

**MINUTES  
LESC MEETING  
MONDAY, JUNE 28, 2004**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on June 28, 2004, at 10:10 a.m., Instructional Program Center, Nursing Building Cafeteria, Luna Community College, 100 Luna Drive, Las Vegas, New Mexico.

The following LESL members were present:

Representatives Rick Miera, Chair, Pauline J. Ponce, Mimi Stewart, and Thomas E. Swisstack; and Senators Gay G. Kernan, Mary Kay Papen, and William E. Sharer.

The following LESL advisory members were present:

Representatives Kandy Cordova, Ron Godbey, Roberto J. "Bobby" Gonzales, John A. Heaton, Rhonda King, Sheryl M. Williams Stapleton, J. Paul Taylor, and Richard D. Vigil; and Senators Dianna J. Duran and Mary Jane M. Garcia.

Senator Pete Campos, Superintendent, Las Vegas City Public Schools, was also in attendance at the LESL meeting.

Upon a motion by Senator Sharer, seconded by Representative Ponce, the committee unanimously approved the agenda as presented.

**THE NM PUBLIC SCHOOL FUNDING FORMULA:  
A 30-YEAR RETROSPECTIVE**

Ms. Sharon Ball, LESL staff, introduced Dr. Richard A. King, Professor and Director of the Division of Education Leadership and Policy Studies at the University of Northern Colorado (UNC), Greeley, to provide the committee with a 30-year retrospective on the New Mexico Public School Funding Formula.

Introducing Dr. King, Ms. Ball said that he began his career in education as a high school math teacher in Liverpool, NY. She said he earned his doctorate in educational administration at the State University of New York (SUNY), Buffalo. She said that Dr. King then held professorships at SUNY Fredonia (1976-77), the University of New Mexico (UNM) (1977-84), and the University of North Carolina at Chapel Hill (1984-89). Ms. Ball noted that, during his time at UNM as an associate professor in the education leadership program, Dr. King served as assistant director of a program to train Navajo school administrators and that also he taught courses in public school finance and school law.

Ms. Ball said that Dr. King's teaching and scholarly interests continue to center on school finance policy and educational law. The third edition of his co-authored textbook, *School Finance: Achieving High Standards with Equity and Efficiency*, was published in 2003. He has published numerous journal articles and reports of research on state school finance structures and financial rewards for school improvement in professional journals, and he has served on the governing board of the American Education Finance Association. At UNC, his colleagues have twice honored him with the College of Education scholar award.

Since 1999, Ms. Ball said, Dr. King has been a visiting professor at the International Institute for Educational Leadership at the University of Lincoln in the United Kingdom during summer semesters. And during the school year 2004-2005, he will be a Fulbright Scholar and Lecturer at the National Chengchi University, Taipei, Taiwan.

Dr. King stated that, in spite of more than 30 years of court cases and examinations of a variety of public school funding schemes, the primary source of funding for public schools in almost all states—with New Mexico as one of the exceptions—is local property tax, according to National Center for Education Statistics data.

Placing the establishment of New Mexico's equalization formula into a national policy context, Dr. King said that court decisions and the passage of landmark civil rights legislation in the 1950s, 1960s, and early 1970s facilitated the examination of many social institutions such as "separate but equal" schools for children of color, sports that had been traditionally reserved for males only, and finally equity in funding for public school children.

He noted that a 1971 landmark California State Supreme Court decision, *Serrano v. Priest*, focused national and state attention on potential inequities in public school funding formulas. In *Serrano*, the California State Supreme Court found the California public school funding system unconstitutional based on violations of the Equal Protection Clause of the 14<sup>th</sup> Amendment to the *United States Constitution*. Then in 1973, when the United States Supreme Court handed down its decision in *San Antonio v. Rodriguez*—that public school funding is a state (rather than federal) constitutional obligation—state courts became the arena to which plaintiffs in funding discrimination suits could turn for relief. The court in *Rodriguez* also found that funding levels can differ among students when the differences can be related to a legitimate state interest.

Placing enactment of the funding formula in a New Mexico policy context, Dr. King said that, in 1973, variations in per-pupil property tax wealth ranged from \$2,197 to \$104,084 and that variations in per-pupil revenue ranged from \$45 to \$709. He noted that a 1973 UNM dissertation by Dr. Lawrence L. Huxel found New Mexico's operational funding system to be unequal. That same dissertation, using information and methodology from the National Education Finance Project (NEFP), which considered educational needs and cost differentials, also simulated fiscal consequences of alternative methods of funding for public schools.

Dr. King said that in 1973 a *Serrano*-type lawsuit (which was later dropped) was filed against the state of New Mexico in US District Court. In the summer of 1973, Governor Bruce King appointed a 32-member Advisory Committee on School Finance. Composed of a broad cross section of educational interest groups, including parents, teachers, administrators, and legislators, the committee adopted the goal to equalize financial opportunity at the highest possible revenue level and minimize the revenue losses to the richest districts. He noted that the Advisory Committee had as its guiding beliefs that:

- school district revenues should reflect need rather than property tax wealth or effort;
- fiscal neutrality should be achieved through credits for a uniform tax levy and noncategorical federal aid (such as Impact Aid); and
- all operating funds should be noncategorical.

Dr. King indicated that both the Legislature and the Executive embraced these guiding beliefs and values together with the policy position that districts should be encouraged to hire and retain highly educated, experienced teachers. During the 1974 session, the *Public School Finance Act* was enacted. This legislation, with its amendments, remains in force today—30 years later.

In looking at the political and policy considerations associated with establishment and maintenance of the New Mexico Public School Funding Formula, Dr. King explained that a political system is a process of interactions through which values are established for a society and that public policy can thus be viewed as resting upon value-laden public beliefs. As such, he said, one of the strengths of New Mexico's Public School Funding Formula is its equity; i.e., all students have access to equal educational opportunities despite differences in local district wealth. He said that New Mexico's weighted-pupil formula cost differentials recognize legitimate program needs and district characteristics. Another strength of the formula, Dr. King said, is its noncategorical nature, which respects individual district autonomy and priorities.

Dr. King pointed out that the current Public School Funding Formula has been under constant analysis during the three decades it has been in existence. He said that the results of these analyses have, for the most part, supported legislative enactment of data-based refinements to the structure of the formula while maintaining the philosophical concepts of educational equity for all students and local control.

Dr. King said that the 1970s and early 1980s were a time of prosperity for New Mexico, with the state's benefiting from revenues generated by its extractive industries such as oil and gas. He said that what came to be called the 1981 "Big Mac" tax reduction (named after its sponsor, former state Senator Colin McMillan) was enacted during this prosperous time which was characterized by property tax revolts spearheaded by the passage of "Proposition 13" in California.

Dr. King explained that "Big Mac" put in place a three-year property tax reduction that lowered school districts' share of local property tax revenues from 8.925 mills to 0.500 mills. He said that the tax cut had the effect of bringing into the formula the few small districts that previously had such great local property tax wealth that they chose not to participate in the state funding system; however, with local levies capped at only a half mill, even the wealthiest districts could no longer operate on local revenues alone. He noted that the net effect of this tax reduction was to make New Mexico's public school funding system move from one in which the state *guaranteed* equalization of funding to one in which the state *provided* almost all local operating funds.

Turning to the present time, Dr. King said that systemic educational reform requires aligning all aspects of the education system, including teacher preparation, licensure, supervision, and evaluation, standards and assessments, funding, and accountability with its rewards and sanctions. Appropriate alignment, he emphasized, is necessary to guarantee achievement of desired goals, such as motivating educators to design effective programs to meet state goals while, at the same time, retaining local control.

Dr. King discussed New Mexico state accountability requirements, developed and implemented over the past decade or so, that include indicators of school success such as criterion-referenced achievement tests, as well as graduation and attendance rates; standards to compare performance among schools; financial rewards for improvements; and sanctions and/or intervention strategies for poor performance. He noted that, at the national level, the most recent and sweeping example of this kind of accountability—much of which was already in place in New Mexico—is enactment of the federal *No Child Left Behind Act of 2001* (NCLB).

Because the LESC members are familiar with NCLB requirements, Dr King said that he would simply summarize the overall purpose of NCLB: to ensure that all children have fair, equal, and significant opportunities for a high quality education and also have the opportunity to reach proficiency on academic achievement standards and assessments.

Moving to the topic of evolution of state and local roles in public education, Dr. King said that the state role is evolving from one of funding, oversight, procedural accountability, and regulation enforcement to setting expectations and goals, influencing what is taught and assessed, and creating a framework within which school-level leaders have discretion to bring about program changes that refocus education on high performance for all. On the other hand, he said, the local role currently relates more to the interplay between the state's policy goals and the local district's priorities, culture, and politics. He said that the challenge for policymakers is to achieve a reasonable balance between centralization and decentralization, incentives and sanctions, and top-down policies and bottom-up implementation.

Regarding the future, Dr. King posed several questions (including the following) for consideration by policymakers as they continue to deal with federal and state accountability requirements:

- Are there adequate resources and learning technologies to meet individual needs and high—but realistic—expectations?
- Despite New Mexico's high degree of equalization, is program cost set at an adequate level to enable all students to achieve high standards?
- Does rewarding training and experience (through the formula's Training and Experience Index) encourage essential knowledge and skills to meet the NCLB requirement of highly qualified teachers?
- What capacity building occurs in low-performing schools?
- What encourages high-quality professional development for teachers and instructional leaders to align curriculum and instruction with standards?
- Is investment in human capital and workplace skills a collaboration to shape curriculum and blend resources with postsecondary and public or private agencies?

In conclusion, Dr. King said that, since passage of the *Public School Finance Act* in 1974, New Mexico policymakers are to be recognized and congratulated for 30 years of addressing students' and districts' needs, equalizing funding while enabling local control, analyzing and adopting changes, and planning for the future.

### **Committee Discussion:**

Committee members noted that Supreme Court decisions and other case law continue to support the concept of state-level responsibility for public education and also noted that maintaining state and local autonomy in the face of increased requirements at the federal level is an important task of state and local policymakers.

In response to a committee member's question about educating legislators regarding the importance of funding public education, Dr. King said that nearly all public officials—regardless of political affiliation—are committed to educating our children, but “the devil is in the details.” He noted that following through on this commitment, taking into consideration funding requirements for other priorities, and accounting for the vagaries inherent in policymaking are among the most difficult, delicately balanced responsibilities policymakers face.

Committee members discussed the effect of the so-called “Big Mac” tax cut of 1981, which reduced the amount of funding districts could realize from local property taxes from 8.925 mills to 0.5 mill. They agreed that this change required a shift in the state's role from guaranteeing equalized funding to providing equalized funding. Committee members also agreed that, since passage of the 1981 legislation, the state has been forced into a continual “catch-up” mode because of the many demands upon General Fund dollars.

Chairman Miera distributed copies of an editorial written by Ms. Christine Trujillo, President of the New Mexico Federation of Educational Employees (NMFEE) that will appear in the July 2004 issue of the *NMFEE/AFT Challenge*. In the editorial, Ms. Trujillo expresses concerns about the state's reliance on General Fund revenues to fund public schools since passage of the “Big Mac” in 1981. Chairman Miera noted that, in light of the necessity of meeting NCLB requirements with limited funding, Ms. Trujillo encourages policymakers and educators to begin a discussion of possible reinstatement of the repealed property taxes to support New Mexico's public education system.

Committee members discussed the importance of maintaining lower class sizes, particularly at the first-grade level, and expressed concern that statutory class sizes are not being adhered to by some local districts. In response to a committee member's question, Dr. King said that several research studies show the importance of lower class sizes, particularly in grades K-3.

Committee members expressed concerns about the current appropriateness of funding formula indices for the lower grades, suggesting an examination of the possibility of increasing them, particularly at the first- through third-grade levels.

A committee member expressed concern about citing recent US Census Bureau data showing that New Mexico is among the top three states in the nation in terms of funding spent on education compared to personal income. It was noted that these expenditures include Permanent Fund dollars as a source for education expenditures. In response to a committee member's comment, Ms. Ball pointed out that the US Census data do not reflect actual out-of-pocket

expenditures for public education by a state's taxpayers; rather, the data are a point of comparison among states and that, given New Mexico's current ranking, the state needs to continue to search for other sources of funding for education.

Committee members' discussed the importance of collaboration among state agencies concerned with the health and welfare of children, such as the Department of Health and the Human Services Department. In response to a committee member's question about the extent of this type of collaboration in other states, Dr. King stated that it was much more evident during the 70s and 80s than now and that the current emphasis focuses on meeting academic standards rather than on looking at the needs of the whole child.

Committee members also discussed current pressures for "compaction" of the curriculum; in other words, today's children are learning in the early grades those things that their parents learned in middle or junior high school. In response to a committee member's question about increasing the length of the school day and increasing the number of school days in the year, Dr. King noted that these options are very expensive. He added that some states and districts are, instead, looking at systemic reform and better alignment of standards and assessments. Some examples would include so-called "teaching to the test" and eliminating the senior year of high school. He pointed out that "teaching to the test" is not wrong if the test is measuring established standards. He also noted that in many schools and districts the senior year has become, in effect, the equivalent of the United Kingdom's customary "gap year" between completion of a student's secondary education and the beginning of postsecondary education. He suggested better linkage between high schools and local community colleges to minimize time wasted during the senior year.

In response to a committee member's comment about the adequacy of federal NCLB funding for its required reforms, Dr. King said that, while the goals of NCLB are laudable, additional funding at the state and federal levels will be required to make progress in closing the achievement gap.

Chairman Miera stressed the importance of having the political will to direct resources to the early grades. He noted that state policymakers have established adequacy guidelines for "bricks and mortar," i.e., capital outlay, and have worked hard to implement full-day kindergarten statewide. He said that now the challenge is to direct resources at early childhood education.

There being no further discussion, Chairman Miera thanked Dr. King for his excellent presentation and for providing the committee with such a comprehensive review of the past 30 years of the funding formula's implementation—as well as an opportunity to think about future funding policy.

## **DIRECTOR'S REPORT**

### ***a. Approval of LESC Minutes for May 2004***

Upon a motion by Representative Stewart, seconded by Representative Swisstack, the LESC minutes for May 2004 were unanimously approved.

***b. Approval of LESC Financial Report for May 2004***

Upon a motion by Representative Stewart, seconded by Representative Ponce, the LESC financial report for May 2004 was unanimously approved.

***c. Correspondence***

Dr. Rindone reviewed several items of correspondence included in the committee members' notebooks, adding that these items are also included in the permanent file in the LESC office.

**PUBLIC EDUCATION COMMISSION ROLES AND RESPONSIBILITIES**

Dr. Kathleen Forrer, LESC staff, introduced Mr. John Darden, Vice-Chair, and Ms. Christine Trujillo, Member, Public Education Commission (PEC), to report on the discussion conducted by the PEC at a retreat held on May 24, 2004, to consider the commission's statutory roles and responsibilities.

As background, Dr. Forrer stated that the purpose of the *Public Education Department Act*, enacted by the 2004 Legislature, is to establish the Public Education Department (PED) as a single, unified department to administer laws and exercise functions formerly administered and exercised by the State Board of Education (SBE) and the State Department of Education (SDE). Among its provisions, the act creates the PEC and establishes its duties in accordance with Constitutional Amendment 1 (CA 1), *Cabinet-Level Education Department*, which specifies that the PEC "shall have such powers and duties as provided by law." CA 1 was adopted by the voters at a special election in September 2003.

Dr. Forrer explained that, in regard to the composition and nature of the PEC, the *Public Education Department Act* specifies that:

- a. The "public education commission" is created pursuant to Article 12, Section 6 of the constitution of New Mexico. The commission shall be administratively attached to the department, with administrative staff provided by the department. Additional requests for staff services shall be made through the secretary. The commission shall advise the department on policy matters and shall perform other functions as provided by law.
- b. The commission shall consist of ten members elected from public education districts as provided in the decennial educational redistricting act. Members shall be entitled to receive per diem and mileage as provided in the *Per Diem and Mileage Act*, but shall receive no other perquisite, compensation or allowance.
- c. The commission shall annually elect a chairman, vice chairman and secretary from among its membership. A majority of the members constitutes a quorum for the conduct of business. The commission shall keep a record of all proceedings of the commission.
- d. The commission shall meet at the call of the chairman at least quarterly. Meetings of the commission shall be held in Santa Fe and at other sites within the state at the direction of the commission. The chairman in consultation with the secretary shall call a meeting at the request of a majority of the members. Commission members shall not vote by proxy.
- e. No member of the commission shall be appointed secretary [Secretary of Public Education] or be employed by the department on either a full- or part-time basis.

In addition to specifying how the PEC is constituted, Dr. Forrer said, the *Public Education Department Act* assigns the following specific duties to PEC:

- a. The commission shall work with the department to develop the five-year strategic plan for public elementary and secondary education in the state. The strategic plan shall be updated at least biennially. The commission shall solicit the input of persons who have an interest in public school policy, including local school boards, school districts and school employees; home schooling associations; parent-teacher associations; educational organizations; the commission on higher education; colleges, universities and vocational schools; state agencies responsible for educating resident children; juvenile justice agencies; work force development providers; and business organizations.
- b. In addition to the duty provided in Subsection A of this section, the commission shall:
  - (1) solicit input from local school boards, school districts and the public on policy and governance issues and report its findings and recommendations to the secretary and the legislature; and
  - (2) recommend to the secretary conduct and process guidelines and training curricula for local school boards.

Dr. Forrer noted that there is one final responsibility given to the PEC by the *Public Education Department Act*: if a local school board, local superintendent, or school principal fails to meet the requirements prescribed in statute and PED regulation for maintaining a school district and fails within 30 days of being notified by PED either to correct the deficiencies or to submit a satisfactory plan to do so, the secretary may suspend the local school board, local superintendent, or school principal after consulting with the PEC. The PEC “may recommend alternative actions for the secretary’s consideration.”

Dr. Forrer stated that, of the ten PEC members, five have terms that expire in December 2006 and five have terms that expire in December 2004. Explaining that none of the five incumbents whose terms expire in 2004 has chosen to run for reelection, Dr. Forrer said that preliminary election results posted by the Secretary of State indicate that only two candidates filed for the five vacant positions, one in District 1 (Albuquerque) and one in District 9 (Carlsbad, Clovis, Dora, Eunice, Floyd, Grady, Hobbs, House, Jal, Logan, Loving, Lovington, Melrose, Portales, San Jon, Tatum, Texico, and Tucumcari). Dr. Forrer stated that the three districts with no declared candidates at this time are District 4 (Bernalillo, Jemez Springs, Rio Rancho, and Santa Fe), District 8 (Alamogordo, Artesia, Capitan, Carrizozo, Cloudcroft, Corona, Dexter, Elida, Fort Sumner, Hagerman, Hondo Valley, Lake Arthur, Moriarty, Roswell, Ruidoso, Tularosa, and Vaughn), and District 10 (Aztec, Chama Valley, Cimarron, Clayton, Des Moines, Dulce, Española, Jemez Mountain, Las Vegas City, Las Vegas West, Los Alamos, Maxwell, Mesa Vista, Mora, Mosquero, Pecos, Peñasco, Pojoaque, Questa, Raton, Roy, Santa Rosa, Springer, Taos, and Wagon Mound). In conclusion, Dr. Forrer noted that, the *2001 Educational Redistricting Act* authorizes the Governor to fill any positions that remain vacant after the November 2004 general election.

To begin his presentation, Mr. Darden stated that the five members of PEC whose terms did not expire until 2006 had all been elected by a large number of votes, in some cases by a larger number of votes than any other office-seeker in the county. According to Mr. Darden, all five of them view their office as a sacred charge.

After complimenting the Governor's choice for Secretary of Public Education, Mr. Darden noted that despite the assistance PEC has received from the Secretary in carrying out its functions, commission members expressed concern at PEC's May 24 retreat that its budget is inadequate to allow it to perform its statutory duties. Although disappointed that the *Public Education Department Act* does not provide a more substantial role in public education for PEC, the commission members believe that they can still play an important role in shaping the future of public education through the development with PED of the five-year strategic plan for public elementary and secondary education; however, in order to do so, the members need the financial means to hold meetings for public input throughout the state. Mr. Darden asked the LESC to consider during the 2005 legislative session the possibility of allowing PEC to submit a separate budget.

Mr. Darden noted that PEC originally had scheduled a meeting for June 11 to consider items discussed at the May retreat; however, because June 11 was declared to be a national day of mourning for former President Ronald Reagan, the PEC meeting was rescheduled for July 9. As a consequence, Mr. Darden stated, he could not provide the committee at this time with PEC's final decisions regarding how it would carry out its roles and responsibilities as set forth in the *Public Education Department Act*.

Ms. Trujillo described her personal efforts on behalf of constitutional amendments 1 (*Cabinet-Level Education Department*) and 2 (*Permanent School Fund Distribution*), both of which were approved by the voters at a special election held September 23, 2003. She explained that, because the purpose of PEC is so different than that of the former SBE, the ten elected members of SBE who now constitute PEC are having difficulty understanding their new role. Noting that there is nothing in current statute to guide PEC members in how to help their constituents, Ms. Trujillo indicated that it would take time for everyone—PED, PEC, and the voters—to adjust to the change in the education governance structure. She indicated that, after all of the affected parties have had a chance to adapt to the new situation, the Legislature might wish to contemplate some adjustments to the roles and responsibilities of PEC. In the meantime, she hoped that the Legislature would consider providing more financial support directly to PEC so that the commission could develop a venue and a process to work with its constituents.

Chairman Miera recognized Dr. Veronica C. García, Secretary of Public Education, who stated that, because of the tight fiscal situation in FY 04, very little money had been available for either PEC or PED activities. She said that for FY 05 the financial situation is much improved and, as a result, the FY 05 budget for PEC has been increased to the FY 03 level.

### **Committee Discussion:**

Several committee members expressed concern that individuals do not wish to run for seats on PEC because of its advisory nature. In response, Ms. Trujillo observed that the five incumbents whose terms expire in December 2004 have chosen not to run for reelection because they feel they no longer have a role to play in shaping policy for New Mexico's public schools. Mr. Darden stated that he has personally tried to persuade a number of people to run for a seat on the commission but has had no success because they perceive PEC as having "nothing to do."

In response to a committee member's question regarding how PEC was staffed, Mr. Darden stated that the Secretary has provided PEC with an administrative assistant. Several committee members expressed concern that PEC is not receiving sufficient resources, either in terms of

funds or staff, to enable it to meet the needs of its constituents. Again noting that PEC's budget for FY 05 has been restored to prior levels, Secretary García also told the committee that PED is required to submit any requested changes in performance measures to the Department of Finance and Administration (DFA) by July 15. Although PEC's budget is included in PED's, those performance measures will not include any specific to PEC. Adding that the transition in the governance of education will take time, Secretary García explained that it will also take time for PEC to develop its own goals and measures. In the meantime, Secretary García stated, she will ask for a representative from PEC to assist with goal-setting for PED. Both Mr. Darden and Ms. Trujillo expressed gratitude that PEC's budget has been increased for FY 05.

There being no further discussion, Chairman Miera thanked the presenters.

### **SCHOOL IMPROVEMENT SCHOOLS/SUPPLEMENTAL SERVICES**

Dr. David Harrell, LESC staff, introduced several presenters:

- Dr. Veronica C. García, Secretary of Public Education, who was accompanied by Dr. Kurt Steinhaus, Deputy Secretary for Learning and Accountability, PED, and by Dr. Charles Hayes, Assistant Secretary for Rural Education, PED;
- Mr. Sam Ornelas, Director, Grants Management Office, PED;
- Ms. Shari Gonzales, Principal, James Russell Lowell Elementary School, Albuquerque Public Schools; and
- Ms. Therese Moulton, Principal, César Chávez Community School, Santa Fe Public Schools, who was accompanied by Ms. Debby Maas, reading teacher at César Chávez Community School.

As background to the issue, Dr. Harrell explained that the LESC had heard a similar presentation during the 2003 interim, largely within the context of HJM 67 (2003), which had requested that PED and local boards of education report on their progress in providing supplemental educational services. While the current presentation would provide an update on supplemental services and the entities that provide them, it was also designed to consider other factors related to schools in need of improvement.

Primarily, Dr. Harrell said, it is helpful to realize that PED and the public schools are in a transition period from one accountability rating system to another. Dr. Harrell then noted some of the features of the previous state accountability system, which had been in effect since 1998, and the newly implemented system based upon state public school reform legislation from 2003 and the federal *No Child Left Behind Act of 2001* (NCLB). Under this system, Dr. Harrell continued, both state law and NCLB provide a series of consequences, or sanctions, for schools that fail to make "adequate yearly progress" (AYP), consequences that were outlined in an attachment to the staff brief. The intent behind these incremental measures is to enhance student achievement and schools' academic performance.

Among other points in the background, Dr. Harrell noted that:

- NCLB requires each state to develop its own definition of AYP;
- the state regulation defining the term was expected to be filed by the end of July 2004;
- until PED recalculates AYP in August 2004, using data from criterion-referenced tests administered in 2003 and 2004, the school ratings from August 2003 will remain in effect, under which 15 schools are in Correction Action II, the most serious of the categories under the state system in effect when NCLB was enacted;
- PED is attempting to assist schools in need of improvement in part through administrative reorganization and in part through targeted efforts, among them a plan for more personalized support and renewed focus on and enhancement of each district's Educational Plan for Student Success (EPSS); and
- the Legislature created the Schools in Need of Improvement Fund in 2003 but did not provide an appropriation to the fund in FY 04 or FY 05 based on information from PED that approximately \$2.0 million in federal funds would be available each year to meet these needs.

Dr. Harrell then reviewed the series of consequences under both state and federal law for schools that fail to make AYP. The first two focus directly on students rather than schools.

- Any child attending a school that has failed to make AYP for two consecutive years or longer must be offered the choice of transferring to another public school in the district (including a charter school) not identified for school improvement.
- Children who attend schools that have not met AYP for three or more consecutive years are eligible to receive supplemental educational services.

Focusing upon the supplemental educational services, Dr. Harrell said that NCLB defines these services as extra help in the form of tutoring, remediation, or academic intervention provided to students in reading, language arts, and math outside the regular school day. The federal law allows these services to be offered through public- or private-sector providers approved by the state, such as other public schools (including charter schools), local school districts, educational service agencies, and faith-based organizations. The law further requires that parents be allowed to choose the provider from the state-approved list and that, to be on the list, providers must meet certain criteria.

In New Mexico, Dr. Harrell continued, PED has approved a total of 24 supplemental service providers, adding 12 more since the report to the LESC in September 2003. The total available to schools in school year 2004-2005 will be 23, however, because one of the original 12 withdrew. The PED is planning a vendor fair during the summer of 2004 to introduce school districts to the providers.

The next two interventions, Dr. Harrell said, focus more on schools. Under both state and federal law, after the fourth consecutive year of not meeting AYP, the school, in addition to the first two measures, must take one or more corrective actions, such as replacing the school staff, implementing a new curriculum, or decreasing management authority at the school level.

Also under both state and federal law, Dr. Harrell continued, after the fifth consecutive year of not meeting AYP, the school is subject to restructuring through one of the following actions: reopening as a charter school, replacing all or most of the school staff, or submitting to state

takeover. For restructuring, Dr. Harrell further explained, NCLB contains two provisions not found in state law: an additional year for planning (which state law can accommodate and which the PED plan recognizes) and the additional option of having a school contract with a private management firm (which state law prohibits). Dr. Harrell also noted that the restructuring options available in New Mexico may be affected by these factors:

- the question whether, under the *1999 Charter Schools Act* (with its provisions for the application schedule, the possibility of denial, and the process of appeal), the planning year would allow sufficient time to ensure a sound charter and an effective school; and
- the question whether PED has sufficient resources to assume the operation of a school.

Finally, Dr. Harrell suggested that now is a good time to look ahead toward the restructuring options. According to PED, unless the 15 schools currently rated Corrective Action II meet AYP when it is calculated in August 2004, they could be subject to planning for restructuring to go into effect for school year 2005-2006.

Dr. García reviewed the PED plan for assisting schools in need of improvement. One of the components of the plan, she said, is the reorganization of PED itself, which emphasizes such services as data analysis, diagnosis, prescription, intervention, focused monitoring to ensure compliance, and a state resource for best educational practices. Part of PED's strategy, Dr. García continued, is to build a comprehensive framework upon the EPSS already in place in each district, supplementing EPSS not only with such services as those noted above but also with funding through the State Equalization Guarantee, federal grants, the Professional Development Fund, and the Incentives for School Improvement Fund. The problem, Dr. García said, is not so much insufficient funds as it is scattered resources, which PED plans to address by partnering with Strengthening Quality Schools (SQS), the Governor's Business Executives for Education, and the two national laboratories, and by meeting with providers of professional development to ensure aligned services.

Another PED initiative, Dr. García explained, is Project Excel, an action plan intended to help close the achievement gap and raise the expectations and achievement levels for all students, in part by focusing on and enhancing each district's EPSS. Other features of Project Excel include personalized support, in which each superintendent will be assigned a point of contact with a PED senior staff; alignment of state standards and the criterion-referenced tests; and the creation of the Secretary's Education Advisory Council for Excellence and Equity in Education, a broadly representative body intended to work with school districts in addressing the achievement gap, sharing best practices, and creating statewide awareness. Dr. García added that she would like a representative from the LESC to serve on this council and that she would be sending a formal letter of invitation.

Dr. García also noted several other measures to close the achievement gap, among them:

- the proposal by the Children's Cabinet for a five-year phase-in of a voluntary preschool program for four-year-olds, conducted through the public schools;
- effective parental involvement in terms of monitoring the child's homework and not keeping older children home from school to baby-sit younger ones;
- focus on second-language acquisition, English as a Second Language (ESL), and cultural competence training; and
- truancy prevention initiatives.

Regarding the supplemental educational services, Mr. Ornelas said that 25 districts currently have schools eligible to participate. In the fall of 2003, 14 of those 25, or 56 percent, had supplemental educational services programs operating; by the spring of 2004, the number grew to 19 and the percentage to 76 percent. The remaining six of the 25, or 24 percent, were unable to secure a vendor due largely to the districts' isolated rural locations.

To evaluate these services, PED contracted with the Center for the Education and Study of Diverse Populations. One component of the evaluation was random, unannounced site visits in April 2004, consisting of a 20-minute observation of the tutoring session, student and parent focus groups, and meetings and surveys of tutors, district supplemental educational services coordinators, and teachers. A second component is a database that PED is constructing. It will include demographic information on the students being served as well as data on student attendance, parent satisfaction, teacher input on student progress, and vendors' assessments of results. These data, Mr. Ornelas said, should allow PED to track state test scores, language proficiency scores, and student grades and attendance rates to help determine whether the students are making progress.

Noting that the final report of the evaluation of supplemental educational services providers will be available in September 2004, Mr. Ornelas reviewed several preliminary findings. On the positive side, parents and students alike believe that the supplemental services are helping, and the tutors appear to be caring and well qualified. Needing improvement, apparently, are such factors as documentation by vendors, training of vendors, and communication in general: between tutors and the students' classroom teachers, with parents regarding students' performance, and with district supplemental educational services coordinators.

Mr. Ornelas noted that any vendor not meeting the obligations stated in the proposal or not demonstrating student progress will be placed on "warning" status and given specific criteria for improvement. He added that NCLB requires the state to remove from the approved list any vendor judged ineffective for two years in a row.

Ms. Gonzales began her presentation by noting that, although it is in its second year of Corrective Action, James Russell Lowell Elementary School is not a substandard school. While 47 students have transferred out – many of them under the school choice or transfer option – 41 others have transferred in, seeking the services that the school provides. With its diverse population and intensive focus on language development, Lowell provides all school information in English, Spanish, and Vietnamese. Furthermore, because the school has increased its test scores overall, it is hopeful that the new ranking in August 2004 will show sufficient improvement to remove the school from Corrective Action.

Ms. Gonzales said that 31 Lowell students had enrolled in supplemental educational services. Of those, however, only 12 actually received the services, about 18 hours of tutoring on average. The other 19 did not receive the services mostly because their parents gave incorrect phone numbers or failed to respond to follow-up calls or written solicitations.

Much of the school's progress, Ms. Gonzales continued, can be attributed to assistance from the district (Albuquerque Public Schools), in particular an additional 1.0 FTE to reduce class size in the 1<sup>st</sup> grade; an additional 1.0 FTE for a parent liaison; an additional 0.5 FTE for a social worker; and additional contract hours to allow certified staff to receive professional development. Other support came from a grant from Wells Fargo Bank that provided parents with instruction in reading to encourage them to read to their children at home.

Among other efforts the school has taken to improve student achievement, Ms. Gonzales highlighted the following:

- clear understanding of and focus on standards;
- smaller classes;
- teachers' development and frequent administration of accurate performance assessment tests;
- SQS training on the interpretation and use of data;
- implementation of the EPSS;
- reliance upon research-based programs;
- emphasis upon student writing across the curriculum; and
- collaboration among teachers.

Efforts like these, Ms. Gonzales said, are particularly helpful in addressing the social issues that affect student achievement at Lowell, among them a 100 percent free lunch rate and a 119 percent mobility rate.

Ms. Moulton began her presentation with a description of the student demographics at César Chávez Community School (CCCS). All of the students receive free lunch and breakfast, 91 percent of the students are from ethnic minorities, 46 percent are considered English Language Learners, and, in school year 2002-2003, fewer than half of the kindergarten students had had any preschool experience at all.

One factor that contributed to CCCS's emergence from Corrective Action for school year 2003-2004, Ms. Moulton said, is its philosophy as a community school with an emphasis upon the joint responsibilities of staff, parents, and students. Within that philosophy, CCCS has focused upon parental involvement and professional development for the staff. Parents have become more involved with the school through such activities as regular PTO meetings and fundraisers, volunteer service in classrooms, serving as mentors in the HOSTS (Helping One Student to Succeed) program, and attending ESL and GED classes at Santa Fe Community College. Staff professional development has included such activities as grade-level team meetings and curriculum mapping, the Santa Fe Public Schools Summer Literacy Institute, ESL training, the Re:Learning Principals Institute, the West Coast Literacy Conference, and the HOSTS Users Group meetings.

Alluding to the handout that she had provided the committee, Ms. Moulton then reviewed the school's plan for meeting its student achievement benchmarks by spring 2007, including more proficient reading in the students' instructional language, increased language and language mechanics skills, greater proficiency in math and science, and improved attendance rates.

Ms. Maas said that the school's efforts will always revolve around literacy, in large part because most of the children come from homes with very few books and with parents who seldom read. The typical kindergartener, she added, has the vocabulary and language development of a three-year-old, whether the child's primary language is English or Spanish. Ms. Maas credited the HOSTS program for much of the school's success. This program, she said, pairs community volunteers with students for one-to-one tutoring in literacy. Student participation in the program is based on teacher referrals, test scores, and parent requests.

Another benefit to the school, Ms. Maas continued, is its school-wide Title I status, which allows co-mingling of Title I funds with others, such as funds for bilingual education. The Title I money has been used mostly on salaries to reduce the teacher/pupil ratio. For school year 2004-2005, however, CCCS is expecting a 40 percent reduction in its Title I funds. This prospect is especially worrisome, Ms. Maas said, because the staff realizes that, despite the gains it has made, CCCS will always be in danger of falling into Corrective Action once again.

### **Committee Discussion:**

In response to the Chair's question whether the phase-in period for the voluntary preschool program for four-year-olds would be five years, as Dr. García had said, or ten years, as the Chair had been told, Dr. García said that the five-year rollout period would be more effective, especially in terms of working toward the goal of 100 percent student proficiency by 2014, as required by NCLB. Dr. Elizabeth Gutierrez, the education policy advisor to the Governor, concurred with the five-year plan. The funds, Dr. Gutierrez continued, may come from federal, state, and private sources. The Chair cautioned that, for the preschool initiative to work, it cannot be an executive effort only, that it must be collaboration between the executive and the legislative branches and that it must be bipartisan. Dr. García said that she would call the Chair's concerns to the attention of the Governor and the Lieutenant Governor and that a program for legislators was being scheduled for August 2004.

In response to another committee member's question, Dr. García said that the plan for preschool programs for four-year-olds does include the use of public schools and public school teachers. Dr. García added that the estimate of \$9.6 million for the first year is probably high, considering that the program, which will be half-day only, could rely at least in part upon existing facilities.

In response to a committee member's question about the kinds of entities that might be vendors of supplemental educational services, Mr. Ornelas said that they could be private companies that provide a particular product or tutors in the students' homes, internet-based companies, school districts, or even upperclass students serving as tutors.

In response to a committee member's question whether there has been any tracking of students who transferred to other schools under the school choice or transfer option, Mr. Ornelas said that there have been no such studies in New Mexico but that there had been one in Chicago. It found, among other things, that the students who transferred showed statistically significant gains in reading and math when compared to their achievement at their former schools.

In response to a committee member's question how she learned that supplemental educational services were available, Ms. Gonzales said that, as principal, she had received a letter from PED.

In response to a committee member's question whether Lowell Elementary will lose its additional resources once it comes out of Corrective Action, Ms. Gonzales acknowledged that being on Corrective Action affects students and the public image of the school and that resources may need to be redirected to other schools entering Corrective Action.

In response to the Chair's question about the sources of funds to assist schools in Corrective Action or other stages of needing improvement, Dr. García said that federal funds are significant but that it is uncertain whether they can cover all the costs. She added that she has joined the chief state school officers in several other states to determine the actual costs.

In response to a committee member's question about appropriations for programs such as GRADS and full-day kindergarten in the *General Appropriation Act of 2004*, Dr. García said that the Human Services Department has notified PED that the \$4.0 million in TANF funds appropriated for full-day kindergarten must be replaced. Dr. Steinhaus added that there was no TANF money for before- or after-school programs; rather, the appropriation of \$2.9 million will be used for early childhood programs.

In response to a committee member's question how Lowell Elementary could have a mobility rate in excess of 100 percent, Ms. Gonzales said that some students arrive and leave and then return and leave again.

In response to a committee member's question whether their schools receive all the funds that they generate through the Public School Funding Formula, both Ms. Gonzales and Ms. Moulton said that their respective districts use student-based budgeting. Dr. García added that, once the National Council for Education Statistics chart of accounts is implemented, the state will have a clearer picture of school-level funding. She also noted that, if schools received only their student-generated funds, then there would be no money for administrators and other non-teaching personnel.

On other topics, one committee member questioned whether the approved providers of supplemental educational services will enhance student achievement and whether Lowell Elementary and CCCS were using effective reading programs; another advised caution that the school rating system not send the wrong message to students; and a third suggested that those schools not rated as Schools in Need of Improvement or Corrective Action be complimented for their success.

Chairman Miera requested that PED provide additional student enrollment data regarding the students who have exercised the school transfer or choice option under state and federal law, together with an indication of which schools are classified as Title I schools.

Chairman Miera requested that PED provide a matrix that includes both federal and state funding for supplemental educational services on a school-by-school basis.

Chairman Miera thanked the presenters and, with the consensus of the committee, recessed the LESC meeting at 5:40 p.m.

**MINUTES  
LESC MEETING  
TUESDAY, JUNE 29, 2004**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on June 29, 2004, at 9:05 a.m., Instructional Program Center, Nursing Building Cafeteria, Luna Community College, 100 Luna Drive, Las Vegas, New Mexico.

The following LESL members were present:

Representatives Rick Miera, Chair, Pauline J. Ponce, Mimi Stewart, and Thomas E. Swisstack; and Senators Gay G. Kernan, Mary Kay Papen, and William E. Sharer.

The following LESL advisory members were present:

Representatives Kandy Cordova, Ron Godbey, Roberto J. "Bobby" Gonzales, John A. Heaton, Rhonda King, Sheryl Williams Stapleton, J. Paul Taylor, and Richard D. Vigil; and Senators Mary Jane M. Garcia and Leonard Tsosie.

Former Senator Manny M. Aragon, attended the meeting briefly and, as the new President of New Mexico Highlands University, welcomed the members to Las Vegas.

**AREA SUPERINTENDENTS AND COMMUNITY INPUT**

Ms. Barbara A. Perea Casey, Associate Superintendent for Academics, Las Vegas City Schools, explained the Spanish Immersion Program that Los Niños Elementary School has been operating for approximately six years. A dual language approach in which all subjects are taught in both Spanish and English, the program begins at kindergarten with students receiving 10 percent of the instruction in Spanish and 90 percent in English. Each year thereafter, until 4<sup>th</sup> grade, the amount of instruction in Spanish increases by 10 percent and the amount in English decreases by 10 percent so that students in the 4<sup>th</sup> and 5<sup>th</sup> grades receive 50 percent of their instruction in each language.

Test results suggest that the program is working, Ms. Casey said. During school year 2003-2004, both fourth- and fifth-graders at Los Niños Elementary scored above the state average on the TerraNova in reading, language arts, science, and social studies. Ms. Casey added that the sixth-graders entering middle school from Los Niños Elementary in the fall of 2004 will be the first immersion/dual language students to leave the elementary school. The district plans to continue supporting these students with bilingual classes so that when they graduate from high school they will be bilingual in Spanish and English.

Finally, Ms. Casey noted that the program at Los Niños Elementary School is supported by the district's strategic plan for bilingual education, which includes these goals:

- to create learning communities that support the unique cultural needs of each school;
  - to improve achievement for all groups of students by focusing on comprehensive language development, reading, and math, aligned with state standards and benchmarks;
- and

- to establish an effective mechanism that enhances literacy skills, career awareness, and access to postsecondary education “to promote global employability in students as life-long learners.”

### **CUENTOS DE HADAS: DUAL LANGUAGE PROGRAM IMMERSION CLASS, LOS NIÑOS ELEMENTARY**

Chairman Miera recognized Ms. Angela Garcia, 3<sup>rd</sup> grade bilingual teacher at Los Niños Elementary School, Las Vegas City Schools, who works in the dual language Spanish immersion program that Ms. Perea Casey has described. Ms. Garcia then introduced 3<sup>rd</sup> grade students from Los Niños Elementary who performed a play, in Spanish, with students portraying characters associated with Hansel and Gretel, Snow White, Little Red Riding Hood, and other fairy tales. The play was followed by individual students and the whole group dancing and singing to Spanish songs.

Chairman Miera and Representative Vigil thanked the children, their teachers, and their families and presented each of the children with a commemorative lapel pin.

### **PUBLIC SCHOOL TRANSPORTATION**

#### *a. Formula Enhancements/Site Characteristics*

Ms. Ball introduced Mr. Gilbert Perea, Assistant Secretary for Program Support and Pupil Transportation, Public Education Department (PED); Mr. Jack Wiley, Superintendent, Clayton Public Schools, and Chairman of the PED Transportation Funding Formula Task Force; Mr. Andy Forsyth, Vice President, Management Partnership Services, Inc. (MPS); and Dr. Thomas Sexton, Director, Harrison School for Management and Policy, SUNY Stony Brook, and subcontractor with MPS.

Providing a brief, recent history of the public school transportation funding formula, Ms. Ball explained that, in 1995, the LESC endorsed legislation to amend the public school transportation statute in response to long-standing concerns over accountability in the public school transportation program. In 1993, Ms Ball continued, the Legislative Finance Committee (LFC) audit team had conducted an audit of the state’s school transportation program and found that distinctions of authority between PED (State Department of Education [SDE] at the time) and local districts were not clearly defined and that provisions in the statute itself fostered ineffective and inefficient administration of the program.

Ms. Ball said that the 1995 legislation placed the transportation funding formula (which had formerly been in PED regulations) in statute, made PED responsible for program oversight and implementation of the statutory funding formula, and required local school districts to establish their own local bus routes and to negotiate contracts with private transportation firms within parameters defined by PED.

Ms. Ball said that, over the next nine years—from 1995 to June 30, 2004—local districts have been “held harmless” at a level between 95 and 115 percent of previous year funding levels. She provided the committee with the following chronology:

- 1995: Legislation held districts harmless at not less than 95 nor more than 115 percent of the FY 96 funding level for the next four fiscal years.
- 1997: In response to concerns voiced by school district officials and school bus contractors, the Legislature passed a memorial (SJM 68, *School Transportation Study*) requesting PED, the LESC, and the New Mexico School Superintendents Association (NMSSA) to study policies and procedures involved in funding public school transportation.
- 1999: Based on the results of that study, the recommendations of a task force established by the LESC, PED, and NMSSA, and working with the independent, outside contractor who conducted the study, the LESC endorsed legislation to amend the public school transportation funding formula to eliminate density groupings, which had been included in the 1995 formula, and replace them with “site characteristics” to better reflect to-and-from transportation expenditures.
- 1999: Legislation again held districts harmless until FY 02 at 100 percent of the FY 99 allocation. The 1999 legislation included a clause to repeal the hold-harmless provisions of the legislation effective July 1, 2001, intending to ensure that additional changes deemed necessary for the effective and equitable distribution of transportation funds were developed and implemented prior to the repeal date.
- 2001: No recommendations for changes to the formula were presented to the Legislature before the 2001 statutory deadline; therefore, the Legislature postponed repeal of the hold harmless provisions to the end of FY 04 and amended statute to hold districts harmless at not less than 95 percent nor more than 105 percent of the prior school year’s transportation expenditure.
- 2001: The Legislature introduced a memorial (which did not pass) requesting PED, in cooperation with school district superintendents and school bus contractors, to study the feasibility of including additional site characteristics in the formula. Even though the memorial did not pass, PED organized a work group in November 2001 to address the intent of the memorial; however, once again, no recommendations for legislation to change the formula were made this time for the 2002, 2003, or 2004 sessions.
- 2003: In March, PED provided a \$16,000 one-time grant from state transportation emergency funds to the Farmington Municipal Schools to issue a request for proposals (RFP) for a contractor to conduct an evaluation of site characteristics for the public school transportation funding formula. That contract was awarded to Management Partnership Services, Inc. (MPS), North Wales, PA.
- 2004: PED, in cooperation with school district superintendents, established a task force to work with the contractor on adjusting the site characteristics used in calculating the transportation allocation. The task force included superintendents, school district transportation directors, and contractors.
- March 2004: In anticipation of changes to site characteristics used in calculating funding for public school transportation, PED established tentative allocations for operational expenditures at 95 percent of the previous year’s amount and indicated that these allocations would be adjusted after the Secretary of Public Education approves changes to the formula.

- July 1, 2004: Repeal of the hold-harmless provisions of the public school transportation funding formula went into effect; as a result, a district's transportation allocation will no longer be held harmless to a specified percentage of a previous year's allocation.

Mr. Forsyth explained to the committee that he would discuss MPS's work with the PED Transportation Funding Formula Task Force and its recommendations and added that Dr. Sexton would be available to answer technical questions about the statistical basis of the recommendations. Mr. Forsyth noted that, prior to 1994, New Mexico's public school transportation formula, which was found in regulation, was based on the number of linear miles that buses traveled and that excesses in funding inherent in this methodology tended to perpetuate themselves.

Since placement of the formula in statute in 1995, Mr. Forsyth said that the emphasis in both its past and current iterations has centered on a final product that is both rational and empirically derived. He added, however, that, until repeal of hold-harmless provisions in statute go into effect, valid determination of district inefficiencies will be impossible because these hold-harmless provisions (which have been in place since 1995) have masked or buffered them.

Mr. Forsyth indicated that the objectives of his current contract, which is administered through Farmington Municipal Schools, include the following:

- developing and/or revising site characteristics;
- identifying data elements needed for site characteristics;
- making the current formula functional; and
- providing a methodology so that PED can monitor and modify the formula in the future.

Mr. Forsyth explained that the current formula requires that the total transportation allocation be based on a constant amount (which is a base amount that is the same for all school districts) added to the product of a variable amount per day (based on the number of students transported and site characteristics) times the number of days in the year.

Noting that New Mexico is a challenging state in terms of its geographic and demographic characteristics, Mr. Forsyth explained MPS's project methodology, which involved:

- revisiting the current formula and statutes;
- having discussions with key stakeholders and members of the Transportation Funding Formula Task Force;
- testing 50-55 models for statistical viability and funding impact; and
- making recommendations to the task force.

Mr. Forsyth said that the following concerns arose during discussions with key stakeholders and task force members:

- The current formula is difficult to understand and predict. Mr. Forsyth noted that any formula involving a mathematical linear regression is something of a "black box" in that certain calculations will not be readily transparent. He likened the formula to a "faith-based" model that is, nevertheless, empirically derived.

- Repeal of hold-harmless provisions of the current law will have a greater effect on small districts than it will on medium-sized and larger districts.
- The effect of the number of miles driven is not sufficiently factored into the current formula.
- Too many site characteristics can distort the formula.
- The formula does not account for sharp increases in fuel prices.

After discussions with key stakeholders and the task force, Mr. Forsyth said that the MPS consultants determined that the formula model should be based upon both the number of “student days–i.e., the number of students transported times the number of days of operation–and the number of miles traveled per year by all buses. While the consultants prepared several different models based on (1) the number of student days without mileage considerations and (2) mileage without consideration for the number of student days, Mr. Forsyth said that the model using both the number of students days and mileage provided the best “fit” of the model to the data.

To prepare the final model, Mr. Forsyth said that, once the data elements had been gathered, Dr. Sexton developed a linear regression model to test the significance of each site characteristic on transportation costs. The table below shows the final MPS recommendation.

Mr. Forsyth noted that the MPS-recommended model also includes a differentiation of site characteristics between districts with fewer than 1,000 students and those with more than 1,000 students.

<b>Student and Miles-Based</b>		
Recommended Site Characteristics	<b>Students Enrolled</b>	
	< 1000	> 1000
<b>Daily per Student Transported</b>	\$0.36	\$1.36
<b>Daily per Special Education Student Transported</b>	--	\$3.64
<b>Students per Square Mile (Density)</b>	--	<b>(\$15,913.00)</b>
Miles Traveled per Year	\$0.74	\$0.58
Daily per Bus Operated	\$89.60	--
Daily per Lift Bus Operated	--	\$120.50
<b>Base Allocation</b>	\$48,731.00	\$117,785.00

Mr. Forsyth said that, besides the recommendations on site characteristics and the 1,000-student split represented in the table above, MPS was making the following additional recommendations:

- buffer the phase-in of the new formula over a two-to-three-year period with a hold harmless of 95 percent;
- after three to five years, revisit the model and site characteristics to determine continued validity;
- do not provide automatic supplemental appropriations for districts that request them; and
- acquire and use information technology, e.g., a geographic information system (GIS) to provide better data.

Mr. Wiley noted the difficulties he perceived with establishment of one funding formula for the entire state given New Mexico's vast geographic and demographic differences, suggesting that perhaps two formulas—one for urban and a second for rural districts—should be considered. He told the committee, however, that the task force recommendations were the same as the consultants except that the task force recommendation includes a hold harmless provision of 97 percent of the previous year's appropriation.

Mr. Perea indicated that current law provides PED with the authority to adjust site characteristics in the funding formula but does not allow PED to determine how much—if any—districts can be held harmless over a previous year's appropriation. He directed the LESC's attention to a handout included in committee notebooks entitled "School Transportation Data Summary," which illustrates the percent change in the number of buses in operation, the number of students transported, and the number of miles traveled over a five-year period, from school year 1999-2000 through school year 2003-2004. Mr. Perea also told the committee that he had concerns about maintaining any hold-harmless levels when some districts are transporting fewer students in fewer buses for fewer miles. He noted that Alamogordo, for example, was transporting 22.6 percent fewer students in 10.9 percent fewer buses for 14.1 percent fewer miles. He questioned the wisdom of holding funding harmless across the board when more than 60 percent of the state's 89 school districts are transporting fewer students than they did five years ago.

Mr. Perea also reiterated his concern about the right of the Secretary of Public Education to institute any type of hold-harmless provision suggesting that, the current statutory funding formula does not provide her with that authority. He said that he will recommend to the Secretary that districts experiencing a shortfall because of the lack of a hold-harmless provision can apply to PED for an emergency supplemental allocation, which could be paid out of currently available transportation funding.

Chairman Miera interrupted the presentation and committee discussion briefly to introduce Mr. Manny M. Aragon, recently named President of New Mexico Highlands University (NMHU). A long-time state senator, President Aragón welcomed the committee to Las Vegas and noted that this welcome is one of his first duties on his first day as the new president of NMHU. He said that he had signed his letter of resignation from the Senate the prior day and that he said he looks forward to working with the Legislature as President of NMHU. Chairman Miera also recognized Mr. Leroy Sanchez, President, Luna Community College.

### **Committee Discussion:**

In response to committee members' questions, Dr. Sexton explained that a site characteristic includes those environmental, demographic, and logistical attributes over which the school district has no control, such as the number of students transported, the overall population density and dispersion of students, the quality and layout of the road network, and geographic area of the district. He emphasized that site characteristics are distinguished by the fact that they are neither partially nor fully the result of managerial choice.

To illustrate, Dr. Sexton explained that the bell times and grade configuration at a given school may be valid constraints on the transportation system, but they are not site characteristics because, in theory, the school district could implement a more optimal time or grade configuration if it chose to do so. On the other hand, he said, that students live over a widely dispersed area (requiring more buses and/or longer ride times) is a site characteristic because it is a demographic attribute beyond the district's control.

Committee members expressed a number of concerns related to the effect of rising gasoline prices on implementing adequate funding for public school transportation. In response to questions and comments, Mr. Perea directed members' attention to a handout in their notebooks, which included a table and graphs regarding the history of gasoline price increases over the past two years. He noted that the price for regular unleaded gasoline has increased by 9.71 percent since July 1, 2002, and that the price for diesel fuel has increased by 7.21 percent during the same period. A committee member also noted that gasoline prices vary in different regions of the state.

In response to a committee member's questions about adding a factor to the funding formula to account for fuel price increases, Mr. Forsyth said that the formula can be rendered totally ineffective by trying to include too many factors to adjust to any contingency. He recommended adjustment of site characteristics after careful consideration of data collected over a period of time. He also noted that variations in the funding stream should not obviate a school district's obligation to manage funds effectively. Dr. Sexton added that, in the consultants' examination of the formula and the data used to make determinations about site characteristics, many costs did not emerge as statistically significant.

Committee members discussed issues related to transportation fund cash balances. Mr. Perea explained that the district may retain 50 percent of its transportation cash balance. The district must use half of that amount for to-and-from transportation expenses, and it may use the other half for other transportation-related services. Mr. Perea added that the remaining 50 percent reverts to PED for use as an emergency fund. In response to a committee member's question, Mr. Perea explained that, for the past several years, nearly \$1.0 million per year has gone into cash balances, with approximately \$400,000 to \$500,000 going to the PED emergency fund each year. In response to another committee member's question, Mr. Perea said that he appreciates having the emergency funds readily available to meet district needs, thereby eliminating the need for PED to request a number of emergency supplemental appropriations from the Legislature.

Returning to the discussion on the site characteristics in the transportation funding formula, some committee members expressed concerns about the long distances that students in isolated rural areas are required to travel to and from school noting that some students are so isolated that parents or other responsible parties must drive them to a bus stop and be reimbursed through "per capita feeder" payments. In response to a committee member's question, Mr. Perea said that he did not have data on hand to determine the effect on students' grades of these extended, daily, round-trip bus rides but that conducting such a study is one of Secretary García's future initiatives.

In response to a committee member's question, Mr. Perea explained that all buses—whether contractor- or school district-owned—are replaced on a 12-year cycle and that funding for those replacements comes through separate yearly legislative appropriations, not from the annual operational legislative appropriation. In response to a committee member's question, he reported that approximately 70 percent of all school buses in the state are operated by approximately 280 contractors, while the remaining 30 percent are district-owned. In response to a follow-up question, Mr. Perea said that 13 of the state's 89 districts operate some or all of their own buses.

Committee members expressed a major concern that, should the Secretary include a hold-harmless provision among the proposed transportation funding formula changes, the Legislature might be expected to provide funding. In response to a committee member's question, Ms. Ball

explained that state statute allows, but does not require, the LESC and the Legislative Finance Committee to review the site characteristics developed by the state transportation director prior to approval by the state Secretary of Public Education. Noting Mr. Perea's earlier comments about the Secretary's lack of authority to extend or institute regulations to hold districts harmless at previous levels of funding, committee members expressed interest in whether PED would expect the 2005 Legislature to enact some sort of hold-harmless provisions to the transportation formula. In response to a committee member's comment, Mr. Perea indicated that districts have long been aware that any hold-harmless provisions in statute have been temporary—even though those hold harmless provisions that have been in place for nine years. He indicated that he was uncertain as to Secretary García's position on the hold-harmless issue but that he would advise her not to ask for legislative enactment or approval of some sort of additional hold-harmless provision in statute. He said that districts have had at least the past three years to adjust, and he reminded committee members that more than 60 percent of school districts are transporting fewer students than they did five years ago.

Chairman Miera acknowledged the presence of bus contractors and school district transportation personnel in the audience and asked if any of them had input for the committee consideration.

Mr. Denny Beal, bus contractor, Albuquerque Public Schools, told the committee that he thought the current iteration of the transportation funding formula is "a step in the right direction" but that he believes that the formula still does not represent what happens in districts regarding the cost of providing transportation.

Ms. Theresa Saiz, Executive Director of Transportation, Rio Rancho Public Schools, expressed her district's appreciation to the members of the task force and the consultants for their efforts to address a complex issue. She noted, however, that her district continues to experience growth of 6.0 to 7.0 percent a year and that, even so, under the proposed changes to the site characteristics, her district is projected to receive an appropriation of approximately 2.0 percent less in FY 05 than in FY 04.

In response to committee members' questions and comments, Mr. Perea said that PED would closely monitor situations like Rio Rancho's and attempt to provide supplemental funding when needed.

Senator Tsosie requested that Mr. Perea provide the committee with information on the average amount of time, by district, that students spend riding buses. He also requested that Mr. Perea provide the committee with by-district information regarding the number of and funding provided for per capita feeders.

#### ***b. School Bus Air Conditioning Requirements***

Ms. Ball introduced Mr. Tito Ortiz, Assistant State Transportation Director, PED, to discuss issues related to providing air conditioned school buses for public school transportation, primarily for students with special needs and eventually for all students. She said that Mr. Perea would also be available to answer committee questions.

Ms. Ball explained that the 2004 Legislature considered a joint memorial (HJM 29, *Study School Bus Air Conditioning Needs*) requesting PED to determine the need for and the cost of air conditioning on school buses and to investigate several phase-in options in relation to the state's

school bus replacement schedule and transportation of special education students. She said that the 2004 Legislature also considered an LESC-endorsed bill (HB 97, *School Bus Air Conditioning Requirements*). That bill, which did not pass, would have required:

- at least 25 percent of all school buses utilized by a school district, including all school buses with wheelchair lifts, to be equipped with air conditioning by school year 2007-2008; and
- PED to promulgate rules to provide for a waiver of the requirement for buses without a wheelchair lift if the school district could demonstrate that normal temperatures during the school year do not warrant air conditioning.

Ms. Ball said that, even though neither the memorial nor the bill passed, the LESC requested that a presentation on issues and costs related to providing air conditioned school buses be included in the 2004 interim workplan.

Mr. Ortiz said that the federal *Individuals with Disabilities Education Act* (IDEA) does not currently require air conditioned school buses to transport students with disabilities. He said that the only specialized equipment specifically mentioned in IDEA are special or adapted buses, lifts, and ramps.

He said that the need for an air conditioned bus is determined on an individual basis according to each student's Individualized Education Plan (IEP), which is developed and implemented in accordance with federal and state laws and regulations. He explained that the IEP, intended to serve as a communication tool, enables parents and the educational team, as equal partners, to decide collectively what the student's specific needs are and what services will be provided to meet those needs.

For school year 2003-2004, Mr. Ortiz explained, a total of 2,340 school buses operated daily, including 294 buses (12.6 percent of the total) that are already equipped with air conditioning. He noted that air conditioned buses operate primarily in school districts located in the southern part of the state.

Regarding costs, Mr. Ortiz stated that factory-installed air conditioning requires approximately \$10,000 to \$12,000 per bus with an additional \$1,500 per bus to retrofit a bus already in service. Referencing the section of HB 97 from the 2004 Legislature that would have required at least 25 percent of all school buses to be air conditioned by school year 2007-2008, Mr. Ortiz said that the cost to accomplish that goal would be approximately \$3.6 million based upon the following:

- 25 percent of 2,340 total buses = 585 buses
- 585 buses less 294 buses already equipped with air conditioning = 291 buses
- 291 buses x \$12,500 (\$11,000 median cost + \$1,500) = \$3,637,500

As a viable alternative (\$750 per bus), Mr. Ortiz said that PED suggests tinting school bus windows and painting bus roofs white to reduce interior temperatures on school buses in warm climates.

## **Committee Discussion:**

Committee members expressed interest in investigating the possibility of using IDEA funding to air condition school buses. In response to a committee member's question, Mr. Ortiz stated that, if the student's IEP required a specific ambient temperature in his or her surroundings, IDEA "B" funds could be used to provide air conditioning for that student's bus. In that situation, however, Mr. Perea added the IEP would also be likely to require the same ambient air conditions in the student's classroom. In response to a committee member's question, Mr. Perea stated that, currently, three students in the Albuquerque Public Schools (APS) have an IEP that requires transportation in an air conditioned bus. He noted that the Gadsden district chooses to provide air conditioned buses for special education students even though none has an IEP requiring it.

Some committee members expressed concern about using IDEA B funds to air condition school buses when those funds already have so many demands upon them. Some committee members expressed concerns about waiting for a student's IEP requirement to begin the process of providing air conditioned school buses.

In response to a committee member's question, Mr. Ortiz explained that retrofitting school buses can invalidate manufacturers' warranties, especially since the air conditioning unit must sit in a box on top of the bus. In response to another committee member's question, Mr. Perea explained that school buses are replaced on a 12-year cycle; therefore, one-twelfth (approximately 8.3 percent) of the entire fleet is replaced each year, which amounts to 195 buses. In response to a committee member's question, Mr. Ortiz said that PED would look at the cost of adding air conditioning to new, replacement buses each year during the annual replacement cycle.

Mr. Perea expressed concerns that providing air conditioned buses would, in addition to increasing capital costs, also increase maintenance and operational costs. He said that school buses with air conditioning units have higher maintenance costs than buses without them, and he noted that the replacement cost for an air conditioner compressor could be as high as \$5,000.

Mr. Perea and Mr. Ortiz agreed, at the committee's request, that PED would bring forth potential legislation to include a cost-neutral plan to provide air conditioned buses over a period of time through the replacement process.

## **INSTRUCTIONAL MATERIAL**

Ms. Frances Maestas, LESC staff, introduced Mr. Gilbert Perea, Assistant Secretary for Program Support and Pupil Transportation, PED; Ms. Naomi Vicenti, Finance Director, West Las Vegas Public Schools; and Mr. Michael Gottlieb, Assistant Superintendent of Curriculum and Instruction, Roswell Independent Schools, for a discussion relating to the allocation and distribution of the FY 05 instructional material appropriations to include the \$6.1 million credit assumed from school district cash balances.

Ms. Maestas explained that the 2004 Legislature provided \$26.6 million for the Instructional Material Fund in the *General Appropriation Act of 2004* to support the FY 05 language arts adoption (composition, critical thinking, grammar, research-based reading, spelling, study skills,

and vocabulary) for public, state-supported schools and accredited private schools, as well as for the purchase of materials for Adult Basic Education. Noting that the Executive FY 05 public school support recommendations included a \$6.0 million instructional material cash balance credit, Ms. Maestas said that language in the appropriation bill requires the Secretary of Public Education to use an additional \$6.1 million for the FY 05 instructional material allocation from the instructional material cash balances of eligible entities, bringing the total allocation to \$32.7 million. To assist districts adversely affected by the cash balance credit, Ms. Maestas added, the 2004 Legislature also appropriated \$1.5 million in special non-recurring appropriations to PED.

Mr. Perea reported that the Executive's recommendation for an instructional material cash balance credit in FY 05 was based on a review of FY 03 unexpended instructional material cash balances statewide prior to the 2004 legislative session. At that point, he explained, it was determined that approximately \$16.8 million in unexpended revenue was being reported by eligible entities statewide, with 67 percent of that amount attributed to school districts, 27 percent to accredited private schools, and the remaining 6.0 percent to other eligible entities. Mr. Perea emphasized that, to comply with the cash balance credit language in the appropriation bill, PED staff were adjusting each school district's FY 05 instructional material allocation proportionately to their share of the \$16.8 FY 03 cash balance.

Noting the concerns by LESC members during its April 2004 meeting that textbooks were not always in the hands of students by the start of school, Mr. Perea said that PED staff were implementing initiatives to address the issue, including:

- the issuance of new administrative guidelines that require PED to allocate, on or before July 1 of each year, not less than 90 percent of the instructional material appropriation to eligible entities and to distribute the remainder of the allocation early in the fiscal year;
- adding a new section in regulation that provides a school district, state-supported school, or an Adult Basic Education center with the flexibility to budget and expend unobligated cash balances in subsequent fiscal years for the purchase of instructional material outside the state-adopted list; and that requires private accredited schools to expend unobligated cash balances in subsequent fiscal years for the purchase of instructional material from the state-adopted list;
- collaboration between PED and in-state book depositories to develop a new online ordering system that will not only allow districts to order books earlier, but will also be capable of generating an estimate of need prior to the beginning of a legislative session; and
- establishing a work group, composed of PED and school district personnel, to collaborate and provide recommendations to improve reporting requirements and accounting procedures for instructional materials.

Ms. Vicenti stated that the new PED administrative guidelines to provide 90 percent of the FY 05 allocation to school districts in July and to allow more budget flexibility in expending unobligated cash balances in subsequent fiscal years will positively impact school districts in purchasing instructional materials in a timely manner. With regard to the district's portion of the cash balance credit, Ms. Vicenti commented that West Las Vegas Public Schools' share of the cash balance credit, which amounted to approximately \$25,000, was available because the school district, like many other districts around the state, set aside dollars from adoption cycles that are less expensive in order to be able to provide for more expensive adoption cycles, such as reading and language arts. She warned, however, that such savings generally occur over a number of years and that the FY 05 cash balance credit would force school districts to expend all of their savings.

Mr. Gottlieb expressed concern over the amount of instructional cash balance credit reported by PED for Roswell Independent Schools. He explained that PED staff and school district personnel could not agree on the unexpended amount of funds and stated that funds that the district encumbered for purchases from the state-adopted list were also considered in the credit. Mr. Gottlieb confirmed Ms. Vicenti's comment that school districts generally save dollars from less expensive adoptions to cover the expense of higher adoptions as well as upgrading library books, such as reference books. He said that for a number of years the district has been trying to purchase one new thesaurus and dictionary for each student by grade level each year and to purchase supplemental science kits; however, the FY 05 cash balance credit will curtail these initiatives as well as district plans to ensure that sufficient dollars are available for expensive textbook adoption cycles.

### **Committee Discussion:**

In response to a committee member's question relating to the possibility of PED distributing instructional material allocations earlier than July 1 of each year, Mr. Perea responded that PED can determine the initial allocation for each eligible entity immediately after the end of each legislative session; however, funds are not available for distribution until the state receives federal Mineral Leasing revenues, which may or may not be on or before July 1 of each year. He added that PED has taken steps to provide more dollars to eligible entities by providing 90 percent of their respective initial allocations as soon as revenues become available. In past years, he stated, the department was providing 75 percent of the 90 percent allocation in the initial distribution.

Representative Ponce expressed concern as to whether school districts statewide would have sufficient dollars to pay for large or expensive instructional material adoptions in future years because the state is forcing them to reduce their savings to provide for such adoptions. She emphasized that in the last two fiscal years the state has taken credit for approximately \$28.0 million in both operational and instructional material school district cash balances.

Chairman Miera requested that staff determine at what point in the appropriations process the requirement for districts to utilize their instructional material cash balances was included in the 2004 appropriations bill.

## **SCHOOL LIBRARY FUNDING**

Ms. Maestas reintroduced Mr. Perea and recognized Mr. Omar Durant, Director of Library Media and Instructional Material Services, Albuquerque Public Schools, for a review of FY 05 appropriations for school libraries statewide.

Ms. Maestas explained that the 2004 Legislature provided a \$1.0 million special, non-recurring appropriation to the School Library Material Fund for distribution by PED to public and state-supported school libraries statewide for the purchase of books and other educational media, including online reference and periodical databases. In addition, the *2004 Capital Projects General Obligation Bond Act* includes authorization for the issuance and sale of approximately \$6.2 million in general obligation bonds (GOBs) for the acquisition of supplemental library books, equipment, and library resources by public schools and juvenile detention centers statewide, contingent upon voter approval in November 2004.

Mr. Perea reviewed the requirements for the distribution of the FY 05 appropriation to the School Library Material Fund, noting that current law requires PED to allocate, on or before July 1 of each year, not less than 90 percent of the fiscal year's appropriation to public schools and state-supported schools. On or before January 15 of each year, he added, PED is required to recompute each allocation and to distribute the balance of the annual appropriation, adjusting for any over- or under-estimation made in the first allocation.

Referring to an attachment to the staff brief in the committee's notebook, *School Library Material Tentative (90%) Allocation 2004-2005*, Mr. Perea summarized the FY 05 initial distribution from the School Library Material Fund to public schools, charter schools, and state-supported schools. He noted that the 90 percent distribution would provide over \$900,000 to fund approximately 322,000 students statewide at \$2.80 per student.

Mr. Durant reported that in 2002 the Legislature authorized, and the voters approved, the issuance and sale of \$7.7 million in GOBs for the purchase of library materials for public school libraries statewide in FY 03. He indicated that the \$7.7 million provided a \$5,000 base amount and approximately \$13.50 per student to 682 public school libraries statewide for replacing out-of-date, time-sensitive books in the areas of science, social studies, and technology information so that at least 70 percent of the material is current, which the American Library Association defines as materials published within the last 12 years.

Mr. Durant reported that, contingent upon voter approval in November 2004, a \$16.1 million bond package for New Mexico libraries would provide \$6,125,000 for public school and juvenile detention libraries. Referring to an attachment to the staff brief in the committee notebook, *Proposed Distribution of Library GO Bond Funds 2004*, he summarized the recommendations of the New Mexico Task Force for School Libraries for distribution of the funds as follows:

- Approval for funding will be based on a public school, charter school, or juvenile detention center having a circulating library collection with dedicated library space and library staff or a new program established to serve a previously non-existing school or school population.
- Each approved entity will receive a \$5,000 base amount and approximately \$6.00 per student on the 40<sup>th</sup> day of school.
- Awards are intended to supplement, not supplant, existing or prior library material funding. Purchases of library materials may include books, reference materials, and instructional videos, but not furniture, computer hardware/software, or other materials not applied to direct instruction.

Mr. Durant emphasized that the spending for public school libraries in New Mexico ranges from 21 cents to \$21 with an average level of \$7 per student per year, whereas the national average is \$18.07. He noted that, for New Mexico to reach the national average, the New Mexico Task Force for School Libraries estimates the cost to be \$6.0 million per year.

### **Committee Discussion:**

In response to a committee member's question regarding the percentage of books that are considered to be out of date, Mr. Durant stated that the average copyright date for most school library books is early 1980s, which makes the average age approximately 20 years. He added that by national standards, most math, computer, geography, social studies, and science books should be less than ten years old; in New Mexico, however, 70 percent of school library books in those subjects are older than ten years.

Representative Swisstack expressed concern that juvenile detention centers may not be able to meet all of the eligibility criteria for receiving school library GOB funds, primarily dedicated library space and staffing. He suggested that, to ensure funding for these facilities, school districts should collaborate with their local juvenile detention centers in establishing cooperative initiatives, such as bookmobile partnerships.

Senator Papen requested information about library book funding allocations to the J. Paul Taylor Juvenile Detention Center in Las Cruces. (This facility was not included on the distribution list provided by PED.)

## **PROFESSIONAL STANDARDS BOARD FOR TEACHERS**

Dr. Forrer introduced Mr. Charles Bowyer, Government Relations, Professional Issues, and Research, National Education Association – NM (NEA – NM); and Ms. Christine Trujillo, President, NM Federation of Educational Employees (NMFEE), to discuss the possible establishment of a professional standards board for teachers in New Mexico.

As background, Dr. Forrer noted that, during the 1997 legislative session, bills were introduced in both houses to establish an Educator Practices and Standards Board with eleven members appointed by the Governor and with the authority to issue educator licenses; however, the legislation failed.

Dr. Forrer explained that the former State Board of Education (SBE) had established through regulation a 19-member advisory group, the New Mexico Professional Standards Commission, which made recommendations to SBE regarding to the approval of professional preparatory programs, the licensure of school personnel, a code of ethics for certified school personnel, and other unspecified matters related to education. She noted that, according to the Public Education Department (PED), this commission will be replaced with a new advisory body appointed by the Secretary of Public Education to carry out essentially the same functions.

According to Ms. Trujillo, teachers and their unions support the establishment of a New Mexico professional standards board composed of professional educators for several reasons, among them:

- Teachers want a larger say in determining entry standards into the profession because they know what is needed if their students and newer colleagues are to succeed and because strengthening the preparation of one teacher improves the ability of all teachers to help students.
- Teachers understand first-hand the flaws in the process of certification as well as what needs to be done to improve the process.
- Teachers understand the importance of rigorous induction and clinical experiences and can effectively advocate for them.
- If teaching is to continue developing into a profession, like law and medicine, professionals need to set entry standards. Entry standards, support for peer assistance and review, and a strong teacher role in professional development are the touchstones of the unions' efforts to build and improve the teaching profession.

- Other states with professional teacher standards boards report good experiences with them. For example, Minnesota's standards board is helping to see that 90 percent of that state's teachers will meet the federal *No Child Left Behind Act of 2001* definition of highly qualified prior to the statutory deadline (school year 2005-2006).
- According to research conducted by Dr. Linda Darling Hammond, professor of education at Stanford University, those states that have professional teacher standards boards also have teachers who are more likely to exhibit attributes associated with improved student performance.

Ms. Trujillo stated that the union she represents advocates implementation of the following standards in regard to teacher preparation:

- a rigorous college level entrance examination for teacher preparation programs;
- a 3.0 grade point average (GPA) requirement for students in a teacher preparation program;
- an exit examination for certification;
- an academic major in addition to pedagogical studies;
- a stronger clinical experience; and
- a strong induction and mentoring program during the first year of teaching.

Prior to his presentation, Mr. Bowyer provided the committee with the following documents: a handout prepared by NEA – NM entitled *The Status of Teaching as a Profession in New Mexico*, a report from the National Conference of State Legislatures (NCSL) entitled *Improving Teaching Quality Through Teacher Professional Standards Boards*, an untitled document containing statements from both NEA – NM and NMFEE in support of the establishment of a professional standards board in New Mexico, and *A Report on the Status of Professional Boards of Teaching in the United States (Revised)*, published by the National Education Association.

Mr. Bowyer cited Section 22-10A-4 NMSA 1978, *Teachers and school administrators; professional status; licensure levels; salary alignment*, as proof that state statute recognizes teaching and school administration as professions with the full rights, responsibilities, and privileges accorded other professions in New Mexico. He did indicate, however, that there is one significant way in which New Mexico treats the teaching profession differently than it treats other professions, such as medicine and thanatopractice: according to Mr. Bowyer, both doctors and morticians are subject to statutorily created boards composed of their peers, as are many other professionals, all of whom are licensed by such boards.

Noting that PED planned to create a new entity to replace the New Mexico Professional Standards Commission, Mr. Bowyer stated that, without a professional standards board of some type in place, teachers cannot fully have the rights and privileges available to other professionals. He suggested that are three options available to remedy the situation:

1. establish a fully independent board by means of legislation, as was attempted in 1997;
2. allow PED to create a board through regulation; or
3. enact legislation instructing PED to create a board and specifying its functions, one of which should be to establish and maintain the code of ethics.

Mr. Bowyer indicated that he favored the third approach and explained that if the proposed legislation did not specify that the Secretary of Public Education would appoint the members of the board, the Governor automatically would be the appointing authority.

### **Committee Discussion:**

A committee member expressed concern that there is no longer oversight to ensure that university teacher preparation programs include the statutorily required science-based reading courses, a function formerly exercised by SBE, and suggested that a new professional standards board could assume that responsibility. Several committee members stated that there should be some board with the power to issue and revoke teaching licenses.

A committee member asked if the implementation of a professional standards board would mean that all private school teachers would have to be licensed by the board. In response, Mr. Bowyer stated that there would be no change in the licensure requirements for private school teachers, explaining that licensure for teachers in non-state-accredited private schools is voluntary.

In response to a committee member's question regarding the relationship between the licensure and subsequent employment of teachers, Mr. Bowyer stated that the professional standards board would decide whether or not to license an individual but that the local superintendent would continue to decide whether or not to employ a particular teacher. In other words, he said, the professional standards board would have no say in employment decisions.

Noting that most professional boards in state statute regulate individuals employed in the private sector, a committee member asked if there are any other public sector employees regulated by an independent board. Mr. Bowyer stated that most social workers are employed in the public sector and that they are licensed by a statutory board.

In response to a committee member's question regarding whether there is any connection between student achievement and the existence of a state professional standards board, Ms. Trujillo stated that research indicates that better outcomes for students occur in states with boards that institute high standards for teaching.

In response to a committee member's question why the presenters wanted a professional standards board for teachers in New Mexico, Ms. Trujillo replied that teachers want to be more heavily involved in the process of determining such matters as licensure requirements, the nature of professional preparatory programs, the code of ethics, and other practices and procedures affecting their profession. She noted that teachers had the opportunity to provide input through the New Mexico Professional Standards Commission but that, because of the dissolution of the commission, a formal structure "anointed by policymakers" is needed to ensure continued teacher input.

Chairman Miera gave members of the audience an opportunity to comment. Ms. Nancy Powell, who identified herself as a member of the New Mexico Association of Classroom Teachers, stood in support of the establishment of a professional standards board.

There being no further discussion, Chairman Miera thanked the presenters.

## TAOS FILMMAKERS INITIATIVE

Chairman Miera recognized Ms. D. A. Zivkovich, Vice President of Taos Productions, Limited Company, which oversees the Taos Filmmakers Initiative and the Taos Studio Complex. She noted that one of the primary objectives of the initiative is to involve students in film and theater production including box office management, acting, stage management, and computer graphics.

Ms. Zivkovich said that public schools were often reluctant to embrace media arts instruction because of the technology and equipment costs. She explained, however, that the Taos Filmmakers Initiative has the equipment and the capacity to provide onsite instruction in media arts. Ms. Zivkovich emphasized that, because the film industry is vibrant and growing in New Mexico, it is critical that students be prepared for employment opportunities within the industry.

With regard to the Taos Studio Complex, Ms. Zivkovich stated the facility will comprise 22 buildings on 22 acres and will include soundstages, set and costume construction, production offices, dressing rooms, makeup, wardrobe, full digital post-production, and a world-class sound recording studio. The projected cost of the project is approximately \$33.0 million. When complete, she added the Taos Filmmakers Initiative School will be the first in the United States to be located on the grounds of a studio production complex.

### **Committee Discussion:**

Representative Gonzales pointed out that the film industry was doing well in New Mexico (\$100.0 million last year) but that many of the jobs were going to people from out of state. He made reference to a film that had been made in New Mexico in 2003 but that hired many people from other states for the higher paying jobs because New Mexico lacked appropriately trained workforce. Representative Gonzales emphasized New Mexico should be preparing its students for employment opportunities within the film/theater industry.

In response to a committee member's question about the goal of the Taos Filmmakers Initiative, Ms. Zivkovich responded that the Taos Filmmakers Initiative is focused on creating a two-year accredited program for adults with the ability to allow selected high school students into the program. She went on to say that the Taos Filmmakers Initiative hopes to provide free classes for elementary students and that it would like to establish an after-school program.

In response to a committee member's question about possible changes to current law to support the Taos Filmmakers Initiative effort, Ms. Zivkovich suggested including media arts as a component of fine arts education.

Chairman Miera thanked the presenters and, with the consensus of the committee, recessed the LESC meeting at 5:40 p.m.

**MINUTES  
LESC MEETING  
WEDNESDAY, JUNE 30, 2004**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on June 30, 2004, at 9:05 a.m., Instructional Program Center, Nursing Building Cafeteria, Luna Community College, 100 Luna Drive, Las Vegas, New Mexico.

The following LESC members were present:

Representatives Rick Miera, Chair, Pauline J. Ponce, and Mimi Stewart; and Senators Gay G. Kernan, Mary Kay Papen, and William E. Sharer.

The following LESC advisory members were present:

Representatives Kandy Cordova, Ron Godbey, Roberto J. "Bobby" Gonzales, John A. Heaton, Rhonda King, Sheryl Williams Stapleton, and Richard D. Vigil; and Senators Dianna J. Duran and Leonard Tsosie.

**INTERNATIONAL EDUCATION PROJECT**

Mr. Carl E. Dickens, LESC staff, introduced Dr. Jim Kelly, Senior Advisor, Education Program, Asia Society; Dr. Kurt Steinhaus, Deputy Secretary for Learning and Accountability, Public Education Department (PED); and Ms. Sharon Dogruel, Director, The Education Center, for a discussion relating to international education.

Dr. Kelly explained that he represents the Asia Society, a national, nonprofit, nonpartisan educational organization that supports international education initiatives throughout the United States by providing seed money, on a competitive basis, to assess and improve teaching and learning about the world. He added that the Asia Society defines international education as the integration of content dealing with other world areas (to include geography, history, economics, culture, and languages of other world regions) into K-12 core curriculum.

Referring to a handout included in the committee members' notebooks, *International Education: New Mexico and the World*, Dr. Kelly discussed the importance and value of international education and learning about other cultures in the world by focusing on three areas: (1) identification of the problem; (2) ongoing concerns; and (3) recommendations.

The problem, Dr. Kelly said, is children in the United States are not learning about the rest of the world. He cited national research indicating that 25 percent of college-bound students do not know the name of the ocean that separates the United States from Asia and that 80 percent do not know that India is the world's largest democracy. The cause of the problem, he said, is that schools in the United States have not kept up with changes in the world.

Dr. Kelly made the point that we have approximately one million students in the United States studying French, a language spoken by 80 million people in the world, while we have no more than 30,000 students studying Chinese, a language spoken by over 1.5 billion people in the world. The ongoing concern, he emphasized, is that learning about other cultures supports our

country's ability to compete in the global marketplace. Dr. Kelly added that trade with Asia now exceeds trade with Europe and that trade with Mexico and South America is increasing rapidly. In conclusion, Dr. Kelly recommended that international education not be a separate course of study, but a component of a regular curriculum. He added that the teaching of international education provides a great opportunity for the use of new computer technologies for communicating with and understanding other cultures.

Dr. Steinhaus explained PED's interest in international education, noting that PED would be looking at benchmarks and standards to support the inclusion of international education in school curricula. Dr. Steinhaus stated that New Mexico First, in conjunction with PED, plans to hold a summit in November of this year to assist in identifying key factors that support the high school reform initiative effort to include international education.

Ms. Dogruel stated that, in February 2004, the Education Center, a Santa Fe-based nonprofit organization, applied for and was awarded a \$15,000 grant from the Asia Society. She said that the grant will fund activities focused on developing an action plan for integrating international education in New Mexico public schools as follows:

- conduct a comprehensive multidimensional survey of educators, business and community leaders, and the public to determine the current status of international education in New Mexico;
- identify existing best practices programs in New Mexico and other states; and
- convene a leadership summit in the 2004 interim to facilitate collaboration among stakeholders to include:
  - the New Mexico Governor's office;
  - Office of the President of Mexico;
  - tribal governments;
  - New Mexico Secretary of Public Education;
  - New Mexico State Legislature;
  - New Mexico Public Education Commission;
  - New Mexico Business Roundtable;
  - Hispanic Roundtable;
  - Foundations and philanthropic organizations;
  - New Mexico Commission on Higher Education;
  - deans, directors and/or faculty members of postsecondary schools;
  - K-12 teachers;
  - community organizations; and
  - parent and family organizations.

### **Committee Discussion:**

Discussion among the committee members suggested strong support for the integration of international education initiatives in public school K-12 curriculum to include geography and multi-language development beginning at the elementary grade level.

In response to a description by Senator Kernan of how the Hobbs Municipal Schools incorporates world knowledge into its Core Knowledge curriculum at all the district elementary schools, Dr. Kelley suggested that the district apply for a \$25,000 Goldman Sachs Prizes for Excellence in International Education.

Senator Kernan requested information on preparing applications for the Goldman Sachs Foundation awards.

## **FEDERAL REQUIREMENTS FOR CARL PERKINS ACT**

Dr. Forrer, introduced Ms. Lena Trujillo-Chavez, Program Manager, Vocational Education Division, PED, and Mr. Len Malry, Deputy Executive Director, Governor's Office of Workforce Training and Development, to discuss the proposed designation of the State Workforce Development Board as the single state agency responsible for the administration of career and technical education in New Mexico and the possible effects of that designation on PED.

To begin the presentation, Dr. Forrer stated that Congress is considering the reauthorization of the federal *Carl D. Perkins Vocational and Technical Education Act of 1998* (Perkins Act), which currently:

- provides federal funds to states to support career and technical education programs and awards a majority of available funds as grants to state education agencies;
- requires states to designate a single "eligible agency" to administer and distribute federal funds for the career and technical education program at the state level; and
- defines an "eligible agency" as "a state board designated or created consistent with State law as the sole state agency responsible for the administration of vocational and technical education or for supervision of the administration of vocational and technical education in the State."

Dr. Forrer explained that, although current law designates the State Board of Education (SBE) as the sole state agency responsible for the supervision and administration of the state plan relating to vocational education, the enactment by the 2004 Legislature of the *Public Education Department Act* eliminated SBE as a state agency and established the Public Education Department (PED) as a single, unified department to administer laws and exercise functions formerly administered and exercised by SBE. This change in the governance structure of public education in New Mexico means that the state does not have an identified eligible or sole state agency to administer and distribute federal funds in New Mexico pursuant to the requirements of the Perkins Act. According to PED staff, Dr. Forrer continued, PED and the Office of Workforce Training and Development are engaged in discussions that are likely to result in a recommendation to the Legislature that the State Workforce Development Board be designated as the sole state agency responsible for career and technical education in New Mexico.

Dr. Forrer noted that among the duties designated in the New Mexico *Workforce Development Act* for the State Workforce Development Board is the requirement "to develop linkages" with PED "to ensure coordination and nonduplication" of efforts. She explained that the potential designation of the State Workforce Development Board as the state agency responsible for administration of career and technical education would require a change in both the *Public School Code* and the *Workforce Development Act*.

Dr. Forrer cited a summary of the Bush Administration's reauthorization plan for the Perkins Act, which indicates that one of the key objectives of the plan is to connect career and technical education pathways to workforce investment systems. Dr. Forrer noted that if this language remains in the reauthorizing legislation, the Perkins Act would be more closely linked with the workforce investment system; however, issues related to the curriculum for career and technical education pathways and the requirements of meeting the federal *No Child Left Behind Act of 2001* would need to be addressed by the State Workforce Development Board.

Stating that federal funds appropriated under the Perkins Act have been contingent upon a state plan submitted by SBE and approved by the US Department of Education (USDE), Ms. Trujillo-Chavez said that it was critical for the state to identify an eligible agency. She stressed that the definition of a state eligible agency in the Perkins Act precludes the Public Education Commission (PEC) from being designated as such because the PEC, as created in the *Public Education Department Act*, is an advisory and not a policy-making body.

Ms. Trujillo-Chavez explained that career and technical education programs funded by the Perkins Act focus on supporting educational programs that offer a challenging curriculum in high schools and postsecondary institutions to prepare students for employment in current or emerging occupations. In contrast, workforce development programs focus on providing an integrated "one-stop" employment and job training service delivery system for adults and youth. Entities that provide postsecondary career and technical education activities assisted under the Perkins Act are mandated to be partners in the "one-stop" delivery system.

To underscore the importance of Perkins Act funding to career and technical education in New Mexico, Ms. Trujillo-Chavez stated that, since 1999, the state has received \$43.3 million in basic grants, \$4.3 million in Tech Prep grants, and \$489,222 in Occupational and Employment Information grants. She noted that, for school year 2004-2005, the state would receive the following additional funding: a \$9.3 million basic grant, an \$829,916 Tech Prep grant, and a \$125,712 Occupational and Employment Information grant. She said that Perkins funding has been used to support many activities, including the following:

- the creation and/or improvement of career and technical education programs in postsecondary educational institutions and high schools;
- the deployment of New Mexico's Content Standards and Benchmarks and Performance Standards in grades 9-12;
- high school reform efforts;
- the Jobs for America's Graduates dropout prevention program;
- the development of a pre-apprenticeship training program for high school students;
- skill development for teen parents participating in the Graduation, Reality and Dual-Roles System (GRADS);
- efforts to establish career and technical education centers, magnet career academies, dual credit, and the alignment of secondary and postsecondary standards;
- professional development for instructors; and
- student organizations, such as Future Farmers of America and DECA (Distributive Education Clubs of America).

Mr. Malry provided a brief overview of the federal *Workforce Investment Act of 1998* (WIA), noting that, since 1999, the state has received \$142.8 million in funds and will receive an additional \$20.2 million for program year 2004-2005. He explained that the funds have been used to provide the following services:

- core services, including initial assessment of skill levels, aptitudes, abilities, and supportive needs;
- intensive services, including comprehensive and specialized assessments of an individual's skill levels and service needs; and
- training services, including occupational skills training, on-the-job training, adult education and literacy activities, and customized training.

Mr. Malry then gave the committee a copy of Executive Order 2004-004, which creates the state Office of Workforce Training and Development as an entity administratively attached to the Office of the Governor. Formerly, he said, the functions, personnel, and property of the newly created office had been a part of the Department of Labor. He stated that the Office of Workforce Training and Development has been charged by the Governor to “develop a unified, comprehensive plan for streamlining and integrating state workforce development programs, including consolidation of the administration of workforce development, education and training programs into a single agency.” He said that the plan is due to the Governor and the Legislature by September 30, 2004.

Mr. Malry explained that the executive order also directs the State Workforce Development Board to appoint a coordination oversight subcommittee with membership consisting of the chairman of the board, all cabinet officials on the board, the community college representative on the board, and the executive director of the Office of Workforce Training and Development. In describing the duties of the coordination oversight committee, Mr. Malry noted that:

- the secretaries of the Economic Development Department, the Human Services Department, and the Department of Labor are required to propose “five, ten, and fifteen year strategic goals for both statewide and regional employment growth and training in New Mexico for the subcommittee's consideration and possible recommendation for approval to the State Workforce Development Board as part of the state plan” described above; and
- the Secretary of Public Education is required to propose plans for secondary education that “address the strategic plans proposed” by the other three cabinet secretaries.

In conclusion, both Ms. Trujillo-Chavez and Mr. Malry stated that the policy decision regarding the designation of an eligible agency charged with the responsibility of administering or supervising career and technical education in New Mexico would have to be made through the legislative process; however, they reiterated that under current statute the PEC would not qualify.

### **Committee Discussion:**

In response to a committee member's question regarding whether the primary purpose of the WIA is to reduce the number of individuals who must depend on welfare, Mr. Malry explained that, because the act addresses individual barriers to employment, it does primarily address the issue of welfare dependence. He added that the Governor's executive order goes beyond an attempt to reduce the number of individuals currently on welfare by directing that career and technical education activities at the secondary and postsecondary levels be coordinated with those funded through the WIA.

In response to a committee member's question regarding the use of WIA funds to establish a career center for students wishing to enroll in a postsecondary program while still in high school, Mr. Malry stated that, although WIA funds could not be used for this purpose, Perkins Act funds could. Ms. Trujillo-Chavez said that one problem with career advisement for high school students was that it was usually based on labor market data, which describe the current job market, rather than on an economic development plan, such as that required by the executive order, which tries to anticipate future needs.

A committee member expressed the concern that if the State Workforce Development Board became the state agency eligible to receive Perkins Act funding, career and vocational education programs at the secondary level would receive less emphasis and both the funding and the associated training activities would be shifted to postsecondary institutions or employment sites. The committee member also expressed the fear that the integration of academic skills with vocational skills at the secondary level, which is required by the Perkins Act, would not occur if responsibility for secondary programs shifted from the education sector represented by the PED and the PEC to the State Workforce Development Board.

In response to a committee member's question regarding what would happen to PED staff charged with overseeing the state's career and technical education programs if the State Workforce Development Board became the eligible state agency, Ms. Trujillo-Chavez stated that, although Secretary García did not have a desire to see the program staff move out of the department, she was aware that administrative staff would follow placement of the oversight responsibility. Mr. Malry added that the executive order directed that the state plan due to the Governor by September 30, 2004 address the consolidation of the administration of workforce development, education, and training programs into a single agency. A committee member then asked if the intention of the executive was to establish such an agency prior to the legislative session in January. Ms. Trujillo-Chavez replied that the State Workforce Development Board had voted unanimously on June 29 to recommend to the Legislature in January that the board be designated as the sole state agency in charge of career and technical education for purposes of receiving Perkins Act funding.

Several committee members expressed concern at the presenters' conclusion that PEC was automatically excluded from being designated as an eligible agency because of its advisory status. In response, Chairman Miera pointed out that the *Public Education Department Act* expressly states that PEC "shall perform other functions as provided by law," thus clearly giving the Legislature the authority to designate PEC as the state agency responsible for career and technical education in New Mexico if the Legislature deems such a designation to be in the best interest of the children of New Mexico.

Noting that the authority to issue subpoenas could be conferred only by statute, a committee member expressed concern that Executive Order 2004-004 gave the executive director of the Office of Workforce Training and Development the duty to "issue subpoenas to public entities."

Senator Tsosie asked Ms. Trujillo-Chavez to provide the committee with the performance measures used to evaluate the use of Carl Perkins funding in New Mexico.

## WEST LAS VEGAS PUBLIC SCHOOLS PROGRAMS

Chairman Miera recognized Mr. Joe Baca, Superintendent, West Las Vegas Public Schools and Ms. Mary Jo Archibeque, Elementary Curriculum Coordinator, Reading First Program, West Las Vegas Public Schools.

Mr. Baca announced that he had recently been appointed the Superintendent of the West Las Vegas Public Schools, having served in that capacity with the Wagon Mound school system. Mr. Baca said his priorities were instituting the three-tiered salary system for teachers, staff development for teachers and administrators, and Baldrige training for the district staff so the staff can make data-based decisions. Mr. Baca then recognized Ms. Archibeque for a presentation on the Reading First program in the West Las Vegas elementary schools.

Ms. Archibeque stated that the district has established a Reading First program at all five elementary schools in the district a program that serves approximately 868 elementary students in grades K-5. She explained that, the program was funded with a \$420,000 federal Reading Excellence Act Grant and \$895,000 from a state Reading First Grant.

Ms. Archibeque said that the district's approach to teaching reading includes the following components: using student assessments to plan instruction; providing instructional leadership at the district and school level; and ensuring professional development for instructors and utilizing research-based instructional strategies. Other key elements, she added, include: establishing a district elementary curriculum coordinator; employing a reading specialist and instructional coach at each school site; and requiring collaboration among the Title I, special education, regular education, and summer school teachers in supporting the reading program.

Senator Tsosie requested that PED provide data on the effect of research-based literacy programs—specifically Reading First grants—on reducing the number of special education referrals in all school districts.

There being no further business, Representative Miera thanked the presenters and, with the consensus of the committee, adjourned the LESC meeting at 12:25 p.m.

\_\_\_\_\_ Chairperson

\_\_\_\_\_ Date