

**MINUTES**  
**Legislative Finance Committee**  
**State Capitol Room 307**  
**Santa Fe, NM 87501**  
**October 27 – 30, 2015**

**Tuesday, October 27<sup>th</sup>**

The following members and designees were present on Tuesday, October 27, 2015: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Howie C. Morales, George K. Munoz, Steven P. Neville, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano “Lucky” Varela, Nick L. Salazar, Paul C. Bandy, Jason C. Harper, George Dodge Jr., and Stephanie Garcia Richard. Guest legislators: Senators Mary Kay Papen and Clemente Sanchez.

**Department of Health (665) Preview of FY17 Appropriation Request.** Retta Ward, secretary of the Department of Health (DOH), said DOH is focusing on improving New Mexican’s health status by addressing obesity, type two diabetes, substance abuse, and teen births. Secretary Ward said the department is aiming to reduce teen births by 50 percent in four years and that the initiative will promote economic security, improve educational attainment, provide healthier outcomes for children, and reduce government spending.

Secretary Ward said DOH’s FY17 appropriation request includes an increase of \$6.5 million from the general fund for developmental disabilities support, facilities management, and epidemiology and response. Lynn Gallagher, deputy secretary, DOH, highlighted program areas. The Public Health Division operates with approximately \$62.6 million in general fund and \$72.6 million in federal funds. There are 54 public health offices in New Mexico. Ms. Gallagher talked about major public health initiatives, which include immunizing over 500 thousand New Mexico children, providing educational programs to prevent chronic diseases, and promoting delayed parenthood. A slide in the presentation showed estimated total costs of treating high blood, high cholesterol, diabetes, obesity, asthma, lung cancer, and tobacco abuse in New Mexico, all of which are preventable. Ms. Gallagher said public health wellness and preventive health initiatives are the only cost-effective strategies to significantly reduce health care costs. Reporting on the Epidemiology and Response Division, Ms. Gallagher pointed out the agency’s accomplishments during the Gold King mine spill and the Ebola crisis.

Mark Kassouf, bureau chief, reported on the needs of the Vital Records and Health Statistics Bureau. The current building vault does not meet archival standards. The bureau may need to either upgrade the current building or move into a new building.

Ms. Gallagher then continued, briefly reporting on other divisions within the agency including the Scientific Laboratory Division, Developmental Disabilities Supports Division, and Division of Health Improvement.

Secretary Ward reported the Facilities Management Division operates with approximately \$61.4 million from the general fund, no federal funds, and anticipates third-party payer revenue of

about \$80 million. A graph in the presentation showed the division's budget is increasingly relying more on other funds and less on the general fund. Secretary Ward reported on various activities including construction of a new Alzheimer's unit at the New Mexico State Veterans Home and the opening of the new Intensive Outpatient Program at New Mexico Rehabilitation Center.

Secretary Ward concluded the presentation, updating the committee on the Medical Cannabis Program. The program currently has over 18 thousand registered patients, an increase of almost 7,000 over the same time last year. Rule changes adopted in February 2015, allows for increased cannabis plant counts from 150 to 450, new testing requirements, and changes to non-profit licensing fees. Secretary Ward mentioned a new software system that will improve the program.

In response to Representative Hall, Secretary Ward said the 20 percent reduction in childhood obesity was determined by assessing kindergarten and third grade student's weight annually.

In response to Senator Leavell, Brad McGrath, administrator of the New Mexico Rehabilitation Center in Roswell, talked about the intensive outpatient program. The program treats individuals three hours a day, three times a week.

In response to Representative Bandy regarding the Gold King mine spill, Twila Kunde, deputy director of the Scientific Laboratory Division, said the water samples were tested under the Clean Water Act. Sediment samples tested positive for heavy lead contamination. Test results are available on the New Mexico Environment Department's website.

In response to Representative Larrañaga, Cathy Stevenson, director of the Developmental Disabilities Services Division, said the Medically Fragile Waiver program was scheduled to transition to HSD management under Centennial Care in FY17. However, the transition has been put on hold and CMS will be requesting an extension to keep the program under DOH. DOH is requesting an appropriation increase of \$3 million for FY17 to bring 150 new clients into service.

Representative Garcia Richard expressed concern for the high vacancy rates in the northeast region. Mark Williams, director of the Public Health Division, mentioned the difficulty in filling nursing positions but reiterated the agency's focus on recruitment and retention.

Chairman Smith expressed concern regarding contract nursing. The General Appropriation Act of 2015 would have increased compensation for in-house nurses but language was vetoed by the governor. Secretary Ward said the bill was vetoed because the \$1 million appropriation for increased compensation was an unfunded mandate and would have been only a fraction of what is needed to fund a 3 percent raise for nurses.

**Medicaid and TANF: Preview of FY17 Appropriation Request.** Brent Earnest, secretary of the Human Services Department (HSD), said HSD's overall budget request from all revenue sources for FY17 is \$7.163 billion. The budget request includes \$1.105 billion from the general fund, an 8.5 percent increase over FY16. The increase is primarily due to the reduction in federal funds for Medicaid expansion. Growth of Medicaid enrollment has been greater than anticipated. Total Medicaid program spending in FY17 is projected to be \$5.9 billion.

Secretary Earnest provided an update on Centennial Care, in its second year of operation. HSD is focused on increased coordination of services. Almost 424 thousand members have completed health risk assessments. Secretary Earnest talked about supporting provider capacity. Primary care and behavioral health provider rates have increased. Regarding the expansion of Telehealth, managed-care organizations (MCOs) have implemented several initiatives to further improve access. Payment reform projects have been implemented and the Centennial Rewards program has been launched.

Secretary Earnest then talked about behavioral health spending and priorities. The FY17 base budget request for the Behavioral Health Services Division (BHSD) is \$57.2 million, of which \$39.8 million is requested from general fund. The request includes reallocating savings to new or existing services for the program, such as sexual assault services and a new Peer Empowerment Center. HSD will be launching two health homes in 2016. Crisis services have been expanded. Secretary Earnest briefly reported on the performance of behavioral health services. More individuals are being served and the education achievement gap has been reduced for children receiving behavioral health services.

The Income Support Division (ISD) and the Temporary Assistance for Needy Families program (TANF) was then discussed. For FY17, ISD's budget request is \$57.8 million, of which \$865.5 thousand is requested from general fund. The increase in general fund will be used for the General Assistance program, the Supplemental Nutrition Assistance Program (SNAP) senior supplement, and to shift funding for food banks from the Department of Finance and Administration to HSD. For TANF, HSD requests a \$110.6 million block grant and \$32.3 million of current carry over balances for FY17. TANF participation has declined nationally. Besides providing cash assistance, TANF helps people get back to work. In 2012, New Mexico ranked 17<sup>th</sup> in work participation rate by state.

Secretary Earnest concluded with IT initiatives. HSD will be replacing its Medicaid management information system and its child support enforcement development system.

Representative Harper expressed concern over future reduction of federal assistance for New Mexico's Medicaid program and its increasing costs. Representative Harper suggested the state looks at how to fund the program in the future. Secretary Earnest talked about how Centennial Care was designed to help meet future costs. However, the need for general fund revenue to pay for Medicaid will undoubtedly significantly increase in the future.

In response to Senator Munoz, Secretary Earnest said the agency is working with DOH to determine where to spend a \$1 million appropriation in investment zone funding for behavioral health. The agency will be focusing on areas with high incidence of issues such as substance abuse. McKinley County and Rio Arriba County are high on the list. There is an application process to receive investment zone funding.

In response to Senator Morales, Secretary Earnest said the budget increase requested for TANF is for additional clothing allowances and support services. TANF is not expected to have an increase in caseloads.

Lee Reynis, professor of economics at the University of New Mexico, then briefed the committee on the economic and fiscal impacts of New Mexico's Medicaid expansion. Medicaid's federal share will be reduced to 90 percent by 2021. Ms. Reynis said Medicaid expansion is changing the landscape in New Mexico by dramatically reducing the percent of adults who are uninsured, reducing uncompensated care, and helping to make New Mexico more attractive for healthcare providers. Ms. Reynis noted the importance of creating the healthcare workforce needed for Medicaid expansion. Projections indicate that future costs of the program will be relatively covered by the positive impacts on the state's economy. Ms. Reynis said she thinks the program will generally pay for itself.

**New Mexico Corrections Department (770): Preview of FY17 Appropriation Request.**

Gregg Marcantel, secretary of the New Mexico Corrections Department (NMCD), said a correctional officer works an average 64 hours a week. From FY11 through FY15, NMCD lost a total of 85.5 FTE. Forty-six were custody positions. New Mexico's prisons will reach 98 percent capacity by July 2016. Secretary Marcantel said the system is taking on more risk with fewer people.

Mark Meyers, deputy secretary of NMCD, talked about the agency's budget. In FY15, NMCD had a \$7 million deficit attributed to inmate growth. To mitigate the deficit, the agency was appropriated BAR language across programs and a two-year \$7 million special appropriation. NMCD implemented unsustainable austerity measures and was able to carry over \$2.5 million of the special appropriation for use in FY16 to continue mitigation of budget concerns related to inmate growth. NMCD requests an FY16 supplemental to treat 150 inmates with hepatitis C and to address the increased female population. Mr. Meyers reported on the transition to directly provide behavioral health services to inmates, which now allows for expansion of services to include gender specific transitional living and dual diagnosis treatment.

Secretary Marcantel then continued to express his concern for current staffing levels. NMCD faces significant challenges retaining its officers. NMCD ranks in the bottom five in the nation for officer pay. Secretary Marcantel talked about how staffing shortages create fatigue and unsafe prisons. In FY14, an initiative with the State Personnel Office was successful in filling probation and parole positions. However, retaining its workforce has been difficult because of poor pay and work hours. Secretary Marcantel gave the current vacancy rates of NMCD's seven facilities. The current vacancy rate at Roswell Correctional Center is 45 percent. Five officers shared with the committee their experience working at NMCD.

Mr. Meyers outlined NMCD's FY17 budget request. NMCD requests \$12 million for FY17, an increase above the FY16 operating budget. The increase includes \$7.65 million for inmate growth, \$2.4 million for hepatitis C treatment for inmates, and \$1.9 million to expand of the Security Treat Intelligence Unit (STIU).

Senator Cisneros said he understands the secretary's concern and predicament in which officers are being placed. He requested the agency present a salary plan for the officers during LFC's December hearing.

In response to Senator Sanchez, Secretary Marcantel said inmates at the Woman's Correctional Facility in Grants will be moved to the Springer Correctional Center because the facility can accommodate the expanding women's population. Sex offenders will then be transferred to the facility in Grants, which offers a better space to provide evidence based sex offender treatment. Senator Sanchez suggested NMCD hold a public meeting in Grants to address the community's concerns.

**Program Evaluation: Opportunities to Leverage Federal Medicaid Funds.** Brian Hoffmeister and Maria Griego, both program evaluators, presented the report *Opportunities to Leverage Federal Medicaid Funds*. The passage of the Affordable Care Act (ACA) has resulted in significant changes in the healthcare landscape in New Mexico. About 20 percent of New Mexicans were uninsured in 2010, compared with less than 15 percent in 2014. The number of New Mexicans enrolled in Medicaid has increased from 539 thousand in FY13 to about 821 thousand at the end of FY15. The chief driver of this growth is the enrollment of childless adults with incomes up to 138 percent of the federal poverty level through Medicaid expansion. The federal government covers 100 percent of the costs of this population through the 2016 calendar year, but this percentage will decrease incrementally through 2021, requiring the state to assume a growing portion of these costs. The state share for the expansion population is expected to be \$43 million in FY17 and will grow to an estimated \$163 million in FY20.

As the state faces these increasing costs, it will be necessary to identify ways to leverage the ability to draw down federal Medicaid reimbursements to fund healthcare services currently supported by state or local funds. The evaluation analyzed 16 programs across seven state agencies for the potential to either replace state funds with Medicaid reimbursements or to enhance or reallocate revenues that could be used to draw down additional Medicaid funds. Further, the report proposed funding scenarios that take into account the potential for savings and revenue changes that could result from leveraging Medicaid in certain programs. Altogether, the evaluation identified potential savings or new revenue opportunities totaling between \$82 million and \$103 million.

The evaluation identified three main themes in more effectively leveraging Medicaid: increasing Medicaid billings for current services that are Medicaid eligible but receive state or local funds, expanding Medicaid eligible services for certain programs, and reallocating resources related to programs with diminished roles due to the ACA. Billing improvements could result in savings in the Department of Health's public health programs or offender healthcare services in the Corrections Department. Expanding Medicaid services to encompass early childhood home visiting could save state funding in the Children, Youth, and Families Department. The Human Services Department could adjust its support for Medicaid managed-care administration to recognize scale efficiencies gained through expansion. Additionally, scaling back or closing the New Mexico Medical Insurance Pool could allow the state to recoup forgone revenue, and reallocating county funding for indigent health care could reduce the state's reliance on general fund spending for certain services.

The evaluation recommended the Legislature consider statutory adjustments to eliminate service overlaps as a result of Medicaid expansion and the ACA and agencies continue to increase Medicaid enrollment, prioritize working with Medicaid-eligible service providers, and partner

with HSD and managed-care organizations to ensure healthcare services currently supported by the general fund are successfully transitioned to Medicaid as appropriate.

Brent Earnest, secretary of the Human Services Department, responded to the report and said many of the recommendations need time for analysis by the agency. Mr. Earnest commented that leveraging Medicaid is not new to New Mexico and said medical insurance pools is a good example of that. HSD will work with LFC staff on the recommendations.

In response to Representative Hall, Secretary Earnest said HSD is working on a number of things that addresses the long-term cost of Medicaid. HSD is exploring cost-savings in line with some LFC recommendations.

Representative Harper commented on the significance of the report and allowing agencies sufficient time to review and respond to the report. Representative Varela expressed concern regarding the pushback of responding agencies and said that while the report made good recommendations, there needs to be cooperation between LFC staff and involved agencies.

**Program Evaluation Progress Report: Impact of Child Care and Student Achievement.** Jon Courtney, Ph.D., program evaluation manager of the LFC, presented a progress report on the 2013 program evaluation titled *Impact of Child Care and Head Start on Student Achievement*. One in five low-income students entering kindergarten are unable to read a single letter. To improve New Mexico's poor educational outcomes, the state continues to invest in early childhood programs, having increased funding over \$100 million since FY12. The research is clear; experiences from birth to age five are critical for developing a strong foundation for future learning.

The 2013 evaluation found limited improvement in kindergarten academic outcomes for children attending programs in the Children, Youth and Families Department's (CYFD's) childcare quality ratings system, AIM High. The childcare assistance program suffered from mission confusion and the state suffered from a lack of cooperation and coordination with Head Start. Conversely, the evaluation found participation in prekindergarten results in significant gains in third-grade academic performance, reductions in special education enrollment, and reductions in retention.

The childcare program will serve around 18 thousand children in FY16 at a cost of \$115 million. But the program is not established in statute. The Child Care Accountability Act was passed by the Legislature to add accountability but was subsequently vetoed by the governor. Overall, CYFD has begun to implement 83 percent of key recommendations. CYFD has shifted childcare funding to meet interest for prekindergarten services. Implementation of the state's new quality ratings system Focus continues and childcare regulations have been changed to improve standards. To date, approximately 250 licensed providers are participating in Focus and performance measures have been developed to track transition of providers from AIM High. However, it is still too early to evaluate academic outcomes of Focus. CYFD has improved office hours for clients and implemented new crosschecks with the sex offender database. An updated analysis of school performance data shows continued benefits for prekindergarten

participants in third grade, no measurable impact of child care (AIM High) on third-grade academic achievement, and lagging performance for New Mexico Head Start agencies.

Steve Hendrix, director of early childhood services for CYFD, provided a brief response to the progress report. Mr. Hendrix said that after the 2013 evaluation reported poor results on New Mexico's childcare programs, CYFD took action to improve child care by implementing Focus. Mr. Hendrix said CYFD is confident the new system will make a difference because it is based on the early learning guidelines modeled by the prekindergarten program. Regarding Head Start, Mr. Hendrix said CYFD is strongly committed to working with the program to move forward together. There has been a lot of interest from Head Start providers to participate in Focus. Mr. Hendrix lastly commented on the Child Care Accountability Act and said CYFD wants there to be careful thought on how it is written and implemented so that it does not prevent accessibility of certain providers.

Senator Leavell commented on the need for more prekindergarten funding to serve more children in his district.

In response to Senator Morales, Mr. Courtney said the federal government requires the Head Start program to meet certain standards to continue receiving funding. In the most recent assessment, the El Grito Head Start program in Silver City did not meet those standards and must re-compete for funding.

**LFC Health Notes: Changes in Hospital Uncompensated Care.** Jenny Felmley, Ph.D., program evaluator for the LFC, presented a health notes brief on changes in hospital uncompensated care. The Affordable Care Act (ACA) was designed to expand healthcare coverage to nearly all Americans. States like New Mexico that chose to expand their Medicaid program anticipated especially significant reductions to the number of uninsured people. One of the expected benefits of increased coverage was a decrease in the cost of uncompensated care, 60 percent of which is incurred by hospitals when they provide care to people who lack insurance or who cannot pay for their care.

As more Americans obtain insurance, uncompensated care costs have indeed declined. Nationally, the rate of uninsured persons dropped from 16.7 percent to 13.5 percent between 2013 and 2014. As expected, uncompensated care costs dropped as well, by 21 percent across all states, and a 26 percent reduction in Medicaid expansion states.

In New Mexico, the rate of uninsured adults declined from over 18 percent in 2013 to 13.1 percent as of the second quarter of 2015. Uncompensated care has diminished significantly. The state's Safety Net Care Pool hospitals submitted applications for \$122.5 million in uncompensated care reimbursement in the 2015 calendar year, more than a 30 percent drop from 2014. Hospital federal cost reports, which use a broader definition of uncompensated care, show a 3.6 percent reduction from 2013 to 2014. New Mexico's hospitals in the aggregate have seen increased net income as uncompensated care now accounts for less than 7 percent of their expenses.

All indications are that uncompensated care costs will continue to decline, but they will not disappear altogether. Some populations and some services cannot be covered by Medicaid or the New Mexico Health Insurance Exchange, and some people who are insured will continue to struggle with out of pocket healthcare costs.

Representative Larrañaga asked why 298 thousand New Mexicans are uninsured. Ms. Felmley said enrollment into the New Mexico Health Insurance Exchange (NMHIX) has been far lower than expected. Some are ineligible, such as the 42 thousand undocumented individuals, and others are simply not following through with the requirements under the ACA.

In response to Representative Bandy, Ms. Felmley said the different levels of plans offered by the NMHIX differ in a variety of ways, including the amount of deductibles and copays. The catastrophic plan, only available to individuals under the age of 30, does not provide full coverage, but covers in the event of a major emergency or accident.

Representative Garcia Richard asked how many New Mexicans are underinsured. Ms. Felmley said that there is no real way to calculate this number, since being underinsured is such a changeable and relative situation. Someone might not realize they are underinsured until they need health care, and an individual's ability to cover their out-of-pocket expenses might be entirely relative to their economic status at a given time.

### **Wednesday, October 28<sup>th</sup>**

The following members and designees were present on Wednesday, October 28, 2015: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Mark Moores, Carroll H. Leavell, Howie C. Morales, George K. Munoz, Steven P. Neville, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano "Lucky" Varela, Nick L. Salazar, Paul C. Bandy, Jason C. Harper, George Dodge Jr., and Patricia A. Lundstrom. Guest legislator Representative Stephanie Garcia Richard.

### **Children, Youth and Families Department (690): Preview of FY17 Appropriation Request.**

Monique Jacobson, secretary of the Children, Youth and Families Department (CYFD), said a child must be alive, safe, connected, and prepared to be a contributing member of society to have quality of life. To carry out its mission, CYFD is implementing five strategies: 1) Shoring up core functions; 2) Expanding areas of prevention; 3) Improving communication and coordination with law enforcement; 4) Improving internal financial controls; and 5) Engaging the community. Secretary Jacobson mentioned a new community engagement initiative called Pull Together, which will launch in April 2016.

Secretary Jacobson talked about building a new child wellness center (CWC) that provides trauma-informed care to children who are victims of child abuse or neglect, reduces additional traumas that children experience when entering the protective services system, and gives staff who work in this emotionally and physically taxing field a safe, healthy environment to thrive and decompress. Secretary Jacobson described what the new facility would look like. In consulting with the General Services Department (GSD), CYFD proposed remodeling the Sunport Complex into a CWC. The facility may cost between \$25 million to \$30 million. The complex may provide available space to other agencies such as the Human Services Department.

CYFD's budget request for FY17 was then discussed. The agency requests a general fund increase of \$12 million for several initiatives including Pull Together. Four million is requested to create manageable caseloads for CYFD workers. The agency requests a special appropriation of \$6.5 million for the virtual desktop initiative, the CWC, and IT refresh.

In response to Representative Varela, Secretary Jacobson talked about implementing a quality rating system called Focus. The system will assess new facilities on their impact on a child's well-being. Representative Varela then asked about the foster parent initiative, which CYFD requests \$1 million for in FY17. Secretary Jacobson said the funding would increase the agency's ability to recruit the right type of foster parents.

Senator Munoz commented on grandparents raising kids. Secretary Jacobson said when CYFD receives custody of a child, the agency first looks at family placement. Secretary Jacobson said the Pull Together initiative will work to provide foster parents the assistance and support they need to foster.

In response to Representative Larrañaga, Ed Burckle, secretary of GSD, said the seller has agreed to sell the Sunport Complex at its appraised value of \$10.2 million. A facilities condition assessment determined that remodeling the entire complex may cost approximately \$18 million. Secretary Burckle said \$1.5 million in property reserve control funds and \$13.5 million in state building bond funds may help pay for the facility. Capital outlay funds will be needed. Secretary Burckle said an appropriation request to purchase the complex and move the CWC into its new facility will be determined by mid-December. Chairman Smith commented that state building bond funds cannot be used to purchase the complex. Chairman Smith said questions need to be resolved before considering the purchase. The seller purchased the complex in 2015 for 18 percent below the asking price. The complex has been mostly vacant for two years.

Senator Morales asked about employees getting paid more than the veteran employees who are training them. Secretary Jacobson said the State Personnel Office is currently working with CYFD and other agencies on current pay-rate structures.

Sharon Stover, chair of the Juvenile Justice Advisory Committee (JJAC), then briefly addressed the committee. Ms. Stover talked about the juvenile justice continuum model, which works to reduce the likelihood that youth in rural areas receive fewer services, or have less access to such services compared with those in urban areas. Programs administered under the model have served over 8,000 youth. Regarding the juvenile detention alternatives initiative (JDAI), CYFD has partnered with the New Mexico Supreme Court and the New Mexico Association of Counties, through a memorandum of understanding executed in May 2015, to embed JDAI's principles in the juvenile justice system.

**Capital Outlay.** Sonya Snyder, LFC fiscal analyst, presented the committee with the September quarterly update on outstanding capital outlay projects and the \$1 million or greater report. Ms. Snyder reported that as of September 2015 approximately \$1 billion from all funding sources for 2,845 projects remains unexpended. The unexpended balance includes \$1.65 million in earmarked fund balances, but does not include approximately \$460.7 million in supplemental severance tax bonds (STB) for public schools. Since the June 2015 quarterly report, 184 projects

closed with approximately \$91.6 million expended or reverted. Of the total unexpended balance, 3 percent is from the general fund, 65 percent is STB, 20 percent is general obligation bonds (GOB), and 12 percent is other state funds. Of funds authorized from general funds and STB only, \$277.1 million for state-owned projects and \$248.8 million for local projects remain unexpended. Two-hundred twenty-nine projects are currently being tracked in the \$1 million or greater capital outlay quarterly report. The projects total \$1.3 billion, of which \$784.8 million is unexpended. Ms. Snyder listed major projects completed, which included the geology building at New Mexico Tech, and the renovation of the Jack Williams building at Eastern New Mexico University.

Linda Kehoe, LFC principal analyst, continued the quarterly update and reported on projects with little or no progress. Ms. Kehoe mentioned \$4.5 million from the general fund originally appropriated in 2008 and reauthorized in 2013 and again in 2015 to address flood damage in Lincoln and Otero counties, nearly \$3.3 million remains unexpended. The Atrisco Community adult day care and respite facility project was originally funded for \$1 million in 2010. Although the funds were reauthorized in 2014, they remain unexpended.

Ms. Kehoe then reported on water projects funded. In 2014, \$83.4 million was authorized for water projects statewide in the capital outlay bill. So far only 10 projects have been completed and \$74.8 million remains unexpended. Appropriations made for projects \$1 million or greater appear to be making the most progress. Of 102 projects totaling nearly \$18.6 million authorized but unissued following the September 29 bond sale, 32 entities in 15 counties are not compliant with Executive Order 2013-006, resulting in 33 projects totaling approximately \$1.7 million being “ineligible” for bond issuance. The majority of projects are for water systems (nine) and acequias (10).

Ms. Kehoe directed members to a new summary and quarterly report staff compiled for tracking local projects ranging between \$300 thousand and less than \$1 million. There are 951 outstanding local projects authorized between 2012 and 2014 totaling \$148.9 million. Ms. Kehoe pointed out 46 percent of funds authorized in 2012 remain unexpended, and 77 percent of funds authorized in 2013 remain unexpended. The summary did not include an additional \$95.5 million for 841 projects authorized in the 2015 special session. Ms. Kehoe highlighted select projects that were progressing or closed and stressed the importance for agencies and local entities to update the Capital Projects Monitoring System quarterly.

Ms. Kehoe then provided a snapshot of 2016 capital outlay requests. Ms. Kehoe stated economists are still determining available resources for capital outlay capacity, the “preliminary” estimates for net senior severance tax bond (STB) capacity available for new projects is approximately \$160 million to \$175 million with approximately \$170 million general obligation bond capacity available for higher education, senior center, and library capital need. Based on Infrastructure Capital Improvement Plans and executive capital outlay hearings, state agencies and higher education institutions are requesting \$280.3 from severance tax bonds, \$297.8 million from general obligation bonds, and \$29.1 million from other state funds for FY17. Ms. Kehoe listed major requests from state agencies to continue projects, for new construction, and to address critical health and safety issues. The Corrections Department is requesting \$36.2 million, and the Department of Health is requesting \$24.4 million. Regarding GOB requests, higher education

institutions, tribes and special schools requested \$251.7 million for new construction, major renovations, or other infrastructure. Included in member's packets were guidelines for funding local capital projects.

In response to Senator Cisneros, Ms. Kehoe said LFC staff is no longer able to provide legislators a report on projects listed by sponsor. Legislators must now obtain the information from Legislative Council Service. However, a legislator may sign an authorization to allow LFC staff to work on their specific projects.

Senator Cisneros asked about Children, Youth and Families Department (CYFD) purchasing the Sunport property. Ms. Kehoe said she met with the secretary of the General Services Department (GSD), Ed Burckle, in August to discuss the acquisition. Ms. Kehoe said at the meeting, Secretary Burckle indicated the acquisition was a priority of the executive, specifically the governor. LFC staff, including Director Abbey and Ms. Kehoe, later toured the property and met with the brokers. At that time, LFC staff was told the purchase price was \$10.6 million. Because of staff concerns, Ms. Kehoe then provided GSD a set of questions. Concerns include the cost of renovations, the lack of commitment from other state agencies to move to the property if purchased, and if GSD searched for other properties available in Albuquerque. GSD is in the process of gathering data in response to the concerns.

Representative Harper requested a report on 5-year-old projects that have no funds expended.

Representative Larrañaga asked Ms. Kehoe her opinion on a report done by Think New Mexico on reforming capital outlay. Ms. Kehoe said, while she agrees in the need to reform capital outlay, the task would be too large to do during one legislative session.

**Program Evaluation: Health Insurance Exchange Operations.** Michelle Aubel and Brenda Fresquez, both program evaluators for LFC, presented the report *Status of New Mexico Health Insurance Exchange Performance and Operations*. The evaluation assessed the status of the New Mexico Health Insurance Exchange (NMHIX) operations compared with key objectives and statutory requirements; reviewed budget allocation and expenditures; and examined the information technology (IT) planning, project management, oversight, and security components. An estimated 430 thousand New Mexicans did not have health insurance in 2012, almost one in five New Mexicans. The Medicaid expansion and health insurance exchange created under the federal Affordable Care Act was expected to reduce the number of uninsured.

NMHIX has spent \$78 million with limited benefits to taxpayers. Marketing was costly with low resulting enrollment, and the investments in IT did not result in a full implementation of the individual exchange.

Although NMHIX helped accelerate Medicaid expansion, enrollment in the exchange remains below estimates. The latest count sits at 44 thousand out of an estimated pool of 180 thousand qualifying residents and roughly 150 thousand eligible for subsidies. The state's penetration rate of 28 percent compares with the national average of 36 percent.

New Mexico is the only state-based exchange that did not initially implement its own marketplace and remains on the federal platform, HealthCare.gov. Three other states have moved or are considering moving from their dysfunctional platforms to this federally supported model. NMHIX did implement its small business marketplace, enrolling 877 people as of March 2015 at a high cost of \$21 thousand per person.

Governance structure holds risks for conflicts of interest and lack of transparency. Exemptions from most statutory and regulatory requirements likely led to procurement issues, noncompliance with federal rules, and higher costs. As remaining grant funding is spent, federal oversight has the potential to decline, leaving the NMHIX with little official review. Most notable, the NMHIX is not subject to the Audit Act.

Based on evaluation results, the report included a series of recommendations to improve business processes, transparency, and outcomes. These include enhanced website content, comprehensive procurement procedures, added coordination with stakeholders for heightened outreach, revised IT oversight, and revised performance measures tied to enrollment. Costing an estimated \$15 million a year to operate, options to restructure the NMHIX to reduce overhead might be needed if enrollment remains low. The report also recommended the Legislature consider amending statute to make NMHIX subject to the state Audit Act.

Dr. J.R. Damron, chairman of NMHIX, responded to the report and said New Mexico's insurance market works. He added it can be improved rather than disrupted. By statute, the superintendant of insurance must serve on the NMHIX board. The Office of the Superintendant of Insurance (OSI) continues to regulate all insurance products within the state. It is NMHIX's mission to expand access of high quality and affordable health care insurance to New Mexicans. Mr. Damron said he is proud of the work the board and staff has done to enroll more than 44 thousand people into the exchange. Mr. Damron said the LFC report contained misinformation and incorrect data.

Amy Dowd, chief executive officer of NMHIX, then addressed the committee, first directing members to NMHIX's written response printed in the report. Ms. Dowd's discussed a difference of opinion on the report findings. Ms. Dowd said NMHIX is delivering on its mission. NMHIX is preparing for its third open enrollment period. Forty-four thousand people are expected to renew plans. Following lessons learned from the first open enrollment period, NMHIX refocused its marketing strategy. The exchange is working on its efforts to reach the uninsured. Ms. Dowd said there has been significant cost savings by using the federal platform. NMHIX has established a financial sustainability model. Governance processes have been put into place to meet requirements of the Legislature. Ms. Dowd said the LFC report contained misinterpretation of facts and incorrect attributions of data that have significant implications for the observations of the report. Ms. Dowd reported on the progress of NMHIX and said the exchange is moving forward on a successful path.

In response to Senator Leavell, Ms. Dowd said the following health insurance companies offer products on the individual exchange: Christus, Presbyterian, New Mexico Health Connections, and Molina. New Mexico Health Connections is a co-op. Senator Leavell expressed concern about PPOs not being available to people who live in the south-east New Mexico. The

superintendent of insurance determines what plans are offered on the exchange. Ms. Dowd said provider networks are shifting and there are more options available to people.

Representative Varela suggested legislators consider LFC's recommendation to amend statute to make NMHIX subject to the Audit Act. Ms. Dowd said the exchange is required to do an external financial audit annually. An A-133 audit is also conducted to ensure NMHIX is appropriately expending grant funds. Ms. Dowd said CMS also conducts various audits on the exchange.

In response to Senator Munoz regarding enrollment numbers as of February 2015, Ms. Aubel said approximately 7 thousand people, or 20 percent, did not renew from the prior year. Ms. Dowd said there are a variety of reasons why an individual does not renew. Some may start receiving coverage through employment.

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

The following members and designees were present on Thursday, October 29, 2015: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Mark Moores, Carroll H. Leavell, Howie C. Morales, George K. Munoz, Steven P. Neville, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano "Lucky" Varela, Nick L. Salazar, Paul C. Bandy, Jason C. Harper, Stephanie Garcia Richard, and Patricia A. Lundstrom. Guest legislators: Senators William F. Burt, Mary Kay Papen, and Benny Shendo Jr.

**New Mexico Finance Authority Budget Overview for FY16.** Robert Coalter, chief executive officer of the New Mexico Finance Authority, said NMFA finances local infrastructure projects and provides financing for economic development purposes and other community development projects. Mr. Coalter said bond ratings are more important than ever, with the contingent liquidity account serving as a rating credit enhancement for the program that ensures the availability for the most economically disadvantage communities.

Robert Brannon, chief financial officer of NMFA, said in FY15, 163 projects totaling \$199 million closed compared with 170 projects totaling \$188.7 million closed in FY14. The number of planning grants increased to 43 projects from only 11 in the previous year. Mr. Brannon then pointed out NMFA's audit findings status matrix and indicated NMFA's internal audits are underway. The system implementation for loan origination (SILO) is in progress. NMFA's FY16 budget reflects an overall 5.4 percent increase. In reporting FY15 approved operating budget to actuals, Mr. Brannon said employee vacancies resulted in decreased personnel expenses. The internal audit contract came in less than budgeted, therefore, lowering professional services costs. Grant revenue and expenses have increased. Initiatives in FY16 include increased travel time for lending officers to make contact in communities and to hire a compliance officer to begin the process of creating a compliance department. In another initiative, NMFA will make investment in website and servicing resources to better serve entities and report to stakeholders.

In response to Senator Leavell, Mr. Brannon said the majority of tax bonds are tax exempt and are currently at a rate of 3.4 percent for 20 years.

In response to Senator Cisneros, Mr. Coalter said he would provide the committee a copy of its annual report on colonias projects.

In response to Senator Munoz, Marquita Russel, chief of programs, said there is an equity requirement for all programs dealing with businesses. NMFA's policy on the new market tax credit program requires a 5 percent equity contribution for transactions less than \$10 million, and 10 percent for transactions greater than \$10 million.

Representative Hall asked about proposed legislation authorizing NMFA to issue loans from the public project revolving fund. NMFA staff said a listing of eligible entities proposing to request financing from the fund requires legislative authority on an annual basis.

**Indian Affairs Department (609).** Kelly Zunie, secretary of the Indian Affairs Department (IAD), said IAD implemented nine special projects that targeted the youth, elders, and veterans in FY15. Secretary Zunie mentioned the Jemez Self Help program. Also in FY15, the agency implemented eight tobacco cessation projects, which were funded through the Tobacco Use Prevention and Control program.

Secretary Zunie then talked about restructuring the agency. IAD has placed its focus on tribal infrastructure. Secretary Zunie talked about how critical the tribal infrastructure fund (TIF) is for tribes. Secretary Zunie noted that funding for a TIF project is not fully expended until it's complete, which often takes two to four years. IAD is working closely with the Tribal Infrastructure Board and tribes to expedite projects and expend dollars. To date, \$83 million has been awarded for TIF projects. The program has assisted 77 tribal communities. Thirty-two projects were funded in FY15, totaling \$14.3 million. IAD has hired additional management personnel to manage the program. The agency's current vacancy rate is 14 percent.

The 2015 State Tribal Leaders Summit was held in July. People from New Mexico's tribes, nations, and pueblos networked with state agencies and leadership met with the governor. Secretary Zunie said for the first time, a triplicate form was used in an effort to record and ensure accountability of discussions. Even though the summit was held on the first two days of FY16, its cost was paid in FY15. The secretary noted that due to the limited availability of executive staff, the agency needs to hold two State Tribal Leader Summits; therefore, the agency is requesting an FY15 supplemental of \$25 thousand.

Senator Benny Shendo Jr. then addressed the committee. Senator Shendo talked about the self-help housing pilot project. Funding for the project is in partnership with the IAD, Department of Energy and Natural Resources-Bureau of Indian Affairs, and Jemez Pueblo. The project has also received capital outlay funding. Senator Shendo said the project allows a home to be built with cultural relevancy. Capital outlay was used to purchase adobe block machines. Senator Shendo requested a budget increase of \$150 thousand in FY17 for the project. Senator Shendo said there is a need for 300 new homes.

In response to Representative Bandy's questions regarding construction techniques, Senator Shendo said because stucco may allow moisture to be trapped between the exterior shell and the adobe, a plaster is being designed to be used on exterior walls instead of stucco.

In response to Representative Salazar, Secretary Zunie said although the TIF board meets quarterly, it only approves projects and makes awards once a year. Senator Munoz requested a list of TIF Board members and the attendance record at board meetings from the previous two years. Board members include the cabinet secretaries from the IAD, Department of Finance and Administration, Environment Department, and the Department of Health. Secretary Zunie said IAD is happy to meet with legislators throughout the year and answer questions on projects.

In response to Representative Larrañaga, Secretary Zunie said with new project management personnel hired and a new automated system that tracks projects, the time it takes to complete a project will improve.

**Veterans' Services Department (670).** Brigadier General Jack Fox, secretary of the Veterans' Services Department (VSD), presented the agency's FY17 appropriation request. Secretary Fox reported that \$1.5 million was spent in FY14 to serve more than 171 thousand veterans who live in the state. New Mexico has received about \$80 million in federal funds for education, training, on-the-job (OJT) training, and apprenticeship programs for its veterans. Secretary Fox highlighted new initiatives. Ground breaking will occur at Fort Stanton state veteran cemetery in November 2015. DVS is developing a program for women veterans. DVS received \$6 million in federal funds for the Fort Stanton cemetery, a \$2 million federal grant for the Rural Veterans Coordination Pilot (RVCP) program, and a \$250 thousand grant from the Small Business Administration. To manage the programs and money well, Secretary Fox said DVS needs additional personnel, especially in its Administrative and Financial Services Division. DVS requests funding for an additional 8 FTE for FY17. The agency's overall budget request for FY17 is \$5.4 million, an increase of almost \$600 thousand over FY16's budget. Secretary Fox concluded with an overview of FY15 performance measures. DVS's field offices served over 36 thousand veterans in FY15.

In response to Senator Leavell, Secretary Fox said Carlsbad is on the list after Gallup for construction of a veteran's cemetery. Construction of the veteran cemeteries may take 18 months to complete.

Senator Cisneros asked about creating a benefit package for New Mexico's retired veterans. Secretary Fox said to keep retired veterans in New Mexico, which he said is critical to job development and growth, the state may want to consider creating a benefit package that is competitive. Senator Burt commented that 95 percent of veterans who retire from the military in New Mexico leave the state.

In response to Representative Hall, Secretary Fox said all the veteran cemeteries are built to the Veterans' Administration specification. The sites will all have a visitor's center and a reception area.

**Public Defender Department (280).** Jorge Alvarado, chief public defender, said a properly funded defense is important because the assistance of counsel is considered a fundamental right in the U.S. Constitution. A chart in the presentation showed the judicial system agencies budget growth from FY13 to FY16. Budget growth has significantly increased for all agencies. Budget growth for the Public Defender Department has increased by 20 percent. Mr. Alvarado said that

while FY16 appropriations reduced the funding gap by 10 percent, a \$20.3 million funding gap remains. Mr. Alvarado talked about the differences between the district attorney offices and the Public Defender.

Mr. Alvarado then summarized the agency's FY17 budget request. PDD requests a base increase of \$2.3 million. The total request of \$43.8 million includes \$30.8 million for contract counsel compensation, \$9.7 million for personnel, and \$800 thousand for employee compensation.

Mr. Alvarado talked about contract counsel. The commission has determined the reasonable rate for a contractor is \$85 an hour. Although improved, the increased hourly rate has not been enough to attract an adequate number of attorneys in some counties. Also an issue is the number of cases an attorney takes to take care of the expenses of running an office and providing staff. As indicated by Judge James Waylon Counts, the more cases an attorney has, the more likely they must "meet and plead" defendants.

In response to Representative Bandy, Mr. Alvarado said approximately \$400 thousand is recovered from reimbursement contracts each year.

Representative Varela expressed concern for the oversight of the PDD, which was originally under the executive, but is now under the commission. Mr. Alvarado said the purpose of the transition was to create a true provision of indigent defense representation.

In response to Representative Varela, Mr. Alvarado said the PDD is no longer under the Personnel Act and has adopted its own personnel rules. PDD's personnel plan is posted online. Currently, there are 65 vacancies.

## **Miscellaneous Business**

### **Action Items.**

*Approval of LFC Minutes – August 2015.* Senator Cisneros moved to adopt August's meeting minutes, seconded by Representative Larrañaga. The motion carried.

*Approval of LFC Minutes – September 2015.* Senator Cisneros moved to adopt September's meeting minutes, seconded by Senator Smith. The motion carried.

### **Information Items**

#### **Review of Monthly Financial Reports**

David Abbey, director of LFC, briefed the committee on information items.

### **Friday, October 30<sup>th</sup>**

The following members and designees were present on Friday, October 30, 2015: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, William F. Burt, Carroll H. Leavell, Howie C. Morales, George K. Munoz, Steven P. Neville, and Pete Campos; and Representatives Larry A. Larrañaga, Luciano "Lucky" Varela, Nick L. Salazar, Paul C. Bandy, Jason C. Harper, Stephanie Garcia Richard, and Patricia A. Lundstrom. Guest legislator Senator Mary Kay Papen.

**Public Schools Insurance Authority (342).** Sammy Quintana, executive director of the New Mexico Public Schools Insurance Authority (NMPSIA), began with the agency's overall appropriation request for FY17. NMPSIA requests that \$17.8 million be appropriated to Public School Support for the employer's share of increased insurance premiums. The request is a 1.5 percent increase over FY16. Mr. Quintana then reported on the claims incurred but not reported and fund balance. As of September 30, 2015, the unaudited fund balance is \$30.8 million for employee benefits, and \$4.2 million for risk. A chart in the handout showed the history of risk premiums billed versus fund balance. Mr. Quintana listed property and liability and workers' compensation exposures. For property, assets insured are in excess of \$21 billion. Compared with other government entities, NMPSIA has lower cost per indemnity claim and lower cost per medical claim.

Mr. Quintana then talked about NMPSIA's loss prevention program. The program addresses several areas including ergonomics and threat assessment and active shooter. The program provides training on identifying a predator and bullying prevention. Mr. Quintana said the program has proven to be effective and pointed out that a recent WalletHub study indicated New Mexico ranks third in school safety.

Ernestine Chavez, deputy director of NMSIA, then reported on benefits. NMPSIA requests \$336 million for the employee benefits fund for FY17, an increase of \$26 million over FY16's budget. Ms. Chavez explained that high dollar claims have increased and there is a dramatic increase in prescription drug use, especially for specialty drugs. On October 1, 2015, medical premiums increased to 4 percent. If claims do not improve for medical and prescription drugs, premiums may increase to 16 percent. Ms. Chavez talked about the additional challenges the benefits program faces, such as the costs associated with the Affordable Care Act (ACA). NMPSIA paid \$2.7 million in reinsurance and Patient-Centered Outcomes Research Institute fees in FY15. Managing provider payment increases has also been a challenge. Ms. Chavez concluded with a summary of plan changes expected to take place January of 2016.

Chairman Smith noted a \$17.8 million increase for Public School Support for premium payment.

In response to Representative Bandy, Ms. Chavez said there are fewer drug manufacturing companies in operation. Because there is less competition, drug companies are able to increase their prices. Ms. Chavez suggested federal legislation to regulate prices of drug manufacturers.

In response to Representative Larrañaga regarding the Albuquerque Public Schools (APS), which is independently insured, Mr. Quintana said insurance premiums for APS are lower. Mr. Quintana explained that by being in a metropolitan area, their risk is lower. For example, NMPSIA has some schools that are 70 miles away from a volunteer fire department. From a benefits perspective, Albuquerque has access to more doctors.

**Retiree Health Care Authority (343).** Mark Tyndall, executive director of the Retiree Health Care Authority (RHCA), said the trust fund, currently about \$419 million, is solvent until 2035. Contribution levels still need to be addressed. Mr. Tyndall then reported on actions of the board. The subsidy associated with the basic life insurance program will be phased out. Beginning in

2018, members will cover one-quarter of the premium. Member contribution for the premium will continue to increase yearly by one-quarter, until fully covered by members starting in 2021.

Mr. Tyndall then discussed the agency's FY17 appropriation request. RHCA requests \$326 million, a 10 percent increase over FY16's operating budget. Four percent of the increase is for membership growth. The request also includes \$80 thousand for an additional 2 FTE, and \$140 thousand for contractual services to support actuarial and accounting services related to reporting requirements contained in GASB Statement 74 and 75.

In response to Representative Varela, Mr. Tyndall said there will a premium increase of 8 percent for pre-Medicare. Mr. Tyndall pointed out that because the subsidy level is being reduced by 1 percent, the increase is actually about 9 percent. For the premier plan, the premium will increase from \$157 a month to \$174 a month. In response to Representative Hall, Mr. Tyndall said it is unclear whether rates will increase for basic life. However, industry trends for life insurance rates are on a downward trend.

**Racing Commission (469).** Vince Mares, acting executive director of the Racing Commission, began with the agency's FY17 appropriation request. The request, essentially flat, includes \$165 thousand for personnel, an increase over FY16. Currently, there are three vacancies. Mr. Mares reported that progress has been made by the commission in its regulatory oversight. The commission hired an auditor in 2015. Mr. Mares said the auditor will work with the tracks and the Gaming Control Board to ensure gaming revenues allocated to horseracing purses coincide.

A bill passed by the Legislature in 2015 increased funding for the commission's initiatives, including testing more horses. Mr. Mares reported that 7,691 tests were performed in FY15. Two-hundred forty-two horses tested positive for an illegal substance. Mr. Mares said the testing barns are not large enough to accommodate the number of horses being tested, which potentially poses a liability issue. As result, the commission is working with some tracks to do off-site testing. The number of out-of-competition tests has also increased significantly. The commission has suspended the use of clenbuterol in horses because several necropsies have revealed it was a cause of death.

Mr. Mares updated the committee on the backlog of cases. Another hearing officer has been hired and the backlog of cases has been greatly reduced. Ninety-six cases were adjudicated in FY15. Also in FY15, the commission issued over 4,000 licenses, which generated \$312 thousand for the general fund.

Mr. Mares concluded with commission efforts to improve its auditing practices. The commission is developing a standard operating procedure for audit services to improve all areas of the continued audit of each race track and live simulcast revenues. The newly hired auditor is working with race track staff on standardization reports and is receiving weekly gaming reports.

In response to Senator Burt, Mr. Mares said because of due process, a horse that has tested positive for an illegal substance is still allowed to race until a formal hearing is held. If the hearing finds the horse to be in violation, a sanction and fine is imposed.

In response to Senator Papen, Mr. Mares said the agency follows the Association of Racing Commissioners International (ARCI) rules and recommendations on testing. It costs \$159 to test a horse, which includes a urine and blood plasma sample.

In response to Representative Bandy, Mr. Mares said if a winning horse tests positive for an illegal substance, the prize money is withheld until the case is adjudicated.

In response to Chairman Smith, Mr. Mares said the agency is working with the Gaming Control Board on the confidentiality issue. Waivers have been requested from the Gaming Control Board and race tracks to allow the commission to obtain information for auditing purposes. Representative Hall requested that the commission write a letter to the Attorney General's Office requesting that the office advise the commission on whether the Gaming Control Board is able to share confidential information with the State Racing Commission for purposes of reconciling financial data. Senator Cisneros said the response might be expedited if the request came from LFC. The committee then voted in favor of sending a letter to the Attorney General from the committee. The letter will also request that the office advise the committee about any potential conflicts of interest between the State Racing Commission and Gaming Control Board that have arisen from the State Racing Commission chair's membership on the Gaming Control Board.

**Gaming Control Board (465).** Donovan Lieurance, acting executive director of the Gaming Control Board (GCB), updated the committee on agency activity and presented the FY17 budget request. GCB regulates New Mexico's casinos and gaming operations for veteran, fraternal, and nonprofit entities to ensure gaming is being conducted in a manner compliant with the Gaming Control Act, Bingo and Raffle Act, and corresponding board regulations. GCB processed 1,164 licenses and permits in FY15, and 116 audit inspections were conducted. In FY15, the state received \$139 million in revenue from gaming taxes, revenue share payments, and regulatory fees. Racetrack casinos and tribal gaming have contributed \$1.7 million to compulsive gambling. Veteran, fraternal, and nonprofit operators have contributed \$1.9 million to educational charities.

Mr. Lieurance talked about the auditing of horse racing purses, conducted by GCB staff. The agency is working on a process to share information on net revenue with the Racing Commission. Currently, the information is confidential per the Gaming Control Act.

Mr. Lieurance then presented the agency's FY17 appropriation request. The request, relatively flat, includes a 2.9 percent increase for personnel. The increase is primarily due to higher insurance rates. GCB will again request reauthorization of a special appropriation for tribal gaming litigation. The vacancy rate is currently 10 percent. Mr. Lieurance mentioned the board's difficulty in filling the executive position.

In response to Chairman Smith, Mr. Lieurance said he's been the acting executive director since December 2014. Mr. Lieurance, who also serves as the agency's IT director, has worked for the agency for 17 years.

In response to Representative Garcia Richard, Mr. Lieurance said the Bingo and Raffle Act requires the sale of pull tabs during a bingo occasion. Mr. Lieurance noted that previous

management issued stand-alone licenses for pull tabs only, not allowed under the act. The board might be amending the act on issues that impact small organizations, like the Elks Club.

In response to Representative Lundstrom, Mr. Lieurance said the executive director position requires five years of management experience in gaming. Board member positions have a salary cap of \$85 thousand. Mr. Lieurance said the salaries of most executive directors in gaming jurisdictions around the country are over \$100 thousand.

Senator Cisneros asked what the status is of two currently pending federal cases. Mr. Lieurance said in the case of *New Mexico v. U.S. Department of Interior, et al.*, oral arguments occurred in September and a decision is pending on whether Pojoaque Pueblo will be allowed to conduct class three gaming without a state gaming compact. In the other case, *Pueblo of Pojoaque v. State of New Mexico*, a temporary injunction was filed by the judge, which is set to expire 30 days after a decision is rendered in the other case.

**Public Regulation Commission (430).** Karen Montoya, chairwoman of the Public Regulation Commission (PRC), first reported on current activity and then presented the agency's FY17 appropriation request. PRC is working on an increased number of cases, many of which involve major utilities. Cases include the PNM San Juan abandonment application, the New Mexico state universal service fund rulemaking, Century Link's transition to a midsize carrier, and the formulation of regulation involving Uber and Lyft. The increased number of cases has placed pressure on staffing levels. Ms. Montoya said as result of the increased demand, PRC will request language to allow program transfer authority of \$500 thousand to cover a budget shortfall in personnel for FY16. For FY17, PRC requests an overall base increase of \$925 thousand for the Policy and Regulation Program and Program Support.

On behalf of the New Mexico Gas Company, Tom Domme, senior vice president, briefly addressed the committee. Mr. Domme said if PRC is not appropriately funded, cases run the risk of being compromised. Mr. Domme said that by sufficiently funding PRC, New Mexico Gas Company is able to provide better service to its customers.

In response to Senator Leavell regarding vacancies, Ms. Montoya said PRC will be filling the chief of staff position and the utility division director position in November. Other vacancies will be addressed after that. Vacancy savings have been used for contractual services. Representative Varela suggested PRC look for ways to leverage funds.

In response to Chairman Smith, Ms. Montoya said other sources of revenues come from the reproduction fund, the fire protection fund, and pipeline safety fund. Chairman Smith commented that when considering technologies, utility requirements, and the expertise needed, the responsibilities carried out by PRC have not historically been adequately funded.

In response to Representative Hall, Ms. Montoya said PRC's audit is currently in progress and should be completed by December. Ms. Montoya was not sure when it will be released to the public. Ms. Montoya said she would get Representative Hall information on the audit findings from last year's audit.

**Carlsbad Brine Well.** David Martin, secretary of the Energy, Minerals and Natural Resources Department (EMNRD), and Jim Griswold of the Oil Conservation Division (OCD), reported on New Mexico's brine wells generally and more specifically on a brine cavern in Carlsbad. A brine well is a solution mining operation for salt. Significant salt layers exist in southeast New Mexico. Brine wells serve a critical role in oil and gas drilling but result in underground caverns due to the removal of salt.

Mr. Griswold reported that in 2008, two brine wells failed, one near Artesia and another near Loco Hills. In minutes, the surface holes opened several hundred feet wide and several hundred feet deep. There was also extensive disturbance to the landscape and surrounding structures beyond the open hole. After the first brine well failure in July 2008, Mr. Griswold was tasked with reviewing all historic brine well operations in New Mexico. Mr. Griswold found that the I&W brine well in Carlsbad shares the same geologic and operational characteristics as the two failed wells. OCD notified the operator of the well of its concern and I&W was forced to comply with safety measures but later filed for bankruptcy. The state has since established a monitoring system to characterize the cavern. If the cavern collapsed, it would affect roads, a railroad, a church, a mobile home park, and an irrigation canal. OCD contracted an engineering firm to review the monitoring system, ascertain information on the characterization of the cavern, and assist in a feasibility study. The engineering firm stated, "The statistical evaluations of probability of failure and cavern lifespan indicate a high probability of catastrophic failure within 10 to 25 years. There is limited time to take action to prevent cavern failure and continued surface subsidence." Mr. Griswold then briefed the committee on four possible options revealed in the study. Options include a controlled collapse or filling the cavern in place.

Secretary Martin talked about the best way to move forward. Local stakeholders have proposed establishing an authority to oversee remediation of the cavern. The committee received a discussion draft of a bill to establish the authority and provide a \$150 thousand for the Carlsbad brine well remediation fund.

In response to Representative Garcia Richard, Mr. Griswold said requirements have been modified for new brine wells.

In response to Senator Bandy, Secretary Martin said the orphan well fund, which may be used to address the situation, currently has a balance of \$10.5 million. Secretary Martin said it is critical to have the engineering study done to better understand cost of options. Senator Smith commented that covering the cost will be both a state and local responsibility.

With no further business, the meeting adjourned at 12:45 p.m.

  
John Arthur Smith, Chairman

  
Jimmie C. Hall, Vice Chairman

Senator John Arthur Smith  
Chairman

Senator Sue Wilson Beffort  
Senator Pete Campos  
Senator Carlos R. Cisneros  
Senator Carroll H. Leavell  
Senator Howie C. Morales  
Senator George K. Munoz  
Senator Steven P. Neville

*State of New Mexico*  
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David Abbey  
Director



Representative Jimmie C. Hall  
Vice-Chairman

Representative Paul C. Bandy  
Representative George Dodge, Jr.  
Representative Jason C. Harper  
Representative Larry A. Larrañaga  
Representative Patricia A. Lundstrom  
Representative Nick L. Salazar  
Representative Luciano "Lucky" Varela

October 28 and October 29, 2015

**MEMORANDUM**

**TO:** Legislative Finance Committee

**FROM:** Subcommittee A

Senator Carlos R. Cisneros, Chair *CRC*  
Representative Paul C. Bandy, Vice-Chair *PS*  
Representative Patricia A. Lundstrom  
Representative Nick L. Salazar  
Senator Carroll H. Leavell  
Senator Steven P. Neville  
Senator George K. Muñoz  
Senator Mary Kay Papen  
Representative Stephanie Garcia Richard  
  
Senator John Arthur Smith, Ex-officio  
Representative Jimmie C. Hall, Ex-officio

**SUBJECT: Subcommittee A Report**

*The Subcommittee met on Oct 28, 2015 and reviewed the following:*

***COURTS:***

(205) **Supreme Court Law Library.** Head Librarian Lynn Rhys presented the budget request of the law library, which included compensation increases for all positions and increases for the maintenance of a contract supporting a legal research database, and for increased operational expenses. Senator Munoz asked about the use of vacancy savings in FY15 to fund some much needed projects and Ms. Rhys confirmed that all positions are filled and there will be no savings. Senator Cisneros asked about the library's ability to request general obligation bonds and Arthur Pepin, Director of Administrative Office of the Courts, stated the Supreme Court requests all capital funds for the library since it is housed in the same building.

- (208) **NM Compilation Commission.** Brenda Castello, director, presented the budget request of the Compilation Commission. The request does not include any money from the general fund because all program revenues come from product sales and a transfer from the Legislative Council Service. Ms. Castello said that the commission is evaluating ways to replace decreasing filing fees with other revenues. Senator Munoz asked about fund balances and Ms. Castello said that there is \$1.1 million remaining, of which \$200 thousand is budgeted for use in FY16.
- (210) **Judicial Standards Commission.** Joyce Bustos, Chairwoman of the Judicial Standards Commission, presented a budget request that provided full funding for all currently filled positions. Ms. Bustos stated the commission received 233 complaints in FY15. Krista Ganes-Chavez added the importance of fully funding the investigator position. Senator Munoz asked what the current and requested salary of the investigator positions is and what the current fund balance is. Ms. Ganes-Chavez stated that the current salary is \$49.4 thousand and the request is \$62.8 thousand, and the fund balance is \$1,500 which will be used in FY16.
- (215) **Court of Appeals.** Chief Judge Michael Vigil presented the request of the Court of Appeals, which included an increase of \$400 thousand. The judge explained the court is requesting full funding for all FTE, raises according to the unified budget proposal, and funding for increased General Services Department rates. Judge Vigil also stated the court requested funding to computerize the filing system since it is the only court aside from magistrates still using a fully paper system.
- (216) **Supreme Court.** Chief Justice Barbara Vigil presented a summary of the judiciary's overall budget request, which would make up 2.7 percent of the entire general fund appropriation. Following her presentation, Joey Moya, chief clerk, added the entire request is based on personnel increases, to fill vacancies and give raises to employees. He stated increases in contracts and other costs are due to inflationary adjustments.
- (219) **Supreme Court Building Commission.** The request of the Building Commission included sufficient funding to give raises to all employees and reduce vacancies. Chief Clerk Joey Moya stated the commission would be asking for a special appropriation for a grounds study due to evidence of the building's foundation sliding. Representative Bandy asked if the commission had enough funds to stucco the building and Chief Justice Vigil stated the funds are sufficient, but asbestos has been found which means extra time and resources. Representative Bandy asked about deferred maintenance projects and Mr. Moya said that the commission has been working on a list of deferred maintenance since the 1990s and the stucco project is the last. Mr. Moya stated the commission will be creating a new list in the upcoming year.

***PUBLIC SAFETY:***

- (354) **New Mexico Sentencing Commission.** Tony Ortiz, director, was in attendance and discussed the commission's flat budget request, the New Mexico Results First Initiative, the commission's annual report, and prison population forecasting.
- (705) **Department of Military Affairs.** Andrew Salas, Adjutant General, presented the department's \$24.4 million budget, including \$175 thousand for increased service members group life insurance premium rates and a \$1.6 million expansion request to create a second New Mexico Youth Challenge Academy (NMYCA) in northern New Mexico. Members of the committee commented on the efficacy of the NMYCA program and commended the department for the programs' continued success.
- (760) **Parole Board.** Sherry Stephens, executive director, presented the board's budget request of \$524.9 thousand. Ms. Stephens explained to the committee the requested additional travel costs are a result of an Attorney General opinion requiring that three members be present at revocation hearings, rather than two, and additional parole hearings being held.
- (765) **Juvenile Public Safety Advisory Board.** Annette Romero, Children, Youth and Families Department (CYFD) deputy administrative services director, was in attendance to represent the board. The board requested a flat budget of \$15 thousand as compared with FY16 appropriations.
- (780) **Crime Victims Reparation Commission.** Frank Zubia, director, was in attendance and discussed the commission's \$13.7 million budget request, including \$2.5 million in general fund revenues. The director explained the 43 percent increase in federal funds was due to a \$5 million grant received from the federal Victims of Crime Act to provide additional services to victims. Senator Munoz asked what services the commission funds. Mr. Zubia responded hospital, funeral, and loss of wage costs are types most frequently paid. Senator Munoz also inquired about costs of serving the Native American population which were expected to increase compared with last year. Mr. Zubia responded the costs did not grow as anticipated because Indian Health Services was deemed the payer of last resort and not the commission.
- (795) **Department of Homeland Security.** Jay Mitchell, secretary, presented the request for \$3.2 million from the general fund, including increases in radio tower maintenance costs and decreases in federal revenues, as well as a \$150 thousand expansion request to implement a statewide mass notification system. Senator Leavell asked about the department's involvement in funding for flooding in Lea County. Mr. Mitchell responded that the county received \$68 million in Federal Emergency Management Agency funding and that work has started; Eddy County also received \$45 million for the same disaster. Representative Lundstrom inquired how the department is addressing high vacancy rates in critical areas as well as the department's involvement in mitigation funding at local levels. Mr. Mitchell explained efforts to correctly describe, allocate and classify work being performed by employees within the department to increase retention of employees. Mr. Mitchell reported that the agency works closely with localities receiving federal disaster funding but that high vacancies make the task difficult.

*The Subcommittee met on Oct 29, 2015 and reviewed the following:*

***ECONOMIC DEVELOPMENT:***

- (417) **Border Authority.** Director Bill Mattiace thanked the committee for visiting the border in September and reported activity levels at the ports of entry continue to grow. David Espinoza, also with the Border Authority, reported the budget request is essentially flat compared with the FY16 operating budget.
- (490) **Cumbres and Toltec Scenic Railroad Commission.** LFC staff noted concerns regarding ridership, operating revenue, and expense information supplied by the agency. Commission Chair Randy Randall reported train operations are performing well, and the train made a profit in FY15. He said the agency is requesting a high percentage increase in general fund support to assist with insurance payments and reported Colorado has substantially increased funding for the agency during the last three years. Mr. Randall stated the train is running at about a 77 percent occupancy rate in the two upgrade cars and about 50 percent in the coach cars. Committee members asked questions about ridership and the relationship with the Durango and Silverton train. Mr. Randall said more people depart from Chama, NM than Antonito, CO, and the proportion of customers who buy tickets to travel the entire distance rather than halfway is rising. He reported the owners and operators of the Durango and Silverton train operated the Cumbres and Toltec train for part of a season a few years ago, but the company and the agency parted ways, and the commission now operates the train directly through a corporation created by the commissioners.
- (491) **Office of Military Base Planning.** Colonel Eric Kivi, executive director, discussed military operations across the state. He focused on the possibility of a base realignment and closure (BRAC) round in 2019 and will likely focus on efficiencies. He said the agency is working to prepare military value cases for the state's military bases to present the capabilities and efficiencies offered by New Mexico installations. Col. Kivi also reported the commission is likely to ask for an extension of its capital outlay appropriation to see if it would be needed to assist with land acquisition near the gate at Cannon Air Force Base.
- (495) **Spaceport Authority.** Director Christine Anderson presented the budget request for an increase in recurring general fund support from \$463 thousand in FY16 to \$2.8 million in FY17. She reported Tourism Department Secretary Rebecca Latham is a new board member. Board member Rick Holdridge spoke on behalf of the agency and said the spaceport is on the cusp of success. Committee members stated the importance for the spaceport to be successful but questioned some expenditures, contracts, and plans to increase revenue. When asked how many years taxpayers will have to support the operation, Ms. Anderson responded the goal is to be self-supporting. Members also asked about the southern road, and Ms. Anderson reported it will be a chip sealed road, and Dona Ana County is about to deliver the design to the Bureau of Land Management for review. Members discussed issues with Ms. Anderson related to competitive advantages, marketing, the lack of spacecraft and rocket manufacturing in New Mexico, and the current inability to launch into orbit from the vertical launch pad.

- (508) **Livestock Board.** William Bunce, executive director, presented the FY17 budget request of \$6.2 million, with \$1.4 million in general fund appropriations. Mr. Bunce noted the request is flat with FY16 operating levels and yield control has reduced projected mill levy revenues even though agency response ability remains the same. He mentioned continued improvement of drought conditions could lead to increases in cattle imports and movement in the state. Senator Munoz asked what the agency was doing to address cattle theft and requested Mr. Bunce to discuss this further with him. Representative Bandy asked what impact a contagious outbreak or state emergency would have on the agency's fund balance. Mr. Bunce responded the agency is reactionary and at risk of incurring large unforeseen expenses. The agency was at risk of expending over \$1 million for a massive seizure of cattle several years ago. Representative Bandy recommended not drawing further from the agency's fund balance.
- (538) **Intertribal Ceremonial Office.** The agency did not appear for the budget hearing, and the committee voted to accept the LFC staff budget recommendation and report for consideration.

***EDUCATION:***

- (930) **Regional Educational Cooperatives.** Ms. Rachel Gudgel, LFC principal analyst, noted the REC budget request is not received until the Public Education Department submits the public school support request. Ms. Gudgel stated the RECs historically have received little more than \$930 thousand as a flow-through appropriation to the PED which is split evenly among the nine RECs. Paul Aguilar, deputy secretary of finance and administration of PED, indicated the RECs are administratively attached to PED and are all in good standing. Vicki Chavez, director of the REC in Deming, discussed with the committee what the RECs do, the fact that they mostly operate on enterprise funds and it is difficult to plan from year to year without a stable funding stream. Chavez noted each REC receives approximately \$104 thousand from PED and this really only supports the director position in each REC. She requested the committee consider increasing the appropriation to \$2.9 million, or \$330 thousand per REC in FY17, to provide more stable funding for the operations of each REC. Senator Leavell thanked the RECs for all they do, noting they serve an important function for the school districts they serve.
- (940) **Public School Facilities Authority.** Bob Gorrell, director, presented the Public School Finance Authority (PSFA) FY17 budget request for \$6.1 million, a flat budget compared to the FY16 operating budget but a 12.3 percent increase over FY15 actual expenses. LFC staff noted PSFA reverted \$452.3 thousand in FY15, including \$297.6 thousand from the personal services and employee benefits category. Mr. Gorrell explained the Public School Capital Outlay Fund will recognize a total decrease in supplemental severance tax bonds revenue of 5.4 percent by FY20. Mr. Gorrell discussed the broadband deficiency correction program, which the Legislature established in 2014 to address education technology needs. PSFA is currently working to improve maintenance of school facilities in the state. Currently, statewide average facilities maintenance appears to be below a satisfactory level.

- (949) **Education trust Board.** Theodore Miller, executive director, presented the board's FY17 request for \$1.4 million from fund balance. Mr. Miller explained the function of the Education Trust Board (ETB) as a 529 college savings plan. ETB manages approximately \$2.4 billion in gross assets in two college savings plans, the Education Plan and Scholar's edge. Mr. Miller reported the board provided a \$310 fee rebate in FY15 to New Mexico investors and the Scholar's edge plan has been ranked the sixth best advisor sold college savings plan in the country. Senator Muñoz asked whether the board still hosts a program in which fees generated from the plan fund scholarships. Mr. Miller stated the program's broker-sold investment tier no longer supports the scholarship program. The Education Trust Board also explained the status of a lawsuit against Oppenheimer Funds, Inc. and the decision to renew a contract with the company as the plan's program manager. Mr. Miller stated four bids were submitted in response to a request for proposals, and Oppenheimer Funds, Inc. had national marketability and was willing to commit more money to marketing the program than other bidders.
- (954) **Cooperative Extension Service/Agriculture Experiment Station.** The Higher Education Department will submit the FY17 budget request for higher education institutions and affiliated agencies on November 2, 2015. Agencies submitted FY17 requests to HED in early October 2015.

Jon Boren, Cooperative Extension Service (CES) director, presented CES's FY17 request for an overall operating budget of \$29.5 million, which includes a general fund request of just under \$14 million. The general fund request includes a \$300 thousand increase to expand efforts relating to the 4-H youth development program; improve response to extreme drought, wildfires, and food safety issues; and expand outreach services. In addition, the request includes \$77 thousand for the New Mexico Agricultural Leadership program for additional staff support.

Steve Loring, Agriculture Experiment Station (AES) assistant director, presented the FY17 request. The request includes an operating budget of \$34.7 million, with a general fund request of \$15.3 million. Dr. Loring said this reflects an increase of \$375 thousand, or 2.5 percent, from the FY16 general fund level. The proposed increase would fund 15 additional graduate student stipends to conduct research throughout the state. Senator Cisneros asked about the status of the Los Luceros property in northern New Mexico. Dr. Boren stated New Mexico State University is undergoing an evaluation of the property and any future agricultural use of the property should incorporate education programs for the nearby community.

- (954) **New Mexico Department of Agriculture.** Secretary Witte presented the department's FY17 budget request of \$19.8 million, with a general fund request of \$12.1 million. Secretary Witte reported the increase will fund targeted salary increases for inspection and veterinary diagnostic services staff, offset costs for the organic certification program, and expand efforts for marketing and outreach initiatives. Secretary Witte further explained compliance with expanded U.S. Food and Drug Administration (FDA) requirements in the future will result in more work hours for department staff, however, FDA does not provide more funding to offset increased costs that result from the requirements.

- (966) **Small Business Development Center.** Russell Wyrick, state director of the Small Business Development Center (SBDC), presented the FY17 request for \$4.4 million in general fund support, a flat appropriation compared with FY16. Mr. Wyrick explained funding for SBDC is distributed throughout the state to sub-centers located in higher education institutions. Mr. Wyrick stated the SBDC leverages \$1.1 million in federal funds and every dollar invested in SBDC results in \$2.14 in tax revenue for the state. Mr. Wyrick noted that SBDC is nationally accredited and the number of jobs created or saved must be verified with businesses that SBDC helped.

**Lottery Authority.** The New Mexico Lottery Authority (NMLA) is not a state agency; however, the authority is required to present its budget to the Department of Finance and Administration and LFC by December 1 of each year. NMLA is required to transfer at least 30 percent of gross annual revenue to the Higher Education Department for tuition scholarships and 50 percent must be awarded in the form of lottery prizes.

David Barden, NMLA chief executive officer, presented on the performance of the New Mexico Lottery, noting NMLA transferred \$200 thousand more in FY15 for scholarships than in the prior year. Mr. Barden said the FY16 operating budget for NMLA includes \$42.4 million in transfers for scholarships, and year-to-date transfers for those scholarships have already increased by \$450 thousand over the previous year. Mr. Barden highlighted the volatility of large prize pool games, noting an 18 percent drop in PowerBall and Mega Millions ticket sales in FY15. Mr. Barden said the drop in these large prize pool sales was offset by a 14.5 percent increase in instant ticket sales. Mr. Barden also emphasized that higher prize payouts can result in more revenue for scholarship programs, as demonstrated in nearby states with similar lottery programs.

Senator John Arthur Smith  
Chairman

Senator Sue Wilson Beffort  
Senator Pete Campos  
Senator Carlos R. Cisneros  
Senator Carroll H. Leavell  
Senator Howie C. Morales  
Senator George K. Munoz  
Senator Steven P. Neville

*State of New Mexico*  
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Representative Jimmie C. Hall  
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Representative Paul C. Bandy  
Representative George Dodge, Jr.  
Representative Jason C. Harper  
Representative Larry A. Larrañaga  
Representative Patricia A. Lundstrom  
Representative Nick L. Salazar  
Representative Luciano "Lucky" Varela

October 28 and 29, 2015

**MEMORANDUM**

**TO:** Legislative Finance Committee

**FROM:** Subcommittee B

Representative Larry Larrañaga, Chair *LAR*  
Senator Howie C. Morales, Vice-Chair  
Senator Sue Wilson Beffort  
Senator Pete Campos  
Senator Mark Moores  
Representative George Dodge Jr.  
Representative Jason C. Harper  
Representative Luciano "Lucky" Varela  
Representative Stephanie Garcia Richard  
  
Senator John Arthur Smith, Ex-officio  
Representative Jimmie C. Hall, Ex-officio

**SUBJECT: Subcommittee B Report**

*The Subcommittee met on Oct 28, 2015 and reviewed the following:*

***EXECUTIVE/GENERAL CONTROL:***

(337) **State Investment Council.** Steven Moise, state investment officer, presented the FY17 budget request for the council. The budget request for \$56.8 million, was a -0.9 percent decrease over the FY16 operating budget. The agency's request included \$43.8 million for external investment management fees, lower than the prior year's request, and was attributed to a decrease in overall invested assets under management. The combined impact of decreased management fees and an increase in smart beta investment strategies contributed to a lower request. Mr. Moise outlined the 12 percent decrease in personal services and employee benefits, attributed to lower liability insurance which covers litigation costs. As the pay to play litigation begins to come to a close, litigation costs

have substantially decreased. Representative Larranaga asked about the requested \$863 thousand for 'other' uses, which chief financial officer Brent Shipp stated was for investment due diligence efforts including travel, educational training, and software and support materials particular to investment activities. Representative Varela asked whether the Severance Tax Permanent Fund was increasing in size. Mr. Moise responded the fund was expected to grow at a modest rate over the next eight years but it would not be at a rate to satisfy intergenerational equity. He stated that SIC would pursue legislation during the session in an attempt to secure the permanent fund for targeted longevity of investments.

- (340) **Administrative Hearings Office.** Brian VanDenzen, interim chief hearing officer, presented on the background of the newly established Administrative Hearing Office (AHO) and the FY17 request. Mr. VanDenzen explained the agency was established by legislation during the 2015 session to adjudicate tax, property, and motor vehicle-related administrative hearings and is the first independent hearing office in the state. The program was previously housed within the Taxation and Revenue Department. The agency requested additional funding in FY17 to cover the cost of relocating in Albuquerque when the current lease ends and to reclassify hearing officers from lawyer to administrative law judge. Mr. VanDenzen also noted AHO requested 1 expansion FTE to help with increased tax protest hearings. Representative Varela asked if the office is responsible for property tax and motor vehicle administrative hearings. Mr. VanDenzen said yes, AHO is responsible for implied consent hearings and for property tax hearings that pertain to state assessed properties.
- (356) **Governor.** Robyn Romero, chief financial officer, presented the FY17 appropriation request, which was flat with the FY16 operating budget. LFC staff told the subcommittee the request included funding for 27 FTE, however, additional staff that report to the governor are also funded in other agencies' budgets. Representative Varela asked if the position related to boards and commissions appointments has been filled. Ms. Romero said yes, but, the person is on maternity leave and an interim director has been named.
- (360) **Lieutenant Governor.** Robyn Romero, chief financial officer, presented the FY17 appropriation request, which was flat over the FY16 operating budget. Representative Varela asked about the staff vacancy. Ms. Romero said the vacant position is for legal counsel, potential candidates are being interviewed, and hopefully it will be filled soon.
- (369) **State Commission of Public Record.** Linda Trujillo, director, presented the agency's request for a flat budget. Ms. Trujillo introduced her deputy, Melissa Salazar, and stated the CPR had recently reorganized the records and retention schedule, consolidated over 6,000 record classifications into 352, and replaced over 100 departmental retention schedules with one single schedule. Ms. Trujillo noted the reorganization of the schedule was completed without the use of any contractors. Following the presentation, Representative Varela asked how the commission planned to deal with a shortage of storage space. Ms. Trujillo stated CPR requested \$13.2 million for renovations at the Santa Fe archive facility to double the current storage space. Representative Hall asked if members of the public could donate or loan their historic documents to the state archives

and Ms. Salazar stated people may loan historic documents to the CPR for a five year period.

- (378) **State Personnel Office.** Justin Najaka, director, presented the FY17 appropriation request that included \$4.55 million from the general fund, an increase of \$211 thousand, or 4.9 percent. Mr. Najaka stated the request included \$150 thousand for 2 expansion FTE: a paralegal to assist the general counsel, and a program manager to oversee the state's transition to electronic personnel files from paper files. Mr. Najaka stated that the electronic file program should be rolled out statewide by July 2018. Mr. Najaka also noted that for the 3<sup>rd</sup> consecutive year, state employment grew. Representative Varela asked how many vacant positions the agency had and Mr. Najaka stated 5 FTE were currently vacant but 3 of those positions are in recruitment. Mr. Najaka also stated SPO is working on an executive compensation initiative and he will present the Governor's plan for targeted increases during the December LFC hearing.
- (440) **Office of the Superintendent of Insurance.** Superintendent John Franchini presented the agency's FY17 budget request of \$39.6 million, an increase of \$2.4 million compared with the FY16 operating budget. Franchini said the agency has 30 vacancies, but he hopes to fill them within the next year. He mentioned the agency went from a D- ranking from the accreditation authority five years ago to a ranking of B in 2015. Franchini reported that although Blue Cross and Blue Shield is exiting the health insurance exchange market, he believes the exchange will still be viable, and there are more insurance companies participating now than when it first opened. The committee asked if there is still a need for the New Mexico Medical Insurance Pool, a state-created insurer of last resort, and why the pool members could not be moved to the exchange. Franchini responded it would be too great an impact on the exchange to move everyone over at once.

***REGULATION:***

- (379) **Public Employees Labor Relations Board.** Tom Griego, director, presented the agency request for an increase of \$7.9 thousand, or 3.4 percent. Mr. Griego also stated the agency is working with LFC and DFA staff to administratively attach to another agency following a second instance of overspending in three years; the agency overspent the FY15 appropriation by \$1.3 thousand and will require a deficiency appropriation in during the 2016 Legislative Session.
- (404) **Board of Examiners for Architects.** Wren Propp, executive director, presented the FY17 budget request for \$399 thousand supported by fund balance. Ms. Propp noted the board decided to reclassify positions to reduce vacancies since the agency had reverted funding for the past five years. She asked the committee to consider revising language in House Bill 2 to read, "The purpose of the Board of Examiners for Architects is to regulate, through enforcement and licensing, the professional conduct of architects to protect the health, safety and welfare of the general public of the state." Representative Varela asked if the number of FTE was sufficient for examining architects in the state and Ms. Propp indicated that it was. Senator Moores asked why the board maintained a

large fund balance and Ms. Propp responded the agency collects license fee revenue once every two years and needs the balance to sustain operations for 18 months at a time. Chairman Larranaga asked if the board regulated landscape architects and Ms. Propp informed the committee landscape architects are regulated by a board under the Regulation and Licensing Department.

- (446) **Medical Board.** Sondra Frank, executive director, presented the FY17 budget request for \$1.9 million supported by other state funds. Ms. Frank noted the agency is receiving an increasing number of complaints against physicians. Representative Varela asked how many professions were regulated by the board and Ms. Frank responded the board regulates and licenses physicians, physician assistants, anesthesiologist assistants, genetic counselors, polysomnographic technologists, and naprapaths. Ms. Frank noted the board is seeking regulatory oversight of osteopathic physicians, which are currently regulated by a separate board under the Regulation and Licensing Department. Representative Varela suggested the agency provide data to LFC on complaints and how they were resolved. Senator Moores asked why the agency was maintaining a large fund balance and whether the agency was reviewing fees to ease licensing difficulties for physicians. Ms. Frank responded licensing fees are based on statute. Senator Moores suggested the agency consider lowering license fees, describing it as a tax on professionals.
- (449) **Board of Nursing.** Demetrius Chapman, executive director, presented the FY17 budget request for \$2.4 million supported by other state funds. LFC staff noted the request included 3 additional FTE, \$50 thousand to remodel the agency's office space, and \$125 thousand allocated to the Nurse Excellence Fund. Chairman Larranaga asked about the board's regulation of traveling nurses and mutually recognized licensure across multiple states. Mr. Chapman noted New Mexico is part of the interstate Nurse Licensure Compact which allows nurses to practice in multiple states. He indicated a new compact was expected to be adopted soon. Chairman Larranaga inquired about the registration fees and continuing education requirements for nurses. Mr. Chapman told the committee registered nurses pay \$93 for license renewals and complete 30 hours of continuing education every two years. Advanced practice registered nurses pay an additional \$100 for license renewals and complete 20 additional hours of continuing education.
- (464) **State Board of Registration for Professional Engineers and Surveyors.** Perry Valdez, acting director, presented the FY17 budget request for \$849 thousand supported by other state funds. Chairman Larranaga inquired about the agency's housing situation with the Regulation and Licensing Department. Mr. Valdez responded the agency is currently housed in the Toney Anaya building and wishes to relocate. Senator Moores asked about license fees and why the agency was maintaining an excessive fund balance. Glen Thurow, board chair, told the committee the board is currently evaluating a reduction of fees in FY17 and seeking to fill all positions as the 50 percent vacancy rate has allowed the fund balance to grow in previous years. Senator Moores asked if the agency needed all of the 8 authorized FTE to operate. Mr. Valdez noted the agency was falling behind with only 4 FTE to process 200 applications per board meeting.

- (476) **Board of Veterinary Medicine.** Frances Sowers, executive director, presented the FY17 budget request for \$353 thousand supported by other state funds. Ms. Sowers noted the agency request was flat except for increases in the General Service Department rates for worker's compensation. She mentioned costs for contractual services had increased to account for potential conflicts of interest with facility inspectors and provide for outside civil counsel since the previous attorney was found to be unsatisfactory. Senator Moores acknowledged veterinary debt load rates were high and asked if the board was doing anything to recruit large animal veterinarians. Ms. Sowers told the committee that out-of-state veterinarians were not interested in rural areas, and four of the five board members were large animal veterinarians. Senator Moores suggested the board look into recruiting large animal veterinarians.

*The Subcommittee met on Oct 29, 2015 and reviewed the following:*

***HEALTH and HUMAN SERVICES/NATURAL RESOURCES:***

- (522) **Youth Conservation Corps.** Wanda Bowman, chair of the Youth Conservation Corps (YCC) Commission, noted the program has employed thousands of New Mexico youth since 1992. YCC requested \$4.7 million for FY17, flat when compared with the FY16 operating budget. Wendy Kent, YCC director, praised the work of the YCC Commission and the dedication of the commissioners. The committee did not have any follow up questions.
- (603) **Office of African American Affairs.** Yvette Bell, executive director, requested \$886.2 thousand from the general fund, an increase of \$78.2 thousand, or 9.7 percent, over the FY16 appropriation. The request fully funds 7 FTE and included an expansion request for a receptionist. Additionally, the request included an expansion of \$40.4 thousand for rental equipment and advertising. The OAAA is currently authorized 7 FTE, all of which are currently filled. Director Bell reported growth of the agency's annual expo and the agency will be co-locating with the Martin Luther King Jr. Commission at the African American Performing Arts Center. Representative Valera asked if the agency's employees were classified or exempt and Director Bell stated a majority of Office of African American Affairs (OAAA) employees were classified.
- (604) **Commission for the Deaf and Hard-of-Hearing Persons.** Executive Director Nathan Gomme explained how declining telecommunications relay service (TRS) surcharge revenue could soon greatly hamper the agency's ability to provide critical services such as teletypewriter (TTY) relay which allows deaf persons to communicate by phone. Director Gomme also pointed out deaf persons often pay more for services like mental health because of the need for an interpreter. Senator Moores requested year-to-date TRS revenue and questioned why deaf persons were still using decades-old TTY technology. Director Gomme explained many deaf persons do not have access to high-speed internet or expensive cell phones and rely on older technology to meet their needs. Representative Garcia-Richard expressed concerns about the gap between the staff recommendation and the agency's request. LFC analyst Christine Boerner explained the need to develop new revenue sources and increase TTY compliance reviews to offset the declining fund

balances. She also noted the recommendation included a phased approach to reduce the TRS transfer to the Division of Vocational Rehabilitation. LFC Deputy Director David Lucero pointed out the recommendation was higher than FY15 actual expenditures. Representative Garcia Richard encouraged the agency to pursue legislation that would allow the state to impose the TRS surcharge on disposable cell phones and VoIP phone service. The subcommittee tabled the budget while expressing some interest in narrowing the gap between the request and the recommendation.

- (605) **Martin Luther King, Jr. Commission.** Kimberly Green, executive director, presented the request for a \$337.5 thousand appropriation from the general fund, an increase of \$1.5 thousand, or 0.4 percent over the FY16 appropriation for GSD rate increases. The agency requested to increase the personal services and employee benefits (PSEB) category \$13.1 thousand from the other category for increased employee compensation. Senator Moores asked if the increase for PS&EB was an increase from the general fund. Director Green stated the funding was not an increase in general fund but transfer between categories.
- (606) **Commission for the Blind.** Director Trapp noted the commission's request was for a flat budget and then he provided an overview of the commission's work, pointing out the commission has long ranked highest in the nation for placing blind persons in jobs and at higher than average salaries. He also noted the commission has had only one audit finding in the past three years. Finally, committee members asked about technology and Director Trapp demonstrated some of the latest technologies available for blind persons and that the commission was able to purchase them in bulk at a lower cost and distribute them for free to qualifying persons.
- (632) **Workers' Compensation Administration.** Darin Childers, director, presented the FY17 budget request for \$11.8 million supported with non-general fund revenues. The request did not reflect transferring \$1.5 million to the Workforce Solutions Department (WSD) as was included in the operating budget in previous years. The agency request included a \$947.1 thousand increase, or 12 percent, for personal services and employee benefits and fully funds 124 FTE including an expansion of 1 FTE for the medical cost containment bureau. Mr. Childers presented an overview of the agency mission and update on current workers' compensation system issues state-wide. Representative Larrañaga asked about recent judicial decisions which have affected the worker's compensation system. Director Childers responded that several judicial decisions have affected the system and are under review by the state supreme court.
- (644) **Division of Vocational Rehabilitation.** Paul Aguilar, deputy secretary of the Public Education Department, presented the Division of Vocational Rehabilitation (DVR) FY17 budget request of \$45.7 million. DVR requested a general fund increase of \$876 thousand, a 15.4 percent increase over the FY16 operating budget. The additional general fund would be used to offset a \$466 thousand decrease in the transfer of funds from the Commission for Deaf and Hard-of-Hearing Persons and an additional \$410 thousand to maximize available federal matching funds in the rehabilitation services program. Mr. Aguilar noted DVR is administratively attached to the Public Education Department. Mr. Aguilar discussed the federal Workforce Innovation and Opportunity

Act, which was passed in 2014 and requires state vocation rehabilitation agencies to make pre-employment transition services available to students with disabilities. Mr. Aguilar stated, the additional general fund revenue would be used to leverage federal funds to meet the 15 percent set aside requirement for pre-employment services. Currently, DVR has a vacancy rate of 17 percent in the rehabilitation services program and is hoping to reduce the vacancy rate to 10 percent by the end of December 2015.

- (645) **Governors' Commission on Disability.** Director Courtney-Peterson explained the commission's request for FY17 was essentially flat except for an expansion request of \$71.4 thousand for an architectural access specialist position. She explained that the commission has only 2 FTE to perform all the many requests for site inspections for accessibility code compliance. Representative Varela asked about the brain injury services fund and Director Courtney-Peterson explained the fund is actually administered by the Human Services Department and that the Brain Injury Advisory Council within her agency is a separate entity that provides guidance on matters relating to brain injury.
- (647) **Developmental Disabilities Planning Council.** Director John Block III provided an overview of the council's programs and noted the agency was preparing a federally-required five-year plan. Director Block noted the agency reduced the waiting list and that only lower-need individuals currently reside on a waiting list. Nevertheless, the agency receives an average of 10 new clients each week. The director explained the most critical issue is the inability to recruit and retain guardians because they are not willing to work for so little compensation. He explained state guardian programs are so different that it is very difficult to compare "apples to apples." Director Block provided a handout demonstrating several possible funding scenarios for rate increases and noted he was requesting option "B" which would require a total of \$697.7 in general fund need. Several members of the audience provided testimony on the value of guardianships and the need for increased guardianship compensation.
- (662) **Miners' Hospital.** Chief Executive Officer Shawn Lerch discussed the hospital's \$27.2 million FY17 budget request. Mr. Lerch explained the hospital is projecting \$32.2 million in total FY16 revenues. Representative Varela asked whether the \$6 million in other transfers comes from the land grant permanent fund (LGPF). Mr. Lerch stated the \$6 million is from the LGPF, land maintenance fund, and charitable penal and reform.
- (668) **Office of Natural Resources Trustee.** Ryan Flynn, the state's natural resources trustee and Environment Department secretary, presented the agency's request for \$2.3 million for FY17, and is flat when compared to the FY16 operating budget. Secretary Flynn emphasized the agency's near self-sufficiency through natural resource damage settlements, noting the collection of \$22 million in settlements since 2011 while the agency received \$277 thousand from the general fund in FY16. The largest ongoing damage assessment is at White Sands Missile Range. Representative Larrañaga asked if the agency would be involved in collecting damages related to the Gold King Mine spill which contaminated the Animas and San Juan rivers, and, if so, when the process would begin. In response, Secretary Flynn noted the damage assessments performed by the Office of Natural Resources Trustee are just one of the "pots" from which the state and

other impacted parties will collect damages. In addition to the natural resource damage assessment, other anticipated reimbursement and payments should cover costs related to the emergency response and the state's long term monitoring efforts and economic damages.

**Mortgage Finance Authority.** Director Jay Czar provided an overview to the committee stating MFA is not a state agency, and does not receive an annual recurring appropriation for operations. Instead, the state mandates MFA generate its own funding to carry out its duties. Mr. Czar reported MFA will request a recurring appropriation to support the oversight of the regional housing authorities (\$0.3 million), the Affordable Housing Act (\$0.25 million), and the low-income residential energy conservation program, NM EnergySmart, (\$1.0 million). MFA will also request non-recurring appropriations for the Housing Trust Fund (\$5 million), down payment assistance to supplement increased production in the low to moderate income mortgage program (\$1.65 million), and Veteran Home Rehabilitation (\$2.0 million).