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State Capitol North, 325 Don Gaspar, Suite 200  
Santa Fe, New Mexico 87501  
PH: (505) 986-4591 FAX: (505) 986-4338  
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November 13, 2006

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Kathleen Forrer

**RE: STAFF BRIEF: PUBLIC EDUCATION DEPARTMENT (PED) BUDGET REQUEST FOR FY 08**

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The 2006 Interim Workplan of the Legislative Education Study Committee (LESC) includes a report on the Public Education Department (PED) budget request for FY 08.

**Issues:**

- Current statute (see Attachment 1) requires:
  - state agencies to submit their budget requests to the State Budget Division of the Department of Finance and Administration (DFA) for the following fiscal year no later than September 1 of the current fiscal year;
  - the State Budget Division to review the completed budget forms of all state agencies, make recommendations, and submit a tentative budget to the Governor; and
  - the Governor to prepare the budget and submit it to the Legislative Finance Committee and to every member of the Legislature "not later than January 5 in even-numbered years and not later than January 10 in odd-numbered years."
- Every year on or about June 15, the State Budget Division issues written directives that state agencies must follow in preparing their budget requests for the succeeding fiscal year. The *Appropriation Request Preparation Manual: Fiscal Year 2008*, directs agencies to keep their FY 08 General Fund budget requests flat with the following exceptions:

- the agency is proposing to expand an existing program or adopt a new program” that is tied directly and convincingly” to the Governor’s core agenda;
  - the agency intends to continue a recurring program previously funded from nonrecurring revenue sources;
  - the agency is experiencing significant increases in General Services Department group health or risk insurance costs; or
  - the agency is one that provides Medicaid or correctional services and is forecasting significant caseload/population increases.
- Although in past years, an agency’s base request for the succeeding fiscal year under most circumstances was expected to equal its current fiscal year operating budget, as a consequence of the State Budget Division directives, such may not be the case for FY 08. As noted below, the base budget request for FY 08 may include increased costs for current programs, personnel changes, and caseload growth:
    - According to the DFA appropriation request preparation manual, the base budget request is “a request for funding to continue to provide services in FY08 at the level provided in FY07. Increased costs required to continue to provide the current level of services should be reflected in the base budget request with a detailed justification. Base increases may include personnel changes; GSD rate increases; forecasted caseload growth for Medicaid, corrections, public schools and higher education institutions; federal match changes; special appropriations scored as recurring; and increases in non-appropriated funds (e.g. federal funds).”
    - In contrast, an expansion request is defined in the manual as “a request for recurring funding to either (1) expand a program’s level of services beyond that provided in the previous fiscal year or (2) implement a new program initiative. Projects previously funded from nonrecurring sources (Section 5 of HB2) should be included as an expansion request. Requests for General Fund to replace a loss of federal or other revenue in order to maintain base service levels should be included as an expansion request.”
  - The following table includes PED’s FY 06 actual revenue; PED’s appropriated FY 07 revenue and full-time equivalent staff positions; PED’s approved FY 07 operating budget and full-time equivalent staff positions; and PED’s base and expansion budget requests for FY 08 as submitted to DFA on September 1 and revised on October 5, 2006. PED’s base budget request reflects an increase of \$2.3 million in General Fund dollars over the department’s FY 07 operating budget. According to documentation provided by PED to the State Budget Division, this increase includes “salary and benefit needs” and “an increase for standard agency operations in an effort to align the budget with FY 05 [sic] actual expenditures.” PED is also requesting an additional \$5.1 million in General Fund revenue to cover salaries, benefits, and other costs associated with its expansion request, which includes 49 full-time equivalent (FTE) positions. Only the pupil transportation and student nutrition positions (see Table 2 below) are identified in the supporting documentation as being funded with federal dollars, although a number of the positions being requested to support fiscal operations would be supported with both federal and state revenue.

**TABLE 1**

|                                | FY 06<br>Actual   | FY 07<br>Appropriation <sup>1</sup> | FY 07<br>Operating<br>Budget <sup>2</sup> | FY 08<br>Base<br>Request | FY 08<br>Expansion<br>Request | FY 08<br>Total<br>Request |
|--------------------------------|-------------------|-------------------------------------|---|--------------------------|-------------------------------|---------------------------|
| Revenue                        |                   |                                     |   |                          |                               |                           |
| General Fund                   | \$11,761.7        | \$11,938.7                          | \$12,625.0                                | \$14,887.7               | \$5,107.4                     | \$19,995.1                |
| Other Transfers <sup>3</sup>   | \$2,773.1         |                                     |   |                          |                               |                           |
| Other State Funds <sup>4</sup> | \$1,014.8         | \$735.3                             | \$748.5                                   | \$820.3                  | \$63.1                        | \$883.4                   |
| Federal Funds                  | \$16,942.8        | \$19,242.9                          | \$19,522.0                                | \$20,130.1               | \$593.9                       | \$20,724.0                |
| Subtotal                       | \$32,492.4        | \$31,916.9                          | \$32,895.5                                | \$35,838.1               | \$5,764.4                     | \$41,602.5                |
| Adjustments                    |                   |                                     |   |                          |                               |                           |
| GSD Rate Reduction             |                   | (\$11.9)                            |   |                          |                               |                           |
| GF Compensation Pkg.           |                   | \$448.2                             |   |                          |                               |                           |
| <b>TOTAL REVENUE</b>           | <b>\$32,492.4</b> | <b>\$32,353.2</b>                   | <b>\$32,895.5</b>                         | <b>\$35,838.1</b>        | <b>\$5,764.4</b>              | <b>\$41,602.5</b>         |
| FTE Positions                  |                   |                                     |   |                          |                               |                           |
| Permanent                      | 197.2             | 200.2                               | 205.2                                     | 205.2                    | 45.0                          | 250.2                     |
| Term                           | 98.0              | 100.0                               | 99.0                                      | 101.0                    | 4.0                           | 105.0                     |
| Temporary                      | 2.6               | 2.6                                 | 5.6                                       | 4.6                      | 0.0                           | 4.6                       |
| <b>TOTAL FTE</b>               | <b>297.8</b>      | <b>302.8</b>                        | <b>309.8</b>                              | <b>310.8</b>             | <b>49.0</b>                   | <b>359.8</b>              |

<sup>1</sup> The FY 07 General Fund appropriation has been "sanded" by \$12,600.

<sup>2</sup> The FY 07 operating budget General Fund revenue includes \$250,000 from "HB 2 Junior" to establish a math and science bureau at PED.

<sup>3</sup> TANF

<sup>4</sup> Educator certification license fees

- Of the 49 additional FTEs being requested by PED, 45 are permanent positions and four are term positions. In its initial submission to DFA, PED prioritized its expansion request into three groups (see Attachment 2). On November 6, PED provided LESC staff with a new prioritization list as follows:

**TABLE 2**

| <b>PRIORITY</b> | <b>POSITION</b>   | <b>FTE</b> | <b>POSITION<br/>TYPE</b> |
|-----------------|---|------------|--------------------------|
| 1               | Budget Analyst A – ASD Budget Bureau                            | 2.0        | Permanent                |
| 2               | Financial Coordinator B – Flowthrough Capital Outlay            | 1.0        | Permanent                |
| 3               | Financial Coordinator A – ASD Audit & Accounting                | 1.0        | Permanent                |
|                 | Financial Coordinator O – ASD Audit & Accounting                | 1.0        | Permanent                |
| 4               | Executive Secretary & Admin. Assistant O – ASD Support          | 1.0        | Permanent                |
| 5               | Purchasing Agent A – ASD Procurement                            | 1.0        | Permanent                |
|                 | Executive Secretary & Admin. Assistant O – ASD Procurement      | 1.0        | Permanent                |
|                 | Lawyer A – ASD Procurement                                      | 1.0        | Permanent                |
| 6               | Financial Coordinator A – School Budget                         | 1.0        | Permanent                |
|                 | Financial Coordinator O – School Budget                         | 2.0        | Permanent                |
| 7               | Financial Coordinator O – Capital Outlay                        | 2.0        | Permanent                |
| 8               | IT Project Manager – STARS*                                     | 1.0        | Permanent                |
|                 | IT App Dev 3 – STARS*   | 1.0        | Permanent                |
|                 | IT Database Admin 2 – STARS*                                    | 1.0        | Permanent                |
|                 | Business Operations Specialist A – STARS*                       | 1.0        | Permanent                |
| 9               | Office & Admin. Support A – Licensure                           | 1.0        | Permanent                |
| 10              | Bureau Chief – Charter Division                                 | 1.0        | Permanent                |
|                 | Education Administrator A – Charter Division                    | 2.0        | Permanent                |
|                 | Office & Admin. Support A – Charter Division                    | 1.0        | Permanent                |
|                 | Education Administrator O – Charter Division                    | 1.0        | Permanent                |
| 11              | Education Administrator A – High School Redesign                | 2.0        | Permanent                |
|                 | Executive Secretary & Admin. Assistant O – High School Redesign | 1.0        | Permanent                |

| <b>PRIORITY</b> | <b>POSITION</b>  | <b>FTE</b> | <b>POSITION TYPE</b> |
|-----------------|--|------------|----------------------|
| 12              | General Manager I – Instructional Support/School & Family                                | 1.0        | Permanent            |
| 13              | Admin Ops Manager II – Instructional Support/School & Family                             | 1.0        | Permanent            |
| 14              | Education Administrator O – Instructional Support/School & Family                        | 1.0        | Permanent            |
| 15              | Education Administrator B – Pupil Transportation   | 2.0        | Term                 |
| 16              | Executive Secretary & Admin. Assistant O – Program Support & Pupil Transportation        | 1.0        | Permanent            |
| 17              | Det. & Criminal Investigator A – Educator Quality/Educator Ethics                        | 1.0        | Permanent            |
| 18              | Paralegal & Legal Assistant O – General Counsel  | 1.0        | Permanent            |
| 19              | Education Administrator A – Rural Education Division                                     | 1.0        | Permanent            |
| 20              | Agency Vehicle Usage Costs (10 cars)   |            | N/A                  |
| 21              | Oper. Research Analyst – Assess. & Eval./Acad. Growth & Analysis                         | 1.0        | Permanent            |
| 22              | Education Administrator A – Assess. & Eval.  | 3.0        | Permanent            |
| 23              | Executive Secretary & Admin. Assistant O – Assess. & Eval./Acad. Growth & Analysis       | 1.0        | Permanent            |
| 24              | Education Administrator A – Indian Education Division                                    | 2.0        | Permanent            |
|                 | Business Operations Specialist – Indian Education Division                               | 1.0        | Permanent            |
| 25              | Education Administrator A – Instructional Support/Bilingual                              | 1.0        | Permanent            |
| 26              | Health Educator A – Nutrition  | 1.0        | Term                 |
|                 | Office & Admin. Support A – Nutrition  | 1.0        | Term                 |
| 27              | Three-tier Licensure System  |            | N/A                  |
| 28              | Education Administrator A – Office of Deputy Secretary for Learning & Accountability     | 1.0        | Permanent            |
| 29              | Agency Professional development  |            | N/A                  |
| 30              | Public Relations for Governor's PED Initiatives  |            | N/A                  |
| 31              | Office & Admin. Support A – Instructional Support/Humanities                             | 1.0        | Permanent            |
| 32              | Implementation of ASD reclassification of Financial Specialists to appropriate pay grade |            | N/A                  |

|                                  |             |
|----------------------------------|-------------|
| <i>PERMANENT POSITIONS</i>       | 45.0        |
| <i>TERM POSITIONS</i>            | 4.0         |
| <b>TOTAL EXPANSION POSITIONS</b> | <b>49.0</b> |

\*Created as term positions in the *General Appropriation Act of 2005*.

**NOTE:** Priorities 20, 27, 29, 30, and 32 do not include additional staff positions.

- On September 18, 2006, DFA issued a memorandum to cabinet secretaries and agency directors explaining how to submit requests for deficiency, supplemental, or special appropriations. In response, PED submitted the following requests for FY 07 totaling \$9.3 million:
  - a supplemental request for \$2.96 million to “provide full funding based on agency policies and allow for competitive wages in the market place,” cover copying costs, provide additional travel funds, cover other operational expenses, and “provide for the recurring costs of the federal lobbying service assessment.” In the supporting documentation, PED states that a reduction of the amount being requested for competitive wages “could be considered based [on] more current salary projections reflecting actual vacancies”;
  - a supplemental request for \$120,000 to pay for highly specialized, Washington-based legal counsel to represent the State of New Mexico in the upcoming case before the US Supreme Court challenging the way in which the state, at the direction of the US Department of Education, calculates disparity for the purpose of taking credit for 75 percent of the basic federal Impact Aid receipts in the determination of the State Equalization Guarantee (SEG) appropriation;

- a special appropriation request for \$2.0 million to cover an anticipated shortfall in the FY 07 federal Impact Aid receipts for which the state takes credit in determining the SEG appropriation; and
- a special appropriation request for approximately \$4.3 million to reimburse school districts for costs associated with the implementation of the new public school Uniform Chart of Accounts. According to a survey conducted by PED in the fall of 2006, districts require additional funding for “contract services, additional hardware and software, compensated ... and uncompensated overtime and additional training.”

**Presenters:**

Dr. Veronica C. García, Secretary of Public Education, and Mr. Don Moya, Deputy Secretary for Finance and Operations, PED, will review the budget request that PED submitted to DFA on September 1, 2006, and any subsequent revisions to the initial request.

**Questions the committee may wish to consider:**

1. How does the department’s proposed budget support its efforts to close the student achievement gap and provide better customer support to schools and school districts?
2. What “recurring program[s] previously funded from nonrecurring revenue sources” has PED included in its base budget request?
3. What “projects previously funded from nonrecurring sources (Section 5 of HB2)” has PED included in its expansion request?
4. Of the 49 expansion positions that PED is requesting, how many would be state funded and how many would be federally funded?
5. What is PED’s current vacancy rate? What was the department’s vacancy rate in July? What steps has PED taken to reduce its vacancy rate?
6. By what amount could PED’s supplemental request for \$2.96 million to help provide competitive wages and cover other operational costs be reduced to reflect salary savings attributable to the department’s staff vacancies?
7. What is the nature of the federal lobbying service for which PED is requesting supplemental funding?

## ARTICLE 3 State Budgets

### 6-3-19. Agencies to complete budget forms.

Each state agency shall fill out the budget forms provided for in Section 6-3-18 NMSA 1978 in the manner prescribed by the state budget division. Each state agency, in completing the budget forms, shall include information for all divisions, subdivisions and offices of the agency. Related agencies, upon approval of the state budget division, may join in submitting one set of budget forms. Completed budget forms shall be returned to the state budget division not later than September 1 in each year.

**History:** 1953 Comp., § 11-4-7.5, enacted by Laws 1955, ch. 114, § 10; 1963, ch. 147, § 3; 1977, ch. 247, § 130; 1999, ch. 5, § 11; 1999, ch. 15, § 11.

**1999 amendments.** — Identical amendments to this section were enacted by Laws 1999, ch. 5, § 11, effective June 18, 1999, approved March 1, 1999, and Laws 1999, ch. 15,

§ 11, also effective June 18, 1999, approved March 10, 1999, which updated a statutory reference in the first sentence. The section is set out as enacted by Laws 1999, ch. 15, § 11. See 12-1-8 NMSA 1978.

### 6-3-20. Review of budget forms.

The state budget division shall review the completed budget forms of all state agencies and shall include recommendations concerning the requested appropriation in the tentative budget. Prior to submission of the tentative budget to the governor, any state agency may be given an informal hearing by the state budget division concerning recommendation of the division pertaining to the requested appropriation of such agency, and shall be given such a hearing if the state budget division proposes to decrease the requested appropriation.

**History:** 1953 Comp., § 11-4-7.6, enacted by Laws 1955, ch. 114, § 11; 1977, ch. 247, § 131.

### 6-3-21. Preparation of the budget.

A. The governor shall prepare the budget and submit it to the legislative finance committee and each member of the legislature not later than January 5 in even-numbered years and not later than January 10 in odd-numbered years. In the preparation of the budget the governor may:

- (1) change the tentative budget by adding new items, increasing or decreasing or eliminating items;
- (2) obtain advice and assistance from any state agency; and
- (3) hold hearings on the budget.

B. Any budget hearings conducted by the governor shall be open to the public. The governor may require the attendance of any head of an agency, whether elective or appointive. At the hearings, any officer or agency may protest budget items.

**History:** 1953 Comp., § 11-4-7.7, enacted by Laws 1955, ch. 114, § 12; 1999, ch. 5, § 12; 1999, ch. 15, § 12; 2004, ch. 39, § 1.

**The 2004 amendments,** effective May 19, 2004, amended Subsection A to change January 1 of each year to “January 5 in

even-numbered years and not later than January 10 in odd-numbered years”.

## ATTACHMENT 2

| POSITION   | FTE         | POSITION<br>TYPE |
|--|-------------|------------------|
| <b>PRIORITY 1</b>  |             |                  |
| Budget Analyst A – ASD Budget Bureau   | 2.0         | Permanent        |
| Financial Coordinator B – Flowthrough Capital Outlay                                 | 1.0         | Permanent        |
| Financial Coordinator A – Audit  | 1.0         | Permanent        |
| Financial Coordinator O – Audit  | 1.0         | Permanent        |
| Executive Secretary & Admin. Assistant O – ASD Support                               | 1.0         | Permanent        |
| Purchasing Agent A – ASD Procurement   | 1.0         | Permanent        |
| Executive Secretary & Admin. Assistant O – ASD Procurement                           | 1.0         | Permanent        |
| Lawyer A – ASD Procurement   | 1.0         | Permanent        |
| Financial Coordinator A – School Budget  | 1.0         | Permanent        |
| Financial Coordinator O – School Budget  | 2.0         | Permanent        |
| Financial Coordinator O – Capital Outlay   | 2.0         | Permanent        |
| Education Administrator A – High School Redesign                                     | 2.0         | Permanent        |
| Executive Secretary & Admin. Assistant O – High School Redesign                      | 1.0         | Permanent        |
| General Manager I – Instructional Support/School & Family                            | 1.0         | Permanent        |
| Admin Ops Manager II – Instructional Support/School & Family                         | 1.0         | Permanent        |
| IT Project Manager – STARS*  | 1.0         | Permanent        |
| IT App Dev 3 – STARS*  | 1.0         | Permanent        |
| IT Database Admin 2 – STARS*   | 1.0         | Permanent        |
| Business Operations Specialist A – STARS*  | 1.0         | Permanent        |
| Office & Admin. Support A – Licensure  | 1.0         | Permanent        |
| <b>Subtotal Priority 1</b>   | <b>24.0</b> |                  |
| <b>PRIORITY 2</b>  |             |                  |
| Education Administrator O – Instructional Support/School & Family                    | 1.0         | Permanent        |
| Bureau Chief – Charter Division  | 1.0         | Permanent        |
| Education Administrator A – Charter Division   | 2.0         | Permanent        |
| Office & Admin. Support A – Charter Division   | 1.0         | Permanent        |
| Education Administrator O – Charter Division   | 1.0         | Permanent        |
| Education Administrator A – Indian Education Division                                | 2.0         | Permanent        |
| Business Operations Specialist – Indian Education Division                           | 1.0         | Permanent        |
| Oper. Research Analyst – Assess. & Eval./Acad. Growth & Analysis                     | 1.0         | Permanent        |
| Education Administrator A – Assess. & Eval.  | 3.0         | Permanent        |
| Education Administrator A – Rural Education Division                                 | 1.0         | Permanent        |
| Paralegal & Legal Assistant O – General Counsel                                      | 1.0         | Permanent        |
| <b>Subtotal Priority 2</b>   | <b>15.0</b> |                  |
| <b>PRIORITY 3 **</b>   |             |                  |
| Office & Admin. Support A – Instructional Support/Humanities                         | 1.0         | Permanent        |
| Education Administrator A – Instructional Support/Bilingual                          | 1.0         | Permanent        |
| Det. & Criminal Investigator A – Educator Quality/Educator Ethics                    | 1.0         | Permanent        |
| Education Administrator A – Office of Deputy Secretary for Learning & Accountability | 1.0         | Permanent        |
| Executive Secretary & Admin. Assistant O – Assess. & Eval./Acad. Growth & Analysis   | 1.0         | Permanent        |
| Executive Secretary & Admin. Assistant O – Program Support & Pupil Transportation    | 1.0         | Permanent        |
| Education Administrator B – Pupil Transportation                                     | 2.0         | Term             |
| Health Educator A – Nutrition  | 1.0         | Term             |
| Office & Admin. Support A – Nutrition  | 1.0         | Term             |
| <b>Subtotal Priority 3</b>   | <b>10.0</b> |                  |
| <i>PERMANENT POSITIONS</i>   | 45.0        |                  |
| <i>TERM POSITIONS</i>  | 4.0         |                  |
| <b>TOTAL EXPANSION POSITIONS</b>   | <b>49.0</b> |                  |

\*Created as term positions in the *General Appropriation Act of 2005*.

\*\*Also includes three reclassifications not reflected in the table.