

**MINUTES
LESC MEETING
TUESDAY, OCTOBER 17, 2006**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on October 17, 2006, at 1:10 p.m., State Capitol, Room 321, Santa Fe, New Mexico.

The following LESG members were present:

Senators Cynthia Nava, Chair, and Gay G. Kernan; and Representatives Mimi Stewart and W.C. "Dub" Williams.

The following LESG advisory members were present:

Senators Vernon D. Asbill, Carlos R. Cisneros, Mary Jane M. Garcia, and John Pinto; and Representatives Ray Begaye, William "Ed" Boykin, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, John A. Heaton, Harriet I. Ruiz, Sheryl M. Williams Stapleton, and Richard D. Vigil.

<> Approval of Agenda

Upon a motion by Senator Kernan, seconded by Senator Cisneros, and acting as a subcommittee in the absence of a quorum, the committee unanimously approved the agenda as presented. (See the Director's Report for approval by full committee.)

EDUCATIONAL TECHNOLOGY

a. Virtual Schools/Statewide Cyber Academy

Ms. Pamela Herman, LESG staff, introduced Ms. Elaine Manicke, Principal, Cyber Academy, Rio Rancho Public Schools (RRPS), to give a presentation about the Cyber Academy program. Ms. Herman also introduced Mr. Brian Ormand, Director, New Mexico Learning Network Improvement Project; Ms. Veronica Chavez-Neuman, Chief Information Officer, Higher Education Department (HED); and Dr. Jim Holloway, Assistant Secretary, Rural Education Division, Public Education Department (PED), who reported on education technology and distance education, including virtual schools and the proposed statewide cyber academy, citing the potential of e-learning in New Mexico as envisioned by the New Mexico Learning Network.

Ms. Herman reported that distance learning opportunities (also known as cyber learning, e-learning, or virtual schools) have developed rapidly over recent years. As early as school year 2002-2003, approximately one-third of school districts nationwide had students enrolled in distance education courses. Ms. Herman said that, as of July 2005, 21 states had statewide online learning programs, and cyber schools or district-level programs were in operation in almost every state, typically reporting double-digit annual enrollment growth. In New Mexico, Ms. Herman explained, school districts and institutions of higher education are currently developing or delivering a variety of distance learning programs to public school age students throughout the state, including the Cyber Academy at RRPS and the New Mexico Learning Network.

Ms. Herman went on to describe several advantages and challenges that result from distance learning programs. For example, they are not limited by the geographic boundaries or daily schedules of regular schools they can cater to unique learning styles, they offer multiple curriculum choices, and they provide links between students and teachers with special expertise who live far away. Through these advantages, distance learning programs can provide additional options and innovations to serve more kinds of students, including those in remote areas, those with jobs, those who are incarcerated and wish to continue or enrich their education, and those who need to make up credits. Ms. Herman cautioned, however, that distance learning programs rely heavily on self-motivated students, or on parents who monitor students' activities, certify attendance, and provide instructional support. Additionally, she said, these programs introduce new governance and finance issues, since they have the capacity to enroll students beyond a district's borders. Ms. Herman then directed the committee's attention to the proposed PED rule on distance learning included in the members' notebooks, as it deals with the emerging governance issues involved in distance learning.

Ms. Manicke explained that the Legislature has appropriated a total of \$731,900 for FY 06 and FY 07 to PED for the Cyber Academy at RRPS to provide additional core courses and elective learning opportunities for students in Rio Rancho, Sandoval County, and statewide. She said that the Cyber Academy currently has 178 students enrolled, of which 120 are full-time cyber students and 58 are "blended" students taking both cyber and traditional courses at another Rio Rancho School. The academy has 24 out-of-district students, of whom 19 are full-time and five are "blended." Ms. Manicke said that programs at the academy include real-time (or synchronous) interactive online classes; self-paced (asynchronous) coursework; remedial or makeup classes; and intensive intervention with one-on-one tutoring in literacy and mathematics at the computer lab in Rio Rancho. Ms. Herman added that students who do not have their own computers or connectivity at home must come to the lab to log on. Academy staff members create individualized learning plans for each student that may include full-time cyber coursework or a blend of online and traditional classes.

Ms. Manicke said that the Cyber Academy serves several types of students, including those seeking rapid advancement, as well as those remedial students who pursue recovery of credits from previously failed courses. She said the program also serves students who are prohibited from attending traditional schools for disciplinary reasons, as well as medically challenged or special education students, or those receiving services under section 504 of the *Federal Rehabilitation Act*. Ms. Manicke indicated that accountability standards are the same for the Cyber Academy as all other public schools. Students are able to select and participate in courses anonymously, and they are able to receive tutorial support from instructional supervisors both inside the lab at the Cyber Academy and from a computer at a distance. She added that transcripts replace the traditional report cards, that course designs become more flexible, that students may begin and end their courses at any time during the extended school year and that, by the end of the year, students will be able to complete a course entirely online.

In conclusion, Ms. Manicke introduced Ms. Sue Thorstensen, Cyber Academy teacher, as well as two Cyber Academy students, Mr. Jeff Chavez and Ms. Kylie Silver. Ms. Thorstensen described a typical lesson taught via the Cyber Academy's distance learning interface and the tools at both the students' and instructors' disposal. The two students expressed satisfaction with their experiences at the Cyber Academy. Mr. Chavez said that he had fallen behind at a traditional school but was able to catch up at the Cyber Academy. Ms. Silver stated that she liked being able to travel and compete in horse shows while still being able to complete her school requirements.

Dr. Holloway introduced the new director of the PED Education Technology Bureau and former principal of the Rio Rancho Cyber Academy, Ms. Stephanie Belmore. Dr. Holloway then explained how a statewide network for distance learning could benefit schools, particularly those in rural areas, but large schools and districts as well. E-learning, he explained, is an educational approach that minimizes distance and schedule barriers for the learner. Among its advantages are enhanced curriculum opportunities for any distance learner, expanded curricula offered by schools without incurring the full cost of a teacher's salary, students' abilities to acquire 15 or more hours of college credit while still in high school, and teacher participation in professional development opportunities without the cost of time or travel.

Mr. Ormand discussed the challenges facing e-learning in New Mexico, mentioning that New Mexico learners are currently faced with many unrelated approaches to e-learning. He said that there is also a very limited level of implementation and funding coordination in New Mexico among e-learning and technology initiatives. In addition, there has traditionally been little pricing leverage with vendors and suppliers of e-learning and technology solutions.

Among goals for improving e-learning in New Mexico, Mr. Ormand suggested the following: providing quality e-learning courses for all students with a consistent approach, aligning high school and higher education standards, implementing a shared e-learning technological infrastructure, facilitating the technology literacy of New Mexico learners in a digital society, and reducing the overall cost to all participants.

Ms. Chavez-Neuman discussed the framework for an e-learning solution proposed by HED and PED, citing the need for quality educational programs, as well as collaboration, rather than competition, between school districts and institutions of higher education. Partnerships for e-learning among public education, higher education, and workforce development are also necessary, Ms. Chavez-Neuman stated. Another necessity, she said, is a common e-learning infrastructure capable of supporting live two-way video conferencing via the internet. She said that with these needs met, a student may fully benefit from the New Mexico Learning Network so that a student registered in his or her local school anywhere in New Mexico will have access to a large selection of e-learning courses that meet state quality standards for content and delivery method. In the e-learning model, Ms. Chavez-Neuman continued, rural schools, urban schools, and institutions of higher education are all able to provide and receive e-learning courses and take advantage of the technical support offered by an e-learning service center.

Ms. Chavez-Neuman concluded by outlining the estimated implementation costs of the project. In FY 06 and FY 07 the New Mexico Learning Network Improvement Project costs are \$475,000 and \$394,100, respectively. Technical support and hosting services, as well as programmatic support costs, will be approximately \$10.75 million in 2008, \$5.23 million in 2009, \$5.28 million in 2010, \$5.33 million in 2011, and \$5.42 million in 2012.

Committee Discussion:

In response to a committee member's question whether private enterprise would be able to take advantage of the e-learning network, Dr. Holloway explained that, in its early stages, the e-learning network would not provide access to private enterprises, although he added that such access could become available in the future.

In response to a committee member's question about the costs faced by school districts to tie into the New Mexico Learning Network, Ms. Chavez-Neuman said that the cost to the schools is yet to be determined but that there is a policy committee currently reviewing that issue. She added that efforts are being made to expand what infrastructure school districts already have and to leverage existing infrastructure to public education. Dr. Holloway added that the state licensing fees would be minimized but that there would still remain a cost to provide the service.

In response to a committee member's question whether the goal of the e-learning network was to provide a clearinghouse for distance education, Dr. Holloway said that it was. He added that the network is currently trying to ensure that distance learning addresses state standards and benchmarks, uses highly qualified teachers, and maintains high quality.

In response to a committee member's question about the time frame for implementation, Dr. Holloway noted that the e-learning network could begin operating on a limited basis in fall 2007.

In response to a committee member's question whether the Rio Rancho Cyber Academy is the only distance learning institution in the state, Dr. Holloway said that it was, indeed, the only recognized Cyber School. He added that distance learning is not defined in statute, and that many varieties of distance learning programs are established every year. Dr. Rindone added, however, that Raton Public Schools has a distance learning program, and that one is in development at Cesar Chavez Charter High School in Deming. She added that PED needs to consider carefully the distance learning rule regarding the funding implications of distance learning under the State Equalization Guarantee.

In response to a committee member's question about the presence of a follow-up mechanism for student evaluations, Dr. Holloway stated that schools would evaluate cyber students in the same manner as regular students and that schools are also responsible for state testing, standards and benchmarks, and meeting adequate yearly progress (AYP).

In response to a committee member's question about whether the New Mexico Learning Network was assuming responsibility for statewide e-learning coordination, Dr. Holloway confirmed that this was its goal.

In response to a committee member's question whether the proposed PED policy would require legislation, Dr. Holloway stated that the rule alone would suffice. A committee member expressed concern that the rule that "all distance learning classes shall be physically attended at a distance learning center, with a few exceptions" was too restrictive and that it partially eliminated the advantages of distance learning. Dr. Holloway noted that the proposed rule is in the early stages of development, adding that PED would conduct a public hearing on November 1, 2006 to obtain public input. He said that the committee member's concern would be addressed at the hearing and that the rule remained very much open to revision.

In response to a committee member's question about the freedom of students' choices of curricula, Dr. Holloway said that the local school district or school board would have to approve any for-credit curricula but that it would be possible for students to take courses beyond their grade level.

In response to a committee member's question regarding the number of school districts that currently have the capacity for e-learning, Dr. Holloway explained that few do; however, there are some existing school district consortia with these capabilities. He said that these schools will not be required to make any changes to their infrastructure for e-learning access; they are sufficiently compatible to be able to use e-learning services. He emphasized that the New Mexico Learning Network is not trying to dictate its programs to schools and school districts; rather, merely aims to provide these schools and districts with additional distance learning access and resource coordination.

Dr. V. Sue Cleveland, Superintendent, RRPS, invited members of the committee to come to the Rio Rancho Cyber Academy to see students work and to participate themselves. She added that given the potential for a large variance in program quality, it is imperative that standards and benchmarks are met. Rio Rancho Cyber Academy would like to be one of the statewide providers of quality distance education, she added, but its resources must not be stretched to the point that the quality of the educational programs suffers.

b. Infrastructure Deficiencies and Replacement of Equipment

Ms. Frances R. Maestas, LESC staff, introduced Mr. Tom Ryan, Chair, and Dr. Carmen Gonzales, Chair-elect, of the Council on Technology in Education (CTE), who presented a progress report on developing and implementing a standards-based process for funding educational technology needs in public schools statewide.

Ms. Maestas explained that, in 2005, legislation was enacted to amend the *Technology for Education Act* to develop a standards-based process for educational technology needs based on the standards-based capital outlay model in the *Public School Capital Outlay Act*. She said that the legislation required the Public Education Department (PED), in collaboration with CTE, to identify educational technology deficiencies in public schools statewide and to develop a methodology for prioritizing and funding deficiencies from the Educational Technology Deficiency Correction Fund when money becomes available.

Ms. Maestas said that, in 2006, the LESC endorsed legislation that included the recommendations of the Public School Capital Outlay Task Force (PSCOOTF) to appropriate approximately \$118.5 million as recommended by CTE. Although the legislation did not pass, the Legislature appropriated \$1.5 million from the General Fund to PED for expenditure in FY 06 through FY 10 to purchase and install educational technology, including related equipment and furniture, in public schools statewide.

Dr. Gonzales said that, since CTE's presentation to the LESC during the 2005 interim, two further tasks had been completed: a public hearing to solicit additional input on the educational technology standards for New Mexico's public schools and the development of a model, based on the public school capital outlay standards-based process, to identify, prioritize, and correct any educational technology deficiencies.

Dr. Gonzales reported that PED and CTE had developed a state network infrastructure cost projection of approximately \$94.3 million and an annual computer and network equipment replacement cost of \$24.2 million. The infrastructure estimate, she reported, which was adjusted to reflect the higher cost of rural school districts in obtaining network access, is based on the aforementioned survey, which requested school districts to self-report their costs in meeting the minimum educational technology adequacy standards. The equipment replacement cost estimate, she explained, considered the cost of replacing obsolete computers and network devices statewide over a five-year period based on a ratio of three students to one computer.

Mr. Ryan explained that the methodology used to prioritize projects would compare school districts against technology adequacy standards, counting the number of rooms that did not meet the minimum standard. The number of deficient rooms would be multiplied by the average cost to correct the deficiency, thus generating the total cost for the district. Mr. Ryan stated that the CTE recommended providing equity across districts for technology infrastructure, identifying those schools with the greatest need through an annual review of district status, and providing funds and technical assistance based on school needs. The goal of CTE, he explained, was to bring all schools up to minimum standards.

Mr. Ryan stated that the two main costs of this program involved improving network standards and performing a “computer refresh” that is, replacing obsolete computers and network devices. Mr. Ryan added that, due to federal E-rate internal wiring awards to several school districts totaling approximately \$13.57 million, network standards costs declined. Accounting for the reduction in costs due to the E-rate awards, Mr. Ryan explained the proposed 2006 five-year strategy will cost \$51.2 million in each of the first three years, which will include wiring one-third of schools per year, plus the annual \$24.2 million computer refresh cost. Upon the completion of the infrastructure improvements after three years, Mr. Ryan added, the remaining computer refresh cost would amount to \$24.2 million annually for the final two years of the project.

Committee Discussion:

In response to a committee member’s question whether the CTE recommendations for educational technology have been presented to the Information Technology Commission (ITC), Mr. Ryan emphasized that the ITC does not typically become involved in the process until a project is funded. He noted, however, that, as CTE chair, he and Mr. Roy Soto, State Chief Information Officer, had presented the funding proposal to the PSCOOTF at its September 2006 meeting. A committee member suggested that CTE provide a presentation on this issue to the Legislative Finance Committee (LFC) subcommittee on information technology. Senator Nava requested that LESC staff coordinate the presentation with LFC staff.

In response to a committee member’s question regarding the dollars in the Educational Technology Fund, Mr. Ryan said that, for FY 07, \$5.0 million was appropriated to the fund, which equated to approximately \$16 per student. He emphasized that continued support for this fund will allow school districts to meet their personnel and internet connection costs.

GRADUATION RATES AND DROPOUT RECOVERY

Ms. Pamela Herman, LESC staff, introduced Dr. Tom Dauphinee, Chief Statistician, Academic Growth and Analysis Bureau, Public Education Department (PED), who described how PED calculates graduation and dropout rates and who presented PED’s most current data for the

cohort of students who started 9th grade in fall 2004 and are expected to graduate in spring 2008; and Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, PED, who described credit recovery initiatives in New Mexico school districts.

Ms. Herman said that data published by the Teacher’s College at Columbia University indicate that there are measurable social and economic costs when a young person does not graduate from high school. In 2005, Ms. Herman said, that in response to published reports showing that data from district, state, and federal sources had previously undercounted school dropouts, the governors of all 50 states signed the Graduation Counts Compact promulgated by the National Governors’ Association (NGA), agreeing to do the following:

- immediately adopt, and begin taking steps to implement, the following formula for computing a four-year, adjusted cohort graduation rate:

$\text{Graduation Rate} = \frac{\text{On-time graduates in Year X+4}}{(\text{First-time entering 9}^{\text{th}} \text{ graders in Year X}) + (\text{Transfers In}) - (\text{Transfers Out})}$

- build the state’s data system and capacity;
- adopt additional, complementary indicators to provide richer context and understanding about outcomes for students and how well the system is serving them;
- develop public understanding about the need for reliable graduation and dropout data; and
- collaborate with local education leaders, higher education leaders, business leaders, and leaders of local community organizations.

Ms. Herman cited the report of a survey conducted for the Bill and Melinda Gates Foundation titled *The Silent Epidemic* published in March 2006. This survey concluded that “while some students drop out because of significant academic challenges, most dropouts are students who could have, and believe they could have, succeeded in school.” She said the report lists the following suggestions to help students stay in school:

- improve teaching and curriculum to make school more relevant and enhance the connection between school and work;
- improve instruction and access to supports for struggling students;
- build a school climate that fosters academics, with increased supervision and classroom discipline;
- ensure that students have a strong relationship with at least one adult in the school; and
- improve communication between parents and schools.

Dr. Dauphinee said that, according to the NGA, in 2006 two states (Maryland and Colorado) codified provisions of the Graduation Counts Compact in statute, and 13 states actually reported the compact rate in 2006. He added that the NGA indicates that almost all states expect to report the compact rate by 2012. He said PED currently calculates school and district graduation rates based on “event data” limited to the final year of high school; that is, the number of graduates in a given year is divided by the number of 12th grade students enrolled on the 40th day of that school year. He said that, in 2003, the US Department of Education (USDE) gave PED permission to continue to use this methodology to determine whether high schools achieve adequate yearly progress (AYP) as required by the federal *No Child Left Behind Act of 2001* (NCLB), until the state is able to calculate and disaggregate a four-year graduation rate based on cohort data that follow a group of students throughout high school.

The New Mexico Four Year Cohort Graduation Model, Dr. Dauphinee explained, includes students who enter 9th grade at start of year one and who graduate in year four. For example, he said, a student who is part of the school year 2007-2008 graduation-year cohort started high school in school year 2004-2005. He said the model takes into consideration students who transfer into the cohort from other schools or are promoted from lower grades and students who transfer out of the cohort to another school, treatment or detention center or incarceration; who are deceased; who graduated before year four; and new immigrants who are English Language Learners who enroll after their 17th birthday. Dr. Dauphinee explained that all students who receive a standard diploma are considered graduates and those that are not considered graduates may be recipients of a General Education Development (GED) certificate or a certificate of completion.

Explaining the implications to the state of implementing the Four Year Cohort Model, Dr. Dauphinee said that New Mexico's graduation rate would be substantially lower due to attrition across four years because the calculation now used by PED accounts only for attrition during the senior year. In June of 2006, Dr. Dauphinee said PED issued a press release that contained first-year information on the graduating class of 2008, which is the first cohort that PED is tracking using the individual student identifier system approved by the 2004 Legislature. Dr. Dauphinee explained the attrition of school year 2004-2005 9th grade students as follows:

- in school year 2004-2005, 30,158 public school 9th grade students were enrolled on the 40th day;
- in school year 2005-2006, 26,788 public school 10th grade students were enrolled on the 40th day;
- of the original 9th graders, 21,856 or 72.5 percent, were still enrolled in the 10th grade;
- of the original 9th graders, 8,302 or 27.5 percent, were no longer enrolled in the 10th grade; and
- of the original 9th grade group, 17.5 percent are known to be dropouts.

National studies, Dr. Dauphinee said, have calculated various estimates of New Mexico's graduation rate, from a low of 56.7 percent by *Education Week*, using enrollment data from school year 2002-2003; to a high of 61 percent by the Education Trust, using data from school year 2000-2001. He said PED set an AYP target of 90 percent for its graduation rate. In conclusion, Dr. Dauphinee said that two keys to accurate rates will be reliable data from the Student Teacher Accountability Reporting System (STARS) and availability of school district staff during the summer months to review graduation lists.

Dr. Cross Maple addressed some of the implications of Dr. Dauphinee's report. Noting that dropout prevention is key to any efforts to boost the graduation rate, she said the American Youth Policy Forum identifies the following characteristics typical of effective school- and community-based dropout recovery efforts:

- open-entry/open-exit structures that allow students to proceed through the curriculum at their own pace, graduating when they have completed requirements. These programs often depend heavily on computer-assisted technology and web-based learning;
- flexible scheduling and year-round learning that accommodate field-based hands-on education and the needs of students with family and work responsibilities;
- teachers as coaches, facilitators, and crew leaders who transfer personal responsibility for success to students as respected adults;

- real-world, career-oriented curricula, connecting students to local employer needs for entry-level career positions so students have near-term objectives; as well as extensive investments in preparing students for postsecondary education, employment, and further advancement in the world of work; and
- a portfolio of options that recognize the wide variety of dropout characteristics and circumstances.

In conclusion, Dr. Cross Maple said that the 90 percent graduation rate may be difficult for most high schools to meet and that PED may need to revisit this target once the model is implemented.

Committee Discussion:

In response to a committee member's question who set the New Mexico AYP target at 90 percent, Dr. Dauphinee said it was approved by PED. On this same point, a committee member asked if other states have set the percentage lower, and Dr. Dauphinee answered that they had, as low as 88 percent. To further clarify, Ms. Herman said that in the process of negotiating the State Accountability Plan with USDE, each state's negotiations were done separately and in private, and so other states were not privy to each other's information, adding that this may be one of the issues addressed in the reauthorization of NCLB.

In response to a committee member's question about the definition of the term "graduate," Dr. Dauphinee said that the student must be present in New Mexico public schools on the 40th day, be classified as a 12th grade student, receive a standard diploma, and graduate by the end of the school year.

In response to a committee member's question who is not a graduate, Dr. Dauphinee explained that this category includes students who are recipients of a GED, summer graduates, recipients of Certificates of Completion, students exiting from school who do not graduate elsewhere in the state, and students reclassified from 12th to 11th grade after the 40th day.

In response to a committee member's question who is exempt from the formula, Dr. Dauphinee mentioned foreign exchange students, previous summer graduates, students who move out of state, and students coming from out of state after the 40th day.

In response to a committee member's question how to reconcile the graduation rate versus New Mexico's 90 percent AYP target, Dr. Dauphinee said that a request for appeal or waiver of some kind for New Mexico to reset the target graduation rate would be needed. The committee member added that he found a 90 percent graduation rate to be unattainable. Ms. Herman said that another recourse would be for New Mexico to amend its Accountability Plan.

In response to a committee member's question what percentage rate New Mexico could request, Dr. Cross Maple said that in order to seek a realistic target, PED must examine the percentage rates of schools statewide and compare them to the percentage rates of the schools not making AYP, adding that there is no firm answer.

In response to a committee member's question whether New Mexico would be using the same formula as other states when comparing the cohort rate numbers, Ms. Herman said that the 13 states that have already implemented the Graduation Counts Compact are using the same basic formula, adding that every state has agreed to implement the Four Year Cohort Model by 2012. In response to another question about a GED recipient not being considered a graduate,

Dr. Dauphinee said that because the school did not graduate the student and the student sought the GED on his or her own, the school cannot claim credit for that graduate. Ms. Herman added that all states agreed to this requirement and Dr. Rindone noted her understanding that the states had discussed the issue at length and accepted the federal requirement that only those who graduate with a regular diploma in a standard number of years be counted. She added that the only difference between New Mexico's approach and that of other states may be the 90 percent AYP target.

In response to a committee member's question if a student that graduates in two years can be counted as a graduate in the cohort, Dr. Dauphinee said, "Yes, the graduate is counted."

In response to a committee member's question whether the practitioners in the field had much input into the development of this Four Year Cohort Model, Dr. Cross Maple said that during federal hearings many states testified that these regulations are not realistic in terms of the state's liability. She added that the workbook has been revised several times in response to requested changes to benefit students although the federal government still tends toward tight interpretations. On this same point, Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, said that he had read that some schools have rescinded their agreement.

In response to a committee member's question how alternative students are handled in regard to the cohort, Dr. Dauphinee said that they are handled in the same way as traditional students, adding that if a student begins in the 9th grade cohort and graduates in four years, regardless of location, he or she will be considered a graduate. He further explained that the USDE has allowed New Mexico to use an averaging technique to meet the graduation rate requirement of AYP. Thus, there are three ways that a school can make AYP in terms of the graduation rate: (1) meeting the target of 90 percent; (2) posting a graduation rate higher than the rate in the previous year; and (3) posting a third-year average rate (that is, the average of the current year and the last two years) that is greater than the previous year's.

Senator Nava recognized those in the audience who wished to provide input on this issue:

- Dr. V. Sue Cleveland, Superintendent, Rio Rancho Public Schools, raised concerns about the inability of the Four Year Cohort Model to accommodate students who graduate in June rather than May; who earn a GED certificate, many of whom receive assistance from school districts; who drop out and then return to school; and who, as special education students, earn a certificate of completion according to their individualized education program (IEP). In a partial response, Dr. Cross Maple said that a child with severe and profound disabilities would probably be exempted from the calculation.
- Mr. Bud Mulcock, a lobbyist for New Mexico public schools, suggested that the state maintain its focus on 3rd grade reading proficiency and wait until 2012 to implement the Four Year Cohort Model, when the reading proficiency efforts should show some results. In response, Dr. Cross Maple said that New Mexico has been under considerable pressure to implement the Four Year Cohort Model.
- Ms. Theresa Saiz, Transportation Executive Director, Rio Rancho Public Schools, expressed concern about the teen moms in the Graduation Reality and Dual Roles Skills (GRADS) program, who take a leave of absence from school to have their babies and then return to graduate; and about students from poor families who attend school only half a day because they have to work to help support their families and who, consequently, require more than four years to graduate from high school.

A committee member explained that the questions and concerns raised about the Four Year Cohort Model did not necessarily indicate the committee's disagreement with the concept, only the committee's desire to do what is best for New Mexico's students. On this same point, Dr. Rindone said that, in 1983, the committee supported the cohort calculation primarily because they felt that a single-year calculation of the dropout rate did not provide an accurate picture. Now, the cohort model has implications that PED and the Legislature will have to consider.

Senator Nava thanked the presenters and, there being no further business on this day and with the consensus of the committee, recessed the LESC meeting at 4:50 p.m.

**MINUTES
LESC MEETING
WEDNESDAY, OCTOBER 18, 2006**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on October 18, 2006, at 9:15 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, and William E. Sharer; and Representatives Rick Miera, Vice Chair, Mimi Stewart, Thomas E. Swisstack, and W.C. "Dub" Williams.

The following LESC advisory members were present:

Senators Vernon D. Asbill, Mark Boitano, Carlos R. Cisneros, Dianna J. Duran, Mary Jane M. Garcia, and John Pinto; and Representatives Ray Begaye, William "Ed" Boykin, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, John A. Heaton, Harriet I. Ruiz, Sheryl M. Williams Stapleton, and Richard D. Vigil.

EARLY CHILDHOOD ACTION NETWORK (ECAN)

Senator Nava introduced Dr. Mary Dudley, Early Childhood Development Specialist and member of the Executive Committee of the Early Childhood Action Network (ECAN). Dr. Dudley described the network as a broad-based policy advisory committee of diverse stakeholders established at the invitation of Lieutenant Governor Diane Denish. She said its members include families; early childhood experts from health, early learning, and child development; business; media; and key state agency staff. With funding from a Federal State Early Childhood Comprehensive Systems Grant, this group, has been developing a New Mexico Early Childhood Strategic Plan and Action Agenda since the spring of 2004.

Dr. Dudley said that the FY 08 to FY 12 policy recommendations identify three key early childhood investments to ensure that all children have access to what it will take to improve their well-being: (1) family involvement, (2) health, and (3) quality early learning. She said that it will take a coordinated investment approach to make a measurable difference in indicators of early childhood. Dr. Dudley referred to a detailed handout, in table form, that included a summary of the three key early childhood investments, the FY 08 budget suggestions, and an explanation of why this investment is important to New Mexico's future. The budget requests are: \$900,000 for family involvement; \$12.75 million for health; and \$18.2 million for quality early learning, for a total of \$31.85 million.

Committee Discussion:

In response to a committee member's question whether proposed changes in Medicaid eligibility would mean fewer underserved children and a corresponding reduction in ECAN's budget request, Dr. Dudley said that she did not have those numbers. The committee member then suggested that Dr. Dudley consider the potential impact of those proposals in estimating the ECAN budget.

In response to a committee member's question whether the policy recommendations are in priority order, Dr. Dudley said, "No." On that same point, she further explained that, because the well-being of a child must be seen holistically, ECAN would rather consider a prorated deduction in all of the areas, rather than establish priorities.

AVANCE: THE PARENTING PROGRAM THAT WORKS!

Senator Nava introduced Ms. C. Silvia Sierra, Director, Health and Human Services Department, Doña Ana County, to explain the AVANCE Parent-Child Education Program. From the same department, Ms. Jamie Michael, Coordinator, Community Outreach Division, was available for questions.

Ms. Sierra explained that the AVANCE Parent-Child Education Program is a parental involvement and school readiness program model. She said it works with two generations to give Hispanic families the training and support they need to thrive. Ms. Sierra said AVANCE serves families that are most economically disadvantaged and have the lowest levels of adult literacy.

Giving an overview of Doña Ana County, where this program is in place, Ms. Sierra said that it borders Otero, Luna, and Sierra counties, the city of El Paso, Texas, and the state of Chihuahua, sharing 53 miles of border with Mexico. She said the county includes 37 of New Mexico's 55 federally designated underdeveloped communities, or "colonias."

Ms. Sierra said that the county Health and Human Services Department is seeking \$500,000 in funding. Assuming services to 150 families, including 225 children, that amount would provide a per-person cost of \$1,333 during a nine-month program for families in Chaparral, Anthony, and Sunland Park. She added that due to the proximity of Texas, this program will utilize resources and staff from the El Paso AVANCE program to maximize local assets.

In conclusion, Ms. Sierra said evaluation results indicate that children of families that receive AVANCE services are more successful in school. She said this program will enhance and leverage resources already designated for programs such as pre-kindergarten and other school-based programs in the county.

Committee Discussion:

In response to a committee member's question about the administration of the AVANCE program, Ms. Sierra said that AVANCE would work with the community center, and the community center, in turn, would work with the school. She added that Booker T. Washington Elementary School in Las Cruces hopes to locate a program in the family center; however, AVANCE lacks the resources at this point.

In response to a committee member's question how the parents and teachers are funded, Ms. Michael said that the funding is integrated through the schools.

In response to a committee member's question whether parents who work in AVANCE continue to work with the student throughout middle school and high school, Ms. Sierra said "Yes."

IMPLEMENTATION OF NEW MEXICO PREK IN SCHOOL YEAR 2006-2007/COST ESTIMATE FOR FY 08

Dr. Kathleen Forrer, LESC staff, introduced Dr. Veronica C. García, Secretary of Public Education, and Ms. Dorian Dodson, Secretary-designee, Children, Youth and Families (CYFD) Department, to provide an update on the status of pre-kindergarten programs approved for school year 2006-2007, as well as initial estimates of the cost required to maintain and/or expand New Mexico PreK in FY 08; and Ms. Rebecca Dow, President, New Mexico Child Care and Education Association, to discuss the implementation of New Mexico PreK programs by private providers.

Ms. Dodson thanked the committee for the opportunity to summarize the latest information about New Mexico's PreK initiative and, on behalf of the children and families in New Mexico, thanked the committee for the *Pre-Kindergarten Act* and for providing a second year of PreK funding. She said that PreK is an important part of the overall system for early care in New Mexico, as it has brought new focus to the importance of early childhood development and to addressing the achievement gap before children enter kindergarten.

Secretary García explained the Five-point PreK Plan, which: (1) is research-based; (2) is aligned with the rest of the education system; (3) uses lessons learned from other states; (4) supports linguistically and culturally appropriate curricula; and (5) focuses on school readiness.

Secretary García and Secretary Dodson discussed several elements of New Mexico PreK: how Public Education Department (PED) and CYFD work as a team to establish one unified learning community; how the program addresses the total developmental needs of preschool children; the work of teachers and program directors who participate in ongoing professional development that provides tools for success and information about best practices in early childhood education; and the three levels of accountability in the New Mexico PreK system.

Secretary Dodson stated that the 2006-2007 PreK programs at CYFD are underway in all locations; staff responded enthusiastically to the opportunity to make safety and start-up improvements; professional development plans for staff have been developed and parent involvement plans are being submitted; required program information is being entered into the PreK database; more than 300 staff have been trained in quality observation and documentation methods to observe for the New Mexico Early Learning Outcomes and additional training and support will continue throughout the year; and calls from parents indicate the need for PreK in more areas of the state.

Secretary Dodson referred to the final list of CYFD funded sites for school year 2006-2007: 24 programs in 41 locations, serving 1,097 children. She added that newly funded CYFD programs include four center-based, one faith-based, one university, one municipality, two Head Start grantees, and one community social services agency.

Referring to the list of PED funded sites for school year 2006-2007, Secretary García said that PED is following priorities in the *Pre-Kindergarten Act* to fund first those communities most in need based upon poverty and achievement data. She said that there are a total of 17 PED-funded programs in 33 locations serving 1,097 children. She said school districts have accepted the need and the challenge of preparing children to succeed in kindergarten and are working toward implementing PreK to grade 3 alignment. Secretary García said that new programs for school year 2007-2008 will be in Chama Valley Independent Schools, Jemez Valley Public Schools, Pecos Independent Schools, Rio Rancho Public Schools, Socorro Consolidated Schools, and T or C Municipal Schools, and expanding programs will include: A:Shiwi Elementary School – Zuni Public Schools; Kirtland Early Childhood Center – Central Consolidated Schools; On-track PreK Center North – Gadsden Independent Schools; Edward Gonzales Elementary – Albuquerque Public Schools; and Church Rock Elementary School – Gallup McKinley County Public Schools.

Secretary Dodson addressed the question that many asked when the *Pre-Kindergarten Act* was enacted regarding the impact it would have on child-care centers in New Mexico. She said that there has been an increase in the number of licensed providers. In September 2004, there were 626 licensed child-care centers in the state, and by September 2005, this number had grown to 664, an increase of 6.0 percent. She said more low-income children have access to services; schools and private providers are aligning learning expectations; professional development for teachers has greatly expanded; for 2006, private programs have the funds for instructional materials, start-up and safety improvements; and more teachers are working toward degrees in early childhood education.

Secretary García reviewed tabulations of children's gains in a number of areas based upon trained teacher observations grounded in the New Mexico PreK Early Learning Outcomes. Between fall and spring of school year 2005-2006, the children in New Mexico PreK showed consistent gains in all the areas observed: physical development, health, and well-being; literacy; numeracy, and spatial relations; aesthetics/creativity; scientific/conceptual understanding; self, family, and community; and approaches to learning.

To summarize her remarks, Secretary Dodson said that it is clear that New Mexicans want PreK opportunities for all four-year-olds – not just those who can afford it or who have easy access to programs in big cities. She said every child deserves an equal chance to succeed.

Ms. Dow said that she operates the Appletree Educational Center, a nationally accredited private faith-based nonprofit early care and education organization, which provides comprehensive family support services. She said that 80 percent of the families she serves are low income/at risk, and that only 22 percent of the center's budget comes from parent tuition. She said that Appletree utilizes diverse public and private partnerships to achieve comprehensive high-quality accessible early care and educational programs for all families.

Ms. Dow mentioned several barriers that inhibit private provider participation in New Mexico PreK. Among them are: difficulty of the request for proposals (RFP) process; private providers' wanting to remain unique within the field and not wanting to be part of a big bureaucracy; concern over the possibility of duplicating services; the perception that CYFD programs provide "babysitting" whereas PED programs provide "education"; the perception that they must start a new program rather than build on existing programs; community demographics that do not fit the priority of low-performing Title I districts; burdensome reporting, evaluations, and other paperwork; and a reimbursement rate that does not cover the cost of implementation of PreK standards.

Ms. Dow also provided a number of suggestions to strengthen private participation in New Mexico PreK:

- increase the percentage of private sites to receive funding;
- ensure that all private providers have been accessed before adding additional public sites;
- create a year-round application process similar to the USDA Food Program rather than an RFP process;
- work to preserve a variety of types of programs and providers: home-based, center-based, faith-based;
- provide year-round technical training and assistance;
- fully fund quality initiatives for all early childhood development programs; and
- streamline paperwork, assessments, and quarterly reporting.

Committee Discussion:

In response to a committee member's question about lack of classroom space for the PreK program and how much money it would take to purchase the needed class space, Mr. Antonio Ortiz, General Manager, Capital Outlay Bureau, PED, said that a PED survey of every school district found a variety of needs – not only classrooms, but also include playground equipment and furniture. Because there are no adequacy standards for PreK classrooms, Mr. Ortiz continued, the standards for kindergarten could be used to estimate the cost of a PreK classroom at approximately \$175,000.

In response to another question about when New Mexico would be able to accommodate these facility needs, Mr. Ortiz said the process may be similar to the full-day kindergarten program, which was implemented over a five-year phase-in.

In response to a committee member's question about the cost of constructing a classroom in a school compared to the cost of purchasing a portable building, Mr. Ortiz said that a single portable of 900 square feet costs between \$75,000 and \$80,000 and that a double-wide portable costs approximately \$150,000. He added that the cost of portables is approaching the cost of permanent construction, a point that several committee members confirmed.

In response to a committee member's question whether parents are required to attend PreK program meetings, Secretary Dodson said that attendance is a requirement. On this same point, Mr. Richard LaPan, Education Administrator for PreK, PED, said that PreK programs require home visits and they require the parent to provide a Parentization Plan within the first 60 days.

In response to a committee member's question whether there are ways to identify and refer children who are neglected and in a dysfunctional family and sometimes hidden from the recruitment process, Secretary Dodson said that, across the board in all of the programs, there are always processes of referral; however, referral is sometimes a long and slow process.

In response to a committee member's question posed to both secretaries, regarding changes they would make to the PreK program system if they could, Secretary García said that she would educate the adults because if parents are completing their diplomas, their children will most likely do so as well; and Secretary Dodson said that she would support the continuum of early care programs so that parents can learn parenting skills and spend more time with their children and so that parents have access to quality care when they cannot be with their children.

In response to a committee member's questions about collaboration between the PreK initiative and Head Start programs, Mr. LaPan cited a PED report showing that the PreK programs are working with Head Start programs. He added that initially, Head Start regarded PreK as a competitor; now, however, each program regards the other as complementary.

In response to a committee member's question whether insurance rates for public schools have increased because of PreK, Secretary García said that public school children are covered by the New Mexico Public School Insurance Authority (NMPSIA) and that insurance rates have not increased because of the PreK program. Mr. Sammy Quintana, Executive Director, NMPSIA, concurred.

In response to a committee member's question about what types of vehicles are envisioned to transport PreK children, Secretary García said that PED cannot transport children in vans. Mr. Gilbert Perea, Assistant Secretary, Program Support and Student Transportation Division, PED, explained that public schools must use school buses and that federal sanctions are applied if children are transported in other vehicles.

In response to a committee member's question whether there are more private providers than non-private providers, Ms. Dow said that there are more non-private providers.

In response to a committee member's question about the disparity in pay when PreK teachers become licensed, Secretary Dodson said that the issue is being researched and that she hopes to have some recommendations in the near future.

Noting that the estimated cost of New Mexico PreK for FY 08 had not yet been discussed, Senator Nava asked the secretaries if they had a dollar amount that they could share with the committee. Secretary Dodson said that the figures are currently under review and that the final figures will be ready in December.

Representative Hall requested that CYFD provide information on how many for-profit New Mexico PreK programs and how many faith-based programs have been approved by CYFD and on what the department is doing to encourage more such centers to apply for state funding.

Representative Stewart requested that PED and CYFD provide the results of the Get It! Got It! Go! assessments used in all New Mexico PreK programs for school year 2005-2006.

REPORTING SCHOOL EMPLOYEE MISCONDUCT

Dr. David Harrell, LESC staff, introduced Mr. Willie Brown, General Counsel, Public Education Department (PED), to offer the department's perspective on the issue of school employee misconduct, including a review of recent cases, proposed revisions to department rule, and PED's recommendations for amending statute; Mr. Sammy Quintana, Executive Director, New Mexico Public School Insurance Authority (NMPSIA); and Ms. Julie Garcia, Director, Poms & Associates, Inc., to discuss liability issues and costs; and Ms. Christine Trujillo, President, AFT (American Federation of Teachers) – New Mexico, to offer the employee's perspective.

Noting that the 2006 Interim Workplan of the LESC includes a presentation on the reporting of ethics-related misconduct by school employees, Dr. Harrell alluded to a description of the problem in a recent issue of the journal *School Superintendent's Insider*: "If an employee in your school faces charges of inappropriate contact with a student, you may be tempted to get rid

of the employee without a fight in return for giving him a good reference.” Unfortunately, this practice is still common in districts around the country and occasionally in New Mexico as well. Continuing, Dr. Harrell said that, while such arrangements may protect the first school district from the employee, they can put subsequent school districts – and the children in them – in jeopardy. The dilemma, he added, is the “delicate balance between confidentiality and the right to know,” using a phrase from PED’s Standards of Professional Conduct.

Dr. Harrell said that, according to PED, the sort of misconduct that warrants resignation or discharge and then reporting could be any of those actions enumerated in the department rule regarding standards of professional conduct, either under Standard I – duty to the student – or under Standard II – duty to the profession. In the first case, the offenses range from exploiting or unduly influencing students into illegal or immoral acts to offering gifts to certain students but not others, which, according to PED, is a tactic often employed by sexual predators. In the second case, the offenses encompass such actions as misrepresenting one’s professional qualifications, accepting a gift that would compromise the educator’s integrity, and breaking test security.

Mr. Brown said that the main issue regarding ethical misconduct is the confidentiality agreement that a district may sign with a troubled employee, in which the employee agrees to leave without filing suit against the district, in exchange for the district not reporting the allegations of misconduct. Some relief, Mr. Brown continued, came in the form of HB 212 enacted in 2003, which, among its numerous provisions, gave PED subpoena power through amendments to the *Uniform Licensing Act*. He also emphasized another section of HB 212 that addresses the professional status of teachers and school administrators: “The primary responsibilities of the teaching and school administration professions are to educate the children of this state and to improve the professional practices and ethical conduct of their members” (emphasis added).

Despite the amendments in HB 212, Mr. Brown stated that more direct remedies are still needed in statute. Mr. Brown presented a bill draft proposing to amend the *School Personnel Act* in ways similar to those proposed by the unsuccessful SB 473 (2006), which required school employee misconduct reports:

- to require a local superintendent or charter school administrator to investigate all allegations of unethical conduct by any licensed school employee who resigns, is being discharged or terminated, or who otherwise leaves employment after an allegation has been made;
- to require the superintendent or charter school administrator, if the investigation produces evidence of wrongdoing, to report the identity and circumstances of the employee to PED on a prescribed form;
- to stipulate that these requirements apply regardless of any confidentiality agreement between the employer and the licensed school employee;
- to prohibit the district or charter school from keeping copies of the report;
- to establish a timeline allowing PED 90 days to conduct an investigation;
- to allow the Secretary of Public Education to suspend or revoke the license of a school administrator who fails to report as required; and
- to relieve anyone reporting as required from civil damages as a result of the report.

Mr. Brown also presented a draft of revisions that PED is proposing in its rule on the ethical responsibilities of educators. Among other changes, he said, this draft adds a definition of the term “ethical misconduct”; adds several prohibitions under the duty to the profession; and, if an employee who provides education-related services is discharged or terminated based in whole or

in part on a violation of the standards of professional conduct, requires a school superintendent or charter school administrator to provide prompt written notification to the director of the PED Educator Ethics Bureau.

Mr. Quintana gave some examples of misconduct cases that have occurred in New Mexico, in which teachers have been terminated in one district only to be hired by another, where they molested children again because the second school district was unaware of the person's background.

Although the requirement for background checks has had an effect, Mr. Quintana said, the remaining issues revolve around first offenders or those people either without prior convictions or with juvenile convictions. He then presented several possibilities of statutory remedies for the committee to consider:

- amend the *Tort Claims Act* to exclude the employer from a lawsuit against an individual because criminal conduct is outside the course and scope of employment;
- provide for civil immunity for school administrators (superintendents, principals, and human resource directors, etc.) who provide information related to a pre-employment inquiry, where the preponderance of the evidence indicates that sexual misconduct may have occurred;
- prohibit public schools from entering into confidential settlement agreements with employees or former employees where the preponderance of the evidence indicates that sexual misconduct may have occurred despite the misconduct not rising to the level of criminal conduct; and
- provide language in the licensure provisions of the *Public School Code* to clearly require PED to remove licensure when the preponderance of the evidence indicates that sexual misconduct may have occurred.

Mr. Quintana also cited provisions in the *Children's Code* that require school employees to report "reasonable suspicion" of child abuse and that grant immunity from liability to anyone making such a report in good faith; however, he said, despite mandatory training for education staff, suspicion of inappropriate conduct continues to go unreported.

Ms. Garcia said that NMPSIA has had difficulty obtaining insurance to cover clients for sexual misconduct and that underwriters require loss prevention programs. To lessen the number of misconduct cases, Ms. Garcia said school districts have received information on what kinds of behaviors to note in the hiring process and that school districts have been encouraged to develop a code of conduct for individuals working in the school system. She added that these measures seem to be quite effective in the school districts that have implemented such safeguards.

To illustrate the costs involved, Ms. Garcia said that, between school years 1994-1995 and 2005-2006, NMPSIA has incurred nearly \$14.4 million for improper touching/sexual misconduct claims involving a public school staff member and a student. In school year 2001-2002 in particular, NMPSIA paid nearly \$3.4 million for a claim involving three elementary school students and a substitute teacher.

Ms. Trujillo said that both the American Federation of Teachers and the National Education Association continue to support legislation similar to SB 473 (2006), as amended. She also identified these points that must be addressed: the protection of children from employee misbehavior, the protection of school districts from unwittingly employing troubled employees, and the protection of school employees against false or malicious charges. In addition,

Ms. Trujillo provided a handout that raised a number of legal questions about the reliance upon FBI records in background checks, the definition of terms (particularly “moral turpitude” and “ethical misconduct”), and the due process rights of employees.

Finally, Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators (NMCSA), said that school administrators are concerned about the limitation of civil immunity to the superintendent in a school district, when the school principal is probably the one to conduct the pre-employment background checks and any investigations. Therefore, the NMCSA would like to ensure that immunity would be granted to other administrators as well.

Committee Discussion:

In response to a committee member’s question whether the 90 days that the PED bill draft allows for an investigation is sufficient, Mr. Brown said that, originally, there was a 60-day limit, which was increased to 90 days to allow additional time to do a more thorough investigation. Another factor, Mr. Brown noted, is that an employee’s career is essentially put on hold during an investigation.

In response to a committee member’s question whether after 10 years a person convicted of a felony may have his record cleared, Mr. Brown said that such a thing could occur, especially if the person who commits the felony is a juvenile at the time of the act, if the state background check does not reveal any improprieties of the individual, or if the misdeed had never been reported to the federal government. Ms. Trujillo said that this point is addressed in her handout.

PUBLIC SCHOOL CAPITAL OUTLAY: ANNUAL REPORT

Ms. Frances Maestas, LESC staff, introduced Ms. Catherine Smith, Chair, Public School Capital Outlay Council (PSCOC), and Mr. Bob Gorrell, Director, Public School Facilities Authority (PSFA), for a report on the activities of the PSCOC and the FY 07 grants awards for public school capital outlay. In addition, Mr. Tim Berry, Deputy Director, PSFA, was present to answer questions.

Referring to the committee handouts, Ms. Maestas reported that spreadsheets were provided by PSFA summarizing, by district and charter school, the FY 07 PSCOC awards, including over \$112.6 million in standards-based awards; approximately \$16.7 million in roof awards; and over \$5.2 million in lease payment assistance for classroom facilities. A copy of the PSCOC 2005 Annual Report was also provided.

Using a graph, Investment in Public Schools, which outlined the Legislature’s appropriations for public school capital outlay from 1974 through 2006, Ms. Smith stated that, as construction costs continue to rise, it is extremely important that projects be completed in a timely manner so that the state’s limited resources are spent on brick and mortar and not lost to construction inflation. She said, for example, in 2006 the \$179.3 million in allocations for standards-based awards included approximately \$50.1 million in “out-of-cycle” awards, or previous-year projects. These out-of-cycle awards, she emphasized, reduce the funds available for current needs.

Ms. Smith emphasized that the PSCOC continues to focus on initiatives that improve long-term forecasting of future public school facility needs statewide. One of those initiatives, she reported, provides funding to assist school districts with their master plans to ensure that, as required in current law, every district has a current five-year facilities master plan. This plan,

she said, includes a current preventative maintenance plan for each public school in the district, including charter schools. Ms. Smith also noted that 87 of the state's 89 school districts currently have a current preventative maintenance plan in place and that 69 districts have received training and have implemented the Facility Information Management System (FIMS), which provides school districts with web-based software to execute their facility maintenance and utility management programs more effectively. FIMS, she added, also provides a means for the state to maintain uniform, statewide maintenance and utility data.

To conclude, Ms. Smith outlined remaining challenges for the PSCOC: identifying those data elements in the New Mexico Condition Index database that result in volatility in the ranking of school facilities in terms of relative need; working with school districts to accelerate project delivery; integrating charter schools into public buildings and into school district master plans; and reviewing and updating the state's adequacy standards.

Committee Discussion:

In response to a committee member's question about the definition of design/build arrangements for public school construction, Mr. Gorrell explained that design/build is a method for project delivery in which an owner contracts directly with an entity that is responsible for both design and construction services for a project. He noted that, while such an arrangement for the construction of a public school can shorten the time of construction and result in reduced costs, design/build may not be suitable for the construction of a high school, due to the complexity of the project.

In response to a committee question whether design/build is an option for public school districts, Mr. Gorrell stated that nothing in current law precludes such an arrangement.

In response to a committee member's question relating to the time frame for a school district to meet its local funding match, Mr. Gorrell responded that the PSCOC generally allows up to two years or two bond election cycles for a district to produce a required local funding match.

In response to a committee member's question whether the PSCOC monitors public school capital outlay awards for projects that are incomplete after two or more years, Ms. Smith stated that Public Education Department and Public School Facilities Authority staff provide the council with a monthly status report of PSCOC awards, outlining the amount and percent of the award that has been expended, the construction project phase completed or in process, and any caveats that may have an effect on the completion of the project. She added that any balance remaining after a project is complete will revert to the Public School Capital Outlay Fund.

A committee member expressed concern that integrating charter schools into public buildings and into district master plans places districts with charter schools at a disadvantage because they must continually reprioritize their master plans, which results in delays of other construction projects in the district.

A committee member expressed concern that cameras and security systems are not included in the adequacy standards for public school construction. Because of the recent emphasis on school safety measures throughout the country, the committee member requested that the PSCOC consider funding for the wiring of such systems, so that a district can install them with district funds when they become available.

Senator Pinto requested that PSFA provide a list of the schools in Central Consolidated Schools that have received PSCOC funds.

DIRECTOR'S REPORT

Upon a motion by Representative Stewart, seconded by Senator Sharer, the committee unanimously approved the agenda which had been approved the previous day by a subcommittee of the LESC.

a. Approval of LESC Minutes for September 2006

Upon a motion by Representative Stewart, seconded by Senator Sharer, the committee unanimously approved the September 2006 minutes as presented.

Upon a motion by Representative Stewart, seconded by Representative Williams, the committee unanimously approved changing the days of the November meeting from November 14-17 to November 13-15. Senator Nava asked Dr. Rindone to notify members who were not present.

b. Correspondence

Dr. Rindone reviewed several items in correspondence and said that these items are also included in the permanent file in the LESC office.

c. Written Reports:

Dr. Rindone provided a brief explanation of each of the following written reports:

Faculty/Staff Compensation Study: HED Report

This preliminary report, entitled *Faculty Study: New Mexico Higher Education Institutions Compared with Regional Peers: Gap Analysis and Recommended Corrective Salary Increases*, compares the salaries by rank of full-time New Mexico instructional university staff with those of their peers in selected postsecondary institutions in Arizona, Oklahoma, and Texas. The Higher Education Department (HED) estimates that "correcting the current difference between salaries at New Mexico institutions and their peer averages" will require, if phased in over four years, an estimated \$28.8 million in additional funding. With regard to New Mexico community colleges, the report from HED compares both branch and community college salaries to the New Mexico weighted average salary of \$55,136 for these same institutions: the institutional average salaries range from \$8,769 above the state average to \$10,462 below. The report also notes that, if all additional programs currently being requested by Northern New Mexico College are implemented, the institution will need an additional \$1.99 million for 32 additional faculty members by 2009.

The report concludes by noting that the following additional steps are required to provide a final, more comprehensive report, scheduled for release by January 1, 2007:

- compile information regarding ethnicity, gender, and other factors;
- complete salary comparisons for part-time faculty;
- report information on recruitment and retention efforts for high-quality faculty at each institution; and
- determine with decision-makers, additional information needed, such as cost-of-living index and workload.

Lottery Success Scholarship Program: HED Report

This report, titled *Lottery Success Scholarship Program, 2006 Annual Update*, outlines the history, eligibility requirements, and current structure of the program; summarizes participation and enrollment data for FY 06; and provides actual and projected financial information.

The participation and enrollment data outline lottery recipient data by gender and ethnicity, by county, and by institution. The financial information includes tuition rate increases by institution and the un-audited FY 06 fund balance.

Supplemental Educational Services

During the 2006 session, the LESC endorsed successful legislation to amend certain provisions in the *Assessment and Accountability Act* that govern supplemental educational services (SES). During the 2006 interim, the Public Education Department (PED) revised its rule regarding SES not only to accommodate these changes in statute but also to implement a number of other provisions to enhance the quality and availability of SES and to ensure certain standards among the vendors. This report outlines these changes to PED rule; provides a list of schools, by district, that are required to offer SES for school year 2006-2007; and provides a list and description of the SES vendors that PED has approved for school year 2006-2007.

THREE-TIERED TEACHER LICENSURE EVALUATION SYSTEM AND STUDENT ACHIEVEMENT

Dr. David Harrell, LESC staff, introduced Dr. Mary Rose CdeBaca, Assistant Secretary, Educator Quality Division, Public Education Department (PED), to discuss issues related to student achievement as a component of teacher evaluation; and Mr. David Castillo, Principal, Raton Middle School, Raton Public Schools, and Mr. Chuck Hargrave, Principal, Capitan Elementary School, Capitan Municipal Schools, to explain to what extent and the ways in which they consider student achievement in their annual evaluation of the teachers in their respective schools. Dr. Harrell also acknowledged two people in the audience: Mr. Carlos Atencio, Executive Director, Northern New Mexico Network, and Dr. Peter Winograd, Director, Office of Education Accountability (OEA), Department of Finance and Administration (DFA).

Dr. Harrell said that improving student achievement is the premise behind the three-tiered teacher licensure evaluation system. In its final report in December 2002, he said, the LESC Ad Hoc Subcommittee for Education Reform identified improving student achievement as the logic behind its recommendation of a three-tiered teacher licensure framework: ...“the subcommittee supports the principle that the single, most important factor in improving student academic achievement is to ensure that a qualified, competent teacher is in every classroom and the subcommittee believes that New Mexico’s primary focus must be to strengthen the teaching force by attracting and retaining quality teachers...”

Dr. Harrell said that as this three-tiered framework has been developed – first through legislation and then through rule of the PED – it has included student achievement as a factor in teacher evaluations and in the progression through the three levels of licensure and the increasing minimum salaries attached to each level. However, he added, the references focus primarily on describing or documenting student achievement, while providing few, if any, explicit consequences – whether rewards or sanctions – for teachers based on the achievement gains of their students. The fundamental question, then, is whether the three-tiered teacher licensure, evaluation, and salary system properly accounts for student achievement.

Dr. Harrell said that, while there appear to be no direct consequences related to student achievement in particular, state law does provide eventual consequences for teachers unable to satisfy the required competencies in general. PED rule explains that any teacher who demonstrates unsatisfactory performance or who does not meet the goals of his or her professional development plan (PDP) will be placed on a professional growth plan (PGP) devised at the district level. If despite the PGP, the teacher's performance remains unsatisfactory, another personnel action may follow. As the PED rule on unsatisfactory work performance states, "[u]ncorrected unsatisfactory work performance is good cause for discharging licensed school personnel."

Dr. CdeBaca said that student achievement is a component of teacher evaluation, especially in terms of assurance that teachers who advance from one level to the next are high-quality, effective classroom teachers. She explained that the Three-Tiered Licensure Performance Evaluation system was developed to enable New Mexico to recruit the highest qualified teachers. She said that it is a highly objective statewide system of evaluation, with a standardized process so that one school district's process will be equal to all others.

To further explain, Dr. CdeBaca reviewed New Mexico's *Three-Tiered Licensure Performance Evaluation Handbook*, which consists of a step-by-step chart to be followed for an annual evaluation of Level 1 teachers; a description of PDP guidelines by licensure level; a PDP Process Map; and the School Personnel – Performance, Unsatisfactory Work Performance of Certified (Licensed) School Personnel Regulation. Dr. CdeBaca said that one of the requirements for principals is that they will have ongoing training on teacher competencies and the evaluation system to include development of the PDP. Within this plan, the principal observes the teacher and identifies competencies and issues to be addressed, as well as the kind of help that will be provided to the teacher. She added that, in this system, the competency being addressed has to be identified and if it is a deficiency area, there must be evidence of efforts to help the teacher improve. Dr. CdeBaca added that the PGP developed for a teacher who demonstrates unsatisfactory performance or who does not meet the goals of his or her PDP puts the teacher on notice.

Mr. Castillo said that Raton Public Schools is using the new evaluation system with all of its teachers. He said that, with the help of the High Plains Regional Education Cooperative #3, Raton Public Schools uses the administrative manual as a resource guide in observing teachers at their current levels of teaching for the purposes of evaluation and professional development. He explained that the evaluation process includes formal and informal evaluations in which all teachers are evaluated over a three-year cycle. This cycle includes two informal evaluations during an off-cycle year and one formal evaluation, with an additional informal evaluation during an on-cycle year. He said that it is at the discretion of the administrator to perform formal evaluations on teachers if it is believed that some concerns exist with performance. All new teachers within the district, he said, will be evaluated on an on-cycle first year for the first two years of employment.

Addressing student achievement, Mr. Castillo said that Raton Public Schools utilizes the resource guide along with student scores to help with professional development for their teachers. He said that the district is currently working on creating common assessments for progress monitoring of all students so that they can provide better remediation to students who are having difficulty.

Noting that the schools in Capitan Municipal Schools have made adequate yearly progress each year, Mr. Hargrave said that the district has had success not only with student achievement but also with student progress, regardless of students' incomes, backgrounds, or abilities. The district believes that all students can improve, even though improvement may not always be reflected in standards-based assessment scores, he said.

Mr. Hargrave said that every teacher is responsible for student progress. Although the school tests only in grades 3 to 5, the kindergarten, first, and second grade teachers know that their building's scores reflect on them and what is happening at the beginning levels. He said that at Capitan Elementary all teachers are responsible for ensuring the children in their building perform at their best, regardless of level of articulation. Their goal, he said, is to send a "better product" to the promoting grade each year; and they accomplish this goal by putting a good curriculum in place and ensuring that it is aligned with the New Mexico standards and benchmarks.

Even though the district's math scores have been above the state average, Mr. Hargrave said the district has focused its teachers' PDPs on student improvement in math over the past two years. In addition, Mr. Hargrave said that he has encouraged his teachers to address a competency and a particular math testing weakness as they prepare their PDPs. Mr. Hargrave concluded by attributing the school's success to its staff, the support of parents, and a focus on student improvement.

Committee Discussion:

In response to a committee member's question about the salaries paid to teachers statewide at the three-tiered licensure levels, Dr. CdeBaca said that the salaries specified in law are minimums and that school districts can pay teachers more depending on their training and experience.

In response to a committee member's question about the uniformity of the statewide evaluation system for teachers, Dr. CdeBaca said that the process is uniform and that principals are trained in this method of evaluation every two years.

In response to a committee member's question about the percentage of teachers attempting but failing to move from Level 2 to Level 3, Dr. Winograd said that the pass rate is approximately 88 percent, including those teachers who resubmit their PDDs.

Representative Stewart requested that PED provide an example of a successful PDD and an unsuccessful PDD so that the committee can see the difference, especially in terms of student achievement as a factor in the PDD.

AREA SUPERINTENDENTS AND COMMUNITY INPUT

Explora Science and Children's Museum

Senator Nava introduced Mr. Nick Estes, Associate Director, Explora Science and Children's Museum, and his assistant, Mr. Patrick Lopez.

Mr. Estes made a brief presentation on the funding of Explora, supported by two handouts. The first was a report on the outreach programs funded with a \$95,000 legislative appropriation in FY 06, and the second was an informational booklet describing educational programs of Explora

available in school year 2006-2007. He stated that, per its mission statement, the Albuquerque-based Explora is “dedicated to creating opportunities for inspirational discovery and the joy of lifelong learning through interactive experiences in science, technology and art.” He said that the center offers a wide variety of programs that reflect an experiential, inquiry-based approach to learning. Mr. Estes stated that one goal of Explora had always been to have a statewide impact on science education. He explained that its Albuquerque location means that many schools must travel a very long distance to be able to attend the facility. However, in FY 06, thanks to the \$95,000 appropriation, Explora staff members were able to travel to various New Mexico communities and conduct science educational programs at schools, as well as exhibit them to the local public. Mr. Estes explained that Explora applied its funding toward presenting 67 outreach programs in New Mexico schools, visiting 27 schools, hosting five “overnight camps,” and presenting eight “family science nights” in schools or community centers.

Biological Origins

The committee heard testimony from three people – Mr. Michael W. Edenburn, a retired engineer; Mr. Rick Cole, a science teacher at Los Lunas High School; and Ms. Kathy Jackson, a parent and member of the Rio Rancho Public Schools Board – in support of a draft bill, as well as a complementary resolution, that would give teachers the “right and freedom” to inform students of multiple theories on the origin of life when they discuss the topic of “biological origins.” These measures are necessary, Mr. Edenburn said, because there is significant scientific evidence to question the ability of the theory of evolution to explain “how life started and attained its present diversity.” Mr. Cole cited developments in molecular biology, genetics, and other fields that cast doubt on the concept of natural selection; and Ms. Jackson contended that, when teachers and students express disagreement with the theory of evolution, they are often “disciplined or penalized for their opinions.”

Voicing opposition to the bill draft and resolution were Dr. Marshall Berman, former member of the State Board of Education, and Dr. Kim Johnson, President, Coalition for Excellence in Science and Math Education. Dr. Berman objected that the phrase “biological origins” is not a scientific term and that the bill and resolution are intended not to teach science but to teach “creationism and intelligent design,” which are religious concepts that, if taught in public schools, would violate state law and the state constitution. Dr. Johnson cited a recent legal case in Pennsylvania that had reached the same conclusion; and he argued that the state’s science standards, which are nationally acclaimed, already address questions about evolution without invoking religious beliefs.

In response to a committee member’s question about what is taught now, Mr. Cole said that multiple science textbooks are in use, some of which acknowledge the controversy surrounding evolution and some of which ignore it.

In response to a committee member’s question about references to God in the state constitution, Dr. Berman said that there is a distinction between citing God and advancing specific religious views; and that, when students ask questions about creation that science cannot answer, a scientifically acceptable response is, “We do not know, yet.”

Aspartame

Mr. Stephen Fox, a constituent, spoke against the use of the artificial sweetener aspartame because of its dangerous side effects. He said it was approved by the FDA in 1981 and is found in 6,000 food products in the United States and more than 500 medications. To support his

position, Mr. Fox distributed copies of *Report for Schools, OB-GYN and Pediatricians on Children and Aspartame/MSG*. A committee member invited the legislators to look at the facts, as, in his opinion, the information that Mr. Fox provided is not accurate.

Senator Nava thanked the presenters and, there being no further business on this day and with the consensus of the committee, recessed the LESC meeting at 4:46 p.m.

**MINUTES
LESC MEETING
OCTOBER 19, 2006**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on October 19, 2006, at 9:13 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, and William E. Sharer; and Representatives Mimi Stewart and W.C. "Dub" Williams.

The following LESC advisory members were present:

Senators Vernon D. Asbill, Mark Boitano, Carlos R. Cisneros, Dianna J. Duran, Mary Jane M. Garcia, John Pinto, and Leonard Tsosie; and Representatives Ray Begaye, William "Ed" Boykin, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, John A. Heaton, Harriet I. Ruiz, Sheryl M. Williams Stapleton, and Richard D. Vigil.

**COLLEGE/WORKPLACE READINESS AND HIGH SCHOOL REDESIGN:
Preparation of New Mexico Educators/Teacher Professional Development**

Senator Nava recognized Dr. Rindone, who explained that the agenda for the meeting would allow the College/Workforce Readiness and High School Redesign Work Group to join the committee discussion as it had at the September LESC meeting. Referring to the agenda, Dr. Rindone said that there would be five presentations interspersed with breakout sessions. She said that the breakout groups would then reconvene, the facilitators would report out, and committee questions and other discussion would occur during the last hour.

a. Preparation of Pre-service Teachers: Panel

Dr. Sharon Caballero, LESC staff, introduced Dr. Robert D. Moulton, Dean, College of Education, New Mexico State University (NMSU); Dr. Jerry Harmon, Dean, College of Education and Technology, Eastern New Mexico University (ENMU); Ms. Sharman Russell, Chair, Teacher Education Council, Western New Mexico University (WNMU); Dr. Waded Cruzado-Salas, Dean, College of Arts and Sciences, NMSU; and Dr. Virginia Padilla, Director, Teacher Education, Santa Fe Community College (SFCC), to discuss preparation of pre-service teachers.

Dr. Caballero noted that this presentation regarding the college/workplace readiness of New Mexico high school students would focus on the preparation of New Mexico educators and teacher professional development.

Dr. Moulton said that dropout rates and failing schools are challenges that New Mexico faces. Areas of specific need include mathematics, science, reading, special education, bilingual education, and English language learning. He noted that each year New Mexico colleges of education graduate more than 1,000 highly qualified teachers and provide advanced education for more than 1,000 teachers, counselors, and principals.

In addressing the connection between postsecondary institutions and classrooms, Dr. Moulton said that school partnerships are at the heart of educating teachers, counselors, and principals.

- the WNMU School of Education has formed partnerships with 13 school districts in southwest New Mexico;
- the ENMU) School of Education works with 38 school districts in the southeast and northwest corners of New Mexico;
- the New Mexico Highlands University (NMHU) School of Education provides full partnerships with six school districts and targeted agreements with many more;
- the NMSU College of Education partners with 37 school districts throughout New Mexico; and
- the University of New Mexico (UNM) College of Education has partnerships with 22 school districts in central and northwestern portions of the state.

Dr. Harmon provided the following examples of innovative programs in New Mexico, with brief descriptions of each one:

- TALS – Teaching and Learning for Success, at WNMU School of Education, serves five Bureau of Indian Affairs (BIA) agencies, each with multiple schools.
- the Professional Development School at ENMU School of Education is in partnership with James Elementary School, Portales Municipal Schools, providing on-site instruction, model teaching, weekly practice, literacy tutors, math mates, inquiry projects, and family math/science nights.
- Spanish Immersion in Oaxaca, México is a NMHU School of Education program in which members of Highlands’ faculty took 15 future teachers to the City of Oaxaca to experience Spanish language and México’s culture firsthand.
- the Gadsden Mathematics Initiative at NMSU College of Education is based on the Gadsden Model, Mathematically Connected Communities, New Mexico’s largest math/science partnership.
- Teaching Academies at UNM College of Education placed pre-service teachers in local elementary schools for their last three semesters for on-the-job training from master teachers. This pilot program is being expanded to all students in teacher education.

Dr. Padilla said that at SFCC approximately 150 students are enrolled in special education and early education programs, both on line and on campus. She said SFCC graduates about 50 to 60 candidates per year, after which they qualify for Level 1 licensure, and the programs range from 18 to 21 credit hours. She said that SFCC serves Santa Fe as its major district, as well as serving on line candidates from across the state, noting that the community college tries to attract part-time faculty from throughout the state as practicing lecturers.

At NMSU, Dr. Cruzado-Salas said, an important example of collaboration between the Colleges of Arts and Sciences and the College of Education is the development of a Master of Arts in Teaching, which is being jointly offered by the colleges. She said the program is intended to enhance the science content knowledge of middle and elementary school science teachers, noting that a large fraction of the required credit hours is offered in the form of distance education courses to permit more students to take advantage of the program. In addition, the Department of English at NMSU partners with K-12 schools through participation in the Conference of High School Principals and Counselors.

Dr. Cruzado-Salas said the Department of Mathematical Sciences has been working with the College of Education for the past three years on the Mathematically Connected Communities Project, which offers workshops designed to increase the content knowledge of middle and high school teachers and to better connect their knowledge with good pedagogy. NMSU is also integrating the arts in the educational experience through a variety of campus events designed to enhance students' musical training and through a course in creative dramatics.

Ms. Russell described the program at WNMU, in which high school students can attend college classes at no cost. She noted that the majority of the students do very well. She said that the WNMU Teacher Education Committee, which comprises faculty members from both the colleges of arts and sciences and education, oversees many aspects of teacher education by looking at curriculum issues and program evaluations.

b. Accreditation of Teacher Preparation Programs

Dr. Sharon Caballero, LESC staff, introduced Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, Public Education Department (PED); and Dr. Viola E. Florez, Dean, College of Education, University of New Mexico (UNM), to discuss accreditation and teacher preparation programs.

Dr. Cross Maple said that the National Council for Accreditation of Teacher Education (NCATE) state partnerships were established in 1988 as a cooperative venture built on rigorous standards. She said that prior to 1991, PED and NCATE held separate accreditation visits and that in 1991, PED entered into a partnership with NCATE to perform accreditation reviews of New Mexico teacher preparation programs. She said the combined process, with protocols outlined in the agreement, uses both state and national standards to assess New Mexico teacher preparation programs.

Describing NCATE, Dr. Cross Maple said there are six unit standards applied to the school, college, or department of education within the institution: (1) candidate knowledge, skills, and dispositions; (2) assessment and evaluation; (3) field experiences and clinical practice; (4) diversity; (5) faculty qualifications, performance, and development; and (6) resources and governance.

Dr. Florez discussed the current state of accreditation of teacher education programs in New Mexico. Except for Northern New Mexico College (NNMC), which has applied for accreditation, all New Mexico institutions of higher education with education programs are currently accredited, including two-year colleges that offer alternative licensure. She said that programs can be accredited with conditions, as is the case for New Mexico Highlands University and Eastern New Mexico University, which have focus visits on Standard 2 – assessment system and unit evaluation – scheduled in school year 2006-2007. This condition means that both programs have to show improved data collection systems to the visiting NCATE/PED team.

Breakout Groups

Following the two presentations regarding teacher preparation, the Chair requested that the committee and the work group divide into three smaller groups in three rooms set aside for group discussion. Each group was asked to discuss the questions below:

1. How can teacher preparation programs connect in a meaningful way with the public schools to support the P-20 initiative?
2. Besides the partnerships described in the presentations, what needs to be done to improve the curriculum in university classrooms so that graduates emerge with effective teaching skills?

Reconvene for Report Out and Discussion

Yellow Group: Ms. Pamela Herman, Facilitator

Ms. Guyla Maples, Principal, Hagerman High School, Hagerman Municipal Schools, was the recorder for this group discussion and she summarized the group's recommendations as follows:

- improve the teaching of reading;
- improve field experiences;
- ensure that students know what standards and benchmarks are and that they can create lesson plans to implement them;
- educate college faculty about adequate yearly progress and the use of assessment data to drive instruction, so that students have command of this information before they enter the classroom;
- ensure teacher candidates are prepared to use technology effectively for teaching and assessment;
- find ways to prepare student teachers to be effective with students whose families are affected by stresses from poverty, single parenting, low educational level, rural isolation, and other factors;
- be cognizant of the need to prepare teachers for schools in communities outside the mainstream, such as Native American communities;
- prepare teachers to communicate a love of learning to their students – the most important responsibility;
- break down barriers between P-12 and higher education by using classroom teachers as adjunct faculty and in other ways; and
- continue teacher preparation appropriately throughout the entire three-tiered licensure system.

Red Group – Dr. Kathleen Forrer, Facilitator

Dr. Forrer noted that the Red Group had discussed basically the same issues as the Yellow Group and that the conversation had centered almost entirely on the second question. She summarized the main points of discussion as follows:

- students planning on a teaching career need to spend as much time as possible working with children in a classroom;
- although New Mexico's colleges of education (COEs) attempt to align their coursework to include national and state educational standards, there is no assurance that coursework offered outside the COEs is similarly aligned;
- all higher education faculty should model good teaching behavior;

- student teachers need to be taught how to use data appropriately to inform instruction;
- quality professional development, in-service opportunities, and practicums are critical for teachers throughout their careers.
- mentoring is key to helping new teachers succeed;
- there should be a statewide study to determine what techniques and curriculum work best in training new teachers; and
- leadership at the local level is a necessary part of improving K-12 education.

Green Group – Ms. Frances Maestas, Facilitator

Ms. Maestas summarized the green participants' discussion and consensus on the two questions. In response to the first question, she reported that green group participants believed that all teacher preparation programs should provide students with strong content knowledge, a solid foundation of the state's standards and benchmarks, and an understanding that assessment is an invaluable teaching tool. The group also believed that the supervision program for interns should be uniform among the state's postsecondary institutions; that a uniform identification number for a student from K-12 and into higher education should be required; and that teacher preparation programs should consider a professional development model that provides on-site training of teachers in a public school like the one outlined in Dr. Arthur Levine's recently published study of teacher preparation programs, *Educating School Teachers*.

In response to the second question, Ms. Maestas stated that the Green Group believed that an interdisciplinary P-20 approach to teaching needs to include partnerships with for profit and nonprofit business sectors. The group felt that a strong resource pool in these sectors exists, especially in the areas of retired mathematicians and engineers; however, a curriculum must be developed for these individuals who are strong in content but may be weak on delivery – a curriculum that brings these individuals up on a fast track in their skill level to teach.

Ms. Maestas concluded that the participants emphasized the need for colleges of education to be provided with their fair share of higher education funding.

Committee Discussion:

In response to a committee member's question concerning when recommendations from staff will be forthcoming on these discussions, Senator Nava said that the current task was to get as much input as possible on these issues, after which the proposed recommendations will be read. She noted that the LESC focus this interim has been the alignment of high school and higher education institutions.

When asked by the chair for input from the audience, Dr. Rick Meyer, Professor of Reading, UNM, said that it is a well known fact that the best predictor of student success is family income, noting that children cannot learn as well when they are hungry, in pain, or involved in a dysfunctional family situation.

c. In-service Programs for Teachers: Panel

Dr. Sharon Caballero, LESC staff, introduced Mr. Tito Rivera, Teacher, Chama Middle School, Chama Valley Independent Schools; Mr. Carlos Atencio, Executive Director, Northern New Mexico Network; Ms. Sheryl White, Director, Professional Development Center, Las Cruces Public Schools; Dr. Linda J. Coy, Director, Educator Support Center; and Ms. Cathe North, Director, Southwest REC #10, Truth or Consequences, to discuss in-service programs for teachers.

Dr. Caballero noted that state law requires the Public Education Department (PED) to evaluate the success of each professional development program or project funded and to report its findings to the LESC each year. To date, Dr. Caballero said, the Legislature has appropriated \$6.8 million for the last three years (FY 05, FY 06, and FY 07) in the *General Appropriation Act* to the Teacher Professional Development Fund. In addition to the appropriations already noted, Dr. Caballero said the 2006 Legislature appropriated \$6.0 million.

Mr. Rivera reported on a meeting with the Chama Middle School and Chama Elementary School staff as a result of an orientation meeting held with the University of New Mexico College of Education to discuss ways in which new teachers need to be prepared to teach successfully in rural districts. The following two focus questions provided the basis for oral input:

1. What do today's veteran teachers need to know, understand, and be able to do to continue teaching in rural New Mexico?
2. What are your needs regarding *No Child Left Behind* and adequate yearly progress?

Mr. Rivera reported the group's responses to the first question about the needs of veteran teachers:

- receive last year's testing data in time to start the school year;
- continue to educate themselves on the use and implementation of a standards-based curriculum;
- acquire more knowledge and training in the areas of technology, special education, writing, mathematics, and science;
- be mentored in order to maintain high quality teaching practices;
- be made aware of their community culture and work in collaboration with the business community;
- be further trained in teaching higher order thinking skills across the curriculum;
- share and support best practice classroom management skills;
- keep up with the latest teaching research and best practices;
- receive more training in the strategies and materials that support differentiated instruction for English Language Learners;
- have better trained administrators to support their specific grade levels; and
- have more resources and training in the area of dual enrollment classes for the high school level.

Mr. Atencio said that the Northern Network uses a multi-school/district approach that provides regional and on-site specific professional development events. He said that professional development for teachers must include follow-up service, which the network provides through circuit riders to assure local implementation of professional development results. He said the Network has focused on math and science. In order to show the diversity of the organization, Mr. Atencio said that the network works with principals, administrators, parents, and others, with a "whole" school intervention process.

Among the new directions that the network has taken, Mr. Atencio continued, is the use of the Rural School and Community Trust Model to establish educational renewal zones, in which schools enter into partnerships with institutions of higher education and other stakeholders to restructure college-based teacher preparation to support novice teachers and to provide high quality professional and leadership development. Mr. Atencio said that, in order to change state policy in support of new directions, it is important to consider funding regional approaches to provide professional development to schools, incorporating all state/local resources.

Ms. White made the distinction between what works and what does not work in professional development at Las Cruces Public Schools. Among the initiatives that work are staff development based on student achievement data, the goals of the Educational Plan for Student Success, and research-based strategies; job-embedded time during the contract day for teachers to collaborate and the use of school-based instructional coaches; and parallel training for principals and administrators. Among the efforts that do not work are “one shot, single person, stand and deliver workshops”; random staff development programs not focused on student needs; pulling teachers away from instruction; and limited training opportunities for school leaders.

Ms. White requested legislation that would provide categorical funding for instructional coaches and the ability to “buy” time; extend the contract work day and the contract year; revise the three-tiered system to include a requirement for continued professional development; and identify leadership frameworks for principal training.

Dr. Coy said that, through the Educator Support Center (ESC), beginning and pre-service teachers can now look forward to professional, academic, and scholarship support to aid them in their first years of teaching. Funded by the US Department of Education through a Teacher Quality Enhancement Grant program under Title II, academic scholarships totaling up to \$3,000 are available for qualified individuals through the ESC. Dr. Coy said these funds will assist the recipient in obtaining a teaching license and will also make available an extended student teaching experience for pre-service teachers.

Ms. North said that the RECs’ definition of in-service is professional development that meets the National Staff Development Council’s criteria, and is provided to administrators, teachers, paraprofessionals, and other school staff that are presently employed in a school or school district. She said that in-service topics are chosen together with the coordinating council through member district requests, requests from PED, and through national and state initiatives, issues, and concerns.

d. Teacher Mentorship Programs

Dr. Sharon Caballero, LESC staff, introduced Dr. Beth Everitt, Superintendent, Albuquerque Public Schools (APS); Dr. Ellen Bernstein, President, Albuquerque Teachers Federation; Ms. Tya Taylor, Instructional Leader/Mentor, Deming High School, Deming Public Schools; and Ms. Debbie Evans, Teacher, Northeast Elementary School, Farmington Municipal Schools, to discuss teacher mentorship programs.

Dr. Caballero said that in 2001, the Legislature enacted the Beginning Teachers Mentorship Program which created a statewide teacher mentorship program for beginning teachers. With the enactment of public school reform legislation in 2003, the law was amended “to provide beginning teachers with an effective transition into the teaching field; to build on their initial preparation and to ensure their success in teaching; to improve the achievement of students; to retain capable teachers in the classroom; and to remove teachers who show little promise of success.” She added that, since FY 01, the Legislature has appropriated nearly \$6.1 million for teacher mentorship.

Dr. Caballero reported that, according to the Public Education Department (PED), the distribution of funds to school districts for teacher mentorship programs is based on an approved mentoring plan and on the number of beginning teachers in the prior school year. PED reports that, in FY 07, beginning teacher mentorship initiatives for 2,386 beginning teachers statewide were funded in 75 school districts and 19 charter schools, with an allocation of \$368 for each teacher for school year 2005-2006.

Dr. Bernstein said that the mentorship program in APS is a partnership between APS, the Albuquerque Teachers Federation, and the University of New Mexico College of Education. She said that the program goals are to provide beginning teachers with an effective transition into the teaching profession; to increase the retention rate of first-year teachers; to have a positive effect on student achievement; and to create a more intensive district-wide program.

Dr. Bernstein said that the mentor program takes a comprehensive approach to providing qualified, site-based mentors for first-year teachers. The mentor's chief role, she continued, is to offer support and practical advice to first-year teachers based on observation and discussion of the first-year teacher's professional experiences. She added that first-year teachers are paired with mentors based on common certification areas.

Dr. Bernstein said that APS currently has \$900,000 for mentoring needs, but more funding is needed for quality programs. She suggested funding for beginning teacher mentoring should be \$3.0 million for the 2007 legislative session. She said this level of funding would increase the allocation from \$365 per teacher to approximately \$1,000. In addition, she recommended that the state establish a standard of funding per teacher, rather than a set total amount divided by the number of teachers.

Dr. Everitt spoke as a partner to the aforementioned mentor program. The Mentor Leadership Design Team, she said, was charged with developing a vision and an action plan for a well-constructed, well-funded, well-developed program to support beginning teachers. Dr. Everitt said that many teachers who have been through this program say that it helped them survive their first year. In fact, during school year 2005-2006, APS kept all of its first-year teachers.

Ms. Taylor said that the goals of the Deming Mentor Induction Program are to reduce the intensity of transition into teaching, to help improve the effectiveness of teachers and their instruction, to provide on-going sustained professional development, and to increase the retention of greater numbers of highly qualified teachers. The program is a three-year process, with university credit available through Western New Mexico University. The program involves the implementation of rubrics for skills and strategies, and it requires a taped video conference with the instructional leader. Ms. Taylor noted that attendance is recorded and monitored at the workshops and completion of the program is a prerequisite for filing a Professional Development Dossier.

Ms. Evans said that being mentored the first year made her a more confident teacher. Ms. Evans introduced her mentor, Ms. Tawna Dailey.

Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators spoke from the audience to reinforce the comments supporting the mentorship programs. He added that a survey conducted at the request of the APS Superintendent found that the program is under-funded, that it cannot be implemented for \$368 per teacher.

e. Statewide Professional Development Programs

Dr. Sharon Caballero, LESC staff, introduced Dr. Mary Rose CdeBaca, Assistant Secretary, Educator Quality Division, Public Education Department (PED), to discuss statewide professional development programs.

Dr. CdeBaca said that public school reforms enacted in 2003 called for the development of a systemic framework for professional development. In 2004, she said, PED convened a statewide committee of teachers, administrators, postsecondary faculty, professional development providers, and PED staff to carry out this charge. She said the framework is a guide for educational systems to use in designing district and school professional development plans; and it includes standards, design and implementation guidelines, resources, and evaluation tools to ensure consistent quality in professional development across the state. She said that the goals of professional development in New Mexico are to support effective teaching and improve learning for all students and that the framework will help educational systems and educators throughout the state to accomplish these goals.

Dr. CdeBaca said that PED requires school districts to prepare systems-wide professional development plans for varied purposes. Most notably, she said, these purposes include preparation of the Educational Plan for Student Success (EPSS), training of staff in performance evaluation requirements of the Three-tiered Teacher Licensure system, and design of the Mentoring Program required to support the work of beginning teachers.

Explaining state funds, Dr. CdeBaca said that all districts receive the State Equalization Guarantee (SEG) funds based on the Public School Funding Formula. Funds flow to the districts, and, at the district's discretion, these funds may be used for professional development. She said that special appropriations are funds that are appropriated to districts, or PED by the Legislature, for special projects, and these funds flow to districts through PED. She cited the Three-tiered Teacher Licensure and Senate Bill 190, *General Appropriation Act of 2005*, as examples of special appropriations.

Breakout Groups

Dr. Rindone explained that the small group process for the breakout sessions would be similar to the morning sessions and provided the following questions for discussion:

1. How should in-service and professional development be structured to help public school teachers improve their instructional practice?
 - a. Level 1 beginning teachers
 - b. Level 2 and Level 3-A teachers
2. How can teacher preparation programs ensure that their faculty members are able to integrate public school reforms into their courses?

Reconvene for Report Out and Discussion

Red Group – Dr. Kathleen Forrer, Facilitator

Dr. Forrer stated that the members of the Red Group had reached the following conclusions:

- to provide sufficient time for high-quality professional development, districts may need to use creative scheduling and/or provide released time for staff;
- if teachers are required to take part in professional development outside their normal contract time, stipends should be provided;
- professional development should be “job-embedded, on-going, and site specific,” and it should take place within a professional learning community in which veterans assist each other and support newcomers to the profession;

- postsecondary faculty can play a major role in helping teachers make the connection between research and practice;
- because Regional Education Cooperatives (RECs) play a critical role in the development and provision of relevant professional development for teachers, they must be funded adequately;
- higher education and public education need to work together to find ways to attract educational leaders to pursue positions in administration; and
- principals' salaries need to be increased to show that principals, too, are a valuable part of the educational process.

Yellow Group – Ms. Pamela Herman, Facilitator

Ms. Herman summarized her group's input as follows:

- since many first and second year teachers return for a master's program, those programs should be adapted to meet professional development needs;
- the needs of new secondary teachers are different from elementary teachers in terms of enthusiasm for the subject being taught and the need for discipline-based professional development;
- statewide, teacher professional development is too fragmented;
- effective teacher professional development requires more time;
- advanced placement professional development at the high school level should be assessed to improve rigor of instruction and curriculum;
- most middle school and secondary teachers need more professional development in "reading to learn," and they need to take responsibility for reading in all content areas;
- college faculty should be required to teach in public school; and
- the idea of requiring continuing education credits for licensure should be reexamined.

In addition, Ms. Herman noted (1) that the Yellow Group had reached general agreement that the mentoring/coaching model is the best way to train new teachers but that it requires well-trained mentors and adequate-time and other resources; and (2) that the group had debated whether a Level 3 teacher should receive an additional stipend for mentoring new teachers or should be expected to mentor new teachers as part of the job description at the current levels of compensation.

Green Group – Ms. Frances Maestas, Facilitator

Among responses to the first question, Ms. Maestas stated that the Green Group participants emphasized that in-service should not be considered "an event" but a process that is sustained with an understanding that it will lead to better informed practice by building professional development activities into the structure of the teaching day. With regard to professional development activities in general, the group discussed a sustained process of professional development and whole-school commitment of instructional strategies for all levels of teachers that is linked to student performance. With regard to mentoring, the participants believed that "mentorship" should be defined for school districts and suggested a pilot that includes a higher education faculty member and a school district principal in the mentoring of a beginning teacher.

The consensus of the group for the second question, Ms. Maestas noted, was that establishing and funding a one-year residency teaching internship for teacher preparation graduates with support from both higher education and K-12 educators would provide higher education faculty with a means of keeping apprised of public school reforms.

Committee Discussion:

In response to a comment from a committee member that, when the mentorship bill was passed in 2001, approximately \$1.0 million was appropriated for start-up costs, Ms. Maestas agreed and called attention to a table in the brief that gives a summary of beginning teacher mentorship program appropriations from the year 2001 to the present. This table, Ms. Maestas added, shows the same appropriation every year since its inception. The committee member said that, since New Mexico is receiving good results from this program, the Legislature should adequately fund it.

Another committee member suggested that an appropriation be given to the RECs to help them better serve the rural areas of New Mexico.

Yet another committee member suggested that research be done on the cost to mentor a teacher so that the Teacher Mentorship Program is adequately funded statewide. Dr. Rindone reminded the committee that, in a House Education Committee meeting during the 2006 legislative session, PED was asked how much money was needed for mentorship, and the reply was that the Mentorship Program was adequately funded.

Dr. Rindone announced to the College/Workplace Readiness and High School Redesign Work Group that the date of the November meeting was changed from November 16 to November 14.

There being no further business on this day and with the consensus of the committee, Senator Nava recessed the LESC meeting at 4:20 p.m.

MINUTES LESC MEETING FRIDAY, OCTOBER 20, 2006

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on October 20, 2006, at 9:10 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, and William E. Sharer; and Representatives Rick Miera, Vice Chair, Mimi Stewart, and W.C. "Dub" Williams.

The following LESC advisory members were present:

Senators Vernon D. Asbill, Carlos R. Cisneros, Dianna J. Duran, Mary Jane M. Garcia, and John Pinto; and Representatives Ray Begaye, William "Ed" Boykin, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, John A. Heaton, Harriet I. Ruiz, Sheryl M. Williams Stapleton, and Richard D. Vigil.

ASSESSMENT AND ACCOUNTABILITY

a. State Assessments and NAEP: Disparity in Test Results

Ms. Pamela Herman introduced Dr. Andrew J. Kolstad, Senior Technical Advisor, Assessment Division, National Center for Education Statistics (NCES), to provide an overview of the National Assessment of Educational Progress (NAEP) system for mathematics and reading in grades 4 and 8, including performance trends in New Mexico and nationally as well as the disparity of test results between NAEP and New Mexico's standard-based assessments; Dr. Don E. Watson, Assistant Secretary, Assessment and Accountability Division, Public Education Department (PED), to describe the process used by PED in developing state standards-based assessments and establishing proficiency levels; and Dr. Karen K. Harvey, Assistant Secretary, Quality Assurance and Systems Integration, PED, to discuss the alignment of state assessments with the NAEP.

Ms. Herman said that this presentation explores possible reasons for the disparity in test results between the New Mexico Standards Based Assessments administered under the *Assessment and Accountability Act* and the NAEP administered to students in every state as required by federal law.

Ms. Herman said that the federal *No Child Left Behind Act of 2001* (NCLB) requires every state that accepts Title I funds to develop and follow a plan that includes annual testing in grades 3 through 8 and at least once in high school based on state standards in reading/language arts and mathematics; and that, by school year 2007-2008, also includes testing students once in elementary school, in middle school, and again in high school in science. In addition, she said, states must annually assess the English proficiency of English Language Learners (ELLs), and administer the NAEP to a sample of students in grades 4 and 8 in alternating years.

Ms. Herman said that school year 2004-2005 was the first for which results were available for both the New Mexico standards-based assessments and the NAEP. She said a comparison of results of the state and federal assessments shows the following:

- the percentage of students of various groups who scored proficient or better on the NAEP was lower than on the state assessments by the following margins:
 - 20 to 34 points for grade 4 in reading;
 - 27 to 38 points in grade 8 reading;
 - 10 to 24 points in grade 4 mathematics; and
 - 4 to 14 points in grade 8 mathematics.
- the achievement gaps based on race and ethnicity, income, English Language Learner status, and gender were not always comparable on both assessments.

Ms. Herman said that, according to School Matters, a service of Standard & Poors (S&P), the increased attention on standardized tests focused by NCLB has resulted in public confusion about the relationship between the NAEP and state assessments, especially where a state's performance varies significantly on the different exams.

Dr. Kolstad provided the committee with a PowerPoint outline of his presentation. He explained that participation in NAEP is voluntary for students and for their parents, and said that the performance of absent and refusing students is assumed to be similar to that of other students with the same known demographics. Regarding students with disabilities and English Language Learners, Dr. Kolstad said that all students selected should participate, except those who cannot

be tested due to disabilities or language barriers. He said the performance of these untested students is unknown and not included in NAEP score averages. In New Mexico in 2005, over 5.0 percent of students were excluded from taking the NAEP test because of disabilities and a higher percent because of limited English skills, while by contrast most of these students were required to take the state assessments.

Dr. Kolstad said that most NAEP reporting is done with a composite score that summarizes performance across all content areas within a subject. Regarding test design, he said NAEP develops a large number of test questions for broad content coverage and comparability from year to year, and that in 2005 open-ended questions comprised about half of the mathematics assessment and more than half of the reading assessment. Each student takes just a portion of the total battery of questions on any subject at that grade level, which is why test scores for individual students or schools are not reported; it is the performance of all students at a grade level in the state that is significant.

In describing achievement levels for NAEP, Dr. Kolstad said that the National Assessment Governing Board (NAGB) had established the following definitions:

- “Proficient” represents solid academic performance for each grade assessed. Students reading at this level have demonstrated competency over challenging subject matter, in subject-matter knowledge, application of such knowledge to real world situations, and analytical skills appropriate to the subject matter.
- “Advanced” denotes superior performance.
- “Basic” denotes partial mastery of prerequisite knowledge and skills that are fundamental for proficient work at each grade.
- Performance below this level is “below basic,” in effect a fourth NAEP achievement level.

Dr. Kolstad noted that NAEP reports include this caution, based on the most recent independent evaluation of achievement levels: “As provided by law, the achievement levels are to be used on a trial basis and should be interpreted and used with caution. However, both the National Center for Education Statistics and the Board believe these performance standards are useful for understanding trends in student achievement.”

Dr. Kolstad explained how the NAEP framework is established for each subject, beginning with a preliminary description of the performance expected of students at each level; then asking judges to take the exam themselves to refine the framework and to identify, for each question, the percentage of minimally qualified students who would answer the question correctly. Based on that estimate, the cut scores are set for each achievement level.

Dr. Kolstad concluded by stating that the NAEP frameworks are applied to each state regardless of curriculum coverage, and that NAEP has a larger number of items and a higher percentage of open-ended questions than most state assessments. He said there is substantial overlap in items as the basis for reporting trends. In the exclusion of “untestable students”, NAEP follows local practice, but there is more identification and exclusion in New Mexico. Reporting the results of 2005 NAEP scores, Dr. Kolstad said that, in reading and mathematics, New Mexico is below the nation, but has similar trends. In reading, about 20 percent of the students perform at or above NAEP’s proficiency level, and in math, the percentage is somewhat lower.

Dr. Watson described the process used by PED to develop New Mexico's standards-based assessments and to establish the proficiency levels. He said the process began by assessing New Mexico's rigorous standards and applying them to the assessment framework. He said the assessment frameworks show which performance standards are eligible for inclusion on the state assessment and which performance standards cannot be measured by a paper-and-pencil test. Dr. Watson said that tests are developed by teachers, who are involved in developing assessment frameworks, building assessment maps and test blueprints, reviewing and selecting test items, developing scoring guidelines, rubrics, and scorer training papers for constructed-response items, recommending cut scores for performance levels, and evaluating the alignment between the assessment and the standards. Regarding the test design features, Dr. Watson discussed how the number and type of items are selected. He described the test items either being "selected response or constructed response."

Dr. Watson said that the Secretary of Public Education makes the final decision, based on teacher recommendations, about where cut scores are set for achievement standards, noting that this is a requirement of NCLB. He concluded by saying that the primary purpose of state level large-scale assessment is to hold schools and districts accountable for instruction. He stated that results from a single assessment should never be used to make high-stakes decisions for individual students; nevertheless, he said, results from the standards-based assessments can provide useful instructional feedback.

Referring to her handout, which illustrated New Mexico's performance compared with other states for 2005 in grade 4 and grade 8 reading, math, and science, Dr. Harvey said that in grade 4 reading, New Mexico did as well as Alabama, Arizona, California, Louisiana, Mississippi, and Nevada, but not as well as the rest of the nation. In grade 4 math, New Mexico did as well as Alabama, but not as well as the rest of the nation. In grade 4 science, New Mexico did as well as Alabama, Arizona, Louisiana, and Nevada, better than California and Mississippi, but not as well as the rest of the nation, excluding six states that did not participate.

In 2005, in grade 8 reading, Dr. Harvey reported that New Mexico performed as well as Alabama, California, Louisiana, Nevada, and Mississippi, but not as well as the rest of the nation. In math, New Mexico did as well as Alabama and Mississippi, but not as well as the rest of the nation. In science, New Mexico performed as well as Alabama, Arizona, California, Florida, Louisiana, and Nevada, with Mississippi performing lower, and not as well as the rest of the nation, with the exclusion of six states that did not participate.

Committee Discussion:

In response to a committee member's question regarding how New Mexico sets its benchmarks and standards, Dr. Watson said that, while comparison of New Mexico's standards with NAEP's might be useful, the issue is more likely a mismatch between what is taught and what is tested. For example, he pointed to the amount of algebra questions on the grade 8 math assessment, noting that many New Mexico students do not begin studying algebra until grade 9 or later. Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, PED, said that the next step in PED's work with standards is to refine and "synchronize" them so students at each grade level have the skills to succeed at the next.

In response to a committee member's question whether the process used by NAEP to select which students will take the test is fair, Dr. Kolstad said that the schools are first divided into six categories and ranked according to state assessment results. Then they are selected at random intervals to produce a representative cross-section of students that reflect all the state's schools.

A committee member expressed concern that one reason why New Mexico does not perform as well as other states, may be that the academic expectations for New Mexico students are lower than those of other states.

In response to a committee member's question how New Mexico can have lower academic expectations when its educational standards are among the highest in the nation, Dr. Cross Maple said that the assessments are standards-based but that the implementation of the standards in the classroom is a reflection of the teachers and their instructional expertise. She said that PED is working closely with staff across the state to better implement the standards in the classroom and to synchronize them across the grade levels.

In response to a committee member's question whether reading and reading comprehension are going to be taught across all grade levels, Dr. Cross Maple said that reading, or specific skills in reading, should always be taught. The committee member added that reading skills are not being explicitly taught in the higher grades.

Several committee members had questions about how schools and students are selected to participate in NAEP and whether these schools included a disproportionate number of students in schools receiving Title I funds. Dr. Harvey and Dr. Kolstad stated that NAEP uses random sampling in order to get the most representative sample of the state's student population.

Dr. Kolstad said that, in order to have a representative sample, selections of students are made in proportion to the size of the school, and NAEP tries to sample equally from both high-performing schools and low-performing schools. Dr. Harvey noted that 269 schools from 65 of 89 public school districts participate in the assessment, producing a sample that is very representative of New Mexico.

In response to a committee member's concern that NAEP selects a higher percentage of both Title I and ELL students in New Mexico than in Connecticut, for example, Dr. Kolstad said that, while Title I and ELL students are not purposely selected, New Mexico has many more ELL students and students eligible for Title I funds than Connecticut. The committee member added that New Mexico is demographically different from other states and the sampling represents the face of New Mexico. Dr. Watson stated that, in comparing the test scores, the percentages in each of the categories have been about the same for any subpopulation.

In response to a committee member's question regarding who makes the selection of the schools to be tested, Dr. Watson said that a statistical sampling contractor is hired to make the selections.

In response to a committee member's question about the reason for New Mexico's poor performance, Dr. Watson said students' performance on our own state assessments is also low, and he added that performance is closely related to the instruction in the classroom. He added, however, that the standards need some "tweaking" and that it is appropriate to periodically reexamine the alignment of content standards, performance standards, and assessments.

b. NCLB and State Assessment Requirements

Dr. Kathleen Forrer, LESC staff, introduced Dr. Don E. Watson, Assistant Secretary, Assessment and Accountability Division, Public Education Department (PED), to address whether there is a need to fully align state and federal assessment requirements and to provide an update on the status of the various components of the state assessment system; and Dr. Rose-Ann McKernan, Director, Research, Development, and Accountability, Albuquerque Public Schools (APS), to discuss the discrepancies between the state and federal assessment requirements from a school district perspective.

Comparing the *No Child Left Behind* (NCLB) and the New Mexico assessment requirements, Dr. Watson said that New Mexico must and does comply fully with the NCLB requirements but also exceeds those requirements. Dr. Watson explained that NCLB requires standards-based assessments, as well as accommodations for English Language Learners and students with disabilities; these accommodations include alternate assessments and tests in other languages. He said NCLB requires that tests be administered in grades 3 through 8 in reading, mathematics, and science and in any of grades 9 through 12. In contrast, state law requires tests to be administered in grades 3 through 9 in reading, writing, mathematics, and science and in grade 11 in reading, mathematics, and science. Dr. Watson stated that New Mexico law also requires that social studies be part of the assessment program, provided that funds are available, adding that New Mexico is already testing social studies in grades 3 through 9. He said that in spring 2007 PED will implement social studies testing in grade 11 and field test the grade 11 science and writing tests for implementation in spring 2008.

Dr. Watson said that the current High School Competency Examination is a criterion-referenced test designed to measure minimal competencies and, as such, does not fulfill the NCLB requirement that the high school test be aligned with state content standards. The High School Competency Examination is first administered in grade 10, with retake opportunities in grades 11-12 and beyond. It consists of reading, language arts, written composition, mathematics, science, and social studies.

Dr. Watson explained that, by amending statute to reduce testing that exceeds NCLB requirements, there could be some cost reduction benefits. Some of the options available to the state for this purpose, Dr. Watson said, include eliminating the 9th grade assessments, reducing the number of grades tested in science, and eliminating the requirement for writing and social studies assessments.

Regarding the progress being made in developing a standards-based high school exit exam, Dr. Watson said that the 11th grade assessment will not be fully operational until school year 2007-2008. However, he said, because adequate prior notice is required to provide opportunity for students to adapt to the new test, the test will not be fully implemented until 2012. He said that PED is currently in discussion with stakeholder groups regarding options for adaptation; and there will be increased costs for administering this test.

In discussing future developments for assessments, Dr. Watson said that the Council of Chief State School Officers is studying the use of formative assessments, including short-cycle and teacher-developed assessments. With regard to the NCLB requirements for determining adequate yearly progress, Dr. Watson said that that United States Department of Education (USDE) has offered states the opportunity to participate in the development of a growth model; however, the requirement remains that all students be proficient by school year 2013-2014. Noting that New Mexico has chosen not to participate, he explained that, in order to take part in the pilot program, a state must have a minimum of three years of assessment data to demonstrate the model's effectiveness, as well as a fully approved assessment system. In conclusion, Dr. Watson noted that states are awaiting the final USDE rule regarding the development by states of an alternate assessment for an additional 2.0 percent of special education students who are well off grade level but do not have the most significant cognitive disabilities. This assessment will be aligned to grade level content standards but students will be judged on the basis of modified achievement standards.

To begin her portion of the presentation, Dr. McKernan said that APS has incorporated NCLB and state requirements into a District Comprehensive Assessment Program, which guides the district's decision making, provides order to the implementation of assessments, and helps to ensure that assessments are used for the intended purposes. She said that the program is a

comprehensive, but not necessarily coherent, system consisting of extensions, layering, and specificity. Dr. McKernan explained that an extension is an addition to the NCLB requirements, such as the state-required social studies and 9th grade tests. She said that these extensions pose a concern because funds used for this purpose could be used to improve existing tests in reading, math, and science as well as to improve instruction. The layering issue, Dr. McKernan said, comes into play when a district must test in grades 1 through 8 to develop academic improvement plans and that is layered with reading assessments in grades 1 and 2. Layering, she said, is also part of the alignment of high school tests with college entrance tests being required on top of the testing requirements in grades 9, 10, and 11. Dr. McKernan added that the requirements sometimes specify the measurement of individual skills, rather than content constructs and standards. Specificity may also create the perception that the state favors a particular test, as opposed to a particular type of test, and may prevent New Mexico from utilizing newer research or tests that are stronger from a psychometric perspective.

Continuing with the discussion regarding the total costs of assessment, Dr. McKernan said that the logistics surrounding the development and administration of a test are more costly than the cost of purchasing the test itself. For example, she said, developing good tests is more expensive than the public understands, as are the costs of distributing test materials to schools with as little disruption as possible and of training staff both to administer the test and to use the results effectively. She noted that, when assessment results are not available and accessible to instructional leaders and staff, the real cost of assessment is students' learning time.

Dr. McKernan said that the actual use of an assessment often departs from the purpose for which it was developed. She said that New Mexico's accountability expectations exceed its psychometric capacity and that, in our eagerness to ensure that every student counts and his or her needs are met, we tend to forget that enhanced teaching, and not more assessment, is the most important part of education.

Dr. McKernan said that educators and assessment specialists appreciate the focus and support from the legislators and praised their interest in building a coherent system. She commended the LESC's willingness to re-think the current strategy for assessment mandates. In conclusion, Dr. McKernan said that an ideal New Mexico assessment system would be a coherent, comprehensive system where legislators set the vision for the assessment system but leave test selection and development to the assessment specialists, and where the uses of the assessment results are aligned to the intended purpose.

Committee Discussion:

In response to a committee member's question about the usefulness of testing a child near the beginning of the school year on subject matter that has not yet been taught, Dr. Watson said that PED will take this issue into account when it enters into a new contract with the test providers in 2008 by requiring a faster turnaround time for providing test scores to school districts and to the state; however, he noted, moving the test to the end of the school year would pose practical problems for the school districts. He added that the current recommendation is to leave testing at the beginning of the year. The committee member then asked what would be the closest date to the end of school that testing could be done. Dr. Watson said it would have to be no later than the beginning of April.

In response to a committee member's question who decides when tests are given, Dr. Watson said that the dates are specified in the request for proposals for a test provider, adding that the current dates were selected before he took his position at PED. With regard to changing the date of administration, Dr. Watson said that he would prefer to obtain more feedback from school districts before making a final decision.

In response to a committee member's question whether states would be asked to use formative assessments for responses to intervention, Dr. Watson said that currently it is not an NCLB requirement, but it is a requirement of the *Individuals with Disabilities Education Improvement Act*.

Senator Nava asked Dr. Peter Winograd, Director, Office of Education Accountability, if the Wallace grant, which his office administers, could be used to solve some of the problems identified during the presentation. Dr. Winograd stated that the focus of the Wallace grant is to help school districts make better use of test results.

A committee member asked how many schools districts the Wallace grant has served to date and whether all districts would be served by the end of grant period. Dr. Winograd said that he is currently working with approximately 20 districts and that he hopes to reach the remainder of the districts by the end of the grant period in June 2007. He added that he is hoping that the Wallace Foundation will extend the project.

In response to a committee member's question whether New Mexico has been studying the alignment of end-of-course tests to college entrance tests, Dr. Watson said that PED has been studying that issue but that obtaining specific information is difficult. The committee member suggested that the American Diploma Project will assist in this respect.

Dr. Rindone reminded committee members that the November 15-17 meeting was changed to November 13-15, beginning at 10:30 a.m., with the LESC Subcommittee on the High School for the Arts meeting to begin at 8:00 a.m.

ADJOURNMENT

There being no further business, Senator Nava thanked the LESC staff for their work. With the consensus of the committee, Senator Nava adjourned the LESC meeting at 11:28 a.m.

_____ Chairperson

_____ Date