

MINUTES
Legislative Finance Committee
State Capitol, Room 307 - Santa Fe, NM
January 16, 2023

Monday, January 16

The following members and designees were present on Monday, January 16, 2023: Chairwoman Patricia A. Lundstrom; Vice Chairman George K. Muñoz; Representatives Dayan Hochman-Vigil, Nathan P. Small, Ryan T. Lane, Gail Armstrong, Candie Sweetser, Brian G. Baca, and Harry Garcia; and Senators Nancy Rodriguez, Roberto “Bobby” J. Gonzales, Steven P. Neville, Gay G. Kernan, Sia Correa Hemphill, Pat Woods, and Pete Campos. Guest legislators: Representatives Anthony Allison, Meredith A. Dixon, Tara L. Lujan, Debra M. Sariñana, and Christine Trujillo; and Senators William F. Burt and William E. Sharer.

LFC Program Evaluation: Western School Districts. LFC Program Evaluators Catherine Dry and Clayton Lobaugh presented the report *Western School Districts*. Public education is a key state responsibility, accounting for \$3.8 billion, or 45 percent, of all recurring state general fund appropriations in FY23. Funding for education has grown in the face of declining enrollment and in response to the 2018 *Martinez-Yazzie* decision, which found the state was not providing sufficient funding. The Legislature has made a deliberate effort to grow funding faster for school districts with higher at-risk populations. School districts, including superintendents, principals, educators, other staff, and school board members, play a key role in using these resources to provide a sufficient education.

In recent years, compared with the rest of the state, Grants-Cibola County Schools and Central Consolidated School District saw greater decreases in enrollment coupled with larger funding increases but lower student performance. From FY12 to FY22, enrollment declined 13 percent in Grants-Cibola and 22 percent in Central, while operational revenue increased 49 percent in Grants-Cibola and 57 percent in Central. While LFC found some best practices are implemented, which have led to pockets of improvement (including prekindergarten participation, effective instructional practices at select schools, and increased revenue), student outcomes in these districts trail state averages. In the 2021-2022 school year, fewer than 30 percent of children were proficient in reading in either district. Native American and English learner students lag even further behind district and state averages. Increased chronic absenteeism and select issues with equity and outreach, along with frequent changes in principals, assistant principals, and teachers, could be contributing to low student proficiency. A court and a federal report found districts were not always adequately meeting the needs of Native American students, who make up nearly half of students in Grants-Cibola and the majority of students in Central.

Resources to districts have grown significantly, and districts with larger at-risk populations or receiving impact aid, such as Grants-Cibola and Central, have benefited from recent legislative changes more than others. While operational revenue growth in these districts exceeded the statewide average, district spending on administration grew at a faster rate than spending on instruction. Grants-Cibola and Central follow statewide trends with growing cash balances. As a percent of their budgets, Central currently has the second highest cash balance in the state and

Grants-Cibola the 25th highest of 89 districts. Neither district has maximum or minimum targets for cash balances nor plans for spending down balances.

School boards and superintendents play an important role in improving district performance. Boards in Grants-Cibola and Central could spend more time focusing on strategic, rather than administrative, decisions. There is also above-national-average turnover in superintendents in these districts. Increased and focused training could help board members exercise their appropriate authority and contribute to increased achievement. Lastly, before effective learning can occur, school boards and districts statewide must ensure student safety, including stronger policies and training to prevent adult sexual misconduct.

LFC staff recommends the Legislature consider

- Targeted pay increases and additional support for principals to reduce mobility and turnover; and
- State law amendment (Section 22-5-13 NMSA 1978) to adjust local school board training requirements to include performance-based budgeting.

LFC staff recommends Grants-Cibola and Central

- Improve proficiencies by fully implementing PED's accelerated learning strategy (i.e., teach grade-level content while addressing unfinished learning);
- Offer more prekindergarten while effectively coordinating with Head Start programs so as not to supplant federal funds;
- Continue to promote and implement extended learning time programs such as K-12 Plus;
- Use student support services to further identify and resolve root causes of chronic absenteeism;
- Provide targeted supports to reduce principal and teacher instability;
- Set cash balance minimums, maximums, and targets for approval by school boards in line with cited best practices and create three-year plans for use of cash balances;
- Adopt the New Mexico School Board Association model policies on staff and student professional boundaries; and
- Require trainings for all district staff on adult sexual misconduct be in-person and include information on appropriate social medial and electronic communication behavior and boundaries.

LFC staff recommends the Public Education Department (PED)

- Expand the capacity of its teacher evaluation system to enable statewide and district-level analysis of its data by purchasing the module of Canvas that allows for data reporting and analysis;
- Report data regularly to school boards relating to student performance, financials, and educator workforce and ensure school boards receive increased training on how to use this data to inform their strategic decision-making; and
- Continue to work with New Mexico's congressional delegation to waive the two-year home country residency rule for high-performing teachers on expiring J-1 visas.

Central Superintendent Steve Carlson remarked on the challenges facing the district, which spans almost 3,000 square miles and serves a large population of Native American students who live in poverty and households without basic utilities. Many travel great distances to attend school.

Central helps provide wraparound services and resources in its communities; however, many students still do not have access to internet at home, which the superintendent said was especially unfortunate during the pandemic. Superintendent Carlson said Central is appreciative of the state allowing districts to retain 100 percent of federal Impact Aid funding, noting that while it will help reverse past inequities, it will take deliberate and strategic effort over several years to bridge historic gaps. Superintendent Carlson outlined the district's equity policy:

- Address needs of the whole child, honoring multicultural and linguistic diversity and holistic wellness programs;
- Address educational and social-emotional gaps;
- Develop roadmap needed to attain post-graduation skills and knowledge for college, career, technology, and workforce readiness; and
- Provide educational workforce community resources.

In response to LFC's report, Superintendent Carlson said Central will provide targeted support to address principal and teacher turnover, focus on student growth in academic achievement, comply with the State-Tribal Collaboration Act, strengthen district policies on adult sexual misconduct, address high cash balance, and conduct strategic planning.

Grants-Cibola Superintendent Max Perez said the school district experiences many of the same challenges as Central. Reporting on current initiatives, Superintendent Perez said Grants-Cibola implemented a standards-based learning system focused on providing career pathways. The district is engaging with families to ensure all school-aged children in the district are enrolled and making counselors available for support. Food service modernization, safety and security improvement, staff behavioral health support implementation, and infrastructure development are among other initiatives.

Guy Archambeau, Ph.D., president of the Grants-Cibola Board of Education, said the school board holds itself accountable and makes decisions that support academic excellence, teaching and leading, social emotional supports, and stakeholder engagement.

In response to Senator Gonzales, Superintendent Carlson said some dirt roads in the district are in poor condition, making it more difficult to travel on to get to school during wet weather.

In response to Representative Garcia, Superintendent Carlson said the district is having a difficult time filling ancillary and nursing positions.

Housing and Homelessness Prevention Program Evaluation Status Update. LFC Program Evaluation Manager Micaela Fischer and Program Evaluator Kathleen Gygi reported on the status of New Mexico's housing and homelessness prevention programs. Over the last decade, the number of homeless people in New Mexico has declined one-third and poverty has decreased 3.1 percent. Yet, there are still unmet needs for housing support across the continuum of risk for homelessness and housing insecurity.

Since 2018, the state has greatly improved in providing emergency shelter options for the homeless. However, a shortage of affordable housing units in New Mexico illustrates a need for some additional long-term solutions, including permanent supportive housing and related support services. Additionally, there is a need for increased transparency and outcomes regarding existing investments in housing support programs.

LFC staff recommend expanding existing state-funded supportive housing programs, considering land use and zoning laws to promote increasing affordable units, and additional tracking and transparency for existing funding and programming. Also, the Legislature should consider ensuring sufficient agency workforce and housing stock capacity exists to support growth and ensure state funding does not duplicate or supplant undersubscribed federal programs.

Proposed LFC-Endorsed Legislation. LFC staff proposed 11 bills and additional language in the preamble of the capital bill for the committee to consider endorsing in the 2023 legislative session.

1. *Extended Learning and K-12 Plus Formula.* The bill creates a K-12 Plus calendar factor that provides program units based on the number of instructional days provided over the equivalent of 180 days with bonus funding above the equivalent of 190 days. The bill also increases the annual instructional hour requirement to 1,140 hours and sunsets the K-5 Plus schools and Extended Learning Time program. The bill further increases the at-risk index multiplier from 0.3 to 0.33 and raises principal responsibility factors based on the family income index. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small. Representative Armstrong voted in opposition to the bill.
2. *Early Childhood Trust Fund.* The bill increases the distribution from the early childhood education and care fund from \$46 million in FY24 to \$100 million and adds authorization for expenditure to executive agencies for which an appropriation is made by the Legislature. Appropriations from the fund following FY24 would be based on an amount equal to the greater of 5 percent of the average of the year-end market values of the fund for the immediately preceding three calendar years. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small.
3. *Land Grant Permanent Fund Distribution.* The bill creates an account in the treasury to deposit the land grant permanent fund distribution for early childhood education pursuant to the 2022 constitutional amendment. The portion of the distribution for early childhood education would be distributed to a subaccount of the common school current fund for legislative appropriation. The portion of the increased distribution for public education would adhere to the current process for public school funds distributed from the land grant permanent fund. Distributions are anticipated to begin in FY24. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Senator Rodriguez. Senator Woods voted in opposition to the bill.
4. *Infrastructure Office.* The bill creates a standalone infrastructure office with up to 10 FTE. The bill would direct the office to make recommendations to the Legislature on the scope of its duties, staffing needs, and improved alignment of capital functions within other agencies. The scope of duties the office should consider include statewide needs

assessment; project development assistance for local governments; coordination and navigation of state and federal funding; coordination or provision of grant writing, grant administration, and project management support for local governments; ensuring legislative appropriations result in completed projects; and otherwise supporting timely completion of projects. The bill would also direct the office to develop a process for vetting regional projects and making annual recommendations to the Legislature for capital outlay for such projects to be presented at executive capital hearings and incorporated into the statewide capital outlay framework. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Senator Rodriguez.

5. *Procurement.* The bill amends the Procurement Code as recommended by the Ethics Commission and LFC staff evaluations in 2016, 2019, and 2021. The bill eliminates procurement exemptions for certain healthcare-related provisions and caps exemptions for advertisement at \$10 thousand. Removing and changing these exemptions would ensure hundreds of millions of dollars of state spending are done in a competitive manner. The bill would also give the State Purchasing Division at the General Services Department new authority to monitor public entities to ensure they have a trained chief purchasing officer and to approve or deny sole source procurement requests. The bill places a number of guardrails around the use of contract and price agreements, including (1) limiting the duration of sole source and emergency procurements to one year, (2) limiting contract amendments or change orders, and (3) adding requirements for agencies to gather quotes before making price agreement purchases over specific price caps. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small.
6. *Tobacco Settlement Permanent Fund.* The bill removes the tobacco settlement permanent fund from general fund reserves. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small.
7. *Sunset.* The bill extends the sunset date for state agencies set to terminate in FY23. The bill also proposes the elimination of sunset for boards of pharmacy, optometry, and acupuncture/oriental medicine. It also contains a repeal of the sunset for the board of podiatry in case the related bill to reorganize the podiatry board within the medical board does not pass. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Garcia.
8. *Hydrogen Hub Development.* The bill creates the Hydrogen Hub Development Act, providing legal authority for governmental entities, including tribal governments, to enter into agreements with private entities to develop projects for the production, storage, transport and consumption of hydrogen (public-private partnerships). The bill also creates a board, staffed by the Environment Department, that would review and approve or disapprove partnership agreements and authorizes the New Mexico Finance Authority to sell bonds and provide grants and loans to public entities for studying and developing projects. The LFC recommendation includes \$30 million to support public-private partnerships. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small.

9. *School Governance.* The bill requires regular, standardized reporting to school boards on financials, student outcomes, and educator workforce data; establishes a standard superintendent evaluation process; allows the Public Education Department to suspend individual school board members; addresses issues relating to charter school foundations; and adjusts school board member training requirements. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small.
10. *Inspector General.* The bill standardizes offices of inspector general at select agencies and creates a council to review individual internal audit work plans, work products, and annual reports. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Senator Gonzales.
11. *False Claims Act.* The bill amends state statutes to bring New Mexico into compliance with the federal Medicaid False Claims Act and increase the state's share of Medicaid fraud recoveries. Vice Chairman Muñoz moved to adopt endorsement of the bill, seconded by Representative Small.

Miscellaneous Business.

Action Items. Senator Campos moved to adopt the LFC November and December 2022 meeting minutes, seconded by Representative Sweetser. The motion carried.

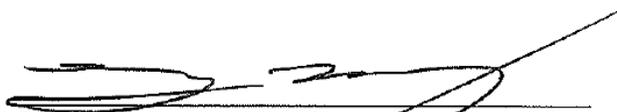
Vice Chairman Muñoz moved to adopt the LFC Hydrogen Hub Update and Emergency Response Subcommittee Reports, seconded by Senator Gonzales. The motion carried.

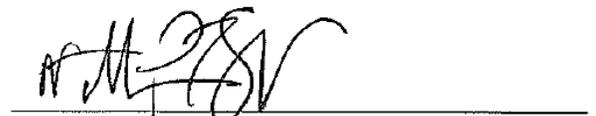
Senator Gonzales moved to adopt the LFC contracts, seconded by Senator Rodriguez. The motion carried.

Vice Chairman Muñoz moved to adopt the technical adjustments to LFC December recommendations, seconded by Representative Small. The motion carried.

Review of Monthly Financial Reports and Information Items. David Abbey, director of LFC, briefed the committee on information items.

With no further business, the meeting adjourned at 11:39 a.m.


George K. Muñoz, Chairman


Nathan P. Small, Vice Chairman