

**MINUTES**  
**Legislative Education Study Committee**  
**Northern New Mexico College**  
**Española, New Mexico**  
**October 23-25, 2019**

October 23, 2019

The following voting and advisory members were present: Voting: Chair Christine Trujillo, Vice Chair Mimi Stewart, Senators Craig W. Brandt and William P. Soules, and Representatives Alonzo Baldonado, Rebecca Dow, G. Andrés Romero, Sheryl Williams Stapleton, and Linda M. Trujillo; Advisory: Senators Michael Padilla and Shannon D. Pinto, and Representatives Kelly K. Fajardo, Joanne J. Ferrary, Natalie Figueroa, Raymundo Lara, Willie D. Madrid, Tomás E. Salazar, and Elizabeth "Liz" Thomson.

The following voting and advisory members were not present: Voting: Senator Candace Gould; Advisory: Senators Daniel A. Ivey-Soto, Gay G. Kernan, and Linda M. Lopez, and Representatives David M. Gallegos, Joy Garratt, Susan K. Herrera, D. Wonda Johnson, Tim D. Lewis, Gabriel Ramos, Patricia Roybal Caballero, and Debra M. Sariñana.

The following members of the Legislative Health and Human Services Committee were also present: Chair Gerald Ortiz y Pino, Senators Mary Kay Papen, Elizabeth "Liz" Stefanics, and Nancy Rodriguez, and Representatives Phelps Anderson, Gail Armstrong, and Karen Bash.

On a motion by Senator Brandt with a second by Senator Stewart, the committee approved the agenda for the November LESC meeting with no opposition. On a motion by Senator Brandt with a second by Representative Trujillo, the committee approved the September minutes with no opposition.

**Welcoming Remarks and Strategic Initiatives of Northern New Mexico College.** Dr. Richard Bailey Jr., president of Northern New Mexico College (NNMC) highlighted increased enrollment, retention, and graduation rates and low average student debt at NNMC. He described the following three strategic initiatives at NNMC: 1) The Anna Age Eight Institute, a new institute that aims to eliminate childhood trauma; 2) UpStart, a proposed software that will automatically populate applications for other federal benefits when students fill out a Free Application for Federal Student Aid, which Dr. Bailey estimated will connect students with up to \$3,297 in benefits per year; 3) and a new career technical education initiative funded through a new statutorily authorized mill levy that will provide transportation and CTE courses in plumbing and pipefitting and electrical work to students from five local school districts.

Senator Padilla asked about expanding CTE initiatives to other regions and offering a commercial driver's license (CDL) program. Dr. Bailey stated NNMC is exploring partnerships and noted NNMC is working with higher education partners to create a CDL program.

Chair Trujillo inquired about adult education programs at NNMC. Dr. Bailey noted NNMC's adult education and high school equivalency programs are highly ranked by the U.S. Department of Education; participating students pass the HiSET test at a rate of 96 percent, compared with the nationwide rate of 67 percent to 69 percent.

**Anna Age Eight Institute: Prevention and Mitigation of Childhood Trauma.** Dr. Katherine Ortega Courtney and Dominic Cappello, co-directors of Anna Age Eight Institute, began by giving an overview and history of the institute. Dr. Ortega Courtney explained she met Mr. Cappello working on continuous quality improvement at the Children, Youth, and Families Department (CYFD), and both quickly realized the prevention of adverse childhood experiences (ACEs) was

outside the scope of CYFD. A preventable child fatality inspired them to write *Anna, Age Eight: The Data-Driven Prevention of Child Trauma and Maltreatment*, which is a fictionalized account of their experiences that focuses on the use of data to prevent child fatalities and accumulation of ACEs. Dr. Ortega Courtney explained no one has identified a solution to prevent ACEs, despite the scope of the problem. Research shows a lack of resources and poverty and other social adversities have the same impact as ACEs on brain development. The combination of ACEs and social adversity creates student outcomes like are seen in New Mexico. Dr. Ortega Courtney's and Mr. Capello's research led them to determine there are 10 services every family needs: five for survival - food programs, housing programs, behavioral health care, medical and dental care, and transportation; and five to thrive - parent supports, early childhood learning programs, family-centered community schools, youth mentors, and job training and higher education.

Mr. Cappello explained the Anna Age Eight Institute is trying to ensure all families in New Mexico have access to these 10 services. Their approach is data-driven, cross sector, and county focused. They are piloting this approach in Rio Arriba, Doña Ana, and Socorro counties, starting with assessing access to these 10 services. After identifying the gaps, the institute will identify counties that have solved these issues and determine how to replicate the solution. Next, the institute will create partnerships with city and county governments. The final phase is evaluation, so the institute can ensure they are increasing access to these 10 services and improving child outcomes. Mr. Cappello said everything they learned creating the institute is documented in their new book, *100% Community: Ensuring Trauma-Free and Thriving Children, Students and Families*.

Senator Soules asked about the current cost of trauma on New Mexico communities. Dr. Ortega Courtney said the state pays for interventions after trauma has already occurred through CYFD, the juvenile justice system, the correctional system, and impacts to the economy. If the state focused on ensuring all children have a good start and access to resources, costs of intervention later in life would be decreased. Preventing ACEs would also improve student educational outcomes. Senator Soules said he was struck by a presentation on home visiting that focused on waiting lists for children that need services. He said funding for the Anna Age Eight Institute this year was cobbled together out of junior appropriations bills and asked about the institute's need for funding in FY21. Dr. Ortega Courtney said the institute is performing a needs assessment in the three counties and Mr. Cappello said the institute will need additional funding to expand to other counties. The institute is not yet receiving federal funding but is working with the congressional delegation on this issue.

In response to Senator Ortiz y Pino's question about whose responsibility it is to fund the 10 identified services, Dr. Ortega Courtney said they are hoping to pool funding from multiple sources, including federal grants, state funding, and nonprofits, rather than rely on counties to be the sole funders of these programs.

In response to Representative Linda Trujillo, Dr. Ortega Courtney said the institute supports all children having access to community schools; the 10 identified services could be housed in community schools. Mr. Cappello said the institute will be presenting to the Senate on February 1, 2020 to provide an informational overview of the institute and results from the Doña Ana county pilot to all lawmakers.

**Early Childhood Workforce Wage and Career Ladder Funding.** Erica Gallegos, lead organizer at Organizers in the Land of Enchantment, said New Mexico faces a 31 percent turnover rate of early childhood educators, primarily due to low pay, which affects program quality. Ms. Gallegos said higher wages would decrease turnover and increase quality.

Mr. James Povijua, policy director at the Center for Civic Policy, said they are working on a bill that will create a wage supplement pilot program through administered by the new Early Childhood Education and Care Department (ECECD). The bill would appropriate \$19 million to a non-reverting fund so ECECD could award grants to early learning providers to supplement the wages of early childhood educators to ensure they make between \$15 and \$23 per hour. The provider would have flexibility to establish different compensation levels based on experience, education, and responsibility. Mr. Povijua explained the importance of collecting data during from the pilot program to better understand the solution.

Senator Padilla asked for detail about the calculation of the \$19 million appropriation request, noting he believes it would cost between \$27 million and \$45 million to fund increased early childhood educator wages. Mr. Povijua noted the \$19 million would fund a voluntary pilot program that could be evaluated and scaled up to meet the state's needs. Mr. Povijua said the \$19 million requested would reach about 20 percent of the workforce. The appropriation request is not included in ECECD's budget request.

Representative Dow said the early childhood workforce turnover is a result of the rapid expansion of prekindergarten and a lack of postsecondary graduates with expertise in early childhood education. Ms. Gallegos said low wages contribute to the limited early childhood workforce. Representative Dow asked how the presenters came to a \$15 per hour minimum pay rate. Ms. Gallegos said the 2019 version of the bill set the minimum rate at \$13 per hour, but many stakeholders indicated this was too low. Representative Linda Trujillo said the Massachusetts Institute of Technology wage calculator estimates an individual would need \$26 thousand a year, or at least \$15 per hour, to take care of themselves in Santa Fe county. The representative noted she would like the bill to include other employees, such as educational assistants.

In response to Representative Bash, Ms. Gallegos said the federal government recommends no more than 7 percent of a family's income should be spent on childcare, though she noted she was unsure if the federal government based this on gross or net income.

Senator Ortiz y Pino noted the Legislature should focus on increasing the number of graduates with early childhood credentials as a means to eliminating barriers to expanding the workforce.

**Sexual Health Education.** Dr. Elizabeth Dickson, assistant professor of the College of Nursing at the University of New Mexico, presented the findings of her study exploring sexual health education in New Mexico high schools. From 2016 to 2017, Dr. Dickson and her team interviewed 122 sexual health education educators from across the state. Disparities emerged around which topics were being taught. For example, only 46 percent of educators reported teaching abstinence and birth control equally. Local communities were the primary influence of what educators were teaching in the classroom. Educators identified the presence of a school health advisory committee or school-based health center, multilingual materials and presenters, and supportive school district leaders and parents as positive influences on sexual health education. Educators reported a lack of evaluation and feedback for sexual health education.

Dr. Dickson shared recommendations developed from the study's findings, such as recommendations to increase training and professional development for teachers and develop culturally-competent sexual health education materials in multiple languages; to increase community input and involvement, educate community members on the positive impacts of sexual health education, and strengthen community partnerships and school health advisory committees; and to update state-level policies with input from teachers and students, expand funding for school-based health centers and public health offices, and develop a supportive evaluation tool for sexual health educators.

Alexandria Taylor, director of sexual assault services, New Mexico Coalition of Sexual Assault Programs, Inc. (NMCSAP), acknowledged that sexual health education is also sexual violence prevention. Ms. Taylor cited the Youth Risk and Resiliency Survey's finding that almost 10 percent of New Mexico youth have been sexually assaulted in the last year and expressed support for sexual health education programs that teach consent and healthy relationships. Ms. Taylor called for clear, statewide standards and informed the committee that NMCSAP will ask for a \$1.2 million appropriation to fund 13 sexual health service providers across the state.

Representative Anderson inquired about recent national and statewide declines in teenage pregnancy, which Dr. Dickson attributed to increased knowledge and use of contraception.

Senator Ortiz y Pino inquired whether educators were aware of their school board's attitudes toward sexual health education, to which Dr. Dickson responded that participants were aware and sometimes struggled with having support. Senator Ortiz y Pino expressed concern with the combination of vague statewide standards and the apparent lack of sexual health education evaluation.

Senator Stewart emphasized the importance of evidence-based curriculum that covers both abstinence and birth control. She asked Mr. Farmer whether the Department of Health (DOH) will push for improved sexual health education materials and professional development for teachers. Mr. Farmer expressed support but acknowledged the balance of autonomy between local school districts and the Public Education Department.

Representative Thomson expressed concern regarding the "opt-out" policy, which allows parents to remove their child from sexual health education. Dr. Dickson cited research findings that the "opt-out policy" can make parents more comfortable with sexual health education. She noted there are no mandated assessments of sexual health education and that the study did not include participants from tribal or pueblo-operated schools.

In response to a question from Representative Dow, Dr. Dickson clarified that sexually transmitted infection rates in New Mexico are increasing. Additionally, school health advisory committees are required by statute but are not operating in every school district.

**School Discipline and Special Education Students.** Jesse Clifton, Corinne Wolfe Fellow for Transformative Advocacy, Disability Rights New Mexico, said universal no tolerance policies should be eliminated. Currently, there is overutilization of police and school resource officers (SROs) and an underutilization of restorative practices in schools. The federal Family Educational Rights and Privacy Act limits law enforcement from accessing individual education plans (IEPs) unless parents agree in writing. Authority regarding student discipline is being disproportionately delegated to law enforcement. Mr. Clifton noted manifestation determination reviews are not parent-friendly and documentation from parents is often disregarded. Additionally, school administrators who rarely understand a student's IEP make discipline decisions on behalf of the entire manifestation determination review team.

Lila Ramirez, special education principal support at Albuquerque Public Schools (APS) indicated APS will train school staff on social emotional learning using an evidence-based social emotional learning curriculum called AIM – accept identify and move. Roughly half of U.S. school children have experienced at least some form of trauma leading educators to take on the role of counselors to support the emotional healing of their students. Schools must also consider the social emotional needs of educators. APS offers paid professional development and extended contracts to all intensive service teachers and builds capacity for trauma-sensitive classrooms. Clinical social

workers train APS educators to prevent burnout by focusing on self-care, vicarious trauma, and compassion fatigue.

Representative Ruiloba acknowledged APS is making restorative practices a focus for the entire school district. He indicated Steve Gallegos, chief of APS police, is shifting the role of SROs throughout the school district by training them in restorative practices, building relationships, and exploring alternatives to arrest.

Representative Ruiloba said restorative practices do not take the place of suspension and expulsion, which are a part of school discipline that will not be eliminated; however, restorative practices can help drastically reduce the amount of suspensions and expulsions. He also indicated he is working on legislation to limit suspensions for students in kindergarten through third grade.

Nicole Slayton, assistant principal for special education at Valley High School in APS, explained an IEP is a map that lays out the special education instruction, supports, and services special education students need to make progress and succeed in school. After a student has been evaluated, the results of that evaluation allow the parent and the school to create a program of services and supports tailored to meeting that student's needs. Students may be referred to a social emotional support program when the IEP team decides if social emotional learning services are necessary for that child to be academically successful. Valley High School has two clinical social workers who help students with their mental health needs.

John Schoeppner, special master and mental health commissioner at the 2nd Judicial District Court, stated that overwhelmingly, suspended students are often special education students. He indicated it is too easy to get into the juvenile justice system and too difficult to get out. Schools are resistant to implementing restorative practices because they are short-staffed and lack sufficient training. Restorative practices can only be implemented if there is sufficient capacity to correctly implement the interventions.

William Romero, regional administrator of the Children, Youth and Families Department's Northern Region Juvenile Justice Services, stated juvenile probation officers (JPOs) get involved in a delinquent referral made by law enforcement, via warrants, arrests, citations, and incident reports. JPOs also assist in families in need of services referrals to CYFD that are made by school personnel or other service providers. The JPO department is working hard to resolve student issues informally so the court is not involved. The department is also training staff on implementing restorative practices.

Mr. Gallegos stated SROs have been used in the wrong way in the past; the new role should be as mentor and partner to students and parents.

Representative Stapleton asked why APS students are suspended so often if restorative practices are in place. Representative Ruiloba stated suspensions are a systemic practice. He piloted restorative practices at one high school and is using the lessons learned from that pilot to scale up training for the entire school district.

**Educating Incarcerated and Non-Incarcerated Adults.** Dr. Frances Bannowsky, director of adult education, Higher Education Department (HED), provided an overview of New Mexico's adult education system. Dr. Bannowsky noted there are 24 adult education providers in the state that served over 10 thousand students in FY19. Dr. Bannowsky explained adult education programs are based on skills, unlike the credit-based public school model. Forty percent of adult education participants meet HED's target of advancing two grade levels.

Leslie Bradley, deputy superintendent, New Mexico Corrections Department (NMCD), and Nora Nixon, interim director, Central New Mexico Community College School of Adult and General Education (SAGE), discussed the model, outcomes, and funding of adult education programs at NMCD and SAGE. Ms. Bradley said about 80 percent of NMCD adult education students pass the GED test. Ms. Nixon said about 15 percent to 18 percent of CNM adult education students pass the GED or HiSET tests.

Kimberlee Pena-Hanson, executive director, Gordon Bernell Charter School (Gordon Bernell), explained the revised definition of a “school-age person” will cause Gordon Bernell to close without alternate funding. Ms. Pena-Hanson said Gordon Bernell should continue to receive funding because the school offers important services to a niche population and reduces recidivism rates. Robert Baade, director, Robert F. Kennedy Charter School, echoed Ms. Pena-Hanson’s sentiments and said withdrawing funding for adult students undermines vulnerable individuals.

John Sena, director of policy, Public Education Department (PED), provided an overview of the Public Education Department’s student retention initiatives and addressed the external diploma program PED is working to authorize.

In response to Senator Soules, Ms. Pena-Hanson replied that one in eight Gordon Bernell students already possess a high school equivalency credential.

Representative Thompson asked about overcoming employer stigma against formerly-incarcerated individuals. Beth Dorado, academic counselor at Gordon Bernell, said Gordon Bernell is developing programs to connect incarcerated students with employment opportunities.

Senator Padilla asked about the return on investment of educating adults in public schools. Ms. Pena-Hanson stated Gordon Bernell reduces recidivism-related costs. Mr. Baade said the opportunity to obtain an education has a transformative effect on families.

Chair Trujillo, Chair Ortiz y Pino, Senator Padilla, and Representative Anderson expressed their desire to return funding to programs such as Gordon Bernell and Robert F. Kennedy charter schools.

#### October 24, 2019

The following voting and advisory members were present: Voting: Chair Christine Trujillo, Vice Chair Mimi Stewart, Senators Craig W. Brandt and William P. Soules, and Representatives Alonzo Baldonado, Rebecca Dow, G. Andrés Romero, and Linda M. Trujillo; Advisory: Senators Michael Padilla and Shannon D. Pinto, and Representatives Natalie Figueroa, Raymundo Lara, Willie D. Madrid, Gabriel Ramos, Patricia Roybal Caballero, and Tomás E. Salazar.

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**Assessment Taskforce Update.** Dr. Gwen Perea Warniment, deputy secretary for teaching, learning, and assessment at the Public Education Department (PED) began by explaining PED’s vision for an assessment system designed to better support active student learning. The system will be based on four pillars: equity, accessibility, relevance, and rigor. Lynn Vazquez, director of assessment, PED, explained the work of the Student Success Task Force was motivated by the

governor's executive order to immediately transition away from PARCC. PED held 13 statewide engagement meetings and convened the Student Success Task Force to recommend a new assessment system for New Mexico. Ms. Vazquez explained the task force's work was split into two phases. The first phase focused on developing summative assessments for spring 2020. The second long-term plan focused on building state-supported interim and formative supports, providing professional development on assessment literacy, and crafting additional measures of student success, like performance-based assessments.

Justin Trager, director of school networks at Future Focused Education and a member of the Student Success Task Force, said assessments should reflect the skills the state expects students to attain, building a better bridge between education and college and careers. Mr. Trager invited LESC to a conference in Albuquerque in January, which will feature experts on performance-based and competency-based assessment systems.

Gerald Horacek, assistant superintendent, Gallup-McKinley County Schools and a member of the Student Success Task Force, said several of the task force's recommendations are already being implemented. PED announced the state will use the SAT as the statewide assessment for 11<sup>th</sup>-grade math and reading. PED has started the process of choosing an assessment for third grade through eighth grade. Elements of the task force's phase two recommendations are not yet being procured. The task force recommended using a common platform for these summative assessments as well as using interim assessments in kindergarten through 12th grade to track skills growth in real time. The platform should also be able to deliver student, parent, and educator surveys, and include assessment literacy resources for teachers. Dr. Perea Warniment explained the assessment conversations spurred discussions about changes to New Mexico college and career preparation policies, including the need to update the state's graduation requirements to support holistic, multiple measures of success and build the profile of a New Mexico graduate.

Representative Baldonado asked if Dr. Perea Warniment could clarify the new test's relationship with the New Meridian Corporation, the current administrators of PARCC test items. Dr. Perea Warniment stated the new test vendor will need to subcontract with New Meridian to have access to PARCC test items to establish continuity to previous assessments. She added all school districts and charter schools will be using the SAT and the new third grade through eighth grade assessments this year.

Senator Soules thanked PED for working with education practitioners to craft recommendations. He asked if the task force had met resistance from any groups. Dr. Perea Warniment noted some community concerns included providing continuity to previous assessments to ensure the state can measure year-over-year growth. There were also concerns that SAT may not be aligned to the common core state standards. In response to Senator Soules, Dr. Perea Warniment said SAT would be administered during the school day. As a result of using the test as the statewide standards-based assessment for 11<sup>th</sup> grade, more students will take the SAT, which may cause the statewide average score to decline. PED will try to link previous PARCC scores to the SAT to build a measure of continuity. Senator Soules asked if PED will require any statewide tests for ninth or 10<sup>th</sup> grade students. Dr. Perea Warniment noted the SAT is linked to Khan Academy and the PSAT, both of which are opportunities available to students. Representative Linda Trujillo said PED should align PARCC scores with PSAT scores to build continuity and track growth in ninth and 10th grade.

Senator Stewart asked whether the state considered the ACT, which also has science and writing components. Dr. Perea Warniment stated PED considered both the SAT and ACT, but noted the state already has a science assessment aligned to the New Mexico STEM-Ready Science Standards. The SAT scored higher than the ACT in terms of technical merit. Additionally, about

70 percent of students statewide have been taking the PSAT since 2014. In response to Representative Dow asked, Dr. Perea Warniment said she would get the committee the scoring sheets used during the procurement process for SAT and ACT.

Senator Brandt asked PED to make sure SAT scores are used by institutions of higher education for admissions and scholarship decisions. In response to his question about the cost of administering the SAT to all students, Dr. Perea Warniment said the SAT will cost the state \$1.2 million annually and noted the cost is the same as the cost for PARCC. She said additional future costs would result from PED's push to build an assessment literacy development plan.

Senator Stewart supported PED in moving away from end-of-course exams, and asked how they would be transitioned out. Dr. Perea Warniment stated her vision would be to focus on five core competency exams, perhaps performance-based items, aligned to statutory requirements. However, the Legislature may need to amend statutory course requirements, as these limit the capability to conduct high school redesigns, particularly with career technical education (CTE) high schools. Senator Stewart agreed the state needs to build a better pathway for CTE students in high school.

**Teacher Evaluation Taskforce Update.** Dr. Gwen Perea Warniment, deputy secretary for teaching, learning, and assessment at the Public Education Department (PED), indicated a new educator effectiveness system should provide immediate feedback, result in improved outcomes, and lead to other outcomes for educators, including retention. The taskforce comprises five working groups that focus on the teacher observation tool – by embedding culturally sustainable practices and social emotional learning; the professional development plan; educator mentorship and peer assistance and review; educator quality and opportunity to learn surveys, and the evaluation of other educators. Dr. Perea Warniment indicated the Legislature should provide financial support for teacher and school leader mentorship.

Seana Flanagan, director of the Educator Quality Division at PED, stated the impetus for the teacher evaluation taskforce was the governor's January 2019 executive order to transition from the use of PARCC to evaluate teachers and move toward adopting new ratings and assessments to measure educator effectiveness. In January 2020, the group will make recommendations in a finalized teacher evaluation taskforce report.

For the 2019-2020 school year, the evaluation system will only use the following four levels of performance as a response to the feedback from input sessions: not demonstrating, developing, applying, and innovating.

Julie Radoslovich, principal of South Valley Academy, indicated everyone on the taskforce is willing to share their experience, voice, and perspective and engage in an honest dialogue. The focus of the taskforce meetings has been on teacher growth and improving student outcomes.

Jeff Tuttle, Golden Apple Award recipient and Albuquerque Public School teacher, said the educator effectiveness system will not be finalized in January 2020 because development should be an iterative process.

Senator Pinto asked if there will be continuing education requirements. Dr. Perea Warniment stated PED will be examining the licensure system and is considering a more modern credentialing system through microcredentials where teachers will be able to take coursework that stacks onto the teaching license to be certified in a specific topic, such as, social emotional learning and trauma-informed instruction.



**Student Transportation: Funding Formula and Other Issues.** Antonio Ortiz, director of transportation, Public Education Department (PED), gave an overview of the history of student transportation funding in New Mexico. He noted the statutory transportation funding formula was enacted in 1999 and has undergone only minor changes since then. Mr. Ortiz walked the committee through a spreadsheet showing how transportation allocations are calculated, including site characteristics like the number of students transported, the number of school buses operated, and miles traveled, and multipliers for these variables for large school districts and small school districts. Mr. Ortiz also noted the high water mark for transportation funding was in FY09, when the Legislature appropriated \$111 million; in FY20, the Legislature nearly matched this with a \$107 million appropriation. In FY20, the Legislature also fully funded all school district-owned school bus scheduled for replacement, appropriating \$32.9 million for the replacement of more than 300 buses, many of which had been used beyond the 12-year cycle established in law.

Tim Bedeaux, senior fiscal analyst, LESC, presented a staff brief highlighting issues in public school transportation funding. While data is collected for a number of site characteristics for each school district and charter school, not all characteristics are funded in all school districts. For example, large school districts with more than 1,000 students do not receive funding for the number school buses operated, while small school districts and state-chartered charter schools do not receive funding for special education students. State-chartered charter schools receive allocations as if they were a small, rural school district, even though many charter schools are located in urban and suburban areas. Additionally, funding multipliers within the transportation allocation formula undergo significant changes from year to year, resulting in large swings in funding for some school districts and state-chartered charter schools. Inconsistencies within the transportation formula can contribute to an overfunding of state-chartered charter schools proportionately large reversions to the transportation emergency fund, as well as a climate where a number of school districts rely on using operational funds to fully fund their transportation programs. Mr. Bedeaux closed by highlighting that the 2012 LESC subcommittee on student transportation recommended the Legislature assemble a work group to study the transportation funding formula and craft recommendations for a more balanced funding system.

Travis Dempsey, superintendent, Gadsden Independent School District, and president of the New Mexico School Superintendents Association, shared that there are no distinct patterns in funding for school district transportation funding. Mr. Dempsey noted Las Cruces, Los Lunas, and Farmington school districts reported having insufficient allocations to cover their transportation expenses. Gadsden budgeted \$327 thousand in operational funding in FY20 to supplement their transportation allocation, but in previous years, the school district did not need to use their operational funding to supplement transportation funding. He explained how large variance makes it difficult for school districts to budget for transportation expenditures, and can require school districts to use funding intended to support students' academic needs. He supported the recommendation that the committee perform a dedicated study of transportation funding and create a more stable system. He also noted a study could emphasize best practices to improve how public dollars are spent on transportation programs.

Stan Rounds, executive director of the New Mexico Coalition of Educational Leaders, stated 13 of 39 school districts he surveyed noted they would be supplementing their FY20 transportation allocations with operational funding. Mr. Rounds agreed that there are few patterns in the transportation allocation formula, and supported a comprehensive formula study group. Mr. Rounds noted PED is following what the statute requires them to do, so the imbalances may be a product of statutory language. Providing transportation to and from schools is critical to the missions of school districts, and the inability to do so impacts school districts' ability to educate students. He noted this becomes more critical as the state begins to emphasize extended learning

time programs and the K-5 Plus program, which require additional transportation to effectively implement. This is exacerbated by school districts' difficulties finding school bus drivers, which Mr. Rounds stated may be due to inadequate wages. He suggested that while the state performs its formula study, the Legislature should provide additional funds to make whole the school districts that are spending operational funds on transportation, which he estimated would cost \$6 million to \$8 million.

Senator Stewart noted she was part of the transportation subcommittee which recommended a formula study, but PED's response was that too little was known about the actual use of school buses. PED recommended the state install GPS units on school buses to better track mileage, but none of the bills introduced during legislative session to do this were enacted, likely due to inadequate revenue at the time. Senator Stewart supported the study, and noted the Legislature should be cautious of significantly increasing transportation funding until the formula is fixed.

Senator Soules asked why transportation funding was not predictable for school districts each year. Mr. Ortiz said mileage and student ridership change each year, which may contribute to inconsistencies in funding. He also noted that low expenditures in a given year would contribute to the regression analysis performed on prior year expenditures. Senator Soules stated that would not explain why multipliers within the formula fluctuate significantly year over year. Mr. Rounds suggested that basing funding on 80th and 120th day ridership counts can make the numbers vulnerable to abnormally high or low numbers on those particular days. Senator Soules thinks while that may be the case in a few school districts, it should not lead to the systemic problems noted by the presenters, and there may be a variable that the formula does not account for.

Representative Baldonado asked if there is an association of school transportation directors and school bus contractors that meets annually. Mr. Ortiz stated there used to be an association but it has since disbanded; Mr. Ortiz supported reconvening such a stakeholder group.

Senator Brandt supported the notion of finding a legislative solution for the transportation allocation formula. He would like to work with Mr. Rounds and LESC staff to create a bill that includes stop-gap funding for school districts that spending operational funds on transportation, with PED deciding which school district to make award to. He believes the formula should be understandable, and should provide adequate funds to pay school bus drivers competitive wages. Mr. Ortiz noted there is also a shortage of school bus mechanics and suggested career and technical education programs could help train in-house school bus mechanics.

**Education Retirement Board FY21 Priorities.** Jan Goodwin, director of the Education Retirement Board, (ERB) presented the rationale behind ERB's 2020 legislative proposal. Ms. Goodwin noted differences between Public Employees Retirement Association (PERA) and ERB retirement plans over time. Prior to recent statutory changes, the multiplier for the PERA plan was 3 percent with a 3 percent cost of living adjustment (COLA), while the multiplier for the ERB plan was 2.35 percent with a 2 percent COLA. Ms. Goodwin explained that even though it does not seem like a big difference, the PERA plan has the opportunity to double because of the compounding effect. In contrast, the ERB plan results in a lower COLA compounding over fewer years.

In 2013, both retirement plans underwent significant changes. PERA's multiplier decreased from 3 percent to 2.5 percent and the COLA decreased from 3 percent to 2 percent. ERB's multiplier remained at 2.35 percent, but the COLA was reduced from 2 percent to 1.6 percent. Over time, changes to the systems have resulted in ERB members paying more into the system, but having a lower benefit than PERA members. Ms. Goodwin said the 2020 legislative proposal was created by stakeholders, who considered changes to the systems over time. ERB's actuaries estimate the

plan will be 100 percent funded in 46 years. Before the 2019 statutory changes, actuaries estimated it would take 70 years to pay down the unfunded liability.

Ms. Goodwin said the stakeholder group – consisting of unions, schools, and retirees among others – looked at who historically has contributed to the ERB pension plan when they crafted their legislative proposal. ERB's goal is to have a 3 percent employer contribution increase, which was the original goal of ERB's 2019 legislative proposal. ERB is proposing a \$50 million appropriation in FY21 plus an additional appropriation that is equivalent to a 1 percent increase in employer contributions paid directly to the ERB fund.

Ms. Goodwin explained during the 2019 legislative session, with the approved 0.25 percent employer contribution increase, the public education system was fully funded to cover the increase while institutions of higher education was only funded to cover 52 percent of the increase. To make up for this funding gap, ERB is requesting a \$50 million payment to be made directly to the ERB fund in FY21, FY22 and FY23 to cover the equivalent of a 1 percent increase each year, or the equivalent of 3 percent in FY23. In FY24, ERB is recommending institutions of higher education work with the executive and Legislature to ensure future increases in employer contributions are fully funded.

Ms. Goodwin also noted prior to the 2019 legislative session, ERB retirees had two different ways they could return to work. If they sat out for a year, they could come back to work with nonrefundable contributions. Under the previous board's rule exception, a retiree would not have to pay contributions or terminate employment for a lay-out period if the retiree returned to work for less than a 0.25 FTE or if they earned \$15 thousand or less. Individuals who are working in this category will start paying nonrefundable contributions in July 2020. ERB eliminated the \$15 thousand exception because many individuals did not have a bona fide termination. The Internal Revenue Service (IRS) requires a bona fide termination before they receive their pension. Ms. Goodwin noted ERB was concerned that they could lose qualified status for the 401A plan, which allows members to make contributions pre-tax in addition to not being taxed on the investment income their benefit earns, if ERB was audited by IRS.

Senator Stewart asked about the purpose of the two one-time transfers included in the proposal if the board is also asking for a permanent 3 percent employer contribution increase at the end of three years. Ms. Goodwin explained ERB's actuaries advise that these transfers would help get the fund to 100 percent funded in 30 years. Senator Stewart highlighted the legislative changes that were made last year made a lot of people upset, including taking nonrefundable contributions from poorly paid substitutes. Ms. Goodwin said non-ERB retirees could refund their contributions. Ms. Goodwin also shared that she believes if salaries were higher there would not be the same problem because people would not have to work as long.

Ms. Goodwin said the recent legislative changes, which considered all possible contributions, were made to get the fund to 100 percent funding as soon as possible. Once funded, individuals will no longer see their COLA reduced and the state's bond rating would increase. Representative Salazar, who is the chair of the Investments and Pensions Oversight Committee, added Legislative Finance Committee leadership said the unfunded liability of both pension plans negatively impacted the bond ratings for the state. Senator Stewart asked Ms. Goodwin to give more information to the committee including how many substitutes are working under 0.25 FTE, how many are retirees that get a retirement from the system, how many of them fall in both categories, and how much their contributions will contribute to the fund.

Representative Trujillo added that language needs to be added to statute to address the use of third party contractors to avoid ERB's return-to-work provisions.

Senator Soules stated the recent ERB changes have created an education crisis. Students are being left with no substitutes because the 0.25 FTE rule is limiting the workforce. Senator Soules suggested the Legislature fund the difference in contributions that created this problem.

Chair Trujillo thanked Ms. Goodwin for her work and acknowledged the job of the Legislature is to fix policies if members do not agree with their impact. Ms. Goodwin said she hopes the Legislature would make an appropriation to the fund if it decides to undo the substitute policy.

#### October 25, 2019

The following voting and advisory members were present: Voting: Chair Christine Trujillo, Vice Chair Mimi Stewart, Senators Craig W. Brandt and William P. Soules, and Representatives Sheryl Williams Stapleton and Linda M. Trujillo; Advisory: Senator Shannon D. Pinto and Representatives Kelly K. Fajardo, Raymundo Lara, Willie D. Madrid, Gabriel Ramos, and Tomás E. Salazar.

The following voting and advisory members were not present: Voting: Senator Candace Gould, and Representatives Alonzo Baldonado, Rebecca Dow, and G. Andrés Romero; Advisory: Senators Daniel A. Ivey-Soto, Gay G. Kernan, Linda M. Lopez, and Michael Padilla, and Representatives Joanne J. Ferrary, Natalie Figueroa, David M. Gallegos, Joy Garratt, Susan K. Herrera, D. Wonda Johnson, Tim D. Lewis, Patricia Roybal Caballero, Debra M. Sariñana, and Elizabeth "Liz" Thomson.

*Martinez and Yazzie Consolidated Lawsuit Litigant School Districts' FY21 Priorities.* Kristy Janda Wagner, deputy superintendent for operations and school support at Santa Fe Public Schools (SFPS), read a statement on behalf of Dr. Veronica Garcia, superintendent of SFPS. Although FY20 funding amounted to an increase of \$7.1 million, or 7 percent over the prior year, not including K-5 Plus and extended learning time program (ELTP) funds, mandated salary increases cost about \$6.7 million. Dr. Garcia's statement noted SFPS needs counselors with specialized training and social workers to address students' social and emotional issues. Last year, SFPS budgeted 48 percent of its at-risk funding on social workers, school nurses, and services for community schools. This was far in excess of the \$4.7 million generated for at-risk students because most of their new revenue went to mandated raises. SFPS was awarded community school grants, but there is a growing need for funds for community school coordinators and wraparound services. If the funding were higher and the salaries fully funded, SFPS would hire 23 nurses, 25 social workers, 30 specially trained counselors, and 25 community school coordinators. Dr. Garcia's statement noted the requirements for K-5 Plus and ELTPs were difficult to implement, and flexibility would help. This year, SFPS spent \$165 thousand out of its operational budget for K-5 Plus because it could not secure a teacher for each grade level in every school. SFPS projected 2,368 students would enroll in K-5 Plus, though actual enrollment was only 1,168 students. As a result, SFPS will not receive \$1.4 million of the projected \$3.2 million in funding. Teacher professional development is also necessary, but difficult to do with a shortage of substitute teachers. There are also shortages of special education, bilingual, and other teachers and ancillary and related services staff.

Dr. Sue Cleveland, superintendent of Rio Rancho Public Schools (RRPS), discussed teacher shortages in RRPS and noted student outcomes will not improve without high-quality certified educators. RRPS follows teachers that leave the school district and has found many teachers are leaving to Texas, Nevada, and Colorado, because of higher salaries. Many of the teachers who leave say they would return if salaries were competitive. RRPS has over 17 thousand students but has only one prekindergarten program that has a large waiting list of students. RRPS was not able to participate in K-5 Plus for several reasons, including insufficient time to get buy-in from staff and families. Although RRPS was able to participate in ELTPs, RRPS had to subsidize the program with other funding. Implementation for ELTPs was possible because the Public Education Department allowed ELTPs to be spread throughout the school year. Dr. Cleveland said counselors

are not available to every student in every school to help address students' social and emotional needs. Further, per state regulation, school counselors are prohibited from doing long-term counseling. RRPS has counselor specialized in addressing substance abuse who are successfully addressing students who have substance abuse issues. A shortage of bus drivers results in some students arriving at school late because some busses have to make multiple trips on a single route each morning to pick up all students.

Representative Linda Trujillo asked how the Legislature can help address substance abuse in schools and asked about the catastrophic fund that was mentioned. Dr. Cleveland said having counselors trained in addiction is helping. The catastrophic fund is meant to help cover certain special education students' costs, but there is generally not enough money in the fund to provide each school district with the amount of funding they actually need to defray high-cost special education students. Representative Linda Trujillo said the state should make it a priority in the upcoming legislative session to have a strategy for addressing special education.

Senator Soules asked where the state can find counselors and social workers to address the needs of students in schools without leaving shortages in other agencies. Dr. Cleveland said competitive salaries would help bring counselors and social workers from other states. The state should also develop a grow-your-own program for these professions and strengthen the pipeline between college graduates and job opportunities.

Senator Brandt asked Dr. Cleveland about the availability of nurses in schools. Dr. Cleveland said, generally, nurses who choose to work in schools are seeking regular work hours, particularly if they have their own children, but they often take a significant pay cut to work in the schools. Nurses who cannot afford such a cut typically do not apply to work in schools. Senator Brandt said school districts should have more flexibility in their spending to address the particular needs of their communities. Schools should not be responsible for addressing all of the issues that impact students, but rather coordinators should be used to help connect students to community services.

Senator Stewart noted Dr. Cleveland said the work done on instructional materials during the 2019 legislative session was a good first step and asked Dr. Cleveland if the new mechanism for instructional materials worked. Dr. Cleveland noted that while RRPS assigned funds for instructional materials early on, some school districts were unaware funds were appropriated to the state equalization guarantee distribution; these districts budgeted instructional materials funding on salaries and other fixed costs. She said she prefers instructional materials funding to be appropriated to the instructional materials fund. Senator Stewart asked if RRPS has tried to expand its prekindergarten program, considering there is a waiting list and the state has dedicated funding for prekindergarten buildings over the next five years. Dr. Cleveland said RRPS has tried, but there are not enough resources. RRPS is rebuilding the existing facility with local property tax money.

**Role of School-Based Health Centers in Addressing Student Needs.** Nancy Rodriguez, executive director of the New Mexico Alliance for School-Based Health Care (NMASBHC), presented an overview of school-based health initiatives in New Mexico and categorized school-based health clinics (SBHCs) as a partial answer to the challenges presented in the *Martinez* and *Yazzie* consolidated lawsuit. Ms. Rodriguez defined New Mexico's 82 SBHCs as clinics on or near school campuses that provide primary care, behavioral health, and referral services in a supplementary partnership to school health teams. Due to a Department of Health (DOH) legal decision regarding privacy, SBHCs are not operated by the schools. Districts typically benefit from close partnerships with SBHCs, particularly in resource-poor areas where schools may not have a nurse on staff. Ms. Rodriguez stated the NMASBHC supports the Legislature mandating some level of school nursing in New Mexico.

Ms. Rodriguez summarized the funding structure of SBHCs, explaining that schools and SBHCs typically sign legal agreements outlining rent, utilities, and other facility agreements. One third to one half of SBHC operating costs are funded by billing insurance for medical services rendered; all SBHCs bill Medicaid and 90 percent to 95 percent bill private insurance. Federal grants provide some funding for capital costs. Ms. Rodriguez said the Legislature increased funding for SBHCs for the first time in 10 years.

Ms. Rodriguez outlined the financial challenges faced by SBHCs, which are largely related to unbillable services. For example, SBHCs must absorb the costs of treating uninsured students and students who seek confidential services, along with the cost of time spent collaborating with school nurses and school district staff. Ms. Rodriguez concluded that an appropriation from the general fund could help offset these costs. She also informed the committee that NMA SBHC will be introducing a bill that requests a \$2 million appropriation to the Health and Human Services Department for SBHCs. Ms. Rodriguez said SBHCs bring advantages to schools and communities, including reducing the high adolescent suicide rate, increasing health care access, meeting basic student needs, and ensuring that young people receive regular child wellness exams (CWEs).

Sondra Adams, acting superintendent of Pojoaque Valley School District, described the positive impact of Pojoaque's SBHCs, citing immunizations, behavioral health support, early intervention services for Head Start participants, and care for family members. Ms. Adams said the number of patient visits to Pojoaque's SBHCs for primary care, behavioral health, and dental care have increased significantly in the last several years.

Greg Frostad, deputy director of the Safe and Healthy Schools Bureau at PED, and Ashley Garcia, Medicaid/health services coordinator with the Safe and Healthy Schools Bureau at PED, provided an overview of how PED is supporting student health through a range of initiatives, including collaboration with SBHCs, support of the Medicaid school-based services program, and implementation of community schools. Ms. Garcia summarized the data collection tools used by PED, including the Youth Risk and Resiliency Survey and the Annual School Health Services Report. Ms. Garcia emphasized the effective referral pipeline between schools and SBHCs, noting that in the 2018-2019 school year, 4,000 students across the state received referrals to a SBHC. The Medicaid school-based services program provides participating school districts with the opportunity to seek reimbursement for services they provide to students with individualized education plans (IEPs). Direct services to students and administrative efforts such as outreach, Medicaid enrollments, and staff trainings can all be billed to Medicaid. In FY18, New Mexico schools were reimbursed \$44 million through the Medicaid school-based services program.

Mr. Frostad described the grants managed by PED to support health in the schools, including a Centers for Disease Control and Prevention (CDC) grant for the New Mexico healthy schools project, the pregnancy assistance fund, community school grants, community school grants, and awards of federal funds pursuant to Titles I and IV of the Elementary and Secondary Education Act.

Representative Salazar emphasized the importance of collaboration between school districts, SBHCs, community partners, and government departments. Ms. Rodriguez highlighted the innovation of many partner agencies in school-based health.

Senator Pinto and Chair Trujillo asked the presenters for concrete data so the committee can budget appropriately to meet the needs of school-based health providers across the state.