

MINUTES
Legislative Finance Committee
State Capitol, Room 322 - Santa Fe, NM 87501
January 12 - 13, 2017

Thursday, January 12th

The following members and designees were present on Thursday, January 12, 2017: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Howie C. Morales, George K. Muñoz, and Pete Campos; and Representatives Larry A. Larrañaga, Roberto “Bobby” J. Gonzales, Nick L. Salazar, Paul C. Bandy, William “Bill” R. Rehm, Jim R. Trujillo, and Patricia A. Lundstrom. Guest legislators: Senator James P. White; and Representatives Harry Garcia, Stephanie Garcia Richard, Antonio Maestas, and James E. Smith.

Update on FY17 General Fund Solvency Plans. David Abbey, director of the Legislative Finance Committee (LFC), said, as of December 31, 2016, general fund reserves are projected to be negative \$70 million at the end of FY17, urging legislators to take immediate action at the start of the 2018 legislative session to address solvency issues for FY17. LFC staff presented six potential legislative solvency bills that would increase revenue by \$235 million for FY17 and \$13 million for FY18, which director Abbey noted is mostly nonrecurring revenue. The proposed legislation would align insurance revenue with generally accepted accounting principles, deauthorize some capital outlay appropriations, decrease appropriation for some funds and swap general fund appropriations with other funds, use \$50 million of public school cash balances, reduce distribution from cigarette tax revenues to the New Mexico Finance Authority, and reduce distribution from liquor excise tax revenues to the Local DWI Grant fund one year sooner than required by current law.

The executive’s recommendations are in agreement with the proposed solvency bills on the surface, however, notable differences exist, which Duffy Rodriguez, secretary designate of the Department of Finance and Administration (DFA), discussed. Key differences include using \$120 million of public school cash balances, the excess over 100 percent actuarial condition of the legislative retirement fund, and some legislative cash balance, further reducing the budget for the legislative branch and higher education, and swapping 3.5 percent of contribution to the state’s retirement plan from the state to employees.

In response to Senator Cisneros, Secretary Rodriguez said after returning \$120 million of public school cash balances to the general fund, approximately \$132 million would remain, which Hipolito “Paul” Aguilar, deputy secretary of the Public Education Department, said would be sufficient to continue school district operations as normal.

In response to Representative Hall, Director Abbey said LFC recommends decreasing the FY17 general fund appropriation for initiatives by \$22 million and giving PED flexibility to allocate the decrease across non-early childhood programs. Mr. Aguilar said much of the FY17 funding for initiatives has already been distributed to school districts and therefore would have to be pulled back. Director Abbey noted that \$18 million of the FY16 appropriation for initiatives was not spent. Director Abbey said staff from the Legislative Education Study Committee and LFC

together analyzed program effectiveness of FY16 projects and found little evidence of substantial effectiveness in several programs. Director Abbey recommends legislators review program effectiveness for programs as they work to determine FY18 appropriations.

In response to Representative Lundstrom regarding the hold harmless provision that compensates local governments for gross receipts tax revenues lost to the elimination of the tax on food and medicine, Secretary Designate Rodriguez said the executive's recommendation would only impact cities and counties that have imposed the hold harmless tax increase increment. Secretary Designate Rodriguez said she will provide the committee a list of the local governments which have imposed the hold harmless tax increase increment.

Senator Morales expressed concern for the executive's proposed retirement contribution rate increase to state employees, commenting that such increase would hurt state employees and add additional hardship to state agencies already suffering from high vacancy rates due to the low pay. Secretary Designate Rodriguez said 85 percent of state employees earn less than \$50 thousand a year.

Comparing LFC and Executive FY18 Appropriation Recommendations. David Abbey, director of LFC, and A.J. Forte, deputy director of DFA, discussed FY18 appropriation recommendations.

Committee-Sponsored Legislation. LFC staff presented potential committee-sponsored legislative bills that David Abbey, director of LFC, said, if passed, would increase general fund reserves to \$200 million.

Contingent on further review and modifications, Senator Cisneros moved to adopt a capital outlay bill, seconded by Senator Burt. Senator Cisneros said the bill needs to include language exempting projects already in progress.

Jonas Armstrong, analyst for LFC, presented a bill that would allow the Legislature to appropriate all the funds the state receives pursuant to the tobacco master settlement to the tobacco settlement program fund, rather than depositing 50 percent of the funds into the tobacco settlement permanent fund. Senator Cisneros moved to adopt the bill, seconded by Representative Trujillo.

Director Abbey presented a bill that would distribute excess emergency school tax revenues to the tax stabilization reserve. In response to Senator White, Director Abbey said the general fund includes tax stabilization reserves that help boost bond ratings and achieve better interest rates. Senator Cisneros moved to adopt the bill, seconded by Representative Hall.

The committee took action on other potential legislation: Senator Cisneros moved to adopt a bill, seconded by Representative Hall, that extends the sunset dates, from 2017 to 2023, for the New Mexico Athletic Commission, the Board of Acupuncture and Oriental Medicine, the Board of Examiners for Architects, the Board of Licensure for Professional Engineers and Professional Surveyors, the Private Investigations Advisory Board, the Public Accountancy Board, the Real Estate Appraisers Board, and the Board of Funeral Services. The bill increases the maximum

civil penalty boards may assess for unlicensed practice from \$1,000 to \$2,000. The bill also adjusts the composition of some boards.

Senator Cisneros moved to adopt a memorial, seconded by Representative Hall, that requests the Gaming Control Board in cooperation with the State Racing Commission form a taskforce to study and develop recommendations regarding amendments to the Horse Racing Act.

Senator Cisneros moved to adopt a bill, seconded by Representative Hall, that merges the Board of Veterinary Medicine with the Animal Sheltering Board, extends the sunset date, and adjusts membership of the board.

Senator Cisneros moved to adopt a bill, seconded by Representative Hall, that extends the sunset date for the Early Learning Advisory Council, changes the composition and term of the council, requires term limits, and expands requirements for recommendation by the council to the Children, Youth and Families Department. Chairman Smith recommended Senator Morales co-sponsor the bill with Senator Sapien.

Senator Cisneros moved to adopt a bill, seconded by Representative Gonzales, that repeals exemptions from the procurement code in Section 13-1-98 NMSA 1978 effective June 30, 2019, and requires LFC and the General Services Department to review all exemptions and provide recommendations to the legislature on December 31, 2018. The bill also requires exempt procurements be published for 30 days prior to award. In response to Representative Garcia Richard, Jon Courtney, program evaluation manager of LFC, said there are currently 35 exemptions in the procurement code, double the number since year 2000. Mr. Courtney said a previous LFC evaluation found that many of the exemptions are over used. Mr. Courtney added the exemptions prevent competition, resulting in a loss of taxpayer dollar value.

Miscellaneous Business.

Action Items. Senator Cisneros moved to adopt the November 2016 meeting minutes, seconded by Representative Salazar. The motion carried.

Senator Cisneros moved to adopt the December 2016 meeting minutes subject to additional editing, seconded by Representative Salazar. The motion carried.

Senator Cisneros moved to adopt the LFC contracts, seconded by Representative Hall. The motion carried.

Review of Monthly Financial Reports and Information Items. David Abbey, director of LFC, briefed the committee on information items. Charles Sallee, deputy director of LFC, updated the committee on the status of program evaluation projects in progress.

Friday, January 13th

The following members and designees were present on Friday, January 13, 2017: Chairman John Arthur Smith; Vice Chairman Jimmie C. Hall; Senators Carlos R. Cisneros, Carroll H. Leavell, Steven P. Neville, William F. Burt, Mary Kay Papen, and Pete Campos; and Representatives

Monica Youngblood, Roberto “Bobby” J. Gonzales, Nick L. Salazar, Paul C. Bandy, William “Bill” R. Rehm, George Dodge Jr., and Patricia A. Lundstrom. Guest legislators: Senator James P. White and Representative James E. Smith.

Health Notes: Centennial Care Medicaid Managed Care Payment Rates. Jenny Felmley, Ph.D., program evaluator for LFC, presented the health notes brief *Centennial Care Medicaid Managed Care Payment Rates*. Approximately 77 percent of all Medicaid recipients in New Mexico receive healthcare services through Centennial Care, a managed care program. The other 23 percent of the state’s Medicaid recipients are exempt by state and federal regulations from managed care and are covered by the fee for service (FFS) program. Expenditures for Centennial Care totaled almost \$4.3 billion in FY16 and are projected to reach \$4.7 billion by the end of FY17.

For Centennial Care, the Human Services Department (HSD) contracts with managed care organizations (MCOs) to provide Medicaid services on a prospective at-risk capitated payment basis. HSD pays MCOs a flat per member per month (PMPM) rate to provide necessary covered services, ideally containing healthcare costs without compromising quality of care or outcomes through improved management and coordination of healthcare services.

The brief detailed how MCO rates were developed at the beginning of Centennial Care in 2014 and how those rates have been adjusted over the last three years to handle program growth and change. Current challenges include recent changes to federal regulations that may limit appropriators’ options through removing the use of rate ranges. In the meantime, there are opportunities for cost-containment through future rate development. HSD’s decision to pay MCOs at the mid-point within the allowable rate ranges, rather than the lower boundary of those ranges, resulted in unrealized potential savings for the state general fund of approximately \$58 million over the last three years: \$29.8 million in 2014, \$12.5 million in 2015, and \$16.1 million in 2016.

The brief recommended HSD carefully consider the option of dropping MCO payments to the bottom of the actuarially sound rate range to capture any possible savings for FY17 and beyond.

Brent Earnest, secretary of HSD, said it is not appropriate to uniformly pay all MCOs at the bottom of the rate range. A table provided by HSD showed significant improvements made in managing costs and achieving savings since the inception of Centennial Care. The consumer price index for medical care grew an average of 2.6 percent in 2015 and growth is averaging more than 3 percent in 2016. However, the per-capita cost in Centennial Care is down 1 percent. Secretary Earnest said the rise in expenditures is the result of increased enrollment.

To continue progress, HSD is working to implement a new rate structure based on risk adjusted rates. Lower per-capita costs, slower enrollment growth, and the possibility of additional federal funding for services to Native Americans may result in no supplemental funding need for FY17. For FY18, Centennial Care is currently projected to cost \$5.893 billion, a \$200 million decrease since last projected, saving the general fund \$40 million.

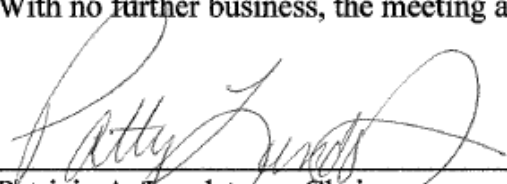
In response to Representative Lundstrom, Secretary Earnest said the risk adjusted rates take into account the type of populations enrolled in each MCO. For example, Presbyterian may have a larger population in nursing facilities services than Molina. The type of population has different risks and costs and therefore the rates are adjusted according to type of membership for each MCO.

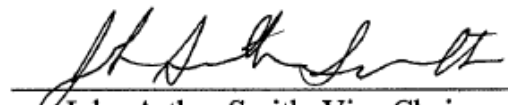
LFC Staff Memo: Broadband Issues Facing New Mexico. In a memo to LFC, Travis McIntyre, Ph.D., program evaluator for LFC, said access to the world wide web in New Mexico largely occurs at wholesale prices in Albuquerque and is distributed at retail prices throughout the state. There is a robust fiber backbone throughout the state but not to the “last mile” to homes and businesses, and the expensive electronics required to drive data content have not largely been invested outside Albuquerque, because there is not enough demand to attract investment in the last mile or in electronics in rural areas. Mr. McIntyre said the state can solve this problem by aggregating demand among public institutions, which currently procure Internet independent of each other. If multiple institutions in a geographical region agree to purchase Internet at one location, they can get access at significantly higher speeds and share the costs by sharing the access across a wide area network, similar to how coworkers in an office share one Internet connection. To compete for the procurement of much higher speeds, providers will need to install the expensive electronics in the region to deliver the content and can then more cost effectively deliver higher speeds to other customers in the area as well. The evidence of the effectiveness of this in states that have aggregated demand among their institutions is clear, as is the evidence that no improvement will be made in New Mexico broadband deployment relative to the nation with the status quo.

In response to Representative Youngblood, Mr. McIntyre said managing the network in a geographical region would be outsourced, placing no burden or responsibility on public institutions.

In response to Senator Leavell, Mr. McIntyre said the Estacado Library Information Network (ELIN) in southeast New Mexico does not have the electronics needed to serve the region with high speed internet.

With no further business, the meeting adjourned at 10:37 a.m.


Patricia A. Lundstrom, Chairwoman


John Arthur Smith, Vice Chairman