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LEGISLATIVE EDUCATION STUDY COMMITTEE

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May 25, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: Mr. Craig J. Johnson

**RE: STAFF REPORT: AUDIT OF SELECTED SCHOOL DISTRICTS AND
CHARTER SCHOOLS BY THE PUBLIC EDUCATION DEPARTMENT (PED)**

Introduction

For school year 2011-2012, language in the *General Appropriation Act* requires the Secretary of Public Education to establish a preliminary unit value to establish budgets for the school year. The language also allows the secretary, upon verification of the number of units statewide for FY 12, to adjust the unit value no later than January 31.

On Friday, April 1, 2011, Secretary-designate Hanna Skandera convened a meeting with staff from the Legislative Education Study Committee (LESC) and the Legislative Finance Committee (LFC), school superintendents, and representatives from the Coalition of School Administrators, Superintendents Association, the Association of School Business Officials, the National Education Association-New Mexico, to discuss the preliminary unit value for school year 2011-2012, including projected program units. During this meeting, the secretary-designate reported a potential increase in statewide program units of 7,900, revised down from an earlier reported increase of 10,000 units. Based on the appropriated program cost, the secretary-designate reported that the increase in units would reduce the unit value by an amount ranging from \$125 to \$129.

On April 7, 2011, Secretary-designate Skandera set the preliminary unit value at \$3,585.97, a decrease of \$126.20 from the final unit value for school year 2010-2011 (see Attachment 1).

Subsequent to the setting of the unit value, the Public Education Department (PED) announced the audit of selected public school districts and charter schools.

This staff report provides a context of the audits with a summary of the:

- **Announcement of PED Audit of Selected School Districts;**
- **PED Meeting with Legislative Staff;**
- **PED Audit of School Districts;**
- **Initial PED Findings; and**
- **LESC Staff Observations.**

The staff report concludes with a background section about audit types, standard practices, and elements of a finding.

Announcement of PED Audit of Selected School Districts

In a memorandum dated April 12, 2011 (see Attachment 2), PED reported that:

- the number of statewide program units had increased by 7,894 units from the previous year, “a nearly **116 percent** jump from the previous increase of 3,657 units from school year 2009-2010 to 2010-2011”;
- the “enormous increase from last school year’s growth suggests potential inconsistencies or errors in the data provided and intentional gaming of the system to receive additional funds”;
- as a result, an audit of data submitted by selected school districts would be conducted immediately by the department; and
- a tentative date of April 27, 2011 was identified by the department for reporting initial audit findings.

PED Meeting with Legislative Staff

In an April 12 meeting with staff from the LESL and LFC to discuss the audit, PED staff provided by-district data outlining changes from March of school year 2009-2010 to March of school year 2010-2011 for:

- student membership;
- the Training and Experience Index;
- A/B Special Education students;
- Ancillary FTE;
- ratio of ancillary FTE to special education students;
- C-C Gifted Membership;
- D-D Gifted Membership;
- three-year-old DD membership; and
- four-year-old DD membership.

PED staff also provided a document, *Assumptions Used for Statewide Special Education and Training and Experience Data Analysis*, outlining the number of districts identified as exceeding a PED-established growth percentage (see Attachment 3). The assumptions resulted

in a checkmark by each district to indicate the number of data set thresholds the district exceeded. The checkmarks varied from zero for some districts to as many as five checkmarks for other districts.

Among concerns with regard to the PED audit, LESC staff questioned why:

- PED relied on the 80th day data as opposed to the 80th/120th day average, which is more closely aligned to actual funding practices;
- the expedited timeline for the audit was necessary – nine work days to audit the data of 34 school districts, including three of the state’s largest districts; and
- PED selected districts to be audited based, almost exclusively, on a comparison of the statewide average growth from the 80th day of school year 2009-2010 to the 80th day of school year 2010-2011 to the districts’ growth over the same time frame. Among LESC staff suggestions were an analysis of long-term trend data, perhaps in conjunction with year-over-year growth that would provide more useful and telling information about district practices. To illustrate, a school district showing a large increase in special education students from one year to the next may still be well below the average state identification rate; conversely, a district with little or no increase or even a decrease from one year to the next may be well above the average statewide rate. However, PED staff responded that they did not want to consider other data sets.

While supportive of efforts to ensure a correct distribution of funds, due to concerns regarding the audit, primarily about the timeline and the data and methods used to select districts, the LESC director requested that the LESC staff not be included in the PED audit. In a letter to the secretary-designate, dated April 19, 2011, the LESC director formally cited reasons for not participating in the audit (see Attachment 4).

PED Audit of School Districts

On April 14, 2011, a letter was sent by the department to 34 school districts selected for an audit. A press release issued on the same date identified the 34 districts (see Attachment 5).

Special Education Component

According to PED

- based on the data provided through the state’s Student Teacher Accountability Reporting System (STARS) and through district records – including the number of students identified as eligible for special education services (including gifted students), the number of personnel (FTE) providing these services and Developmentally Delayed preschool enrollment – budget and finance staff and program staff from the Special Education Bureau at PED were to audit districts reporting data higher than statewide average, showing noteworthy differences from the previous year or other unusual trends; and
- audits were to include random sampling of Individualized Education Programs (IEPs) by PED staff to ensure:

- data included in the IEPs matches the information provided through STARS;
- special education students have been properly indentified and are receiving appropriate services;
- funds for services provided is reasonable based on an individual student's needs;
- funds are being utilized as outlined in the local education authority's budget plan; and
- districts are in compliance with state and federal guidelines under the *Individuals with Disabilities Education Act* (IDEA).

Teacher Training and Experience Component

With regard to the teacher Training and Experience (T&E) component of the audit, the department reported that:

- based on information provided by school districts on salaries and benefits for instructional staff, specifically years of experience of teachers and their academic degrees, department program staff were to audit districts reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends; and
- audits by PED staff were to include on-site review of district records and additional accountability measures.

Initial PED Findings

In a memorandum dated April 27, 2011, Secretary-designate Skandera announced initial findings (see Attachment 6). While the memorandum did not include specific details describing the nature of the findings by individual district, it noted that:

- the special education-related findings were often due to compliance issues not consistent with state or federal laws, including IDEA; and
- increases in the teacher T&E Index were audited in five districts.

According to the memorandum, the 34 school districts were categorized into four compliance categories (see Attachment 6 for school district list):

- eight districts were cleared through the audit;
- thirteen districts were cited for minor compliance issues;
- four districts were cited for major compliance issues; and
- nine districts were selected for additional audit measures based on initial findings (see Attachment 7). For these nine districts, the memo cited the following issues:
 - severe data quality issues;
 - could not verify data reported to PED;
 - could not validate records and provider service logs;
 - could not verify students were receiving services;
 - showed unusually high rates of ancillary services provided;
 - overbilled the state for services provided; or
 - showed unusual trends needing additional review.

To conduct the additional audits, the memorandum indicates that PED plans to employ the expertise of the Center for Technical Assistance for Excellence in Special Education, the special education technical assistance division for the Center for Persons with Disabilities at Utah State University, an entity that currently provides technical assistance to PED.

For districts cited for minor or major compliance issues, PED committed to “follow up with these districts within the next two weeks outlining specific remedies and a timeline for coming into compliance.”

The April 27 memo also noted that PED will conduct similar audits on charter schools, thereby addressing a concern raised by both LESC and LFC. According to a PED press release, 28 charter schools were selected for the PED audit (see Attachment 8). According to PED, the charter school audits were to begin on Tuesday, May 3, 2011. As of May 23, the LESC has not received information regarding the results of the charter school audits.

LESC Staff Observations

To the extent that school districts may be misrepresenting data, either accidentally or intentionally, the department’s efforts to identify erroneous reporting is appropriate. If a school district is intentionally misrepresenting data, it should be held accountable.

While supportive of efforts to ensure a correct distribution of funds, LESC staff would like to offer the following observations:

- According to PED, a comparison of school district membership data on the 80th day of school year 2010-2011 to the 80th day of school year 2011-2012 indicated an increase of approximately 7,894 program units, as outlined in the table below. This increase in units was cited as one of the primary reasons to conduct the audit.

Increase of Program Units: 80th day from 2010-2011 to 80th day of 2011-2012	
<i>Program</i>	<i>Unit Increase</i>
Early Childhood	821.5
Grade 1-12 MEM	3,199.0
Special Education MEM	1,531.7
Related Services	774.8
Increase in Statewide T&E	2,238.5
Other changes in units (bilingual, growth, size, etc)	-671.4
<i>Total</i>	7,894.0
Note: Change in units based on 3/10 compared to 3/11	
Source: PED	

However, LESC analysis of 2010-2011 Final Funded data compared to 2011-2012 Preliminary Funded data estimates a unit increase of about 3,700 units as shown in the table below. This is a decrease of about 4,200 units from the estimate PED used to establish the preliminary unit value. An LFC brief from May 18, 2011 noted, “year over year differences have ranged from an 8,000 unit decrease (FY08-09) to over 19,000 unit increase (FY04-FY05).

Increase in Program Units: 2010-2011 Final to 2011-2012 Preliminary¹	
<i>Program</i>	<i>Unit Increase</i>
Early Childhood	785.5
Grade 1-12 MEM	2,615.6
Special Education MEM	799.0
Related Services	545.0
Increase in Statewide T&E	1,565.7
Other changes in units (bilingual, growth, size, etc)	-2,596.2
<i>Total</i>	3,714.6

Note: Change in units based on 10-11 Final Funded vs. 11-12 Preliminary Units Source: LESC analysis of PED data

The Secretary is allowed to adjust the preliminary unit upon verification of the first required reporting date (second Wednesday in October) but not later than January 31 of the school year. Through the budget review process and the remainder of the summer, PED would have had time to fully evaluate a change in program units in a more informed manner. As noted in the LESC staff letter dated April 19, “LESC staff are concerned not only that this deadline is much sooner than necessary but also that it provides too short a time frame to examine data sufficiently and to report findings, let alone sufficient time for school districts to respond to findings.”

It appears that the audit methodology used by PED was not sufficient to clearly identify formula chasing. The audit procedures and tools focused on an assessment of special education compliance as opposed to an audit to ensure accurate data reporting for funding purposes. LFC staff expressed similar concerns. In an April 19 letter, LFC Deputy Director Charles Sallee wrote, “The aggressive schedule for the data validation audits, the narrow scope, and limited audit procedures are not designed to fully assess drivers in new reported units, nor identify fraud or gaming of the formula.”

According to the website of the New Mexico State Auditor the term “audit” refers to a variety of activities. Given the scope and methods, the audit conducted by PED staff can be described as a Regulatory or Compliance audit. The background section contains a review of the types of audits, activities included in a standard audit, and the elements of a finding.

Other LESC staff observations include concerns that:

- no standardized use of statistical techniques was considered to identify outliers. For example, PED could have selected districts that are two or more standard deviations from the mean;
- district selection was not always based on the number of times the district exceeded statewide growth in the data sets provided to legislative staff by PED. For example, Albuquerque Public Schools received only one checkmark (for growth in the teacher T&E Index) but was selected for a site audit of special education data. Conversely, Eunice Public Schools received checkmarks from increases in five data sets but was not selected for an audit; and

¹ The final funded run uses the average of 80th and 120th day data with adjustments for 40th day data on growth and new programs. The preliminary funded run uses the average of 80th and 12th day data with a projection for 40th day numbers.

- student growth in one special education category was viewed in isolation from a possible decrease in other special education categories. For example, growth in C level students could be explained by a decrease in D level students.

In an effort to assess district experiences with the audit, LESC staff conducted a survey of districts and will report the results in a separate staff report.

Information Pending

LESC Director, on May 8, requested additional information regarding the audit. As of May 23, PED has not provided the following:

- the names, position and audit experience of the PED audit team;
- a summary of the data used to select the audited districts and charter schools;
- a description of documents reviewed for each district and charter school;
- an explanation of how the audit procedures/tools relate to the units generated in the State Equalization Guarantee;
- a list of findings by district and by charter school;
- a description of the “additional accountability measures” used to categorize districts and charter schools; and
- PED recommendations by district and by charter school.

Next Steps

Any audit of school districts should emphasize the need for quality and timely data. State law requires accurate records about public school membership to be reported to PED on three occasions:

- first reporting day: second Wednesday in October (can be referred to as 40th day);
- second reporting day: December 1 or the first working day in December (80th day); and
- third reporting day: second Wednesday in February (120th day).

Legislators and staff rely on data to make consequential decisions. Both districts and PED need to make accurate and timely data submission a priority. Concerning timely data, the LESC may wish to consider asking PED if the department has examined:

- issues that contribute to the time period between the initial data submission and final, certified data; and
- changes in organizational structure or policies and procedures that might expedite the data certification process.

Background

The term ‘audit’ can describe a variety of activities. The New Mexico State Auditor’s website lists the following:

Types of Audits

- **Financial:** Intended to determine whether the overall financial statements are accurate and stated in accordance with specified criteria.
- **Performance:** Intended to determine whether the entity is (1) managing and utilizing its resources economically and efficiently; (2) achieving its operational goals; (3) safeguarding its assets; and (4) complying with policies, procedures, laws, and regulations.
- **Regulatory:** Intended to provide reasonable assurance that the organization has complied with the applicable policies, procedures, laws, and regulations.
- **Internal:** Intended to review the organization's needs, procedures and controls. This can include a review of revenues, expenditures, basic computer controls and security, use of assets, and all policies and procedures concerning that organization.
- **Fraud/Special Major Focus:** Investigative in nature; focused on specific allegations of financial fraud, waste and abuse associated with specific individuals and/or specific transactions.

Audit Process

Depending on the type of audit, the scope of the audit, the organization being audited, and the amount of resources dedicated to the audit, the typical amount of time involved in the audit process can vary, but often ranges between three to five months. In general, audits will implement the following process:

- **Entrance Conference:** A formal meeting to discuss the nature and scope of the audit, and the operational characteristics of the organization to be audited. The initial information request is often provided during the entrance conference.
- **Audit Fieldwork:** The gathering of evidence through observation, inspection, confirmation, or analysis to enable a reasonable basis for an opinion or conclusion about controls, compliance, financial statements, or performance.
- **Updates or Informational Meetings:** Periodic meetings between auditor and management of the organization to obtain or provide information about audit issues and to review preliminary audit findings.
- **Exit Conference:** A formal meeting to discuss the preliminary audit findings and draft audit report. Also, the report distribution process and legislative or other meetings will be discussed.
- **Draft Audit Report:** Delivery of draft audit report, which includes audit findings and recommendations, for the organization's responses and feedback on presentation.
- **Organization's Responses:** Submission of organization's responses to audit findings and recommendations for inclusion in the final report.
- **Final Audit Report**
- **Status Report:** After the issuance of the audit report, auditors will often request a status report of the organization's action plan. Auditors will often review and report on the extent of implementation of recommended corrective actions.

Elements of a “Finding”

Findings are the core of an audit report. Findings result from the gathering and analysis of data and help to form conclusions about how an organization is operating. A finding provides the reader of the audit an understanding of what occurred, how significant the occurrence was, and how to protect against its reoccurrence.

Findings have the following elements:

- **Criteria:** “What should be” – The standards or measures that describes the required or desired state. Ideally, criteria should be explicit, complete, consistent, and easy to understand.
- **Condition:** “What exists” – The factual evidence gathered that demonstrates the actual situation.
- **Cause:** The factors or reasons for the difference between the required state and the actual situation. Causes supported by persuasive evidence often serve as the basis for recommendations.
- **Effect:** The risks or problems incurred because the condition is not consistent with the criteria.



ATTACHMENT 1

STATE OF NEW MEXICO
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HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

April 7, 2011

MEMORANDUM

TO: Public School Superintendents
Charter School Officials
Local Board Presidents
Business Managers

FROM: Hanna Skandera (signature on file)
Secretary of Education

RE: 2011-2012 INITIAL PROGRAM UNIT VALUE

On Friday, April 1, 2011, the Public Education Department met with stakeholders from the following: the Legislative Education Study Committee, the Legislative Finance Committee, the Department of Finance and Administration, the New Mexico Coalition of School Administrators, New Mexico School Boards Association, New Mexico Association of School Business Officials, representative school district superintendents and NEA-New Mexico. The purpose of the meeting was to discuss and gain consensus on the projected program units and the preliminary unit value for 2011-2012.

This year, the 80-day membership count reflected a 3,417 student increase over last year's 80-day count, translating to an approximate 1 percent increase in total membership in the state. This increase in enrollment is consistent with previous trends. However, the actual program unit count increase was greater than previous years, representing a nearly 60 percent increase in unit count in the special education and teacher training and experience categories.

Three scenarios were analyzed and discussed using the 80-day membership numbers and different projections for growth. Factors such as projected units, enrollment growth and revenue estimates were discussed at length. As a result of the meeting, consensus was reached on the initial program unit value.

The following are the consensus projected total units and associated unit value:

Projected Total Units:	639,161.245
Initial Planning FY12 Unit Value:	\$3,585.97 a decrease of \$126.20 below the current combined unit value

If you have any questions or need additional information, please do not hesitate to contact your assigned budget analyst or Steve Burrell at (505) 827-3860.

HS/sb

cc: Office of the Governor
Richard May, Cabinet Secretary, Department of Finance and Administration
Paul Aguilar, Deputy Secretary, Finance and Operations, PED
David Abbey, Director, Legislative Finance Committee
Frances Ramirez-Maestas, Director, Legislative Education Study Committee
Steve Burrell, Director, School Budget and Finance Analysis Bureau
Pamela Bowker, Deputy Director, School Budget and Finance Analysis Bureau
Budget Analysts, School Budget and Finance Analysis Bureau

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APR 12 2011

HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

April 12, 2011

MEMORANDUM

TO: Public School Superintendents
Charter School Officials
Local Board Presidents
Business Managers

FROM: Hanna Skandera
Secretary-designate, Public Education Department

RE: **Public Education Department Audit of 2011-2012 School District Data**

Public Education Department Announces Audit of 2011-2012 School District Data:

Background:

By forcing savings elsewhere in state government to prioritize education, Governor Susana Martinez delivered on her promise to protect classroom spending. In these challenging economic times, New Mexico's state budget for the coming year reduces the overall appropriation to school districts by only 1.5 percent – an amount that should be absorbed by cutting waste and education bureaucracy.

This appropriation is divided up and distributed to school districts using the public school funding formula, which has been in place since 1974. The formula determines what percentage of the overall appropriation each district is entitled to receive.

While the funding formula neither increases, nor decreases, the overall appropriation from the state, it does impact each district's share of annual funding. For example, if one district saw a huge increase in special education students, the district would receive a greater share of the overall appropriation.

To calculate each district's share, the funding formula uses "individual units", which are based on data received by local school districts and reflects the costs for providing an education to students across the

state with different needs. This year, the number of units grew by 7,894 units from last year, a nearly **116 percent** jump from the previous increase of 3,657 units from school year 2009-2010 to 2010-2011.

This enormous increase from last school year's growth suggests potential inconsistencies or errors in the data provided and intentional gaming of the system to receive additional funds. Based on a preliminary review of the data, the increase in projected units for the next school year is largely a result of:

- A 1 percent increase in student enrollment – an increase of 3,417 students, similar to growth in enrollment for the previous year of 3,047 students.
- A large increase in the reported number of special education students – an increase of 1,518 from last year, and an increase in associated services entitled to them.
- A large increase in expenses for teacher training and experience.

While the 1 percent increase in enrollment is consistent with previous trends, nearly 60 percent of the increase in units appears to be in the areas of special education and teacher training and experience – inconsistent with recent trends.

Audit Process and Timeline for Reporting Findings

To maximize transparency and equality in education funding for the coming school year, the Public Education Department is immediately commencing an audit of data submitted by school districts to ensure information has been reported accurately and taxpayer dollars are protected. Most importantly, the audit will ensure that funds are being fairly distributed to school districts.

Based on a preliminary review of data for special education services and teacher training and experience, the Department has identified districts that will be the primary focus of the audit. The audit process will consist of examining and investigating data from districts reporting large increases in either of these two program areas, as well as related information. Staff from the Legislative Finance Committee and Legislative Education Study Committee will aid the Department in the audit process.

By close of business on Thursday, April 14, 2011, districts under review will be provided a letter outlining next steps for the audit process. Districts not receiving notification by Thursday are not part of the initial focus of the audit and should continue finalizing their budgets based on the planning unit value announced at the Department's recent Spring Budget Workshop.

A tentative date of April 27, 2011, has been identified by the Department to report initial audit findings to school districts, charter and state-supported schools, education stakeholders and the public.

Auditing of Special Education and Related Services:

Based on the data provided through the state's Student Teacher Accountability Reporting System (STARS) and through district records – including number of students identified as eligible for special education services (including gifted students), the number of personnel (FTE) providing these services and Developmentally Delayed preschool enrollment – budget and finance staff and program staff from the Department's Special Education Bureau will audit districts reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends.

Audits will include random sampling of Individualized Education Programs (IEPs) by Department staff to ensure:

- Data included in Individualized Education Programs (IEPs) matches the information provided through the state's Student Teacher Accountability Reporting System (STARS).
- Special education students have been properly identified and are receiving appropriate services.
- Funds for services provided is reasonable based on an individual student's needs.
- Funds are being utilized as outlined in the local education authority's budget plan.
- Districts are in compliance with state and federal guidelines under the Individuals with Disabilities Education Act (IDEA).

Audits by Department staff may include on-site review of district records and additional accountability measures.

Auditing of Teacher Training and Experience:

Based on information provided by school districts on salaries and benefits for instructional staff, specifically years of experience of teachers and their academic degrees, Department program staff will audit districts reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends.

Audits by Department staff may include on-site review of district records and additional accountability measures.

Public Education Department's Annual 2011-2012 Budget Review Process:

The Public Education Department continues to prepare for the upcoming annual school district review process. Meeting dates for districts not being audited should not be affected. However, there may be scheduling changes for districts identified for auditing.

If you have any questions or need additional information, please do not hesitate to contact your assigned budget analyst or Steve Burrell at (505) 827-3860.

cc: Office of the Governor
Senator Cynthia Nava, Chair, Senate Education Committee
Senator John Arthur Smith, Chair, Senate Finance Committee
Representative Luciano "Lucky" Varela, Chair, Legislative Finance Committee
Representative Rick Miera, Chair, House Education Committee
Richard May, Cabinet Secretary, Department of Finance and Administration
David Abbey, Director, Legislative Finance Committee
Frances Ramirez-Maestas, Director, Legislative Education Study Committee
Paul Aguilar, Deputy Secretary, Finance and Operations, PED
Steve Burrell, Director, School Budget and Finance Analysis Bureau
Pamela Bowker, Deputy Director, School Budget and Finance Analysis Bureau
Budget Analysts, School Budget and Finance Analysis Bureau



Assumptions Used for Statewide Special Education and Training and Experience Data Analysis

- Training and Experience
 - Identified the 11 largest school districts
 - Flagged those districts with growth above 0.33 percent

- A/B Membership
 - Identified districts with a percent change in membership counts three times the statewide average (7.41 percent).
 - 14 districts were flagged for further review.

- Ancillary FTE
 - Identified districts with percent change 80th day 2010 to 80th Day 2011 of 10 percent or greater.
 - 17 districts flagged for further evaluation.

- Ancillary/SpEd Membership
 - Identified districts with a percentage of ancillary FTE to SpEd membership of 10 percent or greater.
 - 16 districts flagged for further evaluation.

- C-C Gifted Membership
 - Identified districts with percent change 80th day 2010 to 80th Day 2011 of 10 percent or greater.
 - 15 districts flagged for further evaluation.

- D-D Gifted Membership
 - Identified districts with percent change 80th day 2010 to 80th Day 2011 of 10 percent or greater.
 - 20 districts flagged for further evaluation.

- 3yr DD Membership
 - Identified districts with percent change 80th day 2010 to 80th Day 2011 of 10 percent or greater.
 - 19 districts flagged for further evaluation.

- 4yr DD Membership
 - Identified districts with percent change 80th day 2010 to 80th Day 2011 of 26 percent or greater.
 - 20 districts flagged for further evaluation.

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 David Harrell, PhD, Deputy Director

April 19, 2011

Ms. Hanna Skandera
 Secretary-designate of Public Education
 300 Don Gaspar, Room 109
 Santa Fe, New Mexico 87501-2786

Dear Secretary-designate Skandera:

I am writing this letter to explain the position of the staff of the Legislative Education Study Committee (LESC) on the audit of selected school districts by the Public Education Department (PED). We appreciate your interest and that of PED in consulting with us; however, we have some reservations about the nature of the consultation and the focus and expected outcome of the audit.

Our concerns began with the meeting you convened on Tuesday, April 12. At this meeting we were presented a copy of a memorandum dated April 12, which you had already sent to district and charter school officials stating, among other points, that "[s]taff from the Legislative Finance Committee and Legislative Education Study Committee will aid the Department in the audit process." This was the first we had heard about such collaboration.

During this meeting, PED staff provided spreadsheets containing special education, T & E, and other data from school districts as a means of identifying those districts subject to audit. The first question we raised was why similar data from charter schools were not included since there are nearly as many charter schools as there are school districts and since they operate under similar fiscal circumstances. As you may know, LESL staff have asked recently to review such charter school data, but PED has yet to provide the data. Of course, if it does not include charter schools, your planned audit will be incomplete at best. In addition, your letter of April 14 to the superintendents of districts selected for audit states that PED has "recently compiled and totaled data submitted by school districts, *charter schools* and local education authorities . . . [emphasis added]."

As the April 12 meeting progressed, we raised a number of other questions and concerns. I will note two of the major ones here.

First, LESC staff questioned the short timeline of the audit. In order to develop budgets for school year 2011-2012, the *General Appropriation Act of 2011* includes language to require the Secretary of Public Education to establish a preliminary unit value. This language also allows the unit value to be adjusted one additional time, no later than January 31, 2012, upon verification of the number of units statewide. As you are aware, the verification is to occur after the first reporting date required in law, which is the second Wednesday in October, several months after your announced deadline of April 27 for initial audit findings. LESC staff are concerned not only that this deadline is much sooner than necessary but also that it provides too short a timeframe to examine data sufficiently and to report findings, let alone sufficient time for school districts to respond to the findings. We also note that, in a letter of April 15, the Legislative Finance Committee raises a similar concern. Moreover, our initial concern about the short timeline was heightened when we learned, on April 14, that PED intends to audit 34 school districts by April 27, including three of the state's largest districts.

Second, LESC staff expressed reservations about the department's identification of school districts to be audited based on only two years of data. As we suggested at the meeting, an analysis of several years of data would produce more reliable results. To illustrate, a school district showing a large increase in special education students from one year to the next may still be well below the average state identification rate; a district with little or no increase from one year to the next may be well above the average statewide rate; and, in either case, trend data would provide more useful and telling information about district practices and priorities. Also on this point, LESC staff offered to provide a recent analysis that identified school districts and charter schools with ancillary staff in excess of the PED guidelines for maximum special education caseloads; however, the department's selection of districts seems not to have taken this information into account.

Finally, we are also concerned about the premise and tone of the audit. According to the department's April 12 memorandum, the "enormous increase from last year's growth suggests potential inconsistencies or errors in the data provided and *intentional gaming of the system* to receive additional funds [emphasis added]." In addition, the department press release and remarks quoted in the media have perpetuated this presumption of guilt. One example appeared in a front-page story in the April 18 issue of the *Albuquerque Journal*: "Skandera said she suspects districts of 'gaming' their numbers by reporting inflated special education enrollment and teacher training numbers in order to get more state money." Although your audit may uncover instances of "intentional gaming," it seems to us that such labels should be applied to the findings of an audit as warranted, not to the initial description of the audit. We are also concerned that, under pressure to produce initial findings by April 27, PED staff may be unable to identify underlying circumstances that could explain any apparent "gaming" and may even overlook instances of incorrect data submission.

Given these concerns, we appreciate your not including the LESC staff as consultants or participants in this audit in the April 14 letter that you sent to the selected districts. Despite these

concerns, however, and in the interest of supporting public school students statewide, the LESC staff remain willing to collaborate with PED in a meaningful and constructive fashion in any well-conceived project. In addition, both the staff and the members of the committee will be interested in reviewing and discussing with you the results of this audit and any subsequent audits.

Sincerely,

A handwritten signature in cursive script that reads "Frances Ramirez-Maestas". The signature is written in black ink and is positioned above the printed name of the signatory.

Frances Ramirez-Maestas, Director

xc: Members of the LESC
Representative Luciano "Lucky" Varela
Senator John Arthur Smith
David Abbey, Director, Legislative Finance Committee
Paul Aguilar, Deputy Secretary, Finance and Operations, PED



Hanna Skandera
Secretary of Education-Designate

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NEWS RELEASE

For Immediate Release: April 14, 2011

New Mexico Public Education Department Announces Audit of 34 School Districts

SANTA FE – Keeping Governor Martinez’s promise to protect students and classroom spending, the New Mexico Public Education Department (NMPED) sent letters to 34 school districts across the state on Thursday that outlined the next steps in the audit process for those districts.

“I know there are not 34 districts ‘gaming the system’ in New Mexico,” said Secretary-Designate Hanna Skandera. “This audit is designed to clear those who turn in honest data and put the spotlight on those who don’t. And above all, this audit signals a new era of transparency and accountability in New Mexico schools.”

The initial findings in the audit have found nearly \$18 million in funding claims from 34 districts that NMPED will focus on in the coming days. It is expected that many of the 34 districts under review on Thursday will be cleared from the audit quickly.

The following districts received letters today from the New Mexico Public Education Department:

Alamogordo
Albuquerque
Aztec
Bloomfield
Cimarron
Clayton
Clovis
Cobre
Des Moines
Dulce
Española
Fort Sumner
Gadsden
Gallup
Grants
Hagerman
Hobbs
Las Cruces

Los Alamos
Melrose
Maxwell
Moriarty
Pojoaque
Portales
Rio Rancho
Roswell
Santa Fe
Santa Rosa
Silver
Socorro
Taos
Tucumcari
Tularosa
Vaughn

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HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

April 27, 2011

MEMORANDUM

TO: Public School Superintendents
Charter School Officials
Local Board Presidents
Business Managers

FROM: Hanna Skandera
Secretary-designate, Public Education Department

RE: **Initial Findings of the Public Education Department's Audit of 2011-2012 School District Data**

Public Education Department Conducts Audit of 2011-2012 School District Data:

To deliver on her commitment to protect classroom spending, establish strong fiscal and academic accountability for schools and yield a smarter return on taxpayers' investment in education, Governor Susana Martinez is establishing unprecedented transparency in New Mexico schools. Under her leadership, the Public Education Department recently conducted an expedited review of school district data to determine the reasons for unusually high increases in special education student identifications, special education services and expenses for teacher training and services reported for the coming school year. The audit was undertaken to ensure information is being reported accurately and taxpayer dollars are protected.

Audit Process: Special Education and Related Services and Teacher Training and Experience:

As announced on April 14, 2011, based on a preliminary review of data, the Department identified 34 districts as the primary focus of our audit. These 34 districts reported high rates of special education students, special education services or expenses for teacher training and experience. Each exceeded the average statewide growth by at least 200 percent, the initial statistical bar set for the audit. Districts that

underwent review exceeded statewide growth from nearly 200 percent up to more than 1,000 times the average increase statewide in some cases.

Auditing of Special Education and Related Services:

Based on the data provided through the state's Student Teacher Accountability Reporting System (STARS) and through district records – including number of students identified as eligible for special education services (including gifted students), the number of personnel (FTE) providing these services and Developmentally Delayed preschool enrollment – budget and finance staff and program staff from our Special Education Bureau audited districts reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends not in compliance with state and federal laws under the Individuals with Disabilities Education Act (IDEA).

Based on the extent of abnormalities, our staff conducted several onsite reviews of district records. Audits included random sampling – 10 percent of affected populations reviewed in the majority of districts – of Individualized Education Programs (IEPs) by Department staff to evaluate whether:

- Data included in Individualized Education Programs (IEPs) matches the information provided through the state's Student Teacher Accountability Reporting System (STARS).
- Funds for services provided is reasonable based on an individual student's needs.
- Data reviewed from districts are in compliance with state and federal guidelines under the Individuals with Disabilities Education Act (IDEA).

Auditing of Teacher Training and Experience:

Based on information provided by school districts on salaries and benefits for instructional staff, specifically years of experience of teachers and their academic degrees, we audited five districts reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends. These audits by Department staff included on-site review of district records and additional accountability measures.

Department Announces Initial Audit Findings By District:

Districts Cleared through the Department's Audit (8 Districts):

Based on a review of records and additional accountability measures established by the Department's auditing team, eight school districts were cleared of all issues regarding special education, special education services and expenses for teacher training and experience. In the majority of cases, these districts exhibited exemplary data quality, accurate record keeping, strong accountability and no compliance infractions. These districts include:

- Aztec
- Des Moines
- Los Alamos
- Maxwell
- Portales
- Rio Rancho
- Santa Rosa
- Silver City

Districts Cited for Minor Compliance Issues (13 Districts):

Based on a review of records and additional accountability measures established by the Department's auditing team, 14 school districts were cited for minor compliance issues not consistent with state or federal laws. Minor compliance issues identified include poor data quality, inaccurate or delayed record keeping, discrepancies between data submitted to the Department and data included in a student's Individualized Education Program and potential additional questions regarding the level of services provided to a special education student. The Department will follow up with these districts within the next two weeks outlining specific remedies and a timeline for coming into compliance. In many cases, this may be as simple as correcting unintentional technical errors. The districts identified include:

- Albuquerque
- Bloomfield
- Clayton
- Clovis
- Fort Sumner
- Gadsden
- Hagerman
- Hobbs
- Moriarty
- Roswell
- Socorro
- Tularosa
- Vaughn

Districts Cited for Major Compliance Issues (4 Districts):

Based on a review of records and additional accountability measures established by the Department's auditing team, 4 school districts were cited for major compliance issues not consistent with state or federal laws. In addition to minor compliance issues, these districts also may have misidentified special education students, did not follow federal law on the transition of young children from Part C Early Intervention into IDEA Part B special education preschool services, showed unusually high rates of ancillary services provided or failed to provide services to children despite receiving dollars for these services from the state. The Department will follow up with these districts within the next two weeks outlining specific remedies and a timeline for coming into compliance with state and federal laws. These districts include:

- Cimarron
- Dulce
- Santa Fe
- Tucumcari

Districts Selected for Additional Audit Measures Based on Initial Findings (9 Districts):

Based on a review of records and additional accountability measures established by the Department's auditing team, 9 school districts were identified as needing a more intensive and expansive audit to determine the extent of their infractions. In addition to the major compliance issues identified above, in

many cases, these districts exhibited severe data quality issues or could not verify data reported to the Department, could not validate records and provider service logs, could not verify students were receiving services showed unusually high rates of ancillary services provided, overbilled the state for services provided or showed unusual trends needing additional review. These districts include:

- Alamogordo
- Cobre
- Espanola
- Gallup
- Grants
- Las Cruces
- Melrose
- Pojoaque
- Taos

Districts Already Under Review by the Department:

In addition to 34 districts noted above, Artesia, Belen, Cuba, Deming, Hatch, Jal, Lovington, Portales (cleared in the current audit process), Raton, Ruidoso, Tatum and Tucumcari were previously identified for other special education compliance issues and continue to be monitored by the Department.

Ensuring Needs of All Special Education Students Are Met: A Systemic Challenge for New Mexico:

The Department's review of school district data found not just several errors, inconsistencies and concerning patterns in several school districts, but also raised broader systemic issues regarding the way New Mexico identifies special education students and provides for their unique needs. Challenges currently identified in districts include improving data quality, creating consistent local accountability systems to ensure the provision of services and the proper application of state and federal guidelines for identifying the needs of individual special education students.

We will continue to provide technical assistance to districts in these areas. We hope to explore ways to better guide districts through these challenges, ensuring greater transparency for our taxpayers and appropriate services for our children.

External Audit Conducted by Center for Technical Assistance for Excellence in Special Education:

Based on the Department's initial findings, additional investigation is warranted in Alamogordo, Cobre, Espanola, Gallup, Grants, Las Cruces, Melrose, Pojoaque and Taos. These districts are responsible for more than \$11 million of the \$18 million in units identified for auditing.

To continue with the audit process, the Department plans to call on the expertise of the Center for Technical Assistance for Excellence in Special Education (TAESE), the special education technical assistance division for the Center for Persons with Disabilities at Utah State University. The Department already contracts with TAESE for technical assistance to the State of New Mexico for special education, a resource funded by the federal government under IDEA. The Center has a 30-year history of providing oversight in this field, working on 25 different projects in 14 states across the country.

TAESE will expand its role in New Mexico by overseeing an audit of these nine districts, beginning in May – depending on each district’s academic calendar – and tentatively reporting final findings by October. This audit will include a more expansive sampling of records to validate data, forensic cyber measures, if necessary, as well as a thorough review of policy and procedures at the local and state levels. Personnel from the Department and other agencies will join the audit teams as needed. Legislative staff will also be invited to participate. Affected districts will soon be notified of a formal auditing schedule.

Next Steps at PED: Charter School Audits:

As the second tier of the Department’s audit of local education authority data begins, charter schools reporting exceptionally high rates of special education students, special education services or expenses for teacher training and experience will be notified of an upcoming audit by close of business on Friday, April 29, 2011. Given the substantially greater number of students affected, school districts were prioritized in audit sequence ahead of charter schools.

Public Education Department’s Annual 2011-2012 Budget Review Process:

While the State’s planning unit value is subject to change in January – based on final data for the school year – all school districts, charter schools and local education authorities should move forward with finalizing budgets for the coming year.

The Public Education Department is now beginning our annual school district review process. Meeting dates for all local education authorities – even those audited – will now move forward.

By forcing savings elsewhere in state government to prioritize education, Governor Martinez delivered on her promise to protect classroom spending. In these challenging economic times, New Mexico’s state budget for the coming year reduces the overall appropriation to school districts by only 1.5 percent – an amount that should be absorbed by cutting waste and education bureaucracy.

In challenging economic times, it is even more important to ensure our education dollars directly benefit our children and teachers. By forcing savings elsewhere in state government to prioritize education, Governor Martinez delivered on her promise to protect classroom spending in the coming fiscal year’s budget.

To yield a smarter return on New Mexico’s investment in the education of our children, we are committed to helping school districts and local education authorities throughout the budget process. As budgets are finalized in the coming weeks, the Department stands ready to help. Through scheduled meetings and conversations with our staff, the annual budget review process presents an opportunity to work together, ensuring every dollar committed to education is used as efficiently and effectively as possible.

Please let us know how we can be a resource, better serving your staff and students. Our staff can provide support and helpful feedback and guidance as you make important decisions for the coming school year. It is our goal for this audit to serve as the first of many efforts to partner together to increase transparency and accountability in our schools. Together, we can find creative and innovative solutions to our most pressing challenges.

cc: Office of the Governor

Senator Cynthia Nava, Chair, Senate Education Committee
Senator John Arthur Smith, Chair, Senate Finance Committee
Representative Luciano "Lucky" Varela, Chair, Legislative Finance Committee
Representative Rick Miera, Chair, House Education Committee
Richard May, Cabinet Secretary, Department of Finance and Administration
David Abbey, Director, Legislative Finance Committee
Frances Ramirez-Maestas, Director, Legislative Education Study Committee
Paul Aguilar, Deputy Secretary, Finance and Operations, PED
Steve Burrell, Director, School Budget and Finance Analysis Bureau
Pamela Bowker, Deputy Director, School Budget and Finance Analysis Bureau
Budget Analysts, School Budget and Finance Analysis Bureau

Initial Findings of PED Audit by School District		
<i>District</i>	<i>Field Work</i>	<i>Category</i>
1Alamogordo	Phone Call	Additional Audit
2Albuquerque	Site Visit	Minor Compliance Issues
3Aztec	Phone Call	Cleared of all Issues
4Bloomfield	Phone Call	Minor Compliance Issues
5Cimarron	Phone Call	Major Compliance Issues
6Clayton	Phone Call	Minor Compliance Issues
7Clovis	Site Visit	Minor Compliance Issues
8Cobre	Site Visit	Additional Audit
9Des Moines	?	Cleared of all Issues
10Dulce	Phone Call	Major Compliance Issues
11Espanola	Site Visit	Additional Audit
12Fort Sumner	Phone Call	Minor Compliance Issues
13Gadsden	?	Minor Compliance Issues
14Gallup	Site Visit	Additional Audit
15Grants	Site Visit	Additional Audit
16Hagerman	Phone Call	Minor Compliance Issues
17Hobbs	Phone Call	Minor Compliance Issues
18Las Cruces	Site Visit	Additional Audit
19Los Alamos	Phone Call	Cleared of all Issues
20Melrose	Phone Call	Additional Audit
21Maxwell	Site Visit	Cleared of all Issues
22Moriarty	Phone Call	Minor Compliance Issues
23Pojoaque	Phone Call	Additional Audit
24Portales	Site Visit	Cleared of all Issues
25Rio Rancho	Phone Call	Cleared of all Issues
26Roswell	Site Visit	Minor Compliance Issues
27Santa Fe	Site Visit	Major Compliance Issues
28Santa Rosa	Phone Call	Cleared of all Issues
29Silver	Phone Call	Cleared of all Issues
30Socorro	Phone Call	Minor Compliance Issues
31Taos	Site Visit	Additional Audit
32Tucumcari	Site Visit	Major Compliance Issues
33Tularosa	Phone Call	Minor Compliance Issues
34Vaughn	Site Visit	Minor Compliance Issues

SOURCE: Public Education Department



Hanna Skandera
Secretary of Education-Designate

ATTACHMENT 8

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NEWS RELEASE

For Immediate Release: April 29, 2011

New Mexico Public Education Department Announces Audit of 28 Charter Schools

SANTA FE – Continuing in its commitment to protect taxpayer dollars, the New Mexico Public Education Department (PED) announced on Friday the next step in the audit process to better ensure fairness and transparency in school funding. Letters were sent to 28 charter schools across New Mexico to inform them PED will be performing an audit around Special Education and Training and Experience numbers. Affected charter schools will be contacted by Tuesday, May 3rd to discuss next steps in the process.

Shortly after enrollment numbers revealed a 116% increase in funding units, PED made a commitment to examine charter schools as part of the process to ensure better accuracy. "What we've found so far is a systemic problem in New Mexico when it comes to reporting accurate numbers," said Secretary-Designate Hanna Skandera. "While we are still in this audit process one result is clear, our reporting information needs to be much more transparent if we're going to spend taxpayer's dollars more responsibly," she added.

The following charter schools received letters today from the New Mexico Public Education Department:

Albuquerque Talent Development Secondary
Amy Biel – State Charter School
Anansi Charter
Carinos De Los Ninos
Corrales International
Cottonwood Classical
Ceaser Chavez - Deming
El Camino Real
Horizon Academy West
La Promesa Early Leadership
Las Montanas
Media Arts Collaborative
Middle College High
Montessori of the Rio Grande

Mountain Mahogany
Native American Community Academy
Nuestros Valores
Public Academy for Performing Arts
Rio Gallinas
Robert F. Kennedy
School of Dreams Academy
SIA Tech
Sidney Gutierrez
Southwest Intermediate Learning Center
Southwest Primary
Southwest Secondary
Taos Academy
Vista Grande