MEETING MINUTES
Legislative Finance Committee
Room 307 - State Capitol - Santa Fe, New Mexico
November 16, 17, 18, 19, 20, 2009

Monday, November 16

The following members were present on Monday, November 16: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, and David Ulibarri (for Pete Campos). Representative Sheryl Williams Stapleton attended as a guest.

David Abbey, director, LFC, provided a post-session update from the 2009 special session. In an executive order issued by the governor, the average reduction to state agencies' budgets under the governor's control is 3.9 percent. The executive has $58 million stimulus money to use at its digression to deal with difficulties. The effect of the executive order is to boost reversions and does not change revenues.

Department of Cultural Affairs (505). Stuart Ashman, secretary, reported the Department of Cultural Affairs (DCA) requires urgent attention because of a $3.4 billion significant impact to the state and 61,000 jobs related to arts and culture. New successes include the opening of the history museum, which has had 108,000 visitors since Memorial Day weekend. The revenue from the museum tripled, offsetting any shortfalls from other museums. The New Mexico Pottery Trail started by New Mexico Arts has led to regional pottery trail and fiber arts trail activities in the state.

The proposed FY10 budget reductions total $1.684 million. The proposed five-day furlough translates to between $500 thousand and $550 thousand. (It is not included in budget reduction.) The department intends to address this issue through its fund balance.

Fran Levine, director, New Mexico History Museum, reported that a new exhibit will open on November 20 at the Palace of the Governors in partnership with the Office of Archaeological Studies. Before the history museum was built, archaeological excavations were conducted on the north side of the Palace of the Governors. Archaeologists recovered between 800,000 and 900,000 artifacts, primarily animal bone, pueblo pot sherds, and special pieces that tell about New Mexico's place in the larger Spanish world.

Ms. Levine said 160 arts organizations have been funded through art grants. The total grant budget was $970 thousand and was a combination of 60 percent state general fund and 40 percent federal funds.

In response to Vice-Chairman Smith, Secretary Ashman said a hiring, reclassification, and upgrade freeze was done before the executive gave direction. Contractors have also been negotiated with to lower costs without a reduction in services and most flow-through grants were reduced to accommodate the upcoming budget reductions. Vice-Chairman Smith said the only way to bring the budget in line across state government is through the expenditure side.

Representative Tripp asked if funds were available for the state's centennial. Secretary Ashman said a position was borrowed from the State Library to have a centennial director put together no-cost centennial activities, such as a centennial license plate and a postage stamp. Jody Delany, centennial director, reported that over the year, municipalities, tribal leaders, and county commissioners have been contacted. Currently, a nonprofit entity is being put together to raise private funds.

Senator Beffort asked about the feasibility of closing museums for one day and the effect it would have on public access and the impact of voluntary furloughs so there would not be a dramatic repercussion. Secretary Ashman said that is the intent; however, they are waiting on direction from the executive. The department is not fully funded through general fund for personnel; therefore, the department has to request a budget adjustment request (BAR). A projected $840 thousand without any cuts or furloughs will be requested through a BAR in January.

Public Regulation Commission (430). Sandy Jones, chairman, Public Regulation Commission (PRC), reported that since 2002, PRC has reduced its burden on tax payers by 18 percent. The commission undertook a complete ethics review of the commission and staff. The intention was not to issue a press release or garner a lot of attention. The commission appointed an ad-hoc committee made up of staff attorneys, division directors, two commissioners, and various other staff. The committee was asked to review all ethical boundaries within the commission and investigate how employees view the ethics and the ethical behavior of the commission and whether they know those ethical boundaries. A survey was initiated and sent out to all employees via e-mail and was placed into a lock box so information remained anonymous and protected. The committee as well as staff will review the results of the survey; results will also be released to the press. An educational component will be devised from the review. Mr. Jones said it is his goal that ethics be reformed in government and not only at PRC. Chairman Varela asked if there are any proposed changes to the commission or changes in the constitutional amendment. Mr. Jones said the commission is not ready to make a recommendation; the commission can and will function adequately under the present conditions of elected commission.

Mr. Jones reported the agency recognizes the 4 percent reduction and has made a major reduction in its budget through consolidation of offices and a $1.1 million reduction in expenditures by getting out of rental units. The commission recently instituted a complete audit and prudence review of investor-owned utilities. The commission also instituted a program allowing the Consumer Relations Division to have a seat at the regulatory rate table. The agency is requesting 1 FTE expansion for the fire training academy resulting in $20 thousand in savings a year. Mr. Jones asked that the agency be allowed to work with LFC staff to assist the state in reducing budget shortfalls. The Corporations Bureau will be able to renew incorporations, accept corporate reporting online, and take payments, resulting in a substantial savings to consumers. In the Insurance Division, the title industry was reformed, resulting in a substantial reduction in re-finance rates for those selling property. The Legislature authorized the commission to write consumer protection rules for the propane industry; workshops are currently taking place. The agency has maintained between a 5 percent and 7 percent vacancy rate and has four major programs. Generated revenue for FY09 totaled $242 million.

Senator Sapien asked the superintendent of insurance to explain the insurance quote tool. Mr. Morris Chavez, superintendent of insurance, recently completed an online tool to give consumers an idea of what their home and auto costs are. Information was obtained from insurance companies based on certain criteria. Once data is entered, a list of companies in order of dollar amount is generated with the cost of insurance. Senator Sapien asked to what extent the insurance division is using proprietary quoting tools to come up with a figure. Mr. Chavez said proprietary data is not used to come up with numbers; the matrix is sent to the insurance company.

Senator Leavell said he is concerned with taking funds from the Insurance Division and reserves and not having the proper technical staff in each division. The Insurance Division was set up as an enterprise and produces over $200 million for the general fund annually. Mr. Daniel Mayfield, chief of staff, said the department has one actuary vacancy in the Property and Casualty Division and one or two vacancies out of the total of 84 FTE in the division. Senator Leavell suggested reviewing the hiring process and the lag time between the initial contact and before an individual is offered a position.

Game and Fish Department (516). Tod Stevenson, director, Game and Fish Department, reported that the agency's FY11 budget request is flat with three exceptions including an increase for 1 permanent FTE to assist in aquatic and evasive species program, 4 quarter-time FTE to assist in ground evaluations during the primary boating season, and 2 FTE for the newly created off-highway vehicle management program. Also included in the request is an increase of $800 thousand for credit card processing for electronic applications. There is no request for general fund monies.

An updated FY10 budget includes a decrease of 3 percent along with the five furlough days for all staff, resulting in a 3.8 percent decrease in the current budget. Senator Cisneros asked how the furloughs would be administered. Mr. Stevenson said the governor's office will assist with the plan. Senator Cisneros asked if the proposed plan would be acceptable for employees. Mr. Stevenson said he has not visited with staff on the issue. An alternative plan would provide much less disruption for the public that interacts with staff on various issues.

Chairman Varela asked about the joint powers agreement (JPA) between the agency and the State Parks Division for Pecos Canon. Mr. Stevenson said the JPA is still being worked on; the primary issue is the state park's budget and the agency's ability to take over the park. Chairman Varela said he is concerned with the lack of movement in establishing a state park. Chairman Varela asked about the lease agreement for the monastery. Mr. Stevenson said the agency is on a month-to-month agreement with the monastery. Chairman Varela said he is concerned with the fishing area and requested the agency work out an agreement with the monastery to make sure properties are not privately sold because the public would be denied access to the river for fishing.

Department of Veterans' Services (670). John Garcia, secretary, reported the department served over 25,000 veterans in FY09, a 13.6 percent penetration of the veteran market. The federal Veterans' Administration spent $818 million in New Mexico to serve more than 180,000 veterans living in the state. Last year, over 56,000 veterans received health care from the Veterans' Administration medical center and clinics and approximately 39,000 veterans and survivors received disability compensation pension payments. Nearly 5,000 veterans and reservists took advantage of their Montgomery GI bill. Veterans generate $1.3 billion for pensions, disability, payments, retirement, dependent payments, educational benefits, and state and federal compensation. The veteran federal education benefits provide funding for education training and the veterans business owners are growing through economic dollars and jobs throughout the state. Other initiatives include the post 9/11 GI bill rollout, 9/11 patriot day, Native American tax refund program, etc.

Dan McCormick, administrative services director, reported the department is requesting a flat budget for FY11. The department has 40 FTE authorized positions including two term positions tied to the education program. The department currently has 7 vacant FTE positions. The department is requesting an expansion for 2 FTE to run the veterans' business program already supported with recurring funding through the contractual services budget.

Department of Information Technology (361). Marlin Mackey, secretary, Department of

Information Technology (DoIT), reviewed the 2009 accomplishments for the department. The department has implemented a new strategic plan consisting of nine goals, 29 strategies and 46 initiatives; all but 11 initiatives are in process. In FY08 and FY09, 110 projects totaling $250 million were certified for IT services across all agencies. In FY10, there are 60 active projects totaling $175 million of which $125 million has been invested. The number of IT requests for FY11 from the judicial and executive branches and universities totals $87 million. Currently, there is $1.3 million in SHARE-related revenue that will be used for amortization and depreciation. For FY11, the department would like to increase the revenue stream to $2.3 million, dependant on the rates charged to agencies. The department coordinated the broadband grant applications on behalf of companies in the state; 108 grants mention New Mexico and 31 projects were favored totaling $322 million. Budget changes for FY11 include an increase in the oversight and compliance due to underfunding and an increase for equipment replacement. Overall the budget will be reduced by $2 million and will be offset by an increase of $462 thousand from the general fund. The audit was completed on November 6, 2009, and was submitted to the Office of the State Auditor. The audit contained two findings; fixed asset completion and accounts receivable reconciliation. The accounts receivable balance was reduced from $14.9 million to $12.4 million over the last year. Other funding requests include capital outlay and a special appropriation for the Computer Applications Center (NMCAC).

Senator Sapien asked if there was a plan to create a fee structure for the NMCAC. Secretary Mackey stated that a fee structure has been established; however, it has not been used with existing customers. Senator Sapien asked if revenue is generated for the general fund from the NMCAC. Secretary Mackey said the agreement states only excess capacity not being used to generate revenues and offset expenses could be provided to the public, universities, or research laboratories. When they are working with grants, they will be charged the same fee as the private sector.

Chairman Varela asked if the commission of DoIT or the department has looked into the public education financial system. Secretary Mackey said he was not familiar with the program. Chairman Varela said it is a major issue and the commission or the department should review it in terms of security and capturing and generating financial information for school districts. Director Abbey suggested Secretary Mackey meet with LFC staff to discuss further.

Indian Affairs Department (609). Alvin H. Warren, secretary, Indian Affairs Department, reported the department's vision is to see that all New Mexico Native American citizens have the resources necessary to improve quality of life and maintain cultures through languages, particularly through a collaborative relationship with state government. The department has five primary areas of work; assisting with developing and securing legislation and policy benefiting tribes and Native Americans, maintaining a high level of visibility of tribal concerns and issues in state government, providing capital outlay funds to tribal governments, as well as special projects and appropriations, and providing training and technical assistance to tribes on a variety of issues. The department adopted a two-year strategic plan in 2008, in collaboration with tribal leadership from all 22 tribes, the governor, lieutenant governor, key staff, the Indian Affairs Commission, and the interim Indian Affairs Committee to address American Indian healthcare needs, ensure strong and long-lasting tribal state government-to-government relations, improve the development of tribal infrastructure, and advance tribal economic development. Mr. Warren provided an overview and status of each goal.

The department's FY11 base budget request totals $3.8 million. The FY11 budget request includes the original appropriation of $500 thousand for Tobacco Cessation and Prevention (TCPP). The department was instructed to identify $188 thousand in reductions from the current budget; $70 thousand will be taken from vacancy savings and the remainder will be taken from grants and services. Representative Sandoval asked if funds are received from the federal government for capital outlay purposes. Mr. Warren said the Navajo Nation receives a small amount of capital outlay funding in Arizona but nothing comparable to what New Mexico has provided. The funding for infrastructure in tribal communities comes through the Indian Health Service for water and waste water projects through the federal Housing and Urban Development Department directly for housing. Bureau of Indians Affairs (BIA) also manages some housing and construction funds. The tribal infrastructure task force will review all funding sources, federal and state, available to tribes for infrastructure. Representative Sandoval asked if funds could be used for senior citizen centers to buy necessary equipment. Mr. Warren said there is federal funding for the operation of senior citizen centers but not for construction. The federal appropriations to those funding sources to tribes for infrastructure have been inadequately funded.

Senator Beffort said it is her understanding that BIA schools are not under the governance of the Public Education Department (PED); therefore, the secretary has no authority to oversee or interface with curriculums or policies for kindergarten through 12th grade. Mr. Warren said tribal BIA schools have to meet state certification requirements if students are going to transfer to a state school. Senator Beffort said BIA schools have a high dropout rate and a high percentage of schools not making AYP; BIA schools need to add more accountability. Mr. Warren said his department will work with BIA and PED to make sure schools that are not performing can be improved in both public and BIA schools.

ECHO Project. Sanjeev Arora, M.D., director, Project ECHO, presented an update for the Extension for Community Healthcare Outcomes (ECHO) project. The mission is to develop the capacity to safely and effectively treat chronic complex diseases in rural locations and developing countries. The project began with hepatitis C, a global health problem affecting 170 million individuals. Hepatitis C is curable in 45 percent to 80 percent of patients. Dr. Arora reviewed the method, steps, and benefits used for the project. Project ECHO currently consists of 15 separate disease categories and 150 programs throughout the state. In the last five years, $16 million has been received from outside sources for uninsured and underserved patients in the state.

Tuesday, November 17

The following members were present on Tuesday, November 17: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Rod Adair (for Stuart Ingle) and Pete Campos.

Administrative Office of the Courts (218). Edward L. Chavez, chief justice, Supreme Court, announced that Judge James Wechsler has been named the water law judge and will be resigning his position as budget chair to Ms. Sylvia Floyd-Castillo. The 2nd Judicial District court is at risk of furloughing employees. Working hours have been reduced by three per day with a vacancy rate of over 7 percent. The judiciary as a whole has a 9.3 percent vacancy rate. The Court of Appeals chief judge issued a memorandum to employees indicating employees need to pay for their licensing and requirements fees and employees may need to be furloughed depending on the outcome of the legislative session. Funds from the Supreme Court will be used to help fund costs for the Supreme Court building. Chairman Varela said there are concerns with the judicial retirement system. The oversight committee proposed changing the way the judicial retirement system is funded. Legislation to implement the removal of reliance on the docket fee will be proposed in January.

Artie Pepin, director, Administrative Office of the Courts (AOC), reported that since the beginning of FY09 the courts have suffered a $10 million reduction in general fund appropriations in addition to a $1 million sweep of funds at the AOC in the solvency package for FY10. Further impacts that will occur from the 2 percent reduction are being worked out specifically in the courts. Furloughs are not expected, except for the 2nd Judicial District. Further reductions would cause employee furloughs or significant reductions in treatment courts. Mr. Pepin urged the committee to leave FY11 at its current level of funding after the solvency package of FY10. Case files have increased 7 percent in FY09 and do not show indication of slowing down in FY10. AOC is operating at a 7 percent vacancy rate in general funded positions and 9.3 percent in overall positions.

Mr. Pepin provided a summary of budget submissions and said requests are flat based on FY10 funding with two statewide exceptions having no impact on the general fund. AOC consists of four programs; administrative support, special services, magistrate court, and automation. Administrative support and special services made a swap of $153 thousand to meet existing payroll of general fund appropriation. A $1 million expansion is requested for magistrate courts to meet costs of leases. Senator Leavell said he is concerned with courts closing early and it becoming an ongoing situation. Mr. Pepin said no money is being saved with early closing; clerks are given an opportunity to keep up with the increase in case filings. The judiciary pursued legislation to close a number of courts. Legislation was signed and a number of circuit courts were closed. One full judgeship has also been moved.

District Courts (231-243).

District VI. Henry Quintero, chief judge, requested the district's budget be approved as presented with reductions in categories other than personnel. The district is trying to avoid furloughs and has a vacancy rate of 12 percent. Vice-Chairman Smith requested caseload information from all districts to be made available to LFC staff.

District V. Gary Clingman, chief judge, requested a flat budget for FY11. Senator Leavell asked if courts are closing early. Mr. Clingman said Hobbs Magistrate closes at noon on Fridays due to an 18 percent vacancy rate.

District III. Gerald Valentine, chief judge, reported two judges are handling 40 percent of the civil cases, three judges are handling criminal cases, and one of those judges is also handling the children's court. Statistics indicate two additional judges are needed. The district is third under a list of priorities of judgeships. Docketing entries from FY06 to FY08 increased 19 percent.

District XII. Jerry Ritter, judge, reported the district is requesting a flat budget. The total budget will be reduced due to the expiration of a federal grant for drug courts resulting in an 8 percent reduction in other state funds. The district has a 6 percent vacancy rate.

District IX. Ted Hartley, chief judge, reported the district obtained two new judges in the last five years. The employee, military, and civilian personnel at Cannon increased from 2,200 to 4,500. The judiciary and the Legislature consider drug court as part of the court function; sentencing options greatly enhance the ability to use drug court.

District X. Albert Mitchell, judge, reported the district is operating with an 11 percent vacancy rate. Over 30 days have been spent out of district on designated cases. Approximately 1,200 cases between new and re-opens are carried with the shortfall.

District XI. John Dean, chief judge, reported the district submitted a flat budget. Furloughs are not anticipated unless there are further reductions than anticipated.

District VIII. Sam Sanchez, judge, reported the district started FY09 with a directive from the Supreme Court to raise employees up to a certain level. The district is requesting to increase FTE by 0.5 with no fiscal impact. The judiciary ranked the district as the number one priority for judgeship. The workload has gone up 28 percent and is higher than the judiciary as an average. The district is requesting capital outlay funding for new court house furniture in Taos County.

District VII. Kevin Swayze, district judge, requested a flat budget for the district. The district currently has five vacancies and is not anticipating employee furloughs.

District IV. Mathew Sandoval, chief judge, reported with a 2 percent reduction the district will cut drug court in half. With an additional 2 percent reduction, drug court would be cut altogether. Drug court is a vital program and one of the few programs in the country that is working; however, it is not a core function of the court and is not statutorily mandated. The new court house for Mora County will be completed next fall. The district is requesting $250 thousand in capital outlay for security deficiencies in Las Vegas and to assist with the new court house security and furnishings.

District XIII. Ken Martinez, court administrator, reported the district serves eight of the northern pueblos and two reservations. The district is encountering a foreclosure bubble and the caseload is rising dramatically. The district is moving into a specialized docket for foreclosure cases. The district operates with seven judges and has had 11,000 cases filed this year. The district is starting e-filing in Cibola County.

District II. Ted Baca, chief judge, reported the district is the largest court in the state and handles 36 percent of all district court filings. Population has grown by 14.2 percent from 2000-2008, and the caseload has increased 22 percent from 2007 to September 2009. The budget was reduced by 8.1 percent from FY09 to the present. The district has maintained a vacancy rate of over 7 percent and has frozen 23.5 positions. An adult drug-court client contract and a domestic violence family assessment and intervention program have been terminated. Budget reductions result in over $1 million of savings. The district is requesting a supplemental appropriation to repay the Board of Finance (BOF). The district is also requesting a critical need increase of $1.68 million for personnel services to provide critical positions, as well as indigent transcripts.

District I. Stephen Pfeffer, chief judge, reported the district is requesting a flat budget with a conversion of a hearing officer to a judgeship with no general fund impact. The Santa Fe court house is scheduled to be complete in 2012; $2.7 million is needed for furnishings and equipment. The district is requesting $1 million in capital outlay and legislative language to be used over a two-year fiscal year period. No employee furloughs are anticipated at this time.

Metropolitan Court (244). Judy Nakamura, chief judge, reported the court's FY11 budget request is $24.1 million, a $1.4 million increase over the current reduced FY10 operation budget. The court has reduced $1.2 million from FY09 actual expenditures to FY10 operating budget. Court hours have been reduced with a vacancy rate of 7.5 percent. Judges have been requested to stop trials at 5 p.m. unless it is critical to continue beyond that time. Saturday arraignments will be eliminated if funding is not granted. Twelve volunteer judges run the specialty courts with over 3,000 participants. The court has completed this year's audit with no findings. Senator Beffort said innocent people will remain incarcerated without due process if Saturday arraignments are cut off. Senator Leavell asked where all the fines, fees, assessments, and income that goes through the courts goes. Ed Premier, chief financial officer and deputy coordinator officer, provided the committee with the most recent allocation of revenue. Approximately $8 million is collected annually in fines and fee revenue and another $3 million in cash bonds. Surety bonds totaling $60 million are also managed for the security of various defendants placed with the court. Court costs go directly to the court facility fund. Mr. Pepin said there are significant differences in the way the Metropolitan Court operates because it owns its own facility; magistrate courts lease smaller facilities; however, fines and fees from the magistrate court also go to the court facility fund.

State Engineer/Interstate Stream Commission (550). John D'Antonio,, state engineer; provided a financial summary for the agency. Mr. D'Antonio said the 2005 Indian Water Rights Settlement Fund Act requires the State Engineer and the Interstate Stream Commission to provide an annual report by November 15 to the Indian Affairs Committee and the LFC on three topics; the status of proposed Indian water rights settlements requiring state financing, the distribution of funds from the Indian water rights settlement fund to implement approved settlements, and recommendations on appropriations to the fund necessary to timely implement Indian water rights settlements. Mr. D'Antonio provided an update on the settlement agreements and distribution information of monies from the Indian water rights settlement fund. The agency requests $15.2 million to be appropriated to the Indian water rights settlement fund. Chairman Varela asked about the irrigation works construction fund. Mr. D'Antonio said the balance is $23.5 million for the irrigation works construction fund and $4 million for the improvement to the Rio Grande income fund; both funds are revenue sources from the permanent fund. Chairman Varela requested a report from the agency regarding the restoration of the acequia in Rincon near the Pecos River. Mr. D'Antonio said the agency is looking into submitting it as a project that is eligible for acequia rehabilitation funds.

Miscellaneous Committee Business

Action Items

Approval of LFC Minutes – September 2009. Senator Papen moved to approve the September 2009 minutes, seconded by Senator Leavell. Motion carried.

Approval of September Subcommittee Reports. Representative Tripp moved to approve the September 2009 Subcommittee A report, seconded by Representative Sandoval. Motion carried.

Representative Salazar moved to approve the September 2009 Subcommittee B report, seconded by Representative Tripp. Motion carried.

Contract Approval. Director Abbey recommended contract approval for Luciano Baca for the 2010 session to assist with fiscal impact reports (FIRs). Representative Sandoval moved to approve the contract, seconded by Representative Salazar. Motion carried.

Elected Officials

State Auditor (308.) David Archuleta, fiscal analyst, LFC, reported for FY11 the State Auditor submitted a base budget request totaling $3.6 million; a $316,000 increase above FY10 operating. Hector H. Balderas, state auditor, said the agency is focusing on contractual services in order to perform the office's constitutional duties. The contractual services increase will primarily focus on report reviews to improve the quality of audit reports, work paper reviews to test the integrity of audit reports and the auditors, federal stimulus funding reviews, and support for a new program area identifying agencies submitting late audits. Chairman Varela asked about items vetoed by the governor in special session. Mr. Balderas said it was related to an audit fund balance generated from audit fees. The governor vetoed a $500 thousand fund sweep transferring funds out of the audit fund into the general fund. Chairman Varela requested information on findings of fraud or misappropriation of funds forwarded to prosecuting entities. Mr. Balderas said his office is aggressive in communicating information not only to prosecuting entities but also oversight agencies.

State Treasurer (394). James B. Lewis, state treasurer, provided an overview of the agency's request for FY11 totaling $4.334 million. The request does not include funding for an investment advisor mandated by a forensic audit. Significant FY10 milestones to be continued in FY11 include disaster recovery and business continuity plans. The new cash forecasting model is updated with actual revenue and expenditure information, and the agency is looking to streamline banking instituted by DFA and continuing its investment strategy driven by safety and liquidity to meet the cash flow needs of state government. The budget reduction for FY10 totals a 4 percent reduction taken from personnel services and employee benefits. Unanticipated expenses for FY10 include legal representation for the Internal Revenue Service audit of Taxation and Revenue Anticipation Notes (TRANs) and the TRANs rating costs. The request for FY11 includes non-general fund revenues from local government investment pool management fees. The agency continues to have ongoing problems retaining portfolio managers due to higher salaries offered at other investment agencies. The agency is working in conjunction with DFA to address outstanding SHARE issues. Chairman Varela said he is concerned with the agency not having more input in the contract and would like explicit detail of what the treasurer requires in the contract.

Information Items

Review of Monthly Financial Reports

October 2009 Cash Balance Report. Cathy Fernandez, deputy director, LFC, reported on the October 2009 cash balance report. Chairman Varela said he is concerned with negative accounts and losing earned income in the general fund.

September/October 2009 BAR Report. Director Abbey reported on stimulus funds and other state funds. Federal stimulus money is not objected to and is not subject to appropriation by the Legislature. A lot of funds have been committed but have not been spent.

October 2009 LFC Budget Status. Director Abbey reported LFC has three vacancies and is not planning on filling two of them. A flat request was submitted for FY11 with a 5 percent reduction. LFC shows a general fund appropriation surplus greater than a projected spending of 5.3 percent and does not reflect the 5.3 percent reduction from the special session.

Monthly Report on Federal Stimulus Funding. Director Abbey reported the state will receive $2.2 billion of awards; the state has been notified on half of them and they have been encumbered.

LFC Program Evaluation Status Report. Manu Patel, deputy director, LFC, said staff will make two presentations on school districts and capital outlay projects. Staff is working on projects for the Department of Health, charter schools, and higher education. A presentation on the judiciary case management system will be made in December.

FY09 LFC Financial Audit. Director Abbey said the FY09 LFC financial audit has been completed and was sent to the auditor with no findings.

Wednesday, November 18

The following members were present on Wednesday, November 18: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Brian F. Egolf Jr. (for Rhonda S. King), Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Carlos R. Cisneros, Sue Wilson Beffort, William H. Payne (for Carroll Leavell), John M. Sapien, Mary Kay Papen, Steven Neville (for Stuart Ingle) and Pete Campos.

Big Brothers Big Sisters. Angela Reed Padilla, director, provided a presentation on behalf of all the New Mexico Big Brother Big Sisters programs. The program's goal is to expand into as many rural communities as possible and increase sustainability from individual and private donors. Six agencies cover every county in the state and served 1,400 children last year; 80 percent of funding goes into volunteer recruitment, enrollment, and support services.

Department of Public Safety (790). John Denko, secretary, Department of Public Safety (DPS), reported on the department's mission, core policy agenda, primary initiatives, and major accomplishments. The FY11 general fund base request is flat totaling $94.8 million. Expansions include a request to transfer the Special Investigations Division into the State Police at a cost of $95.3 and transfer of FY10 expansion FTE from the Law Enforcement Program to the Motor Transportation Program at no cost. The total general fund request is $94.9 million. Information technology requests include $4 million for the DoIT consolidation, $800 thousand for New Mexico FastID, and $7 million for a records management system – computer-aided dispatch (CAD). Capital project requests include an annual patrol vehicle replacement, northern forensic laboratory, Santa Teresa port-of-entry, state police Albuquerque district office renovation, and state police Las Vegas and Las Cruces district office infrastructure, totaling $41 million. The department will request an exemption to the furloughs ordered by the governor's executive order.

Senator Sapien asked for an update to the TRACS program. Chief Segotta said the traffic and criminal software (TRACS) program is part of a Motor Transportation Program. Between 35 and 50 officers use the program. It does not report information into the magistrate courts around the state but does provide information to the metropolitan court. The system does not allow an officer to give multiple citations and there is a recurring cost to every agency that buys into the program. Senator Beffort asked if there has been any consideration of working with the New Mexico National Guard in a subcontract relationship for operating helicopters. Mr. Denko said he has had discussion with the adjutant general. Chief Segotta added the department does have an agreement with the National Guard; between June and September the National Guard flew six search and rescue missions on behalf of the department. Mr. Denko said it is the department's primary responsibility, but the National Guard will assist the department when needed.

Department of Finance and Administration (341) and Special DFA-Appropriations (344). Katherine B. Miller, secretary, Department of Finance and Administration (DFA), reported that the change in revenues for the state has made a huge impact on operations. The department has had to redirect resources towards implementing budgets twice, execute cash transfer bills, tighten controls over agencies spending, and oversee cash management for federal American Recovery and Reinvestment Act funds. From the original FY09 budget, the department's operating budget is down 12.5 percent and 15.8 percent overall. The total reduction from the governor's executive order is 5.25 percent, or $1.4 million, taken primarily from special appropriations, personal services and benefits, and contractual services. The FY11 budget request totals $15.5 million, $1.5 million less than FY09 and $.16 million greater than FY10 after reductions. The governor has set a target of

1,000 positions that he would like to take off the books for state government. Ms. Miller provided an overview of each division's duties, workload, and accomplishments. The department is focusing on managing its core mission with less staff and resources.

Representative Egolf asked about extensions for capital outlay projects. Secretary Miller said a short deadline was set for status of projects; if contracts and agreements are in place, reimbursements will not stop. Robert Apodaca, director, Local Government Division, added that his division is reviewing 1,800 appropriations and is receiving a number of requests for exceptions. Representative Egolf asked what happens if a grant is canceled. Secretary Miller said neither DFA nor the governor has taken the position to eliminate capital outlay appropriations; only grant agreements were canceled. If funds are ready to be drawn, the department will reissue the grant agreement.

Senator Payne said he is concerned with contract reviews and asked who is responsible for deliverables. Secretary Miller said DFA makes sure professional service contracts comply with the procurement code, budget is available, and contracts are written correctly. The procurement code allows for professional service contracts to go up to four years. Many contracts for nonessential services are being terminated. Larger agencies have internal auditors that review contracts, but there is not a central agency responsible for checking deliverables. Representative Bratton added that it needs to be made sure small rural communities are not adversely impacted.

Senator Beffort asked if there was indication that the furloughs would be nonrecurring. Secretary Miller said the entire executive order is based on nonrecurring savings and the executive order does not reduce the appropriation. Discussions to introduce a bill in January reducing agencies budgets by the amounts in the executive order in addition to the amount saved by the furlough days have taken place. In plans put forward by individual agencies, some cost savings will be carried through into the FY11 budget.

Vice-Chairman Smith requested more up-to-date revenue information on a weekly or bi-weekly basis. Secretary Miller said since the special session an internal taskforce has been making sure that information from the Taxation and Revenue Department (TRD) is timely. Some of the revenues statutorily do not have to be provided until a later date.

Behavioral Health Services: Funding Requests Outcomes and Gaps in Services. Alfredo Vigil, secretary, Department of Health (DOH), reported the collaborative is entering its fifth year of transformation from a fragmented behavioral health system to a statewide collaborative model. The recent transition to a new managed care organization, OptumHealth New Mexico, has been more difficult than anticipated, and it became clear there were unacceptable delays in payments to providers. The collaborative is in the process of making sure the process is remedied.

Dorian Dodson, secretary, Children, Youth and Families Department (CYFD), reported the collaborative wants to continue working with the current contractor. Since the contract was established, the collaborative undertook the standard processes in order to establish a new contract. Both in-state and out-of-state experts are assisting in working with OptumHealth to review their IT system, the major issue. On October 29, 2009, a sanction letter was delivered to OptumHealth and on November 10, 2009, an emergency collaborative meeting was held to discuss issues and resolutions.

Katie Falls, secretary designee, Human Services Department (HSD), addressed the contract violations and the four primary components of the sanction letter. The contractor does not have a fully functioning system that pays the claims, causing a disruption to providers. The sanctions include a directive correction action plan (DCAP), a civil monetary penalty (a pool in which funds will be distributed to the providers), actual damages, and appointment of a state monitor. The collaborative received a response from OptumHealth indicating it is disputing the sanctions; however, they have agreed the DCAP is a very good tool and plan to work with collaborative to implement it.

Linda Roebuck-Homer, chief executive officer, Behavioral Health Purchasing Collaborative, reported on October 19, 2009, OptumHealth agreed to relax its claims edits. As of October 21, 2009, $24 million has been paid on 72,000 claims and 20,000 claims are pending. There are 131 providers who have received approximately $21 million. The collaborative has requested that recoupment begin after claims are processed and providers are made whole. Since July 1, 2009, the collaborative has received $122 million from the state and paid out approximately $98 million. The collaborative is researching options in the event the directive correction plan of action cannot be resolved and is developing a plan should the state decide operations are not going to work. Alternative models are also being reviewed and the contract for the state monitor is being finalized. House Bill181 from the 2008 session requested a budget compilation on how much the state is spending on behavioral health in FY10. The total is over $465 million before the 5.5 percent reduction to executive agencies and 1 percent to Medicaid. The current contract with the statewide entity is slightly over $378 million, and the FY11 budget request is $478 million, an increase of $13.7 million from the general fund; primarily reflecting caseload growth in the Medicaid population. Expansion requests total $26 million. The top priority for the collaborative is to keep providers whole; crisis, housing, and transportation are the other three priorities in terms of service development.

Representative Salazar asked about claims that were submitted, but were never received. Ms. Roebuck-Homer said there was a point where lost claims were going to a response file. Those claims have been found and are being processed; a number of denied claims are being reprocessed manually. Sandra Forquer, chief executive officer, OptumHealth New Mexico, added that during the initial testing the system properly processed claims. After the system went live and large volumes of claims were received, configuration logic issues caused the payment problems. In addition, the state shifted from a one-twelfth allocation to fee-for-service for a group of providers. Mr. Vigil added that in the last four and a half years, there have been substantial improvements and progress to the overall behavioral health system. Ms. Robuck Homer said because of the state's integrated model, two grants were received: $9 million for children system of care and $400 thousand for returning veterans and soldiers.

Aging and Long-Term Services Department (624). Michael Spanier, secretary designate, Aging and Long-Term Services Department (ALTSD), reported the department serves seniors, as well as adults living with disabilities, members of tribes and pueblos, families and caregivers, individuals with traumatic brain injuries, and behavioral health clients. Currently, 300,000 New Mexicans ages 65 and older are living with a disability; over 500,000 will be living with a disability by 2030. The department focuses on home and community-based services with an increase in demand for better health outcomes, improved wellness, and potential cost avoidance in terms of avoiding or delaying institutionalization. The department has gone through a year-long planning process to revise its strategic plan, focusing on eight priority areas. Mr. Spanier explained priorities, trends, and impacts for the department.

The department is requesting a flat budget of $49 million from the general fund plus an additional $627 thousand to restore cuts for the Aging Network. In response to Chairman Varela, Mr. Spanier said the Gold Mentor Program is funded with Temporary Assistance to Needy Families program funds transferred from the Human Services Department. The funding is $750 thousand and supports

28 gold mentors around the state. There are major issues with overall TANF funding, projected to be reduced from $200 million to $150 million and further in FY12 to $115 million. HSD is working on a request for proposals for specialized case management services and may be the venue the ALSTD pursues to fund the Gold Mentor Program. Ms. Falls said the current proposal for FY11 contains funding for support services; however, the Gold Mentor Program is not specifically mentioned.

Economic Development Department (419). Fred Mondragon, secretary, Economic Development Department, reported New Mexico is seeing an unemployment rate as high as 12.8 percent in the southwest part of the state due to layoffs in the mines; other areas are due to the drop in oil, gas, and other natural resources industries. Secretary Mondragon provided an overview of the department's prime focuses and the commitment to rural New Mexico. The department has representatives in Gallup, Las Vegas, Roswell, Las Cruces, and Santa Teresa. The green grid initiative includes several sites and the department has put together a $180 million proposal without using state funds; most matching funds are from the private sector. The initiative also will provide millions in contracting to the supercomputer. The Office of Mexican Affairs is involved in $350 million in exports from New Mexico to Mexico through missions and conferences. Spaceport America is ahead of schedule and below budget. The Film Office impact last fiscal year was over $800 million with 90 locations around the state, primarily rural. Fourteen separate pueblos and native lands have been used as locations. The program balance after December for Job Training Incentive Program will be $300 thousand and is an area of concern. Representative Bratton asked if there is a process in place to evaluate the number of jobs and costs coming into the state. Secretary Mandragon said it is a continual process; companies are assessed individually. The department does have a cost-benefit model that includes the number of jobs and salaries, requested incentives, and the potential value of net taxes generated in the next 10 years.

Regulation and Licensing Department (420). Kelly O'Donnell, superintendent, Regulation and Licensing Department (RLD), reported the Alcohol and Gaming Division has reduced the time to obtain a liquor license by 40 percent in the last year and a half, are up-to-date on dispenser permits and issuing them in the prescribed 30 days, issuing beer and wine licenses in the prescribed 90 days, and turning over transfers of dispenser licenses in the same amount of time. Both the Securities Division and the Financial Institutions Division have done an exemplary job in revising huge portions of their statutes. The Construction Industries Division is providing more building inspections because of large commercial projects and continues to turn them around in a 24-hour period. Ms. O'Donnell explained the 5.5 percent reduction from the executive order. The reduction affects 45 positions agencywide and 26 positions will remain vacant for the remainder of the fiscal year. Ten boards and commissions had fund balances swept as a result of House Bill 3. None of the sweeps will result in higher licensing fees except that for the Barbers and Cosmetology Board. The FY11 budget request is flat and does not reflect the 5.5 percent reduction. The department's vacancy rate is 16 percent for divisions supported with general fund monies and 24 percent for those supported with other state funds. The department is requesting four expansions supported with other funds. During the last session, the Legislature passed and the governor signed a bill creating a mortgage regulatory function and a very broad and comprehensive licensure program at the department. A nonreverting fund associated with the program will generate approximately $2 million annually. The bill was a result of a federal mandate. The expansion request is for 14 positions and a budget of $1.25 million generated with new other state funds. Another licensure function created last session was for appraisal management companies. Revenue generated will amount to $62 thousand. Enabling legislation for the Securities Division allows them to use their securities education fund (nonreverting) to conduct compliance activity. The fourth expansion request is entirely legislation contingent creating a consumer protection fund paid for by permit fees or license fees.

Thursday, November 19

The following members were present on Thursday, November 19: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Phil A. Griego (for Carlos R. Cisneros), Sue Wilson Beffort, Gay G. Kernan for (for Carroll Leavell), Timothy M. Keller (for John M. Sapien), Mary Kay Papen, Steven Neville (for Stuart Ingle) and Pete Campos. Representative Larry Larrañaga attended as a guest.

Program Evaluation of 5 School Districts. Charles Sallee, program evaluation manager, LFC, reported public education is a core state responsibility and accounts for over 43 percent of all state spending. Despite significant revenue shortfalls the Legislature has maintained its commitment to education by limiting reductions to the funding formula to $44 million for school year 2010. Between school year 2009 and 2010, school districts reported budget increase of $102 million across the state. LFC is continuing its practice of evaluating the operations of selective school districts to identify best practices and ensure efficient and effective use of public resources.

LFC worked with the Legislative Education Study Committee (LESC) staff on selection criteria and selected five school districts: Aztec, Bernalillo, Bloomfield, Las Vegas city and West Las Vegas. Overall, each district has many talented individuals committed to improving student learning in their communities. Districts have shown progress in implementing New Mexico's public school reforms, including the use of a continuous improvement process for educational programs. However, districts need an improved financial planning and accountability for performance for all district operations. In addition, regular attention should be placed on ensuring district expenditures are aligned with district goals and are truly necessary and affordable.

Spending has increased 15 percent since school year 2005 despite a 2 percent decline in students. One of the main spending drivers has been a 21 percent increase in the unit value through the funding formula. During this period of time, these schools districts experienced either flat or slightly declining enrollment and will be faced with more difficult financial decisions. Districts spent most of their fund on instruction (direct classroom expenditures) although the percentages of their operating budgets vary; Aztec was highest with 63 percent; West Las Vegas was lowest with 52 percent. Local entities are given a lot of discretion implementing educational programming tailored to their local communities. In some cases, deference to local control negatively impacts state aid to other school districts. Districts that generate additional units under the funding formula inappropriately dilute the unit value and funding available to other districts.

West Las Vegas received emergency supplemental funds over the past couple of years; however, applications and requests are often confusing, poorly justified, and contain numbers that did not match actual budget documents. West Las Vegas faces challenges managing declining enrollment and loss of associated funding. It does not appear the district has taken sufficient steps to make necessary structural spending changes to continue to operate independently. PED has had to take over their board of finance role and is continuing to subsidize them through emergency supplemental appropriations. The district also maintains expensive custodial maintenance and administrative costs while spending on instruction remains low. Classroom teachers only account for 43 percent of staff. In school year 2009, staffing levels for custodians and maintenance exceeded recommended standards by 12 FTE, costing the district an estimated $382 thousand in excess salaries and benefits. At the same time they were reducing the number of teachers in the district by 30.

Bernalillo and West Las Vegas generate an estimated $746 thousand under the small-school size adjustment. Both districts claim two small schools for elementary school populations being taught in a single school building with a single administration. By classifying them as two separate schools, their student population drops to a level generating extra money under the funding formula. This is inappropriate and PED should take action to reclassify these particular schools, as well as conduct an entire review of the state, ensuring schools are complying with state statute and the definition of a school. Districts have also been inflating their utility budgets by putting cash balance in these line items; some as high as 50 percent. Districts are going to have to show more foresight for financial planning and extend strategic planning to other operational areas. Poor financial management practices and a flawed accounting system unnecessarily expose districts to fraud, waste, and abuse. All districts excluding Bloomfield have struggled to consistently submit financial audits to the State Auditor on time. In reviewing financial audits, staff found spending exceeding budgets, unapproved expenditures, large contracts outside standard procurement practices, forged purchase orders resulting in misspending of federal dollars, employees with multiple contracts or no contracts, and missing cash in activity funds or late deposits.

All the districts have accounting systems needing improvement and possibly replacement. Oversight of district credit card use is lacking, resulting in questionable expenditures. Aztec, Bloomfield, and Bernalillo lack comprehensive policies, procedures, or effective oversight tools to monitor use. Aztec and Bloomfield have a decentralized purchasing process. Transportation services are often subsidized out of operational funds, taking away funds available for the classroom. PED needs to start conducting routine audits of costs passed to the state through contractors to ensure appropriateness and accuracy.

Districts are making slow improvements in student performance. More work is needed particularly for Native American students. School districts, policy makers, and the public are becoming wary of the framework with No Child Left Behind as more and more schools are failing to make adequate yearly progress (AYP). LFC staff developed a performance index using five years of student performance data for certain school districts and low-income student performance, adjusted the scores based on the concentration of low-income students in the district, and added a component for growth. Five years of expenditure data was also reviewed. The goal for the state should be to begin improving performance in a more efficient manner. Senator Keller requested LFC staff report on all school districts using the performance index.

Some districts are experiencing positive changes. Aztec's math performance increased 17 points; Hispanic and English language learner students improved by 24 and 23 points, respectively. Bernalillo is improving its math scores. Bloomfield improved reading scores; Native American student scores increased 11 points. Las Vegas City improved its scores for low-income students. West Las Vegas continues to see strong growth. However, in many cases the majority of students are not demonstrating proficiency. As students advance from one grade to the next they are leaving other students behind; school districts that can slow these declines or stop them will see great increases in student performance overall. Native American students in these districts perform above average compared with their Native American peers in other districts; however, the strong and persistent achievement gap exists between other races and ethnic groups.

LFC staff recommends the Legislature revise the purpose and the classification of the small schools and possibly reexamine the district-size funding adjustments. All districts in this review qualify for special district-size funding. The Legislature should also consider pulling out the testing cost from the funding formula because PED's new testing contract has almost doubled in price. PED should maintain control over the West Las Vegas board of finance and require the district to develop and implement a financial plan to make the necessary structural spending changes and eliminate the need for emergency supplemental. PED should reclassify certain schools as single schools per state statute and examine other school districts that may have similar situations and reclassify those schools as appropriate. PED should also have the Office of Inspector General conduct special audits as appropriate of issues identified throughout this audit and issue stand-alone reports on individual districts in December. PED should also promulgate rules governing the use of school district credit cards, including adoption of meals criteria used by the state. Districts should implement longer financial plans and systems of performance-based budgeting, work with LFC to study an alternative for an accounting system, implement additional compensation policies, and revisit the amounts paid and reasons for payment. Manu Patel, deputy director, LFC, added the State Auditor's Office has been contacted and has agreed to work with LFC. Mr. Patel said exit conferences were conducted with the school districts, and districts were advised that the draft report was confidential and should not be distributed; however, Las Vegas city and West Las Vegas shared the information with the Albuquerque Journal North and Channel 4, causing concern.

Veronica Garcia, secretary, Public Education Department (PED), thanked LFC staff for a thorough evaluation and said she wished she had staff to provide in-depth evaluations. It is clear from the evaluation each district spends a majority of its funding on instruction; the evaluation has placed an important spotlight on district accountability for school funding. The districts have begun to correct deficiencies based on LFC's recommendations. PED has a clear process regarding emergency supplemental funding; districts have to provide a clear justification, a three-year membership trend, a three-year actual cash balance trend, and include an incremental increase or decrease in program costs compared with the previous year's funding amount. Specific to the West Las Vegas request for emergency supplemental funding, PED followed the process; however, the evaluation cites incorrectly that emergency supplemental funds cannot be used for salary increases. West Las Vegas did not exceed salary increases mandated in the General Appropriation Act. In addition, the amount of emergency supplemental budget by West Las Vegas has been decreasing for the past four years.

In regards to audits, a district or charter school that does not submit a timely audit report in accordance with the regulations from the due date will face a reduction in the state equalization guarantee of up to 7 percent. PED will continue to work with the district on better financial controls, management, and oversight in adherence to generally accepted accounting principals.

PED does not have authority to reclassify schools unless reorganization is requested by the district. PED joins with LFC in its concern over districts placing cash under "opening the doors." PED provides local school board members with annual training on their financial role; however, more is needed at the local level. PED is reviewing LFC's recommendation regarding performance-base budgeting. The LFC evaluation has brought forth great concerns with the use and misuse of credit cards. The boards must act quickly to ensure each dollar they oversee is spent appropriately; however, it is a local decision on how they are used. While food purchases are allowed by Title I, the purchases documented in the evaluation are out of balance. Title I staff will meet with officials in Bernalillo to further investigate the use of Title I funds. PED is fully committed to using the financial controls available to the department.

Representative Saavedra moved to transmit the LFC evaluation to the area teacher union leaders and requested a response, seconded by Representative Wallace. Motion passed.

Linda Paul, former superintendent, Aztec schools, reported that Aztec schools are committed to continuous improvement. Ms. Paul asked for further clarification on remarks in the evaluation regarding operational versus activity funds. Many expenditures cited in the evaluation were made from fund raising. Mr. Sallee said once money comes into a public agency it becomes public.

Vice-Chairman Smith said it is extremely difficult hearing about this type of activity to move ahead with additional funding. It is demanded not only from administrators, but also by school board members that funds are spent economically and efficiently. The public is going to question why additional taxes increases are needed and it presents challenges. Restructuring of the Public Education Department (PED) will have to be reviewed. LFC staff was condemned by school districts questioning qualifications of auditors last year and now receives praise from the PED secretary. Chairman Varela added that the financial condition of the state needs to be addressed and state government and reorganization needs to be revisited.

Barbara Vigil-Lowder, superintendent, Bernalillo schools, reported that a new finance director was hired and charged with developing policies and procedures for tighter fiscal control. Findings in the review have been categorized into three main categories: the financial spending planning and internal controls, governance practices and student performance. Operational budget reports are being written by the director of finance to address the budget review by the board. A five-year strategic plan for district operations and instructional programs is recommended; the district is in favor of the recommendation and is moving forward towards its implementation and will include the educational plan for student success. The district established goal teams to be the conduit for the strategic planning involving parents and board members. Plans will include time tables for remedying financial audit findings, as well as plans for addressing the operational and instructional findings and recommendations. The district is preparing for its next budget cycle and will implement tools to ensure costs and budgets are reasonable and appropriate. The district has also experienced a decrease in membership and the training and experience index over the last five years and as a result realized a $1.3 million decrease in the amount of formula funding for FY10. The district expects the trend to continue based on a 40th day count and is currently analyzing the projected reduction in funding in preparation for the FY11 budget. During the FY10 budget process, the pupil-teacher ratios were reviewed at all school sites to determine staffing level and the pupil-teacher ratio has been increased. Because salaries and benefits comprise approximately 85 percent of the overall budget, the district is reviewing all additional compensation to ensure expenditures are reasonable and appropriate helping the district achieve its goal. The district is working in conjunction with the local union to ensure all aspects of additional compensation are addressed. The director of finance and the executive director of human resources and accountability are writing procedures to ensure that all proper authorization are obtained regarding additional compensation and that additional amounts fit within the districts goals. Prior to the LFC evaluation, the district recognized it had internal control issues and implemented measures to enhance review and oversight of all fiscal procedures and processes. The district will review spending for supplies and materials and work closely with program directors to maximize budgets and eliminate waste, providing more equitable distribution of funds throughout the district. A review of the Title I program is necessary to assure expenditures are allowable within the grant and they align with district and school goals. The district is developing a process to implement comprehensive accountability reports and ensure the board receives them in a timely manner.

Vice-Chairman Smith asked for a response regarding the small-school funding factor. Ms. Vigil-Lowder said the schools are located on the same campus and will be discussed with the board. It is recommended the two schools operate as a kindergarten-eighth school to allow for alignment of the curricula. Ms. Vigil-Lowder said although there will be a reduction in funds it is best educationally to continue with a K-8 framework. As internal controls are developed the district is reviewing additional compensations and Title I funds. Vice-Chairman Smith asked about the purchase of a tow truck. Ms. Vigil-Lowder said it was purchased under a previous director. Many directors oversee their particular budgets and the board was led to believe the purchase was necessary. The director is no longer with the district and controls have been tightened in the transportation department. The district owned the vehicle less than a year; it was sold to the Los Alamos Public Schools. Secretary Garcia added that routinely she is not made aware of transactions between school districts. Mr. Moya said transactions are received as budget adjustment requests (BARs) and the department may or may not know specifically what it is for. Vice-Chairman Smith asked about the three sport utility vehicles purchased outside of the state and whether the board was aware; he stated it was unacceptable. Ms. Vigil-Lowder said the district did go through the Cooperative Education Service, which provides purchasing services, but is not aware if other quotes were received. Information does go through the board and the total amount was approved through the budget by the board in a particular line item. Representative King said there was no justification to purchase vehicles outside the state and the purchase raises a larger transportation issue. A thorough review of transportation funds is needed, as well as a review of the procurement code provision allowing piggy-backing. Mr. Sallee said staff will be reviewing the transportation program at PED.

Joe Rasor, interim superintendent, Bloomfield Public Schools, said during the evaluation the superintendent was on administrative leave pending investigation on three areas of concern: finance, personnel matters, and management of programs. The district has taken initial steps to review finances and purchase cards and purchases have been restricted. The transportation and maintenance departments are functioning within budget. The school board association will provide training for board members at regional meetings and a board education calendar is being developed for regularly scheduled board training in the areas of finance.

Richard Romero, superintendent, Las Vegas City Schools, said the evaluation provided an opportunity for the district to proceed with its fiscal year budget preparation. The district has begun to look at a five-year projection model for budgeting. The district also needs to critically review additional compensation and ensure funds are tied directly to classroom instruction through performance-based evaluation measures.

James Abreu, superintendent, West Las Vegas Schools, said the district is examining its policies, reporting budgets to its board, and developing a five-year plan. The district is also reviewing data to drive instruction and decisions. The district spent $240 thousand on energy management and has reviewed the contract, saving over $600 thousand over the last four years. Mr. Abreu said he has been working with the Public School Facility Authority consultant for the last year to review preventive maintenance and custodial staff. A PSFA master plan will be put into place within the next six months. Four schools made AYP for the year.

In response to comments about district consolidation, Mr. Sallee said staff put together the criteria for school districts and did not examine the consolidation of schools in Las Vegas. Vice-Chairman Smith asked if it has been a practice to deny financial information and federal revenues to the board. Mr. Romero said detailed information is provided to the board on a monthly basis and the board is in the process of developing a sub-committee of the board to review financing in greater depth by reviewing bank reconciliation statements, check stock, and bills for payment. Mr. Abreu said the West Las Vegas board is also given a detailed report at every monthly school board meeting and will be included more in the budget process. Secretary Garcia said a recommendation will be made during the next session to have a finance committee for every board requiring additional training. It will also be recommended that the use of bank card statements be provided to the board on a monthly basis.

Medicaid: Review of FY10 Operating Budget and Review of FY11 Appropriation Request. Katie Falls, secretary designee, and Carolyn Ingram, director of the Medical Assistance Division, Human Services Department (HSD), reported on the current Medicaid budget and request for FY11. Medicaid is experiencing significant enrollment and utilization increases for children, disabled individuals, and the elderly. These increases are built into next year's projections. Also included is an increase for the State Coverage Insurance (SCI) program to maximize federal funds, even though the department implemented an SCI waiting list for individuals.

For FY09, the department projected a surplus of $123 million because of federal recovery act (ARRA) funding. The general fund surplus was transferred to the HB920 fund and used for the FY09 revenues shortfall. The department is projecting a general fund shortfall of $37 million to $47 million in FY10. ARRA funding is at mid-level (tier 2) through September 30, 2009, and a higher level (tier 3) through December 31, 2010. Additional federal funds from the ARRA and the Children Health Insurance Program Reauthorization Act (CHIPRA) will help reduce the shortfall. The department is also implementing cost-containment efforts, including 3 percent provider rate reductions and benefit restrictions.

The department projects the need for $325 million to $335 million from the general fund, primarily due to the loss of ARRA funding. (Congress is currently considering various bills to extend the additional money for state Medicaid programs). In FY12, HSD also projects a general fund need of $140 million to $160 million.

Cost-containment and coverage redesign of the Medicaid program will likely be needed for FY11 and FY12. Currently, the department is making administrative changes, slowing enrollment growth, reducing benefit packages, reducing provider rates and introducing co-pays. In the future, bigger restructuring of the program will occur, including the introduction of a coverage concept and possible eligibility changes.

Senator Papen asked about nursing homes collecting Medicaid and how they will be affected. Ms. Ingram said no changes will be made to reduce Medicaid payments to nursing homes because of an ongoing audit. The audit will be reviewed to make sure the program is working correctly before additional reductions are recommended.

Representative Bratton asked what the intent for provider rates in border areas and out-of-state hospitals. Ms. Ingram said Medicaid pays a percentage of bill charges for in-state hospitals and settles costs at a later time. The program does not settle costs for border areas and out-of-state hospitals. Managed-care hospitals have been able to negotiate better rates with border area providers. Border areas and out-of-state hospitals should be treated the same. If outpatient reimbursement rates are moved fully to Medicare rates, out-of-state and border area hospitals will be paid the same. Representative Bratton said negotiations and a rate structure need to be in place before changes are made to achieve cost savings making sure services are available to the public, particularly in rural New Mexico.

District Attorneys/Administrative Office of the District Attorneys (251-265).

9th District. Kelly Kuenstler, director, AODA, reported over 3,700 cases were reviewed for prosecution, 3,200 were actually prosecuted with a staff of 39 FTE. The district is fully staffed; however, the district attorney conducted a comparison of prosecutor's salaries and has some of the lowest paid prosecutors in the state. The district submitted a flat budget and has enough in the personal and employee benefits category to fund all employees through June 2010 with assistance from its Southwest Border Prosecution Initiative (SWBPI) fund balance. The district is requesting an expansion, with no additional funding, for an FTE paid through position savings. Chairman Varela recommended reviewing the flexibility of transferring between categories.

6th District. Ms. Kuenstler reported the district is requesting an increase in personal services and employee benefits totaling $125 thousand due to a significant increase in health costs and only having one vacant position. Yolanda Villa, chief financial officer, said the district is also requesting a position in Deming for a homicide and violent crime attorney. Vice-Chairman Smith encouraged each district to review the number of cases and population when considering redirecting resources.

5th District. Jeannetta Hicks, district attorney, reported the district submitted a flat budget. The district received two grants and a victim advocate FTE through ARRA funding. A comprehensive evaluation of FY09 spending was conducted to determine cost savings. Furloughs equivalent to one hour a week were implemented in August 2009 along with temporary salary decreases.

10th District. Ms. Kuenstler reported the district submitted a flat budget with the exception of increases in operating costs. In FY09, the district experienced a budget decrease of $19.9 thousand and a decrease of $20.3 thousand in FY10. The district has been able to supplement its budget with its SWBPI fund balance. The district is not anticipating furloughs for employees at this time.

3rd District. Ms. Kuenstler reported the district experienced a 1.9 percent reduction in general fund monies in FY09 and a $210 thousand decrease in FY10. The district has not recently received funds from SWBPI. It is requesting voluntary employee furloughs and salary reductions through June 2010. The district submitted a budget increase including $39 thousand for operating costs related to DoIT fee increases.

11th District - Second Division. Lyndy Bennett, prosecutor, referred the committee to a report showing five years of crime statistics. The division submitted a flat budget and reported that it has not had to implement furloughs or salary reductions.

11th District - First Division. Rick Tedrow, district attorney, requested a flat budget and two expansions items. The division currently has three attorney vacancies and will leave them vacant as it restructures it office. No furloughs or layoffs are anticipated.

12th District. Diana Martwick, district attorney, requests an $81.8 thousand increase and no expansion. No furloughs or layoffs are anticipated.

13th District. Lemuel Martinez, district attorney, reported a reduction of $95 thousand for the district due to the special session. The district has five vacancies. No furloughs are anticipated.

8th District. Donald Gallegos, district attorney, reported the district requested a flat budget. It will use its $56 thousand SWBPI fund balance to offset budget reductions.

7th District. Clint Wellborn, district attorney, reported the district requested a flat budget and does not anticipate furloughs.

4th District. Ms. Kuenstler reported the district requested a flat budget. The district has three vacancies and does not anticipate furloughs.

2nd District. Carrie Brandenburg, district attorney, reported the district requested a flat budget. Its budget was reduced 5.79 percent over the last year and has 14 vacancies. The district is anticipating employee furloughs of one hour every pay period.

1st District. Angela Pacheco, district attorney, reported the district requested a flat budget. The district will use its $95 thousand SWBPI fund balance to off-set general fund FY10 reductions. No employee furloughs are anticipated.

AODA. Ms. Kuenstler reported on the purpose of AODA. The office submitted an expansion request for a database administrator FTE and no funding. The expansion is supported by the Sentencing Commission and Justice Information Sharing Council. Additionally, district attorneys collect worthless check fees and pre-prosecution diversion fees, which are deposited to AODA for its use. AODA proposed returning 50 percent of collected funds to the district attorney offices. Chairman Varela requested information on the coordination of electronic filings from the public defender, district attorneys, and the AODA.

Public Defender Department (355). Hugh Dangler, chief public defender, reported the department applied for ARRA funding; however, the Department of Public Safety (DPS) determined the categories and it was not included. Ninety-nine percent of the agency's budget is general fund and the other one percent comes from client payments and is used for information technology. It requested a flat budget and has a 10 percent vacancy rate. Chairman Varela suggested reorganizing the department and evaluating whether the department should remain under the executive branch of government of run independent of the executive branch. Mr. Dangler suggested separating the contract attorneys from the public defenders department.

Secretary of State (370). Mary Herrera, secretary of state, reported the agency has 5.5 unfilled positions and a 6.5 percent vacancy rate. The agency is in the process of hiring an IT director mandated by statute and a technical writer that has the responsibility of producing the Blue Book, New Mexico Constitutions, and New Mexico rosters. The voting machine supervisor position will also need to be filled to prepare for the 2010 general and primary election. The agency has received the campaign finance reporting system source code at no cost from Washington State. The agency election program FY10 appropriation along with the 4 percent decrease from the special session will leave a $2.15 million shortfall. It will submit a special appropriation for election expenses. The FY11 budget request in its administration and operations program is $4 million and it requested $6 million for its election program to fund the November 2010 general election. The office has not received funding to operate the Confidential Address Program for 2010. As the program grows, the cost of operations will increase and an expansion request was submitted in its FY11 budget request.

Senator Beffort asked about the need for voter identification cards. Ms. Herrera said the Legislature passed a law requiring voter information to be sent to every registered voter 75 days before a general election. Representative Sandoval suggested rescinding funds and placing them in another category. Representative Sandoval also suggested consolidating voting sites to reduce ballot combinations. Ms. Herrera agreed and also brought up the Legislature passage of a law requiring the state to pay for early voting sites for Native Americans. Representative Bratton asked about voter rolls for individuals who are no longer voters. Ms. Herrera said the Board of Registration for every county reviews voter rolls. The Secretary of State provides every county with undelivered mail and the county decides who will be purged. Representative Bratton said it is the responsibility of the Secretary of State's office to obtain an explanation if returned mail is not purged.

Friday, November 20

The following members were present on Friday, November 20: Chairman Luciano "Lucky" Varela, Vice-Chairman John Arthur Smith, Representatives Donald E. Bratton, Brian F. Egolf Jr. (for Rhonda S. King), Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Phil A. Griego (for Carlos R. Cisneros), Sue Wilson Beffort, Stephen Neville for (for Carroll Leavell), Peter Wirth (for John M. Sapien), Mary Kay Papen, Stuart Ingle and Pete Campos.

Program Evaluation of Selected Capital Projects. Brenda Fresquez, program evaluator, LFC, reported on the review of selected capital outlay projects for the Lumberton Water Project, Zuni Schools Roofing and Structure and Drainage Damage, Bosque Trail Development, and Capitol Parking Structure. The focus of the review was to examine the planning, implementation and management of each project.

Lawrence Davis, program evaluator, LFC, said there were three key findings that emerged from the Lumberton Mutual Domestic Water Consumer Association (MDWCA). First, since 1999, the association has struggled to implement a reliable water system to support the needs of the Lumberton community. Second, the New Mexico Environment Department estimates an additional $1 million in funding is needed within the next three years to properly complete and sustain the current water purification and distribution systems. Third, the association's water system does not provide adequate water for fire suppression. From 2000 to 2002, the association spent funding on a water system that produced substandard results and was shut down. The project engineer stated that the plans were finalized and approved by the association, the New Mexico Environment Department's (NMED) Drinking Water Bureau, and the U.S. Department of Agriculture (the funding agency). LFC staff could not determine an amount spent for engineering and construction services due to insufficient documentation. No legal action was taken by the association for the failed system. In 2003, the association contracted with engineering consultants to determine the most cost effective and reliable options for the water system improvement project. In May 2007, the NMED intervened in the operations and management of the association and has produced encouraging results over the past two years. Lumberton now produces safe drinking water, is no longer under boil water orders, has replaced obsolete water distribution lines and established a system that is able to replenish consumer demand. LFC recommends that the association should first perform a cost benefit analysis between the continued operations of the current system and potential connection to Dulce's water system. The cost benefit analysis should consider surcharges for the yearly debt service and any additional construction costs. LFC recommends updating the preliminary engineering report, state environmental review plan, and financial audits needed to secure additional funding. LFC also recommends requesting the State Auditor's office perform an audit of the association's fiscal activities and work closely with NMED and other regulatory agencies to develop action plans to complete a dependable and sustainable water system for the community. The Legislature may want to consider instituting a two-phase funding approach for all major capitol outlay projects based on a complete design and updated estimates.

Ms. Fresquez reported on the Zuni Schools Roofing and Structure and Drainage Damage project. The Public School Capitol Outlay Council (PSCOC) is responsible for managing the allocation of state funding to public school facilities in the state's 89 school districts. The Public School Facilities Authority's (PSFA) responsibility is to assist in training districts' facility and maintenance staff, implement systems and processes establishing adequate public school facilities.

In 2004, the Zuni district initiated a reroofing project. Beginning in 2006, the roof failed. In April 2008, the Zuni superintendent requested a review and a formal report in line with the roofing project.

The district's report found that contract documents were limited to purchase orders issued to one individual totaling $1.1 million. Awards were made without following competitive seal bid processes and performance and payment bond requirements were not met. The district hired a roofing expert to assess the condition of the roof. The expert's report stated that the service provided was without a defined scope of work and a proper set of plans. According to the district's report, the director of technology stated that all e-mail and computer generated files from the previous director of support services and superintendent were destroyed. The district's current chief financial officer also stated that financial records prior to 2005 were not available due to the implementation of new software; however hard copies may be available in archives. The district appropriately notified the State Auditor and the Attorney General of these issues. The Attorney General agreed to look into the matter and referred the issue to PED. According to PED, investigators have no authority to investigate suspected systematic criminal violations or roofing contractor fraud. PED does not enforce procurement code contractual rights or breaches of contracts on behalf of school districts. All districts rely on their own retained counsel for legal services. The Zuni district did consult with their legal counsel and were advised it was fruitless to pursue the matter because of the lapse in time. Because of an additional $800,000 in purchase orders funded by an impact aid grant the district notified U.S. Department of Inspector General (OIG). The OIG stated that the passage of time and lack of documentation indicate further investigation will not likely yield much more than the information the district review already provided.

According to PED records, the PSCOC allocated $13 million for construction. Geophysical reports prior to construction indicated that any structures constructed in the area would be susceptible to effects of collapsing soil. The district again hired an expert to conduct a geotechnical engineering survey. The report stated that the building exhibits cracking in the interior and exterior walls, has inoperable doors, and sandbags are used to prevent storm water from entering the building. The Zuni Board of Education meeting minutes from 1998 to 2005 indicated that the district terminated various contracts for cause of poor performance and unacceptable work. LFC could not determine how much the district may have recovered or the value of the negotiated settlements. PSCOC approved $1.3 million for the middle school roofing project and $1.3 million for the high school drainage and structure damage project contingent on direct project management by PSFA. As of October 2009, the middle school reroofing project was estimated to 90 to92 percent complete and a substantial completion walk through has been scheduled. The high school structure and drainage repair project is approximately 30 percent complete.

A "no dollar limit" 20-year roof warranty will be delivered to the district and a full-time roof consultant will ensure installation of the new roof is in compliance with the project documents. PSFA requested all districts to update their preventative maintenance plans and provide annual updates.

Bosque Trail Development. According to the Energy, Minerals and Natural Resources Department (EMNRD) website, the governor proposed the establishment of a multi-use trail along the Rio Grande. The $3 million appropriation in 2005 was for bosque revitalization and to plan and develop trails in the north bosque area along the Rio Grande. The Mid-Region Council of Governments (MRCOG) was identified as the agency to plan and develop the project as a regional multi-use trail between Belen and Bernalillo. Laws 2009 reverted $2.7 million to the general fund and reauthorized and changed the funding to severance tax bonds (STB). The reversion and reauthorization amount was not accurate in HB9 because the department incorrectly reported expenditures of $300 thousand instead of $600 thousand and expenditure data prior to July 1, 2006, was not transferred to SHARE. A joint powers agreement between the department and MRCOG was established in FY06 and MRCOG was responsible for developing an implementation plan and was advanced $600 thousand by the department. In August 2009, the department terminated the JPA due to the legislative change in the funding source. The JPA will be replaced when severance tax bond funding is properly reauthorized to include construction. MRCOG expended $460 thousand of the advance and the general fund can expect a refund of approximately $140 thousand, depending on the final reconciliation.

The Rio Grande Trail Alignment Analysis and Implementation Plan was completed in July 2006. The plan identified seven trail alignments for approximately 40 miles and as a result of an evaluation recommended three pilot projects: Rio Rancho Bosque open space, Corrales to Alameda, and Los Lunas River park trail. Estimated cost for the entire project is approximately $21 million. There are 17 different municipalities, agencies, and jurisdictions along the entire stretch of the Rio Grande corridor, requiring coordination and cooperation to complete the project between Belen to Bernalillo.

MRCOG was responsible for contracting professional services for the development of the plan and preliminary and final design of pilot projects; two contracts were awarded through an RFP. NMCOG did not perform a price analysis to ensure they obtained a fair and reasonable price. Contractor services were performed on a work authorization basis, billing rates were evaluated and verbal negotiations took place. In some instances billing rates changed without an agreement.

Project management by the department and MRCOG needs improvement. The department reviews and approves task completion and contract deliverables; however work authorizations did not always define the deliverable or include due dates or milestones. MRCOG stated project completion dates for the pilot projects have not been formally established.

Capitol Parking Structure. The Property Control Division (PCD) and the Legislative Council Service (LCS) constructed the capitol parking structure using a design and design-build delivery system. The parking structure is the first design-build project that PCD had done. PCD will transfer the parking structure to the LCS which will own, operate, and maintain it. The three-level structure has spaces for 596 vehicles. The project was funded through state building tax revenue bonds by the New Mexico Finance Authority (NMFA). As of October 2009, project expenditures total $15.1 million. The initial project estimate for the structure was approximately $12.5 million inclusive of site costs and gross receipts tax. Approximately $3.1 million in change orders increased the estimated cost to $15.6 million. The most significant change order included $2.9 million to redesign and build one level below grade and to address issues raised by the City of Santa Fe's Historical Review Board regarding the exterior. Contracts issued by the PCD are valid, properly authorized, approved and adequately documented and contract terms were effectively monitored. PCD awarded the design-build contract and based on the language in the RFP, PCD paid the responsive, but unsuccessful firm a $10,000 stipend. Neither PCD nor LCS developed criteria for determining a stipend recommended by NMAC.

The project was properly planned and executed. PCD monitored the project status consistently and the project delays were justified and properly documented.

Legislators and the executive may want to consider creating the Capital Outlay Planning and Monitoring Act creating a permanent legislative interim capital outlay committee, a capital outlay planning and monitoring division within DFA, and establishing a capital project audit fund with the State Treasury. It is recommended that the Legislature consider including requirements in the Capital Appropriation Act for the State Auditor and LFC to conduct special agreed-on procedures of audits for major capital outlay project appropriations in consultation with DFA.

Karen Gallegos, director, New Mexico Environment Department, Water and Wastewater Infrastructure Development Division, said the department assists small communities with capacity development. The department is attempting to look at funding for water and wastewater infrastructure through the uniform funding application. The department is relinquishing oversight back to the association; the association has proven it has made the necessary improvement s in its management and finances to move forward without oversight.

Robert Gorrell, executive director, PSFA, provided testimony indicating the PSCOC standardsbased process began in 2003; projects began prior to the PSCOC having staff. The district creates best practices and recommendations but does not have authority over the procurement process. Chairman Varela said the Legislature needs to determine the lack of authority, responsibility and oversight.

Tom Jackson, interim superintendent, Zuni Public Schools, provided testimony indicated the two funded projects were emergencies. The school district does not have satisfactory essential records storage available and archiving is not taking place. There is a lack of communication between the administration of the school and the board. The district is working on establishing purchasing procedures. Chairman Varela asked about state oversight. Mr. Jackson said business offices are under the authority of school districts. Chairman Varela requested the committee review the district's audit to determine that fiscal components were not violated.

State Land Office (539). Patrick Lyons, commissioner of Public Lands, reported revenues for FY09 decreased by 2 percent over FY08. Despite the decrease, the State Land Office (SLO) continues to seek different opportunities to make money for beneficiaries through economic growth. Revenues for FY09 amounted to $536.5 million. The land grant permanent fund totals $8.1 billion and beneficiaries of renewable resources received $46 million. For the last four months, $120 million was earned mainly through oil and gas leases. Year-to-date bonuses total $26 million or 46 percent higher than the previous year. The SLO requested a flat budget of $13.9 million for FY10. The FY11 budget request will be reduced by 3 percent and includes the deletion of 2 positions. A special appropriation totaling $250,000 is included in the request to continue asset inventory for state trust lands, royalty recovery litigation costs and inventory preservation and protection of trust water assets. SLO also is requesting continued language to authorize holding suspense accounts under Section 29 of the Internal Revenue Code. Funds have been used to repurchase royalty interest. Representative Egolf asked about the Whites Peak land exchange and the net loss of acreage. Commissioner Lyons said the exchange includes an increase in state land. Commissioner Lyons explained the advertising and bidding process for the exchange. Representative Egolf said it appears that a particular transaction has already been set up at the Stanley Ranch. Commissioner Lyons said SLO has not received bidding from anyone. Representative Egolf questioned the map sent out and asked how appraisals were done if bidding from the Stanley Ranch had not been received. Commissioner Lyons said advertising requires a minimum value on land. Stanley Ranch, UBAR and CS paid for the appraisal. Representative Egolf said looking at the map, it seems as though the transaction has already been determined and asked if other potential bidders have been contacted. Commissioner Lyons said the SLO will provide information if requested. Representative Egolf asked how future income potential is evaluated versus the future income potential from state lands. Commissioner Lyons said he feels it is in the best interest of the trust to consolidate alleviating a problem area.

Department of Tourism (418). Michael Cerletti, secretary, New Mexico Department of Tourism, presented data from the U.S. Travel Association showing $5.7 billion was spent in the state in 2007, generating $739 million of tax revenues, and tourism is the largest number of private sector jobs in the state. The number of visitors passing through visitor information centers and the number of vacation information packets distributed increased over the year. Secretary Cerletti discussed the

$332 thousand executive order reductions to the FY10 operating budget and indicated vacant positions will remain vacant and contracts have been reduced, including contracts for international marketing. However, Secretary Cerletti stressed that for each dollar spent on advertising, $40 returns to the state's economy. The department presented the new advertising campaign, - Be Enchanted. Jennifer Hobson, deputy secretary, discussed the ecotourism initiative. Following questions from Vice-Chairman Smith, Secretary Cerletti noted that that the department requested a waiver for visitor information center employees from the furlough schedule; they will take five alternative furlough days. Vice-Chairman Smith also suggested the department should consider consolidating with the Economic Development Department. Senator Keller requested that the department identify profit centers and noted that the state should invest in tourism until the incremental benefit is diminished. Senator Wirth asked if the targeted market has changed and what efforts are made to expand the market. Secretary Cerletti noted that the market has not changed much, but the department is adopting social media lines of communicating with younger populations through use of Twitter and Facebook. Representative Sandoval asked who prints the promotional material. Richard Edds, promotional director, noted that most of the printing is done within the state. Chairman Varela asked if the department is eliminating exempt FTE or consolidating the department with EDD. Secretary Cerletti noted that Governor King created Tourism as a cabinet agency.

Staff Reports

Public School Insurance Authority (342). David Archuleta, fiscal analyst, LFC, reported in FY11 the agency requested a total of $360 million, an increase of $14 million or 4 percent over FY10. Sammy Quintana, executive director, Public School Insurance Authority (PSIA), reported the agency consists of three internal budgets: operating, property liability and workers' compensation, and benefits. PSIA serves 182 school districts, charter schools, and other educational entities. Legislation called for PSIA to research volunteer coverage; PSIA adopted a policy and volunteers are not covered under the risk program for any loses. General guidelines allow nonschool events to be determined by individual schools. Mr. Quintana provided information on significant open claims and outstanding liabilities.

Christy Edwards, deputy director, PSIA, reported a survey was conducted for members requesting information to take to the board and the Legislature regarding changes to benefits. A summary of comments are posted on the PSIA website. PSIA is requesting an adjustment of 5.2 percent for FY11 due to $245 million in self insured claims. Ms. Edwards explained membership and coverage plans. In response to Chairman Varela, Mr. Quintana said investments are handled by the State Investment Council. Senator Beffort said she was concerned with lower-paid staff paying the same insurance rates as higher paid staff and said the board does not have a realistic assessment of the economy. Ms. Edwards said the board offered a lower cost plan with a high deductible and an out-of-pocket expense.

Educational Retirement Board (352). Michelle Aubel, principal analyst, LFC, presented the agency's budget request, which was essentially flat with slight increases in contract services and other category. Jan Goodwin, executive director, reviewed the agency's successes for the year and reported the agency is on target to have its actuarial report next month. In addition, Ms. Goodwin reported that the audit was scheduled to be delivered on time and the exit conference was scheduled. She also gave investment highlights that showed the fund was up in the first quarter of FY10 to $7.9 billion. She discussed efforts dedicated toward implementing legislation passed during the 2009 session. The agency is requesting to convert a term to a perm position to continue the data cleansing project.

Public Employees Retirement Association (366). Michelle Aubel, principal analyst, LFC, presented the agency's request, which was 12 percent lower than FY10, with a 15 percent reduction in investment-related fees. The request continues 12 term positions for the data cleansing project beyond its two-year term into FY10. Terry Slattery, executive director, reported the fund, $10.5 billion in assets, has earned more in the last six months than at any other time in its history. Other comments included the FY09 negative cash flow to be expected with a mature fund, over 27 thousand are on retiree payroll, PERA expects that between 400 and 500 individuals will be retiring, and the agency is gearing toward a 3 percent vacancy rate.

State Investment Council (337). Dan White, economist, LFC, reported that the Land Grant and Severance Tax Permanent Funds were low for the last one-year, five-year and quarterly periods. The agency budget request of $34.9 million is flat from the FY10 operating budget. Bob Jacksha, acting state investment officer, said the one-year performance is in the 93rd percentile. In response to Chairman Varela, Mr. Jacksha said the agency has 4 exempt positions, 1 by statute for the state investment officer; the other 3 positions are the deputy state investment officer, general counsel and a public information officer.

Retiree Health Care Authority (343). David Archuleta, fiscal analyst, LFC, reported for FY11 the agency requested a total of $227.8 million, an increase of $7.6 million or 3.5 percent over FY10 operating. The request includes $225 million for the benefits program, $2.8 million for program support, and $10,000 for the discount prescription drug program. The Retiree Health Care Authority (RHCA) faces a number of significant challenges including solvency and funded liabilities, growth in medical costs, and declining revenue sources.

Wayne Propst, executive director, RHCA, said the agency has reached many milestones including full staffing. The fund balance is up $17 million since June 30, 2009, an increase of 13 percent. A significant amount of effort was spent in FY10 upgrading information technology systems. RHCA covers over 44,000 participants offering medical, dental, vision and life insurance. From October 2008 through October 2009, the Albuquerque office answered over 30,000 phone calls and had more than 4,000 walk-ins from retirees. The FY11 budget request totals an overall 11.5 percent increase to accommodate an expected 3.5 percent overall growth in membership and an 8 percent increase in medical trend. In order to offset increasing factors, the board made significant changes to plan designs for the Medicare supplement plan. A cost sharing component was introduced and for the first time members are responsible for annual Medicare, Part B deductible. For retirees under 65, three plans were previously offered; the board collapsed plans to two and significantly increased deductibles and out-of-pocket maximums. Changes to prescription drug plans will save an estimated $1.3 million. In 2009, the Legislature voted to increase employer and employee contribution from the current 1.95 percent to 3 percent beginning in FY11 and phased in through FY13. The increase had a significant impact on the financial health of the program increasing projected solvency from 2018 to 2028. Additional revenue expected to receive from FY11 totals $23 million.

Beginning in FY11, the RHCA and the state face declining state payroll resulting in a significant impact to solvency projections, as well as overall budget projections. Medical costs continue to increase; the trend is expected to continue by at least 8 percent annually.

With no further business, the committee adjourned at approximately 2:25 p.m.

Chairman

1/14/010
Date