



**State of Vermont
General Assembly**

Summer Government Accountability Committee Recommendations

Report prepared for
the House Committee on Government Operations and Military Affairs and
the Senate Committee on Government Operations
pursuant to 2023 Acts and Resolves No. 53

December 13, 2023

Committee Members

Representative Jessica Brumsted, Co-Chair
Representative Emilie Kornheiser
Representative Josie Leavitt
Representative Matt Walker

Senator Randy Brock, Co-Chair
Senator Wendy Harrison
Senator Tanya Vyhovsky
Senator Irene Wrenner

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EXECUTIVE SUMMARY ON RECOMMENDATIONS FOR STRENGTHENING GOVERNMENT ACCOUNTABILITY

The value of government is proven through its accountability to the people.

The intent of the Summer Government Accountability Committee (the Committee) is to reexamine the principle of government accountability by focusing on how evidence is used to inform policy, how our State laws are carried out, and how legislation can best be formed to achieve its intended outcomes.

The General Assembly's government accountability efforts should be systematized as much as possible and not rely upon individual legislators or individual committees to be effective. The Committee's recommendations strive to be simple, clear, independent, objective, and fact-based. Given the broad charge and the time allotted to address the charges required, the Committee chose to focus on government accountability issues and reserve more in-depth analysis of other issues for the committees of jurisdiction.

Summary of Recommendations for Strengthening Government Accountability:

1. Educate members of the General Assembly on the importance of government accountability.
2. Create a Joint Government Oversight and Accountability Committee.
3. Define a policy, planning, and program evaluation staff function to assist the General Assembly with improved accountability.
4. Adjust the timing of the Programmatic and Performance Measure Budget Report, as well as other reports.
5. Increase consistency and accountability in rulemaking with support from the Legislative Committee on Administrative Rules (LCAR).
6. Develop processes, checklists, and timelines to ensure all key legislative reports and deadlines are easily accessible to the General Assembly and the public.
7. Establish a process to ensure that committee members and committee staff regularly and formally review past legislation, legislatively mandated reports, and other materials.
8. Establish a process that allows House and Senate committees dealing with issues related to appropriations, institutions, and transportation to follow up on the previous year's budget and historical data.
9. Establish a process for committees to monitor and report upon deadlines relevant to enacted legislation.
10. Require a performance note for legislation that is a priority or costs more than a threshold dollar amount.
11. Define and right-size the overall staffing necessary for the Legislative Branch to carry out the recommendations of this report.

DETAILED RECOMMENDATIONS FOR STRENGTHENING GOVERNMENT ACCOUNTABILITY

- 1. Educate members of the General Assembly on the importance of government accountability.** Returning members should receive “refresher” trainings every biennium in their committees or as a full assembly. New members, as part of their orientation, should receive:
 - a. an overview of concepts and practices of government accountability;
 - b. training in data-informed decision-making and measuring outcomes, utilizing performance notes¹ accompanying legislation, and procedures for developing new committees and reports; and
 - c. drafting tools meant to strengthen accountability practices, such as procedures, templates, and checklists, should be made available in plain language.

- 2. Create a Joint Government Oversight and Accountability Committee.** While the political process may result in ad hoc oversight, there should be a dedicated accountability committee within the General Assembly that both dives into systemic issues and is responsible for seeing those issues adequately addressed. This Committee proposes creating a Joint Government Oversight and Accountability Committee, supported by Legislative Counsel and Joint Fiscal Office (JFO), to do the following:
 - a. Examine, explore, and investigate, accountability-related matters of significant public concern that affect the State as a whole, and reasons for oversight failures, if any. That is, in cases of significant oversight failures such as juvenile justice and EB-5, the committee would make recommendations to prevent such failures from happening in the future. This committee would make tangible recommendations to prevent future failures. Operationally, the committee would:
 - i. first work with committees of jurisdiction to provide oversight;
 - ii. then, if needed, subsequently conduct oversight itself; or

¹ See recommendation #10.

- iii. if needed, with the approval of legislative leadership, empower an independent third-party entity to conduct oversight.
 - b. Coordinate with committees of jurisdiction to ensure that there is a systematic review of the findings and recommendations of both federal and State audits and examine whether those findings have been properly addressed.
3. **Define a policy, planning, and program evaluation staff function to assist the General Assembly with improved accountability.** As stated by the National Conference of State Legislators (NCSL) and reiterated by the Office of the Vermont State Auditor, “[o]ver 80 percent of all state legislatures employ staff who specialize in conducting performance-based audits, or reviews, of state agencies and programs.”² These staffers produce studies and reports that focus on executive agency compliance and success in delivering programs and services that are responsive to legislative intent, public need, and high standards of efficiency and effectiveness. Two examples of successful legislatively led oversight initiatives include:
 - a. New Mexico’s Legislative Finance Committee, which provided testimony to this Committee regarding its “LegisSTAT” program³; and
 - b. The Maine Legislature’s Office of Program Evaluation and Government Accountability, as well as a legislative committee dedicated to directing and reviewing its reports.

The Vermont General Assembly is one of the few state legislatures that does not have dedicated staffers specializing in Executive oversight. This Committee recommends that the JFO be provided additional and adequate resources to create a program evaluation staff

² [National Conference of State Legislatures Report to the Vermont General Assembly Legislative on Branch Workforce Comparative Evaluation March 2019 at 35](#); written [testimony](#) provided by the State Auditor’s Office on October 18, 2023.

³ Representatives from New Mexico’s Legislative Finance Committee presented on its [“LegisSTAT” Program](#). Notable features of this program, which may be emulated in Vermont, include: how to identify priority areas and performance; review of program inventory and effectiveness of programs; conscious investment in budget development; implementation of oversight programs; outcome monitoring; outcome formats; legislative follow-up with agencies and programs; creating mechanisms to identify successful programs and replicate these successes.

function to assist the Vermont General Assembly with improved accountability, preferably based on the successful accountability initiatives implemented by New Mexico's legislature.

- 4. Adjust the timing of the Programmatic and Performance Measure Budget Report, as well as other reports.** The Administration's Programmatic and Performance Measure Budget Report is presented to the General Assembly in late January. This leaves JFO or the General Assembly with insufficient time to review, absorb, and utilize the reported information as it pertains to outcomes. The current timing of the information is not aligned with legislative activity and is of limited use, especially in consideration of the budget. This Committee recommends that all agencies submit their latest performance data prior to the session so that JFO may perform a high-level review for the committees of jurisdiction before the session begins.

Similarly, the General Assembly receives reports well into the legislative session, leaving less time to absorb and utilize the sought-after information. This Committee recommends that [2 V.S.A. § 20 \(limitation on distribution and duration of agency reports\)](#) be amended to have the default report submission deadline for annual, biennial, and other periodic reports be changed from January 15 to the prior November 15.

- 5. Increase consistency and accountability in rulemaking with support from the Legislative Committee on Administrative Rules (LCAR).**
 - a.** Recently, as a result of LCAR discussions with the Office of the Vermont State Auditor, LCAR has asked that the Office of Legislative Counsel track new and amended delegations of rulemaking authority starting with the 2023 session. This Committee suggests that the House Committee on Government Operations and Military Affairs and Senate Committee on Government Operations take testimony with regard to these recent changes underlining the importance of tracking rule adoption deadlines and monitoring agencies' and departments' compliance with rulemaking provisions. This Committee, therefore, joins LCAR in recommending that the Office of Legislative Counsel be formally tasked at the end of each

legislative session with producing an inventory of all new rulemaking provisions that have been enacted, including the responsible agency or department and any deadlines. Such an inventory could be posted to the LCAR committee page and updated each year.

- b.** If it becomes clear that an agency or department will not adopt a rule by the legislatively mandated deadline, it should be incumbent upon the agency or department to inform LCAR, along with the chairs of the committees of jurisdiction and any designated supporting staff, of:
 - i. which rule will be late;
 - ii. why the rule will be late; and
 - iii. when the rule will be adopted.
- c.** Understanding that LCAR has already produced model rulemaking considerations⁴ and shared these with committees of jurisdiction, this Committee reiterates the importance of those considerations here. This Committee recommends that when members, committee chairs, and attorneys in the Office of Legislative Counsel are drafting and revising bills entailing the adoption of rules, that LCAR's model rulemaking considerations and tools be followed. These include:
 - i. "Considerations for Requiring Rulemaking":
 1. Whether a rule or rules are necessary in the near term.
 2. Whether there is sufficient detail in statute for necessary regulation without any rules.
 3. Cost/staffing necessary to adopt a rule or rules.
 4. Whether a guidance document, policy, practice, procedure, etc. is more appropriate.
 - ii. Considerations for Establishing Rulemaking Timeline:
 1. Statutory length of time to complete the process (100+ days), which does not include outreach or drafting the rule prior to pre-filing with LCAR.

⁴ See "[LCAR Memo on Rulemaking Considerations](#)." April 11, 2023, LCAR Meeting.

2. Other variables (dependent on federal review, promulgation of a federal regulation, adoption of a rule in another state, etc.).
3. Whether there is an actual need for rule(s) to be adopted by a particular date.
4. What happens if there is a decrease in staff capacity.
5. What step the rulemaking timeline should be linked to (prefiling with LCAR, one of the intermediary filings, adoption, etc.).

iii. Considerations for Requiring Checkback(s):

1. Timing for when checkback(s) should be required (no matter what, if there is going to be a delay, at designated intervals, etc.).
2. Form of the checkback(s) (oral v. written).
3. Recipients of the checkbacks(s).
4. Contents of the checkback(s).
5. Whether something with more ‘teeth’ is necessary (consult with Legislative Counsel).”⁵

6. Develop processes, checklists, and timelines to ensure all key legislative reports and deadlines are easily accessible to the General Assembly and the public. This Committee recommends that the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations, in conjunction with the Agency of Digital Services, develop processes, checklists, and timelines to ensure all key legislative reports and deadlines are easily accessible to the General Assembly and the public.

7. Establish a process to ensure that committee members and committee staff regularly and formally review past legislation, legislatively mandated reports, and other materials rather than rely on institutional knowledge. This Committee, to promote a culture of continuous quality improvement, recommends that a process be explored for

⁵ From “[LCAR Document on Rulemaking Considerations for Chairs](#).” April 11, 2023, LCAR Meeting. See also the embedded flow chart.

which current acts, previous legislative proposals, and any relevant data are reviewed before considering new legislation.

8. Establish a process that allows House and Senate committees dealing with issues related to appropriations, institutions, and transportation to follow up on the previous year's budget bills and historical data. Using new JFO accountability staff, legislators could better examine whether past funds have been spent as intended. And if not, then why not? The Appropriations, Institutions, and Transportation Committees should ensure that for any recipient of State funds, performance data be recorded, publicly available, and relayed in a timely manner. The Committee recommends New Mexico's method, LegisSTAT, as a model.

9. Establish a process for committees to monitor and report upon deadlines relevant to enacted legislation. This Committee recommends that the Office of Legislative Operations create a mechanism to track the status of legislatively mandated deadlines for rules and reports. See Recommendation #5. These deadlines should be discussed as a part of regular committee meetings so that assigned members can be encouraged to review Administration rules and reports and therefore prioritize follow-up on these items. In addition, it is important for committees to know of deadlines for compliance with federal mandates.

If it becomes clear that an agency or department will not submit a report by the legislatively mandated deadline, it should be incumbent upon the agency or department to inform the receiving legislative committee's current chair, along with any designated supporting staff, of:

- a. which report will be late;
- b. why the report will be late; and
- c. when the report will now be submitted.

10. Require a performance note for legislation that is a priority or costs more than a threshold dollar amount. Performance notes, as created by JFO, would include:

- a. a clear statement of legislative intent, overall goals, and changes anticipated;
- b. a description of expectations, and timelines for these expectations;
- c. a description of data that needs to be collected to measure results and evaluate whether the legislation is having the intended impact, including its impact on specific populations;
- d. an entity designated by the General Assembly, preferably one that is independent and nonpartisan, to be responsible for data collection, monitoring, and reporting back to the General Assembly on the progress associated with the policy changes and investments;
- e. a description of any financial costs associated with data collection, monitoring, and reporting by an entity; and
- f. an estimate of any savings, return on investment, or quantifiable benefit resulting from the adoption of the legislation.

11. Defined and right-size the overall staffing necessary for the Legislative Branch to carry out the recommendations of this report. Based on 2021 research from the National Conference of State Legislators (NCSL)⁶, Vermont has the third-smallest legislative staff during the legislative session. Insufficient staffing capacity limits the General Assembly’s ability to use data to inform policy and implement new accountability procedures. Below is a recitation of the various recommendations in this report that involve either additional support by existing legislative staff or advice for increasing staffing levels to meet government accountability objectives:

- a. Legislative Joint Fiscal Office:
 - i. Recommendation #2 (create a Joint Government Oversight and Accountability Committee with staff support).
 - ii. Recommendation #3 (define a policy, planning, and program evaluation staff function). The Vermont General Assembly is one of the few state legislatures that does not have dedicated staffers specializing in Executive

⁶ See “Size of State Legislative Staff” from NCSL, published at: <https://www.ncsl.org/about-state-legislatures/size-of-state-legislative-staff>

oversight. This Committee recommends that JFO be provided additional and adequate resources to create a program evaluation staff function to assist the Vermont General Assembly with improved accountability, preferably based on the successful accountability initiatives implemented by New Mexico's legislature.

- iii. Recommendation #7 (establish a process to ensure that committee members and committee staff regularly and formally review past legislation, legislatively mandated reports, and other materials).
- iv. Recommendation #8 (establish a process that allows House and Senate committees dealing with issues related to appropriations, institutions, and transportation to follow up on the previous year's budget bills and historical data). Using new JFO accountability staff, legislators could better examine whether past funds have been spent as intended. And if not, then why not? The Committee recommends New Mexico's method as a model.

b. Legislative Office of Information Technology:

- i. Recommendation #6 (develop processes, checklists, and timelines to ensure all key legislative reports and deadlines are easily accessible to the General Assembly and the public).

c. Office of Legislative Counsel:

- i. Recommendation #2 (create a Joint Government Oversight and Accountability Committee with staff support).
- ii. Recommendation #5 (increase consistency and accountability in rulemaking with support from LCAR). Legislative Counsel to encourage the following of LCAR's model rulemaking considerations.
- iii. Recommendation #6 (develop processes, checklists, and timelines to ensure all key legislative reports and deadlines are easily accessible to the General Assembly and the public).

- iv. Recommendation #7 (establish a process to ensure that committee members and committee staff regularly and formally review past legislation, legislatively mandated reports, and other materials).

d. Office of Legislative Operations:

- i. Recommendation #7 (establish a process to ensure that committee members and committee staff regularly and formally review past legislation, legislatively mandated reports, and other materials).
- ii. Recommendation #9 (establish a process for committees to monitor and report upon deadlines relevant to enacted legislation). The Office of Legislative Operations should create a mechanism to track the status of legislatively mandated deadlines for rules and reports.

Recommendations Addressing 2023 Acts and Resolves No. 53, Sec. 2a. (c)(2)–(4)

[2023 Acts and Resolves No. 53](#) gave the Summer Committee on Government Accountability (SGAC) a very broad charge⁷ and, initially, only three meetings. The Committee focused its initial meetings on the first charge (*see* Sec. 2a(c)(1)) of creating systems within the General Assembly to increase accountability. The second through fourth charges (*see* Sec. 2a(c)(2)–(3)) focus on the composition, appointment, and compensation of boards and commissions and are an entirely separate body of work from the first charge. The Committee is grateful for the attention and effort of the Office of Racial Equity’s (ORE) Executive Director, Xusana Davis, for bringing these issues to the Committee’s attention at its November 3 and December 13, 2023 meetings.⁸

However, given the limited time available to meet the ambitious legislative charges by the mandated deadline, and the profound importance of these volunteer positions to our State’s functioning, the Committee recommends the following next steps:

1. The questions posed in charges 2 through 4 have profound implications for who can and cannot participate in the governance of our State. The Committee recommends that the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations (the Government Operations Committees) explore these issues more extensively.

⁷ For the charges of SGAC, see [2023 Acts and Resolves No. 53](#), Sec. 2a(c) (powers and duties): “The Summer Government Accountability Committee shall consider the issue of accountability in the Legislative Branch, including the following:

- (1) ways to ensure that the Legislative Branch is accountable to the people of Vermont by creating new processes and metrics by which to measure accountability;
- (2) ways to ensure equity in pay across commissions, boards, and joint legislative committees based on the nature of the service and required skill level;
- (3) ways to ensure equitable participation on boards and commissions and in any public engagement process mandated by the State or General Assembly by providing appropriate compensation and material support; and
- (4) codifying mechanisms for controlling and restraining the increasing number of commissions, boards, and joint legislative committees.

⁸ On December 13, 2023, the Office of Racial Equity provided a presentation and recommendations regarding [“Process Equity In State Boards: Actionable Measures from Act 53 of 2023.”](#)

2. The Government Operations Committees should engage in community conversations throughout the State, through hearings, surveys, and focus groups, and seek to engage all Vermonters who are not actively participating in the activities of boards and commissions and determine what prevents people from participating.
3. The Government Operations Committees should work with boards and commissions to explore reforms by soliciting recommendations. This Committee is aware of the following boards and commissions that have active conversations around these issues: the Environmental Justice Advisory Council, the Commission on Women, the Climate Council, and the Land Access and Opportunity Board.
4. The Government Operations Committees should explore strategies and research from other states offered to this Committee from the National Conference of State Legislatures (NCSL):
 - a. September 18, 2023 presentation to Committee regarding [measuring performance across the states](#).
 - b. October 18, 2023 presentation to Committee regarding [follow-up information to committee questions](#).
 - c. October 18, 2023 presentation to Committee regarding [state legislative audit offices](#).
 - d. November 3, 2023 presentation to Committee regarding [government accountability](#).
 - e. November 3, 2023 presentation to Committee regarding [creation of agencies, boards, or commissions](#).
5. The Government Operations Committees should consult community-centered resources in the formation of policy changes regarding equity issues in Vermont's boards and commissions, including the two following resources recommended by ORE:

- a. Hawn Nelson, A., Jenkins, D., Zanti, S., Katz, M., Berkowitz, E., et al. (2020). [Toolkit for Centering Racial Equity Throughout Data Integration](#). Actionable Intelligence for Social Policy, University of Pennsylvania.
- b. González, R. (2020). [The Spectrum of Community Engagement to Ownership](#).

Appendix i — Committee's Enabling Authority: 2023 Acts and Resolves No. 53, Secs. 2 & 2a

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No. 53. An act relating to boards and commissions.

(H.125)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Government Accountability Committee * * *

Sec. 1. REPEAL OF GOVERNMENT ACCOUNTABILITY COMMITTEE

2 V.S.A. chapter 28 (Government Accountability Committee) is repealed.

Sec. 2. GOVERNMENT ACCOUNTABILITY; LEGISLATIVE INTENT

It is the intent of the General Assembly that the House Committee on Government Operations and Military Affairs and Senate Committee on Government Operations should reexamine the principle of government accountability with a focus on how evidence is used to inform policy, how information is publicly conveyed, and the Committees should propose statutory amendments as needed to accomplish these goals.

Sec. 2a. GOVERNMENT ACCOUNTABILITY; SUMMER

GOVERNMENT ACCOUNTABILITY COMMITTEE; REPORT

(a) Creation. There is created the Summer Government Accountability Committee to reexamine the principle of government accountability in the Legislative Branch.

(b) Membership. The Summer Government Accountability Committee shall be composed of the following members:

(1) four current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House; and

(2) four current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Summer Government Accountability Committee shall consider the issue of accountability in the Legislative Branch, including the following:

(1) ways to ensure that the Legislative Branch is accountable to the people of Vermont by creating new processes and metrics by which to measure accountability;

(2) ways to ensure equity in pay across commissions, boards, and joint legislative committees based on the nature of the service and required skill level;

(3) ways to ensure equitable participation on boards and commissions and in any public engagement process mandated by the State or General Assembly by providing appropriate compensation and material support; and

(4) codifying mechanisms for controlling and restraining the increasing number of commissions, boards, and joint legislative committees.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Summer Government Accountability Committee shall have the assistance of the Office of Legislative Operations and the Office of Legislative Counsel.

(e) Report. On or before January 15, 2024, the Summer Government Accountability Committee shall report to the House Committee on

Government Operations and Military Affairs and the Senate Committee on Government Operations with any recommendations for legislative action.

(f) Meetings.

(1) A member of the House of Representatives designated by the Speaker of the House shall call the first meeting of the Summer Government Accountability Committee to occur on or before July 1, 2023.

(2) The Summer Government Accountability Committee shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Summer Government Accountability Committee shall constitute a quorum.

(4) The Summer Government Accountability Committee shall cease to exist on November 1, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, the members of the Summer Government Accountability Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

* * * State Boards and Commissions Registry * * *

Sec. 3. 3 V.S.A. § 116a is amended to read:

§ 116a. STATE BOARDS AND COMMISSIONS REGISTRY

* * *

Appendix ii – Legislative Counsel’s Introduction to the Summer Government Accountability Committee

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**Legislative Counsel’s Introduction to
The Summer Government Accountability Committee**

Welcome to the Summer Government Accountability Committee (or “Summer GAC”). The below information will provide Committee members with some introductory information regarding the charge of this Committee as well as some historical context regarding the prior Government Accountability Committee.

I. Enabling Authority:

This Committee is authorized by [Act 53](#) from this past 2023 session. The relevant language is found in Secs. 2 and 2a of the Act.

Sec. 2 - Legislative Intent

It is the intent of the General Assembly that the House Committee on Government Operations and Military Affairs and Senate Committee on Government Operations should reexamine the principle of government accountability with a focus on how evidence is used to inform policy, how information is publicly conveyed, and the Committees should propose statutory amendments as needed to accomplish these goals.

Sec. 2a - About the Committee

(b) **Membership.** (1) 4 members of the House of Representatives; (2) 4 members of the Senate.

(c) **Powers and duties.** The Summer Government Accountability Committee shall consider the issue of accountability in the Legislative Branch, including the following:

- (1) ways to ensure that the Legislative Branch is accountable to the people of Vermont by creating new processes and metrics by which to measure accountability;*
- (2) ways to ensure equity in pay across commissions, boards, and joint legislative committees based on the nature of the service and required skill level;*
- (3) ways to ensure equitable participation on boards and commissions and in any public engagement process mandated by the State or General Assembly by providing appropriate compensation and material support; and*
- (4) codifying mechanisms for controlling and restraining the increasing number of commissions, boards, and joint legislative committees.*

[Charge of the Committee, in other terms, on next page → → →]

Charge of the Committee, in other terms:

Legislative Look-Backs:

(1) Ways that the Legislative Branch has revisited past legislative initiatives to judge success and efficiency.

Board Composition & Compensation:

(2) Ways to ensure equity in pay across Executive Branch commissions and boards that consider factors like significant time commitments and professional credentials (e.g. engineers and doctors).

(3 – part I) Ways to maximize equitable participation across demographic groups on Executive Branch commissions and boards.

Public Engagement:

(3 – part II) Ways to maximize equitable participation across demographic groups in public engagement processes, especially by providing appropriate compensation and material support.

Controlling the Number of Executive Branch Commissions and Boards:

(4) How to best codify mechanisms for controlling and restraining the increasing number of Executive Branch commissions and boards.

(e) Report. On or before **January 15, 2024**, the Summer Government Accountability Committee shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with any recommendations for legislative action.

- Note: The Committee has a lot of flexibility in what the report ultimately looks like. This report does not necessarily need to be a written report; it could be an oral report delivered to the Gov't Ops Committees in person. If the report were to be written, there is no prescribed length or format. Any recommendations for legislative action could range from 'no recommendations' to very involved statutory amendments.

(f), (g) Timelines: Committee members will be compensated (per diems and travel expenses) for up to four meetings. The report is due by January 15, 2024, and the Committee will sunset on November 1, 2024. The practical effect of these factors is that **this Committee will have 3-4 meetings prior to the report being due with one meeting being where they approve the report.** (some committees opt to reserve one meeting after the report is due in case the committee wants to meet again to address questions or directions from other jurisdictional committees). **Committee members should expect to have 2-3 meetings to decide what findings and recommendations to report.** [See excerpts from Act 53 on next page.]

(f) Meetings. (4) The Summer Government Accountability Committee shall cease to exist on **November 1, 2024**.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, the members of the Summer Government Accountability Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for **not more than four meetings**.

II. History of Prior Government Accountability Committee:

The prior Government Accountability Committee (“Prior GAC”) was created in 2008 with the aim of establishing a system of greater accountability and effectiveness in State government. The Prior GAC’s was to “recommend mechanisms for State government to be more forward-thinking, strategic, and responsive to the long-term needs of Vermonters.”

The Prior GAC’s charge was broad and included reviewing: service duplication mandated by statute; how programs serving Vermonters were created and eliminated and how these could be improved; program use of data and measurement of results; use of population-level population indicators to inform desired population well-being outcomes (see below for more on this); and how the State of Vermont should provide funds to nonprofit organizations, and whether this should require ‘results-based accountability.’

Much of the Prior GAC’s focus was on “State Outcomes and Indicators.” Ten Vermont “population-level quality of life *outcomes*” are codified in [3 V.S.A. § 2311\(b\)](#). These outcomes are general State goals for Vermonters’ well-being, such as “Vermonters are healthy” and “Vermont has a prosperous economy.” The general *outcomes* are accompanied by specific *indicators* (“population-level indicators”) which measure the State’s progress in reaching the outcomes. For example, “the percentage of adults who smoke cigarettes” is one of the *indicators* demonstrating whether the State is reaching its desired *outcome* of “Vermonters are healthy.” This method of using indicators to report on outcomes is called Results-Based Accountability (“RBA”). The Chief Performance Officer (“CPO”) annually submits a [State Outcomes Report](#) on these outcomes and indicators so that the data can be analyzed over time and assist the State in making decisions on how to spend its resources.

The Prior GAC could approve revisions to these indicators submitted by the Chief Performance Officer. (Note: With the repeal of the Prior GAC, these indicators would now be determined by “a standing committee of the General Assembly having jurisdiction over a population-level quality of life outcome. *see* [3 V.S.A. § 2311\(c\)](#).)

In its last two years, the Prior GAC, in cooperation with the Agency of Human Services (AHS), was attempting to create indicators that specifically demonstrate the quality of life

for Vermonters who are members of marginalized groups (please see the [2022 report](#) for more detail). In its [last report](#), the Prior GAC recommended that 1) training for new legislators include information about the State Outcomes Report and Results-Based Accountability, and 2) that the Prior GAC's statutory charge was to be reviewed to see whether any changes are needed to clarify the scope of the Committee's work. Note: The entire 2 V.S.A. chapter 28 (Government Accountability Committee) was repealed by the same act that authorized this Summer Government Accountability Committee.

Appendix iii – Committee Meeting Dates

- September 18, 2023
- October 18, 2023
- November 3, 2023
- November 9, 2023
- December 13, 2023

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Appendix iv – List of Witnesses

Witnesses:

1. Building Bright Futures:
 - a. Morgan Crossman, Executive Director–10/18/2023
2. National Conference of State Legislatures, Center for Legislative Strengthening:
 - a. William Clark, Program Principal–9/18/2023; 10/18/2023; 11/3/2023
 - b. Mari Henderson, Senior Policy Specialist–11/3/2023
 - c. Carrington Skinner, Senior Policy Specialist–9/18/2023
3. New Mexico Legislative Finance Committee:
 - a. Charles Sallee, Director–10/18/2023
4. Vermont Legislative Joint Fiscal Office :
 - a. Catherine Benham, Chief Fiscal Officer–11/3/2023
5. Vermont Office of Legislative Counsel:
 - a. Jen Carbee, Acting Director of the Office of Legislative Counsel–10/18/2023
 - b. Tim Devlin, Legislative Counsel–9/18/2023; 11/3/2023; 11/9/2023; 12/13/2023
 - c. Anthea Dexter-Cooper, Legislative Counsel–12/12/2023
6. Vermont Office of Racial Equity:
 - a. Xusana Davis, Executive Director–11/3/2023; 12/13/2023
7. Vermont Office of the State Auditor:
 - a. Doug Hoffer, State Auditor–9/18/2023
 - b. Tim Ashe, Deputy State Auditor–9/18/2023; 10/18/2023

Additional resources provided to the Committee by:

- Vermont Agency of Administration:
 - Justin Kenney, Chief Performance Officer
- Vermont Office of Legislative Operations:
 - Mike Ferrant, Director

Appendix v – New Mexico Legislative Finance Committee Presentation on LegisSTAT

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NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

New Mexico Legislating for Results

Charles Sallee, Director
October 2023



NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

Fiscal management and accountability arm of the state legislature

Interim committee

Bicameral and proportionate to political make up of each chamber

Staffed by a permanent nonpartisan team of fiscal analysts (budget-making), economists (revenue estimating and tracking), program evaluators, and support staff

A Brief History

LFC established in 1957

1990: Program Evaluation Unit moves from State Auditor's Office to LFC

1994: NM Legislation calls for the creation of the *New Mexico Horizons Task Force* which recommended development of an AGA

1998: Urban Institute & NCSL begin examining practices in results-based state government

2000: Accountability in Government Act (AGA) established performance-based budgeting

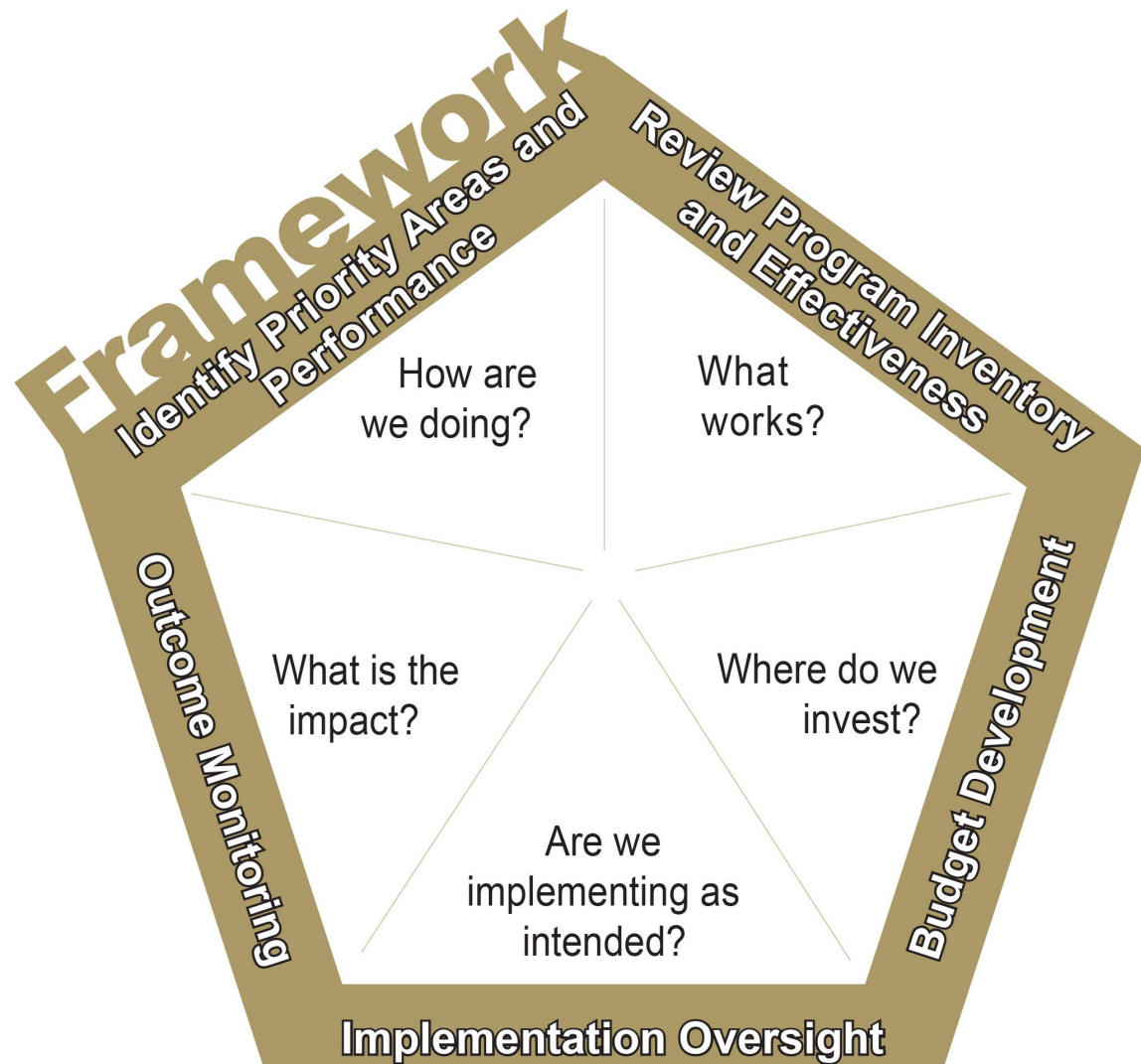
2003: NCSL publishes best practices for performance hearings and using data

2005: AGA amended to require quarterly performance reporting

2019: SB58 – Evidence and Research-Based Funding bill passed

2021: LFC holds its first LegisStat hearing

2023: LFC develops and implements its seven elements to guide budget decision-making



Legislating for Results Framework

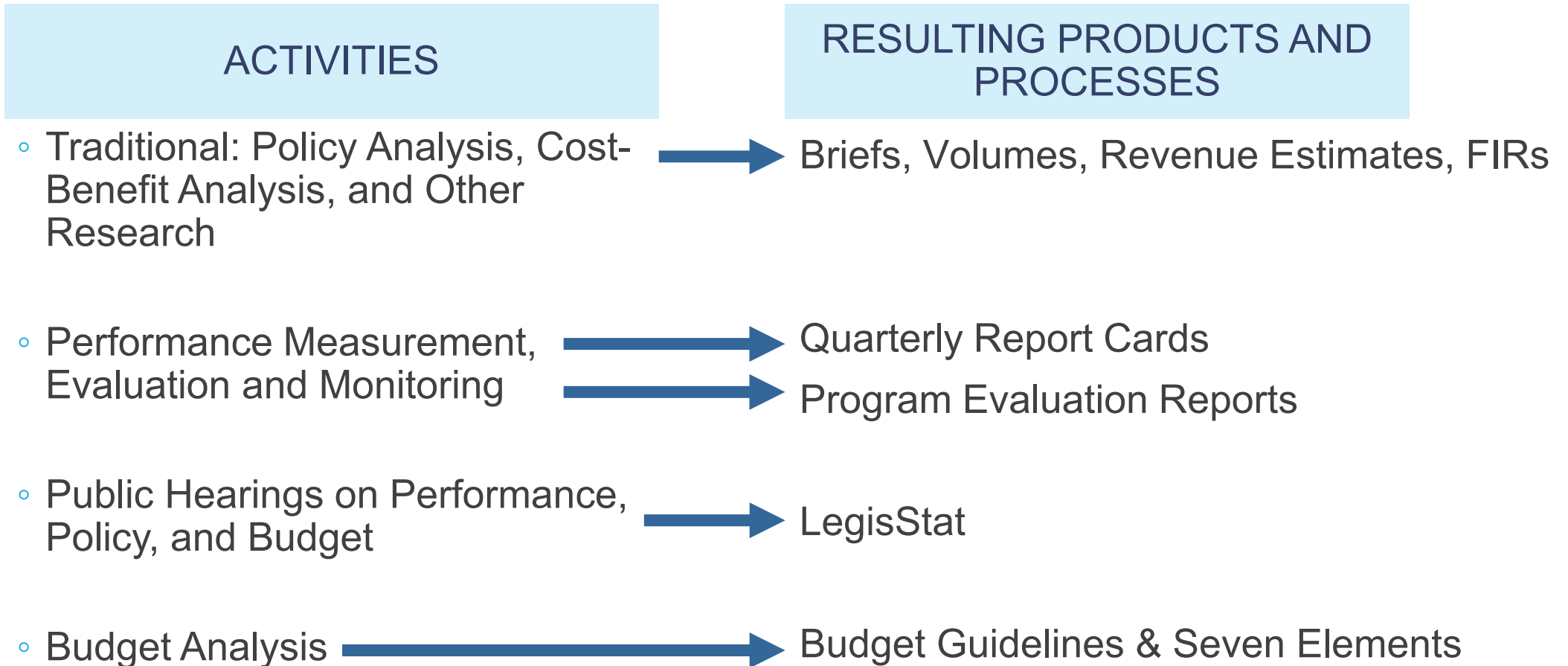
Legislating for Results Tools

ACTIVITIES

- Traditional: Policy Analysis, Cost-Benefit Analysis, and Other Research
- Performance Measurement, Evaluation and Monitoring
- Public Hearings on Performance, Policy, and Budget
- Budget Analysis



Legislating for Results Tools



Legislating for Results Tools

ACTIVITIES

RESULTING PRODUCTS AND PROCESSES

- Traditional: Policy Analysis, Cost-Benefit Analysis, and Other Research → Briefs, Volumes, Revenue Estimates, FIRs

- Performance Measurement, Evaluation and Monitoring → Quarterly Report Cards
→ Program Evaluation Reports

- Public Hearings on Performance, Policy, and Budget → LegisStat

- Budget Analysis → Budget Guidelines & Seven Elements

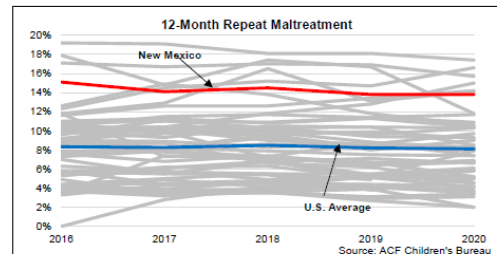
**This
Presentation**



New Mexico consistently ranks among the top six states for repeat maltreatment occurring within 12 months of an initial allegation. There are several evidence-based options to reduce and prevent repeat maltreatment and better leverage the child welfare workforce, including improving the use of screening and assessment tools, intervening early with the level of intervention based on the level of risk, and following through with the appropriate supports and services. In recent years, the state enacted legislation and significantly increased appropriations in support of these objectives. However, delivering the right interventions to the right people at the right time is easier said than done. In a February 2023 press release the governor declared the child welfare system "is fundamentally broken." This came 32 years after the taskforce that led to the establishment of the Children, Youth and Families Department (CYFD), said the system was crisis-oriented and failed to support families. For FY24, the Legislature increased appropriations significantly for the child welfare system to adjust salaries, fill vacancies, improve access to behavioral health services, and boost prevention programming for evidence-based programs.

Protective Services

Prevention and early intervention is the key to reducing repeat child maltreatment. Over the long-term, child maltreatment causes physical, psychological, and behavioral consequences leading to increased costs to the child welfare, behavioral health, and physical healthcare systems. Several evidence-based options for preventing repeat maltreatment could be expanded and leveraged to garner more federal revenue and improve outcomes. Between FY18 and FY22, CYFD preventive services expenditures grew from about \$1.1 million to \$11.1 million, a tenfold increase, with most of the increase occurring in the last two years. The number of children placed in either foster care, relative foster care, or other placements increased by 14 percent since December 2022 or about 242 children. Prior LFC program evaluation reports pointed out that the state may be over-removing children and that many of these children end up in short-term placements. The increased number of children in custody of the department reverses a trend going back to at least 2018 of fewer children in foster placements.



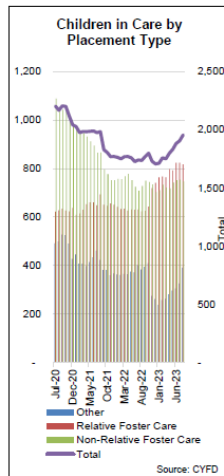
ACTION PLAN

Submitted by agency? No
Timeline assigned? No
Responsibility assigned? No

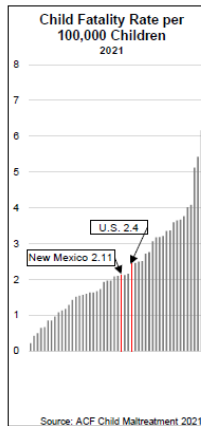
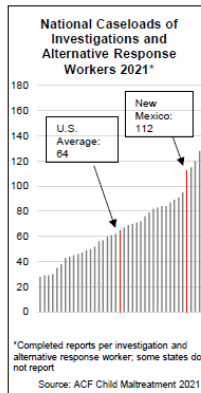
Kevin S., et al. v. Blalock and Scrase Lawsuit Settlement

The lawsuit against CYFD alleged

- Systemic failures resulting in harm to children in foster care,
- Lack of stable placements,
- Behavioral health needs unmet,
- No trauma sensitive system, and
- Little behavioral health capacity.



Children, Youth and Families



Budget: \$105,773.8 FTE: 1,111

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Maltreatment					
Children who were victims of a substantiated maltreatment report during a 12-month period who were victims of another substantiated maltreatment allegation within 12 months of their initial report	14%	14%	9%	13%	R
Rate of maltreatment victimizations per one hundred thousand days in foster care	14.7	10.1	8.0	13%	R
Families with a completed investigation that participated in family support or in-home services and did not have a subsequent substantiated abuse report within 12 months	New	75%	20%	91%	G
Serious injuries with prior protective services involvement in the last year	New	43%	26%	33%	R
Turnover rate for protective service workers	26%	37%	30%	37%	R
Average statewide central intake call center wait time in seconds	27	30	180	29	G
Foster Care					
Children in foster care who have at least one monthly visit with their caseworker*	98%	98%	N/A	92%	G
Children in foster care for more than eight days who achieve permanency within 12 months of entry into foster care	30%	36%	30%	33%	G
Children in foster care for 12 to 23 months at the start of a 12-month period who achieve permanency	40%	42%	35%	34%	Y
Children in foster care for 24 months, or more, at the start of a 12-month period who achieve permanency	41%	38%	32%	31%	Y
Foster care placements currently in kinship care settings	42%	49%	35%	52%	G
Indian Child Welfare Act foster care youth who are in an appropriate placement	73%	72%	35%	67%	G
Relative placements that transition to permanency or are still stable after 12 months	78%	74%	35%	73%	G
Children who enter care during a 12-month period and stay for >8 days, placement moves rate per 1,000 days of care	5.8	5.7	4.0	7.6	R
Program Rating	Y	Y		Y	

Juvenile Justice Services

The Juvenile Justice Services (JJS) secure population continues shrinking and in November 2022 there were a total of 80 clients in secure facilities, a 63 percent decrease since FY13. Because of the continual downward population trend, in January 2022 the department closed the Camino Nuevo Youth Center after ceasing to hold clients at the San Juan County Detention Center in FY21. Physical assaults in the facilities are significantly down and there is currently a two-to-one student teacher ratio. With the reduced population and low ratios, the program should start performing better on improving math and reading scores. The turnover rate for youth care specialists increased from 18 percent in FY21 to 42

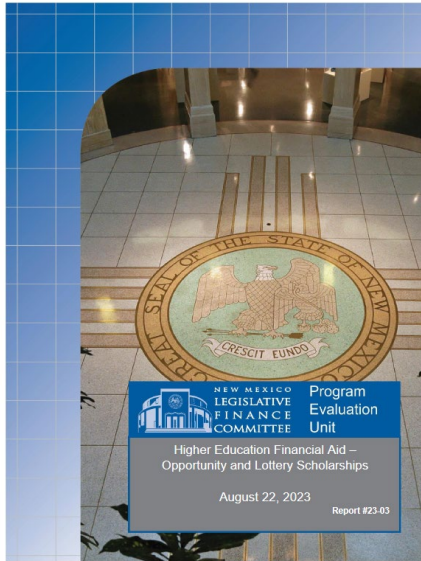
Quarterly Report Cards

Required by statute – New Mexico’s Accountability in Government Act

Only key (large) agencies

Measures and targets negotiated annually between executive and legislature

Agencies must identify their core services and ways to measure effectiveness and report on whether programs are demonstrating that effectiveness.



Progress Report Program Evaluation Unit
Legislative Finance Committee August 24, 2023

Addressing Substance Use Disorders

Summary
New Mexico consistently has the highest alcohol-related death rate in the country and ranked sixth nationally for drug overdose deaths in 2021. Substance use disorders (SUD) remain a problem in New Mexico, as alcohol- and drug-related deaths increased rapidly during the pandemic. Between 2019 and 2021, the state's alcohol-related death rate increased by 31 percent, and 2,274 New Mexicans died of alcohol-related deaths in 2021. Similarly, the state's overdose-death rate increased by 68 percent, and 1,029 New Mexicans died of a drug overdose in 2021. Preliminary 2022 overdose data suggest the state's overdose death rate may have improved slightly, though this data is preliminary and subject to change. The state is investing relatively little effort in upstream interventions and prevention efforts, given the magnitude of the state's high rates of SUD and associated deaths, particularly for alcohol misuse. New Mexico should expand and increase uptake in prevention programs and consider strengthening population-level prevention policies. New Mexico has made significant investments in treating substance use disorders. The state is spending roughly \$800 million on the Medicaid behavioral health program, which is the primary funding source for substance use treatment in New Mexico, as well as an additional \$246 million annually for behavioral health services, which may include substance use treatment, through other agencies in the Behavioral Health Collaborative. Previous LFC studies recommended expanding evidence-based forms of treatment, including the use of medications to treat opioid and alcohol-use disorders, as well as expanding the state's harm reduction efforts. New Mexico implemented several LFC recommendations, including statutory changes to the Harm Reduction Act and investments in medications to treat SUD. This progress report finds some forms of evidence-based treatment have expanded within the state's Medicaid behavioral health program. However, the utilization of medications to treat SUD has not grown substantially, though the elimination of federal requirements could make treatment for opioid use disorder more accessible. Overall, the state continues to struggle to leverage data in a timely way to better estimate SUD needs and treatment utilization, and New Mexico risks duplicating or underleveraging available resources without coordination.

Progress Reports foster accountability by assessing the implementation status of previous program evaluation reports, recommendations and need for further changes.

NEW MEXICO LEGISLATIVE FINANCE COMMITTEE
Program Evaluation Unit
Division
September 29, 2023
Report #23-04



2023 Accountability Report LEGISLATIVE FINANCE COMMITTEE

Medicaid

The Medicaid program is the largest expenditure in the state's budget and serves nearly half of the state's population. As such, LFC Accountability Reports seek to bolster reporting on Medicaid. Between February 2020 and February 2023, Medicaid enrollment grew 20 percent, peaking around 1.6 million—nearly half the state's population. Meanwhile, spending during this period grew at a faster rate. In FY23, spending on the state's Medicaid program surpassed \$3.9 billion, growing 19 percent since FY19. Medicaid provides health care to almost half of New Mexico. With so much at stake, the Legislature and the public have an interest in understanding how well the state's Medicaid program is delivering healthcare to New Mexicans, as well as the associated health outcomes.

Since the start of 2023, nearly 100 thousand New Mexicans have been disenrolled from Medicaid. During the pandemic, the federal public health emergency (PHE) prevented states from disenrolling Medicaid recipients, pausing federally required checks for income eligibility. As a result, total Medicaid enrollment grew by roughly 20 percent between FY19 and FY23. For this reason, the cost and utilization sections of this report aim to compare pre- and post-pandemic costs and utilization. The federal PHE ended in the spring of 2023, and the Human Services Department (HSD) began the process of unenrolling, or redetermining the eligibility of every Medicaid recipient. In April, HSD estimated 87 thousand New Mexicans were no longer financially eligible. HSD reached out to enrollees who they estimated would be ineligible, first. New Mexico has one of the highest rates of procedural denial among total closures in the U.S. Procedural denials are disenrolling a client from Medicaid for reasons other than income eligibility, such as not responding or failing to return paperwork. Between April and August 2023, 98 thousand New Mexicans were disenrolled from Medicaid, and HSD projects enrollment will stabilize around 923 thousand in June 2024. Removing individuals from the program who may still qualify can lead these individuals to lose coverage. These individuals may reapply, and HSD projects the program will experience churn. Medicaid clients face challenges accessing timely care, and utilization has declined in several categories since 2019. Medicaid aims to provide healthcare for some of the state's most vulnerable populations, yet previous LFC reports have noted that insufficient numbers of providers cause Medicaid clients to experience challenges accessing care when they need it, while access is also a challenge for non-Medicaid patients. Though managed care organizations (MCO) generally meet their contractual standards for "network adequacy" or enough providers, metrics related to patient experience suggest clients may be unable to access care when they need it. Additionally, use declined in many service categories. This trend mirrored decreased utilization among private health insurance plans during the pandemic. Strategies to improve network adequacy include strengthening MCO contractual standards and accountability and rate increases for healthcare providers. In FY24, the Legislature appropriated \$98 million to increase the rates Medicaid providers are paid. HSD should evaluate outcomes associated with this strategy.

Changes in procurement result in delays in MCO contract improvements. The state's managed care program accounts for around 83 percent of all Medicaid enrollees. The state was set to renew its managed care program in January 2024 and initiated an RFP for MCOs in 2023. Draft contracts for the state's next iteration of managed care, known as Transform Care, include some promising improvements to MCO accountability, including strengthening quality and access standards. However, in January 2023, HSD halted the contracting process. Following an agreement with the State Ethics Committee, HSD will award the four MCOs initially selected in the RFP process. However, the implementation of the new contracts will be delayed until July 2024, delaying some of the key accountability measures, though easing implementation challenges.

Chart 1. Total Medicaid Enrollment (in thousands)

Fiscal Year	Total Enrollment (in thousands)
2019	~1,100
2020	~1,200
2021	~1,300
2022	~1,400
2023	~1,600

Chart 2. Total Medicaid Expenditures (in millions)

Fiscal Year	Base (in millions)	Expansion (in millions)	Total (in millions)
2019	~2,500	~1,000	~3,500
2020	~2,800	~1,200	~4,000
2021	~3,000	~1,400	~4,400
2022	~3,200	~1,600	~4,800
2023	~3,500	~1,800	~5,300

NEW MEXICO LEGISLATIVE FINANCE COMMITTEE
Program Evaluation Unit
Division
September 29, 2023
Report #23-04

Program Evaluation

[https://www.nmlegis.gov/Entity/LFC/Program Evaluation Search?Query=&StartYear=1991&EndYear=2023&Category=ALL&PubType=ALL](https://www.nmlegis.gov/Entity/LFC/Program%20Evaluation%20Search?Query=&StartYear=1991&EndYear=2023&Category=ALL&PubType=ALL)

Deep dive research that covers the gamut of government and outcomes analysis on outcomes, management, compliance, effectiveness, and efficiency.

Contain far-reaching recommendations, which may include changes to law, rule, appropriations, or implementation

Often spurred by changes in performance noted in report cards

LegisStat

LegisStat is an **initiative of the LFC** designed to help the committee become a more effective partner with New Mexico state agencies in continually improving agency programs and policies.

Based on a leadership strategy known as **PerformanceStat**.

LegisSTAT **adapts the PerformanceStat approach to a legislative context.**

The goal is to ensure **focused conversations** between the LFC (as a committee or subcommittee) and agency leaders about addressing high-priority agency performance challenges and opportunities.

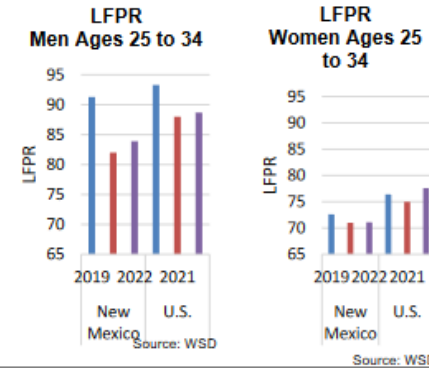
Key Data

Principals of LegisStat

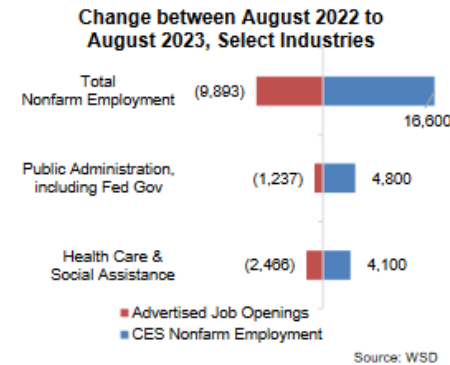
- **Focused:** Meetings focus on most important challenges facing agencies, identified ahead of time.
- **Committee-driven:** Meetings driven by the committee chair and by members' questions; only short presentations.
- **Emphasizing deeper dives:** Use of follow-up questions by members to get to the root causes of problems... "the Five Whys."
- **Action-oriented:** Agencies ideally commit to specific actions by the next meeting, representing near-term actions even if long-term challenges.
- **Strong on accountability:** Meetings designed to start with agency updates on action items from previous meeting.
- **Collaborative:** Meetings require ongoing collaboration between legislators and agency leaders.
- **Aiming for impact:** Important part of the initiative's impact occurs between meetings, when agencies work to achieve action items committed to during the meetings.



- Between 2008 and 2021, the state lost about 26 thousand workers.
- An estimated one-quarter of the state's population is not employed but is of working age.
- Between February 2023 and July 2023, as the state began to unwind benefit programs that were enhanced during the pandemic, the LFPR increased slightly, from 56.5 percent to 57.1 percent.
- The national LFPR in July 2023 was 62.6 percent.




- While national labor force participation rates have increased for both men and women who are 25 to 34 years of age between 2021 and 2022, in New Mexico they only increased for men.
- Overall, 60.4 percent of working age men participate in the labor force, compared to 50.5 percent of working age women in New Mexico.
- Among men and women of prime working age, more men participate in the workforce than women.
- An estimated 77 thousand men and women in this prime working age range are not participating in New Mexico's labor force.



- Over the last year, employment trends have returned to those that were more normal before the pandemic.
- The number of advertised job openings overall and in select industries has declined, while the number of workers employed has increased

Budget Guidelines & Seven Elements

- Budget guidelines approved by committee
- Guides approach to budget development
- Prioritizes funding recommendations for evidence-based programs and initiatives.
- Instructs analysts to evaluate requests on the “seven elements” of quality program design
 - Program Premise
 - Needs Assessment
 - Program Description
 - Research and Evidence
 - Implementation Plan
 - Fidelity Plan
 - Measurement and Evaluation
- Staff use rubric to rate expansion requests based on these seven elements



NEW MEXICO
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COMMITTEE

Legislating for Results:
Budget Development Tool

New Mexico agencies making significant requests to expand agency budgets, other than workload changes, or for large special appropriations that appear to expand an agency's recurring budget are being asked to assess the proposals and report on their purpose, potential for success, and plans for implementation and accountability in accordance with the [Budget Guidelines of the New Mexico Legislative Finance Committee \(LFC\)](#) and LFC's [Legislating for Results Framework](#).

1 Program Premise What public problem does this program seek to address? How will this program address the problem? Does the proposed program link to a goal in the agency's strategic plan?

What is the extent of the problem stated in numerical, geographic, and equity terms? What portion of the total need identified does this program seek to address?

2 Needs Assessment

3 Program Description What specific activities in the program will achieve these expected program outcomes? What are costs per person or activity? Once the program is fully operational, what are the estimated ongoing annual costs?

Is the program based on evidence or research or a promising practice? Will it need formal evaluation?

4 Research and Evidence

5 Implementation Plan What activities are needed to implement the program? How much will it cost? What is the timeline for each startup activity?

Will the program be implemented with equity and fidelity? Do you have a checklist of the program components need to achieve the impacts?

6 Fidelity Plan

7 Measurement and Evaluation What specific outcomes are expected? What are key performance measures? How often will the program be measured and evaluated?

Results Focused Government

Best Practices in Leadership

- Practice #1: Demonstrating that agency leadership values evidence and results

Best Practices in Evidence-Related Strategies

- Practice #2: Using evidence-based budgeting
- Practice #3: Developing a learning agenda
- Practice #4: Creating an evaluation policy
- Practice #5: Using rapid experimentation (also known as A/B testing)
- Practice #6: Implementing results-driven contracting
- Practice #7: Adding evidence incentives to grants

Best Practices in Performance Management

- Practice #8: Using performance information
- Practice #9: Implementing strategic planning
- Practice #10: Collaborating with other agencies or levels of government

Best Practices in Using Data

- Practice #11: Expanding data sharing and usage



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For More Information

- <http://www.nmlegis.gov/lcs/lfc/lfcdefault.aspx>
 - Session Publications
 - Performance Report Cards
 - Program Evaluations

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