

**MINUTES**  
**Legislative Finance Committee**  
**State Capitol, Room 322 - Santa Fe, NM 87501**  
**September 28 - 29, 2016**

**Wednesday, September 28<sup>th</sup>**

The following members and designees were present on Wednesday, September 28, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Mary Kay Papen, George K. Muñoz, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano “Lucky” Varela, Nick L. Salazar, Paul C. Bandy, Conrad James, George Dodge Jr., and Patricia A. Lundstrom. Guest legislators: Senators Lee S. Cotter, Richard C. Martinez, and James P. White and Representative Harry Garcia.

**Health Notes: Prescription Drugs.** Jenny Felmley, Ph.D., program evaluator for the Legislative Finance Committee (LFC), presented the health notes brief *Prescription Drug Costs: Maximizing State Agency Purchasing Power*. After a decade of gradual increases, prescription drug spending in the country spiked in 2014 by 11 percent due to fewer patent expirations, rising prices for both generic and brand drugs, and expanding use of new high-cost specialty drugs. Spending on prescription drugs is continuing to increase, straining state budgets and leading to higher out of pocket expenses, even for insured patients.

In FY16, 10 state agencies and entities in New Mexico together spent \$680 million on prescription drugs, an increase of 54 percent since FY14. Of this total, \$423 million was spent by the Human Services Department (HSD) providing prescription drug coverage for over 800 thousand New Mexicans in the Medicaid program, an increase of 83 percent since FY14. As with other states, New Mexico’s expanded Medicaid program has lead to a dramatic increase in use of prescription drugs that cost significantly more. Medicaid enrollment is expected to stabilize, slowing growth in prescription drug spending; growth will then be mostly attributed to prescription drug pricing.

Ms. Felmley discussed HSD’s financing of the state’s Medicaid program. Some costs are covered by the Medicaid drug rebate program. Since 2014, the number of rebates received by HSD has increased by 50 percent. HSD is considering implementing the very limited prescription drug co-pays permitted by the federal government. Other cost-containment measures are primarily left to the managed-care organizations (MCOs), each of which contracts with its own pharmacy benefits manager (PBM) and uses formularies, prior authorizations, step therapy, and generic substitution where appropriate.

Establishing appropriate MCO rates has been an issue. The MCO rates set in 2014 did not absorb the impact of newly released and much more costly specialty drugs used to treat the hepatitis C virus (HCV). In response, HSD then added up to 10.3 percent to the capitated rates in 2015; however, use of these specialty drugs was overestimated. Similar rates were set for 2016, but HSD reported only 301 managed care patients had received HCV treatment within the first three months. Because HSD sets payment rates annually based on data from previous years and assumptions about the future, the agency often ends up paying more than necessary upfront, and

then recovering its overpayments later. The FY15 MCO rates included approximately \$410 million for prescription drugs across all cohorts; however, final expenditures totaled \$317 million, leaving a difference of \$94 million for recoupment. HSD has two risk corridors in place, one for the expansion population and one specifically for HCV treatment. In FY15 the department recovered a total of \$237 million through the risk corridors, although it is not clear how much of that amount was dedicated to prescription drug costs.

A chart in the brief listed Medicaid's top 10 most costly health conditions; HCV is the most costly, followed by diabetes. HCV is particularly prevalent among lower-income people, often leaving the cost of treatment to public payers. Because of the high cost of treating HCV, some states have limited the access of the specialty drugs to those with advanced liver disease, which Ms. Felmley said has led to several lawsuits. Ms. Felmley noted that delaying treatment may lead to sicker and more costly patients down the road. The New Mexico HCV Coalition recently reported that approximately 45 thousand New Mexicans are living with chronic HCV infections; HSD estimates 14 thousand are enrolled in Medicaid. Calculating out the 20 percent of people who recover from HCV without any treatment, HSD needs to treat 1,750 people per year, from 2016 through 2020, to clear the 'backlog' of identified HCV Medicaid recipients.

Then reporting on other state funded programs, Ms. Felmley said the four agencies of the Interagency Benefits Advisory Council (IBAC) together spent approximately \$220 million on prescription drug coverage in FY16 for about 175 thousand school and state government employees, state retirees, and their eligible dependents. The Albuquerque Public Schools (APS), General Services Department (GSD), New Mexico Public School Insurance Authority (NMPSIA), and the New Mexico Retiree Health Care Authority (NMRHCA) each run their own self-funded healthcare plans and design their plans independently but are required by law to combine the negotiating power of their populations and issue joint request for proposals (RFP) for health care and pharmacy benefit management services. IBAC estimates cost-savings of approximately \$25 million per year through joint purchasing savings, of which \$10 million is associated with pharmacy spending.

The University of New Mexico (UNM) and UNM Hospital (UNMH), which have separate health insurance plans, together spent \$24 million on prescription drug coverage in FY16 for over 18.7 thousand employees and dependents. A chart in the brief showed that UNM, UNMH, and the agencies of IBAC all manage their prescription drug costs through similar measures with roughly comparable outcomes.

The LFC brief reported on the health conditions driving prescription drug spending by IBAC agencies, UNM, and UNMH. Since FY14, HCV drug utilization has increased by 226 percent and prescription spending has increased by 309 percent. However, increased prescription drug spending for other conditions has less to do with increased use and more to do with higher drug costs. For example, since FY14, spending on diabetes drugs increased by 61 percent, though use only increased by 3 percent. Similarly, spending on cancer drugs increased by 74 percent since FY14, though use only increased by 3 percent.

Three other state agencies provide prescription drugs to New Mexicans primarily through facility-based systems. The Corrections Department (NMCD) covers all of the healthcare needs for

inmates, including prescription medications. Since FY13, NMCD's prescription drug spending has increased by about 200 percent, mostly attributed to the high cost of HCV drugs. NMCD reportedly has over 3,000 inmates with HCV; despite the department's large increase in spending on HCV drugs, however, fewer than 100 inmates were treated for HCV in FY16.

The Department of Health (DOH) includes six divisions and facilities that purchase prescription drugs. The Children, Youth and Families Department (CYFD) provides largely behavioral health medications to the youth in their juvenile justice facilities. Unlike all of the other state agencies reviewed in the brief, prescription drug spending has decreased at DOH and CYFD.

Concluding, Ms. Felmley said rapidly rising spending on prescription drugs is a national issue because those expenditures are a key driver in rising costs of health care across the country. To fully reap the benefits that prescription drugs offer, the market may need to be restructured, manufacturers may need to be more consumer-friendly, states may need to increase pricing transparency to increase negotiating power, and new approaches in purchasing may need to be made.

Brent Earnest, secretary of HSD, said the LFC brief was a thorough review of the issues. Secretary Earnest talked about the risk corridors, which he said serve as safety nets should the MCO rates not be sufficient. Although HSD initially overestimated the number of people it would treat with the new HCV drugs, the agency is working to ensure HCV treatment will be delivered to the targeted number of people annually.

Secretary Earnest lastly commented that a recent Texas health plan report noted New Mexico's Medicaid cost per prescription is fourth lowest in the country, indicating MCOs are doing a good job of leveraging purchasing power and pushing for generic rates.

Mark Tyndall, executive director of NMRHCA, said the issues reported in the brief are factually correct. Mr. Tyndall talked about a number of cost-containment strategies in place at NMRHCA focused on market leverage and utilization management. IBAC contracts with Express Scripts, the largest PBM in the country. Mr. Tyndall said, as an independent PBM, Express Scripts is a powerful negotiator on behalf of New Mexico. Prior authorization is required for some prescription drugs, ensuring drugs are being administered appropriately. Step therapy is being used for a number of health conditions. Exclusionary formularies provided some cost-benefit in the past. IBAC's contract with Express Scripts will end June 2017, initiating a request for proposals for a new PBM contract.

In response to Representative Garcia, Mr. Tyndall said different medications prescribed by different doctors to the same patient can lead to medication errors resulting in hospitalizations. Mr. Tyndall said NMRHCA is working to ensure members access care in the best coordinated manner possible to avoid medication errors.

Senator Cisneros asked if purchasing prescription drugs out of country could offer some cost-savings. Mr. Tyndall said medications are less expensive in other countries, but federal law prohibits importation of pharmaceutical drugs through mail. Participating in a multi-state purchasing coalition could result in cost-savings.

In response to Senator Cisneros, Dr. David Scrase, consultant for HSD, said the HCV reinfection rate is between 5 percent and 8 percent.

**Pharmaceutical Industry, Health Plans, and Advocates Panel.** Marissa Watkins, director of State Advocacy at the Pharmaceutical Research and Manufacturers of America, said the biopharmaceutical industry is revolutionizing health care by providing medications that help people live longer and healthier lives, ultimately saving the system money. According to the Altarum Institute, prescription drug spending across all payers is projected to remain at about 14 percent of overall healthcare spending through 2025.

Ms. Watkins said, unlike other components in the healthcare system, prescription drug spending can decline. Generic competition decreases prescription drug costs. For example, cost of the new HCV drugs has significantly declined since 2014 because of competition. According to a chart in Ms. Watkins' presentation, prescription drug spending accounts for 3.4 percent of the state's total Medicaid spend. Another chart showed that while total spending on prescription drugs is expected to remain stable through 2025, other costs in the healthcare system are projected to significantly increase.

All Medicaid programs are ensured best pricing on prescription drugs and are protected from large increases in pricing. Ms. Watkins said discounts and rebates are decreasing total spending on prescription drugs. In 2015, net prices on prescription drugs increased by 2.8 percent, a decrease from 5.8 percent in 2014.

Ms. Watkins said adherence to medicines lowers total health spending for chronically ill patients, adding that while biopharmaceutical innovation represents an important part of the solution, it is important to look at the entire system before enacting policy.

Jeff Scott, senior director of Public Sector at Express Scripts, briefly reported on pharmacy benefit management. Through aggressive negotiations, specialized client services, and the use of pharmaceutical data, Express Scripts is achieving greater outcomes with prescription drug pricing and with patients.

Betsy Imholz, director of Special Projects at Consumers Union, said increasing prescription drug costs is a serious concern for consumers. Ms. Imholz said nearly half of Americans take one or more prescribed drugs on a regular basis. In a recent consumer survey, one-third of respondents reported an unexpected spike in out-of-pocket cost for their prescribed drugs. According to the Kaiser Family Foundation, 1 in 4 people have difficulty affording their prescribed medication. Ms. Imholz said lack of data is making it unclear how prescription drug prices are being determined and why prices are higher in the United States than other countries. Most governments in Europe negotiate drug pricing with manufacturers; whereas the United States relies on the free market for drug pricing.

Ms. Imholz talked about price gouging by some drug manufactures, mentioning the recent price hike for Mylan's epinephrine auto-injector (EpiPen). Ms. Imholz said, in addition to price gouging, Mylan appears to be engaging in other maneuvers to increase profits, such as its

successful lobbying to enact laws requiring EpiPens be provided in schools, hotels, and other locations.

Ms. Imholz said the overall drug pricing issue is attributed to little competition in the industry and drug prices being set as high as the market will tolerate rather than according to real costs. To contain drug prices while preserving access, Ms. Imholz said the market needs true competition, transparency, and greater government intervention.

Louanne Cunico, executive director of Pharmacy for the Presbyterian Health Plan, lastly provided an MCO perspective on the drug industry. Ms. Cunico said by putting in place exclusionary formularies, regulating generics, and analyzing cost-benefit ratios, Presbyterian is achieving positive outcomes that benefit its members and improve the overall health of New Mexico's population.

Ms. Cunico said increasing drug prices is a concern for MCOs, adding that hikes in prices for some drugs is unaccountable. For example, insulin, a drug that has been on the market for several years and has not changed in formula, has dramatically increased in cost. Because insulin usage is increasing due to the rising diabetic population, spending on the drug is becoming more burdensome.

Ms. Cunico said to contain costs on prescription drug spending, policymakers may want to consider making the industry more transparent, regulating drug advertising and drug samples, and capping member co-pays on prescription drugs. Ms. Cunico mentioned the importance of prescribing drugs effectively, ensuring the state is only paying for drugs that will result in better health outcomes.

In response to Senator Cisneros, Ms. Cunico said there is a need for more public education on making better health choices to reduce the need for prescription drugs for preventable health conditions. Mr. Scott said some states set individualized premiums based on health conditions.

Richard Mason of Health Action New Mexico, said television has become inundated with prescription drug advertisements, putting pressure on doctors to prescribe medication to patients demanding to use an advertized drug when a less expensive or more appropriate drug is suitable. Most countries have banned prescription drug advertising.

In response to Senator Cisneros, Ms. Cunico said transparency would help determine more accurately budget needs. Ms. Watkins cautioned on where there needs to be transparency, explaining that if companies were to give up proprietary information on pricing, it would damage the competitive market that PBMs depend on.

**Indian Affairs Department (609).** Kelly Zunie, secretary of the Indian Affairs Department (IAD), said IAD's budget request for FY18 is \$2.7 million, a 5 percent decrease from FY16's operating budget per governor directive. IAD's operating expenses have been reduced by eliminating a temporary position, several contracts, and equipment rentals. Secretary Zuni reported that IAD currently has 15 FTE and three vacancies.

Discussing current initiatives, Ms. Zunie said IAD's website has been improved to increase communication. IAD's tribal summit has been reformatted and agency services are becoming more efficient. IAD conducted four workshops in 2016, providing tribes education on project management and alternative energy. The Navajo Nation meets quarterly with IAD, Department of Transportation, Environment Department, and Aging and Long-Term Services Department to discuss capital outlay project issues.

Then reporting on FY16 appropriated projects, Ms. Zunie said, of the \$249 thousand awarded for 10 tobacco cessation projects, \$230 thousand was expended. For special projects, \$282 thousand of \$301 thousand was expended. Capital outlay appropriations for 42 projects totaled \$4.7 million; however, six entities did not certify. Tribal infrastructure appropriations for 21 projects totaled \$12.1 million, of which \$11.9 million in bonds were sold.

In response to Senator Munoz, Ms. Zunie said the internal process within the Navajo Nation often stalls projects. Senator Munoz suggested IAD create a timeline for the Navajo Nation to expedite projects. Ms. Zunie said IAD's new project management system is improving communication with project coordinators.

In response to Senator Cisneros, David Mann, general counsel for IAD, said the timeline for tribal infrastructure projects, from planning to construction, is 36 months, after which unexpended funds are reverted. Ms. Zunie said a six-month extension may be given to complete a project.

**Department of Veterans' Services (670).** Jack Fox, secretary of the Department of Veterans' Services (DVS), first reported on current activity. Construction of the Fort Stanton state veteran cemetery is in progress, a women veterans program has been launched, and a statewide veteran transportation network has been coordinated.

DVS requests \$3.89 million from the general fund for FY18, an increase from FY17's operating budget of \$3.31 million for the State Veterans' Cemetery program, 1 additional FTE, and two vacancies. Secretary Fox said legislation will be proposed in the future to convert two programs into divisions at the agency because of their operation size.

Secretary Fox said DVS's budget will need to be restored to at least FY16 appropriations to meet statutory mandates and meet its core mission. Secretary Fox said, unlike larger agencies, DVS is not able to supplement operational costs through vacancy savings. The agency has curtailed veteran outreach travel and canceled several outreach events and conferences. Federal funding for the Rural Veterans' Coordination Pilot Program (RVCP) has provided some leverage; however, the program is set to expire in September of 2017.

In response to Representative Varela, Secretary Fox said the New Mexico delegation is working to extend RVCP.

In response to Representative Garcia, Secretary Fox said DVS is working to improve communication with veterans and entities such as funeral homes to ensure all passing veterans receive honored funeral services and are buried at a state veterans' cemetery.

**Department of Health (624): Preview of FY18 Appropriation Request.** Lynn Gallagher, secretary designee of the Department of Health (DOH), said DOH recently finalized its FY17 through FY19 strategic plan, establishing priorities, aligning resources, and strengthening operations. DOH is working to address teen births, diabetes, obesity, and substance abuse.

DOH is requesting \$285.2 million from the general fund for FY18. The agency has implemented a number of budget strategies to maximize dollars and reduce expenses; however, the Facilities Management Division continues to operate at a deficit. Ms. Gallagher said the primary challenge for facilities is being able to compete with the private sector.

Members were invited to review key initiatives and accomplishments reported in the presentation at their leisure. Ms. Gallagher said DOH priorities focus on meeting the needs of all New Mexicans to increase healthy lives and reduce healthcare costs.

In response to Representative Varela, Ms. Gallagher said approximately \$1.5 million of FY16 appropriations will be reverted. DOH's FY18 budget request is a 2 percent decrease from FY17's operating budget. Representative Varela requested LFC staff do an analysis of DOH operating expenses for the first six months of FY17 to estimate what the budget condition will be at the end of the fiscal year.

In response to Representative James, Ms. Gallagher said the state's Zika virus plan is posted on DOH's website. New Mexico has received federal funding to help fight Zika. Remaining federal funds for Ebola have been moved to fight Zika.

In response to Representative Lundstrom, Ms. Gallagher said budget reductions in the Developmental Disabilities Support Division are not impacting clients in direct services. Reductions have been made by reducing Jackson lawsuit legal fees, training costs, and travel costs.

**U.S. Department of Energy Contract Renewal for National Laboratories and Effect on General Fund Revenues.** Jon Clark, chief economist for LFC, said Los Alamos National Laboratory (LANL) and Sandia National Laboratories are currently operated by for-profit management companies. The current management company contract for Sandia will expire in February 2017. The Department of Energy has begun the request for proposal (RFP) process for a new contract. If a governmental entity or non-profit entity is contracted, the state would no longer collect corporate income tax (CIT) and a significant portion of the gross receipts tax (GRT) revenues would be at risk. LFC staff is currently doing analysis on the impact on CIT and GRT revenues if a governmental or non-profit entity is contracted; approximately \$103 million in GRT revenue may be at risk.

In response to Senator Cisneros, Mr. Clark said the LANL contract will expire in 2018.

Andrea Romero, executive director of the Regional Coalition of LANL Communities, gave brief background information of the coalition, a non-partisan group monitoring the impact of LANL activity in communities.

Ms. Romero said if the new entities that manage and operate LANL and Sandia meet the tax exemption criteria, the laboratories would no longer be taxed on their activities even though their managing and operating functions remain the same, taking away an estimated \$200 million from the state and local communities in GRT. Ms. Romero said LANL and Sandia activities and services meet the state definition of an organization subject to GRT. The coalition urges policy makers to take away the tax exemption rule from LANL's and Sandia's upcoming acquisition for a new contractor.

In response to Representative Lundstrom, Jack Jekowski, a consultant for the coalition, said final selection in the Sandia RFP will be based on performance and experience, quality of management, and plan for engaging small businesses.

**Insurance Revenue Audit.** CliftonLarsonAllen LLP recently completed its audit of premium tax collections in the state from 2010 through 2015. Sanjay Bhakta, deputy state auditor, said about 51 percent of premium tax collections come from health insurance premiums, mostly collected from five insurance companies. The audit found that the five insurance companies underpaid a total of \$193 million. The underpayments are attributed to companies reporting inconsistently, submitting inconsistent calculations, and incorrectly applying credits, all of which were not identified by Office of the Superintendent of Insurance (OSI). Mr. Bhakta said OSI missed the errors because of inadequate staffing, poor documentation, problems with internal controls and policies, issues with computer software, and a lack of clarity and consistency in the law and guidance issued by OSI.

The audit also revealed several issues preventing OSI from establishing population completeness. The Financial Audit Bureau (FAB) of OSI relies on entities to self-report their required filings, but does not have a process in place to identify all entities that should be reporting. Mr. Bhakta said approximately 2,000 insurance companies should be reporting; however the Ideal software that OSI is using is not tracking all of them. Mr. Bhakta said the Ideal software is outdated, explaining the system does have the capability to track payments, generate important reports, and perform other essential processes.

Mr. Bhakta said the audit identified issues in staffing. FAB currently has four vacancies and insufficient staff to perform the duties effectively. Other key findings include lack of policies and procedures and untimely deposits.

John Franchini, superintendent of insurance, said the review of premium tax collections was conducted at the request of OSI in 2014. Mr. Franchini said OSI knew there were issues but needed an independent audit done to identify them and determine where changes needed to be made. Mr. Franchini said legislation was proposed in 2015 and 2016 to simplify premium tax collections; however, the legislation did not pass. Mr. Franchini said the audit's recommendations will be considered as the agency restructures. Improvement measures already in progress include revision of OSI's rule promulgation for the collection of insurance premium taxes, filling vacancies, and retiring the Ideal system for the state based systems of National Association of Insurance Commissioners (NAIC).



In response to Senator Cisneros, Mr. Franchini said OSI intends to collect what was underpaid. Timothy Keller, state auditor, talked about follow-up options in response to the findings. The Legislature may want to consider auditing gross premiums, remaining health insurance premium taxpayer files, other types of premium taxpayer files, and fraud and abuse files. State Auditor Keller also mentioned a continuous audit with the Office of the State Auditor (OSA) and repayment of funds suit if restitution is not received.

In response to Representative Lundstrom Mr. Franchini said he agrees almost entirely with the audit findings but is unable to fully comment on them due to an ongoing criminal investigation at OSA. Charles Sallee, deputy director of LFC, said the appropriation given by the Legislature to conduct the audit was at the request of OSA.

Lawrence Horan, lobbyist for Presbyterian Health Plan, said Presbyterian wants to cooperate fully with the state audit to ensure every dollar owed to the state is paid. Mr. Horan said Presbyterian has very robust processes and he is confident the premium taxes are being paid appropriately to the state.

In response to Representative Varela, State Auditor Keller said the current premium tax collection system is basically an honor system because there is very little auditing going on.

In response to Senator Muñoz, State Auditor Keller said the Attorney General's Office is unaware of the criminal investigation happening at OSA.

### **Miscellaneous Business.**

#### **Action Items.**

Representative Lundstrom moved to adopt the July 2016 meeting minutes, seconded by Representative Varela. The motion carried.

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

### **Thursday, September 29<sup>th</sup>**

The following members and designees were present on Thursday, September 29, 2016: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Howie C. Morales, George K. Muñoz, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano "Lucky" Varela, Nick L. Salazar, Paul C. Bandy, Conrad James, Jim R. Trujillo, and Patricia A. Lundstrom. Guest legislators: Senators Lee S. Cotter, Richard C. Martinez, Mary Kay Papen, and James P. White.

**New Mexico Lottery Authority.** David Barden, chief executive officer for the New Mexico Lottery Authority, said lottery sales in FY16 contributed \$46.3 million to the lottery tuition fund, an increase of \$5.2 million from FY15. Scratcher sales have increased significantly since FY13. By statute, the lottery is required to return a minimum of 50 percent of proceeds to players in the form of prizes and 30 percent to the lottery tuition fund. Remaining funds are allocated to cover the cost of products as well as retailer commissions and administrative costs. Between 6 percent and 10 percent of sales are being lost to neighboring states, which Mr. Barden said is because the

percentage in prize payout is higher for those states. Mr. Barden said a higher prize payout in New Mexico would result in more scholarship dollars for the state.

Mr. Barden talked about the future of lottery sales. The market will need to change to reach millennials, the next generation of purchasers of lottery tickets. Mr. Barden said millennials are highly influenced by their peers, seek value and rewards in their purchases, and want convenience. Cash is being used less by millennials, and the lottery must adapt alternative forms of payment, Mr. Braden said.

Eighty-two percent of all lottery sales occur at convenience store and gas stations. According to the Association for Convenience and Fuel Retailing, 78 percent of gas customers pay by credit, a 24 percent increase since 2010; 64 percent pay at the pump and 36 percent pay in the store.

Mr. Barden said advertising spending has become more efficient. The agency's advertising buy is now being purchased in advance, doubling the value and saving costs.

Mr. Barden lastly talked about lottery sales at gas pumps. New Mexico currently has 13 "play-at-the-pump" locations in New Mexico selling only mega millions tickets and power ball tickets to persons age 18 or older. Age is verified by the debit card at time of purchase. Age is verified in person for prizes \$600 and over.

In response to Chairman Smith, Mr. Barden said the authority is looking into how much in lottery sales are being lost to neighboring states by region. Chairman Smith said Texas, Colorado, and Arizona have all recovered from the 2009 recession while New Mexico has not, indicating the state is failing to implement change.

**Petroleum Industry Update.** Porter Bennett, president and CEO of Ponderosa Energy, said the oil and gas industry has changed in the last five years. Initially predicated on the scarcity of a product, the oil and gas industry today is working with a supply that more than meets demand.

From 2010 to 2013, oil prices were strong and oil production was less than demand. Starting in 2014, oil production began to outpace demand, driving down prices. Oil production in the United States declined for the first six months of 2016 but is rising again due to an increasing number of drilling rigs. However, Mr. Bennett said United States oil storage is at full capacity. Gasoline and diesel consumption is weak relative to inventory. Mr. Bennett said weak diesel consumption is especially worrisome because it indicates economic slowdowns, as diesel is most consumed by trains, ships, and other transports. Consumption by non-Organization of Economic Cooperation and Development (OECD) countries has also decreased.

Natural gas production is declining, though, its storage is also at full capacity. Because natural gas consumption is driven by weather, prices may dramatically decline in 2017 if the upcoming winter season is mild, further impacting revenues.

Historically, when oil and gas prices would rise, production would correspondingly increase. Likewise, when oil and gas prices would decline, production would correspondingly decrease.

However, price and supply in recent years has behaved opposite of that. Mr. Bennett attributed the change in behavior to the value of ethane, propane, and butane.

Ponderosa advisors project West Texas Intermediate (WTI) crude oil prices will average \$46 per barrel through the end of 2016. Prices are projected to average \$52 per barrel in 2017. Natural gas, prices are projected to average \$2.86 per 1 million British thermal units (MMBtu) through the end of 2016 and \$4.50/MMBtu in 2017. Mr. Bennett said it is essential that natural gas prices increase to \$4.50/MMBtu for production to meet demand.

Oil production in the Permian Basin has increased since 2015, though mostly in Texas. Mr. Bennett said oil is more expensive to produce in New Mexico than in Texas due to geological differences. San Juan Basin gas production is continuing to decline.

Concluding, Mr. Bennett used a flow map to discuss oil and gas production and distribution in the future. Oil and gas production in the Rocky Mountain region is not economically favorable. Mr. Bennett projected that by 2020, over 30 percent of oil and gas production in the United States will come from the northeast. Oil and gas production in the Permian basin will likely be transported to California or Mexico.

In response to Representative James, Mr. Bennett said New Mexico's rig count is relatively lower than in the Permian basin of Texas. Current oil production in the Permian basin of Texas is increasing at a much faster rate than in the New Mexico. Mr. Bennett said regulatory activity does not tend to affect rig activity and that the cost of getting to the oil is more dependent on geological differences.

**New Mexico Department of Corrections (770): Preview of FY18 Appropriation Request.**

Gregg Marcantel, secretary of the New Mexico Corrections Department (NMCD), stated that NMCD is cognizant of the state's current budget condition. Alex Sanchez, deputy secretary of administrative support at NMCD, said NMCD's FY18 budget request reduces the potential of shortfalls in the agency. The agency reassessed expenses and found areas NMCD can save a total of \$11 million.

Secretary Marcantel said NMCD's FY17 appropriation increase for compensation was not enough to fully address correctional officer pay-plan compaction. For FY18, NMCD requests \$302.5 million from the general fund, an increase of \$4.1 million, or 1.4 percent, from FY17's operating budget. The budget increase includes \$2.9 million to address correctional officer pay plan compaction and \$1.2 million for additional detention holds at the Metropolitan Detention Center (MDC) in Albuquerque. MDC has increased its fees for holding inmates.

Joe Booker, deputy secretary of operations at NMCD, updated the committee on the expenses in treating inmates with health conditions. About 50 percent of NMCD inmates need treatment for the hepatitis C virus (HCV), costing about \$80 thousand per inmate. The University of New Mexico's Project Extension for Community Care Outcomes (Project ECHO) is helping NMCD treat more inmates who have HCV. NMCD requests an additional \$200 thousand for FY18 to expand the partnership with Project ECHO to assist in treating inmates who have diabetes and the human immunodeficiency virus (HIV).

Ms. Sanchez said NMCD is projecting a \$12 million shortfall for FY17.

In response to Senator Cisneros, Secretary Marcantel said the increased appropriation for pay compensation in FY17 has helped, but the vacancy rate remains high.

In response to Senator Cisneros, Secretary Marcantel said, although illegal inside facilities, tattooing continues to be an issue contributing to inmates contracting HCV inside the prisons. Secretary Marcantel said NMCD has considered ways the agency can instead direct the tattooing activity, such as providing inmates safety and sanitation education to curtail infection inside facilities. Senator Cisneros requested either LFC staff or NMCD do an analysis on return-on-investment if NMCD were to direct the activity.

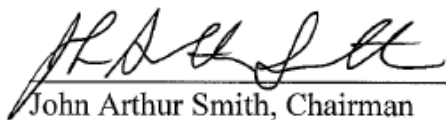
In response to Representative Varela, Ms. Sanchez said NMCD will likely use the remaining \$7 million in supplemental funds to address the projected shortfall for FY17. A.J. Forte, director of the Budget Division at Department of Finance and Administration, said the executive is currently determining which agencies or programs will be exempted from the 5 percent budget reduction in FY17.

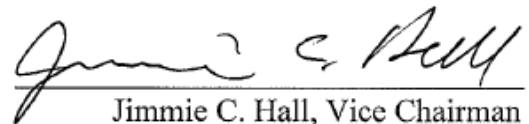
In response to Representative Varela, Tony Ortiz, J.D., deputy director of the New Mexico Sentencing Commission, said the female inmate population is stabilizing. The male inmate population is projected to increase from 6,775 inmates in FY17 to 6,853 inmates in FY18. Secretary Marcantel said about 50 percent of released inmates return to prison within five years.

In response to Senator Munoz, Angela Martinez, health services administrator at NMCD, said physicians must provide direct care to inmates for the agency to obtain the reduced drug pricing in the federal 340 program. This is a challenge for NMCD. NMCD might be able to obtain 340 pricing through Project ECHO.

In response to Representative Bandy, Secretary Marcantel said federal law prohibits inmates from receiving Medicaid benefits while in custody.

With no further business, the meeting adjourned at 12:17 p.m. The early adjournment allowed the legislature to prepare for the special session.

  
John Arthur Smith, Chairman

  
Jimmie C. Hall, Vice Chairman