

MINUTES
Legislative Education Study Committee
Virtual Meeting
July 15-17, 2020

Wednesday, July 15, 2020

The following voting and advisory members were present: Voting: Chair Christine Trujillo, Vice Chair Mimi Stewart, Senators Craig W. Brandt, Candace Gould, and William P. Soules, and Representatives Alonzo Baldonado, Rebecca Dow, Derrick J. Lente, and Sheryl Williams Stapleton; Advisory: Senators Gay G. Kernan, Linda M. Lopez, Michael Padilla, Shannon D. Pinto, and Representatives Kelly K. Fajardo, Joanne J. Ferrary, Natalie Figueroa, Joy Garratt, Susan K. Herrera, Raymundo Lara, Tim D. Lewis, Willie D. Madrid, Gabriel Ramos, Patricia Roybal Caballero, Tomás E. Salazar, Debra M. Sariñana, and Elizabeth "Liz" Thomson. Also present was Representative Antonio Maestas.

The following voting and advisory members were not present: Voting: Representative G. Andrés Romero; Advisory: Senators Roberto "Bobby" J. Gonzales and Daniel A. Ivey-Soto, and Representatives David M. Gallegos and D. Wonda Johnson.

On a motion from Senator Stewart and a second by Senator Brandt, the committee approved the agenda for the July meeting with no opposition.

On a motion from Senator Stewart and a second by Senator Brandt, the committee approved the minutes from the January meeting with no opposition.

Student Access to Technology and the Internet During COVID-19. Ovidiu Viorica, broadband and technology program manager, Public School Facilities Authority (PSFA) began the presentation by emphasizing the success of the broadband deficiency correction program (BDCP). In the first year of the BDCP, the amount of federal E-Rate funding leveraged by school districts and charter schools increased \$29 million. Since 2016, schools have leveraged approximately \$100 million in E-Rate funds to improve Internet infrastructure at schools. Mr. Viorica noted the state's schools have fairly good Internet access, but significant problems remain in homes and elsewhere in communities; New Mexico ranks 49th in the nation for percent of homes with Internet access. Some areas of the state have found success in decreasing Internet costs and increasing connection speeds by leveraging local cooperation through Regional Education Cooperatives (RECs) and regional technology consortia. Mr. Viorica explained the state's largest obstacles are low population density, a lack of existing infrastructure, and a lack of funding and expertise to create strong networks.

Paul Romero, executive director of information technology, Rio Rancho Public Schools, explained lessons learned from Rio Rancho's distance learning during the COVID-19 pandemic. Prior to the pandemic, Rio Rancho was already employing the Future Ready Framework, pursuing a one-to-one technology deployment and training teachers to use Google Classroom and other distance learning tools. Rio Rancho began by conducting a survey of students' technology needs and identified more than 600 homes in the school district with inadequate or no Internet access. The school district's information technology department provided ongoing technical support for teachers and families that had issues connecting to the Internet or problems with online learning platforms or content. Future challenges for school districts will include accounting for social and emotional supports for students, providing education services like special education that are difficult to deliver remotely, and ensuring student data is secure and private.

Kimball Sekaquaptewa, chief technology director, Santa Fe Indian School, began by explaining the current Internet challenges faced on tribal lands: Forty-one percent of tribal families do not have

access to broadband, and many locations on tribal lands still connect with outdated technology. Ms. Sekaquaptewa explained expanding Internet access generally involves construction and permitting, and tribes and pueblos in central New Mexico found success with the E-Rate program. The projects in central New Mexico were successful because rural tribal schools and libraries came together to build consortia, aggregate demand in their communities, and achieved an economy of scale. E-Rate funds covered a large portion of the cost of the project, with state and local funds only paying about 30 cents per megabits per second of connection speed. Additionally, Ms. Sekaquaptewa explained the connections were built to be scaled in the future with the potential to add additional connections to homes within the community. In response to the COVID-19 pandemic, Ms. Sekaquaptewa highlighted short-term needs like Chromebooks and cellular hotspots, mid-term needs like WiFi hotspots at tribal libraries and chapter houses, and long-term needs like residential Internet access in tribal communities.

John Chadwick, E-Rate coordinator, Public Education Department (PED) began by noting many projects for schools controlled by the federal Bureau of Indian Education (BIE) are already underway, including 380 new miles of fiber that is funded 95 percent by E-Rate. Mr. Chadwick explained the homework gap can be addressed by purchasing mobile hotspots and Chromebooks, but also by working with Internet service providers to provide Internet access to families that cannot otherwise afford it. New Mexico still has gaps in connectivity in both low-income urban and rural areas of the state. Mr. Chadwick explained the state lacks a cohesive technology plan that engages educators and administrators and provides relevant professional development to teach how educational technology can be used effectively.

Senator Brandt asked whether the state can help resolve right-of-way issues to facilitate fiber projects on tribal lands. Ms. Sekaquaptewa explained the construction costs represent the largest portion of the cost of a broadband project, but once the ground is open, laying fiber is relatively inexpensive. She suggested that right-of-way issues can be solved by laying more flexible-use cables than are needed once the ground is open, allowing communities and locations to retroactively connect to the “dark fiber” after the right of way has been established. She noted this would best be facilitated by a strong statewide vision and strategic plan, which has not yet been realized. Mr. Chadwick mentioned the Department of Information Technology is advocating for a “one stop shop” for state permitting, which would greatly reduce the administrative burden of navigating multiple agencies’ permitting processes.

Representative Dow reminded the committee that virtual learning is not a good substitute for in-person learning, especially for at-risk students and students with special needs. She asked whether the state has done an inventory of how much “dark fiber” is available to be used by state institutions. Mr. Chadwick said DoIT started this process, but vendors often are reluctant to share information with the state. Representative Dow noted a vendor at Spaceport America has created a drone capable of hovering over areas and projecting 5G cellular service.

Senator Padilla asked whether there was a plan to allow the state to participate in bulk pricing for Internet access. Mr. Viorica responded the easiest way to do this is to build regional access points in areas where it is easier to disseminate to rural areas. He noted regional community-wide collaboration is difficult and takes time and expertise to effectively execute, but has resulted in success in the North-Central and West-Central regions of the state. Ms. Sekaquaptewa mentioned PED’s bulk purchases and distribution of hotspots and Chromebooks have also reduced costs for rural tribal areas of the state.

Senator Stewart asked whether BIE schools are eligible for E-Rate funding. Ms. Sekaquaptewa said yes, but explained that BIE schools fall into two categories, and costs can differ based on the type of school. Tribally-controlled schools have full control over contracts, equipment, and other

purchases, which often allows them to reduce costs. BIE-controlled schools are required to purchase from federal contractors, which are generally more expensive.

Senator Stewart mentioned she would like to see another LESC hearing on creating a statewide education network, and asked if other states that have done this have issues with rural tribes and pueblos. Ms. Sekaquaptewa mentioned Washington created a network with many tribally connected schools.

Senator Stewart touted the success of the BDCP in bringing broadband to many New Mexico schools at a relatively low cost to the state. She asked for details about how the BDCP has evolved in recent years. Mr. Viorica explained the BDCP has shifted focus from creating infrastructure at all schools to keeping infrastructure up-to-date and optimized. He explained it may be possible to expand the BDCP to build fiber and connect other locations, including homes, but doing so would likely require statewide collaboration and legislative changes to the Public School Capital Outlay Act.

Representative Salazar referred to a report by the U.S. Government Accountability Office, and asked whether schools and libraries could use E-Rate funds to purchase mobile hotspots for home use. Mr. Chadwick stated federal requirements for E-Rate funds prevented schools from purchasing or building hot spots outside of school campuses, though a few initiatives currently circulating through Congress would build flexibility into the E-Rate program to allow schools to use those funds to purchase mobile equipment.

Consolidated *Martinez* and *Yazzie* Lawsuit Update. Ryan Stewart, Ed.L.D., secretary, PED informed the committee of recent developments in the consolidated *Martinez* and *Yazzie* lawsuit and steps PED has taken to bring the state into compliance with the court's order. He noted significant increases in education funding, new and expanded programs for extended learning time, better oversight and a focus on interventions shows to be most effective to improve results for at-risk students. PED required school districts and charter schools to submit readiness plans by July 15, 2020, and planned to issue guidance and corrective action plans to ensure compliance with the court's order. Mr. Stewart said PED recently moved to dismiss the lawsuit on the grounds that the Legislature and executive were the appropriate actors to determine education policies. The court did not dismiss the lawsuit, but acknowledged the state had taken steps to implement the court's order. On a motion from the *Martinez* plaintiffs, the judge ordered additional discovery in the case.

Patricia Jimenez-Latham, Ed.D., program director, Transform Education New Mexico, said that despite efforts of the state, New Mexico has not reached sufficiency and that additional work is needed. She noted the importance of a multicultural, equitable foundation for education and working collaboratively with the groups representing at-risk students, as identified by the lawsuit. She said Transform Education New Mexico would propose updates and revisions to the Hispanic Education Act and emphasized the need for additional funding and programs to address the teacher shortage and provide Internet, library, and community, health, and social services program access.

Representative Thomson said the presentations did not address the needs of students with disabilities, which is required by the court's order, and asked Mr. Stewart what PED was doing to ensure a sufficient education for students with disabilities. Mr. Stewart said PED was working with school districts to ensure they provide programs to meet federal and local requirements for special education. He said this was an area that PED has been working to improve, which has led to an increase in PED's performance rating. He said PED would continue to work to improve parent access and professional development. Representative Thomson said similar efforts have been talked about for decades but noted more work needed to be done to meaningfully serve students with disabilities.

Representative Lente noted PED stopped working with plaintiff attorneys to address the court's order and asked if PED would resume discussions with the plaintiff attorneys. Mr. Stewart said PED would continue to work with educators and content experts to develop programs to serve the needs of at-risk students. He said PED would approach discussions with the plaintiffs' attorneys at a level appropriate for pending litigation. Mr. Stewart said PED would be using an appropriation for culturally and linguistically responsive materials to invest more deeply in native language programs. Representative Lente highlighted the need for Native American leadership in light of the recent departure of Deputy Secretary Kara Bobroff and Mr. Stewart said PED was interviewing replacement candidates.

Representative Roybal Caballero said structural change was needed to address the cultural and linguistic needs of students. She asked PED to provide information on how a comprehensive statewide plan would address these issues.

Senator Lopez asked for more discussion during the interim on the issues raised by the presenters, including discussions of special education and bilingual and multicultural education in more detail. She also said the committee should look at institutionalized racism and how PED's equity councils can address these issues.

Thursday, July 16, 2020

The following voting and advisory members were present: Voting: Chair Christine Trujillo, Vice Chair Mimi Stewart, Senators Craig W. Brandt, Candace Gould, and William P. Soules, and Representatives Alonzo Baldonado and Sheryl Williams Stapleton; Advisory: Senators Gay G. Kernan, Linda M. Lopez, Michael Padilla, and Shannon D. Pinto, and Representatives Kelly K. Fajardo, Joanne J. Ferrary, Natalie Figueroa, David M. Gallegos, Joy Garratt, Susan K. Herrera, Raymundo Lara, Tim D. Lewis, Willie D. Madrid, Gabriel Ramos, Patricia Roybal Caballero, Tomás E. Salazar, Debra M. Sariñana, and Elizabeth "Liz" Thomson. Also present was Senator John Sapien.

The following voting and advisory members were not present: Voting: Representatives Rebecca Dow, Derrick J. Lente, and G. Andrés Romero; Advisory: Senators Roberto "Bobby" J. Gonzales and Daniel A. Ivey-Soto, and Representative D. Wonda Johnson.

Teaching and Learning in New Mexico During Spring 2020 COVID-19 School Closures. Chelsea Canada, senior policy analyst I, LESC, shared findings from a staff report analyzing school districts continuous learning plans during spring school closures due to the COVID-19 pandemic. Ms. Canada shared items found in the plans, including technology distribution plans, social and emotional supports, and attendance requirements. While distance learning was a deviation from the norm, academic gaps between students were likely widened because of the variation in school-level responses to distance education, which also caused many conflicts with public school laws and regulations.

Ryan Tolman, program evaluator, Legislative Finance Committee (LFC), stated school shutdowns disproportionately impacted students of color and students from low-income backgrounds. Mr. Tolman noted some primary factors affecting learning loss include attendance requirements and a lack of a formal accountability structure for the plans. He noted one in five students were unreachable during the school closures. The LFC report recommends using evidence-based online learning programs during school reentry. Additionally, PED should provide more support and guidance to help school districts navigate virtual learning platforms and increase student engagement.

Stan Rounds, executive director, New Mexico Superintendents Association, explained school district emergency contingency planning never anticipated a school closure lasting multiple

months. School districts experienced great difficulty meeting the primary instructional needs of students. However, they were still able to support student's nutritional needs. Additionally, he explained school districts are experiencing statewide gaps in technology and Internet connectivity. Mr. Rounds highlighted recent research showing some students struggle to work independently if work is primarily virtual, emphasizing the need for parent engagement. He concluded by stressing the need for flexibility from the state by allowing school districts to create solutions for their specific communities.

Hope Morales, executive director, Teach Plus New Mexico, shared three Teach Plus surveys from March through June 2020 which engaged more than 4,000 educators across the state. The surveys were crafted to learn about continuous learning plan implementation and identify training needs and additional supports needed to reopen schools. In the first survey, teachers agreed communication from their school district and PED had been effective. While teachers used a variety of activities to engage students, they noted additional resources would be helpful. The second survey focused on training topics identified by teachers that ranged from increasing virtual student engagement to strategies for students with special needs. The third survey focused on preparing to go back to school during the pandemic. Teachers identified access to technology, training, and lack of accountability as barriers to distance learning. At the same times, teachers saw increased engagement from students who previously disengaged in class. Teach Plus New Mexico found educators are divided on back to school options with 15 percent preferring continuing distance learning, 36 percent preferring regular schedules, and 35 percent preferring a hybrid schedule.

Ashley Niman, a fourth grade teacher at Rio Rancho Public Schools, shared her personal experience related to remote teaching during spring 2020. In her experience, expectations for teaching were not made clear until the first week of April. Ms. Niman emphasized how helpful the collaboration was among educators in her school including daily team meetings and weekly wellness check-ins. Creating routines prior to virtual learning really helped her transition into the new learning environment. Additionally, she shared the various strategies she used to engage parents including daily classroom meetings, calling parents, and digital apps such as ClassDojo.

Gwen Perea Warniment, Ph.D., deputy secretary of teaching, learning, and assessment, PED, explained the department worked closely with the U.S. Department of Agriculture to continue providing all students with free meals during the school closures. Between mid-March and the end of June, 9 million meals were served free of charge to students across the state. PED prioritized supporting 12th grade students within its guidance. PED's continuous learning plan framework was based on Kansas Education Department's plan. She acknowledged initial department guidance caused confusion about whether schools should only focus on reviewing old content, though noted PED worked with school districts and charter schools to ensure teachers were focusing on essential standards. Ms. Perea Warniment noted 25 percent of students struggled with the transition and new learning environment, constituting a new type of "at-risk" student. Ms. Perea Warniment highlighted successes in the state's COVID-19 response, including partnerships with cell service and Internet providers, meal distribution using buses, provision of learning packets, and distribution of take-home devices and WiFi routers. She also noted the department was learning from feedback about SAT completion, the department's multilayered systems of support, and requirements for instructional hours.

Representative Garratt asked what kind of research has been done on early childhood education and how the state is currently operating childcare programs. Jon Courtney, deputy director of program evaluation, LFC, shared that the state Early Childhood Education and Care Department

(ECECD) has an exemplary model for reentry, having successfully kept childcare centers open with very low levels of infection rates among staff.

Senator Kernan asked why local school districts cannot reopen to mitigate learning loss, especially if success was seen in opening childcare facilities. Ms. Perea Warniment explained PED's guidance is broad during the hybrid reentry phase, so school districts can choose from various models, including split schedules or prioritizing younger students for reentry. Senator Kernan asked how PED will ensure attendance in the upcoming school year. Ms. Perea Warniment said the department will provide supplementary guidance defining what constitutes attendance in a virtual setting, how it should be tracked, and how to support student participation and engagement. Katarina Sandoval, deputy secretary of academic engagement and success, PED, added the Attendance for Success Act is being fully implemented during the upcoming school year. The department plans to collect data on attendance to identify and support school districts and charter schools experiencing high rates of student absenteeism.

Representative Sariñana shared her personal experience from the perspective of a high school math teacher. She shared teachers struggled to learn technology and will need additional professional development support for school reentry.

Senator Lopez asked if parents could be paid to become education assistants at home and if some of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding could be used to support stipends. Ms. Perea Warniment liked the idea and noted she would follow-up with Senator Lopez, noting the pandemic reinforced the impact of families on students' education. Mr. Rounds said the idea raised an interesting perspective on how we organize our work around instruction and student support in a virtual learning environment.

Representative Herrera asked how PED has spent CARES funding so far. Ms. Perea Warniment noted most CARES funding was directly distributed to school districts and charter schools; PED withheld 9.5 percent of CARES Act funding for department initiatives. Of the dollars that were allocated directly to school districts and charter schools, 48 percent has been used to close the digital divide, 34 percent for personal protective equipment and cleaning supplies, and the other 18 percent was used for other purposes such as staffing. The set aside for the department will be used to support the new statewide learning management system, Canvas, and the professional development needed to support educators during reentry.

Representative Herrera asked about childcare for children of teachers who will be working during a hybrid schedule. Ms. Sandoval noted PED is working with ECECD to figure out ways to provide childcare for educators. She noted a school site could work with a licensed provider to set up a satellite childcare site on a school campus that could be open to the entire community. PED is preparing to launch a survey to assess childcare needs. RECs will provide support to school districts in this work as well, and \$3 million from the department's CARES funding will be used to mitigate potential staffing shortages.

Friday, July 17, 2020

The following voting and advisory members were present: Voting: Chair Christine Trujillo, Vice Chair Mimi Stewart, Senators Craig W. Brandt, Candace Gould, and William P. Soules, and Representatives Alonzo Baldonado, Derrick J. Lente, and Sheryl Williams Stapleton; Advisory: Senators Gay G. Kernan, Linda M. Lopez, Michael Padilla, and Shannon D. Pinto, and Representatives Kelly K. Fajardo, Joanne J. Ferrary, Natalie Figueroa, Joy Garratt, D. Wonda Johnson, Raymundo Lara, Tim D. Lewis, Willie D. Madrid, Gabriel Ramos, Patricia Roybal Caballero, Tomás E. Salazar, Debra M. Sariñana, and Elizabeth "Liz" Thomson. Also present was Representative Patricio Ruiloba.

The following voting and advisory members were not present: Voting: Representatives Rebecca Dow and G. Andrés Romero; Advisory: Senators Roberto "Bobby" J. Gonzales and Daniel A. Ivey-Soto, and Representatives David M. Gallegos and Susan K. Herrera.

New Mexico School Reentry Plan. Ryan Stewart, Ed.L.D., secretary, PED, discussed the department's school reentry guidance. Mr. Stewart stated all public schools will begin the school year in a hybrid model and bring all students back into the classroom as soon as public health officials determine it is safe. During hybrid learning, students and staff must socially distance, avoid large groups, wear face coverings, and screen for symptoms. Mr. Stewart reported school districts and charter schools have spent about 80 percent of federal CARES Act funds on closing the digital divide and purchasing personal protective equipment. PED plans to renew a partnership with Graduation Alliance to reengage students who are not participating in distance learning and stated PED is working with ECECD and RECs to provide childcare for educators. Ms. Perea Warniment stated the department's assurances document prioritizes at-risk students. Ms. Perea Warniment encouraged school districts and charter schools to be prepared to transition between remote learning, hybrid learning, and full reentry. Mr. Stewart stated school districts and charter schools must participate in extended learning time programs or submit another plan to make up for lost learning. He also noted schools may allow small groups of students with special needs into the school building during the remote learning phase.

Dennis Roch, superintendent, Logan School District, and president, New Mexico School Superintendents Association, noted PED guidance does not adequately differentiate between school districts of varying sizes, demographic compositions, and COVID-19 caseloads. Mr. Roch stated the uncertainty of the situation makes it difficult for school districts to adequately plan. Finally, Mr. Roch stated PED staff have been too stringent when evaluating school district continuous learning plan submissions, leaving little room for school districts to pursue plans that fit their specific needs.

TJ Parks, superintendent, Hobbs Municipal Schools, stated Hobbs will implement a two-tiered hybrid model. Students in kindergarten through third grade will attend school four days a week, while students in fourth grade through 12th grade will be divided into two cohorts that will alternate within a week. Mr. Parks stated the school district has aligned its curricula across physical and online programs and students will receive the same lessons whether they are in the school building or at home.

Gabriella Blakey, chief operations officer, Albuquerque Public Schools (APS), stated APS will establish two cohorts of students that alternate in-person learning weekly in an effort to provide stability to students and families. Ms. Blakey stated professional development is a priority of the school district and staff will return to school sites prior to student reentry to prepare. Scott Elder, interim superintendent, APS, stated distance learning provides educators an opportunity to focus on social and emotional learning and implored state leaders to work to close the digital divide. Mr. Elder stated APS will provide a device to every student who needs one, but raised concerns about Internet and cellular coverage. Mr. Elder noted childcare and daily COVID-19 testing are major challenges for the school district.

Matt Pahl, executive director, Public Charter Schools of New Mexico, stated many charter schools purchased new, more robust online learning programs over the summer. Mr. Pahl noted some charter school models, such as the Montessori model, are not well suited for distance learning. Mr. Pahl raised concerns regarding the way CARES Act funds were distributed to locally-chartered charter schools and the possibility that discrepancies between school district and charter school reentry plans may create fluctuations in enrollment.

Tim Bedeaux, senior policy analyst I, LESC, summarized several principal recommendations from a staff brief produced by LESC analysts. Mr. Bedeaux encouraged policymakers, school leaders, and stakeholders to develop technology strategic plans, conduct a study of physical space in schools, prioritize a diagnostic assessment upon school reentry to gauge student learning loss, and take attendance and develop reengagement strategies. In closing, Mr. Bedeaux urged Legislators to consider for the upcoming 60-day legislative session which statutory requirements the department should be able to waive, and which it should not.

Representative Sariñana and Senator Stewart asked about the logistics of the hybrid teaching model. Mr. Stewart and Ms. Perea Warniment provided several examples of activities teachers could assign to students working from home, including attending live webcasts, completing asynchronous lessons, and working ahead on readings and assignments. Ms. Perea Warniment encouraged educators to build lessons into the online learning management system and stated PED will provide professional development to teachers to help them navigate the platform.

In response to Representative Ruiloba's question about attendance, Mr. Stewart stated attendance and reporting requirements will remain the same when students are physically present. Katarina Sandoval, deputy secretary of academic engagement and student success, PED, explained school districts must develop metrics for tracking attendance and participation on remote learning days.

Representative Garratt asked about standardized testing in the fall. Mr. Stewart said PED does not anticipate receiving another federal waiver and plans to administer tests.

Representative Figueroa asked about technical support for students and families. Ms. Perea Warniment replied the department's school reentry guidance documents address the topic and Mr. Elder stated APS created a hotline for parents to call and receive technical support.

In response to Representative Figueroa's question about the criteria for moving between the three models of school reentry, Mr. Stewart replied PED's preference is to make decisions as a state.

Senator Padilla asked about funding for contract tracing. Mr. Stewart stated PED is working with the New Mexico Public School Insurance Authority to ensure testing costs do not fall to employees or families.

In response to a question from Representative Ruiloba about early childhood programs, Ms. Perea Warniment stated PED is working with ECECD and looking to such programs as a model for public school prekindergarten programs.