adopt the August 2008 Subcommittee Reports, seconded by Representative Salazar. Motion carried.

Chairman Smith said at the next meeting of the LFC, the continuation of the Sunset Committee will occur.

Mr. Abbey said an excellent report was received from Ms. Pam Galbright, Licensing and Certification and that completed her contract availability. There is another project that she could move onto looking at Long Term Managed Care and asked for authority to enter into a contract up to $20,000 pending funding availability. **Senator Beffort moved to give authority to enter into a contract up to $20,000, seconded by Senator Cisneros. Motion carried.**

Mr. Abbey said a Project Evaluation Work Plan was submitted in the committee's binders that include proposed projects. Early Childhood is one, there are issues regarding prioritization and duplication; a short project on student testing; transportation which was last done 13 years ago; and possibly looking at funding alternative energy with tax credits. Feedback should be given directly to Mr. Abbey or Mr. Patel. Chairperson Smith said it would be brought up at the next meeting.

With no further business, the committee adjourned at approximately 9:59 a.m.

Chairman

10/22/08
Date