

Legislative Finance Committee
Meeting Minutes
Room 322 - State Capitol - Santa Fe, New Mexico
January 17, 2011

Monday, January 17

The following members were present on Monday, January 11: Chairman Luciano “Lucky” Varela, Vice Chairman John Arthur Smith, Representatives Donald E. Bratton, Rhonda S. King, Don Tripp, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Sue Wilson Beffort, Carroll Leavell, John M. Sapien, Mary Kay Papen, Pete Campos, Carlos Cisneros, and Steven Neville (for Stuart Ingle). Senator Timothy Jennings attended as a guest.

Southern School Districts Evaluation. Michael Weinberg, program evaluator, LFC, presented the southern school district evaluation for Deming, Gadsden, and Hatch public schools and noted the three districts serve some of the poorest students in New Mexico; however, they generate some of the lowest per student funding levels through the state’s formula.

Public education is a core state responsibility, totaling \$2.3 billion and accounting for 45 percent of all state spending. Despite revenue shortfalls, the Legislature minimized funding reductions to the state equalization guarantee (SEG) in FY 11, and with the addition of federal stimulus dollars, most districts’ overall funding remained level.

Deming, Gadsden, and Hatch provide varied examples of success in their operations, finances, and student performance. Most students in these districts start school below grade level and do not catch up; well over half are not proficient in either reading or math. Deming, a model of stable leadership and fiscal restraint, has seen little change in student achievement. Gadsden has managed to improve student performance amidst financial distress and leadership change. Hatch has struggled with high-level turnover and decreasing resources, and, as a result, student achievement has suffered significant setbacks.

These three districts serve high concentrations of students in poverty, who are highly mobile, and who are English language learners. Funding formulas reflect public policy goals and establish incentive structures to meet them. New Mexico’s school funding formula has been amended over 80 times in the past 30 years; however, the formula does not efficiently steer resources to the incremental costs needed to serve at-risk students. It also contains adjustments subject to local decision-making or gaming that result in fewer resources for everyone else and inefficient district operations. A focused effort is needed to update the formula, including studying the possibility of implementing the new formula recommended in 2008 with existing resources.

Effective use of resources, coupled with a culture of high expectations for students and data-driven leadership are critical to improved performance. Growth in scaled scores over time on New Mexico’s standards-based assessment (SBA) is a reliable and valid indicator of student performance. While districts do not currently receive this information in an easy-to-use format along with short-cycle assessments, this information could be used to determine the impact of programs, schools, and teachers over time. Current fiscal challenges present a similar opportunity for districts to use this performance data to strategically align budgeting decisions to outcomes. Revising the existing formula could more effectively distribute resources to students with the greatest academic needs.

Currently, the at-risk index does not fully cover the additional costs of educating these students. Of the 89 school districts, Hatch's at-risk index ranked fourth highest in the state, Gadsden's ranked fifth, and Deming's ranked 21st. Hatch's per student funding ranked 72nd, Gadsden's ranked 79th, and Deming's ranked 85th.

Studies recognizing the additional costs necessary to serve at-risk students vary in the amount of those estimates. A 2006 Kansas cost study found at-risk students require 48 percent more funding per student than non-at-risk students, while a New Mexico study found incremental costs ranged from 9 percent to 27 percent. Even with federal Title I funds generated through the state's at-risk index, Deming, Gadsden, and Hatch fall short of these ranges when compared with peer districts.

The formula overfunds districts with a high teacher training and experience (T&E) index, resulting in millions of discretionary resources for districts with fewer at-risk students. The T&E index is intended to cover the higher costs associated with more experienced teachers. Districts with a higher T&E have higher average teacher salaries, but additional T&E funds exceed those costs and pay for a larger share of district instructional salaries. Deming's FY10 T&E score of 1.082 generated \$2.6 million in T&E revenue, accounting for 17 percent of its instructional salaries. Carlsbad had a T&E index of 1.274, receiving \$9.8 million in T&E revenue, covering 44 percent of its budgeted instructional salary costs and allowing more formula funding to be allocated to other expenditures.

Funding for special education ancillary staff could be adjusted to redistribute money. Special education enrollment for related services staff has declined statewide from 36 in FY06 to 33 in FY11. Aligning caseloads to existing Public Education Department (PED) guidelines could allow this money to be reallocated. Additionally, the current formula multiplies units generated for related services FTE (non-teachers) by the T&E index, diluting the unit value by \$17 million.

The funding adjustments for small schools and districts create inefficiencies. Some districts generate up to 44 percent of their units through size adjustments. The state spends more money to subsidize inefficiently sized districts and charter schools (\$95 million) than on at-risk students (\$78 million). Revisiting the purpose and classification of small school and district size adjustments could result in a redistribution of funds across New Mexico school districts.

Student performance data could be better used to make instructional and financial decisions. Research-based leadership strategies, such as setting high expectations, using data to inform instructional decisions, and efficiently allocating resources, should be clearly articulated and supported at all levels. The state could improve its technical assistance by improving the data it provides to districts.

The state has vast amounts of multi-year student performance data, but in its current form, it is not easily accessible to districts. The New Mexico SBA scaled scores are a valid and reliable indicator of student progress that districts could use to measure the effectiveness of programs, teachers, and schools. Of the approximately 1,500 students that began school in these three districts as third graders in 2005, only 550 remained in those districts until the eighth grade, demonstrating the challenge mobility rates present. For those students in the cohort present for six years, each district's third graders' average scores start lower than the state's minimum proficiency score and struggle to close the gap by the eighth grade. Only students in Gadsden made enough catch-up growth. Overall, based on their percentage of economically disadvantaged students, Gadsden is outperforming its peers while Hatch and Deming are underperforming theirs. Good leaders use this type of information to make instructional decisions such as to what programs and teachers are making the most difference in students' academic performance. While the proficiency rates of students within individual classrooms vary, schools' overall performance is not directly related to teacher licensure

level. LFC has noted this same trend statewide in previous evaluations.

Given limited revenues, districts and the state need improved budgetary oversight and controls. Despite declines in the SEG and other state and local funding sources, overall school funding increased for FY10 because of nonrecurring stimulus fund revenue. Significant increases in federal funding spurred an overall revenue increase in Gadsden and amplified already increasing revenue for Deming. In Hatch, the increase in federal funding mitigated decreases in its other general funds, resulting in a net decline of three percent overall.

LFC staff recommends PED hold districts accountable for ensuring the maximum percentage of funds to be directed to classrooms. In FY10, Deming outspent its peers on its central office while also outspending its peers on instruction. Gadsden, on the other hand, trimmed its administrative expenses but also reduced its instructional spending. From FY09 to FY11, Gadsden decreased its operational spending on instruction by 5 percent, or \$3.6 million, accounting for 46 percent of the state's instructional spending reduction of \$7.9 million. Some of these reductions may have been necessary due to the financial mismanagement that resulted in the need to repay an internal transfer of \$3.9 million. Situations such as these support the conclusion that the quality of a local board directly impacts its ability to strategically align fiscal and human resources. For these districts, boards that regularly participate in training and professional development are generally more effective at maintaining their governance responsibilities. Deming's and Gadsden's boards have regularly exceeded the state's training requirements, while Hatch's has fallen short.

Executive turnover, particularly for small- to medium-sized districts, impacts financial stability and the sustainability of improvement initiatives. Standardizing the superintendent evaluation process and consolidating business functions across small- to medium-sized districts could result in cost savings, reduce transition challenges, and address concerns with statewide capacity.

LFC staff recommends amending the Public School Code and the General Appropriations Act to require all public school districts and charter schools to purchase card programs to conform to rules issued by PED and the program authorized by the Department of Finance and Administration (DFA). In addition, LFC staff recommends that PED issue rules establishing minimum financial information superintendents regularly provide boards.

LFC staff also recommends amending the funding formula to include the following:

- Adjusting the at-risk factor to reallocate funds to districts with greater student needs,
- Recalibrating the T&E index formula to more accurately compensate districts' incremental instructional costs,
- Capping the number of ancillary service providers multiplied by the cost differential in the funding formula in accordance with PED caseload maximum guidelines,
- No longer multiplying ancillary service units by the T&E index, and
- Revising the purpose and classification of adjustments for small schools and districts and under what circumstances the additional units are warranted

The Public Education Department should

- Make longitudinal SBA data available to districts through STARS report templates,
- Require districts to compare past year expenditures with peer districts to identify anomalies

in their expenditures and inform budget decisions,

- Develop administrative rules to standardize requirements for district purchase cards and the minimum financial information superintendents should regularly provide boards, and
- Develop a research-based standardized superintendent evaluation process similar to that currently in place for school principals

Districts should

- Ensure that boards regularly review comprehensive financial information, including benchmarking themselves against peer spending trends to develop budgets,
- Make use of a variety of student performance data to assess the effectiveness of programs, schools, and teachers,
- Adopt purchase card policies and procedures aligned with state rules, and
- Board members should comply with minimum training requirements

Mr. Weinberg noted that some of the recommendations and more specific proposals have been reviewed during the 2010 interim among various study groups and committees. However, a focused effort on this topic, including the executive, during the 2011 interim might build broader consensus on updating the distributional formula to ensure resources are more efficiently allocated to need.

Hanna Skandera, secretary designee, Public Education Department (PED), noted that PED aims to strengthen oversight of schools that are not succeeding, while allowing successful schools more freedom. She would like to create improvements in efficiency and effectiveness at PED and the district level, creating a higher standard for all New Mexico schools – including charter schools. Finally, the secretary designee indicated her desire to make schools more accountable. Ms. Skandera closed by saying the bottom line is improvement in student achievement and the overall quality of the New Mexico education system.

Cynthia Nava, superintendent, Gadsden Independent School District, explained that 93 percent of district's students live in poverty and 47 percent are English language learners. Under the previous administration audits were not completed and the district had a \$3.9 million shortfall in FY07-FY08. The district recently completed all of its 2006-2010 financial audits. In addition, they completed a solvency plan that included capital improvement funds and the district repaid a temporary transfer in full; the FY10 operation budget reflected reduction. Based on student enrollment, the district opened a new elementary school. The FY11 budget includes costs for the new school. The district shut down two sections of its administrative complex and rented out space. The district invested highly in data to ensure higher accountability. The district has decreased spending recently, and plans on having 176 fewer positions in FY11. The school has improved its math scores and has a blue ribbon school. That school, Santa Teresa Elementary, has a 70 percent poverty rate. In an external evaluation for English language learners, it was found that Gadsden's ELL student's academic gains were greater than non-ELL students. Gadsden's graduation rate rose 23 percent.

Harvielee Moore, superintendent, Deming, noted the district has lowered dropout rate and increased its test scores. The district has also built five new schools, renovated one, and changed the culture of their community in the process. The dual credit program has provided students a great opportunity, and literacy rates have increased in the district. Forty percent of total Deming graduates are at New Mexico State University. The area has the highest unemployment rate in the state at 19 percent, yet

Deming is recognized as a stable district. The district has raised the number of high school credits and implemented more advanced placement and honor courses. The reason why administrative costs look so high in the districts is because the chart of accounts is not used in a consistent way for all districts. The district has a high mobility rate. Finally, the district raised special education subgroup 28 percent on standards-based testing scores.

Anna Lisa Banegas-Pena, superintendent, Hatch Valley School District, recommended the districts provide guidance and consistent information to school boards. Hatch's financial information was not submitted on time to PED; the district is still reconciling its statements. The district has already acted on a recommendation of the report and is posting the board's minutes online and is placing more restraints on purchase cards and evaluating student performance. The superintendent recommended that funding formulas be reevaluated every three years. She noted that 99 percent of the students at the district are low-income students. The superintendent explained that New Mexico does not provide the structure for learning in the classroom. The state could get better by providing more timely and relevant data to increase rigor and give schools the resources to segregate data. The state should look at common course standards and curriculum for teachers on standards, then give teachers training on best practices. This will accelerate the learning of students.

Chairman Varela suggested that districts provide timely information on finances and complete and submit timely audits and follow the law. He suggested the state hold back allotments for districts that do not comply with the law. The chairman explained that district's nonreconciliation of finances is a major concern.

Vice Chairman Smith explained that some districts are "gaming" the funding formula, which creates a situation in which districts are punished for being honest. The Committee has the opportunity to mitigate this situation and faces some difficult decisions to make the funding system more efficient and fair, which will create winners and losers. He recognized that Hatch never got the student numbers back after the flood. He noted this report was completely different from last year's and included an encouraging, statewide perspective

Representative Saavedra recommends additional classes for English language learners to obtain English proficiency in prekindergarten. He also recalled a program called Even Start, which was successful, but there is not enough money to continue this program under the current formula.

Senator Beffort noted she appreciates what the charter schools are doing in the state. She said leadership starts with good principals. The senator noted that there should be better connection with K-12 and higher education. She added that additional scrutiny of licensure levels and an attempt for more accountability for teacher compensation is necessary. Senator Beffort noted that the A-B-C grading system is prohibited in grades K-4 and replaced by broad scoring measures. She thinks that we should bring back an A-B-C system because it would be advantageous for parents with limited English proficiency.

Secretary-Designate Skandera said that schools should measure progress and PED should acknowledge and reward their success. PED wants to provide better data and emphasize reading and literacy as well as a return on investment from school budgets

Representative Salazar noted that parental involvement and parent outreach ambassadors in districts are needed. More importantly, schools need to use technology to connect with today's students.

Representative King said that the school district audits have had two common themes: 1) Our schools need high standards and expectations and 2) Data-driven results are the rule, not the exception. There is no silver bullet for education. She said the question we need to answer is: How do we develop a model – such as the building bridges model – to collectively start from? And how do we institute these best practices in other districts?

Senator Tripp was concerned about the inability to use STARS data and believes that PED and districts should be having a conversation about how to make the data more usable for teachers. Mr. Weinberg responded that New Mexico schools were data-rich but information-poor.

Senator Sapien was concerned the state was spending funds on the STARS data system, while districts are spending additional funds on extra data management systems. This, he said, is creating inequity between districts with the resources to really use data-driven discussion.

Chairman Varela explained that PED and information technology should collaborate to aggregate the data that we do have to make it useful.

Legislative Subcommittee Report and Proposed 2011 Legislation. Brett Woods, principal analyst, LFC, reported the legislative subcommittee reviewed LFC staff proposed legislation for the 2011 session including summaries of policy and technical issues and financial impact projections.

The subcommittee recommended extending the Public Accountancy Board, Athletic Commission, Board of Interior Design, Real Estate Appraisers, Real Estate Commission, Board of Examiners for Architects, Board of Licensure for Engineers and Land Surveyors, and Board of Veterinary Medicine until July 1, 2018. The subcommittee also recommended consolidating the Animal Sheltering Board under the Board of Veterinary Medicine and the Naprapathic Medicine Board under the Medical Board. Representative Wallace will sponsor legislation.

LFC staff recommended proposed legislation to the employer and employee pension contributions for Educational Retirement Board (ERB) and Public Employees Retirement Association (PERA) to bring statute into alignment with committee FY12 budget recommendations. Senator Ingle will sponsor legislation.

LFC staff recommended proposed legislation requiring return-to-work employees to pick up the employee contribution resulting in a \$5 million general fund savings. Chairman Varela will sponsor legislation.

LFC staff recommended continuing the full distribution of tobacco settlement funds to state health and education programs. Representative Tripp will sponsor legislation.

LFC staff recommended creating an Office of Government Accountability (OGA) by transferring existing offices of inspectors general, internal audit, and other executive accountability functions. The OGA would be required to coordinate accountability work with LFC and the fraud unit at the Office of the Attorney General (OAG) and to submit reports to LFC and the governor. Senator Sapien will sponsor legislation.

LFC staff recommended fund transfers in the amount of \$30.3 million of cash balances from various state funds to the general fund. Legislation would include emergency language. Chairman Varela will sponsor legislation.

LFC staff recommended amending unemployment compensation laws to eliminate or reduce the base period for employees who voluntarily separate or retire from state government. Senator Beffort will sponsor legislation.

LFC staff recommended limiting the powers and providing oversight over the State Transportation Commission. Chairman Varela will sponsor legislation.

The subcommittee tabled staff's recommendation to postpone the fire protection fund distribution pending additional staff analysis of history of fund distributions to local entities.

Review of Earmarked Tax Revenue. Julie Anna Golebiewski, economist, LFC, summarized the findings with respect to earmarked tax revenue: \$4 billion in earmarked revenues in FY10, over \$2.5 billion of which went to local governments. The examined earmarks were sourced to revenues collected by the Taxation and Revenue Department (TRD), Motor Vehicle Division (MVD), the Public Regulation Commission (PRC), the Regulation and Licensing Department (RLD), and the Property Tax Division.

Ms. Golebiewski noted advantages to earmarking, including the assurance of minimum levels of funding, greater stability and continuity of funding, and the better linking of taxpayers and beneficiaries of earmarks. She also listed disadvantages, which included the lack of scrutiny over the programs that benefitted from earmarks, the lack of flexibility in deciding budgets and the misallocation of resources.

Local governments are the recipients of the majority of the earmarked revenues because included in this definition are the local option gross receipts and property taxes. Local option GRT amounted to \$803 million in FY10, the municipal and county share of state GRT was \$287 million, the food and medical hold-harmless amounted to \$125 million, and residential and nonresidential property taxes were \$1.1 billion. Ms. Golebiewski mentioned that local governments have experienced a smaller revenue decline than the general fund because of the relatively stable property tax base. In response to Chairman Varela's question about property taxes, she explained that in response to a decrease in property tax base, Department of Finance and Administration (DFA) increases the property tax rate to effectively hold local governments harmless. Additionally, the 3 percent annual limit on the increase in property value has made any decrease in property tax value in the current period have less effect on property tax because assessed values are currently below true property values.

Leila Burrows, economist, LFC, reported in FY10, approximately \$538 million was earmarked for capital projects from the severance tax bonding fund; \$328 million of which went to senior severance bonds, and \$209 million went to supplemental severance bonds, used for public school capital outlay. Ms. Burrows noted outstanding debt reduces budget flexibility. The severance tax highlights a disadvantage of earmarking: lack of flexibility – cannot use capital project funding for operating budget needs. In FY04, the average rating was 70 percent but that has been brought down to about 36 percent. This might suggest a decreased need for public school capital outlay.

The state road fund received \$109 million in gasoline tax and \$83 million in special fuel tax revenue in FY10. This is an advantage of earmarks that can be used to ensure the program beneficiaries are the primary taxpayers. However, earmarks can also lead to underfunding as some programs don't receive additional appropriations. Revenues dedicated to the road funds amounted to approximately \$425 million in FY10. The LFC capital outlay scenario for FY12 recommends \$100 million of

severance tax bond capacity for roads.

Ms. Burrows noted healthcare earmarks may not be leveraged by federal funding, and such spending could therefore be more costly than Medicaid.

The fire protection fund receives \$66 million in taxes on property and vehicle insurance premiums of which \$43 million is distributed to fire districts, \$2 million to the fire protection grant fund, and the remaining \$21 million is distributed to the general fund. There are legislative proposals to continue the freeze on the rate of distribution to the general fund from the fire protection fund. Without this legislation, the distribution to the general fund will be reduced in favor of the fire protection grant fund at the beginning of FY12.

Approximately \$4 billion of tax revenue and fees are earmarked for use by specific agencies and funds nearly matching the \$5 billion to the general fund.

Chairman Varela requested staff to follow up with the State Auditor's Office on timely reporting and intercepting revenues if agencies did not comply. Representative King suggested the source of funding should be highlighted in budgets, whether federal funds or earmarks.

Miscellaneous Committee Business

Action Items

Approval of LFC Minutes. **Senator Cisneros moved to approve the November 2010 meeting minutes, seconded by Representative King. Motion carried.**

Director Abbey asked that a subcommittee be appointed to approve the December 2010 and January 2011 meeting minutes during the legislative session so they could be available on the legislative website prior to the interim.

Approval of Contracts. Director Abbey presented and requested approval for four contracts totaling \$64.4 thousand.

- \$15.6 thousand for Chris Hoffman, session FIR analyst to assist in analyzing tobacco revenue - **Representative King moved to approve the contract, seconded by Senator Papen. Motion carried.**
- \$21.7 thousand for Christine Chavez to conduct a school transportation study – **Representative Saavedra moved to approve the contract, seconded by Representative King. Motion carried.**
- \$21.7 thousand for Neville Kenning to conduct a personnel study – **Senator Cisneros moved to approve the contract, seconded by Representative King. Motion carried.**
- \$5.4 thousand for Steve Morgan to assist with the performance review of healthcare and abuse – **Representative King moved to approve the contract, seconded by Senator Cisneros. Motion carried.**

Information Items

Review of Monthly Financial Reports

Survey of American Recovery and Reinvestment Act Implementation. Director Abbey reported that

all state funding for the American Recovery and Reinvestment Act (ARRA) has been allocated, but not spent.

Full-Time Employees by Agency. Director Abbey reported state employment continues to decline mostly through attrition resulting in significant savings in payroll.

LFC Program Evaluation Status Report. Director Abbey reported LFC evaluation performance staff is near completion of the (Coordination of Long Term Services) CoLTS program evaluation. Staff received notification data integrity issues from the agency.

LFC evaluation performance staff is currently working on review of state efforts to combat health care fraud and abuse; costs, courses and completion of 12th grade; student transportation operation and contracts; child protective services; and financing education and clinical services at the University of New Mexico (UNM), Health Sciences Center.

Director Abbey referred committee members to the December 2010 Cash Balance Report, the December 2010 BAR Report, and the FY11 LFC Budget Status for review.

With no further business, the committee adjourned at approximately 12:00 p.m.


Chairman


Date