MINUTES
Legislative Finance Committee
Albuquerque, NM
September 27 - 29, 2023

Wednesday, September 27
The following members and designees were present on Wednesday, September 27, 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, Harry Garcia, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, Brian G. Baca, and Derrick J. Lente. Guest legislators: Senators William F. Burt, Crystal R. Diamond, Antonio Maestas, Michael Padilla, and Bill Tallman; and Representatives Anthony Allison, Cathrynn N. Brown, Art De La Cruz, Joy Garratt, Pamelya Herndon, Ryan T. Lane, Tara L. Lujan, and Randall T. Pettigrew.

Welcoming Remarks. President Tracy Hartzler said Central New Mexico Community College (CNM) is the largest undergraduate institution in New Mexico, serving about 30 thousand students annually and offering over 200 degree, certificate, and training opportunities. Focused on student success, President Hartzler said CNM is working to increase term-to-term and fall-term persistence, student work-based learning opportunities, and job placement rates.

For FY25, CNM requests funding for FUSE Makerspace relocation, research and public service initiatives, and venture studio and entrepreneurial-in-development programs. President Hartzler said the community college also requests an increase in the "instruction and general" (I&G) funding formula and workforce training funding.

Garnett Stokes, president of University of New Mexico (UNM), said UNM is proud to work with CNM to achieve New Mexico's higher education needs. President Stokes thanked legislators for supporting UNM's mission and said the *2040 Opportunity Defined* publication outlines current goals. President Stokes highlighted current projects, including UNM's new School of Public Health.

New Mexico Institute of Mining and Technology Interim President Daniel Lopez urged legislators to continue to improve the I&G funding formula. Interim President Lopez remarked on the need to look ahead and said the future of artificial intelligence will greatly impact the workforce. He explained AI could replace many jobs.

Interim President Lopez highlighted the university's new hydrology project, noting the urgency to solve New Mexico's water crisis.

New Mexico State University Interim Chancellor Jay Gogue said current freshmen enrollment is the highest it has been in 10 years and the retention rate improved by 5 percent.

LegisStat: Economic Recovery. LFC Analysts Rachel Mercer-Garcia and Julisa Rodriguez reported key data for LegisStat discussion. While unemployment rates have recovered to prepandemic levels, the share of New Mexico's working age population participating in the labor force is persistently low. Demand for workers is currently much greater than the supply. Between 2008 and 2021, the state lost about 26 thousand workers. An estimated one-quarter of the population is not employed but is of working age. New Mexico would need to add 116 thousand workers to the labor force to reach the national average rate of workforce participation.

Misalignment between the New Mexico's workforce skills and the needs of industry is a challenge for the state's economic future. Without an aligned workforce, New Mexico risks exporting residents to states with better-connected institutions and losing employers to states with better-trained workers.

The Employment Services Division of the Workforce Solutions Department, with an operating budget of $30.8 million, oversees the state's network of Connections centers and operates several programs related to the federal Workforce Innovation and Opportunities Act (WIOA). In FY23, 50 thousand individuals received employment services in a WSD Connections office, about half of the agency's target of 100 thousand. In addition, the agency saw a decline in individuals using the online job seeker portal, from 106 thousand in FY22 to 63 thousand in FY23.

The Job Training Incentive Program (JTIP), administered by the Economic Development Department (EDD), funds classroom and on-the-job training for newly created jobs in expanding or relocating businesses. JTIP funding has grown substantially in recent years. However, the number of workers trained through JTIP decreased in FY23, below prepandemic levels and after two record-breaking years. JTIP cost per job increased 85 percent in FY23.

EDD also administers the Local Economic Development Act, one of the state's larger economic incentive programs. In FY23, LEDA created 1,092 jobs at a total cost of $15 million. LEDA cost per job increased 82 percent.

Overall, EDD created 1,790 jobs in FY23, down 98 percent from FY22. EDD's job creation accounts for roughly 7 percent of New Mexico's overall job growth in FY23.

In 2022, the Legislature appropriated to WSD $5 million in nonrecurring funding for evidence-based reemployment case management; though the governor vetoed "evidence-based." WSD was also appropriated $5 million in nonrecurring funding for youth employment and apprenticeships. New Mexico currently has about 11 thousand unemployed individuals between the ages of 16 and 24 years old.

WSD Secretary Sarita Nair said New Mexico's labor force participation rate (LFPR) has increased month over month since March, likely due to the end of additional unemployment insurance benefits, Medicaid continuous coverage, and food assistance emergency allotments.

Highlighting demographic data, Secretary Nair said New Mexico exceeds the national rate of people living with a disability, making it vital to support vocational rehabilitation programs in the state. New Mexico also has a higher share of people working below poverty level and higher share of out-of-school youth in the labor force. Since 2019, the steepest decline in LFPR was men between the ages of 20 and 24 years old. The various programs currently supporting workforce participation were noted.

Among current priorities, WSD is working to close the employment gap. Secretary Nair said over 34 thousand jobs would still be vacant even if all unemployed individuals in the state got a job tomorrow.

Secretary Nair said the 2022 special appropriations are being used to

- Support the Be Pro Be Proud program,
- Provide stipends and pathways for youth to engage in meaningful work experiences,
- Upgrade case management technology for referrals and unified entry, and
- Implement youth case management.

EDD Acting Secretary Jon Clark said New Mexico is making progress in raising LFPR, but more work needs to be done. Highlighting current efforts, Secretary Clark said JTIP produces great results in the near-term, but the state needs to make a greater effort in building its trades workforce. This includes aligning the education system with the needs of businesses.

In response to Senator Woods, Secretary Nair said WSD would like to do more outreach to engage with individuals not in the workforce.

In response to Senator Rodriguez, Secretary Nair said WSD requests recurring state funding for the high school career counselor, pre-apprenticeship, and Be Pro Be Proud programs, which were previously funded with federal American Rescue Plan Act dollars. Secretary Clark said EDD's FY25 budget request includes an increase for additional FTE for the MainStreet Program and media academy.

In response to Representative Armstrong, Secretary Nair said WSD worked with the Public Education Department to determine where to place the 14 high school career counselors. The counselors have regional responsibilities.

Senator Burt remarked on the skills of military personnel and said the state should remove the automatic repeal of the military retirement pay tax exemption to encourage more military retirees to live and work in the state.

Status of Film Investments. Highlighting key information in the staff brief, LFC Economist Brendon Gray said the film production tax credit (FPTC) is the state's largest economic development incentive. Evidence suggests film incentives are less effective at attracting private investment, cost more per job, and have a lower return on investment than other incentive programs. In the next five years, tax expenditures through the FPTC could grow 171 percent, increasing from $100.2 million in FY23 to $272.1 million by FY28, although costs are largely dependent on the size of productions and the addition of no new New Mexico film partners.

In FY22, film industry incentives were 37 percent of total economic development spending and cost more than twice as much per job as the other largest economic development incentives. Jobs supported directly and indirectly by the film industry made up 0.82 percent of total private employment. Most state evaluations of film incentives find film incentives have a negative fiscal return on investment.

The state spent about as much on film incentives in FY22 as it spent on LEDA and JTIP combined, even though those programs have better employment outcomes. LEDA supported 3,556 new jobs, with an average cost per job of $9,600. JTIP supported 2,158 trainees for an average cost of $12.3 thousand. In comparison, FPTC cost $22.8 thousand per job, 107 percent more than the average LEDA and JTIP cost per job.

Furthermore, LEDA and JTIP support jobs with one-time payments while the FPTC is a recurring expenditure. That means state spending through FPTC supports the same jobs year after year while LEDA and JTIP support newly created jobs at a one-time cost. A three-, five-, or 10-year comparison of the LEDA and JTIP versus FPTC cost per job would show film incentives are far less cost effective.

Amber Dodson, director of the Economic Development Department (EDD) Film Division, said New Mexico's FPTC differs from others in that the main impetus is to have productions hire residents and source goods and services from local businesses. FPTC is largely serving New Mexico film partners (Netflix, NBCUNiversal and 828 Productions), with a 25 percent base credit. The average credit issued is 19 percent. In FY24, total tax credit payout caps out at $120 million.

Ms. Dodson said direct production spend in New Mexico totaled $855.4 million in FY22 and $794.1 million in FY23. To grow production statewide, the uplift zone has expanded. Productions in the uplift zone receive additional credit.

Ms. Dodson said the film industry is currently providing about 8,000 jobs in the state, including indirect and induced jobs. In FY23, 82 percent of film production crew in the state were New Mexico residents. The median wage of full time New Mexico resident crew was $35.51 an hour, compared with the median wage of all industries in the state at $19.19. Ms. Dodson noted most film industry jobs do not require a college degree.

Shane Shariff, economist for the EDD Film Division, said economic return on investment (ROI) is an important measure of the tax credit's effectiveness. Mr. Shariff said New Mexico's ROI over the last four years was $7.77 for every dollar. Ms. Dodson remarked on the film industry's positive impact on local economies.

In response to Representative Baca, Ms. Dodson said EDD is developing a media academy to train New Mexicans who want to work in the film industry.

Major State and Federal Appropriation Spending Status Report. Reporting on the status of major state and federal appropriations, LFC Analyst Eric Chenier said about 48 percent of the roughly $2 billion appropriated has been expended. The $1.1 billion in federal American Rescue Plan Act (ARPA) and Coronavirus Aid, Relief, and Economic Security (CARES) Act funding must be obligated by December 31, 2024, and fully expended by December 31, 2026. The funding targets transportation, economic development, rural job creation, pandemic response, healthcare programs, and other needs.

LFC is closely monitoring the expenditure of ARPA funds to potentially sweep and repurpose funding in the event some agencies are unable to fully expend any or a large portion of the funding by the deadlines. The 2024 session will likely be the last opportunity to repurpose this funding. While agencies have expended a portion of most federal state fiscal relief appropriations, there are several notable exceptions. The $20 million for behavioral health provider startup costs appropriated to the Human Services and the Children, Youth and Families departments have not begun to be expended. Also, the General Services Department has not spent any of the $70 million for the Santa Fe executive office building.

The Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA) are two additional bills enacted since ARPA that have the potential to significantly impact opportunities for investment in the state. New Mexico is awarded $5.2 billion in IIJA funding so far, the majority of which is federal Department of Transportation formula grants and new transportation programs. Several IIJA grants are competitive, and some have not been awarded yet, so this amount may increase over the next year or two.

The Inflation Reduction Act (IRA) included about $72.1 billion in competitive grants nationally, of which the state received $13.5 million. The majority of New Mexico's allocation is for methane emissions reduction initiatives.

Additionally, the federal government allocated New Mexico about $44 million for each of the high-efficiency electric home rebate program (HEEHRA) and the HOMES rebate program. HEEHRA is a voluntary program that covers the costs of electrifying homes for low-income and moderate-income households. The HOMES rebate program helps homeowners make their homes more energy-efficient through retrofits.

Of $1.5 billion from three rounds of federal elementary and secondary school emergency relief (ESSER) funding, New Mexico has spent the entire first round. Nearly one-third of the initial funding provided by the Coronavirus Aid, Relief, and Economic Security Act was spent on educational technology.

The Coronavirus Response and Relief Supplemental Appropriations Act provided the second round of ESSER funding, of which nearly 70 percent was spent as of June 2023. As with the first round, schools mostly purchased educational technology and operational services, but also planned to spend $21.3 million to address learning loss and $18.3 million for summer learning and afterschool programs.

The American Rescue Plan (ARPA) provided the last round of ESSER funding, of which 24 percent is currently obligated. The last round of funding must be spent by September 2025, although recent guidance from the U.S. Department of Education will allow schools to continue spending the funds for some multi-year services beyond that deadline.

Mr. Chenier noted school districts and charter schools continued to grow unrestricted cash reserves, carrying over balances of $623 million from FY23. Statewide cash balances grew by $97.5 million, or 19 percent, from the prior year and now represent 17 percent of FY23 program cost.

To track current and future federal grant funding, the Department of Finance and Administration (DFA) is operating two grant management dashboards and a grant management system managed by the agency's new Federal Grants Bureau. In addition to overseeing federal funds, the new bureau is providing grant accounting, audit, and monitoring assistance to agencies seeking federal funding.

Pheobe Suina, owner and project manager of High Water Mark, talked about the challenges facing tribal communities in accessing federal dollars for projects. The largest obstacle is not having enough funds at the local level for cost sharing. Many tribal communities also do not have the capacity to do projects, including grant writers and planners.

Gabe Pacyniak, professor at the University of New Mexico School of Law, talked about a collaboration currently taking place to develop a state model that supports cost-sharing and technical assistance. Professor Pacyniak asked legislators to consider providing between $200 million and $300 million to help local and tribal governments match federal dollars and build capacity.

Industry Outlook for Oil and Gas Markets. Helen Curie, chief economist for Conoco Phillips, said current demand for oil and gas is at an all-time high due to population growth and economic expansion. Meanwhile, the transition to green energy is underway, which economists expect to be gradual and additive as seen in past energy transitions.

Ms. Curie said oil and gas demand will continue to be strong over the long-term, although growth is expected to slow. U.S. production growth will be led by the Permian Basin. Currently, oil demand is exceeding supply; however, prices are expected to steadily decline from 2024 through 2030. Steeper growth is anticipated in the gas market as gas-fired power plants expand. The Permian and Haynesville basins lead growth, with the Appalachia region is limited by pipeline capacity. Economists expect gas prices to rebound after last year's warm winter and remain steady through 2030.

Oil and gas production in New Mexico is driven by the Delaware Basin, a section of the Permian Basin. Ms. Curie said New Mexico's capital efficiency in production is improved, with the Delaware Basin producing higher value oil.

Representative Dixon asked why oil and gas demand will still be high in 2050 despite the transition to green energy. Ms. Curie said the demand will primarily be for petrochemicals, which are used to make plastics, fertilizers, packaging, clothing, digital devices, medical equipment, detergents, tires, and many other products integral to modern society.

In response to Representative Sariñana, Gabrielle Gerholt, director of government affairs for Conoco Phillips, said about 10 percent of water usage in New Mexico is from mining. Ms. Gerholt noted the oil and gas industry has greatly reduced its freshwater consumption, compared with other mining industries.

The Role of Business Taxes, Tax Incentives, and Other State Policies in Economic Development. Timothy Bartik, senior economist for W.E. Upjohn Institute for Employment

Research, said the goal of economic development policy is to increase per capita earnings of residents, noting job growth does not always translate into increased per-capita earnings increases.

Reporting on economic development policy research, Mr. Bartik said policymakers should consider the cost per job of job creation programs. Mr. Bartik explained business tax cuts are high cost because they are not targeted. Incentives do better because they are targeted at export-based businesses making investment decisions. Infrastructure and customized services can provide services with value much greater than costs.

Mr. Bartik said most jobs do not end up increasing local employment rates, but instead go to immigrants. Also, the benefit-cost ratio of many "labor supply" programs is greater than for incentives or business tax cuts.

Mr. Bartik outlined four policy recommendations:

- Incentives should not be funded by inadequately funding infrastructure, customized business services, or labor supply/skills programs.
- Business tax incentives should be subject to an enforceable budget cap.
- Economic development dollars should be targeted to distressed places.
- Economic development programs should be better linked to workforce development programs.

Thursday, September 28

The following members and designees were present on Thursday, September 28, 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, Harry Garcia, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, Brian G. Baca, and Derrick J. Lente. Guest legislators: Senators William F. Burt, Martin Hickey, Antonio Maestas, Michael Padilla, William P. Soules, Mimi Stewart, and Bill Tallman; and Representatives Anthony Allison, Cathrynn N. Brown, Gail Chasey, Art De La Cruz, Joy Garratt, Pamelya Herndon, Ryan T. Lane, Tara L. Lujan, Marian Matthews, Randall T. Pettigrew, Linda Serrato.

Medicaid Accountability Report. LFC Program Evaluators Rachel Mercer-Garcia and Sarah Dinces, Ph.D., presented the *2023 Medicaid Accountability Report*. The Medicaid program is the state's largest expenditure. Between February 2020 and February 2023, Medicaid enrollment grew 20 percent, peaking around 1 million—nearly half the state's population. Meanwhile, spending during this period grew at a faster rate. In FY23, spending on the state's Medicaid program surpassed $8.9 billion, growing 59 percent since FY19.

During the pandemic, the federal public health emergency (PHE) prevented states from disenrolling Medicaid recipients, pausing federally required checks for income eligibility. As a result, total Medicaid enrollment grew by roughly 20 percent between FY19 and FY23. The PHE ended in the spring of 2023, and the Human Services Department (HSD) began the process of unwinding, or redetermining the eligibility of every Medicaid recipient. Between April and August 2023, 98 thousand New Mexicans were disenrolled from Medicaid, and HSD projects enrollment will stabilize around 923 thousand in June 2024.

Medicaid aims to provide healthcare for some of the state's most vulnerable populations, yet insufficient numbers of providers cause Medicaid clients to experience challenges accessing care when they need it. Though managed care organizations (MCOs) generally meet their contractual standards for "network adequacy" or enough providers, metrics related to patient experience suggest clients may be unable to access care when they need it. Additionally, use declined in many service categories. This trend mirrored decreased utilization among private health insurance plans during the pandemic. Strategies to improve network adequacy include strengthening MCO contractual standards and accountability and rate increases for healthcare providers. In FY24, the Legislature appropriated $98 million to increase the rates Medicaid providers are paid.

The state's managed care program accounts for around 83 percent of all Medicaid enrollees. The state was set to renew its managed care program in January 2024 and initiated a request for proposals for MCOs in 2022. Draft contracts for the state's next iteration of managed care, known as Turquoise Care, include some promising improvements to MCO accountability, including strengthening quality and access standards. However, in January 2023, HSD halted the contracting process. Following an agreement with the State Ethics Committee, HSD will award the four MCOs initially selected in the RFP process. However, the implementation of the new contracts will be delayed until July 2024, delaying some of the new accountability measures, though easing implementation challenges.

Acting Secretary Kari Armijo said HSD's unwinding goals are to successfully implement a return to prepandemic routine operations for Medicaid and Supplemental Nutrition Assistance Program (SNAP) renewals and keep people covered by retaining eligible New Mexicans on Medicaid and seamlessly transitioning ineligible New Mexicans to other coverage. To achieve these goals, the agency is prioritizing data analysis and review, ensuring a sufficient workforce to enable timely case processing, and communicating with customers and stakeholders.

Ms. Armijo said HSD is working with the U.S. Centers for Medicare and Medicaid Services to ease renewals. This includes seeking approval to

- Maintain continuous enrollment for children 6 years old and younger,
- Re-enroll automatically eligible children into Medicaid who have lost coverage during the unwinding,
- Extend the deadline to submit Medicaid renewal application from 45 to 75 days, and
- Renew automatically Medicaid coverage for New Mexicans with incomes up to 100 percent of the federal poverty level.

New MCO contracts will become effective July 1, 2024, a change from the initial go-live date of January 1, 2024. Ms. Armijo said the later date will minimize disruption for Medicaid customers and allow HSD to focus on recertifying eligibility of over 900 thousand individuals.

Ms. Armijo provided an overview of current Medicaid spending. Over the last nine years, the per-member per-month cost has increased 11.9 percent.

In response to Senator Hemphill, Ms. Armijo said significant progress has been made in building New Mexico's behavioral health provider network, including in rural communities.

Senator Hemphill asked about "Medicaid Forward," a proposed healthcare coverage option that would allow New Mexicans who do not qualify for Medicaid to instead purchase an affordable plan through the program with income-based premiums and co-pays. HSD is tasked with studying and designing the potential healthcare coverage option. Ms. Armijo said HSD selected a research vendor and is currently finalizing the study's scope of work. The study is scheduled to be completed by October 2024.

In response to Chairman Munoz, Ms. Armijo said HSD is working with the Children, Youth and Families Department to expend the $20 million appropriated about two years ago.

Status of Educator Workforce and "Below-the-Line" Funding. LFC Analyst Sunny Liu said, since the Martinez-Yazzie court ruling in 2019, the Legislature has increased recurring funding for public schools to $4.2 billion, an increase of $1.5 billion, or 55 percent. Nearly half of the total increase is going to educator compensation, including higher minimum salaries, across-the-board raises, and expanded coverage of benefits. With the average teacher salary now averaging $63.6 thousand, New Mexico ranks 41st in the nation, up from last year's 22nd rank.

Beyond pay increases, the state has reduced barriers to entry by funding teacher residencies, providing stipends for students during the student teaching experience, offering financial assistance and time off for educational assistants taking coursework to become a teacher, allowing retirees to return to work, providing a portfolio alternative to licensure tests, and increasing appropriations to the teacher preparation affordability scholarship and teacher loan repayment funds.

Mr. Liu said, while New Mexico has substantially improved the recruitment of new teachers in recent years, the state continues to have special education teacher vacancies, high turnover rates, a lack of workforce diversity, a declining student population, and more training needs for teachers after they have entered the classroom. Neighboring states have also raised compensation levels for educators to remain competitive, and changes to working conditions following the pandemic will affect the attractiveness of the profession moving forward. LFC staff recommends the state focus more on programs that provide longer clinical practice experiences and expose students to teaching sooner (like residencies and educator fellows) and prepare candidates for their first year of teaching, given about 1,500 level 1 teachers leave their classrooms each year in New Mexico.

For FY24, the Legislature provided $25.9 million in recurring general fund appropriations to PED for special programs.

The state further provided $223 million for other PED initiatives from nonrecurring funding sources, including $183 million from the public education reform fund (PERF). Mr. Liu said a large proportion of these initiatives may have recurring costs, but PERF's unbudgeted balance is currently only $3 million.

Other concerns were also noted in the LFC staff brief:

- PED did not submit FY25 special program requests with its operating budget request on September 1, as required by law.

- PED continues to use special program funding to supplement its operating budget, reducing allocations for direct services and grants to schools.
- Staff analysis of special program appropriations above $5 million with recurring costs show most funds have been encumbered or expended for FY24, with mixed implementation and fidelity to evidence-based practices.
- Few PED initiatives have an evaluation or measurement plan, suggesting the agency has limited or no capacity to research or report data on the impacts of their initiatives.
- PED continues to report delays in processing reimbursements and reporting key performance metrics, such as student proficiency and graduation data.

PED Secretary Arsenio Romero provided an overview of current priorities. To support the educator ecosystem, Phoebe Walendziak, assistant director of educator quality and ethics at PED, said the agency is focusing initiatives on recruitment and high-quality teacher preparation. Last school year, 96 Golden Apple scholars were recruited in the state. PED's preparation programs include paid student teaching, teacher residency, and educator fellowship. In addition, PED is developing a school leadership institute.

Mandy Carpenter, executive director of talent management and development at Clovis Municipal Schools (CMS), talked about the success of CMS's educator fellows' program, supported by PED. Almost all the district's current fellows are committed to staying in Clovis. Ms. Carpenter said the program is significantly helping the school district grow its educator pipeline.

In response to Representative Baca, Ms. Walendziak said the *2023 Educator Accountability Report*, available in November, will provide completer data on alternative and traditional programs.

In response to Representative Dixon, Gregory Frostad, assistant secretary of PED policy, research and technology, said PED's FY25 funding request for special programs will be submitted along with the public school support request in November. According to state statute, Mr. Liu said PED funding requests outside public school support—student equalization guarantee (SEG), transportation, and instructional materials—must be submitted by September 1.

<u>Paid Family Medical Leave.</u> Sarah Jane Glynn, Ph.D., senior advisor for the U.S. Department of Labor Women's Bureau, said most low-wage workers do not have access to paid leave. Thirteen states and Washington D.C. currently have family and medical leave laws, with various program designs. To function efficiently and effectively, Ms. Glynn said paid leave systems must be able to

- Evaluate a qualifying event,
- Determine program eligibility,
- Calculate benefit amount and process payments,
- Accurately process information in a timely manner, and
- Review and process appeals for claims initially denied.

Jeff Hayes, survey statistician for the U.S. Department of Labor Women's Bureau, said paid family and medical leave legislation was proposed during New Mexico's 2023 legislative session, but not passed. The legislation proposed a paid family and medical leave program for all private and governmental employees in the state, covering workers who need to take a longer period of time away from work to bond with a new child, care for themselves or a family member with a serious medical condition, deal with a death of a family member, respond to a family member called to active duty, and deal with a domestic violence, sexual assault, or stalking situation. The self-employed would have also been able to opt in.

Likely to be reintroduced next session, the program would be funded with employee and employer contributions and cover 100 percent of wages up to minimum wage or 67 percent of higher wages. The benefit would last up to 12 weeks within a 12-month period.

Worker PLUS is an open-source simulation tool to estimate the effects of various worker leave scenarios and policy options on worker leave-taking behavior. The tool is also used to estimate the benefits paid as well as costs of administering any given program. Based on current workforce, the proposed program in New Mexico would result in about 38 thousand eligible claims a year, which Mr. Hayes noted is a rough estimate. Adjusting for workforce growth, eligible claims could total 41 thousand in 2026, costing $208.4 million.

In response to Representative De La Cruz, Ms. Glynn said safeguards, like requiring medical certification, could largely prevent fraud and abuse in the program, as seen in other states.

In response to Representative Sariñana, Ms. Glynn said employees would contribute 0.5 percent of wages and employers would contribute 0.4 percent of wages, according to the program currently proposed. Employers with four employees or less would not have to contribute.

In response to Representative Small, Ms. Glynn said evidence suggests paid family and medical leave supports labor force participation. In particular, women are more likely to return to the workforce after receiving paid maternity leave.

Miscellaneous Business.

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

Reports and Information Items. Charles Sallee, director of LFC, briefed the committee on information items.

Friday, September 29

The following members and designees were present on Friday, September 29, 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, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, Ryan T. Lane, and Derrick J. Lente. Guest legislators: Senator Martin Hickey and Representatives Cathrynn N. Brown, Joy Garratt, and Tara L. Lujan.

Program Evaluation: Major Risk Funds of the Risk Management Division. LFC Program Evaluation Manager Micaela Fischer presented the report *Major Risk Funds of the Risk*

Management Division. Since the late 1970s, New Mexico's Risk Management Division (RMD) within the General Services Department (GSD) has provided self-funded and private insurance coverage, loss prevention, dispute resolution services, and legal defense for state agencies and public bodies. Today, however, state risk laws and policies are not optimized to cover or prevent escalating settlement costs. In recent years, certain changes in the laws defining the state's liability have impacted the predictability and regularity of both the number and severity of claims RMD is tasked with settling. Further, the escalating cost of property insurance and policies that RMD uses to collect revenues from agencies and other governmental entities have made the division's revenue collection mismatched to changing settlement needs.

The state is also not doing enough to help keep large settlements and other claims costs from occurring. The state (1) has no cap on liability coverage, which could otherwise help leverage smaller settlements; (2) is paying for increasingly costly property insurance while making relatively few claims against it; (3) has no formal or centralized loss prevention activity occurring; and (4) has no outlined steps for remediating nor preventing future losses after a claim or settlement has been made.

The state also lacks adequate transparency measures to inform the Legislature and public when major losses occur. Because of a lack of statutorily required reporting and the limited information required by statute in that reporting, the Legislature and the public are left without a complete picture of the financial and legal consequences of state settlements. This lack of knowledge hamstrings the ability of the Legislature to hold agencies and other state entities accountable for losses.

LFC staff recommends GSD

- Follow the rules in the New Mexico Administrative Code and only use a one-year delay in calculating incurred losses,
- Consider adjusting its rules to increase the cap for the loss development factor,
- Develop criteria for when special assessments will be made to preserve fairness and regularity,
- Consider the merits of ceasing to procure excess property insurance, given its escalating cost,
- Report to the Department of Finance and Administration and LFC quarterly payments on all claims over $25 thousand, including settlements and judgments from all risk funds by agency,
- Monitor and report on agency loss control efforts in its annual report, and
- Analyze mediation and claims data to target preventive training to agencies and topics at higher risk for employee claims.

Also, the Legislature should consider

- Capping the maximum amount RMD can offer for settlements or adverse judgments,
- Clarifying statute with requirements for claims paydown before higher education institutions leave RMD coverage,
- Updating the risk management statute in Section 15-7 NMSA 1978 to require legislative, Attorney General, or Department of Finance and Administration approval of settlements

over $500 thousand from the public property fund or the amounts specified in the Tort Claims Act and New Mexico Civil Rights Act from the public liability fund, and
- Updating the risk management statute in Section 15-7 NMSA 1978 to mirror Washington's requirement that agencies investigate and report significant losses.

GSD Secretary Robert Doucette said the agency agrees with the findings identified in the evaluation and is already implementing several of the recommendations.

In response to Senator Woods, Secretary Doucette said the recently filled Risk Management Division director position had been vacant since August 2021.

Health Insurance and Risk Rates. Executive Director Patrick Sandoval said the Public School Insurance Authority (NMPSIA) provides risk and benefit insurance for 88 school districts, 101 charter schools, and 27 other educational entities, insuring over 76 thousand individuals. Agency revenues are derived from other state funds.

For FY25, NMPSIA requests a budget increase of $26.5 million, or 7.24 percent, for its benefits program. Mr. Sandoval explained the cost of medical claims is projected at $328.7 million in FY25, an increase from the estimated $302.9 million in FY24. About 35 percent of NMPSIA's medical cost is generated by 1 percent of its members who typically have the following conditions: hyperlipidemia, hypertension, mental health, obesity, and diabetes.

For risk management, NMPSIA requests a $31.9 million increase. Mr. Sandoval said the agency requests the 31.9 percent increase to cover the projected rise in cost of property and liability claims.

Todd Torgerson, chief of human resources and legal support services at Albuquerque Public Schools (APS), said a combination of factors, including inflation, is putting pressure on benefit and risk programs. Mr. Torgerson said APS employs 10,887 permanent employees and has a total insured property value of $3.3 billion. For FY25, APS requests a 9.8 percent increase for its benefits program.

Kari Armijo, acting secretary of the Human Services Department (HSD), said HSD is transitioning into the New Mexico Health Care Authority (HCA). Its mission is to ensure New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality healthcare and safety-net services. Acting Secretary Armijo said HCA set four goals:
- Leverage purchasing power and partnerships to create innovative policies and models of comprehensive healthcare coverage that improve the health and well-being of New Mexicans and the workforce;
- Achieve health equity by addressing poverty, discrimination, and lack of resources, building a New Mexico where everyone thrives;
- Implement innovative technology and data-driven decision-making to provide unparalleled, convenient access to services and information, and
- Build the best team in state government by supporting employees' continuous growth and wellness.

In FY25, HCA will serve 1.1 million New Mexicans, 52 percent of the population, with a proposed budget of $12.89 billion. The proposed budget includes $2.29 billion from the general fund. Acting Secretary Armijo said a transition plan will be submitted to the Legislature in November, outlining additional HCA details, organization, and priorities.

Senator Hickey said outpatient facility fees are driving increased medical costs.

In response to Senator Hickey, Robert Doucette, secretary of the General Services Department, said the agency will ensure the recently issued RFP meets statutory requirements.

In response to Representative Chatfield, Secretary Doucette said the state employee contribution to the benefits program increased 10 percent in FY24 but is still not enough to cover the current deficit in the program.

New Mexico Local Government Finances. LFC Chief Economist Ismael Torres said local governments in New Mexico rely on state and local revenue sources to support their operations, including gross receipts taxes and dedicated state funds, which have grown significantly. Major expenditure categories for local governments include public safety, general control, and health and human services. However, comparing complete revenues and expenditures across localities is challenging due to the absence of detailed data.

Mr. Torres provided an overview of common and major sources of funding to local governments, including tax revenue, local one-time funding, debt, and capital outlay sources. Mr. Torres said little data is available on local-level expenditures and revenues. However, the Department of Finance and Administration (DFA) hosts local government finance data in its local government budget management system, providing information about total general fund for local government revenues, expenditures, and cash balances. General fund data from FY22 shows municipal expenditures statewide totaled $1.6 billion and county expenditures totaled $916 million.

Mr. Torres said comparing expenditure data across counties and municipalities is difficult because of differences in reporting. Some include detailed actual expenditure data at line-item level, while others report expenditures more broadly.

According to U.S. Census Bureau data, local-level expenses in New Mexico grew 12 percent from 2017 to 2021, with the largest increases occurring for operations.

Fourth Quarter Report Cards. LFC Director Charles Sallee presented the FY23 fourth quarter report cards. Highlighting key performance, Director Sallee said the Early Childhood Education and Care Department reported mixed results at the close of FY23. The Home Visiting Program exceeded targets for annual number of visits per family, but the completion rate was only 7 percent. Furthermore, only 440 families were enrolled in the Medicaid-Funded Home Visiting program, falling short of the 1,500 target.

Reversing a positive trend observed in the last two years, the number of children in foster care, relative care, or other placements increased 14 percent since December 2022. Additionally, the state's rate of repeat maltreatment increased from FY22 levels. Overall, four of the six maltreatment performance outcomes measured by the Children, Youth and Families Department are in the red. The number of youth in secure juvenile justice facilities, however, continues to shrink.

The Public Education Department has not yet published disaggregated data on student achievement, although preliminary results for fourth and eighth grade students suggest math and reading scores, along with graduation rates, have stagnated. Chronic absenteeism rates have dipped slightly but remain high at 35.8 percent. In addition to falling behind on performance reporting, the agency reports continued delays in processing federal reimbursements.

New Mexico higher education institutions are the sixth-best funded in the nation but rank 49th in graduation and 50th in student retention. It is likely financial barriers to success will be addressed through financial aid programs, but institutions will be challenged to improve student support services for nonfinancial barriers, such as academic under preparedness and mental health concerns. It is currently unclear how funds appropriated for student support and general operating budget increases have improved student outcomes.

The Department of Health reported some improvements in performance across the agency at the close of FY23. However, state health indicators, especially those related to substance use disorder, are contributing to overall declines in the health of at-risk populations in the state. Additionally, the agency overspent its budget for state facilities and will submit a request for a deficiency appropriation for over $5 million. The global pandemic continued to affect the intake and capacity of the Facilities Management Program. Many of the state facilities with declining occupancy will experience significant operational funding strains if they are unable to reverse the trend. At the close of FY23, the facilities statewide census was 47 percent of total beds.

The Aging and Long-Term Services Department reported some decline in performance. The Adult Protective Services Program met its performance target for priority investigations, making face-to-face contact quickly, and increased outreach events. However, the Aging Network did not meet targeted performance for the hours of caregiver support, continuing to fall below prepandemic levels.

An August 2023 LFC progress report on addressing substance use disorders stated efforts to expand treatment have not kept pace with the increased magnitude of substance use needs. Overdose deaths nearly tripled between 2013 and 2021, with most of the increase occurring in the last few years. The state is investing roughly $800 million annually in the Medicaid behavioral health program, which is the largest payer of substance use treatment in the state and provides behavioral health insurance coverage to nearly half of all New Mexicans. Despite these investments, New Mexico has not yet been able to reverse trends in substance-related deaths.

For criminal justice partners across the state, effects of the pandemic have slowly abated, and measures have returned to prepandemic averages. However, the challenges that faced these agencies have persisted for some and evolved for others. Recurring issues for the courts, public defenders, and district attorneys continue to inhibit the state's responsibility to enforce the law and provide adequate defense for indigent people accused of crimes.

The Department of Public Safety (DPS) is in the midst of a multiyear transition to the new national incident-based reporting system (NIBRS), which will provide more timely and comprehensive data. NMSP and other law enforcement agencies are not anticipated to be fully NIBRS compliant until late 2023 at the earliest. The current lack of complete and timely data on crime is hindering the ability of DPS, NMSP, and policymakers to use actual crime data to make decisions about criminal justice and public safety.

Prison populations continued to decline for the fourth consecutive year. While data suggests these trends may be stabilizing, reductions in population have not led to a decrease in spending. In FY23, the Corrections Department saw sustained improvements in recidivism and made significant gains in metrics related to inmate education, but vacancy rates among correctional officers and probation and parole officers remain high.

The Energy, Minerals and Natural Resources Department met or exceeded several of its performance targets for providing training and improving both revenue and visitation at State Parks. The Oil Conservation Division (OCD) issued 2,552 violations during routine inspections in FY23.

The Office of the State Engineer made progress toward reducing New Mexico's interstate stream compact compliance debts, while also increasing the number of offers submitted to defendants through its litigation and adjudication Program. The Dam Safety Bureau continued to address its backlog but is constrained by staff shortages.

Regulatory programs of the Environment Department (NMED) continued to demonstrate mixed results in compliance levels. However, the agency is prioritizing compliance enforcement and is making progress toward achieving its performance goals, despite maintaining a vacancy rate of 19 percent. Many public water systems throughout the state struggle to comply with current drinking water requirements due to a lack of operational capacity, requiring NMED staff to provide more technical and compliance-related assistance.

While the Economic Development Department (EDD) surpassed performance targets for most measures in FY23, performance across the board was lower than in FY22. The agency notes the cost of lending and increased inflation have slowed companies from expanding. In FY23, EDD shifted efforts to attract companies that offer competitive wages and surpassed the target for waves of jobs created in excess of prevailing local wages and increased the annual average wage of new jobs.

The Tourism Department (NMTD) met or exceeded most performance measures and is positioned to meet targets where performance was low with dedicated new staff for outreach. In FY23, the agency awarded $3.9 million to 41 partners through the cooperative program to provide guidance in marketing and advertising. Notably, the agency secured 14 times the target for earned media in FY23.

New Mexico continues to have a low labor force participation rate (LFPR). In FY23, 50 thousand individuals received employment services in a Connections office, about half of Workforce

Solutions Department’s target of 100 thousand. Agency efforts to improve the state’s LFPR will require a larger outreach efforts and case management services.

The General Services Department is projecting a year-end deficit in the employee group benefits fund, despite additional appropriations designed to ensure the fund has sufficient resources to continue to pay health insurance claims. Balances in other risk management funds held steady, but the net position of the public liability fund remains low.

The State Personnel Office prioritized reducing the time it takes agencies to fill vacant positions, with the time falling to 55 days. Vacancy rates for classified employees remain stubbornly high, largely due to an increase in the number of authorized positions. Additionally, state agencies approved a large number of out-of-cycle temporary salary increases.

The Taxation and Revenue Department fell short of its target for collectible audit assessments in FY23, but met its annual target for tax collections, with nearly all categories of collections being substantially higher than those submitted in the third quarter of FY22.

Cost increases have impacted road construction and maintenance projects, but road conditions have overall improved from prior years, due to supplemental funding. Despite high road maintenance activity in the fourth quarter, the Department of Transportation fell just short of its pavement preservation target.

The cybersecurity project managed by the Department of Information Technology (DoIT) has been upgraded to a green status. Several projects outside DoIT management, however, are trending downward, including the Human Services Department child support enforcement system replacement project, which has been pushed out two years. The Higher Education Department’s longitudinal data system project is also falling behind, and the agency has increased the budget to $14.1 million.

The value of New Mexico’s combined investment holdings grew $1.07 billion quarter-over-quarter. For the year, funds gained $5.07 billion, or 7.7 percent.

With no further business, the meeting adjourned at 11:55 a.m.

George K. Muñoz, Chairman

Nathan P. Small, Vice Chairman