

MINUTES
Legislative Education Study Committee
Santa Rosa High School
Santa Rosa, New Mexico
August 15-17, 2018

August 15, 2018

The following voting and advisory members were present: Voting: Chair Mimi Stewart, Senator Candace Gould, and Representatives Dennis J. Roch, and Christine Trujillo; Advisory: Senators Linda M. Lopez and John Pinto, and Representatives Joanne J. Ferrary, Stephanie Garcia Richard, Tomás E. Salazar, Debra M. Sariñana, and Linda M. Trujillo.

The following voting and advisory members were not present: Voting: Vice Chair G. Andrés Romero, Senators Craig W. Brandt and William P. Soules, and Representatives Alonzo Baldonado, Sheryl M. Williams Stapleton, and Monica Youngblood; Advisory: Senators Carlos Cisneros, Daniel A. Ivey-Soto, Gay G. Kernan, Howie C. Morales, and Michael Padilla, and Representatives Kelly K. Fajardo, David M. Gallegos, Jimmie C. Hall, D. Wonda Johnson, Tim D. Lewis, Rick Little, Patricia Roybal Caballero, Angelica Rubio, Patricio Ruiloba, Gregg Schmedes, Elizabeth "Liz" Thomson, and Jim R. Trujillo."

Strategic Initiatives of House Municipal Schools and Fort Sumner Municipal Schools. Bonnie Lightfoot, Superintendent, House Municipal Schools, explained the school district is very small but is an important piece of the community of House, New Mexico. House has a strong early childhood program that includes preschool for 3- and 4-year-old children with access to an occupational therapist, a speech therapist, and a vision and mobility specialist. During the 2017-2018 school year, House contracted with Cooperative Education Services (CES) for school improvement technical expertise (SITE) and eight days of free professional development focused on English language arts and math instruction and using short cycle assessments to make decisions about how to best educate students. The Public Education Department (PED) also provided a reading coach under the Reads to Lead program, and the school will receive an instructional coach at the high school in the 2018-2019 school year as part of its federal Comprehensive Support and Improvement (CSI) grant. Ms. Lightfoot touted the results of the most recent Partnership for Assessment of Readiness for College and Careers (PARCC) exam, which showed House ranked among the school districts with the highest growth in proficiency.

Matt Moyer, Superintendent, Fort Sumner Municipal Schools (FSMS), noted in the 2016-2017 school year, all of Fort Sumner's schools decreased a letter grade. The school district put a committee together including school board members, teachers, administrators, parents, and students, to discuss the vision for their schools. The district performed a needs assessment of several important factors, including student behavior, staff tone, attendance of staff and students, communication within schools and with the community, leadership practices, school systems, and school policies. Mr. Moyer said the assessment revealed the school district needed better training for teachers and administrators to improve preparation and reduce turnover. Teachers from Fort Sumner traveled to observe highly effective and exemplary teachers in other school districts and used those observations to improve the effectiveness of their professional learning communities. He noted Fort Sumner's principals are participating in Principals Pursuing Excellence through PED, and the school district is moving to data-driven instruction using Illuminate, a short-cycle assessment tool closely aligned with PARCC. The school district displayed high gains in proficiency as a result and ranked among the school districts with the highest growth in math and English language arts proficiency.

Sharon West, Secretary, FSMS Board of Education, said schools are at the center of the Fort Sumner community. The school district suffers from a shortage of highly qualified teachers. As

teachers retire, many experienced teachers have been replaced by first-time teachers, most of whom are alternatively certified. The school board has put a lot of time and funding into allowing teachers to observe master teachers, which is producing positive results. Ms. West believes the state should make it easier for retired teachers to return to the classroom without impacting their pensions.

Susan Zamora, Coordinator for the Circle Grant at Santa Rosa Consolidated Schools, explained how the grant was designed to vertically align literacy curricula from birth to 12th grade. Santa Rosa was one of 11 school districts funded by the grant and received \$1.1 million over three years, which will provide 21 jobs across Guadalupe County. The school district partnered with the Apple a Day Home Visiting Program, Eastern Plains Head Start, Santa Rosa Consolidated Schools, Vaughn Municipal Schools, and the Moise Memorial, David F. Cargo, and Anton Chico libraries. The focus of the grant is to increase student literacy, especially among the lowest performing students, with a goal of countywide reading proficiency.

Dr. John Groesbeck, President, Mesalands Community College, spoke about the college's dual credit partnership in Fort Sumner, House, and Santa Rosa high schools. He also highlighted the work the college has done in regional prisons, where the college offers a full range of adult education courses in general education, business, English, communications, weaving, hands-on crafts, and auto mechanics. The college is improving its collaboration with Tucumcari Public Schools to create credit recovery and GED programs.

Representative Linda Trujillo asked whether Fort Sumner uses a four-day school week. Mr. Moyer said the school district operates on a five-day week, though he noted a four-day week would be an incentive for attracting teacher candidates, especially because getting teachers to commit to a 70 mile drive to the school or to move to Fort Sumner is difficult. Representative Linda Trujillo said Santa Fe Public Schools decided to make Fridays half days and added an additional 15 minutes to Monday through Thursday. Mr. Moyer said Fort Sumner has one Friday a month that is a half-day of instructional time to provide professional development to teachers; however, he noted it is not enough time to provide adequate professional development to mostly new teachers. Senator Stewart said the quality of professional development is also important. LESC has heard from experts about brain science and its implications for social and emotional learning and relationship building between students and teachers, and she wishes teachers could learn about this.

Senator Stewart said it is troubling to hear about the teacher shortage and asked whether Fort Sumner knew education retirees could work quarter time and not affect their pensions. Mr. Moyer was aware of this but for the types of effective teaching practices the school district has been developing, quarter-time instructional coaches and mentors are not enough. He believes the school district could contract with the retirees without affecting their pensions.

Representative Sariñana asked Ms. Lightfoot about their proficiency gains in high school math. Ms. Lightfoot said the largest gains were in elementary school; the teacher responsible for the gains knows her students very well and how to teach each of them individually. The most important aspect is trust between that teacher and the students.

Representative Dodge asked if all three school districts are participating in K-3 Plus. Mr. Moyer said Fort Sumner was participating for the first time this year. They have 68 students in the program. Ms. Lightfoot said House does not participate. Jamie Widner, Superintendent, Melrose Municipal Schools, said Melrose does not participate in K-3 Plus because it has too many requirements. The school district's reading specialist volunteered to hold a summer reading program for 50 students this summer. Senator Stewart said the appropriators want to see K-3 Plus be successful, and the best way to do that is to view it as an extended school year program and require the teacher be the same for the summer and the school year. The high-poverty and low school grade requirements exist because the Legislature wants the program to support

populations with the highest need. Eventually, she would like to see K-3 Plus as part of the state equalization guarantee (SEG). Representative Dodge said he supports K-3 Plus and wants to help school districts do more to implement the program.

Administrative Rulemaking. Kevin Force, Senior Research Analyst, LESC, presented a proposed rulemaking for 6.62.17 NMAC, “Licensure for Attendance Coaches Pre K-12.” The proposed rule had originally been presented to the committee at the June hearing, but that rulemaking was terminated in favor of the current proposal, which would establish two levels of licensure and accompanying requirements for attendance coaches. A one-year level one license would require the candidate to have a high school diploma or equivalent, a completed fingerprint-based background check, two years of experience in a related field, and either an associate’s degree or 48 hours of academic coursework, of which 15 must be non-remedial. A three-year level two license would require a bachelor’s degree with at least 30 hours of non-remedial coursework, a fingerprint-based background check, and three years of experience in a related field. The current proposed rule allows for renewed or continuing licensure by fulfilling requirements for initial licensure, annually.

Marit Rogne, Senior Fiscal Analyst, LESC, presented the final adoption of Part 9 of 6.19 NMAC, “Early Literacy Remediation, Interventions, and Family Engagement,” which outlines the supports and standards for early literacy intervention and retention for students in kindergarten through third grade. The adopted rule will require school districts and charter schools to administer a common, districtwide benchmark assessment for student literacy to kindergarten through third grade students, and to use the resulting student performance data to guide academic improvement plans, interventions and retention, and promotion decisions. Ms. Rogne explained the changes from the proposed rule to the adopted rule, including the replacement of the requirement to use a PED-adopted literacy benchmark assessment with a school district-adopted literacy benchmark assessment, the addition of “other measures” to make retention decisions, and changes to accelerated instruction options in the adopted rule.

Tim Bedeaux, Fiscal Analyst, LESC, presented the final adoption of 6.19.7 NMAC “Demonstration of Competency for High School Graduation.” The adopted rule establishes subject-specific pathways for students to demonstrate competency in mathematics, reading, writing, science, and social studies, and requires students to attempt a demonstration of competency through a primary pathway before they become eligible to use alternative pathways, including alternative assessments and competency-based alternatives. In response to public comment, the adopted rule no longer allows letters of acceptance from higher education institutions as demonstrations of competency, no longer divides alternative assessments into level one and level two assessments, allows students to use competency-based alternative demonstrations of competency after a single attempt on the primary demonstration of competency, and clarifies the demonstrations of competency available to students with individualized education plans (IEPs). Jaime Gonzales, Deputy Director of Policy, Innovation, and Measurement, PED, explained the graduation manual for the entering freshman class of 2018-2019 would be finalized the week following the LESC meeting, and would be available on PED’s website thereafter.

Guadalupe County Correctional Facility: Adult Basic Education, Workforce Development, and Community Reintegration. LESC members and staff traveled to the Guadalupe County Correctional Facility (GCCF) to hear about the facility’s work to educate their inmates to prepare them for work and reintegration into society upon release. GCCF is a privately owned, medium security facility operated by the GEO Group, a company that specializes in privatized correction, detention, and mental health treatment.

Warden Vincent Horn made introductory remarks, and the following GEO Group officers spoke about the prison’s educational programs: J. David Donahue, Senior Vice President, U.S. Corrections and Detention, & International Operations, The GEO Group, Inc. (GEO); Paul Laird,

Director Regional Operations, Eastern Region, GEO; Adam Hasner, Executive Vice President, Public Policy, GEO; Dr. Derrick D. Schofield, Executive Vice President, Continuum of Care and Reentry Services, GEO Care; and David S. Burch, Divisional Vice President, GEO Continuum of Care. Several speakers focused on the facility's post-release "outpatient" program that is meant to combat the issue of recidivism among recently released inmates. When asked by Representative Ferrary about the program cost, Mr. Donahue noted that the exact figure was unknown, but was approximately \$180 to \$200 thousand per prison, annually. Chair Stewart asked about the continuum of care post-release, wondering what sort of support the prison might need to support that post-release program. Chair Stewart asked if any requests had been made to the Department of Corrections or the governor about additional support for their post-release program, and whether they had any estimates; if so, she requested they get them to staff.

The facility featured a number of educational and vocational programs, including an adult basic education (ABE) program, a barber school, a weaving program, a computer lab, and a law library and resource center. The ABE program includes cognitive and vocational classes, with around 68 inmates participating in night classes at Mesalands Community College. The barber school offers a two-year, 1200 credit-hour program to prepare students for the state barber's examination. The weaving program offers an associate degree in fine arts and permits inmates to sell their work, with 5 percent of profits going to a scholarship fund for children of incarcerated parents, and 10 percent going to other nonprofits. The prison also includes a six-month residential substance abuse program, adapted from the Bureau of Prisons, as well as a faith-based sobriety and trauma recovery program.

August 16, 2018

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On a motion by Senator Brandt and a second by Representative Trujillo, the committee approved the agenda for the August meeting and the minutes for the July meeting with no opposition.

Senator Stewart introduced a letter to PED regarding the adopted rule for colleges of education. The letter notes instances in which PED may have exceeded their statutory authority. Representative Christine Trujillo moved to approve the letter. Representative Roch noted he supported the letter but advising PED of issues when rules are in draft form would be easier for the department to address the committee's concerns. Senator Brandt also supported the letter, but suggested the Legislature should begin taking steps to hold colleges of education accountable for preparing high quality teachers. Senator Stewart agreed. The letter was approved with no opposition.

Prekindergarten Expansion: Quality Initiatives and Facility Needs. Brenda Kofahl, Prekindergarten Program Manager, PED, said enrollment and funding for prekindergarten has increased significantly since 2011. In FY19, 6,806 children are receiving state-funded prekindergarten in 330 classrooms in 200 elementary schools, a 31 percent increase in the number of children to be served compared with FY18. Ms. Kofahl said data from the kindergarten

observation tool shows that students who attended PED prekindergarten scored significantly above those who did not attend, including students receiving special education services. Of the 600 children identified with developmental delays, 65 percent were at or above grade level when they entered kindergarten according to the kindergarten observation tool.

Ms. Kofahl discussed FY19 prekindergarten funding. PED had over \$15 million in requests for expansion or new programs. The department funded all new school districts, investing \$4.37 million in 11 new school districts. Some schools would like to serve more children but do not have the space. Ms. Kofahl said it is important to get more children into New Mexico prekindergarten, but program quality matters. The National Institute of Early Education Research (NIEER) publishes state report cards on publically funded prekindergarten. PED met all 10 NIEER benchmarks, and the state met nine, as the Children, Youth and Families Department (CYFD) does not require prekindergarten teachers to have a bachelor's degree.

New Mexico has an early childhood governance team including CYFD, PED, and the Department of Health (DOH). Each agency has a focused quality rating and improvement system that measures programs according to a five star rating scale. The four areas measured are family engagement, inclusive practice, culture and language, and promoting social and emotional relationships. PED, CYFD, and DOH also collaborate in the development of prekindergarten applications to try not to duplicate services, including working with Head Start. For example, they are working with leadership to braid funding between New Mexico prekindergarten and Head Start in Las Cruces Public Schools. They want to eliminate segregation by income between New Mexico prekindergarten and Head Start.

Ms. Kofahl said that the quality of the prekindergarten workforce matters. PED is using \$200 thousand from the PED public pre-kindergarten fund for early childhood college scholarships for alternative teacher licensure, associate's degrees for educational assistants, bachelor's degrees for educational assistants, and master's degrees for teachers, which is the last priority.

Jonathan Chamblin, Director, Public School Facilities Authority (PSFA), provided a summary of PSFA's analysis of prekindergarten classroom and capital needs. Mr. Chamblin said PSFA was asked by the Public School Capital Outlay Council (PSCOC) to do a predictive analysis of the potential needs for prekindergarten classroom space statewide given the Legislature's increase in annual funding for prekindergarten programs. PSFA staff estimated all 3- and 4-year-olds would be enrolled in prekindergarten programs at public schools, resulting in a need for classrooms for 51 thousand additional 3- and 4-year-olds. Based on current utilization, PSFA estimated almost 1,800 additional public school classrooms would need to be built and 631 existing classrooms would need to be renovated. Based on these assumptions, PSFA estimated \$891.2 million in capital expenditures would need to be made to fully serve the additional 51 thousand 3- and 4-year-olds. If programs were eligible to apply to the PSCOC for prekindergarten funding and if the state and local match requirements were imposed, Mr. Chamblin estimated local school districts would be responsible for \$393.8 million of the total cost and the state, through PSCOC, would be responsible for \$519.2 million of the cost.

Senator Stewart asked if the state and local share assumptions included in PSFA's analysis is based on the new funding formula that will be phased in over the next few years or the current formula. Martica Casias, Deputy Director, PSFA, said they used the current formula for their assumptions. Senator Stewart noted the new formula will result in significant changes to some school districts and this will change projections over the next five years.

Senator Morales asked about the oversaturation of slots that may be created in smaller communities. Ms. Kofahl said when funding prekindergarten programs, PED staff looks at kindergarten enrollment in a community and considers PED, CYFD, and Head Start program

enrollment projections, and aims to ensure no more than 80 percent of students in a community are funded based on kindergarten enrollment. She indicated some children will not attend prekindergarten and others will attend in communities outside of their community of residence.

Senator Morales asked about the reimbursement rate for prekindergarten programs. Ms. Kofahl said the per-child reimbursement rate for half-day programs is \$3,206.20 and \$6,412.20 for full-day programs. In response to Senator Morales, Ms. Kofahl noted PED has more stringent requirements for teacher training than CYFD, including the requirement to have a bachelor's degree.

Senator Stewart noted the PSFA assumptions and analysis are not accurate, as it does not take into account how the prekindergarten program is currently enacted, and asked Mr. Chamblin to provide an updated estimate based on accurate assumptions.

In response to Representative Roch, Ms. Kofahl noted per-student costs have increased over time, though she noted much of the increase has been caused by the increase in full-day programs, which cost twice the amount of a half-day program.

Representative Roch asked if the effects of prekindergarten are sustainable. Ms. Kofahl said the 2017 LFC accountability report showed positive effects through fifth grade.

Program Evaluation: Longitudinal Student Performance Analysis – Impact of School, Teacher, and Program Interventions. Charles Sallee, Deputy Director for Program Evaluation, Legislative Finance Committee (LFC), said LFC staff reviewed the New Mexico education system to see how well the system performed for a group of students over time. Mr. Sallee said the report calls for changes in access, administration, and accountability. He said more students need access to high-quality interventions such as prekindergarten and K-3 Plus, the school system needs consistent administration of best practices, and the state needs to refine its accountability system using many types of data.

Mr. Sallee said the New Mexico school system generally produces an average of one year's worth of academic growth for students but many students show up to school one or two years behind and are struggling to catching up. He said very good teachers can have a large impact and make changes for a large number of students. These teachers can support one or two years of academic growth; however, not all students have access to a high quality teacher year after year. He said a big question is how to get consistent, high quality teaching for all kids. Mr. Sallee said some interventions have a positive impact on student performance, including prekindergarten and K-3 Plus. He said prekindergarten has a positive impact through eighth grade, reduces special education identification, and helps with kindergarten entry, especially for low-income students. Mr. Sallee said more must be done to coordinate and strategically stack state-funded interventions. He said children who receive both prekindergarten and K-3 Plus show increased performance that shrinks the achievement gap by third grade; however, only a small number of students participate in both programs. Mr. Sallee said Principals Pursuing Excellence (PPE) and Teachers Pursuing Excellence (TPE) show positive initial results but there are no incentives that encourage schools to align and coordinate state-funded interventions.

Mr. Sallee noted there is a high degree of mobility within the school system, which poses a problem for accountability. He said the state accountability system looks at a snapshot of different students. Only about half of third graders started kindergarten at the same school. Dr. Jon Courtney, Program Evaluation Manager, LFC, said the school system is not designed for high mobility and that students that move more often have lower test scores, even after controlling for economic disadvantage. Dr. Courtney said interventions may change as a student moves from one school to another.

Dr. Icela Pelayo, Acting Deputy Secretary of Teaching and Learning, PED, said the department supports improving programs for students, including increasing access to teachers with highly effective and exemplary ratings. Dr. Pelayo said research shows high performing school districts and schools do not leave student support to chance. They provide clear goals based on data, provide clear assignments to teachers, and assess their program design regularly so equity is at the helm. It is important to make strategic choices about talent.

Debbie Rael, Deputy Secretary of School Transformation, PED, said PPE and TPE are leveraging the abilities of school leaders and supporting them through performance based coaching, professional development, instructional leadership, 90-day planning, tools to support teachers, and the use of data to support decision making. She said PPE is closing the achievement gap and that nearly half of New Mexico school districts have at least one school in PPE. Ms. Rael said PPE schools are outperforming the statewide average English language arts (ELA) and math proficiency rates. She noted TPE supports whole-school redesign, and that principals of TPE schools must go through PPE. She said students whose teachers are participating in TPE are improving. The students of the first and second cohorts of teachers who participated in TPE saw ELA proficiency rates of 31.5 percent in 2018 versus 31.1 percent for non-participants. Math proficiency rates of students with teachers participating in TPE were 28.4 percent compared with 21.5 percent for non-participants.

Ms. Rael agreed that when K-3 Plus teachers are with the same students during the regular school year, those teachers have a better chance of making a difference. She said programs that begin in July might retain teachers better than programs that start earlier in the year. She said PED would study progress in schools that implemented K-3 Plus during the 2018 summer.

Representative Roch asked Mr. Sallee if the recommendation to look at mobility would look at a symptom rather than a cause and Mr. Sallee said the mobility data point is intended to support a root cause analysis. He said there is not enough root cause analysis within the school system. Representative Roch said there are larger societal factors influencing schools. Representative Little asked if mobility applied to all students or just low-income students and Mr. Sallee said it applied to all students. He said mobility has a negative impact on kids with too many moves, even for kids who are not from low-income families.

In response to the recommendations on following best practice, Representative Roch asked Mr. Sallee if he believed PED should make school districts and charter schools follow best practice. Representative Roch noted the recent ruling in the sufficiency lawsuit stated PED was reading its statutory authority over school districts too narrowly and Judge Singleton laid out a potential change in local control. While the grand bargain of 1974 gave control to school districts, the state is not where it wants to be in terms of performance. Mr Sallee said this issue might need to be reconsidered.

Mr. Sallee noted the school grade law requires PED to ensure school districts and charter schools prioritize resources to proven programs and methods in D and F schools; however, there would likely be an outcry if PED were to withhold budget approval in an effort to prioritize resources. Representative Roch said the conversation over most rigorous intervention schools is what the Legislature intended and PED is now utilizing its statutory authority. Senator Stewart said the state's plan under the Every Student Succeeds Act requires school districts to choose which changes to implement at most rigorous intervention schools but those plans were denied. She said Albuquerque Public Schools has gone forward with those plans because they are good, exciting plans based on best-practice that were designed and selected by the community. She cautions the Legislature in moving forward with giving PED too much authority.

Representative Roch noted Judge Singleton's decision said the quality of teaching provided to low-income students was inadequate. He asked if limiting an individual teacher's right to choose a

school of employment could exacerbate the teacher shortage and Mr. Sallee said a mandate could run that risk but it is possible incentives could be more effective. He said a teacher who is effective in one area may not be effective in another area but that if you want someone to do more, they need to be paid more. He said school leadership and supporting effective school leaders also needs to be considered. Representative Roch asked if incentives had to be categorical or below-the-line and Mr. Sallee said LFC staff recommend a pass-through stipend in the funding formula, similar to the factor for national board certification.

Representative Roch asked if PED could isolate the results from PPE or TPE or if the results could come from other programs like prekindergarten or K-3 Plus and Ms. Rael said isolating effects is difficult and that many PPE and TPE schools have several other initiatives in place. She said there is no one factor, but many factors have to work together and that superintendents and principals need training on curriculum that is narrowing in on data, observation, feedback, and generating teaching strategies.

Representative Linda Trujillo asked if schools were choosing not to adopt school-wide K-3 Plus because of funding or because a school did not want a school-wide program and Mr. Sallee said it can be a challenge to get local buy-in. He said some teachers do not want to teach K-3 Plus but that the program does not work as well if it is taught by different teachers than the regular school year. He noted Deming Public Schools has adopted a school-wide K-3 Plus model in the entire school district and has created expectations that elementary school starts 25 days earlier. He said this is a good model to consider for expansion. Representative Trujillo asked if the state could decide to add more school days statewide and Mr. Sallee said New Mexico has an hourly requirement for instructional time. He said K-3 Plus has been a large state investment in the absence of providing additional school days system wide. Senator Brandt asked what percentage of K-3 Plus programs were implemented with fidelity and Mr. Sallee said LFC could not answer that question without additional data from PED. Senator Brandt said a university study of K-3 Plus found implementation with fidelity is key to making gains and that PED should focus on getting money to schools that implement K-3 Plus correctly. Senator Stewart asked for more data on K-3 Plus fidelity and PED agreed to provide such data.

Representative Trujillo asked how much it would cost to expand PPE and TPE statewide and Ms. Rael said \$2 million supports 60 to 65 principals. Senator Stewart asked PED to share PPE and TPE cohort data with LESC and Ms. Rael said the department would do so.

Program Evaluation: Federal Funding Public Schools. Nathan Eckberg, Program Evaluator, LFC, said the goal of the evaluation was to bring attention to school funding that is not appropriated from general fund revenues. He said federal funding plays an essential role in the public education system, with 13 percent of total public school funding coming from federal grants. As a result, federal law shapes state accountability systems involving standardized testing, school district report cards, school improvement plans, and rating systems in exchange for these funds. He said nearly half of PED's full-time employees are paid with federal grant dollars to provide programmatic or administrative support to school districts and charter schools. He said PED does not provide the Legislature information on all federal funding as is required in state statute. PED is supposed to provide a report detailing the purposes and uses of all federal funds to LFC, LESC, and Legislative Council Service.

Mr. Eckberg said federal funds leveraged for instruction could be targeted to state initiatives because schools have flexibility in spending federal funds. He said additional federal funding can be used for state initiatives such as prekindergarten and other extended learning programs. Only 2 percent of school districts use Title I allocations for prekindergarten. LFC staff suggested school districts use more Title I funds for prekindergarten and other extended learning initiatives. He said the 21st Century Community Learning Centers program provides funding for afterschool programs and schools could consider expanding these sites. The Legislature should consider

adding language to the general appropriation act requiring PED to prioritize awards for related recurring below-the-line programs for school districts and charter schools that match below-the-line awards with federal funds.

Clayton Lobaugh, Program Evaluator, LFC, said federal Impact Aid compensates school districts and charter schools for the loss of property tax revenues but federal law allows New Mexico to take partial credit for operational Impact Aid funding when calculating the state equalization guarantee (SEG) because New Mexico maintains an equalized funding system. He said the New Mexico Supreme Court recently ruled PED cannot take credit for Impact Aid revenue before receiving certification from the U.S. Department of Education and that school districts and charter schools may revert large amounts of revenue if certification is received late in the year. He said the Legislature may wish to consider taking credit for prior year Impact Aid.

Mr. Lobaugh said federal and state administrative delays in providing final award letters, certification, and reimbursements make it challenging for some school districts and charter schools to spend federal funds. He noted PED has decreased the average number of days needed to process federal reimbursements requests but some improvement is still needed. Mr. Lobaugh said there is not a strong relationship between per-pupil federal funding and school district and charter school proficiency rates. He said states with lower student outcomes tend to receive more national education funds.

Mr. Lobaugh said states must develop accountability systems to be eligible for federal funding. The federal Every Student Succeeds Act requires annual measurement of student achievement aligned to state standards. While there is flexibility for states to develop their own accountability systems, states and school districts must publish school level financial data by FY20 to evaluate school level finances and the relationship to student performance. He said the Legislature and PED should consider leveraging school performance data to identify schools achieving cost-effective student outcomes.

Dr. Pelayo agreed federal funding plays an essential role in the education system and that leveraging federal dollars is important to staffing, services, and professional development. She noted PED has created a consolidated application for school districts for federal Title I, II and III grants and to focus their efforts on equity and access. PED agrees with the recommendation to leverage federal funds for state programs to meet the needs of all students, but the state must be careful to supplement, not supplant, state dollars. Ms. Rael said PED encourages schools and school districts to leverage federal funds with state formula dollars. She said PED concurs with the LFC recommendation of learning from schools and school districts that use their funds well. PED provides \$7.9 per million per year for school turnaround programs and high school redesign. Federal law requires PED to set aside 7 percent of Title 1 awards for this purpose. PED also sets aside 3 percent to support direct student services.

Susan Lucero, Bureau Chief, Fiscal Grants Management Bureau, Administrative Services Division, PED said awardees receive their budget authority and typically have access to the major federal funds and state special appropriations by July 1 annually but that many budget adjustment requests are received in the last two months of the fiscal year. She said PED contacts school districts and state-chartered charter schools if there is a lag in activity to promote more predictable submission and review. She said PED has encouraged the use of carryover funds sooner by allowing schools and school districts to budget projected carryover as of July 1.

Representative Linda Trujillo asked if prioritizing below-the-line funding to school districts that agree to match those allocations with federal funds might discriminate against school districts that do not have access to federal funds. Mr. Eckberg said the recommendation is meant to combine resources to enhance initiatives. Leveraging multiple financial sources to support

evidence-based programs primarily funded with state dollars would increase access to these programs.

Representative Linda Trujillo asked why the state equalization guarantee distribution is reduced for local Impact Aid receipts and Mr. Sallee said because New Mexico does not rely heavily on property taxes to fund schools and taking credit for Impact Aid equalizes the funding formula. He noted the amount of credit taken can be a sore point for some school districts. Senator Stewart noted the funding formula takes credit for 75 percent, of local receipts, but it used to take credit for 95 percent.

Senator Stewart noted LESC is not receiving the statutory reports on federal funds from PED and requested PED provide those reports to the committee.

New Mexico Now: The Case for Funding Pre-K through the School Funding Formula. Eli Il Yong Lee, Co-Founder, New Mexico Now, said the goal of New Mexico Now is to expand access to prekindergarten. New Mexico Now has studied how other states fund prekindergarten as well as the history of early childhood funding in New Mexico. Mr. Lee explained kids who participate in prekindergarten perform better on all social indicators, including increased readiness for kindergarten, lower rates of special education identification and grade retention, and higher graduation rates, which leads to a return on investment of \$7.30 for every \$1 invested. New Mexico Now also interviewed people with expertise in early education on tribal land. Early childhood experts spoke about the importance of Native American language inclusion, and asked for consideration of funding to flow so that it respects self-governance. Mr. Lee discussed strengthening the public and private prekindergarten delivery system. Private providers offer high quality, year round care. They hope to bring thousands of new kids into the private provider system.

Mr. Lee said there are many funding mechanisms for prekindergarten, such as the public school funding formula, which is used by 16 states and Washington D.C. Using the public school funding formula for prekindergarten funding would create stability, predictability, and scalability. Other states use Head Start, block grants, and social impact bonds. Mr. Lee said there is a need to better align systems, standards, and wages between Head Start, Tribal Head Start, and state funded prekindergarten. Teachers travel from Head Start to CYFD to PED to look for better pay. He discussed New Mexico Now's proposal to fund 80 percent of 4-year-olds and up to 50 percent of 3-year-olds in high quality prekindergarten over the next five years. New Mexico Now proposes a department of early learning to consolidate management of all early learning programs and a new division within PED to focus on 4- to 8-year-olds to work together to form a seamless system of early education. They also propose funding 4-year-olds through PED and 3-year-olds through private providers.

Dr. Kelly O'Donnell, Economist, O'Donnell Economics and Strategy, said she estimated the cost to the state for New Mexico Now's proposal. The estimate does not include children currently receiving high-quality Head Start or state funded prekindergarten. Dr. O'Donnell said she estimated the comprehensive cost per child of \$9,100, including transportation, consultation, and administration. The total estimated funding needed to meet the New Mexico Now proposal was \$217 million over five years.

Representative Dow asked why the report focused on 4-year-old prekindergarten if 80 percent of learning happens between birth and 3-years-old. Mr. Lee said that was their research task. They are not minimizing the importance of birth to 3-years-old. Representative Dow asked whether this expansion could result in a lack of access for low-income, working families for full-day, year-round services. Dr. O'Donnell said they do not expect prekindergarten expansion to draw money away from childcare assistance. The emphasis on childcare funding is a high priority.

Representative Dow asked how formula funding would flow to private centers for capital needs or transportation. Mr. Lee said money for 4-year-olds would flow to school districts. PED flows money to private vendors. Representative Dow said private providers who contract with PED cannot use state funds for capital needs or transportation. Dr. O'Donnell noted their recommendation is a mixed model. They considered funding capital needs of school districts through the Public School Capital Outlay Council process. For private centers, funds would flow through CYFD. Representative Dow said child care center block grants are 80 percent federally funded and the state should be careful not to supplant federal funding with state funding.

Senator Padilla asked if New Mexico Now is working on a workforce development plan for early education. Mr. Lee said they are not, but they are beginning planning with the help of Dr. Jeannie Oaks. Senator Padilla asked them to make certifying early education professionals a priority and asked how many the state needs. Senator Stewart said LESC would look at the workforce and pipeline issue.

Instructional Time and Four-Day School Weeks. Kevin Force, Senior Research Analyst, LESC, presented on instructional time and four-day school weeks. He explained expanded time may increase benefits to students, but it must be high-quality time. In New Mexico, 38 mostly rural school districts and 21 charter schools offer four-day weeks. State statute requires 990 hours of instructional time for kindergarten through sixth grade and 1,080 hours for seventh grade through 12th grade. New Mexico learning time requirements are comparable to neighboring states.

Mr. Force stated research indicates that the emphasis should be on the quality of learning time, not the quantity. Lower income students spend less time in enrichment and extended learning activities, resulting in a loss of 6,000 hours by sixth grade. An increase in the quantity of high-quality learning time can lead to academic growth.

Calendar requirements vary widely in high performing countries but tend to be lower than in the United States. However, there may be other instructional hours or enrichment not included in these calculations. Anecdotally, the four-day week can have an effect on school culture and teacher recruitment and retention. Attendance may improve but studies show there is no significant change in absenteeism. In New Mexico charter schools, the four-day week is usually related to teaching methodology. The schools often use the fifth day for enrichment, special programs, professional development, or parent teacher conferences.

Research about the academic outcomes of students attending schools with a four-day week is limited. Financial savings realized as a result of implementing a four-day week are estimated at between 1.5 to 2 percent. In school districts that have high numbers of students who are food insecure, losing a school day could be problematic. A lack of evidence and peer reviewed study makes it hard to make informed policy recommendations about the four-day week.

Senator Brandt asked about LFC staff recommendations to increase the number of instructional hours in light of lower international averages. Mr. Force said quality is emphasized over quantity so extending hours and learning quality may be useful and reiterated learning time and enrichment opportunities often occur outside of school hours in other countries. He asked about at-risk students and year round schooling. Mr. Force said year round schooling has the potential to close the achievement gap for disadvantaged students.

Representative Roch said there are qualitative benefits for the four-day week, like increased student and teacher attendance. Mr. Force said four-day school districts seem to have better student outcomes, but it is unclear that it is a result of the four-day week. Representative Roch suggested the four-day week should be a privilege to be earned based on proficiency rates or other measures.

Senator McSorley asked about parent concerns about childcare on the one week day when school is not in. Abigail Stiles, Senior Fiscal Analyst, LESC, said anecdotally, because the four school days are longer, parents generally do not have to find before or after school care for the four school days. Senator McSorley asked about enrichment opportunities and summer learning loss. Kevin Force said most research on summer learning loss recommended extended learning time through the year round schooling model.

August 17, 2018

The following voting and advisory members were present: Voting: Chair Mimi Stewart, Senator Candace Gould, and Representatives Alonzo Baldonado, Christine Trujillo, and Sheryl M. Williams Stapleton; Advisory: Senators Carlos Cisneros and John Pinto, and Representatives Joanne J. Ferrary, Stephanie Garcia Richard, D. Wonda Johnson, Rick Little, and Linda M. Trujillo.

The following voting and advisory members were not present: Voting: Vice Chair G. Andrés Romero, Senators Craig W. Brandt and William P. Soules, and Representatives Dennis J. Roch and Monica Youngblood; Advisory: Senators Daniel A. Ivey-Soto, Gay G. Kernan, Linda M. Lopez, Howie C. Morales, and Michael Padilla, and Representatives Kelly K. Fajardo, David M. Gallegos, Jimmie C. Hall, Tim D. Lewis, Patricia Roybal Caballero, Angelica Rubio, Patricio Ruiloba, Tomás E. Salazar, Gregg Schmedes, Debra M. Sariñana, Elizabeth "Liz" Thomson, and Jim R. Trujillo.

Strategic Initiatives of Santa Rosa Consolidated School District. Richard Perea, Superintendent, Santa Rosa Consolidated Schools (SRCS), noted Santa Rosa is a service industry economy, has wind energy turbines, and a detention center. Santa Rosa has experienced an exodus in their community which, coupled with a high mortality rate and low birth rate, has led to declining enrollment in the schools. The school district's facilities are old, and they do not have bonding capacity to update or replace them; due to declining enrollment, the school district only uses 65 percent of its square footage. Students in the school district do not always have access to technology, so Santa Rosa has improved access by turning its school libraries into multimedia centers. Like the other local school districts, Santa Rosa is losing many experienced teachers and is struggling to recruit high quality teachers.

In response to Senator Stewart's comments about school grades, Mr. Perea said school grades are confusing. People do not always understand the complicated value added models used to calculate school grades and teacher evaluations, which has led to a high level of frustration from teachers. He believes using only the PARCC assessment to determine a teacher's effectiveness is unfair.

Senator Cisneros asked about the impact of drugs in Santa Rosa and whether the town is a route for transport or a direct destination point. Mr. Perea said his son is a state police officer, and he reads the Youth Resiliency Report. He sees the presence of methamphetamines and thinks Santa Rosa is directly connected to Mexico. He said state police and sheriff's department presence is adequate. Senator Cisneros asked if the school district was up to date in ensuring campuses are secure. Mr. Perea said he wants to increase security cameras and fencing, but believes there are larger challenges with mental illness that can be addressed with more social workers and psychologists.

Representative Garcia Richard noted Santa Rosa has had a high graduation rate for years. Mr. Perea said relationships with students are easy to build and teachers can spend more time helping each student with what they need in a small community. Marty Madrid, Principal, Santa Rosa High School, said they take the approach of "one student at a time." There are many teachers from the community who really care about the students. Mr. Perea also advocated for allowing alternative demonstrations of competency, and stated he does not know how the new PED

regulations will impact Santa Rosa's graduation rate. Senator Stewart said LESC has also been struggling through the new PED regulations.

Everytown and Mothers Demand Action. Emilie de Angelis, New Mexico State Chapter Leader, Mothers Demand Action (MDA), discussed the universal background check bill sponsored by Senator Martinez and Representative Sariñana during the 2018 legislative session. The nonpartisan group has over 9,000 New Mexico members. MDA promotes responsible gun access and ownership. MDA presented three priorities: universal background checks; relinquishment of guns for anyone convicted of an act of domestic violence; and an extreme risk law. The group is opposed to arming teachers, noting guns increase risk to children; the presence of a firearm doubles the risk of homicide and triples the risk of suicide. Ms. de Angelis cited statistics showing ease of access to guns leads to more gun deaths than mental health issues. Federal law only requires individuals to pass a background check at federal firearms-licensed facilities, but other transactions do not require a background check.

Ms. de Angelis described a firearms background check bill to be considered during the 2019 legislative session. She defined the sale of a firearm, and said the bill would not apply to a gift, inheritance, or interfamily transfer.

Representative Linda Trujillo referred to an article provided by Ms. de Angelis, "Arming Teachers is a Dangerous Proposal." The Representative noted she provides legal services to school districts across the state that are looking to arm security guards, and noted it is unlawful to carry weapons on campus unless the individual is a police officer or security personnel. However, there is no definition in statute for security personnel. A school employee providing security is not under the regulations of the private investigators board, but a contract security guard is.

Representative Roch said he has conducted emergency drills as a school administrator that are designed to prepare staff and students for what might happen. He does not support arming teachers but advocates for securing the school site. Representative Garcia Richard said she agrees the state needs to invest in securing schools. Ms. de Angelis said securing schools makes sense but focusing on it as the sole solution does not address the ease of access to firearms. Superintendent Perea asked the students if they thought mental illness was a problem in schools. The students spoke about mental illness, bullying, and how difficult it can be to report bullying in schools.

Representative Christine Trujillo said she would support the legislation Ms. de Angelis proposed. She also noted as a former teacher, she would not want to be responsible for protecting kids with a firearm.

Representative Little thinks other preventative measures would be more effective. He said many guns involved in school shootings were already in the home or were acquired legally. Restricting gun registration may not take care of the problem.

Senator Gould said everyone wants to address violence in the schools and in the country. Victimization, substance abuse, exposure to violence, and mental health issues are responsible for this epidemic. Representative Garcia Richard said many school shooters were bullied, and those issues Senator Gould introduced are important issues to solve. Ms. de Angelis said MDA believes ease of access to weapons is the biggest issue, and the measure they introduced is intended to reduce access to certain individuals. Senator Gould said they need to balance both sides of the equation.

Yazzie and Martinez v. State of New Mexico: July 20, 2018 Decision and Order. Rachel S. Gudgel, Director, LESC outlined Judge Singleton's Decision and Order in the Yazzie and Martinez cases, noting the Decision and Order is not a final judgment. Judge Singleton found the state is in

violation of the Education Clause, the Equal Protection Clause, and the Due Process Clause of the New Mexico Constitution. The New Mexico Constitution requires the state to provide every student the opportunity to become ready for college or career and Judge Singleton ruled the state has failed in this obligation with regard to at-risk students, which she defined as English learners, low-income students, Native Americans, and students with disabilities. Her Decision and Order relates to programs, funding, and oversight.

A fundamental issue in the case was establishing what adequacy means in relation to the New Mexico Constitution. The plaintiffs argued for the Judge to adopt a specific standard; however, Judge Singleton deferred to statute, indicating the Legislature had already defined what adequacy means in a number of statutes in the Public School Code, including the Indian Education Act and Hispanic Education Act.

Ms. Gudgel noted Judge Singleton's Decision and Order does not set a required funding amount or establish specific things the Legislature should do; the judge acknowledged it is the Legislature's job to set policy, though her Decision and Order noted deficiencies in instructional materials, curriculum, and quality teachers. She noted issues with the at-risk index of the public school funding formula and insufficient appropriations to a number of categorical and related recurring below-the-line programs to fully cover all eligible students statewide. Ms. Gudgel stated Judge Singleton did not consider investments and funding formula changes the Legislature made during the 2018 legislative session in her Decision and Order. Judge Singleton also considered outputs, including student achievement, and found the state's low proficiency rate, graduation rate, and high college remediation rate indicative of the state's failure.

Ms. Gudgel stated Judge Singleton's Decision and Order also appears to significantly erode local control. Judge Singleton notes it is PED's responsibility to ensure school districts are spending their resources responsibly. She acknowledges there may be more ways for school districts to be more efficient and effective in their expenditures. She did, however, note lack of funds is not a defense for not providing sufficient funds for students.

A major tenant of her decision relates to the amount of money appropriated to schools annually. Judge Singleton noted education is a fundamental constitutional right in New Mexico and the state has an obligation to fund schools before funding other non-constitutional agencies. Her Decision and Order noted 11 potential revenue sources the Legislature could consider during the 2019 legislative session.

Ms. Gudgel outlined the procedural requirements of the Decision and Order, noting the current day was the last day for either party to issue a notice of intent to appeal. How the case continues will be dependent on whether a party intends to appeal.

Judge Singleton gave the Legislature and executive until April 15, 2019 to take immediate steps to ensure New Mexico schools have the resources necessary to prepare at-risk students for college and career. Ms. Gudgel stated it does not appear the Legislature has to fix everything by April 2019, but should be working with the Executive to develop and implement a plan by then.

Representative Roch asked about school districts and schools where at-risk subpopulations are succeeding. He asked if there is an opportunity to learn from those school districts or schools that are succeeding with at-risk populations, noting Judge Singleton's Decision and Order states the Legislature and PED may find ways to better allocate existing funding. He said giving more resources to schools that are not using existing resources well would likely not have a positive

impact. Representative Roch suggested looking at other states that have faced similar legal challenges, and highlighted Kansas and Florida. Kansas is spending more per student than Florida; however, Florida National Assessment of Education Progress (NAEP) scores are better than Kansas. He suggested more money might not be the only key to getting better results. Ms. Gudgel said the judge refers to the need for accountability in addition to funding throughout her Decision and Order.

Representative Roch noted the judge's statements about the quality of teaching for at-risk students and asked about improving teacher quality and deploying high-quality teachers in school districts with collective bargaining units. Ms. Gudgel noted teacher quality needs to be addressed at both the college of education level and at the school district level. She noted school districts with collective bargaining will have to grapple with the final judgment.

Representative Christine Trujillo agreed with the notion of changing the paradigm in terms of seeking better ways to reach positive academic outcomes. She said the state should create a plan that includes stakeholders at the early stages.

Public Comment. Diane Torrez Velasquez, Associate Professor of Education at the University of New Mexico and President of the Latino Education Task Force noted her role in the sufficiency lawsuits. She noted the Mexican American Legal Defense and Education Fund (MALDEF) did not charge any of the plaintiffs for representation in the lawsuit. She noted they hope to be included in all discussions related to solutions.