# LEGISLATIVE FINANCE COMMITTEE
# MINUTES
# DECEMBER 8-13, 2008

**December 8, 2008**

The following members were present on Monday, December 8th: Chairman John Arthur Smith, Vice-Chairman Luciano "Lucky" Varela, Representatives Donald E. Bratton, Brian K. Moore, Edward C. Sandoval, Jeanette O. Wallace, Nick L. Salazar, Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell (for Leonard Lee Rawson), Phil A. Griego, Mary Kay Papen, and Pete Campos. Representatives Kathy McCoy, Larry Larranaga, Peter Wirth, Don Tripp, Richard Berry, Jim Trujillo, and Speaker Ben Lujan attended as guests.

Chairman Smith called the Legislative Finance Committee to order at approximately 8:00 a.m.

The Committee met in Executive Session to discuss Staff Briefings.

**FY09 General Fund Revenue Report and FY10 General Fund Revenue Projections.** Secretary Katherine Miller, Department of Finance and Administration (DFA), presented the December 2008 General Fund consensus revenue estimate. The revenue update reflects a state economy that is weathering a national and world-wide recession. Reductions in revenues are due to lower work oil prices and natural gas prices and a national financial crisis. Since the October forecast, the predicted recurring revenue for FY09 has decreased by $186.1 million and the FY10 forecast has been lowered by $286.8 million. This revenue estimate is predicting a shortfall for the current fiscal year of $384.4 million to maintain 10 percent reserves.

The Governor took decisive actions to address the projected shortfall and directed all executive agencies to take immediate action to reduce costs and develop plans to cut expenditures by five percent. This plan will reduce spending and is anticipated to save between $60 and $100 million. The Governor also called upon legislative and judicial leaders to follow his example and help reduce this year's operating costs. In addition, the Governor directed DFA to work with executive agencies to identify earmarked funds, earmarked appropriations, and stalled capital outlay projects that could be deauthorized by the Legislature. The Taxation and Revenue Department (TRD) has identified $100 million in non-recurring revenues that could be used to strengthen the FY09 general fund with appropriate legislation in the 2009 session. With these steps, the state could save as much as $440 million in FY09 expenditures. Many of these savings will require action by the Legislature in the 2009 session.

Although declining oil and natural gas prices have created a state revenue problem, they are a positive force in helping the economy recover by lowering operating costs for business and transportation costs for consumers. Lower fuel and energy prices will also relieve pressure on the general fund budgets and DOT's GRIP I and II projects.

DFA previously reported to the Committee that the structure of the reserves is an issue that needs to be addressed during the regular Legislative Session so that the appropriation account is sufficient to pay the general fund obligations. The balances in the appropriation contingency fund need to be adjusted similarly to cover any unforeseen obligations. The consensus forecast group will conduct a mid-session review just before the midpoint of the 2009 Session.

It is unclear whether a federal economic stimulus package will include specific assistance for state governments. This assistance could take the form of infrastructure construction grants, additional Medicaid assistance, and an extension of unemployment benefits or additional allocations for the federal food stamp program.

Nationally, there have been job losses in each of the past 11 months and consumer prices are now falling and the U.S. is officially in a recession. In general, the Global Insight (GI) forecast predicts four quarters of negative growth beginning in the third quarter of 2008. The economic growth for New Mexico is expected to be slow for the next year expecting one or two quarters of overall job losses.

Mr. Rick Homans, Secretary Designee, TRD reported that the total general fund revenues for FY08 are expected to be approximately $92.5 million over the December 2007 forecast; DFA has not closed the books on FY08. Unaudited actual and accrued receipts have been posted through June.

New Mexico's revenue forecasts for FY09 through FY13 is significantly better than most states'. The general fund gap for FY09 is well below the average for other states; FY09 was entered into with high levels of reserves. New Mexico has also made dramatic strides to improve its economic climate and position itself for a long-run, sustained economic growth. The results of these initiatives are reflected in the relative strength of the New Mexico economy over the forecast period, and the greater resilience in general fund revenues in the face of a slowing economy.

The general revenue outlook has worsened since the October forecast. The biggest declines are for the oil and gas revenues, but the broad based taxes are also exhibiting growth below the long-term trend. Gross receipts and compensating taxes are the largest source of general fund revenues representing 35 percent of the total recurring revenue. These taxes grew only 0.4 percent from FY07 to FY08, the lowest growth rate in over two decades. The overall momentum of growth in taxable gross receipts actually improved in recent months despite slow growth in the retail trade and construction sectors.

During the first two months of FY09, the price received by the state's natural gas producers averaged $12.59 and $9.29 in July and August 2008. FY08 collections for the Oil and Gas School Tax are expected to exceed the December 2007 forecast by at least $129 million. Federal mineral leasing payments are expected to exceed the December forecast by $10.5 million.

It is now expected that the late FY08 will be the peak of the increase in both oil and natural gas prices followed by sharp drops. FY09 oil prices are expected to average $69 per barrel and natural gas prices are expected to average $6.05 per MCF, but these averages mask the declines expected during the remainder of FY09.

Personal income taxes will comprise over 21 percent of general fund recurring revenues in FY09. As a result of the slowing economy, the final personal income tax rate cut and new or expanded credits are expected to rise by only 1.8 percent in FY09.

Corporate profits for non oil and gas corporations are expected to drop further according to the latest GI forecasts. Average oil and gas prices are expected to be significantly lower for FY09 and FY10 contributing to a decline in profits and receipts from oil and gas corporations. The film production tax credit is expected to continue to be strong through FY13 demonstrating success in the film industry. Corporate income tax revenues are expected to be reduced by $12 million in FY09 and $31 million in FY10 from the October estimate.

Secretary Miller continued and said in FY10, there will be a decrease of $293.5 million in recurring revenues and a shortfall of $384.4 million by the end of FY09 in order to maintain 10 percent reserves. The Executive strongly recommends that a general fund balance of 10 percent be maintained in FY09 and that the structure of the general fund reserves must be addressed.

The principal downside risk to the forecast is the chance that the national economy will continue to slide into a deep recession affecting the forecasts of gross receipts tax, personal income tax, corporate income tax and motor vehicle excise tax. If there is a deep national recession, it is possible federal revenues will soften and spending will be curtailed. New Mexico relies heavily on federal spending, receiving $2 in federal spending for each dollar in federal taxes paid by New Mexicans. The state might have to use general funds recurring revenue to make up for reduced federal grants and entitlements.

The volatility in the financial markets and the meltdown of the credit market has significantly affected immediate returns and the State Treasurer's Office balances. The long-term effect on interest rates and STO investments is still to be determined. STO has had difficulty with some investments, particularly mutual funds.

The model for balances in the Tobacco Settlement Permanent Fund assumes a 23 percent drop in the corpus of the funds and a 4 percent investment return for FY09. If the stock market continues to fall, that 23 percent could become higher and the balances in the fund which are considered general fund reserves, when coupled with revenue declines from other sources could reduce the level of those reserves even further.

Responding to a question from Chairman Smith, Secretary Miller said based upon the October revenue estimate and the Governor's plan for FY09, it does not appear that public education or higher education would need to be included in order to obtain 10 percent reserves in FY09. In FY10 however, it would not be possible to balance the budget without addressing public and higher education.

Vice-Chairman Varela said he would not like to balance the budget strictly on the expenditures side but look at revenue enhancements as well. Senator Beffort inquired about the 400 hires incurred after the hiring freeze was announced and asked how many were new hires expanding state government as opposed to strictly transfers within the system. Secretary Miller said agencies aligned their budgets to accommodate any hiring based upon a potential 5 percent decrease in operating budgets. Most agencies carry a high vacancy rate and maintain an even higher rate than what they are budgeted for. Senator Beffort said there are a number of agencies offering out of cycle pay increases and asked if there was consideration mandating a freeze. Secretary Miller said one of the conditions of the hiring freeze is that there would not be out of cycle pay increases unless they are covered under an exemption to be reviewed by the State Personnel Office and DFA.

Representative Bratton said consensus numbers for crude oil and natural gas are 25 percent above market prices; there is concern with reduction levels and being over optimistic in holding production levels and that production estimate numbers need to be monitored very closely. Secretary Designee Homans said the consensus forecast involved career economists from the LFC, DFA, TRD, and DOT. A great deal of deliberation, thought, review of reports, and analysis has gone into making the forecast and it will be revisiting at the midway point of the Session.

Secretary Miller reported that DFA has been working with local governments and state agencies to create a list of ready to go projects if funding is received from a stimulus package. That list is being provided to Governor's DC office and includes transportation and infrastructure projects, as well as the Medicaid area. Chairman Smith asked that the list be provided to the Committee by the end of the week.

**Severance Tax Bond and General Obligation Bond Capacity.** Secretary Katherine Miller, Department of Finance and Administration provided an overview of the core state bonding programs. As of September 1, 2008, there is $299.9 million outstanding in the General Obligation bonding program. A list of projects to be funded with GO Bond proceeds is generated during the Legislative Session. The biennial issuance of these bonds is then subject to voter approval. If approved, an additional mill levy is added to property taxes. General obligation bonds are typically used for higher education, libraries and senior projects and capacity is limited to 1 percent of statewide net taxable property value. The Board of Finance currently predicts capacity of $182.7 million to be available for appropriation in the 2010 session.

On November 4$^{th}$, voters approved $223.8 million work of GO Bonds projects. These bonds will be issued in the spring of 2009 and the funds should be available by June.

The severance tax bonding program contains two types of severance bonds; the senior severance tax bonds (STB) and the supplemental STB, which are dedicated to public schools. The debt outstanding for Senior Severance Tax Bonds is $573.1 million as of July 2008. Proceeds are used for capital projects authorized by the Legislature, including transportation projects, the Water Project Fund and the Spaceport Authority. Additional annual capacity is provided through sponge bond issuance.

The outstanding debt in the supplemental STB totals $53.7 million as of July 2008; the state is predicted to be free of this debt by July 2014. The capacity could be increased by issuing some amount of long-term bonds; however debt service would also increase.

New Mexico's GO bonds are currently rated at AA plus by Standard & Poor's and Aa1 by Moody's; these are the second highest ratings offered by each agency. Nine states are rated AAA and 12 states are rated AA plus. The strength to the state's credit ratings is a long-term trend of economic diversification and expansion, strong General Fund reserves, and prudent debt management practices. Weaknesses to the state's credit rating include historically low levels of per capita income, lack of statutory reserve requirements, and comprehensive capital project planning.

Bond rating agencies place a major significance on the level of reserve funding held by each state. New Mexico's credit rating was raised to AA plus in 1993 when reserve levels were high. When reserve levels decreased, the state was put on Credit Watch and instructed that if reserves fell below 5 percent of recurring appropriations the bond rating would be lowered. Over the past 10 years, the state has not gone below 5 percent reserves of recurring appropriations and has maintained reserves of at least 10 percent of recurring appropriations. The rating agencies encourage that reserve requirements be put into statute. The current economic climate makes maintaining high reserves more crucial to preserving high bond rating and ensuring that the state can weather further economic downturns.

Total Senior STB capacity available for appropriation in 2009 legislative session is $157 million after all ready committee but unfunded projects are accounted for. The current revenue projection identifies no other nonrecurring funds making the appropriation the only funding source for all capital outlay projects. In review with state agencies and local governments, they have been asked to provide information on capital projects that are funded with STB to reallocate and free up previous authorized funding for projects moving forward.

The FY09 Supplemental STB capacity is estimated to be $199 million, $20-40 million less than the October revenue estimate. The option of long-term bonds may also be utilized to ensure adequate public school facility funding. The State Board of Finance projects the issuance of $3 billion new money long-term general obligation and STB over the next ten years.

**Department of Information Technology.** Secretary Designee Marlin Mackey, Department of Information Technology, introduced his staff and read the mission statement, vision statement and values established in July 2007 that continue to guide the department. Secretary Designee Mackey summarized the functions performed by the department, services provided and strategic initiatives pursued.

Secretary Designee Mackey provided a brief overview of the equipment replacement fund indicating that documentation had been submitted to the Department of Finance and Administration (DFA) to formally establish the fund. The FY09 rates charged for the DoIT services included depreciation in order to establish a dedicated funding source for the replacement of obsolete equipment. An analysis performed by DoIT indicates that the equipment replacement fund should have an estimated balance of $21 million. Since DoIT has not set aside the depreciation expense, the fund has a zero balance. Secretary Designee Mackey presented a three year catch-up plan that will be set up with the Board of Finance in order to replenish the equipment replacement fund with an estimated $4 million directed to the fund in FY09 and $5 million in FY10. DoIT has requested a capital appropriation of $6 million in FY10 to seed the equipment replacement fund.

Secretary Designee Mackey summarized DoIT's FY10 appropriation request and stated that the department submitted a five percent budget reduction plan to DFA according to the Governor's request. Vice-Chairman Varela requested that Secretary Designee Mackey share the department's budget reduction plan with the LFC staff.

Secretary Designee Mackey stated that DoIT is authorized 219 FTE, of which 36 positions are vacant and 21 have been frozen. Vacant positions have been accounted for in the FY10 request, as well as increases to contractual services.

In addition to DoIT's FY10 base operating request, the department has requested $3.2 million for the Computer Enhancement Fund, $13.3 million for Capital Outlay, $6.4 million for Special Appropriations and $3 million for Supplemental Appropriations.

Senator Griego asked if the SHARE program is fully operational. Secretary Designee Mackey said the SHARE needs to be tuned. A vendor has been brought in to conduct a long-term study and provide detailed recommendations for improvement. Aurora Sánchez, Program Evaluation Manager, LFC, added that there are issues with the technical infrastructure because it may have not been properly scaled. The product is good robust software. The problem is how the project was managed and the current technical infrastructure. If all components are properly configured, there is sufficient hardware and the people using and supporting the system are properly trained, it will work. Senator Griego asked if there was a warranty or guarantee. Ms. Sánchez said the software was bought from PeopleSoft who is now owned by Oracle. Maximus was hired to configure the system to meet the state's needs. The Maximus contract had a 15 percent retainage to guarantee performance, but the retainage has since been released and Maximus is no longer on site. Maximus did not understand governmental accounting or the state's processes, and the state's project manager did not have enough project management experience and PeopleSoft expertise required for this kind of implementation. If a skilled project manager is hired that understands the PeopleSoft application and state government processes and has the full support of the executive to do the job, then the system can be a success. Staff at DFA and DoIT support the system, but continue to be dependent on Maximus for complicated support issues. Maximus remains on contract to provide that level of support as needed. Management in the executive branch needs to decide that SHARE is important enough to find a project manager that has the expertise and experience to manage the project.

Secretary Designee Mackey said an assessment report of SHARE showed that the governance structure for SHARE was not adequate. Resources are spread across multiple agencies and project management is not well defined. A governance structure proposal was put together and given to DFA who made adjustments. An effective structure is needed so that policy decisions are made by a steering committee made up of the cabine secretaries that take into consideration all needs and can then implement necessary changes and go forward.

Vice-Chairman Varela asked how many releases there have been to SHARE. Secretary Designee Mackey said there are new releases every three to four months. According to Ms. Sánchez the state is 12 to 18 months behind in applying the bundles. Vice-Chairman Varela told the committee that patches need to be applied. Ms. Sánchez said the Department of Finance and Administration requested an appropriation to upgrade SHARE to a higher version. However, moving to a higher version cannot be done until the patches or bundles are applied. If the state moves to a higher version it will be like going through a whole new implementation. Secretary Designee Mackey said if systems are not upgraded and kept up to current release levels, the vendor will not support the product.

**General Services Department.** Secretary Arturo L. Jaramillo, Secretary, General Services Department, introduced staff and reported that risk management funds are at record levels. The management of claim activity is strong and represents the state's best interests. Building Services Division has three major projects underway that are ahead of schedule. State Printing Services has become a top-of-the-line printing organization with graphic artists who work primarily for the Legislature.

A primary challenge for the department is the procurement services function. Secretary Jaramillo reported that the procurement process is fair, consistent and competitive. Las year, the department requested 15 FTE in order to implement a strategic sourcing project at State Printing. Analysts were brought in to look at everything bought by the state, the options and alternatives of where to buy from, and an analysis was provided with specifications of RFPs that were managed for 18 months. Auditing savings were no less than $16 million and suggested possible savings up to $40 million. The project cost the state $8 million taken from savings only after the audited results of the $16 million guarantee had been established. The total budget request for state procurement is $2.3 million in FY10 and includes expansion of six FTE in order to sufficiently allocate resources to the multiple areas under the state purchasing purview.

The second greatest need for the department is for two additional FTE in the Information Technology Support Bureau in order to incrementally grow its capability. Secretary

Jaramillo indicated that GSD cannot manage its mission with efficiency, cost savings, and effectiveness without the addition of electronic tools.

The last critical issue relates to the Administrative Services Division. The annual audit process has required the department to go back to FY05 and reconstruct financial documents and support that was not there. Secretary Jaramillo stated that the FY06 audit is at the State Auditor's Office. The FY07 audit was delivered to the State Auditor and the FY08 audit was submitted for consideration at the same time. It is the department's hope to accomplish three audits in one calendar year. Currently, there are two account auditors in the entire department managing 36 funds. Two additional account auditors are requested to work in the general ledger area.

Vice-Chairman Varela asked who would build the module for the E-Procurement and if it would be part of the SHARE project or a separate module with an interface. Secretary Jaramillo said $500 thousand was appropriated in partnership with DFA with instructions to work with DFA to determine what the needs were in order for a decision to be made about further implementation or the cost needed to be procured. The initiation certification stage has occurred, with Department of Information Technology having certified the project. ORACLE has been contracted to conduct a health assessment looking at business processes and identifying the modules purchased with the SHARE system. A gap analysis will be provided to implement the E-Procurement system consistent with business practices. The analysis should be completed by February 2009 with implementation by the end of FY09.

**Action Items.**

*Contract Approval.* Director Abbey said four contracts are recommended to assist with the FIRs during the Legislative Session. It is planned to reduce the budget for the current year by 2 to 2.5 percent and the contracts fit within the lower budget amount. Representative Moore moved to approve the contracts, seconded by Representative Sandoval. Motion carried.

**Department of Workforce Solutions.** Chairman Smith extended congratulations from the entire Legislative Finance Committee on the retirement of Lala Garcia and presented her with a letter.

Secretary Doris introduced staff and reviewed the direction of the department and its achievements. Currently, there are 29 fully integrated offices throughout the state with three remaining offices to be fully integrated by the end of December. Recently, the Workforce Solutions Department launched debit cards for UI benefits which provided savings to the department. The department plans to launch a pilot of direct deposit for UI claimants.

The mandated 5 percent budget reduction for FY09 and FY10 will be achieved through vacancy savings and continuing to look at other ways to retain vacancies and ways to improving technology. In FY10, the UI trust fund projections are down to $886 thousand due to the economic downturn. The FY10 budget request provides a base request of general funds of $12.1 million and expansion requests totaling $1.4 million. The expansion request includes the individual development accounts, work key skills assessment, advanced manufacturing certification, and a statewide summer youth program.

Senator Griego asked where the reduction in federal revenues has had a detrimental effect on the agency. Secretary Doris said administration has been tightened through integrated services, service delivery at the local level, and better ongoing staff development for employees so that people are able to do more with less. Senator Griego asked if supplemental assistance is being received from communities where there are integrated workforce centers. Secretary Doris said local partners have stepped up to the plate and have had a growing relationship to work together.

Representative Trujillo asked if there was a way to join with the Higher Education Department (HED) to encourage more high school drop-outs to complete their education. Secretary Doris said conversations have begun with the secretary for HED to respond more effectively to increase access and improve the outcomes of individuals across the state.

**Taxation and Revenue Department.** Rick Homans, Secretary Designee, Taxation and Revenue Department, introduced staff. Ms. Dona Cook, Deputy Secretary reported that 317,000 centralized driver's licenses have been issued and document authentication software is being deployed to facilitate auditing. In addition, document authentication will authenticate whether or not a passport fits the parameters of the federal government. The benefits of the system reduces and prevents ID theft and fraud, retains scanned documents in the driver record, makes it less interesting to break into a field office to steal equipment and supplies, and supports law enforcement and homeland security.

Deputy Secretary Cook reviewed key performance measures for the agency and said the wait time in MVD field offices is down from a high of 34 average minutes in 2003 to an average of 14 minutes. The wait time for customers calling in to get assistance is down from eight minutes to less than four. The number of uninsured drivers is also down by 70 percent. Filing taxes electronically has been enforced and encouraged resulting in savings with 77 percent filed electronically. Tax fraud prosecutions are maintained at 100 percent. A great deal of time has been spent on being sure DWI hearings are held within 90 days.

The budget for FY09 is $87 million of which $70.4 million is General Fund. In FY10, $91.7 million is requested with $73.7 million as General Fund. The increase is due to the Department of Information Technology and the General Services Department rate increases. A portion relates to being able to start MVD clerks and tax processor clerks at a higher wage and reducing vacancies.

Deputy Secretary Cook described the Federal Mineral Management Service (MMS) and said it is a federal government program that pays states to conduct audits assuring production royalties and lease bonuses on oil, gas, and hard minerals are paid according to the law. Currently, 21 term positions conduct audits and Deputy Secretary Cook requested consideration for some of the positions to be converted to permanent positions.

Secretary Homan reported on the Weight Distance Tax (WDT) Enforcement Initiative and said it is a tax that is applied to commercial vehicles in-state or passing through. It is a cooperative venture between the Department of Transportation, Department of Public Safety, and the Taxation and Revenue Department. The proposal does not involve General Funds and is a self funded initiative. An identification permit fee and statute allows up to $10 to be charged per permit. The state currently charges $2.00 per permit. It is proposed to increase the fee to $5.50 for 2010 and be evaluated every year being brought down depending on the cost of enforcement and compliance.

Secretary Designee Homans reported on the Delinquent Tax Collections and Tax Gap Initiative and proposed to invest $8.1 million in FY10 bringing in revenues to the state of $29.2 million. Approximately 73 percent will go to the General Fund with the other 27 percent going to local governments. In FY11, part of the $8.1 million is nonrecurring expense bringing in $45 million to the state. Figures are based on incremental additions.

The final initiative is for a comprehensive program to fix the Motor Vehicle Division. A complete self funded model is proposed and would not require General Funds. The current system does not allow for enforcement of current statutory requirements and does not have a good grip on accounts receivable. There are opportunities to use current statute and current authority to generate additional revenues. The law allows recovering costs of conducting business with partners and a transaction fee for the cost absorbed to monitor them. In addition, the current fee charged for uninsured motorists will be increased from $25.00 to $100.00. Through the combination of these items, revenue streams will be created to ensure investments can be deployed. It is recognized that the fee structure in MVD is very complicated. A memorial will be proposed in the next session instructing an in-house study be conducted reporting results in November 2009 and introducing legislation in the 2010 session to streamline the fee structure.

Representative Bratton asked if there are federal limits on the amount of penalties a state can impose for failure to pay on weight distance. Secretary Designee Homans said the federal government has no involvement on weight distance tax. Representative Bratton said additional fees should not be assessed to those in compliance. Penalties should be imposed for people who are not in compliance particularly repeat violators. Secretary Designee Homans said penalties are in place for non compliers with the first violation of $300, the second $500, and the third $1,000.

**December 9, 2008**

<u>The following members were present on Tuesday, December 9th:</u> Chairman John Arthur Smith, Vice-Chairman Luciano "Lucky" Varela, Representatives Donald E. Bratton, Brian K. Moore, Edward C. Sandoval, Jeanette O. Wallace, Nick L. Salazar, Henry "Kiki" Saavedra, Rhonda S. King; and Senators Carlos R. Cisneros, Sue Wilson Beffort,

Carroll H. Leavell (for Leonard Lee Rawson), Phil A. Griego, Mary Kay Papen, and Pete Campos. Representatives Kathy McCoy, Larry Larranaga, Don Tripp, Jim Trujillo, and Senator Linda Lopez attended as guests.

Chairman Smith called the Legislative Finance Committee to order at approximately 8:00 a.m.

The Committee met in Executive Session to discuss Staff Briefings.

**Children, Youth and Families Department.** Secretary Dodson reported that the department is prioritizing and has taken a look at its FY10 request and eliminated items. Budget request priorities include a vacancy rate lower than what is current, an increase in care and support for foster and adoptive youth, funding in Juvenile Justice Support for Cambiar New Mexico, a revenue replacement in Juvenile Justice and Youth and Family Services, and an information technology refresh. Supplemental care and support is requested in FY09 because of caseload increases. Expansion requests for FY10 include $13.2 million to sustain child care assistance eligibility, $744.3 for continued implementation of Cambiar New Mexico, 36.5 term to perm FTE conversion for Camino Nuevo (no fiscal impact) and $1.5 million to increase foster parent maintenance payments.

Secretary Dodson reported on performance measures and said two main priorities include taking care of children in foster care and in facilities. The department continues to evaluate programs based on client outcomes and performance indicators and has reviewed operating budgets and implemented savings opportunities.

Chairman Smith asked if there are any areas from a regulatory standpoint that could be delayed or postponed to give child care providers relief from additional costs that are encountered. Secretary Dodson said they have already postponed plans. Chairman Smith asked if other regulatory bodies that have sub-jurisdictions are making the same effort. Secretary Dodson said everyone involved with child care is being communicated with.

**Department of Health.** Deputy Secretary Duffy Rodriguez, Department of Health, reported that the department improves individual health, community health, and the health system and reviewed the department's accomplishments.

The department's Base Budget Request has been reduced by $2.9 million in the General Fund, but the request is a $11.4 million increase. Medicaid matching funds from the federal government were received. The request includes $10 million for overtime and salary for the 24 hour facilities and a shortfall in funding for compensation increases, $4.3 million for fixed costs, $692 thousand for GSD rate increases and $248 thousand for Value Options Rate Equalization. Deputy Secretary Rodriguez reviewed the department's Expansion Request, Deficiencies, Supplemental, and Specials.

Vice-Chairman Varela asked about the audit and Deputy Secretary Rodriguez stated the FY07 audit is at the State Auditor's Office and should be released soon. The FY08 audit is almost completed and should be available by the Legislative Session. Vice-Chairman Varela asked about the construction project at the Behavioral Health Institute in Las Vegas. Deputy Secretary Rodriquez stated the total cost will be approximately $40 million but will be built in "pods" so the construction can be done in phases as appropriations are provided. To date, $21 million has been appropriated which will build the common areas and one pod. DOH is working with the General Services Department, Property Control Division, on the design.

Representative King asked what the waiting list time is for a child when they are first diagnosed with developmental delays and receiving intervention services. Dr. Sam Howard responded that it is down to below one year. Representative King asked for information to be provided to the LFC on the status. Representative King also inquired about the Coordinated Long Term Care Program provider rates and asked how much have they been increased. Secretary Vigil said it is a problem for programs that have contracts where providers need and deserve increased rates. Actual increases and rates have fallen behind.

Representative Salazar asked what the status is with Value Options. Secretary Vigil said there are three finalists from the RFP process that have been selected. A postponement has been put into place pending updated revenue projects. The Behavioral Health Purchasing Collaborative will make a final decision on the contractor. Representative Salazar said one of the biggest problems with Value Options is that providers are having a hard time keeping up with costs especially in the mental health area. Secretary Vigil agreed and said New Mexico ranks fairly low on dollars spent on behavioral health services on a per capita basis. Representative Salazar said another problem is related to medication. Secretary Vigil said the cost of psychiatric medicines have sky rocketed and all the new medicines that work better and have few side effects are expensive. Representative Salazar inquired about liability and asked what happens to the provider sending out patients knowing they are not able to afford medications. Secretary Vigil said there are fall back positions such as samples, reduced rate programs, community health centers, etc available. Most people who are in need, do qualify for Medicaid at some point. Federal legislation requires any hospital that serves the public to not turn away anybody in need. The department has the capability of disciplining and brining sanctions to facilities not in compliance.

Secretary Vigil added that Deputy Secretary Rodriguez was named one of the five top CFOs in New Mexico by New Mexico Business Weekly.

**<u>Information Items.</u>**

*FY08 LFC Audit.* Director Abbey said the FY08 Audit was submitted and the exit conference was completed with no findings. It was requested that it be released; however, the State Auditor's Office will not release it due to the backlog of FY07 agency audits.

*November Budget Adjustment Request (BAR) Report.* Director Abbey reported that for the month of November there are 46 BARs and 189 for the fiscal year. The dollar amount has gone down from $108 million to $98 million. The net increase for November was $13 million with a net increase of $15 million in cash balances.

*LFC November Budget Status.* Director Abbey reported that the Executive was challenging Judicial Branches to reduce budgets by 2.5 percent. This represents an effort to bring spending down 2 percent below the appropriated amount and staff will use this target and recommend it to all agencies for Solvency Plans.

*October Cash Balance Report.* Director Abbey said revenues for the General Fund were reviewed to look for balances in excess of agencies' needs. There has been a 54 percent spending growth over the last six years.

**Review of Possible LFC Committee Sponsored Legislation.** Dr. Brent Woods, Senior Fiscal Analyst, LFC, reported a proposed bill for the Capital Outlay Budget Process would statutorily create a capital outlay process including standards and guidelines for capital project funding. Certain components are important for a good capital management system.

The second item amends the Audit Act providing risk based auditing. The bill would allow the State Auditor to establish a tiered system of financial audits to base on risk assessment. Smaller state agencies and political subdivisions such as Mutual Water associations, land grants, special districts, villages, counties and municipalities may be considered for agreed upon procedures and audits under reviews rather than a comprehensive financial audit based on size, outstanding debt, or annual budget.

The third item is Training Experience changes to SEG. Related services continue to be of concern because of significant dollars generated by each FTE and the temptation to claim more staff than is required in order to increase revenue.

The final item increases the amount of the three percent institutional scholarship that is need based. Director Abbey said action is not being recommended, they are for consideration and feedback. The intent would be to list these in January if they continue receiving interest.

**Status Report on Information Technology Projects and Funding Requests.** Ms. Aurora Sánchez, IT Program Evaluation Manager, LFC, reported that DoIt provides quarterly reports on IT projects because the Legislative Finance Committee requested updates starting in 2002. DoIT provided the first quarter FY09 report on projects$1 million and over regardless of funding source. The IT projects total $226 million and 79 percent or 32 projects are $1 million and over. There are 93 active projects, six projects funded but not certified, and 16 closed projects. DoIT has a project certification and compliance division (division) that is responsible for reviewing agency reported data and reports from the IV&V contractor. Project ratings of red, yellow and green are based on the two reports. DoIT needs to scrutinize projects more critically using its established rating criteria. DoIT has no routine practice to produce written reports of the division's oversight activities. It is unknown if all projects are cost effective and producing savings because there is no data on cost effectiveness or savings. Determining if systems working as intended can be determined only if each system is evaluated. Vice-Chairman Varela asked how the IT Commission could get involved in project certification. Ms. Sánchez said DoIT has a Project Certification Committee (PCC) and that a different commission member participates each month and votes on projects being certified. LFC staff is a non-voting member on PCC. IF PCC finds it necessary, contingencies are recommended on projects so money is not released until the contingencies are met.

Representative Larranaga asked if a report was available indicating what agencies need to complete programs. Ms. Sánchez said Secretary Designee Mackey started 30, 60, and 90 day plans for different areas of DoIT and is looking at ways to improve the certification process. LFC staff has recommended to Secretary Designee Mackey that there be written reports on his staff's oversight and compliance activities. Senator Beffort asked what would keep agencies from over projecting their project budget. Ms. Sánchez said that if targets are set and not met, then agencies can reassess how they are managing the project and make the necessary adjustments and apply what they learn to the next project. There is nothing that would prevent over budgeting.

Manu Patel, Deputy Director, LFC, said the DoIT Act is being revised to include more oversight. He informed the Committee that if agencies do not want to follow the established IT process, agencies simply use the capital appropriations process which does not have as much oversight.

Ms. Sánchez reported that the LFC received 64 IT project requests totaling $101.2 million from state agencies and higher education institutions. No recommendations for general fund appropriations were made because of the budget shortfall. Three projects (Taxation and Revenue Department motor vehicle, Administrative Office of the Courts case management and Department of Finance and Administration SHARE) could use a self-funded model to generate sufficient money to fully fund them. Staff recommended that the fee state agencies pay to use SHARE be increased to $250 per FTE and that all IT staff supporting SHARE be moved to DoIT. According to Deputy Director Patel, the recommendation for the fee increase is contingent on legislative agencies getting full access to SHARE. LFC staff also recommended that the systems at the Human Services Department and Children, Youth and Families Department be given first priority in any general fund revenue becomes available.

**Human Services Department.** Pamela S. Hyde, Secretary, Human Services Department, reported that the department was asked by the Executive to identify a five percent reduction in general fund expenditures for everything except Medicaid programs. The plan is being achieved through hiring freezes, contract reductions, and delaying new programs. It will reduce customer service and responsiveness to stakeholders, legislators, and federal partners. If further reductions are needed it will result in program reductions. For the Medicaid program, 5 percent is $39 million for FY09 and results in $100 million of federal funding. There are three ways to reduce spending in Medicaid programs;

slowing enrollment growth through reductions in outreach, changing benefits, or reducing provider rates.

Secretary Hyde reviewed priorities for the department. IT is the highest priority and the three major systems are ISD2, CSES, and MMIS. The systems have approximately 2,250 users and 55 sites statewide and over four thousand login users. Public access, transaction web pages, and data exchange servers have hundreds of thousands of users in and outside of New Mexico. Interfacing is done with six other departments and a lot of different types of data are run through the systems to determine eligibility, issue benefits, pay claims, transfer funds, and report on extensive federal and state programs, as well as monitor and pursue benefits that are over paid.

HSD touches most New Mexico businesses and service providers. Staff includes 75 approved FTE with only 67 that are filled at present. The IT budget is $30 million and is less than one percent of the overall HSD budget. As a consequence there are vulnerabilities for clients, businesses, security, etc. The ISD2 replacement is a key priority and has to be replaced or there will be a major issue in the state. The department is developing an enterprise eligibility system that covers 37 programs in seven state agencies. To replace the ISD2 system it would cost $80 million over a five year period consisting of both state and federal funds. In year one, $12 million is requested from the computer enhancement funds to purchase software, hardware and implementation, as well as adding staff. After staff is put into place, the external contractor will be let go. In year two, $7 million is requested to transfer contract costs to staff costs. In years three through five, it is anticipated that $5 million will be needed each year.

Work on document imaging is in process for FY09, as well as a business intelligence tool for required and desired reporting, and an online eligibility screening tool for Medicaid, cash assistance, WIC, and child care. For FY10, an expansion of 34 FTE is requested to support existing programs.

Secretary Hyde said in the Income Support Division, the food stamp program is very efficient and enrollment is at a record high. The LIHEAP program received additional funding from the federal government that will allow HSD to double the average amount given to a household. The TANF program has seen a significant increase in enrollment, with an 11.4 percent increase from last year. The Transition Bonus Program began in July and is for people coming off the TANF program under certain income levels and receiving bonus payments in order to keep working.

Secretary Hyde said the Deficit Reduction Act of 2005 allowed for a shift in the Child Support Enforcement program giving TANF families more money per month. Half the costs were appropriated for FY10, however it is not known if the other half will be available. Implementation of the program is on hold pending funding availability. The program will become more efficient by moving to an electronic funds transfer card.

In the Behavioral Health Services Division it is recognized that many people in the state with low incomes are often disabled. A Transitions and Linkages program provides vouchers for bridge rental assistance until individuals can get on permanent vouchers or permanent rental assistance. A permanent funding source has been identified at the federal level for low income rental units. Seventy-five percent of those dollars go to people below 30 percent of area median income. Each state will receive money beginning in FY10, and after the base amount states' projects will have to compete for dollars.

Three proposals were received for the Behavioral Health Collaborative RFP and the successful bidder will be determined by the Collaborative in December. Contract negotiations and readiness will begin after that.

The veterans post traumatic stress disorder (PTSD pilot program in Sandoval County serves veterans, military personnel, and their families and is expanding to McKinley and San Juan counties if funds are received.

The Los Lunas Substance Abuse Treatment & Training Center includes two integrated state buildings that will provide residential treatment for women and their children, as well as intensive outpatient and training for 600 adults and 360 adolescents.

Local collaboratives were funded initially by a nonrecurring appropriation and require continued support. The State Behavioral Health Planning Council is also suffering from not having enough funds to support it.

Projections for the Medical Assistance Division and Medicaid were completed in December. A surplus of $2.7 million is projected for FY08 and $1 million is projected for FY09. Medicaid projections for FY10 require $31 million over the FY09 appropriation to keep it even. Funds do not include any assumed spending reductions, but do include reductions to MCO contracts for FY09. They also include a portion of the special session appropriation, but lower enrollment growth is anticipated and not all special session dollars will be used. It is still possible that if significant and deep reductions occur, additional children may not be added.

Secretary Hyde provided an update on the State Children's Health Insurance Program (SCHIP) and said the program serves adults utilizing children's funds. The annual allotment is $52 million and carry over is in the amount of $42 million as of October. Shortfall funding is considered from the Centers for Medicare and Medicaid Services (CMS), as well as additional dollars from Congress.

Secretary Hyde said the third major priority for the department is for Medical Assistance Division infrastructure. There is critical need for contract oversight because of new programs requiring complex contract negotiations with managed care entities. The second major critical staffing area is for additional financial analysis and data reporting staff. There are new state and federal audit requirements for auditing, accounting, analyzing, and measuring outcomes. Twelve FTE are needed for projections, financial analysis, and contract oversight and 5 FTE are needed for the Insure New Mexico Program.

Secretary Hyde said legislative language will be requested during the next legislative session including use of additional TANF funds, an extension of an IT appropriation, and additional BAR authority. The department will also propose nine items of legislation.

Representative Salazar asked if there was any intention of increasing services to providers who care for indigent people receiving prescription drugs. Secretary Hyde said dollars were first received in FY08 and were specifically for providing psychiatric medications for people who were not Medicaid eligible. During FY08, the funds were not sufficient so additional dollars were not requested. During the first quarter of FY09, almost all the money has been spent because the demands are high.

Vice-Chairman Varela asked what legislation is requested for the Office of the Inspector General. Secretary Hyde said the Inspector General would be allowed to obtain documents having to do with investigations. Vice-Chairman Varela asked to receive a copy of the draft bill.

**Recommendation of Interim Committees.**

*Welfare Reform Oversight Committee.* Senator Linda Lopez reported that the committee is requesting $4 million in appropriation for adult basic education, teen pregnancy prevention programs, sexual assault coalition, and child care subsidy eligibility.

The committee is also proposing legislation to change its focus and create a Human Services Committee. Most issues deal with the human service programs and trying to assist families out of poverty and give them stability.

The second endorsement is to pay health care benefits for private Pre-K. This would allow private providers to purchase state benefits at the full price.

The third endorsement consolidates eligibility for public assistance benefits making it possible for a person or family eligible for one program to be able to use that eligibility to qualify for some of the other programs.

The fourth endorsement maintains the mechanism for half public and half private funding for Pre-K. The provision will end this year and it is hoped that it can continue to have a cross section of communities providing Pre-K to families whether it is rural or urban.

The last endorsement exempts the income of a legal guardian from consideration when determining eligibility for state assistance.

Memorials that will be introduced include forming a working group for parity for Pre-K wages in private provider settings, using a telehealth model for veteran's services, importance for food stamp enrollment, and adopting recommendations of CYFD housing task force.

*Legislative Health and Human Services Committee.* Representative Danice Picraux said the committee considered a broad array of health topics covering access to health care, health promotion and prevention, behavioral health, health professional workforce issues, telehealth and human services needs.

The committee approved 12 appropriation requests in five categories: health professional workforce, poverty, hunger, behavioral health, and health and health care access. The requests total $78,218 million.

Committee endorsements not requiring appropriations include prescription drugs, health and health care access, brain injury, health professional work force, protection, and reorganization.

The committee voted to convert the Legislative Health and Human Services Committee into a Legislative Health Committee and to create a broader Human Services Committee from the Welfare Reform Oversight Committee.

*Tobacco Settlement Oversight Committee.* Representative Gail Chasey said the committee is responsible for monitoring the use of revenues received in the master settlement agreement (MSA) in 1998.

Senator Mary Jane Garcia said two bills are proposed and include prohibiting smoking in a vehicle in which a minor is present, including a limousine under private hire, and making changes to the Cigarette Enforcement Act and the Tobacco Escrow Fund account.

Senator Garcia said the tobacco settlement permanent fund is one of the state's reserve funds and consists of money that is distributed to the state pursuant to the Master Settlement Agreement. The money in the program fund may be appropriated for health and education purposes.

Representative Chasey said several programs are funded each year at the University of New Mexico Health Sciences Center. Since 1999, the state has received more than $365 million in actual payments as a result of the MSA and $44.9 million is projected for the current fiscal year. The preliminary FY08 estimated market value of the permanent fund was $137.9 million. $44.9 million is projected in new revenue for FY10. Continuation of prevention programs are recommended at incrementally higher levels until the recommended per capita level is reached. Currently, there is $9.115 million for the TUPAC programs in the Department of Health and $500 thousand in the Indian Affairs TUPAC for the programs on the reservation. A $250 thousand increase is recommended for the TUPAC program and $135 thousand is recommended for the Indian Affairs TUPAC program.

It is also recommend that an increase be made to the breast and cervical cancer because of the increased costs of digital mammography. A new recommendation has been added for the Cardiovascular Disease Prevention program. A strong recommendation was received from the Department of Health to provide public and professional education on the prevention and control of cardiovascular diseases. The Department of Health and the American Heart Association have reported that New Mexico's Hispanic women have a 40 percent higher rate of dying from a stroke than the national rate. One in 11 adults have diabetes and are two to four times more likely to develop cardiovascular disease. The committee recommends $200 thousand in funding to provide interventions reducing risks and delaying the onset of cardiovascular disease.

Under the Veteran's Service Department $1.3 million is recommended for the early detection of lung cancer in Veterans. This program would require state funding for approximately five years.

**December 10, 2008**

The following members were present on Wednesday, December 10th: Chairman John Arthur Smith, Vice-Chairman Luciano "Lucky" Varela, Representatives Donald E. Bratton, Brian K. Moore, Edward C. Sandoval, Jeanette O. Wallace, Nick L. Salazar, Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell (for Leonard Lee Rawson), Phil A. Griego, Mary Kay Papen, and Pete Campos. Representatives Larry Larranaga, Don Tripp, Richard Berry, Jim Trujillo, attended as guests.

Chairman Smith called the Legislative Finance Committee to order at approximately 8:00 a.m.

The Committee met in Executive Session to discuss Staff Briefings.

**Corrections Department.** Joe R. Williams, Secretary, Corrections Department introduced staff and reviewed the department's vision and mission. Secretary Williams also reviewed initiatives and accomplishments for the department.

The FY10 Budget Request was submitted on September 1st and includes Special Appropriations, as well as Capital Outlay. The department's budget is primarily driven by the number of inmates and a major challenge is reducing the budget 5 percent in private prison contracts, the medical contract, and the food service contract.

Issues for the department include a request for a reasonable vacancy rate, maintenance of public prisons, increased lease rates for probation and parole offices, and maximum flexibility in the budget to reallocate monies.

Ms. Gail Oliver reported that New Mexico is launching into the new prison reform initiative and is working on 20 goals that can be accomplished with realignment and working together as a department.

Ms. Brenda Fresquez, Program Evaluator, LFC, said a follow up review from the department's audit from May 2007 was conducted and overall the department implemented or partially implemented 13 out of 20 recommendations that were considered significant. There are yet to be recommendations implemented that would save the state money. Modifications to agreements with counties and private contractors to improve contract pricing and better monitoring are still needed. Lowering the costs of these contracts will ensure benefits of privatization. The Clayton agreement still needs a modification to include standard lease purchase agreement language. The sex offender treatment program payments continue to be over-stated. The department has not recovered $456 thousand from GEO. Statutory changes are needed to improve prison planning and financing for future prisons and should be considered in the upcoming session.

Mr. Charles Sallee, Program Evaluation Manager, LFC, added that the department has made progress in other areas particularly in the medical services contract. Overall, the outstanding questions that were raised for lowering costs of incarceration and getting the full benefits of privatization have yet to be implemented due to sole source contracts that are not subject to the Procurement Code. The statutory recommendations are intended to position the state in the future for additional housing units, new prisons, or replace existing prisons to be in a position to decide if private contracts will be utilized to assure the benefits of privatization by requiring savings and creating financing mechanisms.

Secretary Williams responded that there are not substantial savings or lowering costs of contracts and negotiating is very limited. Private prisons are doing a great job, are fully accredited, and meet expectations.

**Energy, Minerals and Natural Resources Department.** Joanna Prukop, Secretary, Energy, Minerals and Natural Resources Department, provided a presentation focusing on highlights for the department. Secretary Prukop said that the Energy Conservation and Management Division received a 50 percent federal funding cut and a FY10 General Fund increase will be requested to maintain their budget. Secretary Prukop also said that the Oil Conservation Division budget was cut in FY09 and that State Forestry remains unable to replace vehicles. Department FY10 expansion requests include one FTE for the Mining and Minerals Division and a special appropriation of $300 thousand to address the clean up for the legacy uranium mining.

Vice-Chairman Varela said during the process of declaring the Pecos Canon as a state park, staff was asked to look at what type of support could be provided to the department to be able to maintain areas if and when they are transferred from the Department of Game and Fish to the State Parks Division. Secretary Prukop said funding for park staff, operations and maintenance was submitted in the FY10 budget request.

Senator Leavell asked how long it took to process a permit for uranium mines. Secretary Prukop said it takes months because of requirements associated with the State Mining Act. Tribal consultation is also required.

Representative Lundstrom asked if the administration is considering new revenue generation legislation for uranium legacy clean-up in the next session. Secretary Prukop said legislation has been considered and Legislative interest is being tracked in order to keep the Governor's office updated. The Abandoned Mine Lands program currently has $4 million for use in reclaiming abandoned mines and anticipates that some $20 million will be received over the next seven years. When the abandoned mine bill was reauthorized at the federal level, management changed the interpretation of the language and is restricting states from using funds for anything except for abandoned coal mine reclamation. Representative Lundstrom said there are two bills that have been endorsed by interim committees to look at new revenue resources.

Representative Lundstrom asked about alternative energy development incentives and their impact on the general fund. Secretary Prukop said at the federal level, the production tax credit for wind was renewed for one year, while the solar was renewed for ten years. In New Mexico, the state production tax credit for wind and biomass is at maximum and there will be no further general fund impact. New Mexico has huge potential for commercial solar development.

**Executive Compensation Report.** Sandra Perez, Director, State Personnel Office, reported on the 2008 Compensation Report and said national trends for salary increases are included. The natural maintenance system has been provided, however, the numbers have not been run down to a 5 percent increase calculation. Also included is the hourly rate and what it calculates into as a one-day cost to state government. Total compensation includes the average base salary with details related to costs and benefits provided to an employee including health benefits, the value of PERA, values of annual and sick leave accrued, as well as personal days. Work is done with state agencies as they recruit employees and as they are going through orientation making them aware of the value of their benefit package. Mid-ranking is maintained for base salary and the total compensation ranking level has moved up.

Director Perez reviewed pay progression and pay administration. In July 2003, the average salary was $32,700 and is now at an experience level of $42,000. The median salary has increased from $29,600 to $37,700. Marketing of varying jobs in state government has opened up providing career growth opportunities and from an application perspective recruitment trends have grown. The flaw in the turnover gathering has had an effect on the reporting of numbers.

Director Perez reviewed the distribution of salaries between classified employees and noted there are zero employees left below $10,000 and 541 people below the $20,000 range.

Mr. Gene Moser, Principal Analyst, LFC added that the growth in base salary is significant. Salary increases given over the last two years have significantly moved employees' salaries along. Base salaries comprise 60 percent of total compensation with 40 percent attributing to benefits. It is concerning that benefits are taking a larger amount; overall benefit packages need to be reviewed to make sure everything to curtail the growth is done and they are competitive while keeping the prices of the premiums down.

Mr. Moser addressed the growth in state employees and said since 2003 state employees have grown 2 percent in the classified service with 22 percent growth in exempt employees. Staff if targeting and focusing on unauthorized exempt employees which the administration has made a significant effort to reduce. Additionally, the number of exempt positions in each agency is being reviewed. The Personnel Act defines which positions are exempt from the classified service and those are primarily policy making positions and division directors. Mr. Moser recommended the Legislature review the Personnel Act to determine if the language needs to be changed so that it fits with the reorganization acts that have occurred over the years.

Mr. Moser said the unions are currently engaged in labor negotiations and are meeting with the Executive. AFSME and CWA have taken the state arbitration regarding the authority of the Legislature to override negotiations of salary increases; statute restricts the authority of the Executive and the negotiation of wages because they are subject to change by the appropriating body. Director Perez added that legislation in the pay package was received last year and as directed it was to be a plan approved and developed by the State Personnel Board. Unions were approached regarding the pay package and were informed of how that package either met of fell short from what had been anticipated in negotiations. The Governor's recommendation included the negotiated amount for pay. A reopener in contract stated that in the event the Legislature fails to appropriate funds as negotiated, the parties would reconvene to renegotiate those terms the next fiscal year. The unions have disagreed and believe the total amount of compensation would have been enough to fund the pay package for their bargaining unit members. SPO has been given notice that they plan to go to arbitration and arbitrators have already been selected. Director Perez said she feels confident in the ability to defend the state and is prepared to appeal to the District Court if necessary.

**<u>Other Pay Plan Compensation Requests (Courts, District Attorneys, State Police).</u>** Chairman Smith recognized Mr. Paul Cook and presented him with a commendation letter from the Legislative Finance Committee on his retirement from state government. Chairman Smith also recognized Senator-elect Sapien from the west side of Albuquerque, Bernalillo, and Corrales.

*State Police.* Clarence Segada, Deputy Cabinet Secretary, Department of Public Safety, Operations, and Chief, State Police, presented the results of the 2008 Commission Officer Compensation Plan. The law enforcement market in New Mexico, as well as around the country continues to be extremely competitive. Law enforcement agencies are competing from a limited applicant pool and agencies within New Mexico are offering sign on bonuses of up to $5,000, as well as other financial incentives. Significant pay increases have not been seen this year with the exception of the Albuquerque Police Department. The market for patrolmen did increase by 6.1 percent which is far above the consumer price index of 3.5 percent. The Department of Public Safety pay continues to fall relative to the in-state market and has moved down from the seventh position to eight with state police and from tenth position in MPD and SID to eleventh on the average. Patrolmen pay continues to be the lowest, as well as recruit starting pay in the state. There has been an increase in the number of persons expressing an interest in joining the department; currently 47 individuals are in the process for a February recruit school.

*Courts.* Arthur Pepin, New Mexico Judiciary said the compensation plan for FY09 continues with the modified pay for performance with an average increase of 2.4 pursuant to HB2. Jobs are measured once every five years through the Classification Committee and applying the Hayes System. Twenty-eight percent of employees make $30,000 a year or less, 58 percent make $40,000 a year or less, and 80 percent make $50,000 a year or less. The Compensation Commission recommends that compensation for judges are set at the average of Haye states and requires an 11 percent increase. It is urged that the Legislature consider appropriations to address shortfalls in funds, particularly the Magistrate.

*District Attorneys.* Randy Saavedra, District Attorney's Office, reported that the office has been very successful in the past two years to raise minimums by 20 percent. A 20 year retirement plan is not being pursued. A 2.4 increase was given across the board; anyone below the meets requirements did not receive an increase.

Senator Griego said he would like the LFC to look at the service that patrol men are providing citizens in urban communities, as well as rural communities before cutting their agencies and compare salaries to those across the country. He also asked that the state police plan and compensation plan be studied to assist in maintaining salaries.

Vice-Chairman Varela asked for a detailed list of exempt employees to be provided to the LFC to see which ones are structured in the Reorganization Act.

**New Mexico Environment Department.** Michelle Aubel, Principal Analyst, LFC presented an overview of the FY10 budget request. While the request was flat, there was a significant shift in funding sources proposed due to a 12 percent reduction in federal funds. Contracts associated with federal awards that were not renewed were reduced. The agency increased personnel salary and employee benefits by about $1.7 million in the base request, attributing the increases in GSD rates and prior vacancy rates that have created a gap between what is budgeted and what is occurring within the program. The agency also had expansion requests for transferring 3 FTE among programs. In particular, there was one exempt FTE in Program Support that was requested to move to the new Water and Waste Water Infrastructure Development Program for the division director who is currently classified as a temporary.

Vice-Chairman Varela asked what the total amount of the reduction plan is for the current year that was submitted to the Executive. Secretary Curry said about 15 percent of the total agency budget is general fund. The remaining funding sources include over 95 federal grants and 19 special funds. The Secretary cautioned that the Environmental Health Division will be affected by the general fund reduction the most because it is primarily supported by general fund and includes 22 field offices and five districts across the state. The 5 percent reduction was applied across all the programs according to alternative funding sources and totaled $850.3 thousand.

A discussion ensued between Senator Leavell and Secretary Curry regarding the process of fines, how they were set, and where the money was deposited. Secretary Curry confirmed that air quality fines go directly into the general fund and reported between $2.5 and $3 million for FY08 and FY09 combined had been collected. Other penalties have been satisfied by a special environmental project (SEP) or a combination of SEP and fine. Secretary Curry detailed that policies for penalties are utilized both on the federal level and the internal level. The Air Quality Control Act sets maximum amounts that can be charged for each event. There are also very extensive policies that the Environment Department has passed in consultation with approval by the federal Environmental Protection Agency.

John Underwood, Village of Ruidoso provided testimony regarding the Village of Ruidoso Waste Water Treatment Plant and said the plant has to be built by December 2010. The first phase of the project is in process and bids will be issued for the second phase in March 2009. A bill will be proposed to amend the Environmental Gross Receipts Tax Act to be expanded to a full 1 percent.

**November 11, 2008**

The following members were present on Thursday, December 11th: Chairman John Arthur Smith, Vice-Chairman Luciano "Lucky" Varela, Representatives Donald E. Bratton, Brian K. Moore, Edward C. Sandoval, Jeanette O. Wallace, Nick L. Salazar, Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell (for Leonard Lee Rawson), Phil A. Griego, Mary Kay Papen, and Pete Campos. Representatives Don Tripp, Kathy McCoy, and Jim Trujillo attended as guests.

Chairman Smith called the Legislative Finance Committee to order at approximately 1:00 p.m.

**Higher Education Institutions.** Dr. Reed Dasenbrock, Secretary, Higher Education Department, reported that the statutory responsibility of the Higher Education Department is by November 1st of each year to provide both the Legislative Finance Committee and the Department of Finance and Administration with data and cost to fund the higher education funding formula. To fund full formula workload would cost $11 million in incremental general fund appropriations in FY10; this amount includes instructional work load and space operations and utilities and other relevant operations.

Dr. Dan Lopez, President, Council of University Presidents said it is important to protect the core programs and asked to be given a target for potential budget reductions to cause the least amount of damage to the core mission. President Cruzado of New Mexico State University also provided testimony on behalf of fully funding formula workload. She stressed universities are willing to partner with the state to address budget concerns. President Lopez said New Mexico continues to be one of the lowest tuition states in the area; four universities are among the top five in the lowest tuitions and fees.

Jose Griego, President, Northern New Mexico Community College provided testimony on compensation and benefits and said salaries are important when competing with institutions throughout the country. The cost of living index has risen by approximately 5 percent over the last fiscal year. He requested that the statutorily mandated three-quarter percent increase in the employer contributions to the Educational Retirement Board be considered for funding. He also requested that consideration be given to the inflationary factor of 3.05 percent in group insurance.

Dr. Schmidly, President, University of New Mexico also provided testimony on behalf of all institutions supporting the initiative of fully funding the formula. During the interim, the Higher Education Department led a space audit of all higher education institutions. It was a critical step to ensure the square footage data is correct so that formula funding is distributed equitably and effectively. All institutions revised square footage numbers based more accurate data. As a result of the cooperative effort, the square footage numbers are now more reliable, and Dr. Schmidly expressed hope that the state will take the next crucial step and move forward to fully fund utilities, operation, and maintenance.

Dr. Fries, President, New Mexico Highlands University, addressed performance funding and retention. He said New Mexico is the first state in the country where every four-year public, higher education institution has pledged to participate and move forward with a voluntary system of accountability.

*2-Year Colleges*

Dr. Margie Huerta, President, New Mexico Association of Community Colleges introduced board members and said the group wants to serve the educational needs and develop the workforce necessary for the economy. Priorities include the essential full funding of the instruction and general formula, no tuition credit increase, and a compensation increase. As part of cost cutting measures, the branch community colleges are freezing out-of-state travel and not automatically filling staff and faculty positions that are vacant and are looking at slight increases of class sizes. The colleges continue to reach out to students in high school and offer dual credit courses.

Dr. Steve McCleery, representing the New Mexico Independent Community Colleges introduced the presidents of the Independent Community Colleges and said there has to be a robust system in place that can provide trained workforces. Priorities include full funding of the formula, commitment to educational retirement, and consideration for no increase in tuition credit.

Dr. Kate O'Neill, Executive Director, University of New Mexico Taos provided testimony in support of a zero percent tuition credit and said affordability and accessibility are extremely important to promote academic advancement in New Mexico and attract and retain highly skilled professionals. Salaries that are regionally competitive with neighboring states must be provided, therefore the New Mexico Association of Community Colleges supports an increase in compensation, ERB, and group health insurance for faculty and staff at any percentage that may be determined in line with budget constraints.

Dr. Alice Letteney, New Mexico Association of Community Colleges provided testimony regarding retention, persistence, graduation, and minority participation. Students are likely to begin college needing significant remedial work in math and writing, work thirty hours a week or more, and are struggling to complete their college educations even with the financial aid available to them. Persistence rates range from 64 percent to 87 percent across the branches and 44 percent to 72 percent of first-time, full-time students are successful after three years. Minority participation is growing and it is suggested that an education and training stimulus package for low income and minority will be considered by the federal government.

Dr. Cedric Page, Executive Director, Los Alamos Branch of UNM provided testimony on potential FY09 Budget revisions and said the branch has experienced turbulent enrollment situations over the last five years. Administration at UNM asked that a six percent rescission budget be prepared and the branch has proceeded to freeze hiring, limit travel, and look at costs for telephones and utilities. Full time equivalent positions will also not be filled in order to meet the reduction goal. A reduction in overall funding for next year is also being considered due to the decline in enrollment over the last five years. A tremendous amount of reorganization has been done to continue to serve students and meet quality expectations of education. Several strategies are being considered to increase revenues from auxiliaries, as well as increasing revenues from contract training.

Mr. Russell Hardy, President, NMSU Carlsbad testified that the college passed a mill levy increase, and as a result there is an influx of new funding for operations. This funding will be used to support the existing academic programs and invest in new programs. A fiscally conservative approach is being taken and cost reduction activities have been implemented. Personnel requests are also being reviewed to make sure they meet a critical mission need before hiring or replacing existing personnel.

The New Mexico Independent Community Colleges continue to serve a culturally diverse student body to support the workforce development of the state.

**The State Capitol Building was evacuated at approximately 3:31 p.m.; hearings were suspended due to unforeseen circumstances.**

**November 12, 2008**

<u>The following members were present on Friday, December 12th:</u> Chairman John Arthur Smith, Vice-Chairman Luciano "Lucky" Varela, Representatives Donald E. Bratton, Brian K. Moore, Edward C. Sandoval, Jeanette O. Wallace, Nick L. Salazar, Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell (for Leonard Lee Rawson), Phil A. Griego, Mary Kay Papen, and Pete Campos.

Representatives Don Tripp, Kathy McCoy, Patti Lundstrom, Speaker Lujan and Senator Bernadette Sanchez, attended as guests.

Chairman Smith called the Legislative Finance Committee to order at approximately 8:00 a.m.

The Committee met in Executive Session to discuss Staff Briefings.

Chairman Smith recognized Representative Moore and presented him with an appreciation plaque on behalf of the Legislative Finance Committee.

**Public Education Department.** Veronica Garcia, Secretary, Public Education Department, reported that the department has been requested by the executive to reduce its FY09 budget by 5 percent. For FY10, Mr. Don Moya, Deputy Secretary, reported that there is a considerable difference between the FY09 Operating Budget and the FY10 Base Request. The FY10 base request includes an overall decrease of $13.9 million most of which is from a reduction in federal funds carryover for FY09. The personnel services and employee services request includes a $1.1 million general fund increase without consideration of applying a vacancy rate. The department's vacancy rate as of December 1st was 13.3 percent, consistent with historical rates.

Secretary Garcia reviewed the department's expansion request and said in addition to additional staff, the request includes budget authority for several programs including the use of federal funds. Senator Leavell noted that with so much federal money available, it was unclear why federal reimbursements to the districts are being held up. Mr. Moya responded that the federal flow through process has changed dramatically. In the past funds would flow to the district up front and then be accounted as expenditures took place. With monies now flowed on a reimbursement basis, districts have had to rely on other funds until reimbursements take place. In addition, the statewide accounting system has also changed. A web based system has been built to receive requests for reimbursement electronically and the federal flow through bureau has been restructured eliminating supervisory positions in order to have more personnel processing vouchers and requests for reimbursement. For FY09, to date, 1,889 requests have been submitted representing reimbursements of $75.2 million; 42 percent of which has been paid to districts. To alleviate some of the cash flow issues caused by delays, the department has offered to advance state equalization guarantee funds. Of concern are the number of prior year claims that remain. School districts were given a deadline of August to submit prior year claims with some districts complying however a large number of districts did not. PED reported that 89 percent of requests for prior year payments have been paid. Senator Leavell asked that reports be provided as they are developed.

Vice-Chairman Varela asked for the status of recommendations for reducing the deficit in the current year. Secretary Garcia responded that feedback had not been received from districts. Vice-Chairman Varela noted that given the current condition of the deficit for FY09 and the shortfall for FY10, consideration will be given to allowing districts more flexibility in certain areas to reduce budget pressures.

Senator Beffort asked if a comprehensive planning process has been established with the various teacher preparation programs and school districts to implement best practices and teach the teachers strategies for the Pre-K program. Secretary Garcia did not specifically answer the question but responded that work was done with the Higher Education Department regarding dual credit that may lead to more opportunities for collaboration. Meetings are also held with the deans to review programs of studies but no specific changes were recommended. Senator Beffort asked if administrative training is also being provided. Secretary Garcia said collaborative work has been done as a result of the SJM 3 workgroup. The secretary noted that turnover of principals is crucial and has dropped by 43 percent since 2003. Of note also is that New Mexico has not revised the standards for principals since 1990.

With regard to late audits in a number of school districts, Senator Smith asked what the suggestion is to remedy delinquencies of audits in school districts. Secretary Garcia said sanctions cannot be imposed at the present time and reported that the department is considering advancing legislation providing for the department to withhold a portion of a district's SEG depending on when the report is received and includes a due process component.

Chairman Smith asked if there was consideration to delay capital outlay for the school districts. Secretary Garcia said it is her understanding that the Capital Outlay Council is reviewing the issue but it appears that the standards-based awards process is funded well. The secretary noted that the council is considering adding language to awards requiring timely audits as a condition of eligibility for public school construction. Chairman Smith asked about schools with budget shortfalls resulting from late audits and the use of bond revenue to make-up shortfalls. The chair also asked if proposed legislation would rectify the situation. Secretary Garcia noted that a district would not be allowed to make a temporary cash transfer if bond obligations had not been met but reported that local boards have the authority to decide how they want to balance the budget.

**Public School Support.** The secretary reported that the public school support request and related proposals for FY10 were developed within guidelines received from DFA, staying consistent with the making schools work initiative, focusing on performance data and closing the achievement gap, and state and federal requirements including no child left behind. After reviewing the last three years of membership numbers and public school funding units by districts and charter schools, trends indicate that the total number of students statewide continues to decrease. While statewide membership is declining; certain pockets around the state continue to demonstrate growth in significant numbers. Due to student growth in certain pockets around the state, growth units continue to remain between 2,000 and 3,000 each year. Under the current funding formula, small and rural districts will likely continue to struggle to meet state mandates because student populations continue to decline. Final funded units from FY07 to FY08 increased by 1,780. FY08 to FY09 shows a decrease since FY09 is still preliminary and has not yet been adjusted for actual growth in new charters. Units are anticipated to increase once 40$^{th}$ day numbers are day is finalized.

Mr. Moya reported on the comparison of statewide units and membership from FY07 to FY08 and preliminary funded units and membership for FY09. The average number of units per students remains at 1.9.

Mr. Moya said the total budget request for FY10 is $2.4 billion, an increase of $49.1 million or two percent over FY09 without compensation. The total state equalization guarantee totals $2.4 billlion, an increase over the FY09 appropriation of $45 million or 1.9 percent. Mr. Moya provided an overview of the categorical public school support request.

Chairman Smith asked how math and reading could be improved. Secretary Garcia said it is a combination of things; higher expectations of children, changing curriculum at the federal level, strong alignment, high quality teachers and competitive wages, and increasing quality time on task.

Chairman Smith asked what authority is needed to impose a uniform curriculum at the local school level. Secretary Garcia said districts are required to align their curriculum to the standards set forth by the school board, and it is controlled through the text book adoption process. Stronger recommendations can be made on schools that are restructuring or having difficulties under NCLB designations.

**Department of Transportation.** Chairman Smith presented Secretary Rhonda Faught with a memorial for her retirement and accomplishment of receiving an Engineering Degree on behalf of the Legislative Finance Committee.

Secretary Faught, Department of Transportation (DOT), reported that the department received a 2007 leadership award for traffic safety which recognized the state's 15 percent reduction in traffic fatalities in 2007. Secretary Faught indicated that this reduction in fatalities continued into 2008 with a 23 percent reduction in alcohol involved fatalities.

Gary Giron, Deputy Secretary, reported that the department continues to experience the impact of high prices in maintenance and construction activities. DOT continues to be concerned with the state road fund revenues due to decreases in gas and special fuel tax revenues. The agency has worked with the executive, the commission, DFA, and LFC to prepare plans to address the anticipated revenue shortfalls in 2009 and to build a responsive FY10 request.

In preparation for the FY10 budget request, the agency asked divisions to reduce their budgets by three percent in the other cost category, as well as in the contracts category. The total request for FY10 is $802.9 million; a decrease of $23.4 million from the FY09 budget. Fifty-seven percent of the budget is funded through state dollars and 43 percent is funded from federal dollars. An expansion request of $1.5 million from the general fund is requested to offset the loss of federal funding for DWI activities in the Traffic

Safety Bureau. This loss of funding is due to the state's success in deterring DWI and no longer being in the top ten for DWI nationally.

Robert Ortiz, Director of Operations, provided an update on the GRIP program. To date, 76 projects valued at $1.5 billion have been committed for construction and 38 projects have been completed. Over $560 million remains in project authority and this includes the 2008 Special Session funding. A funding shortfall is projected to complete all GRIP projects due to inflationary pressures.

Director Ortiz also provided an update of GRIP II. Legislation identified 116 separate and distinct local lead projects at a total estimated cost of $180 million. Approximately $91 million has been made available for GRIP II through both severance tax bonds and general fund. Twenty-five projects are currently in design, 34 are under construction, and 13 have been completed.

Bill Cisneros, CEO, New Mexico Finance Authority (NMFA) reported that continued bond market turbulence resulted in margin calls on GRIP bonds. He briefly explained the issues surrounding swaps and the actions being taken by the NMFA board to address this matter. He reported that the NMFA as DOT's agent, will use $30 million from $200 million line of credit DOT has for GRIP to collateralize the margin call.

**Capital Outlay.**

*Quarterly Report.* Linda Kehoe, Principal Analyst, LFC, reported that an analysis of the quarterly capital outlay report, based on data provided by the Local Government Division of Department of Finance and Administration, as of December 5, 2008, $1.7 billion remains outstanding for 7,000 projects funded between 2002 and 2008. A total of 679 projects totaling $183 million have been closed or expended, however an additional $223.4 million for projects was added from the GOB capacity following the electorate's approval of four bond issues in November. The bond sizing of GOB bills will take place in February and will be sold in March 2009. Excluding 2008 appropriations, $673 million accounts for 2,957 projects that have no expenditures or activity.

*Update of Quarterly Status Reports for Projects Greater than $1 Million.* Ms. Kehoe reported that the Legislative Finance Committee is tracking $1.5 billion for 400 projects funded for $1 million or greater. These funds account for 55 percent of all money that is outstanding. Since the last quarter, $118.4 million was expended and 22 projects have been closed. There are 14 projects authorized in previous years that require an additional $170 million for completion.

*State Agency Priority Requests for FY09.* Ms. Kehoe discussed the revenue forecasts of $157 million in severance tax bond capacity for nonrecurring capital needs. State agencies, Higher Education institutions, and local entities submitted Infrastructure Capital Improvement Plans (ICIP) which identified requests totaling over $3 billion. Ms. Kehoe presented the adopted recommendations by the Joint LCS/LFC Capital Outlay Subcommittee. Both the Legislative Finance Committee staff and the Legislative

Council staff developed a list of potential uses and included criteria approved by the committee. The list was based on a review of the infrastructure capital improvement plans, meetings with executive agencies, site visits, those addressing public health and safety, completion of projects underway, projects that could save operational costs, and those impacting critical services to state clients and the public.

Lastly, Ms. Kehoe discussed the criteria used for developing the list of statewide project needs and the timeline for the capital outlay bill production.

**November 13, 2008**

The following members were present on Saturday, December 13th: Chairman John Arthur Smith, Vice-Chairman Luciano "Lucky" Varela, Representatives Donald E. Bratton, Brian K. Moore, Edward C. Sandoval, Jeanette O. Wallace, Nick L. Salazar, Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll H. Leavell (for Leonard Lee Rawson), Phil A. Griego, Mary Kay Papen, and Pete Campos. Representatives Don Tripp, Kathy McCoy, Patti Lundstrom, and Senator Bernadette Sanchez, attended as guests.

Chairman Smith called the Legislative Finance Committee to order at approximately 9:00 a.m.

**Legislature.** Cathy Fernandez, Deputy Director, LFC, reported on the budget request for the Legislative Branch and said the numbers for FY10 are for the permanent committees and are funded in the Feed bill. The nonrecurring amount of $7.9 million is the same appropriation that was in the Feed bill for the last 60-day session.

**Review of Special, Supplemental and Deficiency Requests.** Ellie Ortiz, Senior Analyst, LFC, reported on the recommendations based on committee guidelines which include education and health and are generally for nonrecurring revenue. Documentation from agencies is requesting stating no other funding is available and austerity practices are demonstrated. State agencies requested $125 million from the General Fund for Specials, Supplementals, and Deficiencies. The total requested from all revenue sources is $138 million. Special requests account for $91 million of the General Fund and Supplementals and Deficiencies total $33 million.

**Accountability in Government Act (AGA) Activity.** Cathy Fernandez, Deputy Director, LFC said this is for informational purposes and is a summary of activity that LFC staff has done throughout the year.

**Final Review.** The Legislative Finance Committee met in Executive Session to discuss the final review.

Chairman Smith said the 2009 Solvency issue is being addressed and is $454 million short. In addition, staff was instructed to draft a model for the Committee to work from that may require additional downward adjustments.

Director Abbey said the Solvency Plan involves five or six bills and is a three prong strategy to raise approximately $125 million by speeding up revenues or fund transfers in the Treasury and will reduce spending by approximately $138 million and reduce one time Special Appropriations. It has a target of $135 million of reauthorized in Capital Outlay projects. It also resolves authorizing transfers from restricted reserves. The bill drafts will achieve a 10 percent reserve level for FY09. Vice-Chairman Varela moved to adopt the Solvency plan proposed, seconded by Representative Saavedra. Motion carried.

Vice-Chairman Varela moved to adopt staff recommendations for FY10 as adjusted and bring forward for consideration in the Appropriations and Senate Finance Committees during the Legislative Session, seconded by Senator Papen. Motion carried.

Vice-Chairman Varela moved to accept staff recommendations for Specials and Supplementals to bring forward to the Legislative Session, seconded by Senator Cisneros

With no further business, the Legislative Finance Committee adjourned at approximately 11:13 a.m.

John Arthur Smith ________________ 1/15/09 ________________

Chairman Date