

**STATE OF NEW MEXICO  
LEGISLATIVE EDUCATION STUDY COMMITTEE**

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Frances Ramírez-Maestas, Director

**MINUTES  
LESC MEETING  
AUGUST 22-24, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:17 a.m., Wednesday, August 22, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

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

The following voting member of the LESC was not present:

Representative Dennis J. Roch.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, Roberto "Bobby" J. Gonzales, and Sheryl Williams Stapleton; and Senators Mark Boitano, Stephen H. Fischmann, Linda M. Lopez, and Howie C. Morales.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, George Dodge, Jr., Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, John Pinto, and Sander Rue.

On a motion by Representative Hall, seconded by Senator García, the Chair approved the agenda for the meeting.

## DEVELOPING EARLY LITERACY IN NEW MEXICO

The Chair recognized Dr. Michael Weinberg, Program Evaluator Manager, and Mr. Matthew Pahl, Program Evaluator, Legislative Finance Committee (LFC), for a review of the LFC report on developing early literacy in New Mexico.

Dr. Weinberg began by stating that early reading is well-established as a strong predictor of high school graduation rates as well as future earning potential; and that the state has made investments to improve early literacy, including:

- full-day kindergarten;
- pre-kindergarten (PreK), which has quadrupled in funding since FY 06; and
- an extended school-year program, kindergarten through third grade (K-3 Plus), which has doubled in funding from FY 12 to FY 13.

Additionally, Dr. Weinberg said that New Mexico is considering initiatives, such as:

- revising its third grade retention law;
- paying for reading coaches;
- providing professional development for teachers; and
- requiring additional assessments in the early grades.

Next, Dr. Weinberg explained that LFC evaluators visited 12 school sites, listed in Appendix G of the report, *Developing Early Literacy in New Mexico*, and found that:

- student performance is influenced by economic status, language status, and student attendance;
- while early education improves performance, uncoordinated resources and inconsistent quality limits success;
- previous early literacy efforts in New Mexico and other states have produced mixed results; and
- state, district, and school-level management practices may help schools to beat the odds.

Mr. Pahl provided the committee with a list of key recommendations from the report including requiring:

- districts to annually submit performance-based budgets to the Public Education Department (PED), consistent with the *General Appropriation Act*; and
- a minimum of three (rather than six) years of teaching in Level 2 licensure, in order to obtain an administrative license.

He said the report also recommended that PED:

- annually report its process for determining standards-based assessment cut scores and the relative impact on proficiency rates to the Legislature;
- evaluate the impact of bilingual models on the performance of New Mexico's English language learners;

- require districts to report data on student attendance and identify strategies for improvement as part of its annual performance-based budgeting process;
- raise attendance criteria in school grading to encourage schools to improve attendance rates;
- track student enrollment in PreK, Head Start, or other pre-school programs in the Student Teacher Accountability Reporting System (STARS);
- collect New Mexico PreK assessment data in STARS;
- coordinate allocation of PreK and K-3 Plus resources to increase the number of students who receive the full benefit of both programs;
- increase oversight and accountability of K-3 Plus to improve consistency and quality of implementation;
- require districts to report data on principal and teacher turnover and identify strategies for improvement; and
- adopt statewide, short-cycle assessments in grades K-3 that:
  - are aligned to the Common Core State Standards (CCSS);
  - measure growth of all students at least three times per year;
  - can be used more frequently to monitor the progress of higher-needs students; and
  - allow comparisons with other states.

In addition, according to Mr. Pahl, the report suggests that PED and the Children, Youth and Families Department (CYFD) should consider alternative PreK assessments based on cost effectiveness, time required for administration, and alignment with the kindergarten CCSS.

### **Committee Discussion**

Dr. Weinberg concurred with a committee member who suggested that not all children in PreK need K-3 Plus. The committee member then suggested that extended year contracts for parents and denial of credit for students with too many absences could improve attendance and optimize limited funding.

Referring to pages 13 and 14 of the report, Dr. Weinberg noted that the change in cut scores to determine standards-based assessment reading proficiency appears to mask improvements in scaled scores. In reply, Ms. Melinda Webster, Literacy Program Director, PED, explained that cut scores change whenever an assessment changes, and that currently, she added, no assessment changes are planned until the Partnership for Assessment of Readiness for College and Careers assessments are in place.

Committee members further discussed a number of issues related to early childhood literacy, including:

- the use of data from school districts to identify the most effective bilingual programs;
- the need to add data for children age 0-5 to K-12 data;
- research on Head Start funding (\$60.0 million) and daycare subsidies (\$83.0 million) that will aid in decision-making and help to close the achievement gap;
- the use of retention and remediation; and
- recognition and pay for early grade teachers.

A committee member requested LFC staff provide the number of children who had participated in PED-administered PreK versus CYFD-administered PreK.<sup>1</sup>

## **DUAL CREDIT REPORT**

The Chair recognized Dr. Peter Winograd, Director, Center for Education Policy Research (CEPR), College of Education, University of New Mexico, for an update on the dual credit program.

Based on analyses of approximately 20,000 high school seniors, 6,000 community college students, and 6,000 university students, Dr. Winograd reported that dual credit programs appear to:

- be an effective, large-scale policy initiative aimed at improving student success;
- be associated with increased levels of student performance in both high school and higher education;
- reduce the long-term costs of education and provide potential benefits on students' life earnings;
- show that high schools and higher education institutions can work together;
- need refinement of their content and delivery to ensure consistency and rigor across a large statewide program;
- have a number of fundamental issues to overcome if they are to make a permanent difference for large numbers of students; and
- need to ensure equity and accessibility of accelerated learning programs to all students.

Referring to his PowerPoint, Dr. Winograd:

- reviewed high school graduation data related to the achievement gap;
- explained that students who take remedial courses are less likely to earn a degree and/or certificate;
- noted that 70 percent of Native American high school graduates need remediation;
- showed college graduation rates for two- and four-year colleges; and
- indicated that a lower percentage of New Mexico adults have a high school diploma or equivalent compared to the national average.

Dr. Winograd also discussed a number of challenges, including:

- collaboration between high schools and colleges in regard to admission standards and transfer credits;
- funding, and the need to prevent disincentives for dual credit;
- quality and accountability to maintain the value of a college degree; and
- New Mexico's diverse population and the need to increase the number of minority students going to college.

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<sup>1</sup> Responding to this request after the meeting, Dr. Weinberg said that, out of the 81 students who attended PreK in 2007 and two years of K-3 Plus, 49 attended a PED PreK program, and 32 attended a CYFD PreK program.

To conclude Dr. Winograd emphasized that the class of 2013 will be the first to graduate under new requirements in law in order to receive a Diploma of Excellence, it will be important to collect data on students who choose the option of taking a dual credit course, rather than taking an Advanced Placement, or online course. Furthermore, he added, it will be necessary to track the progress of dual credit students after graduation, including those who continue their education outside of New Mexico.

The Chair then recognized Ms. Tracey Bryan, President and CEO, The Bridge of Southern New Mexico, who provided the committee with a fiscal impact forecast for the dual credit program. According to Ms. Bryan, this forecast showed \$1.4 to \$3.0 million in annual savings from reduced remediation; and potential increases in statewide annual income ranging from \$20.0 million to \$64.0 million.

### **Committee Discussion**

In response to a committee member's question regarding dual credit issues that need to be addressed, Dr. Winograd replied that discussions must continue with regard to:

- which courses are allowed, or not allowed, for dual credit;
- conducting the classes on high school or college campuses; and
- high school rigor versus college rigor.

Responding to a committee member's question involving out-of-state students attending school in New Mexico, Dr. Winograd said that CEPR has not looked at students coming into the state at this time; but will work with the Higher Education Department and the Public Education Department to obtain statewide data. On a related issue, he noted that Hobbs Municipal Schools has gained access to data on its students who go to postsecondary schools in Texas, as an example that districts should follow.

Regarding a committee member's question on parental involvement and the underrepresentation of minority students in the dual credit program, Dr. Winograd said that CEPR is currently looking at parental educational levels across ethnicities to address this issue. Ms. Bryan added that The Bridge of Southern New Mexico includes parent interviews in its enrollment process and asks parents to sign a form committing to their child's success in the program.

Finally, a committee member indicated that he recently received an Opinion from the Attorney General stating that tribal colleges are not private as long as they are affiliated with tribal government. At the request of the Chair, the committee member distributed copies of the Opinion to the LESC.

### **CHARTER SCHOOLS: UPDATE**

The Chair recognized Dr. David Harrell, LESC staff, for an update on charter schools. Dr. Harrell explained that this staff report would continue the points addressed during the July LESC interim meeting by:

- providing an update on the status of the 11 schools scheduled to open in fall 2012;

- reviewing the schedule of public hearings for the 14 new applications for school year 2013-2014; and
- providing additional information about virtual charter schools, together with some policy options that the LESC might consider.

Dr. Harrell reported that, in September 2011, the Public Education Commission (PEC) had approved 11 applicants for state-chartered charter schools, and that the Farmington Municipal Schools Board had approved one application for a virtual charter school. All the approvals, he added, were with certain conditions.

By August 2012, Dr. Harrell noted, one school requested an additional planning year; six schools met the conditions for approval; and four schools were pending charter approval:

School requesting additional planning year:

- La Jicarita Community School, in Peñasco.

Schools meeting the conditions:

- Coral Community Charter School; Mission Achievement and Success Charter School; Southwest Aeronautics, Mathematics, and Science Academy; and the William W. & Josephine Dorn Charter Community School, all in Albuquerque;
- McCurdy Charter School, in Española; and
- the New America School, in Las Cruces.

Schools pending approval:

- Estancia Valley Classical Academy, in Moriarty;
- La Tierra Montessori School of the Arts & Sciences, in Española;
- Sage Montessori Charter School, in Albuquerque; and
- Uplift Community School, in Gallup.

Dr. Harrell noted that the only locally chartered charter school approved in 2011, the New Mexico Virtual Academy (NMVA), was notified on August 20, 2012 that the facility the school planned to use as its learning center had been certified for educational occupancy. That school he stated is using the virtual education program provided by the company K12 Inc.

Dr. Harrell then proceeded to provide additional information about virtual charter schools:

- The National Education Policy Center at the University of Colorado in Boulder recently published a study of full-time virtual schools run by the company K12 Inc. in five states: Arizona, Arkansas, Idaho, Ohio, and Pennsylvania. In that study, the authors acknowledge the potential of virtual education but advise policymakers to move forward cautiously, perhaps even by slowing the growth of or placing a moratorium on full-time virtual schools until questions about student achievement can be answered.

- According to a recent story in *Education Week* (August 8, 2012) educators are becoming concerned about the effects of online instruction on the roles and the employment of teachers.
- Both the PEC and the Legislative Finance Committee staff have expressed interest in working with the LESC to address the issues raised by virtual charter schools.

Dr. Harrell concluded his presentation by outlining three policy options that the committee may wish to consider for the upcoming 60-day session in 2013:

- prohibit virtual charter schools, an option he said the committee had entertained in a bill introduced in 2010;
- delay approval of other virtual charter schools until outstanding questions and issues can be addressed; or
- review the *Public School Code* and other parts of state law to identify those sections that may affect or be affected by virtual charter schools, and amend or repeal them as needed, or enact new sections to accommodate and regulate virtual charter schools.

Dr. Harrell then directed the committee's attention to Attachment 2 of the report, which included a table that suggested the level of detail that this statutory review might involve. Two of the examples he cited were the definitions of the terms "public school" and "school," reminding the committee of the legal Opinion of the Charter Schools Division (CSD) in 2009 that the PEC cannot legally authorize virtual charter schools because they do not fit either of those definitions.

Dr. Harrell added that there are at least two possible approaches to addressing the fundamental concepts of virtual charter schools in legislation:

- either through amendments to the *Charter Schools Act* as illustrated in Attachment 2; or
- through the enactment of a new article in the *Public School Code*, which would be similar to previous legislation such as the *New Mexico School for the Arts Act*.

### **Committee Discussion**

In response a committee member's concern of out-of-state organizations attempting to open charter schools in New Mexico, Dr. Harrell said that such efforts are common in other states and that there have been such efforts in New Mexico in the past. The difference in 2012, he said, is that for the first time multiple out-of-state organizations have applied to open multiple charter schools in New Mexico.

Committee discussion regarding virtual schools included concerns that:

- the NMVA in Farmington had recruited students statewide; that approximately 90 percent of its students, as of mid-July, were from counties other than San Juan — approximately 30 percent from Bernalillo County alone; and that approximately 25 percent of its students had been home schooled;
- it is difficult to determine the actual cost of a virtual school because there are so many variables, and because some things — transportation and janitorial services, for example — will have little or no cost while some other things — software and science laboratory

equipment, which is sent directly to students' homes — may cost more than in traditional charter schools; and

- the tax liability of an out-of-state organization is a matter that merits examination.

One committee member requested further clarification regarding the legal opinion of the CSD counsel in 2009. In reply, Dr. Harrell said that LESC staff had asked the Public Education Department (PED) for its current view of this opinion and learned that the matter was still under review. He added that an advisory letter from the Attorney General on a somewhat different topic had reached a conclusion similar to that of the CSD counsel.<sup>2</sup>

The Chair asked PED for the current data on students enrolled in registered home schools.

## **DIRECTOR'S REPORT**

(This report was heard on Friday, August 24, 2012)

### ***a. Approval of Draft LESC Minutes for July 2012***

On a motion by Representative Stewart, seconded by Senator Kernan, the committee approved the LESC minutes for July 2012.

### ***b. Correspondence***

Ms. Ramírez-Maestas, reported that the committee notebooks included a letter from the Public Education Department (PED) regarding a request from the LESC to have PED report on the Adequate Yearly Progress preliminary results at the August meeting. The letter, she noted, stated that PED was not able to provide a comprehensive presentation on the results in August and therefore asked for the opportunity to present at a future meeting.

### ***c. Informational Items***

For the committee's review, Ms. Maestas stated that the committee notebooks included reports by LESC staff regarding:

- Administrative Rulemaking;
- Highly Qualified Teachers, Current Requirements, and *Elementary and Secondary Education Act* (ESEA) Flexibility;
- Sequestration and the *Federal Budget Control Act*; and
- Education Technology Plans and E-Rates.

### ***d. LESC Interim Subcommittees***

Representative Roberto "Bobby" J. Gonzales, Chair of the LESC Interim Subcommittee on School Bus Transportation, reported that during its organizational meeting on August 21, the subcommittee decided to focus on the following issues during this interim:

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<sup>2</sup> In response to a committee request, Dr. Harrell provided a copy of this Attorney General advisory letter the next day.

- fuel costs increases;
- site characteristics used in the calculation of school transportation allocations; and
- bus replacements, including the current schedule and rental fees for contractors.

Other items discussed he stated included the reporting date(s), as well as charter school and pre-kindergarten transportation. The next meeting of the subcommittee is scheduled for October 15 and 16 in Rio Rancho.

On a motion by Representative Stewart, seconded by Representative Espinoza, the LESC added a day to its meeting on November 14-16, 2012 to discuss reading. The additional day is scheduled for November 13.

### **SUPERINTENDENT AND COMMUNITY INPUT**

The Chair recognized the following individuals:

- Ms. Sally Davis, coordinator, RoboRave, distributed two handouts to the committee regarding recent RoboRave activities.
- Mr. Grady Bailey, speaking on behalf of Midstate Energy, explained that he is working with other energy services companies to create legislation to shorten the time frame for legislative approval of performance contracts, which could allow more school districts to implement energy-efficiency projects.
- Ms. Karen Longenecker, representing the advocacy group Albuquerque Interfaith, expressed concerns about the effects of charter schools and privatization on New Mexico public education. She expressed concern to the committee about for-profit service providers, including K12 Inc., and urged members to consider the background of all charter school applicants.
- Mr. James Prewitt and Mrs. Sharon Frey Prewitt, also with Albuquerque Interfaith, referred to the cuts in public education funding over the last several years, as well as the changes to the General Educational Development (GED) exam by a private vendor who plans to increase testing fees. Regarding virtual education, Mrs. Prewitt emphasized the lack of community and parent interaction, and expressed concern that funds going to out-of-state providers would hurt the local economy.
- Mr. Robert Baade, Director, Robert F. Kennedy Charter School (RFK) and Co-chair of Albuquerque Interfaith, also expressed concerns regarding the A-F grading system. He noted that his school received an F, however, RFK's mission is to target students in the lowest quartile and work to keep them in school. Mr. Baade also discussed the school's efforts to focus on the education of family leaders, and he noted that RFK has secured funding to run GED and work programs.
- Mr. Bruce Hegwer, Executive Director, New Mexico Coalition for Charter Schools, described the process through which the Public Education Commission vets the

applications for charter schools, and he encouraged the LESC to support the process and let it work.

There being no further business for the day, the Chair with the consensus of the committee, recessed the LESC meeting at 4:45 p.m.

**MINUTES  
LESC MEETING  
AUGUST 23, 2012**

Senator Cynthia Nava, Vice Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:36 a.m., on Thursday, August 23, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

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

The following voting member of the LESC was not present:

Representative Dennis J. Roch.

The following advisory members of the LESC were present:

Representatives Ray Begaye, Roberto “Bobby” J. Gonzales, Sheryl Williams Stapleton, and Bob Wooley; and Senators Mark Boitano, Stephen H. Fischmann, Linda M. Lopez, and Howie C. Morales.

The following advisory members of the LESC were not present:

Representatives Alonzo Baldonado, Eleanor Chávez, George Dodge, Jr., Tim D. Lewis, and Shirley A. Tyler; and Senators Vernon D. Asbill, John Pinto, and Sander Rue.

**A-F SCHOOL GRADING SYSTEM: UPDATE**

The Vice Chair recognized Ms. Sarah Amador-Guzman, LESC staff, for an update on the A-F school grading system.

Ms. Amador-Guzman explained that, on July 3, 2012 the Public Education Department (PED) issued a memo to superintendents, charter school administrators, and educational institution directors regarding the appeals process and school grades stating that:

- the final A-F school grade report cards would be available to schools under embargoed status on July 5, 2012, through the web application portal;

- the due date for the appeals would be July 17, 2012;
- appeals were for schools that were incorrectly identified or had unusual circumstances that may have compromised the accuracy of the school grade;
- requests for clarification of school grade calculations were not to be considered as grounds for appeal; and
- schools were required to describe any substantive challenges by using:
  - documented evidence of test scoring errors;
  - calculation errors; and/or
  - extenuating circumstances, such as natural disasters.

Additionally, Ms. Amador-Guzman said the memo stated that any data element that had already been “thoroughly reviewed” by PED would not be changed or considered for appeal including:

- graduation and high school cohort data;
- New Mexico Alternative Performance Assessment data;
- Standards-based Assessment data;
- college and career readiness data;
- bonus points data, if the submission was after deadline; and
- attendance data, which are reviewed during each reporting period.

Regarding feedback from school personnel, Ms. Amador-Guzman explained that, LESC staff sent an email survey (Attachment 3 of the staff report) to all superintendents, state charter school administrators, and regional education cooperative directors. LESC staff then conducted phone interviews with 27 respondents from schools across the state to collect feedback on the appeals process. Because the majority of respondents requested anonymity, Ms. Amador-Guzman noted, the staff report identifies none of the schools or respondents.

Ms. Amador-Guzman then referred committee members to a table on page 3 of the staff report that provided an overview of the interview results for multiple schools and grade levels. Among responses received, school personnel reported that:

- the process lacked flexibility in time frames and that extending the deadlines for data reviews and submission of appeals could be a suggestion for improvement;
- the criteria for bonus points were unclear, and PED did not provide a rubric (although one was posted on the PED website);
- the effects of mobility were not considered and it was suggested, that PED provide different weights for students who are not present for all three reporting periods;
- there was insufficient communication and information; and
- additional training on uploading data to the web application portal would be useful.

In addition to the suggestions above for improving the appeals process, Ms. Amador-Guzman noted that respondents requested:

- descriptions or examples of A, B, C, D, or F schools, and a list of actions that schools can take to improve their grade;
- additional information, particularly on school grade calculations (i.e. baseline data, projections, and the value-added model, or VAM);

- multiple communication methods in addition to email, which include deadlines;
- appeal time frames based on school size;
- issuing embargoed grades during the school year so that staff is available to file appeals;
- embargoing the grades until all appeals have been resolved and data have been reviewed for accuracy;
- guidelines or a rubric from PED explaining how appeals are measured;
- phone conferences with PED to explain the results of appeals;
- confirmation that data and appeals have been submitted;
- allowing all schools, not just D and F schools, to attend workshops designed for these schools; and
- the formation of a committee of external experts to conduct an independent review of the appeals, rather than allowing the same staff members that issue the grades to conduct the appeals.

Next, Ms. Amador-Guzman addressed the instructional audit process, for D, F, Focus, and Priority schools. She explained that:

- the audit process for Priority and F schools will be managed by PED using a three-person team composed of:
  - a PED staff member;
  - an external consultant approved and trained by PED, who fulfills the role of team leader; and
  - a district representative from the school being audited;
- districts will be responsible for managing the audits of Focus and D schools, following the same timeline and steps of Priority and F schools; and
- audit teams will conduct a site visit, typically over three days, depending on the size and location of the school.

Ms. Amador-Guzman noted that, although the New Mexico Instructional Audit handbook states that these instructional audits are part of the state's A-F school grading system, there is no mention of these audits either in rule or in statute. She emphasized that the A-F school grading system is part of the *Elementary and Secondary Education Act* (ESEA) flexibility waiver, which mandated its creation along with several other requirements outlined in attachments 4 and 5 of the report.

Referring to a table on page 6 of the report, which provided data for both the preliminary grades issued on January 10, 2012 and the official school grades issued on July 9, 2012, Ms. Amador-Guzman stated that:

- a total of 250 D schools and 69 F schools, as well as 32 Priority schools and 62 Focus schools (413 schools altogether), will be required to complete the audits;
- at the time of the report the LESC staff was unsure if these figures represented the total number of schools; and
- PED had not updated the school designations of Focus and Priority schools or the grade listing of D and F schools to reflect changes based on school appeals.

Finally, Ms. Amador-Guzman said that the entire process would encompass approximately five to seven days.

### **Committee Discussion**

The Vice Chair recognized Ms. Theresa Saiz, Lobbyist, Rio Rancho Public Schools (RRPS), who distributed and read a letter to the LESC which had been sent to PED in advance of the meeting, from RRPS Superintendent Sue Cleveland. This letter detailed district concerns about a number of aspects of the school grading system, among them:

- the effects of releasing tentative scores based on incomplete data;
- additional changes by PED to the grading methodology; and
- short timelines from PED, which impacted the district's ability to explain the grades received to stakeholders.

Ms. Saiz then discussed several recommendations that RRPS made to PED:

- the creation of a technical working group comprising district data representatives and various stakeholders;
- reduce complexity by providing more guidance to make the A-F school grading system understandable and useful; and
- allow expenditure of district resources to improve instruction rather than trying to understand the system.

Next, the Vice Chair recognized Ms. Barbara Vigil-Lowder, New Mexico Coalition of School Administrators (NMCSA), who said that the RRPS comments are similar to those of other superintendents and reflect the concerns of the NMCSA.

The Vice Chair commented that PED should respond to the RRPS letter in writing, and Ms. Hanna Skandera, Secretary-designate of Public Education agreed.

Ms. Skandera then explained that:

- the VAM addresses mobility; however participation rates and mobility rates are different;
- the ESEA waiver requires PED to conduct instructional audits (under adequate yearly progress (AYP) corrective action plans were required), which are part of the A-F school grading system; and
- to improve communication, PED has had an online calendar and newsletter in place since the end of June and has provided training opportunities across the state to more than 1,300 educators.

In response to a committee member's request for the list of schools in the bottom 25 percent, and the time frame for when the calculator and new technical manual will be made public, Secretary-designate Skandera stated that the calculator and updated technical manual will be available to the public by September, and the list of schools in the bottom 25 percent is already on the PED website. In regard to another question on cut scores, she replied that the scores are set by the US Department of Education, not PED.

Concerning appeals, Ms. Skandera said that PED received a total of 74 appeals, some of which were under review. Secretary-designate Skandera noted that approximately one-third of the appeals were approved; 15 grades went up and one went down; and the rest remained the same. She added that:

- PED will release the final grades after the appeals on August 31, 2012;
- every school is credited partially for the work it did in developing a high school graduation rate;
- there have been tweaks to the information as the process evolves;
- corrective action plans under AYP have been transformed into the instructional audit process under the A-F school grading system; and
- technical committees are in the process of being formed.

A committee member distributed a document to the committee containing a list of items that contribute to poor A-F grades, and the Vice Chair asked the Secretary-designate to respond in writing after she had an opportunity to review the document.

In reply to a committee member who inquired about fiscal support for the instructional audits, Secretary-designate Skandera alluded to a \$3.5 million appropriation for the Governor's education reform initiatives and, in particular, \$2.5 million allocated to increase leadership capacity at struggling schools.

Among information requested of PED by committee members were:

- an explanation of the use of the \$3.5 million for education reform, including a \$300,000 request for proposal awarded to the University of Virginia;
- a history of the cut score changes for student assessments;
- the final AYP scores due in November;
- a response in writing to the committee member's handout on A-F school grade triggers;
- a list of external consultants for the instructional audits;
- a list of at least three things that a school can do to improve its grade if it is not a D, F, Priority, or Focus school; and
- a report for the following month that includes the hours spent by, and the costs for, districts to hire substitute teachers during the instructional audits.

## **STATE EFFORTS TO REFORM STATE EDUCATOR EVALUATION SYSTEMS**

The Chair recognized Ms. Michelle Exstrom, Education Program Principal, Teaching Quality and Effectiveness, National Conference of State Legislatures, who reviewed state efforts to reform educator evaluation systems. She noted that:

- for FY 09, instruction and instruction-related expenditures account for 66 percent of total expenditures;
- the federal Race to the Top competition requires that a significant part of teacher evaluations be based on student achievement;
- the *Elementary and Secondary Education Act* (ESEA) flexibility requirements include new evaluation systems;

- thirty-four states have enacted legislation creating new systems to evaluate teachers, with a significant part — typically 50 percent — based on student achievement in reading and math even though most teachers teach un-tested subjects; and
- most states currently use, or plan to use, teacher evaluation results in making key human resource decisions.

Ms. Exstrom also discussed a number of challenges to the implementation of educator evaluation, including:

- the creation of commissions and whom to involve;
- timelines for pilot projects and full implementation;
- multiple measures of student achievement;
- measurement for teachers of untested subjects;
- professional development for teachers; and
- the integration of teacher evaluation with other reforms, such as the Common Core State Standards (CCSS) and new assessments.

### **Committee Discussion**

A committee member asked how teachers are measured in untested subjects without creating a system where untested teachers' evaluations are dependent on other tested teachers. In reply, Ms. Exstrom explained that the states take different approaches, such as allowing districts to create their own evaluation systems, having teachers submit professional portfolios, and permitting school leaders to include additional observations in the multiple measures.

In response to a committee member's question regarding the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments, Ms. Exstrom indicated that many states are concerned about implementation and said that some states have adopted a new test to help transition between the old assessments and the PARCC assessments. She added that state legislators in Idaho and Wisconsin are concerned over a lack of infrastructure for the online component of the new tests.

When a committee member asked where the money would come from to sustain a new teacher evaluation system in New Mexico, Ms. Hanna Skandera, Secretary-designate of Public Education, replied that the Public Education Department was reallocating Title II funds to teacher and principal professional development.

Responding to a committee member's question regarding the affordability of adopting the CCSS, Ms. Exstrom noted that other states share similar concerns; however, they support adoption because the states should be able to save money by sharing curricula and other cost items. She also explained that for states choosing not to adopt the CCSS, such as Utah and Minnesota, there may be ramifications involving Race to the Top funds and ESEA flexibility waivers.

The Chair expressed concerns regarding the sustainability of these funds and said he did not realize that Title II funds were available for these purposes.

A committee member asked how many states used 50 percent of the standards-based assessment in their teacher evaluation systems. Ms. Exstrom replied that nearly all of them did; however,

she added, researchers have generally recommended 30 or 40 percent. She added that in most states, the new teacher evaluation systems exist in legislation.

Finally, committee members noted that:

- other states that have implemented new teacher evaluation systems have removed tenure, which has implications for teacher advancement and salary in New Mexico; and
- salaries of administrators, coaches, and other non-teachers are often higher than teacher salaries, yet these positions do not have to be evaluated in the same manner.

## **TEACHER PREPARATION ISSUES COMMITTEE REPORT**

The Chair recognized Dr. Michael Morehead, Dean, College of Education, New Mexico State University, and Dr. Richard Howell, Dean, College of Education, University of New Mexico, to report on the reauthorization for Title II and new regulations proposed by the US Department of Education.

Dean Morehead began by reviewing the criteria used for teacher program evaluation, including:

- value-added models (VAMs) used to determine the quality of teacher education programs;
- rates of hires calculated each year;
- two-year retention rates in the profession;
- questionnaires and surveys of employers and graduates; and
- “nationally accredited” or other program characteristics.

With regard to reauthorization, Dean Morehead stated that students in low-performing programs will not be eligible for Teacher Education Assistance for College and Higher Education (TEACH) grants, primarily because the funding of TEACH grants would be based on program rating. He added that, at this time, the majority of major national organizations representing colleges and universities oppose this punitive approach.

Dean Morehead also listed a number of additional concerns regarding reauthorization, such as:

- the imposition of a federal system of teacher program evaluation;
- increasing the regulatory burden on states and teacher education;
- increased cost for states and teacher education programs;
- capacity to gather, report, and analyze data effectively;
- the validity and reliability of the proposed criteria;
- regulations that could deter students from teaching;
- programs with a low percentage — some estimates as low as 12 percent — of graduates in classes where testing occurs; and, consequentially
- basing those programs on the VAM scores from as few as 12 percent of the graduates.

Referring the committee to a handout, Dean Morehead then discussed the validity of VAMs and raised a number of issues, including:

- excessive or inappropriate teaching to standardized tests;
- how test scores alone offer only a snapshot and do not accurately reflect student growth;
- instability and large error rates when comparing teacher performance with one year of data;
- the ability of an administration to portray improvement by making test questions easier or by lowering cut scores; and
- low morale and lack of motivation for students and teachers due to excessive testing.

### **Committee Discussion**

A committee member asked if any other states have imposed a teacher preparation evaluation system, and Dean Morehead replied that California has run a program for seven years to use as a feedback tool.

Ms. Hanna Skandera, Secretary-designate of Public Education, commented that the Public Education Department reduced testing by 40 percent (from 13 hours to nine hours), over the last year, and she explained that the Partnership for Assessment of Readiness for College and Careers will have more tests that will take less time per student.

### **COMMON CORE STATE STANDARDS: UPDATE**

The Chair recognized Ms. Lena Trujillo-Chávez, Director, Regional Education Cooperative (REC) #8; Mr. David J. Chavez, Executive Director, Cooperative Educational Services (CES); Ms. Robin Jarvis, Program Director, Southwest Educational Development Laboratory (SEDL); and Ms. Sheryl White, English Language Arts Chair of the New Mexico Educator Leader Cadre, for an update on the implementation of the Common Core State Standards (CCSS).

(Although Ms. White was in attendance this day, her presentation was rescheduled for Friday, August 24. For the sake of thematic consistency, however, it is included in the account of this agenda item.)

Ms. Trujillo-Chávez began by providing an overview of the Pecos Valley Education Alliance (PVEA), which is composed of five member districts: Carlsbad Municipal Schools, Dexter Consolidated Schools, Hagerman Municipal Schools, Lake Arthur Municipal Schools, and Loving Municipal Schools. She then said that the PVEA is an informal partnership with a focus on implementing the CCSS, and has developed an implementation plan for its member districts with the support of CES and REC #8. The PVEA, Ms. Trujillo-Chávez concluded, has combined its fiscal resources for school year 2012-2013 in order to implement the CCSS, expecting the total cost to implement the new standards in its five districts to be approximately \$500,000.

Next, Mr. Chavez briefly explained the role of CES in obtaining resources for the implementation of the CCSS. He noted that, SEDL would be providing professional development and support for the PVEA.

Ms. Jarvis discussed SEDL's role in the implementation of the CCSS with the alliance. During several sessions throughout school year 2012-2013, she explained, SEDL will provide training,

technical assistance tools, and processes to support instructional leaders and cross-functional teams of teachers. In working with these leaders and team members, Ms. Jarvis said that SEDL will:

- introduce the processes and protocols related to the Professional Teaching and Learning Cycle (PTLC), which is a professional development process developed by SEDL in which teachers collaboratively plan and implement lessons;
- identify and discuss the organizational structures necessary to implement the PTLC as a process to create instructional coherence;
- provide technical assistance to address the challenges arising from the initial PTLC;
- provide technical assistance and practical examples of effective collaborative planning meetings focused on student learning needs; and
- facilitate conversations and provide guidance and technical assistance as needed.

Addressing the English/Language Arts (ELA) shifts in the standards, Ms. White said that the standards were developed with the intent to prepare students for higher education or the workplace and ensure that students are:

- meeting college and career expectations;
- provided a vision of what it means to be an academically literate person in the 21<sup>st</sup> Century;
- prepared to succeed in a global economy and society; and
- provided with rigorous content and application of the higher knowledge through higher order thinking skills.

Furthermore, Ms. White stated, in order to be college- and career-ready, students should be prepared for success in:

- entry-level, credit-bearing, academic college courses; and
- careers that offer competitive, livable salaries above the poverty line, as well as opportunities for career advancement in growing or sustainable industries.

Additionally, Ms. White stated, the CCSS apply to all students, and they shift the focus from “what is taught” to “what a student needs to be able to do.” Ms. White then provided an overview of the six major shifts in ELA and literacy, in which students:

- in grades kindergarten through 5 will balance informational and literary texts;
- in grades 6 through 12 will increase reading focus on literary nonfiction in ELA and across the curriculum;
- will read increasingly complex texts independently;
- will encounter high quality, text-dependent questions and tasks;
- will be asked to engage in evidence-based writing and an increased focus on argument and informative writing; and
- will develop an academic vocabulary.

The CCSS, she continued, will require professional development for teachers and school leaders, as well as changes in curriculum, instruction, and instructional materials. Ms. White added that, in order to take the Partnership for Assessment of Readiness for College and Careers (PARCC)

assessment in school year 2014-2015, students will need access to adequate technology as the assessment will be computer-based.

The Chair also recognized Ms. Lynn Vasquez, PARCC Coordinator, Public Education Department, who elaborated on the PARCC assessment and the transition to the new test in school year 2014-2015.

### **Committee Discussion**

A committee member commented that, while she sees promise in the CCSS, many students who are currently in the public school system may not benefit from the new standards because by the time the standards go into effect, these students will have graduated. This committee member added that the state should gather data on remedial education programs, as well as support programs that have proven success, such as New Mexico Mathematics, Engineering, Science Achievement.

There being no further business for the day, the Chair with the consensus of the committee, recessed the LESC meeting at 5:15 p.m.

## **MINUTES LESC MEETING AUGUST 24, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:10 a.m., on Friday, August 24, in Room 307 of the State Capitol in Santa Fe, New Mexico.

### The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, and Gay G. Kernan.

### The following voting members of the LESC were not present:

Representatives Jimmie C. Hall and Dennis J. Roch; and Senator Lynda M. Lovejoy.

### The following advisory members of the LESC were present:

Representatives Ray Begaye, Roberto “Bobby” J. Gonzales, Sheryl Williams Stapleton, and Bob Wooley; and Senators Stephen H. Fischmann and Linda M. Lopez.

### The following advisory members of the LESC were not present:

Representatives Alonzo Baldonado, Eleanor Chávez, George Dodge, Jr., Tim D. Lewis, and Shirley A. Tyler; and Senators Vernon D. Asbill, Mark Boitano, Howie C. Morales, John Pinto, and Sander Rue.

## STATE REVENUE: UPDATE

The Chair recognized Ms. Elisa Walker-Moran, Chief Economist, Legislative Finance Committee, and Ms. Leila Burrows, Chief Economist, Department of Finance and Administration, to discuss the August 2012 consensus revenue estimate.

Referring to a committee handout, Ms. Walker-Moran reported that “new money” in FY 14, which is defined as FY 14 projected revenue less FY 13 recurring appropriations, is projected to be \$272 million, or 4.8 percent of FY 12 appropriations. She noted, however, that the FY 14 “new money” may be reduced to \$198 million because of:

- a 1.5 percent employee/employer retirement swap ends in FY 14 (Laws of 2009);
- a .075 percent employer contribution suspension ends in FY 14; and
- the replacement of 50 percent Tobacco Settlement Funds with General Fund.

Ms. Walker-Moran explained that legislation enacted for the 2011 regular legislative session implemented a 1.75 percent contribution shift from the employer rate to the employee rate for those making more than \$20,000. Based on the current reserve projections of 9.2 percent for FY 12 and the revenue estimate of more than \$100 million, she explained that the contribution swap will not continue in FY 13. Ms. Walker-Moran added that the additional 1.5 percent contribution swap that was enacted during the 2009 legislative session will remain in place until FY 14.

Among other revenue highlights, Ms. Walker-Moran reported that:

- the December estimate for corporate income tax receipts is unchanged from the October estimate;
- the State Treasurer’s earnings were revised downward in FY 11 due to an expected write-down of \$2.8 million attributable to the remaining balance of the Reserve Primary Fund, a money market fund with New Mexico holdings that experienced a run following the collapse of the financial markets in 2008;
- energy-related revenues were increased due to correction of the model for federal lease revenues — the correction, she explained, was in the modeling of royalty revenue from minerals other than oil and gas; and
- revenues associated with the permanent funds are expected to decline in FY 13 due to a lower market value.

With regard to risks in the forecast, Ms. Walker-Moran stated that:

- the failure of the congressional “Super Committee” to agree to a federal deficit reduction deal could lead to reductions in Social Security, Medicaid, and military spending, which could have significant impact on the New Mexico economy;
- the economic recovery remains vulnerable to weaknesses in consumer sentiment, personal income, the housing market, currency volatility, financial sector weakness, and federal fiscal imbalance;
- energy markets are inherently volatile;
- the European Union may be headed toward another recession;

- as reported previously, the Attorney General has disclosed that New Mexico is now facing a second legal challenge from cigarette manufacturers participating in the tobacco master settlement agreement; these manufacturers claim that New Mexico no longer has a valid qualifying statute as required by the settlement, including a 2006 change that established tax exempt stamps for tribal sales; and
- if the federal payroll tax reduction is extended in calendar year 2012, this action will potentially add revenue to personal income tax and gross receipts tax.

### **Committee Discussion**

In response to a committee member's question regarding the balance of the education lockbox, Ms. Walker-Moran reported that the ending FY 12 balance in the lockbox is \$47.1 million.

Responding to a committee question about the reserves balance, Ms. Walker-Moran stated that the reserves comprise approximately \$501 million or 9.2 percent of recurring appropriations in FY 12. She emphasized that national rating agencies, such as Moodys and Standard & Poors, traditionally have considered balances of 5.0 percent or above as sufficient.

A committee member requested a history of the education lockbox, including the transfer of dollars "in and out" of the fund.

### **PUBLIC EDUCATION COMMISSION (PEC) REPORT**

The Chair recognized Mr. M. Andrew Garrison, Chair, and Mr. Jeff Carr, member, Public Education Commission (PEC) to present a report on the PEC.

Reviewing his written report, Mr. Garrison first described the creation and duties of the PEC, and then identified and explained some issues of concern to the commissioners.

The PEC, Mr. Garrison explained, makes its decisions based on a thorough review of material and the recommendations of the Charter Schools Division (CSD), which is under the control of the Secretary of Public Education. An applicant or charter school that objects to a PEC decision may appeal to the Secretary, creating a circuitous process according to Mr. Garrison. He added that:

- the PEC does not have the same recourse as charter applicants in appealing the Secretary's decision;
- other states, as shown by an LESC work group during the 2011 interim, provide more appropriate appeal routes; and
- the work of the PEC has been hampered because of limited staff (provided by the CSD) and because of frequent turnover in the position of director of the CSD.

Mr. Garrison also noted that, in December 2010, the PEC declined to renew three charters in large part because the schools had failed to meet the Public Education Department's (PED) "minimum educational standards," which the PEC interpreted as adequate yearly progress (AYP) per the federal *No Child Left Behind Act of 2001*. However, the Secretary-designate overturned all three decisions on appeal in part because the term "minimum educational standards" is not

defined in law and because not meeting AYP was insufficient grounds. Another undefined term, Mr. Garrison continued, is “material violation,” which is one of the grounds on which a charter may be suspended, revoked, or not renewed. In both these cases, Mr. Garrison explained, the PEC faces the dilemma of trying to abide by law without benefit of regulatory or other guidance from PED.

Mr. Garrison requested LESC to support legislation to make the PEC “an independent body with the authority to carry out all statutory duties and responsibilities, rule-making authority in the matter of charter schools, operational control of a dedicated staff sufficient to support the work of the Commission, and a line-item budget sufficient to accommodate the Commission’s duties and responsibilities.” Mr. Garrison added that the PEC also requests that law be amended to remove the Secretary from the appeals process, and he suggested some alternative appeal routes: directly to district court; to the PEC if the CSD were made the chartering authority; or to an independent arbitrator if the PEC remains the chartering authority, with further appeal to district court.

As rationale for these requests, Mr. Garrison cited such factors as the growth in the number of charter schools and charter applicants, especially to the PEC, the complexity of charter school issues, and the absence of a dedicated staff for the PEC.

Finally, Mr. Garrison expressed the commissioners’ concerns that despite provisions in law, the Commission has not been involved in the development of PED’s five-year strategic plan.

He also noted that the commissioners also do not receive PED guidance for dealing with charter applicants who fail to satisfy recently enacted statutory requirements regarding charter school facilities.

### **Committee Discussion**

Mr. Garrison offered as another example the prospect that a charter school promising a 100 percent graduation and college-attendance rate might be cited for material violation if the percentage falls below 100.

Citing continued discussions in the Public School Capital Outlay Oversight Task Force, a committee member indicated that the facilities of charter schools remain an issue. In reply, Mr. Garrison said that the state is running out of facilities, and suggested a correlation between the quality of the facilities and the performance of students. On this point, Mr. Robert Gorrell, Director, Public School Facilities Authority, said that there is some evidence of such a correlation, and that students in better facilities tend to demonstrate better performance.

The Chair asked that PED review the questions surrounding the terms “material violation” and “minimum educational standards” and report its findings.<sup>3</sup>

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<sup>3</sup> Since the August LESC meeting, PED has replied that the terms “material violation” and “minimum educational standards” are indeed undefined in law and in rule. PED further states: “The rules of statutory construction could possibly be applied in an attempt to define them but it would be preferable for the Legislature to provide specific definitions for these terms if there is confusion over what these terms mean within the context of our Charter School law.”

**ADJOURNMENT**

There being no further business, the Chair adjourned the LESC meeting at 12:30 p.m.

  
\_\_\_\_\_ Chair

11-15-2012 \_\_\_\_\_ Date