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**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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August 23, 2010

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Eilani Gerstner

**RE: LESC SCHOOL FINANCE WORK GROUP: STATUS REPORT**

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At the June 2010 interim meeting of the Legislative Education Study Committee (LESC), the committee approved the objective, activities, and membership of the LESC School Finance Work Group. Since then, the work group has met twice to consider its objective and activities: July 12, 2010 and August 9, 2010. The next meeting of the work group is scheduled for October 1, 2010.

This staff report will provide an overview of the issues covered and the outcomes of the first two meetings of the work group, including recommendations from subgroups appointed by the work group.

**JULY 12, 2010 WORK GROUP MEETING**

The first meeting of the LESC School Finance Work Group served as an organizational meeting to discuss the approved objective and activities of the work group and to determine if additional issues needed to be investigated.

As the work group members discussed the approved activities, several topics emerged as areas for further research and the group appointed two subgroups:

- an "internal controls/guidance document subgroup" assigned to review the Public Education Department's (PED) *Public School Accounting and Budgeting Manual of*

*Procedures* (many sections of which had not been updated since the 1990s), including revising the section on internal controls; and

- a “board guidance subgroup” assigned to develop guidelines for school boards and governing to assist them in their financial and audit oversight duties.

The work group also requested several presentations for the second work group meeting:

- licensure and training of school business officials;
- services available through Regional Education Cooperatives (RECs), including how RECs may help small school districts with school budget issues;
- a definition of “waste” from the Office of the State Auditor (OSA) staff;
- how school business offices can produce standardized report formats for their boards of finance; and
- Legislative Finance Committee (LFC) program evaluations of five school districts reviewed during the 2009 interim.

The work group also received a presentation from Mr. Joe Guillen, Executive Director, New Mexico School Boards Association (NMSBA) that included the results of a survey administered to school board members and presidents who attended the July 2010 NMSBA Leadership Retreat.

Among the results of the survey, 63 participants indicated their comfort levels in providing financial oversight for their districts:

- 21 participants (33.3 percent) were “very comfortable;”
- 26 participants (41.3 percent) were “somewhat comfortable;” and
- 16 participants (25.4 percent) were “not comfortable.”

Mr. Guillen said 57 participants also indicated their comfort levels in overseeing their districts’ audit responsibilities:

- 14 participants (24.6 percent) were “very comfortable;”
- 26 participants (45.6 percent) were “somewhat comfortable;” and
- 17 participants (29.8 percent) were “not comfortable.”

## **AUGUST 9, 2010 WORK GROUP MEETING**

Responding to requests at the first meeting, the work group heard the following testimony.

### ***Report: Internal controls/guidance document subgroup***

Subgroup members reported that the group met on July 26, 2010 to review the *Public School Accounting and Budgeting Manual of Procedures* and determined that many of the 22 sections of the manual had not been updated since the 1990s. The subgroup agreed that updating the manual would be an extensive project best assigned to an expert in school business management who had worked in the public schools.

*Recommendation:* The subgroup agreed to request \$50,000 from the New Mexico Public Schools Insurance Authority to hire one or more contractors to revise the manual. The attachment to this staff report is the letter from the LESC Director to the NMPSIA board on behalf of the work group. The letter includes an updated work group membership list and the approved objective and activities of the work group.

At the August 5, 2010 NMPSIA board meeting, the board approved the request.

### ***Report: Board guidance subgroup***

Mr. Guillen presented research on guidance for boards on their fiduciary duties developed by the New York State School Boards Association (NYSSBA). He said that NMSBA has formal relationships with NYSSBA and the consultant who helped NYSSBA develop the guidance, and both have agreed to share guidance documents with New Mexico.

*Recommendation:* Mr. Guillen recommended that the subgroup move forward with adapting New York's guidance documents to tailor them to New Mexico's needs, and the work group agreed.

### ***Presentation: Licensure and training of school business officials***

PED staff provided a report to the work group on the licensure and training requirements for public school business officials. They noted that these requirements are in rule but not in law.

PED staff also reported on the Educator Code of Ethics, to which all licensees must adhere, including licensed school business officials.

Discussion among work group members focused on the need for strengthened licensure, evaluation, and training requirements for school business officials, including the possibility of codifying requirements in law. PED staff suggested that all candidates for licensure be required to take an ethics course.

The work group requested the number and types of ethics complaints against school business officials to be provided at the next meeting (currently scheduled for October 1, 2010).

***Presentation: The Role of RECs***

Ms. Cathy Jones, Executive Director, REC IX, described current services that RECs provide for small school districts. Regarding the possibility of allowing an REC to employ a school business official to assist multiple districts, Ms. Jones said that such an arrangement is possible, but the legal implications of an REC managing funds for school districts would have to be investigated further.

Work group members also discussed the possibility of multiple school districts directly sharing one business manager.

***Presentation: Definition of “waste”***

Mr. Steve Archibeque, Senior Audit Manager, OSA provided the group with definitions of waste and abuse:

- waste of public resources, he said, is defined as follows:
  - to spend money or consume property extravagantly or improvidently (not foreseeing or providing for the future);
  - resources are unprofitably used, made, or expended;
  - to spend or use funds carelessly; or
  - to allow funds to be used inefficiently; and
- abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, violation of laws, regulations, or provisions of a contract or grant agreement.

***Presentation: Standardized report formats***

Mr. Steve Burrell, Acting Deputy Cabinet Secretary, Finance and Operations, PED, presented several examples of standard report formats that could be generated from PED’s Operating Budget Management System or a school district’s individual accounting and budgeting system.

***Recommendation:*** Work group members recommended creating minimum reporting requirements for financial reports to school boards and charter school governing authorities.

***Presentation: LFC program evaluations of school districts***

LFC staff provided an overview of findings from the LFC's 2009 program evaluations of five school districts.

The work group requested that LFC staff provide the group with their methodology of conducting school district program evaluations.

***Additional work group requests***

Finally, in addition to updates on ongoing work, the work group requested two additional presentations at the next meeting:

- one from PED's Office of Inspector General and PED licensure and ethics staff; and
- one on training provided by the New Mexico Association of School Business Officials.

**BACKGROUND**

During the 2010 legislative session, the LESC endorsed SJM 24, *Study School District Finances & Operations*, requesting that the Office of Education Accountability, in collaboration with PED and in consultation with OSA, form a work group to examine public school finance issues.

Although the joint memorial did not pass both chambers, in keeping with the LESC's focus on public school finances during the 2010 interim, the LESC requested that an LESC work group be formed and that updates on the progress of the work group be provided at each interim meeting.

At the June 2010 LESC interim meeting, the committee received the preliminary report on the LESC School Finance Work Group, including recommendations for membership and the objective and activities. Among its activities, the work group was charged with reviewing:

- laws, rules, and policies relating to public school finance;
- licensing and training of school business officials and board of finance members;
- availability of resources, including qualified school business officials and independent auditors;
- internal financial controls within school districts and charter schools; and
- the capacity of institutions of higher education to train future school business officials.

The LESC School Finance Work Group will present its final findings and recommendations at the December 2010 LESC meeting.

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Frances Ramírez-Maestas, Director  
David Harrell, PhD, Deputy Director

August 4, 2010

Board of Directors  
New Mexico Public School Insurance Authority  
410 Old Taos Highway  
Santa Fe, New Mexico 87501

RE: Funding Request

Dear Board Members:

As Director of the Legislative Education Study Committee (LESC) and on behalf of the LESC School Finance Work Group, I am writing to request that the Board of Directors of the New Mexico Public School Insurance Authority (NMPSIA) consider a funding request of \$50,000 to support an update and revision of the Public Education Department's *Public School Accounting and Budgeting Manual of Procedures*. As you will see, this project will help reduce the risk of the potential misuse of public dollars.

To address the potential for fraud and embezzlement in the state's school districts and charter schools, the LESC requested that staff form a public school finance work group in the 2010 interim consisting of statewide stakeholders, including the State Auditor's Office. The charge of the work group is to evaluate the adequacy and effectiveness of New Mexico's laws and regulations relating to public school finance, including the financial capacity and controls of school districts and charter schools statewide. The membership of the LESC School Finance Work Group is shown in Attachment 1, and the activities are shown in Attachment 2.

Work group discussions with school finance personnel have revealed two particularly salient points: (1) that all budgets and financial accounting of public schools and school

districts, including charter schools, are conducted according to the standards outlined in the above-referenced manual of procedures, together with state and federal laws and regulations and Generally Accepted Accounting Principles; and (2) that, as important as it is, this manual has not been updated since 1997, resulting in outdated standards that may compromise compliance with current financial reporting requirements. Clearly, an update of this manual is needed.

If approved by the NMPSIA board, the requested funds will support the services of an independent contractor familiar with public school budgeting and accounting requirements. More specifically, this contractor will:

- review and update the current sections of the manual of procedures, specifically to determine their compliance with all applicable laws and regulations;
- collaborate with school district, charter school, independent auditor, and state agency personnel, including the State Auditor's Office, regarding the revision, deletion or addition of sections in the manual to include a new section relating to fraud, waste and abuse; and
- provide a draft of the revised manual of procedures for the review of school administrators and finance personnel during the 2011 School Budget Workshop, scheduled for March 2011, so that the new standards can be incorporated into the development and approval of 2012 public school budgets.

Once the revision is complete, the manual is intended to be used not only as a training document for new school finance personnel, but also as a management guide for school board members, superintendents, and charter school administrators. The overall results should be smoother accounting processes; increased compliance; a reduced likelihood of fraud, waste, and abuse; and a decrease in other risks incurred by NMPSIA and other stakeholders.

I encourage your favorable consideration of this funding request.

Sincerely,



Frances Ramirez-Maestas

xc: Senator Cynthia Nava, Chair, LESC  
Representative Rick Miera, Vice Chair, LESC  
LESC School Finance Work Group  
Mr. Sammy J. Quintana, Executive Director, NMPSIA

**APPROVED MEMBERSHIP  
OF THE  
LESC SCHOOL FINANCE WORK GROUP**

- **Office of the State Auditor:**
  - Steve Archibeque, Audit Manager
  - Antonio Corrales, Chief of Staff
- **Legislature:**
  - Senator Cynthia Nava
  - Representative Jimmie C. Hall
  - Representative Rhonda S. King
- **NM School Boards Association:**
  - Ramon Montaña, President
  - Joe Guillen, Executive Director
- **School Board Members:**
  - Randy Manning, Central Consolidated Schools
  - David Robbins, Albuquerque Public Schools
- **NM Coalition of School Administrators:** Tom Sullivan, Executive Director
- **Superintendents:**
  - Stan Rounds, Las Cruces Public Schools
  - Adan Delgado, Pojoaque Valley Public Schools
- **School District Business Officials:**
  - Don Moya, Chief Financial Officer, Albuquerque Public Schools
  - Steve Suggs, Chief Financial Officer, Gadsden Independent Schools
  - Sandra Heinsohn, Quemado Independent Schools
- **NM Coalition for Charter Schools:**
  - Lisa Grover, Director/Michael Vigil, Chief Financial Officer
  - Rick Rios, Chief Performance Officer
- **Charter School Business Officials:**
  - Stan Albright, The Montessori Elementary School
  - Randy Freeman, Turquoise Trail Charter School
- **Independent auditor:** Juan J. (J.J.) Griego, Griego Professional Services, LLC
- **Finance/fraud experts from universities and colleges:**
  - Richard Brody, Professor, Anderson School of Management, University of New Mexico
  - Norman Colter, Lecturer, Anderson School of Management, University of New Mexico
- **NM Association of School Business Officials:** James Murdock, Associate Superintendent of Finance, Silver Consolidated Schools
- **Regional Education Cooperatives (RECs):** Cathy Jones, REC IX

- **Public Education Department:**
  - Steve Burrell, Interim Deputy Secretary for Finance & Operations
  - Mary Rose CdeBaca, Assistant Secretary for Educator Quality
  - Phil Baca, Program Manager, Professional Licensure Bureau
- **Governor's Office:** Peter Winograd, Education Policy Advisor
- **Department of Finance & Administration:**
  - Scott Hughes, Director, Office of Education Accountability
  - Michael Marcelli, Executive Analyst, State Budget Division
- **Legislative Finance Committee staff:** Rachel Gudgel, Public Education Analyst
- **Legislative Education Study Committee staff:** Eilani Gerstner, Fiscal Analyst and work group coordinator

**APPROVED OBJECTIVE & ACTIVITIES  
OF THE  
LESC SCHOOL FINANCE WORK GROUP**

**Objective:** To evaluate the adequacy and effectiveness of New Mexico's laws and regulations relating to public school finance, including the financial capacity and controls of school districts and charter schools statewide.

**Activities:** The LESC School Finance Work Group will review the following areas with regard to public school finance to determine whether policy changes may be needed.

- **Laws, rules, and policies:** review laws, rules, and policies governing school finance, including the implementation of two provisions effective in 2010 that:
  - require local school boards and charter school governing bodies to create finance subcommittees and audit committees (Laws 2010, Chapter 115), effective May 19, 2010; and
  - allow the Public Education Department to impose sanctions for failure of school districts or charter schools to submit timely audits to the State Auditor, including withholding up to 7.0 percent of a school district's or charter school's State Equalization Guarantee distribution and suspending the board of finance [Section 22-8-13.1 NMSA 1978], effective July 1, 2010.

The work group will also investigate whether the tiered audit process for local public bodies, effective July 1, 2010 [Section 22-6-3 NMSA 1978] or a similar tiered audit process may be appropriate for public schools.

- **Licensing and training:** review current licensing and training requirements for school business officials and current training offered for boards of finance.
- **Availability of resources:** investigate the availability of qualified school business officials and independent auditors with a focus on the needs of small, rural school districts.
- **Internal controls:** examine the internal financial controls within school districts and charter schools, including segregation of duties and the bank reconciliation process.
- **Capacity:** examine the supply and demand of school business officials, including the capacity of institutions of higher education to train future school business officials.

Finally, a survey of boards of finance, school districts, and charter schools may be necessary to gather data on these issues.

The work group will present its findings and recommendations for changes to statute, regulation, or practice to the LESC at the December 2010 LESC meeting.