



# Administrative Hearings Office Fiscal Year 2022 Appropriation Request

Legislative Finance Committee

Chief Hearing Officer Brian VanDenzen

November 16, 2020

# About the Administrative Hearings Office

- ▶ The Administrative Hearings Office conducts and adjudicates state administrative protest hearings under the **Tax Administration Act**, the **Property Tax Code**, the **Motor Vehicle Code**, the **Implied Consent Act**, **Health Insurance Premium Collection Tax Act** and expedited proceedings under **Medicaid Provider and Managed Care Act**.
- ▶ The Administrative Hearings Office has 16 FTE.
  - ▶ 10 Administrative Law Judge/Hearing Officers (including the Chief Hearing Officer position)
  - ▶ 5 program support positions. Schedulers, Court Clerks, and Paralegals.
  - ▶ 1 Chief Financial Officer position.
  - ▶ AHO is currently fully staffed, as of Monday, November 2, 2020.
- ▶ AHO has four offices across the state: Santa Fe, Albuquerque, Clovis, and Las Cruces



# The Work of the Administrative Hearings Office in FY20

**Average annual case load per hearing officer position: 381.2 hearings in FY20.**

Two Main Hearing Categories: DWI-Implied Consent Act Hearings and Tax Hearings.

## 1. Implied Consent Act, DWI license revocation hearings and other MVD hearings.

- ▶ In FY2020, AHO conducted **3,439 Implied Consent Act-DWI hearings** and 32 other MVD-type hearings across the state.
  - ▶ Only four cases (0.12%) were rescinded due to AHO error, satisfying AHO's performance measure target of <0.5%.
  - ▶ Our Implied Consent Act-DWI case load remains relatively stable, in the range of approximately 3,250-3,500 hearings per year in the last four years.
  - ▶ AHO conducted four annual trainings for hearing participants, meeting its performance measure.

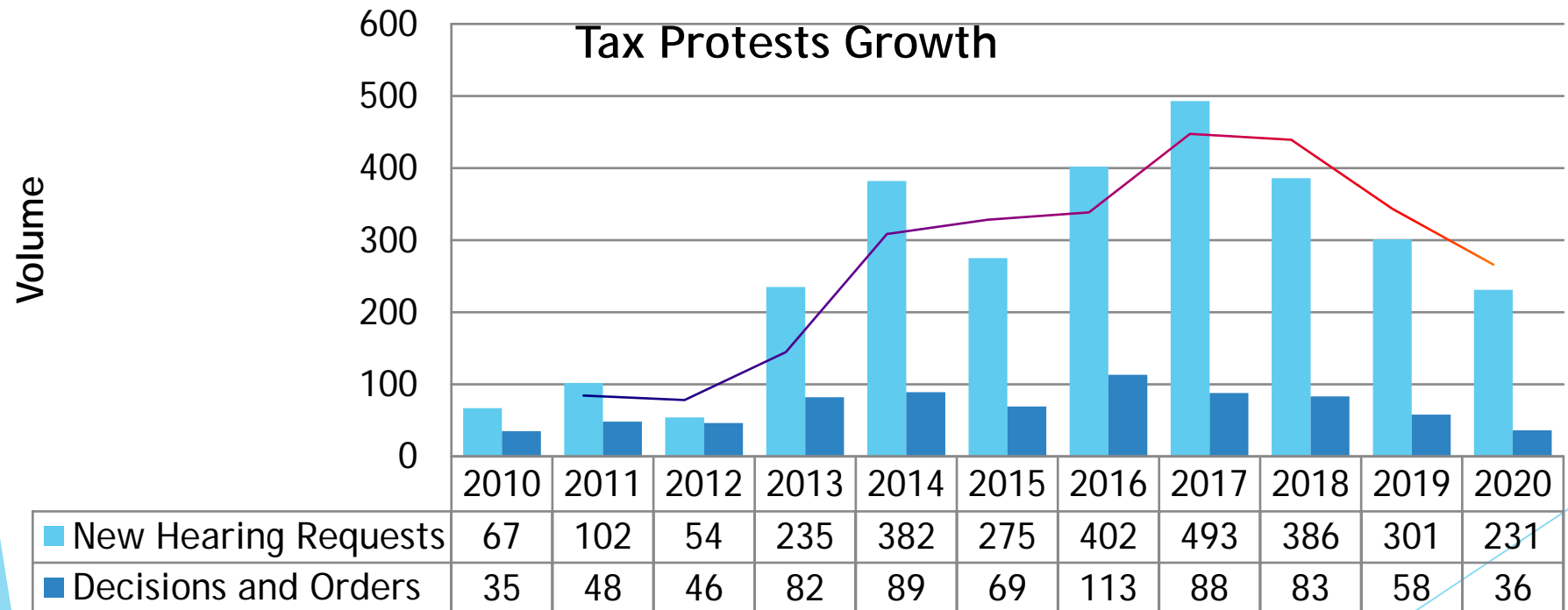
## 2. State Tax Protest Hearings pursuant to the Tax Administrative Act or Property Tax Code. A taxpayer is challenging TRD's assessment, denials of refunds, credits, notices of property valuation, etc.

- ▶ In FY2020, AHO received **231 new tax hearing requests** & **conducted 341 tax hearings**.
- ▶ AHO timely conducted every tax protest hearing in FY20, meeting its performance measure on this front.
- ▶ The tax protest docket, after being at record highs for many years, has finally stabilized at a lower, sustainable level in the past two years.



# Growth in the Tax Docket (by Calendar Year)

Calendar Year	New Hearing Requests (cases) Filed	Decisions and Orders Issued
2010	67	35
2011	102	48
2012	54	46
2013	235	82
2014	382	89
2015	275	69
2016	402	113
2017	493	88
2018	386	83
2019	301	58
2020	231	36



# The Impact of the Pandemic and Moving Forward

## ▶ COVID-19's Impact:

- ▶ 37% reduction in DWI-Implied Consent Act cases in the two quarters (April-Sep.) during the 2020 pandemic compared to the same period in 2019.
- ▶ Reductions in travel costs for hearing officers as we've switched to remote hearings during the pandemic. However, travel costs will increase as we return to in-person hearings.
- ▶ Increases in I.T. Costs, remote mailing costs, and remote hearing costs (telephone and videoconference service).
- ▶ Recognizing the tough fiscal climate of the pandemic, the Administrative Hearings Office cut non-critical initiatives in FY20 and allowed vacancy savings to accrue, leading to a reversion of \$70,000.00 to the GF.

## ▶ Moving Forward through and beyond the pandemic

- ▶ Although we have less DWI-ICA cases now during the pandemic than usual, the Administrative Hearings Office has increased conducting other agency administrative hearings.
  - ▶ In FY21, the Administrative Hearings Office has already conducted administrative hearings under agreement with the following agencies:
    - ▶ State Ethics Commission
    - ▶ Secretary of State
    - ▶ Board of Nursing
  - ▶ Moving forward, the Administrative Hearings Office can conduct administrative hearings cases for other state agencies on a more cost-effective basis than other agencies contracting with private hearing officers.
- ▶ We speculate there will be an initial spike in DWI-Implied Consent Act cases above pre-pandemic levels as the pandemic fades with the full opening of bars/restaurants and lifting of social gathering restrictions.
- ▶ We anticipate an eventual increase in tax protest cases as part of the economic fall-out from the pandemic.





# AHO's FY2022 Budget Appropriation Request

- ▶ The Administrative Hearings Office's appropriation request met the mandate for a further 5% reduction (\$90,600.00) beyond the adjusted FY21 operating budget.
  - ▶ \$32,700 in the category 200s through application of a vacancy rate.
  - ▶ \$14,000 in the category 300s by scaling back interpreter service costs and HR costs, services which we believe we will be able to fund through conducting other agency hearings.
  - ▶ \$43,900 in the category 400s by significantly reducing IT costs, travel costs, and training programs for the hearing officers.
- ▶ Your Questions

