



## La Palabra

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*The League of Women Voters of New Mexico, a nonpartisan political organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.*

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## President's Corner



At the LWVUS Convention held in June in Washington, DC, each state League shared some of their accomplishments and goals. Coming together with our colleagues from every state and territory provides a great opportunity for learning and strengthening our commitment to serve the public through voter education and advocacy. Elsewhere in this issue, you will hear more about Convention.

The League of Women Voters of New Mexico is proud of our accomplishments in several areas. Every day, LWVNM works in the public interest to promote sound governmental policies that will move New Mexico from the bottom in academic achievement, child well-being, job creation, and economic development. We strive to reduce the effects of income inequality, education and health disparities, food insecurity, and violations of civil rights.

In election services, we produce voter guides so the electorate can learn where candidates stand on issues we consider important as well as ballot questions and voting logistics. To further assist the public in making informed choices, we conduct candidate forums where the participants can ask their own questions of candidates. We advocate at the legislature for better campaign finance disclosure laws and for independent ethics and redistricting commissions. Last year, we worked for the right of 17-year-olds to vote in the primary if they will turn 18 by Election Day. The year before, we advocated for online voter registration, which is now available through <https://portal.sos.state.nm.us/OVR/WebPages/DomesticApplication.aspx>.

We continued our opposition to voter photo ID, which would disenfranchise 8-10% of the NM electorate, primarily language minorities, Native Americans, and people with disabilities. We monitored "Motor Voter," the 1993 law requiring Motor Vehicle Departments and public agencies distributing federal assistance to offer voter registration, and expressed concern to the Secretary

of State's office about spotty compliance at the auxiliary motor vehicle contract agencies. We registered voters at high schools, colleges, and public events.

In social and economic arenas, we fought for fair funding for education and fair taxes. We fought against restrictions to women's reproductive rights. We advocated for Medicaid expansion and health care coverage, for fair treatment of immigrants, for minimum wage, for gun control, and much more. In natural resources stewardship, we fought for alternative energy solutions and environmental protections for land, water, and air.

Though we have made good progress, our work is never done. We will continue to promote more transparency and accountability in government and more opportunities for civic participation in decision-making. We will expose efforts to privatize and underfund education, mental health, and other essential services.

As we approach our 100<sup>th</sup> birthday in 2020, we are more determined than ever to make this election the most inclusive one yet. It is an historic time, now that we have the first woman nominated for president in our nation's history. Never before has there been so much focus on equal rights, not just for women but for all Americans. Appreciating our diversity is truly our strength as we work together to face serious challenges in this country and the world and overcome polarization, fear, and uncertainty.

Thank you for your involvement in our activities and for your support. Together we're making New Mexico stronger, and we're working on common goals with the national League and Leagues across the country and territories. Please contact me if you want to be more involved.

*Meredith Machen*  
*president@lwvnm.org*  
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## Local League News

### LWV Central NM

LWVCNM spring program offerings emphasized LWVUS priorities. The League focused its efforts in April on mental health issues since concurrence with the LWVCO Behavioral Health position was scheduled for the June 2016 LWV National Convention. County Manager Julie Morgas Baca presented "Mental Health Treatment and Practices in Bernalillo County" to the luncheon unit. The evening unit compared the current LWVNM Mental Health position with LWVCO's position. Also in April, Gail Owens, LWVCNM Membership Chair, hosted a New Member Social to introduce new members to LWVCNM programs, voter education activities, and opportunities to serve LWV as a member or in a leadership role. Twenty-nine attended, including eleven new members.

U.S. Senator Tom Udall addressed the LWVCNM Annual meeting on May 7, 2016. Senator Udall has been involved in Congressional efforts to reform the influence of money in politics. In March he introduced the Federal Election Administration Act (FEAA) to overturn the U.S. Supreme Court Citizen's United Decision and abolish the Federal Election Commission. This legislation, which would provide substantial reform by addressing ongoing issues with campaign finance, was endorsed by LWVUS in June. The FEAA is currently in the U.S. Senate Committee on Rules and Administration and has not yet been heard in the House of Representatives.

At the June LWVCNM General meeting, Lisa Silva of Citizens' Climate Lobby presented "Carbon Tax and Dividend," an approach to counter global warming by controlling greenhouse gas emissions. District Attorney Kari Brandenburg, 2nd Judicial District, discussed the organization and responsibilities of the district attorney's office with LWVCNM membership in July.

The LWVCNM Voter Services Committee continues to attend naturalization ceremonies, register voters, and provide moderators for candidate debates. LWVCNM will initiate and publicize additional training opportunities for

voter registrars with efforts to include as many LWVCNM Office volunteers as possible. The committee is also working on the fall Voter Guide.

The APD Forward coalition of community organizations continues to interact with City of Albuquerque officials, the Albuquerque Police Department (APD), the Department of Justice (DOJ) Monitor, and community members to bring about police department reforms and evaluate the department's efforts to comply with 2014 Consent Decree measures. The DOJ Monitor, Dr. James Ginger, opened his Albuquerque office in June and held a community meeting featuring the U.S. Attorney, APD Chief Eden, and the Civilian Police Oversight Agency. The 3rd quarterly DOJ Monitor's report, released in June, indicated 37 APD policies have been completed, but analysis by ACLU Criminal Justice Advocate Taina Colon indicates minimal progress. Dr. Ginger will emphasize the six Community Policing Councils during the 4th quarter, so APD Forward member organizations are observing and reporting on the activity of those councils. Dr. Ginger reports to Judge Brack and was scheduled hold a status conference with him in late July.

*-Karen Douglas, Co-President*

### LWVSFC Report

To address the common goals which bind our league of volunteers into the League of Women Voters takes an enormous amount of energy, time, money, dedication, and commitment. It's a bit like launching an enormous and slowly moving train with cogs, wheels, nuts, bolts, personnel, and passengers. And each piece is pivotal to the creation of the whole.

Some of the pieces in evidence over the last quarter in Santa Fe are:

- a newly constituted and fully functioning Development Committee
- the creation of a 2016 Calendar that brings social events, public education forums, candidate forums, voter registration activities to the city of Santa Fe

- the expansion and revitalization of the High School Voter Registration Team after years of reliance on the stellar efforts of a single member
- continued recruitment of new members and the development of member retention strategies by a hard-working Membership Chair and her committee
- feedback delivered to Santa Fe County on the development of hard rock mining regulations, provided in the form of a letter written by an Action and Advocacy Committee member and issued under the President's signature
- an Op-Ed addressing the lack of transparency on the part of the City Council in a recent decision, again written by an Action Committee member and submitted under the President's signature, published in the *Santa Fe New Mexican* as well as provided to the Council in letter form
- a LWVSFC Board retreat that launched the development of a new website design as well as a wholesale revision of operational policies.

Each of these activities has brought new members into contact with "sustaining" members and anchored their understanding of the importance of the League to the community. New members have brought fresh ideas and enthusiasm to add to the knowledge and wisdom of those with a history of service to the League. As the saying goes, "It just doesn't get any better than that."

*-Suzanne Schmidt, President*

### **LWVLA Report**

The League of Women Voters of Los Alamos held a pre-primary candidate forum on Thursday May 12, in the Lecture Hall at UNM/LA. There was time allotted for refreshments and to meet the candidates, followed by the forum from 7 to 9 with candidate statements and plenty of time for questions from the audience of about 60. We invited all the candidates for offices in northern New Mexico who faced opposition in the primary.

Invited candidates included Antonio L. Maggiore, Peter T. Sheehy, Chris Chandler, and Kristin M. Henderson, the four Democrats who were running for three County Council

seats; Jennifer Lynne Padgett, Marco Peter Serna, and Maria E. Sanchez-Gagne, who were running for the Democratic nomination for District Attorney in the First Judicial District; and Michael Lucero and Michael Romero, who were running for the Republican nomination for the U.S. House of Representatives District 3. All attended except Michael Lucero.

The League's national convention was held June 17 to 19 in Washington, DC. Wendee Brunish, President of LWVLA, and Becky Shankland, Second Vice President, attended and found the convention to be inspiring and full of useful information and exciting ideas. Akkana Peck also attended as a representative of LWVNM.

Back home, we hosted Lunch with a Leader with Tamara Baer on June 21. Baer, the Principal Planner for the Community Development Department, discussed the development of the comprehensive plan for Los Alamos County. July's Lunch with a Leader welcomed Beverly Billie from Tewa Women United, a collective of intertribal, multicultural women who promote a healthy environment, strong families, and social justice for Native Americans in northern New Mexico.

The planning for the 2016 Voter Guide for Los Alamos County is well underway. We have made the final selection of the questions that will be sent to the candidates. The Voter Guide will be a 16-page full color insert that will be included in the 9300 copies of the *Los Alamos Daily Post* that are distributed to all residences and businesses. LWVLA will distribute 300 additional copies as well.

We anticipate a busy election season and look forward to continuing our efforts to encourage voter registration and promote an informed and involved electorate.

*-Wendee Brunish, President*

### **LWVGLC Report**

As we approach the general election, we do so with much anticipation and excitement. Our Voter Services Co-Chairs, Dale Yeo and Vicki Simons, are busy developing and implementing a schedule for the data collection, printing and

distribution of the 2016 Voter Guide by the *Las Cruces Sun News*, and organizing multiple candidate forums in September and October. Our League is collaborating this year with KRWG public television to host and broadcast the state-level office candidate forums, while Doña Ana County Government Center will host the forums for county office candidates. The Doña Ana County Bureau of Elections will provide a Voter Registration Agent (VRA) training to the public on August 27, and our local League will collaborate with the Doña Ana County Election Advisory Council to provide visiting teams to the nine large high schools in Doña Ana County to celebrate the September 27<sup>th</sup> National Voter Registration Day.

Our Immigration Committee has attracted attention at the local level to the plight and detention of undocumented immigrants at the southern border. The committee also held a caucus on the issue at the LWVUS Convention in June. Our local League will collaborate in a community-wide public event September 29 at the Las Cruces City Hall, discussing the many serious humanitarian issues faced by the undocumented community.

Our topics and speakers for our monthly meetings are aligned with our local League priorities. May was focused on education – Frank Lopez, Executive Director, NGAGE New Mexico, while July focused on sustainability with a presentation to our members by Lisa LaRocque, City of Las Cruces, Office of Sustainability. The August meeting will be the 2<sup>nd</sup> Annual Fiesta Showcase of Priorities – our informal meeting of the year that allows members and guests to get better acquainted with each other as well as with our local League priorities. This year we are adding a fundraiser “Book Sale” to the evening. September will offer a presentation by a well-known advocate for Health Security NM Campaign, Mary Feldblum, Ph.D.

The 2016-2017 League year is off to a great start. We look forward to being involved with activities that reflect “Democracy Works,” and with bringing together and informing our local League members as well as our community.

*-Gwen Hanson, President*



## The Supreme Court of the United States

### United States v. Texas

In late June, an equally divided U.S. Supreme Court left in place an appeals court ruling blocking the implementation of President Obama’s expanded executive action programs that would have granted over 4 million people work authorization and temporary relief from deportation. The President’s Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) would have extended protections to parents with U.S.-born children who met certain requirements. The President’s Deferred Action for Childhood Arrivals (DACA), which protects from deportation a small subset of undocumented youth brought to the United States as children, remains in effect.





## Innocents Abroad

LWVGLC members Yvonne Magdalena Flores and Kelly Burnham had the great good fortune to serve as first-time delegates to the League of Women Voters 52nd National Convention in Washington, D.C. They joined more than 800 fellow League members of all ages, regions, races, religions, and sexes, all coming together

with the goal Making Democracy Work for All. The planners of the Convention were not kidding about the "Work" part; the agenda was packed every day with caucuses beginning at 7:15 a.m., plenary sessions from 8:30 to noonish, round table work sessions during lunch, more plenary sessions after lunch until recess at 5:30, followed by more caucuses or other activities from 7 until 9:30 p.m. Yvonne and Kelly never had time to leave the hotel!

The enthusiasm and energy of the attendees was palpable and inspiring. All the activities were well worth our sore bottoms. Speakers at the plenary sessions, at caucuses, and at the banquet were uniformly well-informed and excellent. Of particular note were formal talks on money in politics, complex systems at force in democracy today, and the League budget. Particularly moving and illuminating was a comment by a covered Muslim League member who told us how lonely and frightening it is to be a Muslim today, but how the camaraderie at the Convention had restored her hopes. She made quite an impact on us all, and we were proud that "The League is a place where people can come together."

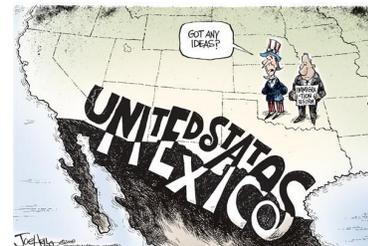
One of the most interesting aspects of the Convention involved proposed concurrences on certain League positions and proposed bylaws. Among these were a position on redistricting, which was approved on a card vote after extensive discussion, and a position on behavioral health, which passed on a voice vote. Also of interest was the discussion of self-government and voting representation in the District of Columbia. Other League public policy positions are to remain the same. One significant bylaws change, accomplished by voice vote, is that League members no longer need to be citizens. After a card vote, the requirement that League members be 18 was lowered to 16.

The 2016 Convention was truly awe-inspiring and energizing. Yvonne and Kelly sincerely thank their fellow League members for the opportunity to serve this year. We encourage you all to consider attending the next Convention to be held in Chicago in 2018.

-Yvonne Magdalena Flores  
- Kelly Burnham

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## Immigration Caucus: Immigration Problems in New Mexico



LWVNM organized a caucus on immigration issues at the LWVUS Convention in June. President Meredith Machen and LWVGLC delegates Yvonne Flores and Kelly Burnham led the discussion on criminal prosecutions of immigrants. In keeping with the Convention theme, "Making Democracy Work for All," the presentation highlighted stark inequities in the treatment of undocumented immigrants by the U.S. District Court in New Mexico. You can read a summary of the presentation on the next two pages.

For centuries people have traversed what is now the U.S.-Mexico border for work, business, family, and education. Unfortunately, in the last two decades, federal immigration policies have hardened. Recent re-interpretations of two laws have been behind dramatically increased prosecutions and the clogging of courts and prisons. The laws are 8 United States Code Section 1325, Entry without Inspection (EWI) and 8 United States Code 1326, Reentry after Deportation (Reentry).

To be convicted of the misdemeanor crime of EWI, for example, a person from another country need only be shown to have entered or to have attempted to enter the United States at a time or place other than as designated by immigration officers. In plain language, if a person from another country crosses our vast border at any place other than a formal port of entry, s/he is guilty of a misdemeanor, punishable by imprisonment for up to six months, and if s/he does so again, s/he is guilty of a felony, punishable by imprisonment for up to two years.

Similarly, a person from another country who has previously been civilly deported or removed from the United States, and who thereafter returns and is found here without the permission of the U.S. Attorney General, can be found guilty of the felony of Reentry. This is punishable by imprisonment of up to two years. Other portions of this statute rightly provide for much more serious penalties for people who come back to this country after being deported following the commission of a serious crime such as murder, rape, armed robbery, drug trafficking, or other crimes involving the use of force. Such cases are often called Aggravated Reentries. However, the great majority of reentry cases do not involve convicted violent criminals, and are often called Simple Reentries.

In 2013, 100,000 cases were prosecuted under these two laws according to Syracuse University Transactional Access Clearinghouse (TRAC). They constitute more than half of all federal cases prosecuted nationwide. This number is striking when one considers the various other federal crimes that need to be prosecuted, including but not limited to fraud, drug trafficking, racketeering, violent crimes on Indian reservations, bank robbery, money laundering, and human trafficking. It is also striking that the great majority of these cases are prosecuted along the border with Mexico, not at the Canadian border.

Customs and Border Protection (CBP) is the largest law enforcement agency in the United States, with 21,000 agents, far outstripping the number of agents in the other federal law enforcement agencies. Eighty-five percent of those agents are posted along the Mexican border, for an average of ten CBP agents per linear mile.

Specific numbers are illuminating here. The 2013 U.S Sentencing Commission study on Reentry offenders revealed that two-thirds had relatives in the U.S.; nearly half had children here. The average age at which offenders first entered the country was 17. Three-quarters had worked in the United States for more than a year when they were arrested for Reentry. The average offender had previously been deported 3.2 times; notably, more than a third had been deported and subsequently illegally reentered after being sentenced for a prior EWI or Reentry conviction. So much for deterrence!

An article in the *Albuquerque Journal* published May 14, 2016, regarding Reentry cases in the District Court of New Mexico reveals the distorted use of the Reentry law in our region. The two federal district judges in Las Cruces have complained that one has sentenced 1,800 people for the crime of Reentry, while the other has sentenced 1,600. Federal district judges in the rest of the country average only 75 sentencing per year.

The high number of prosecutions in New Mexico is the result of a decision by the U.S. Attorney's Office (USAO) to prosecute 100% of cases as felonies instead of simply declining to prosecute them at all, charging the aliens with misdemeanors under EWI, or allowing the cases to be plea-bargained down from a felony to a misdemeanor. The U.S. Attorney, when questioned, cited border security as the reason for the policy.

Why concentrate so many resources on these minor, simple-to-prove offenses? In 1990, the USAO generally prosecuted only Aggravated Reentry cases. At that time, the USAO in Las Cruces was staffed by two Assistant United States Attorneys (AUSAs); there was one United States district judge; and one part-time U.S. Magistrate judge. With the institution of the new Reentry policy, however, under which virtually every possible case is prosecuted as a felony, the number of AUSAs has risen from two to twenty; district judges from one to two; and from one part-time to five magistrate judges. The burgeoning number of CBP agents has already been discussed, and there have been concomitant rises in the numbers of federal probation and pretrial

officers, defense attorneys, U.S. Marshals, jail and prison personnel--all paid by the taxpayer. Meanwhile, there is a dire shortage of defense attorneys, interpreters, social workers, and other support staff.

In our opinion, the LWVUS position on immigration contains two problematic statements. It supports increased personnel at borders, and it lists as a criterion for legal admission “the lack of serious criminal activity.” However, with the current policy, anyone who returns to the U.S. illegally and is prosecuted is guilty of “serious criminal activity.” These criminal convictions for EWI and Reentry seem to run contrary to the spirit of League social policy.

It is time for the public and the League to advocate for an end to this flawed policy. It is time for Congress to decriminalize Simple Reentry and EWI, and to remove the ten-year civil bar to reapplying for legal entry after conviction for such minor offenses. It is time for the U.S. Attorney to change the policy of criminal prosecution of all Simple Reentry cases.

-Yvonne Magdalena Flores  
- Kelly Burnham

## **LWV Position on Redistricting (Adopted at LWV Convention, June 2016)**

In brief: The League supports redistricting processes and enforceable standards that promote fair and effective representation at all levels of government with maximum opportunity for public participation.

### **LWVUS Redistricting Position:**

1. Responsibility for redistricting preferably should be vested in an independent special commission, with membership that reflects the diversity of the unit of government, including citizens at large, representatives of public interest groups, and members of minority groups.
2. Every redistricting process should include:
  - a. Specific timelines for the steps leading to a redistricting plan;
  - b. Full disclosure throughout the process and public hearings on the plan proposed for adoption:
    - i. Redistricting at all levels of government must be accomplished in an open, unbiased manner with citizen participation and access at all levels and steps of the process,
    - ii. Should be subject to open meeting laws;
  - c. A provision that any redistricting plan should be adopted by the redistricting authority with more than a simple majority vote;
  - d. Remedial provisions established in the event that the redistricting authority fails to enact a plan. Specific provisions should be made for court review of redistricting measures and for courts to require the redistricting authority to act on a specific schedule:
    - i. Time limits should be set for initiating court action for review,
    - ii. The courts should promptly review and rule on any challenge to a redistricting plan and require adjustments if the standards have not been met.
3. The standards on which a redistricting plan is based, and on which any plan should be judged, must:
  - a. Be enforceable in court;
  - b. Require:
    - i. Substantially equal population,
    - ii. Geographic contiguity, and
    - iii. Effective representation of racial and linguistic minorities.
  - c. Provide for (to the extent possible):
    - i. Promotion of partisan fairness,
    - ii. Preservation and protection of “communities of interest,” and
    - iii. Respect for boundaries of municipalities and counties.
  - d. Compactness and competitiveness may also be considered as criteria so long as they do not conflict with the above criteria
  - e. Explicitly reject:
    - i. Protection of incumbents, through such devices as considering an incumbent’s address, and
    - ii. Preferential treatment for a political party, through such devices as considering party affiliation, voting history and candidate residence.

*This position does not supersede any existing state League redistricting position.*

## **LWVNM Apportionment and Redistricting position**

(Adopted 2009; revised 2013)

LWVNM supports a redistricting process and standards that provide the people with a meaningful choice in electing their representatives and facilitate holding government accountable.

The criteria for preparing redistricting maps should require that districts meet all Federal criteria including equal population and the provisions of the Voting Rights Act. In addition, it is important that districts

- be contiguous
- be reasonably compact, in terms of travel time from one part of the district to another
- avoid crossing geographic barriers to travel, such as mountain ranges
- minimize the partition of major jurisdictions (counties, municipalities); to the extent possible, no favoritism extended to any political party.

The League supports having an independent commission or other independent group develop redistricting plans meeting these criteria. The public must have access to all information used in the redistricting process on a timely basis, and have the opportunity to comment and be heard on the proposed redistricting processes, criteria, and results.

## **LWVUS Program, 2016-2018 Biennium**

The Convention is the forum to consider the LWVUS program and approve new positions, studies and resolutions. The resolutions are the way members can convey their sense of League advocacy priorities.

Barbara Zia, chair, presented the report of the Program Planning Committee. She said 230 Leagues submitted proposals on 51 different topics. Apparently the key issues included voter services, money in politics, campaign financing, redistricting, and climate change. <http://forum.lwv.org/member-resources/article/proposed-2016-2018-lwvus-program>

Zia said the primary LWVUS program is Making Democracy Work. They will educate and advocate on core democracy issues at all levels. They will focus on voter rights, voter protection and engagement, and redistricting reform. Details can be found in this link: <http://forum.lwv.org/member-resources/article/proposed-2016-2018-lwvus-program>.

The Convention voted to adopt the proposed LWVUS Program for 2016-18: Campaign for Making Democracy Work.

The delegates also voted to retain all current LWVUS Positions in the areas of Representative Government, International Relations, Natural Resources, and Social Policy.

Few new studies were proposed, and LWVUS strongly discouraged them, saying the organization must focus on elections issues in the next biennium. No study proposals were presented to Convention.

### **New positions:**

The LWVUS board recommended adoption by concurrence with the LWVUS Redistricting Task Force recommendation of a redistricting position that can be used by states. LWVFL campaigned against the concurrence, citing in part the cons posed by the Task Force itself. <http://forum.lwv.org/member-resources/article/notice-intent-lwvus-board-propose-concurrence-redistricting>. However, the convention approved the position on a card vote (taken only after a voice vote and a standing vote failed to yield clear results).

The LWVUS Board recommended concurrence with the LWV Colorado position on Behavioral Health Care. <http://forum.lwv.org/member-resources/article/notice-intent-lwvus-board-propose-concurrence-behavioral-health>. The motion was approved by a two-thirds vote.

## Resolutions

Janis McMillen, Resolutions Committee Chair, presented the committee's report. All the resolutions below were approved by the delegates.

- Responding to gun violence in America. In the wake of our country's worst mass gun violence in our history that killed 49 people in Orlando, Florida, we ask for a moment of silence to remember those who were killed. Pray for comfort for their families and friends and strength for the community and our country. There was a moment of silence.

Be it resolved to continue our longstanding LWVUS position on Gun Violence. (LWV-Florida)

- Resolution to support restoration of funding for gun violence research at the Centers for Disease Control (CDC). (LWV-Florida)
- Resolution supporting statehood for the people of District of Columbia. Therefore, be it resolved that the League of Women Voters of the United States strongly supports legislation that will establish statehood for the people of the District of Columbia. (LWV-District of Columbia)
- Therefore, be it resolved, the LWVUS consider signing onto an Amicus Brief with the 21 youth plaintiffs from Our Children's Trust. (LWV - California)
- Therefore, be it resolved, LWVUS support the United States ratification of the UN COP 21 Paris Agreement. (LWV-Oregon)
- Therefore, be it resolved, that the LWVUS should continue working for full implementation of the EPA Clean Power Plan, especially at the state level, as a first step and should call on the White House to implement an updated science-based Climate Action Plan that stabilizes global warming by bringing CO2 levels down to no more than 350 ppm by 2100. (LWV-Oregon)

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## Vigilance Needed

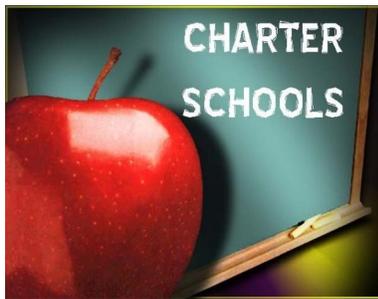
We need your help! For several years, New Mexico's Motor Vehicle Department and the Human Services agencies were inconsistent and lax about compliance with Section 7 of the National Voter Registration Act (1993), which requires offering clients the opportunity to register to vote. While New Mexico was under the supervision of the U.S. Department of Justice (DOJ), the Secretary of State had to post on the website the number of voter registrations that had been attempted and completed by the agencies each quarter. After spot-checking several times before the 2012 election, LWVNM complained that the required federal language regarding voter registration was not even on the application forms that public assistance agencies used to determine eligibility for SNAP, TANF, and Medicaid benefits. We were successful in getting the required language offering the opportunity to register to vote on the application forms.

The Secretary of State is no longer required to post the number of voter registrations attempted and completed at these agencies because the DOJ ended its decree. We have had no response to our informal requests for these data. It has come to our attention that MVD contractors (such as MVD Express) around the state are still not in complete compliance with the law. We need you to let us know if anyone you know was not offered the opportunity to register to vote when applying for a driver's license or applying for federal assistance dollars (such as food stamps, Medicaid, disability services). Please notify me with the complete information about the occurrence at [president@lwvnm.org](mailto:president@lwvnm.org).

The remedy that many states have implemented is "automatic voter registration (AVR)," which means that applicants for driver's licenses would be automatically registered as voters unless they opted out (for reasons such as residency in another state or nation or non-citizenship). In the next legislative session, we will support AVR so that all eligible citizens residing in New Mexico have an opportunity to participate in elections. In other states, the system has increased voter registrations and saved time and money.

-Meredith Machen, Voter Services Chair

## Charter School Study Report



LWVNM’s Charter School Regulation Study Committee has been examining policies and practices intended to ensure that charter schools adequately serve the needs of students and the public interest. We are working with the LWVNM Board to prepare the consensus questions that each League will consider in October with the goal of adopting a position that can be used for advocacy during the 2017 legislative session. At the state convention next May the delegates will ratify, modify, or reject the position approved by the Board.

There are currently 99 charter schools in New Mexico. As public schools, charter schools are required to be free, open to all students (through a lottery system), and non-sectarian; they are required to abide by most of same federal and state requirements as traditional public schools. Charter school teachers must be certified, and charter school students are evaluated under the same assessment system required for other public school students. Through waivers, charter schools are granted flexibility in such areas as curriculum, programs, teaching loads, length of school day or year with the goal of delivering better results than traditional schools. Successful innovative approaches in charter schools were intended to be shared and replicated in traditional schools, though there is no evidence that this has happened nationwide or in New Mexico. Most charter schools are granted contracts for five years, after which they can apply for renewal.

Thirty-seven of the existing charter schools have been authorized by local school districts, though they are exempt from certain rules. Sixty-two charter schools have been authorized by the Public Education Commission (PEC), a 10-member board that is elected by region. These PEC-authorized schools, called state-chartered schools, are treated as “local education agencies” like school districts. These component units of the Public Education Department have unelected governing councils, which set their own policies and procedures. For the current study, we focus more on state-chartered charter schools because the district-chartered charter schools have some oversight from the district staff and their elected school boards.

This article addresses the following issues:

- Budget and funding imbalance between traditional and charter schools
- Virtual schools funding
- Oversight and accountability (financial and academic)
- Confusion caused by conflicting roles and responsibilities with regards to PEC’s and PED’s joint authority over state-chartered charter schools.
- Lack of clear, measureable, objective performance frameworks by which to evaluate charter schools

### Budget Issues

New Mexico’s education system has been underfunded for many years, and the state is facing several insufficiency lawsuits managed by the NM Center on Law and Poverty. The state public funding formula was instituted to assure that all public schools would receive an equitable share of support regardless of the status of the local economy. Some of the extra funding may be justified because state-chartered charter schools have facility costs that the traditional school districts finance through local bonds.

Several problems related to public school funding insufficiency have been caused by the PEC's authorization of state-chartered charter schools without regard to the overall state budget and without legislative approval. Once they are authorized, the state is obligated to fund them. The Public Education Department (PED) has been severely overspending the budget appropriations for formula funding for public schools and disregarding the budget approval process. The situation and the consequences are analyzed in a report jointly prepared by Legislative Education Study Committee (LESC) and Legislative Finance Committee staff for the LESC's July 14 meeting.

Here is one key finding from that report, "On average, charter schools cost New Mexico taxpayers almost 15 percent more per student than school districts in operational funding in FY16. As a discretionary program, the state has not established a clear goal for the role of charter schools in the public education system, including how many there should be, how much they should cost, and what the expected outcomes should be. As a result, the state has in essence created the equivalent of scores of very small school districts that raise questions about efficiency and effectiveness. Several factors in the funding formula that are being used, often inconsistent with their original intent, lead to this inequity in operational funding. This brief outlines issues the 2016 Legislature attempted to deal with to improve equity in operational funding between school districts and charter schools." The report explains in detail how charters receive the 15% more funding than traditional schools through small-size adjustments and growth factors.

<https://www.nmlegis.gov/handouts/ALESC%20071316%20Item%208%20Charter%20School%20Expansion,%20LESC%20Brief.pdf>

Reductions in the funding available for district schools has caused teacher layoffs, frozen salaries, cuts to programs and services, resulting in lawsuits that are scheduled to be heard in May 2017. You can read more at

<https://www.nmlegis.gov/lcs/handouts/ALESC%20011915%20Item%202%20c%20-%20Update%20on%20Status%20of%20Lawsuits%20Regarding%20Sufficiency%20of%20Education%20Funding.pdf>

### **Virtual Charter Schools**

New Mexico's virtual (online) charter schools are exacerbating the inequitable distribution of public education dollars, the state's budget shortfall, and accountability problems. Virtual charter schools receive the same funding per student as other schools, even though they don't have "bricks and mortar" costs. Currently, the one state-chartered virtual school is NM Connections Academy, based out of Santa Fe, but there are also several district-chartered virtual and hybrid (partially online) schools in the state. Some legislators have made efforts to reduce the funding for virtual schools to about 70 percent of that for "brick and mortar schools" as many other states do, but those efforts have failed. The Legislative Finance Committee's January report identified several problems related to funding and accountability for the state's virtual schools. Virtual schools receive the same funding as brick-and-mortar schools though they have lower costs. "Compared with traditional schools, virtual charters have not demonstrated cost-effectiveness and policymakers have insufficient evidence to promote virtual charter schools in New Mexico." For more about virtual schools, please see <http://www.ecs.org/clearinghouse/01/11/11/11111.pdf>

### **Oversight, Accountability, Transparency, and Conflicting Roles**

Structural issues and ambiguity in state statutes have caused some of the problems that the Study Committee, Legislative agencies, and outside evaluators have discovered with state-

chartered charter schools. By law, the PED is the agency responsible for all public education, funded to do its work with state and federal dollars, reporting to the governor. The Public Education Commission (PEC) is an elected body granted the authority to issue, renew, and revoke state-chartered charter school contracts, though the Secretary of Public Education, the head of the PED, can overrule the PEC's decisions. Adding to the complexity is that the PEC has no staff, no budget, and no capacity to provide direct oversight to state-chartered charter schools. Charter School Division staff, who work for the PED, are assigned to the PEC to help it carry out its responsibilities, but the blurred lines of authority have caused deep conflicts and costly dysfunction.

For purposes of our study, accountability is being defined as whether a charter should be renewed or have its charter revoked. Because each charter school is allowed to negotiate for different "performance targets" and waive other requirements, it is impossible to evaluate charter schools objectively or to compare their student outcomes to the standards required for traditional schools. Financial accountability is more easily evaluated. State-chartered charter schools have had their contracts renewed by the PEC even when the schools have failed to meet generally accepted standards for fiscal management and academic performance standards that would be required for district schools.

The PEC has recommended that some state-chartered charter schools have their contracts revoked, only to be sued by the schools and then advised by the PED's general counsel to give contract extensions.

The July 19, 2016, National Association of Charter School Authorizers Formative Evaluation Report identified the need for clear lines of authority and detailed, objective, measurable performance frameworks. Here is a brief section outlining instances of lack of financial accountability, confused lines of authority, communication breakdowns, and conflicting decision-making.

"In the last renewal cycle, the PEC renewed all six schools up for renewal despite the fact that the PED school performance report provided to the PEC concluded that all six of the schools' financial statuses could not be determined. Four of the six schools that have closed or been revoked in recent years have closed due to financial performance concerns. At least in part due to the lack of financial performance requirements, schools that are in extreme financial distress are not identified until viability is clearly in question.

## RECOMMENDATIONS

Develop financial performance standards, and use those standards to inform ongoing monitoring and to determine intervention and renewal decisions. The PEC's organizational structure is extremely limited by state statute but the Charter School Division (CSD) has the organizational capacity to implement its monitoring responsibilities. CSD is supported by other bureaus within PED, including the special education and finance bureaus. Establish a set of authorizing policies that codify the roles and responsibilities of the PEC and PED, and that can serve as the foundation for how the PEC makes high-stakes decisions using the support provided by the CSD as defined in policy."

[http://www.ped.state.nm.us/ped/PECdocs/2016meetings/0801/3B\\_AE\\_NMPEC\\_formative\\_eval\\_FINAL\\_07192016.pdf](http://www.ped.state.nm.us/ped/PECdocs/2016meetings/0801/3B_AE_NMPEC_formative_eval_FINAL_07192016.pdf).

More information is available at <http://www.qualitycharters.org/for-authorizers/tools-for-authorizers/>

## Performance Frameworks

On July 13, 2016, the Legislative Education Study Committee held a hearing with the PEC and Albuquerque Public Schools to review charter school performance contracts to better understand how charter schools are being held accountable for their academic, organizational, and fiscal operations. The brief, which is available at <https://www.nmlegis.gov/handouts/ALESC%20071316%20Item%209%20Performance%20Frameworks.pdf>, states in part “Charter school performance and oversight has been of concern to the Legislature for some time, particularly with the rapid growth of charter schools in recent years. Despite receiving more per-pupil funding than traditional public schools, charter school performance not only remains on par with local school districts academically, they encounter financial and governance issues not usually seen with school districts. For example, despite state-chartered charter schools being required by law to qualify as independent boards of finance for their respective charter schools, governing board members sometimes lack clear understanding of their fiduciary responsibilities to their schools, authorizers, and the state.”

Independent auditors of state-chartered charter schools have identified so many concerns about the lack of adequate financial controls and so many questions about expenditures that in March the State Auditor required that PED develop “a corrective action plan” to increase charter school oversight and accountability. The League Study Committee has read the concerns raised in audit reports for the past three years and watched carefully as whistleblowers have revealed problems that went unnoticed for years.

You can read an overview of the audit findings in this LESC Brief <https://www.nmlegis.gov/handouts/ALESC%20071316%20Item%2010%20Staff%20Brief,%20State-chartered%20Charter%20School%20FY15%20Audit%20Findings%20and%20Corrective%20Action%20Plans.pdf>

Independent auditor reports of the PED and each state-chartered charter schools are available on the State Auditor’s website.

In 2011, legislation passed that was supposed to lead to the formation of performance frameworks by which charter schools would be evaluated for quality improvement and for decision-making regarding contract renewal and closure. Because this work has not been done adequately, the LESC is considering sponsoring legislation for the 2017 session that would clarify the intent of the statute. We expect that they will charge the PEC and the PED to work collaboratively to define minimum standards.

When charter schools don’t know how they will be evaluated and when they get conflicting messages about whether they will be shut down, they often sue. Taxpayers pick up the cost for lawsuits and financial losses because governing council members are not personally liable for financial failures.

With the state facing a half-billion revenue shortfall next year and with pending lawsuits from individuals, organizations, and school districts calling for equitable distribution of funding according to law and our Constitution, there is no better time for the League to consider how the system might be improved.

*-Meredith Machen, Committee Chair*

## LWVNM BOARD CALENDAR 2016-17

### 2016

- Sept 24                   LWVNM Board meeting, Santa Fe, HEC, 11 am – 2:30 pm
- Sept 24                   Deadline for Fall La Palabra
- Nov 12                   LWVNM Board meeting, Socorro, 10 am –2 pm
- Dec 10                   "How to be an Effective Citizen Advocate at the Roundhouse"  
Short-title "Citizen Advocacy" Workshop, Santa Fe
- Dec 7                    Deadline for Winter La Palabra

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### 2017

- Jan or Feb               Program Planning local Leagues (LWVNM positions review)
- Jan 21                   LWVNM Board meeting, 11 –2:30 pm, Santa Fe  
Legislative Priorities and Convention Planning
- Feb 8 Wed               Legislative Reception, 5:30-7:30 pm, Garrett's Desert Inn
- Feb 9 Thurs            League Day at the Legislature, Panel: 10:30-12, Garrett's Desert Inn
- Mar 1                    LWVNM Program Planning Report due
- Mar 11                   LWVNM Board meeting, Santa Fe
- March 14                Deadline for Spring La Palabra
- May 21-22               LWVNM Convention, Santa Fe
- July 15                   LWVNM Board meeting, Albuquerque
- July 18                   Deadline for Summer La Palabra

**LWVNM Board meetings are on Saturdays and are open to all members. To add agenda items, please write to [leaders@lwnm.org](mailto:leaders@lwnm.org) or contact Meredith Machen, cell 505 577-6337. Send La Palabra articles to Barbara Calef [bfcalef@gmail.com](mailto:bfcalef@gmail.com) AND [mermachen@cybermesa.com](mailto:mermachen@cybermesa.com).**

#### 2017 LEGISLATIVE SESSION DATES

- January 17 Opening day (noon)  
February 16 Deadline for introduction  
March 18 Session ends (noon)



**League of Women Voters of NM  
2315 San Pedro NE, Suite F-6  
Albuquerque, NM 87110**

**Please consider helping your local League or LWVNM to pay for our upcoming voter guides and candidate forums. You can send a tax-deductible gift by check to your local League or to LWVNM. See [www.lwvnm.org](http://www.lwvnm.org) for more information and links to our local Leagues. Thank you for making democracy work!**

*The League of Women Voters is a nonpartisan political organization that helps the public play an informed and active role in government. At the local, state, regional and national levels, the League works to influence public policy through education and advocacy. Anyone of voting age, male or female, may become a member. The League of Women Voters never endorses candidates for office or supports political parties.*