MINUTES
Legislative Finance Committee
State Capitol, Room 307 - Santa Fe, NM 87501
May 23 - 24, 2023

Tuesday, May 23
The following members and designees were present on Tuesday, May 23, 2023: Chairman George K. Muñoz; Vice Chairman Nathan P. Small; Senators Nancy Rodriguez, Bill Tallman, Steven P. Neville, Sia Correa Hemphill, Pat Woods, William E. Sharer, and Pete Campos; and Representatives Meredith A. Dixon, Tara Jaramillo, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, Brian G. Baca, and Derrick J. Lente. Guest legislators: Senators Crystal R. Diamond and Michael Padilla; and Representatives Anthony Allison, Cathrynn N. Brown, Art De La Cruz, Joanne J. Ferrary, Joy Garratt, Pamelya Herndon, Dayan Hochman-Vigil, Ryan T. Lane, Tara L. Lujan, Rod Montoya, Greg Nibert, and Randall T. Pettigrew.

Policy Spotlight: Homelessness Supports and Affordable Housing. LFC Program Evaluator Kathleen Gygi presented the report *Homelessness Supports and Affordable Housing.* The cost of homelessness and housing insecurity is most acutely borne by New Mexicans who struggle to secure their basic needs to find and keep shelter. Society also bears costs: The federal government has long reported an individual experiencing homelessness costs taxpayers as much as $50 thousand per year in medical expenses, public safety, and other public services. New Mexico has performed relatively well in providing emergency shelters for people experiencing homelessness compared with other states; however, the state faces ongoing challenges in addressing the root causes of homelessness and transitioning individuals and families to more stable, permanent housing.

In the last two years, New Mexico's Legislature has made unprecedented levels of funding available for new homelessness and affordable housing initiatives that fill critical gaps in funding and programs. The state's enhanced investment would benefit from guardrails to ensure state money enhances federal and local funding rather than supplanting these resources. Targeted appropriately, these dollars could further support the low-income and at-risk populations who need housing assistance and alleviate shortages in the state's affordable housing supply.

Amy Whitfield, housing and homelessness advisor for the Office of the Governor, said the path toward solving homelessness and housing insecurity in New Mexico is unclear. Recognizing the impact of homelessness and housing insecurity on economic development and workforce, the executive is working to develop a statewide plan, with current funding priorities aimed at unsubsidized but affordable and naturally occurring affordable housing. Ms. Whitfield said, by elevating state involvement, we can get creative about solutions, braid and capitalize on funding, and build statewide solutions based on trends and predictive analysis of New Mexico. The executive is forming a cross-field housing investment council that will provide recommendations for policy and investments that can move forward comprehensive and strategic solutions.

Isidoro "Izzy" Hernandez, executive director and chief executive officer of the Mortgage Finance Authority (MFA), said MFA is the state's housing agency, tasked with ensuring New Mexicans have access to quality and affordable housing. MFA resources, derived from federal, state, and other sources, are allocated to over 30 housing programs that support the entire housing continuum—homelessness to homeownership. Since its inception in 1975, MFA has served over 500 thousand families, of which 66 thousand became homeowners.

Currently, 56 multi-family developments are in various stages of construction across the state, which Mr. Hernandez said will produce over 4,300 units.

Mr. Hernandez said the MFA Board recently approved the Restoring Our Communities (ROC) Program to reduce vacant and abandoned homes in communities across New Mexico. The program will acquire, rehabilitate, and resell single-family properties that are vacant or abandoned, to create workforce housing units, and offer financial aid to homebuyers through down payment assistance. Mr. Hernandez also noted the Landlord Collaboration Program.

In 2022, MFA published the *New Mexico Housing Strategy*, developed by an advisory committee comprising a diverse group of stakeholders representing the full housing continuum. Mr. Hernandez said the strategy identifies how New Mexico's housing issues can be addressed and provides actions.

Representative Chatfield remarked on the need for more coordination in informing New Mexicans the availability of programs to them.

In response to Representative Chatfield, LFC Program Evaluation Manager Micaela Fischer said tribal communities often deal with overcrowded and substandard housing, which home preservation programs could help address. Ms. Whitfield said mobile homelessness response could also help tribal communities.

In response to Representative Armstrong, Mr. Hernandez said rent control is not a good policy solution; rather, the state should continue to support developments that have the financing upfront and follow rent restrictions required by the funding sources.

In response to Representative Lujan, Ms. Whitfield the Landlord Collaboration Program helps landlords meet inspection requirements and incentives them to accept Section 8 vouchers.

Post Session Review 2023. Highlighting key information in LFC's post session review, Deputy Director Charles Sallee said a continuing economic recovery, robust inflation, and strength in oil prices and production led state economists to raise revenue estimates for the second consecutive year in advance of the 2023 legislative session. In December 2022, recurring revenues for FY23 were estimated at almost $10.8 billion, up $928 million from the August estimate and up $1.7 billion from estimates a year earlier. Recurring revenues in FY24 were estimated at almost $12 billion. "New money" for FY24 was estimated at almost $3.6 billion, representing 42.7 percent growth from the FY23 recurring budget.

FY22 ended with $3.68 billion in general fund reserves, or about 49.3 percent of recurring appropriations. With record-breaking "new money" and large reserves, the Legislature passed extensive measures to improve the state's economic position and support programs. During the 2023 regular session, lawmakers provided for over $1 billion in recurring tax changes to lower the burden on businesses and consumers, over $1 billion in infrastructure and capital outlay, and 14 percent recurring budget growth for state programs.

The Legislature also reduced the state's future revenue reliance on oil and gas receipts by saving more oil- and gas-related revenues in interest-earning accounts. Lawmakers increased recurring budgets by almost 14 percent to $9.57 billion in FY24. Reserve balances in FY24 are projected to end the fiscal year at 37.1 percent of recurring appropriations after governor vetoes, including a substantial amount vetoed from the tax package.

Several years of legislative work culminated in some of the largest investments the state has ever made in child well-being. With record state revenues, the early childhood education and care fund grew faster and larger than most expected, establishing it as a new, substantial revenue source for child well-being far into the future. The new stream of revenue relieved pressure on other funding sources, freeing them up for uses in the Children, Youth and Families and Human Services departments, among other areas. Investments in child well-being comprised prekindergarten, home visiting parental supports, children's behavioral health, evidence-based child maltreatment prevention, and enhanced recruitment and retention strategies for the child protection workforce.

Bolstered by record revenues, the Legislature seized the opportunity to greatly expand access to student financial aid and overhaul school funding to extend the school year. Along with significant investments in higher education facilities and equipment, the Legislature removed barriers to access public school capital outlay dollars and increased funding for initiatives intended to build up the state's workforce, particularly in key shortage areas.

The 2023 General Appropriation Act included a 19.3 percent general fund appropriation increase for the Human Services Department, primarily for substantial increases in Medicaid provider rates, and an 8.6 percent increase for the Department of Health, primarily for services for people with developmental disabilities.

The Legislature prioritized economic and workforce development in the 2023 General Appropriation Act by appropriating a total of $113.2 million in nonrecurring appropriations to the Economic Development Department for advanced energy projects, venture capital investments, recreational trail infrastructure, and entrepreneur support, as well as $18.5 million to the Tourism Department for advertising and a $15.4 million general fund special appropriation to the Workforce Solutions Department for energy transition workforce training. The Economic Development, Tourism, and Workforce Solutions departments also received significant increases in recurring general fund revenue of 11 percent, 21 percent, and 3.5 percent, respectively.

New Mexico's high crime rates continue to raise concerns and lawmakers addressed several evidence-based policy areas. The session saw a concentrated effort on gun crime, resulting in two successful bills restricting gun ownership and sales. The Legislature invested in law enforcement and criminal justice partners, expanding the available workforce and improving accountability. Policymakers prioritized diversion programs to provide alternatives to traditional criminal justice systems and increased funding for courts, public defenders, district attorneys, and evidence-based programs addressing victims' needs. Continued efforts toward balanced criminal justice reform should move the state away from a reactive approach to a system focused on prevention and ensure the judiciary delivers swift and certain justice while protecting the rights of victims and the accused.

As adopted by the Legislature and partially vetoed by the governor, the capital outlay bill authorizes $1.2 billion from the general fund and other state funds for state and local infrastructure projects. Separately, additional funding will be available during the interim to local capital projects through funds for roads, public schools, water, colonias, and tribal infrastructure. Those funds that receive earmarked bond proceeds will see historically large distributions in 2023, with $135.1 million to the water project fund, $67.6 million to both the colonias and tribal infrastructure funds, and $37.5 million to the housing trust fund. Senate Bill 381 authorized the new housing trust fund earmark to begin in 2023 rather than 2024.

The 2023 General Appropriation Act increased FY24 recurring general fund appropriations for key natural resources agencies by $9.4 million, or 12.3 percent. Fiscal year 2023-2024 nonrecurring appropriations to the Office of the State Engineer, Department of Environment, and Energy, Minerals and Natural Resources Department totaled over $178 million.

The 2023 General Appropriation Act provided a general fund revenue decrease of $53 million, or 9.3 percent, for the General Services Department to align the agency budget with projected revenues. For the Secretary of State, the FY24 budget includes a recurring general fund increase of $1.4 million and appropriates $15 million to the election fund to administer elections through FY26. The budget for the Department of Finance and Administration includes a nearly $25 million general fund revenue increase, including for universal free meals through the Public Education Department and expansion of the Federal Infrastructure Office and Federal Grants Bureau. The Taxation and Revenue Department's budget includes a $6.2 million, or 5.4 percent, general fund increase primarily to fill vacancies and upgrade information technology equipment.

Compensation appropriations included in the 2023 General Appropriation Act continue the Legislature's focus on providing public employees with pay increases that keep employee salaries from falling further behind the broader market. Additionally, the Legislature provided additional funding for public school health insurance benefits, bringing the employer share of health insurance premiums for public school employees in line with state employees. The Legislature also considered increases in post-employment benefits to encourage longer service.

The 2023 General Appropriation Act centralized $15.5 million in cybersecurity funding at the Department of Information Technology for state agencies, public education, and higher education institutions and provides $124 million, including $99 million re-appropriated from the Connect New Mexico fund, to continue supporting broadband expansion projects. The General Appropriation Act also funds 24 key agency information technology projects and reauthorizes several prior-year appropriations through FY24.

Strong general fund revenues provided the Legislature with significant resources for nonrecurring investments. December 2022 revenue estimates projected year-end FY23 general fund reserves of $5.2 billion, or 62 percent of FY23 recurring appropriations. With these resources, the Legislature made significant investments in public infrastructure, to address healthcare needs in underserved areas, and to develop New Mexico's workforce. The Legislature allocated additional general fund revenue to several trust funds, enabling the state to plan for future revenue downturns. Special, supplemental, and deficiency appropriations total nearly $2 billion, including $1.417 billion in general fund revenue and $565 million in other state and federal revenues. Fund transfers total $685.5 million, including $675 million in general fund revenue.

Mr. Sallee said the governor exercised executive partial veto authority on a number of items in House Bill 2. Article IV, Section 22, of the New Mexico Constitution provides that the governor may "approve or disapprove any part or parts, item or items, of any bill appropriating money, and such parts or items approved shall become a law, and such as are disapproved shall be void…." As explained by the New Mexico Supreme Court, the partial veto power is the power to disapprove: This is a negative power, or a power to delete or destroy a part or item, and is not a positive power, or a power to alter, enlarge or increase the effect of the remaining parts or items. It is not the power to enact or create new legislation by selective deletions. Thus, a partial veto must eliminate or destroy the whole of an item or part and not distort the legislative intent and, in effect, create legislation inconsistent with that enacted by the Legislature by the careful striking of words, phrases, clauses or sentences.

Although, many of the vetoes were clearly within constitutional boundaries, some raise concerns over "artful" vetoes that, in fact, seek to change, alter, or frustrate legislative intent. Two partial vetoes destroyed the associated appropriation, even though the number figures were not struck. To date the agencies have not budgeted the funding but may try to this summer.

Some of the artful vetoes have become commonplace and left unchallenged. For example, striking "average" from compensation appropriations clearly alters how the Legislature desired the appropriation to be implemented. And striking the geographic location or political subdivision where the appropriation should be spent has also become commonplace, such as this year's striking of "San Juan County" so the funding can spent elsewhere, another change of the Legislature's intent.

Two partial vetoes should result in the appropriation not being budgeted. First, the Legislature appropriated $23 million from the general fund for the General Services Department (GSD) deficiency in the state's healthcare program. House Bill 2 then specifically earmarked $20 million of that amount to come from the appropriation contingency fund, which is part of the general fund reserves but a wholly separate fund from others. The intent was to appropriate remaining unappropriated amounts from the federal American Rescue Plan Act (ARPA) state relief funds that backfilled lost general fund revenue during the pandemic. The governor struck the language earmarking the $20 million, and as such, GSD should not seek budget money from other general fund accounts because there is no legal authority to do so. If the executive view is the appropriation is not a proper use of ARPA, that could be argued, but the appropriation is then destroyed, and an alternative source cannot replace it.

The second is a special appropriation to the Indian Affairs Department (IAD) appropriating $2.5 million of a larger appropriation for faculty endowments in a way that totally changed the purpose of the appropriation, leaving it unrecognizable. It should not, therefore, be budgeted. The veto changes the purpose from "Native American studies faculty and teaching endowments statewide" to "Native American teaching statewide." The veto message further indicates intention to use funding for technical assistance centers as opposed to endowments for Native American studies faculty positions. The condition that the funding be used to establish endowments for faculty positions is not unreasonable, and in fact, other parts of the bill appropriate funding for the same purposes for different teaching faculty.

In discussion with the Department of Finance and Administration about the GSD and IAD vetoes, LFC staff contend the amounts should not be allowed to be budgeted. Special appropriations normally do not show up in an agency's operating budget submitted on May 1 but, rather, are brought into the state's budget and accounting system, SHARE, at the initiation of the agency. This year DFA set a September 1 deadline for agencies. To date, neither agency has budgeted the appropriations in SHARE, but LFC staff will continue to monitor if they do.

Second Quarter State Agency Performance Report Cards. LFC Program Evaluation Manager Micaela Fischer presented the FY23 second quarter report cards and said performance for the midpoint of FY23 is mixed, with the Early Education, Care and Nutrition Program of the Early Childhood Education and Care Department receiving high marks overall and the Economic Development and Tourism departments showing strong results, but with Medicaid and other public assistance programs ranked at the bottom of the scale. The ability to track agency efforts continues to be hindered by the failure of some agencies to report information in a timely manner.

Highlighting key performance, Ms. Fischer said the Public Education Department (PED) reported slight increases in enrollment, changes to teacher licensure advancement, and continued delays in processing reimbursements. PED continues to struggle with maintaining leadership, with continued turnover in the secretary position and vacancies in two deputy secretary positions. PED has yet to report high school graduation rates from the 2021-2022 school year or testing results from the beginning of the current school year.

In New Mexico, higher education achievement varies by institution type with four-year institutions having overall higher completion rates than two-year institutions. However, two-year institutions perform closer to the national average than four-year institutions. Notably, minority student performance at four-year institutions is close to the national average while minority student performance at two-year institutions is better than minority student performance nationally.

The Early Childhood Education and Care Department (ECECD) reported only 380 families enrolled in Medicaid-funded home visiting, well below the performance target of 1,500. Medicaid-funded Home Visiting allows the state to receive federal revenues to grow state services. Additionally, ECECD is developing a Medicaid billing system to streamline the billing process and eliminate the duplication of data entry for providers.

New Mexico consistently ranks among the top six states for repeat maltreatment occurring within 12 months of an initial allegation. Several evidence-based options for preventing repeat maltreatment could be expanded and leveraged to garner more federal revenue and improve outcomes. Between FY18 and FY22, Children, Youth and Families Department preventive services expenditures grew from $1.1 million to $11.1million, a tenfold increase. During the same period, repeat maltreatment hovered around 14 percent, but it remains well above the national benchmark of 8 percent.

The Department of Health (DOH) reported some improvements in performance across the agency; however, the facilities statewide census was 42 percent of total beds. Additionally, the program has continued to report it is failing to meet targeted performance of third-party revenue collections, vital to the financial stability of the Facilities Management Division.

The Aging and Long-Term Services Department reported some decline in performance. The Aging and Disability Resource Center received 6,926 calls, an average of 115 per day, on trend with the close of FY22 but lower than prepandemic levels. The Aging Network is not on track to meet targeted performance for the hours of caregiver support for FY23 and continues to fall below prepandemic levels. Services included in this measure are home care, adult daycare, respite care, and counseling and support groups.

In March, the Human Services Department (HSD) sent out over 40 thousand letters requesting Medicaid enrollees recertify their enrollment in the program. HSD began unwinding or disenrolling ineligible Medicaid clients in April. Overall Medicaid performance is trending below targeted levels and the continued volatility in the program adds to the risk for clients and the program to fall short of optimal performance levels.

The Behavioral Health Collaborative needs to enhance its role coordinating overarching behavioral health services across state agencies, including Medicaid. Behavioral health performance outcomes remain poor in New Mexico and the state continues to have some of the worst behavioral health outcomes in the country, particularly with abuse of alcohol. More prevention and intervention are necessary to address the effects of alcohol abuse.

Criminal justice partners continue to see caseload and efficiency impacts from the pandemic. Persistent hiring and retention challenges make it difficult to keep skilled staff in critical roles. Treatment court outcomes remain strong, and jury trials are returning to prepandemic averages. Cases referred to district attorney offices remain below prepandemic averages, but staffing issues make workload in some districts unsustainable.

The Department of Public Safety saw significant drops in saturation patrols (a type of operation aimed at reducing DWIs) and adjudications of law enforcement officer complaint cases. Manpower increased but is anticipated to drop by the end of the year because the State Police canceled a spring lateral class in favor of holding a larger class in the fall. The agency made further progress in onboarding law enforcement agencies to the new national incident-based reporting system (NIBRS), which should allow it to provide more timely and comprehensive data, and State Police are on-track to be NIBRS-compliant by the end of the calendar year.

The Corrections Department continued to see declines in its incarcerated population but saw little change in its key performance metrics compared with the prior quarter. Overall recidivism remained steady, and over 1-in-3 correctional officer positions remained vacant. Notably, inmate education continues to show poor results, with only six inmates obtaining a high-school equivalency certificate this quarter; by comparison, in the second quarter of FY22, 24 inmates earned such a certificate, and in the second quarter of FY21, 34 inmates earned one.

The State Parks Division of the Energy, Minerals, and Natural Resources Department reported visitation and revenue remained on track to meet the FY23 targets in the second quarter. The Oil Conservation Division received a $25 million initial federal grant to begin plugging and remediation at 200 well sites over a 24-month period under the federal Infrastructure Investment and Jobs Act's Orphan Well Program.

The Interstate Stream Commission reported New Mexico's accrued Rio Grande Compact debit for 2023 is expected to drop to negative 93,000 acre-feet in the next quarterly report, well below the compact compliance threshold of negative 200,000 acre-feet.

The Environment Department played a crucial role in developing and submitting a concept paper to the U.S. Department of Energy by the Western Interstate Hydrogen Hub, which issued an "encouraged" recommendation for the proposal.

The Economic Development Department did not award any Local Economic Development Act funding in the second quarter of FY23, resulting in significantly less job growth compared with the last several quarters. The agency noted in its action plan that it anticipates a big award cycle in the third quarter, which will help the agency reach outcome targets for job creation.

The Tourism Department continues to report increases in employment in the leisure and hospitality industry, surpassing the national average for employment in the sector. The agency also increased readership for *New Mexico Magazine*, which had previously fallen when the publication reduced the number of issues from 12 to 10.

The Employment Services Program of the Workforce Solutions Department plays a key role in addressing the state low labor force participation rate and is a central player in developing a plan. The program oversees the state's network of workforce connections centers and operates several programs related to the federal Workforce Innovation and Opportunities Act (WIOA). For FY23 the agency received a $10 million special appropriation that could be used to augment already existing evidence-based workforce programs the federal government funds through WIOA. In the second quarter, 13.1 thousand individuals received employment services in a Connections office, about 52 percent of the targeted 25 thousand. The plan to improve the participation rate will require a large outreach effort and case management to ensure prospective workers take advantage of generous state programs, such as near universal childcare.

The General Services Department continues to report a mounting deficit in the agency's largest program, employee group health benefits. Performance data indicates medical expenses are increasing while premiums have not increased to match expenses to revenues. Under these conditions, the agency will be challenged to contain costs in FY23. Improved health benefits performance reporting is vital to provide insight into cost drivers, care quality, and employee satisfaction with the benefits offered.

The state continues to face challenges related to employee recruitment and retention. The State Personnel Office reported the classified service vacancy rate is 23.7 percent, up 20 percent from FY21. State agencies continue to take longer to fill vacant positions, with "time to fill" averaging 72 days in the fourth quarter. Once positions are filled, fewer employees are completing their probationary period, with only 63 percent completing it in the first quarter. However, pay increases have improved the competitiveness of the state's salary schedules.

The Taxation and Revenue Department fell short of its target for collectible audit assessments since the beginning of the fiscal year but is on track to meet its annual target for tax collections, with nearly all categories of collections being substantially higher than those submitted in the second quarter of FY22. Of the $1 billion in outstanding tax collections for the state, the program collected $107.7 million at the end of the second quarter, slightly under 10 percent of the outstanding balance. The audit and compliance data analytics software project are 50 percent complete and will include a categorization of outstanding collections in its final phase along with other collection processing enhancements. Outstanding audit assessments collected a total of $46.3 million, of the $95.5 million outstanding in audit assessments since the beginning of quarter one, 51 percent.

After years of worsening road conditions, the Department of Transportation (NMDOT) reports investments in state roads are improving conditions. In recent years, the Legislature has made significant nonrecurring appropriations for road construction and maintenance, which the agency has used to exceed targets for pavement preservation. Additionally, NMDOT has done well managing projects, generally completing projects on time and on budget. However, the agency has experienced price spikes and delays due to supply chain disruptions affecting the broader economy.

In the second quarter of FY23, eight information technology projects are rated moderate risk, three are rated low risk, and only one project is rated high risk. Schedule risks for the enterprise cybersecurity project of the Department of Information Technology have improved as the agency moves toward a June 2023 closeout and the state broadband program of the Office of Broadband Access and Expansion is reduced to moderate risk, reflecting improvements in spending this quarter. However, one project—the child support enforcement system replacement project through the Human Services Department—moved to a high-risk rating to reflect an extended project schedule through FY27 and increased budget—totaling $76 million, up from $70 million—which have not been certified by the project certification committee, posing risk.

New Mexico's combined investment holdings grew $2.75 billion quarter-over-quarter, to an ending balance of $65.92 billion, with across-the-board gains bolstered further by distributions to the early childhood trust and severance tax permanent funds. For the year, funds lost $1.55 billion, or 2.3 percent. Over the last five years, the state's combined investment holdings grew $15 billion, or 29.5 percent. No fund met its return targets for the quarter or one-year periods; only the Educational Retirement Board and land grant permanent fund hit their targets in some out-periods, when annualized. When compared with peer funds, the state's investment funds performed well for the year, with all funds ranking in the top quartile.

March 2023 Quarterly Capital Outlay Status Report. LFC Analyst Cally Carswell said $3.1 billion in capital outlay from all funding sources was unexpended at the end of the third quarter of FY23, including $1.8 billion in authorized projects through 2022 and $605.6 million in special appropriations. Roughly 4,000 active projects are underway, with the number likely to rise to around 5,000 this summer. Among the three major categories of capital outlay, local projects have the most outstanding funds and slowest expenditure rates, with $815.6 million outstanding of 2019 to 2022 appropriations. Statewide projects have spent funds more quickly, with 49 percent of appropriations outstanding, respectively. Excluding general obligation bond (GOB) projects for which funding just became available, higher education projects have also spent funds more quickly, with 56 percent of appropriations outstanding.

The 2023 capital package was the largest in the state's history. Nevertheless, capital outlay requests from state and local entities continued to exceed available funding. Ms. Carswell said the significant gap between need and available funds, along with the practice of earmarking funding for individual legislators and the governor, undermines the state's ability to use surging revenues to efficiently complete projects that represent the greatest needs or would produce the most public benefits. Local projects are not consistently vetted for need or readiness and often receive only piecemeal funding. Piecemeal funding can contribute to project delays and increase overall costs. Approximately 38 percent of nearly 1,400 local projects authorized in the 2023 capital bill received 50 percent or less of requested funds, with $191.3 million appropriated to 552 projects for which $1.4 billion was requested.

Ms. Carswell said the $1.2 billion in 2023 appropriations come just a year after special and regular sessions in which more than $2 billion was appropriated to capital projects. These historically large investments in capital projects come at a time when supply chain and labor issues, rising construction costs, and state and local capacity limitations have made it more difficult to efficiently complete projects. The absence of a state entity responsible for coordinating capital outlay with other available funding sources and assisting local entities in accessing those funds exacerbates these delays. An LFC-endorsed bill (Senate Bill 197) to create such a coordinating entity failed to receive a committee hearing in the 2023 session. House Bill 2, however, included recurring and nonrecurring appropriations to increase capacity to spend down capital funds and complete projects. The appropriations support 19 new full-time positions and contract support in five state agencies and the continuation of a new grant program to build project management and grant writing capacity at the local level.

Ms. Carswell said LFC staff will continue to collaborate with DFA to identify opportunities to improve the rate of project completion and increase the odds that capital spending results in tangible improvements to public services and quality of life. The goal is to bring options requiring legislative action to the committee by late summer. Areas of focus include streamlining state agency administration of local capital appropriations, funding navigation and project management support, local capacity building, and improved project vetting support for legislators. 305

LFC staff is currently tracking 557 "$1 million or greater" projects, totaling $2.5 billion; $1.6 billion is unexpended. Ms. Carswell said

- 309 projects are rated green and considered on schedule;
- 26 projects are rated red, indicating no progress, no reporting, significant delays or obstacles to completion, or recent reauthorization; and
- 122 projects are rated yellow and considered behind schedule or facing some challenges, but still progressing.

General obligation bonds for 106 projects totaling $258.3 million were sold this spring. Bonds for one approved project—a $457 thousand appropriation for the Whispering Pines Senior Center in Bernalillo County—were not sold because the county chose not to pursue the project due to uncertainty regarding the facility's water supply.

Members were provided detailed information on all projects; the status of select projects were highlighted.

Miscellaneous Business.

Action Items. Senator Rodriguez moved to adopt the LFC FY24 operating budget, seconded by Vice Chairman Small. The motion carried.

Vice Chairman Small moved to adopt the LFC January 2023 meeting minutes, seconded by Senator Rodriguez. The motion carried.

Review of Monthly Financial Reports and Information Items. LFC Deputy Director Charles Sallee briefed the committee on information items.

LegisStat Recap and Overview. Legislating for results is a comprehensive evidence-based budget and policy framework that integrates policy, budget and cost-benefit analysis, research, performance reporting, and program evaluation into the policy and budget process. LFC Deputy Director Charles Sallee said the framework facilitates in answering critical questions about how the state is doing, what works, what is the impact, and where to invest.

Legislating for results tools now include LegisStat, a first of its kind legislative-driven performance improvement approach that drives collaboration and formulates questions for agencies about where the state needs to go and what kind of resources and policy changes are needed to make that happen. Mr. Sallee said LegisStat focuses on performance, implementation of evidence-based interventions, and outcomes. The goal is to make progress on high-priority agency challenges as identified by LFC.

Mr. Sallee said LegisStat adapts the PerformanceStat approach to legislative context, changing the format of agency hearings to strengthen the focus on key agency performance challenges, better track priority policies and programs, make discussions more data-driven, and sustain a focus on key challenges over time. Since its launch in August 2021, LFC has conducted LegisStat with the Workforce Solutions, Economic Development, Tourism, Higher Education, Public Education, Children, Youth and Families, and Early Childhood Education and Care departments.

Describing a LegisStat hearing, Mr. Sallee said LFC members are provided a brief, presented by LFC staff, followed with a short presentation from the agency and then key questions and discussion. Between meetings, LFC staff follows up with the agency on action items.

Representatives Sariñana and Ferrary recommended LFC conduct LegisStat with the State Personnel Office and Department of Health.

Representative Brown suggested LFC trademark LegisStat.

LegisStat: Child Protective Services. Presenting the LegisStat hearing brief, LFC Analyst Eric Chenier said New Mexico consistently ranks among the top six states for repeat maltreatment occurring within 12 months of an initial allegation. There are several evidence-based options to reduce and prevent repeat maltreatment and better leverage the child welfare workforce, including improving the use of screening and assessment tools, intervening early with the level of intervention based on the level of risk, and following through with the appropriate supports and services. In recent years, the state enacted legislation and significantly increased appropriations in support of these objectives.

Leading drivers of child maltreatment include parental substance abuse, poverty, domestic violence, parental history of trauma, and other behavioral health issues. The state, through Medicaid and other means, is investing in efforts to address these drivers, such as increasing funding for behavioral, substance abuse, and other services significantly over the last several years.

By far the two leading risk factors for child maltreatment are caregiver alcohol and drug use. In 2019, New Mexico enacted legislation to coincide with the federal Comprehensive Addiction and Recovery Act (CARA) plans of safe care, requiring healthcare providers who observe newborn drug exposure or fetal alcohol spectrum disorder to develop a plan of safe care before discharging the newborn to the caregivers. Reducing the likelihood families will end up in the child welfare system by targeting prevention services at families with alcohol and drug use prenatally or immediately on birth is likely to have the greatest impact. The strategy could also positively affect Children, Youth and Families (CYFD) Child Protective Services (CPS) worker caseloads.

In 2021, CYFD piloted Family Outreach and Community Engagement, an alternative-response-like program. In traditional alternative response models, the process is split into two tracks: investigation and assessment. When a report of suspected child abuse or neglect is received, an initial assessment determines whether the concerns are serious and whether the case should be assigned to the traditional CPS track or whether an alternative response track is appropriate. If alternative response is appropriate, CPS works to connect the family to resources and continues monitoring the family. Alternative response can help reduce the number of cases that are formally investigated and open for ongoing CPS involvement, which can, therefore, reduce CPS worker caseloads.

At the December 2022 LegisStat hearing with CYFD, LFC was interested in the agency's actions on CARA plans of safe care, what was being done to expand the alternative response system, and when the federal government was going to accept the state's Families First Prevention Services Act (FFPSA) plan, allowing the agency to leverage federal Title IV-E revenue for prevention services.

CYFD provided data showing that between October 1, 2020, and September 30, 2021, there were 1,163 plans of care established for infants with symptoms consistent with prenatal drug exposure, withdrawal symptoms, or fetal alcohol spectrum disorder. Of these, 24 percent had a report for concerns of maltreatment, with half of those receiving a subsequent investigation and the other half screened out for further action.

CYFD expanded its alternative-response-like program to San Miguel, Mora, Lea, Otero, Sierra, Socorro, and Lincoln counties. Spending on the program slowed from $1.5 million in contractual services in FY21 to about $600 thousand in FY22. Currently, the lowest level of response is being implemented. The agency needs to consider expanding to two additional levels of response for families with greater need and expanding in the larger population centers where there is a substantial need and more providers for these types of services.

CYFD has not yet received a response to the Families First Preventions Services Act plan it submitted to the federal government last fall.

During the 2023 session, both the executive and the Legislature proposed protective services reforms, including amending the state's statute governing CARA plans of safe care, establishing a child welfare system oversight entity within the Attorney General's Office, and creating a policy advisory council. CYFD has since convened the advisory council that will recommend reforms. The agency also created a new website that includes a dashboard, expected to be updated monthly, that reports on several measures, including the number of children in state custody and their status.

For FY24, the Legislature equipped CYFD by aligning the agency's budget with national child welfare best practices and trends and prioritized evidence-based strategies for maximizing family unity and preventing the use of foster care, when appropriate. A total of $15.9 million in federal revenue from the Temporary Assistance for Needy Families program was included to fund various evidence-based prevention and intervention services. Another $7.6 million in general fund revenue will be matched with federal revenue for well-supported, supported, or promising prevention programming.

The December LegisStat hearing also included many questions related to CYFD workforce development. The agency said it was committed to reducing the turnover rate to 20 percent and promised to provide data related to the education, licenses, and credentials of the workforce, so the Legislature could better assess workforce needs. CYFD has taken some actions to address the shortages, such as increasing salaries for certain hard-to-fill front-line positions, gathering licensure and education data of CPS workers, and analyzing caseloads to target resources where they are needed the most.

For FY23 the Legislature appropriated $20 million to the Human Services Department (HSD) and CYFD to develop more behavioral health provider capacity and $50 million to higher education institutions to increase social worker teaching faculty endowments to expand programs and graduates. Appropriations for FY24 also included $3 million to implement CYFD's workforce development plan, $5 million to implement an appropriate placement salary adjustment, and nearly $3 million to hire additional staff.

CYFD Acting Secretary Teresa Casados said ensuring New Mexico's children are safe is the agency's top priority. Ms. Casados said CYFD is working to address the system's workforce shortage and large caseloads.

In response to Senator Hemphill, Ms. Casados said CYFD is collaborating with the Human Services Department and other key agencies to build the behavior health provider network for addressing the leading drivers of child maltreatment.

Representative Baca expressed concern about long response times due to shortage of CPS workers.

In response to Representative Trujillo, Ms. Casados said managed care organizations issued 1,388 CARA plans of care in FY22, noting not all cases are referred to CYFD. Of the 535 cases referred to CYFD in FY22, 274 were screened out. Ms. Casados said CYFD does not test babies who have a plan of care after they leave the hospital. In response to Representative Armstrong, Ms. Casados said CYFD will report back to LFC the number of babies who died under a CARA plan of care.

In response to Senator Diamond, Ms. Casados said not all Policy Advisory Council meetings will be public.

In response to Vice Chairman Small, Ms. Casados said CYFD is collaborating with higher education institutions and key agencies to develop its workforce.

Wednesday, May 24
The following members and designees were present on Wednesday, May 24, 2023: Chairman George K. Muñoz; Vice Chairman Nathan P. Small; Senators Nancy Rodriguez, Roberto “Bobby” J. Gonzales, Steven P. Neville, Sia Correa Hemphill, Pat Woods, William E. Sharer, and Pete Campos; and Representatives Meredith A. Dixon, Dayan Hochman-Vigil, Jack Chatfield, Greg Nibert, Debra M. Sariñana, Brian G. Baca, and Derrick J. Lente. Guest legislators: Representatives Anthony Allison, Cathrynn N. Brown, Art De La Cruz, Joanne J. Ferrary, Pamelya Herndon, Ryan T. Lane, Tara L. Lujan, Rod Montoya, and Randall T. Pettigrew.

LegisStat: Early Childhood Services. LFC Analyst Kelly Klundt said the Home Visiting, Prekindergarten, and Childcare Assistance programs received historic funding increases to begin in FY24. Additionally, there has been significant policy changes to expand services and eligibility for these programs. For FY24, the Legislature appropriated $327.6 million in recurring general fund revenue for the Early Childhood Education and Care Department (ECECD), a nearly 68 percent increase from the FY23 operating budget. A majority of the increase came from revenues generated through a constitutional amendment that increases distributions from the permanent school fund for early education. The agency will also receive an additional $120 million from the early childhood trust fund to increase services for Childcare Assistance, tribal early childhood services, and workforce supports. The large investment of revenues by the Legislature means continued oversight of implementation should be a priority to monitor program expansion and ensure high quality delivery of services.

Ms. Klundt said Home Visiting is one of the state’s cornerstone programs for improving the well-being of young children. Funded by a mixture of state and federal revenues, efforts to maximize federal Medicaid revenues, and therefore expand services, has stalled. Beginning in FY12 the Legislature appropriated $2.3 million from the general fund for Home Visiting, growing to $28.3 million from the general fund in FY24. Currently, most state general fund revenues for Home Visiting are not being matched by the Medicaid Home Visiting program. According to the Human

Services Department (HSD), Medicaid funds 72 percent of babies born in New Mexico. This represents a large population of families who are also likely eligible for Home Visiting services. Maximizing Medicaid revenues would allow the state to provide Home Visiting services to many more families without increasing state appropriations. Expanding Medicaid eligible Home Visiting models and providers, in addition to growing family interest and improving the state's referral systems, are key opportunities to growing Medicaid-matched Home Visiting services. The state will need to continue to train and support home visiting providers to become Medicaid eligible, provide technical assistance, and establish a centralized referral system. Multiple referral points may be necessary to encourage enrollment.

Ms. Klundt said Prekindergarten is a proven early education program for 3- and 4-year olds that improves school readiness administered by the Early Childhood Education and Care Department (ECECD). For FY24, the Legislature provided over $100 million to expand Prekindergarten for 3-year-olds and 4-year-olds in FY24, increasing the number of hours in a day for wraparound care, and adding days for Prekindergarten services. New Mexico is providing sufficient funding to ensure 4-year-olds receive at least some type of early education through Childcare Assistance, Prekindergarten, or Head Start. In 2022, the National Institute for Early Education Research ranked New Mexico 10th in prekindergarten spending, 10th in prekindergarten access for 3-year-olds, and 13th in prekindergarten access for 4-year-olds, and the state will likely continue to improve ranking given the recent increased investments.

In addition to expansion of Prekindergarten services, rates increases, and extended hours, many Prekindergarten providers also receive Childcare Assistance funding. For FY24, the Legislature increased federal funds and revenue from the general fund, opioid settlement, and early childhood education and care fund to over $100 million for Childcare Assistance for expanded eligibility, reduced co-payments, and rate increases. Historically, Childcare Assistance provided an opportunity for low-income families to work or go to school by paying a voucher to childcare providers; however, because the agency has expanded income eligibility to nearly double New Mexico's median household income, the program now supports higher income families as well. Ms. Klundt said, as Prekindergarten begins implementation of significant service expansion, closely monitoring Prekindergarten effects and quality in the coming fiscal years will be extremely important to ensuring the program maintains or increases performance outcomes.

Previous LFC analysis found significant expansion of services, a declining birthrate, and competition among providers resulted in the duplication of services or unused funding for Prekindergarten, Childcare Assistance, and Head Start. Insufficient coordination among programs can lead to Head Start programs losing funding if federal enrollment standards are not maintained. Ms. Klundt said, given the broad coverage of care options for 4-year-olds and the expansion of Prekindergarten hours in the day, ECECD coordination will be increasingly important. As more children are covered for more hours in Prekindergarten, the spending of 3- and 4-year-olds with Childcare Assistance funding pressure could decline, possibly expanding funding access for younger ages. In New Mexico, access to infant and toddler care services is far below that of older children.

ECECD Secretary Elizabeth Groginsky provided the committee ECECD's latest *Annual Outcomes Report* and said the agency is working to ensure the delivery of funding across the state.

Representative Lente remarked on the negative impact of Head Start on tribal education when first implemented in the 1960s, which he said resulted in Native culture and language losses. Secretary Groginsky said Head Start was initially focused on promoting English proficiency; however, its performance standards have since been updated and an intertribal agreement is in place to ensure educational sovereignty.

In response to Senator Sharer, Secretary Groginsky said the state implements the Focus tiered quality rating and improvement system and nationally recognized prekindergarten standards to promote high quality services.

In response to Senator Sharer, Secretary Groginsky said ECECD is seeking public comment on a proposal to eliminate gross receipts tax (GRT) paid by families to providers for the state. The secretary explained the GRT would be covered under the new provider rates. Senator Sharer pointed out nonprofit providers do not have to pay GRT to the state, allowing them to keep the additional revenue of the new provider rates meant to cover the GRT.

In response to Representative Dixon, Ms. Klundt said the combination of prekindergarten and extended learning participation has been shown to have an even greater impact in closing the achievement gap between low- and high-income students.

In response to Representative Herndon, Ms. Klundt said another purpose of home visiting is to help identify potential safety concerns in the home.

In response to Representative Small, Ms. Klundt recommended the state create a centralized workforce registry for the early childhood system and track the number of prekindergarten teachers and private providers that have bachelor degrees.

Status of Major Special Appropriations. Reporting on major nonrecurring federal and state appropriations, LFC Analyst Joseph. Simon said the Legislature in 2023 increased and added new appropriations from the general fund and state fiscal relief funds totaling $351.7 million for economic and rural development, post pandemic workforce development, pandemic response and improving health outcomes, and other areas.

Since the last update in December, state agencies have significantly increased spending activity and nearly doubled commitments and expenditures. Economic development related spending increased from $32 million in December to $114.2 million in May. Commitments for rural jobs and natural resources also saw an uptick in activity. Surface water and river habitat improvements are now in the planning and design phase and phase I of the Columbus port of entry berm is completed including necessary land purchases.

Quality of life projects received a boost with the Department of Finance and Administration committing all the first round of appropriations for regional recreation centers. Notices of obligation so far include Lordsburg ($434 thousand), Deming ($944.2 thousand), Curry County ($760.7 thousand), Clayton ($259 thousand), Truth or Consequences ($240 thousand), Carlsbad ($161.3 thousand), and Portales ($688.4 thousand).

For post-pandemic workforce development, there has not been a lot of movement except for the opportunity scholarship, which is nearly completely expended. The Workforce Solutions Department began spending funding for reemployment case management and youth apprenticeships and entered two two-year sole source contracts with the New Mexico Center for Economic Opportunity (NMCEO) for $1.2 million and SPEVCO Incorporated for $1.5 million to launch its “Be Pro Be Proud” initiative. The NMCEO contract says “Be Pro Be Proud” is a workforce development initiative used to introduce students to technical careers.

In response to pandemic-related costs and improving health outcomes, the Department of Finance and Administration committed all $25 million to twelve projects for affordable energy efficient housing, including $3.7 million for senior home repair and workforce and inmate reentry housing, $3.3 million for weatherization, $3.2 million for housing development in Dona Ana county, and $2.8 million for housing development and senior housing rehab in Bernalillo county.

LFC Staff Interim Work Plans. LFC Deputy Director Charles Sallee presented analysts’ work plans for the 2023 interim. The work plans are focused on addressing current issues. Highlighting key assignments, Mr. Sallee said analysts will be

- Evaluating the efficacy of “below-the-line” initiatives;
- Developing funding recommendations for dual-credit and career technical education programs;
- Creating current and out-year cost projections for the opportunity and lottery scholarship programs;
- Monitoring prekindergarten enrollment, spending, and system implementation;
- Identifying policy options to improve childcare assistance system continuity;
- Monitoring the expansion of Medicaid matched home visiting;
- Visiting Department of Health facilities to better understand underutilized capacity and facility needs;
- Analyzing Medicaid enrollment, unwinding projections, and funding for people eligible for Medicaid as federal maintenance of effort requirements expire;
- Working with the Children, Youth and Families Department to set a vision for children’s behavioral health in New Mexico;
- Determining whether juvenile justice savings could be reinvested in evidence-based community programs;
- Developing more robust performance measures for the Reentry Program to effectively monitor their output and outcomes and improve accountability;
- Researching ways to centralize and integrate criminal justice healthcare and behavioral healthcare systems.
- Monitoring the Office of State Engineer’s success in committing funds for set purposes and applying for federal grants;
- Ensuring state agencies collaborate appropriately on economic development and state funding is not duplicative;
- Evaluating New Mexico’s sunset review process compared with best practices;
- Working with the Local Government Division to track net changes to local government budgets due to policy changes;

- Monitoring how the Department of Transportation is using available resources, including the prioritization of funding to improve road conditions;
- Monitoring policies and plans to use state facilities more efficiently and identifying where consolidation of agencies into state-owned space will result in savings;
- Determining the adequacy of state salaries to best promote the recruitment and retention of effective state employees;
- Formalizing and improving long-term forecasts with the Consensus Revenue Estimating Group by developing granularity of estimates;
- Analyzing the tax code, conducting comparative analyses, and studying the potential impacts of tax changes;
- Identifying common sources of capital outlay project delays and assessing agency and local capacity and project management; and
- Developing cost-per-square-foot baselines for different facility types to guide funding decisions based on analysis of cost trends in New Mexico and neighboring states.

Members discussed other potential LFC staff work this interim, including analyzing capital costs of electrifying the state and evaluating matching grant funds.

LFC Deputy Director Jon Courtney, Ph.D., said LFC's program evaluation unit is currently wrapping up evaluations on home visiting programming and implementation and outcomes of the Comprehensive Addiction and Recovery Act. Evaluations expected to be completed later this year include a review of risk management. The 2023 *Early Childhood Accountability Report* will be presented in August and *Medicaid Accountability Report* in September. Other projects happening this interim include various IT spotlights and progress reports, including a progress report on juvenile justice facilities and reintegration centers.

Chairman Muñoz and Vice Chairman Small appointed members to the LFC Director Applicant Review Subcommittee: Representatives Armstrong, Dixon, Lente, and Small; and Senators Campos, Gonzales, Muñoz, and Woods.

Senator Gonzales moved to appoint Charles Sallee as LFC interim director, seconded by Vice Chairman Small. The motion carried.

With no further business, the meeting adjourned at 11:54 a.m.

George K. Muñoz, Chairman

Nathan P. Small, Vice Chairman