

Legislative Finance Committee  
Meeting Minutes  
Rio Rancho, New Mexico  
July 11-13, 2012

**Wednesday, July 11**

The following members were present on Wednesday, July 11, 2012: Chairman John Arthur Smith, Vice Chairman Luciano "Lucky" Varela, Representatives Henry "Kiki" Saavedra, Larry Larrañaga, Edward C. Sandoval, William "Bill" J. Gray, Nick L. Salazar, Rhonda King, James P. White, and Conrad James; Senators Carlos R. Cisneros, Sue Wilson Beffort, John M. Sapien, Pete Campos, Sander Rue, and Linda M. Lopez. Representatives Patricia A. Lundstrom and Jane E. Powdrell-Culbert attended as guests.

**Welcoming Remarks.** Robert Frank, new president of the University of New Mexico, welcomed everyone to UNM West. President Frank stated a recent LFC report on UNM and New Mexico State University highlighted efforts both universities should take, and UNM is making substantial progress on several goals. Cost-effectiveness was a concern in several measures, and non-resident recruitment will become part of UNM's performance metrics. UNM has 800 international students, with the goal of increasing this number to 2,000 in two years, and 3,000 in five years. UNM is implementing a systematic increase in preparatory requirements for admission and increasing the required GPA over time.

UNM predicts retention rates will be around 78 percent this year, with the goal of 81.4 percent in 2014. President Frank said graduation rates correlate with retention rates and predicted the graduation rate will be above 50 percent within two years. The university is also looking at slowly integrating some of the seven programs targeting graduation and retention for better effectiveness.

President Frank briefly overviewed plans to evaluate the university's current cost structure to maximize class offering sections and addressed a 2010 LFC evaluation that questioned why the university had not looked at a responsibility-centered management (RCM) model in which each college is responsible for budgeting and the revenue it brings in and makes faculty sensitive to university costs. Frank said a summary of different models and why the RCM would or would not work is due August 1, 2012.

In response to Representative White, President Frank stated UNM will sponsor an economic development conversation in September to talk about what kinds of jobs New Mexico should be creating with New Mexico's graduates. President Frank said New Mexico should focus on the long-term and on graduating students who come prepared to attend UNM today. Representative White said the state pays for remedial courses twice and asked whether the college standard was too high or the high school standard too low. President Frank agreed the issue was complex with many factors to weigh in -- high schools in New Mexico are variable in college preparation, and universities across the country are recognizing that students needing remedial courses need to be treated differently. UNM is eager to work on every program step to make the pipeline better, including working with Central New Mexico Community College to ensure students do not take extra hours due to advising inconsistencies and to pilot a math emporium program where students have to obtain proficiency to proceed.

President Frank told Senator Beffort he shared his concern about early childhood development and grooming principals in education colleges. Representative Larrañaga complimented UNM's research with nanoscience and biomedical engineering.

**Tax Expenditures.** Secretary Demesia Padilla, Taxation and Revenue Department (TRD), said in 2011 the governor issued an executive order requiring the department to compile a tax expenditure report. The long, complicated report is in draft form and has been presented to the governor. Simply put, she said, a tax expenditure report reflects taxes that are not collected. Sometimes, tax expenditures are difficult to target and difficult to measure. The TRD evaluated the economic costs versus the benefits of the policy, collecting data on reported and claimed tax credits, including deductions, exemptions, and exclusions, and came up with a template.

More than 400 credits and deductions were reviewed, and Secretary Padilla said the primary measure is the cost, with secondary measures being social well-being and employment criteria. The TRD encountered was tracking problems – a lot of credits and deductions are not specifically tracked on the report itself. Next, the TRD extracted exemptions and credits by industry codes for all of the deductions. Secretary Padilla stated money was appropriated to update the GenTax system, and she is confident the tax expenditure report will become a management tool and gave examples of the information that could be extrapolated by categories.

Tom Clifford, secretary, Department of Finance and Accounting (DFA), said in addition to evaluating tax expenditures in a systematic way, the executive order highlights the need to properly define the tax base to avoid double taxation. He said adding a tax expenditure should be thought of as a special exclusion or deduction or a special credit, a preferential rate of tax, or a deferral tax liability – a targeted use.

The tax code can be a powerful way for the state to deliver financial resources to households and businesses. Income tax returns and the Combined Revenue System (CRS) returns are how New Mexico collects payroll information, and it is a trade-off between moving money easily to private actors versus collecting information for oversight purposes.

Secretary Clifford stated federal deductions, personal exemptions and standard deductions will not be included in the report, which will focus on state provisions. Examples of tax expenditures include renewable energy credits and sustainable building credit. Secretary Clifford said the gross receipts tax (GRT) raises the most difficult issues with regard to the tax expenditure analysis because it is a very unusual, broad-based tax, often thought of as a broad-based sales tax. Deductions like wages, dividends and interest within the GRT prevent double and triple tax. Some provisions reflect the fact the government preempts the state's ability to tax certain transactions, like interstate commerce, and some are designed to streamline administration, such as isolated sales. The report will document many GRT examples, he said.

Regarding compensating tax, which would not be addressed as expenditure in the report, Secretary Clifton said the Legislature years ago decided New Mexico would not try to collect compensating taxes from households; and the exclusion for services is not a tax expenditure – this is common across the states and prevents pyramiding.

Secretary Clifford briefed the committee on tribal issues, saying federal law preempts state taxation of tribal governments and double taxation is important to encourage economic development.

Many different variables go into determining tax rates, and tax rates are not deemed tax expenditures. The appropriate rate depends on how the tax rate is defined. As a general rule, when interpreting the tax expenditure report, tax expenditure estimates cannot be added together because they are based on specific assumptions about the interaction between provisions.

Tax expenditure estimates do not reflect the amount that would be raised by repeal of a provision because timing and behavioral responses are not included; taxpayers may be able to use a different deduction to offset the same revenue if one deduction were to be repealed. The actual fiscal impacts depend on how the repeal is drafted. Some of the challenges in evaluating tax expenditures are tax policy criteria may not be relevant if a provision is really a substitute for expenditure policy and economic theory provides little guidance for evaluating provisions designed to reduce some inequality. Evaluating economic development tax expenditures presents challenges as well. Secretary Clifford said the key question is whether the incentive is effective in improving New Mexico's economy.

Representative Larrañaga asked if tax expenditures within some of New Mexico's tribal agreements were defined in the final report and argued those expenditures were merely "giveaways." Secretary Padilla said that the information would be in the final report, and Secretary Clifford added those expenditures grew out of gasoline wholesales by certain tribal entities. He told Representative Gray the state exempts roughly 5 percent to 10 percent of the tax base.

Senator Beffort asked about a film credit cost-benefit analysis on the systemic change in the way New Mexico does business with the film industry. Secretary Clifford said the department, along with the LFC and the Film Office is trying to scope the study so results are most useful to evaluate the incentive. Funding for the study is another question. Secretary Padilla confirmed roughly \$30 million in film credits have been requested for FY12. Senator Sapien respectfully disagreed with Secretary Clifford, who earlier attributed lower film tax revenues to an industry slowdown and said capping the film tax credit scared off business.

Senator Sapien asked Secretary Padilla about an analysis the TRD was doing on individuals using individual tax identification numbers to apply for different tax credits. Secretary Padilla said there were instances where individuals used both an individual tax ID number and a social security number on their W-2 to report refunds. These individuals have been sent a letter and the total number is approximately 6,500.

Representative Lundstrum asked why tax expenditures have not had been integrated more strongly with the appropriations process, particularly with health care. Secretary Clifford stated that, by spending money through the tax code, the state reduces resources available for programs. Chairman Smith said a large number of deductions are not being utilized and asked what was being done. Secretary Padilla stated the TRD has identified deductions not being utilized, and in some cases they will recommend those should be sunset to clean up the statute.

**Tax Reform to Enhance Economic Growth.** Helen Hecht, tax counsel, Federation of Tax Administrators, discussed two primary tax issues: the role of the principles of good tax policy in any kind of tax reform and what the federal government might be doing in the next few years in terms of reforming federal taxes and also trying to reform or potentially reform or regulate state taxes that she said could affect all of the states and particularly New Mexico.

Ms. Hecht said the federal tax system is among the most complex and that complexity costs business.

Ms. Hecht said that the first thing is to treat similar things in a similar way. If there are four similar things and you want to exempt three of them, you should consider exempting the fourth too, or treating it similarly. She said a clear, consistent standard, not easily manipulated, is needed.

Ms. Hecht said the presumption is that a tax benefit for one group is a cost to everyone else. At the federal level, it is one of the biggest problems with the federal tax system right now; as things get carved out, the overall rate has to go up. She said it is very hard to know if you are picking the right winner and to predict if an incentive is going to net you more in the end, in terms of economic development.

Ms. Hecht said the federal government could reform its system by getting rid of a lot of the special provisions, exemptions, deductions and lowering the rate overall. This would take out some of the complexity, eliminate the need to identify winners and losers, and make the system more fair overall, potentially encouraging growth in the economy. Exactly what provisions would be affected is hard to know, but the impact on the states is that it will broaden the base for states that impose corporate and individual income taxes.

She described some of the tax-related bills pending in Congress:

1. The Business Activity Simplification Act, which would impact the corporate income tax, would protect many big businesses and big corporate groups.
2. The Mobile Work Force State Income Tax Simplification Act, which says that states cannot tax nonresidents working in their state until that person has been in the state for 30 days, would generally increase the thresholds already in place in many states. New Mexico, for example, provides a 15-day threshold. Other states provide somewhere between a 15-30 day thresholds but some states don't provide any thresholds.
3. The Wireless Tax Fairness Act would prevent, by virtue of the way that it is structured, new taxes on wireless service and telecommunication services.
4. The Digital Goods and Services Tax Fairness Act, which sets out a comprehensive framework for how states can tax digital goods and services, bill limits how states can tax digital goods and services and gives these products special protections.
5. The marketplace bills would give states the authority to collect sales and use taxes on Internet retailers or remote sellers, as they are sometimes referred to. A 20-year old Supreme Court case says mail-order sellers cannot be made to collect the sales tax on things that they sell into a state, unless they have a physical presence there. The same is true for Internet sellers.

Richard Anklam, executive director, New Mexico Tax Research Institute (NM TRI) said the institute is a nonprofit, nonpartisan member organization dedicated to advancing the principles of good tax policy in New Mexico.

The NM TRI six principles of good tax policy are (1) Adequacy: Revenues should be sufficient to fund needed services. (2) Efficiency: Interference with the private economy should be minimized. (3) Equity: Taxpayers should be treated fairly. (4) Simplicity: Laws, regulations, forms and procedures should be as simple as possible. (5) Comprehensiveness: All taxes should be considered when evaluating the system. (6) Accountability: Exceptions should be rare and should be carefully evaluated and justified.

Mr. Anklam said 46 states and the District of Columbia impose some sort of income based tax on corporations. The gross receipts taxes are imposed on almost all business activity as opposed to just that of C-corporations.

Mr. Anklam described the corporate income tax as a tax on profits. Specifically owners of corporations pay tax on profits at the corporate level and as individuals. Small to medium businesses typically do not pay corporate income taxes so their owners only pay tax once. He said that corporate taxes were formally a general tax on most business activity; however, that is increasingly not the case with the expansion and increasing utilization of pass through entities. Federal rules often apply determining proper income/expenses and taxable income.

Elements to calculate the corporate income tax include filing methods, taxable income, apportionment method, tax rate, and incentives and credits. Because it takes all elements to calculate the corporate income tax, no one element of the corporate income tax can be analyzed separately from the other elements – they all matter.

Tax policy considerations include adequacy and stability of revenue source, equity toward similarly situated taxpayers, ease of administration and compliance and impact on economic activity and development.

Generally speaking, most states generate a fairly small portion of their general fund revenue from corporate income taxes. (New Mexico's percentage is around 5 percent). Corporate income taxes are one of the most unstable tax revenue sources. In part because the tax is based on income and corporations generate losses as well as income depending on the circumstances.

New Mexico has three filing groups. The first is a separate entity and also the default method, typically filed by a single legal entity. Second is combined filing; this filing is done by a unitary group of related companies as defined by application of the unitary business principle. Third, and last, is the consolidated filing, done by a group of related companies as defined by the Internal Revenue code.

Equitable treatment is important generally because small- to medium-sized business can avoid the corporate income tax. The tax is more likely to burden larger multi-state businesses. Policy reasons for this different tax treatment of corporations may have existed at one time but are less

clear now. States provide services to corporations but they also provide services to all other non-taxed entities. Reasons included liability limitations and access to capital markets.

State corporate income tax is very complex to administer and to comply with, in addition to complication at the federal level. State corporate income tax is as complicated because every other state tax combined and different approaches (i.e. separate filing versus combined filing) present differing complications. Compared with the revenue generated, this complexity is relatively significant, rendering this form of taxation exceptionally inefficient.

Because the tax generally falls on larger, multi-state companies, the impact of a particular state's corporate income tax may impact the amount of activity or investment a corporation makes in that state, depending on tax profile, sensitivity, and other business costs and priorities. New Mexico's corporate tax structure has been substantially the same for decades, while other states have been changing. Rate reductions have become more common than rate increases, alternative apportionment methods are becoming the norm, and mandatory combined filing is becoming more prevalent.

New Mexico's corporate tax is structured to favor local business. There is an apportionment of tax rather than income, which ensures that multi-state businesses pay at highest rate regardless of earnings in the state. Because of this, however, smaller businesses can manipulate income more readily than large businesses.

A tax study by Ernst and Young said roughly two-thirds of additional income from new investment in is subject to tax and New Mexico's corporate tax rate is slightly above average.

The study has been challenged because it used simple corporate income assumptions, combined filing was not modeled, and New Mexico filing openings were not considered or evaluated.

In an additional study by Ernst and Young, the results were essentially the same; however, New Mexico presented the highest effective tax rate on investment in all sectors reviewed. The study concluded that New Mexico business taxes, before credits, rank highest for all industries included in the analysis. Compared with the all-industry average effective tax rate for the other eight states included in the analysis, New Mexico's average effective tax rate is more than twice as high. The burden of the New Mexico corporate income tax, before credits, is significantly higher than the burden of the business entity taxes imposed by other states.

Mr. Anklam said New Mexico's state and local business tax system is almost certainly impeding economic growth. Because new capital investment is the channel through which innovative, competitive technology is added to the state's economic base, it is ultimately the source of growth in New Mexico's economy. The expanded capital base is also a key driver of the labor productivity that generates a higher standard of living for New Mexico's citizens. With corporate income and sales taxes that are out of line with comparisons states, New Mexico risks deterring new investment and added jobs.

He said there are numerous options for corporate tax reform, some targeted or broad based. However, other trade-offs, costs, and policy issues arise. The most- discussed reform options and

obvious alternatives include rate reduction, apportionment alternatives, mandatory combined filing and other clean up and reform.

Mr. Anklam noted one caveat: How a state taxes matters, but tax impacts on economic growth vary. Taxes aren't the only determinative factor for business investment, and tax reductions do not always pay for themselves, particularly in the short run.

He said options for corporate tax reform include cutting the rate, changing the apportionment of the tax, changing what activity is taxed, and mandating combined reporting.

**Tax Reform to Promote Economic Growth** Mr. Clifford, secretary of Department of Finance and Administration, said the executive budget priorities are sustainable budgets, education reform, competitive tax policies, meeting fundamental needs, protecting public safety, and efficient and accountable government.

In regards to tax reform, this requires a balancing of competing goals of tax policy. The goal is improving the current system in practical ways that do not disrupt the economy because taxpayers need predictability. Changes should be administrable without a dramatic increase in resources.

Mr. Clifford said that New Mexico has low property taxes, average income taxes, and high sales taxes. Revenue growth has been adequate to keep pace with population and inflation and also to allow for tax relief, however, revenue growth is also unstable. It is heavily dependent on minerals production. Mr. Clifford said that having adequate reserves creates opportunity to use a portion of new money for tax reform to promote economic development. He said New Mexico currently has adequate reserves.

Although the state has been growing the last five years, New Mexico significantly underperformed the national economy and is falling further behind the rest of the United States. The outlook is tougher competition for federal spending. There will be little support from construction and also there will be a tougher competition for oil and gas investment. New Mexico faces a critical need to diversify the state's economy

Mr. Clifford said the state needs a broader economic base. The current strength in revenue growth is very narrow. Almost all of it, the vast majority, is due to the oil and gas sector, directly or indirectly. New Mexico needs to distribute benefits widely while limiting the use of targeted incentives, continue to provide adequate revenue, and simplify administration and compliance

Some options for tax reform to promote economic growth include corporate income tax reform, small business tax relief and simplification, reduction of GRT pyramiding, veteran's pension relief, tax incentive reform, and administrative reforms.

Mr. Clifford said the state should look at significantly lowering the current corporate income tax and reducing the tax share based on property and payroll, repealing the throwback provision, or creating an ease rule for using net operating losses

Small business tax simplification would entail a gross receipts deduction if a company's total receipts were less than \$50 thousand. An annual GRT report would be matched with federal tax

reports to prevent tax avoidance. Currently, half of all businesses pay 1 percent of tax. GRT complexity is a significant burden for small business

The veterans' pension credit would give a credit for personal income tax liability from military retirement income. It would be phased in over four years and would primarily be aimed at recruitment and retention of skilled labor force. In addition to pension income, it is important to note that veterans bring funding for medical services.

**UNM School of Medicine Base Funding and Follow-up to University of New Mexico Health Science Center (UNM HSC) Evaluation.** Dr. Paul Roth, chancellor of UNM Health System and dean of the UNM School of Medicine, said the Health Sciences Center is very much dependent on the healthcare economy and general economy of the state to maintain its three-pronged mission of education, patient care, and research. The HSC has a positive economic impact of \$782 million to the state of New Mexico, employs 7,592 individuals, and supports \$347.6 million in salaries with out-of-state revenues, and 80 percent of revenues are generated by patient care.

Dr. Roth said the primary effort of the New Mexico Nursing Education Consortium (NMNEC), which allows courses and programs to easily transfer among the nursing schools in the state, is to increase the number of nurses with bachelor's degrees because research shows patients do better in hospitals with nurses who have bachelor's degrees rather than associate's degrees. The NMNEC aims to improve the pipeline by giving more nurses who attain their BSNs the opportunity to attain their master's degrees and become instructors.

Dr. Roth said GME, or resident training, is funded through Medicaid/Medicare and any additional resident positions over the cap have to be funded by or through UNM. The federal government is looking to manage the budget and possibly reform Medicare and Medicaid, which could affect GME funding.

Nearly 200 bachelors/doctorate (BA/MD) students are in the program, and the program is meeting its purposes of expanding the class size of the medical school and giving preferential treatment for students applying from rural New Mexico.

Dr. Roth said any request for additional funding will be for covering (1) the incremental costs of existing programs, such as a rise in utility prices, (2) additional expenses for expanding existing programs, such as the BA/MD program, or (3) the costs to establish new programs.

Dr. Roth commented on accountability for funds allocated to medical schools, saying many states produce a report card with metrics their legislatures deem to be appropriate. Dr. Roth said he believes this is the path New Mexico should take. Possible metrics include the number of entering students who are New Mexico residents and the percent of medical students passing licensure exams within the first year of graduation.

The committee then toured the UNM Sandoval Regional Medical Center.

## **Thursday, July 12**

The following members were present on Thursday, July 12, 2012: Chairman John Arthur Smith, Vice Chairman Luciano “Lucky” Varela, Representatives Henry “Kiki” Saavedra, Larry Larrañaga, Edward C. Sandoval, William “Bill” J. Gray, Nick L. Salazar, Rhonda King, James P. White, and Conrad James; Senators Carlos R. Cisneros, Sue Wilson Beffort, John M. Sapien, Pete Campos, Sander Rue, Stuart Ingle and Linda M. Lopez. Representative Rick Miera attended as a guest.

**Welcoming Remarks.** Katharine W. Winograd, president, Central New Mexico Community College, introduced Debbie Moore, a board member from the Rio Rancho area and thanked the committee for coming to Rio Rancho for its meeting. President Winograd began by touching on the partnership between CNM, UNM and Rio Rancho Public Schools, the two-plus-two-plus-two program. She said fall enrollment was close to 30 thousand students, and annually CNM serve more than 45 thousand individuals. Three thousand students have been served at the Rio Rancho campus. In the past year CNM has grown more than 32 percent.

CNM has significantly increased the number of students taking advantage of dual credit and has doubled the number of students transferring to four-year institutions. CNM’s focus on graduation has created a campus-wide passion for student success. President Winograd ended by thanking the committee for its continued focus on keeping the state of New Mexico financially healthy and for its recognition of the important role educated citizens play in helping them meet that goal.

Don Schlicte, school board president Rio Rancho Public Schools, said Rio Rancho Public Schools grew by less than 1 percent last year. After taking the necessary measures to cut expenses and ensure financial health the last four fiscal years, the district is financially sound and did not cut staff, although it did increase class sizes. The operational budget is approximately \$110 million. The focus of the districts’ capital improvement programs shifted from new construction to improvements in existing schools to enhance safety, security, energy savings, and basic maintenance. In February, the community passed a \$50 million bond referendum and renewed the Senate Bill 9 mill levy for six years. The Rio Rancho community has approved every bond referendum since the district was created in 1994. Despite the financial cuts, the district managed to maintain and improve overall levels of student achievement.

Mr. Schlicte the Rio Rancho school board is not opposed to the A through F grading system for schools; however, it has to be a simple system, enough for the average person to understand. Furthermore, the unfunded regulations and the administrative time that are being required to perform, are very burdensome.

**Developing Early Literacy in New Mexico.** Michael Weinberg, LFC’s Program Evaluation manager, told the committee that just over half of New Mexico’s third graders are reading proficiently, with implications affecting graduation rates, job placement, interaction with the welfare system, and even the criminal justice system. In response, the Legislature has invested in this area, starting with the public school funding formula, by quadrupling prekindergarten funding since FY06, and doubling K-Plus funding in the last year.

The report focuses on how to get more third graders reading at grade level and reached four main conclusions: Incremental changes can lead to meaningful improvements. Investing in prekindergarten and K-3 Plus pays off but implementation could be better. Retention works for some, but not all, students. Attendance, school leadership, and high-quality teaching are all important.

*Key Findings. Student performance is highly influenced by economic status, language status, and attendance.* Mr. Weinberg prefaced this key finding by saying students begin taking the standards-based assessment (SBA) in the third grade, providing the first “snapshot” of performance. Using scaled scores, the SBA has four categories: beginning steps (0-31); nearing proficient (32-39); proficient (40-55 and considered grade level); and advanced (56-80). In school year 2011 (SY11), 53 percent of New Mexico’s third graders were proficient.

Mr. Weinberg explained a scaled score is taking the raw score and converting it. In this case, the scale is 0-80. In SY11, 10 percent of third graders were within two points of scoring proficient on the SBA, which, he said, is important to note throughout the report, because when talking about changes, the difference is 1 or 2 points. It does not sound like much, he said, but in terms of “percent proficient” it makes a real and meaningful difference.

The largest achievement gaps in New Mexico are strongly associated with poverty and language. There are gaps among ethnicities, yet bigger gaps exist within ethnicities between students who do and do not receive free or reduced lunch (FRL) and those who English speakers or English-language learners. The gap between ELL and non-ELL students is getting bigger, too, which is not necessarily a national trend. It is important the state gets resources to the students who need it the most.

There is also a strong correlation between attendance and performance. Students showing up to school four more days a year improved their scaled scores by almost a point. Principals at “beating the odds” schools spoke at length about making innovative efforts to improve attendance. One component of school grading is attendance, giving almost all schools an “A” for attendance, and the LFC recommends that by raising criteria for how a school scores that “A” the state will see better incentives.

*While early education improves performance, lack of coordinated resources and inconsistent quality limits success.* New Mexico lacks kindergarten readiness standards and a common assessment, making it difficult to compare programs and clearly communicate expectations to parents. Based on Albuquerque Public School data, 15 percent of APS students are ready for prekindergarten. The Legislature appropriated \$19 million to the PED and the CYFD. In addition, the federal government is spending \$57 million on Head Start programs in New Mexico, serving about 5,400 students. Between the two, about 53 percent of poor 4-year-olds will receive some form of prekindergarten.

While prekindergarten programs serve higher percentages of Hispanic, Native American, ELL and FRL students than the overall third-grade population, in SY11 third-graders who attended New Mexico prekindergarten were proficient at 52 percent – a nearly identical rate. Mr. Weinberg said the statistic is even more remarkable given many of the non-prekindergarten students received educational programs, including Head Start, prior to kindergarten.

When controlling demographic variables, it is estimated that prekindergarten students outscore similar non-prekindergarten students on the reading portion of the SBA. Compared with a student group made up of similar ethnic, ELL, FRL, and special education proportions, those that participate in prekindergarten are estimated to earn an additional 1.2 scaled score points on the third grade reading SBA than non-participants. This impact is meaningful, given the distribution of scaled scores presented earlier, Weinberg said.

K-3 Plus, another investment, extends the school year by 25 days at schools with more than 85 percent of students qualifying for free lunch. In FY13, New Mexico appropriated \$11 million to this program, doubling it from the previous fiscal year. This summer 9,300 students will benefit from K-3 Plus. A Utah State University study found K-3 Plus positively affects third grade scores.

There are opportunities for improvement: The first is lining up prekindergarten and K-3 Plus services for the “full effect.” Only 81 students out of 25 thousand third graders attended prekindergarten and just two years of K-3 Plus. The second is to improve the overall quality of K-3 Plus. The LFC is recommending increasing oversight and accountability will improve this area.

*Previous early literacy efforts in New Mexico and other states have produced mixed results.*

States with mandatory third -grade retention generally provide remediation and intervention for struggling students, making it difficult to determine the cause of changes in student achievement. Recently considered New Mexico legislation would have required retention of third-grade students scoring at beginning steps, the lowest proficiency level on the SBA. Of the more than 25 thousand third-graders with valid reading SBA scores in 2011, 5,600, or 22 percent, met these criteria: however, a quarter of these students eligible for retention would not have been mandatorily retained because of a variety of exemptions. After exemptions, approximately 2,000 students, or 8 percent of third graders, would have been eligible for mandatory retention. At an average cost of \$7,000 per student, providing this extra year of school would have cost the state \$13.5 million.

Retention in grades K-3 occurs throughout the state. Retained students are placed on an academic improvement plan, and although current law allows parents of students in grades one through eight to refuse to allow their child to be retained for one year, almost 10 percent of the third grade class in 2011 had been retained between kindergarten and third grade. The greatest numbers of retained students were kindergarteners, steadily decreasing until third grade. Of all students retained in kindergarten to third grade, only 29 percent were proficient readers as third-graders in 2011. The effect of retention on third graders specifically presents similar results: Of the 100 retained third graders who scored at beginning steps in SY10; only 12 percent were proficient by the end of their second year. A quarter of the students did not improve, staying at “beginning steps,” and 63 percent moved up on level to “nearing proficient” after their second year of third grade.

In response to Representative Saavedra, Mr. Pahl said retention works for some students but it is not an approach that works universally. Representative Saavedra said unless we follow children home and talk to the parents, the state will deal with this issue for many years. Secretary Designee Hanna Skandera, PED, said the PED has started a program that acknowledges parent engagement in the school grades and has taken steps to involve parents well before third grade.

The department has launched a website in English and Spanish for parents to get involved. Mr. Pahl noted the PED's data system currently does not track retention for students in public schools. Moving forward, the LFC recommends the PED should annually report the number of students retained in each grade by district.

Mr. Pahl told the committee another early literacy program with mixed results is Reading First, a federally funded program similar to the currently proposed New Mexico Reads to Lead initiative. Six years after its implementation, Reading First had no impact on third-grade proficiency rates. From 2002 to 2008, New Mexico received \$65 million in Reading First funds and at its peak in FY07, served 19 thousands students in 100 schools across 39 districts. One main thrust of the program was the use of short-cycle assessments (periodic assessments showing a student's progress, helping teachers improve and inform instruction) to diagnose and improve student performance. While third-grade short-cycle assessments scores increased from 23 percent proficient in 2004 to 61 percent in 2007, SBA reading proficiency rates remained flat at 48 percent. This highlights the differences between the short-cycle assessment (DIBELS), which measures fluency, and the SBA, which measures comprehension – two different elements of reading proficiency. The LFC study found while there is a relationship between the two tests, it takes much higher DIBELS scores to see improvements in SBA scores.

Reading First and the New Mexico Reads to Lead initiative are similar programs, both requiring states and participating districts to adopt scientifically based reading programs, provide professional development, and track students' reading progress using valid and reliable assessments. Given New Mexico's investment in assessments, coaching and professional development, careful management of each effort is critical. The LFC recommends K-3 short cycle assessments be aligned to common core standards, measure growth of all students at least three times a year, be used more frequently for those in need, and allow comparisons with other states. The tests should be aligned with the SBA in such a way that progress on short-cycle assessments will ultimately be reflected in higher SBA scores.

State, district, and school-level management practices can help schools to marginally beat the odds. Recruiting and retaining high-quality principals is a challenge to most districts, but based on the results of an LFC survey, schools with low principal turnover averaged higher reading scaled scores. Of the six high-performing schools visited, each had principals with tenures of 10 years or more. In contrast, the six low-performing schools visited had at least three and as many as five principals in the last 10 years.

Elements within the current administrator licensure requirements and minimum salary structure act as obstacles to the supply of qualified school leaders in New Mexico. For many Level III teachers, it does not make financial sense to become a principal. Additionally, becoming a principal in New Mexico requires a minimum of six to seven years of teaching experience, while neighboring states require two to three years. The LFC recommends the minimum experience requirement for teachers to become principals be lowered to three years.

High-quality implementation of best practices impacts student growth as measured by the SBA. Based on an analysis of an LFC survey, for example, the use of the Measures of Academic Progress, or MAPS, as a short-cycle assessment correlates with higher student performance on the SBA. Similarly, schools that indicated their reading coaches spend time analyzing data were found to have better student outcomes. Finally, while DIBELS itself was not correlated with

higher test scores, regularly using the DIBELS to monitor student progress was also found to correlate with higher SBA scores.

Mr. Pahl concluded by summarizing LFC recommendations. To improve the overall governance system, the Legislature should

- Require districts to annually submit performance-based budgets to the PED, consistent with the Government Accountability Act and;
- Require a minimum of three years of teaching, or Level II licensure, to obtain an administrative license.

The PED should

- Annually report its process for determining SBA cut scores and a relative impact on proficiency rates to the Legislature;
- Evaluate the impact of bilingual models on the performance of New Mexico's English-language learners;
- Require districts to report data on student attendance and identify strategies;
- Raise attendance criteria in school grading to encourage schools to improve attendance rates;
- Coordinate allocation of PreK and K-3 Plus resources to increase the number of students who receive the full benefit of both programs;
- Increase oversight and accountability of K-3 Plus to improve consistency and quality of implementation;
- Require districts to report data on principal and teacher turnover and identify strategies for improvement;
- Adopt statewide, short-cycle assessments in grades K-3 that are aligned to the common core standards, measure growth of all students at least three times per year, can be used more frequently to monitor progress, and allow comparisons with other states.

*PED Response.* Secretary Designee Skandera thanked the LFC for focusing on reading and interventions and stated the department completely agrees focusing on early interventions is important. Ms. Skandera agrees the alignment of all prekindergarten programs with the CYFD is a must, and before giving allocations across the state, the PED coordinated with the CYFD to avoid duplication this year.

The PED responded in advance to LFC's recommendation by providing retention and promotion rates in a layered report.

Responding to the importance of having an early diagnostic assessment measuring more than fluency, Ms. Skandera stated right now the PED has a request for proposals out for a single, diagnostic assessment for capturing five key areas for reading competency. Results move with the child, and this assessment is expected to be easily administered, provide immediate feedback, and be done frequently.

Ms. Skandera stated she was struck by the importance of capturing statistical techniques to level the playing field and establish expectations, as well as a more accurate picture of what is happening with students. The PED's expectation is a 95 percent attendance rate, and Ms. Skandera said the PED welcomes dialogue on whether it is too high.

If a student is not proficient by third grade, they are four times more likely to drop out, which is why early intervention is important. Ms. Skandera said early intervention is worth investing in now for the return later. Retention on its own does not make a difference, yet the key is providing early, impactful intervention to maximize student success.

Senator Beffort stated it was very exciting that the state is correlating K-12 and higher education in terms of teacher readiness so teachers will not have to be re-taught best practices and asked what is being taught to student teachers to help young ELL students score well on tests. Ms. Skandera stated two things are happening to begin to address this issue: the Hispanic Advisory Committee is looking at identifying and replicating successful ELL programs and the New Mexico Teacher Advisory Committee is looking at what is happening in the classroom and how it relates to the teaching of Native American students and ELLs.

Senator Sapien asked where the PED was with pushing the unique identifier produced by the student data system called STARS s for students into early childhood education, or a birth to age 5 range. Ms. Skandera stated the PED does have unique identifiers for prekindergarten students, but not for Head Start because it is a federal program. The conversation with the CYFD has begun with how to report out and make sound policy decisions.

Senator Sapien asked how hard it is going to be to partner with private care providers for infants to children age 3 on assuring data is gleaned out of those systems and stated more money needs to go to the early childhood piece because leaps and bounds in learning take place. Mr. Weinberg said he saw a few options: When enrolling students in kindergarten, data could be collected as reported by parents. That could be part of STARS deal. Ms. Skandera stated there are concerns about time spent on reporting.

Representative King stated she found it troubling that not all schools needing K-3 Plus apply for funding because of various hurdles and wanted to ensure alignment of federal and state dollars for our neediest students, possibly through a mandate.

Ms. Skandera stated in addition to the \$3 million set aside for the kindergarten through third grade diagnostic assessment, along with the money for professional development to train teachers on the assessment, there is other professional development for teachers. Also, the PED has committed to provide reading coaches through for districts, with \$3.5 million set aside for that.

In response to Vice Chairman Varela, Ms. Skandera agreed the intention and the reason for the investment below the line is for accountability and said she looks forward to reporting on it.

Representative James asked if there was any interaction with families of children, and Deputy Secretary Paul Aguilar stated most school districts have a substantial home-visitation program where teachers in teams visit homes to get a sense of their home environment and encourage involvement.

**Update on School Grading System.** Secretary Designee Skandera told the committee the PED announced New Mexico's first official school grades. If New Mexico had not received a waiver from No Child Left Behind, 97.6 percent of schools would be labeled as failing to making adequate yearly progress (AYP). This year, 8.3 percent, or 69 schools received an F, a far cry

from a 98 percent failing. Ms. Skandera directed the committee to a sample report card. In addition to capturing the school on grade level, the school grade captures individual student growth over a three-year period. Furthermore, the school grade triple-weights the lowest performing students and their growth. Grades are available online, and multiple pieces of information are broken down so everyone can see where schools are struggling and making progress. Ms. Skandera noted within the first 48 hours of announcing school grades, the PED had 150 thousand hits, a sign of high interest in school status. More than 66 percent of schools either maintained their grade or improved. Ms. Skandera said she looks forward to breaking out more detailed information.

For the state to get a waiver from the AYP system, New Mexico's A-F system was reviewed by peers, the U.S. Department of Education, and a national review committee. Superintendents overwhelmingly chose a more complete calculation model over a simple, less informative one, capturing features such as mobility and attendance.

New Mexico's "A" schools are outperforming those schools making AYP by every measure the department can compare. This system is not leaving schools behind; 20.4 thousand more students are included in A-F grades, including the 260 schools previously not held accountable for ELL students.

**Dual Credit: Cost-Effectiveness and Impact on Remediation and On-time Degree Completion.** Valerie Crespín-Trujillo, program evaluator at the LFC, and Peter Winograd, director of the UNM Center for Education Policy (CEPR), presented to the committee.

Though research and evaluation on the impact dual credit courses are limited, the evaluation identified strategies for the Legislature, school districts, postsecondary institutions, the Public Education Department (PED), and the Higher Education Department (HED) to improve programmatic efficiencies and evaluation of student outcomes to determine the state's return on investment for this program.

Ms. Crespín-Trujillo said dual credit courses, which are college level courses taken by high school students that count for both high school and college credit, are part of a strategy to address weaknesses in New Mexico's educational pipeline, namely low high school graduation rates, high remediation rates in postsecondary education, and students taking too many credits and too much time to earn a certificate or degree. Dual credit courses cost the state an estimated \$34.4 million annually. The funding for academic year 2010 supported approximately 11 thousand students statewide in more than 3,000 dual credit courses.

**Key Finding: New Mexico is experiencing an increasing number of high school students taking dual credit, impacting state funding to public schools and postsecondary institutions.** A challenge for New Mexico's policymakers has been to accurately calculate the cost of offering dual credit courses or their impact on student high school and postsecondary performance. Since dual credit course funding is embedded in larger funding formulas (and thus not a direct appropriation), there is no opportunity to examine the exact amount of the public education and higher education funding dedicated to the program. By comparison, prekindergarten and Kindergarten-Three Plus, programs that have been a focus for expansion, receive direct appropriations.

Because New Mexico lacks a connected public education and higher education data system, analysis is difficult, especially in assessing how students' participation in dual credit while in high school impacts their performance once they are in college. Furthermore, controlling for students' academic abilities prior to taking dual credit courses is challenging and the possibility of selection bias exists when evaluating student outcomes because higher achieving students might be more likely to take dual credit courses than students who are not as prepared.

The variability of dual credit program design in New Mexico and across the nation makes program comparisons and identification of successful models difficult. Based on master agreements between school districts and postsecondary institutions across the state, eligibility requirements for students to participate in dual credit courses range by grade point average, minimum age and grade level, and the maximum amount of dual credit courses students can take per semester, among other requirements.

Since the formal dual credit program began in academic year 2009, enrollment has increased by 23 percent to more than 12 thousand students in academic year 2011. Currently, all high schools have at least one master agreement in place with a postsecondary institution, expanding accessibility of courses across the state. The availability of a variety of dual credit courses makes it an increasingly popular choice for students over honors, advanced placement, or distance learning courses.

In FY10, New Mexico invested an estimated \$34.4 million on dual credit students through the public school and higher education funding formulas and the dual credit textbook appropriation. The average estimated cost of dual credit on the public education side is \$18.7 million for basic program funding, \$14.7 million on the higher education side for instruction and general funding, and \$1.4 million for dual credit instructional materials, of which \$361 thousand was reverted to the general fund in FY10.

While funding to both the local education agency and postsecondary institution for the same course provides a financial incentive for the schools to offer dual credit courses to students, both entities are receiving full instructional funding regardless of the physical location and instructional responsibility for the dual credit course.

The LFC recommendations:

- The Legislature should consider alternative public school funding for students who take dual credit courses and do not attend high school full-time by amending state law to clarify current student membership and qualified students for full funding. The statute should state that school districts cannot limit participation in dual credit courses due to funding changes.
- Based on responses to a survey of dual credit administrators conducted as part of this program evaluation, the PED should meet with the school districts to introduce the new guidelines that have been developed for the allocation of dual credit instructional material funds to ensure all appropriated funds are expended in the future.
- The PED and the HED, along with school districts and postsecondary institutions, should work together to develop a more efficient and cost-effective way to purchase, distribute, and maintain textbooks used in courses offered for dual credit.

New Mexico is one of eleven states with a formal dual credit policy to fund both high schools and postsecondary institutions for full-time equivalent dual credit students at the same level of funding as traditional students. One major factor in the cost to deliver services is the location of the instruction for the dual credit course. It is known 59 percent of courses were offered at the public postsecondary institutions in fall 2010 and 41 percent were located at the high school. Dual credit course offerings in Albuquerque, Santa Fe, and Las Cruces are more frequently located at the postsecondary institution. Students in more remote areas are taking more dual credit courses at the high school.

Whether the course is offered on a college campus or a high school campus, both the postsecondary institution and the school district are funded for the students' educational services as though the student were a traditional student. Dual credit instructional arrangements occur in other ways like distance learning mechanisms.

The LFC recommendation:

- The PED and the HED should assess the full costs and benefits of dual credit financial policies and make recommendations to the Legislature on an equitable and efficient use of public and higher education funding for students in dual credit courses, including funding by course location, method of delivery and instruction.

New Mexico's policy to allow students to take dual credit courses at both community colleges and four-year institutions increases the geographic accessibility of courses, but college credits earned outside of the HED's lower-division general education common core courses are not guaranteed to transfer between all postsecondary institutions unless an articulation agreement is in place at an institutional level. This problem may contribute to the excessive credits being earned by New Mexico's students and will not reduce the cost of earning a postsecondary certificate or degree for the state or students.

The LFC recommendation:

- The HED should report the average number of credits being earned by students through dual credit courses and subsequently in college to ensure that students are not taking credits in excess of what is necessary to earn a degree because the credits are non-transferable between institutions.

*Key Finding: New Mexico's dual credit program has provided access for a wide range of students but lacks clear performance measures.* Analysis of data provided by the PED demonstrates that students with a wide range of academic aptitude, as measured by the 11th grade SBA exams in mathematics and reading are participating in the dual credit program. Research from the Teachers College at Columbia University cites dual credit as an example of an accelerated learning mechanism that can assist low-performing students in meeting high academic standards while helping those students realize their capability to undertake college-level courses. The participation of these students in dual credit could lead to increased college-going rates for all students, not just those who are on a path to go to college with or without taking dual credit courses.

The LFC's evaluation demonstrates that students in New Mexico who are taking courses for dual credit are experiencing better outcomes, such as higher graduation rates and reduced need for remediation, than are students who do not take dual credit courses in high school. Better student outcomes could economically impact the state and help save students money on their college education.

Dual credit can be used as a tool to move students through the educational pipeline from high school to postsecondary education by improving student performance, if there are clear guidelines and performance measures. The objectives of dual credit in New Mexico, as defined by regulation, do not explicitly support the desired outcomes that school districts and postsecondary institutions are working to accomplish. There is a regulatory framework for the dual credit program but no formal plan to use dual credit courses to support student success or a way to measure performance.

The LFC recommendation:

- The PED and the HED, along with input from the Legislature, postsecondary institutions, and school districts, should promulgate rules that more explicitly define the program's design to those practices and courses of study that have demonstrated improvement of student performance and set clear measures of success. The departments are encouraged to use the National Alliance of Concurrent Enrollment Partnerships Standards of Program Quality as a basis for developing these rules.

Without proper program evaluation to drive program improvement, it is difficult for policymakers and citizens to measure the impact of dual credit course-taking on college and career achievement and meeting workforce needs in a timely and most effective manner. Despite regulations for the PED and HED to conduct an annual evaluation of student performance for the governor and the Legislature, no detailed analysis exists of

- The high school graduation rates for participating school districts for dual credit students once the students graduate from high school,
- The New Mexico postsecondary institutions dual credit students ultimately attend, and
- The estimated cost of providing the statewide dual credit program, including tuition, fees, textbooks, and course supplies.

The LFC recommendation:

- The PED and the HED should be required to submit an annual report on dual credit costs and outcomes, as directed by dual credit regulation, to the governor and the Legislature as part of their budget requests.

*The final finding is that a lack of consistent goals for student educational pathways and weak oversight undermines justification for dual credit program costs.* The administration of New Mexico's dual credit program has not been geared toward specific outcomes and little program review has been exercised. Variation exists in the design of dual credit programs across the state and it is unclear about which models are making the greatest impact. The effects of taking dual credit are difficult to isolate when other factors, such as minimum grade point average, the grade-level and age of students, and limits to the number of credits that can be earned through dual credit, are influencing student performance and the time it is taking students to earn a

degree. Furthermore, the courses being offered for dual credit are not being reviewed by the state for content and evidence that they are contributing to the positive impact on student outcomes. Besides what is stated in the master agreement between school districts and postsecondary institutions, the PED and HED have a limited scope in the review and approval of eligible programs and courses.

The LFC recommendation:

- The HED should develop a process to review the master agreements for courses offered for dual credit and make a determination about appropriate courses that are academically challenging and impact student outcomes, such as those that are guaranteed to be transferable between postsecondary institutions and those that are offered in a structured sequence.

Without consensus about the objective of dual credit, few parameters exist to guide school districts and institutions on student eligibility and program design. By setting statewide minimum eligibility requirements for both students interested in taking career-technical courses for dual credit and students interested in core academic courses, school districts and postsecondary institutions are discouraged from enrolling unqualified students to increase enrollment.

The LFC recommendation:

- The PED and The HED should convene School districts and postsecondary institutions to develop common eligibility requirements for high school students to participate in dual credit courses across the state to promote participation of qualified students.

The dual credit council, an advisory group consisting of staff from the PED and HED responsible for issuing recommendations to the cabinet secretaries of the departments regarding dual credit issues, could lead the effort to address eligibility requirements and program design; however, the council has not met in over a year. Both school districts and postsecondary institutions have expressed a lack of direction for the dual credit program at the state level.

The LFC recommendation:

- The PED and the HED should reconvene regular meetings of the dual credit council and facilitate larger statewide meetings of dual credit practitioners and policymakers to inform them of program improvements, new regulations, and to share best practices.

Mr. Winograd said the dual credit program needs fine tuning. The issue of double funding is important but such issues need to be looked at in the larger context of return on investment, and the bottom line is how the dual credit program affects better college preparedness, the efficiency of college graduation, and efficiency of workforce recruitment. New Mexico is one of a few states with such a large-scale statewide program.

### Key Findings

- New Mexico's statewide dual credit programs appear to be an effective large scale policy initiative aimed at improving student success.
- Dual credit programs appear to be associated with increased levels of student

- performance in both high school and higher education.
- Dual credit programs appear to reduce the long-term costs of education and provide potential benefits on students' life earnings.
  - High schools and higher education institutions can, in fact, work together.
  - The content and delivery of dual credit programs needs to be refined to ensure consistency and rigor across a large statewide program.
  - Dual credit programs must overcome a number of fundamental issues if they are to make permanent difference for large numbers of students.
  - Ensure equity and accessibility of accelerated learning programs to all students

Mr. Winograd presented numerous maps, charts, and graphs illustrating New Mexico graduation rates, remedial performance, dual credit enrollment, and other relevant issues for the dual credit program. The data showed that dual credit is associated with the following:

- Increased high school completion rates,
- Increased high school completion rates,
- Reduced need of remediation,
- Increased student persistence,
- Students earning credits faster,
- Increased student persistence,
- Higher college graduation rates,
- Shorter time to graduation,
- Quicker times to graduation across differing levels of academic preparation.

New Mexico has one of the most generous dual credit programs in the nation, resulting in minimal, if any, financial barriers to entry for students. The state provides full funding to both the high school and college for the dual credit course, independent of the course location or delivery method. The state must understand how to balance the immediate costs with its potential long-term benefits and structure the programs accordingly.

Despite enrollment growth, dual credit programs still comprise a small portion of New Mexico education spending. Gains in student performance have the potential to reduce state expenditures.

Gains in student performance have the potential to save students and families money, and have the ability to increase lifetime earnings. Students who take a dual credit course are projected, on average, to earn about \$200,000 more in their lifetimes than their peers.

Collaboration provides challenges. The alignment of high school graduation standards and college admission standards, articulation agreements about which courses will count for what kinds of credit, concerns about college reputations and status, concerns about younger high school students attending college campuses with older students, regulations about which colleges can offer dual credit in which geographic regions of the state, and the practice of blaming public schools for the poor performance of students in higher education are some of the issues potential partners must resolve if they are going to work together.

Funding provides challenges as well. Most current funding mechanisms rely heavily on student

enrollments and thus pit high schools and colleges against one another in terms of who gets the credit for dual credit students. These same funding mechanisms can pit high schools, community colleges, universities and families against one another because it may be less expensive to take some courses as dual credit rather than waiting until the student has graduated from high school and is attending a college or university. In addition, some legislators and educators are concerned about double funding. It is also important to consider how the costs of transportation, technology, and instructional materials will be covered.

Quality and accountability provide challenges. High schools and higher education institutions often bicker about which courses can be taught at what locations and by whom and they use the issue of quality to mask a wide range of concerns. In addition, it is very difficult to get the data needed to assess the impact of these programs. A number of states have developed effective strategies for overseeing dual credit programs and we think these are promising strategies that should be expanded.

Differing perceptions on the value of a college degree provide challenges. Some of the most interesting debates about dual credit programs come from the differences in people's deeply-held beliefs about the purposes of high school and college. Although most New Mexicans agree that all students should graduate from high school, there is less agreement that all students should go to college.

Ensuring equity and accessibility to dual credit programs is a challenge. One of the most disheartening findings to come out of our research is that dual credit and other accelerated learning programs come too late for too many minority and high poverty students. Even the most effective accelerated learning programs are limited to the students who make it through the system to high school and are prepared enough to take advantage of these more rigorous learning opportunities.

*Public Education Department Response.* Paul Aguilar, deputy secretary at the PED, commented on the evaluation's point that there is a lack of consistent goals for student educational pathways and weak oversight undermines justification for dual credit program costs. Mr. Aguilar stressed the importance of adhering to the principle that local boards and local school districts know what is best for their students, which is relevant in comparing education pipelines between metro areas and the many rural areas of the state.

Mr. Aguilar addressed double-funding concerns, saying there are statutory concerns such as defining a full-time student. He also stressed the importance of distinguishing between absolute double-funding and proportional double-funding (related to necessary operational needs).

Collaboration among educational, governmental, and business leaders in educational reform is important, and Mr. Aguilar commented on the successes of the Bridge of Southern New Mexico and the Arrowhead Early College High School (one of the Bridge's collaborative efforts). The school succeeded by not having a single dropout in the past year. New Mexico has 70 students drop out per day, on average, he stated.

Mr. Aguilar commented on the goal of employability after education. Outcomes for educational institutions need to be looked at with workforce outcomes. He said we should ask, "How are we preparing our students for the workforce?" He stressed the importance of collaboration between

education and the private sector.

Mr. Aguilar stated he did not disagree that there is a lack of written performance measures, but said students are performing, graduation rates are improved, time to completion has improved, and truancy has improved. This shows dual credit works and only kinks need to be worked out. He stressed the need to provide great options for students and families.

**Arrowhead Park Early College High School (APECHS), Las Cruces.** Jennifer Amis, principal and director of Career Technical Education said APECHS emerged as a best practice throughout the United States when Las Cruces Public Schools and the community began looking for solutions to the dropout rate. She said the success of APECHS can be measured by its graduation rate. She also said students can earn an associate's degree, for free, by the time they graduate from APECHS.

Now in the third year, the school has no dropouts, and 63 percent of APECHS students are first generation college attendees. Ms. Amis stated 100 percent of each cohort progress to the next grade level on time. Ninth and 10th graders of the school completed 964 dual credit courses at a 97 percent success rate with As and Bs. Students at APECHS have a 95 percent Algebra I pass rate, compared to approximately 50 percent across the state.

Tracey Bryan, president of the Bridge of Southern New Mexico, made some comments for the committee. She said the success of APECHS is due to the leveraging of resources between educational, business, and community leaders. She said collaboration between entities such as Las Cruces Public Schools and New Mexico State University is the key to the success of the APECHS. Bryan added that students at APECHS represent average students in Las Cruces Public Schools. Statistically, 47 students of the first two classes at APECHS could have been dropouts. Bryan expressed strong support for the dual credit program saying the lifetime return on investment is substantial.

Chairman Smith commented that the APECHS is a success and he hopes the success continues. He also said APECHS is possibly providing for a new model in New Mexico.

**Program Evaluation: Selected Capital Outlay Projects.** Jeff Canney and Brenda Fresquez, program evaluators, LFC, briefed the committee. Mr. Canney stated the report highlights the importance of careful planning, cost containment, and adequate oversight to provide the most efficient delivery of services to taxpayers. Projects evaluated were selected based on large appropriation amounts, legislative interest or known risk, and also represent a combination of agencies and sponsorships. The three projects were the Corrective Action Fund, the Santa Fe Bikeways Project, and the Mesalands Community College Wind Center.

**Corrective Action Fund (CAF).** The state consumes a surprising 1.4 billion gallons of gas per year. This volume of gas is delivered in 8,000 gallon tanker trucks, hauled from the refinery and pumped into underground storage tanks at the service station. Of the \$150 load fee, collected at the refinery, \$110 goes to the CAF. This \$110, (2 cents charged on every gallon) earns the CAF more than \$18 million per year. With 90 percent of our state relying on underground sources for drinking water, gas spills must be prevented and cleaned up, which is the purpose of the corrective action fund.

Considering the number and severity of new gas spills is decreasing, the key question is when will the sites be cleaned up?

The Environment Department's Petroleum Storage Tank Bureau (PSTB) oversees the administration of the CAF and has a dual responsibility of preventing spills and for cleaning up spills when detected. Mr. Canney began to highlight the key findings progressing from inspection, to remediation, then to transfer of funds.

The PSTB Inspection Section reported 66 percent of USTs were in compliance with regulations. This trails the national average of 71 percent. From 2006 to 2011, the national average shows an increase from 62 percent to 71 percent. This trend shows gradual improvement over time. The state of New Mexico shows a reverse or declining trend, until the last year, when the trend finally improved.

While 2008 and 2009 marked drastic drops in compliance for New Mexico, bottoming out at 57 percent, the PSTB explained that they introduced higher inspection standards, to improve the expectations and performance of service station owners. In 2011, compliance improved to 66 percent. This improvement still trails behind the national average of 71 percent. It is likely that this improvement will continue.

The Prohibition of Delivery amendment is a success for New Mexico. Effective March of this year, regulations were amended to allow the "prohibition of delivery," which would effectively stop gas deliveries to habitually non-compliant operators. While this new regulation adds significant strength to force compliance, it is considered a last resort, because, when deliveries are stopped, the business most likely closes.

The PSTB reports compliance data to the U.S. Environmental Protection Agency (EPA) and as a performance measure required by the Accountability in Government Act in NM. This compliance measure is an important measurement for the Environment Department but was absent from the last two quarterly performance reports.

Regarding New Mexico's progress in closing sites, the inventory has dropped from 784 sites to 722 sites. However, their progress has drastically slowed. In 2009, there was a data correction that resulted in 85 sites being added back to the inventory.

When comparing New Mexico with national averages, it should be noted that unlike other states in nation, New Mexico will remediate not only the soil directly contaminated, but also the groundwater below it. According to the EPA and the PSTB, this requirement, along with higher groundwater protection regulations, contributes to higher costs and longer remediation time to clean up sites. More than 700 sites remain to be closed.

A comparison was made between the federal EPA-recommended remediation process against the PSTB's remediation process. Two fundamental differences exist and are listed:

1. The PSTB remediation process does not follow EPA recommendations for expedited site assessments and pay-for-performance contracts.

2. The PSTB does not conduct complete site assessments, identified by the EPA, as the critical, first step, for planning the remediation and selecting the appropriate technology. The EPA promotes expedited site assessments to be used as a basis for “pay for performance” contracts with vendors. A pay-for-performance contract sets a fixed price, paying vendors after achieving reductions in contamination. Contractors are rewarded for quickly and efficiently reaching cleanup goals, rather than rewarded for prolonging the work!

The PSTB does not disburse payments based on attainment of contamination reduction levels. The PSTB remediation process postpones the full site assessments, and hires vendors, using a limited-scope request for proposal. Once the vendor has been selected and begins work at the site, the contractor may extend the length and scope of work depending on the extent and conditions of the spill. The incentive for an expeditious remediation is removed with minimal business risk to the vendor.

The Grants Triple Site is the No. 1 priority for the PSTB and one of the most expensive and lengthy remediation sites in the state. A limited-scope request for proposal for one year of work was issued and four bids were received. The winning proposal was awarded to Brown Environmental, with a best and final offer of \$1.39 million. This offer expanded to a four-year contract not to exceed \$4 million. The scope and amount was later expanded not to exceed \$7.5 million. The cumulative increase was \$6.1 million and the project still continues.

The EPA-suggested approach would have been to conduct a complete site assessment first and then execute a pay-for-performance contract, which rewards vendors for quicker clean ups.

As other states make progress and inventories decline, many are considering retiring the corrective action funds and will be transitioning to private insurance mechanisms. Currently, 24 states already have or plan to retire corrective action funds.

The next key finding speaks to the transfers from the fund. The Government Accountability Office (GAO) reported in 2005 that New Mexico transfers more CAF monies out of the fund than any other state in the nation. The Environment Department transfers 30 percent of the CAF annual revenues, as provided for in statute, to address water needs and to provide required state match for federal grants. Only seven states in the nation reported such transfers, with New Mexico reporting the highest amount. The 2005 amount was \$5.4 million. Mississippi transferred the second most at \$3.1 million. In FY11, the New Mexico amount was \$5.6 million. This then left 55 percent of the fund available for remediation, which remains for contracting the work for cleanups.

The final key finding shows that the current underground storage Tank inventory would be eliminated by 2032 at a cost of \$263 million. Averages are used to show how the projected progress over 20 years, will eliminate the inventory. While averages are used in the projection, the dollar amount of \$263 million is within 5 percent of the Environment Department’s estimate of \$249 million. The Environment Department’s projection does not include a projected year for eliminating the sites. According to the Environment Department’s Strategic Plan, the goal is to close 30 sites per year. 30 closures per year would extend this projection, far past the 20 years

identified in the graph. Once these existing spill sites are cleaned up, it's possible that our state could consider reallocating future revenues to other need areas. The key question is when?

Key Recommendations:

The PSTB should

- Report quarterly compliance percentages as an effective inspection performance measure.
- Report number of cleanup sites in inventory, by priority, as an effective remediation measure.
- Report annual goals for the number of closed sites from inventory, by priority.
- Report the projected year for the elimination of cleanup inventory.
- Conduct complete site assessments prior to executing work plans, as suggested by the EPA.
- Execute pay-for-performance contracts that provide incentives for contamination reduction levels, as suggested by the EPA.
- Implement a procedure to improve tracking of fixed assets owned by the PSTB.
- Request annual budget to match projected revenues plus excess cash balance.
- Execute annual work-plans for the fiscal year, equal to the annual budget for contracting.
- Set work plan termination dates at the end of the fiscal year.
- Budget and spend down excess cash balance.
- Re-establish the Storage Tank committee to increase oversight of key performance measures addressed above.

Santa Fe Bikeways. Ms. Fresquez told the committee the state contributed \$3.5 million to the cost of six miles of new bike trails. She also noted that there was no formal maintenance plan in place to ensure long-term accessibility and safe use.

The \$3.5 million appropriation to the city of Santa Fe was to plan, design and construct bikeways and horse trails in Santa Fe County. This was part of a larger \$18.8 million city project for seven bicycle and trail projects and not one specific trail. The seven bike and shared-use trail projects approved by the city's Bicycle and Trail Advisory Committee were funded by the city's 2008 \$30 million Capital Improvement Program bond for parks and trails. Overall state funding paid for 19 percent of the city's total estimated cost of \$18.8 million for the seven trails. The city's computation of the state's cost allocation per trail was difficult to determine. Expenditures were captured in a general trail account and specific trail accounts. The accuracy of total cost by trail could be difficult to determine without subsidiary tracking by project identification number. This was evident when the city was asked to provide the cost per mile. Even though the city provided the information, it was not easily accessible and unavailable in some instances. The cost of new trail construction varies because an assortment of factors, such as trail type and local conditions. Examples of local conditions may require drainage, excavation and the installation of bridges. Comparison with other states shows that cost per mile ranges from \$250 thousand to \$1.8 million, depending on the type of trail and local conditions.

The state's role in local government capital projects should be clearer to ensure taxpayer dollars are spent efficiently and effectively and enhance oversight to avoid mismanagement of funds and misinterpretation of the legislation. Although intergovernmental agreements state the local government is strictly accountable for receipt and disbursement of the funds, project details and

what type of expenditures are allowed is not defined in the agreements. The lack of detail makes it difficult for DFA to detect duplicate spending.

The DFA Local Government Division project oversight and monitoring needs improvement. Although DFA's oversight was limited to ensuring reimbursement requests were in accordance with the legislation by reviewing the detail descriptions of the invoices submitted, the LFC identified \$67 thousand of questionable expenditures. The questionable items were not in accordance to the legislation and included right-of-way and easement purchases, equipment, maps, tools for maintenance and paint for graffiti removal on trails. The DFA correspondence to the city in November 2008 stated, "The language as it reads does not allow for land or easement acquisition so the City will need to assume that expense." Subsequently the DFA approved reimbursement of right-of-way and easement purchases. Even though DFA used the special meaning in road or street context of the bond disbursement rule, it appears they might have taken a broader interpretation of the rule to allow reimbursement of right-of-way and easement purchases.

Ms. Fresquez stated the city of Santa Fe does not have a formal trail maintenance plan or dedicated budget even though it has a large investment in the bicycle and multi-use trail infrastructure. Currently the city's multi-use trails are maintained with three to six parks maintenance workers depending on the time of year, special requests and events. There is not a separate trail maintenance budget for operational supplies, any operating expenses beyond the trail. Maintenance workers come from the parks maintenance account; in FY11 the parks maintenance budget was \$120 thousand. Maintenance of bikeways is important for user safety and for protection of public funds invested in these facilities. Well-maintained facilities minimize hazards and increase usage of bicycle facilities.

Santa Fe Trail use data is limited. Gathering trail usage data supports improved planning, design, and operational decisions. In 2009, the city's traffic engineers conducted trail usage data counts but those counts did not distinguish between pedestrians and bikes. It is difficult to measure positive benefits of the taxpayer's investment without accurate and consistent usage and demand data. Usage data also provides a baseline for future trail planning and needs assessments. Until recently the Santa Fe Metropolitan Planning Organization (MPO) has not been able to organize the collection of usage data but due to staffing resources. The MPO will be expanding its data collection program and is currently investigating equipment options as well as looking into volunteers or interns to help collect data. The economic impact of the investment in Santa Fe's bicycle infrastructure has not been quantified. The Santa Fe MPO and the city will have the opportunity to capture this type of data as a baseline when the city hosts the 2012 International Mountain Bike Association in October 2012.

The city's internal controls are sufficient to ensure accountability of taxpayer dollars. Each city trail project has a city construction inspector to monitor field progress during construction and the inspector maintains daily construction progress reports to ensure the contractor is complying with the performance schedule. Procurement activities were appropriate and competitively awarded, and the city's grant administrator maintains adequate progress reports and correspondence from the city's project manager and the DFA.

### Key Recommendations:

The Department of Finance and Administration should

- Consider grant agreements that specify what types of expenditures are allowed under the legislation to prevent mismanagement of funds and misinterpretation of the legislation.
- Evaluate its reimbursement process to ensure funds are spent in accordance with the legislation.

The city of Santa Fe should:

- Return funds to the state for expenditures outside of the legislative language.
- Establish a formal bike trail maintenance plan and budget to ensure the infrastructure is safe and accessible and protect the taxpayer's investment.
- Coordinate with the Santa Fe Metropolitan Planning Organization to develop and implement systematic bicyclist count and survey program.
- Consider evaluating its project cost accounting methods to ensure the accuracy of cost per trail and improve tracking trail project costs.

Mesalands Community College Wind Center. Mr. Canney noted that this evaluation was a limited scope evaluation. He stated that the state appropriated more than \$9.1 million for the plan, design and construction of the Wind Center located in Tucumcari. In 2010, the Mesalands Community College (MCC) completed the new 26 thousand square-foot Wind Center to provide facilities for training students in wind energy technology and to host visiting students and research staff is a 1.5 megawatt wind turbine which provides training and research opportunities, powers the Wind Center and earns approximately \$100 thousand in revenue annually for Mesalands.

The first key finding is that the Wind Center Building was constructed at twice the average Tucumcari construction cost at \$234. This cost per square foot for the Wind Center was double the estimate for comparable vocational school, auditorium, and labs.

The last key finding is that the Wind Center 1.5 megawatt wind turbine was purchased and installed at a cost savings to the state. Although the MCC received only one proposal for the wind turbine, the wind turbine was solicited fairly. The overall wind turbine cost was \$3.2 million. In determining whether or not the state received a fair price, a comparison was made using the Wind Technologies Market Report which stated that smaller wind farm projects, cost substantially more to procure and install, relative to larger scale projects. The study projected the cost per kilowatt for smaller projects at \$2,700 per kilowatt. Using this projection the MCC turbine was procured and installed at a cost savings of approximately \$838 thousand.

The LFC recommends

- The New Mexico Higher Education Department should follow the New Mexico Administrative Code 2.61.6.9 (A), to make grants to local government entities to carry out the completion of the projects.
- The Legislature should consider the funding of capital outlay projects as a two-step process. The first step would be funding the planning and design phase which provides an accurate estimate of the cost. The second step would involve approval for the funding of construction. The LFC will continue to provide evaluations focusing on capital outlay

projects and the recommended two-step process to make the most of our state's scarce resources.

*Department Responses.* Mr. Jim Davis, Resource Protection Program director with the Environment Department, stated the report is significantly flawed because it did not recognize and address the above-ground storage tank population in New Mexico. Regarding complete site assessments, Mr. Davis stated assessments are sufficient in order to allow for contractors to design adequate remediation systems—always a balance to attempt to determine how much information is needed to design an effective remediation system versus complete knowledge of contaminant mass.

Mr. Davis stated pay for performance contracts limits the ability to be responsive, citing Kirtland Air Force Base as an example. The contracting approach currently in place allows for a more adaptive response when information and circumstances change.

Regarding the cash balance in the corrective action fund, Mr. Davis said the unobligated balance of the fund that is the important number in terms of how the fund is being used. Mr. Davis directed the committee to the rest of the department's response in the program evaluation.

Ryan Gleason, Local Government Division director, DFA, stated the evaluation has offered items to take under advisement, and illustrates what staff deals with concerning the staff deals with. The DFA has implemented a level of review beyond the program manager's review, utilizing a more experienced person. Next, any project over \$.5 million is physically inspected.

Robert Romero, city manager of Santa Fe, stated the city just passed a bond that funds an additional \$6 million of trails. Regarding the city's maintenance plan, there a specific parks and trails crew, and inmates are also used. Mr. Romero listed accolades from various organizations citing Santa Fe as a bike-friendly city.

Jim Morgan, director of the NMWATC, stated the response is included in the report and is open to questions.

**Status and Oversight of Local Government Financial Condition.** Ryan Gleason, director of the Local Government Division at the DFA, provided data to the committee illustrating taxes and other financial measures for municipalities, counties, and the state and added Sunland Park will probably have an upcoming change in its property tax mill rate. His staff is working with municipalities and counties to try and build better reporting mechanisms and find ways to independently verify data.

His agency is investigation significant discrepancies in reports on gross receipts taxes between the TRD and local governments.

Hector Balderas, state auditor, said local and rural communities are having problems securing auditors. Rural communities can secure much cheaper audits if the government budget is less than \$500 thousand. In 2009, 91 governments (totaling more than \$1 billion in funds) did not meet annual auditing requirements. As of June 26, 61 governments are late in submitting audits.

Mr. Balderas said within 90 days of not receiving an audit, his office investigates the cause of the delay; staff turnover, a lack of financial expertise, expense, and a lack of awareness of annual audit requirements are common reasons for late audits.

Edwin Zendel, director of Risk Services at the New Mexico Municipal League, said municipalities in New Mexico are overly dependent on gross receipts taxes, making tax revenues very vulnerable to changes in the economy. There is great variability across the state in deficits and surpluses for municipalities. Municipal leaders, in general, do a good job of adjusting to whatever situation they find themselves in. Monthly meetings make adaptation in their situations easier and quicker.

Tasia Young presented on taxes and revenues across New Mexico counties. She directed the committee to her presentation handout illustrating county taxation information related to payments in lieu of taxes, the Secure Rural Schools and Community Self Determination Act, and gross receipts taxes.

Ms. Young said the gross receipts tax structure is much simpler in municipalities with a system of four increments, compared with counties with 17 increments. Some county increments are used by only one county or possibly no counties.

Counties rely on many critical state agencies for oversight, technical advice, and regular communication. She said such agencies include the State Auditor's Office, the Property Tax Division at the TRD, and the Local Government Division at the DFA. She also said counties rely on good, timely fiscal impact reports.

Christine Boerner, analyst, LFC, presented to the committee on local government oversights, saying the workload at the Local Government Division hampers its ability to do good analysis. Each analyst is overseeing six counties, 17 municipalities, and 36 special districts, on average. Local governments struggle from a lack of information technology solutions; all of their information is not in a single database. The DFA and the State Auditor can work better together to provide better local government oversight.

Senator Rue asked Mr. Balderas about noncompliance in submitting timely audits. Specifically, he asked who makes the decision to take punitive action and if it has ever been done. Mr. Balderas said his office does not have fining authority, but can suggest a withholding of 5 percent of funds after an investigation of 90 days. In reality, it would be about six months before there would be a realistic consideration of withholding funds at the DFA.

Chairman Smith said we need to find a more expeditious way to dissolve charters with smaller governments. A much larger issue that needs attention is financial soundness concerning gross receipts claw backs and municipal bonds.

**Housing and Construction Outlook in New Mexico.** Karen Marcotte, owner, Consensus Planning, said they are currently seeing a seismic shift in demographics in population, and that the take-home message is the new normal of the new economy is going to be nothing like the old economy.

In terms of broad changes, America is aging, and there are more single parents with more people living past 85. Education impacts incomes; unemployment rates for people with bachelor degrees are 4 percent, while the rate for people who drop out of high school is 15 percent.

Ms. Marcotte went on to say that we are going to need more apartments, more senior living facilities, small town homes and also larger homes for multiple generations. Rental housing is on the rise. The percentage of people who own homes is dropping and a lot of this is led by both retiring baby boomers and older generations but also led by the millennial generations that are looking for transitional places.

Co-work solutions will become more common and changes in zoning codes in our communities will accommodate changes. She said most communities are using zoning codes that are 20-30 years old.

Ms. Marcotte said she believes housing will still be a very important contributor to getting the economy back, but that there will be different kinds of living and working products that are going to be combined, in addition to rental products that are built instead of for-sale homes. With this new market, Ms. Marcotte stated that the most successful builders will be those who are paying attention to these demographics, and this marketing data, because it will show them what kind of products these people will need in the future.

Chairman Smith said this is an aggravating issue across the country and that 100 percent financing will not be as pervasive as it once was. Senator Smith also said that this will also have an impact on education because these houses have to be built by someone with the skills. This issue is much more systemic than analysts have realized. He thanked the presenters for the presentation.

### **Friday, July 13**

The following members were present on Friday, July 13, 2012: Chairman John Arthur Smith, Vice Chairman Luciano “Lucky” Varela, Representatives Larry Larrañaga, Edward C. Sandoval, William “Bill” J. Gray, Nick L. Salazar, James P. White, and Conrad James; Senators Carlos R. Cisneros, Sue Wilson Beffort, John M. Sapien, Cisco McSorley, Sander Rue, Linda M. Lopez, and Stuart Ingle. Representatives James Roger Madalena and Jim W. Hall attended as guests.

**Welcoming Remarks.** Village of Corrales Mayor Philip Gasteyer said resources for providing basic municipal services are threadbare. Mr. Gasteyer stated Corrales is a cash cow for the county and state. Corrales’ public works has been a challenge in the last four years.

Mayor Jack Torres of Bernalillo stated the town is the oldest and smallest in Sandoval County and about 72 percent of the general fund revenue comes from gross receipts. Of that amount, close to 25 percent comes from “hold-harmless” gross receipts tax revenue that come back to the town to compensate for the inability of local governments to collect gross receipts taxes on food and medicine. Any more hits to revenue will mean a decrease in basic services. Mayor Torres stated there are many communities relying on hold harmless to survive.

Daryl Madalena, chairman, Sandoval County Commission, said he represents five of the seven pueblos in Sandoval County. Chairman Madalena stated there will always be issues between tribes and municipalities and told the committee how Sandoval County stepped up and helped with a tiger grant to refurbish Torrejon Road.

Chairman Magdalena said he is also concerned with the fact that 36 out of 38 bills intended for Native Americans were line-item vetoed but a \$1.4 million facility for UNM's athletic facility was approved. He said it is incumbent on everyone to work as a community to make sure everyone's health, welfare, and jobs are secure.

Thomas E. Swisstack, mayor, Rio Rancho, said everyone in Sandoval County works well together. Rio Rancho has grown to almost 88 thousand people, a 69 percent increase. Over the last few years Rio Rancho has been fortunate and Mayor Swisstack attributed this to former City Manager James Jimenez. Rio Rancho has opened up two hospitals, a branch of Central New Mexico Community College, and close to 150 small businesses. Mayor Swisstack said his is open to a dialogue on long-term funding sources and infrastructure so growth can continue.

Mayor Swisstack acknowledged a discussion needing to occur is the hold-harmless repeal, which could hurt everyone. If it has to be lost, it needs to be done in a way that allows t local governments to adjust. Mayor Swisstack concluded by saying he never loses sight of the fact the Legislature has helped the Rio Rancho grow as community.

Chairman Smith addressed the hold-harmless, saying the provision has become too expensive and should have included "safety valves."

Representative Larrañaga asked Mayor Swisstack to address the Hewlett-Packard layoffs and the Mariposa issue. Mayor Swisstack said despite rumors, Hewlett-Packard maintains they are restructuring, not going away and will cut about 100 jobs. Regarding Mariposa, the financial obligation is basically the responsibility of Mariposa, yet the city is involved with trying to come up with a solution that will be acceptable to everyone.

**Transportation Funding – Major Investment Projects and Priorities.** Department of Transportation Secretary Alvin Dominguez introduced members of his staff and thanked the committee for their time

Tom Church, deputy secretary of business support, said state road fund revenues are flat, with no growth in the gas, special fuels and weight-distance taxes. Weaknesses in ordinary revenues for FY12 were offset by strength in extraordinary income, such as sale of assets, reimbursements for projects, and logo signage revenue.

Max Valerio, chief engineer for NMDOT, said the good news is that Congress on June 29 passed a 27-month surface transportation reauthorization bill known as MAP-21 (Moving Ahead for Progress in the 21<sup>st</sup> Century). The bill maintains funding through September 30 and provides funding for federal fiscal years 13 and 14. State FY12 and FY13 are projected to remain flat, and an increase of 1.2 percent is forecast for FY14. This bill is reliant on the gas tax, essentially meaning there is still a projected shortfall of funds in the highway trust fund. Mr. Valerio said

the bill allows for flexibility by having less programs to put money into. This bill requires states to be more transparent in performance reporting.

The NMDOT is currently working on a State Transportation Improvement Plan (STIP). The department anticipates changes in the way STIP is programmed. Mr. Valerio briefly went over a page of unfunded GRIP projects.

Paul Gray, deputy secretary of operations, said many NMDOT maintenance issues arose due to fires around the state. Regarding maintenance gaps, \$91 million is slated for road betterments, but the annual need is \$316 million. Mr. Church said the department is essentially moving into preservation mode. The NMDOT is in preservation mode regarding the construction gap. Based on per-year needs of roadway repair and maintenance for bridges, as well as repair and replacement, the gap is \$304 million.

Mr. Church briefed the committee on major projects and preservation activities and said needs greatly exceed NMDOT's resources, so the department will continue to prioritize projects.

Secretary Dominguez stated the department's performance report contains mixed results. Hiring maintenance maintainers is a priority, and the department has a 19.6 vacancy rate.

Senator Cisneros asked how much federal money the department anticipates losing, and Mr. Dominguez stated the new MAP-21 bill will keep the department afloat through FY14. Beyond that they will wait for Congress to pass another long-term bill. Senator Cisneros then asked what ideas the department has come up with to assist the state with a sustainable, sustainable revenue stream. Mr. Dominguez said he wished he had the answer. Senator Cisneros said he looked forward to Mr. Dominguez' participation in a Revenue, Stabilization and Tax Policy Subcommittee specifically addressing transportation needs.

Mr. Dominguez told Representative Larrañaga that other states, in lieu of a gas tax, are looking at assessing a user's fee on miles traveled per vehicle, per year. Representative Larrañaga said he is concerned with debt service at the department and wanted to know if there was any action taken regarding the shenanigans dealing with bonding. Mr. Dominguez stated it is definitely something to look at and the New Mexico Finance Authority dealt directly with CDR Financial Products. Representative Larrañaga asked if the department was looking at those swaps. Mr. Church stated the department has \$420 million in swaps. Of that \$200 million, the department is looking at a \$20 million exposure over 20 years.

Mr. Dominguez told the committee the department has been in constant communication with the governor regarding these issues.

**Review of FY14 Budget Guidelines.** David Lucero, deputy director, LFC, presented before the committee the draft of the FY14 LFC budget guidelines. Senator Smith urged the committee members to take the FY14 LFC Budget Guidelines with them to review, and stated that they will discuss these at the next meeting in August in Angel Fire.

**Miscellaneous Business.**

*Action Items*

**Approval of June 2012 Meeting Minutes - Senator Cisneros moved to approve the June 2012 Meeting Minutes, seconded by Senator Sapien. The motion carried.**

**Approval of Contracts – Director Abbey proposed a \$50 thousand contract between Hay Group and the state (SPO and LFC) to allow the compensation system to be updated. The LFC's portion is \$10 thousand. Senator Cisneros moved to approve the contract, seconded by Representative White.**

Director Abbey told the committee the LFC Policy and Procedures manual is ready for review, and will be an action item next month.

**Information Items**

David Lucero briefed the committee on June 2012's Budget Adjustment Request Report, and said the LFC prepared a new report for the committee, highlighting agency money movement.

Vice Chairman Varela stated the study by the Hay Group should bring restructuring and take proposed midpoint dollars to use to start employees at entry or some lower level and not cut the upward mobility of public employees.

Senator Beffort stated the concept was good for entry-level employees but not for higher positions.

With no further business, the committee adjourned at 10:18 a.m.

  
Chairman John Arthur Smith

  
Vice Chairman Luciano "Lucky" Varela

