

MINUTES
Legislative Finance Committee
Truth or Consequences / Las Cruces, New Mexico
May 18 - 21, 2021

Tuesday, May 18

The following members and designees were present on Tuesday, May 18, 2021: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Javier Martinez, Nathan P. Small, Cathrynn N. Brown, Ryan T. Lane, Candie Sweetser, Jack Chatfield, and Harry Garcia; and Senators Nancy Rodriguez, Steven P. Neville, Roberto “Bobby” J. Gonzales, Pat Woods, Sia Correa Hemphill, and Pete Campos. Guest legislators: Representatives Meredith A. Dixon, Rebecca Dow, Joshua Hernandez, Dayan Hochman-Vigil, Tara L. Lujan, and Willie D. Madrid; and Senator Crystal R. Diamond.

New Mexico State Veterans’ Home. Jason Cornwell and Derrick Wheeler provided an overview of current programs, census, and financials of the New Mexico Veterans’ Home (NMVH). Of the 170 staff members, 156 are vaccinated; 75 residents are vaccinated. The facility is licensed for 135 long term care beds and 10 assisted living, and the census was 81 as of May 18. In FY19, the facility received \$16.1 million in revenue and had expenses of \$15.7 million. In FY20 and FY21, however, expenses exceeded revenues by over \$2 million each year, due mostly to increased contract staff costs and declining census as a result of the pandemic. The facility reported 37 resident deaths due to Covid-19.

Anna Silva, General Services Department (GSD), talked about remediation of the newer annex building. NMVH has faced several challenges to completely occupy the newest facility. In summer 2019, the Department of Health (DOH) and GSD identified several issues that required remediation before a wing could be fully occupied. Some of the most serious issues include unstable soil compaction below the foundation causing floor cracks and trip hazards, HVAC underperformance, failing pumps in the rehabilitation pool, and stone façade falling off the exterior of the complex. Remediation with the builder and architects is a priority of DOH and GSD, but the pandemic has slowed the timeline to fix the facility significantly. Remediation efforts are continuing this month, except for addressing issues with the rehabilitation pool.

Kathy Kunkel talked about GSD’s recent facility condition assessment on NMVH. The assessment reports significant facility needs to meet client needs. GSD will release the second phase of its report in the coming weeks, which will propose a plan to update the facility or build an additional facility.

Representatives Dow and Diamond spoke about the importance of NMVH to the local community and spoke in favor of keeping the facility capacity.

Senator Woods asked how the Regulation and Licensing Department Construction Industries (CID) program failed to identify the remediation issues found at the annex before it provided a certificate of occupancy. GSD stated CID did not identify the issues and did provide a certificate of occupancy; however, once the annex issues were identified by GSD, the agency began to work with the project contractors and architects on remediating the issues.

Representative Sweetser and Senator Hemphill asked DOH to reschedule the site visit at a later date so that legislative members could tour both facilities. Representative Garcia expressed concern about the facilities and services of NMVH. Representative Garcia said DOH should immediately fix ongoing issues at the facility and provide more for veterans residing at the hospital and in the local community. The representative asked NMVH to consider also providing out-patient services for veterans.

Spaceport Report. Scott McLaughlin, director of Spaceport America, updated the committee on the commercial space market, ongoing spaceport programs, the conditions of facilities, current tenants and opportunities, status of capital outlay projects, and the current financial outlook. Director McLaughlin described the current commercial space market as an opportunity for the state, where the value of the industry is currently estimated at \$420 billion and expected to grow to \$1.7 trillion by 2040. New Mexico's rural location and private airspace provide a competitive advantage for the spaceport, compared with coastal and other non-coastal launch sites. Director McLaughlin said the large number of commercial space companies and investments demonstrate the viability of the industry.

Director McLaughlin said Spaceport America has three launch sites: a horizontal launch area, vertical launch area, and an advanced technology area. The horizontal launch area consists of a runway and air launch operation with over a dozen returning customers, four permanent tenants and up to 300 employees per day. The horizontal launch area is also home to the operations center, upcoming visitor reception and IT center, and hangars. The vertical launch area is for suborbital space research, launch vehicle research and development, engine testing and manufacturing, educational launches, and home to one tenant. Finally, the advanced technology area, where SpinLaunch is located, is 10 miles south of the horizontal launch area. The area can support more innovative testing companies needing isolation and remoteness.

LFC toured the newly constructed hangars north of the horizontal launch area and the fuel farm. Committee members also toured the Virgin Galactic hangar and saw preparations being made to the flight vehicle. The Virgin Galactic team provided an informal presentation and question session. Representatives said the next test launch is scheduled later this month. Crewed flights of employees and Sir Richard Branson are expected to occur in the fall, before beginning commercial operations in early 2022.

The committee finally toured the SpinLaunch development site, where construction is underway for the company's trademark centrifuge technology, underground vacuum pumps, workshops, manufacturing facility, and office space. David Wrenn, SpinLaunch chief of staff, talked about the current pace of development and scheduled test launches in August.

Wednesday, May 19

The following members and designees were present on Wednesday, May 19, 2021: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Javier Martinez, Nathan P. Small, Cathrynn N. Brown, Ryan T. Lane, Candie Sweetser, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto "Bobby" J. Gonzales, Gay G. Kernan, Pat Woods, Sia Correa Hemphill, and Pete Campos. Guest legislators: Representatives Micaela Lara Cadena, Meredith A. Dixon, Rebecca Dow, Joanne J. Ferrary,

Raymundo Lara, Tara L. Lujan, and Willie D. Madrid; and Senators Joseph Cervantes, Crystal R. Diamond, Carrie Hamblen, and William P. Soules.

Welcoming Remarks. Mayor Ken Miyagishima introduced city of Las Cruces staff members and thanked legislators for supporting community schools, especially during the pandemic.

Dan Arvizu, Ph.D., chancellor of New Mexico State University (NMSU), said the agricultural modernization and educational facilities project is among the several activities currently taking place at the main campus. The university is also constructing a solar facility, which will power one-third of the campus, and improving the campus' main entrance, which will be completed this fall.

Policy Spotlight: Unemployment Insurance System. Sarah Dinces, Ph.D., and Catherine Dry, both LFC program evaluators, presented a policy report on the unemployment insurance system. With the onset of the pandemic and public health orders restricting economic activity, the unemployment rate in New Mexico rose to a peak of 12.5 percent in July 2020, and a record 197 thousand New Mexicans filed for unemployment insurance benefits. Federal stimulus funds expanded both benefit amounts and eligibility, allowing new categories of workers to apply. By September 2020, the unemployment insurance trust fund from which benefits are drawn was insolvent; and, as of May 2021, New Mexico had borrowed \$278 million from the federal government to pay claims. Over the course of the pandemic, the Workforce Solutions Department (WSD) has distributed an estimated \$3 billion in unemployment insurance benefits. With more unemployment claims filed in New Mexico than ever before and an over 900 percent increase occurring within just five weeks, the pandemic created unprecedented pressure on the agency.

WSD reassigned staff to help address the surge in claims, contributing to backlogs in investigation of potentially fraudulent claims. The surge and staffing reassignments exacerbated already rising rates of improper payments. New federal benefit programs increased improper payment vulnerabilities due to an inability to verify employment information. LFC staff estimate the state has made \$250 million in benefit overpayments since the start of the pandemic.

Prior to the pandemic, fraud rates were already increasing and are now at the highest level in recent years. Insufficient staff and training made it challenging for WSD to process claims effectively while also following new federal requirements. Inadequate interpretation of state law and federal guidance led to incorrect calculation of employer taxes and benefits.

Additional federal stimulus funds and the state's decision to continue to waive the work search requirement contributed to a disincentive to seek reemployment for those on unemployment insurance. Reduced participation in reemployment services also contributed to high rates of unemployed New Mexicans who are exhausting benefits. In addition, unemployment insurance taxes paid by employers will increase if the Legislature does not appropriate federal funds to replenish the trust fund.

LFC staff recommend WSD reduce improper payment and fraud risk by hiring additional contract staff to assist in quickly addressing backlogs and reporting on fraud detection and improper payment activities, increase the accuracy in interpretation of state law and federal guidance by

expanding training, boost the use of reemployment services, and address the solvency of the trust fund by using federal funding to repay the loan and replenish the fund.

WSD Acting Secretary Ricky Serna said, unlike a recession, there were no indicators prior to the pandemic to prepare for the sudden surge of UI claims. In the months prior to the pandemic, WSD was handling about 75 thousand calls monthly and approximately 14 thousand claims. By June 2020, the number of calls increased to about 75 thousand daily and claims to over 199 thousand.

Mr. Serna provided an overview of the UI programs implemented in response to the pandemic and the efforts made to manage the increased volume of calls and claims. WSD added live-chat to the website, formed five new hiring cohorts, and acquired additional staff from other agencies. Mr. Serna pointed out New Mexico's claims system has remained in operation throughout the pandemic, unlike systems that crashed in some states. Also, New Mexico's claims system has not experienced a data breach.

Mr. Serna said UI fraud reported to WSD has resulted in \$173 million saved and \$23 million recovered since the start of the pandemic.

Mr. Serna said WSD is partnering with the Higher Education Department and Workforce Connection to provide a single, statewide system for individuals and businesses across New Mexico, with easy access to training, education, and employment resources. The initiative includes the creation of a website dedicated to short and long-term educational and work pathways and the development of boot camp trainings for in-demand occupations.

Mr. Serna said Covid-19 and the associated economic downturn presented unprecedented challenges for all UI systems across the nation. The agency will be formalizing its experience for future reference.

Vice Chairman Munoz said the state needs to restore the UI trust fund to \$450 million to avoid impacting employers.

Chairwoman Lundstrom said New Mexico increased its investment in tourism by 50 percent, but the industry currently has a shortage of workers. Chairwoman said the Legislature needs to address the current shortage before making additional investments in tourism.

Chairwoman Lundstrom asked WSD to provide a written response to LFC staff recommendations in the report.

Lower Rio Grande Agriculture Fallowing and Water Conservation Program. John Longworth, special assistant to the State Engineer, said the Legislature appropriated \$7 million in 2020 to develop and fund a water management pilot program for the lower Rio Grande to initiate groundwater conservation actions that will ensure New Mexico has a sustainable groundwater supply for future generations. The pilot program will provide grant opportunities to the agriculture community to conserve groundwater by not irrigating a parcel within a 12-month period.

Mr. Longworth outlined the program's FY21 budget. The Interstate Stream Commission, administrator of the program, developed grant agreements for the 2021 growing season and hired a coordinator. The agency will be filling 2 additional FTE positions for the program.

Work elements of the program were listed:

- Determine the resources needed to plan, implement, administer, and verify results;
- Establish a test process for fallowing irrigated lands;
- Research, develop and test tools for managing water in the Lower Rio Grande;
- Develop comprehensive economic and market information; and
- Develop hydrological studies to evaluate management actions.

The program is funded through FY23.

Senator Cervantes said the Legislature initially appropriated \$10 million to implement the program but reduced the amount by \$3 million in the first special session of 2020. Senator Cervantes said, of the \$7 million, \$2 million has already been encumbered for the program's administrative costs, leaving much less money available to fallow land. Senator Cervantes said the grant agreements made in FY21, which total \$865 thousand and fallows 1,300 acres, are a drop in the bucket; there are over 90 thousand acres of irrigated farmland in the lower Rio Grande.

Representative Chatfield remarked on the economic impacts of fallowing land.

Borderland Economic Development. Jim Peach, Ph.D., professor emeritus of the Economics, Applied Statistics and International Business Department of New Mexico State University, said the U.S.-Mexico border region is dynamic, heterogeneous, complex, and asymmetric. In 2019, the region's trade flow totaled \$683 billion. Twenty-four percent of the current U.S. population and 18 percent of the Mexico population live in a bordering state, and the transborder interaction is socially, culturally, politically, economically, and historically unique.

Professor Peach provided historical census and demographic data of the U.S.-Mexico border population.

Jerry Pacheco, president of the International Business Accelerator, said Los Santos is a master-planned, bi-national community, encompassing Santa Teresa, NM; San Jeronimo, Chihuahua; and San Jose del Sol, Chihuahua. As the only bi-national community in the world, Los Santos is a model of cross-border development incorporating the largest inland port that includes coordinated sustainable master plans, foreign trade zones, industrial efficiencies, a secured border region, quality residential living, and joint healthcare and education programs, all centered around the Santa Teresa/San Jeronimo port of entry, on the New Mexico-Chihuahua border. Los Santos has four industrial parks and direct railway to the ports of Los Angeles and Long Beach. Thirty percent of all inbound container traffic in North America comes through Los Angeles and Long Beach.

Reporting on current economic development at Los Santos, Mr. Pacheco said Union Pacific is investing \$20 million to improve its Santa Teresa intermodal terminal and refueling station. The improvements will allow for adding container blocks to passing trains faster and more efficiently. Also, the improvements will increase the number of shipments and provide less downtime for

customers waiting for merchandise along the railroad's 760-mile sunset corridor between El Paso and Los Angeles. Union Pacific's double-track initiative for its sunset route is nearing completion.

Mr. Pacheco said New Mexico is a major automotive production state; leading companies in Santa Teresa include Fxi, Southwest Steel Coil, CN Wire, Vitesco Technologies, Acme Mills, Sunrise Manufacturing, and D.A. Inc.

Mr. Pacheco said New Mexico has a geographic advantage for supplying the Mexican maquila industry. In Mexico, Chihuahua has one of the largest manufacturing sectors and is the largest exporter at about \$45 billion in annual exports, 10 times more than New Mexico.

Research Fellow Lucinda Vargas said the Center for Border Economic Development (C-BED) is a project launched this year by New Mexico State University's College of Business. The purpose of C-BED is to marshal resources from across the university to promote business expansion and economic development in the New Mexico border region. The mission is to identify economic development opportunities as well as impediments to economic development and to propose solutions to help tap into opportunities and overcome impediments. Ms. Vargas said there is a need for data, independent analysis, and other relevant information to support economic development along the New Mexico border, as current data are either fragmented or held for proprietary use.

Extensive consultations are underway with members of the border community to determine data and other needs that can be met by the university. C-BED is building border data infrastructure and creating a webpage and dashboard. Ms. Vargas said, to better understand the border, we need to identify the dynamics unique to each border community.

Eric Montgomery, business development vice-president of the Mesilla Valley Economic Development Alliance (MVEDA), said the mission of the alliance is to grow the wealth of Doña Ana County through the creation of economic-based job opportunities for its residents. In FY20 and FY21, 56 percent of the economic development leads in Doña Ana County were generated by MVEDA. The average minimum wage in Doña Ana County is 37 percent higher than the state average.

Mr. Montgomery talked about building the infrastructure to attract more economic development opportunities in business automation, logistics and manufacturing, value-added agriculture, and remote work. Mr. Montgomery recommended the state invest more in economic development organizations and manufacturing and career technical education. Mr. Montgomery said the state should also consider investing in video game development and increasing its budget for the New Mexico Partnership by \$1 million.

Marco Grajeda, executive director of the New Mexico Border Authority (NMBA), said economic activity at the U.S.-Mexico border is booming and New Mexico ports of entry (POE) are playing an increasingly important role.

Providing an overview of the ports, Mr. Grajeda said the Santa Teresa POE continues to set new commercial crossing records despite the pandemic. Since 2019, daily cargo crossings jumped from

350 a day to 650 a day. The POE is the region's overweight, oversized crossing and now the second hazardous materials port. Lower wait times are a major draw. NMBA is leading efforts to expand and modernize the POE.

Columbus is working to take full advantage of its new port. In 2020, the POE experienced 3 percent growth in trade. New commodities, especially alfalfa, are filling the gaps between chile season. To manage flood risk at the port, the state appropriated funding to construct a wastewater pond.

The Antelope Wells POE, the least used port in the state, remains closed due to the pandemic. The POE was recently modernized and has the potential for growth.

Mr. Grajeda said NMBA is actively working to resolve transportation and logistical issues and other key infrastructure needs at all three ports to promote increased investment and greater economic ties with trade partners in Mexico. After a temporary pause due to the pandemic, NMBA plans to reconvene the New Mexico-Chihuahua and Sonora Commissions.

In response to Representative Martinez, Mr. Pacheco said, except for labor costs, it is less expensive to build maquiladoras in U.S. border towns.

In response to Senator Gonzales, Mr. Pacheco said Santa Teresa continues to have a housing shortage.

Burrell College of Osteopathic Medicine Program: Financial Review and Tour. The committee was hosted by leadership of the Burrell College of Osteopathic Medicine (BCOM), who provided a tour of the medical school. Dr. William Pieratt, chief academic officer and dean of BCOM, said the college accepts annual cohorts of 160 medical students. Many of the students come from other states to attend the private medical school. Several students participated in the discussion and offered their perspective of BCOM, commenting on the low cost of living in Las Cruces, the ability to work in small teams, and the school's technological advantage.

Thursday, May 20

The following members and designees were present on Thursday, May 20, 2021: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Javier Martinez, Nathan P. Small, Cathrynn N. Brown, Ryan T. Lane, Candie Sweetser, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto "Bobby" J. Gonzales, Gay G. Kernan, Pat Woods, Sia Correa Hemphill, and Pete Campos. Guest legislators: Representatives Rebecca Dow, Joanne J. Ferrary, Raymundo Lara, Tara L. Lujan, and Willie D. Madrid; and Senators Joseph Cervantes and William P. Soules.

New World of Work: Preparing College Students to be Competitive in Rapidly Changing Industries. Dan Arvizu, chancellor of New Mexico State University (NMSU), thanked legislators for the increased funding for higher education and said the university intends to rebuild enrollment, increase retention, grow its graduation rate, and close the achievement gap. Fall 2020 undergraduate enrollment at the Las Cruces campus was 11.6 thousand; the top five undergraduate majors were criminal justice, biology, mechanical engineering, pre-nursing, and psychology.

Exacerbated by the pandemic, the changing workforce is challenging higher education institutions to provide adequate career pathways and preparation. Chancellor Arvizu said current key industries are looking for workers who possess technical and soft skills. These industries include aerospace and defense, bioscience, cybersecurity, intelligent manufacturing, green energy, and value-added agriculture. NMSU is working with industry leaders to ensure its degree and certificate programs align with workforce demands.

At the start of the pandemic, NMSU was allocated \$7 million in higher education emergency relief funding (HEERF) to help defray costs of changing the delivery of instruction due to the pandemic, provide students with emergency financial aid, and offset the student cost of attendance. The university has since been allocated another \$83.5 million in HEERF. Chancellor Arvizu said a large portion of the funding will be used to offset lost revenue and improve communication and information technology. Of the amount dedicated to providing emergency financial aid, only 50 percent have applied for the funding.

Enrico Pontelli, dean of NMSU College of Arts and Sciences, said the university will inaugurate the College of Health, Education, and Social Transformation on July 1. Dean Pontelli said establishing the new college is one of the steps NMSU is taking to adapt to a new way of teaching.

The College of Health, Education, and Social Transformation

- Creates the first NMSU cradle of truly transdisciplinary research and education;
- Creates the home of knowledge creation to address the challenges of health and education in diverse communities; and
- Embeds sociology theory and social transformation across the domains of health and education.

NMSU expects enrollment in online courses to remain high post-pandemic.

Dean Pontelli talked about the job market and said computer science is driving the type of jobs currently in demand. In 1983, the university built a computing research laboratory, which continues to conduct ground-breaking research in areas like natural language understanding, automated translation, and robotics. NMSU ranks in the top 50 U.S. academic institutions for artificial intelligence. The university participates in national initiatives to attract more students to the computer science field. In spring 2020, NMSU launched a new degree program: a bachelor of science in cybersecurity.

Monica Torres, president of Doña Ana Community College (DACC), said about 64 percent of students who attend DACC are first generation students, 69 percent are Pell grant recipients, and only 3 percent have an ACT score of 21 or higher. Currently, DACC's retention rate is 63.2 percent and three-year graduation rate is 14.4 percent. President Torres said enrollment was fairly stable prior to the pandemic. To attract new and returning students, DACC is modernizing its marketing campaign, increasing external communications, and developing a "grassroots" campaign.

President Torres said DACC implemented Navigate, a student success management system, to improve its retention and graduation rates. Navigate provides a connected and coordinated network

of support across campus for every undergraduate student, enabling targeted interventions and proactive outreach.

DACC's top 10 certificates and associate degrees were listed. They include certificates in emergency medical services, computer and information technology, and creative media technology and associate degrees in arts, science, and general studies.

President Torres talked about engaging employers and adapting to new program content, design, and delivery. Recognizing the challenges many students face to access technology, DACC expanded WiFi to campus parking lots and initiated Xcite, a program providing iPads to eligible students. The goals of Xcite are to

- Enhance teaching pedagogies to increase student engagement and retention;
- Support creative course design to advance learning outcomes through the use of technology;
- Integrate mobile technology into the curriculum to prepare students for the needs of the 21st-century workforce;
- Create or use mobile educational resources in order to offer quality and affordable education for students; and
- Apply mobile technology based on instructional theory, research, and proven practice.

This fall, DACC will offer a deep-dive coding bootcamp, a program licensed from Central New Mexico University. NMSU is working with EON Reality, a leader in augmented and virtual reality-based knowledge and skills transfer, to bring the technology to classrooms across the NMSU system. The EON-XR platform will first be integrated into select courses at DACC.

Chairwoman Lundstrom appointed members to the newly formed LFC higher education subcommittee: Representatives Jack Chatfield, Randal Crowder, and Nathan Small and Senators Siah Correa Hemphill, Gay Kernan, and Nancy Rodriguez.

Senator Rodriguez expressed concern about declining enrollment in post-secondary nursing programs. President Torres said DACC's nursing program will be on trimester scheduling starting this fall, which will allow an additional cohort of students admitted every year.

In response to Senator Neville, President Torres said the full-time tuition at a NMSU branch campus is \$900 a semester and between \$3,000 and \$4,000 at the main campus.

Chairwoman Lundstrom requested a full review of the degree and certificate programs offered by New Mexico's higher education institutions, including their measured value within a potential new formula.

LFC Program Evaluation: DoIT Enterprise Services and Equipment Replacement Funds. Ryan Tolman, Ph.D., and Clayton Lobaugh, both LFC program evaluators, presented the report *DoIT Enterprise Services and Equipment Replacement Funds*. Though improved, the Department of Information Technology (DoIT) still faces challenges with planning, oversight, and transparency. In 2007, the Legislature created the agency to improve and streamline the executive branch's information technology systems. DoIT is responsible for overseeing state IT policy and

providing enterprise services (telecommunication and other services) to state agencies. DoIT manages two equipment replacement funds (ERFs), appropriated from service rate fees, for the purpose of saving and making equipment replacement purchases to support DoIT's enterprise services (e.g., public safety radios, data servers, routers).

Previous LFC program evaluations of DoIT operations found significant cash balances, a lack of adequate planning, nontransparent processes, and a need for service delivery agreements and accountability improvements. Although DoIT has made progress on some of the recommendations from the November 2016 LFC program evaluation, this 2021 LFC program evaluation found continued need for improvement in ERF management and enterprise service delivery.

DoIT uses ERFs for replacing network equipment (such as routers, radios, servers), establishing additional IT infrastructure, and implementing upgrades. DoIT consistently spends less from its funds than budgeted in its annual ERF plans and lacks written fund cash balance policies. Consequently, cash balances in DoIT's two ERFs have more than doubled since FY16, reaching \$36.6 million in FY20. DoIT recently reinstated processes from their 2009 ERF charter for prioritizing ERF spending based on planned equipment replacement needs.

DoIT's process for setting its enterprise service rate fees lacks transparency for state agency stakeholders, and agencies may not know what they are receiving for paying rates since DoIT has not widely implemented service level agreements. DoIT staff indicate they have started cross-training and formalizing the documentation of the rate-setting methodology. While DoIT has a documented methodology and process to determine enterprise service rates, these are not publicly available to agencies online. Enterprise service rates continue to be subject to adjustment from external factors. For example, state agencies sometimes acquire IT services on the private market instead of going through DoIT, which can contribute to increased service rates. According to statute, state agencies are not allowed to opt out of DoIT enterprise services without DoIT authorization. State law could be changed to prevent any services provided by an external vendor without authorization from being paid by state funds.

Customer satisfaction surveys indicate DoIT needs to improve its service delivery. The November 2016 LFC evaluation, which surveyed agency IT leads, found DoIT's service rates are not viewed as fair or transparent and its service is seen as inadequate. A recent 2019 customer survey and interviews with current agency IT leads found similar results. Service level agreements between DoIT and agencies are absent but needed for effective service delivery, communication, and accountability. Despite LFC recommendations in November 2016 to implement service level agreements in line with best practices, DoIT has only executed one service level agreement. LFC review of DoIT processes indicates IT projects are at risk of exceeding their original budgets and schedules. IT projects conducted by DoIT (not state agencies) often seek and receive waivers by the agency for independent verification, resulting in those projects expanding in budget, timeline, and scope.

LFC staff made key recommendations. DoIT should

- Continue to reinstate management and oversight processes for ERFs that were originally proposed in the 2009 ERF charter, such as a documented request for ERF funding;
- Develop written targets and policies for its ERF cash balances;

- Publish the methodology used to determine the service rates so they are transparent for enterprise service consumers;
- Implement service level agreements for each of its services;
- Incorporate and track performance metrics into service level agreements for service management and reporting;
- Revise its administrative rules to specify which cases an independent verification and validation waiver may or may not be justified; and
- Modify its administrative rules to specify an independent authority to grant independent verification and validation waivers for DoIT led projects.

The Legislature should consider amending state law (Section 9-27-25 NMSA 1978) to require an exception process from DoIT for IT services that agencies want to fund outside of DoIT enterprise services. If an exception is not granted, IT services provided outside of DoIT should not be funded through state funds. This law should be prospective rather than retrospective.

John Salazar, secretary of DoIT, thanked LFC staff for their evaluation and said DoIT agrees with their findings and recommendations.

Local School Districts Performance and Finance Report. Ralph Ramos, interim superintendent of Las Cruces Public Schools (LCPS), said the school district is focusing on three key areas to address the loss of in-person instruction during the pandemic: academic, social/emotional, and engagement. LCPS is deploying a multi-layer system of support, personalized learning and enrichment, and high dosage tutoring.

Superintendent Ramos said LCPS received \$7.4 million in CARES Act funds, of which \$3.7 million was spent on technology needs. About \$250 thousand remains unspent. The school district submitted its spending plan to the Public Education Department for its \$29.7 million allocation of CRRSA Act funds. LCPS is prioritizing majority of the funds toward supplies, salaries and benefits, and technology needs. At least 20 percent of ARP Act funds will be spent on addressing learning loss.

Superintendent Ramos talked about addressing the findings of the *Yazzie-Martinez* consolidated case and said LCPS is

- Training staff on culturally and linguistically relevant teaching and learning,
- Expanding the virtual learning academy to all students,
- Expanding early childhood program offerings by combining different funding sources,
- Continuing International Welcome Centers at all comprehensive high schools and middle schools to support English learners,
- Extending hours for staff to support students who participate in special education,
- Hiring additional behavioral health staff and contracting behavioral health providers,
- Administering tutoring and mentorship programs through the Migrant Education Grant, McKinney-Vento Grant and Indian Education Grant, and
- Continuing to support software licenses for online instructional programs that address the learning needs of all students.

Superintendent Ramos said student enrollment this current school year is 23,631 students, down 812 students from the 2019-2020 school year.

Travis Dempsey, superintendent of Gadsden Independent School District (GISD), said the mission of GISD is to ensure all students learn by putting education first and providing quality educational opportunities conducive to learning that will facilitate students' individual goals. Current initiatives include implementing accelerated learning, structured literacy, and student attendance teams. Also the school district is developing social emotional framework. Estrella Burciaga and three other GISD staff members provided additional detail of current initiatives and programs.

GISD competes with Las Cruces and El Paso for teachers. The school district has averaged a 10.9 percent attrition rate since 2017. Currently, 42 percent of new hires are alternative certificate graduates, which the school district expects will increase to 81 percent at the end of next school year. To retain high quality staff, GISD is implementing a new teacher academy and principal academy.

Michael Chavez, superintendent of Hatch Valley Public Schools (HVPS), said the school district's core values are to

- Understand and practice worthwhile work,
- Be in control of achieving personal goals,
- Be encouraging and supportive to others,
- Stay positive and lead by example, and
- Be graceful under pressure.

Superintendent Chavez remarked on the challenges inflicted on public education during the pandemic. HVPS is developing a two-year plan to mitigate learning loss. The school district budgeted over 36 percent of its CARES Act funding toward addressing learning loss. Current enrollment is 1,200 students; 44 percent are English language learners and 85 percent are low-income students.

As reflected in a graph in the LFC hearing brief, Analyst Sunny Liu said, prior to the pandemic, the percent change in student math progress in New Mexico was relatively in line with the U.S. average, but declined significantly more than the U.S. average during the pandemic, especially in Doña Ana County.

Friday, May 21

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Miscellaneous Business.

Action Items. Senator Campos moved to adopt the LFC April 2021 meeting minutes, seconded by Senator Rodriguez. The motion carried.

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

Cares Act and America Rescue Plan. LFC Program Evaluation Manager Michaela Fisher said the most significant update since the April 2021 LFC federal funds hearing is that on May 10 the U.S. Department of the Treasury issued a 151-page rule detailing how states and local governments could expect to receive their state and local fiscal recovery funds from the American Rescue Plan Act (ARPA) as well as guidelines for their expenditure. The rule affirms the federal government intended for states to use the funding for wide-ranging purposes, including replacing lost revenue, rebuilding and paying off debt for the unemployment insurance system, broadband, and water infrastructure, and generally rebuilding the finances of government, business, and households.

According to the rule and associated releases from the U.S. Treasury,

- All federal funds appropriations vetoed in the General Appropriation Act of the 2021 regular legislative session were allowable uses of the state fiscal recovery funds.
- New Mexico will receive \$130 million more than expected.
- New Mexico will receive all \$1.75 billion in a single lump sum.
- The state could likely use much, if not all, of the state fiscal recovery funds to replace lost revenue.

Regarding funding for capital and infrastructure, the Treasury is requiring minimum speeds, and encouraging funding of certain types of broadband projects. ARPA provided that necessary investments in water, sewer, or broadband infrastructure were an appropriate use of the state fiscal recovery funds. The May 10 Treasury rule added additional definitions to the kind of broadband projects states should use their ARPA funding for. Treasury rules state investments in broadband using ARPA funds must support 100/100 megabytes-per-second (Mbps) speeds unless “geography, topography, or excessive costs associated with such a project” make it impractical. In that case, the project must support 100/20 Mbps speeds and be scalable to 100/100 Mbps. While not required in the rule, Treasury encouraged states and localities to prioritize certain types of broadband projects.

In the 2021 legislative session, \$74.4 million from the general fund was allocated for broadband infrastructure in the Supplemental Appropriations Act. The General Appropriation Act of 2021 had a provision that would have swapped that \$74.4 million general fund appropriation for this ARPA funding instead. That provision was vetoed by the governor.

Water projects are defined broadly. Unlike broadband projects, the U.S. Treasury rule defined water projects very broadly – allowing expenditures on any project that would qualify for the clean water or drinking water state revolving funds. Those include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve the resilience of infrastructure to severe weather events, create green infrastructure, and protect water bodies from pollution. For drinking water, projects might include building, upgrading, or consolidating drinking water facilities and transmission, distribution, and storage systems, including replacement

of lead service lines. Treasury also noted recovery funds could even be used for cybersecurity needs to protect water or sewer infrastructure.

Between capital outlay and other state sources, New Mexico has spent an average of \$180 million a year over the last five years supporting state and local water projects. Moving forward, both the state and local allocations of these ARPA fiscal recovery funds could support or supplant some of that necessary funding in future years. LFC staff will present an evaluation on state funding of water projects in June that will provide more details on essential elements for planning and funding successful water projects.

In addition to the allowed infrastructure uses of the state and local fiscal recovery funds, New Mexico is still set to receive \$134 million from ARPA's coronavirus capital projects fund in 2021. On May 10, Treasury updated its webpage for the capital funds, noting that they will support investment in high-quality broadband as well as other connectivity infrastructure, devices, and equipment. In addition to supporting broadband, the funds will also provide flexibility for each state to make other investments in "critical community hubs or other capital assets that provide access jointly to work, education, and health monitoring." The state will be required to provide a plan describing how they intend to use allocated capital funds sometime in summer 2021, and Treasury will issue further guidance before that time.

Regarding funding for housing and rental assistance, the three federal stimulus acts together provided nearly half a billion dollars in housing, rental, and utilities supports for the state, local governments, housing authorities, and charitable organizations. The majority of that funding was to the state and the largest local governments for emergency rental assistance, with the Department of Finance and Administration receiving \$284.2 million and another \$74.2 million collectively for the city of Albuquerque and Bernalillo and Dona Ana counties. The state and local governments received approximately 60 percent of that funding in January 2021 from CRRSA and the remaining from ARPA in May 2021. The New Mexico Mortgage Finance authority will also receive another \$55.8 million for mortgage and utility payments for homeowners who have experienced Covid-19-related financial hardship and have incomes equal to or less than 150 percent of the area median income.

Homeowner assistance funds will remain available through September 2025. The Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) emergency rental assistance funds (\$161.5 million) are available through September 2022, and the ARPA emergency rental assistance funds (\$122.7 million) are available through September 2025.

Rollout of the emergency rental assistance program has been slow. On April 5, DFA launched a website where people could apply for that rental and utility assistance. Eligibility is based on Treasury guidance and U.S. Department of Housing and Urban Development income criteria and is first-come-first-serve, although the ARPA funding, in particular, requires the Department of Finance and Administration to prioritize funding to those in most need – who have been unemployed for more than 90 days and have incomes below half of the area median income. As of May 2021, DFA reported it had just started distributing the funding (just shy of \$400 thousand) and has received limited requests. DFA also encumbered \$3.6 million of the funding through a nine-month, no-bid contract with Real Time Solutions for media and outreach to spur interest in

the program. DFA determined the contract was exempt and did not need to be bid because the Procurement Code does not apply to “purchases of advertising in all media, including radio, television, print and electronic” and the contract with Real Time Solutions was to, in part, purchase and place both traditional and social media advertisements through various media across New Mexico to promote the emergency rental assistance program.

County Manager Fernando Macias said \$6 million of the \$9 million CARES Act funds allocated to Doña Ana County to provide housing and rental assistance must be expended by September, which Mr. Fernandez said is not enough time. Chairwoman Lundstrom asked LFC staff to provide members a memo detailing the issues.

Childcare Assistance Federal Funding Update. Elizabeth Groginsky, secretary of the Early Childhood Education and Care Department (ECECD), said the early childhood community faced many challenges during the pandemic, including a struggle to recruit and retain early childhood professionals.

According to the LFC brief, the CARES Act, signed into law in late March 2020, included significant federal funding for existing federal programs that support the care of young children and families, including \$3.5 billion for the Child Care and Development Block Grant Program (CCDBG), of which New Mexico received \$26 million. Federal guidance allowed states expanded flexibility in using the additional CCDBG funding. The funding increase was targeted to support childcare providers that serve children who receive childcare assistance to either continue to operate or reopen, to provide childcare assistance to essential workers during the pandemic response regardless of income, fund personal protective equipment (PPE), cleaning and sanitation costs, and other activities for providers to continue operations. The act also appropriated \$750 million nationally for federal direct Head Start programs to respond to the needs of children and families, as well as possible supports through public housing programs and funding for kindergarten-through-12th-grade education and higher education.

As of May 12, 2021 ECECD has expended CARES Act funds as follows:

- \$5.5 million for stabilization grants for child centers, ranging from \$2,000 to \$34,500;
- \$7.2 million for workforce support payments to early childhood teachers, which provided \$700 a month for a full-time employee and \$350 for a part time employee;
- \$8.5 million for differential payment given to providers who stayed open;
- \$171.4 thousand for PPE and other cleaning and sanitation support to providers;
- \$2.3 million for childcare assistance subsidies for essential workers and first responders;
- \$1.2 million for mini-grants, collaboration between childcare and public schools, and support for Vault Covid testing; and
- \$419.8 thousand for call center in support of childcare applications.

The Coronavirus Response and Relief Supplemental Appropriation Act (CRRSA), signed into law in late December 2020, appropriated \$10 billion nation-wide in supplemental federal childcare funding to prevent, prepare for, and respond to coronavirus, of which New Mexico will receive approximately \$86 million. Required by CRRSA, New Mexico submitted its planned use of the funds. States, territories, and tribes have until September 30, 2022, to obligate, or legally commit, the funds and may choose to revise or change how they actually spend their allocations. States,

territories, and tribes are not required to update their reports to the federal government if their plans change.

New Mexico submitted its plan in February 2021 to use CRRSA in the following ways:

- Continue direct childcare services including waiving parent copayments, providing childcare assistance for essential and frontline workers;
- Reduce the shortage of infant and toddler care by contracting with high-quality facilities to provide infant and toddler care;
- Provide Covid-specific repair and renovation and reopening grants to childcare facilities, including technical assistance, workshops on facility and financial planning, budgeting, and coaching;
- Continue childcare stabilization and recovery grants to for increased operational costs for licensed childcare facilities related to sanitation and cleaning, staff costs, low enrollment, and other costs licensed childcare providers have incurred as a result of Covid19;
- Provide direct workforce supports such as one-time wage supplements and financial support for early childhood educators to increase their credentials and degrees attainment;
- Create and support family childcare networks and shared services across the state; and
- Expand behavioral health support to childcare providers, children, and families.

The American Rescue Plan Act (ARPA), signed into law in January, included a \$39 billion appropriation to provide relief for childcare providers and provide support for families that need help affording childcare. New Mexico is expected to receive \$320 million for childcare assistance from ARP. Of the \$320 million, the act earmarks \$197.1 million for stabilization grants.

Secretary Groginsky said ECECD deployed the emergency relief funds swiftly and strategically to support New Mexico's families, childcare providers, and early childhood professionals. Secretary Groginsky added the executive committed to a thoughtful and deliberate stewardship of the funds to ensure they were allocated in alignment with the state's five early childhood strategic priorities: grow investments, advance a diverse, well compensated, and credentialed workforce, increase quality and access, achieve equality, and enhance authentic collaboration. ECECD's vision is to have all New Mexico families and young children thrive.

Secretary Groginsky said the estimated childcare capacity shortfall in New Mexico is 23,042 licensed slots. For children with all available parents in the workforce, there is only enough licensed childcare for 86 percent of children under six and just over 50 percent for infants and toddlers. Secretary Groginsky said 14 of New Mexico's 33 counties would be classified as childcare deserts (21 percent of the total population.)


Secretary Groginsky provided an overview of ECECD's use of the federal funds provided in response to the pandemic.

In response to Senator Correa Hemphill, Secretary Groginsky said the ARP funds will help more childcare facilities reopen in the state.

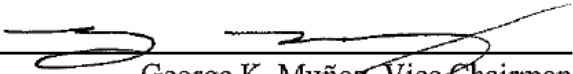
In response to Representative Small, Secretary Groginsky said services accessed through videoconference is expected to continue after the pandemic, especially for those living in rural communities.

Vice Chairman Munoz asked ECECD to provide LFC its four-year finance plan when it's completed. Chairwoman Lundstrom asked ECECD to provide the committee information on how funding for childcare assistance is applied by age group.

With no further business, the meeting adjourned at 9:58 a.m.



Patricia A. Lundstrom, Chairwoman



George K. Muñoz, Vice Chairman