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Seckler, Kim

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# **New Mexico's Box of Pandoras**

Kim Seckler  
New Mexico State University  
kseckler@nmsu.edu

## **Abstract**

In the spring of 2020, the global coronavirus pandemic brought deadly disease to New Mexico, a state already struggling with inadequate health care, vulnerable populations and an unreliable state revenue base. A strong executive and mostly willing legislature met multiple times in multiple special sessions to reduce budgets, allocate federal funds, and shore up public finances. They also had to deal with social and cultural fights aggravated by strict public health orders and plunging revenues. By the close of 2020, the state was slowly regaining its fiscal footing and physical health, though the underlying problems of inadequate health care, educational and economic inequality, and a budget overly reliant on extractive industries remain. As a result of the 2020 general election, the public officials chosen to resolve these issues are more likely to be progressive Democrats, more likely to be women, and more demographically reflective of the majority-minority state they call home.

## **Introduction**

In the 1970s, 80s and 90s, multi-term New Mexico Governor Bruce King was an amiable and politically astute cowboy with a penchant for English language mash-ups. On occasion, he would worry about “opening a box of Pandoras” (Kurtz 2010). In spring 2020, the “box of Pandoras” opened wide and the state was faced with disease, drought, poverty, a presidential election in a pandemic, racial injustice protests, and a plunging revenue base. The global coronavirus pandemic brought into focus many of New Mexico’s perennial problems especially with regard to lack of access to health care, an abundance of educationally and economically challenged students, and a revenue base overly reliant on oil and gas production. First-term Governor Michelle Lujan Grisham assumed significant emergency powers to deal with the ravages of the pandemic. A special session was called in June 2020 that brought legislators back to the capitol to reduce budgets, allocate federal funds, and attempt to shore up small businesses. Throughout the year, New Mexico’s governor exercised her emergency powers to impose some of the strictest public health orders in the country, closing non-essential businesses, imposing statewide mask mandates, emptying schools, and imposing travel quarantines.

As New Mexico entered 2021 and year two of the pandemic era, the state led the nation in vaccine distribution, and schools and businesses began to reopen. The state travel industry cautiously welcomed visitors. As COVID-19 cases came down, state revenue projections went

up. After facing multiple economic and social challenges, the state is slowly regaining its health and financial balance. This new balance can be credited to multiple factors including prescient legislators providing for large general fund reserves in 2019, an improving oil market in 2021, large infusions of federal money, an efficient vaccine rollout, and a host of new actors on the political scene. Against this backdrop, in January 2021, a newly elected state legislature convened to craft a new state budget aimed at maintaining this balance. The solutions they proposed shape the budget for 2021 and beyond.

### **A Changing Political Philosophy**

New Mexico has been considered a blue state for a number of years, with the Democratic party maintaining power in the state legislature for over two decades, holding both United States Senate seats and two or three congressional seats (3 of 3 going into the 2020 election) during most of that time. In 2018, Democrats won back the Governor's office (after 8 years of Republican rule) and captured the state's only Republican congressional seat (New Mexico Secretary of State 2018). In the 2020 general election, New Mexicans turned out in force to support the Democratic presidential candidate Joe Biden, resulting in Biden winning the state by 11% (New Mexico Secretary of State 2020). The retirement of senior Senator Tom Udall created an open United States Senate seat. That seat was ultimately filled by the Democratic congressman from northern New Mexico, Ben Ray Lujan. In November 2020, the seat vacated by Ben Ray Lujan was won by Democrat Teresa Leger Fernandez, incumbent Congresswoman Deb Haaland won reelection in central New Mexico, and Democratic Congresswoman Xochitl Torres Small lost reelection to a Republican challenger in the southern seat. Republicans recaptured one congressional seat in a famously conservative southern swing district and Democrats cemented their hold on almost all other statewide positions (New Mexico Secretary of State 2020).

Though the state did not change its political color, the depth of that color did change. Primary elections held in June 2020 featured progressive challengers to long-serving moderate Democrats. In particular, progressive activists targeted several high-ranking state legislators, long accused of being too moderate (Gould 2020). In the June 2020 primary, progressive voters defeated both the sitting President Pro Tempore of the State Senate and the long-serving chairs of the powerful Senate Finance Committee, the Senate Corporations and Transportation committee, and the Senate Indian and Cultural Affairs Committee (Boyd 2020). In the subsequent general election, Democrats maintained their hold on the state legislature with the State House ultimately losing one Democrat (but picking up an independent), and the State Senate adding one seat to its Democratic majority. The final tally in the chambers in 2021 was 45 Ds/24 Rs/1 Independent in the state House of Representatives and 27 Ds/15 Rs in the State Senate (New Mexico Legislative Council 2021). In 2021, Democrats control both chambers in the legislature, the governor's office, all statewide offices and two of three congressional seats.

Democrats winning state office is not a new story in New Mexico, as New Mexico Democrats have long occupied a "big tent" with southern and rural members tending to be more fiscally conservative and socially moderate than their northern and urban colleagues. But, in 2020, progressive Democrats ruled the day fueled by a motivated base with a strong interest in several specific social and fiscal issues. On the social side, these included abortion rights, right to die

legislation, marijuana legalization, tax reform, environmental issues, and education. On the fiscal side, progressives have long advocated tapping of the state's substantial permanent funds for the purpose of education. Veteran southern Democrats had blocked progress on this move for over a decade. In the 2020 elections, progressive challengers ruled the day, clearing the way for the adoption of a more progressive fiscal and social policy (Boyd 2020).

### **A Changing Political Demography**

New Mexico is a minority-majority state with a high percentage of Hispanic Americans (49.3%) and a Native American population totaling 11% (United States Census Bureau 2021). The New Mexico political landscape has traditionally reflected this demography, and Hispanic political leaders have been the norm since before statehood. In 2021, the state elected its first African American state senator (McKay and Boyd 2021). In recent years, the political landscape has also included a large number of high-profile women. In the 2020 general election, that trend continued to the point that women are now in the majority in the New Mexico House of Representatives. The governor is a woman, a majority of the members of the Supreme Court are women, and all members of the United States House of Representatives delegation are women. Additionally, after the 2020 general election, two of the three congressional representatives were Native American; the third was Hispanic. And, as of March 2021, New Mexico is the home of the first United States Secretary of the Interior who is a member of a native tribe. President Joe Biden nominated and the United States Senate confirmed Second Congressional District Congresswoman Deb Haaland to lead the Department of Interior. Secretary Haaland is the first Native American to be named to a cabinet post. She is a member of New Mexico's Laguna Pueblo who calls herself a "35th generation" New Mexican (Boetel 2021). Her confirmation triggered an open congressional seat. That seat was won by Albuquerque Democrat Melanie Stansbury in a June 2021 special election (New Mexico Secretary of State 2021).

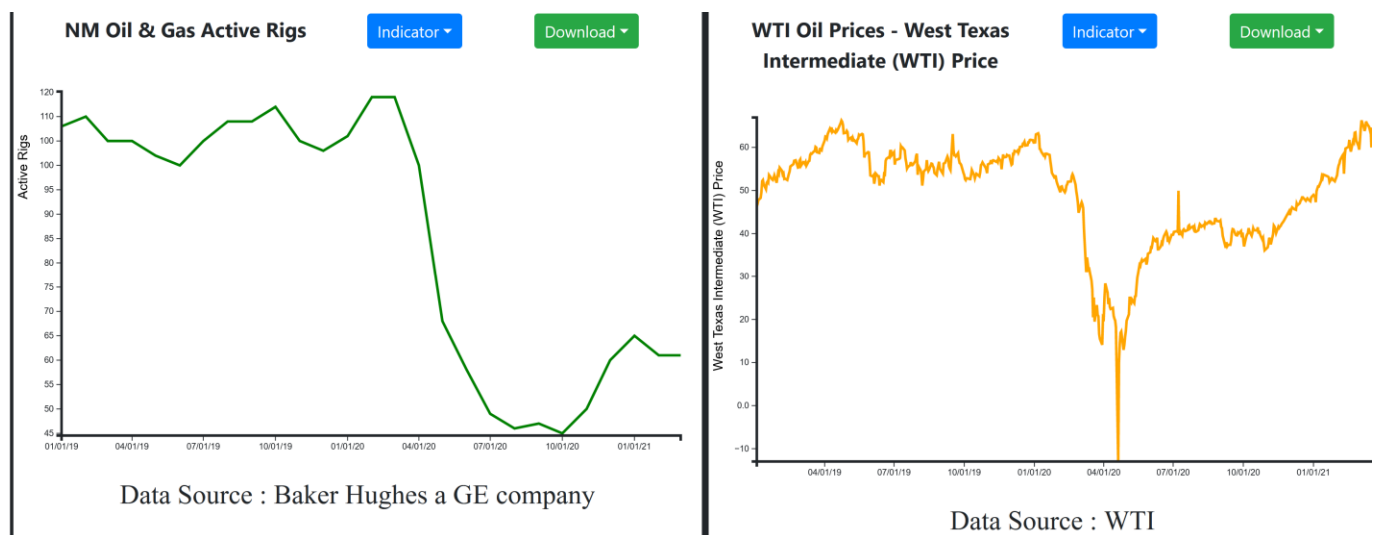
### **New Mexico in a Pandemic**

It was March 11, 2020 when Governor Michelle Lujan Grisham announced the first three cases of COVID-19 in New Mexico. As a former state secretary of health and aging with a long tenure working in elderly issues, the governor reported that at the time she felt "a sense of dread" recognizing New Mexico's vulnerabilities (Salazar 2021). She knew that New Mexico has a higher number of sick people and less health care than most of the nation. The state is home to a large high-risk population with almost 40% of New Mexicans reportedly having conditions that put them at high risk for COVID-19 related illness. On top of that, New Mexico's health system is challenged at the best of times with over 40% of New Mexicans qualifying for Medicaid (Boyd 2020). Despite steady resistance from business leaders and state Republicans, Grisham imposed some of the strictest health orders in the nation (Aschwanden 2020). Nonetheless, the pandemic took its toll. Though New Mexico had fewer viruses per capita than a majority of states, it had death rates higher than all but 13 states and New York City. New Mexico hospitals reached surge capacity in late 2020, leading the governor to impose even stricter orders before Thanksgiving 2020 (D'Amassa 2020). By March 2021, more than 186,000 New Mexicans were infected with COVID-19 and 3,796 had died (Salazar 2021). Despite widespread vaccination and continued public health orders, those numbers climbed to 313,139 cases and 5337 deaths by late fall of 2021 (New York Times staff 2021).

The global pandemic's impact on New Mexico is not limited to health and health care. Emergency health orders closing all but essential businesses, occupancy limits, and travel quarantines have had a significant impact on New Mexico and its workforce. Decreased revenue from closures and reduced occupancy led to permanent job losses and temporary layoffs. By September of 2020, the state's unemployment trust fund was depleted with the state borrowing money to pay unemployment claims. All told, the New Mexico economy lost about 82,000 private sector jobs between the beginning of April and the end of June 2020 (Keller 2021). By February 2021, the unemployment rate was hovering near 8.3%, among the highest in the nation but dropping from earlier highs (Journal Staff 2021). Economic forecasters expect that job losses and the economy will not return to pre-pandemic levels until 2023.

Last but not least, the pandemic put a stake through the heart of New Mexico's revenue stream. New Mexico receives over \$2 billion annually in revenue from severance taxes, rents, and royalty income. Severance taxes are imposed on the extraction of oil and gas, coal, copper and other minerals. This money flows into the state's general fund and it supports the state's major permanent funds (LFC Finance Facts 2021). Oil and gas production and its related economy (high paying industry jobs) generate upwards of 40% of New Mexico's annual revenue. As pandemic shut down orders shuttered businesses and workers went home, oil demand slumped. As demand dropped, supplies increased and international negotiations stumbled with the price of oil dropping briefly to \$0 at one point in April 2020 (Keller 2021, See Figure 1). New Mexico's Fiscal Year 21 budget was based on estimates in the neighborhood of \$50 a barrel. A \$1 drop per barrel is a \$10 million dollar hit to the New Mexico economy (NM Legislative Council Highlights 2020). A more than \$30 a barrel hit was catastrophic. It was Governor Grisham and the state legislatures of 2020 and 2021 that were left to pick up the pieces.

**Figure 1. Oil Rigs and Prices**



(Source: Keller quoting UNM Bureau of Business and Economic Research 2021)

## **New Mexico Begins a New Year and Picks up the Revenue Pieces**

Though the faces and political philosophies changed with the general election of 2020, the underlying problems of governance in New Mexico did not. Pandemic or no, New Mexico still struggles with a revenue base heavily reliant on the fluctuations of the oil and gas industry, a poor population heavily reliant on Medicaid, and a struggling educational system. The arrival of a global pandemic just made these matters worse as oil and gas production slumped, hospitals filled, people reliant on employer-based health insurance lost their jobs and schools were faced with remote learning challenges. Answering pressing social questions and crafting a reliable annual revenue stream is at the forefront of every political agenda and the core of every legislative session. In spring 2021, that task was complicated by a continuing public health crisis and pressing social issues. It was aided by unified control of the legislative and executive branches, an improving economic picture, and very significant infusions of federal money. To understand the spring 2021 budget picture requires an understanding of the state economy pre-pandemic and the impact of the pandemic throughout 2020.

### **The Recent Revenue Past**

New Mexico was slow to enter the great recession of 2008 and slow to come out of it (Seckler 2018). By late 2018, New Mexico had finally rebounded economically and the New Mexico Legislature increased state budgets significantly in 2019 and 2020. A strong oil and gas industry and increased tax collections allowed the state to steadily increase spending. The budgets prepared and passed by the 2019 and 2020 legislatures attempted to make-up for years of austerity measures. In January 2019, the legislature passed a \$7.7 billion budget, appropriating \$7.2 billion for FY20 and increasing FY19 expenditures by almost half a billion. This represented an 18.6% increase over the General Appropriations Act of 2018 (Highlights 2019).

In January 2020, the legislature met in a 30-day session to pass a nearly \$8.38 billion package of recurring and nonrecurring spending. This represented another 8.3% increase over the previous year's budget (Highlights 2020). The January 2020 proposed budget for FY21 provided for state employee raises and a substantial increase in the state's education budget. Fortunately, budget crafters, mindful of the vulnerabilities of oil production, also set aside general fund reserves of 25% of the general fund budget (LFC Post-Session Review 2020). The ink was not dry on the January 2020 budget when the first tremors of the impending pandemic were felt. In preparation, the governor vetoed \$150 million in General Fund spending, \$110 million in capital outlay projects, and nearly \$50 million in local road projects (LCS Highlights 2020). As stay-at-home orders came into effect in late March 2020 and places of business shut down, oil and gas inventories surged. In addition, world markets struggled to stabilize prices, with the price of oil dropping dramatically. It was New Mexico's general fund reserves that were saving the state.

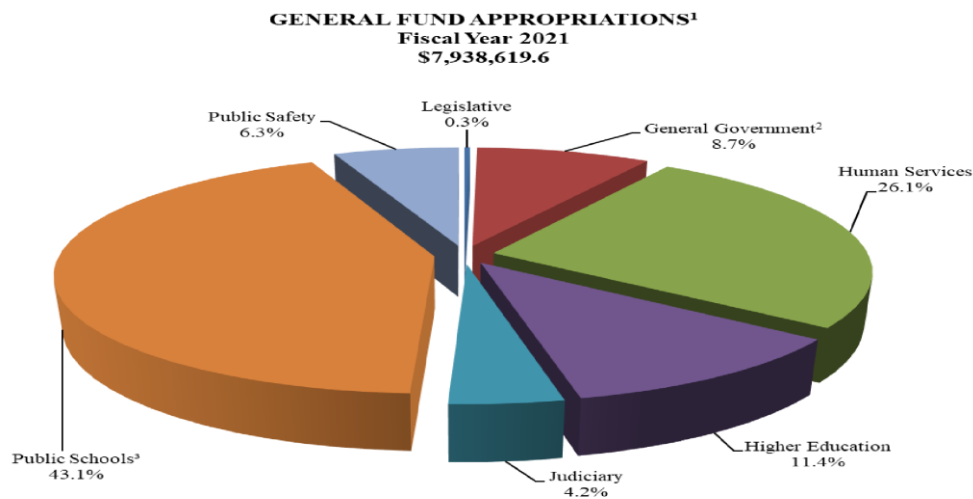
As the spring of 2020 wore on, it became increasingly obvious that the state would have to slash its budget prior to the beginning of the new fiscal year (FY21) on July 1, 2020. The legislature had already completed its annual session so a special session would be required. Finessing the logistics of a special session in a pandemic was not an easy task, technologically or politically. After legislators moved to close the state capitol building during the special session, they were

taken to court. A closely divided (3-2) New Mexico Supreme Court allowed the legislature to keep the capitol building closed during the special session (Boyd 2020).

Under bizarre conditions and utilizing a variety of solutions, the New Mexico legislature met in special session in June 2020. Four days and thirty-seven bills later, the legislature adjourned. In the seven bills that ultimately passed, the legislature slashed the state budget with across the board 4% cuts. Lawmakers swept reserves and outstanding balances, cancelled many capital outlay projects, and allocated other state funds. In an attempt to help struggling small businesses, they enacted the Small Business Recovery Act of 2020. They also authorized the use of significant federal funds received by the state through the federal Coronavirus Aid, Relief and Economic Security Act (CARES) and chose to put some of the funding straight into the state’s general fund. The end result was a \$7.93 billion dollar budget of state funds that swelled to over \$20 billion with the inclusion of federal money (See Figures 2 and 3). The legislative action of authorization set into motion fights with the governor’s office about federal funds distribution authority, which remained unsettled until November 2021. Nonetheless, by the time the special session had concluded, the state had rebalanced the budget, cut state spending considerably, and experimented with a new way to legislate.

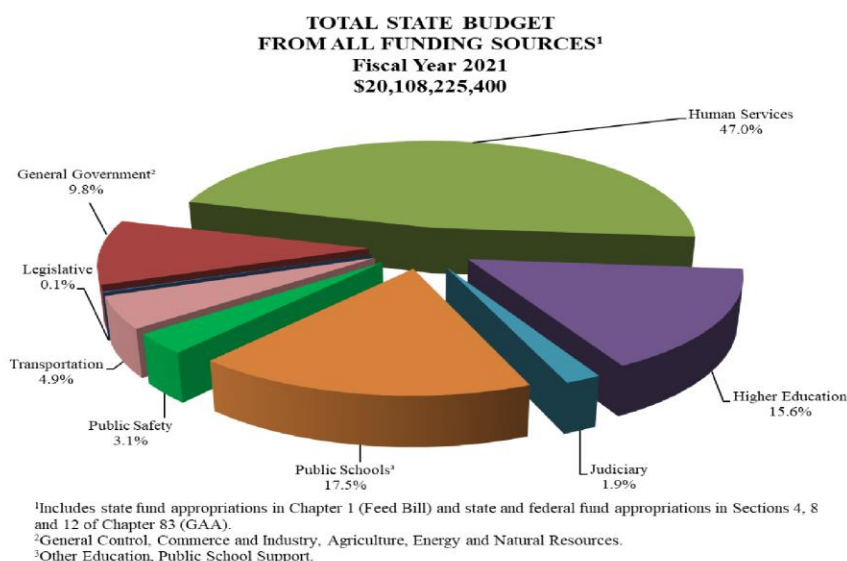
Because money was not the only issue in the summer of 2020, the legislature used its four days to also enact Election Code changes and supplemental appropriations, create a civil rights commission, and pass legislation requiring the wearing of body cameras by law enforcement (LCS Highlights 2020). Election Code changes, social justice fights, and small business assistance are significant enough issues to merit papers in their own right. But, in late 2020 and early 2021, revenue forecasts and state expenditures were the focus of the hour.

**Figure 2 State General Fund Appropriations**



<sup>1</sup>Includes appropriations in Chapter 1 (Feed Bill) and portions of Sections 4, 8 and 12 of Chapter 83 (GAA).  
<sup>2</sup>General Control, Commerce and Industry, Agriculture, Energy and Natural Resources.  
<sup>3</sup>Other Education, Public School Support.

**Figure 3. Appropriations from State and Federal Sources**



(Source: Highlights of the Fifty-fourth Legislature, Second Session 2020 and the Fifty-fourth Legislature, First Special Session 2020)

At the end of June 2020, the state closed the books on Fiscal Year 20. Fiscal Year 21 opened on July 1, 2020 with an anticipated general fund budget of \$7.9 billion. From July 1 to Dec. 31, the pandemic ebbed and flowed with COVID-19 cases dropping in late summer but climbing as cooler fall temperatures forced people indoors. As COVID-19 cases hit worrying levels in early November 2020, the Governor re-imposed stringent shut down orders, schools remained shuttered, and economists attempted to measure the economic impact. In late November 2020, the governor once again called legislators back into special session, this time to allocate more than \$300 million in federal funds provided by the federal CARES Act (Dunlap and Lyman 2020). Meeting partly remotely and in a session that lasted only eight hours, legislators passed legislation to provide \$1,200 for those who qualified for unemployment and lost work because of the pandemic. The legislation also provided \$100 million in grants to local small businesses and nonprofits. Smaller amounts were included to provide aid for rent and mortgage payments, money for COVID-19 testing, contact tracing, and vaccine rollout and money for households that did not receive federal stimulus money earlier in the year (Dunlap and Lyman 2020).

While legislators were meeting in special session to allocate incoming federal funds, legislative and executive economists were crafting consensus revenue estimates for the next regular legislative session. Forecasters writing in December 2020 predicted general fund recurring revenues would sink to \$7.002 billion (a percentage drop of almost 11% from FY 20). The forecasters predicted general fund revenues would increase in fiscal year 2022 (FY22) to \$7.378



billion (Consensus Revenue Forecasts, Dec 2020). It is those forecasts that ultimately shaped development of the governor's and the legislature's proposed budgets for FY22.

## **The 2021 Regular Session**

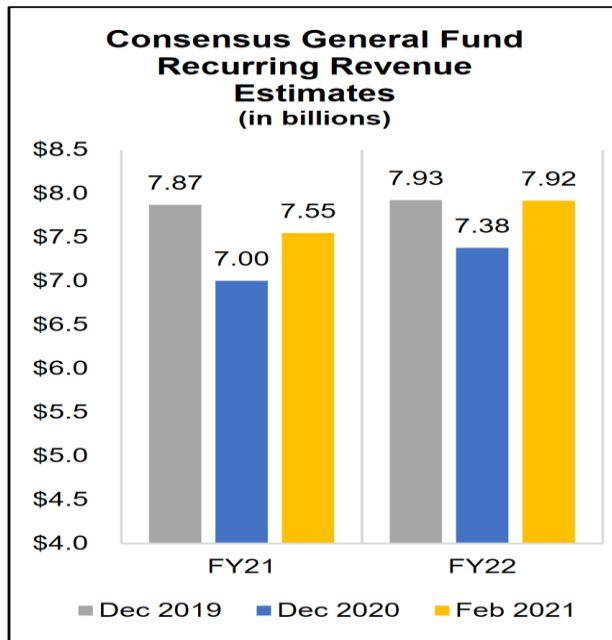
The first regular session of New Mexico's Fifty-Fifth Legislature was called to order on the third Tuesday in January 2021 per state constitutional mandate. While time, date, and place are mandated in the Constitution of New Mexico, the actual specifics of operating an entire regular legislative session in the middle of a pandemic are left to the leadership of both houses and the direction of the Legislative Council. A closed capitol building, masks, testing protocols, video conferencing of committee and floor action, lots of plexiglass paneling, and the inevitable presence of Zoom made this a session that many would choose to forget. Nonetheless, significant legislation passed and significant legislation died. Because it was a session convened in an odd numbered year, the length of the session was set at 60 days and the potential topics of consideration were wide open. As a result, legislators juggled serious social questions about abortion, physician assisted suicide, marijuana legalization, civil rights and social justice issues, and environmental and animal welfare legislation while trying to craft an annual budget and stabilize the state revenue stream.

At the beginning of every regular legislative session, the governor and the legislature propose dueling budgets. By convention, the governor's budget is introduced first as House Bill 2. In January 2021, House Bill 2 proposed an overall state general fund budget of \$7.298 billion for FY22 representing an increase of 3.3% (Gov executive recommendations). The governor's proposal recommended a 4% increase in public school funding and a 3.1% increase in higher education funding with various levels of adjustment recommended throughout state government.

Subsequent to the release of the governor's proposed budget, the legislature offered up its own budget, a document which largely becomes the basis of the House Appropriations and Finance Committee's eventual substitution of HB 2. Before the commencement of the regular session, the Legislative Finance Committee proposed a \$7.36 billion dollar budget, advocating a 4% increase over FY 21 levels. Roughly in line with the governor's recommendations, legislators recommended increases to education (especially early childhood programs) and health and human services (LFC Budget Recommendations 2021).

The legislative session started in mid-January 2021 and before the General Appropriations Act had passed the house, consensus revenue forecasters were ready to release their annual mid-session revenue forecasts. Forecasters in February 2021 predicted that recurring revenues for FY21 would increase to \$7.194 billion, up \$192.1 million from the December 2020 estimate. The higher forecasts were due primarily to recovering oil prices and a more positive economic outlook after the rollout of COVID-19 vaccines (LFC Feb 2021 consensus). Additionally, recurring revenues for FY22 are estimated at \$7.548 billion, up \$169.6 million from the December 2020 estimate (see Figure 4).

**Figure 4. Consensus Revenue Forecasts**



Source: Legislative Finance Committee 2021

Working semi-remotely and using the consensus numbers, lawmakers crafted a proposed budget for FY 22 which passed the legislature on March 19, 2021. The FY 22 budget appropriates roughly \$7.4 billion in general funds, an increase in spending of just under 5%. It boosts education spending including an extra \$110 million for an extended school year for all grades with an additional \$120 million for K-5 Plus programs. The overall funding bill set reserves at 24% (McKay 2021). In addition to appropriating state general funds, the budget bill also allocated federal funds. It distributed more than \$1 billion from the recently approved federal stimulus plan for various state programs. That money was destined to go towards backfilling the largely depleted state unemployment fund, as well as to a college scholarship program, road repairs, and an economic development fund used to offset the costs of business expansion and relocation (Boyd 2021). The budget legislation received bipartisan support, passing in both chambers by broad margins (McKay 2021). As the legislature concluded its regular session, the budget bill made its way to the governor’s desk where she had 20 days to sign, veto, or line item veto provisions in the bill.

In reviewing the results at the close of the legislative session, Speaker of the House Brian Egoff (D-Santa Fe) stated that legislators had attempted to guide the pandemic recovery through three paths: health, education and the economy. These three topics merit a final look, as well as another examination of the current overall revenue picture.

In the area of health care, the pandemic has shined a light on the state’s highs and lows. A huge percentage of New Mexicans rely on public health care with 43% of New Mexicans qualifying for Medicaid in March 2021. New Mexico leads the nation in its reliance on Medicaid (Lee 2021). In 2013, the state accepted the expansion of Medicaid eligibility provided by the federal

Affordable Care Act and it is largely federal dollars that make health care available in New Mexico. By late 2020, this resulted in health and human services spending (largely federal) accounting for almost half the state budget (See Figure 3). Health care spending has increased during the pandemic and it is largely federal money that is making that possible.

New Mexico's heavy reliance on federal health care funds and its perennial shortage of health care facilities and providers is a matter of ongoing concern. Nonetheless, the state has had its health care successes. New Mexico has been very successful at vaccine distribution. A statewide registration and allocation program and a supportive public have made New Mexico's system one of the most efficient in the nation. As of late March 2021, 40% of New Mexicans had received their first shot (Cyr 2021). By November 2021, 74% of all New Mexicans 12 and over were fully vaccinated and 88% of that age group had had at least one shot (New York Times staff 2021).

In the area of education, New Mexico operates a very centralized funding distribution system and almost half of all state general funds go toward K-12 education. Education has been seriously challenged by the pandemic as most schools in New Mexico operated remotely for the better part of a year. In a state with a low-income population, limited internet capability, and an abundance of families who can provide limited home academic support, students have suffered. Infusions of federal money have been helpful and plentiful but much that is appropriated is one-time money that is not appropriate to meet school district needs for recurring salary expenses.

How to increase the amount of recurring state money for education has been a continual question even before the pandemic. Progressive advocates have long advocated increasing annual distributions to education from the state's largest, permanent "rainy day" funds. The 2021 legislature authorized the tapping (or at least increased distribution of) the state's land grant permanent fund to increase school spending, but that proposal must still be placed on the ballot for a public vote in November 2022. It also requires congressional approval. And, while an influx of recurring money will cure some ills, the underlying problems of poverty and accessibility will remain.

Finally, the pandemic's short-term and long-term effects on the economy have been worrisome in state government circles. In a state so reliant on oil and gas production and tourism, job losses have been significant. State public health orders limiting business openings and operation resulted in sky high unemployment. The state's unemployment trust fund was drained. The department charged with administering unemployment assistance was famously overwhelmed and New Mexicans lined up for food banks and housing assistance. Relatively early in the 2021 regular session, the New Mexico legislature enacted two pandemic-related measures aimed at helping New Mexicans weather the economic crisis. These measures, signed by the governor early on, authorized \$600 rebates for New Mexico workers who make \$15 an hour or less, authorized a four-month tax holiday—starting March 1—for restaurants, breweries, food trucks, and other dining establishments, and shored up and extended a small business loan fund created in the summer of 2020 (Boyd 2021).

Last but not least, the 2021 legislature passed a large number of “progressive” proposals years in the making. In the area of abortion rights, lawmakers finally corralled the votes to repeal a still-on-the-books 1969 law that banned most abortions. The law had been invalidated by *Roe v Wade* and a subsequent state supreme court opinion in 1977 but had remained on the books for lack of legislative repeal. The governor and many lawmakers had fretted that changes on the United States Supreme Court will soon lead to the overturning of *Roe*, possibly resurrecting the dormant law. The failure of previous legislatures to repeal the law had prompted primary election challenges to more conservative Democrats. Those challenges were largely successful and the new legislative members provided the necessary votes for repeal (Boyd 2021).

While few pieces of legislation raise the attention abortion does, it was not the only issue to suddenly find enough votes for success. In addition to the abortion ban repeal, the legislature passed the End-of-Life Options Act, a right-to-die type enactment that proponents had been pushing unsuccessfully for several sessions (McKay 2021). And, in one of the session’s last significant fights, lawmakers passed a paid sick leave mandate in the session’s final hours. The bill passed requires private sector employers to offer paid sick leave to workers effective July 2021 (McKay and Boyd 2021).

The New Mexico State Legislature concluded its regular legislative session in late March 2021. As legislators returned to their homes, the governor set to work on her review. By the end of her 20-day review period, the governor had used her veto authority relatively sparingly, rejecting 18 bills for a rejection rate of 11% (McKay 2021). Her action included whole bill vetoes and line item vetoes of appropriation bills. Perhaps her most striking action was her line item veto of the legislature’s allocation of federal funds. Striking over \$1 billion of one-time expenditures of federal funds allocated by the legislature in HB 2, the governor stated that she had vetoed parts of the law that attempted to “impermissibly intrude into the executive managerial function” or to appropriate or control the allocation of federal funds to New Mexico in contravention of previous New Mexico case law (Grisham, House Executive Message No. 21, 2021). Representatives of the governor’s office stated that they were fully committed to restoring some of the federal money allocated pursuant to the federal American Rescue Plan Act but they awaited federal government guidance on its permissible use (Nott 2021).

As might be expected, legislators bristled at the over \$1 billion federal funds veto and the governor’s move prompted a late summer lawsuit from several New Mexico lawmakers seeking to clarify the executive’s authority over federal funds distribution (D’Ammassa 2021). In the fall of 2021, the New Mexico Supreme Court took up that question and provided a relatively quick answer. On Nov 17, 2021, the New Mexico Supreme Court heard oral arguments on an emergency writ of mandamus petition filed by two state legislators acting in their legislative capacity (State ex rel Jacob Candelaria et al. v. Governor Michelle Lujan Grisham). After just an hour of deliberation, the court sided with the legislature, barring Gov. Michelle Lujan Grisham from spending any more of the federal dollars without legislative approval (Boyd 2021). Legislators will make those allocations in a future legislative session.

## **Conclusion**

The legislature and the governor concluded their annual budget work in the spring of 2021. Reviewing their work and their subsequent legal skirmishes, we can draw a few conclusions about the state of the budget in New Mexico in 2021. First, regardless of who has authority to allocate the federal cash, the state appears to be awash in federal money. Federal distributions in the summer of 2020 and the spring of 2021 represent very significant infusions to the state budget, enabling the state to meet its obligations to its citizens. On its own, the state budget in FY 21 was close \$8 billion. When federal funds were added, it pushed the budget to over \$20 billion. The amount and importance of federal expenditures in New Mexico cannot be overstated.

Second, the federal distributions of money are largely going to deal with health care and some to unemployment compensation. For most New Mexicans, health care has become nationally financed health care by any other name as the pandemic has pushed even greater numbers on to the Medicaid rolls. At this point, close to half of all New Mexicans qualify for Medicaid.

Third, federal pandemic relief legislation has also provided a significant amount of federal money to education. Education money is always welcome, but the one-time nature of the allotment raises its own problems as the primary expenditure at most schools is teachers' salaries and those are recurring expenses. Additionally, the extraordinary infusions of federal money reignited old political fights about who gets to allocate federal funds. At least for now, the New Mexico courts have determined that it is the New Mexico State Legislature who must drive that allocation.

Finally, and perhaps most importantly, even when New Mexico's economy appears to be strong, (as it did in January 2020), it is fragile. When the pandemic hit, the price of oil dropped, restaurants closed, and tourism stopped. The New Mexico budget went into free fall and New Mexico workers suffered. Many members of the legislature have spent 2021 focused on serious and important social and fiscal questions but the underlying questions of how to build a stable revenue base escapes solution at this writing.

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