

**Legislative Finance Committee
Meeting Minutes
University of New Mexico
Albuquerque, New Mexico
July 17-19, 2013**

Wednesday, July 17, 2013

The following members and designees were present on Wednesday, July 17, 2013: Chairman Luciano “Lucky” Varela; Vice Chairman John Arthur Smith; Representatives Henry “Kiki” Saavedra, Larry A. Larrañaga, Jimmie C. Hall, Edward C. Sandoval, Patricia A. Lundstrom, Donald E. Bratton, and James E. Smith; Senators Carlos R. Cisneros, Stuart Ingle, Howie C. Morales, Steven Neville, Carroll H. Leavell, and George K. Muñoz. Guest Legislators: Representative Rodolpho “Rudy” S. Martinez. Senators Mary Kay Papen, Benny Shendo Jr., and Jacob R. Candelaria. Representatives Mimi Stewart and Christine Trujillo briefly attended as guests.

Members and designees introduced themselves. Director David Abbey introduced new LFC staffers Andrew Rauch and Kelly Story, and said a tour of the Rio Grande Water Project is scheduled for Tuesday, August 20, at 1 p.m.

Welcome Remarks and Community Input. Bernalillo County Commission Chair Maggie Hart Stebbins thanked Representative Saavedra for his service to the community and New Mexico. Ms. Hart Stebbins said Bernalillo County has seen many changes over the past few years: a new management team with focus on transparency and accountability, a data-driven budget process, and a first-ever strategic plan clearly defining responsibilities and goals.

Ms. Hart Stebbins said there is a link between Bernalillo County’s bulging jail population and New Mexico’s behavioral health system and providing adequate mental health services is one of the state’s greatest challenges. Citing one local case in which a 23-year old will spend 30 years in prison for property crimes, she demonstrated the high cost of incarceration compared with the cost-effectiveness of continuing to provide access to mental health treatment and medication for low-income individuals to stay healthy. It is a fact, she said, that the Metropolitan Detention Center (MDC) is the largest mental health provider in the state and, sadly, a revolving door.

Bernalillo County is addressing the situation. Metropolitan Assessment Treatment Services offers a wide range of substance abuse treatment, Deputy County Manager Tom Swisstack is working with existing organizations to build more support capacity outside the MDC, and the county is working with the University of New Mexico Hospital on opiod treatment services among teens. Ms. Hart Stebbins lauded Katrina Hotrum and Tom Swisstack.

Robert G. Frank, president, University of New Mexico, welcomed the committee to UNM. For the first time in four years, faculty received a raise, he said, and the university is in the middle of fundamentally changing their entire budget process. Results-oriented management will focus entirely on strategic and performance-oriented budgeting, which will help to effectively manage their \$2.6 million budget, he said.

President Frank said UNM's innovative, experimental tuition policy motivates students to take more credit hours, driving down the cost of an education. President Frank briefed the committee on other university initiatives such as Innovate ABQ, a partnership to create employment in the community, and UNM 2020—a collaboration of vision for the university by that year.

Having three formulas for higher education is something President Frank said he feels very strongly about. UNM has consistently encouraged having three different funding formulas for higher education and sticking to them, he said. One formula for all sectors does not give policymakers or the university the necessary clarity for outcomes. It is critical for inputs and outputs to be clear, he added.

President Frank thanked legislators for passing the Endowment Bill, which was vetoed by the governor, and said he hopes similar legislation will pass in the future.

The panel discussed job creation and growth initiatives since a recent economic summit, working with the state, city and county; UNM has a leadership group working with all entities to bring knowledge jobs and technology transfer to the forefront in New Mexico.

College and University Efforts to Boost Student Performance. President Robert Frank, University of New Mexico (UNM); President James Fries, New Mexico Highlands University (NMHU); and President Katharine Winograd, Central New Mexico Community College, each presented how their respective institutions have worked recently on improving student performance. During the 2013 session and FY14 budget process, legislators expressed interest in whether the state's instruction and general (I&G) funding formula has influenced institutional behavior and student performance because the formula includes funding for student course completion, graduation, and graduation in certain areas and by financially at-risk students.

President Frank and UNM staff reviewed evidence-based practices that other research institutions have implemented to improve student preparation and success once at UNM, annual retention, and timelier program completion. Based on a survey of programs at UNM, the president found a number of uncoordinated and little-known student improvement efforts but none that were comprehensive or well-coordinated.

UNM Provost Chaouki Abdallah described a number of guiding principles that shaped program review: to use data-driven decision-making, focus on academics, address retention (because graduation follows from student support, challenges, and engagement), refine the "first year experience" and development skills, and identify clear pathways to timely completion. The university sought to identify approaches to tackle problems of students entering the university with varied academic preparation and readiness, issues related to financial aid and affordability, student uncertainty about academic requirements, and faculty quality and quantity.

After reviewing student data, the provost noted that many students rack up academic credits unrelated to a specific academic pathway by swirling in university college and not by excessive transferring or changing academic programs. Where students had decided on a major, for example, engineering, students took fewer unrelated courses. Further, the university identified

particular courses or the scheduling of course offerings that resulted in students being sidelined from an academic program; these hurdles are being removed to tighten academic program offerings and student guidance.

The provost described the university's First Year Steering Committee, formed to evaluate freshmen orientation and coordinate and provide focused first-year programming and advising that has demonstrated improvements in student academic performance and persistence. The university has added a particular first-year course to help students who are the first in their families to attend college; these students often face unique challenges that negatively impact persistence from semester-to-semester and year-to-year. In addition, the university is piloting summer English and math courses to alleviate the need for some students to take remedial coursework and enable them to enroll and succeed in college gateway core classes faster. Self-paced courses and content-specific math modules are assigned to accelerate learning and complete entry-level college courses.

The provost and others briefly discussed changes to their institutional financial aid programs, highlighting efforts to provide small grants to students demonstrating student progress or who need an additional, emergency amount of funding to stay enrolled. Aid changes are combined with the university's tuition policy of charging students less for taking 15 to 18 credits per semester (and more if they take 14 or fewer credits). Currently, only 15 percent of UNM students graduate in four years, with 46 percent graduating in six years. UNM hopes to increase retention, quicken program completion, and reduce student indebtedness by making advising and financial aid changes.

In addition to UNM creating degree roadmaps for programs and a web-based degree planning application for students, the university is working with CNM on aligning curricula and degree maps to help transfer students. Additional staff is on both campuses to help CNM students transfer to UNM and continue making academic progress without enrolling in excessive credits unrelated to one's degree path.

The provost closed the presentation by discussing the institution's efforts to improve faculty salaries and retention, which can correlate to improved retention rates and improved faculty/student guidance. The institution has a five-year plan to address disparities between veteran and recently-hired faculty and correct other disparities, bringing faculty salaries more in-line with salaries offered by peer universities.

President Winograd made the following five points, incorporating CNM's programming and efforts to improve student success:

- (1) Post-secondary education is extremely important to New Mexicans.
- (2) New Mexicans deserve the opportunity to receive a post-secondary education.
- (3) CNM is delivering this hope.
- (4) Cooperation and partnerships are necessary for student success.
- (5) Student success creates economic development.

As highlighted in the presentation materials, New Mexico has a significantly large population of 16-19 year olds who are not enrolled in school and not working (in nearly all counties, at least 5

percent over the national average, and some higher than 30 percent over national averages). Our college graduation rates are among the lowest in the nation, and only 32 percent of state residents have an associate's degree or higher degree. The state must increase educational attainment of all residents to grow the economy and improve individual standards of living.

President Winograd described the benefits of increasing the number of residents with post-secondary credentials and degrees, citing data from the College Board and Georgetown University's Center for Education and the Workforce. It is estimated that doubling the state's degree production by 2020 could generate more than \$24 million in Medicaid savings, more than \$7 million in corrections savings, and more than \$340 million in new revenues from increased individual earnings. To increase certificate and degree attainment, CNM has set graduation targets for every high-demand degree and many certificates.

As CNM addresses an adult population (average student is 28 years old and attending CNM part-time), the college has demonstrated increased fall-to-spring (up 6.5 percent) and fall-to-fall retention (2 percent), increased the number of certificates and associates degrees awarded (5,000 more certificates and 2,00 more degrees), and increased dual credit enrollment significantly between FY08 and FY12. Thousands more students are transferring from CNM to UNM and other institutions. Student progress has improved because of improved scheduling and expanded on-line learning opportunities, changes in remedial education offerings and placement, and increased use of technology to track and promote student success. These efforts and rapid student improvement led to CNM being recognized by the American Association of Community Colleges' Student Success Award and individual student recognition in Skills USA competitions.

Lastly, President Winograd reviewed a number of partnerships with other two and four-year institutions, local business groups and workforce boards, and nonprofit entities, which result in more active student learning opportunities and job placement. The partnerships and other efforts are necessary to meet the last priority, building economic development opportunities for all New Mexicans.

President Fries updated the committee on NMHU's student and graduate profile, highlighting recent accomplishments and distinctions. He reported an increase of 150 degrees, or 22.3 percent, in four years (2008-09 to 2012-13), but that this is difficult or nearly impossible to sustain given the relatively flat number of high school graduates in northern New Mexico. He also reported increased fall-to-fall retention rates, up 10 percent (from 45.3 percent in 2008-09 to 55.3 percent in 2011-12), which will lead to increased graduation totals.

He described a number of efforts the university has taken to improve student retention, such as using technology programs to track degree progress and student participation and effort in class and in support services (like the tutoring center); hosting learning communities and specific freshmen programs. Administratively, the university has changed the timing of recognizing degrees (when earned versus at the end of a semester), timing for withdrawal or auditing classes, academic requirements for being accepted into upper division courses and programs; distribution of financial aid – all designed to keep students in courses longer and make quicker progress through academic programs. The president also noted that the university is considering lowering graduation program requirements where possible (from 128 credits to 120 credits), ways to

encourage increased course loads per semester (from 12 to 15 credits per semester), and focusing on programs that need to improve retention and graduation measures.

The president also noted that these efforts to improve student performance had started before the state's funding formula discussions or revisions for FY12. He raised a number of questions and concerns for the Legislature, executive branch, and institutions to consider as the formula continues to be reviewed and revised, while providing a quality postsecondary education. Important issues include how course completion rates are increased, how the number of degrees is increased, whether or how proven student support services should be funded, whether or how the state supports ongoing costs for keeping institutions open, and the role of tuition and financial aid in discussions about higher education funding.

After the panel presentations, members offered observations and posed questions. Questions focused on the relationships between colleges and high schools. Senator Smith requested statewide data on remediation required by state colleges and universities for graduates of public school districts and specific high schools. While UNM reported such data for its own population and Western New Mexico University (WNMU) shared similar information on its students coming from Deming and other New Mexico public high schools, Senator Smith would like to have a statewide report. Provost Abdallah and UNM's Vice President for Enrollment Management Terry Babbit discussed ways that UNM, CNM, and Albuquerque Public Schools are working to better align curricula and expectations so students have a more seamless transition to postsecondary education. Representative Lundstrom requested that all institutions provide a report on whether and how institutions and public schools are aligning common core standards and assessments with college standards.

There was discussion about the number of credits required to graduate, with Senator Neville voicing a concern that reducing the number of courses may jeopardize program quality. All presidents noted that they are looking at graduation requirements, while paying attention to program accreditation standards that may require more credits than the common 120 credits. There was some discussion by members and panelists that better articulation agreements may reduce the numbers of credits students take that do not count towards upper-level program admission or program requirements.

Behavioral Health. Representing Teambuilders Counseling Services Inc., chief executive officer Shannon Freedle, said employees, adults, and children from all over the state have taken the opportunity to participate in the governmental process. Mr. Freedle said Teambuilders was one of agencies sanctioned by the Human Services Department and is in their fourth week without funding. Reserves will soon be exhausted. Mr. Freedle said they have been told they may be forced to transition to agencies from Arizona, and he is willing to do this as quickly as possible.

Behavioral Health System: Opportunities to Improve Services and Address Service Gaps. Steve McKernan, CEO, UNM Hospitals, said one of UNM's main centers is their behavioral health center. The University of New Mexico (UNM) Adult Psychiatric Center has an inpatient program, outpatient programs, psychiatric emergency services and psychosocial rehabilitation services; Mr. McKernan also described UNM services within UNM Children's psychiatric

center, the Addictions and Substance Abuse Program, geriatric inpatient services at UNM Sandoval Regional Medical Center (SRMC). The total psychiatric budget at UNM is in excess of \$50 million a year, with more than 500 employees, he said.

UNM hospitals' community-based services, he said, include an adult assertive community treatment team and forensic community support services, and primary care services for patients with addictions have begun at the UNM ASAP Primary Care Clinic. Mr. McKernan said UNM is working on behavioral health integration into primary care sites and developing peer to peer services through grants and volunteers.

Mr. McKernan said UNM provides behavioral health and psychiatry training to a number of healthcare disciplines, and new programs and services include an expansion of the start clinic at UNM Psychiatric Center to facilitate access; integrating children's outpatient support workers with the Children's Psychiatric Center's inpatient care; opening geriatric psychiatric services at SRMC; and expanding tele-health services through psychiatric emergency services and Project ECHO serving patients in rural New Mexico.

Richard Sanchez, senior vice president and chief medical officer for Molina Healthcare, said Dr. C. David Molina founded Molina Healthcare in 1980, whose mission is to provide quality health services to financially vulnerable families and individuals covered by government programs.

Dr. Sanchez stated the number one inpatient diagnosis for the aged, blind or disabled (ABD) population is affective psychoses, followed by septicemia, schizophrenic disorders, and chronic bronchitis. As Molina started managing the dual eligibles (Medicaid and Medicare), the number one patient diagnosis was again, affective psychosis. It is impossible now, he said, to take care of the state's ABD and dual populations in a biomedical model. Molina Healthcare has moved to a psychosocial model that will work well with Centennial Care, he said. Molina's focus is ensuring coordinated services to address medical and behavioral health needs and care coordination.

Behavioral Health Provider Perspective on Behavioral Health System Challenges. Katrina Hotrum, director, Department of Substance Abuse Programs (DSAP), Bernalillo County, said their unique program is primarily grant funded, operating on a \$9.6 million budget with 61 percent of that coming from a DWI liquor excise tax.

Outpatient services such as the Assessment Center and Addiction Treatment Outpatient Program were briefly discussed. Inpatient services, located on the Metropolitan Assessment and Treatment Services (MATS) Campus, include a partnership with HUD serving eight women in recovery; an addiction treatment jail-based program, drug and alcohol detoxification services, and supportive after care.

Ms. Hotrum stated she can't say enough about prevention in the industry. Every county has prevention efforts, and the DSAP is in 89 out of 93 elementary schools. Funding is limited to cover all middle and high schools, which is unfortunate, she said.

The MATS Campus provides 24-hour detox services, an outpatient clinic, and a new program called the Public Inebriate Intervention Program (PIIP) with a 30 bed capacity that diverts clients to treatment services rather than the Metropolitan Detention Center or area hospitals. The county has an ongoing relationship with UNM, she said, referring to a program called Milagro.

Ms. Hotrum said from a provider perspective, Bernalillo County needs a centralized, comprehensive assessment center to evaluate treatment needs as well as consistent funding for a variety of inpatient services ranging from medically managed detox to transitional living beds. Wrap-around services for individuals and their families are necessary, she said. Ms. Hotrum compared a PIIP admission costing \$18 to an average cost of an ER visit of \$250 as an example of the benefit to providing services along the American Society of Addiction Medicine (ASAM) continuum to serve more people and save money.

Reverend Rusty S. Smith, executive director, St. Martin's Hospitality Center, said the mission is simple – to assist homeless and near homeless individuals. The good news is homelessness in Albuquerque is down 9.9 percent this year. Chronic and new homelessness and near homelessness is basically a derivative of mental health, drug addiction and chronic illness. St. Martin's served an additional 15 thousand meals, which means more people are experiencing food and housing insecurity.

St. Martin's was founded 27 years ago and its budget is \$5.7 million. More than 20 programs are fully funded by private donations, foundations, state, federal and city government partners. The people St. Martin's serves, he said, are the same people legislators serve—people on the margins of society. They are not the people you see on the street corner as much as they are the people in need of good mental health services and rehabilitation options. Reverend Smith discussed Project End Homelessness, which aims to end homelessness in the next five years.

Last year, St. Martin's provided 138,445 meals (averaging more than 11 thousand meals a month), and has an assertive community treatment team known as the best in the state that provides treatment to 81 people with severe and persistent mental illness—people who would be homeless except for the care of the ACT team. St. Martin's has provided case management services to 61 people whose chronic homelessness may have lasted 20 years. St. Martin's also provides rental and housing assistance and a full-year recovery residential program called Casa de Phoenix, and employment services. The program Reverend Smith said he is most proud of is every year St. Martin's places 156 people with mental health issues into housing and jobs.

Reverend Smith asked for funding for affordable and safe housing and an understanding that non-profit social service agencies have taken over the lion's share of mental health care for homeless, near homeless, and those experiencing poverty.

Troy Jones, director, New Mexico Behavioral Health Institute (NMBHI), said one of the five clinical divisions within NMBHI is the forensic division, where competency is determined. The Long Term Care Nursing Facility takes referrals from other nursing homes for individuals with behavioral issues; an outpatient licensed community mental health center serving about 1,700 active patients.

The Adult Psychiatric Division (APD) serves individuals (a civil commitment) with a serious mental illness resulting in a likelihood of self-endangerment or being a danger to others, and likely to benefit from the treatment. The goal is to get patients reintegrated with wraparound services, he said.

Dr. Jones said one big challenge for NMBHI is that there are no solid housing or treatment options for the traumatic brain injury population. Many are referred out of state and many are sent to the APD on 30-day court commitments and falls back on the state hospital, which isn't in the mental health code.

Other challenges include limited intermediate, transitional or step-down levels of care, lack of affordable housing, assisted living or transitional housing, and communities and families not supporting patient reintegration plans. Dr. Jones said one pet peeve of his is the severe shortage of healthcare professionals. Lack of transportation to appointments, especially in rural areas, is also a difficult challenge.

Representative Sandoval and Ms. Hotrum discussed the limited services DSAP can provide based on court order and substance abuse. Ms. Hotrum indicated services must be affordable or free and accessible. DSAP attempts to fill the gaps in service to those who may not qualify for Medicaid or services the state may reimburse for. An additional funding stream would open services to more members of the community before they get into trouble, she said, and welcomed more collaboration between the city and county. Representative Sandoval said mental health is an important issue and hopes the stigma can be lessened by discussions and early intervention.

Mr. McKernan distinguished between psychiatric illness alone, substance abuse conditions, and dual conditions. The average length of stay is about seven days for psychiatric illness, with intensive follow-up care. For people who have substance abuse problems, he said, UNM does detox and works closely with Turquoise Lodge. Follow-up is outpatient treatment. For people with co-occurring conditions, UNM principally treats the psychiatric illness and follows up, he said.

Ms. Hotrum and the panel discussed different levels of care and why the assessment center is so important and recovery is an ongoing process. In response to Representative Larrañaga, Dr. Jones said mental health is similar to primary care and he believes there are not enough mental healthcare providers in the community.

Representative Larrañaga said he wondered if Centennial Care will improve behavioral health care. Dr. Sanchez and Patty Kehoe with Molina stated the transition to transitional care should be seamless, with Ms. Kehoe describing Molina's recruiting efforts for healthcare professionals.

New Mexico Attorney General Gary King said his office has 15 cases and said he wanted to make it very clear anybody is innocent until proven guilty. Mr. King said discussing any specific case would not be permitted because of the ongoing investigation but talking about what the Human Services Department is going to do is fair game.

Human Services Department: Impact of Medicaid Expansion and Centennial Care on Behavioral Health. Julie Weinberg, director, Medical Assistance Division, Human Services Department, said Medicaid Expansion (enrolling newly eligible people) and Centennial Care will be implemented January 1, 2014. Most expansion eligibles are going to be in Medicaid for the first time. Many adults coming in with the expansion have behavioral health issues.

Centennial Care will have integrated care and care coordination for behavioral health as central focuses, she said. New benefits will also support community based recovery, she said. Integrated care takes into account a person's physical health, behavioral health and long-term care needs—leveraging the relationships existing between all of needs. Oftentimes when someone is being treated for major behavioral issues, the physical (diabetes, obesity, COPD) needs are overlooked. Centennial care will align treatments through total care coordination.

Diana McWilliams, director, Behavioral Health Services Division, Human Services Department, said Recovery Services is a peer-to-peer support in a group setting encouraging self responsibility and healthy living; this service will be through core service agencies, and services are targeted to individuals with serious mental illness or chronic substance abuse. Next, Family Support Services will focus on family dynamics and developing positive interactions promoting wellness and recovery—targeted for children and their families that have youth and dependent adults with severe emotional disturbance or chronic substance abuse. Last, respite care provides supervision and care of children and youth with severe emotional disturbances to allow an interval of rest for caregivers.

Ms. Weinberg said the ACA requires Medicaid expansion states to have an alternative benefit plan for its expansion population – the ABP, a benefit package that must meet all federal rules and approved by CMS. ABP will cover behavioral health and substance abuse services. The HSD has not made all final decisions about the benefit plan because the rules came out on July 5, 2013, so the department is still analyzing costs for an initial projection. Ms. Weinberg said Medicaid expansion gives newly eligible individuals unprecedented access to behavioral health services funded through Medicaid. Medicaid will cover the costs previously funded by the general fund and federal grants. Centennial Care will bring a more effective approach to addressing all of a person's healthcare needs, leading to improved outcomes, and will provide more access to services supporting community-based recovery, she said.

Human Services Department Secretary Sidonie Squier thanked the committee for the opportunity to talk about what has really happened with the audits. Ms. Squier said her number one priority and job is to protect the people who receive behavioral health services through the HSD. In spite of everything, she said, she believes what the department is doing is the ethical thing to do, and the HSD's responsibility. As more information becomes available, the department will brief the Legislature.

Ms. Squier told the committee 15 providers failed the billing claims and management practices audit. The audit revealed after removing unintentional claims (human errors) one in four of the audited claims, or 25 percent, still failed. State sampled administrators didn't have any files in an organized manner and auditors were told to "figure it out" she said. Independent auditors went through the information finding a 57 percent error rate on health and safety cases. In

several other instances, she said, evidence of suspect business relationships was discovered. The department was mandated to turn in to the Attorney General's Office suspected allegations of fraud. Ms. Squier said when the HSD turned in evidence to the Attorney General's Office, the department was mandated by law to suspend the payments. Recently, the federal Centers for Medicare and Medicaid Services concurred with the HSD that it was acting in accordance with established procedures. Ms. Squier said the NMAG did not have to accept any of the cases if they didn't want to but they believed there was enough evidence to warrant an investigation of all 15 cases.

The Public Consulting Group conducted the additional independent audit. Some of the billing irregularities findings include billing for services twice when consumer only received service once, forging clinical records, misrepresentation of time and location of services, improper financial relationships and compensation practices, and falsification of documents. Ms. Squier said OptumHealth's program integrity process supports the findings.

The audit ultimately uncovered three types of suspicious provider activity that could all be fraud or fraud, waste and abuse at best, she said. Several instances where two claims for the same consumer on the same day in two different places in the state occurred among nine different providers, she said. This happened hundreds of times with hundreds of consumers, she said (at this point of the testimony, Ms. Squier was advised to not get specific with examples and be as general as possible).

In the review of consumer case files, three agencies had 97 percent of their claims that were not compliant, she said. Ms. Squier said seven agencies had more than 20 percent of claims that were not compliant after human errors were taken out, and many agencies failed to have current treatment plans. Evidence points to executives having improperly used Medicaid dollars, agencies having undisclosed financial relationships with other behavioral health agencies, and agency management using Medicaid dollars for personal benefit, which Ms. Squier stated she cannot ignore.

Ms. Squier said the Attorney General's Office will make the final determination on what is fraud, waste, and abuse. She reiterated the pay suspensions for those providers were mandated by law. The law allows for a good-cause exemption of the pay suspension. The HSD completed all 15 agency applications for good cause; the HSD has lifted pay holds in whole, or in part, for three agencies, while the remaining pay holds stay in place. The HSD will be retraining agencies on correct billing.

The people who see the consumers, such as therapists, are not affected by this audit, she said, and will continue to care for the consumers even after the new agency management is brought in. Five highly qualified transitional agencies vetted by the HSD are coming in and have agreed to hire current staff to continue to provide care, she said. Ms. Squier assured the committee that the HSD is doing everything to make sure consumers have uninterrupted care and access to their service providers, and current agencies are expected to abide by current agreements and have moral obligation for a smooth transition.

Ms. Squier stated quality of care audits do not look into billings, claims, and management practices and concluded by saying the funding was supposed to provide the highest quality possible behavioral health care to those in need – this audit indicates this was not happening.

Attorney General King said the Medicaid program (HSD) and the Medicaid Fraud Unit (NMAG) is housed separately by federal law and agrees that once the agency makes a determination of credible allegations of fraud, there is very little discretion in not placing the check hold. Mr. King stated they do not agree, at first blush, that there either are or are not credible allegations of fraud—that is a determination the agency makes. The NMAG will have to investigate the allegations to determine action to take on a criminal or civil basis, or none at all. The NMAG has not made any determinations yet because the cases have just recently been referred to his office.

Senator Papen asked if OptumHealth was finding the same problems that independent auditor PCG found. Ms. McWilliams said the PCG audit was based on behavioral health samplings which OptumHealth had found. Senator Papen asked why, if the state is paying OptumHealth (the state's behavioral health oversight agency) \$42 million a year, the HSD is bringing in an outside agency from Arizona that could potentially receive \$17 million, and why weren't these problems caught and corrective action taken in 2009. Ms. Squier said Optum did not get clear information back then; the program integrity process was upgraded and a clear picture with better data is available now. Optum has identified billing issues throughout the years but not on this scale, she said. Senator Papen said she does not believe all 15 agencies are egregious and taxpayers are paying a lot of money for oversight and the state is not getting quality service. Ms. McWilliams stated OptumHealth has been reporting referrals since 2009. Senator Papen said she has real problems with the oversight of all providers—from the HSD, the Behavioral Health Collaborative, and OptumHealth and why it hasn't been discovered and dealt with early on. Ms. McWilliams said Senator Papen's point was well-taken and reiterated what OptumHealth is required to do versus what the PCG audit did, which went into a client file and followed it to the billing.

Chairman Varela asked LFC Deputy Director Charles Sallee to brief the committee on the payment system. Mr. Sallee said when Optum first began their contract, they were struggling to pay bills on time and the state implemented a monitored correction action plan with penalties. Chairman Varela asked what authority the state has to review the system. The HSD has broad, extensive authority to review the operations of the managed care companies and determined at that time corrective action was needed, he said.

In response to Representative Sandoval, Ms. Squier said of the \$17 million is for a worst case scenario should all 15 agencies have to be in a temporary management situation. Ms. McWilliams said the HSD is ready to turn dollars to new management agencies should the need arise tomorrow. Brent Earnest, Deputy Secretary, Human Services Department, said part of the \$17 million for a new agency to come in and provide services.

Senator Candelaria, referring to a newspaper article, raised questions about the independent audit by PCG as being credible. Ms. Squier said one of the main misrepresentations of the issue is the way the contract was structured in North Carolina, which the article referred to, which has no

bearing on PCG's contract in New Mexico. Ms. Squier stated the state paid \$3 million for the audit.

Representative Hall asked when the committee would be able to view the audit. Assistant Attorney General Al Lama said that the audit findings fall under the law enforcement exception to the Inspection of Public Records Act. The reasoning, he said, is to protect the integrity of the investigation.

The panel discussed the possibility of the case going to a federal level. Attorney General King said the program could be sanctioned if the federal government believes either agency (NMAG and HSD) is handling the case in an appropriate way. Vice Chairman Smith said New Mexico is where it is presently because of lack of oversight and wants the HSD needs to take corrective action going forward.

Senator Muñoz asked if providers were given written notice of the audit results. Ms. McWilliams told the committee that when HSD got the audit results, they met with the AGO on June 21, 2013; scheduled meetings with individual providers to review results were cancelled, but the CEO meeting with general finding information on June 24, 2013, went as planned. Individual results and data could not be discussed due to the investigation. Individual correspondence informing providers of pay holds was sent. Also in response to Senator Muñoz, HSD General Counsel Ray Mensack said there was no RFP for the five Arizona agencies, but an emergency procurement signed by the Department of Finance; they were Arizona corporations registered with subsidiaries that are now registered as New Mexico corporations. The committee and panel also discussed providers' salaries. Senator Ingle requested a listing of all sanctioned provider salaries as well as a list of CPAs in the HSD, and said he is a big proponent of an adequate auditing function within agencies.

Lorraine Freedle, chief clinical officer for TeamBuilders Counseling Services, had three quick comments on the past, present and future. Past: The whole issue could have been prevented with due process, and all 15 providers have a proven track record. Present: Presently all providers have written letters of good cause exemptions—all denied. Ms. Freedle outlined the federal guidelines for good cause exemption, which she said, Teambuilders meets. Future: Teambuilders is ready to transition, but transition is seriously flawed—the agencies aren't qualified and are not ready.

Nancy Joe Archer, CEO, Hogares, said replacing management is not easy, and all of the connections will be lost. Ms. Archer stated the issue is systematic if there are 15 agencies in question. Hogares could deal with the issues if they were known. Ms. Archer was audibly emotional, making her testimony difficult to understand.

Henry Dixon spoke to the committee about the allegations of fraud at the Carlsbad agency, referring to a gentleman named Marty Everett being asked to take over. Mr. Dixon said Mr. Everett asked OptumHealth if any red flags for counseling associates had been found. Mr. Dixon said it is clear the HSD thinks this is going to be a "cake walk." If the TRO is not granted, community mental health as we know it will end, he said.

Luna County Detention Director Matthew Elwell, on behalf of LC6 talked briefly about reintegrating those with behavioral health issues from the detention center back into the community and giving them a chance of not coming back. He asked for funding and sponsored legislation.

Thursday, July 18, 2013

The following members and designees were present on Thursday, July 18, 2013: Chairman Luciano “Lucky” Varela; Vice Chairman John Arthur Smith; Representatives Henry “Kiki” Saavedra, Larry A. Larrañaga, Jimmie C. Hall, Edward C. Sandoval, Nick L. Salazar, Donald E. Bratton, and James E. Smith; Senators Carlos R. Cisneros, Stuart Ingle, Howie C. Morales, Steven Neville, Carroll H. Leavell, and George K. Muñoz. Representative Rodolpho “Rudy” S. Martinez, Senator Mary Kay Papen, and Senator Michael Sanchez attended as guests.

Turning Around Low Performing Schools. Eric Hanushek, senior fellow, Hoover Institute, Stanford University, spoke on the importance of school leadership. Mr. Hanushek stated that New Mexico is facing real challenges, with a population that is more difficult to educate, made even more difficult by having many small school districts spread out across the state. According to the most recent National Assessment of Education Progress (NAEP), New Mexico ranks 45th among the states for eighth grade math scores, and is in the 40th percentile of national distribution. Demographics should also be considered; comparing white students with white students in other states, New Mexico rises to the 46th percentile.

The whole nation has labored under the challenges of lifting underperforming schools, with a wide variety of proposed solutions that have yet to pay off systematically. The U.S. economy would grow faster and paychecks would rise by 20 percent if it reached Canada’s level. While other states such as Massachusetts, Maryland, Delaware, and Florida have made improvements in outcomes, New Mexico has not been on the same improvement path, ranking no better than 32nd in the nation in terms of achievement gains over the past 20 years.

The quality of the human capital of people working in the schools is closely related to improving schools. Recent research shows that the skill of the principal and of the teachers is a consistent, important factor in assessing the quality of schools. When identifying effective principal effectiveness, no clear connection is found among background, characteristics, and effectiveness, implying that it is hard to regulate good principals into existence. Overwhelming evidence exists demonstrating the importance of teacher quality. No other reforms will be effective without effective teachers in the classroom. Good teachers affect both the future income of students and the future health of the entire US economy, he said.

The first step to improving schools in New Mexico is to have an effective evaluation system that reliably identifies the good principals and teachers along with distinguishing the poor performers. Teachers and principals have been evaluated for a long time, but in the past they haven’t been useful and they haven’t been used for making personnel decisions. The reason for having evaluations should be to use them in making personnel decisions.

Public Education Secretary Designee Hanna Skandera said that investing in teachers and school leaders is the most important element of changing schools and is committed to doing so. Mexico

Secretary Skandera talked about where public schools are we right now: New Mexico has more A and B schools than D and F. 70 percent of schools maintained or improved their grade. As a whole, the state saw improvements and shifts, particularly amongst high schools.

New Mexico is committed to building the capacity of existing school leaders, building a pipeline of our next generation school leaders, aligning support systems (professional development and training), implementing an evaluation system for teacher and school leaders that prioritizes improved student achievement and differentiates among performance, and championing highest performing school leaders and teachers and rewarding them for excellence.

The question is how to turn around struggling schools, she said. Key competencies that great school leaders need to have are: a drive for results defined by achievement, influencing for results, problem solving, and showing the ability to lead. The PED's goal is to select and support better leaders.

Additional targeted investment is needed for D and F schools to improve. In New Mexico, capacity barriers are a lack of characteristics and actions that result in a high standard of performance. We need to heighten expectations. NM leadership barriers are lack of longevity in leadership at the district and school level (20 percent to 30 percent of district leader turnover.); lack of focus among challenges; difficulty in engaging school communities in the educational process for students; lack of ownership and accountability beyond the school walls; difficulty in attracting and keeping leaders and teachers in rural communities; and an inability to use data to define a roadmap to rigor and to adapt teaching to meet student needs.

What is the state doing today? New Mexico has begun to invest in a School Turnaround Specialist Program (STSP) with a two-year commitment through the University of Virginia (UVA) to train teachers. Nationwide, their program has seen a reading proficiency increase of 46 percent. The PED also launched the Principals Pursuing Excellence Program, which provides professional development and mentorship for district and school leaders by focusing on school turnaround competencies. Data-driven dialogue is a structured process that enables a data team to explore predictions, go visual, make observations, and generate inferences and questions of the data before offering solutions. With differentiated instructional training, 300 primary and secondary teachers from D/F schools received training on how to truly provide Common-Core-aligned differentiated instruction to students. The New Mexico Instructional Audits (NMIA) is a program aimed to improve instruction at the classroom level through examining systems that both support and monitor teachers and other instructional personnel. This program was not popular initially, but as time went on, got overwhelming feedback on how important these audits were for school leaders and superintendents. We need to look at the systems that we have today, and change them to be more effective. When we have more effective teachers and school leaders, we will see improved student achievement.

Senator Cisneros asked how the United States compares on a global scale. Mr. Hanushek said the United States ranks 32nd in the world in terms of proficiency in mathematics on international tests. The countries that do well internationally are those countries that find a way to make sure that ineffective teachers don't stay in the classroom. This includes a good accountability system that relates to the evaluation of systems. It's also important to have more choices of schools for

the parents, giving parents an option to move their students to other schools. Finally, having performance-related rewards and pay to people in the system is important. Systems that have more rewards for performance tend to do better. Also, there's substantial evidence that, particularly with disadvantaged populations, early childhood education is an important element. Getting kids ready to learn is important, although early childhood programs have been shown to be important for less advantaged kids but have relatively no impact on more privileged children.

Senator Cisneros asked how Colorado's initiative several years ago to change hiring practices for teachers in an effort to eradicate non-performing teachers helped that state to move forward. He also mentioned the national board for teaching certification, and whether there is a correlation between schools that have a good funding source versus schools that are not. Mr. Hanushek stated that if you could do layoffs based on effectiveness of teachers, you could have a much better result than a first-in, first-out model. On average, teachers who are board certified are better. Making evaluations on what teachers actually do in the classroom is much better than trying to guess how they will perform based on their education and credentials. In regards to the funding formula, if you look across and within states, you find very little relationship between what is spent on schools and the value added. There is a simple explanation: The salaries of teachers are basically unrelated to how effective they are. Sixty percent of spending on schools goes for salaries, and if what we spend is unrelated to performance, it's not surprising that the overall level of spending in the school is also unrelated to performance. It has much more to do with how the money is spent than how much.

Families are very important to the preparation of kids, and some families are not as prepared to provide good education in the home as others. Peers and friends are important. But we also know that teachers in schools have a dramatic impact and can overcome deficits that children bring from outside. Estimates that are now common about the range of the value added by schools finds that if you had a good teacher, around the 85th percentile, between three and four years in a row, you could make up the difference between a child on free and reduced-priced lunch and a kid not on free and reduced-priced lunch. There is the leverage from schools to overcome some of the deficits that some kids come to school with. In terms of calculating effective and ineffective teachers, the calculations that we have based on the research suggest that if you could replace the bottom 5 percent to 8 percent of teachers with an average teacher, U.S. performance on these international tests would go near the top. As a nation, we are trying to figure out how to evaluate teachers effectively. Mr. Hanushek discussed a new and promising experiment coming out of Washington, DC, which has been the nation's worst school system for some time. Four years ago, they had a new contract for the teachers which said that they would evaluate all teachers. Eighty percent of teachers do not have scores based on value-added achievement. For those teachers, their entire evaluation comes from outside professional evaluators who come through the classroom multiple times. They then use this evaluation system to create incentives for teachers and for firing teachers who don't perform well. Mr. Hanushek added that, in his own evaluation based upon the research literature, if we increased class size by one student per teacher, we could pay very large bonuses to the best teacher. From everything we've seen, teacher effectiveness is much more important than small class size. A rational thing to do would be to rearrange how we spend money, take a little bit of extra money out of class-size reduction, and put it into rewarding the people who are really important.

Senator Cisneros asked about the volatility of the value-added models. Ms. Skandera responded that one key factor is growth and progress on our standards-based assessment. When we look at fourth, fifth and sixth grade this last year, New Mexico struggled. But there has been a steady 9 percentage point drop over the previous three years for third grade performance. Those third graders who had that consistent drop are now fourth, fifth, and sixth graders. When third graders are sent forward and not prepared for success, they struggle. At the high school side, where there were remarkable gains, New Mexico also saw a significant change in policy that said, if you're not on grade level, you will not be graduating. Teachers, parents and students responded and gains were remarkable.

Ms. Skandera said often there is connectivity between a cadre of great teachers in a school and how well that school does. However, there's plenty of evidence that shows that you can have a poorly performing school and have some incredibly performing teachers within that school. The point is that people matter, and when it comes to schools, the teachers and leaders of our schools matter most.

Representative Hall asked if highly qualified and effective teachers make highly qualified principals. Mr. Hanushek responded that the answer is unknown because good research doesn't exist. Representative Hall then asked if New Mexico has requirements for principals and superintendents, and if so, what they are. Secretary Skandera responded that they do have requirements, and many are related to advancing through the system. When it comes to becoming a principal, the earliest a teacher can become a principal is after seven years of teaching. In neighboring states, it's between two and four years. In New Mexico, evidence is placed on things that do not necessarily tell us who our great teachers or school leaders are. Mr. Hanushek added that there's very little research that shows that insisting that principals have master's degrees does anything for their performance. These are the kind of decisions that lead to salaries being unrelated to performance and getting the right teachers in there.

Representative Hall asked if there was any data available for prekindergarten and early learning initiatives. Secretary Skandera responded that there is some preliminary data, and PED will continue to report as they see results.

Legislators expressed concerns about discipline. Ms. Skandera responded that discipline is a local consideration. It's also important to consider time-effectiveness; time spent in discipline is time away from learning. Leaders and teachers set the tone of the school and are a key piece in having the classroom disciplined.

Representative Mimi Stewart said New Mexico overuses standardized testing. The evaluation system could focus on teacher improvement rather than scaring teachers. Mr. Hanushek expressed skepticism that we can dramatically change most teachers through feedback; because studies indicate that there isn't much we can do to bring poor teachers to a higher level, he recommends keeping good teachers and bringing more good teachers into the classroom more than trying to fix poor teachers.

Representative Smith asked Mr. Hanushek what sort of evaluation system he would recommend for school leaders, especially those districts and schools with a smaller population. Mr. Hanushek responded the problems of dispersed rural education have not been solved. It could be in the next decade that technology could be a big help, although we still haven't learned how to use technology in a useful way. Ms. Skandera said that New Mexico offered \$1.4 million in stipends to encourage teachers to teach in hard-to-staff areas.

Senator Smith asked about using alternative credentials for getting teachers in from the private sector. Ms. Skandera responded that the barriers of entry to potential teachers are too high. A great opportunity is to bring in the best and the brightest to become teachers, and we should base the alternative certification on effectiveness more than on credentialing. Mr. Hanushek added that the most effective way to increase the quality and quantity of the teacher pool is to back off of most of the requirements to get into teaching. Also, when looking at teacher training programs, it is necessary to evaluate the students who are graduating on how effective teachers are and to make that information available. Schools that produce good teachers and those that produce poor teachers should be recognized as such respectively.

District and School-Level Turnaround Approaches. Eddie Soto, associate superintendent for secondary education, introduced Ben Santistevan, principal of West Mesa High School (WMHS). Mr. Santistevan stated that accountability is crucial to school improvement. Once high expectations are placed on students, they meet the set bar. At WMHS, an environment was created where high expectations were the norm and mediocrity was no longer expected. It is very important that leaders enter into the classroom and give constructive feedback. At the high school level in particular, it becomes hard for parents to be involved in the school and their child's education. The vision is that the community and the school work hand-in-hand to perform well at the community level.

Efren Yturralde, superintendent, Gadsden Independent School District, talked about his initiatives. The district goal was to have no Fs and to have gains; both goals were achieved. To maintain goals, principals track the progress of the school and teachers to maintain goals. Every principal has to turn in a leadership action plan to the superintendent. The district discovered a varying degree of leadership and teaching levels throughout. Mr. Yturralde talked about the bilingual and ELL efforts of the district, including the purchase of resources and professional development for teachers. The district showed the gains in all grades of middle and high schools, and the majority of elementary schools.

Linda Perez, principal, Anthony Elementary School in the Gadsden district, noted most of the students at the school are economically disadvantaged and a high number are ELL learners. Anthony Elementary has made great gains over the past four years. Teachers met every nine weeks to develop a new curriculum, to gauge and grade themselves. Teacher analysis was based on teacher-made assessments, to which they pay more attention than to the SBA.

Sharon Robinson, principal, Valley View Elementary School in Las Cruces, talked about initiatives that her school started over the past year to turn around Valley View, a low-performing school. She is part of the UVA pilot project, a turnaround program named for the University of Virginia, and talked about strategies she learned through the UVA program. At

first, implementation of new programs showed little gain, in part because faculty did not have high expectations of the students. Last year the school made a drastic change in staff -- about 50 percent are new staff. With UVA support, the school developed a series of plans and strategies that focus heavily on data. An important element of the plan is to do a weekly observation to make sure that teachers are being effective in the classroom, aligning lesson plans, action and data. The school has been making significant progress in closing the achievement gap.

Stephen Sanchez, deputy superintendent of Las Cruces public schools, told the committee the graduation rate has increased from 54 percent to 71.2 percent since 2007. Early college-high school initiative, which is a STEM – science, technology, engineering, and math -- focus, still has no dropouts after four years. The JUMP program to target non-readers in a multi-age program from kindergarten to second grade after one year is showing a 70 percent to 82 percent proficiency rate in those kids labeled non-readers. Turnover schools have all raised their grades this past year. However, to sustain these and other innovations, bold leadership is needed, he said. LCPS welcomed the opportunity to participate in the UVA turnaround program. LCPS has met with President Garrey Carruthers of NMSU on the need to implement a program for New Mexico like the one in Virginia. Collaboration with business schools for their expertise in organization structures is needed to focus on results, he said. The goal for LCPS is an 85 percent efficiency rate.

Kathleen Brook, interim dean of College of Business at NMSU, spoke about the capacity within New Mexico to provide professional development in the state for leadership in public schools. What is taught at the college of business is useful to many areas outside of business, including public schools. It is important for leaders interested in turning around the public schools to develop a shared vision and be informed about how the organization works.

Arlie Woodrum, chair, Educational Leadership Program, University of New Mexico, spoke about two school leadership program grants that UNM has had for the past three years with the U.S. Department of Education Office of Innovation and Improvement. The first grant, began in 2010, was called the Alliance for Leading and Learning and was a partnership with Albuquerque Public Schools, the NM School Leadership Institute. The program will have worked with 38 candidates with that program who are focusing exclusively on school leadership positions in the Albuquerque Public Schools with the curriculum tailored very specifically to the local needs of Albuquerque students, families, and school system. Based on evaluation of that program, the College of Ed was invited to apply for a second-generation grant, called Turnaround Leadership for Student Success. The new grant addresses training for school turnaround in the Albuquerque Public Schools system, the broad goal of which is to train a cadre of principals and assistant principals to turnaround focus or priority schools.

Representative Stewart asked about bilingual students who take the SBA in Spanish. Secretary Skandera responded that approximately 4 percent of students statewide take the SBA in Spanish. If you compare students at Anthony elementary who took the SBA in Spanish with the rest of the students who took the SBA in Spanish, her students did far better than other students in other districts who took the SBA in Spanish.

Miscellaneous Business

Action Items:

Approval of June 2013 Meeting Minutes – Senator Cisneros moved to approve the June 2013 meeting minutes, seconded by Representative Larrañaga. The motion carried.

Director Abbey recommended a \$10 thousand addition to existing UNM contract for economic forecasting. **Senator Cisneros moved to approve the addition, seconded by Representative Sandoval. The motion carried.**

Director Abbey briefed the committee on the LFC evaluation on Cultural Affairs, the June Capital Outlay Report, and draft budget guidelines.

Progress Report on 2012 Corrections Probation and Parole Evaluation. Charles Sallee, deputy director, LFC, presented a progress report showing the status of recommended implementations from a 2012 evaluation on reducing recidivism, cutting costs, and improving public safety in the incarceration and supervision of adult offenders. (This report, in its entirety, is on the LFC website at <http://www.nmlegis.gov/lcs/lfc/lfcprogevalreports.aspx>)

Key findings from the evaluation: Reducing recidivism through strategic budget development can save millions and improve public safety; the use of in-house parole costs \$10 million a year and could undermine public safety; lack of valid assessments and poor management of prison programs and resources inadequately prepare inmates for successful transition into the community; and Probation and Parole Division officers are comparatively underpaid, have high turnover rates, and are faced with increasing caseloads.

Mr. Sallee briefed the committee on the evaluation's key recommendations, the current situation regarding legislation, and agency-reported progress. The New Mexico Corrections Department (NMCD) has developed 32 goals that generally address programming for reentry to the community and continues to work on programming issues that include implementing the UNM Anderson School of Management recommendations for Corrections Industries programs; discontinuing the drug treatment in prison program for ineffectiveness and implementing another drug treatment program called Residential Drug Abuse Program; and expanding a number of beds at the Men's Recovery Academy. The NMCD has also changed the terminology for inmates not released on the correct date. Mr. Sallee said the current number of release-eligible inmates is 295, costing the state an estimated \$29 thousand a day. The department has made good progress on identifying all programming, he said, including evidence-based programming.

According to the NMCD, the department will receive a refund from OptumHealth to the NMCD community corrections fund for unspent FY10 and FY 11 moneys of \$800 thousand; FY12 expenditures are still under review, he said. The department is also making progress with their classification process.

Outstanding issues include a high vacancy rate; caseloads for parole and probation officers have declined but are still high in New Mexico, he said.

Mr. Sallee then testified that the New Mexico Results First -- a result of cost-benefit analysis work with the PEW Charitable Trust in partnership with other state agencies. This new tool supports evidence-based policymaking and budgeting.

In terms of corrections, many evidence-based programs can reduce recidivism and improve public safety—the costs of offenders who recidivate are substantial. According to the department's data, 95 percent of offenders who are in prison today will get out and return to our communities. State taxpayers are bearing the costs of arresting, prosecuting, housing, rehabilitating, supervising offenders many times over, he said. The cohort of inmates released in FY11 alone, he said, will cost taxpayers in excess of \$360 million over the next 15 years.

Research demonstrates programs can reduce recidivism. Strategic investment in programs along with very careful implementation can help the state achieve reductions. The use of cost-benefit analysis can help policymakers assess investments for cost-effective results and tie to performance measures.

Mr. Sallee said the PEW model a highly sophisticated metric model that analyzes the costs and benefits of different evidence-based programs, incorporating the best research of what works. Using this model, Mr. Sallee briefed the committee on the benefits using eight NMCD programs, giving detail to Corrections Industries, In-Prison Drug Treatment, and Intensive Supervision Programs. Implementation of programs and expenditure of funds should be carefully monitored. Intensive supervision research shows no impact on recidivism alone but if coupled with other programs, it works, he said. Mr. Sallee gave examples of how other states have successfully implemented evidence-based programs resulting in significant cost savings.

Aurora Sanchez, deputy secretary, New Mexico Corrections Department, read a letter from absent department secretary Gregg Marcantel. Ms. Sanchez said the presentation would be broken up into three categories: Planning and strategic initiatives for recidivism reduction, programs and program locations, and barriers to successful program implementation.

1) Under the strategic planning initiatives, the Recidivism Reduction Division is guided by a task force. The framework for reducing recidivism has four phases: before incarceration, getting ready, going home, and staying home—which is the most important, she said.

Ms. Sanchez said in 2009 the recidivism rate for New Mexico was 47 percent, lower than the national average; one in every 34 citizens is either incarcerated or on probation or parole, with the success rate for parolees at about 50 percent. Reducing recidivism in New Mexico by 10 percent could save \$8.3 million in prison costs alone and reduce victimization costs by an estimated \$40 million, she said.

The biggest part of recidivism reduction in New Mexico is behavioral health. As of the end of June, the prison population is 6,718, and 1800 inmates, or 22.5 percent, are in treatment for mental health concerns, and another 8 percent have a drug abuse problem. The percentages are worse for women, she said, with 70.3 percent in mental health treatment. More than 6 percent of male inmates are seriously mentally ill (bipolar, paranoia, schizophrenia); and suicides range from one to three a year, although there are many more attempts at suicide.

2) Ms. Sanchez stated vocational training must be given an elevated level of importance to reduce recidivism, and in most cases the NMCD is “habilitating” rather than “rehabilitating.” Job training must be realistic, begin at the facility, continue in communities, and be based on aptitude and immediately applicable upon release.

Various pilot programs within the seven correctional facilities include, or will, include a yoga program at Central New Mexico Correctional Facility, a Sustainability in Prisons Project at Lea County Correctional Facility, and Heeling Hearts Dog Rescue Program and Dress for Success Campaign at the New Mexico Women’s Correctional Facility. The Otero County Correctional Facility’s Community Reintegration Unit Program has three levels of programming. The Penitentiary of New Mexico has several programs, including the Malachi Men Program, Seminary Program, and an apple orchard and beekeeping program still in the research and development stage, she said. The Southern New Mexico Correctional Facility has an automotive and welding program and a program restoring wheelchairs. Finally, Springer Correctional Center has automotive and culinary arts programs. Ms. Sanchez said Cowboy Up! will be starting soon. The initiative pairs minimum security inmates and pairs them up with rescued horses and teaches handling techniques.

3) Affordable housing is a major barrier to successful reentry, as is employment. Former inmates noted access to social services is a key issue because, although 50 percent have a substance abuse problem, many do not have access to treatment on release. Ms. Sanchez said a stigma is attached to former inmate as well.

Ms. Sanchez said treatment may not be considered “tough on crime,” but the state needs to have both the punishment aspect and the treatment aspect of prisons. The shift in strategy is restorative justice, which is a different framework than what the state is used to. Restorative justice is a different framework.

David Huerta, director, Recidivism Reduction Division, NMCD, said sincerity builds a constituency. The department has many projects and initiatives that need money, he said.

In response to Chairman Varela, Ms. Sanchez said the license plate program is not a viable program any longer and the department has offered to sell the equipment to other states’ correctional facilities and the manufacturer of the equipment. Ms. Sanchez said hobby/crafts is another way for inmates to express themselves. Murals that inmates have painted can be seen throughout the prison system; the women’s facility makes teddy bears, and the Lea County Correctional Facility crafts quilts and donates them to various organizations.

Senator Morales asked Mr. Sallee to expand on previous statements regarding OptumHealth and the NMCD. Mr. Sallee said that the NMCD, the Children, Youth and Families Department, the Behavioral Health Services Division, and for a period of time the Medicaid Fee for Service Program had been paying Value Options and OptumHealth on a 1/12 draw basis, essentially giving Optum 1/12 of what the full contract was at the beginning of every month. Optum was supposed to use that money to reimburse providers for services delivered. Mr. Sallee continued: This violates the procurement code from the state standpoint of paying for something before the service was received. On numerous accounts, that money isn’t expended at the end of year—it is

the staff's position that those funds should revert back to the state and to the fund from which they were appropriated, he said. In this case, he said, more than \$1 million was found to be unexpended at the end of those two fiscal years. The department has indicated they are in the process of recovering \$800 thousand from Optum for FY10 and FY11 and still in negotiations relating to FY12. Ms. Sanchez said a lot of the money is coming from Medicaid, and there is a two-year look-back period.

Jerry Roark and Mike Estrada with the NMCD briefly explained custody parole dates and contracts with the Behavioral Health Collaborative. For FY14, the department has 32 vendors around the state providing treatment and counseling services to inmates around the state. Senator Morales asked the LFC staff to follow up on provider audits.

Group Health Benefits and Premiums, Risk Rates, Fund Balances, and Actuarial Conditions. Ed Burkle, secretary, General Services Department, said the state has not raised health insurance rates in five years; however, in FY14 rates had to be increased by 15 percent for a five-year recovery period to increase reserves. The administration will request a fairly large increase of 10 percent in premium rates for FY15; and a 7 percent increase in FY16—all to recover. He thanked the committee for the special appropriation of \$10 million to keep the fund solvent.

AJ Forte, director, Risk Management Division, said he finally had some good news regarding risk rates and the health benefit fund—the state is on a path to solvency. Mr. Forte stated the FY15 requested increase is to keep up with inflation. A 5 percent premium increase in FY16 will be a blend, he said. Projections are conservative, but a plan is in place to be actuarially sound with \$45 million to \$50 million in the fund. With a fund that is \$350 million a year, servicing 270 thousand insured, it is difficult to project three years, but the GSD is comfortable with the plan.

Risk rates are not an easy or comfortable conversation, he said. Not every entity was billed appropriately in the past. Going forward, he said, the public liability rates are billed correctly, and the department can justify every insured entity. The GSD has built rates so risk funds are solvent in five years, Mr. Forte said, but in FY14 premium total \$60 million, and in FY15 total \$81 million. Railroad liability is a new line the department added, he said and explained the increase.

The public liability fund is projected to be \$26 million for FY14 with the proposed rate increase, trending in the right direction. It is important to note the fund balance is at least being maintained. The fund pays settlements, attorney's fees and judgments.

Mr. Forte stated the state unemployment fund has been changed completely—in the past it was formula-driven. Going forward, every insured entity will go on actuals, simplifying the process.

Mr. Forte briefly reviewed the public property fund and said the fund is currently 91 percent solvent but needs to be 200 percent solvent because of excess carriers. Mr. Forte concluded by saying the workers' compensation fund is in the worst shape.

Sammy Quintana, executive director, New Mexico Public Schools Insurance Authority (NMPSIA), introduced members of his team and began with their risk program. 1) Exposure. The risk program is responsible for 273 thousand students 44 thousand employees and insured building property values of \$11.8 billion in FY11, additional property premiums, and 5,000 buses and other vehicles, 42 thousand sports participants, and 9,000 volunteers. Mr. Quintana reviewed a sample invoice for coverage provided during the 2013/2014 school year and explained the formula used to charge districts.

Mr. Quintana reviewed the risk fund balance, saying four years prior to FY13 the premium allocations were around \$54 million (years of good weather and minimal loss prevention) so premiums were reduced by 5 percent, or \$5 million. Districts were very appreciative, but the state suffered significant loss, such as a \$7 million hail storm. The projected fund balance at the end of FY13 is \$5.9 million. Projected revenues are \$61.9 million, and FY14 projected expenditures are \$66.3 million, with a projected FY14 fund balance of negative \$1.587 million he said. The authority is trying to find ways to reduce non-essential coverages.

Christy Edwards briefed the committee on the NMPSIA's benefit plan. Medical, prescriptions and dental is self-funded, and vision and life and long-term disability is fully insured. Ms. Edwards detailed every aspect of the authority's current plan and costs to their members; and said four years ago the NMPSIA was \$8 million in the hole, compared with a projected fund balance this year of \$33.6 million. The fund was not properly funded and went from a Cadillac plan to a Subaru plan. Within the last three years, premiums have increased about 6 percent, she said.

Carrie Robin Menopace with Albuquerque Public Schools said the presentation includes an analysis of the impact of the Affordable Care Act on employers, which is creating some increases to the APS healthcare plan.

Vera Dallas, director, Employee Benefits, Albuquerque Public Schools (APS), said the APS employs about 15 thousand people and 11,704 employees are eligible for benefits. About 68.2 percent of eligible employees are enrolled in one of the medical plans. The insurance plan year runs from January through December each year, she said.

Ms. Dallas said APS benefit programs include flexible spending accounts, self-funded prescription drug plans, an employee wellness incentive program, and life insurance. In 2014, the APS will add a smoking cessation program. Participation in the wellness incentive program can lower premiums by as much as \$25 a month per employee. Ms. Dallas said the APS is passing on a 5 percent increase in 2014 in premium rates.

Ms. Dallas said detailed APS plan design changes for 2014 include an in-network deductible and a 20 percent coinsurance. Aaron M. Wells, employee benefits director, Willis of Greater Kansas, Inc., gave an historical overview of medical and prescription expenditures. The APS is required to maintain an "incurred but not reported" balance in its reserve funds totaling \$8.8 million. The superintendent and Board of Education have directed APS administration to maintain a fund balance of no less than \$12 million to be fiscally responsible as possible, he said.

Mr. Wells said important healthcare reform impacts to employers that effect the APS include a \$1 per capita research fee applying to plan years after September 30, 2012 known as a CER fee. The per capita fee increases to \$2 in 2013, and Medicare payroll tax also increases to 2.35 percent on pay between \$200 thousand and \$250 thousand.

The biggest piece of the legislation, he said, is the pay or play free rider penalty, which could have a big impact to APS. The \$3,000 penalty is for each fulltime employee if an employer does not offer health insurance, or if the employer does offer insurance and it does not meet a minimum value test, or it is not affordable to the employee and the employee goes to an exchange – the penalty would apply. It could be a big deal for the APS, because coverage is not offered to substitute teachers. Also in 2014, pre-existing conditions will go away, and other taxes will kick in, resulting in an impact.

Mr. Blond briefed the committee on the APS Wellness Incentive Program, which has a 90 percent participation rate.

Mike Wilson, director, APS Risk Management, said they are self-insured for liability coverage to the extent of \$350 thousand for property; a \$250 thousand retention with a \$500 thousand for freezing—a big issue in 2011.

The panel discussed the increase in costs in prescription medication. Mr. Wells said he has seen injectable medications increase at a much faster rate than the average medication increase rates of 8 percent. The committee expressed concern with huge increases in pharmaceuticals

Charter schools in Albuquerque are part of NMPIA's plan.

Friday, July 19, 2013

The following members and designees were present on Friday, July 19 2013: Chairman Luciano "Lucky" Varela, Vice Chairman John Arthur Smith, Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Jimmie C. Hall, Edward C. Sandoval, Nick L. Salazar, Donald E. Bratton, and James E. Smith; Senators Carlos R. Cisneros, Stuart Ingle, Howie C. Morales, Steven Neville, Carroll H. Leavell, and George K. Muñoz. Representative Rodolpho "Rudy" S. Martinez attended as a guest.

Welcome Remarks. Richard Berry, mayor, Albuquerque welcomed the committee and thanked them for their service. He spoke about economic development in Albuquerque, highlighting a 4.1 percent increase in GRT and stating this was the third month in a row they have seen an increase, he also stated a Albuquerque has had a 4,400 job increase in the past year. He spoke about a collaboration between University of New Mexico and the city of Albuquerque called "Mind to Market," which takes ideas from universities and focuses on the commercialization of these ideas. Representative Larrañaga asked that Mayor Berry speak on the collaboration of education and government in Albuquerque. Mayor Berry highlighted New Mexico as having tremendous intellectual capital because of our universities and national laboratories. He discussed the recent changes in the tax structure that help to attract and retain business in New Mexico, highlighting in particular manufacturing jobs that typically run on a very thin margin. Senator Leavell asked Mayor Berry to discuss the movie industry tax credits and whether or not they were benefiting

the state from Albuquerque's standpoint. Mayor Berry discussed the success and importance of the movie industry in the city of Albuquerque. He talked about current movie and television productions, such as *Breaking Bad*, highlighting that each time an episode is filmed it is a \$1 million in direct spending to actors, producers, electricians, carpenters, lumber yards etc. He said Robert Redford recently met with Mayor Berry to discuss the potential of the Albuquerque Film and Media Experience, (AFME) which could become a large film festival similar to the Tribeca Film Festival or the Sundance Film Festival. In short, the film industry brings gainful employment and revenue to the state.

Senator Smith stated he represents a four-county area in southwest New Mexico with 130 miles of the Rio Grande that heads south and there are significant issues. Some constituents who work in recreational goods and services ask to get rid of agricultural users and those working in agriculture ask to get rid of those recreational users. Water is a resource in short supply, which the city recognized years ago when it participated in the funding of the diversion. A collective effort is needed to resolve this issue and to make certain this limited resource in a fashion that keeps New Mexico growing in a positive direction. Mayor Berry responded saying he agreed and that he understands water and how important it is to agriculture. He stated, 40 years ago the city had the foresight to buy the water rights for the San Juan Chama diversion project. He pointed out that Albuquerque is drinking more surface water than groundwater, giving the aquifer an opportunity to recharge. Now with the drought Albuquerque is having to divert to drinking more water from the aquifer. He stated it is important that we think of conservation as well as new sources and agreed that it is never a good idea to pit metro areas against agriculture.

Evidence-Based Investments for Economic Development. Jon Clark, LFC fiscal analyst for economic development, briefed the committee on the work over the past few months regarding economic development in the state. He said this hearing is a continuation of a series of hearings on economic development, he said these hearings began in May and have discussed the role of state government in economic development, a review of the state's labor force dynamics and workforce training programs. He said this hearing looks at evidence-based investments in economic development in particular capital formation and business management systems.

Economically Targeted Investments. John Freisinger, president and chief executive officer, Technology Ventures Corporation, said the primary goal of Technology Ventures Corporation is to help federally funded research and development entities, in particular Sandia National Laboratory, with technology transfer into the private sector. Mr. Freisinger said Technology Ventures Corporation has raised \$1.2 billion worth of private capital for small, nascent, and growing businesses based on technology coming out of federal laboratories. He said they have strong partnerships with all the research institutions in New Mexico, including the major universities. He said they fund programs that expand the attraction of capital, attraction of talent, and expansion of communities that will support entrepreneurship in New Mexico.

Peter Atherton, senior manager for industry partnerships, Sandia National Labs, directed the committee's attention to a presentation titled "Technology Transfer at Sandia." He talked about technology transfer of intellectual property that included patents, trademarks, copyrights, comparable property rights protected by federal law and other foreign counterparts. He also discussed the New Mexico Small Business Assistance Program (NMSBA), stating that there are

many business leaders thankful for the program and how it has positively affected their businesses. Mr. Atherton talked about an intellectual property initiative and two technology transfer examples, one of which was a partnership with UOP/Honeywell that cleaned 100 million gallons of radiation contaminated water at Japan's Fukushima Daiichi nuclear power plant. He closed his presentation discussing ideas to increase business through technology transfer, strategic investment, leveraging existing Sandia programs and enhancing Sandia's ability to collaborate and commercialize.

Lisa Kuuttila, president and chief executive officer, Science and Technology Corporation, UNM (STC.UNM) directed the committee's attention to a presentation titled "Venture Capital and Technology Transfer; Creating a Rainforest in the Desert." Ms. Kuuttila stated STC.UNM is the technology transfer and commercialization arm for the University of New Mexico and recently took on economic development responsibilities for the university as well. She said New Mexico has valuable attributes and is a good place to build an environment for startups to flourish. She discussed Science and Technology Corporation's Mission stating STC.UNM was a 501C3 set up under the New Mexico research park act in 1995. She said STC does several things, such as protecting the intellectual property that comes from the university, marketing to reach out to companies and to individual entrepreneurs to help make the connections that get the technologies transferred to new companies as well as to established companies. She stated the organization was formed in 1995 which by comparison to major research universities nationwide is later than many universities started their tech transfer programs many started around 1980. Ms. Kuuttila stated they completed their fiscal year June 30 and had a record 138 invention disclosures which compete very well nationally on a research basis. She stated we have a high productivity rate and close to 50 issued patents this past year with a record number of 63 option and licensed agreements. She stated we are most proud of our startup companies that have emerged from the university. University of New Mexico is being recognized nationally for our progress in creating start ups, with nine in the past year that are staying in New Mexico. Ms. Kuuttila thanked the Legislature, stating a big reason companies are choosing to stay in New Mexico is because of the investment in venture funds is allowing these companies to get started with local investments. Ms. Kuuttila pointed out areas where she thought the state could improve its support for economic development: Support is needed in the areas of money recourses and infrastructure. She said two improvements are needed. The venture capital goes into the new companies and the gap funding is used inside the research institution and matures the technology a little further and reduces the risks so it becomes more of an investable opportunity. University of New Mexico has a very small gap funding program now. She stated it invests \$25 thousand in a few projects every year and has been very successful sometimes leading to new startup companies. She stated the second area for improvement is the need for infrastructure, highlighting we have good science and in New Mexico and we can capitalize on the small and growing ecosystem of startups but we have no research district. She said a research district would create a mutual supporting relationship between a concentration of businesses and a scientific institution like University of New Mexico. She spoke of a project called Innovate ABQ that would function as a research district and would create an economic base to live, work, and play. Such infrastructure would create opportunities for employment for graduating students and New Mexico would not export so many students out of state. She stated Innovate ABQ could do more for business incubation, partner with other incubators, create a New Mexico technology transfer center. Colleges could

co-locate to create one place where an investor or entrepreneur could come and access scientific resources.

Russell Combs, managing director, WESST Enterprise Center, introduced himself and Marie Longserre, president of the Santa Fe Business Incubator. He discussed business incubation highlighting WESST's performance in fiscal year 2012. He stated he has been involved in business incubation for 30 years. He stated he and his teams have reconstructed or built from the ground up 12 incubation projects in four different states and have consulted in more than 11 other states on feasibility studies and site validation for business incubators. In March, Mr. Combs was selected as the managing director of the WESST Enterprise Center. Mr. Combs spoke about the activity impacts the WEST Enterprise Center has accomplished in 2012. He stated, working with 11 start up companies the WEST Enterprise Center reached total new jobs created 75, payroll \$5.6 million, revenues \$9.121 million, equity investments raised 1,277,000. He stated he is impressed by the network of business incubators consisting of the WESST Enterprise Center, South Valley Economic Development Center, Santa Fe Business Incubator, Enterprise Center at San Juan College, and the Arrowhead technology incubator. He said 1,397 new jobs were created between 2009 and. He said research indicates marginal investments in public capital may provide higher social rates of return than private investments because growth in public investment has lagged growth in private investment for decades. In short, if public investment is sacrificed in the rush to reduce future budget deficits the result will be less and less highly productive capital for future generations. He said at last analysis the collective group of New Mexico business incubators return was a 43-to-1 yield. He said this mythology has been identified as the primary reason 84 percent to 87 percent of businesses using business incubators are still in operation five years after graduation while according to national studies only 30 percent to 40 percent are still in operation after starting up if they do not use this methodology.

Ray Garcia, director, Albuquerque Small Business Development Center, said his interest was in helping individuals interested in the creation of viable businesses. When a client enters his center they discuss return on investment and he teaches them the basics of running a business. He said his center has a workshop called Pathway to Success held every Wednesday morning with six to 24 attendees. Most of his clients are mom-and-pop operations, such as laundry facilities, welding shops, restaurants, etc. He stated the center's budget is a little over \$4 million, of which \$600 thousand comes from the SBA.

Joseph Badal, chair and board president, New Mexico Small Business Investment Corporation, said the corporation was formed in 2001 by the Small Business Investment Act. He spoke about creating employment in community's statewide. He said 70 percent of investable funds were invested in the Albuquerque area when new board took office. The new board has put money into communities statewide. He said the corporation's concern is not whether companies will grow and leave the state, our concern is that companies will never be born or that we'll stagnate as a result of inadequate capital or inadequate loan funds. He said we are in a time when the banking community is operating under terrible restrictions and really having a tough time being able to lend to businesses, we are finding ourselves in a position where we have a huge demand but unfortunately we are down to about a year to a year and a half of available funds to be able to make available to those lending partners such as WESST, New Mexico Community Development and Action. He directed the committee's attention to a handout titled Tombstone.

He said the handout will be provided to every member of the legislature starting this quarter and be provided on a quarterly basis. He said our lending partners produced 70 loans totaling 1.1 million dollars to communities that cover the entire state. He stated Small Business Investment Corporation funds through our lending partners have made approximately 2500 loans since its inception creating about 6000 jobs. He stated I want to grow this program so we can put money out into communities statewide and create employment.

Brian Birk, Managing Partner, Sun Mountain Capital introduced himself and spoke about the background of the New Mexico private equity invest program. He said, the program is 20 years old established in 1993, during the first ten to eleven years it was managed to be a differential rate program focused heavily on economic development. The result of that focus was the program return suffered performing below national benchmarks for venture capital returns. He turned the committee's attention to a handout and said during the first ten years the program lost \$56 million of the State Investment Council's money. Since then it has earned \$6.5 million and it is growing every quarter from -18 percent in 2003 to -2 percent now. He said one misconception of the State Investment Council is that it invests into companies which it did for a brief time in 2003. That didn't work well and since they have modified their approach that it invest exclusively in venture capital funds managed by professional investors and have increased the performance of the program. Mr. Birk said the program since has committed over \$350 million dollars over a 20 year period and committed those dollars to 28 different venture capital funds. Those funds have in turn invested in over 60 companies based here in New Mexico. He said for every dollar that was invested in a New Mexico based company through one of these funds that received a commitment from State Investment Council, of those company's and those funds attract another \$6.40 of other people's money to be invested in that New Mexico based company. He said this is called a multiplier effect highlighting an improvement since 2004. He said the investments that have been made since then have performed in line with national venture capital benchmarks and the state has received a return comparable had they invested this capital in New York, California or Beijing but the main difference is because it's invested in New Mexico its created companies and jobs here in the state.

Senator Smith made two observations stating the legislature faces a double edged sword when it comes to capital in the state. He said some constituents ask why are we investing our money out of state and not here at home while you have another element saying no go out of state to be safe.

Senator Cisneros asked Lisa Kuutila where the state is in terms of adopting the principles involved in the rainforest initiative. Ms. Kuutila said the STC/UNM introduced the concept of the rainforest in the desert at the economic development seminar in September and began some planning work internally, and visited the innovation square model in Gainesville, Florida and there has been activity the Innovate ABQ project. She said with the incubation activity that we have the odds say over time they will result in a number of high growth companies but we can't ignore the opportunity to recruited companies here too. Senator Cisneros said he had another concern when we lost the opportunity with Intel when they elected to go to Chandler, Arizona as opposed to expanding or developing a facility in New Mexico. He said, one of their rational for moving away from New Mexico was the workforce issue. He asked can we provide the necessary workforce so this type of industry is interested in New Mexico? Ms. Kuutila said she is not the expert on this particular subject but said we do need to grow the workforce and grow

the graduates that are here. She said there aren't enough jobs in New Mexico for all of the graduates and we need to look critically at the needs of the companies and why many of our students are leaving the state.

In response to Senator Cisneros, Joseph Badal said from the New Mexico Small Business Investment Corporation's standpoint, there hasn't been able to get that kind of return in the past but some of that has to do with what was happening through during 2007 and 2008. The risk reward just hasn't been there and that's one of the reasons why we focus so much on the lending side. He said through lending and the multiplier effect, the overall benefit of the state is 3 percent interest on a loan which in turn can help create or grow an existing business which hires people who pay taxes and purchase goods etc. The overall return is probably a great deal better than 7.5 percent from that viewpoint. From a venture capital standpoint small businesses around the state are very problematic for our venture partners who are looking for larger returns and larger exit strategies. Most small businesses in New Mexico don't have that kind of potential. Senator Cisneros asked if there were adequate facilities to be able to accommodate the encouragement of economic development outside the metro area. Mr. Badal said it has never been an issue with the companies and entrepreneurs supported by his company. As far as attracting large companies, he said, there are areas in New Mexico that do not have the infrastructure to support this type of company.

Representative Larrañaga asked Mr. Badal how the state can get back on track in terms of banks giving loans, saying capital is needed to start and continue to grow companies in New Mexico. Mr. Badal spoke about the difference between venture capital and loan capital. Banks are not in business to do venture capital loans and we are several years away from being back in a normal environment. Representative Larrañaga asked Ms. Kuuttila about the Sandia Science and Technology Park. Ms. Kuuttila said she considers the park a mini research district. She said we need more incubation space and other factors. We envision this project to be a much bigger concept to involve several sites.

Senator Muñoz spoke about small banks and community banks lending money toward small businesses. Brian Birk, speaking to the State Investment Council's investment and involvement in venture capital through their local New Mexico program, said the new strategy of emphasizing returns has reversed and that program has made money. Mr. Birk said in Arizona two years ago he saw the creation of a closing fund largely to compete with Texas because there was belief of attracting companies in California successfully. One company was Optum Health run by United Healthcare and one of the big providers in New Mexico. That fund played an important role to bringing United Healthcare to Arizona, he said. Mr. Badal added he feels New Mexico needs to be taken care of state wide, not just on the venture capital side. He said \$30 million was put into venture capital and unfortunately that money sits because of the economy. The 30 million could be placed into loans we would have a real multiplier effect.

Senator Muñoz asked is that something that needs to come from us or is it done internally. Mr. Badal said the unding formula could be changed from 1 percent of the severance tax funds to some larger number but it would have to happen externally with the Small Business Investment Corporation. Senator Muñoz asked how would you see it done if we took one of the percentages and used it to close deals. Mr. Birk said that's a conversation best had with the State Investment

Council, the challenge you have is that State Investment Council has a tight focus on financial returns and the nature of these kinds of closing funds are not just investments but include comprise grants and tax abetments. I don't know that would be called an investment fund it's more of a set of resources to help.

Vice Chairman Smith stated it's been my experience that you can absolutely get a loan in this environment if you don't need one. The community banks may be telling us something but they represent 15 percent of the total banking market and they are doing over 50 percent of the commercial lending on a national basis trying to keep their communities going. It goes back to working with the small guy. Senator Smith said the other issue we shouldn't forget is the regulatory side of the state of New Mexico and I suspect Mr. Garcia is faced with that when you go forward with a small business. Mr. Garcia said you need educated citizens; my problem with my clientele is they won't fill out a form. I ask my clients to fill out loan applications and build financial statements but it takes educated people and a well regulated economy that helps you get things done.

Program Evaluation: Information Technology Evaluation: Unemployment Insurance System Modernization. The entire evaluation and response from the Department of Workforce Solutions is posted on the LFC website. LFC Evaluator Brenda Fresquez briefed the committee. Ms. Fresquez introduced the report and executive summary.

New Mexico Workforce Solutions Department (WSD) plays the critical role of providing temporary financial assistance to individuals who meet state eligibility requirements for unemployment insurance (UI) benefits financed by employer-paid UI taxes. The WSD began implementation of a new UI Tax and Claims system in January 2013, with an estimated completion date of December 31, 2013. In overhauling the UI Tax and UI Claims systems simultaneously, the department faced challenges with the scope, budget, and project schedule.

At a cost of \$48 million, the project included Employer Self-Service, UI Tax and UI Claims, Overpayments, and Program Integrity. The system collects unemployment tax information from employers, processes UI claims and benefits, and manages overpayments related to normal business and fraud related transactions. The unemployment insurance program is complex, with federal and state requirements, making the new system large and complex. The new system emphasizes "self-service" for claimants and employers, where the application can be accessed via the web portal on the internet and telephone.

In Summary. The overall functionality of the system works, however, the complexity of the new system can be cumbersome to use. Individuals with limited computer knowledge may be overwhelmed with the data input process of filing benefit claims. Also, locating unemployment insurance resources on the WSD website is challenging and could be improved. With more information required upfront, the initial intake process for a claimant can now take up to an hour. The high call volumes resulted in claim determination delays and call wait times remain long. According to Workforce Solutions Department, high call volume from claimants making extended benefit inquiries and employers accessing the new system became the main focus of the UI operations center the first months of implementation.

The lack of external oversight and independent verification and validation (IV&V), limited system testing, data conversion issues, and the lack of a disaster recovery contingency plan all represent risks to the new UI system. With the IT Commission inactive for almost three years, the UI project did not have adequate external oversight and approval. Although required for all certified IT projects, the secretary of the Department of Information Technology did not authorize a waiver for the IV&V. The WSD IV&V processes were not conducted by a third party, independent of the software developers and managers.

Because of cost overruns, the WSD agreed to reduce the length of the warranty while still contending with numerous outstanding defects. The warranty period was reduced from 12 months to four months. Finally, the limited ability of the department's IT staff to maintain and operate the system will require ongoing reliance on staff augmentation at considerable cost.

The WSD contracted with three vendors for the project:

- Deloitte Consultants - Responsible for majority of the software development processes and system implementation.
- Kemtah Group – Provides project management services.
- ACRO Services- Provides IT professional services for the new UI system, including programming support to augment WSD's application development staff.

The project budget is based on the available federal funding. The original project budget of \$39.3 million was constrained by projected and available federal grants. The project budget has risen to \$48 million. As long as the U.S. Department of Labor continues to require new mandates and Workforce Solutions continues with additional enhancements, the cost of the UI system will continue to grow.

Key Recommendations.

The Workforce Solutions Department should

- Modify its invoicing requirements to identify which tasks are complete and the percentage complete for each deliverable;
- Establish a standard process and acceptance criteria for all contract deliverables;
- Ensure Deloitte corrects all defects identified during the warranty period;
- Limit additional enhancements until all outstanding defects are remediated;
- Conduct a customer survey on use of the new system and its website and make improvements accordingly; and
- Conduct a workflow analysis at the operations center to determine the root cause for delays in wait times and identify areas for improvement.

The Department of Information Technology should

- Comply with administrative rule requiring independent verification and validation for large and high risk projects; and
- Establish criteria for granting IV&V waivers.

The Information Technology Commission should meet as statutorily required. This is important with the start of the FY15 budget cycle and the IT budget requests.

Secretary Bussey responded to the report saying she was thankful to her staff for their dedication and talent. She said we recognized early on that this was going to be a challenge to implement this system. She said they provided a very thorough and lengthy response to the report and would take questions from the committee.

Chairman Varela asked Charles Sallee, deputy director, Legislative Finance Committee, what kind of dialogue was had with the agency in terms of adding or changing the contents of the report. Mr. Sallee said normal procedures were followed by providing the agency with a copy of a draft report for their informal feedback to make sure we are accurate and we work together to make sure the recommendations are workable. He said the unit holds an exit conference to discuss the findings and the department provided feedback at that point. Pieces of that feedback are incorporated into the final report and the department has the opportunity to finalize formal response. In this case, evaluation staff agreed to disagree with the department and chose not to change the final report or recommendations. Representative Varela asked if the requests for information were timely enough to work on the report. Mr. Sallee said it wasn't extraordinarily difficult to obtain information; however, the volume of information and items to collect delayed the report.

Lannie Hodge, staff attorney, Center on Law and Poverty, introduced herself and her colleague Gail Evans, staff attorney, Center on Law and Poverty. Ms. Hodge said since the launch of the new UI Tax and Claim System in January 2013 the center has launched its own investigation in response to complaints from New Mexico workers as well as other anti-poverty advocates. She highlighted the five biggest problems with the new system and how it relates to servicing New Mexican workers and gave an example of a client she called Mr. "V," a citizen who was laid off in December 2012. Mr. "V" applied and was approved for benefits, after eight weeks into receiving benefits he got a letter from the department saying he needed to reply because he had been receiving benefits for over one year, which was incorrect. As of April his issue has not been resolved and he has not received any benefits. She said these are the real effects and consequences of a system that is not working. Ms. Hodge said New Mexico has a workforce of more than 944 thousand and more than 63 thousand people are unemployed. These citizens reach out to this system and they are not being served. Ms. Evans expressed concern with the system only being in English. She said Spanish-speaking applicants often are unable to use the system.

Senator Muñoz expressed the difficulty his office has had using the system, such as delayed payments, long waits, and complaints that go unresolved. He expressed disappointment the state has spent \$50 million and the system doesn't work.

Senator Cisneros commended the Legislative Finance Committee staff for producing the report, saying they do a good job of looking at facts and reporting them as such not taking a position one way or another. He said he takes exception to the department's response, which is seemingly not accepting what the Legislative Finance Committee staff has recommended or evaluated. He asked Secretary Bussey for an explanation of ACRO. Ms. Bussey said ACRO is an IT professional services company that has been providing IT services for a multitude of years. Senator Cisneros asked the secretary to get that information to the committee. He also asked if the problem is technical as a result of a conversion or reorganization. Secretary Bussey said the complexity of the program and the fact that for the first time through automation we have built in

all of the law all of the rules that surround the administration of the program. She said in the past in our legacy system was in English which is not a change to the new system. The process of serving the Spanish speaking population is accomplished in the same way through operations centers. She said we do allot more in this system than was done in the past as an external manual process, and agreed that this is a good opportunity to evaluate what they can do better and strive for better customer service.

Senator Morales expressed his concern with the system and asked why the state can't go back to the localized site , helping people on a person-to-person basis. Secretary Bussey said over a decade ago a push came from the U.S. Department of Labor to centralized administration of the Unemployment Insurance Program. She said because the complexity of the program was changing drastically, there was a big push to consolidate. She said administering the program in 25 field offices and ensuring adequate staff support is really what drove the consolidation effort. Senator Muñoz asked Secretary Bussey if they could find a balance where the state doesn't scrap the system all together but trains people at the local level to navigate through the system to ensure that safeguards are in place and there are no overpayments or possibilities of fraud.

Responding to Representative Larrañaga, Secretary Bussey said the system was fully funded with federal money. Representative Larrañaga asked if they provided a parameter or outcome of what was expected of the system. Secretary Bussey said they would love if the U. S. Department of Labor handed the department a template, however it is left up to the purview of the states to decide what is in their best interests. Secretary Bussey said there are commonalities in its administration and they do have the opportunity to share application development of the program with other states.

Tour of UNM STEM Capital Priorities - Members of the committee toured the Farris Engineering Building, Reginer Hall, and the Physics and Astronomy Building where students take science, technology, engineering and math (STEM) courses. The UNM University architect, Robert Doran, helped to coordinate and lead the tour of all the facilities.

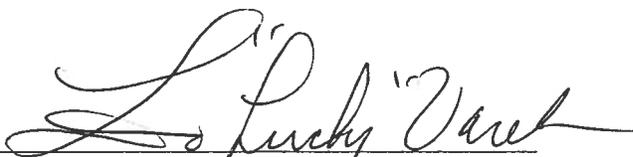
Professor and dean emeritus at the UNM School of Engineering, Joseph Cecchi, led the tour of the Farris Engineering Building. Farris was built in 1969 to address the teaching and research needs for the Chemical and Nuclear Engineering and Computer Science programs in the School of Engineering. The building's current condition is impacting faculty and student recruitment and retention, as well as the accreditation of the computer science department. Key HVAC and electrical infrastructure, now beyond the end of its useful life, is posing a health and safety risk to students, faculty and staff; in addition, fire suppression is not up to code. The Legislature appropriated \$800 thousand of severance tax bond (STB) revenue for planning to upgrade the building. For the design and construction portion of the project, a 2014 legislative request for \$23.7 million will be submitted. Director Abbey suggested requesting severance tax bond revenue instead of general obligation bond (GOB) revenue in order to speed up when funding could be available for the project.

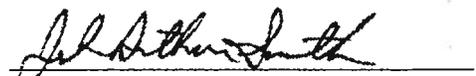
Members of the LFC toured two buildings where physics and astronomy courses, including lab work, take place at nearly opposite ends of the UNM campus. Bifurcated teaching and lab buildings for this college make scheduling difficult for students and faculty and for the college to

function cohesively. The tour started at Reginer Hall and was led by the Dean of the College of Arts and Sciences Mark Peceny. Reginer Hall, built mostly underground, suffers from water damage and presents a safety hazard due to electrical wiring and systems in the path of long-standing water leaks and water damage to walls has possibly resulted in structural damage to the building. The chair of the Physics and Astronomy Department, Wolfgang Rudolph, led the tour of the Physics and Astronomy Building near Lomas Boulevard. The Physics and Astronomy building suffers from asbestos building materials that have come loose in public areas of building, resulting in orange safety cones throughout the building; vibrations from vehicle traffic on Lomas affect lab experiments, and labs are poorly configured for modern technology and changing disciplines. In addition, many of the labs are antiquated and when combined with the safety concerns they place the college at risk of losing grant funding. As part of the capital outlay funding package for the 2014 legislative session, \$3.5 million for planning and design will be requested. Again, funding from the STB would speed up when funds could be available.

Discussions and questions of previous and current available funding sources took place by various committee members and staff from the LFC throughout the tour. In response, the tour leaders informed members that student fees for facilities increased from \$324 to \$516 between 2006 and 2013, building repair and replacement (BR&R) funding of \$984 thousand was allocated to the Farris Engineering and the Physics and Astronomy buildings between FY07 and FY13, and other university revenues totaling \$420 thousand were allocated between FY11 and FY13. It was also noted federal agencies do not allow infrastructure maintenance costs to be allocated to grants. Staff from UNM noted bonding capacity after the FY13 year end close won't be known for 18 to 24 months after the close of year and would thus push the timetables for these projects further out if this funding were pursued. Finally, it was noted that the BR & R funding formula is based on a 1994 replacement cost basis, which does not reflect current higher construction costs; the formula allocates 3 percent of the 1994 cost but is not fully funded at the 3 percent level, instead only 67 percent of the 3 percent allocation is disbursed, resulting in backlogged deferred maintenance and an inability to renew and replace buildings.

With no further business, the meeting adjourned at 11:14 a.m.


Chairman Luciano "Lucky" Varela


Vice Chairman John Arthur Smith