

MINUTES
Legislative Finance Committee
State Capitol, Room 322 - Santa Fe, NM
October 24 - 27, 2023

Tuesday, October 24

The following members and designees were present on Tuesday, October 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, Harry Garcia, Jack Chatfield, Debra M. Sariñana, Ryan T. Lane, and Derrick J. Lente. Guest legislators: Senators Michael Padilla and Benny Shendo, Jr.; and Representatives Art De La Cruz, Joy Garratt, Pamelya Herndon, Susan K. Herrera, Tara L. Lujan, Rod Montoya, and Randall T. Pettigrew.

Tourism Department (418). Lancing Adams, acting secretary of the Tourism Department, said the agency’s mission is to grow New Mexico’s economy through tourism. In 2022, New Mexico saw 40.8 million trips, a 4.7 percent increase over 2021 and 9.3 percent increase over 2019. Almost half of the overnight trips included a cultural activity, compared with the U.S. average of 29 percent. The total economic impact of tourism in 2022 was \$11.2 billion, including \$782 million in state and local taxes generated. The industry sustained over 91 thousand jobs.

Mr. Adams said investing in tourism grows and strengthens communities and preserves heritage through shared culture. The New Mexico True brand promises adventure steeped in culture. To deliver on this promise, tourism development in the state is focused on delivering quality amenities, attractions, and access.

Outlining current priorities, Mr. Adams said the Tourism Department’s FY25 budget request includes funding to grow and sustain tourism events in the state. Launched in FY23, the initiative provides technical assistance, marketing, and sponsorship to qualified tourism events, supporting their growth and sustainability. For example, the Tourism recently awarded a grant to the Bernalillo Indian Arts Festival to improve website design and develop an on-site tool to track festival attendance and visitor demographics.

To remain competitive, Mr. Adams said it is critical that the state focus strategically on improving tourism-related assets by investing in the infrastructure that residents and visitors enjoy. Presently, the Tourism Department’s online dashboard identifies 111 tourism-related infrastructure projects across the state, totaling \$314.7 million. Only \$109.6 million is currently funded; however, a new grant program—Destination Forward—is now available to provide partial funding to get projects done. The program recently awarded 10 projects partial funding, totaling \$1.9 million.

Other key priorities include growing the New Mexico Clean and Beautiful program, engaging in the federal Route 66 Centennial Commission, and establishing a marketing excellence bureau.

Targeting the most valuable and likely travelers, the Tourism Department is currently driving demand in eight key markets: Austin, Dallas, Houston, Denver, Phoenix, San Diego, Los Angeles,

and San Francisco. The agency is also driving local tourism through its cooperative marketing grant program. Mr. Adams said New Mexico's competitive advantage is the state is great for experiencing native culture, customs, and traditions. In addition to being authentic, colorful, and artsy, New Mexico has interesting historical sites, unique local cuisine, and excellent outdoor activities.

Mr. Adams remarked on the impact of earned media, which he said had the advertising value equivalency of \$23.9 million in FY23.

For FY25, the Tourism Department requests \$28.3 million from the general fund, a \$3.8 million increase over FY24. Mr. Adams said the agency requests the increase to maintain current funding levels for programs, continue the Travel Trade program, support three new positions, and realign and fully fund positions in their appropriate programs. The Travel Trade program was previously funded with federal dollars.

The agency's vacancy rate is currently 16.7 percent.

The Tourism Department also requests four special appropriations: \$15 million for national advertising, \$3 million for the Destination Forward program, \$5 million for the Route 66 Centennial Commission initiative, and \$2 million for the Marketing Excellence Bureau.

Chairman Muñoz said capital outlay should be requested for Destination Forward and Route 66 instead, noting the programs develop infrastructure at the local level.

Senator Campos asked the Tourism Department to provide LFC the list of members appointed to the Route 66 Centennial Coordination Group.

Veterans' Services Department. Brigadier General Jamison Herrera, acting secretary of the Veterans' Services Department (VSD), reported on current activity and said veteran service officer (VSO) engagement with veterans across the state increased 48 percent in FY23, largely due to enactment of the federal PACT Act. VSO workload could increase even further should congress approve additional conditions in the act. The agency currently has three vacant VSO positions.

Brigadier General Herrera said VSD hosts two honor guard training conferences a year. The state currently has 26 active honor guard teams. VSD requests \$200 thousand in recurring general fund dollars to support the Burial Equity for Guards and Reserves Act. Enacted in 2022, the federal law ensures every National Guardsman and Reservist is eligible to be buried in a state veterans' cemetery, as long as their service was not terminated under dishonorable conditions. VSD currently operates three state veterans cemeteries: Gallup, Fort Stanton, and Angel Fire. A fourth cemetery is planned for Carlsbad, with construction expected to begin in 2025.

The federal highly rural transportation grant program is currently serving 15 counties and 5 tribal communities in the state. To expand medical transportation services to the northeast, southeast, and southwest parts of New Mexico, VSD requests \$370 thousand in state funding.

VSD's FY25 budget request totals \$13.3 million from the general fund, a \$6.1 million increase over FY24. Majority of the increase is to fund 100 currently unfunded FTE positions and expand by 26 FTE. Brigadier General Herrera explained more personnel is needed to support the expansion of services across the state and ensure veterans receive the care and benefits they have earned while addressing veteran homelessness, suicide prevention, and medical transportation.

VSD also requests \$12 million in capital outlay to develop a veteran resource center and \$600 thousand to establish a veteran mobile unit.

In response to Senator Gonzales, Brigadier General Herrera said construction of the county-owned veterans cemetery in Taos is in its second phase.

In response to Senator Campos, Brigadier General Herrera said VSD is confident it will be able to fill its large personnel request, noting VSO pay recently increased. The agency's vacancy rate averaged 6 percent in FY23.

Senator Rodriguez remarked on making a way for veterans to acquire healthcare coverage outside Veterans Affairs.

Indian Affairs Department (609). James Mountain, secretary designate of the Indian Affairs Department (IAD), said the agency requests \$5.2 million from the general fund for FY25, a \$602 thousand increase over FY24. Majority of the increase is for personnel services and employee benefits: 4 additional FTE for the Missing and Murdered Indigenous Women initiative and 1 additional FTE for the Administrative Services Division.

Mr. Mountain said IAD is working to fill vacancies, with six positions expected to be filled in the next two weeks. The agency's vacancy rate is currently 42 percent.

Senator Woods expressed concern about unspent capital outlay and stalled projects in tribal communities. Mr. Mountain said insufficient funding and lack of capacity are among the challenges facing tribes.

In response to Senator Campos, Chief Financial Officer Monica Maestas said IAD requests an additional FTE for the Administrative Services Division to help process capital outlay payments.

Wednesday, October 25

The following members and designees were present on Wednesday, October 25, 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, and Ryan T. Lane. Guest legislators: Senators Martin Hickey and Gerald Ortiz; and Representatives Kathleen Cates, Art De La Cruz, Joy Garratt, Susan K. Herrera, Tara L. Lujan, Rod Montoya, Cristina Parajón, and Elizabeth "Liz" Thomson.

Preview of Special, Supplemental, and Deficiency Requests. LFC Analyst Joseph Simon and DFA Analyst Simon Miller reviewed agency requests for special, supplemental, deficiency and

information technology appropriations. Requests total \$2.09 billion, but this does not include requests for public schools and for institutions of higher education. This reflects a \$353 million increase, or 20 percent, over the amount requested in 2023. Once requests for higher education and public schools are received, total requests could top \$2.5 billion.

Agencies continue to request a large number of small dollar items. Almost half of the requests are for \$500 thousand or less and about 20 percent are for \$100 thousand or less. Small dollar requests are often for relatively routine purchases, such as office equipment, which should be part of agency operating budget requests.

Agencies request a total of \$48.9 million for personnel expenses through special appropriations. Requests for personnel should be carefully scrutinized, as this could involve funding a recurring cost (staff salaries) with a nonrecurring funding source.

Deficiency requests total \$86.6 million, mostly for costs related to prior year rate freezes for life and health insurance coverage.

Agencies request \$229 million in supplemental appropriations for FY24, several of which are to increase employee compensation or fund additional positions in the current year.

Public Employees Retirement Association (366). LFC Analyst Joseph Simon said the Public Employees Retirement Association requests a 5 percent budget increase for FY25 to fund unfunded positions, expand by 1 FTE, and meet contractual and technology needs.

PERA Director Greg Trujillo said FY23 membership totaled 47,855 active employees and 45,216 retirees and beneficiaries. PERA achieved a 4.2 percent rate of return, closing FY23 with a \$16.6 billion fund value. PERA's funded ratio dropped to 67.7 percent, largely due to pay increases. The amortization period, however, decreased to 53 years. Director Trujillo cautioned that PERA is on track to have more retirees than active members in the next two years.

Director Trujillo said PERA is asking for one new FTE to meet the increased number of Inspection of Public Records Act requests it receives.

Senate Bill 72 of 2020 enacted pension reform. Now in its fourth year of implementation, Director Trujillo said employee and employer contribution rates increased by 0.5 percent for the fourth and final time. Retired members received an additional 13th check in lieu of cost-of-living adjustment (COLA) in FY21, FY22, and FY23. Starting in FY24, PERA will provide for a profit-share compounding COLA calculation tied to both investment performance and the funded ratio of its fund for all current and future retirees, with a 0.5 percent floor and 3 percent maximum until 100 percent funded.

Educational Retirement Board (352). LFC Analyst Joseph Simon said the Educational Retirement Board (ERB) requests a \$270 thousand budget increase for FY25.

ERB Director David Archuleta said FY23 membership totaled 61,503 active employees and 54,774 retirees and beneficiaries. ERB achieved a 5.6 percent rate of return, closing FY23 with a

\$16.21 billion fund value. Although ERB's funded ratio slightly fell to 62.9 percent, the amortization period decreased to 26 years.

Reporting on current activity, Director Archuleta said construction of a new ERB office is scheduled to start in January and complete by spring. Modernization of ERB's pension administration system is underway. The project is estimated at \$30.5 million and scheduled to complete in June 2027. One of ERB's four return-to-work programs will sunset in January. This year, 71 percent of ERB retirees received a cost-of-living adjustment, ranging from 3.6 percent to 4 percent.

Director Archuleta said ERB requests a slight budget increase to cover travel, subscription, moving, and IT expenses.

In response to Senator Gonzales, Director Archuleta said ERB's current office building will be sold to the General Services Department, on behalf of the Public Regulation Commission.

State Investment Council (337). LFC Chief Economist Ismael Torres said the State Investment Council (SIC) requests a \$7.8 million budget increase for FY25, primarily in the contractual services category due to asset growth. The requested increase also includes \$1.9 million to fill 4 vacant positions and hire an additional 6 FTE.

Interim State Investment Officer Charles Wollmann said SIC is searching for a permanent state investment officer to lead the agency. With interviews of potential candidates taking place next week, SIC anticipates the position to be filled by December.

In FY23, SIC returned 7.1 percent for the land grant permanent fund and 5.9 percent for the severance tax permanent fund.

Interim SIO Wollman said SIC is experiencing growing pains, pointing out its portfolio growth from \$14 billion in 2010 to \$46.3 billion currently. Also, the agency is managing a larger number of permanent funds and client accounts than it did a decade ago. SIC Chief Financial Officer Brent Shipp said the FY25 budget request reflects an adequate budget to meet this growth.

In response to Senator Gonzales, Interim SIO Wollman said SIC's recruitment and retention challenges are primarily due to its below market salaries.

Spaceport Authority (495). LFC Analyst Julisa Rodriguez said the Spaceport Authority requests \$4.6 million from the general fund for FY25, a \$379 thousand increase over FY24. Majority of the increase is to fill 31 vacant positions

Spaceport Authority Director Scott McLaughlin remarked on recent activity at Spaceport America, including Prismatic's first high altitude flight and Virgin Galactic's flights to space. Director McLaughlin said the spaceport hosts several STEM events throughout the year. The 2023 Spaceport America Cup was the largest to date, with 4,901 participants. Next year's Cup event will be held June 17-22.

Spaceport Authority operations are now about 65 percent self-funded. Director McLaughlin noted that balancing increased operations, business development, and infrastructure improvements has been challenging. Also, the agency continues to have a high vacancy rate, averaging 25 percent.

Director McLaughlin said a study by the New Mexico State University Center for Border and Economic Development revealed the spaceport in 2022 generated 810 jobs and \$60.4 million in New Mexico's economy.

In response to Senator Hemphill, Director McLaughlin said Spaceport America welcomes school tours at no charge.

In response to Vice Chairman Small, Director McLaughlin said the agency is currently updating its strategic plan.

Border Authority (417). LFC Analyst Julisa Rodriguez said the Border Authority requests \$604 thousand for FY25, flat budget with FY24. The request includes \$549 thousand from the general fund, a slight increase to cover contracts and other services previously funded with rental and lease revenue. The agency anticipates a \$54 thousand decline in other revenue.

Jon Clark, acting secretary of the Economic Development Department (EDD), said the Border Authority and EDD are working together to boost international trade at the border, noting New Mexico is currently recognized as the fastest growing state for international exports. Santa Theresa, in particular, is generating most international trade in the state.

Border Authority Board Chairman Joseph De La Rosa said construction of a border highway connector is among several projects currently in progress, but the border continues to lack critical infrastructure due to budget limitations and an out-of-date comprehensive plan. A comprehensive study is getting underway, however, to determine needs and recommendations.

Mortgage Finance Authority. Executive Director Isidoro "Izzy" Hernandez said the New Mexico Mortgage Finance Authority (MFA) became New Mexico's designated housing agency in 1997, tasked with administering all state and federal housing programs in the state to ensure every New Mexican has access to quality and affordable housing. Mr. Hernandez said MFA resources, derived from federal, state, and other sources, are allocated to over 40 housing programs that support the entire housing continuum—homelessness to homeownership. The agency relies on over 300 partners to deliver services at the local level.

Robyn Powell, director of policy and planning at MFA, said an executive call to action enlisted the state, local governments, nonprofit organizations, foundations, lawmakers, and private entities to join together and address New Mexico's housing challenges. In October of 2021, MFA convened a 19-member, full spectrum advisory committee of experts to provide leadership over the development of a statewide strategic plan to expand housing opportunities for all New Mexicans. *Housing New Mexico: A Call to Action* was issued last September, outlining the strategic direction:

- Produce new housing across the housing continuum,
- Preserve existing housing and redeveloping underutilized properties,

- Build homeownership opportunities,
- Create housing stability for vulnerable populations, and
- Advocate for effective state and federal housing policies and regulations.

New Mexico has a large gap between low-income renters and the number of affordable units to house them. Ms. Powell said 32 thousand rental units are needed to fill this gap. Currently, 52 affordable housing developments are in various stages of construction, representing 4,279 units located across 27 municipalities and 18 counties.

Ms. Powell noted another gap between the number affordable homes available to purchase and projected job growth.

Housing needs also reflected in cost burden when households pay more than 30 percent of their incomes in housing costs. Ms. Powell said almost 118 thousand New Mexico households are cost burdened and another 101 thousand are severely cost burdened, paying more than 50 percent of household income for their home.

New Mexico's housing strategy will also be working to address the large number of aging and substandard homes in the state. For persons experiencing homelessness, 859 permanent supportive units are needed.

Mr. Hernandez outlined recommendations to support and increase housing production. Legislative actions include

- Streamlining planning and zoning processes.
- Incentivizing local governments to expedite permitting and approval processes,
- Allowing for third-party inspections to reduce development delays,
- Developing state policy to include higher density or upzoning, and
- Strengthening the Regional Housing Authorities.

This year, the Legislature appropriated \$40 million to the housing trust fund, of which 40 percent is expended so far. Mr. Hernandez said the funding will assist approximately 2,800 individuals. Other recent state investments include 51.8 million for housing development, \$8 million for homeownership programs, and \$1.3 million for weatherization and rehabilitation programs. Recurring dollars are also being provided, at the direction of Senate Bill 134 of 2022 and Senate Bill 381 of 2023.

Mr. Hernandez said MFA's approach is to be a nimble and engaged one-stop-shop.

Chief Financial Officer Arundhati Bose said MFA's FY24 revenue budget totaled \$31.7 million. In September, the MFA Board approved the authority's FY24 operating budget, totaling \$30.3 million, an 11 percent increase over FY23. The excess revenue over expenses will be used to meet rating agency reserve requirements and fund MFA's internal revolving loan program, which supports affordable housing activities.

New Mexico Finance Authority. Chief Executive Officer Marquita Russel said the New Mexico Finance Authority (NMFA) was established in 1992 to finance public infrastructure and

community and economic development projects. NMFA is governed by an 11-member board and overseen by a legislative oversight committee.

Ms. Russel said NMFA is currently administering 18 programs. Five of these programs receive funding regularly: public project revolving fund, drinking water state revolving fund, water project fund, colonias infrastructure project fund, and local government planning fund. Remaining programs are funded with a single infusion of funds or limited capitalization. About 97 percent of the funding for programs under the State Economic Development Finance Act is federal dollars. These programs include the new markets tax credit and collateral support participation.

To ensure efficient operations, NMFA continues to reorganized staff in response to new programs. Ms. Russel said business processes are aligned with functions rather than programs, requiring less staff training and enhancing risk mitigation, monitoring, and reporting. Due to growth of programs, NMFA staffing increased from 44 FTE in FY20 to 71 FTE in FY24 and the operating budget increased from \$85 million to \$19.8 million, respectively. Ms. Russel said NMFA purchased a building last December to accommodate its larger staff. The agency will move into the building when renovation is done in 2025.

Ms. Russel said the Legislature in 2022 established the Opportunity Enterprise Act (OEA) to support local communities in building and investing in commercial spaces that promote economic development. The act authorizes NMFA to finance projects recommended by a 12-member board. Only businesses whose applications score high enough to be prioritized by the board are invited to submit a loan application. The first application cycle for \$17.5 million occurred this past summer. Thirty-three applications were received, of which seven met the policy target of at least 60 points. Applications included a large number of owner-occupied facilities. The top project being considered totals \$17.5 million.

Ms. Russel highlighted other key programs and asked legislators to consider redirecting \$60 million in unused Local Economic Development Act funding to recapitalize three NMFA programs: primary care capital fund, behavioral health capital fund, and child care revolving loan fund.

In response to Chairman Muñoz, Ms. Russel said meeting the growth of core operations and board activity has been challenging. Ms. Russel recommended the Legislature consider placing new money in existing programs before creating a new program that might also require a new board.

Department of Homeland Security and Emergency Management (795). LFC Analyst Scott Sanchez said the Department of Homeland Security and Emergency Management (DHSEM) requests a \$2.1 million increase from the general fund to offset a \$1.7 million reduction in other state funds and expand by 7 FTE. The agency seeks to realign uses, requesting a \$2.8 million increase for personnel services and employee benefits, \$338 thousand increase for contractual services, and \$2.7 million decrease for other costs, which it accomplishes by reducing grants to local governments in response to an anticipated decrease in fire insurance tax revenue.

Major General Miguel Aguilar, acting secretary of DHSEM, said the agency requests additional personnel to continue its mission of protecting, mitigating, preventing, preparing, and recovering

from hazard and threats to New Mexico. The request includes 2 FTE for recovery efforts: a preliminary damage assessment officer and a response specialist. Acting Secretary Aguilar noted rising costs for health benefits, travel, equipment, and services.

Acting Secretary Aguilar said DHSEM requests capital outlay for four projects: \$420 thousand to complete construction of a warehouse, \$4 million to plan and design a state fire training academy satellite, \$2.9 million to renovate the state fire training academy, and \$250 thousand to match federal dollars for emergency operations center upgrades.

In response to Senator Woods, State Fire Marshal Randy Varela said a state fire training academy satellite is needed in Santa Fe to alleviate travel pressure for numerous volunteers.

Overview of Federal Funds Spending Authority. LFC Director Charles Sallee said New Mexico received approximately \$1.75 billion in state and local relief from the American Rescue Plan Act (ARPA) in 2021. The Legislature attempted to appropriate ARPA funds through the General Appropriation Act of 2021, but the appropriations were vetoed. In response, LFC sent a letter to the State Treasurer in May 2021, directing the treasurer to transfer the ARPA funds into the general fund for eventual legislative appropriation. However, the governor, without legislative consent, spent close to \$659 million of the ARPA funds, transferring \$656.6 million to the unemployment insurance trust fund and spending or encumbering over \$2.5 million on pandemic-related costs, such as vaccine incentives and advertising.

A lawsuit was filed against the governor and State Treasurer in late 2021 seeking a writ of mandamus prohibiting the governor from expending or encumbering any additional ARPA funds. The New Mexico Supreme Court issued a writ of mandamus on November 18, 2021, concluding the appropriation authority lies with the Legislature and an order providing that the governor and State Treasurer “shall not transfer, encumber, commit, expend, or appropriate any additional [ARPA] funds . . . absent legislative appropriation.”

Director Sallee said the Supreme Court’s decision has implications for future federal funds appropriations. The court adopted a nuanced case-by-case approach that considers the amount of discretion left to the states to determine how best to expend federal funds. Director Sallee said going forward, the Legislature should consider appropriating federal funds where the funds are broad or discretionary and they can be put to a variety of uses, such as Title I statewide activities, Workforce Innovation and Opportunity Act initiatives, social services block grants, and others.

Reports of Interim Committees. Senator Martin Hickey, vice chairman of the Tobacco Settlement Revenue Oversight Committee (TSROC), talked about reintroducing a bill that removes the tobacco settlement permanent fund balance from the general fund reserves so the fund may be invested with higher return targets and provide increasing distributions and reserve balances are accurately represented. Other TSROC priorities include increasing state funding for tobacco prevention and cessation. Senator Hickey said the state currently spends \$8 million on tobacco prevention and cessation, but the federal Centers for Disease Control and Prevention recommends \$22 million.

Senator Gerald Ortiz y Pino, chairman of the Legislative Health and Human Services Committee (LHHS), said the committee recommends a \$206 million healthcare workforce appropriation package: \$70 million in nonrecurring appropriations and \$136 million in recurring appropriations. Nonrecurring appropriations recommended include \$30 million to provide recruitment incentives for specialty faculty at the University of New Mexico (UNM) Medical School and \$30 million to recruit healthcare professionals to rural areas. Recurring appropriations recommended include

- \$20 million to increase Medicaid reimbursement,
- \$10 million to the health professional loan repayment program,
- \$5 million to support new physician resident slots at UNM.
- \$2 million to boost the title IV-E program,
- \$40 million to expand behavioral health education at higher education institutions, and
- \$46 million to bring salaries for all University of New Mexico Health Sciences Center faculty up to the national median salary for their respective professions.

Senator Ortiz y Pino said LHHS recommends the Legislature create a permanent legislative health study committee and a behavioral health trust fund.

Recommended capital outlay funding include \$50 million to construct the UNM School of Public Health and \$1.2 million to complete the San Miguel County residential treatment center.

Representative Liz Thompson, vice chairwoman of LHHS, outlined other key priorities. These include \$1 million for a special needs dental clinic, \$100 thousand for the Social Work Task Force, \$6.6 million for county and tribal health councils, and \$9.5 million for a higher Mi Via waiver spending cap.

Chairman Muñoz said the Legislature needs to work on addressing the fentanyl crisis.

Friday, October 27

The following members and designees were present on Thursday, October 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, and Debra M. Sariñana. Guest legislators: Senator Benny Shendo, Jr. and Representatives Kathleen Cates, Joy Garratt, Susan K. Herrera, Tara L. Lujan, Mathew McQueen, Rod Montoya, and Cristina Parajón.

Program Evaluation: Implementation and Outcomes of the Comprehensive Addiction and Recovery Act.

LFC Program Evaluators Ryan Tolman and Nathan Eckberg presented the report *Implementation and Outcomes of the Comprehensive Addiction and Recovery Act*. New Mexico has a higher rate of newborns exposed to drugs than the national average. The federal Comprehensive Addiction and Recovery Act (CARA) requires healthcare professionals to develop plans of care for substance-exposed infants and for each state to enact their own laws governing plans of care. In 2019, New Mexico passed legislation requiring staff in hospitals and birthing centers develop plans of care for substance-exposed newborns, which refer families to voluntary support and treatment services. New Mexico’s CARA law takes a public health approach by treating drug and alcohol use during pregnancy as a disorder requiring services rather than as a reason for reporting suspected child maltreatment to the state Children, Youth and Families

Department (CYFD). After New Mexico enacted its CARA law in 2019, CYFD's removal of infants from families fell below the national rate.

The state pays Medicaid managed care organizations (MCOs) roughly \$1.5 million in federal funds each year to have care coordinators connect CARA families to services and state agency staff to monitor plans of care. Despite this spending, CARA is not meeting its intended purposes of keeping substance-exposed newborns safe and directing families to treatment. Two out of three families with plans of care are not directed to or accepting substance abuse treatment services. Even when families accept services, the state does not regularly track family follow-through with treatment and services.

Parental substance use is a leading risk factor for child neglect and maltreatment, with drugs or alcohol a caregiver risk factor in at least 26 percent of cases. Families with a plan of care subsequently have higher rates of abuse or neglect compared to similar families without substance-exposed newborns (meaning they do not have a plan of care). Infants with a plan of care also have similar mortality rates to all other infants.

The state's implementation of its CARA policy has substantive gaps. New Mexico birthing centers are under-identifying substance-exposed newborns by up to 40 percent according to Department of Health analysis of Medicaid claims for 2020 and 2021 birth cohorts. Although about 1,300 families with substance-exposed newborns receive plans of care each year, roughly 500 infants exposed to drugs or alcohol each year do not receive a plan of care. Of the 1,300 families with plans of care, only 306 families receive early intervention services, only 52 receive home visiting services, and only 190 accept referrals to addiction treatment. The current online portal for monitoring plans of care has limited functionality to track CARA families across agencies and systems.

CYFD is proposing a new division with 20 state-funded employees dedicated to CARA, duplicating existing state staff and care coordinators. If CYFD remains the lead agency on CARA going forward, CYFD has hundreds of vacant positions available to potentially dedicate more staff to CARA oversight.

A 2023 consultant's report on CARA noted the cabinet secretaries of CYFD and the Health, Human Services, and Early Childhood Education and Care departments determined the Department of Health (DOH) should be the lead agency on CARA. Alternatively, the Legislature could consider moving CARA oversight to the Health Care Authority (HCA), the newly created agency that will take over the responsibilities of the Human Services Department.

LFC staff recommend the Legislature consider

- Amending CARA statute to include references to implementing prenatal CARA plans of care alongside references to plans of care developed at birth, and
- Adopting statute that designates HCA as the lead agency for CARA following New Mexico's public health approach to CARA.

Until HCA is the lead agency for CARA with rulemaking authority, CYFD should

- Promulgate rules requiring hospitals and birthing center staff to report families to CYFD if referrals for substance use treatment for illegal drugs in a plan of care are declined,
- Promulgate rules requiring hospitals and birthing centers to require a referral to early intervention or evidence-based home visiting for every CARA family, and
- Implement differential response in line with best practices and expand statewide.

Lastly, the Human Services Department should

- Require hospitals to develop policies to universally screen pregnant women for substances using screening, brief intervention, and referral to treatment or other evidence-based verbal screening tools,
- Direct MCO care coordinators to monitor completion of specific action steps and services agreed to by the family in the plan of care and notify CARA navigators, and
- Revise its contract for the CARA portal to have case management and reporting functionality.

CYFD Acting Secretary Teresa Casados said, although initially impacted by the pandemic, implementation of New Mexico’s CARA law is progressing. It is apparent, however, that additional personnel is needed.

CYFD largely disagrees with the evaluation’s findings. In its response letter, CYFD said, while shortcomings in the implementation of the law are important to identify and improve on, CARA has overall improved outcomes for hundreds of infants and their families and is a vast improvement on the almost nonexistent infrastructure the agency had to meet the needs of this vulnerable population.

Acting Secretary Casados asked for collaboration with the Legislature and public and private partners to build out a comprehensive CARA program.

In response to Representative Garratt, Mr. Tolman said New Mexico’s CARA program is voluntary, but some states are mandating participation. Mr. Tolman said 90 percent of the families with plans of care in New Mexico are on Medicaid.

Representative Dixon asked why only 1-in-7 families with plans of care is receiving substance use treatment services. Acting Secretary Casados said many of the mothers are not addicts and a large percentage of the infants are found to be only exposed to cannabis or substances associated with medication-assisted treatment.

Capital Outlay Requests. Outlining 2024 capital outlay requests, LFC Analyst Cally Carswell said executive agencies and judicial entities request approximately \$1.1 billion for more than 100 projects. Four agencies are requesting capital appropriations totaling more than \$100 million, including a first ever request from the Department of Finance and Administration (DFA). Requests from the courts include funding for the construction of five new magistrate courts and a second round of funding (\$20 million) for state cost-sharing of district court renovation and construction.

Ms. Carswell said several major requests are to continue or complete projects to which the Legislature has already made major appropriations, including

- \$100 million to construct an executive office building in Santa Fe,
- \$67.5 million to construct a new forensic unit at the Behavioral Health Institute in Las Vegas,
- \$26.5 million to continue the statewide buildout of the P25 public safety radio system, and
- \$7 million to complete the Department of Agriculture administrative and laboratory complex on the New Mexico State University campus in Las Cruces.

The \$67.5 million request for the forensic unit is on top of \$68 million appropriated in 2023, which was intended to fully fund the project. The original scope of work was for a 75 thousand square foot facility with 100 beds. According to the new request, the Department of Health now intends to build a 125 thousand square foot facility with 90 beds. LFC and DFA staff were not informed of the scope change prior to the new request. LFC staff requested additional detail on the scope change and space programming for the facility as well as a plan for phasing construction. The current census in the unit is 53. Since 2014, the average monthly census has never exceeded 70.

The \$100 million request for the executive office building would support construction of a nearly 200 thousand square foot building with three stories of below-ground parking. If funded, it would bring total appropriations for the project to \$185 million. The parking structure accounts for roughly \$30 million of the total project cost, according to the General Services Department (GSD).

GSD also requests \$35 million to purchase the Northeastern New Mexico Correctional Facility from Union County. The proposed purchase price is equal to the county's remaining debt service on the prison. The state is currently leasing the prison from the county at an annual cost of \$5.9 million.

Requests from the Department of Transportation (NMDOT) include \$25 million for deferred maintenance and energy efficiency upgrades to the agency's patrol yards and ports of entry facilities. NMDOT has traditionally funded these projects with state road fund dollars. While the agency's buying power for road projects has eroded due to construction cost increases, the Legislature could consider adjusting road fees to increase revenue to the state road fund instead of new general fund appropriations to the agency.

DFA and the Early Childhood Education and Care Department requests appropriations that would benefit local entities. Capital appropriations for assets not owned by the state are not typically provided through LFC's statewide framework, with the exception of senior centers and the 2023 matching fund for district court construction. However, DFA's requests would build on and expand successful application-based grant programs the agency has administered in recent years, primarily through special appropriations initiated by the Legislature. The requests include

- \$3.3 million for tribal early childhood center renovations and repairs,
- \$20 million for public safety infrastructure,
- \$20 million for emergency capital needs, and
- \$20 million for acequia improvements.

Several agencies are requesting funding for facilities to provide new programs or services. None of the new facilities have been planned and designed. For most, exact locations for the future buildings have also not been determined. The requests include \$20 million for accommodations of

short- and long-term stays for youth in foster care and \$34 million for a second fire training academy.

Higher education institutions request \$687 million in capital outlay for the 2024 general obligation bond cycle. The Higher Education Department (HED) recommends funding \$309 million of these requests from all sources. HED's recommendation includes \$79.7 million from the general fund to support the design phase of several projects, immediate capital needs, demolition, and supplemental funding for existing projects. Recommended projects include

- \$65.5 million for planning, design, and construction of a new humanities building at the University of New Mexico (UNM),
- \$45 million for renovations to the College of Pharmacy at UNM,
- \$20 million for critical repairs to steam tunnels and electrical infrastructure at New Mexico State University (NMSU),
- \$15 million for NMSU's agricultural science and experiment stations,
- \$11 million for an applied technology facility in Rio Rancho,
- \$8.5 million for phase two construction of the Petroleum Research and Recovery Center at New Mexico Tech;
- \$9 million for construction of an early childhood development center at Western New Mexico University; and
- \$8 million to remodel Mansur Hall at New Mexico Junior College.

For the second year in a row, HED recommends a supplemental funding package of \$44.7 million for existing projects experiencing cost overruns, a 64 percent increase over the \$27.3 million supplemental package funded by the Legislature during the 2023 session.

The Aging and Long-Term Services Department recommends \$29.8 million for 101 senior centers statewide be included in the general obligation bond funding package.

The New Mexico Library Association requests \$19 million in general obligation bond funds for libraries statewide, including \$6 million each for public, academic, and school libraries, and \$1 million for tribal libraries.

Ms. Carswell said LFC staff is beginning to draft the statewide capital outlay framework, which will be presented to the full committee in December. If adopted, it will become the basis for the introduced versions of the 2024 capital bills. In drafting funding recommendations, LFC staff consider project readiness, protection of existing state assets, critical life and safety issues, space and programmatic needs, statewide policy and service priorities supported by capital requests, and agency capacity to expend funds and complete projects.

General obligation bonding capacity for 2024 is estimated at \$309 million. In even numbered years, general obligation bonds are available to support higher education, senior center, and library projects.

In 2023, the Legislature did not issue severance tax bonds for capital projects and instead supported capital appropriations with general fund revenues. Continued revenue surpluses are likely to provide the option for cash-financing capital projects again in 2024.

Ms. Carswell lastly noted that using cash instead of debt provides savings from avoided interest and allows additional revenue to flow to the severance tax permanent fund. Over the next 10 years, \$920 million will flow to the severance tax permanent fund as a result of avoided debt from 2023.

Chairman Muñoz remarked on the critical need to complete the P25 public safety radio system project. Ms. Carswell said the project will likely not be completed in the next two years, even with full funding.

In response to Chairman Muñoz, Gerald Hoehne, director of capital projects for the Higher Education Department, said the current humanities building at UNM is vacant due to facility issues.

Chairman Muñoz suggested the state hire a cost estimator to ensure capital projects are not overpaid, noting some contractors may purposely overestimate project costs for larger profits.

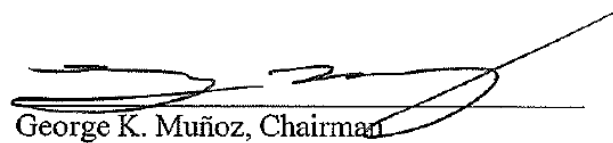
Interim Committee Report: Water and Natural Resources. Representative Matthew McQueen, chairman of the Water and Natural Resources Committee, said the state's budget process should include participation from all interim committees. During this interim, Representative McQueen said some agencies reported insufficient funding. Considering unprecedented funding levels, Representative McQueen said the state needs to ensure state agencies are adequately funded and use the opportunity to invest in the future.

Miscellaneous Business.

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

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

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


George K. Muñoz, Chairman


Nathan P. Small, Vice Chairman