<u>MINUTES</u>
Legislative Finance Committee
State Capitol, Room 322 - Santa Fe, NM 87501
April 17 - 18, 2024

<u>Wednesday, April 17</u>
The following members and designees were present on Wednesday, April 17, 2024: Chairman George K. Muñoz; Vice Chairman Nathan P. Small; Senators Nancy Rodriguez, Roberto "Bobby" J. Gonzales, Steven P. Neville, Pat Woods, William E. Sharer, and Pete Campos; and Representatives Meredith A. Dixon, Elizabeth "Liz" Thomson, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, Brian G. Baca, and Alan T. Martinez. Guest legislators: Senators Michael Padilla and Gerald Ortiz y Pino and Representatives Anthony Allison, Art De La Cruz, Joy Garratt, Pamelya Herndon, Tara L. Lujan, and Rod Montoya.

<u>2024 Post Session Review.</u> Presenting the *Post-Session Review*, LFC Director Charles Sallee said unprecedented revenue growth provided opportunity to make transformative investments again this past session. Lawmakers provided for over $260 million in recurring tax changes to lower the burden on families and provide incentives for targeted industries, over $1.4 billion in infrastructure and capital outlay, and increased the recurring budget by 6.8 percent to $10.2 billion in FY25. Reserve balances are projected to end FY25 at 32.2 percent of recurring appropriations after governor vetoes.

The Legislature was again strategic in not investing all revenue growth in recurring expenses and taking action that recognizes the volatility of some revenue sources.

The General Appropriation Act of 2024 (GAA), as passed by the Legislature and signed by the governor, authorizes $10.2 billion in recurring general fund spending, a 6.8 percent increase over the FY24 operating budget. The GAA provides $89 million for compensation increases, including a 3 percent compensation increase for all state employees and targeted increases for state police and the Environment Department.

Director Sallee said the GAA of 2024 continued to prioritize education by increasing recurring spending for early childhood, public schools, and higher education by over $270 million. The increase further expands prekindergarten services, provides for prekindergarten and childcare quality supports, fully funds universal free school meals, and increases investments in literacy initiatives. Significant nonrecurring investments to education reflect over $150 million for promising or proven initiatives, including literacy initiatives, career and technical education, community schools, educator fellows, out-of-school-time learning, special education initiatives, high dosage tutoring, health professional loan repayment, and graduate scholarships for New Mexico high school graduates. Additionally, multiyear appropriations through the government results and opportunity program fund (GRO), established by House Bill 196, includes funding to pilot an early childhood wage and career ladder, educator clinical practice, stipends and pay differentials for hard to staff special education positions, and workforce training at higher education institutions.

The GAA of 2024 increased recurring appropriations to health and human services agencies by nearly $230 million, increasing Medicaid rates for rural hospitals ($11.5 million) and providing an additional $8 million to increase Medicaid rates for services for people with developmental disabilities. Nonrecurring appropriations include $50 million to support the operations of small hospitals and supports for vulnerable populations, with $5 million for food banks, $50 million for the housing trust fund, and $125 million to the opportunity enterprise revolving fund earmarked for housing development projects. Additionally, GRO appropriations include funding to address numerous needs at the Children, Youth and Families Department, including high staff vacancy and turnover rates, unleveraged federal funds, and significant unspent appropriations, through pilots to improve differential response, service availability; provider training; hiring, recruitment, retention of staff, and improved qualification of employees. Recognizing the need for additional oversight over health and human services agencies, the largest cost center in state government when considering all funding sources, House Bill 1, the "feed bill" that pays for legislative operations, provides LFC with additional resources supporting new positions for this purpose.

The GAA of 2024 provided another massive influx of nonrecurring spending, nearly $1.5 billion in special appropriations for FY24 and FY25 and another $1.3 billion in fund transfers for future and multiyear spending. Nonrecurring spending includes major investments in transportation, law enforcement, housing, economic development, healthcare and services in rural areas, water and natural resources, quality of life, and higher education. In addition, $512.2 million is allocated to the GRO expendable trust fund for future spending, and $325.8 million is allocated to the GRO program fund for expenditure on pilot programs over the next three fiscal years.

The governor vetoed a few parts of the GAA, including language and special appropriations. Some vetoes are within constitutional boundaries, but some are potentially improper and seek to change, alter, or frustrate legislative intent. Most concerning, the governor struck 12 of 27 pieces of language calling for use of evidence-based programs. The governor also struck several guardrails for oversight and reporting on program performance. Appropriations struck include funding for a creative media institute and appropriations for a school of public health. The governor also vetoed $90 million that was contingent on the passage of companion legislation, although that funding was already eliminated by the failure of the companion legislation to pass.

Reporting on New Mexico's economic outlook, Director Sallee said that while strong state revenues have inspired confidence in a stable economy without tipping into a recession, economists are predicting economic moderation, with revenues returning to prepandemic trends. Legislation passed this past session is estimated to reduce recurring general fund revenue by $204.5 million in FY25, $220 million in FY26, and $259.7 million in FY27.

In response to Senator Gonzales, Director Sallee said reserves should increase as recurring appropriations increase. Vice Chairman Small recommended the Legislature consider a new target for reserves, which is currently 30 percent.

Representative Allison remarked on the need for more investment in health councils and other needs in rural communities.

Representative Armstrong expressed concerned about the Department of Health's new policy that eliminated overtime pay for nonunion health care workers at 24-7 facilities.

Director Sallee said some of the partial vetoes to the General Appropriation Act of 2024 appear to violate established principles, including failing to eliminate or destroy the whole of an item, destroying or eliminating a part of an item leading to the distortion of Legislative intent, creating legislation by striking of words, phrases, clauses, or sentences, and attempting to appropriate funds for an uncertain purpose by grammatically incorrect language.

There are several vetoes this year, where the governor eliminates parts of sentences, altering legislative intent. Director Sallee said numerous partial vetoes should result in the appropriation not being budgeted. For example, on page 35 of House Bill 2, the Legislature included language for the General Services Department specifying $1 million is contingent on "~~the secretary of general services establishing a schedule of building use fees pursuant to Section 15-3B-19 NMSA 1978.~~" Similarly, the purpose for $809.5 thousand was struck from the Corrections Department on page 120 such that it leaves a nonsensical sentence: "The general fund appropriation to the inmate management and control program of the corrections department in the other category includes eight hundred nine thousand five hundred dollars ($809,500)~~ to increase per diem rates for private prisons~~. A third example exists in Section 5 on page 212 for the Public Education Department where the governor struck distributions of Indian education funding "~~including four million dollars ($4,000,000)~~ for the Navajo nation and~~ one million dollars ($1,000,000)~~ for Zuni pueblo." while attempting to leave the total appropriation of $5 million. Such partial vetoes make the appropriations to each entity at the discretion of the executive, usurping the Legislature's appropriation power.

Two other examples exist in section 11. On page 286 of the General Appropriation Act the Legislature appropriated $120 million from the general fund for the Department of Transportation (NMDOT) to use for road maintenance statewide, earmarking funds "For road maintenance statewide ~~with no less than thirty-six million dollars ($36,000,000) for contracting with disadvantaged business enterprises as defined in Part 26 of Subtitle A of Title 49 of the code of federal regulations.~~" The intent was to appropriate a portion of the $120 million to disadvantaged business enterprises to ensure compliance with federal regulation. The governor struck the language earmarking the $36 million and, as such, NMDOT should not seek to budget those monies from other general fund accounts as there is no legal authority to do so. The same is true for another appropriation on page 284 that earmarks $3 million for the same purpose. The executive has the prerogative to strike language imposing requirements if they take the view the agency already follows federal regulations; however, the appropriation is then destroyed by the veto. As discussed above, a partial veto must be so exercised that it eliminates or destroys the whole of an item or part and does not distort the legislative intent.

There are numerous vetoes this year where instead of using veto power to eliminate or destroy, the governor used vetoes to enlarge or expand. For example, in section 12 budget adjustment authority (Page 288, lines 1-3), the governor vetoed the limitation of the New Mexico Racing Commission to request budget increases up to $500 thousand, clearly altering the Legislature's desired implementation and enlarging or increasing the effect of the remaining item. Similarly, in Section 4, on page 109, the Legislature included language for the Department of Health (DOH) specifying a $1.5 million appropriation to be used for "~~services~~ to address alcohol misuse." The word "services" was vetoed opening up the appropriations for other uses. In her veto message the governor cites that the vetoed language "unnecessarily restricts the use of funds." Whether necessary or not, the use of the word services was purposeful to that very point, to restrict the use of funding for direct services as opposed to studies, administrative overhead, or other purposes.

In direct relation to these examples, Article IV, Section 22 of the New Mexico Constitution provides that the governor may "approve or disapprove any part or parts, item or items, of any bill appropriating money, and such parts or items approved shall become a law, and such as are disapproved shall be void…." As explained by the New Mexico Supreme Court, the partial veto power:

> is the power to disapprove. This is a negative power, or a power to delete or destroy a part or item, and is not a positive power, or a power to alter, enlarge or increase the effect of the remaining parts or items. It is not the power to enact or create new legislation by selective deletions. Thus, a partial veto must … eliminate[] or destroy[] the whole of an item or part and … not distort the legislative intent, and in effect create legislation inconsistent with that enacted by the Legislature by the careful striking of words, phrases, clauses or sentences.

Similarly, vetoes of language identifying purposes for appropriations as seen in the striking of "For ~~the construction~~ of a building for primary care in Taos county" such that the funding can be spent for other purposes also changes the Legislature's intent and can be understood to alter, enlarge, or increase the effect of the remaining item.

LFC staff consulted with Legislative Council Service on appropriateness of vetoes and LFC staff identified $45.8 million in vetoed appropriations above the $89.9 million identified by the Department of Finance and Administration, bringing the total vetoed dollar amount in general fund to $135.7 million. LFC staff's view is that they should not be allowed to be budgeted or should be implemented as passed by the Legislature.

Program Evaluation: Improving New Mexico's Workforce Participation. LFC Program Evaluators Allegra Hernandez, Ph.D., and Sarah Rovang, Ph.D. presented the report *Improving New Mexico's Workforce Participation*. New Mexico's workforce participation rate has long lagged behind the national average and that gap widened in recent years, exacerbated by the Covid-19 pandemic. The state's relatively low unemployment rate (4 percent in January 2024) seems to indicate a tight labor market but does not capture the full picture—one where many New Mexicans are persistently disengaged from the labor force and face significant, systemic barriers to reentry.

The state needs approximately 40 thousand additional individuals between ages 20 and 54 working or looking for work to meet the national average for labor force participation. Disengagement is simultaneously a symptom and a cause of larger social and economic issues. It precipitates lower statewide per capita income, perpetuates the need for costly social programs, and can be damaging to family formation and cohesion.

The Workforce Solutions Department (WSD) is the state agency most directly responsible for bringing disengaged adults into the workforce. The agency's new 2024-2028 statewide plan for the federal Workforce Innovation and Opportunity Act (WIOA) aims to "increase year-over-year labor force participation rates and economic prosperity for disengaged and difficult-to-reach New Mexicans." This goal will require rigorous implementation of evidence-based workforce development practices to employ more disengaged New Mexicans. Evidence-based studies reveal tactics that work for other members of the general population do not necessarily lead to improved long-term employment outcomes for people with substantial risks and barriers, including those receiving Temporary Assistance for Needy Families (TANF).

WSD continues to rely on workforce connections centers (WCCs) to reach those seeking services in rural and urban areas of the state. The model for these centers dates to the New Deal of the 1930s, a pre-internet economy where large segments of the unemployed population actively sought jobs. Today, New Mexicans' use of these centers is rapidly declining, accelerated by the shift to online and remote services during the pandemic. Accessing basic career services at a WCC does not affect users' employment outcomes. Moreover, WSD is struggling in its initial attempts to reach the TANF population. Since taking over the administration of the New Mexico Works program for work-eligible TANF recipients in 2021, WSD's performance outcomes have drastically fallen behind those of the previous contractor. Additionally, a fragmented referral system hampers co-enrollment in other key programs and support services, and it discourages evaluation and tracking outcomes of participants. However, adoption of evidence-backed practices for referral systems and case management may improve WSD's results.

LFC staff recommend WSD

- Set concrete, quantitative intermediary goals for improvement of the New Mexico Works programs, with a focus on Career Link;
- Work with the Health Care Authority to bolster New Mexico Works performance by courting high-wage employers as Career Link partners and adding additional wraparound supports to the program;
- Revise its operating model for the New Mexico Works program to incorporate evidence-based practices of providing education, training, and support services for all recipients, and report to the Legislature on these efforts by November 2024;
- Implement the Aligned Case Management Institute's proposed unified, closed-loop UPin referral platform by the end of FY25; and
- Track a control group of unemployment insurance (UI) claimants to better evaluate the outcomes of its reemployment services and employment assessment (RESEA) programs.

LFC staff recommend workforce development boards

- Work collaboratively with each other, WSD, and the state workforce board to reevaluate workforce connections centers as the primary access points for services;
- Work with WSD to determine which workforce connection centers should remain operational in the medium- and long-term;
- Consider co-locating workforce connection center staff with important local partners such as community colleges or offices of the Health Care Authority's Income Support Division; and
- Implement newer evidence-based strategies as part of their RESEA case management design.

Lastly, LFC staff recommend the Legislature consider a targeted expansion of the state's working families tax credit to noncustodial parents and childless workers to facilitate the reemployment transition for at-risk New Mexicans.

WSD Secretary Sarita Nair remarked on the significant improvement in workforce participation since the pandemic; however, progress has become stagnant, which the secretary said the agency is working to address, but additional resources are needed.

Secretary Nair said the agency agrees with the majority of recommendations. Highlighting key points in WSD's response letter to the report, Secretary Nair said WCCs continue to serve an important role, pointing out many New Mexicans, especially in rural communities, do not have internet and therefore, in-person services are still needed.

Secretary Nair said funding is needed for some recommended actions, including revising the operating model for the New Mexico Works program to incorporate evidence-based practices and implementing the Aligned Case Management Institute's proposed unified, closed-loop UPin referral platform.

General Fund Revenue Tracking Update. LFC Chief Economist Ismael Torres said the state collected $1.21 billion in November 2023, 51.4 percent more than in November 2022. Most of this increase came from money related to oil production.

Total oil and gas revenue to the state have not grown as much as it may seem, however. Mr. Torres explained the amount of oil and gas school tax and federal mineral leasing royalties, two of the largest sources of oil and gas revenues reaching the general fund, is capped in each year. Once this cap is reached, the revenue is no longer sent to the general fund and instead goes to the early childhood trust fund, the tax stabilization reserve, or the severance tax permanent fund. In FY23, the combined cap was $1.96 billion, which was reached in October 2022. All subsequent revenue went to the early childhood trust fund and did not go to the general fund. In FY24, the combined cap is $2.79 billion. Therefore, most of the oil and gas revenue in the general fund is fixed, but the total amount and the timing of when the revenue cap is reached varies, requiring nuance when comparing year-over-year revenues.

Excluding oil and gas, November 2023 revenues totaled $97.5 million, 13.7 percent over November 2022. Most of this difference is from investment income, up $54.8 million. Corporate income tax is up $19.2 million from the prior fiscal year. November personal income tax collections were down $2 million from the same time a year prior, while gross receipts tax collections were down $5.7 million, or 1.8 percent.

2024 Interim. LFC Director Charles Sallee presented analysts' work plans for the 2024 interim, comprising policy briefs, budget documents, performance measures, site visits, activity reports, and hearing presentations on key issues. LegisStat will also be implemented this interim, focusing on Medicaid, child welfare, public schools, transportation, workforce, and early childhood.

Director Sallee outlined potential hearing topics for the LFC child welfare and water subcommittees. These include the child welfare system, Senate Memorial 5, water infrastructure, and oil and gas setbacks.

Public Education Department. Arsenio Romero, secretary of the Public Education Department (PED), remarked on legislation and funding to improve literacy across New Mexico. Current initiatives include the implementation of science of reading-based literacy instruction and LETRS (Language Essentials for Teachers of Reading and Spelling) professional development. Also, all first-grade students are screened for dyslexia at the beginning of the school year. Next year, LETRS and science of reading professional development will be expanded to middle schools.

Highlighting literacy proficiency gains from 2022 to 2023, Secretary Romero reported an 11.9 percent increase at La Promesa Elementary in Belen and a 14.4 percent increase at Carlos Rey Elementary in Albuquerque. Counting all students statewide, literacy proficiency increased 4 percent last school year.

Secretary Romero said structured literacy schools have shown a 3 percent increase in reading proficiency compared with nonstructured literacy schools in reading and a 2 percent increase in Lectura scores.

Mariana Padilla, director of the executive's children's cabinet, said the state is rolling out a summer reading program to build on the comprehensive investments in literacy. The statewide instruction and intervention program will support 10 thousand students from incoming kindergarteners through outgoing eighth graders. The objectives are to

- Improve literacy outcomes for all participating students,
- Measure reading progress of students during and at the completion of this program by using a pre- and post-assessment, and
- Build confidence and competence in literacy skills that will support students' overall academic achievement.

Ms. Padilla said the four to six week summer reading program will be implemented by trained literacy instructors, with pre- and post-assessments to measure growth. So far, the program has 62 sites and received 222 instructor applications and 270 student applications.

Stephanie Rodriguez, secretary of the Higher Education Department (HED), said HED received $30 million from the public school capital outlay fund for fiscal years 2024 through 2028 to plan, design, construct, furnish and equip a literacy institute. The institute will

- Lead literacy instruction and interventions and on-going educator professional development, coaching, and best practices,
- Assist with literacy assessments and diagnostics,
- Partner with educator preparation programs, and
- Support schools and state education agencies.

In response to Representative Dixon, Secretary Romero said the number of student applications for the summer reading program is expected to ramp up in the next few weeks. Secretary Rodriguez said program sites are listed on the literacy.nm.gov website.

Representative Armstrong said PED has not responded to a letter from House and Senate republicans asking to delay the 180-day school rule.

Senator Woods expressed concerned about the summer reading program's accessibility to students living in rural areas. Secretary Romero said a virtual option may need to be considered.

Accountability in Government Act: FY24 Second Quarter Report Cards. LFC Analyst Helen Gaussoin presented the FY24 second quarter report cards. Halfway through the fiscal year, more programs are showing signs of improvement than those that are losing ground and just seven programs were rated red; however, only a third of the 66 programs with ratings met their targets and were rated green. Performance has improved in all programs in the Children, Youth and Families Department but the agency continues to fall far short of the national average on repeat maltreatment of children and still has higher-than-typical numbers of children in foster care. In the Health Care Authority, the Medical Assistance Program, although rated yellow overall, continues to miss a majority of its targets by significant margins, and the Income Support Program, subject to a court consent decree, is rated red on every measure and overall.

Nevertheless, the state continues to see strong performance in the Public Safety, Transportation, Economic Development, Tourism and Energy, Minerals and Natural Resources departments. Performance has also improved in two programs in the Taxation and Revenue Department, but performance in Compliance Enforcement, a key player in tax collections, is rated red.

Capital Outlay Quarterly Status Report. LFC Analyst Cally Carswell said an estimated $4.5 billion in capital outlay from all funding sources was unexpended at the end of the third quarter of FY24, including $2.4 billion for projects authorized by the Legislature and $1.4 billion for projects funded with supplemental severance tax bonds for public school construction. Nearly 800 active projects with estimated balances totaling $268 million carry 2024 reversion dates. However, about 200 of these were reauthorized in the 2024 session, totaling $71 million.

Ms. Carswell said capital outlay requests for direct appropriations from legislators and the executive far exceed available funding, even in these years of historic surplus. This significant gap between requests and available funds continues to result in piecemeal funding to projects and, along with the practice of earmarking funding for individual legislators and the executive, undermines the state's ability to use surging revenues to efficiently complete projects that represent the greatest needs or would produce the most public benefits. Local projects are not consistently vetted for need or readiness and often receive only piecemeal funding. Piecemeal funding can contribute to project delays and increase overall costs.

The absence of a state entity responsible for coordinating capital outlay with other available funding sources and assisting local entities in accessing those funds has exacerbated delays. House Bill 232 of 2024, however, established a coordinating entity as a division within the Department of Finance and Administration (DFA). The Infrastructure Planning and Development Division will absorb some functions of the Local Government Division and be charged with improving the outcomes of capital spending through the creation of a streamlined system for coordinating funding sources, administering capital outlay funds, and providing increased support to communities with limited capacity to develop projects, seek funding from local, state and federal sources, and manage projects to completion.

Also enacted this year, House Bill 253 addresses two significant long-term risks to the capital outlay program:

- Potential negative impact of soaring debt capacity to the state's bond ratings; and
- Long-term decline of dedicated capital outlay revenues from taxes on oil and gas.

Ms. Carswell explained the bill amended the Severance Tax Bonding Act to reduce maximum long-term debt capacity from the severance tax bonding program and distribute any cash savings to a new capital development and reserve fund. The bill also authorizes the Board of Finance to convert any excess cash available in the severance tax bonding fund at the end of FY24—up to $500 million—into a one-time distribution to the new fund. The reserve fund will make annual distributions equal to 5 percent of its average year-end value over the previous three years. The initial FY24 infusion could provide a significant boost to the growth of the reserve fund and, by extension, to the annual distributions from the fund that will be available to the Legislature for appropriation to capital projects.

Over time, distributions from the reserve fund will at least partially replace severance taxes as a dedicated revenue source for capital outlay, with the potential to increase total future funding available for capital projects. While the reserve fund is growing and distributions are still modest, the impact to bonding available for capital appropriations from limits on long-term debt capacity could be mitigated by funding capital outlay with a mix of bond proceeds and general fund.
DFA Secretary Wayne Propst said Wesley Billingsley is transitioning from director of the Local Government Division to director of the Infrastructure Planning and Development Division (IPDD).

Outlining tasks of the new division, Mr. Billingsley said IPDD will be

- Tracking expenditures to ensure projects are funded appropriately,
- Creating public-facing dashboards to provide transparency,
- Looking for federal funding to finance projects before proceeding with state funding, and
- Conducting a comprehensive revamp of the existing digital system used for capital planning and expenditures to streamline and improve how local entities, state agencies, and the Legislature participate in the infrastructure and capital expenditure process.

Mr. Billingsley proposed two additional bureaus within the division to help with securing grants, adding capacity, and assist with reporting: Capital Grants and Project Management Bureau and Capital Fiscal and Reporting Management Bureau.

Mr. Billingsley said IPDD's goal is to manage the planning of all capital outlay projects successfully and assist all entities with fully funding all capital outlay projects appropriated through federal and state legislation.

<u>Thursday, April 18</u>
The following members and designees were present on Thursday, April 18, 2024: Chairman George K. Muñoz; Vice Chairman Nathan P. Small; Senators Nancy Rodriguez, Roberto "Bobby" J. Gonzales, Steven P. Neville, William E. Sharer, and Pete Campos; and Representatives Meredith

A. Dixon, Elizabeth "Liz" Thomson, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, and Brian G. Baca. Guest legislators: Senators Martin Hickey and Michael Padilla and Representatives Anthony Allison, Art De La Cruz, Joy Garratt, Pamelya Herndon, Tara L. Lujan, and Rod Montoya.

Program Evaluation: Online Higher Education in New Mexico. LFC Program Evaluators Clayton Lobaugh and Sam Lesemann presented the report *Online Higher Education in New Mexico*. Higher education institutions (HEIs) nationwide significantly scaled up online education in response to the Covid-19 pandemic. Four years later, online course-taking remains a substantial part of higher education. In academic year 2022-2023, 45 percent of New Mexico college credit hours were taken online, a 34 percent increase in online course-taking since academic year 2019-2020. Online course-taking varies widely across institutions, with some branch community colleges providing more than 75 percent of their credit hours online. Online higher education is not likely to go away anytime soon, with national surveys indicating students appreciate the flexibility of online classes and colleges continue to expand online offerings.

With this expansion of online higher education, New Mexico HEIs are well positioned to reach the roughly 120 thousand working-age adults in the state with some college but no credential, as online courses tend to suit older students who often perform better with self-directed learning than traditional college-age students. Adult learners also frequently drop out of college because of difficulty balancing work and school simultaneously—a situation that online college courses could help alleviate.

However, New Mexico HEIs are missing the opportunity to use online education to reach this expanded student body. From fall 2019 to fall 2022, the number of students age 25 and older enrolled at New Mexico HEIs actually decreased by 9 percent (or 4,200 students) even as online higher education expanded. Furthermore, over 11,000 New Mexico residents are enrolled in out-of-state online colleges and exporting $58 million in tuition revenue, suggesting New Mexico HEIs are being outcompeted in the online education market.

The New Mexico higher education system is also not realizing millions of dollars in efficiencies with online education. Online higher education classes in New Mexico, even common general education courses, have few students on average. However, by sharing online courses across college systems and increasing lower-level online class sizes to 30 students, HEIs could save up to $5.7 million annually. New Mexico HEIs also collectively pay at least $356 thousand annually in unnecessary costs by negotiating price agreements for the same software system to deliver online courses separately. If HEIs could harness these efficiencies, they could then use the savings to raise their relatively low faculty and instructor salaries.

Finally, the expansion of online education in New Mexico has profound implications for higher education facilities, spanning 18.6 million square feet and costing at least $178 million per year. The number of New Mexico college students taking all their classes on-campus decreased 63 percent over the past decade, yet building space only decreased by 2 percent. The result is that New Mexico HEIs are most likely underusing building space. As New Mexico continues to provide online higher education in the future, HEIs, the state Higher Education Department (HED), and the Legislature will all need to better consider the impacts of online course-taking on higher education capital outlay requests and decisions.

LFC staff recommend the following:

- HED should amend the agency's capital outlay manual and administrative rules (Section 5.3.10 NMAC) to include benchmarks for space utilization metrics for HEIs that would be used as a criterion to assess space and facility needs at HEIs during the capital outlay process;
- New Mexico HEIs should increase the size of online lower-level general education courses with fewer than 30 students through the combining of course sections and online course sharing within and across college systems and report on the efficacy of their targeted recruitment campaigns for former students who did not complete their studies to the Legislature;
- New Mexico HEIs and HED should develop a statewide online course sharing agreement which enables students at member institutions to take lower-level general education courses (with a common course number) online at participating institutions; and
- New Mexico HEIs and the New Mexico Consortium for Higher Education Computing/Communication Services should negotiate a joint price agreement for learning management system services after the University of New Mexico's current contract expires in 2028 and identify additional opportunities for collective price agreements.

Highlighting key points in HED's response letter, Secretary Stephanie Rodriguez said New Mexico has a highly fragmented higher education system, and each higher education institution or system has its own governing board. As such, while the agency can encourage colleges and universities to participate in system-wide policy changes, communal agreements, and other non-legislatively mandated actions, final decisions are ultimately left up to each governing board if there is no statute attached to requirements.

Secretary Rodriguez said HEIs are currently working to determine the best delivery method for each of their courses.

A 2019 HED review of the capital outlay process for higher education revealed the complexity of systems at the largest universities and the simplicity of the processes at smaller schools related to master planning and space management, as well as processes for condition assessments and deficiencies of facilities. The findings and recommendations were used by the agency to develop a new process for capital outlay funding recommendations. This included the establishment of three key components in the review of all proposals: project need, stewardship, and energy and sustainability. Within each of these components lies individual measures which are used to evaluate and assess each proposal.

Secretary Rodriguez said HED has a long-standing commitment to reducing the footprint of higher education facilities statewide. To support this, the agency requires an equal or greater offset of square footage prior to the construction of any new facility. Secretary Rodriguez said state funding over the past two years has allowed higher education institutions and special schools to remove space that is no longer needed on their campuses, reducing square footage and minimizing liability.

In response to Representative Armstrong, HED Chief of Staff Gerald Hoehne said HEIs may submit to HED capital outlay requests for projects that meet certain criteria. The proposed projects are reviewed by a committee comprising the Department of Finance and Administration, Energy, Minerals and Natural Resources Department, Legislative Finance Committee, HED, and a public member. The committee determines which capital outlay requests are recommended to the Legislature. Mr. Hoehne said the committee prioritizes certain requests, including previously funded projects that need additional funding to complete.

In response to Vice Chairman Small, Vanessa Hawker, executive director of New Mexico Independent Community Colleges (NMICC), said NMICC supports initiatives for joint price agreements among HEIs.

Higher Education Department. Stephanie Rodriguez, secretary of the Higher Education Department (HED), said the agency selected through the RFP process the National Center for Higher Education Management System (NCHEMS) to conduct a higher education sustainability study. The consulting organization will review and recommend changes to the state's higher education funding formula (I&G) and research and public services (RPSP) funding processes. In reviewing the I&G, the study will examine base funding and determine potential inequities at individual formula-funded colleges and universities or higher education sectors, including research institutions, comprehensive universities, independent community colleges, and branch campuses.

Additionally, a national review of performance-based and student outcome driven funding formulas, sustainable funding mechanisms, and overall best practices will be studied for possible consideration in New Mexico's higher education funding formula. The recent initiative to roll I&G related RPSPs into the I&G base addresses some of the study's scope of work, however, there will be an analysis of all RPSPs to determine their viability, the appropriate funding mechanism, general accountability, and other policy considerations. Another initiative within the study will be establishing peer groups of states and higher education systems that have similar characteristics to New Mexico's colleges and universities, and a review of their funding models will be examined.

Secretary Rodriguez said capital funding, although not part of the higher education funding formula, will be reviewed as it plays a part in the total cost of funding at public higher education institutions in New Mexico. In the past, building renewal and replacement (BR&R) was included as part of I&G funding, therefore the study will consider how other states provide funding for BR&R, commonly known as deferred maintenance.

Secretary Rodriguez said the study is expected to be completed by this fall.

In response to Senator Sharer, Secretary Rodriguez said San Juan College received an increase in state funding for FY25.

Miscellaneous Business.

Action Items. Vice Chairman Small moved to adopt the LFC January 2024 meeting minutes, seconded by Senator Rodriguez. The motion carried.

Vice Chairman Small moved to adopt the LFC contracts, seconded by Senator Rodriguez. The motion carried.

Vice Chairman Small moved to adopt the LFC 2024 meeting calendar, seconded by Senator Rodriguez. The motion carried.

Vice Chairman Small moved to adopt the LFC FY24 operating budget, seconded by Senator Sharer. The motion carried.

Representative Armstrong moved to adopt the Senate Memorial 5 Taskforce members, seconded by Senator Gonzales. The motion carried.

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

With no further business, the meeting adjourned at 10:48 a.m.

George K. Muñoz, Chairman

Nathan P. Small, Vice Chairman