MINUTES
Legislative Finance Committee
Taos Ski Valley, NM
August 24 - 27, 2021

Wednesday, August 25
The following members and designees were present on Wednesday, August 25, 2021: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan P. Small, Randal S. Crowder, Gail Armstrong, Candie Sweetser, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto "Bobby" J. Gonzales, Crystal R. Diamond, Pat Woods, and Pete Campos. Guest legislators: Representatives Ambrose Castellano, Rebecca Dow, Brian Egolf, Susan K. Herrera, Tara L. Lujan, Antonio Maestas, Rod Montoya, Roger E. Montoya, and Kristina Ortez; and Senators Martin Hickey, Mimi Stewart, and Bill Tallman.

Welcoming Remarks. Mayor Christof Brownell said Taos Ski Valley, incorporated in 1996, is New Mexico's highest elevation municipality at 9,500 feet. Recently, the ski valley built a wastewater treatment plant and installed a basin water tank at Kachina Peak. Mayor Brownell said projects planned for the near future include road improvements, emergency medical and fire service expansions, and utility updates.

Daniel Barrone, mayor of Taos, remarked on the federal, state, and local support received for large capital improvements in the Taos area. Resources are being leveraged with private sector investments. Taos Air, for example, is a public-private partnership dedicated to providing air service to and from Taos and the Enchanted Circle region. This year, air service expanded between Taos and select cities in Texas and California, which Mayor Barrone said is resulting in increased gross receipts tax revenue. Taos also partnered with Humble Brands and Taos Hotel Associates. Mayor Barrone mentioned other economic development initiatives and noted a shortage of affordable housing in Taos.

David Norden, chief executive officer of Taos Ski Valley, said the 5-year improvement plan for the resort is almost complete. Since the start of development, $32 million has been spent on public infrastructure, mostly incremental gross receipts tax revenue dollars. Strawberry Hill is renovated and there is now a gondola, retail court, designated parking, and other amenities, all geared toward providing a well-rounded visitor experience and expanding summer, conference, and real estate opportunities.

Fifty percent of Taos Ski Valley encompasses U.S. Forrest Service (USFS) land. Mr. Norden said the current master plan submitted to USFS entails renovations to aging infrastructure and construction of a gondola from the base area to Kachina Peak. Also, an entryway project is planned.

This year, Ski Magazine ranked Taos Ski Valley 4th best ski resort in the nation, ahead of Aspen. Mr. Norden said the recognition is reflective of revitalization efforts. In 2017, Taos Ski Valley became a certified benefit "B" corporation, making it the first ski resort in the world with the certification. B corporations are for-profit companies certified by the nonprofit B Lab to meet rigorous standards for social and environmental performance, accountability, and transparency. Mr. Norden said the ski valley is on track to reach net-zero emissions by 2030.

Candyce O'Donnell, chairwoman of the Taos County Commission, reported on current activity and said construction of a state veterans' cemetery in Taos is progress. Ms. O'Donnell said a detox center is needed in Taos.

In response to Representative Small, Mayor Barrone said Taos is open to working with any developer to build affordable housing, including condominiums. Mayor Barrone said Taos owns property that could be invested through a public-private partnership to build housing. Some of the property has been donated to Habitat for Humanity.

Early Childhood Accountability Report and Plan. Presenting the *2021 Early Childhood Accountability Report*, LFC Program Evaluator Jacob Rowberry said funding and capacity for early childhood services in New Mexico has steadily increased. In FY22, early childhood programing received $380 million in state appropriations, an increase of over 188 percent since FY12, not including the nearly $120 million in K-5 Plus appropriations. Federal stimulus funding is providing an additional $435 million, majority of which must be spent by September 2023.

The Early Childhood Education and Care Department (ECECD) announced it will use recurring federal child care and development funds to increase subsidized childcare rates for families at or below 200 percent of the federal poverty level (FPL). The agency will use $130 million of one-time federal relief dollars to expand eligibility for families with income up to 350 percent of the FPL.

In 2020, the Legislature established the early childhood education and care trust fund, endowing $300 million. The fund is the repository of excess federal oil, gas, and mineral leasing revenue, which will provide at least $20 million for early childhood programming in FY22. Due to stronger than expected revenues in FY21, LFC economists estimate the fund will provide even more support in coming years, conservatively growing to provide over $90 million in FY26.

A November 2022 ballot measure will ask voters if they approve drawing an additional 1.25 percent annually from the land grant permanent fund (LGPF) to support early childhood programming. Assuming approval by voters and Congress (required because the fund was established by federal law), LGPF could provide an additional $236 million in FY23 for education annually. Of this, an estimated $140 million would be allocated specifically for early childhood education.

The White House and congressional leaders signaled strong support for significant future increases in federal early childhood support. The Senate's current $3.5 trillion budget reconciliation framework includes $726 billion to the Committee on Health, Education, Labor, and Pensions for various initiatives, including "universal preschool for 3- and 4-year-olds" and some extended childcare support for working families.

Mr. Rowberry said maximizing return on investment for early childhood services requires responsible planning, scaling, and implementation of programs. Previous LFC evaluations found inefficiencies in New Mexico's early childhood system because of poor coordination and collaboration.

Key elements of successful expansion of early childhood services include measuring program outcomes based on program purpose, and aligning expectations with program mission.

Another important consideration during program expansion is the potential to lose program fidelity by expanding too rapidly. To avoid the pitfalls of expanding too rapidly, LFC staff recommend New Mexico consider effective scaling strategies used in other states, concentrating investments on three areas: professional development, curriculum and instruction, and parental supports.

With the large influx of one-time federal stimulus dollars earmarked for early childhood, the short-term desire to increase early childhood services must be balanced with the longer-term reality of limited financial resources. To this end, ECECD must have a targeted plan that accounts for current and future capacity needs and prioritizes the most impactful evidence-based programming.

Highlighting key measures, Mr. Rowberry said the child immunization rate in New Mexico decreased from 71 percent in 2018 to 66 percent in 2019. Child maltreatment remains high in the state, almost double the national average. Reading proficiency of students entering kindergarten is low at 17 percent.

LFC Analyst Kelly Klundt provided an overview of New Mexico’s early childhood programs and said Childcare Assistance, the state’s largest early childhood program, provides a subsidy for families with children between the ages of 6 weeks and 13 years with income at program entry at less than 350 percent (recently increased from 200 percent) of FPL and who work or attend training or education programs.

In addition to expanded income eligibility for families, childcare provider rates increased in FY22. New Mexico continues to have higher maximum reimbursement rates than the majority of states. A 2019 LFC childcare evaluation found New Mexico was paying more for higher quality care than the recommended 75 percent of the market rate and had rates higher than 80 percent of states.

Since 2010, New Mexico births decreased year-over-year, which Ms. Klundt said is important for the state to consider as it scales the early childhood system. Currently, care options for children younger than 3-years-old are especially scarce, with the fewest options available for infants. LFC staff recommend focusing childcare assistance funding on younger children and wrap-around hours.

Home Visiting aims to reduce child abuse and improve child and parent health by providing family support and basic parenting skills critical to improving childhood outcomes during pregnancy and through the first few years of a child's life. The program pivoted to video and tele-visits during the pandemic, which resulted in more families receiving five or more visits and more children receiving well-child exams in FY20. National research suggests, however, the pandemic likely exacerbated challenges for many young children. Nevertheless, when implemented as intended, evidence-based home-visiting in New Mexico should continue to show a positive return on investment and positive child outcomes according to cost-benefit models.

Ms. Klundt said home-visiting models that deliver the most improved outcomes should be considered as the state expands the program.

Prekindergarten is an early education program for 3- and 4-year olds administered by the Public Education Department and ECECD. Evidence for the program's effectiveness continues to grow. Prekindergarten is available to families for either half-day or extended-day services. In FY21, over 11 thousand children were projected to receive prekindergarten services. Despite barriers to expansion, New Mexico is close to providing sufficient funding to ensure all low-income 4-year-olds receive at least some type of early education through Childcare Assistance, Prekindergarten, or Head Start.

Mr. Rowberry said prekindergarten implementation issues remain, however, and the state needs to continue improving program coordination to prevent oversaturation for certain age groups and specific geographic regions. The Legislature could consider shifting additional prekindergarten funding to 3-year-olds or encouraging Head Start programs to shift more services to Early Head Start. Prekindergarten must remain of high quality to preserve the positive impact it has on student performance. LFC staff recommend standardizing a quality rating system among all prekindergarten programs.

K-5 Plus has been shown, when combined with prekindergarten, to close learning gaps among New Mexico's most at-risk students. In 2019, the Legislature moved K-5 Plus and Extended Learning Time, a separate program that also funds extra school days, into the public school funding formula and made enough funding available for every student in high poverty schools to participate. However, school districts and charter schools only enrolled 8,699 students out of 84 thousand funded slots this summer.

Head Start and Early Head Start are federal programs aimed to promote school readiness of children under age 5 from low-income families by enhancing their cognitive, social, and emotional development. The programs also provide health, nutrition, social, and other services for qualifying children and their families.

Teacher qualification is a component of federal high-quality standards for Head Start programs. Although New Mexico made improvements in FY18 and FY19, the state continues to lag the nation on Head Start teacher qualifications. Nationally, 75 percent of teachers have a bachelor's degree or higher, but in FY19, New Mexico had only 42 percent of its Head Start teachers meeting this requirement.

Early Head Start and Head Start enrollment have fallen 30 percent since 2012, with 4-year-old enrollment falling 40 percent over the same period. LFC staff recommend the state coordinate effectively so it does not supplant federally-funded Head Start with state-funded prekindergarten and childcare.

Mr. Rowberry said child safety is one of the most important issues facing the state. Incidents of child maltreatment are associated with several negative outcomes, including physical injuries, psychological distress, and in extreme cases, death. Further, research shows children who experience abuse or neglect often have negative impacts well beyond their childhood years. Youngest children are most vulnerable for maltreatment.

Unfortunately, New Mexico has one of the highest victimization rates in the nation for young children. Over 8,000 children were victims of maltreatment between 2018 and 2019. Nearly 17 per 1,000 children in New Mexico are victims of maltreatment, compared with nearly nine children per 1,000 nationally. New Mexico's overall victimization rate increased 36 percent since 2013, and the victimization rate for young children increased at a faster rate, with victimizations rising 55 percent for children under 1 year.

Many New Mexico families struggle with substance use disorders, inadequate housing, parental incarceration, and other social issues, potentially contributing to child maltreatment. New Mexico leads the nation in child maltreatment victims with a caregiver who is abusing drugs, yet lags behind the nation in delivering preventive and early intervention services. The state recently began a differential response program providing for degrees of intervention that may help address family needs.

New Mexico also falls behind in offering post-response services to children, with 37 percent of victims receiving post-response services, compared with 61 percent nationally.

ECECD Secretary Elizabeth Groginsky reported on agency initiatives and said the strategies implemented to optimize the health, development, education, and wellbeing of babies, toddlers, and preschoolers are growing investments, advancing a diverse, well compensated, and credentialed workforce, increasing quality and access, achieving equity, and enhancing authentic collaboration.

Infant Early Childhood Mental Health Consultation, a new program implemented in partnership with the Behavioral Collaborative and Project ECHO (Extension for Community Healthcare Outcomes), spans the care continuum from promotion, to prevention, to intervention, addressing serious emotional disorders that can derail a child’s development and education.

ECECD recently received a $1.28 million grant, which will be used to build a stronger connection between healthcare providers and early childhood education.

Outlining a preliminary four-year finance plan, Secretary Groginsky said ECECD is using a systemic approach to build New Mexico’s early childhood system. Based on a low birth rate forecast, early childhood programs are projected to serve 62,428 children in FY22, 77,219 children in FY23, 89,239 children in FY24, 97,094 children in FY25, and 105,957 children in FY26. Costs are expected to total $427.7 million in FY22, increasing to $720.6 million in FY26. Projected numbers of children served and costs were detailed by program.

In response to Representative Small, Secretary Groginsky said child education and care providers throughout the state continue to follow rigorous covid-safe practices. Most providers are vaccinated; weekly testing is required for those not vaccinated.

Representative Crowder requested information on the faith-based childcare organizations currently operating in the state.

Representative Herrera remarked on the difficulty for children to access prekindergarten in rural areas. While some Head Start centers in rural communities provide prekindergarten, not all families qualify or slots are unavailable. Secretary Groginsky said the state allows prekindergarten to be provided by childcare centers.

LegisStat: Overseeing Agency Performance. LFC Deputy Director Jon Courtney introduced LegisStat, a first of its kind legislative driven performance improvement strategy that builds on existing resources and tools used to monitor performance of state programs. Mr. Courtney said LegisStat will promote collaboration between the Legislature and state agencies, furthering the connection between agency budgets and performance.

Consultant Andrew Feldman said LegisStat is based on PerformanceStat, a performance management trend of the past twenty years. PerformanceStat is data-driven and maintains focus on the same set of metrics and challenges until fixed. PerformanceStat requires leadership engagement and follow-up.

Mr. Feldman said, while possessing the same core concept as PerformanceStat, LegisStat is different in that a legislative committee is in charge rather than a “boss”. As result, LegisStat carries a different tone and ability to require action, but provides the same opportunity to focus on key challenges, have data-driven conversations, and ensure accountability.

LegisStat will require ongoing, regular meetings with agencies. Mr. Courtney proposed a schedule for the first LegisStat focus on economic recovery in New Mexico, engaging the Workforce Solutions, Economic Development, and Tourism Departments. In the first hearing, agency performance management best practices will be identified, followed by discussion of agency performance in driving economic recovery.

LFC Analyst Eric Chenier said the discussion will provide legislators an opportunity to ask the agencies questions about current trends and what they are doing to address them.

LegisStat: Economic Recovery. According to the first LegisStat dashboard on economic recovery, New Mexico’s economy has not recovered to pre-pandemic levels. LFC Analyst Eric Chenier said New Mexico is currently ranked 48th in unemployment recovery nationally; the state has not regained 9,000 jobs lost during the pandemic.

LFC Analyst Amanda Dick-Peddie directed members to the dashboard list of best practices for results focused government, which are grouped into four categories: results-focused leadership, evidence-related strategies, performance management, and data.

Mr. Chenier said five-year outcomes of key Workforce Solutions Department (WSD) services were relatively stagnant pre-pandemic; the sixth month rate of individuals maintaining employment after receiving services in an employment office was 80 percent and the rate of youth enrolled at a post-secondary institution or employed after receiving connections office services was between 55 percent and 60 percent. During LegisStat discussion, the committee may want to ask why employment outcomes for individuals served by the agency have remained stagnant over the last five years and what actions can employment offices take immediately to improve outcomes.

Ms. Dick-Peddie said overall jobs created through the Economic Development Department (EDD) increased in FY21, after plummeting in FY20. Rural job recovery lags, however; the agency created only a third of the rural jobs it created in FY18.

Visitors to New Mexico's largest airport plummeted during the pandemic, and current data does not show visitation recovery. Though leisure and hospitality employment levels increased slightly this year, recovery is slow and growth is still well below pre-pandemic levels. Jen Paul Schroer, secretary of the Tourism Department, said insufficient marketing and workforce is impacting New Mexico's tourism recovery. Because it was unsafe to travel last year, the agency halted all tourism marketing until April, 2021. As result, fewer people planned trips to New Mexico this year.

WSD Acting Secretary Ricky Serna said several unemployment insurance (UI) programs implemented during the pandemic are set to expire in the coming week. Majority of the current 67 thousand claimants are participating in those programs. The secretary said WSD is working diligently to promote its employment and reemployment initiatives, redirecting the perception that WSD is just an UI agency.

EDD Secretary Alicia Keyes said New Mexico is on track for a resilient economic recovery. In the first quarter of FY21, gross domestic product in New Mexico increased 7.3 percent and matched taxable gross receipts was at its highest level since December 2019. Secretary Keyes said the state continues to foster innovation and new economic development opportunities are growing.

Vice Chairman Muñoz asked what WSD is doing to get people back in the workforce. Secretary Serna said the majority of claimants are expected to return to work immediately after the many programs expire; about 14 thousand will still be eligible for benefits. Secretary Serna said WSD will continue to work on identifying unemployed individuals not eligible for benefits to provide services that successfully brings them into the workforce. Secretary Serna said WSD maintains a report comprising demographic information on every claimant, including their skillset and previous occupation, to align them with workforce needs and facilitate a relationship between them and employers.

In response to Chairwoman Lundstrom, Secretary Schroer said the hospitality sector does not currently have any job incentive programs. Secretary Schroer said a dedicated program is needed to help connect individuals from the UI system to the private sector.

Secretary Schroer said the Tourism Department is working with workforce development boards to reprioritize investments that support New Mexico's workforce recovery.

Speaker Egolf suggested the state consider a real estate development partnership with the private sector to build the fundamental infrastructure that is currently lacking in New Mexico.

Secretary Serna said the longitudinal data system, currently in development, will help New Mexico close achievement gaps in education and the workforce. When implemented, the system will provide New Mexico data to facilitate successful outcomes in education, support transitions into the workforce, and align education with the economy.

Speaker Egolf recommended the Tourism and Transportation Departments work together on improving rest stops and replacing current welcome and overpass signs with more appealing signs. Speaker Egolf also recommended the Tourism Department work with local governments to refurbish tourism spots around the state and work with EDD to expand small airports.

In response to Representative Hochman-Vigil, Secretary Keyes said the New Mexico Constitution does now allow state dollars to be used on incentivizing people to move to New Mexico while they work remotely.

Representative Sweetser asked why Luna County has the highest unemployment rate. Secretary Serna said Luna County has fewer job opportunities. Secretary Serna said WSD is working with workforce development boards to initiate conversations with local officials in counties with high unemployment rates.

In response to Representative Herrera, Secretary Keyes said the State Engineer is developing a water strategy to support economic development in rural areas. EDD does not pursue water-intensive companies.

Chairwoman Lundstrom asked LFC staff to analyze retail opportunities for New Mexico's economic recovery.

Chairwoman Lundstrom asked what the value is of the Texas-New Mexico border residents' tax exemption. The exemption allows nonresident employees to allocate their compensation to their home state. Since Texas does not have a personal income tax, Texas residents working at a New Mexico manufacturer do not have to pay any state income tax on their compensation from the enterprise if it is within 20 miles of the Texas border. EDD Deputy Secretary Jon Clark said the agency takes into consideration the exemption when deciding projects at the border. Secretary Clark said it is an incentive for a warehouse company with a lot of inventory to have its facility on the New Mexico side of the border because the state does not impose an inventory tax like Texas does; however, it would be difficult to supply the workforce from Texas if those employees had to pay New Mexico's income tax. For New Mexico, the benefit is the gross receipts tax revenue generated by companies.

Chairwoman Lundstrom asked all three agencies to work with the Early Childhood Education and Care Department to develop and implement a plan for addressing childcare deserts in the state.

Vice Chairman Muñoz asked the agencies to provide the committee detailed information on the businesses hardest hit during the pandemic.

Risk Coverage/Group Benefits Rates. LFC Analyst Connor Jorgensen highlighted key points in the staff brief and said public employee health benefits are provided through three agencies:

General Services Department (GSD) for state employees, Albuquerque Public Schools (APS) for all employees of the Albuquerque school district, and New Mexico Public Schools Insurance Authority (NMPSIA) for all non-APS educational employees. In the case of APS and NMPSIA, health benefit rates are set by their respective boards while ultimate discretion for GSD rates resides with the governor.

The trifurcated system of providing health benefits has led to different plan designs, premiums, and employer and employee contribution rates. While the insurance plans are similar, the premiums are dramatically different. The disparity in employer and employee contribution rates is largely due to statutory constraint and agency policy.

While the pandemic upended life for people worldwide, its impact on New Mexico's health insurers has been relatively muted. The Kaiser Family Foundation found cancellation of elective procedures and reluctance of people to seek care resulted in a dramatic decline in health care spending. Expenditures in April 2020 were 31.9 percent lower than a year prior, but by January, 2021, expenditures were only 2.4 percent below January of the prior year. Health care spending levels have largely recovered.

Executive Director Richard Valerio said NMPSIA provides risk and benefit insurance for 88 school districts, 98 charter schools, and 27 other educational entities, insuring almost 60 thousand individuals. Agency revenues are derived from other state funds.

For FY23, NMPSIA requests a budget of $476.4 million; $96.3 million is for the risk management program, a 15.9 percent increase over FY22, and $378.7 million is for the medical benefit program, a 10.1 percent increase over FY22.

Mr. Valerio said medical and prescription costs totaled $326.4 million in 2020, of which $278.9 was covered by NMPSIA. Thirty-nine percent of the medical cost was generated by only 1 percent of NMPSIA members who typically had the following conditions: hyperlipidemia, hypertension, mental health, obesity, and diabetes. NMPSIA's cost-saving measures include disease management, care management, and behavioral health programs available through all medical carriers at no additional cost to the member and SafeGuardRX and clinical savings programs through Express Scripts.

NMPSIA is covering costs of testing and treating members for COVID-19 at no cost-sharing to the member, which totals $24.5 million to date. Mr. Valerio said NMPSIA requested but has not yet received federal aid to help cover costs.

Mr. Valerio said member premiums increased between 3.6 percent and 6.0 percent in FY22. Plan design changes, including benefit reductions, are scheduled to take place January 1, 2022.

Mr. Valerio reported insured assets worth over $26 billion. In FY20, NMPSIA paid $34.5 million in property and liability claims, and $9.9 million in workers' compensation claims. Due to school closures, molestation claims dropped in the 2019-2020 policy period. No claims have been made so far this current policy period.

Mr. Valerio listed NMPSIA's loss prevention efforts, including a threat assessment and active shooter training program to reduce the probability of an incident of multiple victim school violence, a technical assistance program to help primarily small school districts handle special education claims, an on-site school facility audit program to reduce the frequency of workers' compensation, liability, and property claims, and a training program on identifying a predator to reduce the number of sexual molestation claims.

Todd Torgerson, chief of APS Human Resources and Legal Services Support, said medical and prescription costs are projected to increase from $79.6 million in 2021 to $84.3 million in 2022, a 5.9 percent increase. APS offers four medical benefit plans. Premiums will increase 5.7 percent in 2022.

Mr. Torgerson said APS is committed to the wellness of its members and is supporting more collaboration and coordinated care between providers. The school district currently has 15,888 members enrolled in its medical benefit program. The average age of members is 37.

APS projects $1.6 million in Covid-19 testing and treatment costs in FY22.

Reporting on risk management, Mr. Torgerson said APS employs 11,495 permanent employees and has a total insured property value of $3 billion. In FY21, the school district paid $3.8 million in workers' compensation claims and $3.1 million in property and general liability claims.

GSD Acting Secretary Duffy Rodriguez said risk premiums will increase 25.4 percent in FY23, primarily due to a large swing in projected inflation. Since FY12, GSD has paid 218 liability claims and 27 property claims in the amount of $250 thousand or more. Public liability costs are being driven by civil rights and medical malpractice cases.

Secretary Rodriguez said GSD's medical benefit program is currently serving 56,917 individuals and offers five plans. Its fund is currently negative $17.3 million. The balance includes $14.5 in Covid-19 testing and treatment costs. GSD requested but has not yet received federal aid to cover covid-related costs.

In FY21, 938 members exceeded $50 thousand in medical claims, totaling $123 million and accounting for 44.2 percent of GSD's total medical spend. To mitigate costs, Secretary Rodriguez said GSD is removing financial barriers to early-intervention and high-value services, applying value-based purchasing principals, and increasing primary care strategies.

In response to Representative Crowder, Mr. Valerio said NMPSIA's medical benefit plan recently lost several members to Medicaid when it expanded coverage, consequently impacting the agency's cost share and membership that helps subsidize the pool.

Vice Chairwoman Lundstrom asked LFC staff to analyze a potential transition to a fully insured medical benefit program for state employees.

Federal Funds Update. LFC Analyst Eric Chenier highlighted key information in the staff brief and said state agencies have spent about half of the $10.1 billion received through 130 federal pandemic relief grants. To date, about 65 percent of the grant spending was for programs considered mandatory by the federal government, including unemployment insurance or Medicaid. These programs offer direct benefits to individuals and are required to be paid out if applicants meet qualifications. Much of the funding is set to expire in September, when federal pandemic unemployment insurance program funding ends. However, the enhanced benefit under the Supplemental Nutrition Assistance Program (SNAP) was revised and made permanent and the Medicaid program administered by the Human Services Department could lose its enhanced match rate in December 2021.

Approximately $2 billion has been spent by state agencies from non-mandatory grant programs. The largest non-mandatory programs are the Coronavirus Relief Fund, of which $979 million has been spent of $1.1 billion, and the State Fiscal Recovery Fund, of which $666.4 million has been spent of $1.75 billion. In several cases, grant programs did not exist prior to the pandemic and require subject matter experts to conduct pilot projects and submit detailed applications, budgets, and plans prior to full funding of awards. Many of the non-mandatory projects include large complex purchases requiring requests for information and proposals. Also, while grants may have expiration dates well in the future, they require applications for funding in the near-term. The challenge for state agencies over the next five years will be to expend the remaining $3.8 billion in non-mandatory federal dollars efficiently and before they expire.

Pressure to spend down these grants may lead to uncompetitive procurement practices. For example, the emergency rental assistance program was established using an IT vendor from the statewide price agreement list, costing at least $400 thousand. DFA also entered into $5.6 million in marketing and advertising contracts using procurement exemptions and the emergency procurement process for the rental assistance program. Prior LFC reports recommended setting price limits for contracts, such as advertising, to avoid circumvention of competitive procurement. Although DFA has previously reported that they are standing up a federal funds tracking office of up to 8 FTE to track and report on stimulus spending, there has been no progress reported by DFA in establishing such an office.

Providing additional detail, LFC Program Evaluator Catherine Dry said the federal government made historic investments in education as a result of the pandemic, with particular focus on children enrolled in K-12 schools. Through the elementary and secondary school emergency relief fund (ESSER), K-12 schools in New Mexico received $1.5 billion in funding, a 50 percent increase over the $3 billion schools receive annually in program costs through the state equalization guarantee (SEG) formula. It is both an opportunity and a challenge for districts to spend all of the federal funds before they revert and, as a result, districts may increase their unrestricted cash balances from unspent SEG funds.

Addressing learning loss is a particular focus of both the federal funds and of the state. ESSER includes $200 million for New Mexico for this purpose and the state provided $191.4 million in FY21 for extended learning time through the K-5 Plus and extended learning time programs. Both programs have been found to be effective at reducing achievement gaps.

Educational technology has been the largest category of budgeted funds for schools in New Mexico, with approximately $101 million budgeted from ESSER funds authorized through CARES and CRRSA.

The U.S. Department of Education recently approved New Mexico's plan for federal ARPA dollars from ESSER and released the remaining third of ARPA funding ($327 million) to schools and PED. The agency's top priorities include: (1) improving students' and schools' access to technology; (2) addressing learning gaps in critical content areas, particularly early literacy and mathematics; and (3) recruiting and retaining a quality educator workforce. The department will use $22 million of its state ARPA ESSER funds for tutoring and professional development, $6 million for internships and at-risk youth re-engagement, and $3.8 million for summer learning programs. PED also plans to allocate ARPA funds for community school initiatives and an evaluation on pre- and post-pandemic lost instructional time. According to the state's K-12 budgeting system, districts have spent $11.4 million of the ARPA ESSER funds. They have until September 2023 to spend all of the funds.

New Mexico has over $352.6 million currently allocated for broadband infrastructure and other services from state and federal sources. ARPA provided for an emergency connectivity fund and emergency broadband benefit program to provide support for schools, libraries and families in obtaining access to connected devices and to the internet. The Bipartisan Infrastructure Bill, if passed, would provide a minimum allocation of $100 million over five years for broadband deployment and affordability.

Vice Chairman Muñoz asked LFC staff to provide in the next update the amount of unspent federal funding by agency, detailing dollars by act. Representative Sweetser asked staff to provide information on what agencies are spending the funding on.

Thursday, August 26
The following members and designees were present on Thursday, August 26, 2021: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan P. Small, Randal S. Crowder, Gail Armstrong, Candie Sweetser, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto "Bobby" J. Gonzales, Crystal R. Diamond, Pat Woods, Sia Correa Hemphill, and Pete Campos. Guest legislators: Representatives Rebecca Dow, Brian Egolf, Tara L. Lujan, Antonio Maestas, Javier Martinez, Roger E. Montoya, and Kristina Ortez; and Senators Martin Hickey and Bill Tallman.

Addressing Martinez-Yazzie Findings on Instructional Time and Quality Instruction. Reporting on the *Martinez-Yazzie* consolidated case, LFC Analyst Sunny Liu said the court determined New Mexico's education system was not constitutionally sufficient nor uniform for all students. In response, the Legislature significantly increased at-risk funding, educator pay, and early childhood programming in FY20. Additionally, the state expanded K-3 Plus to all elementary grade levels (K-5 Plus), established Extended Learning Time, and incorporated both programs into the funding formula to mitigate cash flow issues. Overall recurring program funding for at-risk students more than tripled following the court's ruling, growing from $199 million in FY19 to $659 million in FY22.

Stephen Barro, Ph.D., public finance economist and expert witness for the *Martinez-Yazzie* plaintiffs, said the court order focuses almost exclusively on improving and augmenting education for at-risk students. As defined by the court, the at-risk student group includes Native Americans and English learners. It also includes students from economically disadvantaged homes. Evidence shows achievement gaps between poor students and their more advantaged peers even when provided the same amount of resources and services at school. The achievement gap is especially wide for students attending schools with less resources and services. Mr. Barro said directing more resources and services to the at-risk student group can reduce the achievement gap.

Despite legislative mandates, Mr. Barro said much of the increased funding for at-risk students is not being used as intended. To ensure the funding is only spent on specific supplemental services for at-risk students, Mr. Barro recommended the Legislature establish a more explicit and forceful statutory provision and an accountability system, which the court ordered. Mr. Barro also recommended the state clarify which students are considered at-risk and develop a system for counting at-risk students to ensure an accurate count and appropriate disbursement of funds.

Mr. Barro said studies find at-risk students need at least 25 percent more funding, but New Mexico's state equalization guarantee (SEG) at-risk factor provides 20 percent.

Karen Sanchez-Griego, Ed.D., superintendent of Cuba Independent School District (ISD), said culture and language is at the forefront of school district initiatives in Cuba. Committee members viewed a video about the school district's challenges and initiatives.

Cuba ISD has a high population of at-risk students. The majority are Native American students. Many live in households with no electricity or running water and travel far to attend school. To support students, Cuba ISD hired Native American teachers and professionals, fostering cultural and linguistic connections between teachers and students. The school district established family centers and a calming room. The campus also has a hogan and outdoor classrooms with hornos. In partnership with the University of Colorado Boulder, Cuba ISD implemented a summer institute program, inviting youth to work as paid student researchers.

School district efforts are resulting in improved outcomes, including an improved graduation rate of 89 percent.

Superintendent Sanchez-Griego said Cuba ISD is administering K-5 Plus and Extended Learning and providing teachers 80 hours of professional development. The student population is 600, of which 300 are participating in early childhood education programs. Superintendent Sanchez-Griego said school districts need more flexibility in administering extended learning programs.

Superintendent Sanchez-Griego said Cuba ISD used some at-risk and extended learning funding to open a preschool in Ojo Caliente, reducing the travel distance for several children. Superintendent Sanchez-Griego mentioned other initiatives, including outreach efforts.

Kurt Steinhaus, Ph.D., secretary designee of the Public Education Department (PED), said the training ordered by the court is continuous, ongoing, and meant for learning about cultures, inherent biases, and students' cultural needs. Secretary Steinhaus presented a draft action plan, outlining measures to address *Martinez-Yazzie* findings. The plan's development was a joint effort of the Children's Cabinet, PED, tribal representatives, legislators, and student groups impacted by the case.

Since 2019, the Legislature has allocated $12 million to the Indian education fund and $5.5 million to indigenous, multilingual, multicultural, and special education initiatives. Lashawna Tso, assistant secretary of PED Indian Education, said the Legislature has also allocated $9 million for culturally and linguistically diverse instructional materials and curriculum development. PED awarded grants to 21 tribes, pueblos, and Nations and 28 school districts and charter schools serving large numbers of Native American students. PED also provided 6,252 Chromebooks to 22 tribes and schools with a significant Native American student population, 101 hotspots to tribal schools and 22 tribes, and 700 residential hotspots to the Navajo Nation to assist in closing the digital divide. The agency is continuing to work with stakeholders on developing culturally and linguistically diverse instructional materials.

For FY20 and FY21, PED awarded 59 planning and implementation grants for community schools. For students with disabilities, the Legislature established an ombuds program. PED is implementing a multi-layered system of supports and convening a special education planning group. For English learners, the Legislature appropriated an additional $6.9 million for bilingual and multicultural education programs, and $9 million for culturally and linguistically diverse instructional materials and curriculum. For tribal libraries, $4.5 million is provided for FY22. Katarina Sandoval, deputy secretary of PED Academic Engagement and Student Success, said Cuba ISD initiatives are great examples of cultural and linguistic education delivery.

Mr. Steinhaus said the next step for the draft action plan will be to conduct consultations to garner input and ascertain the priorities of stakeholders and representatives of the student groups.

In response to Chairwoman Lundstrom, Mr. Steinhaus said he shares Mr. Barro's concerns about the at-risk factor.

Representative Small asked about the oversight of at-risk funding. Sharing his experience as a former superintendent, Mr. Steinhaus said his school district, as with others, received little guidance and oversight on the use of at-risk funding in the past. Superintendent Sanchez-Griego said guidance is still lacking and there is contention among schools, teachers, parents, and others about how at-risk funds are spent.

Senator Rodriguez remarked on the need for more collaboration to improve New Mexico's educational system.

Medicaid Management Information System Replacement Update. LFC Analyst Jessica Hitzman highlighted key information in the staff brief and said the Medicaid management information system replacement project (MMISR) is at risk due to system complexities, schedule delays, and federal funding uncertainty. The project intends to replace the state's existing Medicaid management system to better support Medicaid operations.

Since initiated by the Human Services Department (HSD) in 2013, MMISR's completion date has increased five years and the budget has expanded almost 56 percent, according to HSD's FY23 funding requests. The project is at risk of losing federal funding pending approvals of project planning and budget documents, in part due to the combined requests submitted for MMIS and a related project to replace the state's child welfare database (CCWIS). Combined, an estimated $93.9 million could be lost.

Katrina Hotrum-Lopez, secretary of the Aging and Long-Term Services Department, said the Health, Human Services, Children, Youth and Families, Early Childhood Education and Care, and Aging and Long-Term Services Departments are co-sponsors of MMISR. HSD Chief Information Officer Sean Pearson said the project has 8 modules, plus integrations with other agencies. When complete, the new system will provide streamlined administrative functions for 92 thousand health care providers, process 555 thousand managed care organization (MCO) encounters each week, pay 74 thousand Medicaid fee-for-services claims each week, and support over 1 million New Mexicans through HSD programs. Total cost of MMISR is currently estimated at $346.3 million, of which $38 million is state funded.

HSD Deputy Secretary Kari Armijo said terminating the original system integrator resulted in project delays impacting other modules while HSD procured a new vendor. In 2019, MMISR's project's scope expanded to include other health and human services agencies, improve customer service, and optimize funding. The expansion, however, has created challenges at the federal level. Secretary Armijo said the pandemic is also impacting the project. Secretary Hotrum-Lopez provided additional detail of project challenges.

Mr. Pearson talked about MMISR's accomplishments and the actions taken to address challenges. HSD implemented the consolidated customer service center, consolidated 150 published phone numbers into two toll free phone numbers, deployed five new customer service technologies, mapped over 400 Medicaid business processes, implemented real-time eligibility for Medicaid applications, and launched a vendor management academy. Other accomplishments were mentioned. The project's independent verification and validation risk ranking was lowered three times since April.

Deputy Secretary Armijo said MMISR will be completed in 2026.

In response to Representative Hochman-Vigil, Deputy Secretary Armijo said HSD recently hired a dedicated project director to facilitate faster day-to-day decision-making and facilitate collaboration between IT and business.

In response to Senator Hickey, Deputy Secretary Armijo said HSD is working closely with BeWellnm, the state's health insurance exchange.

Chairwoman Lundstrom asked LFC staff to update the committee at the next LFC hearing on the status of pending federal approvals.

Progress Report: Status of Substance Use Disorder Treatment and Outcomes. LFC Program Evaluator Cally Carswell presented the progress report *Status of Substance Use Disorder*

Treatment and Outcomes. Drug overdose and alcohol-related deaths in New Mexico reached all-time highs in 2020, even though the state has tripled spending on substance use treatment since 2014.

According to a 2019 LFC report, access to treatment expanded significantly along with spending, and the state has since built on that progress by bringing new behavioral health services into Medicaid coverage, including residential treatment for substance use, peer support, and more. Inclusion in the Medicaid benefit package promises to stabilize service availability and improve its quality.

The pandemic may have contributed to the number of avoidable deaths in 2020 and limited further expansion of treatment. Still, the most severe consequences of substance use disorders continue to worsen despite increased access to services, indicating treatment is an essential but incomplete solution. The state must also improve its prevention and early intervention programs, particularly those that can address the complex, underlying causes of substance abuse, including poverty and childhood trauma.

Additionally, little progress has been made to close one of the most glaring gaps in the treatment system, the criminal justice system. Insufficient access to effective treatment in jails and prisons and to evidence-based diversion programs help to perpetuate cycles of substance abuse and incarceration.

Behavioral Health. Neal Bowen, Ph.D., director of Behavioral Health Services of the Human Services Department (HSD), said several initiatives are underway to address substance use disorders in New Mexico, including development of a new treatment approach for methamphetamine addiction and treatment services for the incarcerated. Prevention efforts include the Pax Good Behavior Game and Law Enforcement Assisted Diversion Program.

Since 2017, Medicaid's provider network for behavioral health has expanded 77 percent, including a 65 percent increase in prescribers. Mr. Bowen pointed out that New Mexico was the first state to allow psychologists, psychiatrists, and psychiatric nurse practitioners to prescribe medication. With increased behavioral health providers, more members are accessing services, particularly now during the pandemic.

Mr. Bowen said the Medicaid behavioral health program in New Mexico receives recurring federal grant funding from the Community Mental Health Services and Substance Abuse Prevention and Treatment programs. The state also receives federal discretionary grants. This year, New Mexico received $30.4 million in additional federal resources for pandemic response; $14 million must be spent by March 2023 and $16.6 million must be spent by September 2025.

Bryce Pittenger, chief executive officer of the Behavioral Health Collaborative (BHC), said the mission of BHC is to work collectively to improve the lives of New Mexicans by ensuring behavioral health treatment is accessible, high quality, collaborative, fiscally responsible, and meets the needs of New Mexico's diverse population. To meet its mission, the collaborative is

- Strengthening and expanding services,
- Developing community-based mental health services,

- Addressing substance use disorder, and
- Addressing behavioral health needs of justice-involved individuals.

Detailing current initiatives, Ms. Pittenger said BHC increased use of certified peer support workers to support the workforce. The collaborative is working to build a workforce that represents New Mexico's cultural and racial diversity. The recently formed suicide prevention workgroup is focused on promoting wellness and preventing suicide. BHC is expanding medication assisted treatment.

Lawrence Medina, executive director of the Rio Grande Alcoholism Treatment Program (RGATP), reported on substance use disorders and behavioral health in Taos County and said RGATP is a drug and alcohol addiction rehab center that is nationally accredited. Of New Mexico's 33 counties, Taos County ranks 7th in alcohol-related deaths, 2nd in opioid overdose related emergency department visits, 10th in drug overdose deaths, and 6th in suicides. Taos County major public funded programs for substance use disorders and behavioral health treatment include TeamBuilders, Presbyterian Medical Services, Human Resources Development Associates, El Centro Family Health, Golden Willow Counseling, and RGATP. The county currently does not have a detox center and residential treatment services. Mr. Medina said additional resources are needed to address gaps.

In response to Senator Hemphill, Mr. Bowen said children with trauma need more interventions such as neuro-sequential treatment; however, this treatment is not funded through Medicaid or other public sources.

Representative Small asked about prevention efforts to combat substance abuse. Mr. Bowen said HSD is training more prevention specialists, has an informational Spanish-language telenovela, and a Native American informational website; more efforts are needed, however, especially around alcohol misuse prevention and for recovery services, including transitional living services and residential treatment.

In response to Representative Hochman-Vigil, Mr. Bowen said New Mexico does have enough residential treatment beds and other infrastructure. The state is also lacking detoxification centers, particularly for adolescents and youth for which Medicaid does not pay for detox.

In response to Representative Garcia, LFC Analyst Ruby Ann Esquibel said reports indicate approximately 19 percent of New Mexicans need mental health services.

Chairwoman Lundstrom asked LFC staff to create an organizational flow chart of BHC and its partner systems, including local governments and corrections.

Recruiting and Retaining New Mexicans to Higher Education: Strategies to Reverse Enrollment Declines. LFC Analyst Mark Valenzuela noted that like many other states, college enrollment at New Mexico's public universities and colleges has declined due to the pandemic, with the largest declines at the state's two year schools. Colleges and universities receive a significant portion of their revenue from tuition and fees and a 1 percent loss of enrollment has a $3.2 million impact on tuition revenues. About 1,100 New Mexico high school graduates leave the state for college every year, mainly for universities in neighboring states. The state has invested in significant higher education initiatives to try and improve recruitment and retention, including $33 million in student financial aid, but additional efforts are likely needed in counseling, wrap-around services, and supports for transfer students to bolster enrollment.

Since June, LFC has held a monthly higher education subcommittee chaired by Senator Rodriguez and Representative Small. Both reported focus of the committee is to find ways to make New Mexico higher education institutions more attractive and to assist low income students towards college success.

Dan Garcia, Ph.D., Vice President for Enrollment Management at the University of New Mexico (UNM) noted a demographic cliff coming in 2026 where the number of high school graduates will drop. This, and increasing options for online education will lead to an increasingly competitive environment between colleges both in state and out of state for a smaller student pool. Mr. Garcia introduced UNM's strategic enrollment plan and goals which includes enrolling 150 more New Mexican students as freshmen by Fall 2025 and 450 more total students (including graduate students.) Mr. Garcia highlighted initiatives to increase enrollment and retention at UNM including increased outreach and marketing to high school students and potential transfer students from Central New Mexico Community College (CNM).

President Shepard from Western New Mexico University (WNMU) presented information from his, and other institutions of the Council of University Presidents (CUP). President Shepard highlighted information from the Education Center of the States showing that pandemic-related enrollment drops in New Mexico higher education were the highest in the nation. At the same time, drops in our neighboring states of Arizona and Texas were some of the lowest. President Shepard affirmed that CUP institutions were committed to addressing enrollment losses and shared a document with common CUP goals and strategies: 1) focusing on wrap around services, especially for first generation, working, and parent students, 2) facilitating transfer, and 3) handling students that "swirl," taking classes at multiple institutions.

President Hartzler from CNM noted that she is expecting a 12 percent decline, or approximately four thousand students, for fall enrollment. She also reiterated the importance of wrap around services for New Mexico students, many of which are dealing with adverse childhood experiences (ACEs.) President Hartzler discussed declines in enrollment being more steep for male students who have traditionally enrolled in her college's trade programs. President Hartzler also noted that a focus on getting students to a degree faster has decreased enrollment. President Hartzler also discussed the multiple missions of CNM, one of which is transfer, but another of which is non-credit workforce credentials. Finally, President Hartzler highlighted the new Collaboration for Higher Education Share Services between five New Mexico institutions to align key business processes like making a single application.

In response to Representative Armstrong, Mr. Valenzuela noted the Legislature appropriated $100 thousand to the Higher Education Department for National Student Clearinghouse data, but that institutions only provide data to the clearinghouse voluntarily and some to not supply information at all. Mr. Valenzuela also responded to Representative Armstrong regarding dual credit, that the Legislature provides funding to high schools through the SEG for dual credit students, but not colleges and the loss to colleges from dual credit is approximately $9 million annually. However, the intention is that dual credit students are filling open seats in existing college classes and this is more likely the case with recent enrollment drops.

In response to Representative Garcia, President Hartzler noted CNM has number of teaching certificates including bilingual. President Shepard suggested instead of having multiple universities create multiple language programs, the state should look at one Native American center at one institution instead of dividing resources.

In response to Representative Small, Mr. Valenzuela noted roughly 26 percent of adults in NM have some college but no degree according to the census. Representative Small suggested discussing base redistribution as part of the funding formula at the next higher education subcommittee meeting, and also noted that wrap-around services for students is already a recurring theme at those meetings.

Friday, August 27

The following members and designees were present on Friday, August 27, 2021: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan P. Small, Randal S. Crowder, Gail Armstrong, Candie Sweetser, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto "Bobby" J. Gonzales, Crystal R. Diamond, Pat Woods, Sia Correa Hemphill, and Pete Campos. Representatives Rebecca Dow, Tara L. Lujan, Javier Martinez, and Kristina Ortez.

Preliminary FY21 General Fund Revenues, FY22 Revenue Update, FY21 Outlook, and General Fund Financial Summary. Stephanie Schardin Clarke, secretary of the Taxation and Revenue Department (TRD), said the consensus revenue estimating group (CREG) comprises staff from TRD, Legislative Finance Committee (LFC), Department of Finance and Administration, and Department of Transportation (DOT). Reporting on the U.S. economy, Secretary Schardin Clarke said Moody's Analytics expects the United States to achieve herd resiliency in September. U.S. real gross domestic product (RGDP) increased at an annual rate of 6.5 percent in the second quarter of 2021. The U.S. economy is still at risk, however; the Delta variant could stall school reopenings, delaying the return of many to the labor force. Also, the Delta variant could lead to tighter state restrictions and magnify supply chain issues with surging cases in Asia-Pacific region.

The United States lost 22.4 million jobs at the onset of the pandemic. Since then, the national economy has regained 16.7 million jobs.

Secretary Schardin Clarke said New Mexico RGDP grew at an annual rate of 4.5 percent in the first quarter of 2020, which represented growth from $96.8 billion to $97.7 billion. Moody's Analytics baseline forecast expects New Mexico's RGDP to grow 8.6 percent in the second quarter and 12.4 percent in the third quarter of 2021, as the economic recovery continues. The state's RGDP is expected to surpass pre-pandemic levels by the third quarter of 2021.

In July 2020, New Mexico's unemployment rate peaked at 12.5 percent. As of last month, the unemployment rate had decreased to 7.6 percent.

Secretary Schardin Clarke said oil prices have recovered more quickly than expected. The number of oil rigs operating in New Mexico increased from 41 in September 2020 to 80 currently. According to Rystad Energy, national oil production recovery is concentrated in New Mexico. Total FY21 production in New Mexico is estimated at 405 barrels. The average price was $49.92 per barrel (bbl). CREG expects continued production growth, estimating a production of 445 barrels in FY22 and 460 barrels in FY23. Oil prices are projected to increase to $63.50/bbl in FY22, then decrease to $58.00/bbl in FY23.

Matched taxable gross receipts recovered to pre-pandemic levels, totaling $1.6 billion in FY21.

FY21 severance tax revenue is projected at $476 million, an 8.2 percent increase, and FY22 severance tax revenue is projected at $593.3 million, a 24.5 percent increase. FY22 revenue from rents and royalties is expected to decrease 6.6 percent, primarily due to anything above the 5-year average transferring to the early childhood trust fund. The trust fund will also receive $425.2 million from excess federal mineral leasing revenue above the 5-year average.

DFA Secretary Debbie Romero said FY21 general fund revenue is estimated at $8 billion, a 2.4 percent increase over FY20. After expenditures, remaining FY20 general fund revenue will leave an estimated $2.5 billion for reserves. General fund revenue is projected to increase 0.8 percent in FY22, and 9 percent in FY23. General fund reserves are projected to be $3.1 billion, or 42 percent of recurring appropriations at the end of FY22.

LFC Chief Economist Dawn Iglesias said, including federal stimulus funds of $750 million and federal funds swaps of $146.6 million enacted in the June 2020 special session, FY21 total general fund revenues are estimated to be short of total FY21 appropriations by $161.3 million, which will be drawn from the operating reserve. Because FY21 revenue collections were stronger than previously expected, the state will not need to draw from the tax stabilization reserve (i.e. the state's "rainy day fund") to cover FY21 expenditures.

Ms. Iglesias said, while employment has yet to recover, total wages and salaries in New Mexico neared pre-pandemic levels in the first quarter of 2021. Total personal income in New Mexico also reached record heights during the pandemic and has continued to grow in FY21. According to the Bureau of Economic Analysis, total personal income increased 17.9 percent, or $16.6 billion, in the first quarter of 2021, compared with a year earlier. The increase was due to a 78.1 percent increase, or $17.6 billion, in personal transfer payments from the federal government in stimulus checks, enhanced food stamps, unemployment insurance bonus payments, unemployment assistance to self-employed New Mexicans, and other forms of assistance.

Ms. Iglesias said the legalization of cannabis will incorporate existing, untaxed business activity into the state's tax base. With guidance from the Regulation and Licensing Department on timelines and demand expectations, cannabis excise taxes are estimated to generate nearly $28 million in FY23, the first full fiscal year of legalized sales. By FY26, revenue is expected to increase 14 percent to nearly $32 million. Although estimates were compared with other states and utilized national survey data on cannabis use, revenue expectations remain uncertain. Sales to out-of-state residents, price changes that encourage or dissuade legal consumption, tax preferences on medical cannabis behaviors, and supply shortages or surpluses are all difficult to predict and will significantly impact aggregate sales.

Ms. Iglesias said collections for the health insurance premium surtax revenues exceeded expectations, with preliminary data from TRD showing $290.9 million in FY21, up $60 million from the February forecast. The revenue strength results in higher expectations for premium tax revenue throughout the forecast period. Additionally, Chapter 136 of the 2021 Session (Senate Bill 317) increased the health insurance premium surtax from 1 percent to 3.75 percent and created the health care affordability fund. Revenues from the surtax are split between the new fund and the general fund, with the general fund receiving a 48 percent distribution of surtax revenue from January 2022 to June 2022, 45 percent from July 2022 through July 2024, and 70 percent from July 2024 onward.

Chairwoman Lundstrom expressed concern about the high balance of the early childhood trust fund and asked LFC staff to analyze potential caps for the fund.

In response to Senator Neville, Ms. Iglesias said the U.S. inflation rate is expected to increase 4 percent in FY23 and then slow in growth.

Miscellaneous Business.

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

Representative Small moved to adopt the LFC Higher Education Subcommittee July report, seconded by Senator Rodriguez. The motion carried.

Senator Campos moved to adopt the LFC contracts, seconded by Senator Gonzales. The motion carried.

Contingent on changes discussed, Senator Gonzales moved to adopt the LFC FY23 budget guidelines, seconded by Representative Small. The motion carried.

Senator Muñoz moved to approve the LFC FY23 budget request, seconded by Senator Rodriguez. The motion carried.

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

With no further business, the meeting adjourned at 10:03 a.m.

Patricia A. Lundstrom, Chairwoman

George K. Muñoz, Vice Chairman

September 23, 2021

MEMORANDUM

TO: Representative Candie G. Sweetser, Co-Chair
Senator "Bobby" J. Gonzales, Co-Chair
Representative Gail Armstrong
Senator Pete Campos
Representative Dayan Hochman-Vigil
Representative Patricia A. Lundstrom
Senator George K. Munoz
Senator Pat Woods

FROM: Sunny Liu, Fiscal Analyst

SUBJECT: **LFC Public Education Subcommittee, August 24, 2021**

Charles Sallee, LFC Deputy Director, presented an overview of the public school budget, share of revenue sources, and the Martinez-Yazzie lawsuit. He provided an update on the new order, which requires the state to provide devices, Internet connectivity, and IT staff for the 23 focus districts. Mr. Sallee discussed pre-pandemic issues, such as low student achievement (particularly for at-risk groups) and challenges in catching students up when they enter school. He noted the state has increased recurring public school funding by $644.3 million, or 23 percent, since the 2019 ruling, to address Martinez-Yazzie findings.

Dr. Janelle Taylor Garcia, LFC program evaluator, presented background on school closings due to the Covid-19 pandemic. She noted issues with the waiver of standardized testing and PED guidance to reduce instructional time and reteach content rather than new material in 2020. Dr. Taylor Garcia highlighted two LFC progress reports and national studies that found students had lower academic performance and lower engagement during the pandemic. Fewer schools participated in state K-5 Plus programs, despite recent data showing improved performance for Native American and Hispanic participants. She also highlighted an LFC report that found deficiencies in implementation of the Indian Education Act.

Sunny Liu, LFC senior fiscal analyst, presented information on the teacher workforce. Mr. Liu noted average teacher salaries have increased but only kept pace with neighboring states. Preliminary data suggests many teachers have left classrooms in FY21, and one quarter of New Mexico teachers have less than 3 years of experience. Teacher preparation programs are producing more alternative license teachers, who are 25 percent more likely to leave teaching, and the state continues to see shortages in elementary, special education, and bilingual teachers. Overall student enrollment is dropping by 0.5 percent annually, with a 4 percent decline in FY2 l due to school closures. Additionally, school cash balances have grown over time and now represent 15 percent of program cost.

Mr. Liu also discussed staff budget options to support at-risk, Native American, and special education students; extend learning time and offer calendar reforms; improve educator pay, recruitment, preparation, development, and retention; and make base adjustments that leverage state and federal funds. Mr. Liu further described informational items relating to enrollment trends, formula funding, academic performance, teacher salaries, participation in extended learning, federal relief aid, cash balances, public education reform fund balances, and tribal libraries.

Chair Sweetser asked how free and reduced lunch price (FRL) rates were determined. Mr. Sallee discussed how the FRL rate has deteriorated over time. Sweetser asked what the workload increase would be for teachers in K-5 Plus schools. Mr. Liu explained that teachers would see about 19 percent in increased time and increased pay. Chair Sweetser asked why cash balances had grown. Mr. Liu explained that schools may budget for revenue volatility and see excess balances from vacancy savings and mid-year unit value increases. Chair Sweetser expressed concerns about growth in cash balances and district claims about insufficient funding.

Rep. Lundstrom asked the subcommittee to make recommendations about delivering education differently. She expressed concerns about budget requests for initiatives lacking results, like community schools. Rep. Lundstrom asked staff why they recommended a 1 percent unit value increase. Mr. Liu noted a higher unit value could incentivize discretionary program participation and provide budget flexibility. Rep. Lundstrom asked how federal revenues were being used, and why staff would recommend increasing the base given growth in cash balances. Mr. Liu said districts have spent 70 percent of the first round of federal relief aid (CARES), but only a small portion of the total federal relief package. Additionally, the third round of aid (ARP) requires 20 percent to be spent on addressing learning loss, equivalent to the state's appropriation for K-5 Plus and ELTP. Rep. Lundstrom asked if students experiencing learning loss would be considered at-risk. Mr. Liu said current data shows nearly all students lost some learning and could be considered at-risk, and traditional at-risk students had the largest gaps. Rep. Lundstrom opined if funding for extended learning to address learning loss is increased, the state should ensure that schools implement the programs.

Sen. Munoz asked if the state is under a consent decree in the Martinez-Yazzie case and if not, how long the state would be under litigation. Mr. Sallee noted there was not a consent decree and the state would likely be a long-standing legal case. The state attempted to close the case but the motion was dismissed. Sen. Munoz asked how the state could comply and meet the goals of the ruling. Mr. Sallee indicated there are evidenced-based programs that work, like K-5 Plus, but schools, including plaintiff districts, have opted out of the programs. Sen. Munoz asked how the state can force the districts to participate in evidence-based programs or require use of cash balances. Mr. Sallee noted the state could consider phasing in the programs over time and noted cash balances could be capped similar to previous statutory limitations. Sen. Munoz asked how about the number of new teachers each year. Mr. Liu indicated about 5,000 teachers have less than 3 years of experience. Sen. Munoz asked where the money is going to prepare new teachers. Mr. Liu indicated colleges of education generate formula dollars for education students but program funding is at the discretion of university boards. Mr. Liu also noted the state produces about 1,000 teacher graduates each year. Mr. Sallee remarked the state relies heavily on recruitment out of state. Sen. Munoz asked where tribal libraries were located. Staff provided a list of tribal libraries requested through the tribal remedy framework.

Rep. Hochman-Vigil asked how federal relief funding flows to schools. Mr. Sallee indicated federal relief funds flow through PED based on Title I formula. Rep. Hochman-Vigil asked if PED was imposing any additional state restrictions on federal funds. Mr. Sallee indicated schools must report how federal relief is spent, with most spending dedicated to HV AC and technology purchases. Rep. Hochman-Vigil indicated a need for oversight to ensure federal funds are not used for recurring expenditures that will become future costs for the state. Rep. Hochman-Vigil asked if the Legislature is a party to the Martinez-Yazzie case. Mr. Sallee indicated the entire state was the defendant, but PED has been the lead in coordinating the defense. Rep. Hochman-Vigil expressed concern, similar to Sen. Munoz, about ongoing litigation and noted the state needs to move toward a resolution. Rep. Hochman-Vigil asked if the state had a plan to locate the 12 thousand missing students. Mr. Liu indicated PED had located most of the students, with only 2,000 remaining students that had not been identified. John Sena, PED Director of Policy, indicated the contract with Graduation Alliance helped PED identify students and most missing students left the state. Rep. Hochman-Vigil asked if the state was tracking ECECD measures to see if the programs were working. Mr. Sallee indicated early childhood data shows educational benefits from prekindergarten and ECECD needs more robust performance measures.

Rep. Armstrong asked which formula loopholes were closed in House Bill 5 and Senate Bill 1. Mr. Sallee noted the bills closed small school size adjustment loopholes and capped the age of students at 22 for K-12 funding. Rep. Armstrong noted the tribal remedy framework showed requests to construct 10 new tribal libraries. She also asked for more clarification on hard-to-staff stipends. Mr. Sallee noted the staff recommendation was designed to target chronic teacher shortage areas, like bilingual and special education. Rep. Armstrong noted blanket requirements could be problematic, given the unique nature of each district. Rep. Armstrong asked if starting teacher salary levels were still an issue. Mr. Sallee highlighted the significant increases for starting teacher salaries in FY20 and large increases in the three-tiered license salary minimums. Other states have higher starting salaries but smaller incremental increases. Rep. Armstrong expressed similar concerns to Rep. Hochman-Vigil about the use of federal funds for recurring expenses. Mr. Sallee acknowledged the challenge of spending the federal dollars, given recurring costs are typically over 80 percent of district budgets.

Rep. Herrera asked how the state would measure achievement, given federal waivers and a change in the state assessment. Mr. Sallee indicated the state will have some interim test data but not uniform testing for all schools this year, as schools implement their own local assessments. There will be a gap of two years of data. Rep. Herrera asked how many students, absent Covid-19, typically leave the school system. Mr. Liu indicated about 2,000, or 0.5 percent, of students leave the system annually. Rep. Herrera noted the 2,000 missing students could be part of natural attrition. Rep. Herrera asked if there was a recommended cash balance level for schools. Mr. Sallee indicated 5 percent was historically appropriate for a medium-to-large district with larger limits for smaller districts. Chair Gonzales asked why cash balances were high. Mr. Sallee noted contributing factors include conservative budgeting, vacancy savings, and mid-year unit value increases.

Sen. Woods asked if other states provided the same number of instructional days. Mr. Sallee noted New Mexico law requires instructional hours, which has resulted in fewer days. Mr. Sallee and Mr. Liu said most other states have a 180 day requirement and have options to extend their year. Sen. Woods asked if New Mexico students were behind due to the lack of a mandate for a longer year. Mr. Sallee noted research shows extended time improves academic outcomes and the barrier to extended learning is typically funding constraints, which is not the case this year. Sen. Woods noted the importance of attendance and repetition for success, but also highlighted the need for high quality teachers and local control. Sen. Woods asked staff to compile reading and math proficiencies by school district, school, and demographics. Sen. Woods also noted schools should have enough funding now to keep class sizes small. Mr. Sallee indicated the blanket class size waivers had sunset. Sen. Woods described the challenges of remote learning on teachers and access to broadband; he mentioned issues surrounding right-of-way permitting for broadband.

Sen. Stewart expressed appreciation for the caliber of work completed by LFC staff, which is often provided by LESC. She noted the mandate for extended learning was supported by the Senate, but noted the challenges with implementation due to Covid-19, lack of teacher training, and conflicting requests by districts for a mandate. She noted the disparities between calendars across the state and suggested phasing in instructional days over time, like adding 5 days each year. Mr. Sallee noted the challenges of teaching all content standards to students without additional instructional time, particularly in elementary grades. Sen. Stewart discussed concerns about the teacher workforce, notably pay levels, retention, and evaluation. Sen. Stewart asked if any students took the state assessment or NAEP. Mr. Liu indicated test participation was low this year because PED made assessments optional rather than mandatory. The NAEP was last administered in 2019. Sen. Stewart noted the way to address the lawsuit was to improve reading and math scores and emphasized that structured literacy could help students improve reading skills. She suggested using federal relief aid to expand professional development and described how other countries promote the teacher profession through competitive research and higher pay. She also noted concerns that few federal dollars were budgeted to address learning loss and suggested using federal funds to expand tutoring and extended learning opportunities.

Chair Gonzales emphasized the need for family and student engagement and asked staff to consider a recommendation on providing the training, personnel, and programming for this intervention. He asked if students requesting to drop out of school still required superintendent signature. Staff indicated they would follow up on whether the requirement was still in place. Chair Gonzales asked for clarification on transportation issues. Mr. Liu relayed concerns from the court about transportation for afterschool programming and equity in the current allocation methodology. Chair Gonzales suggested creating more efficient bus routes and smaller ridership plans, but also emphasized the need to include parents in planning and decisions.