MINUTES
Legislative Finance Committee
Grants/Gallup, NM
May 14 - 16, 2024

Tuesday, May 14
The following members and designees were present on Tuesday, May 14, 2024: Chairman George K. Muñoz; Senators Nancy Rodriguez, Roberto "Bobby" J. Gonzales, Steven P. Neville, Pat Woods, William E. Sharer, and Pete Campos; and Representatives Tara L. Lujan, Art De La Cruz, Harry Garcia, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, and Eliseo Lee Alcon. Guest legislators: Representatives Anthony Allison and D. Wonda Johnson.

Welcoming Remarks. Highlighting local economic and finance data, LFC Analyst Emily Hilla said Cibola County's general fund balance, comprising unassigned dollars, was $12 million at the end of FY23. Cibola County residents are paying more in property tax in relation to their property value than the New Mexico average, primarily due to special levies.

Grants general fund balance was $9 million at the end of FY23, double the prior fiscal year because of increased property taxes and special appropriations. According to most recent data, the city has $700 thousand in unexpended federal American Rescue Plan Act funds.

Mayor Erik Garcia welcomed LFC to Grants and said water and wastewater infrastructure is the city's greatest need.

Thomas Whelan, chief executive officer of Cibola General Hospital, highlighted recent upgrades and expanded services at the hospital, including behavioral health services. The hospital, grossing about $100 million in revenue annually, recently hired four additional physicians.

Mr. Whelan thanked legislators for passing Senate Bill 161 of 2024, which created a grant subsidy program for 12 hospitals, including Cibola General Hospital, to offset revenue losses due to providing services not fully reimbursed, malpractice premiums, Medicare sequestration, and property insurance. The Legislature also enacted the Healthcare Quality Deliver and Access Act, which Mr. Whelan said will also help hospitals in the state stay in business.

Marlene Chavez-Toivanen, campus director of the New Mexico State University-Grants (NMSU-Grants), said the community college currently serves about 800 students, many of whom live in rural communities outside Grants. NMSU-Grants offers 26 certificates and degrees, small business development services, adult education services, and early college opportunities.

Ms. Chavez-Toivanen said NMSU-Grants received about $6 million in capital outlay to renovate Martinez Hall. The community college requests additional capital outlay to repurpose space in Martinez Hall and other campus areas to support workforce development initiatives.

In response to Senator Campos, Mayor Garcia said Grants needs more comprehensive behavioral health services.

In response to Senator Gonzales, Mr. Whelan said the Legislature may want to consider legislation to address high punitive damages paid by rural hospitals. Chairman Muñoz said rural hospitals should also be covered by the patients compensation fund.

Capital Outlay Spotlight. Reporting on the status of local capital outlay, LFC Analyst Cally Carswell said local and tribal entities in Cibola County received $38.2 million in capital outlay from 2019 to 2023. As of this March, $25.5 million (67 percent) was unexpended. Additionally, 10 higher education or statewide projects in Cibola County received appropriations totaling $9.7 million, of which $4 million (41 percent) was unexpended.

Appropriations include $4.3 million to Cibola County for a public safety complex. On the county's most recent infrastructure capital outlay improvement plan (ICIP), capital outlay is identified as the primary funding source for three of the top five projects. This year, Cibola County received two new capital outlay appropriations totaling $775 thousand. Both projects appear on the ICIP as number four and seven priorities: $425 thousand of a $500 thousand request for the planning and design phase of a training facility at the public safety complex and $350 thousand of a $565 thousand request for an emergency generator for county administrative offices and the judicial court.

Local and tribal entities in McKinley County received $144.2 million in capital outlay from 2019 to 2023. As of this March, $95.2 million (66 percent) was unexpended. Additionally, 13 higher education or statewide projects in McKinley County received appropriations totaling $16.7 million, of which $7.7 million (46 percent) was unexpended.

On Gallup's most recent ICIP, capital outlay is identified as a primary funding source for two of the top five projects. This includes a $30.5 million cast iron water line replacement project. The General Appropriation Act of 2023 appropriated $7.5 million for lead pipe replacement. This year, Gallup received six new capital appropriations totaling $4.4 million, including $3 million for wastewater treatment plant improvements. New appropriations also include funding for a project not on the city's ICIP and requested by a nonprofit.

Highlighting key projects, LFC Analyst Antonio Ortega said Cibola County recently completed a major renovation project, converting a decommissioned armory into a public safety complex. The city of Gallup is building a new 43 thousand square-foot public safety building to provide a safer and more modern environment for law enforcement, court staff, and the public. Construction costs doubled over the city's original estimate before the project went to construction. A local $12.8 million bond supported by city gross receipts tax revenue and $3.4 million from the city's general fund allowed the project to proceed despite cost increases, with local funds covering more than half of the overall cost. The project is expected to be completed by next month.

In response to Senator Gonzales, Judy Horacek, Cibola County projects coordinator, said the U.S. Army National Guard no longer has a facility in Cibola County.

Chairman Muñoz expressed concern about stalled projects in San Rafael and San Mateo. Ms. Horacek said Cibola County was not aware of the funded projects initially. Cibola County Finance

Director Paul Ludi said the Department of Finance and Administration has since assigned Cibola County as fiscal agent, which Ms. Horacek said will assist in moving the projects along.

Economic Industry/Cluster Study. LFC Economist Brendon Gray said industry clusters are defined as groups of businesses related by business inputs—knowledge, skills, demand, labor suppliers, distributors—that concentrate in a region, thereby providing a competitive advantage and engine for economic growth.

Mr. Gray said New Mexico's industrial makeup has long been defined by oil and gas, retail, and government. While these industries are an important foundation, industrial diversification is needed for the state to create more opportunities for residents, stabilize government revenues, and improve per capita income.

New Mexico's per capita income was 46th lowest in the United States in 2023, little improvement from a decade prior when the state was 48th. Private employment in the state only grew 6.8 percent over the decade, 6.4 percentage points slower than the west regional average. Also, gross state product trailed the southwest regional average growth by 7 percent. Mr. Gray said New Mexico's lagging economic growth has many causes, but one of the driving factors is the state's overreliance on industries with little to no employment growth opportunities.

Mr. Gray said an industry cluster framework can help policymakers and practitioners move beyond a focus on specific companies and, instead, prioritize actions that will have the greatest impact on long-term economic growth. New Mexico has 36 industry clusters with over 500 jobs each. Of those, 15 are local clusters and 21 are traded clusters. About 69 percent of New Mexico jobs are in local industry clusters, and about 40 percent of New Mexico employment is in traded industries. LFC staff recommend the state focus on traded industry clusters because they represent economic base employment growth, generally pay more, are more likely to generate strong employment growth, and create a positive wealth cycle. However, the healthy functioning of local industries is also essential.

New Mexico's traded clusters are anchored by three large clusters:

- Education and knowledge creation, comprising colleges, universities, scientific research organizations, and education and training establishments.
- Business services, comprising engineering firms, professional employer organizations, and consulting firms.
- Hospitality and tourism, comprising businesses serving recreational travel like hotels, museums, and many components of the outdoor recreation economy.

Mr. Gray outlined policy recommendations. The Economic Development Department should use a cluster-based framework based on a formal, New Mexico-specific industrial cluster analysis and the Legislature should address structural challenges in industry clusters by focusing current business tax incentives on the highest impact industries. The Legislature may also want to strengthen its evaluation of economic development policies and practices.

Representative Armstrong remarked on the regulatory barriers impacting business in the state.

In response to Representative Lujan, Mr. Gray said cluster-based framework has proven to be successful in the several states and cities that have implemented it.

Infrastructure's Impact on Economic Growth in Northwest New Mexico. Evan Williams, executive director of the Northwest New Mexico Council of Governments (COG), said New Mexico's seven COGs have supported the planning and development needs in the state for over 50 years. The Northwest COG region comprises three counties, 10 local governments, and five tribal governments. Mr. Williams remarked on the region's diverse economic landscape and highlighted current initiatives, reporting a 300 percent return on investment in FY23.

The Northwest COG's strategic plan is focused on energy, logistics, and manufacturing. Mr. Williams pointed out the region's competitive advantage in energy and railway. Advanced manufacturing is among projects at Navajo Technical University. Other activity in the region includes Argonne National Laboratory energy research.

Mr. Williams said the Northwest COG is working to ensure shovel-ready sites at its four industrial parks. However, the region faces several critical infrastructure needs, including the storage, treatment, and delivery of water, healthcare, emergency response, housing, and broadband. Also, some of the infrastructure already in place, like pipes, is old and needs to be replaced. Efforts are being made to secure funding for these needs.

Donald Jaramillo, executive director of the Grants-Cibola County Chamber of Commerce and New Mexico Mining Museum, said his community is capitalizing on its outdoor recreation. Other tourist attractions in the area include Route 66, which will be celebrated for its 100-year existence in 2026.

Mr. Jaramillo talked about the infrastructure projects in progress throughout the county, including trail connectivity and Roosevelt bridge replacement. The Grants BioPark is also a key project, which will comprise several new shops.

Project Closeout: Study of State Personnel. Devon Lane, human capital senior manager at Deloitte Consulting, presented a draft report on the state's Personnel Act and classification and compensation system. Deloitte's comprehensive study, which began last September in partnership with the Department of Finance and Administration, State Personnel Office, and LFC, included analysis of the state's personnel processes, competitive market, and job classifications. A stakeholder engagement and employee survey was also conducted.

Compared with peer states, New Mexico's state personnel recruitment timeline and classification system audit are basic and could use the most improvement. Mr. Lane said all other areas rank as progressing and could also use some improvement.

Highlighting key findings, Mr. Lane said the state's personnel system has little transparency, prolonged hiring times, high vacancy rates, low morale, reduced capacity, inefficient job advertising, low outreach, limited external engagement, strict minimum qualifications, complex recruitment forms, limited mobility, and unclear professional development pathways. Also, the system lacks automation and advanced tracking.

Deloitte hosted a future state visioning lab last November, bringing together state agency human resource leaders. Mr. Lane said the purpose was to align the state's recruitment and hiring process, build an operating model that meets the state's needs, and develop ideas that will help enhance the recruiting and hiring process.

In its market competitive analysis, Deloitte found the state employee medical benefit and disability programs and paid time off were below market. The average benchmark position is compensated 10.3 percent above the government market, but 4.7 below the general industry market. The state has 11 salary structures with 109 individual pay plans. Mr. Lane said Deloitte recommends the state move to one salary structure. If done, 15 percent of employees would have an immediate change in their compensation and 44 percent of employees would have a proposed pay grade maximum that is higher than their current maximum. Deloitte also recommends the state implement consistent increases to midpoint differentials, extend pay grade progression, and reevaluate benefit offerings to match evolving employee needs.

To improve job classification, Deloitte recommends the state stand up a classification center of expertise, implement a statewide e-workflow tool, redesign the state's job architecture, and analyze workload for key positions.

To improve retention and reduce attrition, Deloitte recommends the state

- Establish a unified, statewide marketing and branding strategy,
- Evaluate telework options and combine with real estate strategy, and
- Implement an onboarding program and build awareness for existing professional development curriculum.

In response to Representative Lujan, Dylan Lang, director of the State Personnel Office (SPO), said the agency conducts HR council meetings monthly.

In response to Chairman Muñoz, Director Lang said SPO will work with Deloitte on implementing the recommendations.

Wednesday, May 15

The following members and designees were present on Wednesday, May 15, 2024: Chairman George K. Muñoz; Senators Nancy Rodriguez, Roberto "Bobby" J. Gonzales, Steven P. Neville, Pat Woods, William E. Sharer, and Pete Campos; and Representatives Reena Szczepanski, Tara L. Lujan, Art De La Cruz, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, and Eliseo Lee Alcon. Guest legislators: Senator Shannon Pinto and Representatives Anthony Allison, D. Wonda Johnson, and Patricia A. Lundstrom.

Welcoming Remarks. Highlighting local economic and finance data, LFC Analyst Emily Hilla said McKinley County's general fund balance was $39 million at the end of FY23, of which $19 million was unassigned. The county plans to use the unassigned funds to cover FY23 and FY24 shortfalls.

Ms. Hilla noted McKinley residents are paying more in property tax in relation to their property value than the New Mexico average, primarily due to special levies.

Gallup's general fund balance was about $37 million. The increase in general fund revenue is providing additional funds for fire and law enforcement protection. The city spent almost half of its federal American Rescue Plan Act (ARPA) funding, leaving $1.25 million unexpended.

Gallup Mayor Louie Bonaguidi and McKinley County Commission Chairman Robert Baca welcomed the committee and highlighted Red Rock Park and other native and cultural areas.

In response to Senator Woods, Mayor Bonaguidi said his community is facing recruitment and retention challenges, pointing out that corporate businesses, which offer higher wages, often draw applicants away from city and county jobs.

Commissioner Baca said Gallup is also facing a housing shortage.

In response to Chairman Muñoz, Mayor Bonaguidi said Burlington Northern Santa Fe Corporation (BNSF) Railway say they will reimburse Gallup for expenses it incurred in response to the recent derailment.

Road and Bridge Maintenance and Contracting to Local Governments. Ricky Serna, secretary of the Department of Transportation (NMDOT), said the local government road fund and transportation project fund supports local and tribal transportation projects. Local and tribal governments typically seek state funding through NMDOT to address critical needs, fill funding gaps, and meet matching obligations. When appropriated, local and tribal governments most often receive the funding directly by way of an agreement with NMDOT.

NMDOT District 6 Engineer Lisa Vega provided an overview of ongoing and recently completed projects supported by NMDOT in McKinley County.

In response to Senator Campos, Secretary Serna said NMDOT is working with the Workforce Solutions and Higher Education Departments to develop the pipeline of engineer and entry level workforce for the agency. Senator Sharer remarked on the difficulty of recruiting and retaining engineers for the state because of low pay.

In response to Representative Lundstrom, Secretary Serna said NMDOT's vacancy rate is currently 15 percent.

In response to Chairman Muñoz, Secretary Serna said NMDOT's current debt service coverage ratio is high at 8.6.

Policy Spotlight: Regional Recreation Centers and Quality of Life Grants. LFC Program Evaluator Kathleen Gygi presented a policy spotlight on regional recreation centers and quality of life grants. Regional recreation centers, parks, fairgrounds, rodeo grounds, and other similar facilities enhance the quality of life of communities and have health and economic benefits. Recent federal and state outdoor recreation initiatives have provided some funding to increase public recreational assets; however, many under-resourced and rural communities in New Mexico still lack adequate recreational facilities and other amenities for residents and visitors. Capital funding for these projects is often not prioritized because of other critical public safety and other basic needs. To address this funding gap, the Legislature in 2022 and 2023 appropriated $85 million to the Department of Finance and Administration (DFA) for regional recreation centers/quality of life (RRC/QOL) grants. DFA made 98 awards to municipalities, counties, and tribal entities, ranging from $36 thousand to $7.2 million. Awards covered 72 percent of the requested amount for funded projects, supporting $276 million in total project costs.

The RRC/QOL grant program is barely 18 months old. In that time, DFA was able to set up a grant program for the funding that incorporated best practices for infrastructure funding, even with minimal legislative direction. As a result, although many projects are still in early stages, others are on track for completion by the appropriation reversion deadlines at the end of FY25. This is generally a better outcome than many similar local capital outlay projects. Of note, DFA ensured projects were vetted and made funding decisions based on standardized criteria.

Future administration of RRC/QOL grant funding could be further strengthened to ensure state funding results in useful community infrastructure. For example, a more rigorous screening and award process could require a site visit and a tiered award system so that large projects are assessed for feasibility based on best practices, such as phased funding, cost-sharing, and capacity to execute the project. Further, capacity levels in some communities still present significant challenges to project completion, and DFA will likely need to ensure that communities have access to appropriate technical assistance.

Because of the relative success of funding RRC/QOL projects through these new appropriations rather than through the typical capital outlay process, LFC staff recommend the Legislature

- Establish a fund to continue the grant program and direct local capital outlay requests for recreational and quality of life projects to that fund,
- Allow a percentage of funds for pre-award technical assistance, and
- Encourage standardized policies, scoring criteria, funding prerequisites, and grant administration requirements across programs and agencies when possible.

Also, DFA should

- Incorporate additional best practices in vetting and awarding future RRC/QOL funds,
- Implement a more robust, tiered screening and award system, and
- Coordinate with other state agencies to leverage state funding for projects.

In response to Chairman Muñoz, Wesley Billingsley, director of the Infrastructure Planning and Development Division (IPDD), said between $40 million and $50 million is an appropriate amount for annual administration of RRC/QOL grants in the state.

Chairman Muñoz remarked on the success of the RRC/QOL grant program and suggested the same structure be used to improve the capital outlay process, which Mr. Billingsley agreed with. Chairman Muñoz asked IPDD to create scenarios that incorporate the structure into the capital outlay process.

LegisStat: Health Care Authority. Highlighting key information in the staff brief, LFC Analyst Eric Chenier said New Mexico ranks poorly nationally on many behavioral health and physical health outcomes. A few examples include the prevalence of mental illness and substance use disorders and high rates of maternal mortality and low birth weight.

Medicaid is the greatest lever available to the state to affect these and other outcomes, with nearly 50 percent of the state enrolled. Yet, in a fall 2022 LFC program evaluation that included a secret shopper survey, researchers were only able to get an appointment with a primary care or behavioral health care provider 13 percent of the time. The lack of access to providers or evidence-based services for behavioral health may be slowing progress on many outcomes.

Following recommendations from the report, the Legislature invested significant amounts in the last two years to increase rates paid to providers with the goal of improving access. Better data and oversight will be the key to improving New Mexico's policy choices.

Outlining current actions, Kari Armijo, secretary of the Health Care Authority (HCA), said New Mexico is making progress on rebuilding behavioral health in the state, noting a 104 percent increase in Medicaid psychiatric providers and 73 percent increase in core professionals since 2019. Next January, Medicaid behavioral health reimbursement rates will increase again, reaching up to150 percent of Medicare rates. The agency implemented five evidence-based practices for enhanced rates, encouraging more providers to expand their services.

Managed care organization (MCO) appointment standards were updated:

- For non-urgent behavioral healthcare, the request-to-appointment time for an initial assessment shall be no more than seven days, unless the member requests a later time;
- All non-urgent behavioral healthcare follow-up appointments shall be available within 30 days of the request; and
- For behavioral health crisis services, face-to-face appointments shall be available within 90 minutes of the request.

Insertion of Medicaid-funded CARA (Comprehensive Addiction and Recovery Act) care coordinators in hospitals is underway. HCA is requiring MCOs to contact every pregnant member after a positive test.

HCA is pursuing federal approval to offer Medicaid services 30 days before release from correctional settings. The agency is also participating in a national initiative to align housing programs for New Mexicans with complex behavioral health needs.

Next year, HCA will introduce certified community behavioral health clinics, designated to provide a comprehensive range of outpatient mental health, substance use disorder, and primary care screening services for youth and adults.

Secretary Armijo said HCA is also focused on improving Medicaid primary care. The agency is supporting primary care and psychiatry residency expansion, doubling the number of accredited programs to 16 by 2025. HCA is also working with MCOs for single credentialing and bridging gaps in services and ensuring coordination among healthcare and social service providers by launching a statewide closed-loop referral service. The new Turquoise Care primary care payment model will increase access to whole-person, team-based primary care, provide increased flexibility and administrative efficiencies for clinicians and providers, and improve health equity and health outcomes for New Mexicans.

Secretary Armijo said the rural healthcare delivery fund is currently supporting 54 organizations across 28 rural counties, which equates to 212 total service types available statewide. Each organization is expanding or creating new services including behavioral health, primary care, maternal and child health, dental, hospital, surgical, and optometry. HCA anticipates the fund will facilitate access to over 400 thousand healthcare services for New Mexicans from FY24-26. Three providers are already profitable for FY24.

Representative Lundstrom expressed concern about the number of organizations supported by the rural healthcare delivery fund in McKinley County compared with those in Cibola County, noting both counties have eight organizations, but McKinley County has a much larger population. Secretary Armijo said grants from the fund are based on an application process.

Chairman Muñoz asked why the Medicaid behavioral health reimbursement rate increase will not happen at the start of FY25. Secretary Armijo said HCA received only half the funding needed for the rate increase in FY25; therefore, the agency will implement the increase on January 1.

Hospital Rates and Accountability. LFC Analyst Allegra Hernandez said New Mexico hospitals had a net revenue of over $334 million in 2022. Concurrently, they are receiving unprecedented subsidies from both the state and federal governments, but the state subsidies have uneven financial impact and are likely to help hospitals that are larger, and more profitable, than hospitals that are currently experiencing negative profitability. While hospitals post-pandemic have roughly the same net gains they had before the pandemic, profitability varies greatly across the state, and, as a whole, nonurban hospitals are worse off than urban hospitals. Because of its large investment, the state has a unique opportunity to increase accountability of hospitals in the state. Further, estimates are showing government revenues will comprise at least 74 percent of hospital revenues in 2025, triggering concerns about hospital viability.

Health Care Authority (HCA) Secretary Kari Armijo said the unwinding of Medicaid's continuous coverage during the public health emergency is complete. About 895 thousand New Mexicans are currently enrolled in Medicaid, down 110 thousand individuals since April 2023. HCA expects an annual growth rate of 2.7 percent going forward, slightly below prepandemic growth.

Secretary Armijo said Turquoise Care will replace the state's current Medicaid program Centennial Care on July 1. Earlier this year, HCA held several community education events about Turquoise Care. Open enrollment closes May 31. Four plans are available: Blue Cross Blue Shield, Molina Health Care, Presbyterian, and United Healthcare. HCA is working to ensure improved contracts and comprehensive oversight of MCOs under the new program. Secretary Armijo said this includes increased performance penalties, medical loss ratio, community reinvestment, care coordination. Provider network and access to care requirements will also increase and the reimbursement rate will be at or above the approved Medicaid fee schedule.

Secretary Armijo outlined the rate increases and expansions under the new program. Turquoise Care will include coverage for doula and lactation counselor services and additional vision benefits.

Medicaid-directed payments are used to direct expenditures in connection with implementing delivery system and provider payment initiatives through Medicaid managed care contracts. Secretary Armijo said the state currently uses 11 directed payments. Five more will be added in FY25 to support rural obstetric hospital services, publicly owned ambulance services, primary care value-based purchasing, and the Health Care Delivery and Access Act.

Secretary Armijo said HCA, which will formally launch on July 1, is focused on using data to drive quality and performance.

Bill Patten, interim chief executive officer of Rehoboth McKinley Christian Hospital (RMCH), said the hospital is making progress in addressing its financial challenges. Detailing the hospital's financial situation, Mr. Patten said state and county funding is helping to meet current obligations while RMCH works to reduce accounts payable and reach solvency.

Remarking on recruitment and retention efforts, Mr. Patten said RMCH will be hiring for its new cardiology program. Recruitment of a new chief operating officer is underway.

Property Taxes. Damien Lara, Bernalillo County assessor and New Mexico Counties Assessors Affiliate chairman, said the Office of the County Assessor's statutory responsibility is to locate all taxable property in the county, determine property values pursuant to NMSA 7-36-15, develop special methods of valuation for property taxation purposes, identify and notify property owners of established assessments, list the value of all property on the assessment roll, and apply all legal exemptions.

Mr. Lara outlined the statutory requirements of assessments:

- NMSA 1978 § 7-36-16.A "County assessors shall determine values of property for property taxation purposes in accordance with the Property Tax Code and the regulations, orders, rulings and instructions of the department. Except as limited in Section 7-36-21.2 NMSA 1978, they shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the director."
- NMSA 1978 § 7-36-2 "The county assessor is responsible and has the authority for the valuation of all property subject to valuation for property taxation purposes in the county except the property specified by Subsections B and C of this section."
- NMSA 1978 § 7-36-21.2 "Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code; provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the higher of one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued."
- NMSA 1978 § 7-36-15 (B) "Unless a method or methods of valuation are authorized in

> Sections 7-36-20 through 7-36-33 NMSA 1978, the value of property for property taxation purposes shall be its market value as determined by application of the sales of comparable property, income or cost methods of valuation or any combination of these methods. In using any of the methods of valuation authorized by this subsection, the valuation authority."

Mr. Lara said New Mexico is considered a nondisclosure state, meaning the sales price of property remain confidential and are not easily accessible to the general public. Mr. Lara said a significant hurdle of real estate nondisclosure is assessing market trends versus the assessed property value. It is difficult to compare similar properties and determine accurate valuations without access to actual transaction sales prices. County assessors are challenged to find alternate methods of valuation and sources of information to gauge market conditions. In Bernalillo County, the assessor typically obtains nonresidential information through discovery during the protest process, questionnaires mailed to property owners, and subscription services paid by taxpayer monies. Currently, assessors in New Mexico cannot force nonresidential property owners to disclose sales price.

Most other states have full disclosure or equitable disclosure. Full disclosure is the obligation to reveal all information pertinent to a transaction of a publicly traded company's business and financial statements. Equitable disclosure is for statistical and analytical purposes only and used within the office of the county assessor. The information is not shared, published or subject to the Inspection of Public Records Act (IPRA). Mr. Lara said it is important to understand the goals of equitable disclosure is to help balance the tax burden that residential owners now hold.

Mr. Lara recommended New Mexico hold nonresidential property owners to the same standard of residential property owners, requiring the filing of sales transfer affidavit with the county assessor. The affidavit is kept confidential and only used by the county assessor for statistical and analytical purposes to ensure proper valuation of property.

An increase to the veteran property tax exemption will be voted on this November. If passed, the exemption will increase from $4,000 to $10 thousand. In Bernalillo County, this would amount to a revenue loss of about $9.5 million. Mr. Lara said the lost revenue would need to be absorbed elsewhere, and without equitable disclosure, would be the burden of residential property owners.

Highlighting key information in the staff brief, LFC Economist Jennifer Faubion said property taxes are one of the three major taxes on New Mexicans, along with gross receipts taxes and personal income taxes. Property taxes almost entirely flow to local governments, and therefore, the state and the Legislature largely treat property tax policy as a local issue and have made no meaningful changes to the property tax code in nearly 25 years. However, the state has become an outlier on the national level, with some rankings identifying New Mexico as the lowest property tax state in the country. Furthermore, property taxes are also found to play a significant role in business decision making.

New Mexico property taxes are levied using mill rates. A mill rate represents the amount of tax owed per every $1,000 of a property's assessed value. The four principal recipients of property tax revenue, the state, counties, municipalities, and school districts, can levy property taxes both for operations and for debt or special projects. Since 1933, the New Mexico Constitution has limited the combined operating levies that can be taxed for maintaining operating budgets at 20 mills. The state stopped levying its own operating rate in 1980. Since 1986, the statutory split of allowed property taxes for operating uses has been 11.85 mills for counties, 7.65 mills for municipalities, and 0.50 mills for school districts.

Property taxes generated approximately $2.1 billion in revenues statewide in 2021. Of those revenues, 30 percent went to county governments, 14 percent to municipal governments, 33 percent to school districts, 10 percent to higher education, and the remaining 13 percent to hospitals and state debt service. Approximately 91 percent and 65 percent of property tax revenues flowing to counties and municipalities, respectively, fund ongoing operations; the remaining 9 percent and 35 percent is to pay debt service and other obligations. A very small portion of school district revenues, approximately 3.7 percent, fund operations. The remaining school district revenues pay for capital construction and maintenance projects. In 2023, total property tax revenues grew to $3.3 billion, a whopping 60 percent growth over 2021.

New Mexico's property taxes rank among the lowest in the country across many measures. According to the most recent data, New Mexico's average property tax rate is the 34th highest in the nation at 0.8 percent, compared with 1.1 percent nationally. Per capita property taxes paid and median taxes paid are some of the lowest in the nation at $936 and $1,470 respectively. Taxpayers' property tax burden, measured as the property tax share of personal income, is in the lowest 10 states in the country at 1.8 percent, compared with 2.9 percent nationwide.

State and local governments in New Mexico rely less on property taxes than most other states, representing only 6.5 percent of general revenue. New Mexico's comparatively lower use of the property tax has resulted in state and local governments depending proportionally more on the volatile gross receipts tax (GRT). In New Mexico, 31.7 percent of land is federal land and, therefore, untaxable. The centralized school finance system also contributes to New Mexico's reliance on the GRT when compared with other states. Nationwide, only Alabama collects a lower share of government general revenue from property taxes than New Mexico. Local governments, excluding the state, get about 18.9 percent of their revenue from property taxes, much less than the national average of 30.1 percent.

Growth controls intend to limit property taxes from becoming overly burdensome. New Mexico is one of only nine states that implement all three types of growth controls, with unintended results. While they are effective at limiting property tax growth, they do not target those most in need, shift tax burdens away from appreciating properties, and hamper local government taxing authority. There are other forms of more targeted tax relief that better alleviate undue property tax burdens for those in need without creating horizontal tax inequities and hamstringing local budgets. New Mexico provides several forms of targeted property tax relief for low-income, elderly, disabled, and veteran residents, but there is opportunity for further reform.

Concluding, Ms. Faubion said by implementing certain reforms, New Mexico can achieve a fairer, more equitable property tax system that better serves its residents while enhancing revenue stability, encouraging affordable housing, and promoting economic growth. The state may want to consider

- Enacting full or partial disclosure for nonresidential properties,
- Expanding targeted tax relief,
- Repealing assessment limits, and
- Rebalancing revenue sources.

Mr. Lara invited LFC members to attend upcoming New Mexico Counties Assessors Affiliate meetings on which potential legislation for equitable disclosure will be discussed.

Thursday, May 16

The following members and designees were present on Thursday, May 16, 2024: Chairman George K. Muñoz; Senators Nancy Rodriguez, Roberto “Bobby” J. Gonzales, Steven P. Neville, Pat Woods, William E. Sharer, and Pete Campos; and Representatives Tara L. Lujan, Art De La Cruz, Jack Chatfield, Gail Armstrong, Debra M. Sariñana, and Eliseo Lee Alcon. Guest legislators: Senator Shannon Pinto and Representatives Anthony Allison, D. Wonda Johnson and Patricia A. Lundstrom.

Status of Local School Districts. Reporting on the status of local school districts, LFC Analyst Sunny Liu said student reading-proficiency rates at Gallup-McKinley County Schools (GMCS) and Zuni Public School District (ZPSD) remain lower than the statewide average. However, the four-year high school graduation rate at ZPSD is higher than the statewide average and GMCS’ graduation rate is at the statewide average. Chronic absenteeism continues to be especially challenging at GMCS, with about two-thirds of students missing more than 10 percent of school days.

GMCS extended its school calendar year to 189 student learning days, including 38 days of embedded professional work time. Prior to the *Martinez-Yazzie* ruling, GMCS was providing 178 student learning days and six additional teacher contract days. ZPSD issued a calendar of 182 student learning days, including four days of embedded professional work time. Prior to the ruling, ZPSD was providing 180 student learning days and eight additional teacher contract days. In April 2023, GMCS consulted with the Navajo Nation Department of Diné Education on student needs, school services, plans for delivery of student services, parental engagement, federal programs, understanding grant programs, and systemic frameworks. In May 2022, ZPSD consulted with Zuni Pueblo on student needs, school services, plans for delivery of student services, timelines for evaluation of services, student needs assessments, accountability tools, and parental engagement.

In FY23, GMCS generated $19 million in at-risk index funding through the funding formula but reported $16.7 million in spending on alternative and at-risk programs. The largest spending category was $7.4 million for supplies, followed by $4.2 million for salaries. In FY23, ZPSD generated $2 million in at-risk index funding and reported $1.9 million in spending on alternative and at-risk programs. The largest spending category was $1.4 million for salaries, followed by $441 thousand for benefits.

Cash assets for both school districts grown substantially, particularly when the Impact Aid credit was removed from the state funding formula in FY22. Cash assets currently represent about 35 percent of GMCS revenues and 25 percent of ZPSD revenues, up from 24 percent for GMCS and 15 percent for ZPSD in FY21. While operational cash reserves for FY25 are about $93 million for

GMCS and $18 million for ZPSD, both districts have substantial restricted cash assets—$93 million for GMCS and $5.3 million for ZPSD. Most of the restricted cash is budgeted in both districts for Impact Aid Indian education and capital outlay uses. Budgeted spending for both districts has grown primarily in salaries, professional services, and property services.

GMCS has 10 active school replacement projects, three system replacement projects, and two teacher housing projects. ZPSD has one active high school standards-based project. Both districts have better average facility condition indices than the statewide average of 56.8 percent. GMCS has excellent maintenance practices, boasting a 90.7 percent facility maintenance score (FMAR). ZPSD has a slightly lower FMAR of 69.3 percent, compared with the statewide median of 72.4 percent.

GMCS Superintendent Mike Hyatt said GMCS is geographically the largest and sparsest school district in the state, with 80 percent comprising tribal land. Due to the large portion of nontaxable land, the school district relies heavily on capital outlay to support its 32 schools. The majority of faculty, staff, and students are Native American, many of whom live in low-income households.

Superintendent Hyatt remarked on the school district's steady growth in reading proficiency prior to the pandemic and efforts to improve school attendance, parent engagement, and teacher retention. The superintendent also talked about the opportunities offered to prepare its high school graduates, including early college and internships.

Superintendent Hyatt said GMCS is facing financial challenges in meeting *Martinez-Yazzie* reforms, noting the absence of a rural factor in determining appropriations to school districts for teacher pay, inaccurate data used to calculate at-risk funding for school districts, removal of the density factor to determine funding for transportation, disproportionate distribution of funding for the Indian Education Act, and inconsistent funding for college and career programs. The superintendent also reported insufficient funding for Native American language teacher pay and extended learning equipment and supplies.

Providing additional remarks on GMCS's fiscal status, Deputy Superintendent Jvanna Hanks said the school district expended almost all $101.3 million in pandemic relief funds, primarily on learning loss supports, professional development, and outreach. The deputy superintendent expressed concern about delayed award letters from the Public Education Department, which she said is causing substantial issues in planning and timely expenditure of funds.

GMCS received two Impact Aid awards in one year and a $24 million reimbursement from the state, resulting in an extraordinarily high cash balance. Providing additional details, Deputy Superintendent Hanks remarked on the need to have sufficient cash reserves to meet payroll and other liabilities.

ZPSD Superintendent Randy Ann Stickney said the school district is focused on improving student performance, with curriculum-based assessments administered every three weeks to measure progress. ZPSD implemented an observation and feedback coaching cycles practice and formed academic parent-teacher teams. Also, traditional parent-teacher conferences were replaced with student-led parent-teacher conferences, which Superintendent Stickney said promotes student ownership of performance. To improve attendance, ZPSD is awarding various incentives.

ZPSD Finance Director Martin Romine provided an overview recently completed projects in the school district, including a new softball field, maintenance shop, and several outdoor learning spaces. Replacement of the school district's middle and high school is underway.

Mr. Romine remarked on the critical need to add a Native American student at-risk factor in funding formula. Also, additional funding is needed for professional development.

In response to Representative Sariñana, Superintendent Hyatt said about 500 GMCS students are currently participating in early college.

In response to Representative Lundstrom, Deputy Superintendent Hanks said GMCS received funding to build a community school, which will focused on expanding the school district's career technical program in partnership with the Southwest Indian Foundation.

In response to Senator Pinto, Mr. Romine said about 20 percent of the teachers at ZPSD are Native American and majority of the administrative faculty are Native American.

In response to Senator Pinto, Superintendent Hyatt said GMCS meets with the Navajo Nation Department of Diné Education on a regular basis.

Strategies for Economic Growth, Healthcare Access, and Quality of Life - Impacts in Tribal Areas. Reynelle Lowsayatee, director of academics and applied indigenous studies at A:shiwi College and Career Readiness Center (ACCR), said the institution is currently serving 90 students, many of whom are interested in early childhood careers. Located on the Zuni Pueblo Indian Reservation, the emerging tribal college is building accredited academic programs based on Zuni and indigenous values. Ms. Lowsayatee talked about the various partnerships and highlighted current academic programs and community engagement opportunities. Entrepreneur, drone, pottery, and Zuni language interpreter courses are among the variety of opportunities.

Clara Pratte, chief executive officer of Strongbow Strategies and chairwoman of the Navajo Power Board, said Strongbow Strategies is a professional services firm that assists clients on economic and energy development projects, and Navajo Power is a leading developer of utility-scale clean energy projects on the Navajo Nation and across Indian country. Ms. Pratte said there are 574 federally recognized tribes across the United States, whom together have the potential to produce about 262 gigawatt of solar energy and 18 gigawatt solar energy from transmission projects near tribal land.

Ms. Pratte said Navajo Power is a native- and employee-owned company that is dedicated to developing clean energy solutions that create positive economic change for tribal nations. The company's current portfolio includes

- 3 gigawatts of solar and storage with five tribal nations,
- 1,000 megawatts of commercial solar projects,
- $4 billion of solar and transmission infrastructure, and

- 300 off-grid solar and storage systems on the Navajo Nation.

Ms. Pratte said Navajo Power Home was established in 2021 to bring power to all homes on the Navajo and Hopi Nation. Painted Desert Power, another project of Navajo Power, is developing a 4,600-acre parcel on the Navajo Nation to generate 750 megawatts of solar energy.

Navajo Power's business model is project development at the front end, derisking it and later securing a long-term operator.

Amanda Singer, executive director of the Navajo Birthworker Collective, said the collective, previously named the Navajo Breastfeeding Coalition, was founded in 2008 for the purpose of providing compassionate, unbiased, and accessible care to Native birthing families and growing infants. Breastfeeding and lactation consultations, breast pump coverage, and Diné birth support are among the services provided.

Ms. Singer said the collective's goals are to

- Build equitable access to birth choices and birth settings,
- Increase public acceptance of the benefits of breastfeeding and culturally congruent birth work,
- Change behavior that results in increased rates of breastfeeding initiation/duration and reduced rates of maternal and infant mortality,
- Revitalize and normalize culturally congruent lactation education and Navajo cultural teachings on birth practices,
- Strengthen community understanding of the role of cultural teachings and cultural healing practices,
- Improve overall health and wellness,
- Normalize using ceremony as a way of life to retain balance through mental and physical healing,
- Meet the needs of lactating employees/parents,
- Increase acceptance of implementing integrative medicine as a vital form of patient care in healthcare systems, and
- Expand education for indigenous birthing families on informed choice/consent.

Ms. Singer recommended the Legislature consider policies that recognize doula services as professional support, provide equitable access to diverse birth settings, and ensure equitable funding for culturally congruent perinatal home visiting and community organizations working to decrease morbidity and maternal and infant deaths.

In response to Chairman Muñoz, Ms. Singer said the collective will be able to start billing Medicaid for services rendered in FY25.

Miscellaneous Business.

Action Items. Senator Gonzales moved to adopt the LFC April 2024 meeting minutes, seconded by Senator Sharer. The motion carried.

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

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

Opioid Settlement Update. LFC Analyst Felix Chavez said nearly 200 thousand New Mexicans are currently living with substance use disorders (SUD). Despite efforts, the state's overdose rate, among the worst in the nation, continues to rise. In 2021, 1,029 New Mexicans died from drug overdose.

Mr. Chavez said the national opioid settlement represents one of the biggest public health settlements ever and a historic opportunity to address SUD and potentially save lives. To accomplish these goals and utilize the funds generated by the settlements, coordinated investment among state and local entities is paramount.

New Mexico was awarded $884 million in opioid settlement revenue. The settlement payouts, however, will be spaced out over extended periods of time and a large portion ($249.4 million) will be used to pay the high outside counsel fees, diminishing the amount available for SUD prevention and treatment measures.

The state has received $90 million to date, most of which was deposited into the opioid settlement permanent fund. Five million dollar distributions will be made on an annual basis from the permanent fund to the opioid crisis recovery fund for SUD treatment and other related programs.

Mr. Chavez said New Mexico also received $108 million for local government initiatives to address the opioid crisis.

LFC Analyst Austin Davidson said fentanyl and methamphetamine recently surpassed heroin and prescription opiates as leading causes for overdose deaths. LFC staff estimate the overall lifetime cost of SUD in New Mexico to be $39 billion. The effects of untreated SUD contribute to poor outcomes for the state, including high rates of substance-related deaths and high rates of child maltreatment. The Department of Health reports New Mexico's persistent substance use challenges contribute to poverty, crime, unemployment, and domestic violence.

Mr. Davidson said New Mexico unfortunately faces systematic obstacles in addressing its SUD crisis. Currently, only one-third of SUD patients receive treatment and lack of data regarding behavioral health services makes it very difficult to identify trends and treatment participation and utilization. Also, the state has a behavioral health provider shortage. According to the Health and Human Services Department, only 18 percent of the state's behavioral health needs are met, and an additional 90 providers are needed to end the designation.

To address these barriers, LFC staff recommend stakeholders, including the Behavioral Health Collaborative and Department of Health, improve collaboration and coordination. New Mexico risks duplicating or underleveraging available resources without coordination. The collaborative's statutory role positions the organization to play a strategic role in developing a comprehensive plan to address SUD in the state.

Remarking on the high outside counsel fees, Mr. Davidson said a November 2023 opinion from the State Ethics Commission (SEC) found contingent-fee contracts are subject to the Procurement Code. Procurement practices for large settlements like opioid settlements exist to safeguard against undue influence, quid pro quo conduct, and the appearance thereof.

The SEC opinion states the Procurement Code constrains state agencies in selecting outside counsel to "maximize the value of public funds and maintain a functioning procurement system." Additionally, the opinion states that the payment for outside counsel, which traditionally comes from the "property" gained through litigation, is property of the state and, therefore, public monies, which must be used pursuant to the Procurement Code.

Current Procurement Code practices require a transparent and competitive bidding process. LFC staff recommend the Legislature consider additional regulation that leads to the selection of contracts that prioritizes New Mexico and its litigation goals.

SEC Director Jeremy Farris provided an overview of contingent-fee legal contracts and said a claim and judgment belongs to the client; therefore, the state has control over the contingency-fee arrangements made in the opioid settlement.

With no further business, the meeting adjourned at 12:28 p.m.

George K. Muñoz, Chairman

Nathan P. Small, Vice Chairman