MEETING MINUTES
Legislative Finance Committee
Room 307 - State Capitol - Santa Fe, New Mexico
December 3, 4, 5, 7, and 8, 2009

Thursday, December 3

The following members were present on Thursday, December 3: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Larry A. Larrañaga (for Donald E. Bratton), Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Steven P. Neville (for Stuart Ingle) and Peter Wirth (for Pete Campos). Representative Jim R. Trujillo and Senator George K. Munoz attended as guests.

FY10 General Fund Revenue Report and FY11 General Fund Revenue Projections. Katherine B. Miller, secretary, Department of Finance and Administration (DFA), reported that revenues continue to reflect a state economy that is having a difficult time weathering the most severe national and worldwide recession since the Great Depression of 1929 to 1933. Global Insight (GI) expects the National Bureau of Economic Research to declare the end of the recession as June 2009, making the recession 18 months in duration. While GI expects job losses nationally through the end of the calendar year and the first quarter of 2010, the University of New Mexico's Bureau of Business and Economic Research (BBER) expect job losses in New Mexico through the second quarter of 2010. This job weakness in New Mexico reflects substantial reductions in expected general fund revenues for FY10 compared with FY09 and slow growth through FY14. The recession causing the national unemployment rate to peak at over 10 percent is now causing secondary problems in the credit and housing markets. Because of the depth of the recession, jobs and general fund revenues will take several years to achieve the peak levels of FY08.

The huge $787 billion federal fiscal stimulus package continues to roll out. The New Mexico Office of Recovery and Reinvestment identified $3.2 billion in estimated fiscal stimulus funds for New Mexico, of which at least $1.4 billion has been made available and $433 million paid out. This revenue estimate confirms that $133.3 million of fiscal stimulus funds has been applied on the revenue side to balance the FY09 budget and $406 million was built into the appropriation side of the budget for FY10 from the increased federal medical assistance percentage and the education stabilization funding.

The key factor in the revenue forecast update is not natural gas and crude oil prices and volumes as has been true in the last few years but rather a decline in the broad-based revenues sensitive to the weak economy. These revenues include gross receipts tax, corporate income tax, personal income tax, and motor vehicle excise tax. Receipts from these sources generally held up during most of FY09, but receipts for the last three months, including the critical final settlement period for personal income tax, were below projections.

Although U.S. GDP growth rate is now forecast to be slightly higher in FY10, New Mexico employment, personal income, and private wages and salary forecasts are expected to be far weaker. In general, FY10 oil prices and volumes and natural gas prices are somewhat stronger. Natural gas volumes have now responded to the "supply glut" in the commodity and are forecast to decline at an average 3.6 percent from FY09 through FY14.

Since the October forecast, predicted recurring revenue for FY10 has decreased by $10.2 million and the FY11 forecast has been lowered by $52.7 million. The FY11, FY12 and FY13 forecasts have also been decreased from the October forecast. After including all of the action known as the "solvency package" plus reversions and transfers enacted during the 2009 regular legislative session, FY10 total revenues are still $137.4 million short of restoring a 5 percent reserve. Total general fund revenues are not expected to exceed the FY08 peak level of $6.062 billion until after FY14. The structure of reserves is an issue that needs to be addressed so that general fund operating reserve balances are sufficient to pay the obligations in the appropriation account. The critical issue at this juncture is the aggregate reserve amount as a percentage of current year appropriations. Estimates of FY10 revenues and appropriations after adjustments from the October special session and the executive order indicate a 2.5 percent balance in reserves. This estimate of balances does not include the $150 million in cancellation of capital projects; this additional $150 million would bring the balance for FY10 to 5.2 percent.

The consensus forecast group consisting of the career economists in LFC, DFA, the Taxation and Revenue Department (TRD), and the Department of Transportation (DOT) will prepare a mid-session review just before the midpoint of the 2010 session.

Rick Homans, secretary, TRD, reported the total general fund revenues for FY10 are expected to be $321.5 million above the October forecast and recurring revenues $10.2 million less than estimated in October. Total revenues reflect $366.4 million in special session and executive order actions. The small net shortfall in recurring revenues masks substantial weakness in the gross receipts and compensating taxes. Balancing this weakness is some strength in corporate income tax and federal mineral leasing. The $10.2 million recurring shortfall for FY10 is composed of a $69 million shortfall contributed by gross receipts tax, compensating tax, a number of the selective sales taxes and reversions, partially balanced by $59 million in net surplus from all other recurring sources. The change in the estimate is very substantial for the period from the August forecast; the change for the period from October to December is very small in aggregate but substantial for the individual revenues. House Bill 6 in the first special session of 2009 provided DFA transfer authority for FY09 but effective 90 days after the end of the special session. Audited and final accrued receipts for FY09 will shortly be submitted to auditors. As of November 30, New Mexico was ranked 30th for FY10 shortfall according to the Center for Budget and Policy Priorities (CBPP).

Gross receipts and compensating taxes are the largest source of general fund revenues representing more than one-third of total recurring revenue; taxes fell by 1.1 percent from FY08 to FY09. The construction sector went from being one of the biggest drivers of growth in FY07 to one of the largest contributors to slow growth in FY08 to an even greater drag in FY09, helping to pull revenue lower than the year before for the first time in decades. The retail trade sector also experienced falling receipts in FY09. Monthly taxable gross receipts growth patterns remained mixed into last winter and then turned increasingly negative. The momentum in taxable gross receipts has deteriorated rapidly in the last two quarters, dragged down especially by the construction sector. In FY10 the overall gross receipts and compensating tax base is expected to see the largest drop ever. The fall in revenue will be slightly cushioned by increased compliance through the "Fair Share" initiative, but revenue is forecast to fall by 8.5 percent from FY08's peak level. Moderate revenue growth is expected to return during FY11 with growth of 3.2 percent. Revenue levels from FY08 are not expected to be surpassed until FY12 with growth of 5.5 percent and then continue higher with 5.2 percent growth for FY13 and 4.4 percent for FY14.

FY09 collections for the Oil and Gas Emergency School Tax and Federal Mineral Leasing royalty payments are not expected to change from the October 2009 forecast. The forecast for total general fund revenues from oil, natural gas, and hard minerals in FY10 is expected to be $23.7 million higher

higher than the October 2009 forecast. After peaking at over 25 percent of the general fund in FY08, the consensus forecast group is expecting the oil and gas share to moderate to a more typical 15 percent for FY10 through FY15.

Personal income taxes comprise approximately 20 percent of general fund recurring revenues. Several factors have caused FY09 personal income tax revenues to decline from FY08 levels by 21 percent. The recession has caused larger than anticipated declines in capital gains, resulting in an estimated $60 million decline in FY09 personal income tax revenues. Capital gains are expected to remain low in FY10, but to slowly recover over the following years. In addition, part of FY08 personal income tax revenues were due to the higher rates in effect in tax year 2007. The combined effect of these factors is a very small increase in the forecast for personal income tax receipts in FY10 from the October 2009 estimate. Beginning in FY11, the December forecast for personal income tax receipts is below the October forecast by $4 million in FY11 and $17 million in FY12.

Profits for oil companies are expected to be lower in calendar year 2009 than in 2008 but then to grow slowly beginning in 2010. Profits of non-oil and gas corporations are expected to grow modestly in calendar year 2009 from very low levels in 2008 according to the recent GI forecast. These patterns will result in slowly growing corporate income tax liabilities before any credits are applied. Total corporate income tax credits, including the film production credit, totaled $90 million for FY09. Total credits are forecast to decline to $70 million in FY10, after which they are expected to grow steadily through FY14. The above factors reduced corporate income tax revenues by over $90 million in FY09 compared with FY08, but those taxes are expected to result in essentially unchanged corporate income tax revenues of $160 million in FY10. The December 2009 forecast of FY10 corporate income tax is an increase of $30 million from the October forecast, reflecting primarily lower expected credits.

Selective excise taxes, particularly the motor vehicle excise tax, are the most sensitive measures of consumer sentiment. The category total is expected to decline by 2.6 percent in FY10 primarily due to large declines in the fire protection fund, motor vehicle excise revenue, and gaming revenues, only partially offset by a large increase in insurance revenues. For FY11, insurance revenues are expected to continue to grow, while motor vehicle excise tax and gaming revenues will also grow but from the lower FY10 base.

Secretary Miller continued with reversions and said over the past six years reversions have averaged about $4 million per year to the general fund and $5 million to the appropriation contingency fund. However, the usual pattern has been for agencies to wait until after their agency audit has been completed to remit the amount of reversion calculated by the auditors. On average, 27 percent of reversions from any particular fiscal year are remitted and booked timely. Fifty-seven percent of reversions are remitted with a one-year lag as agencies remit reversions pursuant to completed audits. Because of the need to balance the FY09 budget, a year-ending effort by DFA staff generated approximately $26.1 million for the general fund over levels estimated in August. These additional amounts of revenue are scored as recurring because of the difficulty of determining whether a particular reversion is recurring or nonrecurring, timely or delinquent. Regular reversions for FY10 may be greater or lesser than the amounts estimated. Two rounds of appropriation cuts creates a lower reversion base; however the Financial Control and State Budget divisions are going to implement extraordinary efforts to control the movement of money into or out of the personal services line in each agency's operating budget to prevent agencies from funding new staff positions from budgetary savings.

In addition to regular, recurring reversions, the general fund will also score as revenue approximately $366.4 million of the $463.9 million solvency package enacted during the 2009 special legislative session coupled with executive order requiring agencies under the control of the governor to reduce spending by an average 3.3 percent.

Section 3 of House Bill 17 of the first 2009 special session reduced the state equalization guarantee by $45.5 million. The governor will allocate $45.5 million from the American Recovery and Reinvestment (ARRA) education stabilization fund to the Public Education Department (PED) for distribution to the public schools, offsetting the appropriation reduction. In addition, the governor will allocate $13.4 million from the ARRA education stabilization fund to offset the 4 percent reductions to the higher education institutions' instruction and general (I&G) appropriations; the net decrease to the institutions' I&G line is 2 percent.

Chairman Varela asked what reversions are credited to the appropriation contingency fund. Secretary Miller said when the governor declares an emergency; funds are allocated by executive order. If the total is not used, funds are reverted back to the appropriation contingency fund. Chairman Varela asked about legislatively mandated cuts. Secretary Miller said $87.3 million is the reduced amount in House Bill17 and includes the legislative branch, other elected officials, higher education, public education, and the judiciary. DFA recommends that a bill be put through the Legislature reflecting the executive order adjusting the budget; otherwise it becomes a liability. Chairman Varela asked how much is needed for FY10. Secretary Miller said an additional $137.7 million is needed to get reserves up to 5 percent;; however, there would still be a structural issue in the appropriation account. DFA has the authority to move $110 million out of the tax stabilization fund and $105 million from the operating reserves; $167 million is still needed. Dannette Burch, director, State Budget Division, added that House Bill17 included a provision to void capital outlay projects, making $150 million available. Funds can also be moved out of the appropriation contingency fund into the appropriation account. Secretary Miller said using transfer authority from the appropriation contingency fund or the tax stabilization fund plus the funds from capital outlay would bring the appropriation account into balance and have 5 percent reserves in all funds. Chairman Varela said local entities are indicating that projects already in progress were targeted. Secretary Miller said the governor called for a freeze on capital outlay. As long as local governments and entities outside of state agencies have grant agreements in place, they were able to move forward. Reimbursement has not been denied to any entity that has a contract for a capital outlay project expending funds against an appropriation. DFA has been working with Legislative Council Services (LCS) and LFC staff to identify projects that do not have third-party agreements. Robert Apodaca, director, Local Government Division, added that a spreadsheet for a minimum of $150 million capital outlay projects that do not have third-party contracts in place will be sent to LCS by January 4, 2010, to draft a bill. Representative Sandoval said he is concerned with funding that was given for plan and design. Secretary Miller said if it appears that a project has full funding even though they are only in the design stage, it would not be recommended to take the rest of funding.

Vice-Chairman Smith said he is concerned with the forecast and its reliability; capital outlay is going to have to be fair across the board. Senator Beffort asked if the governor has a plan for the upcoming session to adequately address recurring funds. Secretary Miller said the current revenue estimate is fairly represented. General funds experienced a big dip in the last quarter of FY09 but are now leveling off. The governor has been cutting budgets on a recurring basis. Reductions implemented in the executive order are intended to be primarily recurring. Those that are not from a recurring source will be built into recurring budgets for FY11. Reducing expenditures, recurring appropriations, and recurring revenue initiatives will also be reviewed. Representative Sandoval asked if contracts that are already in place could be canceled. Secretary Miller said there is a difference between a grant agreement between the state and a local government and a third-party contract. The grant agreement is the mechanism used to draw down funds from the state; grant agreements that have a third-party agreements that have a third-party agreement will be reinstated. Senator Sapien asked if local entities are aware not to move forward with projects. Secretary Miller said entities were sent letters and DFA worked with the Municipal League and the Association of Counties. Representative King asked the status on reissuing grant agreements. Secretary Miller said as agreements are coming forward they are being reinstated. Representative King requested Secretary Miller provide the committee a letter verifying legitimate third-party agreements will be honored and entities will be reimbursed. Secretary Miller said letters sent out to entities indicated third-party agreements would not be impaired if they existed prior to October 30. Representative King said communities are concerned they will be caught in limbo with the capital outlay freeze and are not moving forward with projects because they have not received a response from DFA. Secretary Miller said she would talk to DFA attorneys about another letter; several letters have been sent with clarifications. Representative King requested a list of all grant agreements that will be reissued. Senator Leavell also requested a copy of the DFA letters, including a point of contact from DFA for cities and counties to confirm if projects are still viable. Secretary Miller said there is an issue with giving a name of a person because it is a committee process. Senator Leavell said cities and counties have no confidence in information they are receiving. Representative Salazar asked about funds appropriated to the school system. Secretary Miller said if there was an appropriation in place and the school district spent their funds, they will be reimbursed.

Severance Tax Bond and General Obligation Bond Capacity. Katherine B. Miller, secretary, Department of Finance and Administration (DFA), provided the committee with an overview of core state bonding programs on capital outlay funding sources. In the 2009 session, DFA deauthorized capital outlay (including public schools). Secretary Miller said it is a general obligation (GO) bond year and capacity is estimated at $175 million. Previous estimate capacity was $225 million; the primary reason for the decrease is the valuation of oil and gas properties. Other funding available includes

- $292.9 million – total senior severance tax bond capacity
- $156.1 million – total supplemental tax bond capacity
- $30.8 million – available for new statewide capital projects after previous commitment

Chairman Varela asked about statutory limitations on GO bonds. Olivia Padilla-Jackson, director, Board of Finance, said there are no specific limitations; it is a policy matter intended to focus on the most high quality voter friendly projects.

Public Education Department (924). Veronica Garcia, secretary, PED, reported the department's FY11 base request is flat over FY10 with one exception; a net increase of $1.13 million to bring the student-tracking STARS computer system and the operating budget management system (OBMS) into the base budget. These were previously funded by special appropriation. All other categories remain flat or reduced. Secretary Garcia also provided a breakdown of current FY10 vacancies by fund source, totaling 63 FTE or a 19.7 percent vacancy rate.

Don Moya, deputy secretary, finance and operations, provided a comparison of the FY10 operating budget, adjustments for solvency, and the FY11 base request. The FY10 solvency adjustment totaled $744 thousand, bringing the adjusted operating budget to $15.2 million. The FY11 base request totals $17.1 million and includes the STARS and OBMS programs.

Chairman Varela said the governor announced the termination of 59 exempt employees and asked how many would be affected at PED. Secretary Garcia reported that she was asked by the governor to provide recommendations for eliminating exempt positions but had not been specifically informed of of the cuts. She has not filled three vacant positions in anticipation of potential cuts and intends to reorganize the department to accommodate the reduction. Mr. Moya added the department currently has 18 exempt positions. Chairman Varela asked how many exempt positions were authorized in statute. Secretary Garcia noted that 11 divisions are authorized plus the secretary, two deputies, the chief information officer, and Indian education director. Two additional unauthorized exempt positions were created and approved by the State Personnel Office and Willie Brown, general council, noted that under the Public Education Department Act the cabinet secretary has authority to create bureaus and divisions and fill them. Representative Salazar asked if the PED recommendation included eliminating the unauthorized positions. Secretary Garcia said no because those positions are critical.

Senator Sapien asked about an employee currently working in the department with authority for evaluating and approving proposals for program funds and at the same time working as a contractor to the agency. Secretary Garcia noted that, because it involved a specific employee, she would follow up individually with the senator.

Representative Tripp asked about the status of reimbursements to school districts. Mr. Moya said requests for reimbursement are taking 31 days, an improvement from 42 days. As of December 1, increases of approximately 40 percent in additional requests were received, primarily from the previous year. Processing of previous year requests is down from about 60 days to about 32 days with 83 percent currently processed and paid. Representative Tripp said schools are reporting problems with cash flow and asked if temporary funding was available. Secretary Garcia said districts were informed that if they were in a tremendous bind they could be advanced state equalization guarantee (SEG) funds for one month; only a few districts have requested funding.

Senator Beffort inquired about school districts requesting supplemental funding and if any were receiving more funding that they were entitled to. She asked for recommendations on how the Legislature could address it. Secretary Garcia said the department does not allow or give increases above legislative mandate. The department is working with the School Boards Association to bring forth legislation requiring districts to create finance committees to oversee district budgets. The department is also looking into the legality of districts using purchase cards and for ways to be more prescriptive with standard reports provided to boards. Senator Beffort asked about nepotism within districts and what would be required to strengthen existing statute. Secretary Garcia said there are major issues around the state and current statute states that if an employee is employed prior to a board member being elected, they do not have to relinquish their position. Mr. Brown added that there is a waiver provision in the nepotism law that allows boards to approve family members' employment in spite of the law.

Vice-Chairman Smith asked if any reimbursements were delayed over six months. Austin Buff, Administrative Service Division director, responded there are few that have gone over six months because of late prior-year requests and budget reallocation. Mr. Moya said part of the reason prior-year reimbursements were paid out of current year was because they were not submitted until after July 1. The department is working with DFA to establish multi-year funding authority. Vice-Chairman Smith asked if the department could change or redirect its mission based on findings from performance reviews and implement a more robust oversight process at the local level. Secretary Garcia responded that districts are free to expend funds as they see fit within existing laws and also noted that ARRA funds have compounded both fiscal and program work. Both federal and state requirements could be reviewed for oversight as the department is both a compliance and technical assistance agency. The department is reviewing licensure requirements for superintendents, finance managers, and requirements of the school business manager to strengthen the financial operations component of schools. Mr. Moya added that the department also met with school business officials from large, small, and medium schools districts, including charter schools, to discuss strengthening licensure to be more specific. A workgroup will be recommended to address rule and statute requirements and accountability. Vice-Chairman Smith said there is a lack of awareness among the boards as to what their primary fiduciary duties are. Secretary Garcia said all new board members are trained and, because their primary duty is fiduciary, statutory changes are needed requiring the implementation of finance or audit committees in the districts. Mr. Moya said there is nothing in statute or regulation requiring any report of finances to a local board. Most boards have policies requiring they receive certain financial reports. Vice-Chairman Smith asked if a formal request would be made to the Legislature and Secretary Garcia said the department would support such legislation. The department is also recommending legislation for small schools that would require districts to provide programmatic and compelling reasons to maintain those sites.

Senator Leavell said in reviewing information from the State Auditor's Office, nine school districts are seriously delinquent in submitting audits and another two are listed as "at risk" agencies not being responsive, which is unacceptable. Secretary Garcia agreed and said that is the reason for legislation that will take effect in July.

Senator Papen referred to a school district requesting to write off a loan and asked if it is standard practice from every school district in the state that finds itself in trouble to do that. Mr. Moya said the loan does not go through the department; it is a temporary cash transfer from one fund to their operational fund and only approved by the board. The department is not required to approve temporary cash transfers. If a district chooses to write off a loan, they would need to discuss it with their independent auditor. Vice-Chairman Smith said the department has direct control of emergency supplemental. Mr. Moya said one district has received emergency supplemental; other districts have only budgeted for them. The department will review second quarter financials, cash positions, and expenditures through the end of the year to decide what, if any, emergency supplemental funds will flow to them. Vice-Chairman Smith said all school districts need to conform to good fiscal policy.

General Services Department (350). Arturo L. Jaramillo, secretary, General Services Department (GSD), reported on the department's FY10 budget status and said it was reduced by 5.5 percent. As a result of reductions the focus has been on timely delivery of essential services to customers. The impact of the reduction, as well as the hiring freeze, has reduced staffing levels. Customer expectations have been managed by prioritizing workloads, scheduling required services, and making sure delivery commitments are met. Specialized intra-agency teams were put together from different divisions within the department to provide support for key projects maximizing efficiencies and expertise. The department currently has 59 vacancies and after discussion with DFA, 19 positions are considered highly critical.

The FY11 proposed budget is essentially flat from the FY10 budget and will include a 5.5 percent reduction totaling $796 thousand for the Building Services and Property Control divisions; the reduction for the State Purchasing Division totals $96 thousand. It is anticipated that in FY11 the new motor vehicle building will be complete and will become the jurisdiction of the Building Services Division to provide maintenance and custodial work; GSD proposed that the budget for maintenance and janitorial work from the Motor Vehicle Division (MVD) be transferred to the department. The Workforce Solutions Department has also requested GSD take over the custodial and landscape work at the building in Santa Fe currently provided by contract. The FY11 reduction includes other expense reductions in the Building Services Division, greater use of vacancy savings, and shifting a number of facility repairs. Secretary Jaramillo explained key issues that are of concern in FY11, including impacts to the State Purchasing Division, the State Printing Division, and Aviation Services Division.

Chairman Varela said budgets for users of transportation are also being reduced and asked if revenue estimates were taken into consideration. Secretary Jaramillo said the department did take revenue estimates into consideration; dramatic increases in rates are due to built-in maintenance costs.

Senator Neville asked if alternatives were considered for printing costs for legislative sessions. Paula Tackett, director, Legislative Council Service (LCS), said a recommendation will be taken to the council to reduce bylaw proposals and the council has encouraged those receiving mail-outs to use the website to review legislation. Secretary Jaramillo added the State Printing Division prints at cost with no mark up.

In response to Chairman Varela, Secretary Jaramillo said the department has 24 exempt positions; 17 in statute and seven term or temporary. Three manage the governor's residence and the remaining are located within four divisions. Of the 24, seven positions are supported through the general fund and 17 are supported through other state funds.

Department of Workforce Solutions (631). Ken Ortiz, secretary designee, Workforce Solutions Department, presented FY10 accomplishments for the department, including fully integrated workforce connection centers, improvements to the Unemployment Insurance (UI) program, creation of a compliance and review unit, and completion of FY07 and FY08 audits with unqualified opinions.

ARRA initiatives include

- Improvements to the UI call center
- Replacement of the UI tax system
- An upgraded Internet application for UI claims
- Replacement of the outdated interactive voice response (IVR) system
- Software and equipment upgrades
- Putting New Mexicans back to work

Mr. Ortiz provided a detailed breakdown of stimulus funding received by the department. The department applied for and received a $1.25 million Labor Market Information grant to conduct statewide employer surveys to gain a better understanding of related green workforce needs. Funds will provide green recovery work stations at various public stations, such as one-stops, libraries and schools to provide job seekers, displaced workers, and employers easy access to New Mexico green economy information. A grant application was submitted for $6 million over a three-year period to prepare individuals for careers in renewable energy and energy-efficient industries. In addition, two grants ranging between $2 million and $5 million were submitted for energy training partnership and pathways out of poverty.

The department absorbed the executive order budget reduction of $402.9 thousand, a 5.5 percent reduction. The Labor Relations Division was held harmless due to a current deficit in the operating budget. An additional $500 thousand was swept from the Employment Security Department fund for the general fund shortfall.

The department is requesting a flat budget for FY11 with an exception for proposed funding for the At Risk Youth Program. At Risk Youth provides life skill training, work experience, and assistance with obtaining a high school diploma, a GED certificate, or other educational opportunities. The Labor Relations Division remains inadequate to provide the necessary level of services to public works project throughout the state. A one-year extension is requested for the Reed Act appropriation for the for the UI tax system replacement of $9.2 million. An extension of $1.7 million is also requested for SHARE project enhancements to include a federal grants module, applications training, and other business process engineering. An appropriation of $7 million out of the one-third plan and $26 million out of the two-thirds plan is requested for the remainder of the UI modernization funding. The state unemployment trust fund earning is insufficient to support department operations. The FY11 base general fund remains flat from FY10. The increase reflected in the base is due to a $691 thousand revenue transfer from Workers' Compensation. The authorized FTE is down 53 positions from FY09 and the current vacancy rate of 16 percent.

Challenges faced by the department include

- General funding for the Labor Relations Division (LRD)
- UI trust fund solvency
- Insolvency for the Employment Security Department fund

In response to Chairman Varela, Mr. Ortiz said the mandated five-day furlough would save $50 thousand for the general fund and affect federal funds totaling $420 thousand. The department is working with federal partners to develop a plan to ensure the workload will be kept up. As part of the governor's executive order, the department is recommending the elimination of five exempt positions.

Chairman Varela recommended reconsidering funding for the Economic Development Department. Mr. Ortiz clarified the $1 million to the department was a legislative appropriation. Chairman Varela asked how much flexibility was available with stimulus funds. Mr. Ortiz said the department i working with the U.S. Department of Labor, which has expressed their concern with the state using ARRA money to fund general operations.

<u>Taxation and Revenue Department (333).</u> Rick Homans, secretary, Taxation and Revenu Department, reviewed the department's FY10 executive order expenditure reductions of $3.9 million, or 5.5 percent.

Secretary Homans referred members to the FY11 budget request summary and strategic plan and presented FY09 performance measure outcomes. Homans announced that two advisory groups with the Municipal League and the Association of Counties were formed to focus on MVD and tax issues. The secretary provided an update of the Fair Share initiative, including the number of FTE hired and hardware and software acquisitions. He said projected collections may fall short of expectations due to the difficult economic climate. Collections are down $35 million, or 14.7 percent; however, $203 million is expected to be collected.

Discussing challenges, Homans reported that bankruptcies are expected to increase 52 percent in FY10, 28 percent of payment plans are expected to default, and requests for payment plans are up 90 percent. Corporate income tax (CIT) and personal income tax (PIT) collections are expected to be down 33 percent and 13 percent respectively.

Updating the committee on the weight-distance tax on commercial trucking, Homans reported revenues increased $6.5 million in the first quarter of FY10 compare with the same period in FY09. Enforcement was improved with additional auditors, license plate readers, and Motor Transportation enforcement. The initiative is supported with an increase from $2 to $5.50 per truck for the issuance of a permit.

Secretary Homans provided an update for the Drive MVD initiative, highlighting the point of sales system that will automate the collection and distribution of funds. The system will also provide the ability to accept credit cards in MVD offices. The phased rollout will begin in February 2010. The request for proposals for the operating system is in the final evaluation stage and a contract award is expected in January 2010. In addition, the department unveiled a new MVD website that is expected to be an improvement for the program.

Senator Leavell asked if all the changes at MVD would require T1 information technology lines and, if so, how would small communities be able to continue providing services. Secretary Homans said 13 communities lack proper Internet access to accommodate the point of sale. Services are critical and financial issues have to be resolved; the taskforce will address this as their first issue. A survey was completed for these offices to determine cost structure. Secretary Homans said it is not anticipated that offices will be shut down.

Friday, December 4

The following members were present on Friday, December 4: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Larry A. Larrañaga (for Donald E. Bratton), Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Steven P. Neville (for Stuart Ingle) and Linda M. Lopez (for Pete Campos). Representatives Jim R. Trujillo, Danice Picraux and Senator Dede Feldman attended as guests.

Children, Youth and Families Department (690). Dorian Dodson, secretary, Children, Youth and Families Department (CYFD), reviewed the FY11 budget request as presented in September 2009. The governor's executive order requested a 3 percent reduction, resulting in a decrease of $6 million from the general fund. The vacancy factor was kept at a minimum and contracts and operations have been reduced. A furlough plan is being developed to minimize a reduction in services. Program updates include

- Closing Area One in Springer,
- Cambiar model implementation,
- Achieving all federal Performance Improvement Plan (PIP) goals,
- Engaging in significant "care and support" cost containment efforts,
- Reducing duplication for repurposing Juvenile Community Corrections (JCC) programs,
- Continuing domestic violence services.

Secretary Dodson noted that $3.6 million of the domestic violence program is funded through the Temporary Assistance for Needy Families program. TANF funding is limited and the corresponding amount to sustain services is not included in the Human Services Department's (HSD) FY11 budget request. A waiting list for the Child Care Assistance Program will be initiated in January 2010 but will not affect the people at or below 100 percent of poverty. Representative King asked what level of federal poverty was served under current budget without additional federal funds. Secretary Dodson said ARRA funds totaling $13.4 million allowed the continuation of up to 200 percent of poverty through the end of the fiscal year and beyond. Representative King requested the department work with LFC staff to determine how many children would be impacted and put on a waiting list. Representative Salazar asked if families can be disenrolled from the program. Secretary Dodson said as long as families qualify and need the program they are not disenrolled. When a child reaches the age of 13, child care is no longer provided.

Representative Picraux asked how the pre-kindergarten and home-visiting programs would be handled. Secretary Dodson said the department is not assured additional TANF fund will be received for the programs; however, they will continue to be funded to the extent possible.

Representative Larranaga asked what the process is for children who re-enter the juvenile justice system. Secretary Dodson said it depends on the age of the client; youth are retained until age 21 in many cases. Youth over the age of 18 who commit violence are transferred to the adult detention system and they may or may not return to the juvenile system.

In response to Representative Sandoval, Secretary Dodson said support services for foster care will be scaled back. Depending on the budget, the threshold may be looked at in terms of who can receive care. Bill Dunbar, deputy secretary, added that the department is requesting funds in protective services to replacement ARRA funding.

In response to Representative Picraux, Secretary Dodson said the after-school care program may have to be eliminated because it serves few children. Representative Picraux asked if those children would be eligible for other services. Secretary Dodson said the parents would be eligible for the childcare subsidy.

Chairman Varela asked for the current year reduction amount requested by the governor's executive order. Secretary Dodson said it was $6 million and does not include furlough days. The department has 13 exempt positions; none were targeted for elimination.

Department of Health (665). Duffy Rodriguez, deputy secretary, Department of Health (DOH), reported the department currently has a vacancy rate of 14.1 percent. Staff is in 55 local public health offices, 79 school-based health centers, and seven long-term care or behavioral health facilities. Ms. Rodriguez provided an update to the H1N1 flu and highlighted significant accomplishments for the Healthy Kids New Mexico project, the Epidemiology and Response's Injury and Behavioral Epidemiology Bureau, and two newly designated trauma centers.

Katrina Hotrum, deputy secretary, continued with facility highlights. The veterans' home is ranked number one in the country with the Veterans' Administration, the New Mexico Behavioral Health Institute is ranked one of the best nursing homes in the state, and Fort Bayard received their Medicaid certification and Medicare is processing their certification approval. The rehabilitation hospital in Roswell and the Fort Bayard Medical Center are currently being built and are on schedule. The Turquoise Lodge Hospital opened an additional wing partnering with the Bernalillo County to receive $1.2 million for a medical observation treatment unit alleviating congestion in other hospitals.

Ms. Rodriguez provided a summary of ARRA funding received to date and the specific grant periods, including substantial funding for the Family Infant Toddler program over a two-year period. The FY10 original operating budget totaled $301.7 million and was reduced to $285.4 million, a reduction of $16.3 million. The budget reflects reductions due to a hiring freeze and significant reductions in travel and other operating costs as well as contracts. The department requested that clients under the developmental disabilities waiver and DD facilities be held harmless from reductions; however, the DD waiver recurring general fund amount was reduced by $13.6 million as a result of a temporary increase from ARRA in the federal Medicaid assistance percentage (FMAP). Additional FY10 base budget leave the department's budget at $27 million. Other reductions assessed over the past year include the possibility of closing two or three smaller facilities and the elimination of funding for indirect patient care. Additional across the board reductions assessed include

- Rural primary health care clinics
- Children's medical services
- School-based health centers
- Tuberculosis prevention and treatment

- Breast and cervical cancer screening
- HIV/AIDS treatment prevention
- Harm reduction
- Diabetes
- Cancer
- Chronic disease prevention
- Telehealth
- Oral health
- Healthcare workforce enhancement
- Trauma services
- Sexual assault treatment and prevention
- Emergency medical services (EMS) fund

Ms. Rodriguez referred members to the base budget request as presented in October 2009. The department is requesting an increase of $298.1 thousand for utilities and maintenance for the new Tri-Services Laboratory, $711.4 thousand for 10 vacant existing positions that conduct federally and statutorily required inspection of healthcare facilities, and $9.8 million to maintain existing services to existing DD waiver clients.

Senator Beffort questioned the hiring of temporary employees who were not needed for critical services. Ms. Rodriguez said temporary hires occurred in Public Health and Epidemiology and Response for H1N1. Senator Beffort asked if there was an inquiry as to whether the positions met the hiring freeze requirements. Jessica Sutin, deputy secretary, said H1N1 is considered a pandemic and is considered very serious. Any hires related to H1N1 were seen outside of the hiring freeze. Senator Beffort said there is a moral issue that was created as a result of nepotism. Ms. Rodriguez said she did not review specifics of an inquiry or response and is not aware of specific nepotism issues; however, she would be willing to investigate it and provide a written report.

Senator Leavell asked about the EMS fund and said EMS requested an additional tax levy for services. Ms. Rodriguez said the EMS fund receives $3.8 million that flows through the department and there is a specific formula in the EMS regulations that have to be followed. Senator Leavell requested an outline for the distribution of funds.

Jessica Sutin, deputy secretary, clarified that contracts for public health in FY10 have not been reduced; however, they will be reduced in FY11 by 12 percent.

Ms. Rodriguez said a savings of $1.6 million in the general fund appropriation will be seen due to the five-day mandated furloughs.

Human Services Department (630). Katie Falls, secretary designee, Human Services Department, (HSD), reported FY10 executive order budget reductions total $28.702 million from the general fund and include

- $22.5 million in Medical Assistance
- $3.8 million in Income Support
- $620 thousand in Child Support Enforcement
- $839 thousand in Behavioral Health Services
- $784 thousand in Program Support

Mandated furloughs will save $752 thousand in general fund monies. The agency projects FY10 reductions will be carried into the FY11 budget. Child Support Enforcement is able to receive incentive funds through the American Recovery and Reinvestment Act (ARRA); therefore, the department will be banking funds in the first quarter and TANF expenditures will be shifted to the Income Support Division. Expenditures include a reduction in the TANF available balance, as well as the continuation of contract reductions for the Medical Assistance Division and Program Support. Program impacts include restructuring of the Medicaid program and a recommendation to no longer use TANF funding for peripheral activities. The impact to the Behavioral Health Collaborative is a reduction of $4.7 million in general fund monies for all member agencies. The FY11 budget request includes a $12.5 million increase from FY10.

The State Coverage Insurance (SCI) program serves two populations: parents with dependent children and childless adults. The program has been funded through Title XXI monies. Currently, 49,551 individuals are enrolled; 33,192 are childless adults. In February, the Children's Health Insurance Program Reauthorization Act (CHIPRA) was passed, which prohibited the use of CHIP funds to cover childless adults. HSD submitted a waiver to CMS requesting childless adults be moved from the Title XXI program to Title XIX regular Medicaid. It is expected that CMS will approve the waiver; however, there is some disagreement. The federal healthcare reform proposal indicates a new category of eligibility will be created for childless adults who have been ineligible for Medicaid; states would have to maintain existing eligibility levels. States that do not currently offer coverage for childless adults would receive additional federal dollars to expand coverage to those populations. Given New Mexico's expansion of coverage to childless adults through SCI, New Mexico could lose $85 million unless the federal reform bill is changed. Ms. Falls explained two options to fix the issue: an amendment that Senator Bingaman is seeking to the bill and a termination and restart of the SCI program. Senator Beffort said there should be significant input before making such a systemic transition. Ms. Falls clarified that two waivers will be considered for the SCI program.

Testimony was provided by Center on Law and Poverty in agreement to work on the redesign of Medicaid sensibly and carefully so that populations and the economy are not hurt. The result of the proposed plan would be a huge increase in uninsured individuals and a transfer of burden to individuals currently receiving benefits through Medicaid. Nick Estes, New Mexico Voices for Children, suggested contacting congressional delegation urging the continuation of FMAP.

Recommendations of Interim Committees

Investment Oversight. Tom Pollard, LCS, reviewed proposed legislation from the Investment Oversight Committee (IOC) addressing the investment performance, governance structure and policies and procedures. Testimony was taken from nationally recognized firms in the areas of fund governance and investment fund performance, written testimony from each agency on their own governance, as well as performance updates from advisors. Senator Timothy Keller reviewed the summary of bills endorsed by the IOC. The State Investment Officer (SIO) is currently appointed by the governor; it is recommended the power be given to the governing board. It is also recommended the authority of hiring and firing of contractors be taken from the SIO and given to the respective governing board. Also recommended is a change in membership with additional members appointed by the House and Senate leadership and requiring expertise for individuals. The SIO is also recommending an alternate investment class advisory committee.

The "Martin Act" bill changes the definition of financial security fraud, removing two of the five elements of fraud under the Securities Act. The bill also doubles the statute of limitations and adds the Attorney General's office to investigate and enforce claims for violation under the Uniform Securities Act. Senator Beffort suggested tightening the definition of intent. Senator Keller said case law established around intent is very specific.

Representative Jim Trujillo reported on recommended legislation for the Public Employees Retirement Association (PERA). Under PERA, a retiree chooses one of three plans. Proposed legislation would allow a retiree to make a one-time irrevocable change to a different beneficiary at no cost. Legislation has been endorsed by PERA. Senator Sapien spoke in support of the bill, stating legislation would put the state in line with industry and would be a fair step to constituents. In response to Vice-Chairman Smith, Terry Slattery, executive director, ERA, said the impact to actuaries would be a drastic reduction. Senator Leavell spoke in opposition to the proposed legislation.

Representative Sandoval moved to adopt the Investment Oversight Committee report, seconded by Senator Leavell. Motion carried.

<u>*Legislative Health and Human Services.*</u> Representative Danice Picraux reported the committee met with constituents throughout the state and has endorsed 14 bills and six memorials. None of the proposed legislation carries an appropriation. Three bills contain a positive fiscal impact while three have a negative fiscal impact. Four insurance bills were requested by the Human Services Department (HSD) and do not have any direct or obvious impact on revenues. Major topics of concern for the committee include medical assistance and the enormous impact of anticipated budget shortfalls.

The committee also looked at addressing a shortage of dental services by reviewing proposals to send New Mexico dental students to slots allocated to them in nearby states, to establish a dental school in the state, and to implement an advanced practice oral health provider program. The committee looked at expanding the scope of practice of dental hygienists.

New Mexico State University, UNM, and the Center for Nursing Excellence provided testimony on ways to increase the number of nurses and faculty. Testimony was heard from several programs operating in high schools and colleges recruiting students into health careers.

The committee reviewed the inter-agency behavioral health purchasing collaborative. Several complaints were received regarding the failure of the new statewide entity, OptumHealth, to timely process and pay provider claims.

The committee also reviewed the oversight of home and community-based waiver services, including the implementation of the Coordination of Long-Term Services Program (CoLTS). Members have received repeated complaints about the implementation of the system, including HSD's and Aging and Long-Term Care Services Department's oversight of the managed-care organizations involved.

The committee is highly concerned with administering the waiting list for the waiver programs, including the use of funds appropriated for reducing the number of people on lists and policies for moving people from lists into services.

The federal health reform proposal include ideas for increasing access to coverage for delivery system, but not much to guarantee that healthcare access and delivery will be affordable and adequate. The committee continued its work in examining delivery system reform options.

Representative Sandoval moved to adopt the Legislative Health and Human Services Committee report, seconded by Senator Leavell. Motion carried.

Tobacco Settlement Oversight. Senator Mary Jane Garcia, co-chair, Tobacco Settlement Oversight Committee, reported the committee adopted recommendations on September 25, 2009. Representative Gail Chasey, co-chair, reported the adult smoking level has declined dramatically while youth smoking has seen a steady, modest decline.

Senator Garcia referred members to the committee's recommendations, narrative description, and economic impact report. The committee heard testimony from agencies that receive appropriations from the Tobacco Settlement Program fund. Tobacco companies are challenging the sufficiencies of many states' enforcement efforts, including New Mexico, and are disputing calculations of settlement agreements and payments. The Attorney General is currently in arbitration over $34 million that New Mexico received in 2003. Tobacco manufacturers have also challenged enforcement efforts in all subsequent years, bringing the total amount that New Mexico could lose close to $263 million. The market value of the Tobacco Permanent Fund at the end of FY09 totals $120.9 million. The value of the fund decreased more than 10 percent over the past year. New settlement revenues were diverted to offset general fund appropriations for Medicaid. The committee strongly opposes the further diversion of tobacco settlement revenue to offset general fund appropriations. It is the committee's goal to continue funding FY10 levels in FY11 with the exception of some programs considered in need of increased funding including breast and cervical cancer screening and treatment, research for lung and tobacco-related diseases and tobacco cessation and prevention programs for Native Americans.

Representative Chasey said the committee recommends any balance remaining after all other appropriations would transfer to HSD for Medicaid, an estimated $6.34 million.

Representative Sandoval moved to adopt the Tobacco Settlement Oversight Committee report, seconded by Representative Salazar. Motion carried.

Courts, Corrections and Justice. Senator Peter Wirth reported a subcommittee worked throughout the interim on the Ethics Commission legislation passed by the House during the last regular session with input from the Attorney General's Office, Lieutenant Governor's Office and staff. The proposed legislation was unanimously supported by Courts and Corrections. The Ethics Commission would be balanced with an appointment process creating a fair commission and a high quorum requirement. The standard of proof would be clear and convincing evidence, a high civil standard. The Legislation would not apply to the judiciary and would not have an appropriation. The effective date for the establishment of the commission is July 1, 2010, and implementation on January 1, 2011. Senator Sapien recommended researching the cost of operation for the commission before suggesting an appropriation. Vice-Chairman Smith recommended a greater disclosure provision with more transparency to the public.

Representative Larrañaga moved to adopt the Courts, Corrections and Justice Committee report, seconded by Representative Sandoval. Motion carried.

Saturday, December 5

The following members were present on Saturday, December 5: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Larry A. Larrañaga (for Donald E. Bratton), Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry

"Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Steven P. Neville (for Stuart Ingle) and Pete Campos. Representatives Dennis L. Kintigh, Jim R. Trujillo, Ray Begaye and Senator Nancy Rodriguez attended as guests.

Department of Transportation (805). Gary Giron, secretary, Department of Transportation (DOT), reported that 89 percent of the overall road system is rated as good with only 2,951 of 26,597 miles rated as deficient due to the investment in the Governor Richardson Investment Program (GRIP), ARRA, and legislative appropriations. In September 2009, 185 bridges were rated structurally deficient, representing a reduction of approximately 15 percent from 213 bridges ranked deficient in September 2008.

The road advisory system has been functioning well; issues have been resolved and all links are working.
ARRA expenditures exceed $45 million, or 27 percent of the $169.2 million discretionary funds planned for DOT projects, and 70 local projects are certified with construction underway. DOT was able to partner with the Energy, Minerals and Natural Resources Department (EMNRD) to retrofit traffic signals throughout the state, expecting to reduce electricity costs by 50 percent to 70 percent.

New Mexico is no longer in the 10 top states with the highest rate of DWI fatalities, resulting in a $1 million decrease in federal funds. Ridership on the Rail Runner exceeded 1 million in FY09 and is projected to exceed 1.5 million in FY10, reducing vehicle miles traveled by 45.3 million miles and energy consumption by over 2.26 millions of gasoline, eliminating 22,000 tons of carbon dioxide emissions. Fiscal year 9 ridership for Park and Ride totaled 316,220, reducing vehicle miles traveled by 11.1 million and carbon dioxide by 5,400 tons. Grants were coordinated with the Federal Aviation Administration for funding of 43 capital projects at 38 airports totaling $20 million in federal funds. Three airport ARRA grants were also coordinated totaling $11 million; two projects are 90 percent complete and one is 50 percent complete.

The department was able to successfully find a solution to SHARE billing problems with the Federal Highway Administration.

Major concerns for the department include

- Declining road fund revenues,
- Negative road fund cash balance,
- Budget reductions in FY08 through FY10 exceeding $120 million,
- Declining transportation system.

The FY10 operating budget appropriation totaled $400 million and was reduced to $360 million. The executive plan for a fiveday furlough will save an additional $2.2 million. The department is working towards a vacancy rate of 20 percent. The department is working with the executive and the State Personnel Office (SPO) to implement an alternative furlough plan allowing for minimal impact to districts in terms of snow removal or emergency activity. Secretary Giron described operational concerns for the department and the public, increasing tort liability and higher costs of repair. Near term challenges include

- No cash reserve to meet unexpected cash outlays,
- Additional funding for overtime fuel and supplies,
- Implementation of road construction programs with a high vacancy rate.

Long term challenges include

- Rebuilding state road fund cash balances,
- Addressing the GRIP funding shortfall and plan for future direction of the construction program,
- Properly maintaining roads when funding gap for routine maintenance exceeds $200 million,
- Addressing the upcoming reauthorization for the federal highway program,
- Maintaining technical expertise in the department.

Domingo Sanchez, deputy director, Business Support, reported the overall budget request for FY11 reflects an operating budget request of $772 million; a $34 million reduction from FY10 affecting the Planning and Infrastructure Division, Transportation Operations and Business Operations and a 4 percent vacancy rate. As of the first quarter of the year, Rail Runner staff estimates a $2.2 million reduction in the Rio-Metro gross receipts tax revenue; the department will continue to work with them.

Max Valerio, deputy director, Programs and Infrastructure, reported on GRIP I, GRIP II, and ARRA funding. Over $1.4 billion in contracts has been obligated for highway construction projects to date: 89 projects are in construction and 45 have been completed; almost 90 percent of all projects used New Mexico contractors. Approximately 4,600 direct construction projects are a result of GRIP, translating to over an $8.3 billion economic impact to the state. Legislative authorization for GRIP totaled over $1.5 billion; $234 million remains without bonds and is not budgeted in FY11. Legislative authority also provided sale of severance tax bonds; $50 million remains available. An excess of $360 million is needed to complete the entire GRIP I program.

GRIP II authorized 116 local lead projects at an amount of $180 million. Various numbers of issued severance tax bonds, as well as general appropriation funds, made up $110 million. The department worked with entities to establish prioritization of projects. To date, 86 projects were identified and $50 million has been expended; 41 projects have been completed. The remaining 41 projects may be susceptible to freezing; the department is working with communities to determine readiness and possible exceptions.

The state received over $252 million in ARRA funds for highways and transit-related programs. The department received $169 million: 20 projects have been certified for processing, 13 projects are obligated, four projects have been submitted to Federal Highway Administration, and three are awaiting submission. The department is on schedule to have projects let out to bid by January and is working with communities Of 70 projects worth $83 million, 42 projects have been obligated. The state received over $27 million through federal transit programs delegated to rural areas sorted by population. Aviation received $14 million for three airports in the state. The U.S. DOT published a grant totaling $1.5 billion allowing states to compete nationally for projects. The department partnered with the Navajo Department of Transportation and Mid-Region Council of Governments (MRCOG) to identify projects; selection of projects will be determined in February 2010.

Vice-Chairman Smith said there were major concerns with local communities requesting capital outlay for their local match; both the executive and the legislative branches were irresponsible in the approval of and the Transportation Commission should have objected. Chairman Varela added that at one of the Revenue Stabilization Committee meetings a tax and gasoline gross receipts tax was discussed but the proposal did not include allocating any of the funds to DOT. Chairman Varela asked if the department is going to continue using the volume tax rather than the price. Secretary Giron said the department was not contacted in terms of looking at GRT for gasoline. An issue with one of the revenue streams to the department is that they are based on quantity and not the amount of money generated. The long-term issue for the department is linked to how the state road fund receives its revenues. In response to Chairman Varela, Secretary Giron said the commission has not taken a position on recommending revenue enhancements. Chairman Varela said the Legislature has the authority to earmark highway funds to make operations practical. Secretary Giron said the department is currently meeting with Rio-Metro to address funding shortfalls. Representative King asked if consideration was given to use federal stimulus funds to address GRIP II projects. Four GRIP II projects were not "shovel-ready" but successfully received ARRA funding. Representative King suggested reviewing the list of priorities for GRIP II to eliminate projects from the list. Representative King suggested voiding severance tax bonds that will not be issued in the next legislative session. Representative King also requested information for the operation costs of the Rail Runner.

Capital Outlay.

Quarterly Status of Outstanding Capital Funds. Linda Kehoe, principal analyst, LFC, reported as of December 1, 2009, $1.4 billion for 4,883 projects remains outstanding, including $140 million authorized in severance tax bonds (STB) during the 2009 regular session.

Update of Projects Greater than $1 Million. Nearly 50 percent of all outstanding capital outlay is for projects $1 million or greater; as of November 23, 2009, the project balance for projects $1 million or greater totals $698 million for 322 projects.

Review of 2010 Capital Outlay Requests. Ms. Kehoe referred members to LFC staff recommendations for state agency projects totaling $30.8 million. State agencies, public schools, higher education institutions, and special schools requested $739 million for their top three priorities; $437 million was for state agencies. Ms. Kehoe discussed critical projects contained in the staff recommendations. The U.S. Department of Veterans' Affairs cited the New Mexico Veterans' home for fire and safety code issues. The agency is requiring the interior wall partitions be extended from floor to ceiling to protect patients. The Department of Health and Property Control Division are working with the certification inspector to address work needed immediately; the citation could threaten the certification of the Veterans' home. LFC staff did not recommend the continuation of the second phase of Alzheimer's unit. The Environment Department cited the Roswell Correctional Facility for poor wastewater treatment facility conditions. Preliminary cost estimates by Property Control Division total $3 million.

GOB Project Requests and Recommendations. Higher education and special schools requested over $302 million for capital needs. The Higher Education Department (HED) made recommendations of $171 million for 34 prioritized projects. HED used almost the entire capacity in making recommendations knowing they may have to be reduced. Aging and Long-Term Care Services received $46.9 million in requests from senior programs statewide. The department recommended $3.7 million for renovations, vehicles and equipment statewide. The department also submitted a list of 36 partially funded projects and new, critical construction projects totaling $4.2 million. Ms. Kehoe stated LFC recommendations were based on health and safety. LFC staff recommendations total $159.5 million. Additional available funds were left for policy makers' discretion as to whether or not to include other bond issues. Representative Sandoval questioned funding available for libraries. Ms. Kehoe said $15.5 million remains for discretion and noted no requests were directly received from libraries. Chairman Varela asked what kind of increase will result in property taxes. Ms. Kehoe said preliminary information indicates the affects of the $173.5 million will result in a tax increase of about $26 annually on a $200 thousand home; however, because a portion of general obligation bond (GOB) debt already outstanding will simultaneously roll off, the net affect is $16 annually. Chairman Varela suggested reviewing the total mill levy assessment. Robert Apodaca, director, Local Government Division, DFA, added that the executive has also begun to compile a list of recommendations and is working with the Higher Education Department on newly revised recommendations. Representative Ray Begaye said the capital outlay freeze is concerning to the Navajo Nation government because third-party contracts are not able to move forward. Mr. Apodaca clarified that grant agreements and JPAs were cancelled as of October 30, 2009; however proof of an executed third-party agreement in place will be honored. Exceptions will be granted for projects showing a request for proposals or bid was executed prior to October 30 and they are fully funded.

Capital Outlay Capacity Outlook. There are no general fund monies available for capital outlay in 2010. The severance tax bond net capacity is $30.8 million ($292.9 million less prior-year authorizations). General obligation bond capacity is $175.3 million. Supplemental severance tax bond capacity dedicated for public school construction is $156.1 million.

Executive Compensation Report. Sandra Perez, director, State Personnel Office (SPO), reported the State Personnel Board will meet on December 16 to officially adopt the executive compensation report. The current average base salary for state employees is at $42 thousand and the total compensation average is at $69 thousand. The average compensation ratio averages 103 percent; up from 92 percent. The state is ranked fifth among eight surrounding states for base salary and has moved up to third in total compensation ranking. Currently there are 3,900 vacancies including temporary positions. Since the hiring freeze through November 9, 2009, there have been 748 hires and 2,081 separations.

Plans for the mandated furlough were updated moving one furlough date from December 31, 2009, to March 5, 2010. SPO received requests for limited exceptions and many requests for alternative dates. Approved notifications will be submitted to state agency heads and all state employees will be notified by letter through e-mail in anticipation of the board's approval of the furlough plan. SPO is working on monitoring agency's compliance with the furlough plan. It is anticipated that furlough dates will be completed by May 31, 2010. Agencies have been cooperative and understanding in their requests. Phone lines and e-mail remains available for the public and employees. The final plan will be presented to the State Personnel Board on December 16 and will be provided to LFC.

Senator Beffort said with the hiring freeze it has been a very complex process in setting parameters because critical hires were not well-defined. Ms. Perez said there have been phases to the hiring freeze. Because it was fiscally driven, the human capital analysis was secondary and the organizational unit, flow of work, and the business process was analyzed. Six to eight months into the hiring process, analysis steps were flipped and the human capital analysis came first. The list of classifications was sorted into critical, essential, and all others. SPO is reanalyzing the list to determine if exceptions were made to the hiring freeze, but remain vacant. Ms. Perez clarified that the Personnel Act is based solely on qualification and ability.

Gene Moser, principal analyst, LFC, reported the turnover rate for new hires averaged 42.4 percent for the current year. Out of that, 28 percent of the total left because they were terminated for cause. Mr. Moser suggested: reviewing the selection process, training supervisors on skill set, reviewing the Personnel Act to define policy making positions, and allow access to review information in the SHARE system. Mr. Moser also recommended eliminating vacant positions in state government before cutting employees or furloughing salaries. Chairman Varela said he is concerned with the vacancies and suggested downsizing the vacant component and requesting expansions at a later time.

New Mexico Environment Department (667). Ron Curry, secretary, New Mexico Environment Department, reported the department has one of the broadest missions in state government.

Highlights for the department include a clean audit for the fifth straight year. The department's budget consists of 16 percent general fund, 93 federal grants and 19 special funds. Secretary Curry noted the FY10 budget does not include the executive reduction or stimulus funding in the operating budget.

Secretary Curry provided an overview of accomplishments for the department. As a result of SB206, the department is working on establishing a dairy rule in conjunction with dairy entities throughout the state; the agreed-upon mandates will be presented to the Legislature in January 2010. A consent order was signed in 2005 ordering fence-to-fence clean up for Los Alamos National Laboratory enforceable in both federal and state courts; completion of clean up is scheduled for 2015. The department is in the process of issuing hazardous waste facility permits for Los Alamos, Sandia, and Kirtland Airforce Base. The department is working in conjunction with the Intertribal Bison Cooperative and tribes in northern New Mexico raising basin to exempt non-amenable inspection fees charged by USDA for slaughter. The department is in the process of working with Environmental Protection Agency on stimulus funds for the clean water revolving loan program and the drinking water revolving loan program. Louisiana Energy Services (LES) continues construction and is in compliance with the groundwater discharge permit. The department proposed a revised hazardous waste permit for the Los Alamos National Laboratory and a hearing is set for April 2010. The department did not receive adequate information regarding the pollution at the construction site for the new Santa Fe County Courthouse and migration to the Santa Fe River prior to stepping in.

In response to Senator Leavell, Secretary Curry said the re-permitting process for the waste isolation project will develop in the next year. Senator Leavell asked about the Clean Air Act for automobiles and the impact to citizens. Jim Norton said a bill was introduced in the last legislative session delaying implementation of the state's car emission regulations; the governor vetoed the bill and directed the department to have discussions with the auto industry. Since that time, the Obama administration reached a deal with stakeholders making standards national beginning in 2012. It was agreed because standards are national; there is no need for anything further.

Senator Neville said the impact of the department can be heavy on industry and commerce and asked if the department has taken a stance to be more business friendly and help New Mexico businesses succeed and prosper and the same time protect the environment. Secretary Curry said it is one of the department's main goals. An environment has to be sustainable for a business to be successful. The department meets regularly with businesses and has inspectors attend training on interpersonal relations.

Update on Information Technology Projects and IT Reviews.

Administrative Office of the Courts Case Management System. Aurora Sanchez, information technology program evaluation manager, LFC, reported that the case management system replaces a 10-year-old system at all courts statewide. The total general fund appropriation is $9.6 million over the last three years; $5.6 million has been spent as of November 2009. The review does not include electronic filing or e-citations because those projects are separate but should be integrated into the case management system. Two magistrate courts and two district courts are using the new system. The system will impact 82 district and magistrate courts in 13 districts and 33 counties. Full implementation is scheduled for December 2013. Project management and oversight appears to be very strong. The oversight is representative of all courts – magistrate, district, and appellate – and the Administrative Office of the Courts (AOC). The project uses a phased approach, meaning court locations are implemented singly and are being trained before going live, making sure data coverts accurately. Business processes across the courts were required to be reengineered preventing costly changes to software and included enhancements totaling $619 thousand. The Judicial Information

Division (JID) staff was trained in the conversion process, reducing the cost of conversion; however, JID will require the vendor's assistance on a part-time basis to continue with the established aggressive schedule. Forty-six percent of court staff surveyed strongly agreed that training was well done. Feedback received from training was included in the next training session. The procurement for the software was well done and is in escrow and new versions are placed into escrow every 6 months to one year. Final payment of the software is due 2012.

A major issue weakening the inherently strong internal controls of the system is that the magistrate courts are required to back-date receipts on interest earned on bank accounts. Other issues identified are the need for a policy regarding overpayments at the magistrate courts and outstanding balances at district courts for fines and fees. The outstanding balances issue is an open item from the 2000 LFC review.

LFC recommendations for the courts include

- Finding a methodology to address outstanding balances or use Taxation and Revenue Department's (TRD) intercept program to collect them.
- Developing a written policy on overpayments especially at the magistrate courts,
- Standardizing the handling of overpayments at the district courts,
- Requiring evaluations at the end of each training,
- Allowing JID access to SHARE to pay invoices directly.

Human Services Department ISD2 Replacement System. Ms. Sanchez reported that the Human Services Department (HSD) ISD2 Replacement System consists of four parts; the online eligibility self-screening and application (YES-NM), document imaging, business intelligence, and the actual replacement of the over 20-year-old legacy application. Since last year, online self-screening is operational and available in both English and Spanish 24 hours a day, seven days a week. Staff from HSD, CYFD and DOH was trained on YES-NM. The estimated cost of the replacement the system is $51 million, of which HSD has received $10.9 million in general fund monies and $13.2 million in federal funds. All hardware has been purchased and installed and the dashboard design has begun for business intelligence and reporting. Negotiations for imaging contracts are underway and will be submitted to DFA for approval. The department applied for federal approval for implementation of the system and is awaiting a response. Appropriations for 2005 and 2006 will need to be extended or the department will lose a 55 percent federal match. Project management appears to be strong. LFC recommended reporting to DoIT's project certification be more detailed. Also, the Spanish translation for the online portal is poor. The department agreed to address the problems identified.

FY11 IT Requests. Ms. Sanchez reported that the Department of Information Technology (DoIT) is upgrading their infrastructure and that physical security has improved. The department is focusing on Wire New Mexico; a joint effort between DoIT, New Mexico State University (NMSU) and New Mexico Tech. The department would like to leverage the $4.2 million balance of southeast quadrant appropriation as the 20 percent match for a federal broadband grant resulting in $21 million for broadband; LFC recommends extending the 2006 appropriation. DoIT is working on broadband mapping and has applied for a $2 million grant using in-kind services as a match. The department is working on the analog-to-digital conversion of microwave towers. There are 99 towers statewide; 68 are already digitized, 2 are scheduled for FY10 and 29 are scheduled for future years. On average, it costs $500,000 to construct, equip and design towers. The department is working on disaster recovery and has an RFP out with responses due January 7, 2010. A disaster recovery site will be established in late 2010 or early 2011 and will include SHARE. Security at the agency level has been addressed by offering training classes and awareness to technical staff. A security policy will be issued for all executive agencies and a securities assessment will be requested. The technical operations and operations and support for SHARE was consolidated under the department and report to the SHARE manager. A fee has been established to support and maintain SHARE as an enterprise application. The Supercomputer will continue to require state funding even though it was announced earlier that it had received a $41 million science foundation grant. The supercomputing center will receive no cash from the grant. Forty-one information technology requests totaling $77.5 million were received; LFC recommends a request from the courts using their own funds from an increase to the civil filing fee. If funds become available, LFC recommends an appropriation to HSD for the ISD2 replacement. HM78 sponsored by Representative Kintigh was to study making state revenues and expenditures transparent through a publically available, searchable and accessible database. DoIT, LFC and DFA worked on identifying solutions. Chairman Varela requested a list of agencies with independent systems requiring interfacing with SHARE. Ms. Sanchez said interfacing with any system requires both parties to participate and would get a list to him.

Committee-Sponsored Legislation. Director Abbey said LFC staff is recommending legislation to continue diverting 100 percent of the tobacco fund percent to the general fund, delaying contribution increases for ERB, and addressing return to work and late audit sanctions to the tax distribution for local governments. Chairman Varela suggested reviewing the Local Government Division to strengthen the reporting requirements on a quarterly basis. Representative King requested LFC staff review the cancelation of GRIP II projects and voiding bonding authority. Senator Cisneros asked the committee to consider the severance tax bond intercept increasing the proportionate amount to the general fund.

Monday, December 7

The following members were present on Monday, December 7: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Jim R. Trujillo (for Nick L. Salazar), and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, for Stuart Ingle and Pete Campos. Representative Larry A. Larrañga attended as a guest.

Higher Education Institutions (952).

Two-Year College Panel: Cedric Page, president, New Mexico Association of Community Colleges, reported the association's core mission is to provide quality post-secondary educational programs that contribute to the economic well being and quality of life in the communities served. The ultimate goal is the success of students. He noted that significant growth continues in the area of dual credit, and efficiencies have been achieved in adult basic education providing for GED and other services. Workforce development efforts increased the number of individuals in workforce training programs and have been successful in developing partnerships with new businesses and agencies making internships and externships available to individuals.

Mr. Page also reported an increase in transfer students moving on to four-year institutions and an increase in individuals completing degrees. Placement rates, persistence, and access to higher education have also improved.

Areas of concern for the community colleges include funding for continued growth to continue accomplishments, flexibility to allocate building repair and replacement (BR&R) and instructional funds, and the elimination or reduction of the tuition credit.

Steve McCleery of the Independent Community Colleges said unrestricted fund balances keep individuals employed and prevent mandatory workforce layoff reductions and requested more flexibility in the budgetary process when considering these fund balances.

Four-Year University Panel: Dan Lopez, president, Council of University Presidents, reported that without unrestricted funds universities would be unable to conduct research missions to any meaningful degree. Brian Schmidly, associate director of sustainability at UNM, noted that the Higher Education Department has recommended a 3 percent to 6 percent balance remain in unrestricted funds. Tino Pestalozzi, deputy secretary, HED, indicated the department's guidelines for minimum fund balances for instruction and general and total unrestricted current funds is 3 percent of respective expenditures.

Mr. Lopez requested the FY11 budget equal the FY10 budget using the formula as it is currently funded. He noted that funding workload by rating other elements of the formula and moving funds into "instruction and general" (I&G)disproportionately impacts institutions depending on workload and fixed costs. Mr. Lopez requested institutions be allowed to shift costs internally and find funds to support the instructional formula. Mr. Lopez noted budgets have decreased $64 million for the four-year institutions in the last two years with $30 million from I&G. Mr. Pacheco added it is dangerous to continue to use building funding to fund other parts of operation and agreed with Mr. Lopez that institutions should be allowed to internally shift costs. He noted that fund balances are used to cover mid-year reductions. Mr. Pacheco noted activities serve a statewide function and are funded through special project funds and not funded through I&G. Mr. Lopez clarified that shifting costs would need to occur across all higher education institutions.

Mr. Schmidly, president, University of New Mexico, testified that continued budget reductions will necessitate fundamental restructuring of the enterprise and how it fulfills its mission. Reevaluation of the long-term practice of using tuition credits as part of the budgeting process makes less and less sense. These costs are passed on to the students and are disproportionate in the impact to each institution. He also noted that the higher education institutions have responded prudently and appropriately to budget reductions.

Viola Florez, secretary designee, Higher Education Department (HED), said institutions of higher education must play an essential role in the nation's economy, economic recovery, and future prosperity. HED recommended in its budget request that general fund appropriations for each institution remains at the FY10 level. HED also recommended funding BR&R at 72.9 percent by using severance tax or general obligation bonds and funding all other I&G components at 100 percent and the tuition revenue credit at 0 percent. If the requested funding level is not feasible then the recommendation from HED is to take all reductions off of the top and allow the institutions to distribute reductions according to individual priorities. Ms. Florez said flexibility is important to institutions and fund balances are critical in order for institutions to meet enrollment and personnel demands.

Several presidents and staff from universities and colleges testified in support of budget flexibility. Chairman Varela explained that because of revenue declines the state is down about $137 million for FY11 and needs to replace stimulus funds for Medicaid, public schools, and higher education. Unrestricted balances at the institutions total $2.7 billion with an additional $500 million in restricted funds. In response to Chairman Varela, Mr. Lopez reported that for FY10, $13.4 million was received in stimulus funds and is expected to cause a reduction to I&G by 2 percent if they are not replaced. Each school received separate funding for their own proposals, but was limited to the use of restricted funds. Chairman Varela requested a total amount of stimulus funds received for all colleges and universities, as well as recommendations for reorganization. Vice-Chairman Smith suggested looking at long-term solutions rather than focusing on the short term. Representative King requested

requested information on stimulus funding allowing for applications to redirect costs to particular projects and recommendations from the funding formula task force.

Special Schools -- New Mexico School for the Deaf (980), New Mexico School for the Blind and Visually Impaired (979) and New Mexico Military Institute (978). Ronald J. Stern, superintendent, New Mexico School for the Deaf, (NMSD), reported that NMSD does not generate revenue like other higher education institutions, colleges, and universities, and 73 percent of the school's revenues are received from the land grant permanent fund. The school is projecting a 3 percent reduction for FY11 and has implemented a forecast system that allows the school to carefully monitor the budget and is in a position to implement cuts is necessary. NMSD as a special school and a state outreach agency continues to grow, serving 80 percent of all deaf and hard of hearing infants and K-12 students and their families in the state. NMSD serves students in 52 of the 89 school districts and will be celebrating its 128th anniversary, making NMSD the oldest land grant school in the country. NMSD is in its third year of its strategic plan cycle and is increasingly becoming more and more of a 12-month program. During the summer a variety of programs are provided for interpreters, families and professionals from school districts.

The New Mexico School for the Blind and Visually Impaired (NMSBVI) reported the mission and passion of the school is to serve students with blindness and visual impairments. NMSBVI continues to experience a number of changes as it refines its mission and is looking at the needs of students in school districts across the state. The school has improved the support it provides to students and districts so students can stay at their home schools. Federal special education regulations call for a continuum of services be provided for students and programs are continuously refocused and grow to improve the service provided to students served to better meet their needs. NMSBVI receives about 80 percent of its funding in FY10 through permanent fund distributions, 10 percent from state appropriations and other revenues with the remaining 10 percent funded through savings or quasi-endowments. In FY11, the percentage of funding needed from the quasi-endowment without additional state support will increase to about 16 percent because of decreases to permanent land grant fund distributions and increased services to be provided at the new early childhood site in Albuquerque. The early childhood program currently serves 63 students on site and will serve 80 students in FY11. The family infant toddler program, one of the primary ways of funneling students into the early childhood program, is serving 1,025 children in the Albuquerque area.

Major General Jerry W. Grizzel, superintendent and president, New Mexico Military Institute (NMMI), reported NMMI also receives the majority of its funding through the Permanent Land Grant Fund. Other sources of funding come from tuition and support from the school's foundation. To address revenue shortfalls, NMMI has instituted a hiring freeze with only critical positions being filled, adjusted operational hours for summer months to realize utility savings and restricted non-essential travel. A big focus for NMMI is to improve student retention and increase the recruitment of new students. The capacity of NMMI is 1,000 students with a current enrollment of 801 students. With each 100 students generating about $1 million in additional tuition, the focus is critical.

UNM Health Sciences Center. Dr. Paul Roth, executive vice-president, UNM Health Sciences Center (HSC), reported that UNM hospital makes up nearly 60 percent of the HSC budget of $1.2 billion with the School of Medicine taking another third. All remaining activities in HSC are funded with less than the remaining 15 percent. Of the remaining amount Medicaid take up about 25 percent. In FY09, UNM Health Sciences Center was asked to absorb $2 million in reductions in contract reimbursements for services provided through DOH, CYFD and other state agencies. Dr. Roth noted that when accounting for these reductions, every 1 percent reduction in Medicaid amounts to a 3.3 percent reduction in I&G. Dr. Roth provided an overview of special project support programs that programs that were eliminated and noted that five additional programs will be eliminated. He also reported that the Bachelors of Arts-Medical doctor (BA-MD) program increased from 75 medical students to 103 and has been highly successful in attracting students who are under represented and from rural areas in the state. With no further funding for the BA-MD provided, costs are still incurred annually. The FY11 expense for the BA-MD represents the equivalent of a 1.4 percent I&G reduction. Dr. Roth requested level funding for FY11 with FY10. UNM Health Sciences continues its efforts of planning and seeking alternative funding for projects and coordinating efforts with Presbyterian to meet the needs of residents in Sandoval County. UNM has no intention of requesting funds from the state to support construction of the new hospital. Funding will come from bonds and a cash contribution from accumulated balances. UNM Health Sciences Center has over 550 activities in 142 communities in the state and is committed to making sure programs continue. In response to Representative Wallace, Dr. Roth said UNM Health Sciences is considered a medium sized medical school.

Representative Sandoval asked if other counties in New Mexico other than Bernalillo County have a mill levy in place contributing to the hospital. Dr. Roth said it has been suggested that Bernalillo County pay for their indigent population through the mill levy. Other suggestions include neighboring counties contributing through property or gross receipts tax or funding through a state appropriation. Senator Beffort asked if the UNM care program has significantly decreased uncompensated care costs for emergency room expense. Dr. Mr. Roth said the UNM care program is not an insurance provider. UNM care is a way to manage patients who are charity and that no new funds have been received to support the program. The benefit of enrolling indigent patients into UNM care is to manage their care and assign them to a primary care doctor reducing expenses to the institution.

Dr. Mr. Roth clarified that the FY10 budget includes internal transfers that would not constitute revenues. In response to Chairman Varela, Mr. Roth said the total reduction from the FY10 general fund totaled $2.5 million inclusive of instruction and general line item and special projects and that the governor's mandate for furloughs did not impact higher education.

Higher Education Department (950). Ms. Florez, secretary designee, Department of Higher Education, (HED), said HED is a service department developing and coordinating relevant policy programs services and serves as an advocate and support for access for students into colleges. The department's budget includes operations, adult basic education, pass-through programs, and financial aid. The FY10 general fund appropriation to the department totaled $3.1 million less than the original FY09 level. HB3 from the special session, moved $76.3 million out the department's fund balances to the general fund consisting of mostly college affordability and other financial aid fund balances. The HED budget was reduced an additional 3 percent totaling $1.5 million after the special session. The department continues to work with the Financial Aid Division to enhance the collection of overdue loans. Accomplishments for the P-20 Policy and Planning program include

- Dual credit for students,
- Assignment of every public school district to a community college for the expansion of dual credit,
- Review and approval of detailed plan for the Santa Fe Higher Learning Center,
- Reaffirmation work for the Articulation and Assessment Task Force.

The Financial Aid Division in FY09 administered 19 scholarships and loan programs, distributed more than $70 million in financial aid and awarded $1.1 million in the College Access Challenge Grant. PED and HED are working together to make sure students have access to distance education. HED provides the technical support whereas PED provides the curriculum and course design. There are currently 28 programs across the state for adult basic education serving 23,000 students.

New Mexico Educational Assistance Foundation. Elwood G. "Woody" Farber, president, New Mexico Student Loans, reported in February 2008, auction rate security bonds failed on public markets. The New Mexico Educational Assistance Foundation had approximately $803 million in auction rate securities in June 2008 of which $436 million were restructured. As of September 16, 2009, all but $51 million of auction rate security bonds were restructured. The $51 million was held by UBS; however, a new bond deal will allow UBS to return bonds at a discounted rate. Monies saved by paying off the bonds will be used to provide liquidity into the new bond structure. The foundation currently has interim financing through the State Treasurer's office for $100 million that will be used to make second semester loans to students. Temporary financing will move to a permanent structure by the end of March 2010. The foundation signed up for the federal government's participation program, but has not had to use it keeping loans and servicing in its portfolio and in the state. All loans are serviced in-house. The total of $1.1 billion includes outstanding bonds, totaling $1.3 billion. Current legislation passed by the U.S. House of Representatives proposes all funding after July 2010, be appropriated directly from the U.S. Treasurer. Future bonding necessity will be eliminated if legislation passes. Staff is working with the congressional delegation to ensure New Mexico student loans have the ability to provide servicing on a local basis.

Corrections Department (770). Joe R. Williams, secretary, Corrections Department, reported the department achieved cost savings through efficient operations, population management, managing funds and purchases, and making effective and efficient use of resources. The state does not have the community corrections resources to handle large numbers of releases. Correction Industries program sales are down 83 percent. The department has been successful in obtaining contracts with no inflation increases and in many cases has reduced contracts.

The FY11 budget request totals $311 million from all funding sources with $288 from the general fund, an increase of 1.3 percent over the FY10 original budget. The department's general fund appropriation was reduced from the FY09 original appropriation of $297 million down to $273 million for FY10. Secretary Williams said correction officer overtime has always been under-funded and as a result must be transferred into personal services. An increase in vacancy rates is a result of a decrease in addiction services, education, program support, community corrections, and community offender management parole and probation. The Central New Mexico Correctional Facility, the largest state prison, was put on notice by the Environment Department because of a high level of arsenic in the water system. The facility hooked up to city water and sewage at a cost of $900 thousand; these services have never been budgeted. Other costs include green energy use and DoIT fees. In response to Chairman Varela, Jolene Gonzales, deputy director, said indirect grants received through the Department of Public Safety (DPS) total $249,000. Reductions in general funds from FY10 total $11.4 million. Correction officers are exempt from the mandated furloughs; however the rest of the department will participate in the mandate. Savings from the furlough total $1.5 million.

Energy, Minerals and Natural Resources Department (521). Joe Montano, acting administrative services director, Energy, Minerals and Natural Resources Department (EMNRD), reported the department's operating budget for FY10 was reduced by $2.5 million, or 9 percent. With the additional 4 percent general fund reduction, the total budget reduction for FY10 equals 13 percent. Joanna Prukop, cabinet secretary, continued with department highlights and challenges. Tax credits are beginning to build industry in the state and the department is spending stimulus funds in the clean energy program to support job creation and green industries. A total of $15 million in federal stimulus

stimulus funds was received for state forestry projects selected by the U.S. Forest Service. Funds were also received to staff a position to deal with uranium issues; however, in response to funding reductions, the position is funded at only 50 percent. State Parks Division currently has 42 vacancies; 25 being law enforcement positions. Secretary Prukop indicated that the department should receive a total of $59 million in stimulus funds. Chairman Varela requested information regarding furlough savings before the legislative session. Secretary Prukop also noted that alternative considerations were requested for the State Parks Division and the State Forestry Division. Chairman Varela asked about a joint powers agreement between EMNRD and the Game and Fish Department for Pecos Canyon. Dave Simmons, state parks director, said the joint powers agreement is in draft. Secretary Prukop added that keeping existing parks open and functioning is a key issue; and that the division is in no position to move forward with development of a park in Pecos Canyon.

Miscellaneous Committee Business.

Subcommittee Reports. **Senator Cisneros moved to approve the November 2009 subcommittee reports, seconded by Senator Sapien. Motion carried.**

Information Items
Review of Monthly Financial Reports

Director Abbey referred members to information items to review at their own discretion.

Staff Reports

Legislature (111-131). Director Abbey reported all legislative agencies were reduced by 5.3 percent which was included in the solvency legislation passed during the special session.

Review of Special, Supplemental and Deficiency Requests. Christian Sanchez, fiscal analyst, LFC added agencies requested $21.3 million from the general fund for special, supplemental and deficiency requests and a total of $34 million from all funding sources. Some agencies requested reauthorization language and funding to pay back Board of Finance loans. **Representative Saavedra moved to approve agency requests, seconded by Senator Campos. Motion carried.**

Tuesday, December 8

The following members were present on Tuesday, December 8: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Jim R. Trujillo (for Nick L. Salazar), and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, for Stuart Ingle and Pete Campos. Representative Larry A. Larrañga attended as a guest.

Public School Support (993). Veronica Garcia, secretary, Public Education Department, (PED), reported New Mexico students continue to show upward trends in math, reading, and science achievement for the last four years. The secretary also reported that results from the annual *Quality Counts* report, the national report card published by Education Week rank New Mexico 24th across all categories. The report rankings include

- 2nd in the country for transitions and alignment,

- 16th for standards assessment and accountability,
- 17th in the country for teaching professionalism,
- 30th in the country on school finance,
- D minus for kindergarten through 12th grade achievement
- D plus for chances for success,
- 1st in the nation for free and reduced lunch and breakfast.

She noted that scores for chances for success are determined by the educational attainment level of the parents, the educational attainment level of adults, income of parents, income of adults and access to quality pre-kindergarten. Some reasons given for the low ranking in this area are poverty and the high immigration population in the state. It is important to note the improvement that has taken place, which includes the fact that New Mexico now has 94 percent of all core courses taught by highly qualified teachers and national salary rankings have gone from 46th to 39th, ranking 3rd for the percentage change in average teacher salaries.

Steve Burrell, director, Public School Budget and Analysis Bureau, presented the Public School Support (PSS) budget request. The PSS request was developed with the following major considerations:

- The overall state revenue picture,
- DFA guidelines,
- The governor's education priorities,
- Reform initiatives,
- Closing the achievement gap,
- Compliance with statutory requirements,
- No Child Left Behind Act requirements.

The budget request from the department for PSS -- including the state equalization guarantee, transportation and categorical appropriations -- totaled $2.585 billion, an increase of $354.7 million over the FY10 adjusted appropriation. The request includes funding to replace all of the ARRA funding used in FY10 and all reductions made for solvency in FY09 and FY10. The request includes funding increases for fixed costs, enrollment growth, insurance increases, and the increased employer contributions to the educational retirement board. Categorical recommendations include funding for all categorical funds including $44 million for instructional materials and $25 million for the FY10 reduction in instructional materials. In addition to this request, Mr. Burrell noted that in addition to general fund support, New Mexico will receive $470 million in ARRA funding for public education.

Mr. Burrell also pointed out that after reviewing the last three year's membership numbers and public school funding units by district and charter school, preliminary funded membership for FY10 has increased by 1,355 students. Growth units statewide continue to remain between 2,000 and 3,000 each year. Under the current funding formula, small and rural districts will continue to struggle to meet state mandates as their student populations continue to decline. FY09 and FY10 show an increase in membership since FY10 is still preliminary and has not yet been adjusted for actual growth or new charters. Units are anticipated to increase by approximately 4,000 after data is finalized.

Attorney General (305). Al Llama, deputy attorney general, reported the agency requests a flat FY11 budget with one expansion totaling $50 thousand related to statutory mandate for required sex offender parole hearings and criminal procedures. The requested budget represents a 5 percent vacancy rate applied to the personal services and employee benefits category. The Medicaid Fraud

Division, funded 75 percent by the federal government and 25 percent from the general fund, is also flat. The agency is requesting budget adjustment authority (BAR) for court reporting, witness fees, transcription fees, and supplies related to active prosecutions and state representation of the multi-state tobacco arbitration. The agency is currently carrying a 9 percent vacancy rate and cannot continue to offer the level of services without making significant choices. Mr. Llama provided an overview of FY09 accomplishments.

In response to Chairman Varela, Karen Myers, consumer director said the interest rates on most credit cards are issued by national banks and are subject to federal regulation. There is legislation pending in Congress to limit interest rates, but it has not been enacted.

Final Review. Director Abbey presented a spreadsheet of staff recommendations with adjustments and an amount by which the spending recommendation is higher than the revenue projection. The recommendation is for the full Legislature to identify measures to close the gap, ranging from further adjustments to personal services and benefits, adjusting the general fund appropriation for Medicaid and FMAP, revenue measures without any judgments of measures, and looking at vacancy rates, programs, and areas where the DFA recommendations are lower. **Senator Cisnersos moved to approve staff recommendations, seconded by Representative Tripp. Senator Beffort and Representative Bratton voted in opposition to recommendations.** Representative King asked that language be included to clarify the intent of the committee. Chairman Varela said the committee is not proposing to take action either way whether it is revenue enhancements or reductions; the Legislature as a whole will determine that.

Director Abbey asked that Representative Wallace be appointed to review and approve the November 2009 minutes.

With no further business, the committee adjourned at approximately 12:50 p.m.

L. "Lucky" Varela
Chairman

1/20/010
Date