

**MINUTES**  
**Legislative Finance Committee**  
**Virtual Meeting**  
**October 28, 2020**

**Wednesday, October 28**

The following members and designees participated virtually on Wednesday, October 28, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt, George K. Muñoz, Roberto “Bobby” Gonzales, Gay G. Kernan, and Pete Campos; and Representatives Javier Martinez, Rebecca Dow, Rodolpho “Rudy” Martinez, Gail Armstrong, Candie G. Sweetser, Andres G. Romero, and Randal S. Crowder. Guest legislators: Senators Ron Griggs, Richard C. Martinez, and Mary Kay Papan; and Representatives Phelps Anderson, Jack Chatfield, Harry Garcia, Susan K. Herrera, Antonio Maestas, Marian Matthews, Tomas E. Salazar, and Sheryl Williams Stapleton.

**Rightsizing and Reimagining Higher Education: Improving Access and Student Outcomes with Collaboration.** Cynthia Rooney, chancellor of the University of New Mexico-Los Alamos, said higher education institutions nationwide are facing several challenges, including declining enrollment and constraining budgets. In New Mexico, external funds, innovative actions, and collaborative efforts are being deployed to address issues and support higher education initiatives in the state.

Tom Shaver, chief executive officer of Ad Astra, said the academic enterprise is complex, but good planning and resource allocation can improve student success and financial health. Ad Astra, a course-scheduling software and consulting company, collects data from two- and four-year institutions across the United States to generate benchmarks. Mr. Shaver talked about using data to guide pathways, align schedules, and manage financial health.

Kelvin Sharp, president of New Mexico Junior College (NMJC), said collaborations are a way of life for community colleges. For example, NMJC’s emergency medical technician (EMT) training program is administered collaboratively with Eastern New Mexico University-Roswell, and the Lea County Distance Education Consortium is a 40-year collaborative partnership between area high schools, NMJC, and Eastern New Mexico University. President Sharp talked about the mission of community colleges.

Community college funding is derived from three sources: state appropriations, tuition and fees, and local taxes. The portion from each of these sources, however, varies by community college because mill levy, tax base, enrollment, and programs differ in every community. President Sharp said the state should consider these differences when determining funding for community colleges.

New Mexico’s higher education system is focused on three key components: general education core, articulation and transfer, and meta majors. President Sharp said the system needs collaboration among all higher education institutions to succeed.

Rick Bailey, president of Northern New Mexico College (NNMC), said New Mexico established its first branch community college in 2019. NNMC branch community college is bringing new

trade programs to the region and revitalizing the El Rito campus. The trade programs are in development and partnerships are being established with local school districts and unions. A property tax mill levy was passed to support the trade programs.

President Bailey said NNMC partnered with Kit Carson Electric Cooperative and Guzman Energy to construct a solar array at the El Rito campus.

President Bailey said New Mexico's long-term strategy for higher education should focus on developing and diversifying the economy, preparing the future workforce, and improving the quality of every New Mexican life. President Bailey talked about using metrics to improve institutional accountability and making smart investments to increase productivity and encourage collaboration. President Bailey said state funding for prekindergarten, kindergarten through 12th grade, and higher education should be balanced.

Dan Arvizu, Ph.D., chancellor of New Mexico State University (NMSU), talked about system governance refinement and said NMSU is focused on branch campus integration. The university is leveraging existing programs and resources, eliminating redundant practices, enhancing services, and improving the quality of system processes while reducing costs. NMSU supports entrepreneurship as a primary economic development strategy, and its network of partners support local needs.

NMSU is reducing administration by integrating smaller colleges into a larger, stronger, more fiscally balanced college. The university is focused on growing academic programs that improve health, education and social outcomes and academic programs with high impact on regional job creation. Chancellor Arvizu said NMSU is elevating its mission through a roadmap of innovation, synergies, and best-in-class solutions.

Chancellor Arvizu said research is key to economic development. Research programs lead to spinout business and support the local small business community. Research expenditures from grants adds to New Mexico's economy. Research provides on-campus jobs and attracts good faculty. In FY20, NMSU received \$119 million in grants and contracts.

In response to Vice Chairwoman, Mr. Shaver said three higher education institutions in New Mexico are using Ad Astra software.

Representative Salazar remarked on the importance of New Mexico's boards of regents.

**Overview of New Mexico Tax Expenditures.** Richard Anklam, president of the New Mexico Tax Research Institute, said tax expenditures are defined by law as "revenue losses attributable to provisions of the federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability."

Mr. Anklam talked about tax structure considerations and data collection. Exemptions, deductions, and credits are not created equally and better data analysis is necessary. Mr. Anklam said the state

should review best practices and implement the most needed analysis. The state should not impose requirements that burden taxpayers.

LFC Economist Ismael Torres said New Mexico has over 100 tax expenditures that cost over \$1 billion annually. Unlike other government spending, tax expenditures are automatic and do not require annual appropriations. Also, their expense is not capped. For these reasons, tax expenditures are a risk to the state, especially during economic downturns.

LFC Chief Economist Dawn Iglesias said the food deduction (and associated hold harmless payments to local governments to make up for the lost tax base) is the state's single largest tax expenditure, costing over \$250 million annually. To manage the costs, the Legislature enacted a gradual phaseout of the hold harmless payments beginning in FY16 and simultaneously allowed local governments to increase their gross receipts tax rates up to 0.375 percent to help offset the revenue loss. Costs jumped in FY20, however, due to a large taxpayer amendment and pandemic hoarding behaviors in the final quarter, resulting in a total state cost of nearly \$400 million.

Ms. Iglesias said tax expenditures have unintended consequences. By narrowing the state's tax base, tax expenditures have contributed to rising GRT rates in effort to maintain adequate revenue levels. Tax expenditures can be a financial burden in times of economic crisis. It is often difficult to determine whether tax expenditures incentivize certain decisions or act as rewards for actions that would have occurred anyway. Ms. Iglesias said the only way to control the outflow of revenue by way of tax expenditures is to amend the statutes; however, the state typically lacks the information needed to craft the appropriate amendments.

New Mexico trails other states in its evaluation of tax incentives because it lacks a well-designed evaluation plan, according to the Pew Research Center. Ms. Iglesias said the Taxation and Revenue Department's annual tax expenditure report provides information on estimated costs and number of claimants; however, the report lacks detailed economic analysis. Recognizing the large number of tax expenditures in New Mexico, Pew recommends the state focus on performing economic analysis on its largest tax expenditures.

Mr. Torres said LFC adopted six tax expenditure policy principles in 2018 to provide a standard for evaluation: vetted, targeted, transparent, accountable, effective, and efficient. LFC staff now include a table in fiscal impact reports of proposed legislation for new or expanding existing tax expenditures to inform which principals would be met if passed.

Ms. Iglesias said a more comprehensive system of evaluating tax expenditures could help guide decisions to retain, repeal, or amend various tax expenditures. LFC staff recommends the state

- Implement or expand reporting requirements of existing tax expenditures,
- Require a rotating schedule of in-depth evaluations of major tax expenditures, and
- Hold legislative hearings on major tax expenditures to provide time to consider results of analysis, receive input from stakeholders, and explore whether policy changes are needed.

Jon Clark, deputy secretary of the Economic Development Department (EDD), said New Mexico's economic development incentives target economic base companies. These companies expand the

state's customer base and bring in outside income. Economic base companies also help diversify the economy and support local business through the procurement of goods and services.

Reporting on the film production tax credit, Mr. Clark said New Mexico's film industry generated \$2.4 billion in direct spending over the past seven years. In FY21, the industry is projected to generate \$408 million in direct spending and the state is expected to pay \$83 million in tax credits. Mr. Clark provided a brief overview of current activity in New Mexico's film industry.

Mr. Clark said New Mexico's film industry supports over 9,000 jobs. The average film worker salary in New Mexico was \$56 thousand in 2019, 23 percent more than those in other private industry.

Mr. Clark said EDD will work with the Taxation and Revenue (TRD) Department and LFC on a film industry impact study.

TRD Secretary Stephanie Schardin Clarke said New Mexico's tax expenditure report separately identifies each deviation from the tax base and categorizes each deviation as a tax expenditure, nontax expenditure, or "arguable." The report provides a description of each expenditure, the statutory reference, purpose, amendment history, estimated cost, evaluation, and recommendations. The report categorizes each expenditure as existing for the benefit of citizens, conservation, economic development, highly specialized industries, or healthcare.

Secretary Schardin Clarke reported on the different types of tax expenditures and said exemptions often eliminate a taxpayer's obligation to register, report, or pay. Deductions reduce liability by eliminating certain transactions or income from amounts taxpayers are required to report on returns. Credits are dollar for dollar credits against the taxpayer's tax liability due.

Secretary Schardin Clarke provided an overview of current tax expenditure data and said new analysis will be included in the next tax expenditure report.

In response to Vice Chairwoman Lundstrom, Mr. Clark said EDD is now required to conduct a film industry impact study annually.

**Return to School and Recovering Lost Learning Time.** LFC Program Evaluators Ryan Tolman, Ph.D., and Cally Carswell presented the report *Status of School Reopening and Remote Education in Fall 2020*. New state-specific projections from Stanford University suggest the spring 2020 school closures in response to the pandemic could have cost New Mexico students four months to more than a year of learning, a steeper loss than previously predicted. While the data is not definitive of the true extent of learning loss, the estimates should serve as an alarm to educators and policymakers, who should not delay action to provide students with the time and resources needed to catch up.

The vast majority of students will remain in remote learning through the fall semester, an approach commonly agreed to be less effective than in-person instruction. New Mexico is one of seven states subject to statewide orders keeping schools partially closed to in-person instruction, and 24 school districts that were eligible to reopen this fall had not done so by the end of October. Forty-eight

school districts reopened to elementary students under various hybrid models in September and October, and some school boards voted to remain remote for the semester regardless of whether their district met the state's reopening criteria, including Albuquerque and Las Cruces public schools.

Remote instruction improved this fall compared with the spring as the Public Education Department restored basic accountability measures, such as attendance requirements, grades, and minimum instructional hours; it remains, however, an inadequate substitute for in-person education. Middle and high school students are failing remote classes at high rates. School districts and teachers continue to report that they are unable to reach approximately 1 in 5 students. And social isolation poses serious mental health risk to students and families.

Even before the pandemic, large learning gaps existed among New Mexico's most at-risk students. To address Covid-19-related learning losses that could widen those gaps, the Legislature could consider a universal extension of the school calendar in FY22 through its existing K-5 Plus and extended learning programs at an incremental cost of \$138 million. School districts, meanwhile, should consider evidence-based strategies such as early-warning systems, high-dosage tutoring, and acceleration academies.

Finally, the state needs a full and transparent roadmap for getting kids back to school. Establishing the benchmarks communities must meet to pursue additional phases of reentry will allow districts to more effectively plan for reopening and give citizens clear targets for suppressing the virus. The academic, social, and economic costs of school closures are significant, and emerging evidence suggests that, with low community transmission and mitigation measures like universal masking, schools can reopen without becoming significant sources of Covid-19 infection. Controlling the virus to levels that make it possible for more students to return to school should be a central project for the state and its citizens going forward.

Ryan Stewart, secretary of the Public Education Department (PED), remarked on the contributions made by faculty, support staff, custodians, and food service workers during the pandemic.

Deputy Secretary Gwen Perea Warniment, Ph.D., said PED issued reentry guidance to support school districts, charter schools, and communities in determining their plans and strategies for reopening schools in 2020-2021. PED evaluated and approved plans according to a rubric and provided multiple professional development opportunities to strengthen remote instruction. Ms. Warniment said PED is providing other support, including supplying school districts with personal protective equipment and funding to provide meals and broadband access to students. Also, PED partnered with the Early Childhood Education and Care Department to provide families with more childcare options.

Currently, 41 school districts and 13 charter schools are administering hybrid instruction, 39 school districts and 56 charter schools are administering small group instruction, and 9 school districts and 27 charter schools are administering remote instruction. Ms. Perea Warniment said every school district and charter school must have a plan to deliver special education services. PED will be conducting 139 virtual site visits in the next two weeks.

Secretary Stewart talked about ongoing communication with school districts and said PED conducts biweekly calls with tribal education directors and weekly calls with all superintendents and charter school leaders. Small group meetings are also taking place with superintendents. Each school district and charter school has a single point of contact at PED for questions and concerns. PED hosts weekly teacher and parent focus groups to answer questions and gather feedback. Secretary Stewart said some parents feel there is sufficient school communication and others feel there is not enough. Many teachers feel overwhelmed and are concerned about attendance rates, particularly among secondary students. In response, PED is

- Updating principal and director lists to engage in direct outreach and communication;
- Redesigning its website to include updates to the teacher portal;
- Promoting engagement, wellness, counseling, and other resources through social media and other outreach channels;
- Offering ongoing professional development and parent workshops; and
- Providing direct educator outreach and communications.

PED is exploring other ways to address concerns, including offering counseling through partnerships, engaging advisory councils to inform outreach and engagement efforts, and leveraging platforms like Mr. Owl for increased educator connection, community, and networking.

PED is developing early warning systems to monitor student attendance and accelerated learning strategies to mitigate learning loss. Secretary Stewart said PED will continue to provide reentry guidance and make every resource available to support teachers and students through the pandemic.

Secretary Stewart said PED recommends the state invest in community schools, data reporting tools, teacher recruitment efforts, additional instructional time, and a statewide student information system.

Senator Kernan said, if appropriated, funding for additional instructional days should only be used for in-person learning. Senator Kernan requested the results of PED's social emotional learning survey of students. Senator Kenan said social emotional programs for students should be implemented as soon as possible.

In response to Representative Stapleton, Secretary Stewart reported 568 Covid-19 cases across New Mexico public schools since Labor Day, of which 389 cases were staff members and 179 cases were students.

In response to Representative Armstrong, Secretary Stewart said schools in low enrollment micro districts may administer full-time, in-person instruction as long as small-group ratios and social distancing are maintained.

**Methane Reduction Strategy, Proposed Rules, Costs of Implementation, and Effects on Production and the Environment.** James Kenney, secretary of the Environment Department (NMED), said the governor in 2019 tasked the Energy, Minerals and Natural Resources Department (EMNRD) and NMED with developing a statewide, enforceable regulatory framework to secure reductions in oil and gas industry methane emissions and prevent waste from

new and existing sources. Under New Mexico's methane strategy, NMED is charged with regulating methane and volatile organic compound (VOC) emissions from oil and natural gas operations. Proposed rules are reviewed and adopted through the Environmental Improvement Board (EIB). Secretary Sarah Cottrell Propst said EMNRD is charged with regulating methane waste from oil and natural operations. Proposed rules are reviewed and adopted through the Oil Conservation Commission (OCC).

Secretary Cottrell Propst said NMED and EMNRD are applying four principles in developing new proposed rules: science, innovation, collaboration, and compliance. Over the past year, the agencies engaged numerous stakeholders and conducted public and community impact meetings. In July, NMED and EMNRD published a draft of new proposed rules.

Secretary Cottrell Propst said EMNRD submitted its proposed rules to OCC earlier this month. Public comment on the proposed rules will be accepted from November 24 to January 5, which is when OCC is expected to conduct a hearing. Secretary Kenney said NMED is already accepting public comment on its proposed rules. EIB is expected to take action on the proposed rules next spring or summer.

Secretary Kenney said NMED's proposed rules focus on reducing VOC emission from new and existing sources. Secretary Cottrell Propst said EMNRD's proposed rules focus on data reporting and gas capture planning. The proposed rules are posted on the agencies' websites.

Ben Sheppard, president of the Permian Basin Petroleum Association (PBPA), said the mission of PBPA is to promote the safe and responsible development of the region's oil and gas resources. The association represents large and small oil and gas producers in the Permian Basin.

Mr. Sheppard said PBPA supports the state's goal of reducing methane and VOC emissions; the association, however, is concerned the new rules, if approved as currently drafted, could increase industry costs and have negative effects on the development of oil and gas resources in the Permian Basin, ultimately impacting state revenue. Mr. Sheppard said the new rules should be complimentary of each other and should not harm New Mexico's oil and gas industry.

Mr. Sheppard said current regulations already demonstrate an increased methane capture, noting that despite production growth, methane emissions in the Permian Basin decreased 35 percent from 2011 to 2017 percent. Mr. Sheppard credited the use of new technologies as another reason for decreased emissions.

Mr. Sheppard recommended the state conduct a cost-benefit analysis of the proposed rules.

Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center (WELC), said the new rules, if approved, would lead the nation in methane reduction strategies. According to WELC, a nonprofit public interest environmental law firm and member of EMNRD's Methane Advisory Panel, one million tons of methane escape from the Permian Basin every year, which Mr. Schlenker-Goodrich said is equivalent to greenhouse gasses produced by 22 coal-fired power plants or 28 million cars. If captured, revenue would increase and pollution would decrease. The

additional profits from captured methane could also help the industry deal with weakening oil and gas demand.

Mr. Schlenker-Goodrich said Permian Basin oil and gas operations currently lose methane at twice the average rate of 11 other major U.S. oil and gas regions. Almost 4 percent of total natural gas production in the Permian Basin is lost through venting, leaks, and unlit or malfunctioning flares.

Mr. Schlenker-Goodrich said WELC recommends low-producing well exemptions in the proposed rules be removed.

Vice Chairwoman Lundstrom expressed concern for the administrative costs and fiscal impacts of the proposed rules.

Senator Burt asked NMED to provide LFC comment received from the Small Business Regulatory Advisory Commission on the proposed rules.

**Burrell College of Osteopathic Medicine: Graduate Medical Education Expansion in New Mexico; Sustainability and Planning for the Future.** The Burrell College of Osteopathic Medicine (BCOM) is a private medical school for osteopathic medicine on the campus of the New Mexico State University (NMSU) in Las Cruces. Dean Bill Pieratt, DO, said the goal of BCOM is to increase the availability and accessibility of healthcare professionals in rural New Mexico. The college offers scholarships and loan programs, including the physician loan for service program. BCOM requests an additional \$250 thousand in state funding annually for the physician loan for service program and continued support of its other scholarships and loan programs. Dean Pieratt said the additional resources would provide greater support of initiatives to increase physicians in rural New Mexico. President John Hummer said the state's return-on-investment in BCOM initiatives is high.

In response to Chairman Smith, Dean Pieratt said 633 students are currently enrolled at BCOM. In May, BCOM graduated its first class, 133 students, with doctorate degrees in osteopathic medicine.

### **Miscellaneous Business.**

***Action Items.*** Vice Chairwoman Lundstrom moved to approve the LFC October 2020 meeting minutes, seconded by Representative Martinez. The motion carried.

Vice Chairwoman Lundstrom moved to approve the LFC October 2020 Subcommittee A and B reports, seconded by Senator Sanchez.

Senator Burt moved to approve the LFC October 2020 Sunset/Sunrise Subcommittee report, seconded by Senator Neville.

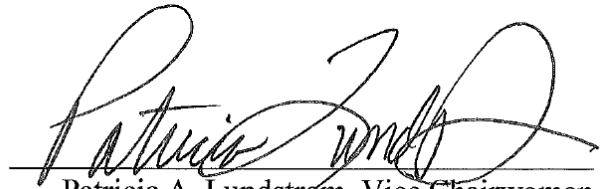
**Review of Monthly Financial Reports and Information Items.** David Abbey, director of LFC, briefed the committee on information items.



With no further business, the meeting adjourned at 6:04 p.m.



John Arthur Smith, Chairman



Patricia A. Lundstrom, Vice Chairwoman