

MINUTES
Legislative Finance Committee
State Capitol, Room 322 - Santa Fe, NM 87501
November 15 - 18, 2016

Tuesday, November 15th

The following members and designees were present on Tuesday, November 15, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Mary Kay Papen, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano “Lucky” Varela, Nick L. Salazar, Sharon Clahchischillie, Jason C. Harper, George Dodge Jr., and Patricia A. Lundstrom. Guest legislators: Senators Lee S. Cotter and James P. White and Representative Harry Garcia.

New Mexico Judicial Unified Budget. In a letter addressed to Governor Martinez and the New Mexico Legislature, Charles Daniels, chief justice of the New Mexico Supreme Court, said no self-governing democracy can survive without an adequately functioning justice system. The letter also stated there is no such thing as free government. Chief Justice Daniels said the judicial branch of state government has been struggling with budget reductions since 2010. Chief Justice Daniels said the judiciary’s budget issues may lead to furloughs and the closure of some facilities, impacting performance.

To address budget shortfall in FY17, Artie Pepin, director of the Administrative Office of the Courts (AOC), said the judiciary has reduced funding for drug courts, maintained high vacancy rates in some areas, and reduced the mileage reimbursement rate. Employees of the Court of Appeals and Supreme Court may be furloughed before the end of the fiscal year for additional savings.

For FY18, the judiciary requests \$168.6 million from the general fund, a \$5.2 million increase, or 3.3 percent, over the FY17 adjusted general fund budget. The budget request does not include funding for additional judgeships. Director Pepin noted that FY18’s budget request was built according to the FY17 adjusted operating budget. The Legislature decreased FY17 budgets for most agencies by 3 percent in the 2016 special legislative session; the judiciary’s budget decreased by \$4.8 million.

The judiciary’s FY18 budget request includes \$2.5 million to increase court clerk salaries. Director Pepin said a December 2014 assessment determined that New Mexico’s court clerks are not being paid appropriately for the duties they perform. Director Pepin noted the negative impact current salaries are having on recruitment and retention. Pursuant to personnel rules, the judiciary must implement pay increases for court clerks by July 1, 2017. About 50 percent of the judiciary’s workforce is in the court clerk job series.

The budget request also includes \$1 million for technology needs.

For FY17, the judiciary requests \$4.1 million for supplemental and deficiency needs. Deficiencies in the judiciary total \$1 million, primarily in AOC for unpaid FY16 juror and interpreter services and FY15 General Services Department (GSD) premiums. Supplemental needs total \$3.1 million for budget shortfalls in the following expenses: payroll, Magistrate Court leases, jury and interpreter services, special court services, and the Metro courthouse and parking structure. Regarding special appropriations, the Judiciary requests an additional \$4.8 million for several information technology projects. The judiciary requests \$3.1 million in capital outlay for facility projects, safety and security infrastructure projects, and courtroom technology projects.

Director Pepin said new legislation will be introduced in the 2017 session that, if passed, would help the judiciary operate more efficiently. Potential legislation seeks to amend the New Mexico Constitution to vest power in the Legislature to regulate appellate jurisdiction, close some facilities, increase the warrant fee, create a language access fund, create a nonreverting judge pro tem fund, create a district court sliding fee scale, and allow the director of AOC to apply for and receive public or private funds.

Chairman Smith requested AOC provide the committee information on the magistrate courts operating hours, modified for cost-savings.

Representative Larrañaga expressed concern for the significantly higher level of litigation occurring in the United States than most places in Europe and asked what New Mexico can do legislatively to reduce litigation in the state. Chief Justice Daniels pointed out that the crime rate is higher in the United States than in most countries. Chief Justice Daniels said policymakers are responsible for establishing the systems in state government that impact the issues. The judiciary has initiated a number of strategies to reduce litigation, such as alternative dispute resolution for some cases.

In response to Representative Varela, Chief Justice Daniels said leadership from the Court of Appeals is trying to find a way not to furlough the lowest paid employees. Chief Justice Daniels said there is no way the Supreme Court can avoid furloughing.

Administrative Office of the Courts. For FY18, the Administrative Office of the Courts (AOC) requests \$29.2 million from the general fund for magistrate courts, a \$2.8 million increase over the FY17 adjusted general fund budget. Director Pepin reported an 18 percent vacancy rate in magistrate courts. Director Pepin said the budget increase is necessary to operate magistrate courts, noting that all means for creating efficiencies have been exhausted. Director Pepin said, if the base budget is not increased, magistrate courts will be forced to reduce operating hours and furlough clerks.

Karen Mitchell, magistrate judge in Harding County, said the high vacancy rate at the magistrate court in Tucumcari is debilitating the courts ability to handle the same amount workload with less people.

Director Pepin gave a run-through of general fund requested for the other programs administered by AOC: \$10.2 million is requested for administrative support, \$10.4 is requested for special services, and \$4.7 million is requested for statewide automation.

District Courts. Louis McDonald, chief judge of the 13th Judicial District Court, said the district encompasses Rio Rancho, making it the second most populous district. Over 1,000 people participated in the court's free legal clinics in FY16, a 19 percent increase from FY15. Judge McDonald briefly reported other activity in the court, including the foreclosure settlement project. Sandoval County has the highest rate of foreclosures in the state.

The 13th Judicial District Court requests \$7.3 million in general fund for FY18, restoring funds lost from budget reductions that occurred in FY16 and FY17. The budget request includes funding for court clerk pay increases. Judge McDonald said the court's vacancy rate increased from 1 percent in June 2016 to 5 percent in December 2016. Regarding capital outlay, almost \$400 thousand is requested for courtroom technology and a metal detector and x-ray system for the new Cibola County courthouse.

In response to Representative Varela, Judge McDonald said, according to the Attorney General's Office, funds received from the joint state-federal settlement with the country's five largest mortgage servicers have been spent.

James Counts, chief judge of the 12th Judicial District Court, said there are four judges in the district. The 12th Judicial District Court requests \$3.4 million from the general fund for FY18. The budget request includes \$45 thousand for court clerk pay increases. The court requests a special appropriation of \$70 thousand for courtroom technology.

Karen Townsend, chief judge of the 11th Judicial District Court, reported a 12.2 percent vacancy rate in the court. Judge Townsend said the district, which has eight judges, is working hard with the limited number staff; however, some staff may be furloughed. The 11th Judicial District Court requests \$6.7 million from the general fund for FY18.

In response to Representative Lundstrom, Judge Townsend said the judges in San Juan County meet with the district attorneys and public defenders in the county about three times a year to discuss issues. Weldon Neff, court executive officer for the 11th Judicial District Court, said similar meetings may soon take place in McKinley County.

Albert Mitchell, chief judge of the 10th Judicial District Court, said, because of current budget constraints, the court has not filled its security bailiff position, posing a security risk for the staff and public. Judge Mitchell expressed concern for the judiciary's fiscal condition. The 11th Judicial District Court requests \$948 thousand from the general fund for FY18.

Drew Tatum, chief judge of the 9th Judicial District Court, said there are five judges in the district. The 9th Judicial District Court requests \$3.5 million in general fund for FY18. The budget request includes funding to fill vacancies and increase court clerk pay.

Jeff McElroy, chief judge of the 8th Judicial District Court, said budget reductions have significantly impacted the drug-court program. The 8th Judicial District Court requests \$3.2 million from the general fund for FY18. Judge McElroy said the court's request is an increase to the base budget of 5 percent that will be used to fund two reclassified positions, one new position

(a bailiff), and court clerk pay increases. Seventy-seven thousand dollars is requested in capital outlay for technology needs.

In response to Senator Cisneros, Judge McElroy said the district's increase in crime is likely linked to the legalization of marijuana in Colorado. Judge McElroy added that because of the district's close proximity to Colorado, more juveniles are being caught illegally possessing marijuana.

Matthew Reynolds, chief judge of the 7th Judicial District Court, said there are three judges in district, the largest judicial district geographically in New Mexico. Because of budget constraints, the court has let go its security bailiff who had worked for the court for almost 18 years. The court has not filled other positions as well, including some court clerk positions. If the court's budget is further reduced, it would likely impact the drug court program, which Judge Reynolds said would be detrimental because of the high rate of drug use in the district. The 7th Judicial District Court requests \$2.5 million in general fund for FY18.

J. C. Robinson, chief judge of the 6th Judicial District Court, stated that appropriate funding for the judicial system is essential for public safety and should be a budget priority for the state. The 6th Judicial District Court requests \$3.4 million in general fund for FY18.

In response to Chairman Smith, Judge Robinson said if the 6th Judicial District Court's FY17 budget is again reduced, the operating system within the court will deteriorate.

Kennon Crowhurst, chief executive officer of the 5th Judicial District Court, said there are 11 judges in the district. For FY18, the 5th Judicial District Court requests \$6.8 million from the general fund. The general fund request includes funding for court clerk pay increases and technology needs. Mr. Crowhurst said the district has significantly grown in the last five years, pointing out that the court is operating with same number of court clerks despite the significant increase in caseloads. To manage budget reduction, the court has decreased contract spending.

Matthew Sandoval, chief judge of the 4th Judicial District Court, said FY18's general fund request of \$2.4 million for the 4th Judicial District Court is an increase over the FY17 adjusted general fund budget to cover increased insurance premiums, increased risk rates, court clerk pay increases and technology needs. Briefly sharing his concerns for judges and court staff, Judge Sandoval asked legislators to work toward no additional budget cuts for the judicial branch. Judge Sandoval said the contract between AOC and Mora County for the new courthouse in Mora is expected to be approved by the Board of Finance in December 2016.

Fernando Macias, chief judge of the 3rd Judicial District Court, said FY18's general fund request of \$6.8 million for the 3rd Judicial District Court does not include funding for a judgeship needed in Dona Ana County. Judge Macias said the number of drug and domestic cases are overwhelming. Hearings for these cases are often delayed because of a backlog of laboratory work and/or because of issues related to the lack of resources in the Public Defender's Office. Also, domestic cases often lack a person to testify. Judge Macias said drug courts help reduce litigation.

Representative Varela asked Judge Macias what the Legislature can do to minimize litigation. Judge Macias said establishing programs that deal with issues such as probation can divert many cases from requiring legal action. Chief Justice Daniels said the Legislature may want to consider decriminalizing some minor offenses, noting that opinion from of the judicial branch should not influence those determinations made by the Legislature.

Nan Nash, chief judge of the 2nd Judicial District Court, said insufficient resources hinders the courts from being able to create new programs and processes aimed to improve the overall system. Judge Nash said further fiscal cuts would result in layoffs and furloughs in the 2nd Judicial District Court. The 2nd Judicial District Court requests \$23.5 million from the general fund for FY18, an increase over the FY17 adjusted general fund budget to cover increased insurance premiums and court clerk pay increases. The budget request includes funding for the foreclosure program. The court requests \$65 thousand in capital outlay for a new courtroom and a special appropriation of \$350 thousand for technology needs.

Sarah Singleton, chief judge of the 1st Judicial District Court, said FY18's general fund request of \$7.3 million for the 1st Judicial District Court includes funding for all authorized positions in the court and court clerk pay increases. The court currently has a 10 percent vacancy rate, which Judge Singleton said is negatively impacting core functions of the court. The court requests \$50 thousand in capital outlay for security cameras.

Metropolitan Court. Henry Alaniz, chief judge of the Metropolitan Court, said there are 19 judges serving the Metropolitan Court: six in the criminal division and three in the civil division. The court serves about 3,500 people a day. The Metropolitan Court requests \$24.2 million in general fund for FY18. Judge Alaniz reported a zero percent recidivism rate in the court's drug court program. The court administers 10 specialty courts and mediates about 700 cases a year, which Judge Alaniz said reduces litigation and budget costs. To manage budget reduction in FY17, the court has reduced the number of jury days. The court requests over \$1 million in capital outlay to complete construction of a new courtroom.

Public Defender Department. The Public Defender Department (PDD) is the largest law firm in New Mexico, handling approximately 70 thousand new cases a year. PDD requests \$53.7 million from the general fund for FY18, a \$6.4 million increase, or 13.4 percent, over the FY17 adjusted general fund budget. Bennett Baur, chief public defender for PDD, said a study conducted by the New Mexico Sentencing Commission determined that PDD's budget needs to be twice its current funding to effectively represent clients. PDD's FY18 budget request includes funding for 25 additional attorneys, bringing the agency up to minimal standards established by the National Association for Court Management. The budget request also includes funding to begin paying contract attorneys an hourly rate, which Mr. Baur said will be cost-effective. To manage budget reduction in FY17, PDD has reduced travel, training, and expert witness costs. Also, PDD is maintaining a 20 percent vacancy rate despite pressure from rising caseloads. PDD requests a supplement appropriation for FY17 to fund 12 additional attorneys. Hugh Dangler, member of the Public Defender Commission, briefly commented on the need for adequate funding to effectively represent clients.

In response to Representative Larrañaga, Mr. Baur estimated PDD clientele has increased by 10 percent since the Public Defender Commission began overseeing the agency in 2012. Mr. Baur said New Mexicans meeting 200 percent of the federal poverty level qualify for PDD services. Philip Larragoite, deputy chief public defender for PDD, said rising caseloads are largely the result of an increased number laws enacted by the state that are establishing more misdemeanor and low-level offenses, some of which could instead be handled by issuing a traffic citation or other way that does not result in litigation.

In response to Chairman Smith, Mr. Baur said compensation for a public defender representing a client charged with murder in the first degree begins at \$5,400. Investigators, staff, and expert witnesses are available to the attorney by PDD, all of which is state funded. Chairman Smith asked PDD to provide LFC staff information on the expense of PDD resources used by the attorneys.

Program Evaluation: Department of Information Technology, Enterprise Service Rates, and Project Management and Oversight. Jon Courtney, Ph.D., program evaluation manager for LFC, and Brenda Fresquez, program evaluator, presented the report *Department of Information Technology Enterprise Service Rates and Project Management and Oversight*. The Department of Information Technology (DoIT) was created to improve state information technology (IT) systems and provide core technical infrastructure. As an enterprise agency, DoIT charges agencies for IT and telecommunication services and use of SHARE to generate revenue to recover its costs, and to fund replacements of IT assets.

The evaluation assessed IT rate development and methodology, project management and oversight responsibilities, and the status of key findings and recommendations from the LFC 2010 program evaluation of IT and telecommunication services. The evaluation found while some recommendations from LFC's 2010 program evaluation have been implemented, issues remain involving how DoIT charges agencies for equipment replacement, the rate setting process and service delivery, and oversight and governance.

DoIT's financial statements continually show operating deficits despite increases in cash balances and rates. Cash balances have nearly doubled since FY12 from nearly \$23 million to \$41 million in FY16. The cash balances are, in part, driven by collection of revenue built into service rates for equipment replacement, as allowed by federal and state law. However, large IT assets are historically not paid for through equipment replacement funds but rather by general funds appropriated by the Legislature or federal funds. State law requires DoIT to have a plan for how to spend equipment replacement funds collected from allocated depreciation, but it does not. Lack of planning has led to equipment replacement fund revenues outpacing expenditures.

The evaluation found DoIT needs to improve in rate setting and service delivery. According to DoIT, rates are set based on historical service cost and use by agencies. However, rate setting is not always substantiated by a documented process, and rates are subject to adjustment from other factors, such as budget constraints. Additionally, best practices, such as having service level agreements with agencies are not followed. Over half of surveyed agency IT lead staff, do not believe DoIT provides adequate IT services and over 80 percent report DoIT service rates are not fair or transparent.

Recent enterprise project management office (EPMO) initiatives under direction of the state chief information officer (CIO) have improved processes, but more work is needed. Restructuring the compliance and project management program may allow its functions to be funded through enterprise funds, creating general fund savings with minimal impact to DoIT's rates.

The report recommended the Legislature and DoIT improve oversight, service delivery, and efficient resource use. One of the key recommendations for the Legislature is to consider not making appropriations to or from the enterprise replacement fund until DoIT provides the Department of Finance and Administration, ITC, and the Legislature an equipment replacement fund plan and reporting is performed as required by statute.

Darryl Ackley, secretary of DoIT, said the agency intends to make improvements based on the recommendations including providing the Information Technology Commission (ITC), Department of Finance and Administration, and Legislature an equipment replacement plan as required by state statute. Secretary Ackley stated DoIT essentially operates as a cash-based business, making it difficult to work harmoniously within the state's government structure. Secretary Ackley commented on some of the report's findings. The evaluation reported DoIT budget requests consistently overestimate revenue. Secretary Ackley stated revenue is dependent on agency payments for services, which are not always made. Although the evaluation reported DoIT has not brought forward proposals for modernizing the state IT plan, Secretary Ackley stated the state's IT plan has been updated and is on DoIT's website. Regarding the SHARE upgrade, Secretary Ackley said a detailed project plan was certified by the Project Certification Committee (PCC). However, Ms. Fresquez, an advisory member of the PCC, said the plan submitted lacks details, such as the estimated cost with a budget breakdown by IT professional service contracts with specific deliverables and milestones.

In response to Representative Varela, Secretary Ackley supports legislation to replace ITC with an advisory board, explaining he believes state IT interests are overly governed and, therefore, causing many of the issues identified in LFC's evaluation. Senator Cisneros said the Science, Technology, and Telecommunications Committee has not endorsed legislation to replace ITC with an advisory board.

In response to Representative Lundstrom, Ms. Fresquez said ITC last met in October 2014, adding the commission has not been fully functioning since 2011. Representative Lundstrom requested a list of members appointed to the commission; there is currently no appointed chair.

Representative Lundstrom also raised concerns regarding agencies that have not paid DoIT for its services. Secretary Ackley said many of the agency past-due accounts go back several years but DoIT has made great strides in collections for amounts past due for more than 60 days. Ms. Fresquez said the program evaluation shows while accounts receivable have improved since FY13, the recent aging report for greater than 60 days shows \$4.5 million in uncollected revenue as of September 30th.

Department of Information Technology. Darryl Ackley, secretary of the Department of Information Technology (DoIT), first reported on the SHARE upgrade. Initial testing of the

upgraded payroll system was successful. Most state employees are now receiving their pay stubs electronically. Reporting on other activity, Secretary Ackley said the Office of Chief Information Officer (OCIO) has been restructured to mitigate deficiencies. A deputy CIO position was created and a web portal that provides information on certified IT projects overseen by the agency was launched. Information on the projects is updated quarterly. Regarding broadband, the secretary noted New Mexico is one of five other states currently participating in the First Responder Network Authority (FirstNet) project. The mission of FirstNet is to build, operate and maintain the first high-speed, nationwide wireless broadband network dedicated to public safety. Other activity was reported. Secretary Ackley said DoIT is working to be a better strategic business partner with state agencies.

DoIT requests \$74 million for FY18, a 5.5 percent increase over the FY17 adjusted budget. Secretary Ackley said the increase is needed for higher costs of providing services and increased service utilization. The budget request includes \$890 thousand in general fund.

In response to Representative Varela, Secretary Ackley said DoIT's vacancy rate is currently 25 percent. The agency worked with the State Personnel Office to create a new classification framework and a new pay structure for IT personnel, which Secretary Ackley said will help the state recruit and retain IT professionals

Review of Information Technology Requests. Brenda Fresquez, program evaluator for the LFC, said 12 agencies submitted 25 requests for information technology (IT) appropriations totaling \$117.8 million, of which \$37.1 million is general fund revenue and \$80.7 million is federal funds. LFC staff evaluate IT funding requests to determine how well the projects conform to the state IT strategic plan, agency goals, and other criteria indicative of successful projects such as executive commitment, evidence of effective project management, and a clear, well-defined project business case containing cost estimates and cost-benefit analysis, timelines, and deliverables.

Ms. Fresquez highlighted major projects. The Human Services Department (HSD) requested \$91.1 million, of which \$12.8 million is from the general fund and \$78.3 million is federal funds, for two projects: Medicaid management information system replacement and child support enforcement system replacement. The Department of Health (DOH) requested \$3.3 million from the general fund for six projects. One of the projects is infrastructure related, which may fall under the Department of Information Technology's purview. DOH's request includes \$750 thousand from the general fund to upgrade the document management and imaging system at the Bureau of Vital Records and Health Statistics. The Department of Public Safety requested \$3.5 million in general funds to procure and implement a commercial-off-the-shelf records management system to be integrated with its new computer-aided dispatch system, which is not yet fully implemented.

The Department of Information Technology (DoIT) is required to provide its recommendation to the LFC by November 21st.

Ms. Fresquez said funding is severely constrained. Due to statewide revenue shortfalls and uncertainty in the final revenue forecast, the preliminary LFC staff scenario identifies a few

projects that are either on-going, leverage federal funds or have potential cost savings to the state.

Darryl Ackley, secretary of (DoIT), said the IT requests are listed on the agency's new web portal.

Department of Workforce Solutions. Celina Bussey, secretary of the Workforce Solutions Department (WSD), reported on FY16 performance. WSD met or exceeded federal and state performance measures in its Unemployment Insurance (UI) program: 14-day benefit payment timeliness was 91.7 percent, 21-day benefit payment timeliness was 91.3 percent, and accuracy rate of claimant separation determination was 93 percent. However, performance measures for UI operations center wait times need improvement. The average wait time to speak to a customer service agent to file a new UI claim was 20 minutes, 26 seconds, and the average wait time to speak to a customer service agent to file a weekly certification was 15 minutes, 13 seconds.

The Workforce Innovation and Opportunity Act (WIOA) served 856 youth in FY16. After receiving services, almost 60 percent of the youth entered employment or enrolled in post-secondary education or advanced training. WIOA served 2,805 adults or dislocated workers, of which 73 percent later entered employment. Over 90 percent of individuals who receive WIOA services retain employment. WIOA services are directed and administered by the local area workforce boards.

The Employment Services Division served over 90 thousand individuals in FY16 through the Wagner-Peyser program. Eighty percent of individuals who receive services through the program retain employment after six months. The division also provides services to veterans.

Regarding the Labor Relations Division, over 92 percent of wage claims were investigated and resolved within 90 days. Also in FY16, the division completed 2,337 public works inspections, meeting its targeted number. Over 1,000 individuals became registered apprentices and are in training.

WSD requests \$9 million from the general fund for FY18, a \$47 thousand increase over the FY17 adjusted general fund budget. Secretary Bussey said the agency is increasingly relying more federal dollars to provide its services; however, federal revenue is decreasing.

In response to Representative Garcia, Secretary Bussey said WSD's adjudication process determines the eligibility of individuals applying for UI benefits.

In response to Representative Varela, Secretary Bussey said the state is divided into four workforce regions, each with a local workforce board. The boards administer services using funds that flow through WSD.

Wednesday, November 16th

The following members and designees were present on Wednesday, November 16, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Mary Kay Papen, George K. Muñoz, and

Pete Campos; and Representatives Larry A. Larrañaga, Luciano “Lucky” Varela, Nick L. Salazar, Sharon Clahchischilliage, Jason C. Harper, George Dodge Jr., and Patricia A. Lundstrom. Guest legislators: Senators Lee S. Cotter and James P. White and Representative Jane E. Powdrell-Culbert.

Aging and Long-Term Services Department. The Aging and Long-Term Services Department (ALTSD) request includes \$44.4 million from the general fund for FY18, flat with FY17 funding. Myles Copeland, secretary of ALTSD, said if the agency’s budget is reduced further, services for vulnerable seniors would be impacted.

For FY17, ALTSD requested a supplemental appropriation of \$230 thousand for a budget shortfall in the Adult Protective Services program. Secretary Copeland said self-neglect and isolation and abuse are underreported. ALTSD’s Adult Protective Services division provides training on recognizing and reporting suspected abuse, neglect, and exploitation. The division conducted 6,315 investigations in FY16; 70 percent of substantiated cases were self-neglect cases.

At the request of Secretary Copeland, four individuals gave their account about the services ALTSD provides. John Mejia from Sandoval County said serious health conditions forced him to need outside help. The transportation services that ALTSD provides have helped Mr. Mejia get to his doctor appointments and pick up prescriptions. Mr. Mejia said the Sandoval Senior Center helps him receive the nutrition he needs. Mr. Mejia said the senior center affords him the opportunity to socialize with other seniors. Jan Milton from Chavez County works the New Mexico Senior Olympics as a volunteer. As a participant herself, Ms. Milton said the Senior Olympics encourage seniors to maintain fitness so they can compete. Anne Hillerman from Santa Fe County talked about how the Savvy Caregiver Program has helped her care for her husband. Janice Lardner from Valencia County spoke about the services her daughter Nicole has received through the Care Transitions Bureau.

In response to Senator Leavell, Secretary Copeland said reduction in budget has resulted in waitlists for home-delivered Meal program participation. Waitlists are being managed at the local level.

Chairman Smith said special appropriations are funded with state reserves; however, there are currently no reserves. Chairman Smith said attempts will be made again in the next legislative session to pass legislation that would generate revenue.

Department of Finance and Administration and DFA Special Appropriations. Duffy Rodriguez, secretary designee of the Department of Finance and Administration (DFA) said DFA requests a budget of \$155.2 million for FY18. The budget request includes \$22.7 million from the general fund, a \$334.1 decrease, or 1.5 percent, below the FY17 adjusted general fund budget. About \$11.7 million, or 52 percent, of the general fund request is for DFA operating expenses; the remaining \$11.1 million is for special appropriations that flow through DFA.

Secretary Designee Rodriguez said the agency removed 17 unfunded positions from the system; nine unfunded positions remain. DFA currently has two funded positions vacant.

Secretary Designee Rodriguez talked about ongoing initiatives. DFA and LFC staff are working together to reform the state's capital outlay programs. Development of the Next Generation E-911 network is in progress. DFA has completed the second phase of its cash remediation project. Regarding the credit card compliance project, DFA requests a special appropriation for FY17 to continue processing credit card payments and fund the 2017 Report of Compliance. Secretary Designee Rodriguez said the FY15 Comprehensive Annual Financial Report (CAFR) revealed significant improvements have been made.

DFA special appropriations include funding to provide free civil legal services for New Mexicans living in poverty. Law Access New Mexico (LANM) is one of several other organizations providing those services. Conrad Rocha, executive director of LANM, said access to justice is a fundamental right for every U.S. citizen. In FY16, providers closed over 15 thousand cases, of which almost 8,000 were funded from appropriation received through DFA. Mr. Rocha said, for every dollar invested in civil legal services, \$3.54 is returned to the state and its residents in cost-savings and benefits. For FY18, \$2.5 million is requested for the program, restoring funding to FY16's level.

Big Brothers Big Sisters (BBBS) in New Mexico receives some funding through DFA. Andrea Maril, director of BBBS Mountain Region, said the organization understands that current budget constraints is limiting funding. Ms. Maril briefly talked about the positive impact mentoring has on youth and said BBBS will work with the funding it receives for its mentoring program to ensure kids in New Mexico continue to be served.

Chairman Smith said rebuilding state reserves is critical. Secretary Designee Rodriguez said DFA and LFC staff are working together to bring to the Legislature recommendations for rebuilding reserves; recommendations may include using public school cash balances or right-sizing some programs.

Burrell College of Osteopathic Medicine. The Burrell College of Osteopathic Medicine (BCOM) is a private medical school for osteopathic medicine located on the campus of the New Mexico State University (NMSU) in Las Cruces. John Hummer, cofounder and president of BCOM, gave a brief presentation about the school. BCOM is not part of NMSU but rather the two are in a private/public partnership. BCOM students have access to many university facilities and services. BCOM's mission is focused on health care in the Southwestern United States and Northern Mexico. Enrollment has significantly increased since the school's establishment in 2013. To continue growth, the college is working with early college high schools and several magnet programs. Initiatives include establishing an osteopathic medicine clinic and autism clinic to serve the community.

Mr. Hummer said BCOM's investment in New Mexico was made without state dollars. Since its inception, BCOM has paid the state \$5 million in gross receipts tax.

Mr. Hummer asked legislators to consider legislation that would fund loan forgiveness for medical students who graduated from a private medical school and return to New Mexico to practice; current legislation funds loan forgiveness for medical students who graduated from a public medical school but not private.

Miscellaneous Business

Action Items.

Representative Hall moved to adopt the September 2016 Sunset/Sunrise Subcommittee Report, seconded by Senator Burt. The motion carried.

Senator Cisneros moved to adopt the October 2016 Subcommittee A Report, seconded by Representative Lundstrom. The motion carried.

Representative Larrañaga moved to adopt the October 2016 Subcommittee B Report, seconded by Senator Burt. The motion carried.

Senator Muñoz moved to adopt the LFC contracts, seconded by Senator Burt. The motion carried.

Review of Monthly Financial Reports and Information Items. David Abbey, director of LFC, briefed the committee on information items.

Regulation and Licensing Department. The Regulation and Licensing Department (RLD) is currently involved in three major projects: construction of a Facebook data center in Los Lunas, construction of a new Urenco facility in Eunice, and the revitalization of Taos Ski Valley. The agency is pursuing a potential new project that would result in a third manufactured housing plant in New Mexico. Robert (Mike) Unthank, superintendent of RLD, said the agency generated \$37.3 million in general fund revenue in FY16, an 8.5 percent increase over general fund revenue generated in FY15. Superintendent Unthank attributed the additional revenue to increased efficiencies in the agency.

Superintendent Unthank reported on current activity in RLD's divisions. The Boards and Commissions Division is working to increase compliance. The medical professional licensing boards adopted rule changes that enhance the Prescription Monitoring Program. RLD has increased its efforts to provide more licensure and renewal services online. The Securities Division is working to reduce elder fraud through its Investor Outreach Program. The Alcohol and Gaming Division has implemented online renewals for liquor licenses. The Financial Institutions Division is working to combat money laundering through the newly enacted Uniform Money Services Act. The Construction Industries and Manufactured Housing Division has so far completed over 57 thousand inspections this fiscal year. Twenty-seven inspectors have become certified multi-discipline inspectors.

RLD reverted over \$403 thousand to the state general fund in FY16, a \$338 thousand increase over FY15's reversion, which Superintendent Unthank attributed to increased efficiencies. Superintendent Unthank said additional forensic auditors and an automation system in the Securities Division would create more efficiency. RLD's vacancy rate is currently 18 percent. For FY18, RLD requests \$12.5 million from the general fund, a request relatively flat with FY17 funding.

In response to Representative Lundstrom, Christopher Moya, acting director of the Financial Institutions Division, said distribution of the \$32 million that FastBucks, a short-term loan company, was ordered to pay to customers for unfair and unconscionable business practices is being handled by the Attorney General's Office.

Commission of Public Lands. Aubrey Dunn, state land commissioner, said New Mexico state trust lands generated \$497 million in FY16, an \$814 million decrease from FY14. Earnings are estimated at \$405.1 million for FY17. The revenue decrease is attributed to a reduction of oil and gas royalties, expected to impact FY18 earnings as well. FY18 earnings are currently estimated at \$396.6 million. Commissioner Dunn detailed revenues by source.

The State Land Office (SLO) is completely funded by the revenue it earns. The agency's FY17 operating budget is \$15.9 million, leaving \$389 million of estimated total revenue, or 96 percent, for distribution to trust beneficiaries. Distributions from both the state lands maintenance fund and the land grant permanent fund support to public school funding. FY17 earnings for the land grant permanent fund are projected at \$682.3 million.

Commissioner Dunn said legislation will be proposed to the 2017 Legislature that, if passed, would use revenue from any federal mineral rights transferred to the state trust for forest restoration and site remediation. Other legislation will be proposed that supports early childhood education.

For FY18, an operating budget of \$15.9 million is requested for SLO, flat with the FY17 budget. One million in special funding is requested for forest restoration and site remediation and the right-of-way back file conversion. Approximately \$1.7 million of FY16's budget was not spent and will be distributed to beneficiaries.

In response to Chairman Smith, Commissioner Dunn said the agency's projections are based on the price of oil remaining between \$40 and \$45 per barrel. Commissioner Dunn said the new venting and flaring rules and the absence of Conoco in Farmington may further impact revenues.

Economic Development Department. Matthew Geisel, secretary designee of the Economic Development Department (EDD), said Local Economic and Development Act (LEDA) projects in FY17 include the Facebook data center in Los Lunas. The cash balance in the Job Training Incentive Programs (JTIP) is currently \$14.2 million, of which \$14.1 million is obligated. The New Mexico Partnership recently hired a new chief executive officer. The MainStreet program is supporting economic development in rural communities through its Frontier Communities initiative. The state appropriated \$350 thousand in FY16 to support the initiative. Economic development in rural communities is being further supported through targeted EDD initiatives. For example, the Local Economic Assistance and Development Support (LEADS) program is awarding grants for projects that build economic development in rural communities. The state appropriated the Office of Science and Technology \$300 thousand in FY16 to connect New Mexico innovation to the commercial market. The office did not receive funding for FY17.

EDD requests \$8.8 million from the general fund for FY18, a 3.2 percent increase over the FY17 adjusted general fund budget. Special appropriation requests for FY18 include \$10 million for

JTIP, \$10 million for LEDA, \$350 for MainStreet, and \$65 thousand for additional business incubators. Secretary Designee Geisel said enhanced enterprise zone legislation will be proposed to the 2017 Legislature that, if passed, will result in increased economic activity and increased tax revenues.

In response to Senator Cisneros, Juan Torres, director of Finance Development Programs at EDD, said the Roswell airport hangar project needs a private sector commitment before LEDA funds can be used to move the project forward. Mark Roper, community, business, and rural development team representative for EDD, added that statute requires the financial backing of a qualified company or entity before LEDA funds are used. Secretary Designee Geisel said he will visit the project and see what he can do to help move the project forward.

Representative Lundstrom said information on the projects being funded by the New Mexico Partnership needs to be transparent, noting that the information is public information. Secretary Designee Geisel said the New Mexico Partnership's annual report provides information on the projects being funded.

Chairman Smith said 30 percent of JTIP funds are supposed to be invested in rural communities, which Secretary Designee Geisel said has not been happening. Chairman Smith said if 30 percent of JTIP funds continue to not be invested in rural communities, the Legislature may need to consider reducing JTIP funding.

Senator Burt said there are four issues hindering economic development in New Mexico: It is difficult to do business in the state, the state has a poor employment pool, the cultural differences between rural living and urban living are creating barriers, and not all state assets are being acknowledged for their economic development potential.

Representative Hall expressed concern that most economic development projects happening in New Mexico are technologically oriented. Representative Hall said New Mexico's agricultural industry offers huge opportunities for economic development.

Attorney General. Attorney General Hector Balderas said the Attorney General's Office (NMAG) requests \$18.9 million from the general fund for FY18, a \$9.9 million increase over the FY17 adjusted general fund budget. The NMAG's operating budget is no longer being supported with consumer protection funds. The general fund request funds all FTE positions. Attorney General Balderas said if dollars lost from the consumer protection fund for agency operations are not replaced with general fund dollars, the health and safety of New Mexico citizens may be compromised and resources for water litigation would be diminished. Resources for tobacco litigation would also be compromised, resulting in decreased revenue for the state.

Attorney General Balderas talked about the impact of NMAG services. The NMAG's safety and prosperity initiative is working to ensure a meaningful return-on-investment for every dollar spent.

In response to Senator Papen, Deputy Attorney General Tania Maestas, said two firms were contracted to assist the NMAG with water litigation. The Texas case against New Mexico is in the initial stages of being handled.

Thursday, November 17th

The following members and designees were present on Thursday, November 17, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Peter Wirth, George K. Muñoz, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano “Lucky” Varela, Nick L. Salazar, Sharon Clahchischilliage, Jason C. Harper, Roberto “Bobby” J. Gonzales, and Patricia A. Lundstrom. Guest legislators: Senators Lee S. Cotter, Howie C. Morales, Mary Kay Papen, and James P. White.

Department of Public Safety. Scott Weaver, secretary of the Department of Public Safety (DPS), said it is a dangerous time to be a police officer. So far in 2016, 123 police officers have been killed in the nation. Four New Mexico police officers were killed in the last 18 months. According to uniform crime rate (UCR) data, New Mexico is the third most violent state in the nation. Secretary Weaver said he is thankful for the new constitutional amendment allowing judges to deny bail to defendants considered exceptionally dangerous.

DPS and the New Mexico State Police (NMSP) are facing several challenges. Forensic lab work is backlogged, most of which is DNA cases. A U.S. Department of Justice grant is helping DPS address the backlog of untested sexual assault kits. Secretary Weaver attributed the backlog of forensic lab work to the lack of forensic scientists. To address recruitment and retention issues in its Forensic Laboratory Bureau and Communication Bureau, DPS has increased the pay for forensic scientists and dispatchers. Recruitment and retention is also an issue for NMSP, especially as local and county law enforcement agencies become more reliant on NMSP services. Pete Kassetas, chief of NMSP, said NMSP is lacking 95 officers. Thirty-eight individuals have been recruited for the next academy class. Officer lateral school may provide additional officers for NMSP.

Secretary Weaver said increased demands are putting pressure on the budget. DPS requests \$119.6 million from the general fund for FY18, a \$994 thousand decrease, or 0.8 percent, below the FY17 general fund budget and 4 percent above FY16 actual expenditures. Chief Kassetas said DPS and NMSP are working to create efficiencies to alleviate budget pressures.

In response to Representative Varela, Secretary Weaver said DPS is working with LFC staff, DFA staff, and the Public Employees Retirement Association (PERA), to evaluate possibly lowering employer contributions to an overfunded PERA account for DPS, providing savings that can be used elsewhere.

In response to Senator Wirth, Chief Kassetas said a person who has used drugs, including marijuana, within three-years may not apply to be a state police officer. Chief Kassetas said the dangers of being a police officer makes it difficult to recruit. Recruitment through the NMSP lateral school is difficult because of pay and location placement.

In response to Senator Cisneros, Secretary Weaver said DPS requests \$7.1 million in capital outlay for a new helicopter. The current helicopter, which Secretary Weaver said does not serve the agency's needs, will likely be traded in to help pay remaining costs of a new helicopter. Chairman Smith said current budget constraints will likely limit funding for the state's capital outlay needs in FY18.

Public School Insurance Authority. The Public School Insurance Authority (PSIA) is providing risk and benefit insurance for 88 school districts, 99 charter schools, and 25 other educational entities, insuring over 53 thousand individuals. NMPSIA has 11 staff members and 11 board members. Sammy Quintana, director of NMPSIA, reported over \$22 billion in insured assets.

Director Quintana talked about risk claims. Workers' compensation has the highest number of claims; however, claims in general liability and property are more expensive. Sexual molestation claims are also high expense. PSIA is mitigating losses through several loss prevention efforts. For example, PSIA conducts on-site audits to identify and reduce issues which may result in property, casualty, or workers' compensation losses. Of the 4,692 recommendations made to school districts in FY16, 54 percent were corrected.

For FY18, NMPSIA requests \$76.3 million for its risk program. The request is a 4.2 percent increase over the FY17 adjusted general fund budget. Director Quintana said the premium rate is expected to increase in FY18 by 5.14 percent. PSIA's risk fund balance was negative \$5.6 million on June 30, 2016; fund balance is projected to be negative \$11.7 million at the end of FY17, which includes projections for both known and unknown claims.

For the benefits program, \$352 million is requested from the general fund for FY18, a 9.7 percent increase over the FY17 adjusted general fund budget. The benefits fund balance was \$20.9 million on June 30, 2016. PSIA projects the fund balance will decrease by \$9.7 million in FY17 due to significant increases in medical and prescription drug costs. Ernestine Chavez, deputy director of PSIA, said the agency targets a fund balance equaling one month worth of claims, which averages between \$24 million and \$27.5 million. The premium rate is expected to increase by 14 percent in FY17 for the high option medical plan and 0.9 percent for the low option medical plan.

Ms. Chavez said increased medical costs for PSIA are being driven in part by the Affordable Care Act, because of the preexisting coverage exclusion, provider reimbursement fees, and the larger number of high dollar medical claims. To help manage costs, PSIA has implemented stricter performance standards that health plans must meet when managing members with chronic health conditions. Prescription drug costs have increased from \$77.69 per member per month to \$83.46 PMPM, which Ms. Chavez said is being driven by specialty drug pricing. PSIA is managing costs through increased member share and new cost containment programs with Express Scripts.

In response to Representative Varela, Director Quintana said the risk fund deficit is going to be addressed with premium rate increases to the school districts in FY18. Director Quintana said the school districts are aware of the rate increases.

Public Regulation Commission. Karen Montoya, vice chair of the Public Regulation Commission (PRC), said, as elected officials, the commission is honored to serve the public and recognizes that decisions made impact New Mexico citizens. Ernest Archuleta, chief of staff for PRC, provided information on commissioners and briefly reported activity in their respective areas.

Mr. Archuleta said New Mexico ranks 17 in the nation for wind power production. Demand for Internet services is increasing while demand for traditional telephone services is decreasing. PRC revoked the operating authority of 72 motor carriers for failure to provide proof of financial responsibility. Mr. Archuleta said PRC supports potential legislation that would impose a severe civil penalty to violators of pipeline safety regulations. The State Fire Marshal Office is working to protect the lives of New Mexico citizens through fire code enforcement. Mr. Archuleta said the office is exceeding its performance measure for the number of inspections it conducts yearly. The Consumer Relations Division has so far handled 700 cases this year, recovering \$172 thousand.

Mr. Archuleta said the current vacancy rate for the Policy and Regulation Program is 19 percent. Mr. Archuleta said PRC is handling an increased number of cases, many of which are large and complex. To address staffing issues, PRC requests an increase of \$868 thousand from the general fund for FY18. PRC requests a supplemental appropriation of \$480 thousand to cover a budget shortfall for personal services and employee benefits in FY17. Two million dollar in capital outlay is requested for FY18 to construct a fire training building.

In response to Senator Neville, Commissioner Montoya said PRC's job is to ensure fairness in its decisions and said that the decision made in the case concerning the Public Service Company of New Mexico in San Juan County was a balance between what the hearing officer recommended and what PNM wanted. Senator Neville and Representative Clahchischillia expressed concern for the determination made in the case. Commissioner Montoya said the decision is being appealed to the state Supreme Court.

In response to Representative Varela, Commissioner Montoya said PRC only handles cases concerning private utilities.

Energy, Minerals and Natural Resources Department. Tony Delfin, acting secretary of the Energy, Minerals and Natural Resources Department (EMNRD), highlighted current initiatives. The Oil Conservation Division has instituted a program that will ensure wells are not prematurely plugged and abandoned, preventing oil and gas waste. The State Forestry Division is involved in 20 projects with the Department of Game and Fish and federal partners that improve forest health, protect communities, enhance the quality of watersheds, and improve wildlife habitat. The Mining and Minerals Division has completed two uranium mine cleanup and safeguarding projects on federal Bureau of Land Management land near Grants. The Energy Conservation and Management Division received a \$300 thousand grant from the U.S. Department of Energy to implement the Energy Roadmap project. The project is the next phase of the state's Energy Policy and Implementation Plan, which brings energy stakeholders together for informed discussion about New Mexico's energy production, distribution, efficiency, and

usage. EMNRD has completed key capital outlay projects, including a new visitor center at Navajo Lake State Park and a new campground and facilities at Oasis State Park.

Secretary Delfin said the FY16 financial audit was completed on time with an unmodified opinion issued by the external audit team.

EMNRD requested \$18.2 million from the general fund for FY18, a \$69 thousand increase over the FY17 adjusted general fund budget. The agency's operating budget request reflects a reduction of 16 FTE.

In response to Representative Varela, Christy Tafoya, director of the State Parks Division, said the transfer of sites along the Pecos Canyon from the Department of Game and Fish to the division is in progress.

In response to Senator Wirth, Secretary Delfin said funding for forest restoration and watershed management is based on special appropriations and leveraged with federal dollars.

In response to Senator Muñoz, Director Tafoya said she will follow up on the progress of reinstating use of the helicopter landing site for New Mexico State Police at Bluewater State Park.

Secretary of State. Brad Winter, interim secretary of state (SOS), provided a brief overview of current activity. Voter registration was made available online this year. The system has so far processed 111 thousand transactions. Interim Secretary Winter said the primary and general election went well. SOS worked with county clerks to address issues prior to the elections. SOS has implemented a new business filing system. Interim Secretary Winter said the new system better serves the agency and public.

Secretary Winter said the agency has made efforts to reduce operating costs. SOS requests an operating budget of \$11.1 million for FY18, a request essentially flat with FY17 funding if supplemental appropriations and increased information technology costs are not included.

In response to Representative Varela, Interim Secretary Winter said he is going to work with the new secretary-elect on the transition.

In response to Representative Varela, Interim Secretary Winter said legislation would have to be passed to stop the public financing of candidates who don't have an opponent.

In response to Representative Larrañaga, Kari Fresquez, director of elections at SOS, said automatic recount of an election is required when the margin of victory is less than 1 percent. The recount is handled through a canvassing process.

Retiree Healthcare Authority. Mark Tyndall, director of the New Mexico Retiree Health Care Authority (NMRHCA), said the authority has implemented changes in its benefit program at the direction of the board. NMRHCA is currently providing benefits for over 60 thousand retirees, of which 40 percent are not yet eligible for Medicare coverage. The authority will no longer offer

the Premier Plus plan to retirees starting January 17, 2017. Retirees in the Premier Plus plan will be switched to the Premier plan, which Director Tyndall said is a good option. The Premier plan has a slightly higher deductible. Starting in 2017, retirees will have the option to enroll in a HMO plan. Director Tyndall said it is important that retirees understand the difference in coverage between the Premier Plan and the less-expensive HMO plan. The Premier plan premium is going to increase as result of the changes; however, the premium will be less expensive for those switched from the Premier Plus plan but will be more expensive for those already in the plan unless they switch to the HMO plan. No major changes are being made in the supplemental plans for retirees eligible for Medicare; though, the premium rate will be increasing by 6 percent. Director Tyndall said premium rates are being driven by prescription drug costs.

Director Tyndall said the changes being made reflect the board's intent to improve the long-term financial viability of its program. The trust fund balance prior to the 2016 special legislative session was \$464.5 million and was projected to remain solvent through 2036. However, recent legislative action has reduced the fund by \$350 million over the long-term, decreasing the solvency period by 3 to 4 four years. The current unfunded actuarial accrued liability (UAAL) is \$3.8 billion.

David Archuleta, deputy director of RHCA, provided an overview of operating expenses. Prescription drug spending is expected to increase in FY18. RHCA requests a budget of \$342.1 million for FY18, a \$29 million increase over the FY17 budget. The budget is funded from employer and employee contributions, enrollee-paid premiums, distributions from the tax expense fund, and various other sources of revenue. The budget request includes \$3.1 million for Program Support, which Mr. Archuleta said is essentially flat with FY17 funding.

In response to Representative Varela, Anne Hanika-Ortiz, analyst for LFC, said RHCA revenues totaled \$329 million in FY16; actual expenditures totaled \$290.9 million. Remaining revenues after expenditures are transferred to the authority's long-term trust fund.

Office of Superintendent of Insurance (440). Revenue collected in FY16 by the Office of Superintendent (OSI) totaled \$333 million, a \$36 million increase over FY15. Superintendent John Franchini said revenue collection has increased year over year since FY14. OSI revenue, derived from several sources including premium taxes and surtaxes, fines, and penalties, is benefiting several funds including the state general fund, which received \$206 million in FY16.

OSI requests an operating budget of \$45 million for FY18, a \$5.5 million increase over the FY17 operating budget. The budget request includes \$11.5 million in other revenue, a \$3.7 million increase, or 46.6 percent, over other revenue received in FY17. The large increase is primarily requested for increased patient and compensation costs due to court ordered settlements. The budget request also includes \$10.9 million in other transfers to comply with generally accepted accounting principles. The budget request replaces the loss of federal and other outside funds, transitions 15 term positions to permanent positions, and adds 3 additional FTE positions.

Superintendent Franchini said OSI understands the criticality of providing efficient and effective insurance regulatory oversight. Superintendent Franchini said, with adequate support, OSI can

continue to meet its statutory obligation to enforce the New Mexico Insurance Code, combat insurance fraud, and protect New Mexico consumers.

Follow-up on Premium Audit and Efforts to Collect Underpayments. Charles Sallee, deputy director of LFC, said a 2011 LFC evaluation raised concerns about the state's effectiveness in collecting premium taxes and ability to accurately track tax credits. Following the report, John Franchini, superintendent of insurance, requested a \$100 thousand appropriation to conduct an audit of the state's premium tax collection. The Legislature funded the request in FY12 but extensions on using the funds were later requested, which the Legislature granted with the provision the audit be conducted under the supervision of the Office of the State Auditor. The Office of the Superintendent (OSI) expended 50 percent of the appropriation to contract CliftonLarsonAllen LLP to conduct the audit. Remaining funds were used to purchase legal services from Sutin, Thayer and Browne.

The audit's findings were reported to LFC in August 2016. The audit identified potential underpayments over a five-year period amounting to \$193 million. OSI indicated during the August hearing a range of steps and actions that would be taken in response to the report's recommendations though did not indicate if additional work would be pursued to verify underpayment amounts and its intent to begin seeking payments.

At the request of LFC and the Department of Finance and Administration (DFA), OSI submitted in October information on how it is proceeding. Committee members were given a copy of OSI's work plan. LFC staff, DFA staff, and the State Auditor have been meeting regularly with OSI to discuss issues and the progress of the work plan. Mr. Sallee reported several issues and made recommendations, which include sending a joint letter from the director of LFC and secretary of DFA to the Superintendent of Insurance requesting he refrain from issuing any formal notices of tax assessments as a result of the new premium tax audit process until an independent authority, the Office of the State Auditor, can validate OSI is using the proper audit methodology and procedures.

A.J. Forte, deputy secretary of DFA, expressed concern for the audit's findings and how OSI is addressing them. Tim Keller, state auditor, said he shares the same concerns that LFC staff and DFA staff have.

Superintendent Franchini said OSI has not issued any invoices formulated using the new premium tax audit process.

In response to Representative Hall, Superintendent Franchini said OSI has not engaged any of the companies involved since the audit was released. Director Forte said Superintendent Franchini has relayed to LFC and DFA staff during meetings that OSI has been in contact with some of the companies.

In response to Representative Lundstrom, Andy Romero, director of the Compliance Division at OSI, said the main difference of new premium tax audit process is the use of deductions and credits. Superintendent Franchini said OSI will continue to work with LFC staff, DFA staff, and

the Office of the State Auditor to resolve the issues and move forward to ensure all premium taxes are collected.

Friday, November 18th

The following members and designees were present on Friday, November 18, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, James P. White, Mary Kay Papen, Peter Wirth, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano “Lucky” Varela, Nick L. Salazar, Sharon Clahchischilliage, Jason C. Harper, Roberto “Bobby” J. Gonzales, and Patricia A. Lundstrom. Guest legislators: Senators Lee S. Cotter and Representative Jane E. Powdrell-Culbert.

District Attorneys. Clint Wellborn, district attorney for the 7th Judicial District, said the district has handled 23 homicide cases in the last two years, seven of which are still pending. Due to budget constraints, two attorney positions and three administrative assistant positions are vacant. The 7th Judicial District requests \$5.8 million from the general fund for FY18.

Barbara Romo, deputy district attorney for the 13th Judicial District, said two of state’s fastest growing counties are in the 13th Judicial District: Valencia County and Sandoval County. Ms. Romo said the Gregg Benner case exhausted FY16 funds. Five attorney positions are currently vacant. The 13th Judicial District requests \$18.5 million from the general fund for FY18.

John Sugg, district attorney for the 12th Judicial District, said federal grant funding from the High Intensity Drug Trafficking Areas Program (HIDTA) is being reduced by \$125 thousand in FY18. The 12th Judicial District requests \$3.1 million from the general fund for FY18. Mr. Sugg said the request is an increase to make up for lost funds.

Rick Tedrow, district attorney for the 11th Judicial District, Division 1, said he understands the state’s budget situation. Mr. Tedrow said the district is managing the reduction in budget through internal structural changes. The 11th Judicial District, Division 1, requests \$4 million from the general fund for FY18.

In response to Chairman Smith, Mr. Tedrow said the district is no longer tracking marijuana because there is awareness that most of it is coming from Colorado, not Mexico. Mr. Tedrow said schools in the district are inundated with marijuana.

Mr. Tedrow said the district attorney for the 11th Judicial District, Division 2, was not able to attend the hearing. Mr. Tedrow said alcohol-related issues continue to be a concern for the district. The 11th Judicial District, Division 2, requests \$2.4 million from the general fund for FY18.

Tim Rose, district attorney for the 10th Judicial District, said the district is understaffed. Mr. Rose said the district urges the Legislature not to make additional cuts to the budget. Mr. Rose mentioned vehicle needs for the district. The 10th Judicial District requests \$1.4 million from the general fund for FY18.

Andrea Reeb, district attorney for the 9th Judicial District, said, to manage budget reduction, the district has left vacant two attorney positions. The 9th Judicial District requests \$3 million from the general fund for FY18.

Donald Gallegos, district attorney for the 8th Judicial District, said the district is having trouble recruiting applicants to fill a deputy attorney position. The 8th Judicial District requests \$2.7 from the general fund for FY18.

Mr. Tedrow said the district attorney for the 6th Judicial District was not able to attend the hearing. The district currently has two unfunded deputy attorney positions. The 6th Judicial District requests \$3 million from the general fund for FY18.

Diana Luce, district attorney for the 5th Judicial District, said the district will receive HIDTA funding in FY18 which will be used to fund one attorney position in Eddy County. Ms. Luce talked about the district's difficulty in being able to manage the increasingly high number of cases with the limited staff the district. Ms. Luce reported significant issues in recruitment and retention. In FY16, the district handled almost 7 thousand cases, an increase of 249 cases over FY15. Representative Lundstrom suggested using the Criminal Justice Coordinating Council model, as ordered by the Supreme Court, to determine how to address the issues in the 5th Judicial District. The 5th Judicial District requests \$5.1 million from the general fund for FY18.

Henry Valdez, director of the Administrative Office of the District Attorneys (AODA), said the district attorney for the 4th Judicial District, was not able to attend the hearing. Mr. Valdez said the budget reduction for the 4th Judicial District is being managed through vacancy savings. The 4th Judicial District requests \$3.3 million from the general fund for FY18.

Mark D'Antonio, district attorney for the 3rd Judicial District, said the district is currently handling several high profile cases. Mr. D'Antonio said the district is lacking funding for expert witness services, often required in high profile cases. The 3rd Judicial District requests \$5 million from the general fund for FY18.

Kari Brandenburg, district attorney for the 2nd Judicial District, said the district's budget request includes funding for expert witness fees and the district's case management order. The 2nd Judicial District requests \$18.5 million from the general fund for FY18.

Jennifer Padgett, interim district attorney for the 1st Judicial District, said the district requests an expansion in base budget for 3 FTE. The 1st Judicial District requests \$5.8 million from the general fund for FY18. Ms. Padgett introduced the new District Attorney-Elect Marco Serna.

Administrative Office of the District Attorneys. Henry Valdez, director of the Administrative Office of the District Attorneys (AODA), said the AODA recently held an orientation for the newly elected district attorneys. AODA requests \$2.6 million from the general fund for FY18, a \$436 thousand increase over the FY17 adjusted general fund budget. The request includes funding for an additional attorney.

Department of Cultural Affairs. Veronica Gonzales, secretary of the Department of Cultural Affairs, reported on the agency's efforts to increase revenue and decrease operating expenses. Admission rates have increased at all museums and historic sites. DCA has reduced the number of free Sundays. There are fewer operating hours and days of operation at some museums and historic sites. Workforce has been reduced, as well as contractual services.

Secretary Gonzales said further reduction in budget may lead to the closure of some sites, the sale or transfer of some properties, seasonal operations at certain properties, additional reduction in days of operation at museums, and reductions in services.


In response to Chairman Smith, Secretary Gonzales said the executive recognizes the critical state of DCA's budget and has recommended a 1.5 percent reduction instead of the 5 percent recommendation made for most agencies. DCA requests \$29 million in general fund for FY18, a \$1.2 million increase, or 4.2 percent, over the FY17 adjusted general fund budget.

At the request of Secretary Gonzales, various stakeholders briefly addressed the committee, expressing their concerns for DCA's budget situation and the impact it's having on programs and services. Stakeholders who spoke include John Paul Taylor, member of the New Mexico Museum Board of Regents, Thelma Domenici, president of the New Mexico Museum Board of Regents, Christine Sims, chair of the Indian Advisory Panel at the Museum of Indian Arts and Culture, and Elizabeth Martinez, member of the State Library Commission.

In response to Chairman Smith, Secretary Gonzales said, museums and historic sites must have stable core funding to maintain national accreditation. An accredited museum is more competitive when seeking grant funding. The Space History Museum is in danger of losing accreditation.

In response to Chairman Smith, Secretary Gonzales said DCA is struggling to maintain the Los Luceros property. Special appropriations made in prior years have helped maintain the property. DCA is considering a leasing opportunity with the Milagro Initiative. DCA is also considering selling the property.

With no further business, the meeting adjourned at 11:43 a.m.


John Arthur Smith, Chairman


Jimmie C. Hall, Vice Chairman