

MINUTES
Legislative Finance Committee - Hybrid Meeting
Red River, New Mexico
August 26 - 28, 2020

Wednesday, August 26

The following members and designees were present on Wednesday, August 26, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt (via Webex), George K. Muñoz, Roberto “Bobby” Gonzales, Gay G. Kernan (via Webex), and Pete Campos; and Representatives Javier Martinez (via Webex), Jack Chatfield, Rodolpho “Rudy” Martinez, Gail Armstrong (via Webex), Candie Sweetser, Harry Garcia, and Randal S. Crowder. Guest legislators: Senator Mary Kay Papen and Representatives Phelps Anderson, Dayan Hochman-Vigil, Rachel A. Black, Doreen Y. Gallegos, and Susan K. Herrera.

Welcoming Remarks. Mayor Linda Calhoun reported on the economic impact of Covid-19 in Red River and said gross receipts tax (GRT) revenue declined significantly this spring. Canceled events, including the annual motorcycle rally, are resulting in additional revenue losses. The town applied for coronavirus relief funds to help businesses. Red River’s many summer businesses are unable to benefit from other relief funding, including the small business recovery program, because the funding is based on revenue lost this spring. Two businesses permanently closed recently and the Chamber of Commerce is barely operating.

Mayor Calhoun said Red River is working with Ski New Mexico and ski resorts in the surrounding area to propose to the governor a plan for reopening this winter. The ski resorts hope to at least operate at 50 percent capacity. Mayor Calhoun said hiring workers this ski season will be difficult because the international student program used to fill jobs in the past is not available; however, the Red River Business Alliance is helping the town secure this ski season’s workforce. Red River recently converted two motels into additional workforce housing, which Mayor Calhoun said will ensure Covid-19 lodging and quarantine restrictions are met this winter.

Reporting on infrastructure projects, Mayor Calhoun said phase two of Red River’s water system improvement project is underway and the wastewater system was recently upgraded.

Taos County Commissioner Tom Blankenhorn said GRT revenue is down 15 percent this year; however, most of the county’s revenue comes from property taxes. Commissioner Blankenhorn reported four Covid-19 cases in Taos County and said county public safety personnel are receiving hazard pay. Taos County applied for \$1.25 million in coronavirus relief funds.

Unemployment in New Mexico and Getting the Unemployed Back to Work. Bill McCamley, secretary of the Workforce Solutions Department (WSD), said state economic and public health conditions are interlinked; therefore, New Mexico must get Covid-19 under control to recover economically. According to the *Washington Post*, Covid-19 infections are surging in states reopening aggressively. In New Mexico, a strict public health order remains in place but the state’s infection rate is significantly lower compared with neighboring states. Despite a slow reopening, New Mexico’s economic output in the last few months was essentially the same as that for states

reopening quickly. Secretary McCamley explained Arizona was forced to reclose bars, nightclubs, gyms, movie theaters, and water parks after Covid-19 cases spiked in the state, worsening economic activity.

Secretary McCamley said health and safety concerns are the biggest roadblocks to people returning to work, according to a recent WSD survey. In response, the agency is conducting a series of virtual town hall presentations on Covid-safe practices in the workplace. New Mexico recently received a federal grant to hire 20 additional Occupational Safety and Health Administration (OSHA) inspectors. On a limited basis, WSD is allowing people over age 65, considered high-risk by a medical provider, or in unsafe working environments to claim unemployment benefits.

Reporting other activity, Secretary McCamley said WSD is working with workforce connection centers to help businesses fill vacant positions with skilled workers through the All Hands, New Mexico initiative. The apprenticeship program webpage was revamped to provide more information and easier navigation. WSD is partnering with higher education institutions to build New Mexico's healthcare, education, and science, technology, engineering, and mathematics (STEM) workforce. WSD is conducting virtual training workshops and job fairs, and the workforce connection centers are providing virtual services, including resume assistance and job referrals. In partnership with the Corrections Department, WSD is helping recently released inmates find gainful employment by providing resources and training to Project Echo community peer educators.

Chancellor Patrick Valdez, Ph.D., said University of New Mexico-Taos (UNM-Taos) academics are aligned with local family, workforce, and economic needs. Based on an integrated education and training model, UNM-Taos administers simultaneous instruction of academic, career, technical, and professional skills.

Chancellor Valdez said UNM-Taos and the Taos Education and Career Center offer several workforce training opportunities in high-demand industries, including online business, commercial driving, construction technology, and early childhood education. UNM-Taos is a partner of the Taos Hub of Internet-based Vocations and Education (HIVE), a co-working office and small business support center offering training, credentials, access to resources, and shared professional development to individuals seeking to obtain an internet-based job or start an internet-based small business. Chancellor Valdez said HIVE won the Institute for Educational Leadership's Minds That Move Us national innovation in integrated education and training competition in 2019. HIVE was selected to participate in the Rural Innovation Initiative and Digital Promise national case study.

Tracy Hartzler, president of Central New Mexico Community College (CNM), said degree and certificate programs are equally important for building New Mexico's workforce. As New Mexicans return to work, some will seek workforce training to enter a new field of work or expand opportunities in their current field of work. CNM offers degrees and certificates in high-demand industries, including healthcare, education, and technology. Providing a brief overview of programs, President Hartzler said the medical assistant certificate program is a joint CNM and UNM program that can be completed in two terms. The Health Simulation Center for Advanced Training and Education provides innovative high-fidelity simulations for a variety of CNM and

contracted healthcare trainings. The special education teacher training program is a collaboration between the Albuquerque Teachers Federation, Albuquerque Public Schools, and CNM to provide a supported alternative licensure pathway to attract and retain high quality special education teachers. CNM has three childhood development certificate employer cohorts. CNM Ingenuity, a nonprofit organization established by CNM, offers innovative customized trainings and programs, including a deep dive coding bootcamp and IT apprenticeship program.

To support workforce development in New Mexico, President Hartzler recommended the state provide higher education institutions with budget and funding flexibility, restore FY21 state recurring funding levels prior to the 2020 special session budget cuts, and leverage existing resources to increase funding for workforce training.

Suzanne Hultin, director of the employment, labor, and retirement program of the National Conference of State Legislatures, said the U.S. unemployment rate was 10.2 percent in July, a decrease from April's spike at 14.7 percent. New Mexico's unemployment rate was 12.7 percent in July; 8th highest in the country. The leisure and hospitality industry has the greatest number of jobs lost, totaling 7.7 million in April.

Ms. Hultin said the University of Chicago projects many of the pay cuts, hourly reductions, and layoffs inflicted on workers during the pandemic will be permanent, particularly for lower-wage workers. As people return to the workforce, many will leave declining labor markets for growing labor markets. As this reallocation of jobs takes place, many states will use a portion of federal Coronavirus Aid, Relief and Economic Security (CARES) Act funds for job training and skills programs.

Ms. Hultin said states are working to support their workforce by increasing broadband access in rural communities and expanding workforce training opportunities. About 40 percent of workers can do their job remotely, according to the University of Chicago; however, many rural areas continue to lack access to broadband. Several pieces of 2020 legislation addressing rural broadband are pending throughout the country. Workforce development programs across states include incentive and apprenticeship programs. All states have eased licensing restrictions and extended emergency licensing orders. Ms. Hultin gave a brief overview of the nation's public workforce system, outlining key components of the Workforce Innovation and Opportunity Act-compliant state boards. The boards, which must be diverse in representation (e.g., individuals, businesses, and nonprofits), are tasked with

- Managing a one-stop system for both job seekers and employers,
- Aligning federal investment in job training,
- Integrating service delivery across programs,
- Ensuring the workforce system is job-driven, and
- Convening and connecting regional and local workforce providers.

Presenting the report *Workforce Development Post Covid-19 Pandemic*, LFC Program Evaluator Sarah Dinces, Ph.D., said unemployment increased at unprecedented rates in recent months. In July, over 197 thousand New Mexicans applied for unemployment benefits, six times more than during the Great Recession. Job losses have occurred primarily in low-wage occupations in the following industries: accommodation and food services, retail trade, healthcare and social

assistance, and natural resources. The economy in counties with the largest unemployment growth, including Taos, Lea, Santa Fe, and San Juan, are largely built on these industries. Many of the lost jobs are at risk of not coming back, and recovery may take longer in New Mexico than nationally. Effective workforce development programs are, thus, critical to economic recovery, including case management, high performance workforce centers, and focused training.

Evidence-based case management for unemployed workers could provide the state a \$17 return for every dollar spent. However, the program's traditional operations were suspended due to Covid-19 spread. Similarly, the local workforce boards, which regionally operate a number of federally funded workforce programs, suspended in-person services and moved many services online. New Mexico's local workforce boards receive around \$25 million in federal dollars annually but are in the bottom third of states in their success in helping laid off workers find new employment. The workforce boards have inconsistent reporting of performance that could be related to the state's poor performance for services for those unemployed. Furthermore, some industries in New Mexico are poised to rebound more quickly and some may even see growth in the next few years; however, within these industries, there may not be enough qualified candidates for the job openings.

When considering how to improve workforce development, LFC staff recommend the Legislature consider requiring local board performance reporting as part of the state Accountability in Government Act. LFC staff recommend WSD ensure additional funding is targeted toward programs with the highest expected return on investment. Additionally, the agency should use data from local workforce boards for performance management and ensure education, training, and apprenticeship programs are targeted toward the industries more likely to rebound and grow.

In response to Representative Sweetser, Secretary McCamley said unemployment insurance tax rates will not increase in FY21. Representative Sweetser said many businesses in her rural district have told her their employees do not want to return to work because they are receiving more money through unemployment insurance than they earn from working.

Representative Crowder asked WSD to analyze what the potential impact will be on businesses when the minimum wage increases in 2021.

In response to Senator Papen, President Hartzler said CNM offers eight deep dive coding bootcamps. Bootcamp instructor salaries range from \$60 thousand to \$90 thousand a year. Due to operation high costs, CNM is looking for supplemental funding to support the bootcamps and other successful training programs.

FY20 Preliminary Local Government General Fund Revenue and Fund Balances; Allocation of Stimulus Funds; Fiscal Outlook for FY22-24; and Local Government Fiscal Condition and Use of Stimulus Funds. Debbie Romero, acting secretary of the Department of Finance and Administration (DFA), said federal coronavirus relief fund (CRF) appropriations, authorized under the CARES Act, include funding for local and tribal governments and small businesses. The appropriations are to be used to address necessary expenditures incurred due to the Covid-19 public health emergency. The funding cannot be used to replace lost revenue or match other federal dollars.

In New Mexico, \$100 million in CRF funding is available for local and tribal governments and \$50 million is available for small businesses. CRF allocations are being determined through an application process administered by DFA. Secretary Romero said 83 local government applications were submitted, totaling \$191.7 million in requests, and 66 small business applications were received, totaling \$106.9 million in requests. Funding for personal protective equipment, testing sites, senior meal programs, employee payroll, and rent payments are among the several requests made. Secretary Romero said a team, comprising the Local Government Division, Capital Outlay Bureau, and tribal liaison, reviewed the applications and granted CRF funding to 21 tribes, totaling \$28 million. The funds will be disbursed on a reimbursement basis. Allocations to local governments will be determined by the end of this month. Secretary Romero provided a list of CRF funding requests by entity.

Steve Kopelman, executive director of New Mexico Counties, said the total impact of the pandemic on local economies is uncertain. The decline of gross receipts tax (GRT) revenues is significant. Revenues from lodging and oil and gas severance taxes have also plummeted. Property tax collections may be an issue this fall. Many counties are also suffering from small business closures. Canceled events and closed college campuses are resulting in additional revenue losses.

Thirty counties requested CRF funding from DFA. The city of Albuquerque and Bernalillo County received \$182 million in CRF funding directly from the federal government. Mr. Kopelman said the funding will help counties in the short term; however, the long-term economic effects of the pandemic are of great concern.

A.J. Forte, executive director of the New Mexico Municipal League, said a mayors' caucus is held weekly to address issues impacting municipalities. Current issues include the phase-out of hold harmless distributions and the high cost of implementing the law enforcement body camera program.

Mr. Forte said the Municipal League is using monthly local government distribution reports to monitor economic activity; however, it is too early to know the full economic impact of the pandemic on municipalities.

Mayor Louie Bonaguidi said Gallup was a Covid-19 hotspot in mid-April. As a regional shopping area, the virus quickly spread to the surrounding Navajo Nation. In response, state police and National Guard troops were mobilized and the town was put on lockdown for 10 days.

Mayor Bonaguidi said high substance abuse among the homeless contributed to Gallup's high Covid-19 infection rate. The mayor explained on April 7, a client at the detox center tested positive for Covid-19, resulting in contact tracing for 174 individuals.

To address the high infection rate in Gallup's homeless population, a hotel program was established to house Covid-positive and -exposed individuals. The program, which has served over 900 individuals since late April, is a collaboration of Gallup, Department of Health, Rehoboth McKinley Christian Health Care, Indian Health Services, and other partners. In addition to providing food, medical care, and clothing, the program is connecting individuals to treatment programs.

Mayor Bonaguidi talked about the need to address Gallup’s high substance abuse rate. Gallup has 33 liquor licenses, which the mayor said is three times more than the town should have based on population size.

In response to Vice Chairwoman Lundstrom, Secretary Romero said the \$150 million in CRF funding for local and tribal governments and small businesses has not yet been transferred to the general fund. Secretary Romero said the team reviewing CRF applications is using criteria and a scoring method to determine the amount of allocations. Awards will be announced on August 31.

How to Use Performance Data in Budget Development and Agency Management. Andrew Feldman, director of Grant Thornton Public Sector, said PerformanceStat, a leadership strategy for producing results, involves ongoing, regular meetings between leadership and agencies to review key trends in performance metrics, diagnose problems, and decide how to fix them. Unlike traditional “check-in” meetings, PerformanceStat is data-driven and maintains focus on the same set of metrics and challenges until fixed. PerformanceStat requires leadership engagement and follow-up. PerformanceStat can be deployed in various settings, including state, city, and local governments. It also can be deployed within agencies.

Mr. Feldman said he is unaware of any state deployment of PerformanceStat that is legislative-committee led; however, the approach would provide a unique opportunity. It would send a clear message to agencies the committee cares about results and data-driven improvements. The approach, however, would face challenges because the committee has less direct control of agency operations and likely fewer meetings than traditional PerformanceStat.

Implementing PerformanceStat can start with a limited set of metrics and key focus areas. Mr. Feldman said, for an agency to see performance measures as a useful tool and not a compliance exercise, at least one entity – the executive, Legislature, or agency – must care about metrics and improving results.

Martin O’Malley, former governor of Maryland, said Maryland began using PerformanceStat during the Great Recession to reach the state’s most important goals, including job creation. Governor O’Malley said the United States is facing a crisis in western democracy due to disintegrating trust.

Governor O’Malley said the geographic information system (GIS) and Internet provides the opportunity to model, measure, and map dynamic human and natural systems in real time and in ways that all can see. To take advantage of the opportunities, the current practice of leadership must shift from command and control to collaboration, setting strategic goals with public deadlines. Governor O’Malley said there must be a repeating cadence of collaboration.

Governor O’Malley shared his experience using PerformanceStat to achieve goals, including reducing violent crime and restoring the health of Chesapeake Bay, during his tenure as Baltimore mayor and Maryland governor. Predictive analytics and maps and dashboards of real time data were used to communicate and collaborate.

Concluding, Governor O'Malley recommended western democracy embrace a radical commitment to openness and transparency, measure performance to lift up leaders, and have the courage to set up public goals with public deadlines.

Cinthia Martinez, deputy director of the State Budget Division of the Department of Finance Administration (DFA), said DFA and LFC staff are working together to fine tune and work through performance measures and identify priorities to develop budget recommendations for FY22.

LFC Deputy Director Charles Sallee talked about legislating for results using performance data. The purpose of the Accountability in Government Act (AGA) is to provide for more cost-effective and responsive government services by using the state budget process and defined outputs, outcomes, and performance measures to annually evaluate the performance of state government programs. The AGA traded budget flexibility for information about how state agencies economically, efficiently, and effectively carry out their responsibilities and provide services. Prior to the AGA, agency appropriations were tightly controlled by the Legislature with attention paid to individual budget line items and incremental spending of salaries, office supplies, travel, etc. After the AGA, the focus switched to results as measured by performance. To facilitate reviews of agency performance, LFC developed a dashboard report, a report card, to add emphasis and clarity to the reporting process and focus budget discussions on evidence-based initiatives and programming. While the report cards are generally good tools, there is room for improvement – in reporting results, measuring the right things, benchmarking to national and state data, developing corrective action plans, and making a stronger connection to agency budgets. To make the most of the opportunity, agencies need to more effectively use performance indicators and tools, such as cost-benefit analysis, to ensure limited resources are used to cut ineffective programs and bolster effective ones. LFC has evolved its work into a comprehensive evidence-based budget and policy framework – Legislating for Results – with performance reporting as a key element.

In response to Representative Martinez, Governor O'Malley said Maryland is a diverse state but its residents share common concerns. During his tenure as governor, Maryland's priorities and strategies were overall supported by its residents and within state government; however, there was some difference of opinion regarding transportation priorities.

Fourth-Quarter Agency Performance Reports. LFC Deputy Director Charles Sallee presented *NMStat*, a new state performance dashboard developed by LFC staff to help the state focus on key agency activities that improve statewide outcomes. The dashboard reports key indicators of New Mexico performance broken down by the following domains: economic well-being, education and child welfare, health and environment, public safety, infrastructure, and government operations.

Mr. Sallee said Covid-19 impacted agency performance in the fourth quarter of FY20. Highlighting key information of the FY20 fourth-quarter report cards, Mr. Sallee said workload in the criminal justice system plummeted in the fourth quarter. The district attorneys did not submit a unified priorities budget request for FY22 and were unable to validate performance data by the report card deadline. The Public Defender Department continues robust reporting. The agency's vacancy rate was just under 9 percent, the lowest it's been in five years. The Taxation and Revenue Department fell short of FY20 collection targets for collectible outstanding balances and collectible audit assessments. The agency began using a new data analytics tool in FY20 to

facilitate collections, but detailed information on collection outcomes is not yet available. Wait times in Motor Vehicle Division offices and call centers remained above targets. The General Services Department reported increasing fund balances in the risk funds, an indication that rates charged to agencies for liability, property, and workers' compensation insurance are more than sufficient to pay program costs. The group health benefits program, however, finished FY20 with a dangerously low fund balance and is on track for a multi-million dollar shortfall in FY21. The State Personnel Office reported a slight increase in the statewide vacancy rate, likely resulting from the hiring freeze imposed in April. The Workforce Solutions Department reported jobs in the leisure and hospitality sector dropped 24.2 percent. The Economic Development Department did not meet targets for overall jobs created, rural jobs created, and jobs created through the use of Local Economic Development Act (LEDA) funds. The agency awarded 15 companies \$12.9 million in LEDA funds in FY20, and created 2,891 jobs. The Job Training Incentive Program (JTIP) board approved 69 businesses, including 20 rural businesses, for funding in FY20, totaling \$18 million in awards. JTIP trained 2,202 individuals, exceeding FY20's target. Though state parks are now open for day-use, several weeks of closure in the spring and an ongoing prohibition on camping suppressed visitation and reduced self-generated revenue by roughly \$1.2 million compared with FY19. Park visitation, however, has been on a downward trend for five years; the total number of visitors in FY20 is 75 percent of what it was in FY16. The Aging and Long-Term Services Department did not meet a majority of performance targets at the close of FY20. Since March, abuse, neglect and domestic violence referrals and reports have declined and concerns about underreporting and negative behavioral health outcomes have grown. Repeat maltreatment rates remain higher than the national average; however, the Children, Youth and Families ended FY20 with repeat maltreatment rates at their lowest levels since 2013. Juvenile Justice Services exceeded its target for clients completing probation, ending the year at a near 94 percent success rate. Compared with FY19, the rate of inmate-on-inmate and inmate-on-staff assaults resulting in serious injury increased significantly in FY20, on par with the 10-year high in assaults in FY18. The state's four-year high school graduation rate improved to 74.9 percent. Colleges and universities are on track to produce more awards with fewer resources, maintaining similar number of awards as prior year. Other performance data was highlighted.

In response to Senator Sanchez, LFC Director David Abbey said LFC staff will provide the committee information on funding to implement positive train control for the Rail Runner.

Representative Crowder requested information on court workload and backlog of cases during the pandemic.

Thursday, August 27

The following members and designees were present on Thursday, August 27, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt (via Webex), George K. Muñoz, Roberto "Bobby" Gonzales, Gay G. Kernan (via Webex), and Pete Campos; and Representatives Javier Martinez (via Webex), Jack Chatfield, Rodolpho "Rudy" Martinez, Gail Armstrong (via Webex), Candie Sweetser, Harry Garcia, and Randal S. Crowder. Guest legislators: Senators Mary Kay Papen and Shannon D. Pinto and Representatives Phelps Anderson, Dayan Hochman-Vigil, Rachel A. Black, Rebecca Dow (via Webex), Doreen Y. Gallegos, Joy Garratt (via Webex), Susan K. Herrera, Andres G. Romero (via Webex), and Sheryl Williams Stapleton.

Department of Information Technology Broadband Strategic Plan: Follow-up on LFC Broadband Program Evaluation; Enabling Distance Learning. John Salazar, secretary of the Department of Information Technology (DoIT), said broadband is no longer a luxury; it is an essential service for public education, health, safety, economics, and many other needs. Broadband services are just as important as electricity and running water. The essential service, however, is lacking in rural New Mexico, a critical problem particularly now during the Covid-19 pandemic.

Secretary Salazar said delivering broadband to rural areas is a national challenge. The private sector will not build the costly infrastructure in low-density areas because the return on investment is insufficient to justify an investment. New Mexico needs federal funding to expand broadband infrastructure to unserved rural areas in the state. Another challenge is people's ability to afford the service.

An assessment of rural broadband in New Mexico was completed in June. Secretary Salazar said the assessment determined between 13 percent and 20 percent of New Mexico homes and businesses do not have broadband available. It would cost between \$2 billion and \$5 billion to deliver broadband to all unserved locations. The delivery would be hybrid, consisting of fiber optics to some unserved locations and fixed wireless to others, and would target fiber to the premises in the relatively closely clustered areas, leverage fixed wireless outside those clusters on existing towers that can serve five or more premises, and address most widely spread-out areas in a future stage, potentially using satellite or other emerging technology. The assessment recommends the state

- Include broadband considerations in all Covid-19 pandemic recovery planning;
- Support companies and communities with technical assistance;
- Prepare now to leverage existing and future federal funds via legislation and procurement measures;
- Support anchor institutions, including libraries and healthcare facilities, to plan collaboratively and to aggregate demand; and
- Update the digital equity plan to complement the strategic plan.

The assessment recommends the Legislature

- Formalize the Office of Broadband Support, establishing a clear vision of expectations and providing the means to be successful;
- Provide recurring operational funds for adequate staffing and other resources;
- Add accountability and oversight; and
- Create a state grant program to use funds as "seed" money for federally funded broadband projects.

Best practices for broadband grant programs were identified in the assessment, including funding future infrastructure that is scalable to meet bandwidth needs and requiring collaboration between local officials and the full range of potential providers.

Secretary Salazar listed federal programs that support broadband initiatives nationwide. The Federal Communications Commission Rural Digital Opportunity Program and U.S. Department of Agriculture ReConnect Program are among the funding opportunities available.

Secretary Salazar said DoIT's strategy for moving forward is to increase Office of Broadband Support capabilities, establish standard procurement methodology, develop quality assurance process for validation, and pursue the hybrid model for delivering broadband.

Reporting on broadband access for remote learning, LFC Program Evaluation Manager Micaela Fischer said 2020-2021 school year instruction began online due to Covid-19 closures. For some schools, however, the first day of class is after Labor Day, which is when schools have the option to implement a hybrid model of instruction.

Ms. Fischer said about 25,620 school-age children in New Mexico live in a household without a computer, according to U.S. Census Bureau 2018 data. Before the pandemic, 20 school districts already had a 1:1 student technology setup, which should be mitigating the needs of approximately 5,090 students. Still, over 20 thousand students remain without a learning device, which LFC staff estimate could cost \$7.2 million to remedy.

Remote learning is also presenting challenges for the over 66 thousand public school students who live in households without an Internet subscription. Ms. Fischer said, between broadband and cellular data, the state has coverage for most households in most school districts. For the few that have no broadband or mobile coverage, satellite Internet is available; however, satellite Internet is expensive. Some of the low-coverage school districts have enough classroom space to socially distance. Community WiFi hotspots provide another option.

LFC staff estimate the statewide cost for 12 months of remote learning between \$20.9 million and \$26.2 million, based on cost estimates of Chromebooks, subsidized broadband, WiFi hotspots, and subsidized satellite Internet. A cost estimate by school district was provided. CARES Act funding, school cash balances, the public school capital funding often referred to as HB33 and SB9, and other public school capital outlay funding, could help school districts and charter schools pay for the technology.

Ovidiu Viorica, broadband and technology program manager of the Public School Facilities Authority (PSFA), said the Public School Capital Outlay Council (PSCOC) is authorized to appropriate up to \$10 million a year for school broadband infrastructure. Mr. Viorica said PSFA is making progress getting schools connected to high speed fiber optic Internet.

Executive Director Jonathan Chamblin, said PSFA is helping school districts build out and configure sustainable districtwide networks that allow school districts to function in a remote learning environment and close the digital divide. Mr. Chamblin said some students have poor connectivity in their area. Internet service for students needs to be fast enough for homework and videoconferencing. Satellite Internet speed is inadequate and DSL is often times too slow. WiFi and mobile service speeds vary by area. Cable and fiber optic Internet offers target speeds.

Mr. Chamblin said having regional consortia, involving multiple school districts, tribal entities, rural public libraries, and other participants, helps accomplish key objectives: lowering Internet costs at a regional level, building more regional capacity for new high speed Internet connections in the future, and centralizing network management and security. Mr. Chamblin talked about the benefits of deploying a comprehensive, statewide approach to build broadband infrastructure.

Mr. Chamblin said short-term strategies that could be funded by PSCOC to improve Internet access include

- Coordinating help for districts to identify effective connectivity solutions,
- Improving school site WiFi strength and capacity for after-hour use and parking lot connectivity,
- Purchasing and installing equipment to support school bus WiFi connectivity, and
- Purchasing devices and home-based connectivity equipment for students.

Long-term strategies include providing support for regional consortia and the development of a statewide educational network.

Chief Executive Officer Luis Reyes said the Kit Carson Electric Cooperative (KCEC) serves 29 communities, 25 thousand households, 4,304 businesses, 183 facilities, and 3,300 propane customers in Taos, Colfax, and Rio Arriba counties, supplying 30 thousand electric meters, 9,000 broadband connections, and 2,900 miles of electric and high-speed fiber optic lines.

Mr. Reyes said broadband serves multiple purposes and generates multiple revenue streams. The financial incentives line up with social and economic development goals. It supports residents, businesses, and communities and anchors institutions. Rural communities depend on broadband for economic viability. The case for implementing broadband ensures providers are encouraged to keep value high and keep costs low to attract and keep customers.

Reporting on KCEC Internet, Mr. Reyes said the core network is expanding to 40 gigabytes (GB). The new equipment has the capacity to upgrade to 100 GB. By the end of this year, the cooperative will be able to supply homes and businesses with up to 10 GB. KCEC leases and maintains dark fiber and has three redundant broadband paths for resilience and reliability. KCEC is both a competitive local exchange carrier and eligible telecommunications carrier.

KCEC provides reliable backhaul bandwidth to the major cellphone carriers. The cooperative's robust broadband infrastructure allows cellphone carriers to provide better service in the area with enhanced services.

Mr. Reyes said KCEC is working with school districts, charter schools, higher education institutions, and tribal communities in the service area to connect all students with fiber optic Internet. The cooperative is installing fiber optic drop to homes at no cost to the homeowner. A router is supplied if needed. Low-income and school broadband rates are offered. KCEC is also working with the Taos Education Collaborative to install 80 community WiFi hotspots. KCEC has invested \$324 thousand in student Internet connections since the start of the pandemic. Eight hundred students in the service area remain on waiting lists for connections. In March, the cooperative requested funding from the Public Regulation Commission but was denied. Loan and grant monies are additional resources the cooperative secures for investments.

To deliver broadband to all rural areas of New Mexico, Mr. Reyes recommends the state

- Develop a stronger statewide strategic plan on implementation of broadband infrastructure,
- Clearly identify how Internet access data is aggregated and utilized to connect the all of New Mexico,

- Report the difference between Internet access and broadband,
- Provide more detailed data on rural broadband services offered regionally or statewide
- Improve the way rural areas without high-speed internet access are mapped to qualify for federal dollars, and
- Understand the importance of broadband capabilities.

Senator Munoz asked what the state can do to establish collaboration and coordination in developing broadband infrastructure statewide. Ms. Fischer said LFC staff agree there should be more centralization and oversight of investments in broadband. In the 2019 LFC program evaluation report on broadband, staff recommended the state establish a consolidated office of broadband, which has been successful in some states.

Improving Outcomes for Child Protective Services. Secretary Brian Blalock said the Children, Youth and Families Department (CYFD) is working to coordinate and align services across state government to improve outcomes, especially in times of crises. In response to the pandemic, New Mexico activated the emergency support function six (ESF 6) of its emergency operation's plan to provide mass care, emergency assistance, housing, and human services during the pandemic. ESF 6 engages several agencies, including the Health, Human Services, Children, Youth, and Families, Aging and Long-Term Services, Indian Affairs, and Agriculture departments. Since activated, ESF 6 has provided 2.4 million pounds of food to needy and elderly people and arranged accommodations for Covid-positive and -exposed individuals, including first responders. Specialty shelters have also been put in place for Covid-positive and -exposed individuals who require medical or drug and alcohol treatment.

Secretary Blalock said the Human Services Department (HSD) made available online purchasing of food to Supplemental Nutrition Assistance Program (SNAP) households.

Secretary Blalock said the *Kevin S. v. Jacobson* lawsuit, filed in 2018, was settled on March 26. Stipulated by the agreement with plaintiffs, New Mexico will improve its child welfare system. Specifically, CYFD and HSD will

- Develop a trauma-responsive system of care for children in state custody;
- Place children in out-of-home care in stable, safe, appropriate, community-based placements in the least-restrictive environment;
- Build a relationship with tribal communities and comply with the Indian Child Welfare Act; and
- Build a statewide, community-based behavioral health system that all children and families will be able to access.

Secretary Blalock said the improvements made will be overseen by a panel of co-neutrals and align with CYFD's strategic plan, which is focused on prevention, optimization, and staffing.

Secretary Blalock said CYFD is working to meet the increased service needs during the pandemic and improve outcomes. Services rendered telephonically spiked in April and remains high. Infant behavioral health services increased 50 percent, particularly in tribal communities, and the number of behavioral health wraparound sites doubled. Foster families were issued stimulus checks to help with increased expenses. Youth formerly in care also received stimulus money to help avoid

homelessness. CYFD implemented an extended foster care program with the goal of ending homelessness of youth who age out of care. CYFD is using predictive analytics for better prevention. From January to August, pending investigations decreased from 2,347 cases to 135 cases and treatment center residents decreased from 200 youth to 125 youth. Currently, 36 percent of foster children are placed with relatives; CYFD's target is 40 percent. Juvenile justice facilities are following strict cleaning and screening protocols to prevent Covid-19 infections within facilities.

Amy Whitfield, special projects coordinator for CYFD, said extensive staff and foster parent trainings are continuing through the pandemic, primarily conducted virtually. Supervisors are using on-the-job manuals to train new employees. Ms. Whitfield provided an overview of the various trainings.

Highlighting key information in the hearing brief produced by LFC staff, Deputy Director Charles Sallee said New Mexico ranks above the national average for child maltreatment (abuse and neglect), repeat maltreatment, and child deaths. Over the last five years, the Legislature has prioritized state spending to provide more support to at-risk children and families. Investment in the Protective Services Program has grown year-over-year at a higher rate than the rest of state spending; however, only 50 percent of the program's targets were met or nearly met in FY20. While performing below target on critical measures, Protective Services has made progress in some areas. Performance should improve as CYFD continues to implement new initiatives focused on preventive services, kinship placements, and improved staff training and support. Yet, much work remains and the challenges ahead are formidable.

Representative Dow stated the majority of abuse is happening to children birth to 3 years old but the biggest investments are being made for programs that serve children 3 and 4 years old.

Measuring Results of Early Childhood Investments and Removing Gaps in Services.

Secretary Elizabeth Groginsky said the Early Childhood Education and Care Department (ECECD) is the state's newest cabinet level agency. Launched on July 1, ECECD is tasked with overseeing prenatal-to-age 5 programs in the state, including home visiting, early childhood special education, Head Start, and prekindergarten.

Secretary Groginsky said New Mexico established an early childhood trust fund this year to support early childhood education and care initiatives in the state. The trust fund will be sustained by the surplus of two revenue sources and will make distributions to support early childhood programming beginning in FY22. 2019 legislation requires ECECD to prepare and update a four-year early childhood education and care finance plan to provide the Legislature and governor with demographic information on at-risk children, data on the efficacy of early childhood education and care programs, and recommendations for financing the early childhood education and care system.

Secretary Groginsky said ECECD is building a system that

- Ensures programming reaches and positively impacts the most vulnerable children;
- Provides fairness to providers and supports providers' developing capacity for quality implementation;

- Uses public resources wisely and efficiently, augmenting private resources from families who can afford services;
- Compensates the workforce at a level that acknowledges workers' contribution and ensures financial stability; and
- Supports the entirety of a child's experiences before entering kindergarten.

Secretary Groginsky said ECECD comprises four divisions: Administrative Services; Family Support and Early Intervention; Early Care, Education, and Nutrition; and Policy, Research, and Quality Initiatives. Much of ECECD program development is in partnership with other programs and entities, including the New Mexico Head Start Association, Bureau of Indian Education, Pritzker Children's Initiative, and New Mexico Pediatric Society.

Of ECECD's \$419 million budget in FY21, 79 percent will be used to provide early childhood education and care services, 12 percent to provide prekindergarten services, 8 percent to provide support and intervention services, and 1 percent to provide program support. Fifty-three percent of the budget is federally funded and 46 percent is state funded.

Reporting on accountability and performance, Secretary Groginsky said ECECD performance data will be reported in various documents, including state and federal annual reports. The one-time *Advisory Council Report* will be published in December. By program in FY20, the Home Visiting family support program served 6,263 families, Family, Infant, and Toddler (FIT) served 14,923 children, Families First served 1,727 families, and Prekindergarten served 7,072 children. Also in FY20, 26,649 children received childcare services.

Secretary Groginsky said childcare providers have faced significant challenges since the start of the pandemic. Deemed an essential service, federal CARES Act funding is providing support to ensure childcare needs continue to be met. With the funding, New Mexico is providing free childcare to essential workers and implementing a childcare and recovery and stabilization grant program. Also, early childhood professionals in the state received wage incentives from April to June. Secretary Groginsky said ECECD's priority is to ensure childcare providers reopen and stay open in a safe and responsible manner. A subcommittee of the Economic Recovery Council is providing Covid-safe guidance to providers and surveillance testing is being administered at childcare facilities. ECECD is communicating closely with providers, distributing personal protective equipment to facilities, and delivering food and infant wellness packages to tribal communities.

In response to Representative Anderson, Secretary Groginsky said the appropriations disbursed from early childhood trust fund to ECECD will be determined by the Legislature.

In response to Representative Anderson, Secretary Groginsky said ECECD is requesting \$1 million to build data system infrastructure.

In response to Vice Chairwoman Lundstrom and Representative Martinez, Secretary Groginsky said ECECD will provide the committee an organizational chart of New Mexico's Children's Cabinet and the percent of families participating in the home-visiting program.

Update on Spaceport and Spaceport Operations. Scott McLaughlin, acting executive director of the Spaceport Authority, said an independent review of New Mexico's spaceport (Spaceport America) is underway, following a whistleblower complaint against the former executive director. The complaint also initiated an investigation by the State Auditor.

Mr. McLaughlin said Spaceport America is one of 12 Federal Aviation Administration (FAA) licensed spaceports in the country. Spaceport America has many competitive advantages, including restricted air space, good weather, remoteness, federal laboratories with related activities, partnership with White Sands Missile Range, and room for horizontal, vertical, and alternative space launch methods. Investments in the space industry, largely venture capital, continue to grow.

Since its inception in 2007, Spaceport America has generated 260 direct jobs, which Mr. McLaughlin said brings in new money and creates indirect and induced jobs. Current tenants of the spaceport include Virgin Galactic, SpinLaunch, AeroVironment, and UP Aerospace. Providing an overview of current activity at the spaceport, Mr. McLaughlin said Virgin Galactic's SpaceShipTwo and WhiteKnightTwo spacecraft are permanently located at the spaceport. AeroVironment built a 300 feet long hangar for a solar-powered high altitude platform station airplane. The unmanned aircraft system, which has a 260-foot wingspan, is designed to circle in the stratosphere for extended periods of time while carrying a telecommunications payload. Construction continues on the world's largest evacuated centrifuge, which SpinLaunch expects to complete in 2021. An emergency preparedness exercise was conducted earlier this year. Spaceport personnel, local and state law enforcement, county partners, volunteers, and the Department of Homeland Security and Emergency Management participated in the three-day exercise. The spaceport is hosting nonaerospace events, conducting science, technology, engineering, and mathematics (STEM) outreach, and improving infrastructure. Due to the pandemic, multiple vertical launches are postponed and the Spaceport America Cup was cancelled this year.

Mr. McLaughlin said Spaceport America projects \$12.8 million in total FY21 revenue.

Mike Moses, president of Virgin Galactic, said flying customers requires FAA approval, which the spaceflight company expects to acquire soon. Mr. Moses said Virgin Galactic continues to move steadily through its test flight program, including conducting the first test flight of SpaceShipTwo in May. Two pilots will be onboard the next SpaceShipTwo test flight, making New Mexico the third state in the country to have humans launched into space from its soil. A virtual tour of SpaceShipTwo was recently released.

Mr. Moses said the build-out of Virgin Galactic's terminal is progressing. Construction of the third floor customer area was completed and a certificate of occupancy was received. Reporting on other activity, Mr. Moses said Virgin Galactic signed an agreement with NASA for private orbital spaceflight to the International Space Station. Under the agreement, Virgin Galactic will develop a private orbital astronaut readiness program that increases commercial use of the space station.

Mr. Moses said Virgin Galactic is currently employing 170 people in New Mexico. In FY20, the company spent \$14.9 million in the state. Mr. Moses talked about the various outreach and

educational initiatives of Virgin Galactic. This year, the company contributed \$30 thousand toward the purchase of essential equipment for local medical centers in Las Cruces, \$10 thousand toward Covid-19 relief in New Mexico, and \$10 thousand toward services provided by the American Red Cross in New Mexico, El Paso, and Arizona. Some of the many learning opportunities provided by Virgin Galactic are being conducted online this year.

In response to Senator Papen, Mr. McLaughlin said he will provide her a copy of the comprehensive economic impact analysis report on Spaceport America, released by an independent firm in January.

Chairman Smith asked Alicia Keyes, secretary of the Economic Development Department and current chair of the Spaceport Authority Board, to provide LFC the dates of the board's meetings that occurred in the last two years. Chairman Smith expressed concern about the recent transition of the board's chairperson and growing instability of New Mexico's spaceport.

Chairman Smith asked the Spaceport Authority to provide the committee information on the capital improvements made by the spaceport's tenants.

Capital Outlay Quarterly Report. LFC Analyst Steve Olson said, as of June 18, 2020, approximately \$1.1 billion from all funding sources for 2,069 projects remains unexpended, including \$59.7 million of earmarked fund balances for water, colonias, and tribal infrastructure projects. Additionally, \$397.3 million remains unexpended from supplemental severance tax bonds for public schools. Much of the unexpended balance is from 2019 appropriations for 1,353 projects, totaling \$768.4 million.

The balances do not include 2020 capital outlay appropriations, which total \$422.7 million. The State Board of Finance approved the issuance of severance tax bonds, totaling \$251.9 million. The Department of Finance and Administration budgeted all 2020 general fund appropriations and grant agreements are in development. All 2020 appropriations will be included in the next quarterly report.

Staff is currently tracking 200 "\$1 million or greater" projects, totaling \$983.4 million; \$648.2 million is unexpended. Since the March 2020 report, five appropriations were fully expended or reverted, totaling \$10.5 million.

LFC Consultant Linda Kehoe provided an overview of outstanding local capital outlay appropriations. As of June 2020, balances total \$429.8 million for 1,664 projects. The local report did not include the additional \$290.6 million appropriated in the 2020 regular session. Ms. Kehoe said the pandemic and freeze of capital transactions may have slowed construction and renovation activity.

Representative Crowder asked if pandemic closures are impacting the progress of capital outlay projects at courthouses. Mr. Olson said, in general, many projects continue to move forward, however, he is unsure if Covid-19 closures are impacting projects at courthouses. LFC staff are awaiting an update from the Administration Office of the Courts on the status of projects at

courthouses. Representative Crowder requested additional information relating to possible duplication of funding for dam renovations. LFC staff will follow up with additional information.

Friday, August 28

The following members and designees were present on Friday, August 28, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt (via Webex), George K. Muñoz, Roberto “Bobby” Gonzales, Gay G. Kernan (via Webex), and Pete Campos; and Representatives Javier Martinez (via Webex), Jack Chatfield, Rodolpho “Rudy” Martinez, Gail Armstrong (via Webex), Candie Sweetser, Sheryl Williams Stapleton, and Randal S. Crowder. Guest legislators: Senator Mary Kay Papan; and Representatives Phelps Anderson, Rachel A. Black, Rebecca Dow (via Webex), Harry Garcia, Derrick J. Lente, Rod Montoya, Andres G. Romero (via Webex), and Tomas Salazar (via Webex).

Miscellaneous Business.

Action Items. Senator Gonzales moved to approve the LFC July 2020 meeting minutes, seconded by Senator Sanchez. The motion carried.

Senator Gonzales moved to adopt the LFC FY22 budget request, seconded by Representative Martinez. The motion carried.

Senator Munoz moved to approve the LFC FY22 appropriation recommendation guidelines, seconded by Senator Gonzales. Representative Crowder voted in opposition. The motion carried.

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

Improving Educational Outcomes and New Mexico Response to *Yazzie* and *Martinez v. State of New Mexico* Decision. Reporting on the status of the *Yazzie-Martinez* consolidated case, Ryan Stewart, secretary of the Public Education Department (PED), said in July 2018, the court ordered New Mexico to take immediate steps to ensure schools have the resources necessary and provide all students with a uniform and sufficient education that prepares them for college and careers. In October 2019, the *Martinez* plaintiffs filed a motion for discovery and enforcement proceedings, and the *Yazzie* plaintiffs filled a motion to order the state to develop, implement, and fully fund a long-term plan. The state filed a motion to dismiss in March 2020, citing improvements made in New Mexico’s public education system; the motion was denied in June. While the court acknowledged the state’s immediate actions, long-term improvements must be shown. Also at the June hearing, the court granted discovery and denied the *Yazzie* motion without prejudice. *Martinez* plaintiffs have not yet submitted any specific discovery requests. Discovery is scheduled to conclude May 31, 2021.

Secretary Stewart talked about the measures taken to address the education sufficiency lawsuit and said investments were made in extended learning time, early childhood education, at-risk student services, and career and technical education (CTE) programs. Investments were also made to increase support for students who are Native American and English language learners and students with disabilities. PED was appropriated \$3 million to create a financial system that increases

transparency and oversight of school spending and allows for comparisons among districts and schools. School districts are now required to align their annual budgets with an annual education plan submitted to PED for approval. School districts are also required to establish equity councils to guide programming and budget development. PED is releasing administrative guidance memos, issuing progressive and corrective action plans, scheduling tribal consultations and equity council meetings, conducting school climate surveys, tracking at-risk students' access to programs, and assessing English learners three times a year.

Secretary Stewart said the measures support PED's framework of a culturally and linguistically responsive education that prepares all students socially, emotionally, and academically for success in college and career. PED engaged stakeholders in a strategic planning process to evaluate current initiatives and determine ways to strengthen and improve strategies for

- Administering a vibrant educator ecosystem,
- Closing the opportunity gap,
- Creating pathways and profiles, and
- Providing whole child education.

Secretary Stewart said PED's next steps include deepening investment in critical programs and strengthening cross-agency communications.

Reporting on public education performance in New Mexico, Mr. Sallee said 2020 data is not available because of schools closed for the pandemic. Students proficient in reading and math increased slightly from 2016 to 2019. The statewide graduation rate improved from 71 percent to 74.9 percent. New Mexico schools would need to graduate 2,600 more students to reach the national graduation rate. A graph in the presentation showed the improvement made in the percent of at-risk students by school district proficient in reading as result of increased funding.

Mr. Sallee said *Yazzie* and *Martinez* plaintiffs alleged New Mexico is not meeting its constitutional obligation to provide sufficient funding and programming for at-risk public school students. The court determined the outputs are "dismal" and therefore the inputs (funding and programming) must be insufficient.

From 2009 to 2016, student average test score growth in New Mexico was higher than the national average, according to Stanford University data. Mr. Sallee said data proves New Mexico's public education system is essentially doing what it's designed to do: provide a year's worth of academic growth each year; however, many students are persistently behind academically. Mr. Sallee explained how the learning gap between a child from a middle-income family and a child from a low-income family widens because of learning lost during summer break. Student absenteeism and mobility is compounding the problem.

Mr. Sallee said New Mexico needs to close the learning gap through fundamental restructuring of how schools deliver educational services, targeting resources to evidence-based practices. LFC education budget recommendations are informed by national and state research and developed in conversation with the Legislative Education Study Committee and educational stakeholders. In 2019 and 2020, the Legislature focused public education funding on supporting high quality

teaching and school leadership, extending learning opportunities, developing responsive and appropriate curriculum; and providing effective oversight and accountability.

Mr. Sallee said, moving forward, the state may want to consider

- Increasing compensation and other strategies to reduce teacher shortages in high poverty schools and bilingual and special education programs,
- Implementing more teacher preparation reforms,
- Developing a set of leading indicators for performance monitoring, and
- Expanding extended learning programs statewide.

Other potential next steps were listed. Mr. Sallee said public education funding has remained steady through three economic downturns and increased since the 2019 ruling. Challenges are ahead, however, as Covid-19 closures exacerbate learning loss.

In response to Representative Lente, Secretary Stewart said PED is currently interviewing final candidates to fill the assistant secretary position of the Indian Education Bureau. Representative Lente urged PED to ensure it has the expertise to develop tribal remedy framework in response to *Yazzie* and *Martinez*.

In response to Senator Sanchez, Secretary Stewart said NM Vistas is a public portal reporting school performance data. The portal is an accountability tool and helps drive conversations for improvement.

Vice Chairwoman Lundstrom asked PED to keep LFC staff updated on the progress of the impact aid lawsuit.

Senator Munoz requested PED provide the committee detailed information on how funding is being spent, including Coronavirus Aid, Relief and Economic Security (CARES) Act dollars.

Yazzie and Martinez v. State of New Mexico Plaintiffs Plan to Improve Educational Outcomes.

Ernest Herrera, staff attorney of the Mexican American Legal Defense and Educational Fund (MALDEF) and counsel for the *Martinez* plaintiffs, said he appreciates the difficulty of education at the current moment. Mr. Herrera said, for bilingual and English learners (EL), the *Martinez* plaintiffs recommend the state provide funding and monitoring to ensure all EL have access to adequate English acquisition services and bilingual programs, and ensure Hispanic and Native American students have access to quality bilingual education. The *Martinez* plaintiffs recommend the state raise the weight of bilingual funding in the funding formula and ensure professional development for English language development and bilingual programming reaches teachers. The *Martinez* plaintiffs recommend the state provide funding that ensures public school districts can afford the teachers they need, preserves teacher salary increases, and addresses systemic causes of increased class sizes. For after-school and extended learning programs, the *Martinez* plaintiffs recommend the state provide appropriate funding for research-based after-school and extended learning programs for at-risk and EL students and implement K-5 Plus in a way that reaches at-risk students statewide. For multicultural education, the *Martinez* plaintiffs recommend the state provide additional guidance and support on districts' development of a culturally relevant curriculum and pedagogy to all students, sufficiently fund programs, and implement training on

anti-racism and restorative justice. For at-risk students, the *Martinez* plaintiffs recommend the state include all economically disadvantaged students in the at-risk index, monitor funding to ensure dollars generated by at-risk students follow those students, and fund programs that provide additional supports to at-risk students. For instructional materials, the *Martinez* plaintiffs recommend the state make instructional materials available to all students and secure instructional materials that support culturally relevant curriculum. For prekindergarten and early childhood education, the *Martinez* plaintiffs recommend the state appropriately fund full-day prekindergarten to ensure uniform access for all at-risk children and monitor qualifications of early childhood educators. For the Hispanic Education Act, the *Martinez* plaintiffs recommend the state work with school districts and the Latin community to implement a comprehensive plan for closing the achievement gap and ensure the provision of appropriate multicultural instructional materials and culturally relevant curriculum and pedagogy to Latin students. For the Indian Education Act, the *Martinez* plaintiffs recommend the state ensure all Native American students receive a culturally relevant education. For overall public school funding, the *Martinez* plaintiffs recommend the state provide appropriate overall funding to public schools to enable them to provide an adequate education to all at-risk students, require money allocated to at-risk student programs be used for those programs, and make sure the recession does not erase gains in school funding. For students with disabilities, the *Martinez* plaintiffs recommend the state sufficiently fund educational programs for students with disabilities, ensure monitoring of use of funds for special education, monitor individualized education plans, ensure school discipline does not unjustly or negatively affect students with disabilities, monitor schools filling special education teacher and specialist vacancies, address lack of funding for ancillary personnel and professional development, and determine the cost of providing adequate special education in New Mexico.

Daniel Yohalem, co-counsel for the *Yazzie* Plaintiffs, said the state needs comprehensive change. Mr. Yohalem said the Legislature needs to develop adequate education policy and funding and PED needs to be implement the Legislature's guide.

Preston Sanchez, co-counsel for the *Yazzie* plaintiffs, said the current educational system does not recognize the unique assets that students bring to the classroom. Mr. Sanchez said the state overlooks multicultural framework.

Melissa Candelaria and Alisa Diehl, attorneys for the Center on Law and Poverty, and Mr. Sanchez summarized a gaps assessment and said student outcomes are still dismal because the education system continues to be insufficient for students who are Native American, ELL, and at-risk and students with disabilities. The state has no comprehensive plan that shows how it will get to sufficiency and equity in educational programs, services and funding for the four student groups.

The assessment recommends the public education system be fundamentally reimagined for equity to dismantle racism, engage students, parents and tribal leaders in defining priorities, and for the learning systems to embrace the cultures, languages, and heritages of students and their overall well-being, including their physical, social and emotional health.

The state has not adequately consulted and collaborated with tribal governments to determine educational programs or assess student needs. The state has not provided technical assistance to school districts and has not increased the number of Native American teachers or ensured teachers

have training in culturally and linguistically responsive education. The state has not provided a curriculum and pedagogy that is responsive to Native American students. Students continue to lack access to internet, technology, libraries, after school and other programs.

A comprehensive plan to come into full compliance with the Indian Education Act is necessary. Legislation was passed in 2019 requiring Native American student need assessments, but it has not been implemented. Substantial funding is needed for language programs, teacher preparation, libraries, technology, and tribal education departments.


Additional findings and recommendations were detailed.

In response to Representative Martinez, Mr. Preston said the governor's legal counsel, PED and *Yazzie* and *Martinez* plaintiffs met twice a year ago to discuss state plans, but the executive stopped further meetings. Mr. Preston said the *Yazzie* and *Martinez* plaintiffs requested the executive to resume meetings.

With no further business, the meeting adjourned at 11:22 a.m.



John Arthur Smith, Chairman



Patricia A. Lundström, Vice Chairwoman