

MINUTES
Legislative Finance Committee
Ruidoso, New Mexico
July 27 - 29, 2016

Wednesday, July 27th

The following members and designees were present on Wednesday, July 27, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, William F. Burt, Carroll H. Leavell, Steven P. Neville, Howie C. Morales, Mary Kay Papen, and Pete Campos; and Representatives Larry A. Larrañaga, Roberto “Bobby” J. Gonzales, Doreen Y. Gallegos, Paul C. Bandy, Sharon Clahchischillage, George Dodge Jr., and Patricia A. Lundstrom. Guest legislators: Senators Ted Barela and Lee S. Cotter; and Representative Candy Spence Ezzell.

Welcoming Remarks. Clayton Alred, president of Eastern New Mexico University-Ruidoso (ENMU-Ruidoso), first talked about the recently purchased building adjacent to the university. Although the new space adds an additional 17 thousand square feet to the university, ENMU-Ruidoso is still the smallest higher education facility in the state. The university offers a cyber security program, the only U.S. Department of Homeland Security national center of academic excellence in information assurance/cyber security at a two-year institution.

Also offered at the university is the wildland fire academy, established after the 2012 “*Little Bear*” fire. Mr. Alred pointed out pictures displayed behind the audience, images captured during the fire. The U.S. Department of Education granted \$2.6 million to help ENMU-Ruidoso develop the academy.

Lynn Crawford, mayor pro-tem of Ruidoso, said the current administrative team has helped the town recover from financial difficulty. Ruidoso’s economy is largely supported by tourism. Mr. Crawford said Ruidoso has developed its shoulder-season, helping businesses to stay afloat. Ruidoso’s economy is also largely supported by the Ruidoso Downs racetrack.

Dallas Draper, vice-chair of the Lincoln County Commission, welcomed the committee and briefly talked about improving broadband, which he said needs state support.

In response to Chairman Smith, Mr. Crawford said, according to June’s report, gross receipts tax revenue has increased by almost 7 percent. Lodger’s tax has also increased.

Representative Lundstrom asked about economic development in Ruidoso. Mr. Draper said ENMU-Ruidoso is essential in keeping the younger generation in the community because they are at the core of Ruidoso’s service industry. Mr. Draper mentioned the need for affordable housing to fill Ruidoso’s employee gap.

In response to Representative Lundstrom, Mr. Crawford said most people in the racing industry appreciate the new anti-doping legislation for horses, adding that more time is needed to see a cleaned-up industry.

Senator Cisneros asked if the Tourism Department's True campaign has helped Ruidoso's tourism industry. Mr. Crawford said, based on reports, it is evident the True campaign is working statewide. According to online surveys, tourist visits to Ruidoso were motivated by the commercials and marketing ads. Chairman Smith said the increased tourism in the state is also because of current low gas prices, pointing out that when fuel prices increase, consumption will decrease.

In response to Senator Morales, Mr. Alred said the recently purchased building was acquired by using the university's reserves. Local bonds may be sold to renovate the building, which will be used for the wildland fire academy and the emergency medical technician (EMT) associates program.

Tourism Initiatives. Rebecca Latham, secretary of the Tourism Department, first talked about the state's tourism industry before the New Mexico True brand was launched. In a video that was played for the committee, consumer focus groups discussed what they thought Colorado, Arizona, and New Mexico offered in terms of tourist attraction. Overall, consumers said Colorado was beautiful and an adventurous place. Consumers felt Arizona was more of a relaxing and spa-ish type of place. When asked about New Mexico, consumers described the landscape as arid and barren, and felt the state was dull and boring. Many felt there was not a lot to do in New Mexico. Although difficult to hear, Secretary Latham said consumer opinions at that time sparked the Tourism Department to take action and correct misperceptions.

The Tourism Department is targeting venturesome travelers, who Secretary Latham said are people who have an adventurous spirit and a thirst for authenticity. Although objectives remain the same, the agency markets differently to those from New Mexico and those who are not. Marketing to New Mexican's is geared toward building in-state pride and advocacy. For those not from New Mexico, the message being sent to the drive market is focused on why they should visit New Mexico, and the message being sent to the fly market is focused on creating awareness of the state. Secretary Latham said the fly market brings a 7-to-1 return on investment. The agency has been working on ways to invest more in fly market advertising.

Although launched four years ago, Secretary Latham said it will take another six years for the New Mexico True brand to become fully embedded. The brand, which Secretary Latham pointed out is not a campaign, is being used as a tourism marketing tool working to help improve the state's economy.

Discussing the agency's budget, Secretary Latham said dollar adjustments to budget line items are being done to be able to do more with less money and invest more in fly market advertising. The adjustments so far have resulted in an additional \$1.2 million for fly market advertising in FY17. In the future, more photography and video will need to be invested in to keep the New Mexico True brand performing at its highest level.

Secretary Latham talked about the Tourism Department's strategic planks:

- Build a strong magnetic brand,
- Build in-state pride and advocacy,
- Unify and lead the tourism industry, and
- Require rigor.

The agency is building a strong brand through dynamic research-proven creative advertising. Discussing current advertizing, Secretary Latham showed a New Mexico True commercial that is airing on Southwest Airlines in-flight television. Secretary Latham mentioned that New Mexico's unique cuisine is highly marketable.

The Tourism Department is currently working on two initiatives to build in-state pride and advocacy, which Secretary Latham said is really about reminding New Mexicans what a great state they have so they can put their pride into action. Launching this fall is the New Mexico True Certified program geared towards exploiting merchants, growers, and manufacturers with products 100 percent made in New Mexico, born and raised in New Mexico, or grown in New Mexico. To encourage in-state travel, the Tourism Department is again partnering with the New Mexico State Parks division of the Energy, Minerals and Natural Resources Department to promote the "Find your New Mexico State Park" photo contest. Secretary Latham said promoting signature events is another way the Tourism Department is encouraging in-state travel.

To unify and lead the tourism industry, the Tourism Department is ensuring good communication and collaboration with partners. Secretary Latham said it is important that partners are equipped with the tools they need to be successful. The Tourism Department currently has 50 partnerships with counties, tribes, and communities.

Discussing rigor, Secretary Latham said the Tourism Department is taking a disciplined approach to making decisions based on research, metrics, and data; ensuring taxpayer dollars are being used wisely. Performance data in 2015 marked a fourth consecutive record for tourism. There has been significant growth in marketable overnight trips.

Secretary Latham lastly played a video that demonstrated how uniquely marketable New Mexico is in the world.

Senator Cisneros expressed concern that current budget constraints will negatively impact investment in the New Mexico True brand for FY17. Senator Cisneros suggested private sector contributions may be a solution to growing the advertising budget. Secretary Latham said some states are leveraging their programs with private sector dollars; however, there are pros and cons in doing so. Secretary Latham said, at this time, New Mexico does not have an opportunity to collect private sector revenue because of the anti-donation clause.

In response to Representative Larrañaga, Secretary Latham said advertisement for the drive market is focused on events, fairs, and festivals because it is the strongest motivator for travel. Current advertisement is happening on Pandora online radio.

In response to Representative Gonzales, Secretary Latham said, because they are the state's greatest asset, New Mexico needs to find a way to keep its children from leaving the state. Secretary Latham said the significant growth in the leisure and hospitality industry gives New Mexico a great opportunity.

Senator Morales requested the Tourism Department inform legislators of events happening in their districts so they can participate and show support for their communities.

Progress Report: New Mexico Water Projects. LFC program evaluator, Michelle Aubel, presented a report on the progress of New Mexico's water projects. Ms. Aubel said the New Mexico Legislature faces unique challenges in forming and implementing policy solutions to address aging water infrastructure. Discussing key issues, Ms. Aubel said the state has not clearly defined and inventoried all local and state needs, nor have costs been quantified. The 2017-2022 local infrastructure capital outlay improvement plan indicates that local water infrastructure needs may be as high as \$3.3 billion, though Ms. Aubel cautioned on the accuracy of the estimate.

Future resources available for water projects is of concern. The water project fund is primarily funded by severance tax bonds (STB); however, declining revenue from oil and gas tax is negatively impacting STB capacity. With fewer dollars available for capital outlay, colonias and tribal infrastructure projects will also be limited.

New Mexico water-related programs are fragmented, and a master plan based on a centralized review process is lacking. Referring members to appendix B, Ms. Aubel said New Mexico's water-related programs total 36. In coordination with the Water Trust Board (WTB), the State Engineer's Office (OSE) is mandated to establish a centralized review process for funding statewide projects; however, it is unclear where the OSE is on this mandate. WTB staff has asserted it is not the board's responsibility to lead the initiative, adding that the mandate is beyond the scope of the Water Project Act. Ms. Aubel suggested legislation would help clarify agency roles.

To improve coordination among various funding agencies, the New Mexico Environment Department (NMED) formed the Water Infrastructure Team (WIT) in 2013. Although progress has been made in coordination, fragmentation of funding programs persist, and lack of planning or requirements for capital outlay requests can leave projects sidelined due to incomplete funding or project readiness. Most notable, \$66 million, or 79 percent, of 2014 "year of water" appropriations were sitting unexpended as of April 2016.

Concluding, Ms. Aubel said capital outlay reform could help navigate the challenges New Mexico is facing but added, in lieu of legislation, proposed guidelines for legislators were included in the packet as Attachment 1. Ms. Aubel noted the report followed up on two projects reviewed in the 2013 LFC program evaluation: the Ute pipeline project and the Claunch-Pinto project. The report also provided a summary of NMED's technical assistance provided to all of the New Mexico Finance Authority (NMFA) programs except colonias.

Marquita Russell, chief of programs at NMFA, then spoke, first giving brief background information on WTB and NMFA. In 2008, a multi-agency water project management was formed to vet project applications and make recommendations to the board. Since then, several changes have been made in the project application process to improve the program. A fully vetted list of projects will be recommended to the Legislature. Expenditure requirements may be increased to ensure funding is available for all recommended projects.

Uday Joshi, hearing examiner for OSE, discussed further the changes made in the program to improve efficiency and transparency. Mr. Joshi said the improvements made have allowed WTB to function at a higher level of competency. Mr. Joshi said the state water plan is expected to be finalized by July 2018. Mr. Joshi said the plan will serve as the framework for a centralized project prioritization as recommended in the 2013 LFC evaluation.

Last to comment was Butch Tongate, deputy secretary of NMED. Mr. Tongate said increased coordination amongst the various agencies is apparent. The Department of Agriculture, Municipal League, Association of Counties, and Rural Water Association participate regularly in WIT meetings. Mr. Tongate said, though progress has been made, there are still challenges that need to be addressed. In later testimony regarding the year-of-water projects, Mr. Tongate indicated many were in the planning stages, accounting for the high percentage of unexpended funds. They did not have complete designs when funds were appropriated in contrast to the WTB process that requires projects be “shovel ready.”

Senator Cisneros expressed concern about funding future projects and the depletion of the water trust fund. Ms. Russell suggested the Legislature change the statutory distribution set in the Water Project Act so the amount distributed is based on earnings. Ms. Aubel said, if nothing is done, the State Investment Council estimates the water trust fund will be depleted by 2036. Senator Cisneros directed staff to continue working with the Legislative Council Service on developing the capital outlay guidelines as an option because reform legislation has so far has been unsuccessful.

In response to Representative Lundstrom, Ms. Russell said the year-of-water appropriations from the water project fund for two state projects did not go through the normal WTB vetting process. Representative Lundstrom requested a status report on these projects as legislators were not informed during the session. Ms. Russell also assured Representative Lundstrom that, unlike recent years, the WTB has changed its application cycle so a final list of recommended projects will be provided to legislators for the 2017 session.

Long-Term Financial Plan for State Museums and Monuments. Veronica Gonzales, secretary of the Department of Cultural Affairs (DCA), said it is DCA’s mission to protect, promote, and interpret New Mexico’s patrimony. Secretary Gonzales said DCA’s work impacts tourism, economic development, public land development, and education.

Secretary Gonzales said DCA’s operating budget has minimal funding for ongoing and preventive maintenance. Secretary Gonzales said facility closures negatively impact DCA’s operating budget because, without public access, the agency is unable to collect revenue from admissions and facility rent.

DCA’s capital outlay expenditures totaled \$4.3 million in FY16. DCA will be requesting \$18.2 million in capital outlay for FY18. Regarding DCA’s operating budget, agencywide reductions in contractual expenses, along with a \$450 thousand supplemental appropriation, helped the agency recover from its FY16 deficit. However, DCA projects a \$2.1 million deficit for FY17, mainly occurring in its museums and historic sites program. DCA’s FY17 total general fund operating budget of \$29.4 million is \$5.8 million, or 19.7 percent lower than FY09. DCA’s nonrecurring

fund balance has been used since FY11 to subsidize operations and will be depleted in FY17. To address the projected shortfall, division directors have been working to find other avenues in which to generate revenue and reduce expenses. Admission rates have been increased and the number of free admission Sundays have been reduced. These changes are expected to generate an additional \$442 thousand for FY17. In other efforts, the agency has reduced its workforce by 11 positions, streamlining operations and saving the agency \$627 thousand. To address the shortfall in personnel and benefits, DCA has frozen \$756 thousand in contractual services. This fall, operating hours and days of operations will be reduced at some museums and historic sites, alleviating shortages in staff.

Secretary Gonzales said it is critical to restore DCA's general fund appropriation to meet its operating needs and to replenish its fund balance in FY18; otherwise, there will be an increase in facility closures, more staffing reductions, and the elimination of some programs and important services.

Concluding, Secretary Gonzales said the already reduced workforce has been difficult for the agency. Secretary Gonzales said DCA highly values its staff because of their education, specialized expertise, and dedication to DCA's mission.

Thelma Domenici, president of the Board of Regents for the Museum of New Mexico, briefly addressed the committee, discussing the board's concern for DCA's depleting fund balance, which she said is negatively impacting the board's responsibility of maintaining the viability in the programs DCA administers.

Discussing private sector contributions, Jaime Clements, president of the Museum of New Mexico Foundation (MNMF), said the foundation generates \$7.5 million in gross earnings annually from five sources: membership dues, contributions, sales, royalties, and endowment payouts. Net proceeds from membership dues, sales, and licensing program cover MNMF's annual operating expensing, enabling the foundation to direct of all contributions to the museum system. This private funding is being used to support exhibition development and educational programs at museums and historic sites. Mr. Clements said a strong museum system is vital for New Mexico.

Chris Orwoll, director of the New Mexico Museum of Space History, and Margie Marino, director of the New Mexico Museum of Natural History and Science, briefly reported on current activity and accomplishments at the museums.

Others briefly addressed the committee, expressing concern for DCA's reduction in workforce. Herb Marsh, a volunteer from Lincoln County, said DCA's reduction in workforce should not be concentrated to its Historic Sites Division, pointing out the division's current 41 percent vacancy rate, which is almost three times the rate of DCA's other divisions. Mr. Marsh said Lincoln County is in desperate need for more rangers at its historic sites. Linda Sanchez, also a volunteer, asked that the Legislature prioritize funding for DCA.

Referring to the state's budget process, Representative Lundstrom said there needs to be more cooperation between the Department of Finance and Administration (DFA) and the Legislative

Finance Committee (LFC) in determining budget recommendations, pointing out that budget increases are often recommended by LFC and not DFA.

Chairman Smith said, if New Mexico's current financial situation worsens, DCA may need to make further reductions for FY17. Secretary Gonzales said DCA has already done all it can to stay operational. DCA projects a \$500 thousand shortfall for FY17.

In response to Chairman Smith, Secretary Gonzales said current renovation of a facility in Santa Fe is being paid for with private sector funding. Once renovated, the building will be used by the Museum of Art. The building will cost the state approximately \$1 million a year to operate.

Chairman Smith asked Mr. Clements why MNMF does not distribute a greater percentage of its endowment funds. Mr. Clements said, due to the decline in market performance, the endowment fund distribution percentage was lowered to protect its assets.

Behavioral Health Performance Report. Wayne Lindstrom, chief executive officer for the Behavioral Health Collaborative (BHC), said New Mexico is facing the same challenges as other states in its behavioral health system. These challenges include fragmentation, limited access and availability, insufficient resources to meet service demand, and fee-for-service (FFS) issues. Rapid policy changes, societal changes, and treatment changes are increasingly putting pressure on the system. Overall, Mr. Lindstrom said the shortage of workforce is currently the most critical issue facing New Mexico.

Behavioral health conditions in Medicaid are major cost drivers, accounting for 26 percent of Medicaid's total costs. Since the inception of Centennial Care in 2013, the number of individuals receiving behavioral healthcare services has significantly increased. Behavioral health expenditures increased by 11 percent from CY14 to CY15. Mr. Lindstrom said the system is now more responsive to New Mexico's behavioral healthcare needs.

Mr. Lindstrom said BHC's strategic plan focuses on regulatory reform, finance reform, and workforce. BHC is currently piloting a model called "treat first" that will give a more timely and effective response to a person's needs as a first priority at intake. The primary goal is to decrease the number of service "no shows." Mr. Lindstrom said the model provides for a more meaningful engagement and a solution focus rather than solely focusing on the completion of needed historical, assessment, and treatment planning documentation.

BHC is working on a number of new initiatives that move away from a FFS system to a value-based purchasing system. For two new behavioral healthcare homes, the care coordination function has been capitated on a per member per month basis. Mr. Lindstrom said this will allow the healthcare homes to provide a more meaningful engagement in supporting patients through recovery rather than focusing on the number of units of service produced. Other initiatives include managed-care organization (MCO) payment reform projects and the ECHO-CARE pilot.

BHC is currently using the Network of Care web portal as its website. The portal is also being used by the Department of Veterans' Affairs (DVS) and Aging and Long-Term Services Department (ALTSD). DVS is using the portal to share crucial information about services and

opportunities for veterans, family members, active-duty personnel, reservists, and members of the New Mexico National Guard. ALTSD is currently developing its website for the portal.

Discussing adequacy of the provider network, Mr. Lindstrom said there is an insufficient supply of behavioral health providers across all disciplines. Mr. Lindstrom said provider's performance measures are inadequate. According to a chart in the presentation, New Mexico's network adequacy is below the national average.

Mr. Lindstrom talked about overall improvements made to the behavioral health system. There is increased use of community health workers. Patient centered medical homes are serving more members than ever before. Emergency room use for non-emergencies has been reduced. The use of telemedicine has increased.

Mr. Lindstrom reported on national rankings. According to the most recent federally mandated annual survey, New Mexico's adult behavioral health services rank above the national average for positive outcomes, a five percent improvement rate since 2014. Service satisfaction, however, continues to rank below the national average. Children and family behavioral health services ranks above the national average for positive outcomes; though satisfaction results for those services rank slightly below the national average.

In response to Senator Papen, Mr. Lindstrom said the BHC, Health and Human Services, and Regulation and Licensing departments will be meeting in the near future to discuss the plan for the professional licensing boards on reciprocity.

Senator Papen asked about the status of payment to the providers involved in Medicaid fraud lawsuits. Mr. Lindstrom said Optum Health is withholding the bulk of payments. Some cases are pending federal hearings.

Representative Lundstrom requested a report from Mr. Lindstrom on how much the state is spending on behavioral health across all agencies, what the investments are, and if the investments are working. Mr. Lindstrom pointed out that there is no centralized depository for behavioral health data across all agencies. Representative Hall suggested LFC staff assist in developing the report.

Thursday, July 28th

The following members and designees were present on Thursday, July 28, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Ted Barela, Carroll H. Leavell, Steven P. Neville, Howie C. Morales, Mary Kay Papen, and Pete Campos; and Representatives Larry A. Larrañaga, Roberto "Bobby" J. Gonzales, Doreen Y. Gallegos, Paul C. Bandy, Sharon Clahchischillage, George Dodge Jr., and Patricia A. Lundstrom. Guest legislators: Senator Lee S. Cotter and Representative Candy Spence Ezzell.

Accountability Report and Public Education Issues. Rachel Gudgel, director of Legislative Education Study Committee (LESC), presented to the committee a draft of the first public school accountability report, which LESC and LFC are working on together. The report provides

information on where investments are being made and the outcomes of those investments. Ms. Gudgel said the report will be finalized by early fall.

Four superintendents then discussed student performance, financial conditions, teacher recruitment and retention, and capital outlay for each of their school districts. George Bickert, superintendent of Ruidoso Municipal Schools, talked about the connection between student performance and New Mexico's high poverty level. Mr. Bickert discussed student performance in Ruidoso. The school district has directed its concerns about the school grading system to the Public Education Department (PED). In 2014, 67 percent of Ruidoso's third graders scored proficient in reading; however, a negative value added model (VAM) score was received for each of those students. Also of concern is the large fluctuation in report card grades from year to year. Mr. Bickert said PED has not responded to their concerns.

Reporting on Clovis Municipal Schools, Superintendent Jody Balch discussed the district's efforts to address its financial issues. The district has restructured its salary schedule, which Mr. Balch said is now more equitable. Stipends have been reduced, saving the district several hundred thousand dollars. The district conducted its own facility management plan, also saving the district money. Then discussing teacher recruitment and retention, Mr. Balch said, the current salary for a first-year teacher is making it difficult to compete with other school districts. For example, the district recently lost a teacher to Friona Independent Schools in Texas because they offered a \$5,000 signing bonus. Clovis is also losing teachers to districts offering a four-day work week. Mr. Balch said the current teacher evaluation system is also making it difficult to recruit and retain teachers. The district currently has 28 teaching positions left to fill for the 2016-2017 school year.

Tom Burris, superintendent of Roswell Independent Schools, said his district is using the teacher evaluation system as a tool to help its teachers. Mr. Burris said he is an advocate of performance pay. In 2015, the program awarded a total of \$222 thousand for teacher attendance in the district. Mr. Burris reported on the district's school grades and graduation rates.

Reporting on current activity, Mr. Burris said the district has put in place a strategic plan that focuses on school turnaround, curriculum alignment, recruitment and retention, student attendance, and alternative setting for students. Construction is underway for the Parkview Early Literacy Center. The Early College High School program is in its third year of implementation. In partnership with Eastern New Mexico University Roswell, the program gives students the opportunity to earn both a high school diploma and an associate's degree.

TJ Parks, superintendent of Hobbs Municipal Schools, said, from 2010 to 2016, enrollment in the district has increased by 16 percent. The graduation rate for the district has increased by 18 percent. Truancy has decreased by 28 percent. In five years, the district has decreased its dropout rate by 69 percent.

Conditions of the oil and gas industry in Hobbs pose several challenges for the district. Mr. Parks said poor conditions lead to an out-migration of people, therefore negatively impacting student enrollment. Proving the point, a chart in the presentation compared student enrollment with the

oil production for the past 20 years. Mr. Parks is concerned the district may not be able to make its bond payments according to the current tax structure.

The district is implementing a new approach called “the Hobbs way” to better serve its students. Mr. Parks said the approach is meant to create a culture in the classroom that students respect, improve leadership, and provide teachers with data they can use to make educated decisions with their students.

Mr. Parks lastly talked about his concerns with funding outside the formula.

In response to Representative Hall, Mr. Balch said student enrollment for his district remains steady, although sometimes influenced by the number of service men and women being stationed at Cannon Air Force Base.

In response to Representative Hall, Mr. Parks said he does not agree that 50 percent of student achievement needs to be based on teacher evaluation. Mr. Parks said he polled superintendents a year ago and 82 out of 89 of them felt the percentage needed to be lowered.

Senator Morales asked what the barriers are that is preventing better teacher recruitment and retention. Mr. Balch said, especially in eastern New Mexico, school districts are competing with other school districts offering more money and a signing bonus. Mr. Balch said the shortage of people entering the teaching profession is of greater concern. Mr. Burris said it is even more difficult to recruit teachers in rural communities.

In response to Representative Lundstrom, LFC analyst Clint Elkins said PED changed the Reads to Lead initiative to a competitive grant; therefore not all schools were awarded. Representative Lundstrom requested information on what criteria PED used to determine who was awarded.

In response to Chairman Smith, Mr. Balch said Texas does not accept a New Mexico certification to teach in its state; however, New Mexico accepts Texas’s license.

Department of Health Developmental Disabilities Update on Budget, Litigation, and Waiting List. Cathy Stevenson, director of the Developmental Disabilities Supports Division (DDSD) at the Department of Health (DOH), first spoke about the *JM v. DOH et al* “Foley” case. In 2010, state defendants and plaintiffs reached a settlement agreement in the federal case related to the care of approximately 1,500 individuals discharged from the Los Lunas hospital and training school and Fort Stanton in the years 1970 through 1987. The settlement agreement has since been the subject of six arbitration hearings. In February 2016, the arbitrator ruled the state was not in violation of the agreement but stated the requests for arbitration and the subsequent hearings motivated the state to more carefully comply with the terms of the agreement and directed plaintiffs’ to submit a request for legal fees and costs. In June 2016, the state filed an objection to the almost \$400 thousand requested, contesting that there was no allowance for attorney fees in the arbitration agreement.

Ms. Stevenson then updated the committee on the *Jackson v. Fort Stanton* case. In 2016, the Legislature made a special appropriation to pay for services to address Jackson disengagement

work. Ms. Stevenson provided a synopsis of all legal orders issued in the case and the status of disengagement on those orders. The United States District Court recently denied the state's motion to disengage the case. The state is appealing the denial to the Tenth Circuit Court of Appeals. Ms. Stevenson said the Jackson case continues to cost the state a lot of money. In FY16, legal fees and costs totaled over \$6.2 million.

Then reporting on *Waldrop, et al v. New Mexico Human Services Department et al*, a settlement agreement was reached in 2015. Per the agreement, an outside review contractor must approve or deny adult individual service plans (ISP) and budget for clients in the developmental disabilities waiver program (DD waiver). The outside review process must remain satisfactory for two years to end court jurisdiction on the case. About \$2.4 million in special appropriation dollars have been used to contract with the University of New Mexico Continuum of Care (UNM CoC). Since November 2015, UNM CoC has reviewed 1,865 ISPs and budgets.

In response to Senator Cisneros, Ms. Stevenson said she would report back to the committee on how much the state has spent so far on the Jackson case. Senator Cisneros asked why the case is still pending. Ms. Stevenson said the state has not yet satisfied all court orders in the case.

Ms. Stevenson then reported on funding projections for the intellectual/developmental disabilities waiver programs (I/DD waiver). DOH projects a \$1 million shortfall in the program for FY17; however, the agency intends to use its FY16 fund balance, projected to be \$901 thousand, to help offset the shortfall. Ms Stevenson said, in FY16, the average cost per person who received traditional DD waiver services was \$69.9 thousand a year.

The state continues to use the support intensity scale (SIS) to help identify service needs for waiver participants. The SIS contract is with UNM Center for Development and Disability. Waiver participants may use the SIS results as clinical justification for services when submitting their service plan and budget to the outside review contractor. Ms. Stevenson said, in December 2016, the DD waiver will move from the current three-year assessment cycle to a five-year assessment cycle, saving the state money. In FY18, DOH plans to make the SIS available to a limited number of DD waiver applicants who are next in line for allocation. Ms. Stevenson said this will speed up entry into services when funds to allocate are available.

Ms. Stevenson gave a brief overview of DDSD's employment programs. The DD waiver supported employment program is currently serving 941 individuals. DDSD is piloting the School to Work transition services program to provide support to individuals on the waiting list and possibly prevent or delay the need for comprehensive supports.

Concluding the presentation, Ms. Stevenson talked about the DD waiver waiting list. There were 6,521 individuals on the list as of July 1, 2016. The Central Registry Unit conducted seven allocation fairs statewide in April 2016 to provide information about the allocation process. DDSD sent letters of interest in April to 103 waiting list registrants. DDSD approved 42 expedited allocations in FY16.

In response to Representative Gonzales, Ms. Stevenson said individuals on average are on the DD waiver waiting list for over a decade. The state would need to allocate 300 individuals a year

to keep the list from growing. Ms. Stevenson said some on the waiting list are receiving services through other programs, though the services are not the type or at level of supports they would get through the DD waiver program. Children on the list are often receiving services through the school system.

Representative Larrañaga asked why the U.S. District Court denied the state's motion to disengage the Jackson case. Gabrielle Sanchez-Sandoval, deputy secretary of DOH, said the judge felt the state has more work to. Ms. Sanchez-Sandoval said the state has not met all of its contractual obligations.

In response to Senator Cisneros, Ms. Sanchez-Sandoval said it is unclear when litigation will end for the Jackson and Waldrop cases. Ms. Sanchez-Sandoval said the state is doing everything it can to move forward and end litigation, including taking a more aggressive approach with the Jackson case and appealing to the Tenth Circuit Court to disengage from the case.

Department of Agriculture Employment Market Update. Anthony Parra, deputy director of the New Mexico Department of Agriculture (NMDA), introduced the new dean of New Mexico State University's College of Agricultural, Consumer and Environmental Sciences, Rolando Flores. Mr. Flores gave a brief summary of his background.

Jay Lillywhite, head of the Agricultural Economics Department and Agriculture Business Department at New Mexico State University, said New Mexico had 25 thousand farms in 2014, a 41 percent increase since 2005. The average farm size has decreased. Northwest New Mexico has the largest number of farms. A chart in the presentation showed the value of agriculture sector production. Livestock production accounts for 75 percent of the state's agricultural receipts, which Mr. Lillywhite said is mostly dairy. Regarding crop production, pecans account for 18 percent of the state's crop cash receipts. New Mexico is the second largest producer of pecans and chile, the sixth largest producer of non-storage onions, and the ninth largest producer of milk.

Then discussing economic impact, Mr. Lillywhite said agriculture production generated \$4 billion in sales and 28,250 jobs for the state in 2014. Mr. Lillywhite said, considering that initial spending in agriculture generates additional spending in other industries, total agricultural contribution actually totals \$6.2 billion in sales and 44,028 in jobs. Food manufacturing adds an additional \$5.1 billion and 9,558 jobs.

Mr. Lillywhite said commodity prices from 2011 to 2014 were historically high; however, prices are expected to decrease the next couple years. U.S. net farm income decreased significantly from 2011 to 2016 and is likely to remain low as commodity prices decrease. Mr. Lillywhite said the condition of the agriculture industry is influenced by the value of the U.S. dollar. Following a 10-year depreciation from 2002 to 2011, the U.S. dollar has appreciated, with a sharp increase in 2015. Further appreciation is projected through 2017, which Mr. Lillywhite said will constrain growth in U.S. agricultural exports. Mr. Lillywhite said, overall, the agriculture industry will continue to do well but will have some challenge in the next few years.

Jason New, international marketing specialist for NMDA, then reported on the International Market program at NMDA. The program gives producers and processors of food and agricultural products options and opportunities to explore various export markets. The federal funded program provides several services, including technical and logistical support, interpreters, introductions to qualified buyers, discounted buying missions, and international trade activities. NMDA partners with the Western U.S. Agricultural Trade Association, U.S. Pecan Growers Council, and U.S. Livestock Genetics Export to implement the program. Mr. New talked about upcoming international events.

To participate in the program, the agribusiness must be headquartered in New Mexico and their product must be 50 percent or more of U.S. origin. Also, the product must be farmed, fished, or forested. Examples of agricultural products that have utilized the program for international marketing include pecans, wine, craft beer, dry beans, peanuts, grains, livestock genetics, and a multitude of consumer ready products such as salsa and spices. Mexico, Canada, and China are the top three trading partners. Mr. New shared with the committee recent successes.

George Chappell, chief executive officer for Southwest Cheese Company, then reported on New Mexico's cheese industry. Southwest Cheese is a joint venture. Dairy Farmers of America, Select Milk Producers, and Zia Milk Producers Inc. are together partners with Glanbia. Mr. Chappell said New Mexico and Texas rank in top 10 states for milk production. According to a chart in the presentation, milk production in New Mexico and Texas increased year-over-year from 2001 to 2013. Production has remained flat since 2013. About 50 percent of the production is used for cheese processing.

Since beginning operation in 2005, Southwest Cheese has experienced continued growth. The company will be investing in its second expansion in 2018. Southwest Cheese is currently employing 380 people. Its products supply major brands. Ten percent of the cheese consumed in the United States in 2013 came from Southwest Cheese. Mr. Chappell attributes the company's success to its employees, excellence in industry standards, and innovation.

Cheese demand increases by 2 percent every year, which Mr. Chappell said is reflective of a growing interest to eat healthier and consume more protein. Whey products, especially bars, are increasingly becoming popular.

Mike Casabonne, a livestock producer in Chaves County, reported on New Mexico's beef and sheep industry. Mr. Casabonne first gave a brief overview on how beef and lamb prices are determined. Livestock operations are regulated by a number of federal and state agencies. The majority of ranches in the state are family owned and operated. Many of them depend on federal land to graze their cattle. Mr. Casabonne said increased federal land grazing fees and issues relating to the Endangered Species Act are causing hardships for some ranchers. Mr. Casabonne said he hopes policymakers consider the impact before imposing additional tax or regulatory expenses.

George Vander Dussen, a dairy farmer in Clovis, talked about dairy pricing. The prices dairy farmers receive for their milk production is largely established according to formulas incorporated into federal regulations of the U.S. Department of Agriculture (USDA). USDA

administers the Federal Milk Marketing Order program that seeks to establish minimum prices that purchasers of raw milk pay based upon how the milk is used and pays producers a uniform price regardless of how the milk is used.

Mr. Vander Dussen said New Mexico produces some of the highest quality milk in the nation. There are currently 142 dairies in New Mexico, a decrease from previous years due to declining milk prices, over-regulation, declining export trade, and drought. Mr. Vander Dussen said dairy producers want to work with policy-makers to find ways to prevent the loss of more dairies.

Craig Ogden, a farmer and rancher in Eddy County, talked about water infrastructure, which he said is the primary issue hindering agricultural growth. Mr. Ogden briefly reported on row crops. Hay prices are poor.

In response to Representative Bandy, Mr. New said the Trans-Pacific Partnership will make U.S. products more competitive in the foreign market and improve farm prices.

In response to Representative Larrañaga, Mr. Chappell described the devastation from winter storm “Goliath” in 2015. Mr. Casabonne said eastern New Mexico lost over 20 thousand cows, a 25 percent reduction. Mr. Casabonne said the storm resulted in a great loss of income.

Chairman Smith lastly commented on the need for worker’s compensation reform in New Mexico.

The State of Horse Racing in New Mexico. The committee then travelled to the Ruidoso Downs Racetrack to meet with the State Racing Commission (NMRC) and industry leaders. Ray Willis, board chairman of NMRC, and Ismael Trejo, NMRC executive director, began with a generally positive overview of horse racing in New Mexico. Ralph Vincent, president of the New Mexico Horse Breeders Association, Shaun Hubbard, president of Ruidoso Downs, and Joe Dee Brooks, board member for the New Mexico Horsemen’s Association (NMHA), voiced similar thoughts. Susan Vescovo, NMHA board member, expressed concerns about the handling of equine testing samples and internal controls with the transfer of samples at NMRC. Ms. Vescovo noted that other states split test samples among the equine medical director, racing commission director, and racetrack steward. According to Ms. Vescovo, one NMRC employee retains the sample and results are not released to NMHA. She recommends that samples be kept at racetracks rather than transported through couriers to other testing labs.

William Bunce, executive director of the Livestock Board (NMLB), and Alex Eckhoff, NMLB state veterinarian, presented information on the equine herpes virus (EHV-1) outbreak at Sunland Park Racetrack. According to Dr. Eckhoff, 1,632 horses were quarantined, 73 horses tested positive for EHV-1, 12 horses displayed neurological symptoms, and five horses were euthanized. Total expenses for NMLB reached \$101.2 thousand, accounting for over 13 thousand miles traveled and over 1,000 hours of field work. NMRC incurred \$29.9 thousand in testing costs for 407 blood tests and 413 nasal tests. In response to Representative Hall, Mr. Eckhoff said the agency was not able to determine where the EHV-1 disease originated and vaccines for the virus had questionable effectiveness but assured the committee that EHV-1 could not be transmitted to humans.

In response to Representative Bandy, Mr. Vincent said the American Quarter Horse Association is forced to recognize embryo transfers for quarter horses, a fairly common practice. Thoroughbreds are required to have natural breeding.

In response to Senator Leavell and Senator Papen, Mr. Bunce said there were no positives for EHV-1 confirmed at Zia Park and that horses transported interstate were identified and quarantined through coordinated efforts with law enforcement. Mr. Willis and Ms. Vescovo commended NMLB and NMRC for handling the quarantine professionally and efficiently, although Mr. Brooks did not concur, stating the quarantine was similar to “instituting martial law.”

In response to Chairman Smith, Mr. Brooks said horse races have the possibility of race manipulation, which was discussed at the Ruidoso racing summit held the week before the LFC meeting. Mr. Trejo offered a suggestion of allowing trainers to enter horses into races blindly as a potential solution and assured the committee that new rules on the issue would be in place at Zia Park’s upcoming meet.

In response to Chairman Smith, Mr. Willis said NMRC was collecting more fines, seeing fewer horse break downs, and working with the Attorney General to tackle drug cases. He noted the agency was currently in the process of collecting a \$100 thousand fine against one racetrack. Additionally, Mr. Willis presented anecdotal examples of his responsibility and impartial ability to address issues as a board member for both the Gaming Control Board and NMRC.

In response to Representative Ezzell, Mr. Trejo said equine testing cannot be done through NMRC due to statutory requirements. NMRC will be requesting additional funding to address issues with handling testing samples. Regarding worker’s compensation, Mr. Brooks highlighted a need to educate industry participants on how the recent court ruling would affect stakeholders.

In response to Representative Hall, Mr. Willis and Mr. Trejo said issues surrounding the appeals process, audit findings, and reconciliation of horseracing purses were being addressed. According to Mr. Willis, the industry has supported new rules that place horses suspected of drug violations on the veterinarian’s list for 60 days. Mr. Trejo said NMRC is considering the purchase of wagering integrity software to reconcile purses. Software costs are estimated to be \$61.2 thousand per year.

In response to Senator Leavell, Mr. Willis said tracks present recommendations for race days, which are then preset by NMRC for one year. In response to Chairman Smith, Mr. Willis said tracks hold about nine races each day with more or less than seven horses per race. Mr. Vincent said horsemen have expressed concerns about the lack of races while racetracks have pushed for fewer, quality races. He indicated members at the summit agreed to be more flexible on the matter. Mr. Brooks said scratches for races will happen, but races will run because bets are already made. He expressed concerns that purses, races, and attendance were decreasing by a rate of about 35 percent.

In response to Chairman Smith, Mr. Trejo assured the committee that NMRC would work with state and federal law enforcement agencies to get rid of illegal bushtracks.

Friday, July 29th

The following members and designees were present on Friday, July 29, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Ted Barela, Carroll H. Leavell, Steven P. Neville, Mary Kay Papen, and Pete Campos; and Representatives Larry A. Larrañaga, Roberto “Bobby” J. Gonzales, Doreen Y. Gallegos, Paul C. Bandy, Sharon Clahchischillage, Bill McCamley, and Patricia A. Lundstrom. Guest legislators: Senator Stuart Ingle.

Department of Transportation Direction and Performance. Tom Church, secretary of the Department of Transportation (DOT), said the State Road fund experienced an annual 1.9 percent growth rate. Reporting on federal revenue, Secretary Church said the Fixing America's Surface Transportation (FAST) Act, signed into law in 2015, will provide the state annual 2 percent funding increases through 2020.

Mr. Church said the Associated Contractors of New Mexico (ACNM) recently reported that there are 48 thousand transportation jobs currently in New Mexico. Regarding road maintenance, Mr. Church said New Mexico's roads are overall in good condition. For FY16, the interstate pavement condition was at 90 percent; U.S. route condition was at 77 percent.

Mike Friel, chief financial officer for DOT, discussed the July 2016 road fund forecast. Current expectations for FY17 are in line with the January 2016 forecast. FY18 state road fund revenues are currently estimated at \$410.9 million. The increases in revenue are primarily due to strong consumer spending and low gas prices that have boosted truck and SUV sales resulting in additional gas tax revenue from less fuel-efficient vehicles. Mr. Church said approximately \$115 million was set aside for local governments in FY17.

Michael Sandoval, director of the Office of Safety Programs at DOT, updated the committee on the ports of entry (POE) project. Mr. Sandoval talked about the most common issues that plagued the POE prior to the project. Some of the issues included long wait times at ports; difficulty in getting technical assistance through the telephone; problems with the E-permitting system; long turnaround times to get oversize/overweight permits approved; and lack of technology at the ports. Of most concern was that the Department of Public Safety (DPS) transportation inspectors were selling permits instead of conducting inspections.

In July 2014, the Federal Highway Administration awarded DOT a \$1.5 million grant to implement a project that would help mitigate the issues at the ports. Using the funds, DOT contracted with DPS to hire temporary employees and a consultant to revise regulations that govern permit sales. Reporting on progress made so far, Mr. Sandoval said a new e-permit system called ProMiles has been launched. A new automated phone system has also been launched. Twenty-five temporary employees were hired for the ports, reducing the wait time and allowing the inspectors to conduct their inspections. For FY17, DOT was appropriated \$4.5 million for POE technology upgrades. Mr. Sandoval said the system continues to improve and is so far proving to be more efficient. In FY16, permit sales reached \$240 thousand, a significant increase from prior years; however, NMDOT stressed the department is not yet ready to attribute additional revenue related to weight/distance or trip tax to the POE project at this time.

Then reporting on major investment projects, Mr. Church said the 2015 special legislative session appropriated DOT \$45 million in capital outlay dollars for several projects. Mr. Church said the investment made it possible for DOT to obtain additional federal dollars for unfunded projects. Anthony Lujan, deputy secretary for the Highway Operations Office at DOT, briefly went over major projects.

Mr. Church lastly talked about the Santa Teresa port of entry. Mr. Church has been appointed to the New Mexico Border Authority (NMBA) board of directors, giving DOT a better opportunity to work with NMBA on infrastructure-related issues. Mr. Church provided a map of the international freight corridor for Chihuahua and New Mexico. The FAST Act is initiating a number of border initiatives. DOT has completed its Chihuahua border master plan, which Mr. Church said identifies all infrastructure needs for the Santa Teresa POE.

In response to Representative Lundstrom, Mr. Friel said oversize/overweight permitting revenue is largely impacted by oil production; when there is less oil production, there are not as many trucks hauling oil field equipment. Those trucks are typically the ones that require an oversize/overweight permit.

In response to Representative Lundstrom, Mr. Church said the decline in New Mexico Rail Runner ridership is largely because of lower gas prices. Representative Lundstrom then asked about accident liability. Rail Runner accidents are covered under DOT's liability insurance. DOT's liability risk has decreased by 25 percent.

In response to Representative Larrañaga, Mr. Church said asphalt prices are still high, limiting DOT's ability to do larger projects. Mr. Church said that New Mexico asphalt prices are significantly higher than those in surrounding states and stated that DOT is still trying to understand the reasons for the price disparity. In response to a question from Representative Larrañaga, Mr. Church stated that NMDOT maintains an asphalt price index showing the disparity between prices and signaled his willingness to share price information and work with the Legislature to determine the reasons for the high asphalt price.

In response to Representative Clahchischilliage, Mr. Church said DOT will provide her a map of her district that indicates which roads are county, city, and BIA. Mr. Church said DOT would also provide her the Statewide Transportation Improvement Program list.

REAL ID Implementation Update. The Taxation and Revenue Department was unable to attend the meeting but provided the committee an update on the status of Real ID implementation. LFC analyst, Isaac Romero, said the Legislature passed House Bill 99 in 2016, providing New Mexico a six month extension from the effective date of the legislation on implementing the 2005 federal Real ID Act. New Mexico must begin complying with provisions of the act on November 18, 2016.

Mr. Romero said Real ID will be a two-tiered system administered by the Motor Vehicle Division (MVD) of TRD. In one tier, MVD will issue Real ID licenses and ID cards that meet federal requirements and will be accepted by federal agencies for official purposes pursuant to

the act. In the other tier, non-Real ID compliant driving or identification credentials will be issued to those who opt for it or who are not eligible for Real ID licenses and ID cards.

In response to Senator Cisneros, Mr. Romero said he will report back to him the additional costs to the state to implement the new system. There is no additional cost to the consumer other than the usual renewal cost.

Chairman Smith asked Mr. Romero to report back to him on implementation of the annual renewal that was also established in the House Bill 99.

Miscellaneous Business

Action Items.

Approval of July 2016 Meeting Minutes. Senator Cisneros moved to adopt the July 2016 meeting minutes, seconded by Representative Hall. The motion carried.

Review of Monthly Financial Reports and Information Items. David Lucero, deputy director of LFC, discussed proposed LFC budget guidelines for FY18. The guidelines serve as general direction of committee priorities. Members were invited to provide feedback on the proposed guidelines before the committee approves them in August.

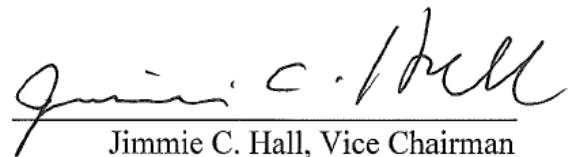
Mr. Lucero then briefed the committee on the status of agency proposed performance measurement changes. The Department of Finance and Administration (DFA) has proposed reducing the number of performance measures reported by state agencies, reducing the number of agencies reporting quarterly, and not requiring targets for some measures. With these changes, quarterly performance information will be limited.

LFC and DFA have reached consensus on key reporting agencies. LFC and DFA are now working together on changes to measures.

Senator Mary Kay Papen and Representative Lundstrom expressed concern about the changes being made.

With no further business, the meeting adjourned at 10:41 a.m.


John Arthur Smith, Chairman


Jimmie C. Hall, Vice Chairman