

MINUTES
Legislative Finance Committee - Hybrid Meeting
State Capitol, Senate Floor - Santa Fe, New Mexico
November 16 - 20, 2020

Tuesday, November 17th

The following members and designees were present on Tuesday, November 17, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt, George K. Muñoz, Roberto “Bobby” J. Gonzales Mary Kay Papan, Gay Kernan, and Pete Campos; and Representatives Rebecca Dow, Javier Martinez, Gail Armstrong, Rodolpho “Rudy” Martinez, Candie Sweetser, G. Andres Romero, and Randal S. Crowder. Guests: Senator Gabriel Ramos and Representatives Joseph L. Sanchez, Tomas Salazar, Joy Garratt, Jack Chatfield, Cathrynn N. Brown, and Marian Matthews

Permian Basin Oil Production. Bernadette Johnson, vice president of Market Intelligence at Enverus, started the presentation describing the most recent oil price crash coinciding with stay-at-home orders and the Covid-19 pandemic. Crude oil prices significantly increased over the summer as demand for transportation fuels increased, bringing the cost of a barrel back to \$40. However, prices lost momentum and have steadied. Oil production in New Mexico fell to 835 thousand barrels per day (bpd), a decline of 26 percent from March to May.

By August, Ms. Johnson noted, reinstated shut-in wells produced an increase of oil to 1 million bpd, which remains 10 percent below the peak of 1.1 million bpd produced in March pre-pandemic. Notably, the average New Mexico price of oil fell to \$14.38/bpd in April and increased to \$40.04/bpd by August.

Ms. Johnson maintained the oil market remains uncertain, particularly sensitive to the potential extension of OPEC+ production cuts and potential fuel demand amid increases in Covid-19 cases in the United States. If oil prices increase faster-than-expected, companies may use higher oil prices to return more to investors or pay down debt rather than expand investment in new drilling.

Ms. Johnson also pointed out the market must return to equilibrium before the market can recover. New Mexico drilling rigs were down 59 percent from 117 rigs in March 2020, falling to 48 rigs in July and maintaining about 40 to 50 rigs in October. These numbers will remain low as long as prices remain below \$45 per barrel. Drilling was down 74 percent in September, with 134 new wells drilled, compared with 589 new wells drilled during the same time last year.

Continued production gains are forecast through year’s end before production drops in December 2021. Ms. Johnson said production growth in 2022 and beyond will require \$45 a barrel at West Texas intermediate prices.

Ms. Johnson pointed out falling oil production has resulted in lower associated natural gas, raising prices and dropping deductions. The resulting net natural gas price, which best represents the price received by producers and the taxable value of the product, averaged just 38 cents per thousand cubic feet in April. By August, statewide average net natural gas prices reached

\$1.34/mcf. The rise in gas prices is expected to continue due to associated natural gas production expectations Enverus estimated natural gas prices reaching \$3.49/million British thermal units in 2021 and \$3.00/MMBtu in 2022.

In response to questions from Senator Kernan, Ms. Johnson indicated more rigs are running in Texas than New Mexico largely due to land area and not simply due to the economics of wells. Furthermore, Ms. Johnson responded to a question about reopening shut-in-wells describing the individual and unique cost associated with each well. When production is stopped, corrosive material remains in surface facilities, damaging machinery and parts. Also, pressure levels may be too low for them to be economically advantageous.

In response to questions on venting, flaring, and fracking regulations from Senator Kernan, Ms. Johnson highlighted high levels of uncertainty and acknowledged new regulatory structures will increase costs, which will determine production levels on a well-by-well basis given economics and geography.

In response to questions on demand and Covid-19 impacts from Senator Muñoz, Ms. Johnson acknowledged a highly volatile market will persist despite the pandemic due to global market factors. Furthermore, Ms. Johnson pointed out demand will slowly recover and slow declines in production will keep oil prices low. For natural gas prices, Ms. Johnson described expectations for prices at least at \$3.50/mcf depending on the severity of the winter, although volatility remains.

In response to questions from Representative Salazar on the federal Bureau of Land Management's environmental reviews, Ms. Johnson described how a friendly approach to the oil and gas industry and removing environmental protections too quickly has led to increased risk for lawsuits against the federal government and blocking projects.

Answering a final question from Chairman Smith, Ms. Johnson described the unpredictability of renewable energy and the resulting stability hydrocarbons provide to the market, which will lead to continued growth in oil and gas until a significant technological break-through is achieved to improve the economics of renewable markets.

Aging and Long-Term Services Department (624). Katrina Hotrum-Lopez, secretary of the Aging and Long-Term Services Department (ALTSD), reported on the progress of key initiatives and said New Mexico's aging network is currently serving 30 percent more seniors than last year.

ALTSD requests \$46.2 million from the general fund for FY22, a 5 percent decrease from FY21. Operating costs, however, are projected to total \$52.5 million. Secretary Hotrum-Lopez said the demand for services is on the rise. New Mexico is projected to have the fourth highest elderly population in the country by 2030. To modernize the system, ALTSD is upgrading IT infrastructure and purchasing necessary equipment, including tablets and service scan licenses for all area agency on aging providers. Higher IT costs are projected for FY22.

Reporting on other activity, Secretary Hotrum-Lopez said ALTSD is increasing advocacy efforts of its Long-Term Care Ombudsman Program. The number of meals provided to seniors spiked during the pandemic. ALTSD expects the demand for services to remain high.

Representative Crowder asked ALTSD to provide the committee its latest report on New Mexico's aging population.

In response to Representative Crowder, Secretary Hotrum-Lopez said ALTSD received \$4.3 million in Coronavirus Aid, Relief and Economic Security (CARES) Act funding; about \$525 thousand is expended so far.

General Services Department (350). Highlighting recent accomplishments, Secretary Ken Ortiz said the General Services Department (GSD)

- Added an asset management module to the SHARE system to provide more accurate recording and tracking of assets and appropriate values;
- Developed an online web application for public entities to self-report construction contracts in compliance with House Bill 319;
- Launched DocuSign as the enterprise solution for state contract e-signature;
- Provided the state with Census 2020 promotional materials and Covid-related signage;
- Started the replacement of its aging motor pool;
- Installed GPS tracking on new vehicles;
- Added more choices to the employee benefits program; and
- Installed 30 electric vehicle charging stations on state-owned campuses in Santa Fe.

Secretary Ortiz said GSD requests \$551.9 million for FY22, a \$40.5 million increase over FY21. The increase is largely in the other revenues category for the Employee Group Health Benefits and Risk Management Funds programs. GSD requests the increase to cover increased risk fund claim costs and health benefit premiums. A \$13.3 million increase is requested in the other transfers category. For operations, the agency requests \$16.4 million from the general fund, a \$190 thousand decrease from FY21.

In FY22, GSD will implement a new risk management system, launch a sustainable purchasing initiative, add four new digital presses, complete the state buildings green energy project, and develop an up-to-date facility condition assessment. Other planned initiatives were mentioned.

Secretary Ortiz said GSD requests a \$10 million supplemental appropriation for the health benefits fund and a \$2 million special appropriation for the motor pool fleet.

In response to Senator Burt, Secretary Ortiz said the Early Childhood Education and Care Department (ECECD) is moving into the PERA building, collocating with the Children, Youth and Families Department (CYFD). GSD Director Anna Silva said the Facilities Management Division is working closely with ECECD and CYFD to ensure the PERA facility is renovated to meet the needs of both agencies, including planned field offices.

In response to Senator Woods, Secretary Ortiz said GSD currently has one airplane to provide service for the Children's Medical Services and New Mexico School for the Blind and Visually Impaired.

Department of Public Safety (690). Highlighting recent accomplishments, Interim Secretary Tim Johnson said the Department of Public Safety (DPS)

- Completed the first phase of an agencywide body camera program;
- Graduated 66 new officers in three New Mexico State Police (NMSP) recruit schools;
- Implemented the planning phase of a computer-aided dispatch upgrade;
- Graduated 293 law enforcement officers and 75 dispatchers from the New Mexico Law Enforcement Academy (NMLEA);
- Reorganized and reclassified NMLEA personnel;
- Upgraded 20-year-old laboratory information system; and,
- Implemented a radio frequency identification (RFID) inventory tags system to track all items in lab custody.

Interim Secretary Johnson said New Mexico had the nation's second-highest property crime rate and second highest violent crime rate in 2019. Violent crime decreased by 2.7 percent in 2019 after a large increase over the previous several years. 2018 and 2019 had an 8.9 decrease in property crimes, including a 9.4 percent decrease in burglary, 6.7 percent decrease in larceny theft, and a 10.9 percent decrease in motor vehicle theft.

For FY22, DPS reduced its general fund request by 5 percent. However, the department noted this proposed reduction of \$6.4 million would place significant restrictions on the agency's operations and requested the committee consider additional recurring appropriations, including \$3.4 million to implement a state police officer pay plan and \$2.9 million for a state police recruit school in the fall. Nonrecurring appropriation requests include \$5.7 million for the Public Employee Retirement Association and Retiree Health Care Authority contributions for former MTD-SID officers, \$9.9 million to purchase and equip law enforcement vehicles, \$50 thousand to conduct salary study for the forensic laboratory bureau, \$1.5 million to purchase 80 body camera and dashcam systems and \$1.5 million for cloud-based video storage, \$52 thousand to review officer curriculum at NMLEA, \$100 thousand to conduct job task analysis for law enforcement officers statewide, \$483 thousand to replace the bomb team's robotic platform, and \$136.3 thousand for crash reconstruction and crime scene laser scanners.

In response to questions from Senator Gonzales, Interim Secretary Johnson said 49 NMSP officers are women (out of a total 686 officers); clarified that the cost of the camera software is included with the price of the cameras; stated DPS has three pilots and owns one helicopter, and the purchase of a smaller helicopter could be used for patrolling; and noted that Ford produces a pursuit performance vehicle that is cheaper, faster, can carry more equipment, and safer for officers.

In response to Representative Crowder, Interim Secretary Johnson said he is unsure how the legalization of marijuana will impact the DPS budget, and the agency has been involved with fiscal surveys and meetings with various stakeholders. Representative Crowder requested information on the fiscal study. In response to a separate question, the interim secretary

explained there are conversations about moving transportation inspectors to the Department of Transportation (NMDOT), because NMDOT is responsible for inspections and collecting fees, and stated he could follow-up with more information after a conversation with DOT leadership.

In response to Senator Muñoz, Interim Secretary Johnson said NMSP have contact with businesses in violation of the governor's health order for the first and second violation. Notices of closure require the signature of the Department of Health (DOH) but are issued by NMSP. A third or subsequent violation is directed to DOH.

In response to Senator Kernan, Interim Secretary Johnson said a visit by NMSP is triggered based on reports to the Covid-19 enforcement email. The reports are sent to NMSP or DOH.

Department of Finance and Administration. Debbie Romero, Acting Secretary of the Department of Finance and Administration (DFA) presented the agency's FY22 budget request, joined by Deputy Secretary Renee Ward, Board of Finance Director Ashley Leach, Local Government Department Director Donnie Quintana, Administrative Services Director Eric Chenier, Capital Outlay Bureau Chief Wesley Billingsley, and Information Technology lead Joseph Baros.

The FY22 DFA general fund budget request represents a 5 percent reduction from the FY21 operating budget. The total budget request was \$140.9 million, a 7 percent reduction. The request included decreases across all categories. The request for nonoperating appropriations was 0.6 percent below the FY21 operating budget. DFA currently has 153 FTE and requested 147 for FY22.

DFA's FY22 budget request recognizes current and projected economic constraints while prioritizing fiscal strength and stability, with a focus on retaining Fiscal Control Division staff and expertise, stopping vendor fraud, protecting and improving state bond rating, and maintaining consistent financial management. The request also emphasizes maintaining quality service, improving government accountability, workforce development, and engagement with local communities. These improvements will help support other state agencies, tribal governments, local governments, small business, and others.

Secretary Romero indicated DFA has met or exceeded its performance measures and acknowledged the success of DFA staff, especially given difficulties of working during the Covid-19 pandemic.

Capital Outlay Quarterly Status, Review of Bonding Capacity, and Capital Requests. LFC Analyst Stevie Olson said, as of November 2, 2020, approximately \$1.4 billion from all funding sources for 2,644 capital outlay projects remains outstanding, including \$128.3 million of earmarked fund balances for water, tribal, and colonias. Additionally, approximately \$407.5 million remains outstanding from supplemental severance tax bonds for public schools. The majority of the unexpended balance is from 2019 and 2020 appropriations, 2,217 projects totaling \$1.2 billion, and \$210.5 million appropriated between 2016 and 2018.

In October and November 2020, the Board of Finance (BOF) authorized the issuance of \$92.5 million for 298 severance tax bond (STB) capital projects appropriated during the 2020 session. To date, BOF has sold a total of \$344.4 million STB for 799 capital projects appropriated in the 2020 regular session. Approximately \$7.9 million for 33 projects remain authorized but unissued. The Department of Finance and Administration has budgeted all general fund appropriations and the issued STB appropriations. Grant agreements are currently under development. Results indicate the electorate approved the three statewide general obligation bond (GOB) questions: senior citizen facilities for \$33 million, public libraries for \$9.5 million, and public education for \$156 million. BOF estimates the GOB approved during the 2020 election will be issued in April 2021.

Mr. Olson said \$614 million for 2,095 active local capital outlay appropriations, or 85 percent, remains unexpended. The \$300 thousand to \$999 thousand spreadsheet tracks \$210 million of appropriations, of which \$174.0 million, or 83 percent, remains outstanding. The most current project status is provided both by the grantees and the state agency, which oversees the funds.

In response to Senator Kernan, Mr. Olson directed members to the information on the brine well in Carlsbad listed on page 12 of the "\$1 Million or Greater" spreadsheet. Mr. Olson said LFC received a letter from the Energy, Minerals and Natural Resources Department (ENMRD) requesting \$17 million additional funding to complete the brine well. Chairman Smith asked for a copy of the letter to be provided to Senator Kernan.

In response to Representative Chatfield, Mr. Olson said water trust fund awards for 2019 and 2020 are found in Attachment B. Mr. Olson explained the STB sale occurred partially in June and partially in November. Because the Water Trust Board receives a percentage of the sale, the funds were not available until recently. Director Abbey said the money will be available, but the cash proceeds will not be available until the bonds close, which may take a couple weeks.

In response to Representative Martinez, Mr. Olson said multiple projects were swept as a result of the special session and would provide a comprehensive list. Representative Martinez said a lot of money appropriated to local projects remains unspent. He said he wants to be on record saying he will work to ensure projects are planned and funding is spent. Idle funds would better serve the hundreds of people without running water or other critical needs.

In response to Senator Clemente Sanchez, Chairman Smith said the cost of the brine well was originally \$30 million but has risen to \$50 million. Director Abbey provided a status report based on a letter received from EMNRD Secretary Propst and said an additional \$25 million is needed for the project. Senator Kernan said the reclamation fund allows for oil field remediation. She further stated the northern side of the brine well was discovered to have a greater need than originally expected. Director Abbey said the cavity was created when a company injected brine into wells to enhance oil production. The brine caused the rock formation to dissolve. Senator Kernan said, when drilling began, there was no state oversight or permitting. The company is now bankrupt and can offer no compensation. She said the industry has contributed a lot to the state through taxes. She also stated requests to the Permian Strategic Partnership to help identify grant money are ongoing, area legislators have contributed personal capital outlay, and the city and the county have contributed at the level they can contribute.

Vice Chairwoman Lundstrom said it is important orphan wells are cleaned up. Director Abbey said EMNRD estimates the cost to plug an abandoned well is \$40 thousand. The LFC staff framework for capital outlay includes funds for remediating orphan wells. Senator Kernan said the oil and gas reclamation fund is a tax on the producer toward cleanup, but much of it is diverted to the general fund.

Chairman Smith stressed legislators need to be informed regarding capital outlay requests. He said legislators must communicate with local, city, and county governments because they are the fiscal agents responsible for executing projects. Legislators are also responsible for tracking projects in their districts and contacting local entities to ensure they are moving forward. Chairman Smith said, when discussions of fund sweeps occur, entities believe the funds belong to them when the Legislature has appropriated the funds. Other problems include stranded and idle funds that are not putting people to work; fiscal agents that do not efficiently leverage federal funds, in part due to timing; and small communities that often only want a grant and refuse to leverage local assets. Chairman Smith said the only way the capital outlay system will be rectified is to take the process seriously. Several governors have suggested placing capital outlay under the executive branch. He is aware of instances where the executive branch has moved money from where it was intended to go and reauthorized it to other areas

John Courtney, LFC deputy director, provided a memo to members discussing cybersecurity. In New Mexico, the trend is increasing, with seven attacks in 2018 and 15 attacks in 2019. The Legislature has invested \$7 million toward addressing these issues. These investments have led to progress, but the state is not where it needs to be for cybersecurity. Deputy Director Courtney directed members to page 7 to a list of recommendations. Aside from additional funding, recommendations include the enterprise cybersecurity upgrade project; the Legislature should consider requiring DoIT to provide a detailed cybersecurity strategic plan.

Wednesday, November 18th

The following members and designees were present on Wednesday, November 18, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt, George K. Muñoz, Roberto “Bobby” J. Gonzales Mary Kay Papen, Gay Kernan, and Pete Campos; and Representatives Rebecca Dow, Javier Martinez, Gail Armstrong, Rodolpho “Rudy” Martinez, Candie Sweetser, G. Andres Romero, and Randal S. Crowder. Guests: Senator Gabriel Ramos and Representatives Joseph L. Sanchez, Tomas Salazar, Joy Garratt, Jack Chatfield, Cathrynn N. Brown, and Marian Matthews

LFC Program Evaluation: Centennial Care – Implementation and Benchmarking. LFC Program Evaluators Jacob Rowberry and Catherine Dry presented the report *Centennial Care – Implementation and Benchmarking*. While costs for Centennial Care, the state’s Medicaid managed care program, increased from \$3.9 billion in 2014 to \$5 billion in 2019, and per enrollee spending has simultaneously increased, member utilization of healthcare and their health outcomes have remained fairly constant. At the same time, it remains unclear if key elements of Centennial Care 2.0 intended to reduce costs and improve outcomes, such as care coordination and health homes, are meeting their goals.

Centennial Care 2.0, initiated in January 2019 and set to run through December 2023, is the latest iteration of Centennial Care, a revamp of the Medicaid managed care program started in 2014 that consolidated previously separate Medicaid managed care programs into five programs: physical health, behavioral health, long-term supports and services, physical health for the Medicaid expansion population, and behavioral health for the Medicaid population. Three managed care organizations (MCOs), Blue Cross Blue Shield, Presbyterian Health Plan, and Western Sky Community Care, offer healthcare services and coordination to Medicaid members in exchange for a fixed monthly capitation rate per enrollee paid by the state. Overall, Centennial Care 2.0 aims to modernize the Medicaid program by improving efficiency and effectiveness of health delivery to New Mexicans to improve health and reduce costs.

In 2020, the Covid-19 pandemic both increased enrollment and decreased utilization. The economic downturn caused by the pandemic drove more people to enroll in Medicaid, as well as a federal requirement prohibiting disenrollment while the state receives enhanced federal funds for Medicaid, but overall use of healthcare services decreased as New Mexicans initially delayed or avoided care. However, despite the decrease in healthcare utilization and subsequent decrease in healthcare spending by MCOs, MCOs are receiving higher capitation rate payments from the state. The state has limited options to reconcile this disparity between MCO payments and MCO spending, but some level of rate adjustments are possible. Program costs for Centennial Care 2.0 are expected to reach \$5.7 billion by FY22.

The state has spent \$736 million, including federal revenues, on care coordination under Centennial Care, yet little is known about its impact on cost savings or health outcomes. Following a policy change in lessening care coordination activities required of MCOs in 2017, cost per coordination activity significantly increased while overall costs remained largely the same. New Mexico health outcomes, as measured by the Healthcare Effectiveness Data and Information Set (HEDIS), among the Medicaid population have generally remained the same. Comparing New Mexico with other Medicaid populations, 76 percent of adult and child measures are below the national median value. Centennial Care 2.0 is in the early stages of its value-based purchasing (VBP) system, which aims to improve health outcomes among members by financially incentivizing healthcare providers to target and improve health outcomes. However, VBP's impact on health outcomes is not yet fully understood.

LFC Staff recommended the Human Services Department

- Consider decreasing capitation rates by the allowed 1.5 percent in light of decreased healthcare utilization among members during the pandemic;
- Consider recalculating capitation rates more frequently during the duration of the pandemic to more accurately reflect the impact of Covid-19 on the Centennial Care 2.0 program;
- Develop and adopt new care coordination measures to track cost effectiveness of care coordination activities;
- Adopt a set of health outcome measures specifically for the care coordination population and contractually obligate MCOs to collect, analyze, and report this data;
- Continue its efforts in data transparency and include quarterly health outcome data, including within value-based purchasing agreements, on its publicly available online performance scorecard;

- Standardize how MCOs populate value-based purchasing reports; and
- Exercise the contract option to increase overall value-based purchasing spending requirements by 5 percent in 2021 and an additional 5 percent in 2022.

Dr. David Scrase, secretary of the Human Services Department (HSD), said Medicaid fee-for-service is about 20 percent of total Medicaid program but is not included in the Centennial Care program. HSD aims to optimally leverage federal funds to improve the health of New Mexicans, while maintaining strict compliance with the law. HSD feels some of the recommendations by LFC staff are limited by federal Center for Medicare and Medicaid Services (CMS) regulations.

HSD agrees Centennial Care 2.0 spending is at all-time highs but notes healthcare spending across the country is at all-time highs. HSD notes, while general fund contribution to Centennial Care is at an all-time high, so are federal revenues. HSD views part of its role with Medicaid as leveraging the greatest federal revenues as possible. General fund from FY19 to FY21 increased by about \$50 million. Other revenues increased by \$132 million between FY19 to FY21 from restructuring of contracts, such as that with the University of New Mexico Hospital, hospital gross receipts tax, and nursing home quality improvement program. These three revenue sources bring in \$220 million. Overall, an additional \$1.7 billion in federal revenues was realized between FY19 to FY21. HSD notes the federal revenues brought into the state are a great resource to New Mexicans.

Provider rate increases represented a small part of overall cost trends in Medicaid, noting that general healthcare trends are the primary cost driver. HSD states the utilization curve did dropped due to the Covid-19 pandemic but there is more at play than only increases in capitation payments and decreases in member utilization. After accounting for the costs MCOs absorbed, including the provider rate increases, HSD calculations show an \$18 million difference between MCO capitation payments and MCO expenditures, with \$3 million from the general fund. There are additional mechanisms for reconciling this difference in the future when appropriate.

Nicole Comeaux, New Mexico Medicaid director, stated, despite growth in the care coordination population, annual spending has remained stable. The federal Centennial Care 2.0 waiver requires an annual independent evaluation of over 100 healthcare measures and outcomes, such as postpartum care. Postpartum care metrics demonstrate successful care coordination as year over year improvement is seen in patient engagement, visit compliance, and understanding of care. HSD agrees with LFC staff recommendation to better track care coordination savings, but notes many healthcare outcomes are currently tracked.

HSD shifted MCO care coordination requirements from quantity to quality. In 2017, HSD shifted care coordination focus to higher acuity members, including comorbidities and substance use disorders. Focus on higher acuity members in care coordination activities is likely to lead to cost savings for the state. HSD disagrees with LFC staff that care coordination assessment activities were decreased; rather, they were refocused. Transition of care requirements were added in 2018 because members need assistance during transition periods. HSD conducts care coordination audits and performs over 200 monthly chart reviews. The compliance rate by MCOs for transition of care is currently 94 percent. As part of federal approval of Centennial

Care 2.0 waiver, HSD was required to project program expenditures and cost savings, referred to as a budget neutrality calculation.

Secretary Scrase stated HSD agrees with LFC staff about the importance of Medicaid quality metrics. There are 58 tracked measures, and the new administration identified the ones to focus on – where there was the largest gap between New Mexico’s metric and the Rocky Mountain region’s metric. Ten metrics were chosen to focus on, five in behavioral health and five in physical health.

MCO performance measures are worth \$50 million to the MCOs, there are 10 measures and \$5 million each, which HSD feels is high enough to incentivize the MCOs. There are four delivery system improvement performance targets (DSIPTs), worth \$12.5 million each or \$50 million total. Despite drop in utilization during the pandemic, telemedicine utilization increased significantly.

At the beginning of Centennial Care in FY14, 21.5 percent of total Medicaid expenditures came from the state general fund, and in FY21, 13.3 percent is from the state general fund. This decrease in general fund share comes from aggressive action taken by HSD to take advantage of federal waiver opportunities. The FY21 percentage is partly driven by Covid-19 federal relief, but the increase in federal revenues would be apparent even in the absence of the pandemic. The complete Medicaid story shows a significant increase in federal revenues being leveraged.

In response to Representative Rebecca, Medicaid Director Comeaux said the program is voluntary and members can refuse care coordination. Director Comeaux said HSD has engagement rates for post-incarceration and neonatal deficit populations and performs audits for additional compliance. Additionally, HSD tracks care coordination program refusals and works with MCOs to address why members are refusing care coordination. Representative Dow asked HSD to share the engagement data. Medicaid Director Comeaux clarified care coordination at the individual member level is voluntary, but at the MCO contracts require engagement and tracking.

Responding to Representative Javier Martinez, Director Comeaux said most metrics are updated quarterly and some are monthly. The goal is to have a real-time data feed, and HSD has the technology to do so. Additionally, HSD plans to add the other 44 healthcare metrics and outcomes to the online report card in the future, beyond the 14 currently provided online. Representative Martinez noted the online report card system is a good tool for legislators and asked how it can be used by the broader public. Director Comeaux said Centennial Care 2.0 members can look at individual MCO quality measures when deciding what MCO to enroll with. Also, the online report card serves as a transparency tool for the general public.

Representative Rodolpho “Rudy” Martinez noted the need for additional physicians in New Mexico, especially during the pandemic. Representative Martinez asked if HSD could seek a Medicaid one-to-one match for the New Mexico primary care training consortium fund, and leverage those funds for expansion of the work the consortium is doing. Representative Martinez noted this could help expand the UNM faculty development contract, establish a New Mexico placement office for resident recruitment, and expand technical assistance services throughout

the state. Representative Martinez stated Medicaid one-to-one match would not require additional state funds and is something for HSD to consider, and ultimately this would increase the quality of care provided across the state.

Department of Information Technology (361). Secretary John Salazar said the Department of Information Technology (DoIT) is tasked with developing the state's strategic direction for IT, delivering enterprise IT services and telecommunications for state agencies, performing oversight of IT projects and procurements, and reducing exposure of the state's computer assets to cybersecurity risks.

Secretary Salazar said DoIT requests \$70.6 million for FY22. The request includes \$794 thousand from the general fund, a 5 percent decrease from FY21. By program, DoIT requests \$2.5 million for Compliance and Project Management, a 1.4 percent decrease from FY21; \$55.9 million for Enterprise Services, a \$2.4 percent decrease from FY21; \$8.5 million for Equipment Replacement Fund, a \$288 thousand increase from FY21; and \$3.8 million for Program Support, a \$14.1 percent decrease from FY21. DoIT requests \$38.1 million in capital outlay to implement a digital trunk radio system and renovate the Simms building. The agency requests three special appropriations, totaling a \$19.5 million.

Secretary Salazar said FY22 IT enterprise service rates decreased 3 percent, with a cost reduction of \$1.7 million. SHARE subscription fees decreased 12 percent, with a cost reduction of \$1.2 million. DoIT's outstanding accounts receivable currently totals \$8.5 million, of which \$1.8 million is delinquent over six years.

In FY21, 203 DoIT FTE positions were authorized; however, 65 positions were vacant. Secretary Salazar said DoIT requests 167 authorized FTE positions for FY22, following the executive's direction to inactivate positions vacant over two years.

Secretary Salazar said 18 agencies submitted FY22 IT funding requests. DoIT reviewed the proposed projects and recommends funding 19 of the 26 projects, totaling \$58.8 million.

In response to Representative Sweetser, Secretary Salazar said DoIT's special appropriation requests include \$10 million to expand broadband. Federal grants are available to match state investments in broadband.

In response to Representative Garratt, Secretary Salazar said New Mexico will need to invest about \$200 million to fully meet its broadband need.

Secretary of State (370). LFC Analyst Alison Nichols said the Secretary of State (SOS) requests \$19 million from the general fund for FY22, an \$8.4 million increase over FY21. The agency requests the increase primarily to cover election costs, previously covered by counties. The request also includes additional funds to reduce vacancies and pay for IT and other contract costs.

Secretary Maggie Toulouse Oliver said the state received \$3.9 million in CARES Act funding for election costs associated with the pandemic. Voter turnout in the 2020 general election was

record-breaking in New Mexico at 68 percent. An audit of the election is underway in the state to ensure voting machines tabulated votes accurately. The Canvassing Board is expected to certify the state's election results on November 24, and the Electoral College vote will take place on December 14.

Secretary Toulouse Oliver said it became apparent during the pandemic, as some work processes were handled remotely, that the current phone system needs to be replaced and improvements need to be made in the management of electronic documents and routing. SOS requests a \$25 thousand special appropriation to make improvements and a \$387 special appropriation to complete the ballot box project.

Secretary Toulouse Oliver said an increase in SOS' budget is necessary to support the legislative changes to the election code in 2018 and 2019. Two elections will be held in FY22: a regular local election in November and primary election in June.

Public Regulation Commission (430). Stephen Fischmann, chairman of the Public Regulation Commission (PRC), requested additional staff for PRC and recommended the commission be funded directly from utility fees.

Chief of Staff Jason Montoya said PRC currently has 130 of 165 authorized positions filled. The State Fire Marshal's Office will be transferred from PRC to the Department of Homeland Security and Emergency Management at the start of FY22, leaving PRC with 118 authorized positions. Mr. Montoya said the agency is working to decrease its vacancy rate from 21.2 percent to 11 percent in the coming months.

In FY20, PRC received \$122.2 million in revenue; the agency reverted \$15.4 million to the general fund. Mr. Montoya detailed revenue received by source; the fire protection fund received \$94.3 million. PRC operating expenses totaled \$14 million.

Mr. Montoya said PRC requests \$12 million for FY22, a 20.8 percent decrease from FY21. The agency will no longer manage the State Fire Marshal's Office and fire protection fund. The request includes \$9.7 million from the general fund, a \$1 million increase over FY21. PRC requests the increase to fund lease space and the additional FTE positions authorized in 2019. PRC requests a \$1.15 million supplemental appropriation for fire protection fund operating expenses in FY20.

Mr. Montoya said PRC initiatives in FY22 include restructuring divisions, implementing an electronic filing system, and improving its public image.

Public Defender Department (280). Thomas Clear, chairman of the Public Defender Commission, said the Public Defender Department (PDD) continues to do a good job with the resources it has; however, staffing issues in rural New Mexico require the work of contract counsel, which are difficult to fill. The pool of contractors is aging and cases require a lot of time due to increased technology. PDD wants to work with communities to assist the indigent and enhance public safety.

Chief Public Defender Ben Bauer, said the department requests a 4 percent increase to restore funding sanded during the special session. Mr. Bauer said, due to Covid-19, PDD operations have changed. For example, use of audio/visual platforms to attend statewide hearings has increased and travel has decreased. PDD said early in the pandemic cases fell, however, they anticipate cases will rise because more citizens may fall into the category of indigency. If funding is restored, it will be used to increase compensation for contract counsel and stabilize funding for social workers, investigators, and office space rental.

Staff Report: Regulation and Licensing Department (420). LFC Analyst Alison Nichols said the Regulation and Licensing Department's (RLD) budget request for FY22 is \$31.3 million. The request includes \$12.7 million from the general fund, a 5 percent decrease compared with FY21. RLD is also requesting a \$284 thousand deficiency appropriation for FY20 for four boards: Athletic Commission, Signed Language Interpreting Practices Board, Board of Acupuncture and Oriental Medicine, and Real Estate Appraisers Board.

Superintendent Marguerite Salazar said RLD is seeing unprecedented growth in the construction industry. The agency is updating its website to better serve New Mexicans.

In response to Representative J. Martinez, Superintendent Salazar said liquor license restructuring and cannabis regulation is not included in the budget request.

In response to Senator Muñoz, Construction Industries Division Director Clay Bailey said RLD is working with criminal and civil investigators on investigation and prosecution of construction fraud. Superintendent Salazar added the agency provided an educational campaign regarding the need for construction permits. Inspections in manufacturing hours were delayed due to a vacancy but the position was recently filled. However, delays continue due to quarantine time when staff is exposed to Covid-19. Superintendent Salazar added the agency is close to meeting its performance measures related to inspections. Superintendent Salazar said recruitment is ongoing to fill the position of Financial Securities Division director.

Staff Report: Commission of Public Lands (539). LFC Analyst Caitlyn Wan said the State Land Office (SLO) requests \$19.4 million for FY22, a \$201.3 thousand decrease compared with FY21. SLO is funded by the land maintenance fund, a projected decline in revenue is expected due to decreased oil production and prices and fewer premium oil tracts available for lease in the Permian Basin.

Commissioner Stephanie Garcia Richard said New Mexico state land trusts generated \$1 billion in FY20. SLO signed eight wind leases, the first ever in New Mexico. Commissioner Garcia Richard said SLO is looking to diversification revenue because of oil and gas uncertainty.

The agency request includes the expansion of 2 FTE, surface division deputy director and rights-of-way management analyst. SLO requests two special appropriations for FY22: \$1.5 million for GIS satellite imagery and analytics and \$1.9 million for the revenue accounting and royalty processing system. SLO also requests \$1.4 million in capital outlay to install solar panels and replace lights and a ceiling at SLO.

In response to Senator Kernan, Commissioner Garcia Richard said creating a reclamation fund for wind, solar, and other renewable projects is a good idea to ensure taxpayers are not responsible for the cost of infrastructure that is not useful.

In response to Representative Chatfield, Commissioner Garcia Richard said the grazing formula was put in place during the 1980s to ensure the formula keeps pace as cattle prices rise and fall. Variables in the formula depend on prior-year information creating a lag.

In response to Senator Muñoz, Commissioner Garcia Richard said renewal of agricultural leases was conducted virtually and SLO conducted many trainings to ensure leases were executed. Lease payment arrangements were made to those experiencing hardship due to the Covid-19 pandemic. Commissioner Garcia Richard also noted the primary goal of SLO for the future is to identify a way to generate revenue that is less dependent on oil and gas.

Staff Report: Office of the Superintendent of Insurance (440). LFC Analyst Jacqueline Martinez said the Office of the Superintendent of Insurance (OSI) requests a \$384 thousand increase in other state funds due to increased revenues from the New Mexico health insurance exchange.

Superintendent Russell Toal said a study was conducted on the Medical Malpractice Act enacted in 1976. The damage cap was adjusted by the Legislature in 1995; however, the statute has received no updates since its inception. The study was released in December 2020.

Superintendent Toal said license and renewal fees generated \$29.5 million in FY20. OSI will request legislative approval to increase fees to better align with other states. An additional \$7 million to \$9 million in revenue may be generated if fees increase. Fees have not increased since 2014.

Thursday, November 19th

The following members and designees were present on Wednesday, November 18, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt, George K. Muñoz, Roberto “Bobby” J. Gonzales Mary Kay Papen, Gay Kernan, and Pete Campos; and Representatives Rebecca Dow, Harry Garcia, Gail Armstrong, Rodolpho “Rudy” Martinez, Candie Sweetser, G. Andres Romero, Javier Martinez, and Randal S. Crowder. Guests: Representatives Tomas Salazar, Joy Garratt, Jack Chatfield, Cathrynn N. Brown, and Susan K. Herrera.

District Attorneys/Administrative Office of the District Attorneys (251 - 265). Dianna Luce, 5th Judicial District Attorney and President of the District Attorney’s Association and Henry Valdez, Director of the Administrative Office of the District Attorneys (AODA), presented the FY 22 Unified priorities budget for all District Attorneys. All 14 District Attorneys, as well as AODA, requested the restoration of the 4 percent reduction made during the First Special Legislative Session of 2020. District Attorney Luce noted that district attorneys face increased technology costs as criminal justice procedures become virtual during the public health emergency.

Dianna Luce, district attorney for the 5th Judicial District, said the FY22 budget request was flat with the original FY21 budget. DA Luce noted her district in particular has had increased incompetency hearings and witnesses failing to appear to testify. She also noted, though cases are dropping, homicide cases are up.

Marco Serna, district attorney for the 1st Judicial District, and Mary Carmack-Altwhies, district attorney elect, said the FY22 budget request was flat with the original FY21 appropriation. DA Elect Carmack-Altwhies briefly noted their office has the same concerns as the 5th Judicial District, and the agency has struggled to keep salaries competitive.

Carla Martinez, chief administrative officer for the 2nd Judicial District, agreed with previous comments from the district attorneys about the effects of the 4 percent reductions of the first 2020 special session on the agency's budget. Ms. Martinez also noted the 2nd Judicial District Attorney's special appropriation requests, and claimed they were necessary to compensate for a loss in federal grants. Finally, she noted the 2nd district reduced its vacancy rate to under 7 percent, the lowest vacancy rate in two years.

Gerald Byers, chief deputy district attorney and district attorney elect for the 3rd Judicial District, presented the FY22 budget request on behalf of outgoing District Attorney Marc D'Antonio. District Attorney Elect Byers noted the budget request was the same as that of the previous district attorneys, noted his district has struggled with decreased grand jury settings, resulting in more work for prosecutors. District Attorney Byers also noted the 3rd Judicial District received a new district judgeship in the 2020 regular legislative session, which could result in increased workload for the agency, and reiterated the need to restore the rural retention salary increases, which were a part of the original FY21 budget appropriation.

Richard Flores, district attorney for the 4th Judicial District, said the FY22 budget request was \$3.7 million. District Attorney Flores said his concerns were the same as the previous presenters and asked the committee to consider restoring the agency budget to pre-sanding levels.

Francesca Estevez, district attorney for the 6th Judicial District, said the FY22 budget request is in line with the FY22 unified priorities for the district attorneys and restored the agency budget to levels prior to the solvency measures of the first 2020 special session. District Attorney Estevez noted the agency lost a High Intensity Drug Trafficking Area grant and is requesting an additional authorized FTE position to process paperwork and ensure grant compliance to avoid losing similar grants in the future.

Clint Wellborn, district attorney of the 7th Judicial District, said the FY22 budget requests the restoration of the FY21 operating budget prior to the solvency measures of the first special session of 2020 and emphasized the need for rural salary differentials to retain attorneys. He also noted the public health emergency has caused a backlog of cases in the 7th Judicial District.

Marcus Montoya, district attorney of the 8th Judicial District, said the FY22 request is flat with the original FY21 appropriations and stated his agency prioritizes hiring veterans and active military personnel but that creates a need for contract staff to fill in when staff are deployed or must attend military trainings.

Andrea Reeb, district attorney for the 9th Judicial District, said the FY22 budget request is flat with the FY21 budget appropriation prior to solvency measures of the first 2020 special session. District Attorney Reeb noted the 9th Judicial District was selected to try in-person jury trials during the public health emergency and completed 50 in person jury trials before the Supreme Court halted jury trials in October for the remainder of the year. District Attorney Reeb noted the agency is short on staff but has still kept up with caseloads and currently has no case backlog.

Timothy Rose, district attorney for the 10th Judicial District, said the FY22 budget request restored the 4 percent reduction of the first 2020 special session. District Attorney Rose noted the 10th Judicial District is the state's smallest district, which exacerbates recruitment and retention issues. He emphasized the agency needs more funding to retain attorneys so it may address a growing backlog caused by the public health emergency.

Rick Tedrow, district attorney for the 11th Judicial District, said the FY22 budget request was \$5.6 million. District Attorney Tedrow said there are difficulties in recruiting and retaining staff in rural New Mexico. He also noted the agency reverted money in FY20 due to inability to hire. District Attorney Tedrow noted there has been an up-tick of criminal sexual contact of minors or criminal penetration of minors during the public health emergency. In response to Representative Lundstrom, District Attorney Tedrow said the district attorneys agreed to create unified priorities for FY22, but each district has unique needs, making a full-unified budget complicated.

Paula Pakkala, district attorney for 11th Judicial District Division II, said the FY22 request restores the 4 percent reduction from the first 2020 special session. District Attorney Pakkala noted her district includes the Navajo nation, hit especially hard by Covid-19, and she expects the agency to accumulate a backlog of cases. In response to Representative Lundstrom, District Attorney Pakkala clarified the request was "flat" with the original appropriations of FY21, not with the FY21 adjusted operating budget. In response to Senator Muñoz, District Attorney Pakkala said the agency is making slow progress on the driving while intoxicated backlog, approximately 200 cases are in prosecution.

John Sugg, district attorney of the 12th Judicial District and District Attorney Elect Scott Key, said the FY22 budget request was consistent with other district attorneys and restores the agency budget to original FY21 levels. In response to Senator Burt, District Attorney Sugg said his office would be happy to submit a report to the committee and to the Supreme Court on recommendations for safely holding in-person trials. In response to Representative Javier Martinez, District Attorney Sugg said the responsibility to enforce compliance of the public health order lies with the New Mexico Attorney General.

Lemuel Martinez, district attorney of the 13th Judicial District, said the FY22 agency request was flat with the original FY21 operating budget. District Attorney Martinez stated the office has seen an increase in violent crime and struggled to keep up with laws passed in the 2020 regular legislative session, such as the mandate for police to wear lapel cameras, which increases the amount of evidence prosecutors must process. In response to Representative Romero, District Attorney Martinez said vacancies across the board from administrative assistants to staff attorneys are contributing to the agency's 16.8 percent vacancy rate.

Henry Valdez, director of the Administrative Office of the District Attorneys (AODA) said the FY22 budget request restored the 4 percent reduction from the first 2020 special session. Director Valdez said the agency experienced a strain on AODA's IT and case management systems used by all district attorneys. Before the public health emergency, there were 30 users of the virtual network, but the shift to telecommuting increased that number to over 400 users.

Energy, Minerals and Natural Resources Department (521). Secretary Sarah Cottrell Propst said the Energy, Minerals and Natural Resources Department (EMNRD) requests \$68 million for FY22. The request includes \$22.5 million from the general fund, a \$683 thousand decrease from FY21. An increase in federal and other revenues is requested, however, partially offsetting the general fund decrease.

By division, EMNRD requests \$3.2 million for Energy Conservation and Management, a \$189 decrease from FY21. Secretary Cottrell Propst said the reduction will impact overall operations. In FY22, the division will implement the new solar market development tax credit, finalize an electric grid modernization plan, and provide technical expertise to promote renewable energy deployment. EMNRD requests \$16 million for State Forestry, a \$41 thousand increase. The request includes an increase of \$352 thousand in federal revenue, offsetting a decrease in general fund dollars and other revenue. Secretary Cottrell Propst said the proposed budget allows the division to meet statutory obligations and manage a growing fire season. EMNRD requests \$24.9 million for State Parks, a \$4.5 million decrease from FY21. Secretary Cottrell Propst said the State Parks fund decreased by \$5 million due to revenue lost from closures during pandemic. EMNRD requests \$8.3 million for Mining and Minerals, a slight increase over FY21. The request includes \$527 thousand from the general fund, a 5 percent decrease from FY21; however, additional federal and other revenues is requested for the division. EMNRD requests \$10.7 million for Oil Conservation, a \$2.7 million decrease from FY21. The oil and gas reclamation fund decreased \$2.4 million, which Secretary Cottrell Propst said is partly due to reduced demand for oil during the pandemic. The fund is being used to remediate the Carlsbad brine well. EMNRD requests \$4.9 million for Program Support, flat with FY21. Secretary Cottrell Propst said the agency was unable to reduce its general fund request for Program Support because it would affect existing employees; however, EMNRD will continue to hold a number of positions open for vacancy savings.

In response to Senator Kernan, Secretary Cottrell Propst said an additional \$17.6 million is needed to complete the Carlsbad brine well remediation project. Senator Kernan asked EMNRD to provide the committee the number of abandoned wells in the state that need to be plugged and remediated.

Administrative Office of the Courts (218) and District Courts (231-243). Michael Vigil, chief justice of the Supreme Court, said the courts have faced challenges in maintaining operations throughout the public health emergency. Chief Justice Vigil outlined the FY22 unified budget request, which restores the 4 percent reduction made during the first special legislative session of 2020 for all courts, totaling \$190 million for all statewide, district, and Metro courts and the Administrative Office of the Courts. Chief Justice Vigil said fully funding the new judgeships created in the 1st, 2nd, 3rd, and 12th judicial districts with general fund revenues was a top priority of the unified budget.

Artie Pepin, director of the Administrative Office of the Courts, said the total increase for the courts is 3.8 percent. Implementing 5 percent reductions for the courts would result in furloughs or layoffs for seven out of 13 courts. Director Pepin said funding the newly created judgeships was a crucial priority of the unified budget, and though jury trials have been suspended from October to November, they will begin again in early 2021, and case backlogs are anticipated.

Director Pepin said the FY22 budget request for the Administrative Office of the Courts (AOC), is flat with the FY21 original appropriation. For two of the AOC's four programs, no increase is requested. For the Magistrate Court Program, there is an \$800 thousand request for increased magistrate lease costs. For the Special Court Services Program, the agency requests \$1.4 million for a new pretrial service programs and to support existing pretrial programs. Director Pepin emphasized how important pretrial services are in improving defendant outcomes. For example, they deter individuals from committing new crimes while they await trial.

Marlow Sommer, chief judge of the 1st Judicial District, said the FY22 budget request includes a 1 percent increase for employees earning less than \$50 thousand a year and \$316 thousand to fully fund the newly created judgeship in the court. Judge Sommer said the supplemental request for \$213 thousand was also for the new judgeship. The capital outlay request is for a customer queue management system and \$160 thousand for courtroom video equipment in the Rio Arriba District Court house.

Stan Whitaker, chief judge of the 2nd Judicial District, said the FY22 request is to restore the original FY21 budget, or \$26.7 million in general fund revenue. The courts highest priority is to fund the two new judgeships and associated staff. The court is requesting \$300 thousand for the Foreclosure Settlement Program, which will be crucial to deal with foreclosures during the economic downturn.

Manuel Arietta, chief judge of the 3rd Judicial District, and David Barrunda, court executive officer, said the agency's FY22 request is to restore the original FY21 appropriation to the pre-solvency levels. The court had a deficiency before the "sanding" of the first special session due to the district and magistrate court consolidation. Judge Arietta said further cuts would result in furloughs of 11 days, or 80 hours. Crime has increased due to unemployment associated with the economic downturn during the public health emergency, which has resulted in an increase in filings in magistrate court and eventually in district court.

Gerald Baca, chief judge of the 4th Judicial District, and Robert Duran, court executive officer, said the FY22 budget request was flat with the original FY21 appropriation. Judge Baca said further budget cuts would result in furloughs, and the agency currently uses vacancy savings to maintain operations. Throughout the public health emergency the courts have remained open to provide services to the public, which has taken a toll on staff morale.

James Hudson, chief judge of the 5th Judicial District, and Kennan Crowhurst, court executive officer, said the FY22 budget requests an increase of \$151 thousand increase compared with the adjusted FY21 operating budget to fund the magistrate court consolidation. If funding is not received budget cuts would result in furloughs. Judge Hudson said a recent study showed the

court needs two additional judges. The court does not have vacancies and does not have vacancy savings.

Jared Hofacket, judge of the 6th Judicial District, and Melissa Frost, chief financial officer, said the FY22 request is to restore the 4 percent reduction made in the special session, which totals \$167 thousand, or 3.7 percent, primarily for personnel costs. Judge Hofacket said the court had a reversion for FY20 due to decreased travel throughout the public health emergency.

Jason Jones, court executive officer of the 7th Judicial District, said the FY22 budget request was flat with the original appropriation of FY21.

Emilio Chaves, chief judge of the 8th Judicial District, said the FY22 budget request restores the 4 percent reduction made in the special session. Judge Chaves said the court submitted a supplemental request to address shortfalls caused by the magistrate court consolidation.

Drew Tatum, chief judge of the 9th Judicial District, said the FY22 request restores the 4 percent reduction made in the special session. The additional funding is for personnel and a security bailiff for magistrate court. In response to Representative Crowder, Judge Tatum said there is some backlog and the court is working with the city to lease space where juries can be held safely.

Scooter Mitchell, chief judge of the 10th Judicial District, said the FY22 budget request was flat with the original FY21 appropriations, or \$58 thousand above the adjusted FY21 operating budget. Judge Mitchell said the court is requesting a supplemental request for the second year in a row to address shortfalls caused by the magistrate and district court consolidation. If the court received the full \$58 thousand increase, they would not request a supplemental in FY23 and would be able to conduct speedy and timely trials.

Karen Townsend, chief judge of the 11th Judicial District, said the FY22 budget request restores the 4 percent reduction made in the special session, primarily for the court's new pretrial services program and for a magistrate court case backlog. In response to Senator Muñoz, Chief Judge Townsend said there were 31 outstanding DWI cases in McKinley County magistrate court awaiting jury trial and 200 pending cases. Weldon Neff, court executive officer, said San Juan County has a higher backlog of pending cases than McKinley County, but the backlog has decreased significantly and will continue to be reduced when jury trials resume. He noted the special funding appropriated to the court to reduce the backlog will need to be extended for use in FY22.

Angie Schneider, chief judge of the 12th Judicial District, and Katina Watson, court executive officer, said the FY22 budget request is flat with the original FY21 budget. Additional funding is to fully fund the newly created judgeship and maintain the 1 percent pay increases for employees earning less than \$50 thousand. In response to Senator Burt, Judge Schneider said the court has a shortfall of \$120 thousand needed to maintain the judgeship.

George Eichwald, chief judge of the 13th Judicial District, said the FY22 budget request was flat with the original appropriation of FY21. He noted the district is the second most populous in the

state, and that this presents challenges as the district is spread out geographically. Karl Reifsteck, court executive officer, said the 4 percent reduction of the special session actually reduced the court budget to below FY20 levels, cutting the foreclosure settlement program. Mr. Reifsteck said there are not sufficient vacancy savings to maintain court operations, further cuts would result in furloughs or cutting back drug court programs.

Bernalillo Metropolitan Court (244). Newly elected Chief Judge Dominguez presented the FY22 budget request, which is flat with the original appropriations of FY21, before the solvency measures of the special session. Judge Dominguez informed the committee that Metro Court has invested significantly in new technology for its specialty and standard courts, which has allowed the court to operate well during the public health emergency. Chief Financial Officer Robert Padilla informed the committee that, in addition to the requested increase in the base, Metro Court is proposing legislation to increase its court filing fee to generate more revenue for the agency. Members had no questions for Metro Court.

Friday, November 20th

The following members and designees were present on Friday, November 20, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt, George K. Muñoz, Roberto “Bobby” J. Gonzales, Gay Kernan, and Pete Campos; and Representatives Harry Garcia, Rebecca Dow, Javier Martinez, Gail Armstrong, Rodolpho “Rudy” Martinez, Candie Sweetser, G. Andres Romero, and Randal S. Crowder. Guests: Senator Mary Kay Papen and Representatives Tomas Salazar, Joy Garratt, and Jack Chatfield

Economic Development Department (419). Secretary Alicia Keyes said EDD’s FY21 operating budget was cut 3.8 percent despite the severe economic crisis and dire need for economic development. For FY22, the agency requests an operating budget of \$13.1 million, a 5 percent decrease from FY21. The request includes a \$532 thousand reduction in contract spending and a \$46.5 thousand reduction in personnel. Recurring dollars requested for the Job Training Incentive Program (JTIP), however, remain flat with FY21 at \$5 million.

Secretary Keyes said economic development investments are needed for job growth. Nonfarm employment in New Mexico decreased 7 percent during the pandemic; however, 1,219 jobs were created in the first quarter of FY21, which Secretary Keyes credited to the Local Economic Development Act (LEDA) program and JTIP. To further the programs’ initiatives in FY22, EDD requests two special appropriations: \$30 million for LEDA and \$7 million for JTIP.

EDD requests a \$10 million capital outlay appropriation for the MainStreet program and a \$1 million special appropriation for the outdoor equity fund. The agency also requests a \$3.2 million special appropriation to build outdoor recreation infrastructure.

In response to Senator Gonzales, EDD Division Director Axie Navas said initiatives to grow New Mexico’s outdoor recreation economy include supporting the state’s ski industry.

In response to Representative Crowder, Ms. Navas said EDD will inquire with the Energy, Minerals and Natural Resources Department what the status is of the Rio Grande trail project.

In response to Senator Muñoz, EDD Division Director Mark Roper said LEDA's fund balance is \$21 million.

Workforce Solutions Department (631). Secretary Bill McCamley said the Workforce Solutions Department (WSD) requests a decrease of 5 percent or \$494 thousand from general fund for FY22. The decrease will be offset from the increase in allocations from federal funds.

Secretary McCamley said the unemployment fund was depleted in September 2020; as of November 2, a total of \$124 million has been borrowed from the federal government. New Mexicans continue to receive benefits. A trust fund working group is considering two solutions: (1) bond to pay for current and projected loan amount or (2) set up revenue stream to pay federal loan directly.

In response to Representative Crowder, Secretary McCamley said the funding borrowed for the unemployment fund is at a 0 percent interest rate until December 2020. The projected borrowed amount is \$220 million at the end of 2020. Division Director Deb Williams said performance measures are not being met because staff levels are low and there is no online case management system.

In response to Representative Sweetser, Secretary McCamley said there are two types of unemployment payments: standard, paid by the state, and pandemic unemployment insurance, paid by the federal government. The standard program pays benefits up to 26 weeks; however, the CARES Act allowed a federal extension to this program to allow for an additional 13 weeks paid by the federal government.

In response to Senator Papen, Secretary McCamley said the fastest way to file a claim is to use the WSD website. The training of call center employees is causing prolonged wait times.

In response to Senator Muñoz, Secretary McCamley said it is hard to predict the need of the unemployment fund for 2021.

In response to Senator Sanchez, Secretary McCamley said the executive and WSD is working with the congressional delegation to consider loan forgiveness of the funds borrowed for unemployment fund.

Attorney General (305). Attorney General Hector Balderas said the New Mexico Attorney General's Office (NMAG) stated he is focused on protecting children and families. The NMAG FY22 budget request reduced general fund by 5 percent, but increased other state funds, primarily the consumer settlement fund, significantly, for an overall increase of 6 percent over the FY21 operating budget. The attorney general also noted that the agency is requesting several special appropriations for FY22, including \$500 thousand to continue operations of family centric services and investigate price gouging, child abuse, and unemployment, related to the COvid-19 public health emergency. Attorney General Balderas mentioned that NMAG needs additional litigators and prosecutors, as well as contracted attorneys to assist with complex cases. Attorney General Balderas highlighted NMAG performance measure achievements.

In response to Senator Gonzales, Attorney General Balderas said the \$500 thousand special appropriation request would be used to litigate or mitigate cases in response to the Covid-19 pandemic and for the Family Advocacy Division. NMAG has not received federal funds for cases related to Covid-19.

In response to Representative J. Martinez, Attorney General Balderas said the Equity Advisory Council is a committee of diverse individuals to assist on environmental issues, such as equitable distribution of hunting and fishing licenses.

In response to Senator Muñoz, Attorney General Balderas said legislative inquiries on behalf of their constituents are appropriate. When cases are referred to NMAG by a district attorney, it should be done early in the investigation. When another law enforcement agency is involved, conflicts usually arise with a local district attorney. Police, district attorney, the courts, and NMAG need to be held accountable and ensure investigations continue in a timely matter.

In response to Representative R. Martinez, Attorney General Balderas said funding is critical for the *Texas v. New Mexico* water rights dispute. Trial is set to begin summer 2021. Deputy Attorney General Tania Maestas said the issue of Chihuahua farmers upset over water off the Rio Grande doesn't relate to *Texas v. New Mexico*. Attorney General Balderas also clarified that NMAG is not involved in the *Yazzie-Martinez* case.


Miscellaneous Business.


Action Items. Representative Romero moved to adopt LFC October minutes, seconded by Representative Armstrong. The motion carried.

Representative Martinez moved to adopt LFC contracts, seconded by Representative Sweetser. The motion carried.

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

With no further business, the meeting adjourned at 10:13 a.m.


John Arthur Smith, Chairman


Patricia A. Lundstrom, Vice Chairwoman