Legislative Finance Committee
Meeting Minutes
Hobbs/Roswell, New Mexico
June 13-15, 2012

Wednesday, June 13, 2012

The following members were present at the New Mexico Junior College on Wednesday, June 13, 2012: Chairman John Arthur Smith, Vice Chairman Luciano "Lucky" Varela, Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Edward C. Sandoval, William "Bill" J. Gray, James P. White, Don Tripp, and Ray Begaye; Senators Carlos R. Cisneros, Mary Kay Papen, Sue Wilson Beffort, Carroll H. Leavell, Senator Timothy Z. Jennings, John M. Sapien, and Sander Rue. Representatives Donald E. Bratton, Shirley A. Tyler, Dennis J. Kintigh and Candy Spence Ezzell attended as guests.

The committee introduced themselves and thanked the New Mexico Junior College for their hospitality.

Welcoming Remarks and Community Input. Steve McCleery, president, New Mexico Junior College (NMJC), introduced members of his staff and said unemployment is extremely low in Lea County because fossil fuels bring in millions of dollars, providing opportunities for employment in the growing economy. The NMJC is receptive to all positive change, he said.

TJ Parks, superintendent, Hobbs Municipal Schools, told the committee that education is the foundation to a strong community and economy, and said Hobbs has grown over 500 students in the past three years but has 65 fewer staff members. Mr. Parks said Hobbs ranked last in per-pupil funding.

Sam Cobb, mayor, Hobbs, stressed how important energy is to the local and state community and said he was proud of the city's economic diversification. He thanked legislators for supporting Lea County growth.

Lea County Commissioner Gregg Fulfer welcomed the committee to the EnergyPlex and gave a brief overview of successful Lea County economic development endeavors, including the International Isotopes, a manufacturer of nuclear medicine products, and the Joule project, which turns bacteria into biodiesel. Commissioner Fulfer said Lea County wants to diversify the economy and attract research, and Pegasus is a "field of dreams" for testing technology near Hobbs.

In response to Senator Leavell, Mr. McCleery said NMJC has the largest workforce training school after Central New Mexico due to contributions from energy sector initiatives. NMJC has workforce training programs including nursing, career-technical development, and recertification for safety.

Representative Kintigh announced the Dunes Sagebrush Lizard will not be placed on the endangered species list.

Overview of Oil and Gas Industry in New Mexico. *Exploration, Development, Production Trends and Natural Gas Liquids.* Tom Engler from the Petroleum Engineering Department at

New Mexico Tech gave some historical data on annual oil production and activity in New Mexico basins, saying the San Juan Basin and the Permian Basin in southeast New Mexico are the largest. In the San Juan Basin, annual gas production peaked at 1.6 billion cubic feet (bcf) in 2000 with the increase of coalbed methane and has since declined, although oil production has increased in the past few years. Well completions hit a high in 1982 and again in 2005. Mr. Engler said Mancos Shale areas have good prospects.

The Permian basin in southeast New Mexico has seen an increase in activity from 2000 to 2005, a response to economic volatility and changes in demand. There has been a 9 million barrel increase in the past three years partly because of oil price and technology advances. Over the last eight years, the area has seen approximately 1,400 well completions a year.

Mr. Engler said some of the factors driving the Bone Spring/Avalon, Yeso and Abo areas up are horizontal drilling and completions and oil price. Factors driving the Morrow, Mississippian, and Pecos Slope gas areas down are gas prices and the fact that these plays are poor candidates for horizontal well completions.

Joel Carson III with Mack Energy Corporation told the committee the company was founded by Mack C. Chase, who is 81 years old and is still on the field every day. Mr. Carson said the company is in a rebuilding stage and looking is drilling in the Permian with limited success. Mr. Carson said the company plans on keeping the base of operations in New Mexico.

Mr. Carson said Chase Foundation was created in 2006 and has awarded $6.5 million in scholarship money to date.

The challenges Mack Energy Corporation faces are heightened regulatory burdens, new Environmental Protection Agency greenhouse gas reporting rules, new fracking rules, and new Occupational Safety and Health Administration rules. Locally, Mack Energy Corporation faces new rules for truck drivers from the New Mexico Department of Transportation and lack of housing for employees. Mack Energy employs 205 people.

Silver Oak Drilling employs 300 people, operating 12 rigs valued at $12 million apiece, and recently started an oil field cementing business.

Gayle Burleson, vice president of New Mexico Concho Resources Inc., provided a history of Concho, saying the company was formed in 2006, went public in 2007, and is the leading pure-play Permian Basin operator with significant reserves and production in New Mexico. In 2011, Concho injected $1.1 billion into the New Mexico economy, paid $12 million in wages. It is the top oil producer in New Mexico.

Ms. Burleson said Concho has 88 rigs currently running and does not foresee a slowdown. Last year, active drillers paid more than $93 million in lease bonuses for New Mexico State Lands. Horizontal drilling within the last three to five years has allowed for development in the Delaware Basin. The active horizons include Delaware sands, Avalon shale and Bond Spring sand plays.

There are nine Yeso rigs and one Lower Abo rig currently operating, and Concho has drilled more than 1,000 wells in the Yeso area with total vertical depth between 5,000 to 7,000 feet.

The cost to drill and complete each well is $1.6 million, drilling takes seven to 10 days and the estimated ultimate return on each well is 145 million barrels of oil equivalent.

Ms. Burleson briefed the committee on asset development, saying growth is larger than expected due to new technology after acquisition valuations. Concho is continuing better-than-expected expansion possibilities in acquisitions.

Representative Saavedra thanked the panel for an excellent briefing and asked if New Mexico's children are being educated about oil and gas in the state. Ms. Burleson and Mr. Engler indicated presentations are made for middle schools and high school children.

Representative Kintigh said he commends Concho but is sorry Marbob and much of Chase sold out to Concho because the company is based in Midland, Texas.

Ms. Burleson said the footprint of vertical drilling, as in the Yeso area for example, is on 640 acres with 10 acre well spacing, or 64 wells on the surface, leaving a larger footprint than horizontal wells. In the Bone Spring, Avalon or Wolfcamp areas there is one well per 160 acres, or four wells on 640 acres. Ms. Burleson added that horizontal drilling contacts more of the formation, so it recovers more oil.

Mr. Engler said hydraulic fracturing is the injection of viscous fluid underground to crack rock. Ms. Burleson said the pores in the rocks are measured in millidarcies, which cannot be seen by the naked eye, and that is why hydraulic fracturing is necessary. All 900 wells that Concho will drill this year will be hydraulically fractured, because it is a matter of economics.

The panel and committee also discussed New Mexico's oil and gas regulations, the need for qualified applicants who can pass drug tests, lack of housing for employees in the industry, and the average beginning salary of a college graduate with a degree in petroleum engineering - $105 thousand a year.

Sources and Uses of Oil and Gas Revenues — Leila Burrows, chief economist, Department of Finance and Administration (DFA), and John Tysseling, chief economist, Taxation and Revenue Department (TRD), gave an overview of the oil and gas issues facing the state. Mr. Tysseling said gas revenues have declined since 2001. Oil revenues have remained relatively stable due to a strong pricing trend in recent years. The role of horizontal drilling activity is a substantial recent relief in the strength of our oil and gas activities, with two-thirds to three-fourths of oil production coming from southeast New Mexico.

Ms. Burrows noted that natural gas exceeded the forecast in FY11, and the average price through February is above the FY12 forecast. In FY12, natural gas liquids are adding $1.90/mcf (thousand cubic feet) relative to spot, dry gas prices. Natural gas prices are expected to remain low relative to oil. Natural gas liquids provide 30 percent of the total production value statewide.

Mr. Tysseling stated that FY12 volumes through February are up 14 percent over the same period in FY11, with strong oil volumes offsetting the weakness in the natural gas prices. The economic significance is the summation of the total tax, approximately $1.7 billion per year, which includes the general fund, bonding fund, and permanent fund. The permanent fund distributions add more than $770 million, while other taxes paid directly by the industry add $250 million to the general fund. In 2010, oil and gas employment provided around 14 thousand jobs in New Mexico (or roughly 1.75 percent of New Mexico's 782 thousand jobs). The types of job included were related to either direct production (4,503) or oil and gas services (9,987) employment.

From FY06 through FY08, the severance taxes, rents, and royalties oil and gas contributed per year was over $1 billion, about 20 percent of the general fund. Severance taxes, rents and royalties fell to $800 million (17 percent of general fund) in FY10. The declining share of the general fund revenues for FY13 is forecasted at 16 percent.

Approximately 80 percent of oil and gas is produced on public lands—more gas is on federal lands, and more oil is on state lands. The royalties from public lands are an important source of revenue to the general fund (federal lands) and to the permanent fund (state lands).

Senator Beffort asked about New Mexico's relation to the Keystone Pipeline. Tysseling responded that it would be five to seven years before the pipeline would make an impact. He also said that it could be assumed that New Mexico could take advantage of this infrastructure.

Environmental Issues. John Bemis, secretary of New Mexico Energy, Minerals, and Natural Resources Department, briefly informed the committee on developments concerning the Little Bear Fire. Secretary Bemis addressed hydraulic fracturing, or fracking, noting technology, despite some controversy, has been used in New Mexico for more than 40 years and the state took proper regulatory measures in the 1980s to address infrastructure.

Secretary Bemis informed the committee of ongoing hearings about the pit rule and stated a decision will be reached in July, or soon thereafter. Secretary Bemis stated methane is mostly harmless and mishaps are often overemphasized in the media. He noted approximately 60,000 wells are in New Mexico and contaminations or mishaps are uncommon. Nitrogen might be a substitute for water in small amounts in certain cases, alleviating some water usage concerns. Regarding noise levels coming from wells, Secretary Bemis stated counties have legitimate motivation to act if there are obvious concerns, such as sleep loss. Otherwise, he said, noise from wells should be regulated by the Oil Conservation Division (OCD).

Jerry Fanning, environmental manager, Yates Petroleum, said the pit rule hearings concern the oil industry's choice of using traditional pits, the use of low grade tanks, amending Rule 17, multi-well use pits (which are used for multiple wells and flow backs of fracking production fluids and the possible reuse of such fluids), and closure standards for pits. There is a need for rules to be scientifically based and industry is on board with this approach.

Mr. Fanning said the new fracking rules passed by the OCD are proactive, based on historical knowledge, giving protection to the citizens of New Mexico. The OCD took a different approach than the federal Environmental Protection Agency (EPA).

Mr. Fanning said greenhouse gas rules need a proactive approach, adding some new EPA green house gas rules do not have a significant environmental impact and will be expensive.

The industry was highly involved with the sand dune lizard being completely removed from the endangered species list by making conservation agreements and contributing more than $2 million and many acres to conserve an environment for the lizard. He also said this success has significant implications for the Endangered Species Act, providing a new way of looking at the act and addressing issues related to it in a more commonsensical manner.

Representative Bratton asked Secretary Bemis if regulations on oil and gas in New Mexico were hindering business growth and making the state uncompetitive, citing a gas plant built just across the border in Texas presumably because Texas was more business-friendly for the industry. Secretary Bemis stated perceptions of New Mexico not being friendly to oil and gas are not as prominent as in the past and the state will more than likely see more oil and gas expansion due to large supplies of oil and gas being discovered in New Mexico.

Representative Bratton and Senator Cisneros expressed concern to Secretary Bemis over county moratoriums that might put natural resources, such as oil and gas, off limits and asked what steps can be taken, legislative or otherwise, to resolve this issue. Secretary Bemis agreed that county moratoriums may be harmful to industry growth, saying it would be simple to have the OCD have total regulatory authority concerning oil and gas, but his personal belief is that the issue will play out in the courts as in Colorado. Representative Bratton and Senator Cisneros stressed a need for scientific grounding in regulations and consistency across counties.

Gaming Revenues and Regulation. Vince Mares, director of the New Mexico Racing Commission (NMRC), said the NMRC is mainly evolved with equine testing, with a goal of protecting athletes and integrity in the sport by preventing the use of illegal drugs or stimulants. The current budget allows the commission to test equine urine and blood samples. In FY11, the commission was allowed 13,044 samples, for an average of 45.1 daily tests. This does not include out-of-competition or necropsy testing.

The NMRC has recently become a member of the Association of Racing Commissions International (ARCI), thanks in large part to contributions from different organizations, including racetracks. The ARCI membership is a national resource, similar to a law enforcement tool, allowing the NMRC to enhance its regulatory efforts by accessing national information on problem trainers and effective policies.

Director Mares expressed concern for the NMRC's inconsistency in testing and enforcement in recent years, saying the NMRC is enforcing ARCI classification guidelines and is in the process of incorporating ARCI penalties. He said complying with ARCI standards will allow for major improvement. The agency's biggest concern is insufficient budget to enhance the testing program. The budget currently allows for testing the winning horse and possibly one other horse (per race), not enough to address problems with "match races" and off-track betting, among other issues. Director Mares stated the NMRC needs more necropsy testing, euthanized horse testing, and out-of-competition testing, as well as testing for four horses per race, and would require $1.2 million in additional funding. Stricter rules with harsher penalties need to be addressed and the goal is to be fully ARCI-compliant

Director Mares stated the recent *New York Times* article was critical of the horse racing industry across the country, specifically in New Mexico. The NMRC was too lax in its enforcement in the cases cited in the article, but he emphasized the article's focus was on the continued abuse and maltreatment of horses by trainers. Director Mares took responsibility on behalf of the NMRC and cited the ARCI membership and adoption of itsr standards as a move to address issues raised in the article. He noted that some of the numbers in the article were exaggerated.

Jack McGrail, executive director, Horseman's Association, stated the allegations presented in the article had some merit but that the article grossly exaggerated the picture of horse racing for the whole state. The Horseman's Association is fully behind efforts to provide a safe environment for horses and athletes and to promote horse racing in New Mexico. Although the NMRC has stiffened some penalties and drug standards, those rules need to be enforced and enough funding is needed to penalize and regulate effectively.

Mr. McGrail stated horseracing is a significant economic engine in New Mexico with 10 thousand jobs in the industry, has a $240 million economic impact generated, and contributes $63 million in taxes. Mr. McGrail told the committee it is foolish not to fund the NMRC more adequately for its functions given the revenue and tourism dollars generated by the industry and expressed concern over tracks cutting race dates.

Karen Bailey, director of public affairs at Penn National Gaming, stated Penn National Gaming is the largest racetrack operator in country. Zia Park has about 260 non-racing employees, and the racetrack generates about $22 million in gaming revenues to New Mexico and $16.8 million in purse revenues. Zia Park contributes $85 thousand to Hobbs and Lea County through various tax structures and donates an additional $80 thousand to local charitable organizations.

Rick Baugh, assistant general manager, Zia Park Racetrack, stated tracks are focused on solving drug and abuse issues. Penn National Gaming is working at the national level by working with the Thoroughbred Racing Association and the Racing and Medication Testing Consortium as well as the ARCI.

Senator Rue questioned Director Mares on current funding allocations to the NMRC. Director Mares told Senator Rue the current yearly allocation is $393 thousand. Fines collected by the NMRC go directly into the general fund.

David Norvell, chair, Gaming Control Board, said reductions in appropriations in 2008 and 2009 necessitated a reduction in staff and a stop to on-site auditing for nonprofits, although desk audits have continued.

Senator Sapien asked if injury reports, including relevant information on jockeys, horses, and trainers, are publically accessible and Director Mares stated the NMRC hopes to make injury reports publically accessible through a revamped website.

Chairman Smith said there are many unanswered questions regarding racing and gaming in New Mexico and expressed concern over complications with class II and class III gaming machines, which were meant to salvage the racing industry. Chairman Smith said the NMRC should be focused on the problems of the five tracks already in business in New Mexico.

Report to Governor on Horse Racing Safety and Integrity--Status Report on Gaming Compacts Class II Machine and Internet Gaming and Sources and Uses of Gaming and Racing Revenues. Elisa Walker-Moran, chief economist, LFC, stated that gaming plays an important role in the New Mexico economy and is an important source of state revenue, with about 2 percent of non-recurring general fund revenue coming from tribal and non-tribal gaming.

New Mexico is home to 14 tribal entities that operate gaming facilities. In exchange for paying a share of net win to the state general fund, tribal casinos are guaranteed a monopoly on Class III gaming (slot machines, banking card games, and table games such as blackjack and poker). Under the 2007 compact, tribes pay between 9.25 percent and 9.75 percent of net win. Under the 2001 compact tribes pay about 8 percent of net win. The 2007 compact expires in 2037 and the 2001 compact expires in 2015. Casinos can voluntarily submit to audits by the state. Auditors conduct a count of machines and monitor revenue per machine to estimate compliance with revenue sharing.

Net wins on the 16 thousand class III machines totaled $710 million in FY11 and revenue sharing payments to the state totaled $65 million in FY11. The consensus revenue group estimated in December 2011 the tribal revenue sharing payments at $70 million in FY12 and $75 million in FY13. Revenue sharing is not required on the 200 class II gaming machines (bingo, bingo-like machines, and non-banking card games) in the state. There is a risk that as class II gaming machine technology improves and as existing machines age and are replaced, tribal casinos will replace class III gaming machines with class II machines and may reduce future general fund revenues. The state has no jurisdiction over the number of class II gaming machines a tribe purchases. According to the Gaming Control Board (GCB), informal negotiation between the administration, the legislature, and the tribes may be the only recourse to retain future revenues.

There are several non-tribal gaming revenue distributions, including the gaming excise tax, horse racing purses, problem gambling distribution, and charities distribution. There is also a county gaming tax credit. An excise tax is imposed on the privilege of engaging in gaming activities in the state. The gaming tax is in lieu of all state and local gross receipts taxes.

New Mexico has five licensed racetrack casinos, each paying a gaming excise tax of 26 percent of the "net take" to the general fund. Nonprofit gaming operator licensees, manufacturer licensees, and distributor licensees pay a 10 percent gaming excise tax on their net win. Gaming excise tax payments from these non-tribal sources totaled $65 million in FY11, about $5 million per month, or 21 percent of the net take. The consensus revenue group estimated in December 2011 that gaming excise tax collections will total $67 million in FY12 and $68 million in FY13. In addition to the gaming tax, a racetrack gaming operator licensee pays 20 percent of its net take to purses. In FY11, the gaming revenues distributed for horse racing purses totaled $49 million. A racetrack gaming operator licensee is required to spend no less than one-fourth percent of the net take to fund problem gambling. The racetracks submit a request for proposals from treatment providers to address problem gambling and in FY11, revenues collected to address problem gambling totaled $600 thousand.

A nonprofit gaming operator licensee distributes 60 percent of the balance of its net take for charitable or educational purposes. In FY11, the revenues collected for charities totaled $2 million.

The county gaming tax credit took effect January 1, 2011. A racetrack may claim a tax credit in an amount of up to 50 percent of the monthly gaming tax liability. Currently, only Ruidoso Downs qualifies for this credit. The Taxation and Revenue Department reported that in FY11 the credit totaled $398 thousand.

Licensed horse racetracks are subject to two taxes: the daily tax and the parimutuel tax, based on the gross amount wagered. Horse racetrack licenses are classified as either class A or class B. Class A licenses pertain to racetracks that have annual revenues from parimutuel wagering of $10 million or more. Class B pertain to racetracks with revenues less than $10 million. The daily tax for class A racetracks is $650 per racing day; for class B racetracks it is 1/8 percent of the licensee's gross daily handled, up to $300 per racing day. A parimutuel tax of two and 3/16 percent is levied on the gross amount wagered each day at a racetrack. Revenues from the daily tax and the pari-mutuel tax total between $1 million and $2 million per year.

Senate Bill 363 earmarked 50 percent of receipts from the parimutuel horse racing tax to the New Mexico State Fair Commission for capital improvements at the state fairgrounds. The remaining 50 percent of the parimutuel tax is allowed for capital improvement expenditures on the five remaining racetracks. The State Fair financed a $5.6 million bond with this tax revenue for facility improvements. The State Fair receives roughly $695 thousand a year from the pari-mutuel racing tax. The debt is set to mature November 01, 2014.

The Gaming Control Board received an appropriation of over $6 million in FY09 and FY10. By FY12 their appropriation declined by $1 million, or 18 percent. The Racing Commission appropriations also declined by $400 thousand, or 22 percent, to $2 million.

Thursday, June 14

URENCO USA Tour. The committee and staff toured the URENCO USA National Enrichment facility, which became operational in 2010 and is 5 miles east of Eunice. The URENCO Group is a nuclear fuel company operating several uranium enrichment plants. URENCO supplies nuclear power stations in about 15 countries and has a 20 percent share of the global market for enrichment services.

Natural Uranium primarily contains two isotopes, U-238 (99.3 percent) and U-235 (0.7 percent). The concentration of U-235, the fissionable isotope in uranium, needs to be increased three to five percent for practical use as a nuclear fuel. To enrich uranium to this concentration, the facility uses a gas centrifuge to spin uranium hexafluoride (UF_6) gas at high speeds to separate the two isotopes by forcing the heavier U-238 further outward in the centrifuge. The URENCO USA facility in Eunice is the only commercially operating gas centrifuge enrichment plant in the United States.

Tour of Lea County Correctional Facility. Warden James Janecka gave a tour of Lea County Correctional Facility, which is operated by the GEO Group, Inc., and holds about 1,200 male inmates. The inmates are separated into five housing units and separated by classifications: therapeutic community, general population, protective custody, or segregated.

Inmate programs include adult basic education (with 55 GED graduates since 2011), therapeutic community programs (with 97 "completions" since 2011), mental health programs, life skills classes, and vocational classes in computers, carpentry, and barber skills. The facility is responsible for 293 employees, $8.8 million in local wages, and $440 thousand in property taxes. It awards $10 thousand in scholarships annually.

The following members were present at the Lea County Correctional Facility on Thursday, June 14, 2012: Chairman John Arthur Smith, Vice Chairman Luciano "Lucky" Varela, Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Edward C. Sandoval, William "Bill" J. Gray, James P. White, Don Tripp, and Ray Begaye; Senators Carlos R. Cisneros, Mary Kay Papen, Sue Wilson Beffort, Carroll H. Leavell, John M. Sapien, and Sander Rue. Representative Donald E. Bratton attended as a guest.

Program Evaluation: Reducing Recidivism, Cutting Costs and Improving Public Safety in the Incarceration and Supervision of Adult Offenders. Jon Courtney and Jack Evans, program evaluators, LFC, presented the program evaluation at the Lea County Correctional Facility. Mr. Courtney said over half of the inmates seen on the tour will be released within the next year, and 95 percent will be released eventually. More than half of those released are likely to return to prison within five years, averaging three trips to prison. It is estimated that inmates released from prison in 2011 will cost hundreds of millions over the next 15 years for incarceration costs alone. The New Mexico Corrections Department (NMCD) can potentially reduce costs and improve public safety through strategic spending and evidence-based programming. The evaluation determined the NMCD currently suffers from gaps in program oversight, ineffective utilization of resources, and patterns of inefficient spending.

Key Findings. *Reducing recidivism through strategic budget development can save millions and improve public safety.* New Mexico is growing a prison population expected to exceed the capacity of the state's 10 prisons within the next decade. An aging prison infrastructure coupled with prisoner capacity limitations necessitates strategies such as diversion programs, front-end services, and enhanced reentry and reintegration programs to reduce incarceration and recidivism.

According to the Pew Center on the States, evidence-based programs can decrease recidivism, lower costs, and improve public safety. In Washington, evidence-based policies were identified that provided the best return on taxpayer investments through the use of the Washington Institute for Public Policy cost-benefit model (WIPPC), resulting in a reduction in crime rates and juvenile arrest rates and an incarceration rate below the national average and saving hundreds of millions per year. New Mexico could save $8.3 million in prison costs alone by reducing recidivism 10 percent.

Mr. Courtney said Pew is supporting the implementation of the model that the state of Washington uses and New Mexico is the second state to use the model. Mr. Courtney highlighted six programs within the model of New Mexico prison programs with proven track records. Although the odds of a positive net present value in all six of the programs are almost 100 percent, the programs in New Mexico are often not run with fidelity or have been subject to cuts. Non-evidence-based programs are being expanded instead. Mr. Courtney stated the NMCD is not well-positioned to use data to inform decisions, resulting in expansion of unproven programs and reductions in evidence-based programs because, according to the department, there are more than 40 programs for prisoners but less than a quarter are evidence-based. The NMCD has 30 community providers running programs and it is unknown how many of these programs are evidence-based.

The use of in-house parole costs $10 million a year and could undermine public safety. The number of in-house parolees has risen consistently since FY09 and is at an all-time high of 278 inmates. The state of New Mexico is paying an estimated $10 million per year to house parolees in prison. Community resources are insufficient for hard-to-place parolees, such as sex offenders, gang members, or individuals with a history of violence. A significant number of individuals do not have funds for housing or treatment programs.

Another 40 percent of offenders on in-house parole are working through pending administrative issues, like missing, delayed, and erroneous paperwork from the NMCD. These operational issues could be resolved through improved coordination between the NMCD and Parole Board, and by more efficient staffing strategies. The NMCD could save an estimated $4 million per year by resolving approximately 40 percent of the issues causing in-house parole.

In-house parole (IHP) presents a potential public safety threat because many of the inmates on IHP are hard to place. In 2011, 113 prisoners were discharged directly from IHP into the community without supervision.

Mr. Courtney stated enhancing community programs is a cost-effective alternative to IHP and existing resources such as halfway houses and recovery academies have room to expand, are more cost effective, and offer targeted treatment.

Lack of valid assessments and poor management of prison programs and resources inadequately prepare inmates for successful transition into the community. The NMCD does not adequately target treatment based on risk or needs of clients, which is key to reducing recidivism, according to Pew. Research has shown certain programs can actually increase recidivism of low-risk offenders. The NMCD programs are generally delivered to inmates at lower security levels and are not targeted according to risk.

The NMCD directs staff to use a valid risk needs assessment, or COMPAS, in conjunction with group meetings (transition accountability plans – TAP) with staff members from all service areas, to prioritize goals and set programming and work assignments. Currently, the COMPAS is administered to male inmates only and, although the COMPAS has been paid for since 2007, it has not been used in decisions for treatment or programming. Additionally, TAPS have not occurred. Instead, inmates "shop" for programs that have the best opportunity to earn time off of their sentence. Some programs were assigned without classification hearings, as required by internal policy, resulting in some prisoners receiving credit for being two places at the same time.

Programs that have been proven to work in reducing recidivism have been cut by the NMCD, have long waiting lists, and sometimes lack fidelity. The department allocates approximately 700 beds to therapeutic communities (TC), and this evidence-based practice needs improvements. The TC completion rates for FY11 were 17.5 percent, and TC clients receive no formal aftercare services, so the low graduation rate coupled with lack of aftercare services leads to program ineffectiveness, indicated by a 51.6 percent recidivism rate for TC graduates in 2011.

Nationally, Corrections Industries programs show promise at reducing recidivism by up to 7.8 percent, but these programs have been cut or discontinued in New Mexico. Four prisons have unused corrections industries space, and equipment is idle at two prisons. Recently purchased license plate equipment worth $300 thousand is unused at the prison in Santa Fe. The percent of eligible inmates employed by Corrections Industries has fallen far below the LFC recommendation of 6 percent, with only 3.3 percent of inmates employed.

Operational inefficiencies result in $8 million a year that would be better used on offender programming. A 2010 LFC memorandum identified the department's failure to enforce financial penalties on private prisons for vacant positions as called for in contract, and the NMCD has responded by collecting over $1 million in fines for understaffing and delays in release from New Mexico private prison operators.

A March 2012 amendment to the contract between the NMCD and Lea County reduced staffing requirements creating $2 million in annual savings. Although staffing requirements were reduced by 32 FTE at the LCCF, per-diem rates paid to the GEO Group Inc have stayed the same.

Mr. Courtney said additional savings could be realized through implementing recommendations to eliminate the NMCD diagnostic evaluations (D&E) of county jail inmates, which county jails have the capability to perform. The D&Es have cost the department an estimated $4.1 million since FY09.

Other prisoners with less than one year on their original sentence are also processed through and housed at the NMCD even though state statute does not sentence such inmates to prison, costing the department an estimated $700 thousand in FY11. Additionally, the medical and geriatric parole program is underutilized as only one inmate was released under this program in FY11. Medically fragile or geriatric inmates at the Central New Mexico Correctional Facilty cost the state $3.8 million in FY11 alone.

<u>*More community-based resources are needed and existing resources could be better used*</u>. Jack Evans told the committee New Mexico spends approximately $34 million, or about 11 percent of the NMCD's total budget, to supervise and provide community-based services to more than 18 thousand offenders through a system of parole and probation officers and through contracts with community-based programs.

Mr. Evans stated the provider network focuses on the wrong group of offenders because treatment resources are directed at lower risk offenders, and national trends emphasize directing resources to those individuals with a higher risk of recidivism.

The Community Corrections Act (CCA) creates barriers to effective services and needs more flexibility because the act restricts how CCA funds can be used. In addition, program provider review and selection has been assumed by the single state entity, OptumHealth, and the department now works with providers on inmate community placement, making the local selection panels obsolete.

The current number of community-based providers is insufficient to adequately serve offenders returning to the community. According to the NMCD, the same providers seem to recycle themselves over the years with few new entering the provider network, and OptumHealth does not directly engage in provider recruitment although this is an expectation in the contract.

Evidence-based programs are shown to work. More states are concluding the programs successful in reducing recidivism are those that are evidence-based, although it is unclear which of New Mexico's community treatment programs are evidence-based. The NMCD and

OptumHealth attempted to collect the information with limited success because only 31 percent of providers responded.

Community treatment programs are not evaluated for effectiveness and general oversight appears limited, and neither the NMCD nor OptumHealth currently analyze program outcomes. Studies are necessary to determine which programs are effective in reducing recidivism, improving how individuals function, and reducing risks to public safety. Studies also provide the basis for determining which programs are cost-effective, yet OptumHealth audits are focused on provider operations and records.

Mr. Evans stated the LFC review revealed an important concern brought up in the past: contract funds are being left unspent at the end of the contract year and are not reverting to the state. Dating back to 2006, contract money has been left on the table at the end of the contract year. For the last three fiscal years, $2.3 million in unallocated funds has been left on the table, and $1 million that should have reverted to the NMCD is still at OptumHealth.

Monies for these contracts are not targeted efficiently, which creates waiting lists and a lack of services for badly needed programs, such as halfway houses. In FY10, three providers spent 0 percent of their contract and nine providers spent more than they were allocated, including one that spent 1,121 percent of their contract. In January 2012, eight providers were already at more than 100 percent of their allocations for FY12.

Mr. Evans presented the LFC findings dealing with drug courts, saying drug courts work and are a nationally recognized strategy that reduces recidivism by almost 11 percent. In New Mexico, drug courts have been cut by 14 percent across the state, with the largest drug court in the 2nd Judicial District in Albuquerque cut by 43 percent between FY10 and FY11. The 2nd and 11th judicial district drug courts are staffed and programs funded by the NMCD, creating inconsistencies among the funding of state drug courts and requiring the NMCD to supervise offenders not in the department custody.

Some New Mexico drug courts do not allow participants to receive medication-assisted treatment such as methadone or suboxone – a nationally recognized, evidence-based strategy for reducing opiate addiction.

PPD (Parole and Probation Department) officers are comparatively underpaid, have high turnover rates, and are faced with increasing caseloads. The NMCD Parole and Probation Department (PPD) officers' compensation is lower than comparable positions in neighboring states, in some court jurisdictions, and in federal parole and probation. According to the State Personnel Office, PPD officers earn 22 percent less than the market rate compared with eight other states, with trained staff often recruited elsewhere. With the turnover rate averaging 24 percent a year and vacancies averaging 20 percent a year, caseloads are rising. The NMCD's strategic plan cites nationally recognized best practices for standard parole/probation caseloads as 65 per officer, yet standard caseloads currently average 114 per officer.

The Intensive Supervision Program is a highly structured, concentrated form of probation and parole supervision with stringent reporting requirements and an increased emphasis on offender monitoring, including after-hours field and home visits by probation and parole officers. Currently, t 357 offenders are on ISP and more than 100 offenders are on the waiting list. Most of the offenders on the ISP waiting list are on standard supervision caseloads. The reduced supervision that a high-risk offender receives while on the ISP waiting list could pose an increased risk to public safety.

ISP caseloads could be safely increased if specific criteria are met. To be effective, candidates for ISP must be screened using the NMCD's assessment tool and be enrolled in some type of community treatment program. Each caseload must include offenders at various phases of their ISP supervision, and electronic monitoring is needed.

Mr. Courtney concluded with selected key recommendations for how the NMCD, along with other key agencies, can work toward reducing recidivism, cutting costs, and improving public safety, and noted additional recommendations are available throughout the report.

- The NMCD should create a Research and Evaluation Unit consisting of three employees to provide a program auditing function along with a data analysis function for the NMCD.
- The NMCD should aim to reduce recidivism though strategic investment by continuing to work with the LFC and the NMSC to update the WSIPP model so that programs can be funded based on results.
- The NMCD should pay the cost of halfway house placement for inmates where it can be demonstrated the inmate does not have funding to reduce the costs of IHP. The department should also consider paying the first few months of rent for inmates entering parole, again in situations where it can be demonstrated that the inmate does not have the funds.
- The NMCD should prepare an implementation plan for administering and using COMPAS or another valid risk and needs assessment and should be using this tool systemwide by June 30, 2013, to support decisions in program assignment. This tool should include internal policy.
- The NMCD should accompany any cost-savings measures agreed to in contract, such as reductions in required FTE, with measured reductions in per-diem rates for private prisons, which could provide an estimated $2 million in savings to the state at Lea County Correctional Facility.
- The Legislature should consider statutory changes to provide judges the ability to sentence inmates to NMCD prison facilities only if convicts are sentenced to one year or more after accounting for any period of the sentence being suspended or deferred and any credit for presentence confinement, which could provide the NMCD with an estimated $2 million.
- The Legislature should make changes to the Community Corrections Act to allow more flexibility in the use of community corrections funds and removing the requirements for state and local advisory panels.
- The NMCD, the BHC and OptumHealth should work together to expand the community-based provider network, specifically for hard to place and high-risk inmates.
- The NMCD in conjunction with the Behavioral Health Center (BCH) should begin to move toward a system of evidence-based treatment programs. The Legislature should consider legislation that requires that most funding for community-based corrections programs be used to fund evidence-based programs over the course of a four year phase-in.

- The BHC, working with the NMCD, should develop a plan to revert appropriate excess funding from the single entity to the state. The plan should be presented to the Legislative Finance Committee by September of 2012.
- The Legislature should support increasing ISP caseload size stipulating the conditions outlined in the report.
- The NMCD should review PPD officer salary ranges with the intent of bringing them into line with comparable market rates as soon as possible.

NMCD Secretary Gregg Marcantel said rather than read the department's response included in the evaluation, he was happy to answer questions. Vice Chairman Varela asked what kind of financial reports OptumHealth furnishes for the department and Aurora Sanchez, deputy secretary of administration for the NMCD, said the department has identified instances where OptumHealth services needed to be reconciled and asked for reimbursement of services that weren't authorized. A meeting with OptumHealth has been set up and the department will review expenditures monthly.

Secretary Marcantel told the committee the partnership with UNM's Anderson School of Business will help Correction Industries (CI) become more business savvy and be business relevant, and said CI has fallen to a low point and the department owns that. Senator Leavell asked why CI was moved from the LCCF and Ms. Sanchez stated CI was moved because the LCCF did not make enough revenue to keep it operational. The intent was to move the program to Santa Rosa but there was not staff to support it. Secretary Marcantel said the department does not have a firm date for when CI will begin making license plates and is working with New Mexico Taxation and Revenue Department.

Representative Tripp asked if there was a program in place to subsidize wages for employers to hire former inmates. Ms. Sanchez stated the department has opened a dialogue with the Workforce Solutions Department and will work on connections between the education program and the CI program so former inmates are better suited for the private sector.

Representative Bratton said he was concerned about the NMCD's assessment of penalties associated with breaches of the contractual requirement of staffing levels at the LCCF and asked if all provisions of the contract were imposed. Secretary Marcantel said penalties related to the contract are under his authority and upon taking over for the department, several critical violent incidents had occurred at the LCCF. Based on a meeting with the Geo Group Inc. to address the public safety threat due to lowered supervision, a penalty schedule has followed.

Friday, June 15

The following members were present at the New Mexico Military Institute (NMMI) on Friday, June 15, 2012: Chairman John Arthur Smith, Vice Chairman Luciano "Lucky" Varela, Representatives Henry "Kiki" Saavedra, Larry A. Larrañaga, Edward C. Sandoval, William "Bill" J. Gray, James P. White, Don Tripp, and Ray Begaye; Senators Carlos R. Cisneros, Mary Kay Papen, Sue Wilson Beffort, Carroll H. Leavell, John M. Sapien, Stuart Ingle and Timothy Z. Jennings. Representative Dennis J. Kintigh attended as a guest.

Welcoming Remarks. David West, chief of staff, NMMI, welcomed the committee. Mr. West told the committee the Daniel's Leadership Center was provided by the Daniels fund and is one of the newest large facilities brought online in 2006.

Del Jurney, mayor of Roswell, thanked the committee for their work and stated some of their accomplishments include the Robert H. Goddard in the discovery of modern day rocketry, NMMI and the 120 years of military and civilian contributions, Walker Air Force Base for the role it played in WWII, and the 1947 crash of the UFO.

Mayor Jurney said Roswell is a growing community with approximately 50 thousand residents. Roswell has the largest mozzarella cheese processing plant in the world; pecans are very significant to its economy. Roswell is home to the National Guard Youth Talents programs, the Roswell New Mexico Job Core, Eastern New Mexico University (ENMU) Roswell campus, the Roswell Symphony, and the only free zoo in the state of New Mexico.

John Madden, president of Eastern New Mexico University, gave four brief points of the programs at their institution: the programs are quick—from four weeks to two and a half years; ENMU is low cost; ENMU has 100 percent pass rates on licensing and or other certificates examinations by external agencies; and ENMU is the economic development arm of this region. ENMU students have a 100 percent placement rate, which means jobs.

Prenatal to Three – Lifelong Health and Brain Development Impacts. Mimi Aledo-Sandoval, senior fiscal analyst, Legislative Finance Committee, directed the committee to an LFC report *New Mexico's Children, Risk, Factors Impacting Health and Social Development.* The reports looks at the current state of health and development for New Mexico children from before birth to age 3 , offering key research on the developmental brain, performance measures that gauge risk relevant to prenatal to age 3 health, relevant governmental programs and policies, collaboration efforts, and funding practices and opportunities. Home-visiting is a major focus of the report, which comprises numerous specific programs (governmental or otherwise) usually involving home visitations from trained professionals to optimize health for expectant mothers and prenatal to age 5. Ms. Aledo-Sandoval noted programs vary greatly and the Medicaid home-visiting program is different from other home-visiting programs, such as those provided by the Children, Youth and Families Department or private entities.

Dr. Hsi with the University of New Mexico's School of Medicine said toxic stress adversely affects families and child development. Toxic stress is defined as a prolonged activation of stress response systems in the absence of protective relationships. Dr. Hsi presented the anecdotal case of Shonda, saying Shonda was born in 1985 to a mother who used alcohol and marijuana during pregnancy and grew up in a violent home where parents used alcohol and drugs. By age 14, Shonda was the target of psychological abuse and had experienced four adverse events in her life.

Shonda was the one in 5,000 babies affected by prenatal drug exposure, causing adverse events in children's development. Done correctly, Shonda would have been referred to a program the Milagro program to receive early intervention support, with hands-on parental education to meet Shonda's developmental and intellectual needs. Dr. Hsi stated Medicaid eligibility and care needed to be optimized, and Shonda's mother needed drug treatment. Ideally, there would have been community health workers to help Shonda and her parents get connected to the best programs. Unfortunately, he said, these preventive measures never happened.

Adverse events include parental physical or psychological abuse, losing a parent, sexual abuse, witnessing in-home drug abuse, and witnessing violence against the mother. Children often internalize and blame themselves when parents argue and there is stress in the home. Parts of the brain involved in regulating emotion are affected and when emotional centers are altered, parts of the brain important for developing memories are adversely affected, hindering learning.

Dr. Hsi stated four or more adverse childhood events is associated with four times greater risk for intravenous drug abuse, four and a half times greater risk of alcoholism, and nine times greater risk of depression and suicide attempts. Females with four or more adverse childhood events are two times more likely to get pregnant as a teen, and four times more likely to have an abortion. New Mexico ranks first in the nation for adolescent pregnancies.

Dr. Hsi began working with Shonda through the Milagro clinic when she was 17 years old and pregnant, detailing how Shonda received a prescription in 2011 for oxycodone and became addicted. Opioids, as well as many other drugs, change brain connections and create risk for infant withdrawal. Careful medical management and drug programs need to be implemented in order to increase the likelihood of a full-term delivery and the best possible outcome for the infant. Shonda benefited from careful medical management including drug treatment, counseling, FOCUS services, home-based case management, and model infant development.

Dr. Hsi endorsed the following policy and legislative actions: invest in programs like FOCUS; prevent adverse childhood experiences and minimize toxic stress; identify accurately children at risk for child neglect; screen for substance use and violence in pregnancies; enroll all eligible children on Medicaid; and fund developmental home-visiting at $121 million. He said home-visiting programs should model regulation of emotion and parental behavior, focus on early expressive language development and problem solving, and model floor play by parents to help children develop. He also endorsed funding fund comprehensive treatment with the Milagro program as a model; intervening to prevent toxic stress for another generation, developing community health workers, and prioritizing sustained funding for the next 10 years.

Report Card on Outcomes. Michael Landen, acting director of the Public Health Program at the DOH, presented a report on New Mexico early childhood health indicators, stating New Mexico has a higher poverty rate than the rest of the country and poverty is a significant factor related to children growing up in drug environments. The rate of children under age 5 living in poverty in New Mexico has increased from 27.6 percent in 2000 to 33.0 percent in 2010, according to his U.S. Census Bureau data.

When children start out with adverse childhood experiences such as abuse, neglect, and household dysfunction, chances are these circumstances will continue. Early intervention is paramount. Dr. Landen said risk factors increase as adverse childhood experiences accumulate, and used smoking is an example of this. A 2009 DOH study of New Mexican smokers found 34 percent of smokers had four or more adverse childhood experiences compared with 13 percent of smokers with no adverse childhood events.

Teen pregnancy in New Mexico has dropped from 65.2 per 1,000 teen girls (ages 15 to 19) in 2000 to 47.1 per 1,000 in 2011. Teen pregnancy has dropped nationally from approximately 49 per 1,000 teen girls in 2000 to approximately 39 per 1,000 in 2009. New Mexico is still lagging behind the national rate. Although the rate of births from obese mothers in New Mexico has increased from 14.8 percent in 2000 to 20.1 percent in 2010, New Mexico is better than the national rate and fares better in childhood obesity than the rest of the country.

In 2011, prenatal care was initiated in the first trimester in 63.5 percent of pregnancies, up from 46.6 percent in 2008 — also better than the national rate. Dr. Landen told the committee that in 2010, 6.4 percent of pregnant women in New Mexico drank alcohol during the last trimester of pregnancy, and 7.5 percent in the same demographic smoked cigarettes.

Live born infants with low birth weight accounted for 8.8 percent of pregnancies in New Mexico in 2011, which is comparable with the national rate. The infant mortality rate has decreased greatly over time and is now better than the national average. The leading causes or infant deaths are perinatal conditions and congenital malformations, and leading causes of deaths for ages 1 to 4 are unintentional injuries (especially motor vehicle fatalities) and assault.

New Mexico mothers are more likely to suffer from postpartum depression than the national average, and breastfeeding is more or less consistent with the rest of the nation.

Dr. Landen showed how drug withdrawal in New Mexico newborns increased from 1.6 per 1,000 live births to 6.2 per 1,000 in 2011, saying it is probably correlated with increased rates in prescription drug use and overdose deaths happening during the same timeframe.

Dr. Landen said a number of other states such as Washington are dealing with the same pertussis problem. Pertussis cases have increased from 92 per 100,000 infants younger than 6 months of age in 2011 to 236 per 100,000 in 2012.

Dr. Landen stressed the importance of reading during early development, stating 43.5 percent of children in New Mexico from birth to age 5 were read to every day by family, below the national average.

Dr. Landen concluded by stating data from vital records, hospital discharge databases, emergency departments, and governmental surveys is improving and expanding.

Opportunities for Strategic Leveraging of Federal Funds to Improve Early Childhood Outcomes. Nicole Barcliff, senior associate for government relations, Pew Center on the States, cited key developmental and home-visiting research and stated decades of research have proven the transformational effects of properly designed and implemented home-visiting programs on at-risk new and expectant parents and their babies. A number of nationally recognized models have been linked to meaningful, positive outcome measures, including reductions in incidences of low birth weight, reductions in child abuse and neglect, reductions in childhood injuries and hospitalizations, increases in school readiness and achievement, improvements in family economic self-sufficiency, and reductions in crime.

Ms. Barcliff noted to be effective, home-visiting programs must be voluntary, channeling services to families who both want and need support. Targeted service populations in home-visiting models include pregnant women, new parents, and young children. Healthy pregnancies, birth outcomes, child development, child abuse and neglect prevention, and school readiness are goals of a home visiting program.

Ms. Barcliff stated the intensity of services varies by the duration and frequency of visits, and program service components offered during visits. In the models, funding varies greatly and home visitors include nurses, social workers, community health partners, and case managers, among others.

Ms. Barcliff noted Medicaid has a unique ability to reach many low-income and at-risk women, often the main population home-visiting programs seek to serve, and is structured to pay for discrete services, including smoking cessation, prenatal risk assessments, nutritional counseling, and psychosocial counseling. Many home-visiting programs bundle services as part of their curriculum and provide other services as well.

Ms. Barcliff said states should take the following steps to explore the viability of Medicaid financing options for home-visiting: State leaders should identify the key home-visiting stakeholders within their state and get them talking around a common table. State leaders should understand the home-visiting landscape in their state, including knowing each program's outcome goals, scope and intensity of services, and funding mechanisms. State leaders should assess which Medicaid financing options are most suitable for the services provided by their home-visiting programs and develop a plan that maximizes efficiency and quality in delivering programs and services.

Barcliff said three particularly promising Medicaid financing mechanisms are applicable to home visiting: Medicaid preventive services, Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), and 1915b Freedom of Choice waivers. She said states must work closely with home visiting providers, state agencies, and the federal Centers for Medicaid and Medicare Services to craft a careful plan of execution to take advantage of these options.

Director of the Medical Assistance Division for the Human Services Department, Julie Weinberg, briefed the committee of the many different components of home-visiting in New Mexico, stating at least 53 programs meet the state's home-visiting definition. Ten counties are without home visiting services. There is lack of knowledge on the practices, efficiency, and outcomes of these programs as there is a lack of any longitudinal study of the programs.

New Mexico's Medicaid program includes a targeted case management (TCM) benefit for pregnant women and their infants, provided primarily by Salud, a managed-care organization (MCO). Most MCOs use the Department of Helath (DOH) Families First program to deliver services. Families First contracts directly with the MCO. Medicaid has a joint powers agreement with the DOH for Families First that draws federal dollars to cover administrative costs at a 50/50 match. Presbyterian Health Plan does not contract with Families First but employs a similar model, PREScious Beginnings.

Families First, which employs a nurse-practitioner model to deliver services, is limited to five hours of case management per Medicaid enrollee per pregnancy. Services can include assessments, case management, and referrals to other services or programs, with services generally ending 60 days after the end of the month of the delivery.

Managed-care organizations, such as Lovelace, contract with UNM and Hidalgo Medical Services and Families FIRST. Molina has a care transition program and also contracts with Families First. Blue Cross Blue Shield contracts with Families First. Presbyterian has a PRESious Beginnings program. She showed the total annual expenditures for New Mexico Medicaid home-visiting programs is $2.9 million serving 6,510 unique members at an average cost per person of $446.73. The average time of care per member is 4.25 hours.

The Families, Infant, Toddler (FIT) program is a statewide program that provides early intervention services to families of children younger than age 3 with or at-risk for developmental delays. Available services include family education, counseling, and home visits. The FIT program is paid for through the Medicaid fee-for-service program even when the child is enrolled in a MCO.

Director Weinberg said New Mexico's model employs four of the Pew models: targeted case management that serves as the primary model, administrative case management, traditional medical assistance services, and managed care. Managed care allows for care recipients to receive services beyond basic home visiting services.

Director Weinberg told the committee using Medicaid funding for home-visiting services has challenges: The targeted case management model does not cover direct services. The administrative case management model is administratively difficult to manage and only provides for 50 percent of a federal match. The enhanced prenatal benefits model must add to the state plan with a defined array of services, and enhanced prenatal benefits end 60 days post-partum. The traditional medical assistance services model excludes many case management activities and is limited to those with known medical needs or high risk.

Some concerns for home-visiting services under Medicaid are potential duplication of services and managing increased program costs. Measuring effectiveness and achieving consistent beneficial outcomes across programs are other concerns, as well as organizing information on funding sources and the need for longitudinal studies.

Dr. Catherine Torres, secretary, Department of Health, stated Families First is a great program following mothers for the first 60 days, and the FIT program is good for providing necessary services, whether assistance comprises just one visit for reassurance purposes or years of different services. The Department of Health is working on collecting and presenting data on infant mortalities as it relates to the effectiveness of programs such as FIT and Milagro.

Chairman Smith stressed the need for a long-term home-visiting plan, especially as it relates to responsible and sustainable financing. He said the public needs to be highly involved to make the situation better. He also expressed concern for the 10 counties without any Medicaid home-visiting programs.

Representative Kintigh and Senator Papen expressed concern over the reach of home-visiting programs if they are limited to being voluntary. Ms. Aledo-Sandoval clarified there are three major types of governmental home visiting programs. The first type is administered through the DOH and is often funded, at least in part, through Medicaid. The second type is administered through the Children, Youth and Families Department (CYFD). Programs of this type are voluntary and Pew and the federal government are interested in expanding and funding these programs. The third type is run by Child Protective Services when they find out of possible child abuse. This type is mandatory and not typically referred to as home visiting.

Senator Papen asked the presenters about the number of participants in home-visiting programs. Ms. Aledo-Sandoval said the CYFD programs reached about 600 children in FY11, about 3 percent of the 19,000 or so born on Medicaid in New Mexico. Programs are focused on parental education services, intensive services, and on-going services where children are followed for extended periods of time. The CYFD programs require screenings such as "ages and stages" and for post-partum depression that can often be used to collaborate with FIT. Secretary Torres said Families FIRST served 1200 prenatal women and 1800 children in FY11. There are availability limitations but MCOs have done well to inform mothers.

Senator Papen asked the presenters about what information is available at hospitals for home-visiting programs, especially for expectant and birthing mothers. Ms. Aledo-Sandoval stated mothers can find out about home-visiting programs numerous ways, and recruiting and community networking play major roles. Secretary Torres said there is not a single publication or something similar informing birthing mothers of home-visiting programs. She stressed the importance of MCOs connecting mothers to programs.

Senator Beffort expressed a desire for better systemization of home-visiting programs and for more effective and clarifying performance measures to ensure efficiency in funding. Senator Beffort also expressed concern over possible duplication in services and the infeasibility of a universal program.

Representative Larrañaga asked the presenters about the most effective programs or practices that curtail teen pregnancy. Secretary Torres said the DOH's program has been successful this decade in decreasing the rate of teen pregnancy. The program consists of five major components: sex education, community involvement and contribution, male involvement, abstinence education, and birth control education.

Representative Larrañaga expressed a desire for a comprehensive statewide home-visiting plan that bridges Medicaid-funded programs, the CYFD programs, and private programs to align efforts and maximize positive outcomes, emphasizing the need for sufficient funding to accompany such a plan. Representative Larrañaga urged the presenters to have a comprehensive plan by the time the legislature looks seriously at the budget towards the end of the year.

Representative Tripp stated he believes early intervention is critical, has been on home visits, and strongly supports home-visiting programs. Representative Tripp said he is bothered by the fact that only 3 percent of children who would benefit from the programs receive home-visiting services.

LFC Objection to $17.5 million in Budget Adjustment Requests for General Services Department, Risk Management Division. Director David Abbey told the committee the General Services Department submitted two budget adjustment requests (BARS) related to the unemployment insurance fund covering public employees — the first bar proposed to transfer $10.5 million from the public liability fund to the unemployment compensation fund, representing an inter-fund loan, which would be paid to the Board of Finance within one year.

The second BAR adds $7 million to the Risk Management Division (RMD) budget to pay prior-year unemployment compensation claims to the Department of Workforce Solutions (DWS). Director Abbey stated he objected to both BARs. The objection centered on an unclear repayment plan with respect to the loan. Director Abbey objected to the second BAR because there is concern that using current year funding to pay prior-year liabilities is only allowed if funds were sufficient in the prior year.

General Services Division Secretary Ed Burkle stated the GSD has a legal obligation to reimburse the DWS for claims already expended. The amount of expenditures in the unemployment compensation fund continues to rise, with $28 million dollars in expected claims in FY12. The amount of $13 million is to pay prior year bills to the DWS.

Secretary Burkle stated the two quarterly payments in question that haven't been paid are $3 million in June of 2010 and $2.7 million in December 2010. Secretary Burkle stated funds were sufficient at the end of FY10 and FY11, so the department was not in violation of any statutes.

The other major objection from the LFC was that it appeared the GSD was in violation of Section 6-10-4 A NMSA 1978 relating to prior year obligations from current year appropriations. The department maintains the RMD was properly discharging the payment of the funds.

Coordination between departments is improving. The DWS will send a bill to the GSD and the third party administrator. Secretary Burkle stated the department now knows how much is owed, with the exception of penalties and interest, and is asking the BAR be approved for $10.5 million which will be sufficient cash balance to pay both former bills as well as remaining quarter of FY12.

The GSD plans to work closely with the Legislature and LFC to minimize the impact on general fund. Secretary Burkle stated the GSD respectfully requests the LFC withdraws the objection and allows the department to bring all payments current.

Vice Chairman Varela asked why the Department of Finance and Administration (DFA) would approve a payment for a prior year's bill with current funding when sufficient funds were not available. The GSD Administrative Services Division Director Michelle Aubel stated the DFA and the GSD are looking at the issue of statute authority as if it were a continuous fund, already appropriated. If the GSD had received the bill in the appropriate year, $7.6 million would have been BARd in.

Secretary Burkle stated the department will ask for a supplemental or deficiency appropriation for approximately $10.5 million to replenish the public liability fund, where the money was borrowed to put in the unemployment insurance fund. All options, including assessments, are being looked at to minimize the impact on taxpayers.

In response to Senator Leavell, Secretary Burkle stated the amount the GSD owes the DWS is directly related to the federal government extending unemployment benefits from 26 weeks to a maximum of 93 weeks.

Chairman Smith recommended proceeding without action.

Community Input from Healthcare Providers. Joe Madrid, director, Tobosa Developmental Services, stated the company provides supported services for adults with developmental disabilities and services for children at risk with disabilities. The new reimbursements rates being implemented in October will impact both the agency and clients, who will be re-categorized and classified into different categories from A-H (least supervision to highest). Because of this reclassification, a transition to a group setting is mandatory — one staff member to three clients. Mr. Madrid said the challenges and problems clients now have will only intensify and impact their budget. Mr. Madrid was also concerned with not having rate increases in the past few years.

Cindy Lewis, owner, Comfort Keepers, stated the company represents about 300 caregivers in Chaves and Eddy counties that provide services to private payers, Medicaid, the Personal Care Option program, and Adult Protective Services, among others. The reimbursement rate is a dilemma, mainly for workers. Ms. Lewis stated the current turnover rate is 48 percent, and employees are no longer reimbursed for certain costs associated with the job (i.e. fingerprints, supervisory visits, training requirements, fuel, etc.). Rick Lewis stated concern because Comfort Keepers operates in three service areas and pays a higher gross receipts tax than the reimbursement rate of 7 percent. The discrepancy makes it difficult for business.

Jeri Key, the owner and director of Generations of Learning, a nationally accredited school, stated programs were cut due to budget issues. Generations of Learning is no longer accepting state-subsidized children. Another main concern is a state mandate requiring teachers to have a bachelor's degree in early childhood education. She discussed different ways that her teachers have taught students at their school, some of whom do not have a bachelor's degree in early childhood education.

Senator Beffort made a comment that she would like the legislative staff would look into the regulations that affect these private facilities providing services to New Mexico children and families.

Senator Jennings once again thanked the committee for its indulgence said he hoped they would be able to figure out a solution to these problems.

Chairman Smith stated committee members are aware of the provider situation and will attempt to rectify it and will look into the gross receipts issue. Chairman Smith encouraged everyone to network with the resources available to come together with a consensus on early childhood.

Miscellaneous Business

Action Items

Approval of May 2012 Meeting Minutes – **Senator Cisneros moved to approve the May 2012 Meeting Minutes, seconded by Representative Larrañaga. The motion carried.**

Director Abbey directed the committee's attention to the information items.

With no further business, the committee adjourned at 1:13 p.m.

Chairman John Arthur Smith

Vice Chairman Luciano "Lucky" Varela