

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
NOVEMBER 13-16, 2012

Frances Ramirez-Maestas, Director

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:20 a.m., on Tuesday, November 13, in Room 307 at the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, and Gay G. Kernan.

The following voting members of the LESC were not present:

Representative Dennis J. Roch; and Senators Mary Jane M. García and Lynda M. Lovejoy.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, and Sheryl Williams Stapleton; and Senators Stephen H. Fischmann, Linda M. Lopez, and John Pinto.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, George Dodge, Jr., Roberto "Bobby" J. Gonzales, Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, Howie C. Morales, and Sander Rue.

On a motion by Senator Nava, seconded by Representative Espinoza, the Chair approved the agenda for the meeting.

The Chair then recognized Ms. LaNysha Adams, LESC staff, for an outline of the day's agenda.

Ms. Adams explained that, in at least two 2012 interim meetings, the LESC discussed a means by which to focus on reading initiatives. She noted that, in July, the committee members agreed to form a reading subcommittee; however, during the August interim meeting, the committee

moved to add an additional day to the November interim meeting schedule so the full committee could hear and discuss testimony regarding this topic.

The day's activities, Ms. Adams stated, included four agenda items on the topic of reading.

To conclude her report, Ms. Adams stated that, for the committee's review, a staff report in the committee binders provides information on:

- selected reading initiatives statewide, namely:
 - the development of a reading assessment for new teachers that is a requirement of legislation enacted in 2011 (Laws 2011, Chapter 95);
 - the distribution of an \$8.5 million appropriation to Public Education Department (PED) to support early reading initiatives statewide in FY 13, with specific reference to the New Mexico Reads to Lead! K-3 Reading Initiative that provided awards to 13 districts and charter schools; and
 - a bilingual reading model concern brought to PED by the US Office of Civil Rights;
- a summary of the New Mexico First Report, provided to the committee during the July 2012 interim meeting, that compared New Mexico's fourth grade reading proficiency as measured by the National Assessment of Educational Progress; and
- a synopsis of the *New Mexico K-3 Plus Program Evaluation Report*, provided to the committee during the December 2011 interim meeting.

P-3 READING POLICIES AND INITIATIVES IN SELECTED STATES

For this agenda item, the Chair recognized Ms. Stephanie Rose and Ms. Emily Workman, Associate Policy Analysts, Education Commission of the States (ECS), to present their findings in early literacy comparing New Mexico to five states: Delaware, Kentucky, Maryland, North Carolina, and Texas.

Their findings highlighted:

- New Mexico's largest minority group, Hispanic students, is underperforming their cohort in other states;
- student demographics in the comparison states, mentioning that New Mexico's English language learner (ELL) student population and students qualifying for free and reduced-price lunch is higher than in these five other states;
- in the states that have improved their reading proficiency on the National Assessment of Educational Progress, seamless P-3 education boosts achievement for all students, particularly for low-income and ELL student populations;
- while research has shown that New Mexico's full-day kindergarten program is of high quality, it could be strengthened by requiring all five-year-olds to attend;
- Maryland, the state showing the largest increases in fourth grade reading achievement, received a nine of out 10 quality rating for their pre-K programs, which is determined annually by the National Institute for Early Education Research;
- North Carolina has the strictest laws of the states for retaining students in the third grade;

- schools in Montgomery County, Maryland, have a number of best practices and are showing promise in educating pre-K to third grade ELL students, with nearly 75 percent of ELL students proficient in reading;
- some states use a social justice curriculum to connect with at-risk student populations;
- the Texas Early Education Model, created in legislation in 2003, is also a best practice model, where Texas applied web-based professional development with monitoring, schools used a research-based curriculum, and teachers incorporated technology-driven child monitoring to guide instruction; and
- several common themes indicating best practices that may have contributed to the states improvements in reading proficiency, including:
 - teaching preparation focused on the science of teaching reading (e.g., Kentucky requires instruction in reading for licensure);
 - professional development and training;
 - early intervention strategies;
 - the creation of quality rating systems to measure program effectiveness in preparing students; and
 - summer reading programs where student Lexia measures are used to examine reading levels.

Committee Discussion

In response to a committee member’s question, Ms. Workman stated that one out of the five states examined requires science-based reading as part of teacher preparation.

Referring to a bullet point in the ECS presentation, a committee member asked for details about the meaning and implementation of a “rigorous research-based curriculum” in Montgomery County, Maryland. Ms. Workman, referring to a document from Montgomery County, explained that, the curriculum provides an emphasis on language instruction in all subject areas, thematic units to explore vocabulary, and devising creative ways to teach ELL students.

In response to a committee member’s question, Ms. Workman stated that, the focus of professional development in Montgomery County was on language development and that Montgomery County was well-known for its Teacher Leader System, where the county links pre-K teachers with kindergarten teachers, as one example.

A committee member asked for the rates of ELLs in the five other states. Ms. Workman replied that 17 percent of students in New Mexico were identified as ELLs. Texas was the only state with a higher percentage at 22 percent, and the other states had significantly lower percentages of ELL students, she added.

A committee member asked if any of the five states required teachers to have endorsed certifications in Teaching English to Speakers of Other Languages (TESOL) or bilingual education. In response, Ms. Rose explained that, while some of the teachers teaching ELL students may be certified, the majority of teachers teaching ELL students are not trained in TESOL or bilingual education, which is why the states are emphasizing professional development.

In response to a committee member's request for clarification, Ms. Workman explained that, the social justice curriculum is designed to train teachers in culturally relevant pedagogy so that they meet students' needs, ensure that instruction is developmentally appropriate, and that, the teachers focus on the whole child in addition to instruction.

In response to a committee member's question relating to funding sources for professional development, Ms. Rose replied that the majority of the funds used for professional development were diverted from Title I funds and that four out of the five states had received Race to the Top funding.

In response to a committee member's question as to why Arizona and Florida were not included in the proficiency comparison, Ms. Adams reported that the five states selected for comparison (Texas, North Carolina, Maryland, Kentucky, and Delaware) were the states included in the New Mexico First report provided to the committee during the July interim meeting.

The Chair recognized Ms. Betty Walker Smith, Education Chair of the New Mexico Chapter of the American Association of University Women, who spoke about her experiences as an educator and emphasized the need to require university courses that teach education degree candidates how to teach reading.

A committee member requested further information regarding pre-K programs that are split between two agencies.

LITERACY INSTRUCTIONAL STRATEGIES: NEUHAUS EDUCATION CENTER (NEC)

The Chair recognized Ms. Rai Thompson, Assistant Director of Professional Development, Neuhaus Education Center (NEC); and Ms. Brenda Taylor, State Dyslexia Consultant for the International Dyslexia Association and Trainer for the NEC, for an overview of the NEC.

The NEC, Ms. Thompson began, is a nonprofit organization based in Texas that is dedicated to preventing reading failure by providing teachers with professional development in research-based methods of literacy instruction. The organization, Ms. Thompson stated, is focused on the success in two school districts in Texas.

The first, she said, is Brownsville Independent Schools, a district on the Texas-Mexico border that wanted to improve literacy and promote bi-literacy in reading and writing for its students, the majority of whom spoke Spanish as a first language. The district, she emphasized, provided teachers with professional development from two Neuhaus programs: Reading Readiness and Language Enrichment — two initiatives that target developing readers and students at-risk for learning failure.

The second district, Ms. Thompson noted, is the Houston Independent School District (HISD), which is the seventh largest district in the country with 203,000 students. Reading initiatives implemented in HISD, she stated, focus on professional development for all elementary school principals, general education classroom teachers, teacher development specialists, K-12 literacy coaches, and special education program specialists. For K-2 teachers whose students did not

make expected gains, she stated, targeted professional development and presentation modules that focused on small group instructional strategies were provided.

Ms. Taylor stated that difficulties with phonological processing have a domino effect on decoding and reading comprehension for students with dyslexia. She explained that, in Texas, reading initiatives began in 1985 and were expanded in 1996 when a law was passed requiring all students to be given a screening instrument for reading, and for teachers to use reading instructional materials informed by scientifically based research. She noted that:

- in 1997, a law was passed that required all K-2 students to take reading assessments, and the results from these assessments were then used to identify, treat, and monitor the progress of students at risk for dyslexia or other related disorders;
- in 1999, a law was passed called the Student Success Initiative and led to teacher Reading Academies, the focus of which was to provide teachers with the understanding of scientifically-based research;
- in 2011, a law was passed that required all university candidates completing an educator preparation program to receive instruction in detection and education of students with dyslexia; and
- Texas is the only state that has a provision in law for identifying English language learning students with dyslexia.

Committee Discussion

A committee member asked how Texas was managing training teachers in reading instruction. Ms. Thompson explained that it depends on individual teachers and centers, like NEC, that collaborate with universities. Ms. Taylor stated that she has worked at a university where the whole department was in agreement about instructional approaches to teaching reading, which were based on the research.

In response to a committee member's request for more details about early intervention strategies, Ms. Thompson described Language and Literacy for Young Learners, which is designed to be implemented in pre-K. She explained that it is designed for short instruction and can be taught in Spanish and in English with a focus on phonemic awareness, letter recognition, and vocabulary.

In response to a committee member's question relating to legislative changes to improve reading achievement in a state, Ms. Taylor stated that standards for teaching reading might help the colleges of education teach reading.

READING INITIATIVES STATEWIDE

The Chair recognized Ms. Hanna Skandera, Secretary-designate of Public Education; Ms. Leighann Lenti, Policy Director, and Dr. Icela Pelayo, Director, Bilingual Multicultural Education, Public Education Department (PED), for a presentation regarding the department's statewide reading initiatives.

Ms. Skandera stated that, many of the successful initiatives mentioned in previous presentations were being launched by PED, including:

- professional development;
- extra time on task;
- investment in PreK, diagnostic assessments in K-3, K-3 Plus, and after school programs;
- strategies for parents in English and in Spanish;
- targeted reading interventions; and
- an overall increase in funding in PreK, K-3 Plus, and in reading interventions overall.

Ms. Lenti provided details on PED's use of funding for reading initiatives statewide, including:

- the appropriation of \$8.5 million for FY 13 to support early reading initiatives, of which PED set aside:
 - \$3.0 million for a common K-3 assessment to be used across all schools and districts in the state;
 - \$4.5 million for reading coaches and interventions that districts could apply for; and
 - \$1.0 million for professional development of teachers, coaches, and administrators focused on effective reading instruction and using data to drive instruction aligned with the Common Core State Standards (CCSS);
- the selection of Dynamic Indicators of Basic Early Literacy Skills Next as a tool for the state's K-3 reading screening assessments that 40 districts and 10 charter schools have reported they will use;
- the funds provided to districts through the Reads to Lead! application process; and
- a recently launched PED reading website with resources in both English and Spanish.

To conclude, Ms. Lenti reported that the first cohort of teacher candidates took a new reading assessment in September. She explained that the assessment was offered online to provide immediate results, with a detailed report on areas of strengths and weaknesses. In describing the assessment, Ms. Lenti reported that:

- the assessment measured knowledge of foundations of reading, how to teach word analysis, fluency development, vocabulary, comprehension, literary and expository texts, and how to create a literate environment in the classroom;
- participants were required to register 24 hours in advance online;
- multiple testing sites were available statewide;
- in December 2012, participants will receive final scores once the standards setting process is finished;
- PED chose the same company that Kentucky and Maryland partnered with to develop the assessment; and
- the new assessment is aligned with the CCSS.

In response to the bilingual reading model concern brought to PED by the US Office of Civil Rights (OCR) noted in the LESC staff report, Dr. Pelayo reported that:

- there is no state-adopted bilingual reading curriculum or program;
- there are currently three state-adopted reading curricula: McGraw-Hill's *Treasures*, *Reading Street*, and Houghton Mifflin Harcourt's *Journeys*;

- *Treasures* addresses the needs of English language learners (ELLs) because it has a bilingual component;
- school districts have the autonomy to make decisions about the reading curriculums they want to use;
- the Bilingual and Multicultural Education Bureau at PED supports several different program models, including dual-language, transitional, heritage, and enrichment;
- there are many different languages represented, including Spanish, Navajo, Tiwa, Tewa, Towa, Keres, Apache, and Zuni;
- Spanish and Navajo are written, whereas the other languages are traditionally oral-based;
- all ELLs are required to receive appropriate instructional services so that they have access, per requirements from the OCR;
- New Mexico is not in violation of any funded programs through the OCR; and
- PED is currently working with the Kellogg Foundation to identify successful dual-language programs throughout the state.

Committee Discussion

Answering a question about the type of assessment used in K-3 Plus, Ms. Lenti stated that the same assessment is used in kindergarten, grade one, and grade two. She added that in the summer all of the programs will be using the same screening assessment.

In response to a committee member's question relating to the expenditure of the appropriations for the PreK and K-3 Plus programs, Ms. Lenti stated that all of the PreK funds were allocated for FY 13. With regard to the K-3 Plus program, she stated that \$8.5 million from the \$11.0 million appropriation for the program had been allocated. She noted, however, that unallocated dollars would be placed in the K-3 Plus fund.

In response to a committee member's question, Ms. Lenti stated that funding for K-3 Plus was based on a certain percentage of the funding formula unit value, and that schools felt that the funds were enough to meet their needs. She noted that, in January, PED is bringing together participating schools in K-3 Plus to discuss ways to increase student recruitment and how to better meet student needs. A committee member noted that the provisions in current law provide funding for K-3 Plus students at 30 percent of the unit value as a minimum, not a maximum.

In response to a committee member's question relating to the districts selected for Reads to Lead! funding, Ms. Lenti stated that all schools were required to frame their requests for funding according to proven practices from leading research. She noted that all schools were submitting monthly reading coaches' logs so that PED could monitor how coaches are spending their time in the schools and stated that PED would provide a report to the LESC of the activity in each of the Reads to Lead! grantees.

In response to a committee member's question relating to the initiatives being implemented by Los Alamos Public Schools with Reads to Lead! funding, Ms. Lenti replied that the district has allocated funds for a reading coach to be shared across their elementary schools, and the remainder of the funds are being targeted toward student intervention tools such as Lexia and training for K-3 teachers.

In response to a committee member's question, Ms. Lenti replied that districts currently may choose their PreK assessments and that PED hoped to receive funds from a Race to the Top Early Learning Challenge grant to help provide consistency across the states. Ms. Lenti stated that, one of the requirements for the grant is a statewide kindergarten readiness assessment that measures various domains: literacy, math, fine and gross motor skills, social and emotional development, and peer interaction.

In response to a committee member's question relating to the number of dual-language programs statewide, Dr. Pelayo commented that there are approximately 100 dual-language programs based on the previous year's data.

In response to a committee member's question as to how bilingual education programs align with PreK, K-3 Plus, and the CCSS, Dr. Pelayo responded that there are efforts to align all of the initiatives with bilingual programs and to provide teachers with professional development that focuses on effective approaches for ELLs and all culturally and linguistically diverse learners. She noted that, with regard to the CCSS, all teachers will need to teach literacy and language development through the content areas, which will help ELLs master content area subjects.

A committee member stated that K-3 Plus would be strengthened if transportation challenges were taken into consideration, suggesting that the definition of to- and from-school transportation could be amended in current law to provide for K-3 Plus program students.

A committee member requested that the PED report for Reads to Lead! grantees include details on how each site is expending their dollars, the types of evaluations being implemented, whether each site is successful in using research-based methods in the teaching of reading, and a description of the professional development occurring at each site as well as who is conducting each activity.

**BEST PRACTICE MODEL:
ANTHONY ELEMENTARY SCHOOL, GADSDEN INDEPENDENT SCHOOLS**

The Chair recognized Ms. LaNysha Adams, LESC staff; Ms. Linda L. Perez, Principal, and Dr. Lisa L. Quintis, Literacy Coach, Anthony Elementary School (AES), Gadsden Independent Schools, for an overview of the school's success in exceeding district and state proficiency levels in reading at a school with high poverty rates and high numbers of English language learners (ELLs).

Ms. Adams began with a summary of AES's success, explaining that:

- it was the only school in its district to earn a letter grade of "A" through the Public Education Department's school grading system;
- the majority of the students in the school speak Spanish as a first language and qualify for free and reduced-price lunch; and
- the Standards-based Assessment scores at AES in reading and math proficiency were higher than the district and the state average.

Ms. Perez then explained that, she has been the principal of AES for three years, and that, when she first started there were over 800 absences due to parents taking students out of school to access community services during the school day. She stated that she immediately implemented a system where she worked with parents and the community to reduce the absence rate. Given the demographics of the school, which she described as 100 percent Hispanic, 98 percent low-income, and 60 percent ELLs, Ms. Perez explained that she reshaped the mission of the school to be a college-bound campus where failure was not an option.

Ms. Perez emphasized that the educators at AES:

- have a common goal that all students can learn;
- have created standards-based units of study and teacher end-of-unit assessments;
- administer pre-tests and create end-of-unit assessment guides every nine weeks;
- host a Reading and Math Night to train parents to help their child at home, where dinner is provided and the parents learn how to do math through investigation;
- engage in small group coaching every week to plan, analyze, and disaggregate data; and
- are provided with time during the day and after school for interventions and tutoring.

Ms. Perez also detailed AES's standards-based assessment test scores over the years, stating that proficiency rates have increased by 22.7 percent in math and 17.8 percent in reading between school year 2006-2007 and school year 2011-2012.

Dr. Quintis described data notebooks that teachers turn in on a weekly basis, which, she explained, set AES apart from other schools. She also explained how the teachers monitor students' progress and use student data to structure their professional learning communities to focus on student success. She noted that ELL proficiency was monitored closely so that these students could become proficient in English by the fourth grade. Finally, she explained that educators implement balanced literacy with fidelity; each building in the school has an instructional coach, and content is taught in English and in Spanish.

Committee Discussion

A committee member congratulated AES for exceeding their expectations and asked how they funded instructional materials. Dr. Quintis explained that each campus has a book room with over \$100,000 in materials provided through grants obtained from a variety of funders.

In response to a committee member's question as to how students were exposed to 21st Century learning, Dr. Quintis explained that, each classroom has an interactive smart board, and that, with a balanced literacy approach, teachers are able to bring in texts that they access digitally through the smart board.

In response to a committee member's question as to whether instructional time was set aside for reading, Ms. Perez answered in the affirmative and explained that the balanced literacy approach required instruction tailored to student levels. She described the developmental reading assessment given to students and stated that if a student scoring at the third grade level was in first grade, they would stay in their class and be provided with instruction at their reading level.

In response to a committee member's question as to whether AES received Read to Lead! funding, Ms. Perez replied that AES did not.

A committee member asked what AES used for phonics and phonemic awareness instruction. In response, Dr. Quintis stated that the school implements the best practices from the research on early literacy instruction, beginning with an assessment in kindergarten, and then targeting instruction according to the data to increase phonemic and phonological awareness.

A committee member asked what the types of interventions AES used for students who are not making much progress. In response, Dr. Quintis explained that they have Leveled Literacy Intervention, Lexia, and interventions designed by reading coaches and other educators in the district.

A committee member asked how the school integrated interventions with bilingual programs. In response, Dr. Quintis stated that, all interventions are provided in both English and Spanish and that AES implements a transition bilingual program so that, by third grade, students transition to English.

In response to a committee member's question relating to the teaching of math through investigations without textbooks, Dr. Quintis explained that teaching math through investigations is an approach that is conceptually based and trains children to think through math problems and solutions step by step. Dr. Quintis stated that the conceptual aspect of this approach to teaching math has contributed to AES's increase in math standards-based assessment scores.

SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized the following presenters for community input:

- Mr. Mike Kakuska, Executive Director, New Mexico Association of Secondary School Principals;
- Mr. Allen Crane, New Mexico Lions Crane Reading Foundation; and
- Ms. Barbara Peterson, Albuquerque Teachers Federation.

There being no further business for the day, the Chair with the consensus of the committee, recessed the LESC meeting at 4:34 p.m.

**MINUTES
LESC MEETING
NOVEMBER 14, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:15 a.m., on Wednesday, November 14, in Room 307 at the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESL were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy.

The following advisory members of the LESL were present:

Representatives Alonzo Baldonado and Ray Begaye; and Senators Stephen H. Fischmann, Linda M. Lopez, Howie C. Morales, and John Pinto.

The following advisory members of the LESL were not present:

Representatives Eleanor Chávez, George Dodge, Jr., Roberto “Bobby” J. Gonzales, Tim D. Lewis, Sheryl Williams Stapleton, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, and Sander Rue.

Senator Nancy Rodriguez was also in attendance.

SCHOOL LIBRARY UPDATE

The Chair recognized Ms. Rachel Altobelli, member, New Mexico Task Force for School Libraries (NMTFSL); and Ms. Mara Minwegen, Librarian, Van Buren Middle School (VBMS), Albuquerque Public Schools, who provided the committee with an update on school libraries.

Referring to her handout, Ms. Altobelli informed the committee that NMTFSL has an ongoing role in seeking school library improvements in cooperation with the New Mexico Library Association and other entities. She also thanked the LESL for its continued support in placing General Obligation (GO) Bond funding on the ballot every two years, and noted that over 60 percent of voters approved a \$29.6 million bond package in the 2012 statewide election. In 2003, Ms. Altobelli continued, the LESL helped establish the School Library Materials Fund (SLMF), which, in combination with the GO Bond and funds from school budgets, helps New Mexico public school libraries provide students with current resources.

In order to maintain up-to-date resources and equitable access for all students, she said, the NMTFSL addresses the following focus areas:

- current books — students need accurate, up-to-date information and appealing new titles that encourage them to love reading and learning;

- online reference — encyclopedias like World Book or Britannica are now available as online subscriptions, providing information that is never out-of-date;
- access to technology — many school libraries, especially in rural areas, are one of the few places where students can use computers and other new technologies;
- State Library resources — there is high-quality information online, paid for by the State Library, that students can access if they have computers, internet, and teacher-librarians to show them how; and
- Common Core State Standards (CCSS) — school libraries and librarians will provide support.

Ms. Altobelli also referred the committee to several handouts showing the projected allocations of 2012 GO Bonds to academic, public, and school libraries, and recommended to the LESC a \$3.0 million allocation to the SLMF to:

- support literacy efforts;
- ensure equitable access to up-to-date and attractive library materials, including traditional printed materials and new online resources;
- help districts reach assessment goals;
- support the goals of the CCSS; and
- encourage all public school students to become lifelong learners, readers, and successful citizens of a competitive and global world.

She added that the allocation would combine with another \$3.0 million of GO Bond funding to provide approximately \$17.90 per each New Mexico public school student, which could provide one new book or resource for all of them.

Next, Ms. Altobelli introduced Ms. Minwegan, who gave the committee an overview of a typical day at the VBMS library. She said that students arrive early in search of a warm, safe place before going to class, and use the facility to:

- check out and return books;
- conduct research and team projects; and
- use projection equipment, among other activities.

In addition, Ms. Minwegan discussed collaboration with the school's teachers, including her roles as a guest lecturer and as a participant in lesson plan development. Noting that the library can accommodate up to two classes of 20 students, she said that a variety of meetings and other school events are held there. Last, after explaining that VBMS has students from all over the world, Ms. Minwegan showed a student testimonial video, featuring Ms. Claudia Gomez, to provide the committee with an end-user's perspective.

Finally, Ms. Altobelli also introduced a seventh-grade student from Aspen Community Magnet School in Santa Fe, who informed the committee that her library is helpful, welcoming, and happens to be one of the only places where she can tutor fellow students.

Committee Discussion

A committee member commented that the SLMF has not been funded since 2009, and that the LESC should consider funding the SLMF at its former rate of \$2.0 million per year. In reply, the Chair suggested that there are several ways to reinstate the funding, including the passage of a stand-alone bill or creation of another line item in the *Education Appropriation Act*.

In response to a committee member's question regarding priority purchases, Ms. Altobelli said that the libraries have to purchase many new non-fiction books in order to remain current. Emphasizing the need for a strategic statewide spending plan, the committee member urged that funds go to schools that need them most. Ms. Altobelli then replied that some members suggested pooling funds to purchase statewide subscriptions and online resources. Ms. Altobelli also noted the need for more discussion about the problems created by the lack of similar broadband connectivity across the state.

Responding to a committee member who has constituents trying to access funds to open a community library, the Chair recognized Mr. Joe Sabatini, Legislation Committee Co-Chair, New Mexico Library Association, who acknowledged that many libraries start in this manner. Mr. Sabatini then referred the committee member to the Development Division of the New Mexico State Library.

The LESC Director commented that Senator Lynda Lovejoy was the sponsor of the GO Bond legislation.

RETIREMENT PLAN PROPOSED ADJUSTMENTS: EDUCATIONAL RETIREMENT BOARD (ERB) AND PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA)

The Chair recognized Mr. Ian Kleats, LESC staff; Dr. Tom Pollard, Legislative Council Service staff; Mr. Wayne Propst, Executive Director, Public Employees Retirement Association (PERA); and Ms. Jan Goodwin, Executive Director, Educational Retirement Board (ERB), for a presentation on proposed adjustments to the ERB and PERA retirement plans.

Over recent years, Mr. Kleats began, the funding status of both ERB and PERA has declined due to several factors, including:

- a decrease in asset values resulting from the financial crisis;
- a maturing of plan demographics; and
- the state's fiscal outlook, which led to decreases in hiring and wage growth.

To improve the net position of these funds, he said, ERB and PERA have proposed statutory changes to contributions and benefits for the consideration of the 2013 Legislature.

Mr. Kleats then provided a brief overview of the proposed changes that are designed to eliminate the existing unfunded actuarial accrued liability (UAAL) for each retirement program.

He noted that the ERB proposal is structured so that:

- the plan could become fully funded within 30 years;
- employee contributions increase by 2.8 percent; and
- benefits are reduced for new plan members through:
 - a minimum retirement age of 55; and
 - eligibility for the cost-of-living adjustment (COLA) starting at age 67, up from 65.

The PERA proposal, according to Mr. Kleats, addresses the plan's UAAL through:

- a reduction of its COLA for all members from 3.0 percent to 2.0 percent;
- increasing total contributions by 3.0 percent; and
- additional changes to benefits for members hired on or after July 1, 2010.

Mr. Kleats then offered an additional metric for the committee to use in the evaluation of the proposed plan adjustments — the internal rate of return (IRR). In simulations using the ERB's current plan structure, actuarial assumptions, and proposed adjustments, LESC staff found the IRR for a representative plan member under the current plan and under the proposed changes. The initial IRR, when adjusted for inflation, was 3.19 percent and the IRR as proposed would be 2.7 percent. Mr. Kleats noted that both IRRs are well below the inflation-adjusted investment earnings assumption of 4.75 percent used by ERB. However, he emphasized that these simulations represent a stylized example and the results change if the assumptions change.

Based on this analysis, however, Mr. Kleats raised the possibility that the proposed plan changes could hamper recruitment and retention efforts. Moreover, he said, plan participation could be impacted by such a reduction in benefits.

The proposed plan changes, according to Mr. Kleats, carry several implicit policy decisions, including:

- the appropriate funding period;
- the funded ratio; and
- the amortization basis used.

Mr. Kleats linked the proposals' underlying policy declarations to concerns over principles of intergenerational equity. He indicated that the ERB and PERA proposed legislation may compromise these principles rather than preserve them, in that it would require current generations to pay off the unfunded liabilities of prior active members in order to hold future generations harmless.

Mr. Kleats cited best practices publication, *Sustainable Funding Practices of Defined Benefit Pension Plans*, from the Government Finance Officers Association. He said this report advocates for a 100 percent funded ratio on the basis of minimizing intergenerational transfers, and does not consider the transition of plans that start above or below the suggested 100 percent threshold. Mr. Kleats also explained that intergenerational transfers are unavoidable, barring significant shifts in plan demographics. In such cases, he said, an open, rather than closed, amortization period could minimize the impact of these intergenerational transfers, allowing both

present and future generations to share the costs, or inherited assets, of previous generations. Mr. Kleats then suggested that the committee may wish to consider other solutions to the retirement plans' unfunded liabilities beyond those proposed by ERB and PERA.

To conclude, he reviewed two policy options for committee consideration:

- pending a decision from the interim Investment and Pension Oversight Committee (IPOC), endorse the proposed legislation from ERB or PERA; and/or
- amend sections of the *Educational Retirement Act* to include one or more additional members on the ERB to represent the Legislature.

Next, Dr. Pollard, provided a brief overview of a presentation on the impact of changes in accounting standards on public pensions and government financial reporting. Dr. Pollard stated that, although investors have long been aware of public pension liabilities, new rules will require state and local governments to report these liabilities in their balance sheets. Compared to other forms of structural debt that the state carries, such as general obligation (GO) bonds or severance tax bonds, he said that pension liabilities are spread out over a longer period of time.

Pension funding, which is usually the largest long-term liability facing governments, according to Dr. Pollard, is comprised of two main components: contributions and investment earnings. Approximately 40 percent of funding for the state's plans comes from employer and employee contributions, he said, and the other 60 percent comes from stock market and investment payouts.

Dr. Pollard noted that the constitution of New Mexico requires the state to have a balanced budget, and gives it the authority to issue GO and severance tax bonds. In addition to those forms of allowable debt, he said, pension obligations are also in the constitution. Many states do not have constitutional provisions to enhance or preserve actuarial soundness, but New Mexico can modify plans to prevent them from becoming insolvent, he added.

Dr. Pollard stated that a pension's inflows must equal outflows in the long term. He then stated that ERB has about \$9.6 billion in assets and accrued liabilities of \$15.3 billion; resulting in an unfunded liability of approximately \$5.7 billion.

Dr. Pollard also observed that rating agencies are now looking at pension liabilities, and when these are documented, the state will see a large increase in the amount of its visible liabilities. This does not mean, according to Dr. Pollard, that the state has to immediately fund those liabilities, but it could have implications for bond ratings if corrective action is not taken.

Currently, Dr. Pollard said, there is no reason to move away from a defined benefit pension to a 401(k) or other defined contribution program. However, he noted that more drastic changes will have to be made if an intervention is delayed. At present, Dr. Pollard stated, the plans are spending down funds that could be used for investments, resulting in further deterioration.

Dr. Pollard then provided a comparison of the actions states have taken relating to pension plan liabilities. Many of them have used contribution swaps, which do not help with pension solvencies because they redistribute the source of contributions between employees and employers, according to Dr. Pollard. Some states, Dr. Pollard reported, have enacted increased

employer contribution rates while others increased both employee and employer contributions. Higher age and service requirements for new employees could also be an avenue toward increasing plan solvency, he said. Lastly, decreasing the COLA for retirees, which Dr. Pollard characterized as the most drastic step, is an option that some states have enacted.

The Chair then recognized Ms. Goodwin and Mr. Propst who spoke on the ERB and PERA proposals.

Ms. Goodwin began by discussing the reciprocity agreement between ERB and PERA. To be impacted by the proposed changes, she said, a plan member would have to start their second job after the effective date, and then would have the 30-year requirement or five years of work under PERA. These agreements are beneficial, Ms. Goodwin suggested, because under most circumstances a delayed payment of the pension results in a more advantageous impact on both plans' UAALs.

According to Ms. Goodwin, ERB believes the plan's UAAL will be approximately \$6.0 billion when the next actuarial valuation is released. Based on current projections, she said, if no changes are made the plan's funded ratio would continue to decline before settling in the 50 percent range.

Noting that the proposal had been presented to stakeholders for approval, Ms. Goodwin explained the calculation of ERB's COLA, which is determined by the change in consumer price index (CPI). The average COLA under this structure, she said, has been about 2.0 percent, and legislation in 2010 disallowed negative COLAs if the CPI decreases.

Ms. Goodwin also conceded that higher contribution rates are an obstacle to recruitment and retention; however, she noted that the ERB plan would remain one of the most generous in the nation, even in light of the IRR analysis provided by Mr. Kleats. Currently, she said, ERB is about 60 percent funded; and the proposal would result in a 95 percent funding status by 2043. Because lower funded ratios are more vulnerable to down cycles in the economy, Ms. Goodwin stated that ERB has taken many steps to diversify its investment portfolio to counter this.

After noting that ERB will be presenting this proposal on November 28 to the IPOC for consideration of committee endorsement, Ms. Goodwin added that ERB members have always paid a substantial portion of the total contribution rate, and member stakeholders have said they are willing to pay more to keep the benefits at the same level.

Next, the Chair recognized Mr. Propst who began by introducing Ms. Mary Frederick, Deputy Executive Director, Member Services, PERA. Referring to a handout, Mr. Propst stated that PERA's UAAL is estimated to be \$6.2 billion, which equates to a 65.3 percent funded status. He added that PERA has 31 different plans, some of which have higher funded ratios than others. On that note, Mr. Propst indicated that the pension plan for legislators is on track to be fully funded within a couple of years, even without proposed changes.

During the 2012 legislative session, Mr. Propst stated, HJM 19 requested that PERA develop a proposal to eliminate its UAAL by 2041. To accomplish this, he said, the PERA proposal would institute an eight-year vesting period for new employees while setting the maximum pension benefit at 90 percent of final average salary.

Additionally, Mr. Propst indicated, the proposal would impact the calculation and waiting period for the COLA. He noted that new members would receive a 2.0 percent compounding COLA with a seven-year waiting period before the COLA would take effect. The COLA changes would impact current retirees as well, he said, reducing their COLA from 3.0 percent to 2.0 percent. These changes have the greatest immediate impact on unfunded liabilities, which would be reduced significantly, according to Mr. Propst. He added that changes to the waiting period will be phased in over four years. He also stated that the proposal increases employee and employer contribution rates by not allowing the current pension swap to sunset.

Mr. Propst admitted that this is a serious challenge. In many ways, he said, the pension plans have weathered the recent recession better than other states and, with modest changes to the benefits, PERA will be a source for retirement for many years to come. However, Mr. Propst commented, the PERA board believes the state cannot invest its way out of the unfunded liability. He noted that reasonable, responsible changes to the benefits structure need to be made. With the proposed changes, he concluded, the funded status will reach 100 percent by 2042.

Committee Discussion

Regarding a committee member's question on how PERA arrived at a consensus for its plan, Mr. Propst answered that several thousand PERA members have provided feedback, and that input helped the board develop its proposal. He added that, although the proposal's support is not unanimous, the general membership, including police, fire, and other union employees have had a voice in the process.

A committee member asked about the impact of oil and gas withholdings on certain PERA plans, and Ms. Frederick responded that \$2.4 million of oil and gas withholding revenues are automatically deposited into the PERA plan for legislator retirement.

When a committee member asked about the reason for allowing new hires to reach a benefit equal to a 90 percent ratio of final average salary, Mr. Propst explained that PERA proposes the change to the benefit ratio from 80 to 90 percent because more people will work and contribute two to three years more on average. The committee member also asked whether this would become effective when the law is enacted, and Mr. Propst answered in the affirmative, adding that the proposal does not change age requirements and is only a change to the benefit calculation for new employees.

The Chair asked if it was correct that current employees are defined as those first employed prior to June 30, 2010. Mr. Propst confirmed this and noted that the definition may change to after July 1, 2013 so that employees who already pay into the system are not impacted.

In response to a committee member who asked whether the impact of part-time employees on the plans has been considered, Ms. Goodwin replied that the threshold for membership is one quarter full-time employment for participation. Mr. Propst added that, for PERA, the threshold is more than 20 hours but less than 40 hours per week for membership, which accounts for about 450 part-time employees.

A committee member asked if ERB could analyze the impact of reducing the contribution rate for members with a salary under \$20,000 per year, and in response Ms. Goodwin stated that such an analysis had been performed and would be presented at the IPOC meeting on November 28.

SJM 23 (2012), EDUCATIONAL BARRIERS FOR PREGNANT TEENS

The Chair recognized Ms. Frances Ramírez-Maestas, LESC Director; Ms. Sally Kosnick, Executive Director, New Mexico Graduation, Reality, and Dual-role Skills (GRADS) instructional program; Ms. Jinx Baskerville, Principal, New Futures School, Albuquerque Public Schools (APS); and Ms. Carrie Robin Menapace, Legislative Liaison and Policy Analyst, APS, for a report on the educational barriers facing pregnant teens.

Before introducing the presenters, Ms. Ramírez-Maestas informed the committee that, during the 2012 legislative session, SJM 23, *Educational Barriers for Pregnant Teens*, was introduced requesting the Public Education Department (PED) to create a task force to study the obstacles faced by teen parents in completing their education. Referring the committee to an attachment in the committee notebooks, she said that, among its provisions, the joint memorial further requested the task force to issue a comprehensive report by November 1, 2012, with goals, both short-term and long-term, for eliminating obstacles teen parents face in completing their education, as well as recommendations to increase the graduation rate for pregnant and parenting teens.

Although SJM 23 did not pass, Ms. Ramírez-Maestas noted, several organizations with an interest in examining this problem worked together in the interim to conduct research, compile a description of the problem, develop possible solutions, and release a report to the public by November 1, 2012. She also indicated that, at the request of an LESC member, the report was included in the LESC 2012 interim workplan as an opportunity for the committee to review and discuss the issues and recommendations raised by the joint memorial.

Ms. Menapace informed the committee that the current APS policy allows for 10 days of maternity leave plus nine absences in nine weeks for students attending New Futures School. She added that all other schools follow state law, which marks students after five unexcused absences; and defines a student as truant after 10 unexcused absences. The comprehensive high schools, according to Ms. Menapace, consult with New Futures School for parenting students attending their school.

To provide the committee with some related background, Ms. Kosnick referred to a 2010 Child Trends report, *Diploma Attainment among Teen Mothers*, which found that among those surveyed:

- young women who had been teen mothers were 38 percent less likely than other young women to earn a high school diploma by age 22;
- teens who gave birth before the age of 18 were 22 percent less likely to receive a high school diploma than teens who gave birth after their 18th birthday;
- teens who gave birth before the age of 18 were 16 percent less likely to earn either a high school diploma or a general educational development (GED) certificate than teens who gave birth after their 18th birthday;

- Hispanic teen parents were less likely to receive a high school diploma or GED than Caucasian and African-American teen parents; and
- only one-half of women in the study sample who had been teen mothers had earned a high school diploma by the age of 22, compared with 89 percent of young women in the study sample who had not given birth as a teen.

Referring to a committee handout, Ms. Kosnick reported that for school year 2011-2012 the GRADS program reached 613 teen parents, among whom had:

- a 79 percent graduation rate compared to a 40 percent graduation rate for teen parents nationwide;
- a repeat pregnancy rate of 3.5 percent compared to 19 percent and 20 percent repeat pregnancy rates nationally and statewide, respectively; and
- an occurrence of low birth weight babies for 2.4 percent of GRADS students compared to 8.2 percent and 8.3 percent of teen parents having low birth weight babies nationally and statewide, respectively.

She also noted that, in school year 2011-2012, the program actively recruited 140 dropouts back to school, which generated \$503,841 for school districts. She added that the GRADS program has worked with over 14,500 teens since it began in 1989.

Ms. Kosnick introduced two teen parents, Ms. Melissa Romero and Ms. Elisiana Montoya, who informed the committee of the challenges they faced going through pregnancy and caring for an infant while attending classes and trying to graduate. Ms. Romero said that all students deserve respect and a good educational foundation. Ms. Montoya, who is in the nursing program at Central New Mexico Community College, stated that she wants to be a good provider for her daughter.

Also introduced by Ms. Kosnick, Ms. Micaela Cadena, Campaign Coordinator, Young Women United, stated that she formed a focus group of 40 young mothers across the state to discover the educational challenges they face. Ms. Cadena stressed that the students wish to be treated as members of the community, not teen parents, and noted that over 400 families attended a Young Women United celebration event in August.

Ms. Baskerville reported that she started teaching at New Futures School in 1999 and has been the principal for the last five years. Noting that the school started in 1970, Ms. Baskerville informed the committee that students used to stay until the end of the semester; then received home schooling after giving birth. She also explained that there was a high dropout rate among the students due to the lack of on-site child-care, which led to attendance problems.

Before New Futures School established a school building in 1988, Ms. Baskerville stated, students either withdrew or dropped out of school as a result of their pregnancy. With a facility, she said the school now provides daycare that allows parents to interact with their children in a safe, caring environment. According to Ms. Baskerville, the school has 19 National Board Certified teachers on staff, most of whom hold a Level 3 teaching license; there is low turnover among the faculty. She also reported that the school has 200 students, including four males who are parenting fathers, and 120 infants and children.

Regarding attendance, Ms. Baskerville referred to the current APS policy that allows for nine absences in nine weeks; however, students need to take time off when their child is sick and often miss class in order to be responsible parents. At New Futures School, she said, that students are given a two-week maternity leave for births and allowed additional time to catch up on their work.

To conclude, Ms. Kosnick briefed the committee on the scope of the problem, noting that 29 percent of girls in New Mexico become teen mothers, and they have a 51 percent overall graduation rate, with a 34 percent rate for Hispanic mothers. She then discussed the following recommendations on page 4 of her handout:

- require schools and school districts to allow absences of up to 14 days per semester for pregnant and parenting teens;
- require schools and school districts to allow up to 10 days of maternity leave for students who provide documentation of the birth of their child;
- require teachers to provide make up work and missed testing for students who missed school due to their pregnancy and/or parenting responsibilities;
- allow students an equal number of days to make up work as they were absent or on leave from school;
- require schools to distribute absence and leave policies to all students, including pregnant and parenting teens; and
- require schools and school districts to offer training for teachers and administrators on the rights of pregnant and parenting teens to receive a quality education.

Committee Discussion

A committee member observed that 10 days of absence is a short period of time for new mothers and asked whether there were any stay-at-home opportunities. In response, Ms. Menapace said there have been discussions about using online education, but explained that it takes a special student to be successful in such a learning environment.

In regard to daycare, a committee member suggested that school districts and school boards should support the creation of school daycare centers with appropriate staffing, and address pregnancy prevention in health class beginning at the middle school, rather than at the high school level.

Responding to a committee member's question about the involvement of the students' parents, Ms. Baskerville noted that it is a challenge to get those parents involved and said that some students live with their grandparents or with a boyfriend, and some come from abusive homes.

When a committee member observed that the attendance rules are more lenient for football players than pregnant students and need to be changed, the Chair indicated that it is time to address inconsistencies. He then recommended that the LESC work with PED to define "attendance" and "excused absence"; primarily to address the maximum amount of time a student can be absent.

A committee member expressed concern that alternative schools, including New Futures School, will receive unfair A-F grades despite their success in providing valuable services to their

communities. Noting that New Futures School is not set up to create a cohort of graduates, the Vice Chair advised Ms. Baskerville to work with PED to change the status of New Futures School from a school to a program.

DIRECTOR'S REPORT

a. Approval of Draft LESC Minutes for September 2012

On a motion by Representative Hall, seconded by Representative Garcia, the committee approved the LESC minutes for September 2012.

b. Approval of LESC Financial Reports for July 2012, August 2012, and September 2012

On a motion by Representative Hall, seconded by Senator Nava, the LESC approved the financial reports for July 2012, August 2012, and September 2012.

c. Informational Items

Ms. Frances Ramírez-Maestas, LESC Director, noted that for the committee's review, the following items were included in the meeting materials or distributed to members:

- an LESC staff brief regarding administrative rulemaking;
- a Petition for a Writ of Mandamus filed against Ms. Hanna Skandera, Secretary-designate of Public Education and the Public Education Department (PED) on behalf of the Albuquerque Teachers Federation;
- an order by the State Supreme Court notifying the Secretary-designate and PED to respond no later than November 27, 2012; and
- a Legislative Finance Committee (LFC) program evaluation report titled, *Promoting Effective Teaching in New Mexico*.

d. Correspondence

Ms. Ramírez-Maestas reviewed the items in this section of the committee notebooks, including:

- a letter, dated October 25, 2012, from the Director of the LFC to the LESC Chair indicating LFC staff participation in an LESC-led work group to address unemployment compensation assessment issues;
- a letter, dated October 10, 2012, from the LESC Chair to the LFC Chair requesting the formation of a work group to address unemployment compensation assessment issues; and
- a letter, dated October 5, 2012, from the Director of the LFC to the Director of the Public School Facilities Authority advising him of an LFC evaluation of charter school facilities lease assistance and capital outlay planning. The evaluation is tentatively scheduled for a hearing in January 2013.

e. News Releases

Ms. Ramírez-Maestas reviewed the items in this section of the committee notebooks, noting that they are retained in the LESC permanent files:

- an article in the *Albuquerque Journal North*, dated November 7, 2012, *SF College Cleared to Proceed with Building New Center*;
- an article in the *Albuquerque Journal*, dated November 4, 2012, *Santa Fe/Questa Suspended School Boards' Case Delayed, PED Hearing Now Set for Dec. 10*; and
- a news release from the US Department of Education, dated October 26, 2012, *Washington DC/All Eligible States Apply for Second Round of Race to the Top-Early Learning Challenge — Colorado, Illinois, New Mexico, Oregon, and Wisconsin, submit plans to strengthen early learning programs for all children.*

f. LESC Interim Subcommittee on School Bus Transportation

The Chair recognized Representative Roch, who reported that the second subcommittee meeting focused on three main issues:

- fuel costs;
- bus replacement; and
- site characteristics.

He also noted that the subcommittee invited several bus vendors to discuss the costs of various add-on items, such as air conditioning and seating for students with disabilities; as well as the feasibility of using a statewide price agreement to purchase buses. Last, Representative Roch reported that the subcommittee has not endorsed any proposals at this time, but it is close to making several recommendations to present to the LESC in December.

g. Potential Legislation

The committee reviewed a list of policy options from 2012 interim meeting discussions and staff reports. At the request of the Chair, LESC staff were directed to develop draft legislation regarding:

- virtual charter schools, and to consider the following provisions:
 - prohibit virtual charter schools;
 - delay approval of other virtual charter schools until outstanding questions and issues can be addressed; or
 - review the *Public School Code* and other parts of state law to identify those sections that may affect or be affected by virtual charter schools and amend or repeal them as needed or enact new sections to accommodate and regulate virtual charter schools;
- General Educational Development (GED) testing;
 - amend statute to provide for an alternative term for “GED”; and

- the term “GED” is a registered trademark of the American Council on Education, limiting the state to a single testing company, which may result in increased costs;
- Public Education Commission (PEC) — amend statute to make the PEC an independent body, authorized to:
 - carry out all statutory duties and responsibilities;
 - conduct rulemaking in the matter of charter schools;
 - have operational control of dedicated staff sufficient to support the work of the PEC responsibilities; and
 - have a line-item budget sufficient to accommodate the PEC’s duties and responsibilities;
- Charter Schools — amend statute to eliminate the appeals process for Charter School authorizations [22-8B-7 (A), (B), and (C), retaining only sections (E) and (F)];
 - section F would be amended to read:
 - “A person aggrieved by a final decision of the ~~secretary~~ *PEC or local school board* may appeal the decision to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978”;
- K-3 Plus Program — amend current law to provide for to- and from-school bus transportation for students enrolled in department approved K-3 Plus programs;
- assessment costs — amend the *Assessment and Accountability Act* to require PED to pay the costs of standards-based assessments; and
- Adequate Yearly Progress (AYP) — amend the *Assessment and Accountability Act* to delete the provisions relating to the administration of AYP; however, because the reauthorization of the federal *Elementary and Secondary Education Act* is uncertain, LESC staff suggest that the discussion draft suspend the state provisions until the end of school year 2014-2015.

The Chair stated that still pending for committee review are:

- recommendations of the LESC Interim Subcommittee on School Bus Transportation; and
- recommendations of the LESC Unemployment Compensation Work Group.

SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized Mr. Winston Brooks, Superintendent, Albuquerque Public Schools (APS), who informed the committee that the publication, *Ed Week*, highlighted the APS school turnaround project at Emerson Elementary School.

There being no further business for the day, the Chair with the consensus of the committee recessed the LESC meeting at 3:34 p.m.

**MINUTES
LESC MEETING
NOVEMBER 15, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:10 a.m., on Thursday, November 15, in Room 307 at the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESL were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy.

The following advisory members of the LESL were present:

Representatives Alonzo Baldonado, Ray Begaye, and Sheryl Williams Stapleton; and Senators Stephen H. Fischmann, Linda M. Lopez, John Pinto, and Sander Rue.

The following advisory members of the LESL were not present:

Representatives Eleanor Chávez, George Dodge, Jr., Roberto “Bobby” J. Gonzales, Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, and Howie C. Morales.

Representative Gail Chasey was also in attendance.

COMPUTER-BASED ASSESSMENTS: INFORMATION TECHNOLOGY NEEDS

The Chair recognized Mr. Travis Dulany, LESL staff; Ms. Lynn Harris, Chief Information Officer and Director of Business Systems, Albuquerque Public Schools (APS); from CenturyLink Inc., Ms. Valerie Dodd, Vice President/General Manager, Mr. Casey Stone, Sales Manager, Mr. Lee Reynolds, Premier Account Manager, and Mr. Tom Andrego, Sales Engineer; Dr. David M. Deggs, Senior Program Manager, General Educational Development (GED) Testing Service; Mr. Tom Bush, Chief Information Officer, Public School Facilities Authority (PSFA); and Mr. Michael G. Boyle, E-Rate Division, International Computer Corporation, for a presentation regarding computer-based assessments and information technology needs.

Mr. Dulany began by providing background on two computer-based assessments that are expected in 2014. Throughout the 2012 interim, Mr. Dulany stated, the LESL received various reports on the Common Core State Standards (CCSS) and the GED test. Although these two topics address different areas of education, he added, they share one common element — mandatory computer-based testing (CBT) effective in 2014.

Referring to his staff report, Mr. Dulany stated that the Public Education Department (PED) will utilize a test aligned with the CCSS that is currently under development. He indicated that the test — known as the Partnership for Assessment of Readiness for College and Careers (PARCC)

assessment — is scheduled to replace the New Mexico Standards-based Assessment in school year 2014-2015. In addition, the GED test is scheduled to undergo its fifth revision in 2014, he said. Because both assessments will be computer-based, Mr. Dulany said, the committee may wish to examine the information technology requirements for both assessments in order to prepare for the changes.

Next, the Chair recognized Ms. Harris, who presented on APS information technology needs and noted three areas regarding educational technology:

- online assessments, such as PARCC;
- digital textbooks; and
- digital content, such as searchable web-based content aligned with national standards.

She then stated that, among the two assessment consortia, PARCC is developing its tests based on technology that is newer than what the school districts are currently using. In addition, Ms. Harris said that PARCC is informing school districts and member states of assessment technical specifications in three stages, the first of which includes hardware, operating system, and networking specifications. With regard to the first release of the specifications, she noted, 56 percent of APS computers, 33 percent of which are classroom computers, do not meet the PARCC minimum technical standards. If the district were to provide computers on a one-to-one basis, Ms. Harris said, it would need to purchase 36,492 devices.

Noting that APS intends to rollout an information technology improvement plan in two phases, she explained that Phase 1 of the plan includes upgrades to existing wired networks, the installation of high-capacity network routers, the purchase of devices, standardization of network configuration, and the consolidation of 142 school local area networks. Phase 2 of the roll out plan is pending additional PARCC specifications; however, Ms. Harris stated that it will include improvements to security, keyboards, and software.

Next, the Chair recognized Ms. Dodd for a presentation on broadband internet. Ms. Dodd began with an overview of CenturyLink, stating that the company is a \$19.0 billion “network” company that operates in 37 states and utilizes a 220,000-route-fiber-mile network. She added that the company has 50 data centers throughout the world, one of which is located in Albuquerque in a 15,000 square-foot facility with 150 watts of power per square foot. Ms. Dodd also stated that CenturyLink plans to invest \$60.0 million in New Mexico over the next several years, in addition to the \$400 million that the company invested in the last five years.

Among the company’s services, she stated, CenturyLink added fiber internet speeds to 100,000 customers in the last year, and has ensured that high-speed internet is available to at least 75 percent of households in rural New Mexico. Finally, Ms. Dodd indicated that the company is planning to deploy high-speed internet to areas currently without service via the Connect America Fund, and by the end of 2012 the company will have provided free internet training to 900 New Mexicans.

Next, the Chair recognized Dr. Deggs for a presentation on the 2014 GED and computer-based testing. For the 2014 release of the test, Dr. Deggs began, candidates will be asked to demonstrate skills on the GED test through reasoning in language arts, mathematics, science, and social studies in order to show college and career readiness. Additionally, he said the new test

will incorporate testing on computers, requiring at least some familiarity with technology. The reasoning for this, according to Dr. Deggs, centers on the notions that most job:

- postings are exclusively online;
- applications are completely online; and
- responsibilities have a technology component.

Additionally, he commented that in the next decade, career opportunities will be created by technological advances. Among the benefits of computer-based testing, Dr. Deggs continued, are convenience, enhanced test security, a flexible testing experience, and instant score reports. Furthermore, he noted that:

- the 2014 GED test computer interface is designed so that a learner with only basic computer skills will be able to test successfully;
- basic keyboarding/typing skills are needed; and
- test-takers will need familiarity with hardware and software.

Regarding testing centers, Dr. Deggs said that a Pearson Virtual University Enterprises (Pearson VUE) certification will be required in order to administer the 2014 GED test, and the software that manages the testing process from scheduling to delivery will be provided free of charge to all testing centers. The testing centers, according to Dr. Deggs, will have the ability to set and manage their own schedules, and approved Pearson VUE testing centers will be compensated \$5.00 per scheduled testing hour per test-taker. He added that, in order to become Pearson VUE certified, a testing center must:

- provide a distraction-free location with a separate check-in area;
- have a minimum of at least two computers;
- obtain an enhanced security protocol kit, which can be purchased from Pearson VUE for \$450; and
- supply a certified test proctor.

To conclude, Dr. Deggs noted that computer-based testing in New Mexico commenced in August 2012, with 88 tests administered. He added that computer-based testing is currently offered in five testing centers around the state, and among those who have taken and administered the computer-based test, GED Testing Service has received positive feedback.

Next, the Chair recognized Mr. Bush for a presentation on the PSFA and the Information Technology Advisory Group (ITAG). Referring to his handout, Mr. Bush stated that ITAG has narrowed its focus to three particular areas:

- technology plans and their relationship to facilities master plans;
- technology adequacy standards; and
- broadband needs that are required to support the educational program delivery.

He then addressed the information technology challenges for public schools, including:

- the ability to meet technology requirements for the CCSS;
- the need for groups to meet the needs and requirements of their respective programs;
- the lack of a clear understanding of all technology requirements and needs, such as:
 - educational program delivery;
 - facility operations, administration, and support; and
 - home or external educational programs, studies, and associated support; and
- no standards or guidelines to define adequate broadband service to support education programs and facilities.

Last, in regard to developing a framework for assessing school bandwidth requirements, Mr. Bush said that one size does not fit all because bandwidth needs vary and the actual throughput depends on variables such as:

- the number of concurrent network users;
- usage patterns;
- types of content; and
- user traffic.

Next, the Chair recognized Mr. Boyle for a presentation on E-Rate. The E-Rate program, Mr. Boyle began, is a tax on each phone and internet connection, the revenue of which is provided for schools and libraries to fund internet and phone connections. The program works through a reimbursement — the school or library will pay for the entire year and then request a rebate at the end of the year, he said.

Regarding E-Rate allocations in New Mexico, Mr. Boyle testified that libraries and schools collected \$36.0 million in 2012 and \$31.0 million in 2011. He also noted that New Mexico, when compared to other states, does a better job of collecting funds from E-Rate but could further utilize the program.

Finally, the Chair recognized Mr. Michael Archibeque, Chief Information Officer, Information Technology Division, Public Education Department (PED), who stated that the department has been working with ITAG. He also informed the committee that PED recently completed a technology survey among the school districts.

Committee Discussion

In response to a committee member's question, Mr. Stone stated that *American Recovery and Reinvestment Act* (ARRA) funds were allocated to provide broadband internet access to rural areas that previously did not have high-speed internet access; however, according to Mr. Stone, some companies are using those funds to provide high-speed internet to areas that are already covered by CenturyLink.

A committee member recommended that, as plans to improve internet connectivity are drawn, stakeholders from across the state should be included, and the goal should not be to have only one statewide provider, but rather several. In response, Mr. Bush stated that ITAG's goal is to

understand all of the aspects of information technology in public schools and avoid duplication of effort.

In reply to a committee member's question regarding the PED survey, Mr. Archibeque indicated that the survey was sent to superintendents, regional education cooperatives, and principals throughout the state, and PED had a response rate of approximately 40 percent.

Responding to committee member questions about the GED, Dr. Deggs stated that, approximately 8,000 individuals took the GED in New Mexico last year, and of those who took the test, approximately 5,000, or 63 percent, passed. He added that participants may retake the test several times and retest only on the section(s) that they initially failed.

In response to a committee member's question, Mr. Archibeque stated that PED is working with districts on their education technology plans, which includes an E-Rate plan, although PED does not make the final decision regarding E-Rate.

The Chair expressed concern over the limited funding to meet all the various technology requirements, and Mr. Dulany noted that, while there are some overlaps between the PARCC and GED test technology requirements, some of the technology no longer used by public schools could be transferred to adult basic education programs. As an example, Mr. Dulany explained that while computers with the Microsoft Windows XP operating system cannot be used for the PARCC assessment, they can still be used for the GED exam.

The Chair requested that a letter be sent to the New Mexico Department of Information Technology to determine how ARRA funds were allocated to expand broadband connectivity in rural areas.

A committee member requested a list of those who participated in the PED survey.

A committee member requested a breakdown of test-takers for the GED.

ADEQUATE YEARLY PROGRESS (AYP) FOR SCHOOL YEAR 2011-2012

The Chair recognized Ms. Annjenette Torres, Director, Legislative Services, Public Education Department (PED) staff, who informed the Chair that PED senior staff had to present to the Legislative Finance Committee and were not available to report to the committee. In response, the Chair stated that he will continue to request to receive the report.

A-F SCHOOL GRADING SYSTEM UPDATE

The Chair recognized Ms. Sarah Amador-Guzman, LESC staff; Mr. T.J. Parks, Superintendent, Hobbs Municipal Schools (HMS); Mr. Joel D. Boyd, Superintendent, Santa Fe Public Schools (SFPS); and Ms. Hanna Skandera, Secretary-designate of Public Education, for a presentation on the A-F School Grading System.

Also in attendance was Dr. Pete Goldschmidt, Assistant Secretary, Assessment and Accountability, Public Education Department (PED).

During the 2012 interim, Ms. Amador-Guzman explained that, the LESC received four updates on the implementation of the *A-B-C-D-F Schools Rating Act of 2011*, including a review in June in which LESC staff reported on flexibility from certain provisions of the *No Child Left Behind Act of 2001* (NCLB). The June report, she continued, outlined all of the NCLB provisions for which PED requested flexibility. Prior to these waivers, under NCLB provisions, PED was required to make academic achievement awards to Title I schools that had:

- significantly narrowed academic achievement gaps between student subgroups; or
- exceeded Adequate Yearly Progress (AYP) for two or more consecutive years.

According to Ms. Amador-Guzman, PED was also able to allocate these awards to local educational agencies that had exceeded AYP requirements for two or more consecutive years. Prior to the waiver, she said, PED was allowed to reserve Title I Part A funds to reward a Title I school that met these criteria; however, under the NCLB waivers, PED may now use Title I Part A funds to provide financial awards to any of the state's "reward schools," regardless of the criteria for academic achievement awards under NCLB.

Under the NCLB waivers, reward schools are identified as either "highest-performing schools" or "high progress schools," Ms. Amador-Guzman stated. Furthermore, under the A-F school grading system, PED identifies reward schools with five subcategories: (1) highest performers with good progress; (2) highest performers with high progress; (3) highest performers with high graduation rates; (4) high graduation rate growth; and (5) overall highest progress.

Ms. Amador-Guzman reported that the US Department of Education (USDE) required PED to submit the new methodology for identifying reward schools, and further requested a list of these schools based on school year 2010-2011 assessment data. Additionally, Ms. Amador-Guzman explained, USDE requires PED to annually and publicly identify and recognize reward schools, beginning in school year 2011-2012 through school year 2013-2014, with a possible extension into school year 2014-2015, if the waiver is extended.

Ms. Amador-Guzman then reported the details regarding the "Top Growth" and "A" school awards by PED, which, she explained, are not necessarily the same as reward schools because the criteria for these awards do not align completely with the criteria of reward schools under USDE. On October 5, 2012, Ms. Amador-Guzman continued, PED issued a memo reporting that, "Awards to purchase books and instructional materials [would be given] to schools which received a letter grade of "A" or [to those] recognized as a "Top Growth" school." She further explained that a "Top Growth" school was one that had grown by at least two letter grades between the time the preliminary grades in January and the final grades in July were issued. The funding source of the awards for those schools, Ms. Amador-Guzman said, was a general obligation (GO) bond authorized in 2010.

Finally, Ms. Amador-Guzman provided an update regarding changes to the A-F school grading system technical manual, which accounts for the variances from preliminary grades issued in January 2012 to the final grades issued in July 2012. According to Ms. Amador-Guzman, the changes comprised the:

- elimination of student demographics in the value-added model (VAM) calculation;
- normalization of all indicators to school year 2011-2012 as the base year;
- “opportunity to learn” category now includes a student survey;
- “current standing” calculation now includes six-year graduation rates;
- “college and career readiness” calculation will use a “shared accountability system”;
- “no cohort” option was added for qualifying schools;
- “supplemental accountability model” was used for qualifying schools;
- “participation” requirements were added;
- “bonus point rubric” was included; and
- alterations to the methodology in determining “feeder schools” were conducted.

The Chair then recognized Superintendent Parks, who was accompanied by Dr. Suchint Sarangarm, Assistant Superintendent for Data and Assessment, HMS. Referring to a PowerPoint presentation, Superintendent Parks discussed the district’s use of data, stating that, in order to improve student achievement in the lowest performing schools in the district, HMS will:

- use data to target areas of need of improvement;
- hold grade-level meetings to share instructional strategies;
- employ district-created short-cycle assessments;
- execute instructional audits;
- emphasize teaching to the standards; and
- incorporate principal walk through training with the Dana Center.

Additionally, Dr. Sarangarm provided details regarding the data management that the district conducts for each of the schools and classroom teachers in HMS, and provided an overview of the use of first quartile rosters to improve student achievement.

Finally, the Chair recognized Superintendent Boyd, who began his presentation by stating that, if SFPS maintains its current rate of improvement, the district would not achieve 100 percent proficiency in tested subjects until the year 2168. In order to improve the success rate in SFPS, according to Superintendent Boyd, the district will need to overcome a lack of systematic urgency, improve inadequacies in services across the city of Santa Fe, and expand pockets of excellence in the district to a standard of excellence across all schools.

Providing a theory of action, Mr. Boyd stated that if the district improves quality of teaching and learning at every school, heightens expectations for every adult and student, and increases the levels of family and community engagement throughout the city, then the classroom experiences will become more rigorous and relevant and every student will graduate from high school on a path to college or career success.

Mr. Boyd then expanded on his theory of action, and further explained a three-year rollout for plans to improve student achievement in the district. The plan includes:

- the use of “achievement zones”;
- development of “performance compacts”;
- utilization of college readiness benchmarks;

- the implementation of the Parent Academy; and
- secondary school reform.

Mr. Boyd concluded his report by stating that the immediate next steps for his district will include a report from a transition team, community vetting of district plans, and the delivery of State of Schools address to students, parents, and community members.

Committee Discussion

In response to a committee member's question, Dr. Goldschmidt stated that USDE required that student demographic data points be removed from the VAM calculation for school grades. PED staff added that additional data were supplemented in the formula.

In response to a committee member's question, Dr. Goldschmidt stated that in order to provide support for those in rural areas who do not have experts on hand to explain the complexities of the A-F school grading system the department is working with the parent-teacher organizations to provide training.

A committee member asked whether the VAM for calculating school grades is federally mandated, to which PED staff responded in the negative.

In response to a committee member's question, Dr. Goldschmidt stated that there is a strong correlation between standards-based assessment scores and attendance rates, though the correlation varies between schools.

In response to a committee member's question, PED staff stated that there is not currently a separate data table of schools graded with an "F" separated by rural and urban communities.

A committee member commented that the formula used to calculate school grades should not be simplified because a more complex formula provides for better school data and presents a clearer picture of how well New Mexico schools are performing. The committee member also read a letter of support from a school district that discussed the value of the information the A-F school grading system provides.

A committee member suggested the use of the New Mexico School Leadership Institute in order to train school principals to conduct instructional audits.

Regarding the use of GO bond funds for "Top Growth" and "A" schools, a committee member commented that the language in legislation authorizing those bonds specified that the funds were to be used in schools statewide, rather than a few, select schools.

The Chair questioned the legality of spending GO bond funds in order to reward "Top Growth" and "A" schools, and suggested that it may impact those bonds in future elections. He further commented that the state should be focusing on the bottom quartile and providing additional funding for instruction where it is needed the most.

TEACHER AND PRINCIPAL EVALUATION UPDATE

The Chair recognized Ms. LaNysha Adams, LESC staff; Ms. Hanna Skandera, Secretary-designate of Public Education; Mr. Kirk Carpenter, Superintendent, and Ms. Tania Prokop, Deputy Superintendent, Aztec Municipal Schools (AMS); Ms. Shelly Green, Interim Chief Academic Officer and Ms. Carrie Robin Menapace, Legislative Liaison and Policy Analyst, Albuquerque Public Schools (APS), for an update on activities related to teacher and principal evaluation.

Also in attendance were Mr. Matt Montaña, Director, Educator Quality, Public Education Department (PED); Mr. Winston Brooks, Superintendent, and Ms. Yvonne Garcia, Principal, Rio Grande High School, APS.

Referring to a staff report, Ms. Adams explained that, during the 2012 interim, the LESC received three prior reports on the Teacher and School Leader Effectiveness rules issued by PED:

- in June, the committee heard from LESC staff about the New Mexico Teacher Evaluation Advisory Council (NMTEACH) formed by PED and Principle 3 of the *Elementary and Secondary Education Act* flexibility waiver request;
- in July, the committee heard testimony from:
 - LESC staff, who summarized the draft rule and compared its provisions to current provisions in the *School Personnel Act*; and
 - PED, who provided details about members selected for NMTEACH, discussed NMTEACH's progress developing observation protocols for an evaluation pilot, and expressed commitment to aligning its rule with the three-tiered licensure system in New Mexico statute; and
- in August, the committee received a report from staff from the National Conference of State Legislatures, who discussed states' efforts to reform educator evaluation systems.

According to information obtained from the PED website, Ms. Adams explained, the implementation of PED's new teacher and school leader effectiveness pilot will focus on School Improvement Grant (SIG) schools, along with volunteer districts, and includes:

- a research-based observation protocol instrument;
- multiple measures; and
- student achievement.

Ms. Adams then explained that the pilot will inform statewide evaluation implementation during school year 2013-2014 on:

- observation protocols;
- professional development and training;
- non-tested subjects and grades;
- other multiple measures; and
- data collection and reporting.

She concluded her report with a description of the observation protocol instrument, where teachers are evaluated along four domains on the Danielson Framework. Referring the committee to an attachment in the staff report, Ms. Adams discussed the four domains, domain components, and indicators for five levels of performance (e.g., ineffective, minimally effective, effective, highly effective, and exemplary) on the observation protocol, which were put together by NMTEACH.

The Chair then recognized Ms. Skandera, who reported that 68 schools, four of which are charters, volunteered to participate in the new teacher and principal evaluation system pilot. Mr. Montaña briefed the committee on the PED-provided training for the pilot schools. He also explained that NMTEACH created a research-based observation rubric based on the Danielson Framework. The statewide observation rubric, according to Mr. Montaña, was important in order to move beyond the current Highly Objective Uniform Statewide Standard of Evaluation system.

Referring the committee to several handouts provided by AMS, Superintendent Carpenter stated that his district was willing to participate in the pilot in order to have sufficient and effective implementation guidelines once the new evaluation system is implemented statewide. He then gave a progress report on the AMS pilot project noted that:

- all teachers are required to participate in the pilot;
- all teachers will receive a summative evaluation by the end of the current school year;
- the schools are running two parallel systems, which creates more work for the principals as the state transitions to a new evaluation system;
- teachers are experiencing many classroom walk-throughs, which are informal classroom visits that last no more than 15 minutes;
- teachers will receive three formal observations longer than 15 minutes with at least two conducted by the principal, which was a decision endorsed by NMTEACH;
- the evaluation is composed of three components, where 50 percent is based on student achievement, 25 percent is based on observation, and 25 percent is based on other measures; and
- the district is implementing a “train the trainer model.”

Superintendent Carpenter continued, stating that the observation piece was the most important component of the evaluation. In order to improve student achievement, he emphasized, targeted interventions to enhance teachers’ instructional practice must be implemented. Superintendent Carpenter also commented that the new system can provide formative feedback that could be used by teachers immediately, as opposed to summative feedback that occurs at the end of the year.

Finally, Superintendent Carpenter briefed the committee on feedback from the district and explained the following challenges that AMS is encountering with the pilot:

- formal observations with feedback provided to the teachers takes more than one hour;
- the elementary principals’ caseload is overloaded because the principal-to-teacher ratio is one to 36;
- there are no guidelines for identifying individuals, in addition to the principal, who are qualified to conduct observations;

- there is uncertainty over how to conduct the required number of observations for teachers at all schools with current staff constraints; and
- concerns exist among teachers regarding how the new evaluation system will affect their teaching status and advancement through the three-tiered licensure system.

Ms. Prokop then presented the human resources perspective to the committee, and said there is an appreciation for the new evaluation system because of its ability to differentiate levels of proficiency and employ a rubric-based system that makes the evaluation process less subjective. However, she also explained that there are additional challenges regarding:

- what will be used for student data;
- where the unspecified “other measures” are going to come from; and
- the timeline for training and targeted professional development.

Next, Superintendent Brooks expressed support for the attempts to measure and reward exemplary teachers, and then discussed the following concerns:

- the need to incentivize teachers to teach in high-poverty schools;
- exemplary teachers may leave schools that have received low school grades;
- the majority of teachers teach in un-tested subjects;
- teacher supply and demand problems may occur if there is a lack of sensitivity to the needs of teachers;
- the majority of teacher vacancies in APS are in special education; and
- to his knowledge, there is no correlation between teacher pay and student performance.

Ms. Green then provided the following details about a prior, separate APS pilot:

- SIG required APS to identify factors that would assist rigorous, transparent, and equitable evaluation systems;
- during school year 2011-2012, APS partnered with the Albuquerque Teachers Federation to create a one-year teacher evaluation system pilot;
- the one-year evaluation and compensation pilot included multiple observations by administrators, data on student growth, student learning goals, and student perception surveys;
- SIG funds were used to support performance-based compensation for participating staff members;
- \$409,105 was budgeted; and
- 93 teachers and 11 administrators volunteered to participate at the following SIG sites:
 - Ernie Pyle Middle School;
 - Highland High School;
 - Rio Grande High School; and
 - West Mesa High School.

Ms. Garcia presented next and described the lessons she learned after participating in the APS teacher evaluation pilot, then provided the following details on the pilot based on her experience as a principal:

- the observation protocol instrument was based on the Danielson Framework and training was provided by Harvard Fellows on how to use the instrument;
- three observations were conducted ranging between 30 to 45 minutes;
- teachers were rated on fewer levels of effectiveness than the five levels outlined in the PED teacher and school leader effectiveness pilot;
- teachers with high-performance evaluations had higher student achievement;
- teachers who created learning goals for students required more professional development;
- student surveys were given to all students in all classes of individual teachers participating in the pilot; and
- digital devices were used to conduct the observations to provide teachers with immediate access to the results.

Ms. Menapace stated that strong results from observation protocols and student surveys correlated highly with student achievement in the APS pilot. She also said that APS teachers are excited about a new evaluation system and want to provide input.

Committee Discussion

Noting that Superintendent Carpenter is a member of NMTEACH, a committee member asked him what kind of research was being used to inform the decisions made by the advisory council regarding teacher and principal evaluation. In reply, Superintendent Carpenter stated that the research reviewed was primarily from the Measures of Effective Teaching (MET) project.

In response to a committee member who questioned whether NMTEACH has examined research with alternative findings from the MET project, Superintendent Carpenter said there was dialogue concerning a variety of options regarding evaluation. When the committee member commented that legislators need to examine both sides of the issue, Mr. Montañó informed the committee that the MET project has incorporated research highlighting the benefits and drawbacks of the use of value-added modeling for teacher evaluations.

A committee member asked whether PED and NMTEACH reviewed the information on the APS pilot, and Mr. Montañó answered that PED was reviewing the information. He added that APS presented on its pilot at a previous NMTEACH meeting.

Last, a committee member discussed the prospect of district-wide implementation and asked if there were notable differences between the PED and APS pilots. In reply, Mr. Montañó said that PED was using the exact same concepts as the APS pilot by incorporating observations, classroom learning materials, value-added growth, and multiple measures. However, he noted a major difference based on the fact that, unlike the APS pilot, the PED pilot is statewide, with 68 schools participating.

There being no further business for the day, the Chair with the consensus of the committee, recessed the LESC meeting at 5:16 p.m.

**MINUTES
LESC MEETING
NOVEMBER 16, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:12 a.m., on Friday, November 16, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LES C were present:

Representatives Rick Miera, Chair, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, and Lynda M. Lovejoy.

The following voting members of the LES C were not present:

Representative Nora Espinoza and Senator Gay G. Kernan.

The following advisory members of the LES C were present:

Representatives Alonzo Baldonado, Ray Begaye, and Sheryl Williams Stapleton; and Senators Linda M. Lopez and John Pinto.

The following advisory members of the LES C were not present:

Representatives Eleanor Chávez, George Dodge, Jr., Roberto “Bobby” J. Gonzales, Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, Stephen H. Fischmann, Howie C. Morales, and Sander Rue.

Representative James Roger Madalena was also in attendance.

SANTA FE COMMUNITY COLLEGE (SFCC) UPDATE

The Chair recognized Dr. Ana Margarita “Cha” Guzmán, President, Santa Fe Community College (SFCC); to inform the LES C on its efforts to establish the Higher Education Learning Center (HEL C) on the campus of the old College of Santa Fe. Dr. Guzmán began by introducing Mr. Vincent J. Ward, Esq., Freedman Boyd Hollander Goldberg Urias & Ward P.A., an attorney representing SFCC.

Referring to a 2010 election in which Santa Fe County voters passed a \$12.0 million bond to build the HELC, Dr. Guzmán informed the committee that the SFCC Board of Directors was determined to act on the decision of the voters despite the refusal of the Higher Education Department (HED) to review SFCC’s construction plans.

In 2011, Dr. Guzmán emphasized, SFCC approached its local legislators and appeared before the LES C during the November 2011 interim meeting in an attempt to resolve the stalemate; however, a solution never materialized and SFCC eventually had to take legal action.

Dr. Guzmán reported that on November 6, 2012 a district court judge issued a writ of mandamus ordering HED to review the construction plans for the HELC. The decision, she said, allows the college to expand its options and offer four-year and master's degree programs in partnership with the University of New Mexico and New Mexico Highlands University.

Committee Discussion

A committee member observed that legal action was the best course for SFCC to pursue and encouraged Dr. Guzmán to work with Santa Fe Public Schools and the Santa Fe School for the Arts Charter School in the future.

BUREAU OF INDIAN EDUCATION (BIE): STUDENT TRANSFER ISSUES

The Chair recognized Mr. Mark Murphy, LESC staff; Mr. Stanley Holder, Acting Associate Deputy Director, Division of Performance and Accountability, Bureau of Indian Education (BIE); and Ms. Vicki Smith, Superintendent, Cuba Independent Schools, for a presentation on student transfer issues for students who have attended BIE schools. Ms. Frances Sandoval, Counselor, Cuba High School (CHS) was also in attendance.

As background, Mr. Murphy explained that the BIE:

- is a federal agency within the US Department of the Interior that runs a nationwide school system for American Indian students;
- represents the fulfillment of the federal government's trust responsibility for American Indian tribes that has been well established in federal treaties and recognized by Congress, the Executive Branch, and the courts;
- also operates as a state educational agency in some instances for BIE schools;
- on September 6, 2012 submitted a flexibility request from the *Elementary and Secondary Education Act*; and
- funds 45 primary and secondary BIE schools in New Mexico with 25 of these schools BIE-operated and the other 20 locally controlled by tribal governments as BIE grant schools.

Mr. Murphy then briefed the committee on the two types of student transfers: (1) grade promotion, and (2) student mobility.

He noted that grade promotion transfers occur when a student completes the last grade level at a school and must change schools to continue their academic progression. Student mobility, Mr. Murphy stated, occurs when a student transfers schools for any reason other than grade promotion. Mr. Murphy explained that some community members indicate that when students transfer for either reason their academic records may not arrive in a timely manner or at all. Others, he added, indicate that record transfers typically occur satisfactorily.

With regard to laws governing educational record transfers, Mr. Murphy indicated that BIE and non-BIE schools must adhere to federal guidelines as specified in the:

- *Federal Educational Rights and Privacy Act (FERPA)*;
- *McKinney-Vento Homeless Education Act*; and
- *Individuals with Disabilities Education Act (IDEA)*.

Non-BIE schools, Mr. Murphy continued, also adhere to state and local policies set in place within the frameworks of these federal provisions. He indicated that, in 2005, the Secretary of the Public Education Department signed a Memorandum of Understanding (MOU) with the BIE in regard to data sharing, but that the MOU was rescinded by the Governor of New Mexico at that time, citing a lack of input from tribes.

Regarding curriculum alignment, Mr. Murphy reported that there do not appear to be policies that require alignment between BIE and non-BIE schools. He also stated that LESC staff at the time of drafting the staff report had not found an example of curriculum alignment between BIE and non-BIE schools in New Mexico.

Mr. Murphy concluded by providing two policy options for the committee's consideration:

- implementing an intergovernmental/nation compact that sets out clear guidelines for the transfer of student records and the alignment of curriculum between BIE, New Mexico, and tribes governing BIE grant schools; and
- entering into a data-sharing MOU with the BIE in a form similar to that of the 2005 agreement, but that also specifies the process for the transfer of student educational records.

Referring the committee to a PowerPoint report in the committee notebooks, Mr. Holder stated that the BIE was established in 2006 to address a need to develop a unique stand alone bureau out of the Office of Indian Education Programs. He explained that federal law authorizes the federal government to enter into grants with local communities for the operation of BIE schools and allows the federal government to enter into contracts with local communities; however, New Mexico does not have any contracted schools at this time.

Mr. Holder indicated that the BIE Director supervises three regional Associate Deputy Directors. He also stated that nothing prohibits any individual from contacting an Associate Deputy Director's office regarding any particular concern or issue.

Mr. Holder then provided an overview of the statutes governing the transfer of student records for BIE schools. He stated that BIE uses the Native American Student Information System (NASIS) to provide for:

- school administration staff to monitor and track student achievement;
- mandated reporting; and
- student performance improvement through analyses and longitudinal comparisons to determine the variables that affect student learning.

Mr. Holder also provided details of the types of information NASIS tracks, including:

- demographics;
- enrollment;

- grades; and
- transcripts, among others.

To conclude his remarks, Mr. Holder discussed the procedures in place when student records are transferred. For students transferring between BIE schools, he stated, an automated message requesting records goes to the last school where the student was enrolled. For students transferring to public/private schools, he explained, the BIE waits for the new school registrar to request records and then releases the records requested upon verification of the request.

Ms. Smith explained that many of the BIE students going to schools around Cuba come to the high school in ninth grade. She emphasized that 84 percent of Cuba Independent Schools' students live below the poverty line. Ms. Smith emphasized that students are often very isolated when they are on Indian land and that buses in Cuba Independent Schools are driving more miles than districts with 10 times the population size. She pointed to healthcare as a major concern and stated that she is working with Presbyterian to improve services for students. Ms. Smith also highlighted school programs, including the district's afterschool programs; recently implemented career fairs; an orientation program that will include icebreakers and team building experiences for eighth grade students to help them get to know the high school environment before they are expected to enroll in ninth grade; and recent community meetings that had taken place in Torreon and Ojo Encino — meetings that have led to the suggestion that BIE and Cuba Independent Schools teachers consider observing one another. Ms. Sandoval stated that 73 percent of students are Navajo and that many students at CHS live between one to two miles from a bus stop and must ride the bus for approximately 90 minutes each way. She said that when a student enrolls in the school, the student meets with the school principal, who sends them to the registrar. The registrar then processes record requests as necessary.

Ms. Sandoval stated that, of the ninth grade class in CHS this year, 35 students came from the middle school while the rest came from surrounding schools and areas, including 26 from BIE schools. She expressed that students are sometimes ill-prepared when they get to the high school level and that 38 ninth grade students had received at least one D or lower this year. Of those 38 students, 34 of them are Native American, she said. She then pointed out that 12 students had left the ninth grade at CHS and that, of those students, 10 were Native American. Ms. Sandoval stated that she has not had problems working with nearby BIE schools and that she tries to respond to record requests as quickly as possible.

Committee Discussion

A committee member referred the committee to a Public Education Department (PED) handout, *Tribal Education Status Report*, and outlined the low levels of academic achievement for American Indian students.

In response to a committee member's concern regarding the possibility of families transferring a student to a BIE school in order to avoid possible third grade retention requirements, the Chair recognized Dr. Emil Kaul, Literacy, Curriculum and Instruction Specialist at Shiprock Northwest High School, a BIE-grant school. Dr. Kaul stated that nothing would prevent a family from bypassing third grade retention by moving a student in and out of a BIE school. Other issues, Dr. Kaul stated, include student mobility, accountability, and teacher licensure, primarily how BIE teachers will move up levels if the new teacher evaluation system is put in place. A

committee member emphasized that this is one area where dialogue is needed between BIE and New Mexico.

A committee member asked whether BIE has any influence over Bureau of Indian Affairs (BIA) roads and expressed concern about New Mexico's policies on truancy not accounting for factors such as rough BIA roads that are not well-maintained during the winter. Mr. Holder responded that the BIE has no input on how BIA maintains roads.

A committee member expressed concerns regarding a lack of BIE information included in statewide discussions and reports such as the *Tribal Education Status Report*. Mr. Holder responded that he had hoped an MOU similar to the one executed in 2005 between the state and BIE would be considered to provide for information sharing.

In response to questions from several committee members, Mr. Holder stated that everyone outside of the Director's office is in decentralized offices around the country. Mr. Holder indicated that the decentralized offices are closer to students who need attention and help.

A committee member solicited the perspective of Dr. Ferlin Clark, Assistant Secretary for Indian Education, PED, but he was not in attendance. A PED staff member stated that Dr. Clark had a prior commitment in Window Rock.

On a motion by Representative Begaye, seconded by Representative Stewart, the committee members in attendance, acting as a subcommittee, approved bringing the following recommendations to the full committee:

- formulate a 2013 interim task force, comprising representatives from the LESC, BIE, grant schools, and PED, to begin the process to identify, make comparisons, and develop recommendations for aligning BIE and state policies; and
- bring the task force recommendations to the LESC for consideration as potential legislation for the 2014 legislative session.

The Chair then suggested that revisiting a data-sharing MOU would be a good platform for dialogue, especially in regard to teacher licensure issues.

The Chair requested that Representative Madalena, the Co-Chair of the interim Indian Affairs Committee (IAC), who was also present at the meeting, have the IAC collaborate with the LESC on this issue in the 2013 interim. Representative Madalena responded affirmatively to this request.

The Chair requested LESC staff to send the draft minutes of this report to the LESC members for their review prior to the December meeting.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 11:52 a.m.



Chair

1/14/2013

Date