

MINUTES
Legislative Finance Committee - Hybrid Meeting
Santa Fe, New Mexico
September 30 - October 2, 2020

Wednesday, September 30

The following members and designees were present on Wednesday, September 30, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt (via Webex), George K. Muñoz, Roberto “Bobby” Gonzales, Gay G. Kernan (via Webex), and Pete Campos; and Representatives Javier Martinez (via Webex), Phelps Anderson, Rodolpho “Rudy” Martinez, Gail Armstrong, Harry Garcia, Andres G. Romero, and Randal S. Crowder. Guest legislators: Senators Mary Kay Papen and Pat Woods; and Representatives Christine Chandler, Jack Chatfield, Natalie Figueroa (via Webex), Doreen Y. Gallegos, and Marian Matthews (via Webex).

Preliminary FY20 General Fund Revenues and Update to Economic and Revenue Outlook.

Stephanie Schardin Clarke, secretary of the Taxation and Revenue Department (TRD), said New Mexico is facing economic uncertainty. In response, the consensus revenue estimating group (CREG), comprising staff from TRD, Legislative Finance Committee (LFC), Department of Finance and Administration, and Department of Transportation (NMDOT), prepared a range of projections based on several sources, primarily IHS Markit, Moody's Analytics, and University of New Mexico's Bureau of Business and Economic Research forecasts.

Reporting on the U.S. economy, Secretary Schardin Clarke said real gross domestic product (RGDP) decreased at an annual rate of 31.7 percent in the second quarter of 2020. Monetary and fiscal policy bolstered the national economy and mitigated some negative effects of the pandemic. National consumption increased 1.6 percent in July but is expected to weaken in August and September due to fading fiscal stimulus. Over 20.5 million jobs were lost in April, the highest monthly job loss since 1945; 10.6 million jobs have been regained but the national unemployment rate remains high at 8.4 percent as of August. In FY21 and FY22, inflation is projected to have modest growth and the federal funds rate is expected to be at or below 0.25 percent.

In New Mexico, data indicates a RGDP contraction of 25.5 percent in the second quarter of 2020. Prior to the pandemic, the state unemployment rate was 4.8 percent. Following shutdown orders in mid-March, the unemployment rate spiked in April, peaking at 14.7 percent in July. As of August, the unemployment rate was 11.3 percent. Job losses in the mining and leisure and hospitality industries are largely driving the high unemployment rate. The federal Pandemic Unemployment Assistance Program of the CARES Act is providing unemployment benefits to individuals who normally would not qualify for benefits. The program served 84 thousand New Mexicans in July and 39 thousand in August. Unemployment is not expected to return to prepandemic levels until 2025.

Secretary Schardin Clarke said the price of oil decreased from \$56.52 per barrel (bbl) in February to \$37.96/bbl in August. As result, the number of oil drilling rigs operating in New Mexico sharply declined, decreasing from 117 rigs in March to 41 rigs in September. Oil prices are projected to

average at just over \$40/bbl in FY21. Secretary Schardin Clarke said it is unlikely the rig count will substantially increase while the oil price is in the low \$40s/bbl.

Natural gas production in New Mexico has also declined, decreasing from 478 billion cubic feet (bcf) in the first quarter of 2020 to 453/bcf in the second quarter.

Secretary Schardin Clarke reported on FY20 state revenues and said total personal income tax revenue was higher than CREG projected in June. Gross receipts tax (GRT) revenue dipped in April but federal stimulus payments bolstered consumer spending in May and June. The mining and leisure and hospitality industries experienced the most significant decline in GRT revenue. However, the construction industry remained resilient, experiencing a 28 percent year-over-year GRT revenue growth rate in the fourth quarter of 2020. Total severance tax revenue is estimated at \$580 million, a minimal decline due to strong oil prices and production earlier in the fiscal year. As expected, rents and royalties declined due to an unprecedented federal land lease payment of \$497 million in FY19.

Debbie Romero, acting secretary of the Department of Finance and Administration (DFA), said general fund reserves at the end of FY19 totaled \$1.8 billion, or 28.9 percent of recurring appropriations. General fund revenue for FY20 is estimated at \$7.8 billion, growing reserves to \$2.1 billion, or 29.4 percent of recurring appropriations. CREG projects FY21 general fund revenue at \$7.3 billion on the high range and \$6.4 billion on the low range. The projection range is higher than CREG's June forecast but lower than the December 2019 forecast. Secretary Romero said uncertainty of the pandemic, economic recovery, federal stimulus actions, and oil and natural gas volatility and recovery, is leading to significant differences between CREG's June, September, and December forecasts.

LFC Chief Economist Dawn Iglesias said revenues generated in the fourth quarter of FY20 appear to have been significantly propped up by federal fiscal policy. The federal fiscal and monetary response to the crisis was unprecedented, providing \$3.9 trillion in federal income supports, near-zero interest rates, and massive injections of liquidity into credit markets. Future federal spending will influence economic conditions in FY21, but it is unclear whether another stimulus deal will be reached and what such a package might include.

Ms. Iglesias said New Mexico lost over 100 thousand jobs in April. By August, the state had recovered only about a third of the jobs lost, and many New Mexicans left the workforce. Employment remains down in all major sectors except retail.

Ms. Iglesias said total matched taxable gross receipts (MTGR) declined 2.4 percent in the fourth quarter of 2020. The mining and leisure and hospitality industries experienced the largest decline in economic activity. Retail, however, increased 11 percent in the fourth quarter of FY20, with growth in online sales offsetting losses of in-person retail spending. Retail is expected to weaken as federal stimulus fades; however, the mining industry is expected to drive GRT revenue declines in FY21.

Ms. Iglesias said the current outlook in macroeconomic indicators suggests a more muted economic recovery in New Mexico. Revenues for FY21 could decline 7 percent to 19 percent from FY20, depending on the extent of the recovery.

Richard Anklam, president of the New Mexico Tax Research Institute, presented key findings of the institute's latest evaluation of New Mexico's oil and gas industry. In 2018, the oil and gas industry

- Supported over 134 thousand jobs, 12.1 percent of the state's total workforce;
- Generated \$7.6 billion in personal income tax (PIT) revenue, 13.5 percent of the state's total PIT revenue;
- Produced \$16.6 billion in gross state product, 15.8 percent of the state's total gross state product; and
- Generated \$2.2 billion in state and local tax revenues, 25 percent of total state and local revenues.

Consultant Tom Clifford gave an overview of the definitions and methodology used in the institute's analysis and provided additional detail of key findings. Mr. Clifford said FY21 revenues generated by the oil and gas industry are expected to fall significantly below 2018 levels.

In response to Representative Anderson, Ms. Iglesias said gross receipts tax revenue generated by renewable energy projects is considered construction industry revenue and utility industry revenue.

In response to Senator Muñoz, Ms. Iglesias said 50 percent of the jobs lost in the fourth quarter of FY20 are expected to be regained by the end of this year; however, little employment growth is projected thereafter.

In response to Representative Crowder, Ms. Iglesias said CREG's September projection range was provided to deal with the high level uncertainty in anticipation of December's point forecast. Uncertainty will also be a risk to CREG's December point forecast; however, general fund reserves will help the state deal with the variance between projected revenues and actual revenues.

Transfer of \$750 Million Stimulus Funds to General Fund and Local Government Allocations. Debbie Romero, acting secretary of the Department of Finance and Administration (DFA), said New Mexico received \$1.25 billion from the federal coronavirus relief fund (CRF), \$1.07 billion of which was distributed to the state and \$182 million of which was distributed to the city of Albuquerque and Bernalillo County. The appropriations are to be used to address necessary expenditures incurred due to the Covid-19 public health emergency. Of the CRF funding received for the state, \$750 million was transferred to the state general fund for schools, colleges, and all other state government entities; \$99.8 million was granted to local governments; \$28 was granted to tribal governments; \$50 million was granted to small businesses; and \$83.9 million was disbursed to state agencies.

CRF funding to local and tribal governments and small businesses was determined through an application process administered by DFA. Secretary Romero said each application was scored according to its request. Eighty-three local government applications were submitted, totaling \$191 million in requests; 21 tribal government applications were received, totaling \$38.2 million; and

66 small business applications were received, totaling \$106.9 million in requests. Funding for personal protective equipment, testing sites, senior meal programs, employee payroll, and rent payments were among the requests made. The funds will be disbursed on a reimbursement basis.

Secretary Romero said DFA is developing a spending plan for the \$750 million transfer, targeting funding at facilitating distance learning and paying public health and public safety personnel; however, federal guidance on how CRF dollars can be spent is ambiguous and DFA is unsure facilitating distance learning is an eligible expense. The federal government specified online instructional time is not an eligible expense, but it has indicated time spent by teachers facilitating distance learning is eligible. Secretary Romero said DFA and LFC staff are working together to identify eligible expenses. New Mexico's four largest school districts estimate remote teachers are spending approximately 60 percent of their time facilitating distance learning as opposed to providing direct instruction. The state could conservatively count 51 percent of all teacher and instructional assistant time as dedicated to facilitating distance learning from July to December.

Secretary Romero said the \$750 million is being transferred in increments.

LFC Deputy Director Charles Sallee said House Bill 1 of the 2020 special session authorized the transfer of \$750 million CRF funding to the general fund for expenditure in FY21 and appropriated remaining funds to local governments (\$130 million) and tribes (\$188 million.) The governor vetoed all but the \$750 million transfer and, instead, opted to grant only \$178 million of CRF funding to local governments and tribes. The remaining \$140 million is being used to cover state government expenses in FY20 and FY21.

As of September 24, none of the \$750 million had been transferred to the general fund. Mr. Sallee said most recent estimates by DFA and LFC staff indicate the state will be able to account for \$750 million in CRF eligible expenditures, but much of the remaining \$140 million from the vetoed share of state government expenses remains unbudgeted.

In response to Vice Chairwoman Lundstrom, Secretary Romero said fiscal year-end closing procedures delayed the \$750 million CRF funding transfer to the general fund; however, the agency will transfer the first portion, \$325 million, to the general fund today.

In response to Senator Munoz, Secretary Romero said Zuni Pueblo was the only tribe that did not apply for CRF funding. Secretary Romero said DFA is open to working with Zuni to determine the tribe's needs and provide CRF funding if still available.

Funding Health and Risk Insurance Premiums for Public Employees. Russell Toal, chairman of the Risk Management Advisory Board, said the health benefits program serving New Mexico state employees has structural issues. The advisory board provides oversight and meets regularly to review current issues. Mr. Toal said the state may want to consider updating the contribution formula and coverage policy. A consulting firm was hired this year to provide recommendations.

Mr. Toal said New Mexico would be severely impacted if the Affordable Care Act is repealed.

Mark Tyndall, director of the Risk Management Division of the General Services Department (GSD), said enrollment in the state employee health benefits program is declining. The program currently serves 38,062 state employees and their dependents. Mr. Tyndall said he agrees with Mr. Toal the eligibility rules are relatively inclusive, noting individuals working 20 hours a week or more are eligible for benefits.

Mr. Tyndall noted GSD also administers the health benefits programs for New Mexico's local government entities and some higher education institutions, currently serving 19,413 individuals. Employee premium contributions vary by entity and institution. State employee premium contributions are based on salary. State employees earning less than \$50 thousand a year cover 20 percent of premiums. Mr. Tyndall reported over 50 percent of state employees earn less than \$50 thousand per year.

In FY20, health benefit program revenue totaled \$363.9 million while expenses totaled \$366.2 million, leaving \$5.6 million in the health benefits fund. Mr. Tyndall said FY20 started with a fund balance deficit of \$2 million; however, the Legislature appropriated the fund \$10 million in the 2020 regular session. Premiums did not increase in FY21 and will not be increased in FY22. The fund is projected to have a deficit of \$18.8 million at the end of FY21. A deficit is also projected for FY22.

To address projected deficits, high-cost medical claims, and rising prescription drug costs, GSD is removing financial barriers to early intervention, high-value services. Mr. Tyndall said the agency is also applying value-based purchasing principles and adding a new medical carrier in 2021, which will offer a lower cost plan.

Reporting on GSD's risk management program, Mr. Tyndall said 218 liability claims and 27 property claims in the amount of \$250 thousand or more have been paid in the last 10 years. The liability claims were primarily medical malpractice, civil rights, and general liability claims. An overview of risk management program funds was provided.

Executive Director Richard Valerio said the Public School Insurance Authority (NMPSIA) is currently providing risk and health benefit insurance for 88 school districts, 99 charter schools, and 27 other educational entities, insuring 47,672 individuals. NMPSIA has 11 staff members and 11 board members.

Mr. Valerio said NMPSIA requests a budget of \$458 million for FY22, a \$43.6 million increase over FY21. The agency requests the increase to cover higher employer premium expenses.

Mr. Valerio said NMPSIA faces several challenges. About 85 percent of NMPSIA members reside in rural communities where there are few providers and hospitals, limiting competition. In addition, providers attempt to make up for lower Medicare and Medicaid reimbursement rates by charging higher rates to commercial plans. Also, it is more costly to recruit and retain healthcare professionals in rural communities and medical and prescription drug costs are rising. To mitigate expenses, NMPSIA is providing disease and care management programs and covering telemedicine visits, available through all medical carriers at no additional cost to members.

Member premiums increased 2.1 percent for those enrolled in the low option plan and 6 percent for those enrolled in the high option plan in FY21.

Mr. Valerio reported on NMPSIA's risk management program and said liability and property claims paid in FY20 totaled \$35.5 million, a significant increase due to sexual molestation and inappropriate touching claims. Workers' compensation claims paid totaled \$9.9 million. NMPSIA's loss prevention efforts include providing threat assessment and active shooter training and predator identification training. The agency is also developing an anonymous reporting system, which supports the Sandy Hook Promise.

Valerie Atencio, director of employee benefits of Albuquerque Public Schools (APS), said reduced utilization of nonessential care is resulting in health benefit program savings; however, delayed care could lead to worse health outcomes and higher healthcare costs in the future.

In response to rising healthcare and prescription drug costs, APS will increase member premiums by 6 percent on average in 2021. APS also added a fourth medical carrier and simplified medical plans, adjusting for 4.8 percent lower medical claims.

Todd Torgerson, chief of human resources and legal services, said APS currently has 12,182 permanent employees, of which 6,652 are certified educators and 1,848 are classroom educational assistants. The school district's insured property is valued at \$2.9 billion. APS carries excess general liability insurance up to \$20 million. Mr. Torgerson said property and workers' compensation claim payments have been relatively stable over the last six years.

Mr. Torgerson said APS requests an \$8.3 million budget increase for insurance in FY22.

In response to Senator Kernan, Mr. Valerio said NMPSIA created a task force to address potential Covid-related risk claims.

Chairman Smith requested GSD report to LFC staff which legislators, if any, have been contracted to provide legal counsel.

State Facility Master Plan. Ken Ortiz, secretary of the General Services Department (GSD), said GSD contracted with an architectural consultant firm last fall to develop a master plan for state-owned and -leased facilities in New Mexico. The facilities were assessed and inventoried and a state employee work location coding component was added to the SHARE system. New Mexico now has record of every state employee's work location, a requirement of the U.S. Department of Labor.

Secretary Ortiz said GSD expects the firm to issue a state facility master plan in January 2021. The plan will be used to maximize the use of state-owned facilities by colocating state agencies that have similar clients and services, making efficient use of existing state-owned inventory, and consolidating agencies from multiple locations into a central state-owned space. The plan will also assist the state in determining a reasonable percentage of leased space to maintain and identifying future capital investments in state facilities.

Secretary Ortiz said the firm is using employment data to determine office needs. The state currently owns 29 buildings in Santa Fe, comprising 1.5 million square feet of office space. State-leased space comprises 450 square feet at an annual cost \$10.5 million. Since 2008, New Mexico state government employment has declined 1.4 percent annually on average.

Anna Silva, director of GSD's Facilities Management Division, said factors, such as building design and configuration, impact the ability to use office space optimally. As state facilities were assessed, GSD found the demand for state-office space is greater than supply, which Ms. Silva said is evident by the large amount of office space currently leased by the state. Only 50 percent of current state-owned office space is conducive to consolidation. Also, the state lacks available space to accommodate agencies while renovations take place on facilities. A recent agency survey found higher satisfaction with current state-leased office space. Some agencies in state-owned office space are unhappy with the location, size, and configuration of their office space. Some also reported parking space issues.

Ms. Silva said state office space will need to adapt to shifting work behaviors induced by the pandemic; teleworking practices and new work space standards will need to be considered.

GSD is currently colocating the Office of the Superintendent of Insurance and consolidating the Children, Youth and Families and Early Childhood and Education Care departments to one state-owned location.

Information Technology Projects Status Report. LFC Analyst Jessica Hitzman reported on the status of 10 state agency IT projects. The Department of Information Technology (DoIT) statewide infrastructure replacement and enhancement project, is on track for completion within the scope and budget originally defined.

The Medicaid management information system replacement project is on budget but is at risk due to its complexity, high cost, schedule delays, and reliance on a continued 90 percent federal funding match. The estimated completion date was extended until FY23.

DoIT's P25 digital public safety radio system upgrade project to convert the state's analog public safety communication system to digital is four years behind schedule and 17 percent over budget from original project estimates. The project still lacks a strategic plan, proper governance, and project management.

DoIT has yet to contract a project manager for its enterprise cybersecurity upgrade project. The project is already delayed from a long recruiting timeline for a state chief information security officer. With an estimated completion date of FY24, the project schedule may need to be reassessed given increased urgency of cybersecurity initiatives.

The Children, Youth and Families Department's (CYFD) comprehensive child welfare information system project is at risk of falling further behind schedule and going further over budget. CYFD is still working to meet requirements for federal approval of the project. Without approval, \$12.3 million in requested federal funding for the project is in jeopardy, an amount the state would otherwise have to cover.

The Regulation and Licensing Department's (RLD) Accela permitting and inspection software replacement project is at risk due to an extended timeline and resource constraints. However, RLD has shown progress by finalizing vendor contracts for project management and independent verification and validation.

The State Treasury Office's SHARE integrated treasury solutions project did not meet the needs of the agency given its continued reliance on the legacy system for investment reporting. No plan for remediating software design flaws has been reported.

The Department of Health reports its Women Infants Children supplemental nutrition program system replacement is fully operational, completed on time, but over budget. The agency has corrected and validated a majority of its reports, but overall impacts of this validation are unclear at this time.

The CYFD enterprise provider information constituent services (EPICS) project is still pending close-out. While some elements of the EPICS system are working, the system did not consolidate all databases in EPICS as originally planned, likely due to lack of project governance and planning early on.

Ms. Hitzman said because several IT projects demonstrated risk and a lack of project management and program support, ensuring adequate project governance will be essential for completing project milestones. Given LFC concerns about securing continued federal funds, additional attention will need to be given to projects requesting these funds to limit delays and ensure proper approval is granted prior to implementation. Projects that are moderate- to low-risk will need to be monitored to ensure risk status is not escalated due to additional budget concerns or schedule delays. High-risk projects should demonstrate plans to mitigate that risk in FY21 either through corrective action, such as re-evaluation of project strategic plans, or increased oversight and attention.

LFC Progress Report on Centennial Care Waiver and Medicaid Managed Care Costs. LFC Program Evaluator Jacob Rowberry presented a progress report on the Centennial Care waiver and Medicaid managed care costs. Centennial Care, New Mexico's Medicaid program, operated under its first iteration between 2014 and 2018, providing healthcare services to 31 percent of all New Mexicans at the end of 2018. Centennial Care aimed to modernize the Medicaid program by improving the efficiency and effectiveness of healthcare delivery, advancing person-centered models of care, and slowing the rate of Medicaid program costs. The program is now operating under Centennial Care 2.0.

The report identified three key findings of the first iteration of Centennial Care: Program enrollment and provider rates drove program costs, key cost-saving elements of the program were not fully realized, and the program lacked strong legislative oversight.

While program costs grew from \$3.9 billion to \$4.4 billion over the first iteration and enrollment grew from 595 thousand members to 690 thousand members, overall per-member, per-month costs remained stable, largely attributed to provider rate cuts and rate freezes implemented by the Human Services Department (HSD) in FY17.

From an overall cost-savings perspective, Centennial Care greatly exceeded its initial cost-saving estimates over the five-year demonstration period, as required and defined by the Centers for Medicare and Medicaid Services (CMS). However, true cost savings to New Mexico remain unknown because CMS' methodology likely inflates estimated cost-savings. The finding highlights the need to establish and monitor program cost-saving benchmarks moving forward.

A key past finding was for HSD to better negotiate payment rates with the managed care organizations (MCOs) under contract with the state; specifically setting rates closer to the lower bound of the actuarially sound rate range. While MCO rates were generally found to be between the highest estimate and the lower bound, HSD could have saved about \$93 million in general fund dollars between 2014 and 2018 had managed care organizations been paid the lowest actuarially sound rate across all programs.

Another key area for deriving additional cost-savings within Centennial Care is care coordination. The number of Centennial Care members not participating in care coordination (either declining to participate or unable to be reached) was around 12 percent at the end of 2018. As care coordination aims to facilitate individualized healthcare and prevent costly acute healthcare services use, the nonparticipating care coordination members, totaling over 70 thousand, represent potential cost savings.

Healthcare utilization data and reporting, which has improved in quality and quantity since 2015, highlights further improvement areas and cost-saving opportunities. Between 2013 (pre-Centennial Care) and 2017, the number of members who received a preventive care visit decreased from 86 percent to 76 percent. As preventive care visits have been directly linked to lowering future healthcare spending, increased preventive care visits among members likely would have generated cost savings.

Lastly, the 2015 evaluation noted the lack of legislative oversight over Medicaid spending and recommended potential changes to the appropriations process, possibly by following the lead of other states and making appropriations at the program level. Currently, the program receives \$6 billion split into two line items, limiting budget transparency and oversight.

HSD adopted two-thirds of the recommendations from the 2015 program evaluation. Information on the progress of recommendations is provided in the progress report.

In response to Representative Crowder, Mr. Rowberry said New Mexico currently has three MCOs: Blue Cross Blue Shield, Presbyterian, and Western Sky.

In response to Senator Burt, Nicole Comeaux, director of the Medical Assistance Division of HSD, said HSD works with contracted actuaries to ensure actuarially sound rates. Risk factors are considered in determining rates.

Miscellaneous Business.

Action Items. Representative Martinez moved to approve the LFC August 2020 meeting minutes, seconded by Senator Gonzales. The motion carried.

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

Representative Crowder requested LFC staff provide the committee information on Aging and Long-Term Services Department efforts with the Compulsive Gambling Council in providing prevention training and educational materials on recognizing and treating gambling problems, as directed in statute in 2006.

Senator Kernan requested information on the pandemic's impact on suicides in the state.

Thursday, October 1

The following members and designees were present on Thursday, October 1, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt (via Webex), George K. Muñoz, Roberto "Bobby" Gonzales, Gay G. Kernan (via Webex), and Pete Campos; and Representatives Javier Martinez, Rebecca Dow, Rodolpho "Rudy" Martinez, Gail Armstrong, Harry Garcia, Andres G. Romero, and Randal S. Crowder. Guest legislators: Senators Mary Kay Papen and Pat Woods; and Representatives Phelps Anderson, Christine Chandler, Jack Chatfield, Doreen Y. Gallegos, Dayan Hochman-Vigil (via Webex), Derrick J. Lente (via Webex), and Marian Matthews (via Webex).

School District and Educator Proposals to Comply with *Martinez-Yazzie* Decision and Boost Student Outcomes. Arsenio Romero, Ph.D., superintendent of Deming Public Schools, said high quality education and the health and safety of students and staff are the goals of public education. However, the goals are currently in conflict due to the pandemic.

Lani Hofacket, principal of Memorial Elementary School in Deming, talked about common planning for common instruction and said there needs to be a sufficient and uniform system of education to ensure all students receive the education they need to be college- and career-ready. A curriculum leadership team, comprising teachers from every grade and school in the Deming, is building leadership capacity and providing professional development to ensure instruction throughout the school district meets common core state standards.

Toby Soderberg, principal of Chaparral Elementary School in Deming, said the loss of additional instructional days, data collection, and analysis was the reason Deming Public Schools was unable to implement the K-5 Plus extended school year program this year. Extended learning is, however, underway. Mr. Soderberg said continued support is needed and recommended both programs develop flexibility, a student-first approach, effective communication system, and inclusive curriculum plan.

Superintendent Romero said the pandemic's impact on public education is also resulting in a significant number of unaccounted students, exacerbating learning losses and impacting next year's budgets. The digital divide is challenging school districts statewide.

Superintendent Romero talked about next steps for New Mexico public education system, which he said should be focused on blending learning environments, delivering broadband statewide, providing flexibility with school calendars, and keeping school districts whole.

Stan Rounds, executive director of the New Mexico School Superintendents Association, said the pandemic's impact on public education is resulting in learning losses, K-5 Plus and early learning program issues, regional staffing challenges, and a worsening of overall student stability. Mr. Rounds said there is also a funding shrinkage. Hybrid instruction is expected to continue through June 2021.

Mr. Rounds said workforce and student enrollment instability will likely continue through the 2021-2022 school year. School districts are expected to still have unpredicted costs and operational dysfunction, and the crisis in learning materials and technology scaling and sustainability will cause financial uncertainty.

Mr. Rounds recommended the Legislature

- Provide school districts flexibility to manage through the pandemic;
- Support school district cash balances;
- Establish a prior-year averaging methodology for student membership through FY23;
- Develop deeper instructional materials funding;
- Remove retirement penalties for substitutes and retirees; and
- Support the wide range of instructional planning and delivery practices in school districts.

Jeannie Oakes, Ph.D., senior fellow at the Learning Policy Institute (LPI) and presidential professor at the University of California, Los Angeles, said LPI was finalizing a study on New Mexico public education when the pandemic hit. Instead of issuing the report, the institute conducted additional research and reworked its study to report on improving education in the context of Covid-19. Presenting key findings and recommendations, Ms. Oakes said New Mexico has unique characteristics that complicate improvement and require more resources and capacity. Making the most of rich geographic, cultural, and linguistic diversity requires balancing state direction with local flexibility and strong local capacity. New Mexico's distressed economy brings high costs, but little state revenue. While the state's public education funding is fairly equitable, it is inadequate. Too little capacity and too little funding is resulting in poor educational outcomes

For New Mexico to improve education, the state needs to recognize its diversity as an asset, not a liability. Poverty creates barriers but does not prevent learning or school success. The state must put students affected by marginalization and poverty at the center of the system and provide schools the support and capacity to make the most of diversity and reduce barriers.

Successful public education systems have five fundamental elements: meaningful learning goals, knowledgeable and skillful educators, supports that meet student needs, high-quality early learning, and adequate and equitable funding.

New Mexico's accountability mechanism the last 20 years has not improved performance; supportive accountability would be more effective in achieving results. High-poverty schools should transition into community schools with expanded learning time. The state has significantly increased public education funding; however, per pupil funding is still \$1,100 less than the national average. Funding increases between 4 percent and 8 percent annually could close the gap by 2030. Meeting the national average would mean the state has sufficient funding to fill vacant

instructional positions, pay teachers a competitive salary, build the infrastructure to expand community schooling, and increase capacity for programs.

Ms. Oakes said New Mexico is moving in the right direction. Recommending next steps, Ms. Oakes said the state should

- Blend and braid state and federal education funds to support community schools with expanded learning;
- Use community schools as hubs for aligned and coordinated programs; and
- Require sufficient data to oversee and monitor the progress of community schools.

In the long-term, the state should

- Invest in making community schools with expanded learning time the norm at all high-poverty schools;
- Invest in regional technical assistance centers to help schools implement community schools and expanded learning and provide supportive accountability; and
- Create incentives for local nonprofits and businesses to partner and boost community-wide ownership of high-poverty schools.

In response to Vice Chairman Lundstrom, Mr. Rounds said current experts and advisors being used to make the significant policy directives issued through the executive do not include any public education professionals. Vice Chairwoman Lundstrom asked LFC staff to provide the committee information on PED's direction for implementing hybrid learning. Vice Chairwoman Lundstrom asked LFC staff to schedule a meeting to discuss community schooling and invite public education leaders from school districts that receive federal Title I funding for low-income schools.

Representative Martinez expressed concern for the psychological impact of Covid-19 closures on students and recommended counseling be offered at schools.

Representative Anderson said, in August, she sent a letter to the governor and the Department of Health requesting reciprocity for licensing behavioral health specialists. The governor and department have not responded to the letter.

In response to Senator Muñoz, Mr. Rounds said school closures and issues with remote learning will likely lead to students losing the equivalent of a year and a half of learning.

New Mexico Finance Authority Budget and Program Overview. Chief Executive Officer Marquita Russel said the New Mexico Finance Authority (NMFA) was established in 1992 to finance public infrastructure and community and economic development projects. NMFA is governed by a board of directors and overseen by a legislative oversight committee. Ms. Russel said the agency's strategic plan, adopted in 2018, is focused on operational excellence, collaborative financing, integrated project planning, and capacity building. This year, NMFA reorganized its management structure to align business processes and institutional culture with the strategic plan.

Chief Financial Officer Oscar Rodriguez reported on other improvements taking place at NMFA and said a new loan servicing software is being implemented to track projects from client application to booking into the general ledger system. NMFA established an operating fund for transparency and added more detail to client activity statements. NMFA's website was revamped. The FY19 audit was completed as a comprehensive annual finance report (CAFR), which received a certificate of achievement for excellence in financial reporting from the Government Finance Officers Association. The FY20 CAFR is on track for an on-time submittal to the State's Auditor's Office.

In FY21, \$116 million is budgeted for projects and \$11.8 million is budgeted for operations. Ms. Russel provided an overview of the public project revolving fund, NMFA's largest program. The program provides low-cost financial assistance for public infrastructure and equipment.

In response to the pandemic, NMFA implemented the Essential Services Working Capital Program to provide critical operating fund loans for businesses and non-profits helping New Mexicans through the public health order. Ms. Russel said NMFA also implemented an emergency economic relief program for cities and counties.

In response to Representative Anderson, Ms. Russel said NMFA's inactive programs are primarily due to lack of funding.

In response to Vice Chairwoman Lundstrom, Ms. Russel said NMFA began accepting applications for small business recovery loan funds 29 days after the 2020 special session. About 430 loans have been made so far, averaging \$50 thousand. Vice Chairwoman Lundstrom requested a list of the loans. Ms. Russel said NMFA has not implemented the Emergency Economic Relief Program because local governments have not shown interest.

In response to Vice Chairwoman Lundstrom, Ms. Russel said NMFA will find out and report to LFC how the Department of Cultural Affairs used the transferred public project revolving funds.

In response to Chairman Smith, Ms. Russel said, as stipulated in the loan agreement, the Spaceport Authority must request a release of funds if its revenues do not reach a certain point. Ms. Russel said, in at least one instance, the NMFA Board released a certain percentage of funds to the Spaceport. Ms. Russel said she is unaware if the Attorney General has contacted NMFA regarding suspected wrongdoing at the Spaceport.

New Mexico Mortgage Finance Authority Budget and Program Overview. Executive Director Isidoro "Izzy" Hernandez, listed current members of the New Mexico Mortgage Finance Authority (MFA) board and legislative oversight committee. Established in 1975, MFA administers all housing programs in the state to ensure every New Mexican has access to quality and affordable housing. Mr. Hernandez said MFA resources, derived from federal, state, and other sources, are allocated to over 30 housing programs. In 2019, MFA provided \$527 million in low-interest financing and grants for affordable housing and related services, generating over \$300 million in economic development.

Donna Maestas-De Vries, deputy director of MFA programs, talked about the social impact of housing programs and said homeless programs reduce reliance on costly de facto solutions like emergency rooms and jails. Home rehabilitation programs alleviate the health risks of substandard housing. Housing development decreases housing insecurity and builds wealth and greater social engagement and satisfaction.

Gina Hickman, deputy director of MFA finance and administration, said participation in MFA mortgage programs continues to increase. Eighty percent of participants are first time homebuyers. The current average age of participants is 37 and the average first mortgage loan amount is \$160 thousand, a \$13 thousand increase since 2018.

Ms. Maestas-De Vries said between 15 thousand and 20 thousand New Mexicans experience homelessness each year. According to the U.S. Department of Housing and Urban Development, New Mexico had the highest increase of homeless people in 2019. Of the 20 thousand people who sought help in 2019, 7,000 did not receive adequate assistance to exit homelessness. Homeless and special needs program funding this year totals \$19 million; \$3.4 million is state funding for the Linkages and Continuum of Care programs. MFA will receive \$13.3 million in federal community development block grant funding this month, which will provide up to three months of housing assistance to qualified applicants.

Ms. Maestas-De Vries said MFA is working to increase homeless and special needs service providers to areas in the state lacking services.

Mr. Hernandez said the New Mexico Housing Trust fund has received \$22 million in state funding since its creation in 2005. Through loan repayments and interest, the trust fund has provided \$50 million in low-interest financing and grants for affordable housing and related services, including rental assistance. This year, MFA dedicated \$3 million to providing short-term rental assistance to eligible tenants impacted by the pandemic. MFA requests \$12 million for the trust fund in FY21. Mr. Hernandez said the funding would be used to develop and rehabilitate about 1,000 homes and weatherize 300 homes. MFA also requests statutory changes to the trust fund to allow the agency to use funding for more types of housing activities.

MFA, a quasi-governmental agency that does not receive operating funds from the state, operates its budget on a federal fiscal year basis. The operating budget is funded by the agency's general fund, generated from administrative fees, interest on loans, interest on investments, servicing income, housing program income, and other income. Ms. Hickman said MFA's FY21 operating budget is \$19.8 million, flat with FY20. Revenue in FY21 is projected at \$28.4 million. Excess revenue is used to support affordable housing activities and fund MFA's internal revolving loan fund to meet rating agency reserve requirements.

Hank Hughes, executive director of the New Mexico Coalition to End Homelessness, said providing shelter for the homeless will be more challenging this winter because of the pandemic. Mr. Hughes said the increasing number of homeless people have resorted to camping. Some municipalities are using CARES Act funding to establish hotel programs.

Providing an overview of homeless programs in the state, Mr. Hughes said the Youth Homelessness Demonstration program is serving homeless youth in northern New Mexico, including unaccompanied, pregnant, and parenting youth. The federal grant program requires a state match of \$413 thousand annually. The Linkages program provides rental assistance for individuals with a serious mental illness diagnosis who are also homeless or at-risk of becoming homeless. The program received additional state funding in FY20; however, Mr. Hughes said additional resources are needed. To house all homeless people in New Mexico, the state would need to invest \$61.3 million annually. A one-time capital investment of \$48 million would also need to be made.

In response to Representative Martinez, Mr. Hernandez said the Veterans Housing Rehabilitation/Modification and Weatherization Assistance programs are serving many veterans. MFA recently received \$2 million in federal grant dollars to support housing programs specifically for disabled veterans. Mr. Hughes said about 5 percent of the homeless population in New Mexico are veterans, which is a significant decrease from previous years due to federal efforts.

Restructuring Gaming Regulation and Fees. Scott Scanland, lobbyist for Sunland Park Racetrack and Casino (SPRC), said legislation to expand gaming in New Mexico will be proposed in the 2021 legislative session. The legislation would not increase the number of nontribal gaming casinos, but rather expand gaming at already existing nontribal gaming casinos. The legislation would eliminate the revenue-sharing provision in compacts and provide the opportunity to bring compacts in perpetuity. By eliminating the provision, tribes would retain earnings. Mr. Scanland said the expansion of nontribal gaming would increase gaming revenue for the state and boost tourism.

The state currently collects between 2 percent and 10 percent of tribal slot machine revenue and 26 percent of nontribal slot machine revenue. A portion of nontribal slot machine revenue is also paid to the horsemen's purse and responsible gaming program. Mr. Scanland said SPRC has paid \$830 million in gaming and purse taxes since 1999.

SPRC General Manager Rick Baugh said the proposed legislation is an opportunity for New Mexico to expand its tourism market and become more competitive with casinos in neighboring states. The legislation would also enhance the horseracing industry in New Mexico.

The state collected \$143.3 million from gaming in FY19, of which \$78.4 million was from tribal gaming and \$64.9 million from nontribal gaming. SPRC Marketing Director Ethan Linder said state revenue from gaming would have totaled \$125 million if the legislation had been enacted in FY19. Mr. Linder said state revenue and the total economic impact from gaming is expected to grow over time if the state expands gaming under the proposed legislation.

Providing a brief history of gaming in the state, Chairman Smith said New Mexico's nontribal racetracks were transformed into racinos to save the horseracing industry. In 1995, a compact was signed between the state and 13 tribes, paving the way for class III gaming on Indian reservations and at nontribal racetracks and nonprofit clubs. The compact, however, was not approved by the Legislature until 1997. In 1999, the Legislature established the Compact Negotiation Act, formalizing the process for compact negotiations between the state and tribes. Chairman Smith

said the New Mexico Lottery was established before class III gaming got underway to prevent the erosion of lottery revenues.

Chairman Smith said one racino license remains but its location is undecided. In 2008, the license was given to a group to build a racino in Raton; however, the project was unable to materialize due to the Great Recession. A feasibility study was conducted in 2018, exploring the viability of a sixth racetrack-casino in the state and analyzing five bids submitted for the license. The study's findings, which support a racino in eastern New Mexico, are being contested.

In response to Senator Sanchez, Mr. Scanland said the proposed legislation is being discussed with tribal leaders and casino operators. Mr. Scanland said no tribes have said they oppose the legislation. Senator Sanchez said it is important the legislation be discussed with tribal administrations and councils before introducing it in the legislative session.

In response to Senator Sanchez, Mr. Linder said online gambling is illegal in the state; however, many New Mexicans are engaging in online gambling through websites like Draftkings. Without legalization, New Mexico is unable to regulate and tax the gambling activity already taking place online.

In response to Senator Neville, Mr. Scanland said the state does not receive revenue from class II gaming. Currently, nontribal casinos do not have any class II gaming machines but tribal casinos do.

Friday, October 2

The following members and designees were present on Friday, October 2, 2020: Chairman John Arthur Smith; Vice Chairwoman Patricia A. Lundstrom; Senators Clemente Sanchez, Steven P. Neville, William F. Burt (via Webex), George K. Muñoz, Roberto “Bobby” Gonzales, Gay G. Kernan (via Webex), and Pete Campos; and Representatives Javier Martinez (via Webex), Rebecca Dow, Rodolpho “Rudy” Martinez, Gail Armstrong, Harry Garcia, Andres G. Romero, and Randal S. Crowder. Guest legislators: Senators Mary Kay Papen and Pat Woods; and Representatives Eliseo Lee Alcon, Phelps Anderson, Jack Chatfield, Dayan Hochman-Vigil (via Webex), and Marian Matthews (via Webex).

Decision-Making, Health, and Economic Impacts of New Mexico’s Covid Response. Dr. David Scrase, secretary of the Human Services Department (HSD), said literature and data is guiding New Mexico’s response to Covid-19; however, available information is limited because the virus is new. Early in the pandemic, non-peer-reviewed research represented nearly 40 percent of all English-language Covid-19 scientific literature. As a result, New Mexico had to make critical and timely policy decisions based on virtually no scientific evidence. Since the start of the pandemic, the Medical Advisory Team (MAT), a group of more than 100 officials and experts organized by the Department of Health, has sifted through various resources and, in cases where evidence is lacking, used experience and clinical judgement to develop material for the state to consider. Virus information and recommendations provided by MAT are available on the DOH website.

Dr. Scrase said the number of new Covid-19 infections in New Mexico increased week over week this past month, particularly in southeast counties. The highest percent of total cases are in the 20-29 age group, followed by the 30-39 and 40-49 age groups. Covid-19 deaths totaled 873 as of September 28. Almost 1 percent of the deaths were individuals in the 20-29 age group, 5 percent in the 30-39 age group, and 5.2 percent in the 40-49 age group. Dr. Scrase said, while the Covid-19 death rate is highest among the elderly, the number of young adults dying from the virus is significant.

New Mexico is reopening the economy in phases based on gating criteria consisting of six measures, each with an assigned target. The state is currently not meeting the Covid-19 transmission target rate; targets are being met, however, for testing, contact tracing, isolation, and healthcare system capacity. Dr. Scrase said mask wearing and social distancing can mitigate virus spread.

Dr. Scrase said, as understanding of the novel coronavirus grows, MAT is becoming better equipped to model data and provide the state with the information it needs to control the virus and reopen the state.

Patrick Fitch, Ph.D., associate laboratory director of earth and life sciences of the Los Alamos National Laboratory (LANL), said the laboratory is actively engaged in the pandemic response, providing science and technology resources to the state and federal agencies. To ensure safe operations, LANL reduced onsite workforce, maximized telework, and implemented an asymptomatic testing and self-screening program.

LANL is working with the state on epidemiological modeling. Mr. Fitch said the modeling provides a framework to evaluate forecasts, potential actions, and specific scenarios. Epigrind and epicast are among the approaches used to model data. Mr. Fitch provided an example of modeling school reopening data using epigrind, a medium-grained geographically resolved model, and epicast, a fine-grained hybrid-agent epidemic model.

Jim Peach, Ph.D., professor emeritus of the Economics, Applied Statistics and International Business Department of New Mexico State University, said reopening the economy and educational institutions is a shared goal; however, he sees little evidence of economic analysis in current decision-making. Also, there is no professional economist appointed to the Economic Recovery Council. New Mexico's recovery efforts should include economic considerations that are transparent and reported frequently, which Professor Peach said would reduce public criticism of restrictions in place.

Professor Peach said higher-than-expected gross receipts tax revenue in the second quarter was result of federal stimulus dollars; however, additional dollars have not been appropriated and tough economic times are ahead. The oil and gas industry is not expected to lead New Mexico out of the economic crisis. Recovery is expected to be long and slow, likely five years for unemployment to return to prepandemic levels, according to Moody's Analytics and the University of New Mexico's Bureau of Business and Economic Research. When recovered, there will be a new type of economy. Professor Peach said consumer shopping, workplace, and travel behaviors will be different and a new industrial structure will emerge. Also, large corporations will dominate the

economic landscape. Professor Peach said New Mexico is not well-positioned to face these changes. Public and private sectors will need to make large investments to prosper.

LFC Deputy Director Charles Sallee said the only thing certain about the pandemic is the uncertainty. State responses vary greatly. The majority are not following CDC guidance for criteria and phases of reopening. New Mexico is among the states with the most criteria for reopening.

Mr. Sallee said guidance for school reopening varies greatly by source. According to Brookings, national school reopening is related to political support, not virus transmission.

Even in states reopening quickly, economic activity remains depressed. New Mexico is facing an unemployment rate of 11.3 percent and students are losing up to a year or more of learning. Mr. Sallee said the state should consider incorporating economic considerations into health policy and building an economic dashboard to track progress of recovery.

Vice Chairwoman Lundstrom requested LANL's support in administering a Covid-testing and self-screening program for the Legislature in 2021.

In response to Senator Kernan, Mr. Fitch said several models incorporate time spent outside the home, including worktime. Senator Kernan requested analysis to find out if Eddy and Lea counties' high population of essential workers is contributing to their high case counts.

Senator Kernan recommended MAT review concerns of the New Mexico School Superintendents Association, stated in a letter to the Public Education Department on September 15. Among the concerns, the association said "current experts and advisors being used to make the significant policy directives issued through the executive fail to include anyone from our body." Dr. Scrase said the purpose of MAT is to provide the executive with health-related data and recommendations. Senator Kernan said the executive's decision-making group leading the Covid response needs to be cognizant of all concerns.

In response to Senator Muñoz, Dr. Scrase said the state is considering implementing an antigen testing program. Unlike antibody testing, antigen testing provides rapid results of active infections and is more amenable to point-of-care use.

New Mexico Lottery Authority. David Barden, chief executive officer of the New Mexico Lottery Authority, said New Mexico lottery sales contributed \$38.1 million to the lottery scholarship fund in FY20, a \$5 million decrease from FY19. Mr. Barden said the decrease is due to lower jackpot game sales. The authority is considering ways to increase sales, including adding an international sales component.

Mr. Barden said the New Mexico lottery is required by statute to return a minimum of 50 percent of proceeds to players in the form of prizes and 30 percent to the lottery scholarship fund. Remaining funds are allocated to cover the cost of products as well as retailer commissions and administrative costs. New Mexico's prize payout is among the lowest in the country. Mr. Barden said a higher prize payout would attract more players and, therefore, increase earnings for the scholarship fund.

Mr. Barden said Covid-19 is also impacting lottery sales; about 10 percent of lottery retailers were closed early in the pandemic.

To date, the New Mexico lottery has provided more than \$860 million in higher education tuition for 128 thousand students.

In response to Representative Anderson, Mr. Barden said online lottery games would attract more players, particularly millennials.

In response to Representative Hochman-Vigil, Mr. Barden said New Mexico's scratcher sales are being lost to neighboring states because they have over 10 percent higher prize payouts.

With no further business, the meeting adjourned at 10:57 a.m.



John Arthur Smith, Chairman



Patricia A. Lundstrom, Vice Chairwoman