



LFC Newsletter

A publication of the Legislative Finance Committee

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Volume 22 Issue 02

August 2021

From the Chairwoman

Three Branches

The three branches of government are intended to ensure accountability, to create checks and balances. When any one oversteps its authority—the Legislature micromanaging the executive or the executive infringing on the legislative power of appropriation—it raises concerns.

Back in April, the executive vetoed the Legislature's allocation of \$1.6 billion in federal stimulus funds. The state constitution specifically provides for a governor to partially veto appropriation bills, but the courts have interpreted that provision to mean a veto can eliminate an appropriation but it cannot change its intent. Further, the constitution specifically states any expenditures from the general fund, the destination of the federal funds, must be made through an appropriation by the Legislature.

More recently, the executive mislabeled funds it wanted to move from one state agency to another as a "grant," a term that from statutory context and practice has always meant money coming from outside state government. The intent of the creative reinterpretation was to allow the administration to move the money administratively through a budget adjustment, a circumvention of the appropriation process. Why have an appropriation process at all if the executive treats the total as a lump sum with no restrictions?

It would be, perhaps, more efficient for the executive to be able to spend money the way it wants, presumably in the best interest of New Mexicans. But the New Mexico Constitution gives that power to legislators for a reason. Legislators are the elected officials closest to the people, the ones most directly in touch with their needs and most accountable to them.

Indeed, the idea the legislature is the branch of government that holds the purse strings is fundamental to the U.S. concept of democracy. A Massachusetts representative to the first constitutional convention of the shiny, new United States, noted representatives were the elected officials most directly connected to the people, and ultimately, the people should decide how to spend their money. Very simply, the administration's usurping of appropriation authority undermines the intent of a representative democracy.

Even before there was a United States, the people clearly saw it as their right to have their representatives make decisions about taxing and spending. "No taxation without representation!" was not a cry for independence, but a call-out of the injustice of London imposing taxes on colonists without colonists having a voice in Parliament. Much like Parliament was intended to be a check on royal excess, the legislative branch is intended to be a check on the executive. And when those checks are allowed to work, they work very well.

Representative Patty Lundstrom
Chairwoman

Public Schools Decline to Add Learning Time

The achievement gap between public school students who excel and their peers who struggle was exacerbated by missed learning time during the pandemic and will continue to widen without intervention, but few schools are taking advantage of the extended learning programs offered by the state, LFC analysis indicates.

Because of the pandemic-related missed learning time and with the help of growing revenues, the Legislature expanded funding to allow 305 thousand students to participate in Extended Learning and about 84 thousand to participate in K-5 Plus, programs that add school days and school hours with proven results in closing the achievement gap.

However, Extended Learning participation is expected to grow little this year from the 134 thousand students who participated last year, and the number of students in K-5 Plus programs is expected to drop by a third.

Under pressure from the *Martinez-Yazzie* education quality lawsuit, ongoing spending for public schools has increased by \$644.3 million since 2019—23 percent—primarily to improve teacher pay, boost funding for students at risk of failing, and expand extended learning.

Budget issues and missed instructional time are among the topics on the agenda for the LFC Public Education Subcommittee, scheduled to meet August 24 for a day of hearings before the full committee starts meeting on August 25 in Taos Ski Valley.

The subcommittee is also expected to hear staff reports on addressing the *Martinez-Yazzie* lawsuit findings and bottlenecks in the educator workforce and pipelines.

The full committee is scheduled to hold a hearing on at-risk student funding, extended learning time programs, and school leadership and teacher quality at 8 a.m. on August 26.

Opinions Mixed on Carbon Capture

The potential new operators of two coal-fired power plants scheduled for retirement have plans to keep the plants going with carbon dioxide capture, but one of the plans calls for unproven technology, LFC analysis indicates, and a coalition of Native American and other environmental groups have challenged any approach to retrofit the plants as detracting from renewable resources.

Plans to keep the San Juan Generating Station and Escalante Power Plant operating have gained support because of the economic impact of the plants, and the coal mines that supply them, on northwest New Mexico, LFC staff reports. Like the state's third coal-fired power plant, San Juan and Escalante announced plans in the last few years to shut down as part of a global move away from coal as an energy source.

In a [brief](#) prepared for a July hearing, staff say the Enchant Energy and city of Farmington partnership planning to acquire the San Juan plant intends to reduce carbon dioxide emissions by capturing carbon dioxide in the exhaust of the burned coal; however, one of the

only two coal-fired plants in the world using that technology shut down in 2020 because of mechanical problems that caused it to fall short of its goals.

In addition, the San Juan partnership has struggled with financing, pushing back the opening of the retrofitted plant to 2023, although Enchant has said it will operate the station as a traditional coal-fired plant until the carbon capture equipment is in place.

Escalante H2 Power, which announced a plan to buy the Escalante plant in April, plans to retrofit the plant to burn hydrogen extracted from natural gas through a "precombustion" carbon dioxide capture process. While the process uses energy, Escalante H2 contends the retrofitted facility will burn cleaner than coal or traditional natural gas plants.

A group of Native American and environmental groups say their members oppose both processes. In a [letter](#) to the committee, the group calls carbon capture "false solutions toward climate mitigation" that rely on untested science and asks the state to focus instead on the cleanup and remediation of abandoned mines and wells.

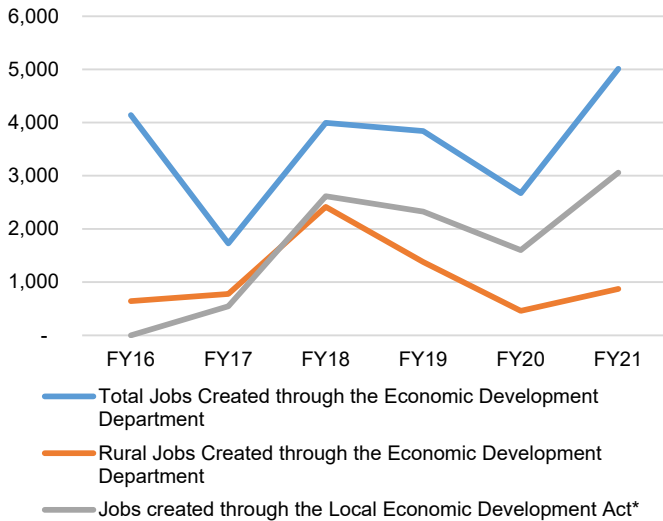
Economic Development Job Creation Improves

The success of Economic Development Department job-creation efforts picked up in FY21, after declines in FY19 and FY20.

Post-pandemic counts of total and rural jobs created and jobs created through the Local Economic Development Act program were all up for FY21.

However, while total jobs created and jobs created through LEDA both exceeded FY18 levels in FY21, rural jobs created are well below FY18 levels. The difference may be partly due to the large number of jobs created by Facebook in FY18, which distorted actual job growth for that year.

Economic Development Job Creation



*Data for measure was not collected until FY17

On the Table

Gas Futures Suggest Income Boost

Natural gas spot prices averaged \$4.06 per thousand cubic feet (mcf) over the last week of July and first week of August because power-generation fuel has been in high demand to run air conditioners over the hot summer months. Futures prices remain above \$4/mcf through March 2022 and, if they hold, natural gas prices in New Mexico would average about \$3.80/mcf over FY22, compared with the February consensus forecast of \$2.70/mcf and a potential \$121 million impact to the general fund.

Public School Enrollment Drops

Public school student membership for FY22, a figure based on FY21 enrollment, is down 4 percent, a decrease of 13.4 thousand students, the Public Education Department reports. PED set aside \$14.2 million in formula funds to ensure no school district or charter school lost money because of lower membership, possibly depressed because of pandemic-related drops in enrollment in the 2020-2021 school year.

Health Exchange Enrollment Up

The New Mexico Health Insurance Exchange, doing business as beWellnm, reports its enrollment is over 44 thousand, up approximately 9 percent from last year. The \$1.9 trillion federal pandemic relief bill enacted in March made subsidies for insurance premiums through the health insurance exchanges or marketplaces more generous and expanded who can qualify for them. A special enrollment window is open through August 15 for individuals and families to take advantage of the temporary larger subsidies. In New Mexico, the average premium paid in fall 2020 was \$195; for spring 2021, it was \$139, a 28.7 percent reduction.

General Fund Investments Down 94%

The State Treasurer's Office reported \$2.3 million in losses on the general fund investment pool in June. Despite record high average balances, the fund earned 94 percent less in FY21 than in FY20, or a total of \$5.2 million in FY21 compared with \$86.2 million in FY20. Earnings were challenged by a booming equities market—which causes a decline in bond markets—and by a low-interest rate environment providing lower returns for state assets.

Transitions

Raja Sambandam has been appointed as acting secretary of Department of Information Technology. He has been working as chief information security officer at DoIT.

Matt Montañó is the new superintendent of Bernalillo Public Schools. Montañó, a former teacher and school administrator in Bernalillo, has served as a deputy education commissioner in Texas and director of educator quality at the New Mexico Public Education Department.

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2021-2022 Fiscal Year, Month 02

Published monthly in the interim by the Legislative Finance Committee.
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