

**MINUTES**  
**Legislative Finance Committee**  
**Artesia/Roswell, NM**  
**May 18 - 20, 2022**

**May 18**

The following members and designees were present on Wednesday, May 18, 2022: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan P. Small, Brian G. Baca, Gail Armstrong, Meredith A. Dixon, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto “Bobby” J. Gonzales (virtual), Gay G. Kernan, Pat Woods, and Sia Correa Hemphill. Guest legislators: Representatives Anthony Allison, Phelps Anderson, Cathrynn N. Brown, Ryan T. Lane, Raymundo Lara, Tara L. Lujan, Willie D. Madrid, Debra M. Sarinana, Larry R. Scott, and James G. Townsend; and Senators William F. Burt and William E. Sharer.

**HF Sinclair Renewable Diesel Plant Tour/EOG Resources Field Tour: Late-Stage Oilfield Reclamation and Remediation Practices.** HF Sinclair briefed LFC on the company’s renewable energy portfolio. HF Sinclair invested \$600 million to build a plant in Artesia capable of producing a proprietary product called “renewable diesel.” The plant finished construction in the second quarter of 2022 and uses biological inputs—corn oil, tallow, and soy bean oil—to produce the diesel that is capable of being directly used to power diesel vehicles. The committee toured the facility and was informed about automation to the plant. The facility is not yet at full production capacity.

LFC toured an EOG reclaimed well site. The site had been drilled for oil and then, at the end of the productive life of the well, returned to farm land. EOG managers said they have nine plugging rigs active and have plugged over 245 wells in New Mexico. Chairwoman Lundstrom asked about the cost to plug a well, which EOG quoted as \$80 thousand on average without reclamation or remediation.

Finally, LFC toured and was briefed on plugging rigs onsite. The rigs were described to reach depths of 1.5 miles or more and use steel casings to deposit concrete dividers throughout the well depth to prevent wells from collapsing or contaminating ground water. EOG noted prematurely shutting-in wells could damage the wells and negatively impact the environment if done improperly.

**Welcoming Remarks.** John Ross Null, superintendent of Artesia Public Schools, said the new school district administrative building is also a space for community use, often serving as a location for banquets and trainings.

Superintendent Null said Artesia Public Schools comprises a kindergarten school, five elementary schools, an intermediate school, a junior high school, and a high school. The school district serves 3,650 students. Superintendent Null said over 60 percent of high school students in the school district participate in an extracurricular activity. Assistant Superintendent Thad Phipps said providing career pathways is also a priority of the school district. Superintendent Null said Niche recently ranked Artesia Public Schools in the top school districts in New Mexico.

The Artesia Public School District Board recently approved construction of a career center at the high school. Superintendent Null said the project is currently in the design phase. Renovation of the school district's wellness center will be completed this fall.

Superintendent Null said mandated K-5 Plus and Extended Learning Time is not in the best interest of Artesia Public Schools. The school district will be spending federal pandemic relief funding on summer programs for students.

Mike Luck, superintendent of the Roswell Independent School District, said the social emotional well-being of students is important to the school district, and therefore, more counselors are being hired. Superintendent Luck said the school district implemented Extended Learning Time this year and expects to reimplement K-5 Plus in 2023.

In response to Senator Hemphill, Superintendent Null said the average number of students with an individualized education plan in the school district has remained steady throughout the pandemic.

**Leasing, Exploration, and Production Trends.** Representatives Townsend and Scott welcomed LFC to Artesia and talked about the challenges of managing wastewater produced by the oil and gas industry. Representative Scott said between three and five barrels of wastewater is produced for every one barrel of oil. New Mexico is currently producing about one million barrels of oil a day. Over the last 30 years, the wastewater has primarily been disposed of by subsurface injection. Representative Scott said a nearly infinite reservoir with specific pressure is needed to manage the increased volume of wastewater.

County Manager Allen Davis said the diverse industries in Eddy County—oil and gas, mining, nuclear, and agriculture—contribute significantly to the state's economic engine. The 2020 census revealed Eddy County had the largest population growth at 15.8 percent. In the first quarter of 2022, Eddy County was the third largest contributor of matched taxable gross receipts (MTGR) revenue at \$1.8 billion.

Mr. Davis said New Mexico is the second largest producer of oil and gas in the United States, behind Texas. Potential growth in American production is concentrated in a small region of the Permian Basin that includes Eddy and Lea counties. Mr. Davis said supporting the oil and gas industry would, therefore, be prudent for the future success of New Mexico.

In the last two years, energy markets have experienced the greatest volatility ever witnessed. Geoff Jay of Daniel Energy Partners explained the pandemic crushed global demand, filling up U.S. storage and sending oil prices well below zero, with the market paying buyers more than \$40 per barrel (bbl) to take delivery in April 2020. Today, demand is returning to prepandemic levels and inventories are below seasonal averages, which, combined with Russia's invasion of Ukraine, have sent oil prices well north of \$100/bbl.

Oil prices are expected to average just under \$100/bbl in 2022, \$87/bbl in 2023, and \$80/bbl in 2024; however, Mr. Jay cautioned that future prices are for the most part unknown. Currently, demand is far outpacing supply. Unfortunately, producers are facing investment, equipment, and

labor challenges, although that doesn't mean production will not grow. The U.S. rig count currently stands at 695 rigs, up from 230 rigs in August 2020. The U.S. rig count is projected to increase between 750 rigs and 800 rigs in 2023.

Representative Dixon said KMX Technologies is a company that extracts lithium from wastewater, which the oil and gas industry may want to consider doing in New Mexico. Representative Hochman-Vigil asked what other technologies could be applied to reuse or recycle wastewater produced by the oil and gas industry. Representative Scott said the options are limited because of the composition of wastewater. Representative Townsend said a significant portion of wastewater could be used for farming. To do this, the state would need to adjust its regulatory framework.

**Clean Fuel Market Outlook.** Adam Shubert, senior associate of Stillwater Associates, said the American Fuel and Petrochemicals Manufacturers contracted Stillwater Associates, a consulting firm specializing in transportation fuels, to study the proposed low carbon fuel standard (LCFS) in New Mexico. LCFS is a rule enacted to reduce carbon intensity (CI) in transportation fuels.

Mr. Shubert said the LCFS proposed in New Mexico is modeled after California's, which aims to reduce greenhouse gas emissions by substituting alternative, low CI fuels for conventional gasoline and diesel fuels. Entities that produce or supply low-CI fuels generate credits, while high-CI fuels generate deficits. The credits can be sold to producers or suppliers to offset deficits, which in turn generates revenue to pay for projects that lower greenhouse gas emissions. Like California, New Mexico would lower the amount of CI in fuel allowed each year to meet an annual reduction goal. As the standard becomes more stringent, gasoline and diesel accrue more deficits and renewable fuels accrue fewer credits.

California's program was implemented in 2011 and has since reduced its CI by 10 percent. If the current LCFS proposal is enacted, New Mexico targets an ambitious 20 percent CI reduction by 2030. Mr. Shubert said this acceleration would not be enough time to build a meaningful presence of electric vehicles in the state. As a result, compliance would require rapid growth in the penetration of ethanol, biodiesel, and renewable diesel, nearly all of which would be imported from other states. Considering New Mexico's current vehicle mix, achieving a 20 percent CI reduction by 2030 would likely add approximately 48 cents per gallon to gasoline and diesel and, therefore, cause interstate truckers to purchase less fuel in the state. Mr. Shubert said it would also disproportionately harm economically disadvantaged residents who cannot afford an electric vehicle.

Mr. Shubert said a more rapid adoption of electric vehicles and the build-out of public charging infrastructure would require incentives in addition to what is contained in the current proposal.

Senator Woods expressed concern about the potential economic impact on New Mexicans if an LCFS is enacted in the state. Senator Woods pointed out key differences between California's population and New Mexico's population.

### **May 19**

The following members and designees were present on Thursday May 19, 2022: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan

P. Small, Brian G. Baca, Gail Armstrong, Meredith A. Dixon, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto “Bobby” J. Gonzales (virtual), Gay G. Kernan, Pat Woods, and Sia Correa Hemphill. Guest legislators: Representatives Anthony Allison, Phelps Anderson, Cathrynn N. Brown, Ryan T. Lane, Raymundo Lara, Tara L. Lujan, Willie D. Madrid, Greg Nibert, Debra M. Sarinana, and James G. Townsend; and Senators William F. Burt, Michael Padilla, William E. Sharer, and William P. Soules.

**Preliminary Report on the Water Policy and Infrastructure Planning Task Force.** State Engineer Mike Hamman said the Water Policy and Infrastructure Planning Task Force will meet for the first time on June 1, undertaking an effort to develop recommendations on addressing the state’s myriad water infrastructure needs. The task force is being led by the Office of the State Engineer, Interstate Stream Commission, New Mexico Finance Authority, and Environment Department and will be made up of stakeholders from a variety of organizations and constituencies.

State Engineer Hamman said raging wildfires due to persistent drought are damaging forests and critical watersheds in New Mexico. Eighty percent of the state is experiencing extreme or exceptional drought conditions, and La Niña, a weather event resulting in drier and warmer conditions in the southern half of the country, is forecasted for a third consecutive year.

Northern New Mexico is already facing a devastating wildfire season this year, with the Hermits Peak/Calf Canyon fire becoming the largest in state history. State Engineer Hamman said negotiations are currently taking place to preserve Storrie Lake State Park for fire response and water needs of Las Vegas residents should ash and debris flows during monsoon season damage area watersheds. The Interstate Stream Commission will be assessing watersheds to plan for their recovery.

In addition to wildfires, the drought could cause hydropower to shrink. State Engineer Hamman explained water in the Colorado Basin, for example, is fast approaching levels too low to generate hydropower. The reduction of hydropower could tighten power supplies because many coal-fired power plants are retired.

Drier and more variable climate conditions are expected to continue. Hannah Riseley-White, deputy director of the Interstate Stream Commission, said increasing temperatures will result in less water. To ensure enough water for economic development and all New Mexicans in the future, the state is updating its 50-year water plan. Ms. Riseley-White said the executive is working to establish stewardship, sustainability, and equity. Also, the plan will be based on current science. State Engineer Hamman said the Water Policy and Infrastructure Planning Task Force will provide recommendations developed from stakeholder input and expert advice. The 50-year water plan will be finalized this summer. Proposed legislation will follow to put the updated plan in action.

Greg Alpers, chairman of the Pecos Valley Artesian Conservancy District (PVACD), said agriculture is the backbone of society. To sustain its agricultural community, PVACD works to conserve, preserve, and protect waters of the Roswell Artesian Basin. Since established in 1931, water users in the district switched from flood irrigation to sprinkler and drip irrigation. Also, the low-water-use crop rotation of cotton and alfalfa was switched to the high-water-use rotation of

corn and small grains double cropped with pecans and alfalfa. PVACD maintains the metering on 1,400 irrigation wells and plugs abandoned or leaking wells to preserve integrity of the aquifer. PVACD has invested in infrastructure and cutting edge technology and loaned \$30 million for water conservation projects.

Despite its many successes, PVACD is under constant threat of a priority call, a formal request to have the state administer water usage from the Pecos River for New Mexico users according to users' rights to the water. Chairman Alpers said a priority call would be devastating to PVACD and other upstream users. To avoid a priority call, Chairman Alpers recommends keeping the system in balance by

- Fully funding the Office of the State Engineer (OSE),
- Increasing water storage at Brantley Reservoir,
- Developing an insurance program for the Carlsbad Irrigation District (CID),
- Investing in canal linings for CID,
- Investing in watershed projects, and
- Establishing a water bank.

CID Manager Coley Burgess said the district serves 20 thousand acres in the Carlsbad, Loving, and Malaga areas, all of which is flood irrigation farmland. Its 516 water users grow alfalfa, pecans, cotton, wheat, and barley. CID's goals are to increase system efficiency, support farmer initiatives to save water, and support OSE efforts of water rights administration and enforcement. Manager Burgess recommended the state increase OSE's budget.

To conserve water, Manager Burgess said CID installed updated software and canal automation, canal linings, lateral piping, and solar panels over the main canal.

In response to Senator Hemphill, State Engineer Hamman said OSE will be assessing damage of the Black Fire in the Gila National Forest and its impact on area watersheds and Bear Canyon Reservoir.

In response to Representative Chatfield, Chairman Alpers said water storage and commitments of Brantley Reservoir are determined by the Pecos River Compact.

Representative Armstrong asked OSE to provide LFC a list of all Water Policy and Infrastructure Planning Task Force members.

Chairwoman Lundstrom asked OSE and NMED to write a letter to LFC explaining what progress has been made on implementing the Produced Water Act and allowing for produced water use outside of the oilfield.

**Using Existing Resources to Improve Water Quality and Access.** Rebecca Roose, deputy secretary of the Environment Department (NMED), highlighted key programs focused on protecting the quality of New Mexico waters and assuring safe and effective infrastructure for delivering clean water to communities: the Rural Infrastructure Program, the clean water state revolving fund, and the drinking water state revolving fund. Over the next five years, the federal Infrastructure Investment and Jobs Act will provide more funding opportunities for drinking water,

wastewater, and stormwater infrastructure projects, delivering \$63 million to New Mexico for projects of the clean water and drinking water state revolving funds in the first year.

Ms. Roose said national focus of the act is to support “shovel-worthy” projects, disadvantaged communities, and domestic sourcing of materials for infrastructure. To encourage communities and other eligible applicants to apply for the funds, NMED will be conducting outreach and education on water funding in the act. The agency will be meeting with municipal leaders, staff, and utility managers, sharing information through partnerships, and conducting training webinars.

Ms. Roose provided a chart on common project barriers at the state and local levels.

Marquita Russel, chief executive officer of the New Mexico Finance Authority (NMFA), said New Mexico is unusual and fortunate because it has a large number of funding options for water and wastewater projects. Of these funding options, NMFA administers the public project revolving fund, drinking water state revolving loan fund, Water Trust Board, local government planning fund, and Colonias Infrastructure Board. Ms. Russel provided a chart on the application timeline and funding terms of each program.

Ms. Russel said LFC’s 2021 program evaluation on state-funded water projects found

- New Mexico makes proportionally more state grant and loan dollars available for water projects than any other state;
- High availability of grant dollars disincentivizes use of loan funds; and
- Funding programs that require planning, local cost share, and full functional phases expend program funds more efficiently.

Ms. Russel said New Mexico’s low reliance on federal dollars for water projects, however, does not mean the federally funded programs are ineffective in the state. Since 2008, drinking water state revolving fund spending in the state has increased substantially. Congress requires state revolving fund loans provide some grant-like terms in addition to below market interest rates. Federal funding carries additional requirements, which Ms. Russel said can increase project costs and completion time, however.

Chairwoman Lundstrom expressed concern about the large cash balance of the wastewater facility construction loan fund.

Chairwoman Lundstrom asked LFC staff to analyze the reasons state-funded programs for water projects are sought more frequently than federal-funded programs and potential remedies.

**Status of Health and Human Services Initiatives.** Reporting on the impact of Human Services Department (HSD) programs this past year, Secretary David Scrase, M.D., said 542.3 million meals were provided, 967,888 thousand individuals were Medicaid-enrolled, 48,923 thousand homes were heated and cooled, 11,748 families were provided shelter and necessities, 212,823 individuals were provided behavioral health services, and an average of \$130.16 in child support obligation per child was collected. The increased federal share of Medicaid costs throughout the pandemic has provided greater benefits and reached more people, providing continuous coverage for Medicaid enrollees throughout the pandemic. However, the enhanced federal Medicaid

matching funds will end when the public health emergency is lifted. Secretary Scrase said the state will need to restart eligibility redeterminations for all Medicaid enrollees and transition those no longer eligible.

Secretary Scrase said redeterminations for all Supplemental Nutrition Assistance Program (SNAP) participants began in January. HSD is working with federal partners to secure waivers to extend SNAP renewals. If the public health emergency expires in July, supplemental SNAP (\$95 per case) will expire in September, impacting 554,970 individuals.

HSD Medicaid Director Nicole Comeaux said the unwinding of Medicaid's continuous coverage will require significant work, which states have 12 months to complete. In the initial months, HSD will work on transitioning those no longer eligible for Medicaid to another appropriate source of coverage, estimated to be 85 thousand individuals. Ms. Comeaux said these individuals will be informed 45 days prior to loss of Medicaid coverage, making it critical to have correct contact information on file.

Secretary Scrase said New Mexico's current unemployment rate nears prepandemic levels but there is little decline in Medicaid enrollment because the workforce participation rate remains low.

Ms. Comeaux said the redetermination process for almost 970 thousand individuals will be challenging because the response rate for request to renewal is low and contact information is often incorrect. Also, there are staffing and supply chain issues.

Secretary Scrase said a parent with two children who works 40 hours a week and earns up to \$15.29 an hour qualifies for Medicaid; the same parent qualifies for BeWellnm with \$0 premiums if the parent earns between \$15.29 and \$16.61 an hour and for BeWellnm coverage with premium assistance if the parent earns between \$16.62 and \$44.29 an hour.

Superintendent of Insurance Russel Toal talked about current activity of the BeWellnm Board and said a management firm is contracted to oversee open enrollment in the fall and transition of individuals from Medicaid to BeWellnm, noting the public health emergency might be extended to January. BeWellnm will be reaching out on various platforms to those losing Medicaid. Superintendent Toal said the state's healthcare affordability fund will help smooth the transition.

Superintendent Toal said premiums and out-of-pocket costs for individual market coverage were reduced last year. The Office of Superintendent of Insurance will know by July if federal pandemic relief funding for premium assistance will continue.

Ms. Comeaux talked about the Hospital Access Payment and Targeted Access Payment programs, which were designed using the Centers for Medicare and Medicaid Services (CMS) required utilization-based methodology. HSD is issuing \$280.2 million more in hospital supplemental payments in 2022 than was issued in 2018.

Department of Health (DOH) Deputy Secretary Lea Harrison said the Behavioral Health Institute in Las Vegas was evacuated on May 2 due to the wildfire. The residents were transferred to other DOH facilities until they were able to return two weeks later.

Reporting on current efforts of the Facilities Management Program, Ms. Harrison said DOH is now managing its facilities as a healthcare system by

- Developing an electronic healthcare record system,
- Establishing a facility quality council,
- Conducting biweekly meetings with facility medical doctors,
- Ensuring compliance with professional competency reviews,
- Assisting facilities with professional services contracts, and
- Reviewing facility referrals, denials, and admission/exclusionary criteria.

A chart on the status of LFC staff 2021 recommendations for DOH facilities was provided.

Jason Cornwell, director of the DOH Developmental Disabilities Supports Division, said the DD waiver waitlist decreased 41 percent in 10 months. The agency will continue to work until all individuals on the waitlist receive services, which is expected to happen in January. Mr. Cornwell remarked on challenges of the provider shortage.

In response to Senator Hemphill, Ms. Harrison said the Yucca Lodge Chemical Dependency Treatment Center was moved from the Fort Bayard Medical Center campus to the New Mexico Rehabilitation Center campus in Roswell. The facility, which has 20 beds, is not operating at full capacity yet because 45 positions are unfilled.

Senator Kernan requested DOH provide LFC the number of individuals who were on the DD waiver waitlist but did not qualify for services and the number of children who were on the waitlist but are already receiving services through another program.

### **Miscellaneous Business.**

*Action Items.* Representative Small moved to adopt the LFC April 2022 meeting minutes, seconded by Representative Garcia. The motion carried.

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

*New Mexico Military Institute.* Major General Jerry Grizzle, superintendent and president of the New Mexico Military Institute (NMMI), said top priority auxiliary projects requested by NMMI continue to be unfunded because the Higher Education Department does not approve and allow the projects to be presented during general obligation bond cycles even though the projects abide by the New Mexico Administrative Code (NMAC). Major General Grizzle said NMMI does not have the revenue to fully fund the projects.

Chairwoman Lundstrom asked LFC staff to draft a letter to the department on behalf of the committee expressing concern and requesting the agency's internal policy on which projects get approved. Chairwoman Lundstrom asked for the LFC Higher Education Subcommittee to be updated on the department's response.



## **May 20**

The following members and designees were present on Friday, May 20, 2022: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Brian G. Baca, Gail Armstrong, Meredith A. Dixon, Jack Chatfield, and Dayan Hochman-Vigil; and Senators Nancy Rodriguez, Steven P. Neville, Roberto “Bobby” J. Gonzales (virtual), Stuart Ingle, Pat Woods, and Sia Correa Hemphill. Guest legislators: Representatives Anthony Allison, Phelps Anderson, Cathrynn N. Brown, Ryan T. Lane, Raymundo Lara, Willie D. Madrid, Greg Nibert, and Debra M. Sarinana.

**Welcoming Remarks.** Roswell Mayor Tim Jennings welcomed LFC to Roswell and said his work as mayor is very different from the work he did as a legislator. Mayor Jennings remarked on the need to address New Mexico’s wildfire risks.

Ruidoso Mayor Lynn Crawford thanked legislators for supporting capital outlay projects in his community.

Mayor Crawford said Ruidoso’s emergency action plan did not consider loss of power when it was put in action for the McBride Fire last month. Because an alert could not be sent out electronically, residences had to be notified door-to-door. The fast moving fire caused two fatalities. The community is working together to help those who lost their homes. Mayor Crawford said Ruidoso was already suffering from a housing shortage, noting the town does not qualify for many of the state or federal housing programs.

Mayor Crawford said the state needs to hold the U.S. Forest Service accountable for cleaner forests.

Jal Mayor Stephen Aldridge said most New Mexico communities face the same challenges. Jal is focusing the influx of state and federal funding to address infrastructure needs, including new water lines and roads. Installing broadband is also a priority for the city. Mayor Aldridge said collaboration is critical for getting projects done.

Jal City Manager Matt White provided an overview of Jal’s wastewater project.

Mike Espiritu, president of the Roswell-Chaves County Economic Development Corporation, remarked on the Legislature’s work on addressing needs throughout the state. Mr. Espiritu invited members to visit the various attractions in Roswell.

In response to Representative Nibert, Mr. Espiritu said the Dean Baldwin Painting facility in Roswell employs about 60 people. The business specializes in aircraft paint stripping and coating services. Roswell Air Center is home to 300 aircraft.

Mayor Crawford remarked on the shortage of grant writers and project managers for local governments.

**Local Government Infrastructure.** Highlighting key points in the LFC brief, Analysts Cally Carswell and Nina Chavez said consecutive years of strong state revenues have provided a

significant boost for local capital projects, funded by various sources depending on annual capacity and sponsored by individual legislators and the governor. Approximately 66 percent of the \$1 billion appropriated to local projects from 2018 to 2021 remained unspent as of March 2022. Clearing this backlog must be a priority for state and local governments to allow communities to take advantage of additional state and federal dollars available in the coming years to meet critical infrastructure needs.

Municipalities face significant funding gaps in completing infrastructure projects. Alison Nichols, policy director of the New Mexico Municipal League, explained piecemeal funding makes it difficult for cities to fully fund projects, especially smaller municipalities with limited revenue sources. Priority water projects, for example, are only 12 percent funded, on average. A funding gap is especially critical for large projects with health and safety implications. Ms. Nichols recommended the state

- Consider targeting some share of state capital outlay monies to fully fund projects,
- Ensure prioritization of critical health and safety projects, and
- Consider a regional funding approach for large, costly projects with implications for multiple communities/entities.

The federal Infrastructure Investment and Jobs Act offers a significant opportunity to meet local funding needs for already prioritized projects. However, Ms. Nichols said accessing its funding will require significant local resources and capacity. Forty percent of the funding in the act is from grant opportunities. Ms. Nichols recommended the state

- Support additional grant writing capacity;
- Ensure coordination between local, state, federal, other entities; and
- Continue to build the new matching grant fund.

Benjamin Gardener, chief executive officer of Dekker/Perich/Sabatini, said of the projects executed by the architecture firm in Albuquerque, 15 percent are federal projects, 40 percent are public state and local projects, and 40 percent are private projects. Reporting on current project challenges, Mr. Gardener said rising construction costs are due to the shortage of laborers, supply chain interruptions, increased fuel and equipment costs, and limited contractors. In response, Dekker/Perich/Sabatini is working closely with clients to manage lead times and provide material, system, and schedule flexibility. Many contractors are unwilling to take on cost escalation risk. Mr. Gardener recommended the state allow price adjustment and delay clauses in state contracts.

Mr. Gardener said other challenges impacting projects are inconsistent rules and regulations among agencies and municipalities and insufficient communication with the design and construction industry. The lack of private investment is often due to low return on investment, inadequate infrastructure, slow speed to market for approvals, area crime, and tax structure. Mr. Gardener provided various recommendations, including improving and expanding public infrastructure, implementing tax changes, establishing a comprehensive private/public partnership act, developing career technical education programs, and improving public safety and education.

Hubert Quintana, consultant for the Southeastern New Mexico Economic Development District (SNMEDD), said the district comprises Chaves, Eddy, Lea, Lincoln, and Otero counties. SNMEDD provides planning and technical assistance to 27 local governments and many of the

region's schools, acequias, mutual domestic water associations, colleges, water and sanitation districts, and nonprofit entities. All 27 local government members pay dues and are active participants in board meetings. SNMEDD also collects grant administration and fiscal agent fees.

Reporting on current economic development efforts, Mr. Quintana said SNMEDD completed an economic recovery and resilience plan and is in the process of updating its comprehensive economic development strategy. Mr. Quintana provided an overview of SNMEDD's capital outlay process. The district currently has eight community development block grants projects and six colonias projects in progress.

Brian Moore of New Mexico Counties talked about the challenges counties face and said little has changed over the years in the way capital projects are funded in the state. Many rural counties do not have the capacity to administer an effective capital outlay process.


Roosevelt County Manager Amber Hamilton said the county is currently dealing with expiring quotes for capital projects because it has not received reauthorization contracts from the state. As a result, the projects will have to be rebid. Ms. Hamilton talked about other capital project challenges facing the county, including supply chain issues.

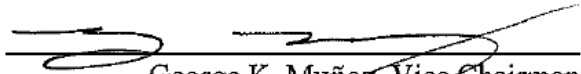
Donnie Quintana, Local Government Division Director of the Department of Finance and Administration, said the state has the opportunity to improve its capital outlay process. Mr. Quintana recommended the state focus on planning, monitoring, communication, and collaboration. The infrastructure capital improvement plan (ICIP) is a planning tool that establishes priorities for anticipated infrastructure projects. ICIP is not a funding source, but it does include information on each project for state and federal funding opportunities. A shovel-ready project has sufficient planning, engineering, and funding to begin construction in a very short time.

Mr. Quintana provided a map showing the amount of unspent capital outlay for local projects by county. The majority of unspent dollars are in Bernalillo, Santa Fe, Dona Ana, San Juan, and McKinley Counties.

LFC Director Abbey said LFC staff reports on the status of projects are posted online and can be used by local governments to identify stalled projects and address bottlenecks.

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

  
Patricia A. Lundstrom, Chairwoman

  
George K. Muñoz, Vice Chairman

L

May 19, 2022

**MEMORANDUM**

TO: Legislative Finance Committee

FROM: LFC Public Education Subcommittee: Chairwoman Patricia A. Lundstrom; Co-Chairs Roberto “Bobby” J. Gonzales and Candie G. Sweetser; Senators Pete Campos and Pat Woods; Representatives Brian G. Baca and Harry Garcia; and Ex-Officio Senator George K. Muñoz

**SUBJECT: Public Education Subcommittee Report of May 19, 2022 Meeting**

---

On May 19, 2022, the Legislative Finance Public Education Subcommittee reviewed presentations from expert witnesses and LFC staff. The subcommittee did not make recommendations but heard issues relating to public education performance data, Extended Learning Time (ELT) program participation, and chronic absenteeism. The following issues were discussed:

**LegisSTAT: Student Performance and Extended Learning.** Sunny Liu, LFC analyst, presented information on the LegisSTAT process, a recap of the October 2021 LegisSTAT hearing, and data on performance metrics for public schools to the committee. Mr. Liu noted the Public Education Department (PED) accelerated efforts to collect interim assessment data in FY21 and FY22, providing information on student performance before the end of FY22 as previously anticipated. PED Secretary Dr. Kurt Steinhaus discussed efforts to urge school participation in ELT, develop a *Martinez-Yazzie* action plan, and review school education plans. Secretary Steinhaus noted student performance is not good enough but highlighted promising PED initiatives to address deficiency areas, such as statewide early literacy training.

The subcommittee and guest legislators asked questions about interim test data, comparability of results across the nation and state, comparability of results over time, student chronic absenteeism, student transportation, home internet access, enforcement of student attendance, K-5 Plus and ELT participation, schools opting out of ELT, PED budget review processes,

school leadership, classroom spending, class sizes, early childhood education, student remediation, quality of instructional time, flexibility for K-5 Plus, resources for Native American students, PED surveys,

Secretary Steinhaus noted schools should be analyzing student data to change instructional practices and addressing student needs; however, this year's assessment was not the same for every district, given PED's directive to submit available data and is not representative of the population. He also noted although the NAEP test is the only standardized across the country, New Mexico's iMSSA test is standardized across the state. Secretary Steinhaus opined that attendance issues are unique to each individual but parental engagement and school culture was essential to improving attendance. Additionally, PED is working on providing internet access to student homes and school buses and collaborating with the Dine Department of Education and Navajo Nation on these issues.

Regarding class sizes, Secretary Steinhaus pointed to the draft *Martinez-Yazzie* action plan, which includes a goal of reducing class sizes.

Representative Meredith Dixon asked why results from MSSA data take so long to obtain. Dr. Steinhaus expressed an intent to renegotiate earlier deadlines with the vendor.

Secretary Steinhaus suggested phasing out K-5 Plus and ELT but increasing instructional hour requirements and providing additional professional development. He noted the department should analyze the impacts of participating students in each program but cannot deny a school budget due to a lack of participation in K-5 Plus or ELT. Chairwoman Lundstrom noted the committee should consider legislation to give PED more authority over local budget decisions with some flexibility.

**Public School Support Options.** Sunny Liu, LFC analyst, and Charles Sallee, LFC deputy director, presented trends in schools and budget options for FY24. Mr. Liu discussed considerations to improve teacher quality and school leadership, extended learning opportunities, appropriate curriculum and resources, school oversight and accountability, and potential outstanding liabilities.

Chairwoman Lundstrom noted the Senate made a request for LFC to look at school administrative spending practices and asked staff to work with LESC on these analyses. Chairwoman Lundstrom further directed staff to follow up with the public education subcommittee members on the budget options.

**Public School Capital Outlay Fund.** Sunny Liu, LFC analyst, and Martica Casias, director of the Public School Facilities Authority, presented trends in public school capital outlay funding. Mr. Liu noted, despite ongoing litigation with the *Zuni* adequacy lawsuit and half a billion dollars in available state dollars for public school capital outlay, funds are not being allocated to schools quickly.

Chairwoman Lundstrom noted LegisSTAT meetings should be longer to provide enough time for member participation and suggested blocking an entire afternoon for the next hearing.

June 17, 2022

**MEMORANDUM**

TO: Legislative Finance Committee

FROM: Subcommittee on Higher Education: Representative Nathan P. Small, Senator Nancy Rodriguez, Representative Jack Chatfield, Representative Gail Armstrong, Senator Siah Correa Hemphill, Senator Gay G. Kernan

**SUBJECT: Subcommittee Report from May 19, 2022**

---

**LegisSTAT: Enrollment Management.**

LFC higher education analyst Connor Jorgensen provided an overview of enrollment trends facing higher education institutions (HEI) in the state. Mr. Jorgensen noted overall enrollment in higher education has fallen 10 percent in the last decade, but New Mexico has faced a 27 percent decline. Mr. Jorgensen noted New Mexico is also facing a shrinking student population with 1<sup>st</sup> grade classes in FY22 being over 20 percent smaller than 1<sup>st</sup> grade classes were in FY14. While New Mexico college-going rates had been higher than the national average, the retention rates for New Mexico students are lower resulting in New Mexico ranking 39<sup>th</sup> in the nation for the proportion of adults with a bachelor's degree. Lastly, Mr. Jorgensen noted that the graduation rates within 150 percent of normal time are lower in New Mexico than they are in the nationally, and students seeking a bachelor's degree are much less likely than their national peers to graduate in 6 years.

Following Mr. Jorgensen's presentation, the President Shepard of Western New Mexico University (WNMU) gave a status update on enrollment at that institution. President Shepard noted reasons for enrollment fluctuations are often related to economic conditions, with students going back to school in downturns and being less likely to seek higher education in good times. Dr. Shepard stated that a number of students at his institution are non-traditional students and are therefore not captured in the performance measures reported by HEIs. Additionally, these students often require more and different support services that state HEIs have not been sufficiently focused on delivering. President Shepard stated that WNMU has a goal of increasing enrollment to 4 thousand students which is a stretch goal for the university.

Chancellor Arvizu of New Mexico State University (NMSU) also noted continued declines in enrollment and challenges in retaining at-risk students. The Chancellor stated NMSU had improving retention and graduation rates, and that making further progress in these areas is a

priority of the university. Dr. Arvizu reported that strategic goals of NMSU include a 3 percent student growth rate, and to match the 2010 record high enrollment by 2027. Additionally, the university has a goal of a 55 percent 6-year graduation rate by 2027. The university is planning on seeking out-of-state and international students to boost enrollment. Chancellor Arvizu reported there are 55 thousand New Mexico students taking an online course from a non-New Mexico institution and stated these students are a target growth market for NMSU.

Tracy Hartzler of Central New Mexico Community College (CNM) said 75 percent of CNM students attend part time. President Hartzler also noted CNM is designated a Hispanic-serving institution (HSI), that 10 percent of students are indigenous peoples, and the majority of students are adult-learners. Ms. Hartzler stated that an increasing number of students are seeking a short-term, non-credit workforce training programs and that enrollment in these programs has increased significantly while overall enrollment is down. President Hartzler reported CNM is working on expanding its support services and improving advisement in order to better facilitate success in higher education and prepare students to either complete studies at CNM or transfer to a 4-year school to receive a bachelor's degree. President Hartzler stated CNM is attempting to return to pre-pandemic enrollment levels this fall.

Senator Hemphill asked about student retention and if New Mexico students were more likely to stay in-state than out-of-state students. President Shepard replied that student retention was typically 40 to 60 percent and that out-of-state students have a higher retention rate are likely to stay in-state after graduation.

Senator Kernan asked if New Mexico HEIs had thought about offering in-state tuition to students in neighboring states like Texas Tech does. President Shepard stated that New Mexico HEIs should do that as 86 percent of students remain in New Mexico after graduation.

Senator Munoz asked how HEIs are making the transition to compete with online courses offered by other HEIs. President Hartzler stated that CNM transitioned a number of courses online during the pandemic and that they will continue offering online courses. President of the NMSU student government Garrett Moseley stated that while online courses are convenient and may be helpful in balancing a course schedule, the on-campus, in-person courses offer a better chance to participate in college life.

Representative Armstrong asked if applications for the coming year were up or down. President Shepard and Chancellor Arvizu noted that applications were up and President Hartzler stated applications were down. President Shepard also noted that the Legislature should expect enrollment declines for the next three years as the covid-created enrollment declines work through the system. Representative Armstrong asked what impact vaccine mandates had on enrollment. Chancellor Arvizu stated that NMSU had students leave because of the mandate but also had students who were attracted by the mandate and believes that there was no net impact from the vaccine mandate. President Hartzler stated CNM lost several hundred students as a result of the mandate.

Senator Padilla asked what percentage of high school graduates were ready for college work. President Shepard stated that 38 percent arrive prepared. President Hartzler noted that the grade point average of an incoming student at CNM is 1.7.

Senator Rodriguez noted the increasing number of high school graduates but the decreasing number of enrolled college students and asked why enrollment was no longer reflecting graduation rates. Chancellor Arvizu stated that latino students do not elect to continue their education at rates

as high as white students and national data show male enrollment is down, but the downturn is significantly higher for latino students. Senator Rodriguez then asked how HEIs identify at-risk students. President Shepard replied that the higher education funding formula defines at-risk as being eligible to receive a Pell grant, but stated this definition is likely too narrow and should include other factors like whether a student is a 1<sup>st</sup> generation college student.

**Status Report on Higher Education Nonrecurring Initiatives.**

Secretary Rodriguez stated that the Higher Education Department (HED) created a request for application (RFA) document for nursing expansion funding and for endowed positions for educator preparation, social work, and nursing, and anticipates having funds disbursed so that they may be used to fill positions prior to the beginning of fall semester. HEIs will submit applications for funding by June 15<sup>th</sup>. HED is working on developing RFAs for the technology enhancement fund, which provides matching funds for research projects, and for work study.

Representative Armstrong stated that a number of her constituents have noted difficulty in passing a nursing entrance exam. Secretary Rodriguez noted that the exam is administered through the Board of Nursing.

Senator Kernan asked how loan for service programs can be expanded. LFC director David Abbey stated that loan for service, particularly for health care workers, was on the radar. Secretary Rodriguez stated that there were over 700 applicants for loan forgiveness last year.

**Opportunity Scholarship.**

LFC Analyst Connor Jorgensen presented a financial projection for the opportunity scholarship. The projection shows that the opportunity scholarship is fully funded for FY23, but that there is a \$99 million shortfall for FY24 and this shortfall is anticipated to grow to \$225 million by FY30. Mr. Jorgensen stated there are too many unknowns, including the impact of tuition-free college on enrollment, for the projection to be highly reliable, but it gives an estimation of the magnitude of the shortfall. Dr. Harry Rommel of the Higher Education Department gave an overview of the draft rules for the opportunity scholarship and stated that the rules for opportunity and lottery will mirror one another as much as possible. The rules will be finalized in July.



June 17, 2022

**MEMORANDUM**

TO: Legislative Finance Committee

FROM: Senator George Muñoz  
Senator Roberto “Bobby” Gonzales  
Senator Pat Woods  
Representative Nathan Small  
Representative Jack Chatfield

**SUBJECT: Emergency Response Subcommittee Report**

---

LFC Subcommittee on Emergency Response met at 9:00 a.m. on May 27 at the San Miguel County courthouse in Las Vegas. Senator George Muñoz chaired the subcommittee, which was also attended by subcommittee members Representative Nathan Small and Representative Jack Chatfield. Representative Ambrose Castellano and Senator Pete Campos also attended. Other subcommittee members not in attendance are Senator Pat Woods, Senator Bobby Gonzales and Senator William Sharer.

Subcommittee members toured burn sites in the area, the Gallinas Creek Watershed/Bradner Reservoir, and the New Mexico State University Mora Reforestation Center, then met with local and state leaders including the San Miguel County sheriff; county commissioners; the mayor of Las Vegas; Deputy Chief of Staff to the Governor Teresa Casados; State Engineer Mike Hamman; Energy, Minerals and Natural Resources Department (EMNRD) Secretary Sarah Cotrell Propst; and Department of Homeland Security and Emergency Management (DHSEM) Secretary Designate David Dye. As wildfire suppression efforts have progressed, a top concern now is the impact of the fire damage on flooding and water quality for Las Vegas and the surrounding areas.

San Miguel County Commissioners Harold Garcia, Martin Sena, Max Trujillo, Kenneth Medina greeted the subcommittee at the county courthouse at 9:00 a.m.

4<sup>th</sup> Judicial District Attorney Tom Clayton advised that a growing concern is that residents of the northern counties might not return after evacuation.

The subcommittee proceeded on a driving tour of parts of the burn area with San Miguel county deputy sheriffs providing transportation.

The caravan proceeded to Sapello and observed back burn along significant lengths of the highway. In Mora, the group briefly toured New Mexico State University's forestry center. Josh Trujillo, operations director, reported about 70 percent of seedlings were evacuated to EMNRD's Santa Fe facility and other locations. The tour continued through Cleveland and Holman, past the Chacon highway, and several miles past the Sangre de Cristo divide, where they observed a helicopter water base. Then the group returned to Mora to the Ledoux highway and observed significant forest burns on the return to Sapello.

The caravan then proceeded past Montezuma and United World College to Ice Skating Road in the watershed of the city of Las Vegas. Senator Pete Campos joined the group, and the subcommittee met U.S. Senator Ben Lujan Jr., his Chief of Staff Ane Romero, and Las Vegas Mayor Louis Trujillo. The group discussed the morning's report in the *Albuquerque Journal* that the U.S. Forest Service took responsibility for the Calf Canyon fire due to a smoldering burn pile.

Bradner Dam and Peterson Reservoir were taken offline in 2015 and will likely be restored to city service this summer.

Phoebe Suina, consulting engineer, commented on the grave risk for the city water supply due to the extensive burns, very high burn temperatures, lengthy canyon, and steep canyon walls. Ms. Suina advised that the state faces costs of perhaps \$75 million to \$100 million for recovery efforts in the burn area over the next year.

Representative Chatfield commented about the need for an overall state plan to coordinate recovery efforts and avoid duplication.

Senator Muñoz asked Director David Abbey about the prospects and timing of state funding. Director Abbey stated that the federal acknowledgment of causing the fires may contribute to higher federal reimbursement for recovery efforts. He reported the governor can tap \$750 thousand from the general fund's appropriation contingency fund per emergency disaster declaration. The governor may issue multiple orders for these fires. As of May 27, there were approximately seven orders, or \$5 million and, as of June 1, the orders have reached approximately \$25 million. Federal reimbursement for eligible firefighting and recovery costs would go to the general fund.

The committee then returned to the San Miguel courthouse and met in the county commission chambers at 1:00 p.m.

Teresa Casados, Deputy Chief of Staff to the governor, and Dan Schlagel from the governor's office arrived shortly after 1:00 p.m. and discussed resources needed for emergency response efforts with subcommittee members. Emergency response efforts and funding requests are being coordinated through the Department of Homeland Security and Emergency Management (DHSEM), and the governor's office has issued multiple executive orders to allocate funds. The

state is in the process of requesting reimbursements from the Federal Emergency Management Agency (FEMA).

Representative Castellano thanked subcommittee members for coming to Las Vegas, thanked San Miguel County Sheriff's Office deputies for providing transportation for the morning's events, and thanked County Manager Joy Ansley for her support.

San Miguel County Sheriff Chris Lopez also thanked members for their attendance and provided an update on current fire and weather conditions. While there has been no documented loss of life so far due to the Hermit's Peak/Calf Canyon fire, over 500 homes in San Miguel County have been lost to date. Over 3,000 personnel are currently assigned to the fire, and fire suppression alone is expected to cost over \$120 million.

Although fire suppression costs are supposed to be covered by the state and federal government, Ms. Ansley estimated San Miguel has still incurred about \$400 thousand in costs, and the county is unclear on the distribution of responsibility for such costs. Ms. Casados explained costs incurred due to fire suppression efforts can be submitted to DHSEM for reimbursement. Ms. Casados further explained the executive is immediately reimbursing requests from local entities using state emergency funds and is subsequently requesting reimbursement from FEMA to the state. Teams from Louisiana and California have been brought in to work with DHSEM to speed up the reimbursement process. Currently, FEMA is still requiring a 25 percent state/local match for disaster funds, but the executive hopes the U.S. Forest Service taking responsibility for both the Hermit's Peak and Calf Canyon components of the fire will lead the federal government to cover all costs.

As wildfire suppression efforts have progressed, a top concern now is the impact of the fire damage on flooding and water quality for Las Vegas and the surrounding areas, which are not covered under the scope of the current executive orders and emergency declaration. According to Ms. Casados, a separate emergency declaration will be required to provide funds for these purposes. Local officials are currently preparing for flooding because normal flood season begins in about five weeks. Some items for this purpose, such as sandbags, have been ordered directly through the state emergency operations center (EOC) at DHSEM, so the county has not had up-front costs for this or anything else obtained through the EOC.

Las Vegas Mayor Louie Trujillo also emphasized the importance of debris cleanup to maintain water quality in Las Vegas, noting additional concerns over the availability of qualified contractors to do this work. Senator Muñoz, LFC Director David Abbey, and Ms. Casados discussed the best way to ensure local entities have funds for planning and preparedness, concluding such efforts should be allowable expenses under executive orders. Las Vegas City Manager Leo Maestas also noted water users have been unable to access usual water sources (as water has been conserved for fire suppression efforts), resulting in lost crops and monetary losses. Mr. Schlager explained funds for these types of costs will likely be available via the U.S. Department of Agriculture.

Senator Muñoz emphasized legislators need to know what resources are needed. Representative Small requested updates on emergency response efforts in the next couple of weeks, and requested local leaders provide updates in reports to the executive and LFC.

Senator Muñoz noted the subcommittee will be traveling to Ruidoso at the end of June to see the recovery experience there and what has been learned.

Representative Chatfield requested information on restoring power, especially as a result of damage to infrastructure for local electrical coops. San Miguel County Commissioner Max Trujillo reported the coops are working restore necessary infrastructure, and Mr. Maestas explained DHSEM is working to determine potential reimbursements for these expenditures.

Luna Community College (LCC) President Edward Martinez provided an update on the fire's impact on LCC and plans for the future. Students and faculty are still off-campus while smoke damage assessments are conducted for insurance purposes. Mr. Martinez emphasized concerns with residents displaced from income from natural resources destroyed by the fire and is seeking funding to establish a program to train those individuals in landscape and forest restoration. There may also be a need to train people to put together modular housing if there are not enough FEMA trailers for those who lost their homes. Mr. Martinez expressed concerns it is not clear who exactly will hire individuals trained by these programs and how to ensure they are connected with jobs.

State Engineer Hamman discussed efforts to protect the area's water supply, including preventing debris from flowing into the reservoir. The Office of the State Engineer (OSE) has identified \$5 million appropriated to the Interstate Stream Commission in the GAA that can be used to aid in some of these efforts and has authorized \$100 thousand for an assessment of the impact on acequia watersheds – at least 65 are expected to be impacted. The Army Corps of Engineers has access to \$50 million in federal funds to build structures in small watershed areas, which could help protect Storrie Lake.

Senator Muñoz and Maria Gilvarry, utilities director for the city of Las Vegas, among others, discussed specific infrastructure needs identified during the morning's tour and potential avenues to obtain necessary equipment. Mayor Trujillo and Ms. Suina discussed potential procurement difficulties and timelines.

In response to an inquiry from Representative Small, Chris Thornburg from OSE explained the office is supercharging upper watershed work.

EMNRD Secretary Probst and State Forester Laura McCarthy provided an update on the fire, fire suppression efforts and weather conditions. Ms. McCarthy explained state resources were insufficient, so out-of-state teams have been brought in. The New Mexico National Guard has also provided assistance.

Post-fire restoration requires the burn area to stabilize, which will take at least three years. EMNRD has submitted an \$80 million application for a reforestation center. The U.S. Forest Service will develop a recovery plan in the next two weeks. DHSEM Secretary Designate Dye

stated he would review the plan and report on additional recovery items not covered by the plan to LFC.

Senator Muñoz, Ms. Casados, Mayor Trujillo, and others discussed communications strategies regarding coordination between executive agencies and others, as well as the risk of flooding.

Secretary Designate Dye briefly discussed his prior experience and efforts undertaken by DHSEM.

Representative Small thanked attendees and participants. Representative Chatfield commented on the importance of cooperation and joint powers agreements. Ms. Casados also thanked participants and subcommittee members.

The subcommittee adjourned shortly after 3:30 p.m. Its next scheduled meeting is on June 23 in Ruidoso.