



LFC Newsletter

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Legislative Finance Committee

Representative Luciano "Lucky" Varela, Chairman

Senator John Arthur Smith, Vice Chairman

David Abbey, Director

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From the Chairman Equal Powers

When the inspired writers of the U.S. Constitution created three, equal branches of government, the intent was to prevent any one branch from having too much power. In this division of labor, the Legislature has the power to enact laws and appropriate money. Although not unique, New Mexico is unusual in that our Legislature develops a budget recommendation along with the executive and, as a natural outgrowth of its financial responsibilities, reviews the effectiveness of state programs.

That oversight can be pretty annoying to the executive. It's never fun to be examined, second-guessed, nit-picked – whatever label you want to stick on the discomfort of coming under the microscope. But to those in the executive who whine about legislative interference I have some advice: Get over it. As often as the governor and her staff are irritated by legislative questions, the Legislature is frustrated with an executive veto or administrative maneuvers.

A system built on the separation of powers is contentious by design. While we can hope that each branch always acts with competence and integrity, that is not always true. And even when it is true, there can be a difference of opinion on how to best serve the people of New Mexico.

During August hearings, the LFC will formally object to the Human Services Department's request to transfer \$10.4 million from other services to a contract with the Arizona companies taking over most of behavioral health care in New Mexico. The executive cut off Medicaid payments to the New Mexico providers after an audit showed possible fraud – a seemingly responsible act in the interest of New Mexico taxpayers. But the action, based on yet-to-be-proven accusations, may cause substantial harm to the healthcare system and the fragile patients it serves. The rationale for the LFC objection includes the arguments that the department has refused to release the audit details to the Legislature.

In the end, the LFC only has the power to object and, through that objection, alert the public to its concerns. But that is an important power to have. It is in the best interest of the public to have a balance of powers

And it's a power that is in the best interest of the public, irritating or not.

*Representative Luciano "Lucky" Varela
Chairman*

Changes Might Be Needed for Tax Cheaters, GRT

Better enforcement of existing tax law and possible changes to the gross receipts tax are among reforms being discussed by the committee.

The committee during its August meeting will hold separate hearings on gross receipts tax reform and the tax gap – the difference between what is collected and what is owed.

The discussion on gross receipts tax reform is scheduled for 9 a.m. August 22 and will include the impact of taxing online sales and a review of "pyramiding," the extra layers of tax added when each step in the production of a good or service is taxed separately.

The hearing on the tax gap is scheduled for 1 p.m. the same day and will cover Taxation and Revenue Department efforts to close the gap.

Staff analysis of the tax gap notes that an investment in better tax compliance can be an alternative to raising new taxes or cutting services.

A federal study found underreporting of business income by personal income taxpayers makes up about 50 percent of the total tax gap, the hearing brief says.

It says New Mexico efforts to close the gap include comparing federal tax returns with New Mexico records to find

inconsistencies and offering an alternative audit process for nonfilers and under-reporters that allows self-audits but requires ongoing compliance.

About a third of the state general fund revenue comes from gross receipts tax collections but questions have been raised about whether that tax is fair or effective.

Vague language in the 2012 law that attempted to reduce the impact of pyramiding in manufacturing and constructions led to a loss in revenue twice what was expected and indicates more careful language should be used on future efforts to address pyramiding.

In addition to addressing pyramiding, LFC analysts have suggested looking at the tax exemptions for food and medical care. Those exemptions were intended to help low-income New Mexicans, who pay proportionally more of their income on food and health care than others.

However, the gross receipts exemptions for health care are disjointed and confusing, and the poor already receive a tax break on food purchases because federal food stamp purchases are tax exempt. Low income families possibly could benefit more directly from an income tax credit, analysis indicates.

One-third of Traditional Students Unprepared for University of NM

One-third of recent high school graduates entering their freshman year at the University of New Mexico must enroll in a remedial course, a decades-long study shows.

Freshmen who graduated with lower grade point averages and lower college entrance scores were most likely to need the courses and Hispanic, Native American and African-American students were more likely to be unprepared, the study by the UNM Center for Education and Policy Research finds.

The study, shared with the committee during its July meeting, looked at the freshmen entering UNM from 2002-2011 and only included traditional students, those who had graduated from high school or earned a general educational development – GED – certificate the previous spring. Students older or

younger than typical were not included.

Students who take remedial classes are less likely to graduate within six years of enrollment, the study found.

The results for minority students suggests the achievement gap between minority and nonminority students that starts in grade school persists to college.

The study's data on Native American students, who graduate from high school at lower-than-average rates, show 50 percent need remedial courses. The figure for Native Americans who graduate from federal Bureau of Indian Education schools is higher, with nearly seven out of 10 needing remediation.

Students who take courses that provide both college and high school credit and other accelerated classes are more likely to graduate and less likely to need remedial courses, the study finds.

Student Success Programs Start To Pay Off

New Mexico's colleges seem to be focusing on student success programs in their efforts to improve course and degree completion but efforts also include redesigning remedial English and math courses to be more effective, tracking student attendance and test performance closely for intervention when needed, and clarifying academic pathways to keep students on track for a degree.

The LFC held hearings in June and July to hear from administrators of the state's colleges about what steps they are taking to improve student success. The college funding formula has been tweaked over the last two years to reward course and degree completion, rather than enrollment.

Several schools report more students are staying enrolled, with both fall-to-spring and fall-to-fall retention rates improving. Higher retention rates generally lead to a higher number of degrees awarded.

A report by the University of New Mexico for Education and Policy Research, presented during the July committee meeting, recommends universities work more closely with high schools to better prepare students for success in college.

It also recommends additional study of the impact of recent changes in high school graduation requirements and the adoption of the Common Core Standards in the state's high schools.

Student Success Efforts Selected Four-Year Colleges

		University of NM	NM State University	Western NM University	Highlands University
Academic Counseling	Degree/career pathways	✓	✓	✓	✓
	Database-driven student performance alerts	✓	✓	✓	✓
	Improved one-on-one counseling	✓	✓	✓	✓
Student Support	Student learning communities/themed housing	✓	✓	✓	✓
	First-year orientation/service redesign	✓	✓	✓	✓
	Special programs for minority or first-generation students	✓	✓	✓	✓

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Writer, Editor - Helen Gaussoin Staff Editor - Beth Wojahn

Questions, comments: 505-986-4550
www.nmlegis.gov/lfc

Please contact Ms. Sharon Boylan at sharon.boylan@nmlegis.gov if you would prefer to receive this newsletter electronically.

On the Table

DD Funding Will Revert

About \$2.8 million in unspent Developmental Disabilities Support Program from FY13 will revert to the general fund, about the same amount the Legislature added to the program's budget to increase the number of disabled clients receiving services under the "DD waiver."

The waiver program, called that because it provides home-based care not usually allowed by Medicaid, added 339 people to its rolls in FY13 but its waiting list continues to grow and is now at 6,300. The additional \$2.7 million appropriated in FY13 was expected to allow 150 additional clients to enroll. For FY14, the Legislature appropriated an additional \$4.6 million to serve about 230 new clients.

Private Corrections Company Gets Three Years

The Corrections Department used a special provision of the Procurement Code to add three years to its contract with the Corrections Corporation of American for operation of the women's prison. Although the department used the "sole source" exception to the usual competitive contract process, the department said it "realized" other sources are available but extended the existing contract so it had time to issue a request for proposals and evaluate responses.

Drug Overdose Killed Futurity Winner

Preliminary test result for the horse Cartel Quick, who died shortly after winning the All American Futurity in Ruidoso, show the horse died of kidney failure due to an overdose of a "therapeutic" drug. The exact drug has not been determined.

RHCA Plans Changes To Avoid Taxes

The Retiree Health Care Authority has affirmed it will make plan changes every year starting in 2018 to avoid an excise tax that is part of the Affordable Care Act. The act assesses a 40 percent tax on retiree health plans that provide an "excess benefit," defined as the cost of coverage above \$11,850 for an individual or \$30,950 for a family.

Cost of School Liability Claims Drops

The Public School Insurance Authority spent less in FY13 on claims for sexual molestation cases, weather-related damage and bus and vehicle accidents compared with the year before, data shows.

Tribal Library Money Idle

Of the 18 tribal library projects funded in 2010 with \$1 million in general obligation bond proceeds, nine projects totaling about a half million dollars had no expenditures as of the June 2013 quarterly update.

Transitions

The LFC has hired Kelly Klundt as a fiscal analyst. Klundt has a bachelor's degree in English from the University of Arizona and is working on a master's in public administration from the University of New Mexico. She previously worked for the Regulation and Licensing Department as a law clerk.

LFC Committee Services Coordinator Beth Wojahn has resigned to take a job as a senior editor at the Energy, Minerals and Natural Resources Department. Mesalands Community College named Thomas Newsom as its new president.

Newsom comes to New Mexico from the Art Institute of Dallas. Andrew Jacobson, a DFA analyst, has been promoted to deputy secretary.

Legislative Finance Committee
325 Don Gaspar Street Ste101
Santa Fe NM 87501