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Chairman

Representative William "Bill" J. Gray  
Representative Larry A. Larrañaga  
Representative Henry "Kiki" Saavedra  
Representative Nick L. Salazar  
Representative Edward C. Sandoval  
Representative Don L. Tripp  
Representative James P. White

*State of New Mexico*  
**LEGISLATIVE FINANCE COMMITTEE**

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October 28, 2014

**MEMORANDUM**

TO: Legislative Finance Committee

FROM: Sunset Subcommittee

Senator Carlos Cisneros, Chair *CAC*  
Senator Sue Beffort  
Senator John Arthur Smith  
Representative Nick Salazar, Vice-Chair  
Representative James P. White  
Representative Luciano "Lucky" Varela  
LFC Director, David Abbey

Other members: Representative Jimmie Hall, Representative James Smith, Representative Larry Larrañaga, and Senator William Burt

**SUBJECT: Sunset Subcommittee Report of October 28, 2014 Meeting**

On October 28, 2014, the Legislative Finance Committee (LFC) Sunrise/Sunset Subcommittee reviewed presentations from boards and commissions statutorily set for sunset or termination in FY16. In addition to the subcommittee members, Representatives Jimmie Hall, Larry Larrañaga, and James Smith and Senator William Burt were in attendance. No boards or commissions were scheduled to sunrise. Generally, the subcommittee has one of three recommendations for each board or commission: to continue with a new sunset date, to continue with the removal of the sunset date, or to terminate a board by allowing it to sunset. Each of the boards and commissions were given the opportunity to describe their service to the public and suggest statutory changes. The subcommittee will consider the suggestions in their recommendation to the LFC.

The following issues were discussed:

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**Office of Military Base Planning and Support Commission.** General Hanson Scott, director, and Chairman Sherman McCorkle presented for the board, reporting that the economic impact of military bases in New Mexico ranges from \$6 billion to \$9 billion annually. With the federal Department of Defense (DOD) pushing for a base closure round in the next few years and the possibility of sequestration in federal fiscal year 2016, the board recommended extension of its sunset date. Representative Varela asked how many jobs were created by the board's activities, and General Scott replied that employment at New Mexico's bases is growing amidst federal cuts. Combined, these facilities have an annual economic impact of \$7 billion. Representative Larrañaga asked what needs to be done to ensure bases stay in New Mexico, to which General Scott replied obtaining new missions is the most reliable method of preventing a base's closure as shown by Cannon Air Force Base in Clovis. Representative Larrañaga also asked about the status of the SunZia transmission line through White Sands Missile Range, to which General Scott noted that he had concerns regarding the impact on military operations although DOD approved the project. Senator Smith asked about the status of operations at Fort Bliss and potential changes. General Scott stated that 89 percent of the base is in New Mexico. Senator Papen asked if the German Air Force was still at Holloman, and General Scott responded they are and are considering increasing training in New Mexico. The subcommittee voted to recommend extending the sunset date.

**Athletic Trainers Practice Board.** Lorie Wrobel, director of the Regulation and Licensing Department's (RLD) Boards and Commissions Division, presented for the board. The board has 173 licensees and the current fund balance is over \$40 thousand. Board members are serving on expired terms, and the governor's office is assessing reappointments. Senator Cisneros asked when board vacancies must be filled, to which RLD staff responded that board members continue serving their term until a replacement is appointed or the member is reappointed. The subcommittee voted to temporarily table action on this board.

**Board of Chiropractic Examiners.** Ms. Wrobel and Cynthia Salazar, board administrator, presented for the board. The board oversees 759 licensees, and the current fund balance is \$452 thousand. Senator Beffort asked about the potential for fee reductions due to the ratio of fund balance to operating expenses, which is approximately four to one. According to Ms. Wrobel, RLD is assessing board fees to determine whether they should be adjusted. The subcommittee voted to recommend extending the sunset.

**Counseling and Therapy Practice Board.** Ms. Wrobel presented for the board, and stated that six of the nine board members are serving on expired terms. Senator Cisneros asked if such members are legally allowed to recover expenses related to their service. RLD staff noted that although the board members' terms have expired, they are eligible for mileage reimbursement and per diem as they hold the position until their replacement is appointed. Senator Beffort asked how many substance abuse counselors are licensed in New Mexico, currently 321, and the location of these licensees. RLD staff noted it would research and report that information to the subcommittee. Representatives Varela and Salazar inquired as to the make-up and amount of miscellaneous fees, and RLD staff promised to provide a more detailed report to the subcommittee detailing this information. Sixteen complaints were filed against the board since July, and RLD noted that it would provide figures for FY14 to the subcommittee. Senator

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Beffort also asked what the education requirement was for the licensed professional mental health counselor board member and why applications for this position were no longer being accepted. RLD staff responded there was confusion among licensed mental health counselors as to the requirements as well, and that, coupled with the declining number of applicants, this led to the decision to standardize the three mental health counselor board positions. The subcommittee temporarily tabled action on this board pending further information from the board and RLD.

**Board of Dental Health Care.** Roberta Perea, board administrator, presented for the board and reported there are over 6 thousand licensees, and a fund balance of \$188 thousand. The board has no vacancies, but five members are serving on expired terms. Representative Salazar asked about recent increases in the board's budget, approximately 60 percent from FY14 to the FY16 request. RLD staff stated it would further research these increases and will provide that information to the committee. RLD's FY16 budget request included a consolidation of all board staff, grouping similar boards together and allowing increased flexibility for the agency. Senator Cisneros recommended this issue be discussed in greater detail at RLD's budget request hearing. The subcommittee voted to recommend extending the sunset.

**Massage Therapy Board.** Amanda Lewis, board administrator, presented for the board and reported 13 complaints were received in FY14. Senator Wilson Beffort asked for a detailed explanation and breakdown of miscellaneous fees. Senator Cisneros asked RLD staff to research the potential of consolidating similar boards with similar responsibilities and jurisdictions. In a discussion of increasing fees amid the board's growing fund balance, Representative Varela noted that in recent years the Legislature became overly focused on the general fund and paid less attention than it should to other public monies. The subcommittee voted to temporarily table action on this board.

**Nutrition and Dietetic Practice Board.** Ms. Wrobel presented for the board. The committee expressed its concern about vacant board positions. The subcommittee voted to recommend extending the sunset.

**Board of Examiners for Occupational Therapy.** Ms. Wrobel presented for the board. The subcommittee voted to temporarily table action on this board.

**Board of Optometry.** Ms. Wrobel and Martha Gallegos, board administrator, presented for the board. Three of six board members are serving on expired terms. Currently, the board oversees just over 300 licensees. The subcommittee voted to recommend extending the sunset.

**Board of Osteopathic Medical Examiners.** Ms. Wrobel and Martha Gallegos, board administrator, presented for the board. There are currently 588 licenses, and the fund balance is nearly \$400 thousand. Two of five board members are serving on expired terms. Senator Smith noted the board was created in 1933, and that the state should consider consolidating this board with the Medical Board. The subcommittee temporarily tabled action on this board pending further information from the board and RLD.

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**Board of Pharmacy.** Larry Loring, executive director, presented for the board. The board's fund balance at the end of FY15 is projected at \$878 thousand. Mr. Loring noted one board member is serving on an expired term, and an appointment of a public member is forthcoming. Representative Varela asked what the board is doing to assist in the proper disposal of prescriptions and online prescription filling. The board allowed prescription returns a couple of years ago, and the federal DEA recently followed suit. Representative Larrañaga asked how the board is working to ensure the abuse of prescriptions, to which Mr. Loring replied the board had implemented a pharmacy monitoring program to address this issue. The board also communicates its reports with other healthcare licensing boards. The subcommittee voted to recommend extending the sunset.

**Physical Therapy Board.** Ms. Wrobel presented for the board. The board has over 2,000 active licenses. Three of the five board members are serving on an expired term. The subcommittee temporarily tabled action on this board pending further information from the board and RLD.

**Board of Podiatry.** Ms. Wrobel presented for the board. The board's current fund balance is \$95 thousand. The subcommittee voted to recommend extending the sunset.

**Board of Psychologist Examiners.** Ms. Wrobel and Samantha Lopez, board administrator, presented for the board. There is currently one vacant board member position and two members continue to serve despite the expiration of their term. Senator Papen asked about four levels of licensure and how many licensed prescribing psychologists are there. Ms. Lopez responded there are 35. Senator Papen asked where the location of the prescribing psychologists is. Ms. Lopez responded there are seven in Albuquerque, one in Farmington, one in Roswell, one in Santa Fe, one in Taos, and six in Las Cruces C. The subcommittee voted to recommend extending the sunset.

**Advisory Board of Respiratory Care.** Ms. Wrobel presented for the board. The board's current fund balance is \$185 thousand. There are two vacant board positions and three members continue to serve on an expired term. The superintendent has interviewed and offered a board position to one person and two members with expired terms are eligible for reappointment. The subcommittee temporarily tabled action on this board pending further information from the board and RLD.

**Board of Social Work Examiners.** Ms. Wrobel and Amanda Urioste, board administrator, presented for the board. The board has 4,400 active licenses. The current fund balance is \$18 thousand. Representative Varela asked about the difficulty of hiring CYFD social workers. Director Abbey noted compensation is the primary driver of social worker vacancies at state agencies, and the Legislature has taken steps to address this in recent years. Representative Varela also asked for data regarding this pay gap, and RLD staff stated it would provide such information to the committee. The subcommittee voted to recommend extending the sunset.

**Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Board.** Ms. Wrobel and Amanda Urioste, board administrator, presented for the board. The board's current fund balance is \$379 thousand. Two board members continue to serve despite the expiration of

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their term. Director Abbey asked how the board's activities impact the cost of hearing aids, or if regulation increases the cost. RLD staff noted that it did not have that information, but would research the issue and report its findings to the committee. The subcommittee voted to recommend extending the sunset.

Following the board presentations, Representative Varela asked what the executive is doing to fill vacancies and address expired terms of board members. Ms. Wrobel stated priority has been placed on filling vacancies rather than reappointing members serving expired terms. Director Abbey noted that Jeremiah Ritchie is the governor's point person on this. Representative Varela asked that Jeremiah be present at the November subcommittee.