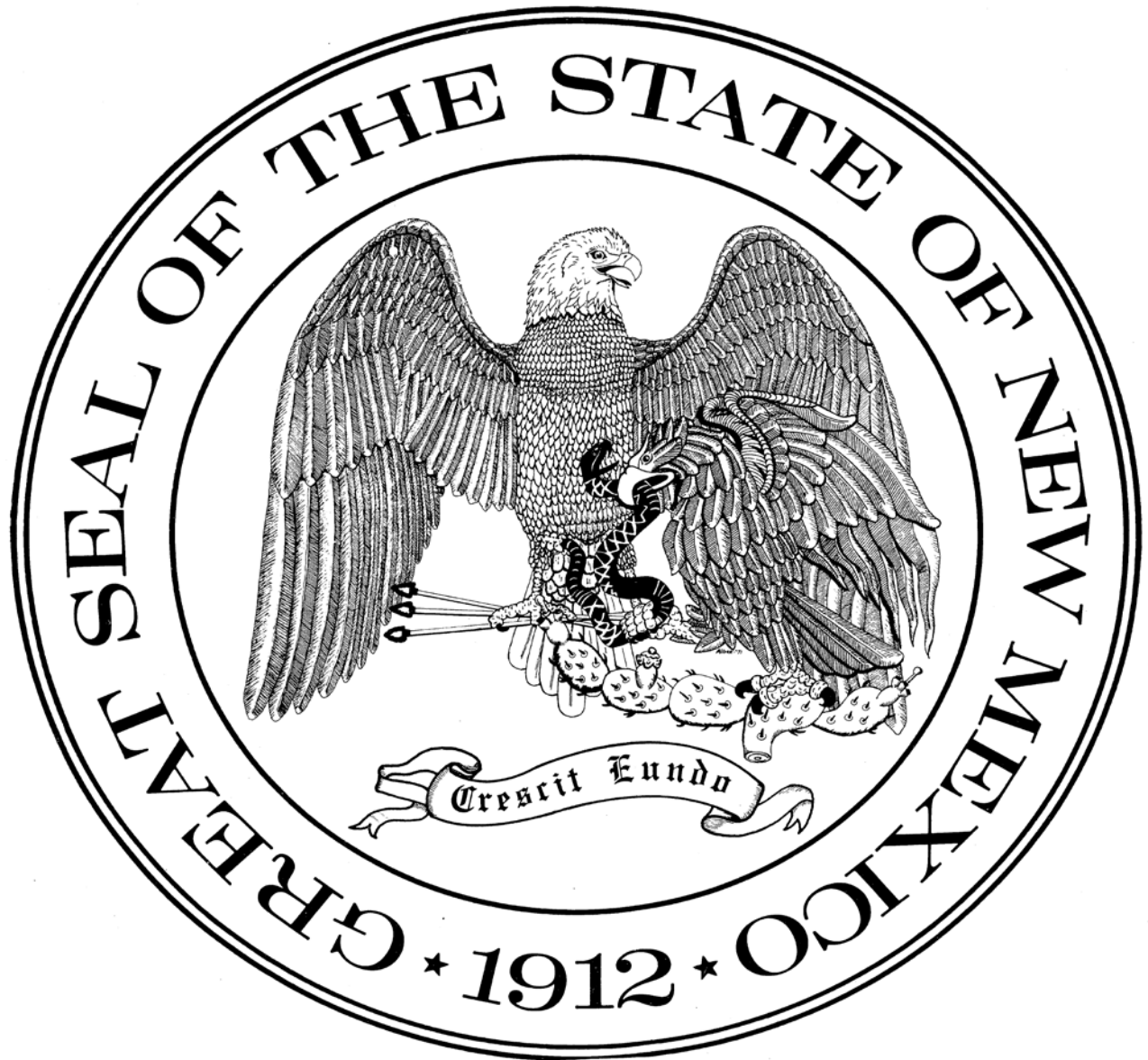


**STATE OF NEW MEXICO**  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

**ANNUAL REPORT**  
**TO THE SECOND SESSION OF THE FIFTY-SECOND**  
**LEGISLATURE, 2016**



**JANUARY 2016**



*State of New Mexico*  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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January 2016

Fifty-Second Legislature, Second Session  
State Capitol  
Santa Fe, New Mexico

Dear Fellow Legislators:

Pursuant to Section 2-10-3 NMSA 1978, this report of the findings and recommendations of the Legislative Education Study Committee (LESC) is provided for your consideration.

At the start of the 2015 interim, I challenged the committee to return to its statutory roots as an in-depth study committee. We enter the legislative session having made remarkable progress toward that goal. For most focus area topics, the committee dedicated time across multiple meetings for presentations and discussions, which allowed us to hear from a more diverse group of experts than would have been possible through a single hearing.

I would also be remiss if I didn't highlight our cooperation this interim with the Legislative Finance Committee (LFC) through the LESC-LFC Ad Hoc Work Group. Too often the interests of the educational community have been viewed as competing with sound fiscal policy. This collaborative effort leveraged the professional staff from both committees to examine a handful of educational policy and finance issues in the hopes of finding common ground. I would like to thank Chairman Smith and the members of LFC for making those productive meetings possible. Both of our committees are stronger for the experience.

Like the reports of previous interims, this one reviews the research and testimony that the LESC considered in making its recommendations for legislation introduced during the 2016 legislative session. In structure, the report has been grouped into several focus areas that became evident as the committee started delving into its work plan: Education Finance; Interventions for Students;

Teacher Quality; Virtual Education and Cyber Learning; and Student Assessment Practices and Results.

In other respects, the report might look substantially different from years past. In keeping with the long-term goal to promote in-depth study, we have attempted to distill a sizable amount of testimony to the committee into concise findings; readers interested in a more detailed record of the committee's proceedings are encouraged to consult meeting minutes and other material on file in the LESC office or available through the LESC website, <http://www.nmlegis.gov/lcs/lesc>. These findings provide a foundation not only for the committee-endorsed legislation but also LESC staff recommendations that will serve to guide future committee work and research.

On behalf of the committee, it is my pleasure to present the findings and recommendations of our interim work. I hope that you will find its new format informative and useful.

Sincerely,

A handwritten signature in cursive script that reads "Dennis J. Roch".

Representative Dennis J. Roch, Chair

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# LEGISLATIVE EDUCATION STUDY COMMITTEE

## REPORT OF THE 2015 INTERIM

### RECOMMENDATIONS OF THE LESC

At the December and January meetings, LESC endorsed 10 bills for consideration during the 2016 regular legislative session. These bills covered a range of topics including licensure, student wellness, assessments, student discipline, transportation funding, higher education, enrollment growth, the funding formula, and academic standards. Brief synopses of the endorsed legislation follow:

**Junior Reserve Officer Training Corps (JROTC) Teaching Licenses.** The bill allows the Public Education Department (PED) to grant alternative level one, level two, and level three-A teaching licenses to JROTC instructors, who fulfill certain requirements of both the licensees' respective service branches and PED applicable to their licensure level. Endorsed 7:0.

**Breakfast After the Bell Name and Changes.** The bill would rename the "Breakfast After the Bell" program to the "School Breakfast Program," and allow the program to be administered in public schools either before or after the instructional day begins. Endorsed 6:1.

**Remove Some School Readiness Tests.** The bill amends the *Assessment and Accountability Act* to remove ninth and tenth grade short-cycle diagnostic assessments in reading, language arts, and math from the state's readiness assessment system. Endorsed 7:0.

**School Use of Restraint and Seclusion.** This bill adds limits on the actions school personnel can take when disciplining students and requirements for school personnel to notify parents if their children have been subjected to restraint or seclusion. Endorsed 5:3.

**State-Chartered Charter School Transportation.** The bill creates separate transportation formula funding calculations and distributions for school districts and state-chartered charter schools. Additionally, it requires state-chartered charter schools to: deposit year-end transportation balances in the Transportation Emergency Fund, limit transportation to the boundaries of the school district in which the state-chartered charter school is geographically located, and establish bus routes and walk zones. Endorsed 7:0.

**Postsecondary Credit for Military Training.** The bill requires the Secretary of Higher Education, in consultation with state institutions of higher education, to develop a single articulation agreement, that outlines the evaluation and award of academic credit for an active

duty service member's or veteran's military experience and training that will count toward a degree program. Endorsed 7:0.

**Elementary School Physical Education and Obesity.** Noting the sharp increase in juvenile obesity rates and concomitant weight-related health problems such as diabetes or heart disease, the joint memorial requests the LESC to establish a task force to evaluate the feasibility of requiring a minimum of 150 minutes of physical activity, per week annually, and for all children in public elementary schools. The task force is requested to review similar programs in other states, implement a plan beginning with school year 2017-2018, and report to the committee by October 1, 2016. Endorsed 7:0.

**Alternative Level Three-B Licensure.** The bill creates a new section of the *School Personnel Act* to create an alternative level three-B licensure track for instructional support providers. The alternative level three-B license is a five-year license granted to an applicant who is an instructional support provider, holds a post-baccalaureate degree, has satisfactorily completed courses in administration approved by PED and a PED-approved administration apprenticeship program, and demonstrates instructional leader competence verified through a PED-approved evaluation system. The bill sets the minimum annual salary for the licensed applicant at the minimum salary for a level three-A teacher multiplied by the applicable responsibility factor. Endorsed 8:0.

**Enrollment Growth Definitions.** The bill amends a section of the *Public School Finance Act* to clarify that the definition of "current year MEM" for the purposes of calculating enrollment growth units does not include MEM calculated for new formula-based programs based on the first reporting date of the current year for the purposes of the state equalization guarantee (SEG) distribution. Endorsed 5:1.

**Public School Funding Formula Changes.** Effective July 1, 2016, this bill would amend multiple sections of the *Public School Finance Act* and the *Charter Schools Act* to phase in over five years the following:

- establish a Teacher Cost Index (TCI) and phase in the replacement of the existing Instructional Staff Training and Experience (T&E) Index with the TCI;
- reduce small-school size adjustment program units for certain charter schools; and
- increase the at-risk index multiplier.

The bill also:

- provides financial protection from program cost reductions attributable to the provisions of the bill for three years, from FY 17 through FY 19; and
- appropriates \$1.0 million from the General Fund to PED to fund the hold-harmless provision in the first year. Endorsed 6:0.

## **2015 INTERIM WORK GROUPS AND SUBCOMMITTEES**

### ***LESC-LFC Ad Hoc Work Group***

During the 2015 interim, the Legislative Education Study Committee (LESC) and Legislative Finance Committee (LFC) chairs appointed an ad hoc work group comprised of four members from each committee. The LESL-LFC Ad Hoc Work Group met three times, discussed areas of public education policy and finance having a strong potential for joint recommendations, including:

- supports for at-risk students;
- enrollment growth program units and funding of new programs;
- school size adjustment program units;
- charter school student transportation and funding;
- aligning the instructional staff training and experience index to three-tiered licensure; and
- school personnel compensation.

The following members were appointed to serve on the work group:

- for LESL: Representative Dennis J. Roch, Co-Chair, Representative Tomás E. Salazar, Senator Gay G. Kernan, and Senator John M. Sapien; and
- for LFC: Representative Jimmie Hall, Co-Chair, Representative Stephanie Garcia Richard, Senator Howie C. Morales, and Senator Sue Wilson Beffort.

Work group considerations were presented to LESL in November, and several bills reflecting the work group's efforts received an LESL endorsement. Policy considerations from the work group are included under focus areas for which their discussions appeared to yield consensus.

### ***ESSA Title I Plan Advisory Subcommittee***

In December 2015, the federal *Every Student Succeeds Act* (ESSA) was passed by Congress and signed by President Obama, replacing the federal *No Child Left Behind Act*. ESSA requires the Public Education Department (PED) to submit a Title I Plan to the US Department of Education that is developed with timely and meaningful consultation with the governor, legislators, school district and charter school leaders, Indian tribes, educators, and other stakeholders. The limitations ESSA places on the federal government's role in education places more responsibility on states to develop action plans for improving education. A broad range of input will help to ensure New Mexico's efforts are appropriately targeted to close the achievement gap and ensure all students are able to succeed.

LESL is the legislative body statutorily charged with studying public education issues in New Mexico, and therefore, the most appropriate legislative body to participate in the creation of the state's Title I Plan. Members and staff are familiar with a wide range of education issues that affect the achievement and well-being of New Mexico students and would bring varying, knowledgeable perspectives to the planning process. Consequently, the LESL Chair and

Vice Chair formally requested that PED include the committee in development of New Mexico's Title I Plan; however, PED did not respond to the request prior to the end of the interim.

Due to an expected timeline for drafting the state's Title I Plan that begins prior to the first 2016 LESC interim meeting, the committee anticipates appointing members to serve on an ESSA Title I Plan advisory subcommittee after the conclusion of the 2016 legislative session but before its organizational meeting.

## **FOCUS AREAS**

### **EDUCATION FINANCE**

#### **FY 17 BUDGET OUTLOOK AND REQUEST**

As part of its equalized education financing structure, public schools in New Mexico receive the majority of operational funds from the state. School districts and charter schools are funded with state revenues from the general fund and indirectly from distributions of the Land Grant Permanent Fund and federal *Mineral Leasing Act* fund proceeds. Additionally, the state supports public school capital outlay through a standards-based award process funded by severance tax revenue.

Although more than half of all general fund revenue comes from gross receipts and personal income taxes, which broadly track the state's economic well-being, significant portions of the general fund and the other revenues earmarked for schools are attributable to the extraction of natural resources, especially oil and natural gas. Over the past year and a half, the price of West Texas Intermediate (WTI) crude oil has fallen over 55 percent, from an annual average of \$101.32 per barrel in FY 14 to \$44.18 per barrel in the first half of FY 16. Recently, prices have fallen below \$35 per barrel, calling into question the validity of general fund revenue projections that use significantly higher average prices.

Every year, the Legislature has to balance how much funding should be appropriated to school districts and charter schools for annual operations through the state equalization guarantee (SEG) (termed above-the-line spending) and how much should be appropriated to categorical programs and related recurring programs (termed below-the-line spending). Considerations include providing school districts and charter schools a base level of operational funding versus the ability to make targeted investments in programs designed to improve education outcomes. Legislators must weigh the goal of ensuring students have equal education opportunities across the state at the highest possible revenue level against providing the Public Education Department (PED) the resources necessary to improve student outcomes and ensure a return on the state's investment. Limited revenue growth continues to intensify this debate, as fixed costs like utilities, maintenance and repair, and insurance continue to grow for school districts and charter schools.

During the 2015 interim, LESC heard presentation from:

- New Mexico Public Schools Insurance Authority (NMPSIA) and Albuquerque Public Schools (APS) on their FY 17 public school health and risk insurance budget requests in November;
- the Department of Finance and Administration (DFA), the Taxation and Revenue Department (TRD), and the Legislative Finance Committee (LFC) on the FY 16 and FY 17 general fund revenue projections in December; and
- PED on the department's FY 17 public education budget requests.

## *Findings*

**Healthcare costs continue to grow, placing pressure on school district and state-chartered charter school operational funding.** Committee members heard testimony regarding increased costs from increased charter schools entering the risk pool, costs associated with the federal *Patient Protection and Affordable Care Act* (PPACA), higher reimbursement rates for rural hospitals, a large increase in the number of high dollar medical and specialty prescription drug claims, and a consolidation in the number of drug manufacturers.

**The state should continue to explore cost containment strategies for the two largest public school insurance entities.** Committee members noted insurance packages for public school employees provide greater benefits than those received by private sector employees. Members also indicated costs for public school employee insurance plans appear to outpace participants' premium contributions in recent years, which increases the reliance on use of fund balance, plan design changes, or increased appropriations. Refocusing healthcare to emphasize personal accountability and cost savings measures, including conducting medical claims audits and building onsite wellness clinics could reduce healthcare costs.

**Available revenues for FY 17 appropriations were revised downward in December.** The December consensus revenue forecast projects \$231.7 million in new money available for appropriations, which is a decrease from the August estimate of \$293 million. Members noted that the December forecast seemed high. Downside risks to the December consensus revenue forecasts include decreased oil and natural gas prices and weak job and wage growth. The effect of internet sales on state revenues is largely unknown, as only internet sales of entities with a physical presence in the state are taxable. Costs associated with the Medicaid program continue to grow as well with appropriations for Medicaid becoming the second largest component of the state budget.

**School districts cite a lack of facilities as a barrier to expanding pre-kindergarten programs.** Without facilities, school districts are unable to access pre-kindergarten operational funding. As a voluntary program, existing capital outlay funding structures may be challenged to provide pre-kindergarten facilities. As the state seeks to expand access and the length of the program to all-day pre-kindergarten, the state will need to overcome the barrier of inadequate space.

## *Recommendations*

For FY 17, LESC did not make recommendations on public education spending. However, during the interim, numerous issues were discussed that prompted staff to make recommendations to study or address underlying policy issues related to education appropriations.

LESC staff recommend:

- the impact of current below-the-line appropriations be evaluated for effectiveness to ensure appropriations are improving student achievement and closing the achievement gap;
- studying a framework for expanding pre-kindergarten facility funding;
- studying insurance cost containment strategies employed by public employers, including implementation of outcomes-based health insurance incentives; and
- continuing to monitor the impact oil and natural gas revenues have on state revenues, including capital outlay.

## **SCHOOL TRANSPORTATION**

During the 2012, 2013, and 2014 interims, the LESL studied school transportation and charter school issues, including the increasing number of state-chartered charter schools receiving transportation funding. Many state-chartered charter schools receive more funding than needed to transport students, resulting in persistently large transportation fund balances and reversions to the Transportation Emergency Fund. Funding transportation for new state-chartered charter schools can dilute funding for existing transportation programs when not accounted for in the annual appropriation. Concerns have also been raised that state-chartered charters schools are not limited to transporting students within certain geographical boundaries, resulting in the ability to claim funding for larger distances than school districts.

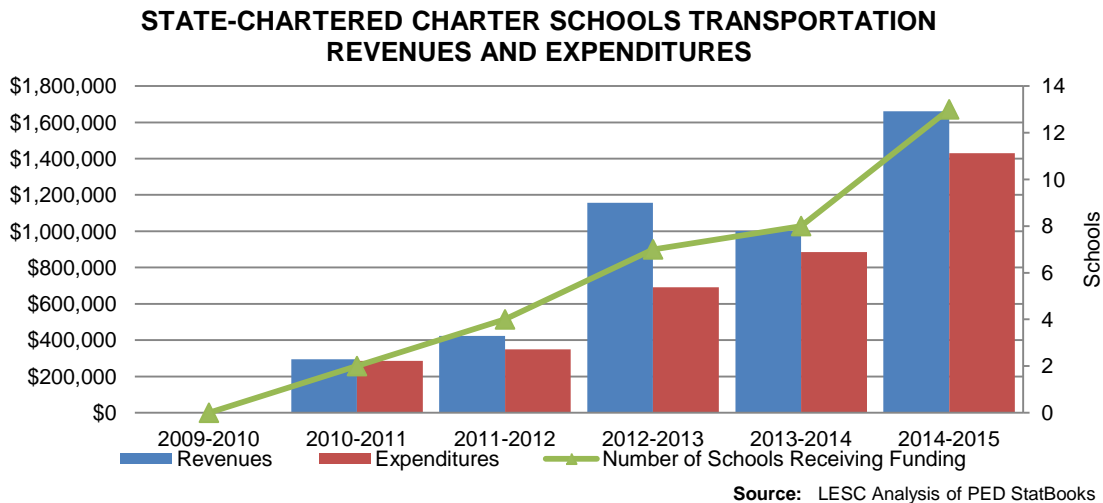
During the 2015 interim, LESL heard presentations from:

- PED on trends in transportation funding and select transportation directors of school districts and the New Mexico Coalition of Charter Schools on challenges of providing student transportation in July;
- LESL staff on state-chartered charter schools receiving excess transportation funding and provisions in law that relate to transportation boundaries in July; and
- LESL staff on the LESL-LFC Ad Hoc Work Group's recommendation regarding state-chartered charter school student transportation and funding in November.

### *Findings*

**Funding for new state-chartered charter school transportation programs contributes to decreased transportation funding for existing school district and state-chartered charter school transportation programs.** Eight new state-chartered charter schools began providing student transportation in FY 16 and received new preliminary transportation funding formula allocations totaling \$832,000. Sixty-eight school districts and five state-chartered charter schools will see a reduction from their final FY 15 transportation funding formula allocations to their initial FY 16 transportation allocations of approximately \$8.0 million, partially due to declining membership and decreased transportation appropriations, in addition to newly funded state-chartered charter school transportation programs.

**Transportation funding for existing state-chartered charter school transportation programs exceeds transportation program expenditures.** In FY 15, the transportation funding formula provided 13 percent more transportation funding to state-chartered charter schools than the charter schools were able to spend. As shown in the chart below, *State-Chartered Charter Schools Transportation Revenues and Expenditures*, since FY 10, transportation revenues allocated to state-chartered charter schools exceeded expenditures at the end of each fiscal year. As categorical formula grants, these funds are restricted to transportation related expenditures and cannot be used for operational uses.



When a school district’s or state-chartered charter school’s transportation allocation exceeds the amount required to provide to-and-from transportation, law requires 50 percent of the remaining balance be deposited in the Transportation Emergency Fund. Language in the *General Appropriation Act of 2015* requires a state-chartered charter school that receives a transportation allocation that exceeds the amount required to provide to-and-from transportation to deposit 100 percent of the remaining balance in the Transportation Emergency Fund at the end of FY 16.

*Recommendations*

The LESC-LFC Ad Hoc Work Group’s discussions appeared to yield consensus on the following policies:

- address funding disparities between school districts and state-chartered charter school in statute rather than annually through the *General Appropriation Act*;
- create two funding formula calculations and allocations for state-chartered charter schools and school districts; and
- require state-chartered charter schools to provide advance notice to PED of the intent to establish a new transportation program.



LESC endorsed legislation to:

- create separate transportation formula funding calculations and distributions for school districts and state-chartered charter schools; and
- require state-chartered charter schools to:
  - deposit 100 percent of the remaining year-end transportation balances in the Transportation Emergency Fund;
  - limit state-chartered charter school transportation to the boundaries of the school district in which the state-chartered charter school is geographically located; and
  - establish bus routes and walk zones.

### **INSTRUCTIONAL STAFF TRAINING AND EXPERIENCE INDEX**

In 1974, when the Legislature enacted the public school funding formula, the Instructional Staff Training and Experience (T&E) Index was included as a mechanism to encourage districts to hire and retain teachers at a time when many districts had high staff turnover due, at least in part, to increasing salary costs. However, despite having two independent studies funded by the Legislature that recommended revisions to the T&E Index, the index has not been significantly changed since its inception.

As a result, for more than a decade, legislative staff have continued to identify persistent issues with the T&E Index, including its impact on staffing in high-poverty districts, as a multiplier for ancillary services staff units, and lack of alignment with the three-tiered licensure and salary system. These issues led LESL to focus on the T&E Index throughout the 2015 interim, including:

- testimony from Superintendent Stan Rounds of Las Cruces Public Schools providing the district's perspective on issues with the T&E Index at the June 2015 interim meeting in Raton;
- a review of previous LESL and LFC policy recommendations at the July 2015 interim meeting in Rio Rancho; and
- consideration of T&E Index issues by the LESL-LFC Ad Hoc Work Group and discussion of work group progress at several interim meetings.

### *Findings*

**The T&E Index does not adequately reimburse staffing costs for advancement of teachers between tiers.** While licensure level advancement is tied to minimum levels of education and years of experience, PED recently gave teachers flexibility to use their New Mexico Teacher Evaluation Advisory Council (NMTEACH) evaluation results in lieu of a professional development dossier, which has led to more teachers advancing licensure level sooner than they otherwise would have. Superintendent Rounds suggested tier advancement cost his district roughly \$2.3 million in the current school year, which was not compensated through the T&E Index or other legislative appropriations.

**High-poverty schools tend to have low T&E Index values and generate less funding per pupil.** Testimony from LFC staff indicated relatively low T&E Index values place high-poverty school districts at a funding disadvantage; below-average funding contributes to difficulty attracting teachers with more education and experience, which in turn leads to even lower T&E Index values. These findings were supported by an independent study conducted by the Maddox Foundation in 2012.

**Small school districts can experience large swings in their T&E Index year to year.** Changes in a small teaching force can significantly affect the T&E Index of smaller, rural school districts. Aside from making long-term financial planning difficult, the resulting volatility can create budgetary shortfalls that increase dependence on emergency supplemental funding.

**Lack of uniformity in counting years of experience and educational attainment leads to disparate funding between similar school districts.** State law allows school districts to determine how these two factors are counted. As a result, differences exist across the state in how school districts calculate these two factors that cause differences in T&E Index values. PED has the authority to promulgate rules standardizing how to count years of experience and education; however, the department has yet to do this.

### *Recommendations*

The LESC-LFC Ad Hoc Work Group's discussions appeared to yield consensus on the following policies:

- align the T&E Index with the three-tiered licensure system to address school district and charter school costs associated with advancement between levels;
- consider scaling back the types of program units multiplied by the T&E Index;
- allow funding associated with any reduction in units from a revision of the T&E Index to remain in the public school funding formula; and
- gather and analyze data on the relationship between licensure level, educational attainment, years of experience, and salary for subsequent revision of the T&E Index matrix.

The LESC endorsed legislation to:

- establish a Teacher Cost Index (TCI) aligned to years of experience and teaching licensure level that recognizes costs of tier migration; and
- phase in the replacement of the existing T&E Index with the TCI over five years.

### **DEMOGRAPHIC TRENDS, SCHOOL SIZE, AND ENROLLMENT GROWTH**

In New Mexico, the majority of public school operational funding is derived from the public school funding formula, which is primarily driven by student membership (MEM). As rural, school-aged populations have dwindled in recent years, rural school districts increasingly required emergency supplemental funding to remain solvent. Although enactment of legislation to increase formula funding for school districts with fewer than 200 students has reduced

dependence on emergency funding, declining population trends for rural areas continue to present an obstacle to financial stability.

At the same time, statewide enrollment in charter schools has grown sharply. Certain students, primarily from charter schools that are phasing in grades over time, have been double funded in the calculation of certain program units due to an unintended interaction between statutory enrollment growth units and provisions in the *General Appropriation Act (GAA)* that allow a school district or charter school to use current year membership reporting to fund new formula-based programs. In addition to providing excess funding to certain charter schools, the resulting unit inflation decreases the unit value, which negatively affects all other school districts and charter schools statewide.

In addition to student membership, another factor considered by the funding formula is school size. The small size adjustment factor in the public school funding formula was originally intended to steer resources to small, rural communities with small schools that do not benefit from economies of scale; however, urban charter schools have also benefitted from size funding. The 2011 joint LFC/LESC funding formula evaluation suggested that charter schools appear to be barred from receiving school size units by statute; however, PED allows charter schools to generate school size units.

During the 2015 interim, LESC heard presentations from:

- Superintendent Neil Terhune, Raton Public Schools, that enrollment decreased by over 31 percent in 10 years;
- LESC staff that indicated the public school funding formula recognizes both rural school districts and charter schools experience diseconomies of scale and provides additional funding through size adjustments; and
- LESC staff on the LESC-LFC Ad Hoc Work Group's recommendations regarding small school size funding and enrollment growth.

### *Findings*

**Enrollment is decreasing predominantly in small, rural school districts.** As shown in the map titled *Percent Change in Student Membership, by School District School Year 2009-2010 to 2014-2015*, since school year 2009-2010 (SY 10), statewide MEM increased by approximately 2.0 percent. However, over this time period, MEM decreased in 66 of 89 school districts. This decline impacted 42 of the 52 school districts with fewer than 1,000 MEM, and 26 of these districts experienced a decline of 10 percent or more. Most of the 52 school districts with fewer than 1,000 MEM serve rural communities. MEM in urban school districts has stayed relatively flat or increased modestly since SY 10.

**MEM is increasing in charter schools, and the number of charter schools increases yearly.** The map also shows charter schools have grown in number from 73 schools in school year 2009-2010 to 98 schools in school year 2014-2015 and 99 schools in school year 2015-2016. Charter schools experienced a larger percent change in MEM during this time than any school district, an increase of 74 percent, from 12,656 MEM to 22,008 MEM.

**The opposing enrollment trends of decreasing MEM in predominantly small, rural school districts and increasing MEM in schools of choice places pressure on state education budgets.** Decreasing enrollment in small, rural school districts requires additional funding to offset fixed operational costs, either through emergency supplemental funding or by distributing additional revenues through size adjustments in the funding formula. Increasing enrollment in charter schools also results in increased funding formula distributions to schools of choice. These trends place pressures on rural school districts to cut costs. Additional pressures are put on the state education budget as legislators seek to fairly appropriate funds across entities.

**In FY 15, charter school students accounted for 6.6 percent of statewide MEM, but charter schools generated 28.6 percent of all size adjustment units.** With size adjustment program units accounting for 15.6 percent of their total program units on average, charter schools generate 14 percent more SEG funding per MEM than the average school district. However, charter school representatives note charter schools deal with obstacles not faced by school districts, such as maintaining adequate facilities without the benefit of a dedicated revenue source through property tax.

**Some charter school students in new formula-based programs are double funded through enrollment growth units.** School districts and charter schools are required to use current-year student membership in the calculation of program units for new formula-based programs, including newly phased-in grade levels planned by charter schools pursuant to language included in the *GAA* because prior year enrollment data does not exist. However, these same students are also counted toward the calculation of enrollment growth units if year-over-year growth is at least 1.0 percent. This double funding occurs most often at charter schools that are phasing in grades. Language was included in the *GAA of 2015* to address this double funding. However, it is unclear if PED will implement this language as intended; PED staff indicated it interprets the language differently than the Legislature. Additionally, it only provides a temporary annual solution to the problem.

### *Recommendations*

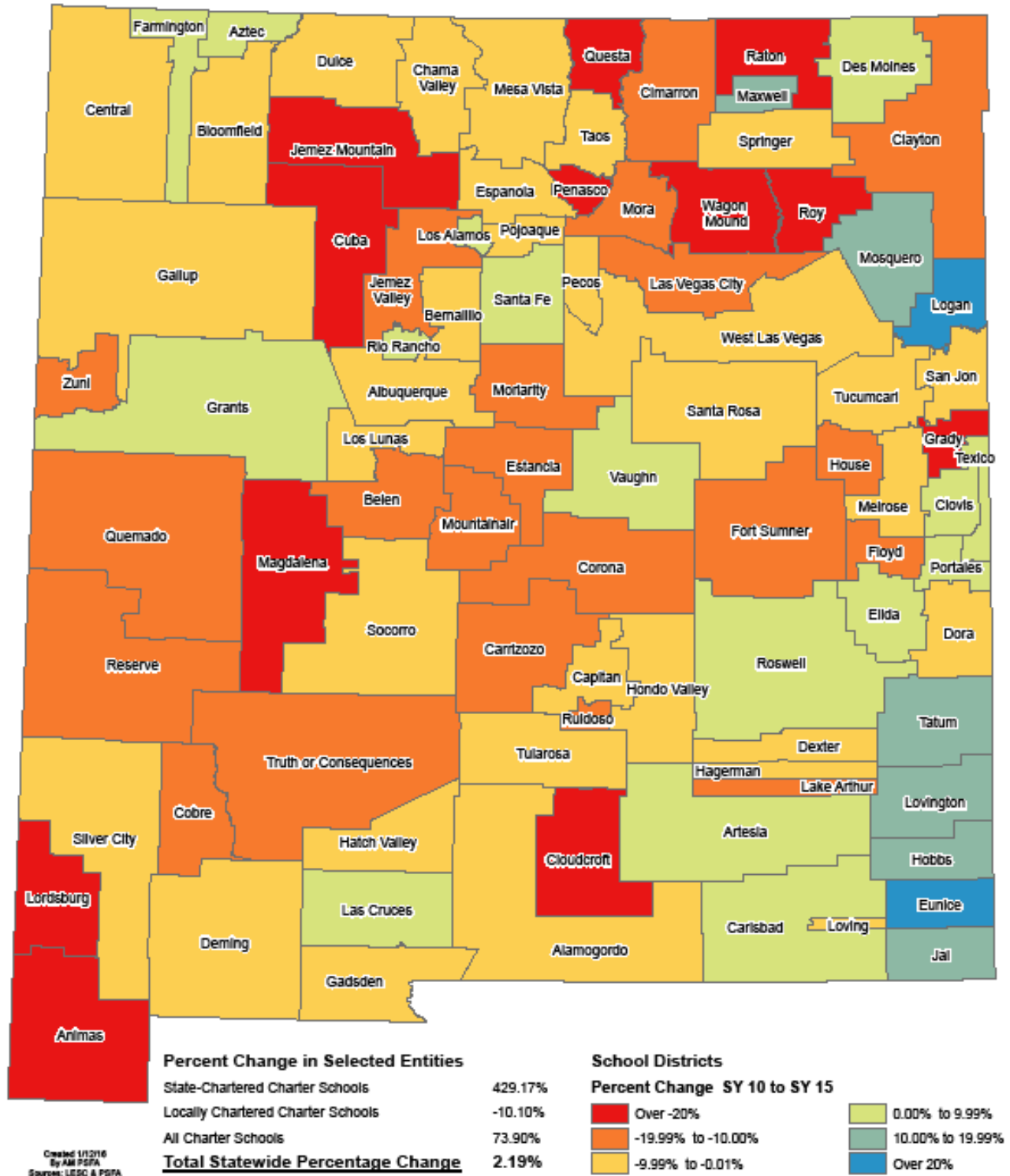
The LESC-LFC Ad Hoc Work Group's discussions appeared to yield consensus on the following policies:

- maintain current size adjustment funding for school districts available through school size, district size, micro-district, and rural sparsity units;
- reduce school size adjustment units for existing charter schools over several years to accurately account for economies of scale and promote equity;
- limit school size adjustment units to charter schools currently in operation; and
- continue to address the double-funding of students through enrollment growth units using language in the *GAA* while monitoring PED's implementation of the language prior to formalizing similar provisions in statute.

LESC endorsed legislation to:

- reduce school size adjustment program units for charter schools by 50 percent over five years, while maintaining full funding for a new charter school in the first year of operations; and
- clarify that the calculation of enrollment growth units does not include MEM in new formula-based programs funded on a current year basis.

## Percentage Change in Student Membership, By School District School Year 2009-2010 to 2014-2015



## INSTRUCTIONAL MATERIALS

A 2014 Legislative Finance Committee (LFC) program evaluation noted funding for instructional material suffered from a lack of oversight and school districts and charter schools sometimes expend funds in ways inconsistent with state law. The system for funding instructional material, according to the report, does not meet current needs, resulting in reports of inadequate resources while allocated money goes unspent. In addition, the report found New Mexico to be unprepared for a transition to a personalized digital learning environment. Public schools have voiced concerns about the restrictive nature of instructional material allocations, arguing for more flexibility in how they are able to spend annual allocations.

As a selected topic for review during the 2015 interim, LESC heard the following presentations:

- LESC staff provided an overview of statutory requirements, funding, and recent legislation;
- Rio Rancho Public Schools (RRPS) detailed the changing instructional material environment; and
- periodic updates on the *Moses v. Skandera* lawsuit, which challenged the constitutionality of allocating funding to provide textbooks to private school students.

### *Findings*

**Common core state standards (CCSS) have revolutionized the concept of instructional material and the role of digital media.** For example, New Mexico CCSS emphasizes gathering, evaluating, and integrating relevant information from multiple, diverse print and digital sources for English language arts (ELA). A standard textbook might only be one of multiple sources of instructional material that would be used to ensure students master this content standard.

**Use of the PED-approved multiple list limits access to high-quality instructional material that are emerging daily.** While many publishers are developing resources that are fully aligned to the CCSS and incorporate the 21<sup>st</sup> Century skills that students need, smaller publishers can now develop innovative resources that can be marketed to wider audiences. Additionally, high-quality, open educational resources (OER) offer extraordinary opportunities for people everywhere to share, use, and reuse knowledge. However, school districts and charter schools are only able to spend up to 50 percent of their annual instructional material allocation on material that is not included in PED's multiple list.

**For New Mexico students to be competitive in the 21<sup>st</sup> Century, schools must be able to transform access to the vast resources that are available in the digital world.** RRPS staff suggested the state could support this goal by providing flexibility for school districts to determine the best instructional material to support their students in meeting academic content standards, and moving toward schools issuing each enrolled student an electronic device (1:1 initiatives) in order to access the internet, digital course material, and digital textbooks providing rich, robust technology, guaranteeing every student access to a digital learning community.

**The New Mexico Supreme Court ruled in *Moses v. Skandera* that the *Instructional Material Law* violated the state constitution.** The court found that the *Instructional Material Law*, which granted PED authority to provide textbooks to public and private schools, violated the state constitution, holding that state loans of secular textbooks to children attending private schools violates Article XII, Section 3 of the New Mexico Constitution.

### *Recommendations*

LESC recommends deferring legislative action on updating the instructional material law to comport with the Supreme Court ruling until the full judicial process has been exhausted.

LESC staff recommends:

- requiring year-end unspent instructional material allocation fund balances to revert to the general fund or considering taking credit for unspent instructional material allocations if substantial fund balances continue to accrue at school districts, charter schools, and state supported schools;
- modifying statute to mandate that adequate instructional material be available to all students at school and at home from the current requirement that one textbook be available to each student to take home;
- providing flexibility from the requirement to spend up to 50 percent of their annual instructional material allocation on material that is included in PED's multiple list;
- PED examine at the annual adoption cycle to ensure each annual adoption cycle cost is the same to ensure appropriation needs do not fluctuate as they currently do from year-to-year and analyze whether a six-year replacement cycle is appropriate for all material; and
- directing PED to develop quality and accountability standards for all digital content, e-reader devices, electronic courses, and other technologies used for instruction.



## INTERVENTIONS FOR STUDENTS

### EARLY LITERACY

The first eight years of a child’s learning experience – from birth through third grade – develop a foundation critical to a student’s cognitive, social, and emotional skills that are essential for learning in future grades. Some children enter kindergarten without basic skills and end up far behind their peers. Children with limited literacy skills at age 8 face potentially damaging short- and long-term consequences, including repeating a grade or dropping out of school. Third grade is considered a critical point in a student’s academic success because that is when students shift from learning to read to reading to learn. To close the achievement gap by third grade, it is imperative that New Mexico has a comprehensive early literacy in place to ensure students who enter kindergarten have the basic social, literacy, and numeracy skills needed for future academic success.

In developing its work plan for the 2015 interim, LESC focused on two early literacy intervention programs, K-3 Plus and Reads to Lead (RTL), and alternative reading interventions. The committee heard presentations from:

- rural and urban school districts on RTL program implementation;
- Public Education Department (PED) staff and Utah State University (USU) researchers on the effectiveness of RTL and K-3 Plus; and
- Higher Education Department (HED) and New Mexico MATCH staff on initiatives to pair college students as mentors for public school students.

### *Findings*

**Federal Title I funding can be used to support strategies aligned with RTL district-wide to improve Tier 1 and Tier 2 instruction for all students such as hiring reading coaches or interventionists.** Districts are allowed to leverage a portion of federal Title I funds to provide district-wide professional development for Tier 1 literacy instruction to reduce the amount of interventions and reduce number of students in Tier 2. This will support the quality of universal core instruction in Tier 1 and reading intervention in Tier 2, primarily by focusing on systematic, explicit instruction in the reading foundational skills of phonemic awareness, phonics, vocabulary, comprehension, and fluency.

**District staff report challenges filling staff positions for reading coaches and interventionist for RTL.** The lack of qualified applicants was noted as a challenge, primarily since those qualified for coaching positions are not willing to give up seniority in positions with annual funding streams for positions funded through less certain annual grants. The position for RTL coach or interventionist is listed as a short-term position with uncertainty for future funding.

**Appropriating funding for RTL to PED as a below-the-line initiative provides certain advantages compared to appropriating funding for early literacy to the state equalization guarantee (SEG) distribution.** It was noted one advantage of “below-the-line” funding is that it emphasizes the importance of kindergarten through third grade literacy and allows PED to

provide more guidance for early literacy. Another advantage is small districts receive more than they would through the formula.

**Regional Education Cooperatives (RECs) utilize economies of scale to optimally leverage RTL funding for rural districts.** Rural districts are not able to hire a dedicated reading coach or interventionist using only RTL funding because the amount each small district receives is not enough to pay for one full-time employee. Because they support five or more rural school districts in their specific region, RECs are able to contract with one or more reading coaches to travel between school districts as needed. RECs provide school districts with cost effective education support services that include professional development for both regular and special education teachers, and teacher mentoring.

**Beginning and end-of-year DIBELS Next assessment results for school year 2014-2015 show K-3 Plus students perform nearly at par, at or above benchmark levels.** Data also show all kindergarten through third grade students statewide perform at similar levels of K-3 Plus students. However, USU cautioned a comparison of K-3 Plus students with all other students may create a selection bias considering the variables for students within a K-3 Plus program; for example, K-3 Plus students are more likely to be English learners (ELs) and may be eligible for free and reduced-fee lunch. The K-3 Plus Start Smart (Start Smart) project, conducted by USU used a randomized controlled trial to compare students randomly assigned to an intervention group (students that participated in the 25-day summer program) and students assigned to a control group (students that did not participate in the 25-day summer program). Based on these concerns, PED agreed to share student data that is program specific, especially for K-3 Plus students.

**School districts maintain that it is difficult to secure a teacher for the K-3 Plus summer program who will continue with the same students through the end of the year and who are Teaching English to Students of Other Languages (TESOL) or bilingual certified.** Start Smart data indicate at the beginning of the year, K-3 Plus students made significant statistical gains in core academic areas but that gains are not maintained through to the end of the year. USU researchers suggested two main hypotheses might explain why K-3 Plus students are not maintaining academic gains over the course of the year: (1) students are not continuing the regular school year with the same teacher from the summer program; and (2) language issues exist in some schools because it is difficult to secure a TESOL or bilingual certified teacher. USU indicated that when students remain with the same teacher, students demonstrate significant statistical gains. While data does not suggest K-3 Plus hinders ELs academic progress, it does suggest that something is happening with the language of instruction.

**Funding limitations have caused Start Smart to prematurely conclude its research. USU researchers said if they were to receive funding they would continue to collect and analyze data for Start Smart, K-3 Plus.** The Legislative Finance Committee (LFC) unanimously supported below-the-line funding for early literacy programs such as pre-kindergarten, RTL, and K-3 Plus in its FY 17 budget recommendation. A portion of FY 17 appropriations could be earmarked for USU to continue collecting and analyzing data while still supporting early literacy initiatives.

**USU's Start Smart study did not track K-3 Plus students' pre-school early learning experiences.** USU noted effects for students who did or did not participate in an education program prior to kindergarten would randomly occur at equal rates in the intervention and control group having little effect on Start Smart results. Additionally, researchers would not be able to measure whether those programs were high quality or not. However, USU suggested a longitudinal data system that tracked a student's learning experiences prior to entering the public school system would make evaluating early childhood learning programs easier.

**Chronic absences in kindergarten, first grade, and second grade can leave students unable to read by the end of third grade, even with school-based reading interventions.** USU found K-3 Plus students in kindergarten had an attendance rate of about 80 percent, though third grade attendance dropped to 60 percent. USU determined younger students were more motivated to attend the summer program than the older students. Researchers added that the program is not effective if students do not attend and because K-3 Plus is a special program, attendance cannot be mandated. However, through their Start Smart study, USU provided incentives to students for attending.

**Mentorship programs can provide a cost effective approach to reading interventions.** In 2015, the Legislature established a six-year study that encourages students who receive the Legislative Lottery Tuition Scholarship to volunteer and provide community outreach, primarily through mentoring public school students. Staff from HED will implement the program and have identified GEAR Up, a federally funded program, as an appropriate fit for a mentoring program.

### *Recommendations*

LESC staff recommends:

- exploring the idea of extending teacher contracts for K-3 Plus to 205 days instead of the 180 day contract to ensure students remain with the same teacher throughout the year;
- expanding K-3 Plus and RTL funding;
- targeting RTL funding increases to low performing schools;
- continuing to focus on birth to eight years to ensure children are prepared socially and academically for kindergarten and able to transition from third grade to fourth grade;
- training all teachers in academic language development as it pertains to ELs current levels of language proficiency and using New Mexico's World-Class Instructional Design (WIDA) language development standards as part of differentiated instruction;
- PED consider screening and assessing for level of English language proficiency for students participating in state pre-kindergarten programs;
- conducting a longitudinal study of K-3 Plus student achievement; and
- HED provide regular updates on the progress of the Lottery Student Community Outreach Pilot Project study.

## AT-RISK STUDENTS

New Mexico has a high percentage of students at-risk of failing, including students living in poverty, English learners (ELs), and highly mobile students, who do not perform as well as their more affluent and native English speaking peers. This disparity results in a persistent statewide and national achievement gap. While research indicates it may cost more to educate these learners, the amount of additional money needed to do so remains uncertain; yet, despite the high percentage of students in danger of failing, the public school funding formula only directs 3.0 percent of annual funding to serve these students. Other programs exist outside of the formula that serve at-risk students that may also be effective at closing the achievement gap, including:

- K-3 Plus;
- Breakfast After the Bell; and
- the *Family and Youth Resource Act*, which forges long-term relationships between public and private agencies and community-based, civic, and corporate organizations to help students attain high academic achievement by meeting non-academic needs of students and their families.

During the 2015 interim, the committee discussed issues regarding at-risk students, including:

- the work done by Communities in Schools of New Mexico (CIS);
- efforts by the Children, Youth and Families Department (CYFD) to help encourage and produce positive outcomes for foster children in New Mexico;
- a truancy prevention program administered by the Sixth Judicial District and the Juvenile Probation Office (JPO) in Grant County that has shown success;
- other possible approaches to addressing high school students with a particular emphasis on recent legislative attempts to tie driver's licenses to school attendance; and
- discussion of LESC-LFC Ad Hoc Work Group progress and recommendations at several interim meetings.

### *Findings*

**Dropping out destabilizes the lives of young people and their communities, making them more likely to live in poverty, suffer poor health, require assistance from social services, or enter the juvenile justice system.** According to CIS, New Mexico has a dropout rate of 35 percent. Graduation of just half of New Mexico's dropouts would result in:

- an increase of approximately \$112 million in lifetime earnings for those students; and
- \$58 million in increased spending into state and local economies.

**The CIS intervention model has demonstrated strong reduction in dropouts when compared with other full scale dropout prevention programs in the country.** This success has been reported by a number of independent agencies, such as the American Association of School Administrators and the Inner City Fund International. CIS attempts to remove obstacles to education so that students may focus on school rather than being distracted or otherwise

affected by issues of poverty. They attempt to do so by building support systems that either supplement or replace traditional methods of educational support, such as assistance and encouragement from their families and communities.

Using their relationship with Santa Fe Public Schools as an example, CIS noted the following achievements:

- 77 percent of students who had attendance goals with CIS met those goals;
- 86 percent of students with academic performance goals met their target;
- 83 percent of students met their behavioral improvement goals;
- 75 percent of students received assistance including food, clothing, shelter, transportation, healthcare, and emergency funds; and
- 83 percent of students were promoted to the next grade level.

**CYFD continues to support efforts to improve educational outcomes for foster children in New Mexico.** A number of CYFD programs and efforts were highlighted, including:

- in Bernalillo and Santa Fe counties, CYFD assigned case workers to each school to liaise with them and help resolve matters related to child safety and data sharing;
- a partnership with PED in sponsoring a “safe schools summit” to share information and collaborate on moving foster children through the educational system safely;
- a statutory tuition waiver program for former foster children enrolled at state institutions of higher education;
- administration of the federally supported Education and Training Vouchers Program, which provides a tuition waiver program for youth who are aging out of the foster system;
- a postsecondary educational advocacy pilot project, in conjunction with Central New Mexico Community College, which has been administered successfully in other states, that provides offsite coordinators to help impacted youth navigate campus life;
- a data-sharing agreement with PED, which CYFD hopes to duplicate with the Higher Education Department, that provides for consistent and accurate reporting on educational issues involving foster youth, such as graduation, retention rates, and discipline.

**A truancy prevention program administered by the JPO and the Sixth Judicial District has shown success in Grant County.** This community-based program employs early identification and graduated intervention, becoming involved with youth at an earlier age to identify potential truants at the elementary level, which also focuses on students’ environments. Grant County also has a JPO school and an alternative JPO school to help ensure credit recovery and graduation of students who have been expelled.

Successful outcomes of the program include a 57 percent reduction in the delinquency rate in Grant County, as well as 87 percent of students in the program return to regular attendance after contact is initiated and after intervention, only 1.5 percent of students become habitually truant in Grant County.

Finally, attendance at the JPO summer and alternative schools yielded:

- seven out of eight students who otherwise would have been retained successfully transitioned from middle school to high school; and
- all 13 expelled students who attended the JPO school maintained a 3.38 grade point average.

**Additional funding might be necessary to expand the Grant County's JPO truancy prevention program to the rest of the state.** While the program currently leverages a number of different funding sources, including legislative appropriations, the Juvenile Justice Advisory Committee, CYFD, and city and county subsidies, additional funding would be necessary to establish the program in additional counties.

**Tying grant eligibility solely to truancy rates may disincentivize success.** To qualify for grants awarded by PED for truancy prevention and dropout coaches, a school district must have a habitual truancy rate of at least 15 percent, a figure higher than levels achieved by Grant County after successful implementation of the program.

**Behavior modification and diversion techniques are both effective and cost-efficient.** Early intervention, behavior modification, and diversion, especially with broad community involvement, help remove students from conditions or circumstances that would otherwise encourage chronic truancy and are ultimately less costly than interventions after the fact or the juvenile justice system.

### *Recommendations*

The LESC-LFC Ad Hoc Work Group's discussions appeared to yield consensus on the following policies:

- moderately increase both the at-risk index multiplier and K-3 Plus funding, subject to budgetary constraints;
- prioritize future funding to programs with proven outcomes for at-risk students;
- explore further options to address the shortage of teachers endorsed and trained to teach ELs; and
- compile cost-benefit data from district-level programs that support at-risk students into the Pew-MacArthur Results First Initiative database to promote future evidence-based policymaking.

LESC endorsed legislation to increase the at-risk index multiplier from 0.106 to 0.115 over five years, increasing the amount of formula funding tied to at-risk student populations by more than 43 percent.

## EDUCATOR QUALITY

### ANNUAL EVALUATIONS

Research has clearly shown that one of the most important school-related factors influencing a child's academic achievement is the quality of his or her teacher. Studies have also shown that if students most at-risk of failing are given the most effective teachers, the achievement gap could be eliminated. Conversely, if a student is placed in a classroom with a low performing teacher, the student will struggle to make up learning gains lost and may continue to fall further behind. A rigorous and comprehensive evaluation system will not only provide a holistic view of a teacher's true impact on their students, but also encourage flexibility and buy-in at the local and school level. New Mexico's Effectiveness Evaluation System (EES), implemented in school year 2013-2014, was used to evaluate 94 percent of teachers in school year 2014-2015 and differentiates teacher performance to provide better, more useful feedback and support to teachers. During the first year of the EES, there were challenges associated with implementation of the system and the use of the value-added model (VAM); however, educators found observations and feedback associated with observations to be the most beneficial.

New Mexico's EES places heavy emphasis on teacher contributions to student academic achievement on standardized assessments as measured using VAM. Although VAM attempts to account for academic growth across students of varying characteristics, some groups have been critical of the validity and reliability of VAM results. In April 2014, the American Statistical Association released a statement cautioning against the use of VAM for teacher evaluation but endorsing its use at a school-wide or higher level. Following this statement, a lawsuit challenging the statistical and methodological validity of the VAM system was filed in the state's First Judicial District Court. A trial on the merits is scheduled to begin in April 2016; however, a preliminary injunction was issued preventing PED from enforcing negative consequences associated with receiving a less than effective rating.

Another EES component, classroom observations, has consistently received praise from educators. Teacher observations, which account for 25 percent of the EES score, are formally scored two to three times per school year by a certified observer guided by a rubric. In general, the observation component of the evaluation process provides focus on best practices for teachers and principals and results in immediate feedback and support for struggling teachers. For the second year in a row, the student achievement measure identified more highly effective and exemplary teachers than did observations alone.

These issues led LESC to focus on teacher evaluations throughout the 2015 interim, including:

- PED provided a data comparison between the first and second years of the EES as well as the appeals process and results;
- legislators presented proposals to formalize a version of the EES in statute;

- Southern Regional Education Board (SREB) staff provided an abbreviated training for school personnel to become certified observers in the NMTEACH observation process; and
- Las Cruces Public Schools staff presented on the use of student growth measures in teacher evaluations.

*Findings*

**In 2015, overall summative evaluation ratings of effective or higher decreased 4.4 percentage points compared with the first year of EES results.** Accordingly, 73.8 percent of teachers were rated effective or better in FY 15 and 78.2 percent of teachers rated effective or better in FY 14.

Rating	Ineffective	Minimally Effective	Effective	Highly Effective	Exemplary
FY 14	2.2%	19.5%	56.5%	20.2%	1.5%
FY 15	3.6%	22.6%	47.1%	24.2%	2.5%

Source: PED

**The second year of implementation provided a more accurate picture of teacher performance based on student achievement data.** More teachers had student achievement as part of their evaluations in FY 15 than in FY 14. During the first year of evaluations, 9,111 teachers had student achievement included in their evaluations. In FY 15, 14,844 more teachers, or 63 percent, had student achievement data included in their evaluations.

**Data stability over time demonstrates that the EES provides clear standards, constant feedback, and opportunities for professional growth, mentorship, and improvement.** Of the 17,024 teachers with two years of evaluations:

- 75 percent had a final rating that either stayed the same or improved;
- 107 teachers, or 0.6 percent, received the highest rating of exemplary two years in a row; and
- 1,831 teachers, or 11 percent, received a highly effective rating two years in a row.

**Teachers were allowed to advance licensure level by submitting a Professional Development Dossier (PDD) or using their NMTEACH summative evaluation results in 2014.** Prior to 2014, the only approved way to advance licensure level was to submit a PDD; regulations prohibit PED from waiving the PDD requirement. As of August 2015, 229 teachers advanced to level two and 349 teachers advanced to level three in school year 2014-2015 using their NMTEACH results. When using the NMTEACH results, the local superintendent or charter school administrator is still required to recommend the teacher advance pursuant to statute. In addition, the preliminary injunction from the First Judicial District Court also prohibits PED from revoking any licensure renewals, level progressions, or merit wage increases previously granted; however, teachers may apply for licensure renewals and level progressions under the PDD currently in place.



**The classroom observation process could benefit from using neutral individuals rather than principals or certified observers from the school district.** The benefits of neutral individuals to conduct classroom observations include enhanced evaluator credibility by matching teachers and observers with similar content area or grade-level expertise and offering new opportunities for teacher leadership career paths. SREB staff outlined how the NMTEACH rubric can be used to better support teachers by identifying strengths and areas of improvement.

**New Mexico uses a VAM that measures student proficiency data for teacher evaluations, which rates educators based on changes in student performance.** Data from students are grouped together based on previous assessment scores so that growth is only compared between students with similar starting points. The VAM measures the difference between a student's actual growth in proficiency with the estimated growth from the student's cohort. The difference is translated into a standard deviation, which can be compared across student proficiency groups. New Mexico's model provides context by measuring current or future achievement against previous scores, which accounts for certain student demographic or socioeconomic conditions. Thus, the state's model recognizes that, even if some students are not able to reach grade-level proficiency, all students have the capacity to grow.

**PED simplified graduated considerations from 39 tags in the first year of evaluations to 12 tags during the second year.** Student achievement data is the building block for a teacher value-added score (VAS), which is derived from an aggregate of the student achievement VAM. Reliable VAS will contain at least three years of student achievement data. Until a teacher has three years of VAS, teachers will be scored using graduated considerations, which reduce the weight of the student achievement component. Graduated considerations came at the request of school districts and recognize that new teachers are developing skills over the first few years as well as provide veteran teachers an opportunity to hone their instruction as they embrace more rigorous academic standards. They are also used if the student achievement data reflects less than 10 students' data. For most teachers, it will be three to four years before 50 percent of their evaluation will be based on student achievement. Until that time, remaining points from the improved student achievement category will shift to the observation and multiple measures categories.

**During the second year of EES implementation, PED established a teacher evaluation system query process to respond to the high volume of inquiries received.** The query process, which provided access at the district-level, was open from May 8, 2015 through June 19, 2015. PED query reviews and responses were returned to school districts and charter schools by August 3, 2015. The most common queries included missing data, discrepancy in Accuroster/STARS data and numbers on the NMTEACH report, tags and groups, level (high school, middle school, or elementary school), new teacher data, and teacher attendance. In response to the queries, PED modified the EES system to include pre-kindergarten teachers' location codes and teacher attendance revisions submitted by school districts.

**Responding to the unique needs of special subgroups of students, PED recognized the need to update the NMTEACH rubric.** The department added additional language to each of the domains to clarify that teachers should be aware of special subgroups of students. Additionally,

PED added elements to each performance rating indicating what standards apply for a teacher who is working with those particular student subgroups.

**PED indicated school districts and charter schools will no longer be required to use student test scores when evaluating first-year teachers.** During school year 2014-2015, 1,876 first-year teacher evaluations were based on classroom observations, teacher attendance records, and other types of feedback. This exception for first-year teachers makes the EES more fair for new teachers.

**School districts and charter schools will not be required to use standardized test scores for educators who teach non-tested subject areas.** For approximately 1,000 educators who teach classes or grade levels that do not have standardized tests, it will be up to local school districts and charter schools to decide whether backup measures, such as improvement of some students test scores, should be kept as part of their evaluation. School districts and charter schools will have the option of using primarily classroom observation and teacher attendance to evaluate these educators.

### *Recommendations*

LESC staff recommends:

- analyzing upward and downward mobility of evaluated teachers between effectiveness ratings;
- receiving updates from PED on potential changes to the evaluation system if any, based on the federal *Every Student Succeeds Act*, which replaced the *No Child Left Behind Act*;
- monitoring progress made thus far and reasons to improve or change components of the EES; and
- continued outreach and training by PED to keep educators and school leaders informed about the components, new changes, and any additional information for interested stakeholders to understand the EES.

### **EDUCATOR PREPARATION**

National data shows teachers have the greatest effect on classroom learning. Generally, high poverty students lag behind their more affluent peers, and because more minority students live in poverty, the achievement gap – or gap in educational outcomes – is greatest for Hispanic and Native American students. Because of this it is important newly prepared teachers are ready for the classroom and for teacher preparation programs to set the foundation for their success. By producing and retaining high quality educators, the state has a better opportunity to close the achievement gap and ensure a high quality education for all students on the front end.

LESC focused on teacher preparation throughout the 2015 interim, including:

- Public Education Department (PED) staff and institutions of higher education (IHE) staff presented updates on the teacher and school leader preparation programs across the state as well as funding allocated for such programs;

- University of New Mexico (UNM) staff discussed the development of a 40-hour master's in business administration in education leadership in the Anderson School of Management, which works in collaboration with school district partners;
- Central New Mexico College (CNM), New Mexico Highlands University (NMHU), Northern New Mexico College (NNMC), and UNM staff presented on each institution's implementation of SB 329aa (2015), *School Licensure Reciprocity Requirements* (Laws 2015, Chapter 97);
- New Mexico State University (NMSU) College of Education (COE) staff presented on the COE's existing programs;
- UNM staff presented on COE redesign efforts; and
- PED and COE staff updated the committee on the progress made by PED and teacher preparation programs on COE performance reports.

### *Findings*

**Through its NMPrep initiative, PED allocated funding for new teacher preparation programs focused on practice-based training and recruiting teachers with the cultural competency to be effective in their own communities.** Preparing teachers to be effective in any setting is an integral part to ensuring students have equal access to effective educators. For FY 16, PED earmarked \$1.6 million for its NMPrep initiative from a combined appropriation from the Legislature of \$4.1 million for Next Generation School Leader and Teacher Preparation. Through this initiative, PED allocated competitive funding to collaborative partnerships between IHEs, school districts, charter schools, and a PED-approved partner to establish new and innovative teacher preparation programs that feature higher admission standards than current teacher preparation programs, practice-based curriculum and training programs designed to require significantly less time than traditional preparation programs, coaching support for new teachers extending into at least their first two years of teaching, and financial aid to remove monetary barriers to entering the classroom.

**Through its NMLead initiative, PED allocated \$2.9 million in funding to award collaborative partnerships between IHEs, school districts, charter schools, and a PED-approved partner to establish new and innovative school leader preparation programs.** Recognizing that effective school leaders improve the performance of classroom teachers, the Legislature appropriated \$4.1 million for Next Generation School Leader and Teacher Preparation and reauthorized unspent balances appropriated in FY 15 for school leader preparation programs of which PED earmarked \$2.9 million in FY 16 for the department's NMLead initiative. Programs funded by this initiative feature higher admission standards than current school leader preparation programs, training focused on leadership competencies aligned with those outlined by Public Impact's School Turnaround Leaders: Competencies for Success, practice-based curriculum, financial aid to allow students to participate in a full-time practicum, and coaching and mentoring support for new principals extending into their initial years of school leadership.

**NMSU COE programs support school districts around the state through key outreach initiatives.** Sixty school districts in the state have been directly impacted by NMSU COE initiatives. For example, 3,000 in-service teachers and 347 administrators received professional

development training, 27,000 students were impacted, 2,000 parents participated in outreach, and the college recently awarded 86 master's and 36 doctorate degrees to education administrators serving in 15 school districts. Other outreach programs include professional development for science, technology, engineering, and mathematics (STEM) teachers in school districts; STEM after-school programs for students in four school districts; and supplemental training in math and reading for kindergarten through third grade teachers in 34 school districts.

**UNM is redesigning its COE to improve teacher outcomes.** In particular, UNM COE's redesign efforts are driven by the following: increasing student educational outcomes; increasing teacher retention rates; increasing the number of teachers in the STEM field; enhancing teacher preparation to serve students with disabilities and English learners (ELs); improvement in the areas of data management and assessment; enhancing classroom management training; and enhancing clinical experiences and student teaching. It is critical for UNM to train educators to better serve the unique population of the state so educational disparities will decrease.

**UNM is initiating practicum changes at its COE to focus on placing teacher candidates in schools that are reflective of the state's demographics and where they are most likely to work when they begin their educational careers.** UNM employs part- and full-time faculty in the following schools where the teacher candidates will be teaching, which were chosen based on the percentage of students eligible for free or reduced-fee lunch, the percentage of diverse ethnicities, and reading and math proficiencies: San Felipe Pueblo Elementary School (Bureau of Indian Education) and Headstart program; Pajarito Elementary School (Albuquerque Public Schools); and Bernalillo High School (Bernalillo Public Schools). When paired with intense internal supervision, this will help prepare teacher candidates to become culturally competent and improve instruction.

**Following US Department of Education (USDE) guidelines for improving teacher preparation programs through the use of performance reports, New Mexico's COE performance report will focus on achievement of public school students taught by recent graduates, job placements and retention rates of graduates, and demographics of graduates.** Research shows better prepared teachers serve students better and are more likely to stay in the profession longer. Beginning teachers generally serve at-risk students at a higher proportion than more experienced teachers. This emphasizes the importance of making teacher preparation programs meaningful and making sure educators are able to meet the needs of the students they are serving. The state's COEs and PED signed a data sharing agreement, and the first performance report is expected to be released in 2016.

### *Recommendations*

LESC staff recommends:

- continuing to establish and fund a grow-your-own New Mexico-based turnaround program, similar to the University of Virginia's School Turnaround Specialist Program;
- expanding opportunities and support for teacher and administrator candidates with alternative backgrounds to obtain licensure;

- PED or LESC staff actively monitor the performance of preparation programs and encourage PED to offer support and guidance to COEs to improve, if needed;
- receiving a detailed review of methodology and implementation for COE performance reports from PED;
- integrating EL development training and Teachers of English to Speakers of Other Languages (TESOL) certifications into teacher preparation programs;
- providing teacher leadership support and mentorship opportunities, including pre-service teachers finishing their teacher preparation programs, which can increase pathways for teachers to exercise leadership, elevate teacher influence in policy or practice, and expand efforts for creating models for the field of effective teacher-led work; and
- reviewing mentoring programs to ensure teachers are adequately supported after graduating from a teacher preparation program, as mentorship of new teachers has been identified nationally as a critical part of teacher retention, higher student achievement outcomes, and enhanced school culture.

## **FLEXIBILITY**

The federal *No Child Left Behind Act* (NCLB) required all students to be taught by “highly qualified teachers” (HQTs) by the end of school year 2005-2006. Reflecting the idea that teacher quality is one of the most important factors in improving student achievement, the act defined an HQT as a teacher who:

- holds at least a bachelor’s degree;
- has obtained full state certification; and
- has demonstrated knowledge in the core academic subjects that he or she teaches.

However, current staffing shortfalls in schools throughout the state prompted superintendents to approach PED about relief from current HQT requirements to make staff assignments both easier for the school districts and more effective for students. PED applied to the US Department of Education (USDE) for flexibility from current HQT requirements. USDE granted New Mexico flexibility from certain parts of the definition of “highly qualified teacher,” and allowed the state to instead use the new teacher evaluation system – NMTEACH – to determine whether a teacher is “highly qualified.” As of January 2016, this flexibility has been granted only to New Mexico.

A score of “effective,” highly effective,” or “exemplary,” together with achieving at least 50 percent of potential student achievement points, is enough to qualify a teacher as a “HQT,” so long as a teacher’s school district or charter school successfully applies for this flexibility. These requirements, according to PED, limit application of this flexibility to teachers who have already demonstrated a strong impact on student learning. At the time of LESC’s November meeting, seven school districts and charter schools had successfully applied for flexibility for 24 teachers, with other applications pending.

The LESC heard testimony regarding this topic from:

- Matt Montaña, Director of the Educator Quality Division of the Public Education Department, on the history behind the waiver request, the process by which school districts might apply for the waiver, and the potential uses to which this flexibility might be applied; and
- Superintendent Richard Perea of Santa Rosa Consolidated Schools (SRCS), on his school district's experience with the waiver process, as well as the ways in which his school district chose to employ the HQT flexibility.

### *Findings*

**HQT flexibility allows a qualifying secondary teacher to teach down to fifth or sixth grade and to teach other courses within their general content area.** For example, a physics teacher might teach math, which while outside of their focus area, is still a science, technology, engineering, and mathematics (STEM) course. Similarly, humanities teachers who teach English would be permitted to teach social studies or history, and vice versa. Further, under this program, special education teachers would be permitted to teach both special and general education students within their content areas and teach their core content area in all grades.

**The NMTEACH system that is used to determine a teacher's effectiveness can be statistically volatile, especially in regard to the value-added model (VAM) of student achievement.** This may result in an otherwise effective teacher falling below the 50 percent student achievement point requirement, leading to teachers operating under HQT flexibility losing their waiver status with greater frequency than the department might expect.

**In the past, VAM misclassified teachers, which may improperly exclude or include the wrong teachers from being eligible for the HQT program.** Since teachers who fail to maintain their effectiveness scores will not be permitted to continue to participate, it may be better to focus efforts on finding better teachers at the outset, rather than granting this flexibility to teachers who may not be able to maintain the necessary effectiveness rating.

**The HQT flexibility program includes a number of limitations.** First, a teacher under this flexibility must maintain their effectiveness rating and student achievement score in order to continue utilizing the program. Next, school districts and charter schools that seek this flexibility for individual teachers must provide professional development to help these teachers transition to their new content areas. Finally, PED must commit to reporting the number of teachers operating under this waiver annually, both by school and school district, as well as the number of teachers who maintained their "effective" rating in certain subjects and teachers moving from high school to middle school, and vice versa.

**HQT flexibility allows small, rural school districts, which often lack the resources of larger school districts, to creatively deploy their teachers.** Applications for flexibility in SRCS focused on secondary teachers in STEM subjects and social studies. The superintendent of SRCS indicated that his school district would like to see this flexibility continue, and suggested several ways in which the program might be better administered:

- expansion of the secondary education teaching license to include sixth grade;
- consideration of a license for kindergarten through eighth grade teaching, affording greater flexibility for primary and middle school teachers; and
- offering dedicated professional development for teachers working under HQT flexibility.

**More peer-reviewed research is needed to evaluate the impact of HQT flexibility on student learning.** HQT flexibility has not been studied, so it is unclear what impact it will have on student achievement.

**The final enacted version of the federal *Every Student Succeeds Act (ESSA)* has removed references to “highly qualified teachers” or replaced that term with “highly effective teachers.”** This federal flexibility program may become moot given the new federal statutory language. Ultimate determination of the effect of ESSA on the issue is dependent on the law’s implementing regulations. The USDE published a Notice of Proposed Rulemaking for these regulations on December 2, 2015, soliciting public input on the proposed regulations. Final adoption of regulations is expected early next year.

### *Recommendations*

LESC staff recommends:

- studying the effect of the waiver program on student achievement and teacher effectiveness for those teachers participating and their students; and
- the use of VAM scores for HQT-waiver eligibility should be monitored, given its prominence in determining which teachers might qualify for flexibility and the volatile nature of the VAM.

### **EQUITY**

Following national research indicating certain cohorts of students, such as minority, low-income, and rural students, are less likely to have access to an effective teacher, the US Department of Education (USDE) announced the federal Excellent Educators for All initiative in July 2014. Under this initiative, each state was required to submit a state plan that ensured poor and minority children are not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than other children. Particularly in New Mexico, this initiative brings the opportunity to

address equity and achievement gaps that have existed for decades. It is likely the initiative will have positive long-term effects for the state in terms of academic, economic, and workforce success outcomes.

The LESC heard testimony at its November meeting from the Public Education Department (PED) regarding the state's USDE-approved Educator Equity Plan and an analysis of existing equity gaps.

### *Findings*

**In New Mexico, students living in poverty and minority students are less likely to have an effective teacher and more likely to have an inexperienced teacher than their more affluent, non-minority peers.** In November, PED staff presented information showing economically disadvantaged and minority students are disproportionately taught at a higher rate by teachers rated “minimally effective” and “ineffective” than their peers. In addition, economically disadvantaged and minority students are taught at a lower rate by teachers rated “highly effective” and “exemplary” than their peers. The findings from New Mexico's equity profile assisted in driving the development of the equity plan. Based on an equity gap analysis conducted by PED, the department has prioritized interventions and strategies to ensure subgroups have equal access to effective educators.

**New Mexico is a majority-minority state with significant challenges associated with poverty.** According to PED, approximately 69 percent of the state's 330,000 students are eligible for free and reduced-price lunch and 74 percent of the students in the state are minorities. With such a significant majority of students living in poverty, the state's equity plan focuses on preparing effective educators with the necessary pedagogical and cultural competency tools and providing continued support and prioritizing the best teachers to serve in the neediest areas.

**New Mexico's Educator Equity Plan focuses on student subgroups' access to effective teachers rather than teacher qualifications and experience.** Citing academic research and a 2012 Legislative Finance Committee program evaluation, PED stated the quality of an educator cannot be determined by reviewing their educational background or number of years in the classroom. As such, the equity plan emphasizes giving all students access to an effective educator as the primary way to ensure equitable opportunity for success to all New Mexico students.

**Stakeholder meetings around the state identified interventions and strategies that have the potential to decrease existing inequities.** These PED-led stakeholder meetings, held in Albuquerque, Santa Fe, and Roswell, examined why educator inequities exist and how best to reduce and eventually eliminate them. As a result of these discussions, the equity plan aims to



strengthen teacher preparation programs by aligning them with expectation in the field, train teachers in cultural competency to effectively engage students of diverse backgrounds, attract effective teachers to the profession and keep them in the classroom, and change the delivery of professional development to reinforce how training is applied in classroom situations.

**Mentorship programs help to ensure that new teachers have access to the accumulated instructional knowledge and expertise of their colleagues in ways that contribute to student success.** Induction and mentorship of new teachers has been identified nationally as a critical part of teacher retention, higher student achievement outcomes, and enhanced school culture. A quality mentoring program allows mentor teachers to become stronger reflective practitioners and more active in improving their own instructional strategies. Mentors also become skilled at recognizing attitudes, behaviors, and skills levels in themselves and their mentees. A mentorship program creates a professional growth environment for both parties through a climate of collaboration.

**Stakeholders noted that mentorship, a mandatory practice across the state for first year teachers, is implemented with great variation across the state.** Although all teacher mentorship programs have to be approved by PED, each school district is distinct in its program design to support its first year teachers. For example, Albuquerque Public Schools assigns mentors to first year teachers based on common certification areas, the program requires a minimum of two contacts per week, and each mentor receives \$2,000 for the year in compensation. On the other hand, Hobbs Municipal Schools does not assign mentors to first year teachers based on grade level or content area; requires mentor meetings to minimally meet once a week for the first nine weeks, bi-weekly during the second nine weeks, and monthly for the third and fourth nine weeks; and mentors receive compensation of \$150 a semester or \$300 for the year.

### *Recommendations*

LESC staff recommends:

- analyzing the progress that has been made with the state’s Educator Equity Plan in its first year of implementation during the 2016 interim, what can be improved, and what, if any, adjustments can be made so the state plan can reach its ultimate goal of every child having access to an effective educator;
- analyzing New Mexico’s salary competitiveness with neighboring states as a vehicle to attract and retain teachers, including looking at benefits packages;
- analyzing the resources available for training, support, and development of high quality teachers; and

- studying teacher mentorship programs statewide, identifying best practices to disseminate to all school districts and charter schools, and identifying other possibilities to encourage effective teachers to assist lower-performing colleagues.

## ASSESSMENTS

### NEW MEXICO ASSESSMENT INVENTORY

Since 2010, New Mexico has successfully decreased overall state-mandated testing time across all grades by an average of 30 minutes per year with some grades seeing reductions of more than three hours. By limiting time spent administering state standards-based assessments to less than 2.0 percent of instructional time, the state earned praise from the US Department of Education in October 2015 when it released its recommendation for states and school districts to evaluate the number of tests administered and to eliminate ineffective and duplicative assessments.

More than nine months before this recommendation, however, debate on the number of required assessments and testing time dominated the first part of the 2015 legislative session in the House and Senate education committees. As a result, the *General Appropriation Act of 2015* required all school districts and charter schools to analyze and report on their assessment practices by October 14, 2015 through the New Mexico Assessment Inventory (NMAI), and the Public Education Department (PED) announced statewide results in late October 2015.

During the 2015 interim, the committee discussed issues of statewide testing practices including the number of assessments administered, their purpose, and amount of time it takes to prepare and administer them. The committee heard testimony from:

- Silver City Consolidated Schools (SCCS) and Reserve Independent Schools (RIS) to discuss their experience with the NMAI;
- Leighann Lenti, Deputy Secretary, Policy and Programs of the Public Education Department (PED) to brief the committee on NMAI statewide findings; and
- Representative G. Andrés Romero to discuss legislation from the 2015 session to eliminate certain mandated, short-cycle assessments.

### *Findings*

**According to SCCS and RIS, the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment is not effective for making timely decisions that drive instruction to improve students' academic progress.** SCCS and RIS staff recommended eliminating PARCC in lieu of short-cycle assessments. However, if eliminated, New Mexico can lose federal funding because of noncompliance.

**Interim assessments remain valuable tools to support differentiated instruction.** Interim assessments are: aligned to common core state standards; used as a research-based evidence tool to identify ways to remediate and provide interventions for grade-level academic success through the response to intervention (RtI) model; and immediately provide results to track students' academic progress and inform teacher practice. SCCS and RIS cited the use of interim assessments to assess students in kindergarten through tenth grade and measure student progress toward grade-level standards.

**Duplicative assessments result in unnecessary costs while not providing additional benefits to instruction.** A number of districts reported using two or more interim assessments for third grade reading like Northwest Evaluation Association MAP assessment (NWEA MAP), Dynamic Indicators of Basic Early Literacy Skills (DIBELS Next) and Renaissance STAR Reading. Some school districts have maintained the use of additional interim assessments in kindergarten through third grade when the department pays for DIBELS Next for all school districts and charter schools that participate in K-Plus or Reads to Lead. PED will continue to work with school districts on eliminating unnecessary assessments.

**Further outreach and communication is needed between PED, school districts and charter schools, education stakeholders, and the Legislature about overall testing practices.** NMAI responses indicate that some school districts have misconceptions about which assessments are required by law. Additionally, the NMAI did not capture data regarding the amount of time that assessments interrupt instruction. PED stressed this was the first step toward future collaborative conversations.

### *Recommendations*

LESC endorsed legislation to:

- Eliminate college and career readiness assessments for ninth and tenth grade students that are duplicated by the PARCC assessments.

LESC staff recommends:

- examine actions taken by school districts and charter schools to reform student assessment practices; and
- continue evaluation of student assessment practices through the NMAI in future years with inclusion of disruption to classroom instruction for ensuring consistency.

### **SCHOOL YEAR 2014-2015 ASSESSMENT RESULTS**

College and career readiness is a key focus for high school graduation and has become a priority of the public school system. As workforce demands change, it has become apparent students will benefit greatly from at least some postsecondary education training as they prepare to participate in today's global economy. To ensure college and career readiness, New Mexico adopted the Common Core State Standards (CCSS) in 2010 and joined the Partnership for Assessment of Readiness for College and Careers (PARCC) consortium in 2011. These actions were prompted by the need for a more rigorous set of standards aligned with college and career readiness and a new assessment to demonstrate mastery of those standards. Complementing this effort, New Mexico entered into a partnership with the College Board in 2013 to improving access to rigorous secondary school coursework focused on increasing college readiness and reducing college costs.

During the 2015 interim, the committee discussed issues related to first year PARCC results including presentations from:

- Public Education Department (PED) staff on statewide PARCC results, the move to computer-based assessments from paper-based assessments, and the use of PARCC assessment results for graduation requirements, school grades, and teacher evaluations;
- the superintendents of Albuquerque Public Schools and Pojoaque Valley Public Schools on district PARCC results and professional development to improve student learning outcomes through the use of data driven instruction; and
- College Board staff on opportunities to improve college and career readiness through rigorous academic programs, such as Advanced Placement (AP).

### *Findings*

**More rigorous academic standards and a new assessment created a new proficiency baseline for students in school year 2014-2015.** The percentage of third grade students that met or exceeded grade-level expectations (level four or five) on the 2014-2015 PARCC assessment was 24.9 percent in English language arts (ELA) and 25.2 percent in math; for fourth grade, 23.7 percent and 18.5 percent of students met or exceeded grade-level expectations in ELA and math, respectively; and for eighth grade, 22.8 percent and 9.1 percent of students met or exceeded grade-level expectations in ELA and math, respectively. Approximately 5,000 eighth grade students took assessments for higher level math courses, including algebra I, geometry, and algebra II, and typically outperformed high school students taking the same tests.

**Math and reading proficiency scores on PARCC in school year 2014-2015 sharply declined from proficiency rates on the New Mexico Standards-Based Assessment in school year 2013-2014.** In school year 2013-2014, 49 percent of all students statewide scored proficient or above in reading, and 40.7 percent scored proficient or above in math; however, in school year 2014-2015, only 33.3 percent scored proficient or above in reading, and 17.6 percent scored proficient or above in math. Other states implementing the PARCC assessment experienced similar decline, and PED suggested it could be methodologically unsound to directly compare proficiency rates across different assessments without an appropriate cross-walk.

**PED is working to conduct a validity study of the PARCC assessment.** According to PED, PARCC tests are aligned to CCSS and should provide valid and reliable data to measure a student's college and career readiness. PED has engaged postsecondary institutions to conduct judgment studies, including considering whether students scoring at levels four and five will be successful in college; however, higher education stakeholders indicated needing data from several cohorts of students before providing feedback.

**Growing concern for students who may not be able to graduate because they did not meet the proficiency level required for high school graduation prompted flexibility for graduates in 2016 and 2017.** Only 44.6 percent of eleventh grade students met or exceeded grade-level expectations on the 2014-2015 PARCC assessment in ELA III, 17.8 percent in algebra II, and 12.6 percent in geometry. PED stated students will need to achieve a score of three or higher on the ELA III and either the algebra II or geometry assessments to meet graduation requirements in

2016 and 2017. Beginning in 2018, students will have to score a four to five on PARCC to graduate or will be required to demonstrate mastery through an alternative demonstration of competency, which includes performance on the ACT or SAT.

**Current PARCC assessment results highlight the need for professional development for teachers and additional interventions to support students.** Both Albuquerque Public Schools and Pojoaque Valley Public Schools noted they have a strategic plan in place to identify strengths and weaknesses to improve both teaching and learning through pacing guides, which provide a scope and sequence of skills and knowledge a student should master. To monitor student academic progress, districts should use short-cycle, interim assessments like the Discovery Education Assessment, to inform instruction, improve learning, and gauge student growth.

**Determination of student computer proficiency skills statewide is critical to differentiating between interventions for students based on academic needs versus needed computer skills.** PED noted computer proficiency was not considered in determining the validity of PARCC assessment results. According to PED, 93 percent of students took the computerized assessment, and it is unclear if computer proficiency impacted assessment scores.

**Compared to the rest of the country, New Mexico has a disproportionately large number of minority and economically disadvantaged students benefitting from the AP program.** According to data from the College Board, of the 2.5 million students who took AP exams nationwide in 2015, 26.2 percent of exam takers were underrepresented students and 22.1 percent were low-income students. In comparison, of the 8,609 New Mexico students sitting for AP exams in 2015, 54 percent were underrepresented students and 35.2 percent were low-income students.

**AP and other rigorous college preparatory curricula save money in the long run.** Ensuring high school graduates are ready for college limits the costs associated with remedial coursework, which include losses to potential earnings from delayed graduation and administrative resources of institutions of higher education. The College Board estimates New Mexico families saved over \$3.0 million in school year 2014-2015 by earning college credit for successful scores on AP exams.

### *Recommendations*

LESC staff recommends:

- conducting an evaluation of student computer proficiency and its effect on PARCC results;
- focusing on training all teachers in second language academic development as it pertains to the students' level of language proficiency, as well as investing in recruiting bilingual teachers who are proficient in Spanish and native New Mexico languages; and
- continued funding and legislative support to target AP program growth in schools serving predominantly underrepresented and economically disadvantaged students.

## VIRTUAL EDUCATION AND CYBER LEARNING

The proliferation and evolution of virtual education is inevitable and potentially offers students and families more educational choices and flexibility. However, despite past committee and subcommittee work on the topic, New Mexico has left the issue largely unaddressed though changes in the virtual charter schools landscape are moving very quickly. Some states have addressed virtual education, while other states, such as New Jersey, Maine, and Illinois, are considering moratoria on virtual charter schools.

The Center for Research on Education Outcomes (CREDO) conducted a study in 2015 comparing virtual school programs with their traditional brick-and-mortar peers. CREDO found typical academic gains in online charter schools for math were equivalent to 180 fewer school days than their traditional school counterparts, while gains for reading were equivalent to 72 fewer school days. Disaggregating these results for racial-ethnic subgroups indicated that all subgroups in online charter schools ranked below their peers for both reading and math from 58 days for African-American students to 86 days for Native American students; white and Hispanic students both lagged behind their traditional peers by 79 days.

Because money follows the student in New Mexico's state equalization guarantee (SEG) distribution and virtual charter schools have the ability to draw membership from school districts across the state, rapid growth of virtual charter schools could potentially jeopardize funding and solvency of school districts. Meanwhile, an Attorney General Opinion reinforced reservations that contracts between New Mexico virtual charter schools and private online education providers funded by money received through the SEG constituted private management of a public school, which is specifically prohibited by law.

At the June 25, 2015 interim meeting of the LESC, the committee heard testimony from:

- Rio Rancho Cyber Academy (RRCA) and New Mexico Connections Academy (NMCA) on lessons learned from their experience in operating virtual and blended learning schools;
- the Education Commission of the States (ECS) on other states' policies and statutory framework for virtual charter schools; and
- LESC staff reviewing the status of FY 15 funding for virtual charter schools and committee work from the 2012 through 2014 interims.

### *Findings*

**Some statutory terms in the *Public School Code* are ambiguous, including “full-” and “part-time.” Other fundamental terms requiring an unambiguous definition include “full-” and “part-time online,” and “blended learning.”** These terms are necessary for differentiation between traditional, virtual, and blended learning, especially as blended learning becomes more prevalent, with more schools and school districts offering online courses that are supplemental to, or in conjunction with traditional schoolwork.

**The issue of “blended learning,” where a student alternates between a brick-and-mortar classroom and virtual settings, deserves greater attention.** Blended learning – combining teacher-led models in traditional classrooms with student-driven work in a virtual setting – has resulted in positive outcomes at RRCA, including school grades of “A” or “B” for school years 2011-2012 through 2014-2015 and a 90 percent graduation rate for the 2014 graduating class. Additionally, 52.9 percent of students showed, via their PSAT results, they were college and career ready, as opposed to 37.2 percent nationally and 40.2 percent statewide.

**Academic performance at online schools on state math and writing assessments are consistently lower than state averages and brick-and-mortar school performance.** Further, virtual charter schools lagged behind district-operated virtual schools in state school performance rankings, with 37.6 percent of virtual charter schools receiving an acceptable rating compared to 44.9 percent of district-operated virtual schools. According to ECS, data indicate independent virtual charter schools experience more frequent academic success than those operated by private education management organizations, such as K-12, Inc., or Connections Academy.

**Requiring proactive accountability measures may help prevent the failure of some online schools.** For example, all online schools might initially be placed on probationary status, or schools might be required to demonstrate experience and competency in online instruction. Another method might be establishing standards specifically for online schools that must be met in order to continue operating an online program.

**While some states limit virtual school funding to an amount below the amount received by brick-and-mortar schools, New Mexico does not; however, virtual school funding in New Mexico still compares favorably to other states.** International Association for K-12 Online Learning (*iNACOL*) data for virtual charter schools indicate the New Mexico public school funding formula generates:

- less funding per student than nine states (California, Colorado, Iowa, Louisiana, Nevada, Oregon, Pennsylvania, Wisconsin, and Wyoming);
- more funding per student than three states (Florida, Georgia, and Kansas); and
- per student funding comparable to three states (Arizona, Indiana, and Ohio).

**Wide variation in funding exists between New Mexico virtual charter schools.** According to Public Education Department FY 15 data, NMCA generated \$11,039 per funded student (MEM) through the SEG, almost 44 percent more than the statewide average, and New Mexico Virtual Academy generated \$6,159 per MEM, which is the fifth lowest amount in the state and almost 20 percent below the statewide average.

**Size adjustment program units provide an incentive for prospective New Mexico virtual charter schools to limit enrollment even though those units are not exploited by current virtual charter schools.** Barring a legislative change to the public school funding formula to treat virtual charter schools differently than school districts and other charter schools, the onus remains on charter school authorizers to prevent such abuses. However, the vesting of charter authorization powers in 89 school districts and the Public Education Commission presents an obstacle to consistent and uniform oversight statewide.



## *Recommendations*

The LESC-LFC Ad Hoc Work Group recommended:

- forming a 2016 interim work group or subcommittee dedicated solely to virtual education.

LESC staff recommends:

- establishing a broader statutory framework for virtual schools that includes consideration of virtual education funding;
- establishing distinct accountability benchmarks of student, teacher, and school performance for virtual schools and online programs;
- adding requirements, specific to virtual charter schools, for the authorization of new schools and oversight of existing schools;
- evaluating differences in funding between virtual education programs operated by school districts and charter schools; and
- reexamining the role and funding of Innovative Digital Education and Learning-New Mexico (IDEAL-NM), the Public Education Department's statewide eLearning program, in the context of other current cyber learning programs.

## **OTHER TOPICS AND REPORTS**

In addition to the presentations summarized previously in this report, the LESC heard the following testimony:

May:

- Higher Education Department and Public Education Department priorities for the 2015 interim

August:

- Success stories from the New Mexico Youth Challenge Academy high school dropout prevention program in Roswell
- Recognition of the 2015 New Mexico Teacher of the Year from the Pojoaque Valley School District

September:

- A briefing by Western New Mexico University on its strategic initiatives to reduce remediation
- Recognition of the 2015 National Spanish Spelling Bee champion, a student from the Gadsden Independent School District (GISD)
- An update on the Early College High School programs at Las Cruces Public Schools and GISD
- A Western Interstate Commission on Higher Education presentation on the status of higher education in New Mexico
- An update on the status and solvency of the Legislative Lottery Scholarship Fund
- Affordability of and access to postsecondary education in New Mexico

October:

- Science, Technology, Engineering, and Math (STEM) Action Team efforts to improve STEM education and raise awareness among policymakers and the public
- Microsoft IT Academy training and certification programs in New Mexico schools to build the workforce of tomorrow
- An overview of the teacher supply appropriation, including distribution and oversight of debit cards issued to teachers to purchase classroom supplies

November:

- Los Alamos National Laboratory (LANL) efforts to bolster STEM education through its Science Inquiry Project
- The FY 17 health and risk insurance requests from the New Mexico Public Schools Insurance Authority and Albuquerque Public Schools

December:

- FY 17 state revenue projections
- New Mexico Business Roundtable's 2016 legislative priorities
- Education Partners' 2016 legislative priorities
- Federal *Elementary and Secondary Education Act* (ESEA) reauthorization
- An update on ABC Community Schools in Albuquerque
- Developing career pathways to prepare students for a successful life

January:

- Legislative Finance Committee Charter School Evaluation

For more information, see the [LESC minutes](#)