

MINUTES
Legislative Finance Committee
Los Alamos / State Capitol, Room 307 - Santa Fe, NM
October 17 - 20, 2022

Monday, October 17

The following members and designees were present on Monday, October 17, 2022: Chairwoman Patricia A. Lundstrom; Representatives Jack Chatfield, Gail Armstrong, Candie Sweetser, and Christine Chandler; and Senators Nancy Rodriguez and Pete Campos. Guest legislator Representative Anthony Allison.

Los Alamos National Laboratory (LANL) Staff Director Frances Chadwick provided high level views of the LANL mission to promote nuclear security and deterrence over four years. Laboratory budget and employment grew more than 25 percent.

Ms. Chadwick described challenges in employment and community affairs, including housing and transportation. Approximately one quarter of the workforce is in telework or hybrid. Average salary is \$103 thousand.

The laboratory acquired leases in Santa Fe to perform functions, such as accounting and IT support.

LANL Senior Historian Alan Carr presented a history of the Manhattan Project.

Chairwoman Lundstrom noted the importance of reporting this history in New Mexico public schools and asked LFC staff for a report on how the New Mexico history curriculum tells this history.

Representative Armstrong who represents Trinity Site asked about health effects on New Mexico downwinders.

Representative Allison noted the importance of the Navajo Nation in producing uranium and the code talkers who played a vital role in WWII efforts.

Mr. Carr agreed to provide a follow-up bibliography related to his historical research on LANL.

Kevin John, deputy program director of LANL Applied Energy Science, reported on LANL research related to hydrogen hubs and applied energy technology. He also reported on International West Energy and Sustainable Transition, which plans a roadmap for carbon neutralizing focus techniques and carbon capture use and storage, clean hydrogen, bioenergy, and low-carbon electricity.

Chairwoman Lundstrom urged Mr. John to work with Representative Allison who represents Shiprock and the Central Consolidated School District.

Duncan McBranch, program director of LANL Entrepreneurship for Mission Innovation, outlined a vision to create a hydrogen hub around the lab and northern New Mexico to serve its energy requirements of approximately 30 megawatts in a carbon neutral way.

Chairwoman Lundstrom discussed the need to work with LANL on grant opportunities to promote decarbonization of trucking on interstates and highways.

Rod Linn, a staff member of computational earth science, reported on LANL efforts to model wildland fire and forest management.

LANL Director Thomas Mason and National Nuclear Security Administration Los Alamos Field Office Manager Ted Wyka greeted the committee.

The meeting concluded with a windshield tour of historic sites at LANL.

Tuesday, October 18

The following members and designees were present on Tuesday, October 18, 2022: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan P. Small, Jack Chatfield, Gail Armstrong, Candie Sweetser, Brian G. Baca, and Christine Chandler; and Senators Nancy Rodriguez, Roberto “Bobby” J. Gonzales, Steven P. Neville, Gay G. Kernan, Siah Correa Hemphill, William E. Sharer, and Pete Campos. Guest legislators: Representatives Anthony Allison, Ambrose Castellano, Ryan T. Lane, and Tara L. Lujan; and Senators William F. Burt, Michael Padilla, and Bill Tallman.

Veterans’ Services Department (670). Sonya Smith, secretary of the Veterans’ Services Department (VSD), said veteran service officers (VSO) are the heart of VSD. VSOs receive specialized training and accrediting. The agency currently has seven vacant VSO positions. To support recruitment, VSD increased VSO pay.

Secretary Smith said the federal Promise to Address Comprehensive Toxics (PACT) Act of 2022 is intended to significantly improve healthcare access and funding for veterans who were exposed to toxic substances during military service. Veteran survivors are also eligible to receive benefits under the act. VSD anticipates the new law to increase claims and appeals.

Honor guard services augment the military branches’ burial services. Secretary Smith said there are currently 40 honor guard teams in New Mexico, of which 25 are active. VSD conducts two trainings and competitions a year.

Secretary Smith said the Highly Rural Transportation Grant Program of the U.S. Department of Veterans Affairs awarded New Mexico funding to support veteran medical transportation services in 15 counties.

For FY24, VSD requests \$7.6 million from the general fund, a \$1.4 million increase over FY23. VSD Chief Financial Officer Danelle Lucero said the request includes an additional \$577 thousand for personnel services and employee benefits to fill vacancies and an additional \$850 thousand for contractual services to support medical transportation and honor guard services.

In response to Senator Burt, Secretary Smith said VSD is working closely with the State Personnel Office to support the recruitment and retention of VSOs, with the intention to bring the pay rate in line with VSO pay rates in other states.

In response to Representative Small, VSD Field Services Director Robin Wilson said it takes between four and six months for VSOs to obtain accreditation.

In response to Senator Gonzales, VSD Benefits and Services Director Edward Mendez said construction of the veterans cemetery in Taos is expected to be completed next spring.

Chairwoman Lundstrom invited VSD to tour the State Veterans' Home in T or C with LFC staff in the near future.

Tourism Department (418). LFC Analyst Amanda Dick-Peddie said key measures of the Tourism Department have greatly improved over the past year and therefore LFC staff recommend rotating the agency out of the LegisStat process.

Tourism Department Secretary Jen Schroer said the LegisStat process was helpful in collaborating with other agencies and stakeholders, identifying key issues, and developing solutions to support New Mexico's tourism industry.

Ms. Dick-Peddie said a recent tourism economic impact study revealed the industry accounts for 8 percent of New Mexico's economy. The Tourism Department is tasked with marketing the state, providing tourism support in communities, building tourism capacity, and administering litter prevention and tourism grant programs. The cooperative marketing grant program, which leverages agency marketing expertise for local tourism initiatives, has been especially popular.

Ms. Dick-Peddie said the Tourism Department requests \$28.3 million from the general fund for FY24, an \$8.3 million increase over FY23. Majority of the increase is for the Marketing and Promotion Program.

Secretary Schroer said New Mexico's leisure and hospitality workforce returned to prepandemic levels. The statewide occupancy rate is currently at 94 percent of prepandemic levels and the average daily rate is up 19 percent from 2019. Visitor spending in August 2022 was equal to visitor spending in August 2019 and passenger deplanements at the Albuquerque Sunport increased 19 percent since August 2021.

Secretary Schroer said the Tourism Department is working to deliver on the New Mexico True campaign promise of adventure steeped in culture through quality amenities, attractions, and access.

Secretary Schroer said the Tourism Department's FY24 budget request includes an additional \$1.2 million to fund all authorized positions and an additional \$7 million to meet increased media costs, maintain current fly markets, and sustain investment levels in marketing and promotion programs. The agency also requests two special appropriations: \$20 million for national advertising and \$5 million for the tourism development nonreverting fund. The agency's vacancy rate is currently 9 percent.

Secretary Schroer said New Mexico had nine years of year-over-year record-breaking tourism growth, adding the state's tourism recovery from the pandemic outpaced the national average. The

secretary reported a 7:1 return on taxpayer investment in tourism. Secretary Schroer provided an overview of current initiatives and said tourism grows and strengthens communities and shared culture preserves heritage.

In response to Senator Padilla, Secretary Schroer said the Tourism Department's FY24 budget request includes \$600 thousand for the Special Olympics.

Intertribal Ceremonial Office (538). Tourism Department Secretary Jen Schroer said the Intertribal Ceremonial Office (ICO) is administratively attached to the Tourism Department. Secretary Schroer said ICO was recently recognized at an international film festival for a documentary film it produced on the history and heritage of the Gallup Intertribal Ceremonial. ICO also received two national Telly awards for the film.

In response to Representative Lane, Secretary Schroer said the Tourism Department is looking into what is the best way to fund the annual intertribal ceremonial event.

Indian Affairs Department. Secretary Lynn Trujillo said the Indian Affairs Department (IAD) requests \$4.7 million for FY24. The request includes a \$200 thousand increase for personnel services and employee benefits and a \$249 thousand transfer from the Tobacco Settlement fund for tobacco cessation initiatives. Secretary Trujillo said IAD requests the increase to cover recent pay raises and support recruitment and retention efforts. The agency's vacancy rate is currently 43 percent.

Secretary Trujillo listed recent accomplishments, including a state response plan developed by the Missing and Murdered Indigenous Women and Relatives Task Force.

Chairwoman Lundstrom expressed concern new legislation has increased IAD's workload without providing additional resources.

Department of Homeland Security and Emergency Management (795). Secretary David Dye outlined duties of the Department of Homeland Security and Emergency Management (DHSEM) and said a significant portion of the agency's budget is federally funded. DHSEM consolidates and coordinates homeland security and emergency management functions for the state and acts as a conduit for federal assistance and cooperation. DHSEM partners with federal, state, local, tribal, and nongovernmental entities.

Throughout the pandemic, Secretary Dye said DHSEM processed over \$172 million in federal disaster relief funding and helped distribute food, water and personal protective equipment to communities across the state. This year, the agency collaboratively coordinated efforts to respond to and recover from the state's largest recorded wildfire. Secretary Dye said DHSEM actively administers 15 state emergency declarations in up to \$750 thousand increments across the state for fire-related, flooding, and snow squall events.

DHSEM is moving its preparedness coordinators out of Santa Fe and into the regions they serve. The agency is working with federal and tribal partners to establish tribal emergency operations centers in the northern and southern parts of the state. The agency recently improved its accounting

and administrative processes and reconciled state executive orders. Secretary Dye reported other DHSEM activity.

Secretary Dye said the State Fire Marshal's Office (SFMO) is administratively attached to DHSEM and is tasked with

- Administering fire protection fund and fire grant funding,
- Providing fire service training,
- Inspecting and investigating fire departments, and
- Conducting fire prevention outreach.

DHSEM requests \$3.4 million from the general fund for FY24, flat with FY23.

Chairwoman Lundstrom said LFC sent a memo to the Governor's Office, Department of Finance and Administration, and DHSEM on August 9, requesting information on wildfire recovery efforts; however, a response has not been received. State Fire Marshal Randy Varela said he was not aware of the request.

Chairwoman Lundstrom expressed concern for the scoring process of fire protection grant applications. Mr. Varela said the scoring criteria is set by the New Mexico Fire Protection Grant Council—comprising a representative of the Municipal League, a representative of the Association of Counties, two members appointed by the Public Regulation Commission, and three members, one from each congressional district, appointed by the governor. Chairwoman Lundstrom requested a list of recent fire protection grant awards by county.

Representative Sweetser requested DHSEM's help in addressing a dead zone on New Mexico 9 near the border with Mexico.

The full committee recessed to subcommittee hearings all day October 19.

Thursday, October 20

The following members and designees were present on Thursday, October 20, 2022: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Harry Garcia, Nathan P. Small, Gail Armstrong, Candie Sweetser, Brian G. Baca, and Christine Chandler; and Senators Nancy Rodriguez, Roberto "Bobby" J. Gonzales, Steven P. Neville, Gay G. Kernan, Siah Correa Hemphill, William E. Sharer, and Pete Campos. Guest legislators: Representatives Anthony Allison, Ryan T. Lane, and Debra Sarinana; and Senators William F. Burt and Michael Padilla.

State Investment Performance. LFC Chief Economist Ismael Torres said New Mexico's investment agencies manage more than \$60 billion in state investments, collectively. The Public Employees Retirement Association (PERA) and the Educational Retirement Board (ERB) manage trust funds for public employees' retirement savings, while the State Investment Council manages the state's permanent funds—land grant permanent fund (LGPF) and severance tax permanent fund (STPF)—and other investment accounts.

Mr. Torres said soaring returns were achieved in FY21, but economic conditions since then have presented a challenging investment environment. New Mexico's combined investment holdings for the pension and permanent funds fell by \$1.2 billion, or 2 percent, to end FY22 at \$62.2 billion.

LFC Analyst Joseph Simon said each fund has a targeted rate of return. The target rate is 7.25 percent for PERA, 7 percent for ERB and LGPF, and 6.75 for STPF. Over the last five years, both ERB and the LGPF had average annual returns above the target, while PERA and the STPF had returns below target. All funds averaged returns that beat their target over the 10-year period.

In FY22, all of New Mexico's investment agencies had returns greater than the median. Over the longer term, returns were more modest, with most other funds performing better. The exception was ERB, which performed better over both the one-year and 10-year periods.

Mr. Simon said the state sets aside and invests pension funds to offset the liabilities associated with future pension payments. The pension funds invest these contributions to produce returns, which lower the amount the state would otherwise need to pay. Although accrued liabilities in the funds continue to mount, recent reforms to increase pension contributions and reduce annual cost-of-living adjustments have set the plans on a sustainable path.

Mr. Simon said most employer contributions to the pension fund are directed to paying off each plan's unfunded liability, essentially making up for prior years when total pension contributions did not equal the amount needed to actually support the benefits being earned. Both PERA and ERB are making progress on paying down unfunded liability. For ERB, actuaries estimate a repayment period of 33 years, while actuaries estimate a repayment period (across all divisions) of 72 years for PERA. As recently as 2019, both plans had an infinite funding period.

PERA Chief Investment Officer Michael Shackelford said PERA returned -1.67 percent in FY22. As of June 30, 2022, the fund balance was \$16.6 billion and funded ratio for the public employees benefit plan, PERA's largest plan, was 70 percent. In December, PERA's board will consider a new strategic asset allocation, which takes more risk by increasing the total private markets allocation from 33 percent to 40 percent. Mr. Shackelford said more risk in private equity and credit could result in higher returns over the long term.

SIC Chief Investment Officer Vince Smith said SIC returned -2.2 percent for the LGPF and -4.4 for the STPF in FY22. Return rates over the three-, five-, seven-, and ten-year periods near targets, however.

Mr. Smith said the influx of money into LGPF and STPF is contributing to underperformance.

ERB Chief Investment Officer Bob Jacksha said ERB returned 1 percent in FY22. As of June 30, 2022, the fund balance was \$15.5 billion. Mr. Jacksha outlined ERB's return by asset allocation.

ERB's return over five years continues to rate above the median and risk remains low.

Mr. Jacksha said staffing is ERB's biggest challenge. Currently, four of the 12 authorized portfolio management positions are vacant. A major impediment in recruiting and retaining is subpar

compensation. New Mexico lags other state pension plans by a wide margin. For example, a portfolio manager just left for a comparable position for twice the compensation.

In response to Chairwoman Lundstrom, Mr. Jacksha said New Mexico's investment agencies are authorized to set compensation levels, according to state statute; however, the executive has not allowed the investment agencies to do so. Mr. Jacksha said ERB's Board won its case in district court last year, allowing the board to use its authority to set compensation levels; however, the ruling was appealed.

In response to Chairwoman, Mr. Smith said targeted rates of return cannot be met without external investment managers. PERA's and ERB's targeted rates are set by their boards.

In response to Senator Padilla, Mr. Smith said state law does not allow investment staff to receive bonuses.

Public Employees Retirement Association (366). LFC Analyst Joseph Simon said the Public Employees Retirement Association (PERA) requests an 8.4 percent budget increase for FY24. The request fully funds all authorized positions and an additional FTE. The request also provides an additional \$1.8 million for contractual services and \$700 thousand for IT services.

PERA Executive Director Greg Trujillo said Senate Bill 72 of 2020 increased PERA contribution rates and changed the cost-of-living model. Since implementation, \$19.3 million in noncompounding cost-of-living adjustments has been provided and an additional \$32.4 million in contributions has been generated.

Educational Retirement Board (352). LFC Analyst Joseph Simon said the Educational Retirement Board (ERB) requests a \$1 million budget increase for FY24. Majority of the increase will be used for personnel services and employee benefits. The agency added 12 positions, for a total of 92 FTE in FY23, to support its upcoming transition to a new pension administration system.

ERB Executive Director David Archuleta said ERB's strategic plan was revised and approved by the board in August. The plan focuses on customer service, recruitment and retention, investment returns, and the completion of key projects.

Mr. Archuleta said ERB employer contribution rates will increase again in FY23 and FY24, reducing the funding period 42 years to 33 years.

Mr. Archuleta said the following legislation will be proposed next session:

- Amendment to the Procurement Code to allow pension administration system contracts to exceed four years,
- Amendment to the Educational Retirement Act to allow eligible employees of Southeast New Mexico College to participate in the Alternative Retirement Plan, and
- Amendment to the Educational Retirement Act to increase the requirement minimum distribution age.

State Investment Council (337). LFC Chief Economist Ismael Torres said the State Investment Council (SIC) requests a \$1.5 million budget increase for FY24. SIC requests the increase to hire five additional FTE and cover increased investments fees due to asset growth.

SIC Chief Financial Officer Brent Shipp said SIC requests reauthorization of the five FTE lost in FY19. State Investment Officer Steve Moise pointed out the agency had 31 FTE authorized in 2010. Currently, SIC is authorized 26 FTE, despite having a much larger investment portfolio. Vice Chairman Muñoz said the positions were deauthorized because they were vacant for several years.

Miscellaneous Business.


Action Items. Senator Campos moved to adopt the LFC September 2022 meeting minutes, seconded by Senator Rodriguez. The motion carried.

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

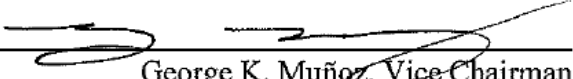
Senator Rodriguez moved to adopt the LFC Higher Education Subcommittee September report, seconded by Representative Small. The motion carried.

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 10:21 a.m.



Patricia A. Lundstrom, Chairwoman



George K. Muñoz, Vice Chairman

October 28, 2022

MEMORANDUM

TO: Legislative Finance Committee (LFC)

FROM: Sunset/Sunrise Subcommittee
Representative Harry Garcia, Chair
Senator Pete Campos, Vice Chair
Representative Gail Armstrong
Senator Roberto “Bobby” J. Gonzales
Representative Dayan Hochman-Vigil
Senator Gay G. Kernan
Representative Brian G. Baca
Senator George K. Muñoz
Representative Patricia A. Lundstrom

**SUBJECT: Follow-Up Report to Sunset/Sunrise Subcommittee
Preliminary and Secondary Preliminary Actions**

On October 19, 2022, the Sunset/Sunrise Subcommittee met to discuss LFC staff recommendations reflecting the September 30 input from RLD and the independent boards and commissions. Following are the initial committee actions and follow-up actions for each board.

The subcommittee met on August 16, 2022, to hear presentations from agencies scheduled to sunset in FY23. The subcommittee took preliminary action and asked the Regulation Licensing Department (RLD) and independent boards to follow up on action issues.

Next, LFC staff and Legislative Council Services (LCS) staff will prepare draft legislation for consideration by the subcommittee. There are opportunities for the committee, the public, constituents, and advocates to provide input before committee action.

(420) Regulation Licensing Department (RLD).

Superintendent Linda Trujillo presented recommendations for RLD’s boards and commissions.

(420) Board of Pharmacy. The subcommittee adopted the LFC staff recommendation to eliminate the sunset for this board since medical boards typically do not sunset.

Superintendent Trujillo commented that pharmacy is a profession that should not be considered by the legislature for legislative changes every six years; it should be considered for legislative changes as changes occur at the federal and state levels.

- (420) **Real Estate Appraisers.** The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029. The subcommittee also adopted the LFC staff recommendation supporting RLD’s recommendation to make the board advisory and consolidate with the Real Estate Commission, since there is no conflict and this model exists in other states.

Senator Kernan inquired about the LFC staff recommendation for the board to revisit the requirement that newly licensed applicants work under the supervision of a licensee for one year.

Superintendent Trujillo responded the conversation at the August 16 meeting focused on an onerous requirement that seems to reduce the number of appraisers in the market for homeowners. RLD’s understanding is the state board would then be in the position to make amendments to those rules after review at the national level. The resources at the Real Estate Commission are much greater than the board, and RLD believes an advisory committee would have the same authority, and it would be a much stronger advisory than an advisory at large. Language in other advisory board models approves the rules the Real Estate Commission adopts.

Superintendent Trujillo reported the statutes provide that the state conform to federal requirements, and other professions regulated by RLD must adhere to federal regulations in order that appraisals can be accepted by federally chartered banks, credit unions, and other financial institutions.

- (420) **Board of Optometry.** Representative Baca moved to remove the sunset clause for the board. The subcommittee adopted RLD’s recommendation to eliminate the sunset for this board since medical boards typically do not sunset. Representative Garcia asked RLD if removing sunset for this board is also protocol in other states. RLD will follow-up
- (420) **Board of Dental Health Care.** The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029.
- (420) **Public Accountancy Board.** The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029.
- (420) **Board of Acupuncture and Oriental Medicine.** The subcommittee adopted the LFC staff recommendation to eliminate the sunset for this board, since medical boards typically do not sunset. RLD stated the proposed amendments to the Uniform Licensing Act (ULA) will address penalties.

Chairman Representative Garcia asked Superintendent Trujillo to explain the ULA. Superintendent Trujillo responded the ULA outlines the general provisions for issuing licenses and general provisions for revoking, suspending, or non-renewing licenses. The ULA is limited to specific laws about who gets a license and what due process would occur.

(420) **Athletic Commission.** The committee decision remains tabled.

(420) **Board of Funeral Services.** The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029. RLD staff noted boards and commissions should have more authority to institute disciplinary action.

Superintendent Trujillo said she has had conversations with many of the members regarding due process in the ULA. Currently, RLD does not have the power to suspend licenses in severe cases in other than a few limited boards. In the current process it could be between six months and two years before a license is suspended or revoked. RLD is looking at ways to summarily suspend licenses and have due process follow.

Senator Kernan asked Superintendent Trujillo if RLD intends to do a suspension to force the board to act more quickly, or could RLD require the funeral board to take an action in a certain period of time. She stated concern about removing authority from a board to RLD in doing the suspensions. Superintendent Trujillo clarified authority would remain with the board to do the suspension.

(420) **Interior Design Board.** The subcommittee adopted the LFC staff recommendation for the board to sunset. The committee discussed options to either sunset the board with no further action or sunset the board with a proposal to provide department licensing without a board.

Senator Gonzales inquired about RLD implementing licensing. Superintendent Trujillo responded that if members would not take up the advisory board option, the board and licensing would sunset. She clarified the licensing board has 57 licensees statewide, is operating in deficit, and RLD has very few resources to provide them support. She said this is an opportunity, similar to the Cannabis Regulation Act, where RLD could take administrative action to issue licenses when practicing professionals meet requirements. Disciplinary action would reside within RLD. Superintendent Trujillo said the interior design industry has expressed the importance of licensure, and RLD is looking for options to support the licensing of the profession without a high administrative burden.

Senator Gonzales commented the August 16 presentation from the board was very rushed toward the end of the hearing, and he did not believe the board had a fair opportunity to explain themselves, but that he supported the LFC staff recommendation for the board to sunset. Senator Garcia asked if the creation of an advisory committee would streamline the licensing process, thereby expediting licensure. RLD responded the process could be streamlined for a small board such as interior design because the agency is working to streamline all licensing processes through the Salesforce online platform. RLD commented that the option to sunset the board without the option to offer department licensing without a board would administratively efficient.

(420) **Board of Podiatry.** The subcommittee adopted the LFC staff recommendation to move the board under the medical board and create a podiatry advisory committee. The medical

board has the expertise and resources to administer the board. The committee also moved to eliminate the board's sunset, as it does not apply to medical boards.

- (420) **Private Investigations Advisory Board.** The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029. The subcommittee moved in support of RLD's recommendation to adjust fees and renewals to a biennial cycle for cost-effectiveness and remove the verbiage *good moral character* from statute, as it is not defensible

Senator Gonzales asked about the proposed increase for the surety bond requirement and if \$60 thousand is a standard amount compared to practice in other states. Superintendent Trujillo responded the figure is in line with construction industries. RLD admitted that the proposed amount was arbitrary.

Senator Kernan asked if anyone checked that an insurer will provide necessary coverage; members had increased bonding in the past, only to find insurance companies could not cover it.

Superintendent Trujillo said RLD has not checked to see if an insurer would provide coverage up to the \$60 thousand, and said they would research the amount. Senator Burt asked RLD what the change from \$10 thousand to \$60 thousand would cost investigators. Senator Baca asked if a motion to table would be appropriate. LFC Director Abbey said this issue will be clarified by the time there is a bill drafted. Senator Baca requested more information from RLD about the proposed increase. LFC staff made a recommendation to move forward with the action, excluding the surety bond increase, but including the removal of obsolete language and proposed adjustments to fees.

Senator Baca recommended the subcommittee accept the LFC and RLD recommendations and approve them with the exception of the surety bond increase from \$10 thousand to \$60 thousand. Representative Harry Garcia also stated concerns with the proposed increase to the surety bonds.

- (464) **Board of Licensure for Professional Engineers and Land Surveyors (BLPEPS).** The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029. The subcommittee adopted the LFC staff recommendation for recurring funds to be added to the 2024 General Appropriation Act for increased scholarship funding.

LFC staff was informed that, as of October 26, 2022, the governor has reappointed one existing member and appointed three new members. The board is fully staffed with 10 members and contains no board holdovers.

BLPEPS will propose amendments to allow New Mexico State University and New Mexico Technical University to receive equipment funding for their geomatics programs, and proposed to amend the board's practice act with the revised scholarship amount.

- (404) **Board of Examiners for Architects (NMBEA)**. The subcommittee adopted the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029, and moved that no changes be made to the board’s student observer position.

Members of the board provided a testimonial about the student observer. Board Chair Jim Oschwald said they have tried to fill the position in the past, but they are bound by the Department of Finance and Administration’s rules for providing per diem to a student observer. Architect member Mr. Ray Vigil said currently, it is stated the board may appoint a student observer, and they did not foresee issues and respectfully requested not to remove the position.

Senator Gonzales asked the board to consider creating a stipend for the student observer. Executive Director Melarie Gonzales said she does not believe a stipend would be possible due to restrictions in the Travel and Per Diem Act. LFC staff found a student would not meet the legislative definition of an employee in statute, so per diem would not apply. LFC Director Abbey recommended that LFC staff can continue to work with the board to determine other ways to compensate the position unrelated to the sunset process. The committee made a revised recommendation with no change from the initial action.

- (479) **Board of Veterinary Medicine**. The subcommittee moved to adopt the LFC staff recommendation to extend the sunset date of the board by six years, to July 1, 2029.

At the August 16 meeting, the committee requested the board update its statutes with non-compete clauses. LFC Director Abbey inquired about the constitutionality of non-compete clauses. LFC analyst Ginger Anderson replied, per Legislative Council Services (LCS), many states have laws declaring non-competes to be void and against public policy, because they restrict where people can work. Conversely, making a non-compete provision unenforceable for veterinarians, as it is for health care practitioners, could possibly help with keeping more veterinarians practicing in the state. Non-competes are usually found in employment agreements and severance agreements. If a non-compete is valid, it prevents a person from doing the same work within a certain geographic location so an individual does not compete with a former employer, thereby requiring the individual to go outside of the geographic location to work.

Director Abbey said recruitment of students is a budgetary matter, so beside additional research needed on non-compete clauses, there would be no change from the initial action.

November 17, 2022

MEMORANDUM

TO: Legislative Finance Committee

FROM: Subcommittee A
Representative Nathan P. Small, Chair
Senator Pete Campos, Vice Chair
Representative Brian G. Baca
Representative Jack Chatfield
Representative Candie G. Sweetser
Senator Pat Woods
Senator Roberto “Bobby” J. Gonzales
Representative Patricia A. Lundstrom
Senator George Munoz

SUBJECT: Subcommittee A Report

Subcommittee A met on October 18 and 19, 2022. Items in this subcommittee report are organized by agency code instead of order of appearance.

- (308) **State Auditor.** State Auditor Brian Colón presented the agency’s FY24 budget request. The agency’s total FY24 budget request was \$5.1 million, a 13.6 percent increase from FY23. The general fund request included an increase of 7.5 percent to reduce vacancies. The office has 12 vacancies and a funded vacancy rate of approximately 28 percent. The request also included \$43.7 thousand to fund the agency’s internship program, which creates opportunities for undergraduate and graduate students. The subcommittee temporarily tabled the agency’s request.
- (340) **Administrative Hearings Office.** Brian VanDenzen, chief hearing officer, presented the agency’s FY24 budget request. The Administrative Hearings Office (AHO) requested a total increase of \$334.6 thousand, a 15.2 percent increase, for FY24. The request included a general fund increase largely for personnel costs, including salary adjustments for attorneys and hearing officers. The request included a \$211 thousand increase from the

general fund for an agency expansion. AHO requested an appropriation to other state funds for the standard \$165 thousand from the motor vehicle suspense fund. The agency has been working with the State Personnel Office to complete a market study, and agency analysis suggests salaries are below the market average compared with paid positions in other agencies and the private sector. Many hearing officer cases involve complex tax issues, including millions in potential impact to state tax revenue. The subcommittee temporarily tabled the agency's request.

- (369) **State Commission of Public Records.** State Records Administrator D. Rick Hendricks presented the agency's FY24 budget request. The agency requested a total operating budget of just under \$3.5 million, a 6.3 percent increase over the FY23 operating budget. The agency noted its other costs are primarily covered using fund balances, so the agency is requesting to increase its general fund revenue to cover \$123.5 thousand of the agency's rent costs and \$8,000 for DoIT rate increases, as well as a small amount for other rate increases. The total general fund revenue increase totals \$339 thousand, 12.2 percent over the FY23 operating budget because the request for general fund revenues also includes \$205.6 thousand in personnel costs associated with prior year compensation increases. Mr. Hendricks also noted the agency's \$66.6 thousand special appropriation request to cover IT system upgrades to improve the commission's cybersecurity posture. Chairman Small asked whether the agency is coordinating with the Department of Information Technology (DoIT) to address its cybersecurity needs, to which Dr. Hendricks replied in the affirmative, noting the work DoIT is doing to scan agency IT assets and identify vulnerabilities on a monthly basis and the close relationship between DoIT and the agency's IT staff.
- (394) **State Treasurer's Office.** State Treasurer Tim Eichenberg introduced the presentation, and Sam Collins, the deputy state treasurer, and Claudia Armijo, the Work and Save director, presented the agency's budget request. For FY24, STO requested a general fund increase of \$752.7 thousand, or 17.9 percent, to launch the New Mexico Work and Save Program, to implement legislative pay increases, and to take over the repurchasing agreement processing from DFA. The agency also requested \$390 thousand in other revenues and \$2,000 in federal funds, flat with FY23. The FY24 request included a general fund revenue increase of \$364 thousand to support the launch of the New Mexico Work and Save Program, to be implemented no later than July 1, 2024. Laws 2020, Chapter 7, created the program, providing a voluntary savings program for private sector and nonprofit employees, as well as for self-employed individuals. Representative Lundstrom asked for clarification on mark-to-market losses. Sam Collins explained why the agency's unrealized losses are high and what it means to have mark-to-market losses. Senator Padilla asked when the Work and Save program would launch and for more information on the importance of the partnership with Colorado. Ms. Armijo, executive director, noted the timeline for the project and explained the partnership with Colorado will allow New Mexico's program to reach economies of scale and attract a program administrator. Senator Tallman asked what would happen if the Work and Save Program does not become mandatory. Ms. Armijo explained, without the mandate, the program

will not have enough accounts to be attractive to a program administrator. The subcommittee moved to temporarily table the agency's request.

- (404) **Board of Examiners for Architects.** Executive Director and Chief Finance Officer Melarie Gonzales presented the agency's FY24 budget request. The board receives no general fund revenue and is supported by revenues from professional licenses, permits, and examination fees. The agency requested an increase of \$36.5 thousand, or 7.3 percent above the FY23 operating budget. The majority of the request was to reclassify positions. They have 4 authorized FTE with one vacancy, a compliance officer. The subcommittee temporarily tabled the agency's request.
- (446) **Medical Board.** The Medical Board requested an increase of 17 percent above the FY23 operating budget. The board's request increased licensing fee revenues and use of fund balances. The board request decreased personnel spending by \$33 thousand, or 2 percent. A majority of the requested increase in contractual services and the other category is for IT services to enhance the board's licensure system. Director Sondra Frank updated the committee on licensure trends and board activities especially related to updating the board's IT licensure system. Representative Chatfield asked about military spouse license transfers and the director responded military spouses receive priority licensure if they inform the board. The subcommittee temporarily tabled the agency's request.
- (449) **Board of Nursing.** The Board of Nursing requested \$3.9 million from other revenues and fund balances, an 11 percent increase above the FY23 operating budget. The board increased revenues from other transfers and other revenues to align more closely with FY22 actual revenues. The board request reduced the vacancy rate by increasing spending on personnel by \$147.8 thousand, which would allow the board to fill 2 additional FTE. The agency request for contracts increased significantly from the FY23 operating budget for attorney services to reduce a case backlog. The board has reported a backlog of 160 cases and is at risk of six to ten cases each month exceeding the statutory two-year timeline for board action. Additionally, other costs increased for leased office space. The board must move to new lease space by May 31, 2023. The board, with the General Services Department, explored the possibility of moving to state-owned space in Albuquerque; however, no space was available. Director Sheena Ferguson then updated the committee on board activities and license trends. Representative Sweetser asked the board to keep informed on nursing workforce trends. The subcommittee temporarily tabled the agency's request.
- (464) **State Board of Licensing for Professional Engineers and Surveyors.** Perry Valdez, executive director, presented the agency's FY24 budget request. The agency receives no general fund revenue and is supported by revenues from professional licenses, permits, and examination fees. It requested a budget of \$1.2 million for FY24, an overall budget decrease of 4.2 percent. The board requested to increase contractual services by \$35 thousand for investigative services to increase the percentage of cases resolved through compliance or legal action. The agency's personnel costs decreased by \$12.4 thousand, or 1.8 percent. The subcommittee temporarily tabled the agency's request.

(465) **Gaming Control Board.** Executive Director Janice Maniachi presented the agency’s FY24 budget request. The Gaming Control Board requested a general fund increase of \$793.3 thousand, or 13 percent, over its FY23 operating budget. A majority of the requested increase was to reduce the agency vacancy rate and fund other services, including hearing officers, website support, and gaming enforcement. The request included the salary for a licensing director, a position added last fiscal year. The subcommittee temporarily tabled the agency’s request.

(469) **Racing Commission.** Izzy Trejo, executive director, presented the agency’s FY24 budget request. The New Mexico Racing Commission (NMRC) requested an overall budget increase of 6.2 percent, or \$222.5 thousand over the FY23 operating budget, which included an 8.6 percent increase in general fund revenues. The budget request included \$700 thousand in revenue from the racehorse testing fund and \$300 thousand from industry racing revenue, which was flat with the FY23 operating budget. The director spoke about the agency’s need for qualified veterinarians to keep pace with the federal Horseracing Integrity and Safety Act (HISA) regulatory standards.

Director Trejo brought forth a request for an additional \$1.8 million in addition to the agency’s original FY24 budget request. Accompanying the request was a HISA agreement indicating each state is responsible for funding a racetrack safety program. Staffing for the program includes a deputy director, medical director, safety director, steward director, veterinarian director, more regulatory veterinarians, a testing liaison, and a minimum of two more investigators. LFC staff indicated this additional request was not presented in advance of the budget hearing and will warrant further analysis.

LFC staff mentioned the agency received a \$500 thousand special appropriation in FY23 to cover expenses associated with HISA, contingent on notice from the federal government that such expenditures be paid. The committee suggested NMRC be issued a permanent, recurring, special appropriation.

Director Trejo described ongoing issues with legal representation through the Office of the Attorney General (NMAG) and requested to contract private counsel. Senator Munoz proposed a statutory change to remove the requirement for the agency to seek legal counsel through NMAG. The subcommittee temporarily tabled the agency’s request.

(479) **Board of Veterinary Medicine.** The Board of Veterinary Medicine receives no general fund revenue and is supported by revenues from professional licenses, permits, and examination fees. The agency requested an increase of \$7,700, or 1.7 percent over the FY23 operating budget. The majority of the increase was in the contracts category to modernize the licensing system. The subcommittee temporarily tabled the agency’s request. Representative Ryan Lane commented the board should evaluate the decision to raise licensing fees by 12 percent because it is a steep increase compared with other boards. The subcommittee temporarily tabled the agency’s request.

- (490) **Cumbres and Toltec Scenic Railroad Commission.** Cumbres and Toltec Commission President Scott Gibbs, with government liaison Ed Beaudette, presented the Cumbres and Toltec Scenic Railroad Commission budget request, which was flat with FY23. Committee members asked President Gibbs about upcoming capital outlay projects, which he reported have stalled due to problems finding qualified engineers. Members also remarked on the commission’s hospitality during the August 2022 LFC meeting. The subcommittee temporarily tabled the agency’s request.
- (491) **Office of Military Base Planning.** Richard Glover, director of the Office of Military Base planning, presented the agency’s FY24 budget request, which was flat with FY23. Representative Sweetser asked what the agency was doing to improve spousal quality of life, a major concern for military bases. Director Glover informed committee members the agency is working to improve processes, such as state license and certification transfers, to ensure military spouses have a seamless transition. The subcommittee temporarily tabled the agency’s request.
- (601) **Commission on the Status of Women.** Lisa Curtis, commission chair, and Erin Armstrong, vice chair, discussed the active 13 member commission and reported Jenifer Getz was hired as director in July and is the only staff person, with the commission’s outreach and marketing done by volunteers. The commission requested \$850 thousand in general fund support in FY24 for 1 additional FTE; to hire contractors to assist with marketing, data compilation, and web design; and to host a statewide listening tour and women’s summit. Vice Chairman Campos asked if the agency had a comprehensive list of women’s organizations and was told it is working on it, and the vice chairman and commission members expressed the need for the additional FTE to help execute the commission’s mission. Chairman Small asked about the commission’s engagement with healthcare and was told 17 counties are obstetrical deserts and the commission is working on this issue and long Covid. Chairman Small agreed with the vice chairman regarding the addition of the additional executive assistant FTE requested as an expansion item by the commission at a cost of \$64.5 thousand. The subcommittee temporarily tabled the agency’s request.
- (603) **Office of African American Affairs.** Charles Reado, acting director, presented the office’s request for a flat budget. There was little discussion. The subcommittee temporarily tabled the agency’s request.
- (604) **Commission for Deaf and Hard-of-Hearing Persons.** Nathan Gomme, executive director, reported the commission continues to experience shortfalls in telecommunications relay service funds. The Federal Communications Commission (FCC) will be changing its fee structure and the director is working with the FCC and its auditors to determine how much telecommunications traffic New Mexico has and how fees could be restructured. Director Gomme reported the agency is providing more in-person services and conferences. The commission requested a 42 percent increase from the general fund over FY23. Representative Sweetser asked if the agency was planning on introducing a bill during the 2023 session to change the telecommunications relay

service fee structure and was told the agency is analyzing changes based on upcoming FCC data. Chairman Small asked if the FCC data would be forthcoming in time to draft a bill and was told maybe but the agency might proceed regardless. The subcommittee temporarily tabled the agency's request.

(605) **Martin Luther King, Jr. Commission.** Leonard Waites, director, presented the commission's request for a 65.6 percent increase in revenue from the general fund. Representative Sweetser asked about salary adjustments and Senator Campos asked about the commission's audit. The commission cleared several long-standing prior year audit findings. The subcommittee temporarily tabled the agency's request.

(606) **Commission for the Blind.** Greg Trapp, executive director, presented the commission's FY24 request, which did not include a general fund increase over FY23 operating budget. Director Trapp indicated Covid-19 impacted the Independent Living Program and negatively impacts vision through diabetes and other health conditions. Vice Chairman Campos commended the agency for its work. Senator Sharer asked about the employment the commission assists with and was told the commission has helped people find and retain employment in any field that does not require a driver's license. The subcommittee temporarily tabled the agency's request.

(644) **Division of Vocational Rehabilitation.** Casey Stone-Romero, director, reported the agency's request for general fund revenue was 2.2 percent over the FY23 operating budget, and the agency will continue to focus on filling vacant positions. Director Stone-Romero reported the order of selection waiting list declined to just over 300 people and the state may end the waiting list soon. Chairman Small asked if the agency's maintenance of effort was tied to the federally declared public health emergency and was told it was not. The subcommittee temporarily tabled the agency's request.

(645) **Governor's Commission on Disability.** Stan Ross, director, presented the commission's request for a 9.3 percent increase in general fund revenue over FY23. The commission requested funds to expand Residential Accessibility Modification Program services for people with disabilities, especially in rural areas. Chairman Small asked how the commission interfaces with Disabilities Rights Councils and was told the agency conducts outreach to these and other nonprofit groups and is happy to work with them. When asked about the status of filling the 3 funded but vacant FTE slots, Director Ross indicated the agency will be filling two positions soon. The subcommittee temporarily tabled the agency's request.

(647) **Developmental Disabilities Council.** Between FY21 and FY23, the general fund appropriation to the agency grew nearly 46 percent. The increased general fund appropriation included replacing over \$500 thousand per year in depleted fund balance for guardianship services and funding to create a statewide special education ombudsman program. The council's FY24 request from the general fund was \$9.5 million, nearly 25 percent above the FY23 operating budget. The council requested several increases for personnel, other operating costs, guardianship rate increases, and funding to reduce the

wait list. In 2021, the council published an updated rate study proposing guardianship rate increases. In FY23, the council requested and Legislature funded a phased approach to increasing rates for treatment guardianship, guardianship legal team rates, and professional guardianship rates. For FY24, the council requested an additional \$600 thousand to nearly completely fund the rate increase. Director Alice Liu McCoy updated the committee on council activities including the rate increase study. Senator Padilla asked about the fund balance and the director responded the fund was depleted. The subcommittee temporarily tabled the agency's request.

(662) **Miners' Hospital.** Bo Beames, chief executive officer (CEO), presented the hospital's request for a 3 percent increase in federal Medicare revenue and a 3 percent increase in other transfers from the miners' trust fund. The requested funding would primarily support staff salaries and contract nurses. The CEO also discussed the historical art and photography collection in the agency's assisted living facility. The hospital's chief financial officer (CFO), Lonny Medina, reported on the hospital's financial position and capital outlay renovations. Senator Gonzales asked if the art had been appraised and indicated he might be able to have an appraiser from Taos work with the hospital. Senator Gonzales was told by the CFO there was \$175 million in miners' trust fund balance. Representative Chatfield commended the hospital on sharing resources with the Clayton hospital and providing obstetrical care within the northeast region. Vice Chairman Campos commended the hospital on improving its audits and discussed enhanced regional marketing of the hospital and its services. Representative Allison asked with the closing of the San Juan mine, the laid-off miners would be eligible for services at Miner's Hospital and through the Black Lung program and traveling van. CEO Beames replied the hospital follows the federal definition for miners, which states to qualify as a miner one would work for a licensed mining operation for at least a year. The subcommittee temporarily tabled the agency's request.

(680) **Office of Family Representation.** Mary Ann Shaening, contractor for the Administrative Office of the Courts (AOC) who is overseeing standing up the new agency, presented the agency's request. Representative Sweetser asked about the expected return on investment with the new agency and how the money is moving from AOC to the new agency. Ms. Shaening explained the expected return on investment and explained the current funding in AOC will be reduced for the FY24 budget and funding for the new agency will be established. The subcommittee temporarily tabled the agency's request.

(765) **Juvenile Public Safety Advisory Board.** Tamera Marcantel, Children, Youth and Families Department (CYFD), Juvenile Justice Services Division director, presented the request for a flat budget. Senator Campos asked what the board thought about moving the budget under CYFD. Ms. Marcantel responded that it probably would not make a big difference either way. She said she would have to check with her superiors about how to move the board into CYFD's budget. Director Alice Liu McCoy update the committee on council activities including the rate increase study. Senator Padilla asked about the fund balance and the Director responded the fund was depleted. The subcommittee temporarily tabled the agency's request.

November 17, 2022

MEMORANDUM

TO: Legislative Finance Committee

FROM: Subcommittee B
Senator Nancy Rodriguez, Chair
Representative Harry Garcia, Vice Chair
Senator Siah Correa Hemphill
Senator Gay G. Kernan
Senator Steven P. Neville
Representative Gail Armstrong
Representative Christine Chandler
Representative Daya Hochnan-Vigil
Representative Patricia A. Lundstrom
Senator George K. Munoz

SUBJECT: Subcommittee B Report

Subcommittee B met on October 18 and 19, 2022. Items in this subcommittee report are organized by agency code instead of order of appearance.

(208) New Mexico Compilation Commission. Brendon Gray, LFC analyst, presented the request of the New Mexico Compilation Commission. The overall request was flat relative to the FY23 operating budget. Chief Financial Officer Wendy Loomis reported that over the last several fiscal years the commission has changed its business model to provide free public access to NMSource.com, the master database of official state laws. The subcommittee voted unanimously to temporarily table the commission's budget request.

(210) Judicial Standards Commission. Mr. Gray, LFC analyst, presented the Judicial Standards Commission's request for an \$83 thousand, or 8.3 percent, increase compared to FY23. The entirety of the request was to provide a 10 percent compensation increase for all staff to align with the judiciary's unified budget request of 10 percent salary increases for all staff. The

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JSC is not part of the unified budget but adopted the judiciary's pay bands. The subcommittee voted unanimously to temporarily table the commission's budget request.

(215) Court of Appeals. Mr. Gray, LFC analyst, presented the Court of Appeals' request for a general fund revenue increase of \$606.2 thousand, or 8.1 percent, from the FY23 operating budget. The request included funding for a building manager position, increased staff benefits, maintenance and repair costs, training costs, and transcription costs. Representative Garcia asked if the request for a building manager would add a position. Chief Judge Hanisee clarified that the additional funding would fund an authorized, but unfunded, position. The subcommittee voted unanimously to temporarily table the court's budget request.

(216) Supreme Court. Mr. Gray, LFC analyst, presented the Supreme Court's request for a general fund revenue increase of \$195 thousand, or 2.6 percent, compared with the FY23 operating budget. Mr. Gray noted the request includes funding for an unfunded FTE in the Supreme Court Law Library, increased subscription costs, travel costs, and transcription costs. Mr. Gray also introduced Chief Justice Bacon and Clerk of the Court Garcia who joined him in the report. The Chief Justice then introduced the judiciary-wide priorities of staff and judge compensation increases, the increased funding for and administrative restructuring of the judicial training and education program, and the elimination of post-conviction, non-punitive fees. Senator Kernan asked if the University of New Mexico, which currently runs the judicial education center, supports the effort to move those functions to the Administrative Office of the Courts. Chief Justice Bacon responded in the affirmative and clarified details about the training and curriculum standards. Senator Neville asked about the salary of District Court Judges and asked about the residency requirements. Chief Justice Bacon responded that the salary is approximately \$160 thousand per year and that judges must be residents of the judicial district when sworn in to the position. In response to a question from Chair Rodriguez, Ms. Garcia elaborated on the court's capital request, which included security, repairs, a new generator, and upgrades to the court's elevator. The subcommittee voted unanimously to temporarily table the court's budget request.

(354) New Mexico Sentencing Commission. Linda Freeman, director of the Sentencing Commission (NMSC), presented the agency's request of a \$2 million increase over its FY23 operating budget. The entirety of the increase was intended for crime reduction grants, for which it received a \$2 million nonrecurring appropriation in the 2022 General Appropriation Act. Dir. Freeman also explained the agency is seeking legislation to create a nonreverting fund for its crime reduction grants and provided an update on NMSC's data integration and criminal code update initiatives. In response to questions from Senator Kernan, Dir. Freeman explained grants are generally for new projects, although some programs could receive funding multiple times, and that the agency had not received an application from the 5th Judicial District until the second round of FY23 funding was offered. In response to questions from Representative Dixon, Dir. Freeman explained how the agency intends to track program metrics, performance, and effectiveness. The subcommittee voted unanimously to temporarily table the commission's budget request.

(360) Lieutenant Governor. Lieutenant Governor Howie Morales presented the FY24 budget request, which included a general fund revenue increase of \$23.7 thousand, or 3.9 percent, for FY24. The requested increase is to support slight pay increases to staff salaries and employee benefits for staff retention. The requests for contractual services and other costs are flat for FY24. Cyndi Montoya, Chief Financial Officer, highlighted the agency’s 6 percent increase in constituent inquiries in the past year, of which 94 percent were resolved within 10 days. Senator Munoz asked whether the agency received the 7 percent compensation increases from the prior year, which the agency did. Lieutenant Governor Morales noted all staff hired when he took office have been retained. The subcommittee voted unanimously to temporarily table the agency’s budget request.

(378) Personnel Board. State Personnel Director L. Teresa Padilla presented the Personnel Board’s FY24 budget request, with an increase of \$182 thousand, or 4.4 percent. The board requested an increase of \$174.1 thousand in revenue from providing shared human resources services to small state agencies. The director noted this revenue source was not requested for FY23 because the agency had planned to discontinue the service. The board would submit a budget adjustment request for FY23, making the budget request essentially flat with an adjusted FY23 budget. The director also reviewed the agency’s response to a recent LFC program evaluation on the state’s compensation and classification system. The subcommittee voted unanimously to temporarily table the agency’s budget request.

(379) Public Employees Labor Relations Board. Executive Director Thomas Griego noted the board’s FY24 budget request for an increase of \$39.2 thousand was to provide additional targeted compensation to the board’s 2 employees. He noted the board had prioritized the salary increases to compensate staff in line with other similar agencies and to aid in the recruitment of a new executive director upon his planned retirement. The subcommittee voted unanimously to temporarily table the agency’s budget request.

(410) Ethics Commission. Executive Director Jeremy Farris presented the agency’s FY24 budget request. The commission requested \$1.4 million from the general fund for FY24, an increase of \$223.9 thousand, or 18.1 percent, from the FY23 operating budget. The request included an increase of 21.4 percent for personnel to fully fund existing positions, including an investigator position that is a current unfunded vacancy, and to add 1 FTE—a financial specialist—to the commission’s staff, and an increase of 25.7 percent for other costs associated with personnel costs. Executive Director Farris noted the agency’s expanded scope to include ethics complaints regarding notaries public, which has increased the staff workload at the agency. Chairwoman Rodriguez asked for clarification regarding the agency’s FTE request. Executive Director Farris clarified that the agency is currently authorized for 8 FTE but only has the funding for 7 of those positions, so one remains vacant. Five of the filled positions are attorney positions. The agency is requesting to fully fund all 8 authorized positions for FY24 and is requesting to add a ninth FTE to the agency to support financial operations at the agency alongside the existing Chief Financial Officer. The subcommittee voted unanimously to temporarily table the commission’s budget request.

(460) State Fair Commission. Dan Mourning, Director, presented State Fair’s budget request. Senator Kernan asked how concerts are funded and mourning stated that the Fair makes money from concessions and space lease. The subcommittee voted to temporarily table the commission’s budget request.

(508) Livestock Board. NMLB Executive Director Belinda Garland and NMLB Chairwoman Molly Manzanares, aided by LFC fiscal analyst Scott Sanchez, presented the agency’s FY24 budget request. NMLB requested a budget of \$9,361,000, representing a 6.6 percent overall increase, including a 49.2 percent increase in General Fund appropriations. Ms. Garland discussed the agency’s livestock inspection program and the newly funded meat and poultry inspection program (MPI). Ms. Garland explained the recent hiring of six additional law enforcement officers, two brand inspectors, and a meat and poultry inspection program director. NMLB Deputy Director Shawn Davis highlighted the productivity of the livestock inspection program. NMLB Chief Financial Officer Andrew Silva discussed the year-over-year decrease in agency revenues, which led to increasing use of the agency’s fund balance. Executive Director Garland also discussed the \$424.4 thousand special appropriations request the agency intends to use for IT upgrades, lapel cameras, and vehicle GPS trackers.

In response to Representative Chandler, Executive Director Garland said that the agency does not regulate bison. She added that the State Veterinarian works closely with the agency and could field bison-related questions or concerns.

In response to Representative Chatfield, Executive Director Garland stated that the agency historically has tried to maintain a fund balance of at least \$1 million to respond to disease outbreaks. However, continued reliance on fund balance for operating costs has left the agency’s fund below that target. LFC Director David Abbey pointed out that the governor has emergency funding authority in case of a disease outbreak.

In response to Representative Garcia, Executive Director Garland explained that the program has been slow to get off the ground primarily because it requires approval from the U.S. Department of Agriculture’s Food Safety Inspection Service (FSIS). Ms. Garland explained that federal program recommendations are to hire a director first and obtain program approval before hiring additional employees. Ms. Garland also explained that unused funding for this program in previous fiscal years had been used to purchase equipment and hire a program coordinator to guide the agency through the FSIS application process.

In response to Representative Garcia, Executive Director Garland discussed the process for reimbursing tribal entities who assist with rescuing wild animals. She further explained that agency records indicate that both Acoma and Laguna Pueblos had been reimbursed in FY23 for the rescue of wild cows the pueblos had gathered in a previous year.

Representative Armstrong reiterated support for the agency following FSIS recommendations surrounding hiring practices and encouraged the committee to continue funding the program as it develops. The subcommittee voted unanimously to temporarily table the agency’s budget request.

(516) Department of Game and Fish. Game and Fish Director Michael Sloane confirmed the agency is requesting \$48.2 million for FY24, a figure flat with the current year. The department's request shifts small amounts among the spending categories. The department is supported primarily by hunting and fishing fees and receives no revenue from the general fund. The department is projecting a balance in all funds of \$43.5 million, a figure down just \$1 million from FY23 projections despite an \$8 million spend-down of their most significant fund – the game protection fund –over the last two years. Director Sloane noted the agency will be asking for a \$9 million special appropriation to match with federal dollars if the federal Recovering America's Wildlife Act becomes law. The act provides federal funds for the conservation of species with greatest need.

Responding to Representative Armstrong, Director Sloane said a decision to prohibit scopes on muzzle loader rifles was prompted by the increasing power and accuracy of muzzle loaders, which has increased the number of kills. He said the department needed to disadvantage muzzle loader hunters or reduce the number of muzzle loader licenses, and hunters asked that the number of licenses stay the same. Representative Armstrong asked the department to provide the committee with data on muzzle-loader success rate. She also asked for a list of threatened and endangered species. In response to questions from other members, Director Sloane said the department will have to determine if air traffic is compatible with wildlife management before opening an air strip at the L Bar Ranch and has no immediate plans to buy additional property with the special appropriation and associated federal funds. The subcommittee voted unanimously to temporarily table the department's budget request.

(522) Youth Conservation Corps. YCC Chair, Amanda Getchell Stevenson, aided by EMNRD CFO and ASD Director Matthew Lovato, presented the YCC budget request for FY24. YCC requested a budget of \$5,885,300, representing a 13 percent increase over FY23. The agency only has two dedicated staff members, neither of whom could attend the hearing. LFC fiscal analyst Scott Sanchez introduced the presenters and assisted in answering committee questions. Ms. Getchell-Stevenson discussed the agency's accomplishments in FY23, including the funding and completion of 43 projects, employment of 610 youth, 15,352 hours of training, and the leveraging of over \$1.4 million in matching funds to improve natural, cultural, historical, recreational, and agricultural resources throughout the state. Ms. Getchell-Stevenson explained that YCC has worked to prepare cooperative service agreements (CSAs) with the Energy, Mineral, and Natural Resources Department and the State Land Office, which will expand the list of eligible projects. Mr. Lovato added that the \$1.4 million increase requested is to pay for the CSAs the YCC hopes to enter into in FY24.

In response to Senator Correa-Hemphill, Ms. Getchell-Stevenson explained that the agency was working to improve its communication with YCC youth employees to ensure better uptake of education vouchers offered in addition to base pay. Mr. Lovato added that the budget increase sought for FY24 would also allow the agency to increase the number of other state agencies YCC could work with. Mr. Lovato explained that the cost of employing youth varies from project to project.

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In response to Representative Garcia, Mr. Lovato and Ms. Getchell-Stevenson explained that implementing CSAs with other state agencies will increase the number of employment opportunities available to corps members. Ms. Getchell-Stevenson added that the agency missed its performance target for the number of youth employed, mainly due to the COVID-19 pandemic and less-than-ideal communication processes, something the agency hoped to improve as they worked to implement other projects in conjunction with CSAs. Mr. Lovato also explained that the YCC Executive Director was absent due to out-of-state travel.

In response to Senator Munoz, Mr. Sanchez explained that YCC members were eligible for up to \$1,500 in education vouchers or an additional \$500 cash compensation, contingent upon corps members' completion of the project for which they were hired. Ms. Getchell-Stevenson added that the corps members also received training and exposure to potential employment opportunities through the program.

In response to Representative Armstrong, Mr. Lovato explained that EMNRD's Oil Conservation Division hopes to work in FY24 using CSAs to clear land, conduct inspections, and perform reclamation activities on former mining sites. Mr. Lovato stated that the goal is to open future projects to other state agencies.

In response to Senator Kernan, Mr. Sanchez explained that the agency's website has a map that lists how many communities throughout the state had benefitted from YCC projects.

In response to Representative Armstrong, Mr. Lovato explained what type of educational program the YCC vouchers could be used for and that eligible programs included trade programs.

Senator Rodriguez stated that YCC presented a growth opportunity for youth employment in areas that might otherwise lack them. The committee approved a motion to table the YCC budget temporarily.

(362) Workers' Compensation Administration. Robert Doucette, Director, presented the administration's budget request. Representative Armstrong asked about the transfer from the administration to the Workforce Solutions Department. Mr. Doucette stated that he did not mind whether the money was transferred and that the transfer is the Legislature's prerogative. The subcommittee voted to temporarily table the administration's budget request.

(668) Office of Natural Resources Trustee. Natural Resource Trustee Maggie Hart-Stebbins, assisted by LFC fiscal analyst Scott Sanchez, presented the ONRT budget request for FY24. ONRT requested a total budget of \$5,170,300, representing a flat budget compared to FY23. Ms. Hart-Stebbins described the highlights of the previous fiscal year, including a \$10 million settlement that the agency reached with the U.S. Environmental Protection Agency (EPA), and updated the committee on several of the restoration projects currently underway.

Ms. Hart-Stebbins shared an update on the development of a restoration plan related to the Gold King Mine spill, the deadline for proposals is October 28, 2022. Ms. Hart-Stebbins also

discussed current and potential natural resource damage assessments underway at Los Alamos National Laboratory, NASA White Sands Test Facility, and the Rio Algom Quivira Mill and Mine Sites. She discussed several damage assessments that will be carried out at Cannon and Holloman Air Force Base related to per-and polyfluoroalkyl substances (PFAS) contamination and legacy mining sites in the Grants Mineral District.

In response to Representative Armstrong, Ms. Hart-Stebbins explained the primary responsibility for cleanup at the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. § 9601) designated sites belongs to the EPA and the Department of Environment (NMED); and further said that the ONRT's role in these instances is to take court action in cases where natural resources have been damaged or lost.

In response to Representative Chatfield, Ms. Hart-Stebbins explained that a case against the U.S. Department of Defense (DOD) related to PFAS contamination at Cannon Air Force Base is currently not an option. Such action would require that EPA designate PFAS as a hazardous substance under CERCLA. Ms. Hart-Stebbins indicated that ONRT is preparing litigation in anticipation of the EPA designating PFAS as a hazardous substance sometime in the calendar year 2023 or 2024.

In response to Senator Munoz, Ms. Hart-Stebbins explained that CERCLA requires ONRT to consult with affected tribes and pueblos before using any funds awarded through lawsuits brought by the agency, even if the designated site is on federal trust land. Ms. Hart-Stebbins explained that the consent decree between the trustee council and DOD requires that the funding tied to the CERCLA-designated site at Fort Wingate requires the consensus of the trustee council and can only be used on federal land that has been reverted to the tribes.

In response to Representative Lujan, Ms. Hart-Stebbins explained that the cost of remediation at CERCLA-designated sites is the responsibility of the companies or agencies that caused the damage to natural resources. She said the responsibility for ensuring the areas are adequately remediated falls to NMED. Still, ONRT does have a role in either ensuring sites are restored to pre-contamination condition or that the natural resources are replaced through court action.

In response to Senator Correa-Hemphill, Trustee Hart-Stebbins indicated that the senator's district (District 28, which includes part or all of Catron, Grant, and Socorro counties) has so many restoration projects because of court action taken against Freeport McMoRan natural resource damage that occurred during mining activity in those counties. The committee approved a motion to table the ONRT budget temporarily.

(705) Department of Military Affairs. Brigadier General Miguel Aguilar, adjutant general of the New Mexico National Guard and head of the Department of Military Affairs (DMA), presented the agency's request for a \$2.4 million, or 31 percent, increase in general fund revenue. The request from the general fund comprised an increase of just over 10 percent in funding in the base budget and a \$1.6 million expansion to provide a recurring funding stream for 32 temporary FTE on state active duty to respond to emergency situations without requiring an emergency declaration. Gen. Aguilar explained the Covid-19 pandemic and natural disasters

have changed how state governments view the role of the national guard, and the requested expansion would allow the New Mexico National Guard (NMNG) prepare for emergencies with a small number of full-time staff and additional seasonal staff. In response to a question from Senator Kernan, Gen. Aguilar explained NMNG has 15 readiness centers active statewide, down from 38, after systematically closing readiness centers to align with the location of its force. Representative Garcia, Senator Burt, and Senator Rodriguez all expressed their appreciation for NMNG and its service members, with Representative Garcia specifically praising its Youth Challenge Academy. The subcommittee voted unanimously to temporarily table the department's budget request.

(780) Crime Victims Reparation Commission. Frank Zubia, director of the Crime Victims Reparation Commission (CVRC) presented the commission's request, which represented a \$3 million increase in general fund revenue, including \$2 million to expand funding for services for victims of sexual assault, \$460 thousand to expand services for victims of human trafficking, \$208 thousand for direct monetary support for crime victims, and \$332 thousand for its own personnel and operational costs. The agency anticipates reduced federal Victims of Crime Act (VOCA) funding for service providers in FY24. With the additional funds provided by the Legislature during the 2022 session, the state has added two sexual assault service programs and one sexual assault nurse examiner program. In response questions from Senator Hemphill, Dir. Zubia and Alexandria Taylor, deputy director of the New Mexico Coalition of Sexual Assault Programs, explained wait times for services could range up to 12 months, but the expanded funding has been deployed to expand staff and build out services to reduce wait times, including adding programs in Alamogordo and Grants. In response to questions from Senator Kernan, Ellen Rabin, LFC fiscal analyst, explained the agency received \$635 thousand in recurring funding for victim services in the 2022 supplemental appropriations bill, including \$415 thousand for sexual assault services. In response to questions from Representative Dixon, Dir. Zubia explained funding for funeral services is shared between federal and state funding, and New Mexico's high compensation rate for funeral expenses is partly due to its high per-capita homicide rate as well as accessibility of services. In response to questions from Representative Lujan, Dir. Zubia expanded on CVRC's collaboration with service providers and other organizations. The subcommittee voted unanimously to temporarily table the commission's budget request.

(930) Regional Educational Cooperatives. RECA Executive Director Bobbie Gutierrez and REC-5 Executive Director Maria Jaramillo presented the agency's FY24 budget request. The agency requested \$3.5 million, an increase of \$2.3 million, from the FY23 operating budget. The request targets RECA goals on coordinating statewide initiatives across the 10 individual RECs including hiring additional full-time staff to manage increasing contract volumes and to coordinate with community partners and other RECs. Director Gutierrez highlighted statewide REC supports in education technology access, early childhood education, career technical education, and structure literacy initiatives. The subcommittee voted unanimously to temporarily table the agency's budget request.

(940) Public School Facilities Authority. Executive Director Martica Casias presented the agency's FY24 budget request. The authority requested \$6.9 million from the public school

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capital outlay fund, an increase of \$527.2 thousand, or 8.3 percent, from the FY23 operating budget. The request included \$478.6 thousand to maintain 6 FTE added through an FY23 special appropriation. Director Casias indicated the authority has seen a decrease in applications for capital projects in recent years due to changes in the local-state match formula. Director Casias noted LFC and LESC staff are working with PSCOOTF on proposals to adjust the local-state match formula and offsets to encourage more participation. The subcommittee voted unanimously to temporarily table the agency's budget request.

Cooperative Extension Services/Agriculture Experiment Station. Dr. Leslie Edgar of the agriculture experiment station (AES) and Dr. Jon Boren, director of the cooperative extension services (CES) presented their budget requests. Dr. Edgar stated that AES was requesting an increase of \$765 thousand, or 4.4 percent, from the general fund for 4 additional FTE positions. All positions were professors and would be assigned to experiment stations in Mora, Farmington, Artesia, and Corona. Dr. Edgar discussed the duties of the requested positions and noted recent accomplishments of AES including increasing the number of weather stations statewide. Dr. Jon Boren presented the CES request for a \$570 thousand, or 3.8 percent increase. Dr. Boren stated the increase would fund 4 additional professors and detailed their responsibilities. In response to questions from Senator Munoz and Representative Garcia, agency staff stated they would provide additional information on changes in utility and supply costs. The subcommittee voted unanimously to temporarily table the agency's budget request.

(954) New Mexico Department of Agriculture. Secretary Jeff Witte presented the request for an increase of \$1.1 million, or 7.5 percent. Mr. Witte stated the increase was for three purposes: \$300 thousand to address compensation for agency employees; \$375 thousand for 4 additional staff in the Standards and Consumer Services Division; and \$400 thousand for veterinary diagnostic services. Secretary Witte reported that NMDA inspector staff were paid over 20 percent behind pay for comparable positions at the New Mexico Environment Department. Representative Chandler observed that pay competitiveness has been a problem statewide and suggested the state should consider a review of all classifications in the system and a market analysis of pay adequacy. The subcommittee voted unanimously to temporarily table the department's budget request.

Tribally Controlled and Administered Colleges. Dr. Robert Martin, President of the Institute of American Indian Art (IAIA), presented funding requests of four tribal colleges: IAIA; Navajo Technical University; Dine College; and Southwestern Indian Polytechnic Institute. The requests included additional funding for dual credit at tribal colleges and \$3.7 million for one capital outlay project at each tribal institution. In response to a question from Representative Alison, Dr. Martin outlined IAIA's efforts to reach students in rural areas. The subcommittee voted unanimously to temporarily table the agency's budget request.