

*State of New Mexico*  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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Patricia Roybal Caballero  
James E. Smith  
James G. Townsend

325 Don Gaspar, Suite 200, Santa Fe, NM 87501  
Phone: (505) 986-4591 Fax: (505) 986-4338

**Rachel S. Gudgel**  
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**MINUTES**  
**LESC MEETING**  
**November 19-20, 2015**

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:17 a.m., on Thursday, November 19, 2015, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following members of the LES C were present:

**Voting:** Representatives Dennis J. Roch, Chair, Tomás E. Salazar, Christine Trujillo, and Monica Youngblood; and Senators John M. Sapien, Vice Chair, Craig W. Brandt, and Howie C. Morales;

**Advisory:** Representatives Alonzo Baldonado, Jim Dines, Stephanie Garcia Richard, Patricia Roybal Caballero, James E. Smith, and James G. Townsend; and Senators Lee S. Cotter, Linda M. Lopez, John Pinto, William P. Soules, Mimi Stewart, and Pat Woods; and

**Guest:** Representative George Dodge, Jr.

The following members of the LES C were not present:

**Voting:** Representatives Nora Espinoza and Sheryl M. Williams Stapleton; and Senator Gay G. Kernan; and

**Advisory:** Representatives David M. Gallegos, Jimmie C. Hall, D. Wonda Johnson, Timothy D. Lewis, and G. Andrés Romero; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, and Michael Padilla.

On a motion by Senator Sapien, seconded by Representative Youngblood, the committee approved the agenda for the November 2015 interim meeting.

## **LOS ALAMOS NATIONAL LABORATORY (LANL) NORTHERN NEW MEXICO INQUIRY SCIENCE EDUCATION CONSORTIUM (ISEC)**

The Chair recognized Ms. Jennifer Parks, Chief Executive Officer, and Ms. Gwen Perea Warniment, Program Director, Northern New Mexico Inquiry Science Education Consortium (ISEC), Los Alamos National Laboratory (LANL) Foundation; and Representative Stephanie Garcia Richard. Ms. Parks began by giving a brief overview of ISEC and their mission to enhance the vitality of northern New Mexico by investing in education, learning, and community development with a vision to serve as a catalyst and leader for successful innovation in community and educational endeavors, engaging the region in creating excellence in education.

Ms. Parks explained that the Foundation is an independent 501(c)(3) organization created in April 1997 to provide sustainable support and help improve education in the vicinity of the laboratory. With support from the New Mexico Congressional Delegation, the foundation was originally funded through the Department of Energy (DOE) by congressional appropriations in the amount of \$35.0 million (1997-2003), with an additional \$28.5 million (1997-2005) in funding by the University of California (UC) through a contract with DOE, and other funding from individual donors. When management of LANL was transferred from UC to Los Alamos National Security (LANS), additional funds were contributed by LANS, totaling \$16.0 million. Currently the LANL Foundation manages \$78.0 million in assets in permanent funds (investments handled by UC), a small portion of which is used to fund the Foundation and programs like ISEC. She noted that ISEC primarily focuses on seven counties: Los Alamos, Mora, Rio Arriba, San Miguel, Sandoval, Santa Fe, and Taos. LANL annually gives \$100,000 in small educational enrichment grants (\$1,500 each) to support the public schools.

Ms. Perea Warniment continued by noting that school year 2016-2017 budget for ISEC has been increased to \$2.1 million from \$1.6 million in school year 2014-2015. Currently the ISEC program is serving six northern New Mexico school districts, however, beginning in school year 2016-2017 the ISEC program will broaden their scope to eight school districts, including Chama, Dulce, Española, Jemez Mountain, Mesa Vista, Peñasco, Pojoaque, and Santa Fe, comprising 42 schools with approximately 600 teachers and 12,350 students. She noted that the ISEC program is run by eight staff managing a warehouse in Chimayo, with a per-student cost ranging from \$100 to \$170 per year; however, if a school district ran this program using their own infrastructure, the annual cost per student would be \$100 per student the first year and drop to \$41 per student in subsequent years.

The core of the ISEC program focuses on four components: professional development, material support, curriculum, and program evaluation.

Professional development is the largest component of the program which includes four days of initial training for teachers during the summer that is focused on in-depth topics and problems of practice. Representative Garcia Richard spoke about her experience as a teacher and science literacy coach in the program. She noted some teachers have anxiety about teaching, even though they have mastered the subject matter. The ISEC program addresses teacher efficacy and not only ensures mastery of the subject but also the best practices of instruction.

Material support is handled through the warehouse in Chimayo that is responsible for ordering, scheduling, delivery, and refurbishment of the science kits. Representative Garcia Richard noted that this program has no out-of-pocket cost to the teachers. The ISEC program provides science

kits and additional supplies as needed. Ms. Perea Warniment added that moving toward a very solid and robust understanding of science, technology, engineering, and mathematics (STEM) education not only requires materials, but a place to store them as well.

Curriculum is currently based on the Full Option Science System science kits developed by the University of California at Berkley and designed to be used for 20 years. These kits are designed to match the appropriate developmental student growth. Future plans include a change that would include a curriculum grounded in the framework of K-12 science education and the Next Generation Science Standards.

To verify that ISEC is improving performance of high-need students in science, closing student achievement gaps, influencing literacy and math, and improving teacher practice, LANL Foundation contracted the Research Educational Laboratory of Edvance Research, Inc. in San Antonio to design and implement a five-year evaluation at a cost of nearly \$1.0 million. Student knowledge and learning is measured before and after each science module is taught in third through sixth grade. These tests show that improvements exist in student content knowledge each year. Information is used to inform teacher professional development. Data revealed that third grade typically shows the highest gains in test scores and the longer a teacher has been in ISEC, the more gains students make in that classroom. Observations of fourth grade teachers are conducted twice a year by the ISEC director of professional development. Data collection and analysis examine program fidelity and results are used to inform and expand professional development.

Ms. Perea Warniment noted a partnership between ISEC and the Public Education Department (PED). Addressing expansion and sustainability for ISEC, Ms. Perea Warniment explained that expansion to Chama Valley Independent Schools and Jemez Mountain Schools would involve:

- 20 teachers at four schools;
- professional development costs of \$15,000;
- a kit cost of \$20,000;
- refurbishment and added supplies at a cost of \$10,000;
- delivery costs of \$5,000; and
- general kit purchases for ISEC totaling \$50,000.

In closing, Ms. Perea Warniment stated that the goals of ISEC were continued improvement with regard to student achievement, being an exceptional national model, and leading with professional development and teacher support while maintaining a high-level of materials management and customer service. She stated the importance of building upon the culture that ISEC creates in schools to promote excellence in teaching and learning with a culture of inquiry across all subject areas while leveraging funding and partnerships to support program sustainability and evolution of the program itself.

### **Committee Discussion**

In response to a question by Senator Sapien asking whether the professional development offered in the summer institute targeted how to present the information, Ms. Perea Warniment responded yes, and that during the four-day training, teachers go through the packets, receiving instruction

from the perspective of the students, and looking at and evaluating the pedagogical infrastructure.

In response to a question by the Chair, why Los Alamos Public Schools was not on the list of schools being served by the ISEC program, Ms. Parks stated that Los Alamos Public Schools has funding from the federal government and the focus is to serve the schools that do not have that additional funding.

### **COMMUNITIES IN SCHOOLS: SUPPORTING STUDENTS AT SANTA FE PUBLIC SCHOOLS**

The Chair recognized Ms. Julia Bergen, Executive Director, and Mr. Devin Dunsay, Program Director, Communities In Schools (CIS) of New Mexico; Mr. William Wade, Assistant Superintendent, Secondary Education and School Improvement, Santa Fe Public Schools (SFPS). Ms. Bergen began her presentation by noting CIS's mission is to surround students with a community of support, empowering them to stay in school and graduate. CIS was founded in 2012 and is the nation's leading dropout prevention organization serving over 1.5 million students nationally and 5,000 students at 10 Santa Fe schools. Ms. Bergen noted that New Mexico ranks 49 in the nation for child well-being and education. Noting New Mexico's 35 percent dropout rate, Ms. Bergen stated the focus of the CIS program is to keep kids in school and to mitigate things that stand in the way of their success. She continued that the consequences of dropping out of school are far reaching and have to be addressed directly and comprehensively.

She stated that according to the Alliance for Excellent Education (2012), if New Mexico were able to graduate half of the students who drop out of school each year, the state would see dramatic and remarkable increases to earnings and revenue, such as \$112 million in increased real lifetime earnings for dropouts. She noted that if an investment is not made in the education of these children today, communities will have to pay for the social service and juvenile justice program costs incurred by our state.

Ms. Bergen noted there is a direct correlation between dropout and poverty, and 29 percent of New Mexico's children live in poverty, which has a large impact on educational success. Poverty is a large factor affecting the ability of a child to show up to school rested, nourished, and ready to learn; poverty is a huge piece of the educational success equation. Communities in Schools brings a methodology to schools called the model of Integrated Student Services (ISS), that focuses on removing poverty-related obstacles to education by providing positive, effective, evidence-based solutions so that every student may focus on learning and teachers can focus on teaching. The ISS model positions a full time individual inside a school to work with leadership to identify challenges and obstacles and to work individually with students to develop specific focused intervention and prevention strategies to help our most vulnerable children stay on track.

Talking about the relationship between CIS and SFPS, Mr. Wade stated that as an experienced turnaround principal in Philadelphia, he worked with CIS and has seen firsthand the positive influence the program had with at-risk youth in schools. He noted that in a three-year period there was positive and noticeable growth in SFPS due to the partnership between the district and CIS. He noted specifically the transformation zone schools that are a part of the SFPS achievement zone strategy to allocate resources more equitably across the district. The

transformation zone schools are where some of the city's most at-risk students encounter obstacles such as low-parent involvement, low-daily attendance, and other academic challenges.

He went on to explain that this year CIS will continue to help with teacher development by participating in a walk through in all the transformation zone schools to continue to help identify problems in the process. Mr. Wade explained that through the enhanced family and community engagement filler component, CIS engages families in the transformation zone at a very high-level through food and clothing banks that help support other obstacles that may prohibit a child from coming to school. He noted that the CIS coordinator was instrumental for increased gains at schools like DeVargas Middle School. The coordinator is able to identify factors that created patterns that keep students from coming to school and from achieving in the classrooms; identifying that student population meant SFPS and CIS were able to wrap services around those students. He went on to state that over the last three years, the SFPS dropout rate has been cut in half, from 7.0 percent to 3.0 percent, due in a large part to the relationship between SFPS and CIS.

Mr. Wade stated that the graduation rate is up 8.0 percent to 64.5 percent and that they are striving to increase the graduation rate through blended learning models that would give students other options that he feels would be instrumental in increasing the graduation rate even further.

Ms. Bergen noted that CIS is very evidence-based and data-driven and equally relationship-based. Trust is built between administrators and students, leading to a better understanding of where students are in terms of attendance, academics, behavior, basic needs, and family support. She noted that based on data obtained through school year 2014-2015:

- 77 percent of students met their attendance goals;
- 86 percent of students met their academic performance goals;
- 83 percent of students met their behavioral improvement goals;
- over 75 percent of students received assistance including food, clothing, shelter, transportation, medical care, and emergency funds; and
- 83 percent of students were promoted to the next grade level.

Ms. Bergen explained that the student population they serve is categorized into three tier groups to better identify and deliver services:

- Tier 1: widely available services designed to foster a positive school climate and address school-level risk factors.
- Tier 2: targeted services typically provided in a group setting to students with a common need.
- Tier 3: intensive, individualized services typically provided in a one-on-one setting to students with highly specific needs.

She noted that the CIS model demonstrated the strongest reduction in dropout rates among all existing fully scaled dropout prevention programs in the United States and that independent surveys of teachers in the schools the program serves revealed more than two-thirds strongly support the work of CIS.

In closing Ms. Bergen told the committee that the cost of the CIS program today is \$1.4 million, serving over 5,000 students at a cost of \$280 per student; and the goal for the next year is to reach 2,000 more New Mexico students. This would mean CIS will need to raise \$400,000. CIS is asking the Legislature to support its work to keep more New Mexico students in school and on a path to graduation.

### **Committee Discussion**

In response to a question by Representative Trujillo about whether the CIS program receives any funding from the state, Ms. Bergen stated the CIS program does not receive any funding from the state at this time. CIS is funded primarily from foundations, individual donors, and SFPS.

In response to a question by Representative Youngblood about duplication of efforts between CIS and other programs that serve at-risk youth, Ms. Bergen responded that the value CIS brings is providing case management for students individually and utilizing existing support systems.

In response to a question by Representative Salazar regarding whether the *Community Schools Act* provides useful authority to move the CIS program forward, Ms. Bergen responded that, though the act calls for the implementation of community schools across the state, but legislative funding has not yet been provided.

## **FY 16 PUBLIC SCHOOL HEALTH AND RISK INSURANCE REQUEST**

The Chair recognized Sammy J. Quintana, Executive Director, New Mexico Public Schools Insurance Authority (NMPSIA) for a presentation on NMPSIA's FY 17 health and risk insurance budget request. Mr. Quintana said that for FY 17, NMPSIA is requesting approximately \$17.8 million be appropriated to Public School Support for the employer's share of increased insurance premiums. Mr. Quintana indicated this includes \$1.0 million for the risk program and \$16.8 million for the benefits program.

Referencing the handout, Mr. Quintana indicated the current fund balance is approximately \$30.0 million and this amount is not that high given that NMPSIA monthly claims average approximately \$20.0 million. Mr. Quintana said NMPSIA has seen growth in the risk program in recent years as more charter schools are created. Mr. Quintana said the risk program had a significant fund balance five years ago but a combination of increased claims and a premium discount decreased the fund balance.

The Chair next recognized Ms. Ernestine Chavez, Deputy Director, NMPSIA, who indicated that for FY 17, NMPSIA is expecting expenditures of \$336 million on benefits. Ms. Chavez said this is approximately \$26.0 million more than last year and is due to large increases in prescription drug spending. Ms. Chavez said NMPSIA is currently soliciting request for proposals (RFPs) for medical, dental, and vision insurance coverage. She said that in December the recommendations will be made for the July 1 plans, and NMPSIA hopes to contain high-medical costs via more aggressive provider discount acquisition.

Ms. Chavez highlighted the fees associated with the federal *Patient Protection and Affordable Care Act*, including costs to the insurance fund totaling \$2.7 million for FY 15, \$1.7 million for FY 16, and \$700,000 in FY 17. Other costs to the program included higher reimbursement rates

for rural hospitals, a large increase in the number of high-dollar medical and specialty prescription drug claims, and a consolidation in the number of drug manufacturers.

The Chair recognized Ms. Vera Dallas, Employee Benefits Senior Director, Albuquerque Public Schools (APS) for a presentation of the FY 17 APS request for health and risk insurance. Ms. Dallas began her testimony by indicating APS offers a benefits program favorable to employees, which is a key differentiator in employment negotiations. She said APS has worked to shift their healthcare culture to focus more on personal accountability. Recognizing the improved unit and administrative costs from participation in the Interagency Benefits Advisory Committee (IBAC), Ms. Dallas said APS has tried to keep costs to employees down.

Ms. Dallas said APS is not currently requesting an appropriation for FY 17. However, since August 2015, APS experienced a dramatic increase in medical and prescription drug costs and September's ending reserves balance of \$13.6 million concerns APS staff as the Board of Education requires a reserve fund balance of \$13.0 million.

Ms. Dallas said there are no plan changes or premium increases planned for medical or vision insurance. APS will implement a 5.5 percent increase to dental plan premiums for members. She said there have been a number of plan design changes in the last four years, highlighting the addition of an in-network individual deductible and co-insurance in January of 2014. Addressing cost containment strategies, she said a medical claims audit is expected to net approximately \$825,000 in savings and the school district is developing an on-site wellness clinic. Similar to NMPSIA, as an IBAC member, APS is currently soliciting RFPs for medical, dental, and vision insurance coverage and the RFP includes language for value-based purchases that transition from fee-for-service payments to an incentive-based reimbursement model. Mr. Kenneth McGuire, Director, Risk Management, APS, indicated the risk program is not seeking additional funding.

### **Committee Discussion**

Representative Townsend commented that the experience in the private sector has been increased costs passed to employees and asked why district costs have increased at a faster rate than participants' premium contributions. Ms. Chavez said NMPSIA examines costs with their actuaries and it was not until the current year that NMPSIA experienced a high frequency of larger claims. Ms. Chavez said recently NMPSIA had 14 members with claims over \$1.0 million and in the past it was just a few members. Ms. Chavez indicated recently more members have chronic conditions, many of which are new members with pre-existing conditions.

Representative Youngblood said she is familiar with APS and their biomedical screening program and asked what NMPSIA is doing to help members manage their healthcare. Ms. Chavez said because NMPSIA is not the employer it cannot mandate that school districts hold health fairs; however, NMPSIA is present when one is held. NMPSIA currently covers preventive care, like fully reimbursing diabetes meters, and tries to provide diabetes education through the webpage and outreach. Ms. Chavez said NMPSIA also tries to educate members how to shop for better rates for expensive procedures. Representative Youngblood said she believes that unless increased costs are passed on to the member, they will not change their behavior. Representative Youngblood also observed that private sector health plans are not as generous as APS and NMPSIA plans.

Senator Sapien asked if the risk managers were aware that the State Fire Marshall decreased the fire rating across the state. Mr. Quintana said NMPSIA is undergoing a property reappraisal and noted that it may come up in the reappraisal process. Senator Sapien said his private insurance practice is having to respond to the change in ratings and will see reduced premiums, though he commented it would more likely occur in the actuarial process.

Senator Sapien asked APS about the cost of the health clinic it is opening. APS staff said the cost of construction is \$4.9 million and the annual operating cost is estimated to be \$1.5 million. Senator Sapien asked what the cost of an incentive-based premium reduction program would be and Ms. Dallas said APS already offers a premium reduction and premium discount to participating members, but indicated the program is not results-based. Ms. Dallas indicated the program's cost is approximately \$600,000 per year. Senator Sapien noted APS is moving forward with a more costly option and asked what the estimated cost savings are of the health clinic. Ms. Dallas said they presented that information as part of the RFP selection process to the Board of Education and would be happy to provide that information, but cannot speak publicly on the information at this time. Senator Sapien asked that the estimated return on investment from building the on-site health clinic be provided to the LESC.

The Chair highlighted the fact that APS was not requesting insurance funding for FY 17 due to a large fund balance. The Chair noted NMPSIA's \$31.0 million fund balance exceeds the required balance of \$24.0 million for incurred, but not reported claims, and NMPSIA is requesting \$17.0 million. The Chair asked NMPSIA staff to provide their target fund balance. Ms. Chavez said the target is to keep one month's worth of claims, and that has traditionally been \$14.0 million to \$17.0 million. Ms. Chavez said NMPSIA is anticipating increased claims in FY 17 based on the claims history of recent years. The Chair observed that NMPSIA's FY 17 request of \$17.0 million may be a challenge given NMPSIA's healthy fund balance.

**HIGHLY QUALIFIED TEACHER WAIVER:  
PROVIDING FLEXIBILITY TO SCHOOLS TO PLACE EFFECTIVE TEACHERS**

The Chair recognized Mr. Matt Montañó, Director, Educator Quality Division, Public Education Department (PED), for a presentation on the highly qualified teacher (HQT) waiver recently granted by the US Department of Education.

Noting that the HQT waiver was intended to offer flexibility to teachers who have already demonstrated a strong impact on student learning, Mr. Montañó indicated that this flexibility is a systemic, data-driven process that supports districts in better utilizing their human resources. Moreover, the HQT waiver process, in allowing school districts and charter schools to leverage their classroom talent, also allows teachers to expand their professional practice without unnecessary procedural barriers.

In order to qualify, applicant teachers must have achieved an evaluation score of "effective" or better, while also achieving at least 50 percent of their student achievement measure (STAM) points.

Included in the application are a cover page, an application checklist, and signatures from the superintendent, principal, and teacher, as well as an application workbook that includes the following information: the name of the school district or charter school applying for the waiver;

the name of the school where the applicant-teacher works; the name of the HQT for whom the district or charter is seeking flexibility; the teacher's license number; the teacher's effectiveness rating and STAM score; the teacher's current subject area, as well as the different grade or subject area that the school district or charter school is applying for the teacher to be permitted to teach; and the time frame for professional development in the teacher's professional development plan.

Under this flexibility, teachers would be able to teach classes outside their normal focus, but within their general content area and secondary teachers would be able to teach down to fifth or sixth grades, rather than being limited to seventh through twelfth grades. Science, technology, engineering, and mathematics (STEM) teachers, for example, would be able to teach other STEM classes outside their usual assignment, provided that the teacher accepts the assignment and has access to appropriately targeted professional development.

Likewise, if granted a waiver, highly qualified special education teachers would be permitted to: teach their core content area in kindergarten through twelfth grade; teach inclusion or general education classes; and teach special education classes in core content areas.

At the time of Mr. Montañó's presentation, 12 districts and charters had applied for the flexibility for 24 teachers.

The Chair next recognized Mr. Richard A. Perea, Superintendent, Santa Rosa Consolidated Schools (SRCS) for a review of his experiences in applying for the HQT waiver. Mr. Perea noted smaller and rural school districts, which often lack the resources and manpower that larger school districts might have, must be creative with placement of HQTs, as is the case in Santa Rosa where budget shortfalls and declining enrollment have led to difficulty in teacher assignments and student course offerings. Applications for flexibility in SRCS were for teachers in seventh to twelfth grade in STEM subject areas and social studies.

Mr. Perea noted that the criteria for receiving the waiver were very clear, and SRCS vetted those teachers who were capable of teaching course content outside their normal area. SRCS limited application to those teaching general courses; advanced math and English courses are taught by fully licensed teachers endorsed in their respective content areas.

Finally, Mr. Perea indicated that SRCS would like to see HQT flexibility continue, and made several suggestions for further administration of the program, such as: examining the possibility of expanding the secondary education license to include sixth grade; considering a license for kindergarten through eighth grade education, thus allowing more flexibility for primary and middle school teachers; and perhaps offering dedicated professional development for teachers under HQT flexibility.

The Chair noted that the latest iteration of the *Every Child Achieves Act of 2015* contains no references to or provisions for HQTs, implying that this discussion may become moot upon final reauthorization of the *Elementary and Secondary Education Act*.

Committee discussion of the topic was robust, and focused on a number of key areas, including: the HQT application and waiver process; the application of value-added modeling (VAM) to the waiver program; the fact that the program primarily has been utilized by small and rural districts; and application of the program to bilingual education.

Inquiring about details of the process Senator Soules asked Mr. Montaña whether any teachers were disapproved for this flexibility; Mr. Montaña stated seven teachers were denied the flexibility because they failed to satisfy qualifying criteria. Senator Soules noted that some teachers might be pressured into agreeing to the flexibility; Mr. Montaña replied that the dialogue over the propriety of accepting the flexibility should be made at the district-level and that no one should be coerced into seeking the HQT waiver. Specifically addressing the value in expanding teachers' course capabilities, Senator Soules indicated that a biology teacher might not make a good physics teacher, for example, and asked for statistics on the number of misclassified teachers, which Mr. Montaña noted were not currently available. Discussion then turned to justification for the program, with the senator wondering if there were any peer-reviewed articles indicating this was a good measure for students; Mr. Montaña noted that, while this was a good question, little research had been done on the question of how the HQT waiver might affect student achievement, though he noted research seems to indicate that rating teachers solely on credentials and experience have no such verifiable impact.

The Chair indicated a self-contained classroom might work under a kindergarten through eighth grade license, but the waiver works better with instances of compartmentalized instruction. The member then inquired whether a middle school license might better facilitate this sort of flexibility, with specialized instruction for middle school teachers; Mr. Perea agreed with this idea, noting that he had suggested something similar in his presentation. Upon questioning from the Chair, Mr. Montaña agreed that the request for flexibility had originated with superintendents, who have begun to find staffing burdensome with current personnel shortfalls in the state.

Senator Morales was concerned with the application of VAM to the waiver program, particularly as it relates to the Partnership for Assessment of Readiness for College and Careers (PARCC) exam; previous statements by PED indicated VAM might result in misclassification of 10 percent of teachers. Senator Morales' concerns included how the VAM was weighted in the waiver process (particularly as it has been shown to be flawed) as well as teachers in non-tested subjects not being eligible for the waiver, because they lack necessary data to tie student achievement to the teacher. Senator Morales wondered if better students are choosing to opt out of the PARCC, thus skewing the data. Mr. Montaña replied that while some studies have indicated higher-achieving students may be more likely to opt out, the exam is scored according to the students who participate, making it impossible to accurately assess how the sample might be affected had those students not opted out.

Mr. Montaña, in response to a query from Representative Townsend, noted that smaller and rural school districts were first requesting the flexibility, as they identified the need sooner. He expected that larger districts would begin to follow suit.

Senator Stewart maintained focus on how HQT flexibility relates to PARCC and VAM, noting that countries usually considered as having excellent education programs are not moving in this direction. Such countries tend to pay their teachers better and avoid high-stake testing. While acknowledging problems with staffing opportunities in the state, Senator Stewart nevertheless disagreed with the HQT waiver. The problem, she suggested, is not the appropriate utilization of teachers currently employed; rather the issue is the more fundamental one of attracting good teaching candidates to begin with. What would happen, Senator Stewart asked, if a teacher is approved this year, but in subsequent years their evaluation score drops below "effective"?

Mr. Montañó replied that if a teacher's score were to drop below required levels, that teacher would not be able to utilize the flexibility.

In response to Representative Salazar's concerns with application of the program to bilingual education, Mr. Montañó noted that the HQT flexibility has not been approved for bilingual teachers and that any such flexibility would be for teachers already possessing their necessary endorsements to expand their practice into other areas. The member then reiterated their request for information on the vetting of the VAM method on the national level.

Finally, Representative Youngblood noted that the program seems to be a creative and effective way to shore up classroom instruction in small and rural districts.

### **ADDRESSING THE EQUITY GAP: ENSURING ACCESS TO EXCELLENT EDUCATORS FOR ALL STUDENTS IN NEW MEXICO**

The Chair recognized Mr. Matt Pahl, Director of Policy, Public Education Department (PED), to discuss New Mexico's Educator Equity Plan, which the US Department of Education (USDE) approved on November 18, 2015.

Mr. Pahl began by informing the committee about the history behind the need for state equity plans. In 2002, when the *Elementary and Secondary Education Act* was reauthorized, the act called for all students to be taught by highly qualified teachers by 2006. The act also required states to create plans to ensure that students from low-income families and students of color are not taught at higher rates of under-qualified, inexperienced, or out-of-field teachers than other students. In the fall of 2014, USDE released an equity profile for each state. New Mexico used this particular profile as the basis for identifying the equity gaps present in the state. USDE required state equity plans include documented stakeholder consultation, identified equity gaps and the likely causes, strategies to eliminate equity gaps, measures to evaluate progress, and how the state will publicly report on such progress.

Mr. Pahl noted national research indicates that students of color, students living in poverty, rural students, students with disabilities, and students with limited English proficiency are less likely to have access to an effective teacher. Despite all these challenging indicators, PED staff believes that all students deserve an equal educational opportunity that prepares them for a successful career or life after school. To achieve access to excellent educators for all its students, New Mexico's plan will be used to facilitate conversations on closing equity gaps. In creating the equity plan, PED relied heavily on stakeholder input to discuss findings and to determine solutions. Three stakeholder engagement meetings were held in Albuquerque, Roswell, and Santa Fe.

Mr. Pahl noted the findings from New Mexico's equity profile assisted in driving the development of the equity plan. Mr. Pahl presented information showing economically disadvantaged and minority students are disproportionately taught at a higher rate by teachers rated "minimally effective" and "ineffective" than their peers. In addition, economically disadvantaged and minority students are taught at a lower rate by teachers rated "highly effective" and "exemplary" than their peers. Mr. Pahl noted there are a few exceptions when low-income or high-minority school districts are taught by a higher proportional of teachers rated

“effective” or higher, such as in Reserve Independent Schools, Gadsden Independent School District, and Las Cruces Public Schools.

Mr. Pahl referenced prior research conducted by the Legislative Finance Committee (LFC) in 2012 and 2015 that suggests more inexperienced teachers teach at high-poverty, high-minority schools. The research also indicated that qualifications do not correlate with teacher effectiveness. For instance, the LFC research found a master’s degree had no impact on student achievement. Mr. Pahl stated that after taking this research and the particular findings for New Mexico into account, three themes emerged. Students living in poverty and minority students are less likely to have an effective teacher and more likely to have an inexperienced teacher than their affluent peers or non-minority peers. Inexperienced teachers are identified by PED as Level 1 teachers.

The themes that have emerged have particularly overwhelming consequences for the state and Mr. Pahl noted the achievement gap that exists for Hispanic, Native American, and economically disadvantaged students. Thus, Mr. Pahl said there is a connection between who teaches students and the long term academic, economic, and workforce impacts that occur.

Mr. Pahl indicated PED will focus on the following four areas to increase equity across the state: teacher preparation, cultural competency, recruiting and retaining effective teachers, and mentorship and professional development. These four areas will lead to improved teacher performance and retention. This also led PED to create its theory of action for the state’s equity plan: if teachers are prepared to be successful in the classroom with the necessary pedagogical and cultural tools, and if an environment is created that strategically recruits and retains effective teachers to teach the state’s most needy students by rewarding effectiveness and providing continued support aimed at success, then all teachers will have the ability to be effective and PED will prioritize the best teachers to serve in the state’s most needy areas.

Mr. Pahl stated that, to address the equity gaps, PED will incentivize strategic placement of the best teachers and school leaders with the students in most need. Specifically, the teacher evaluation system will be utilized as well as allowing school districts to use the highly qualified teacher flexibility waiver as a tool to recruit and retain effective teachers. Additional tools PED will use include: offering stipends for teachers in hard-to-staff areas and science, technology, engineering, and mathematics fields; continuing the pay-for-performance pilot; placing social workers in middle schools to offer additional support for students and staff; and training school leaders on strategic teacher placement through administrator preparation programs and school turnaround programming.

PED will also use professional development and program evaluation to drive effectiveness by using available data to support teachers in their developmental needs to ensure they are effective. In particular, Mr. Pahl noted PED would like to leverage school district best practices by conducting internal program evaluations to determine the impact of eliminating existing equity gaps. Best practices will be promoted statewide.

Mr. Pahl stated PED will be working in collaboration with the colleges of education to design new initiatives to ensure that new teachers are prepared to be effective in the classroom. For instance, PED is working with New Mexico Highlands University, the University of New Mexico, and New Mexico State University, to provide training for teachers that is more practice-based. Participants in these programs are receiving full scholarships in their teacher

preparation programs. The teacher preparation report card and teacher preparation program approval by PED will be redesigned to ensure the training a teacher receives will enable them to be successful their first year in the classroom.

Finally, to address the equity gaps, Mr. Pahl indicated PED will support and hold school districts accountable for eliminating inequities. Mr. Pahl said PED would assist school districts in achieving this by annually reporting educator equity gaps and holding school districts accountable to those district-approved plans. PED will also promote the following programs to assist in closing the equity gaps in New Mexico: principals pursuing excellence; University of Virginia School Turnaround Specialist Program; and teachers pursuing excellence. As PED begins implementation of the state's equity plan, next steps include providing updates on progress and promoting equal access to effective teachers.

### **Committee Discussion**

In reference to Representative Salazar's inquiry into whether PED's analysis addressed performance-based on English language learner (ELL) status, Mr. Pahl noted it will be among the next steps PED will investigate. Representative Salazar said that research from LFC indicated ELL students located in ELL classrooms where the teacher is Teaching English to Speakers of Other Languages and/or bilingually endorsed seem to perform better. Mr. Pahl said ELL students who participate in three years of bilingual classes performed significantly better than their non-ELL counterparts. Representative Salazar also indicated that there is a shortage in appropriately endorsed educators for ELL students. Mr. Pahl noted PED created culturally and linguistically responsive instruction (CLRI) training, which provides instructional strategies to ensure teachers are being responsive to the needs of their students. Currently, 150 participants have completed the CLRI training.

In response to Senator Morales' question on how the stakeholder meeting locations were chosen and how the participants were notified, Mr. Pahl said the locations were chosen based on geographical diversity. He also stated PED notified the school districts, the New Mexico School Boards Association, the New Mexico School Superintendents' Association, teacher unions, the New Mexico Parent Teacher Association, and charter schools by working with the larger organizations to distribute the message to their members and to their contact lists.

Regarding Senator Morales' question on what strategies PED is conducting to recruit and retain teachers, Mr. Pahl noted that, the initial Level 1 teacher salaries have increased from \$30,000 to \$34,000 in the last two budget cycles, which makes New Mexico more competitive with similarly situated school districts in nearby states. Mr. Pahl also said PED has created easier access for changes in licensure level by removing the barrier of completing a professional development dossier.

In response to Representative Roybal Caballero's inquiry on what national research was referred to in formulating the state's equity plan, Mr. Pahl highlighted the research the department relied on.

Regarding Senator Soules' question on how PED will positively impact the teacher preparation programs, Mr. Pahl noted that PED established the NMPrep programs in 2015 to train individuals with a past record of proven success to begin careers as effective classroom teachers. These new programs will streamline the training of teachers by providing practice-based

programming that is distinct from a traditional preparation program. In addition, PED is adding new requirements to the teacher preparation program approval process, which will be based on research and completed in collaboration with the teacher preparation programs.

In response to Representative Youngblood's comment on which teachers PED is focusing on retaining, Mr. Pahl said that PED is looking to retain the state's best teachers. In addition, Representative Youngblood inquired about how many teachers left the profession after introduction of the professional development dossier system. Mr. Matt Montañó, Director, Educator Quality Division, PED, stated that, prior to the introduction of the dossier system there were approximately 200 Level 1 licenses that lapsed annually. However, after introduction of the dossier system, the number of lapsed licenses increased to approximately 900 a year. Currently, there are between 700 to 900 Level 1 licenses that lapse each year.

### **PARTNERSHIP FOR ASSESSMENT OF READINESS FOR COLLEGE AND CAREERS (PARCC) ASSESSMENT RESULTS**

The Chair recognized Ms. Leighann Lenti, Deputy Secretary, Policy and Programs, Public Education Department (PED). Ms. Lenti began her testimony by indicating that the state adopted the Common Core State Standards (CCSS) in 2010 and joined the Partnership for Assessment of Readiness for College and Careers (PARCC) consortium in 2011. Ms. Lenti said the PARCC assessments administered last spring were aligned to the CCSS and New Mexico was one of 11 states administering the test. Ms. Lenti next discussed the standard setting process, indicating that this summer New Mexico teachers, principals, and higher education professionals met with other education professionals to examine how students scored on the test and help determine cut scores.

Ms. Lenti indicated that 93 percent of students taking the PARCC assessment were able to complete the assessment on the computer and, of the 11 other states in the PARCC consortium, only New Jersey tested more students electronically. Ms. Lenti said that for the FY 16 administration, PARCC states are moving from two testing windows to one, which will reduce the overall time students spend on testing.

Ms. Lenti transitioned to discussing the assessment results by saying the FY 15 results represent a new baseline and the state should not compare current results on the PARCC assessment to previous New Mexico Standards-based Assessment results. Ms. Lenti said the PARCC assessment includes five performance levels and a student earning a performance Level 4 or Level 5 indicates the student meets or exceeds grade-level expectations. Referencing a table in the handout, Ms. Lenti highlighted eleventh grade English language arts performance, with 44.6 percent of students meeting or exceeding grade-level expectations.

Ms. Lenti said that for the purpose of high school graduation requirements, current seniors must achieve a score of three or higher on the English language arts III assessment and a score of three or higher on either algebra II or geometry assessments. Ms. Lenti said this flexibility will also be extended to the class of 2017 and was the result of school district personnel requesting flexibility in the first few years of administration. Ms. Lenti noted current seniors are making progress to meet current graduation requirements.

Ms. Lenti concluded her discussion by providing a brief overview of how PED will incorporate PARCC assessment scores into PED's value-added modeling (VAM). With regard to school grade calculations, Ms. Lenti said PED will count the VAM conditioning higher during the transition to PARCC assessments and that teacher evaluations will continue capturing growth using VAM.

Transitioning to school district feedback on PARCC results, the Chair recognized Ms. Raquel Reedy, Acting Superintendent, Albuquerque Public Schools (APS). Ms. Reedy began by discussing a timeline of the district's transition to the CCSS and indicated APS provided educators with significant professional development. Ms. Reedy emphasized PARCC assessment results provide educators with the first review of the school district's transition to the CCSS.

Ms. Reedy said APS presents performance results by elementary, middle, and high school to enable discussions of education strategies at the school level. Ms. Reedy indicated her presentation omits charter schools and the results are very close to the state's performance for elementary and middle schools, and the high schools did a little better than the state average.

Ms. Reedy said APS examined grade-level results by performance-level, noting APS elementary students did well in comparison to the statewide average in both English language arts and math, however fourth grade math scores dipped in comparison to the statewide average. Ms. Reedy said middle and high school grade-level performance in English language arts performance is identical to the statewide average, though APS outperforms the statewide average in seventh grade. She said APS' high-performance in algebra I is an anomaly. Overall, ninth grade English language arts decreased in comparison to the statewide average, but in both geometry and algebra II APS students performed better.

Ms. Reedy said FY 15 PARCC results are a baseline that will be used to identify strengths and weaknesses and develop professional development for teachers in needed areas. She said they have already updated scoping and sequencing for PARCC. For example, with regard to math, Ms. Reedy said they used to scope geometry concepts to a high school curriculum, and geometry concepts need to be introduced to students in earlier grades. In English language arts, Ms. Reedy said she felt APS transitioned well to the CCSS; teachers understand the teaching concepts and are including more nonfiction and having students write using more persuasive evidence. She said that ninth grade performance overall shows a decline and this may be due to the transition to high school.

Addressing high school graduation requirements, Ms. Reedy said 2,943 seniors need to retake one or more of the exit exams their senior year to demonstrate competency. She expressed concern for the over 400 special education students included in this group and said APS will be looking at the students' individualized education plans to determine an appropriate alternative demonstration of competency. Ms. Reedy said the next steps for APS are to develop an academic strategic plan for the next five years to create a district that is responsive to community needs and focused on student well-being. APS will also be further exploring early literacy with an emphasis on pre-kindergarten through third grade and looking to expand early childhood facilities.

The Chair next recognized Dr. Mel Morgan, Superintendent, Pojoaque Valley Public Schools (PVS), to present the district's PARCC assessment results. Dr. Morgan said PVS uses the

following to connect teaching and learning: the continuum of professional practice, the use of data to drive instruction, and the PVS New Mexico Teacher Evaluation Advisory Council (NMTEACH) observation manual. He indicated that PVS uses the Discovery short-cycle assessment to provide staff with interim updates on how students are performing. Dr. Morgan said the district's NMTEACH manual provides detail on what is expected of teachers and spoke favorably of classroom observations, indicating multiple classroom observations provide a full picture of what is going on in the classroom.

Dr. Morgan directed the committee's attention to a table showing PARCC results by grade. He said that he is not happy about the low performance, particularly in eighth grade math where not one student scored proficient. Dr. Morgan said with regard to the older students, the school district is not only looking at the alternative demonstration of competency, but also how to ensure everyone is competent in the future.

Dr. Morgan said the results are disappointing but not unexpected and made reference to previous testimony to the LESC about how proficiency results would decrease after changing the New Mexico Standards-based Assessment. Dr. Morgan indicated that in this instance the state not only changed the test, but also test administration and the standards tested. Dr. Morgan also said he had concerns about the computerized test, though his kids indicated they liked the computerized assessment much better. He indicated it was not the computerization of the assessment that led to low performance; the problem was the school district did not give students the skills to pass it.

To improve both teaching and learning, Dr. Morgan indicated the school district has created a document called the pacing guide. The pacing guide provides the scope and sequence of skills and knowledge a student should master by academic quarter. Dr. Morgan said he views training and support for teachers as companions to the guides.

Dr. Morgan said PVS concentrates on interventions for performance Level 1 through Level 4, providing gifted and talented interventions for students testing at Level 4 and using interventions similar to those for special education for students performing in levels 1, 2, and 3. Referencing a handout, Dr. Morgan directed the committee's attention to the continuum of professional practice. He said this is what the district is using to incorporate and link data to the pacing guides to the CCSS to teacher evaluations. Dr. Morgan also provided the LESC with a sample sixth grade reading and math pacing guide highlighting where specific standards appear in sequence, how the guide defines the standards, and how the guide incorporates advanced curriculum.

### **Committee Discussion**

Senator Soules indicated PED appeared to provide conflicting testimony when Ms. Lenti said both that PARCC results are not comparable to previous assessments and also results from previous assessments would be crosswalked to PARCC results for the purposes of teacher evaluations and school grades. He then asked how PED reconciles the two statements. Ms. Lenti clarified her earlier statements by saying the state should avoid comparing our old proficiency rate to our new rate because standards have changed. Ms. Lenti said measuring growth allows PED to crosswalk grade-level performance expectations. Senator Soules said if PED takes steps to temper expectations regarding depressed scores now, he hopes that when student test scores rebound next year that we do not artificially boast about increased results.

Senator Soules asked PED if they had released any reliability or validity studies of the PARCC assessment. Ms. Lenti said this information has not been released yet and the work is ongoing. Senator Soules expressed concern that major policy decisions are being made based on assessment results that have not had reliability and validity testing. Ms. Lenti said PED has engaged the state's postsecondary institutions to conduct judgment studies, including considering whether students scoring at levels 4 and 5 will be successful in college. Higher education stakeholders indicated they wanted to see data from several cohorts of students before providing feedback.

Senator Soules also expressed concern about a number of Las Cruces students that are ready to finish the school district's early college high school curriculum but are unable to graduate because they did not pass the PARCC test. Senator Soules asked if they are going to be prevented from enrolling in college despite completing previous college coursework. Ms. Lenti said these students may demonstrate mastery through the alternative demonstration of competency, which includes performance on the ACT or SAT. Ms. Lenti also said the situation described for the early college high school students highlights issues related to the quality of dual credit courses.

Representative Salazar highlighted the fact that, in some school districts no students scored proficient in certain subjects. Ms. Lenti indicated she was aware of this. Ms. Lenti said PED provides data analysis to districts that includes information on where a struggling student did not meet standards. Ms. Lenti said they also provide additional training and support from the literacy, math, and science bureaus. Representative Salazar expressed concern that predominantly Native American school districts are experiencing this problem.

Representative Dines expressed surprise that 93 percent of students took the PARCC assessment on a computer in 2015. He noted this is a significant increase from previous PED estimates that up to 20 percent of students would not be able to take the assessment on a computer. Representative Dines questioned the difference. Ms. Lenti said the estimate was based on waivers requested by school districts and many districts requesting waivers did not use them.

Representative Dines asked if there were any evaluations that had been conducted of student computer proficiency. Ms. Lenti said there has not been any state-level analysis on student computer proficiency. Representative Dines asked if it was possible that computer proficiency levels could impact test results and whether the opportunity existed for a state-level analysis of practice test data. Representative Dines questioned why PED did not feel the need to test for computer proficiency ahead of time and expressed disappointment that computer proficiency was not considered in determining the validity of results. Representative Dines said a determination of student computer proficiency skills statewide is critical to differentiating between interventions for students based on academic needs or needed computer skills.

The Chair asked whether PED has plans to seek a legislative change to statutory provisions regarding the alternative demonstration of competency. Ms. Lenti said she is not sure if PED will propose legislation, but said PED has started working with the Assessment and Accountability Advisory Council to examine each school district's alternative demonstration of competency. Ms. Lenti said increasing the rigor of the alternative demonstration of competency is something PED is looking to explore.

There being no further business, the Chair with the consensus of the committee, recessed the LESC meeting at 6:55 p.m.

**MINUTES  
LESC MEETING  
November 20, 2015**

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:15 a.m., on Friday, November 20, 2015, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following members of the LESC were present:

**Voting:** Representatives Dennis J. Roch, Chair, Tomás E. Salazar, Sheryl M. Williams Stapleton, Christine Trujillo, and Monica Youngblood; and Senators John M. Sapien, Vice Chair, Craig W. Brandt, and Howie C. Morales; and

**Advisory:** Representatives Alonzo Baldonado, Jim Dines, D. Wonda Johnson, Patricia Roybal Caballero, James E. Smith, and James G. Townsend; and Senators Lee S. Cotter, John Pinto, William P. Soules, Mimi Stewart, and Pat Woods.

The following members of the LESC were not present:

**Voting:** Representative Nora Espinoza; and Senator Gay G. Kernan; and

**Advisory:** Representatives David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, Timothy D. Lewis, and G. Andrés Romero; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, and Michael Padilla.

**DIRECTOR'S REPORT**

***a. Approval of October 2015 LESC Minutes***

On a motion by Senator Sapien, seconded by Representative Youngblood, the committee approved the minutes for the October 2015 interim meeting.

***b. Administrative Rulemaking***

***Licensure***

The Chair recognized Mr. Kevin Force, LESC staff, for a review of recent administrative rulemakings. Mr. Force indicated that several rulemakings having to do with licensing were proposed in the October 29, 2015 issue of the *New Mexico Register*:

- 6.61.8 NMAC, Licensure in Early Childhood Education, Birth – Grade 3;
- 6.63.8 NMAC, Licensure in Athletic Coaching, 7-12; and
- 6.63.12 NMAC, School Business Official Licensure.

A public hearing on the proposed rules was held in Santa Fe on December 1, 2015.

The first rulemaking concerned licensure for early childhood education. The amendments proposed in the rulemaking were relatively minor, shifting certain dates from 2014 to 2015. Specifically, licensees who obtained their license prior to July 2015 may advance or renew their license by meeting other regulatory requirements. Likewise, licensing candidates who apply after July 2015 must meet regulatory requirements for licensure for either birth to pre-kindergarten, or pre-kindergarten through third grade.

The second rulemaking proposed additional requirements for licensing in athletic coaching of students from seventh to twelfth grade, including verification of completion of first aid/sports first aid/athletic training, as approved by the New Mexico Activities Association. Moreover, candidates for a Level 3 coaching license must, in addition to current requirements, hold either an undergraduate or graduate minor in coaching with at least 24 hours of postsecondary course work at a regionally accredited school. Alternatively, the candidate might complete a course in advanced coaching principles approved by the Public Education Department (PED). Finally, candidates for Level 3 licensure must include training in the use of an automated external defibrillator in their verification of cardiopulmonary resuscitation training.

The last of the three rulemakings addressed requirements for school business official licensure. In addition to current options (focused mainly on holding a bachelor's or higher degree or having professional certification), PED proposes to allow a person to qualify for a school business official license if they have a high school diploma or its equivalent and at least five years of verifiable employment experience working as a business official or under a business official. Additionally, the candidate must complete 40 hours of school business official continuing education.

### **Committee Discussion**

The Chair requested information on PED's rationale behind the additional proposed requirements for school business official licenses, while Vice Chair Sapien similarly inquired as to the rationale behind the date changes proposed for early childhood education licensing. Mr. Force responded that New Mexico administrative procedures do not require any kind of explanatory statement in a rulemaking and that he would ask PED about the respective rationales for the two rulemakings.

### ***Public School Capital Outlay Council***

The Chair recognized Mr. David Craig, LESC staff, for an update on changes to the Public School Capital Outlay Council (PSCOC) administrative rules. Mr. Craig indicated the PSCOC was changing the application and grant assistance procedures and requirements to place into rule the building system initiative enacted by Laws 2015, Chapter 93. Mr. Craig said the proposed rule change removes reference to an expired roof repair initiative and replaces it with the building systems initiative process.

According to Mr. Craig, the process for the new building systems initiative includes submittal of an application to the Public School Facilities Authority (PSFA), includes an assessment of the building system in the application that indicates how the repair, renovation, or replacement would extend the useful life of the building, requires PSCOC to rank applications for assistance,

and indicates that funds awarded must be spent in three years. He concluded by saying the enabling legislation allowed for annual allocations of up to \$15.0 million from the Public School Capital Outlay Fund between FY 16 and FY 20.

### **Committee Discussion**

Senator Woods indicated Roswell Independent School District replaced a school roof due to an emergency. However, the roof repair improved the district's ranking for PSCOC awards, making the school ineligible for PSCOC matching funds. Senator Woods said that after the school district passed the General Obligation Bond to raise matching funds for a PSCOC award for this school, the district was advised the school was ineligible for state funding. Mr. Craig indicated he would work with PSFA staff to provide additional information to Senator Woods about the circumstances around PSCOC awards for Roswell Independent School District.

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

The Chair recognized Ms. Rachel Gudgel, LESC Director, who reported that for the committee's review, the following items were included in the meeting materials for committee members:

- an update from the Higher Education Department on its efforts to comply with the provisions of HB 460, *Study Lottery Tuition Recipient Mentoring* (Laws 2015, Chapter 84);
- the New Mexico Supreme Court ruling on instructional material appropriations; and
- responses to committee requests regarding;
  - classroom teachers supplies;
  - private school participation in Microsoft IT training programs; and
  - Children, Youth and Families Department education liaisons for foster children.

### **LESC-LFC AD HOC WORK GROUP RECOMMENDATIONS AND BILL DRAFTS**

The Chair recognized Mr. Ian Kleats, LESC Deputy Director, and Mr. Charles Sallee, Deputy Director, Program Evaluation, Legislative Finance Committee (LFC), to present recommendations from the LESC-LFC Ad Hoc Work Group. Mr. Kleats began by explaining the work group comprised of four members from each committee met three times during the interim to consider a range of education finance issues.

Mr. Kleats stated that although the work group did not have the opportunity to schedule a final meeting to formally approve recommendations, the work group's discussions appeared to yield general consensus on certain policies now brought before the LESC for consideration as a whole. LESC and LFC staff collaboratively drafted several bills pursuant to direction given by the work group.

Before proceeding to the individual recommendations, the Chair emphasized that discussion drafts should not be confused with endorsements or recommendations of the full committee at this point, and there would be an opportunity for the committee to alter or abandon any of the

discussion drafts prior to committee endorsement of legislation tentatively scheduled for the December meeting.

***a. Supports for At-Risk Students: K-3 Plus and the At-Risk Index***

In addition to the information in the staff brief, Mr. Kleats explained the work group discussion focused on how best to direct funding to programs that serve at-risk students, funded either within or outside of the funding formula, which may be effective at closing the achievement gap. The work group's recommendations included:

- moderately increasing both the at-risk index multiplier and K-3 Plus funding subject to budgetary constraints;
- prioritizing future funding toward programs with proven outcomes for at-risk students;
- exploring further options to address shortages of teachers for English language learner (ELL) students; and
- compiling cost-benefit data from district-level programs supporting at-risk students into the Pew-MacArthur Results First Initiative database to promote future evidence-based policymaking.

Mr. Kleats noted the discussed increase to the at-risk index multiplier was not incorporated into the draft bill for the Instructional Staff Training and Experience (T&E) Index, which would be discussed later.

**Committee Discussion**

The Chair asked Ms. Rachel S. Gudgel, LESC Director, to briefly inform the committee on the state revenue outlook. She explained LFC staff expects the December 2015 revenue forecast for revenue growth in FY 17 to be decreased from the August 2015 estimate of \$293 million.

Speaking on the school breakfast program that targets schools with predominantly low-income students, Senator Stewart stated teachers and schools want more flexibility with breakfast after the bell to allow kids to go to the cafeteria for food service prior to the start of the instructional day if they get there on time. Ms. Gudgel reminded the committee that the *General Appropriation Act of 2015 (GAA of 2015)* included provisions to grant this type of flexibility, but she stated it was unclear how those provisions were being implemented by the Public Education Department (PED) and school districts.

Representative Salazar explained the discussion of ELL students and teachers came at the end of the work group and did not have significant conversation. However, he informed the committee of discussions to potentially include an appropriation to the Higher Education Department for preparation of ELL teachers.

***b. Enrollment Growth and New Programs***

Mr. Kleats noted school districts and charter schools are required to use current-year student membership in the calculation of program units for new formula-based programs, including newly phased-in grade levels planned by charter schools pursuant to language included in the *GAA of 2015* because prior-year enrollment data does not exist. However, these same students are also counted toward the calculation of enrollment growth units, and if a charter school's

newly phased-in grade level causes year-over-year enrollment growth of at least 1.0 percent, the charter school generates those units as well, resulting in the double funding of these students.

Language was included in the *GAA of 2015* to address this double funding; however, it is unclear at this time if PED implemented the language as intended. Additionally, it only provides a temporary annual solution to the problem.

The work group's recommendations included, to:

- continue to address the double funding of students through language in the *GAA of 2015*; and
- monitor implementation of this language prior to formalizing similar provisions in statute.

### **Committee Discussion**

Senator Stewart questioned why draft legislation had not been proposed and suggested that using notwithstanding language in the budget could be problematic. In response, the Chair noted nothing precludes the committee from moving forward with a bill; however, he also explained one reason for the work group's recommendation was uncertainty in how PED would implement the appropriation language for the current fiscal year since data for that portion of the funding formula are not available until December or January.

On the point of drafting legislation, Mr. Kleats suggested the committee would need to consider additional technical and policy issues related to the definition and incorporation of new formula based programs in statute, to which Senator Stewart asked for clarification on the meaning of "new programs." Mr. Kleats explained, in addition to the phasing in of additional grade levels at charter schools, "new programs" could include a newly created elementary physical education or fine arts program that draws from existing grade-level membership.

#### ***c. Charter School Two Percent Administrative Support Withholding***

Mr. Kleats noted previous discussions of the 2.0 percent administrative withholding from charter schools by the 2014 LESC Charter Schools Subcommittee focused heavily on the Public Education Commission in its role as the sole authorizer of state-chartered charter schools. For this work group, however, Mr. Kleats explained consensus appeared to build around increasing transparency for charter schools in the use of their administrative withholding and whether it would be advantageous for a charter school to retain all of its funding formula dollars while negotiating with a school district for only the administrative services it requires. The work group's recommendations included:

- eliminate the 2.0 percent withholding from charter school state equalization guarantee distributions for administrative services; and
- require negotiation between local school districts and charter schools for the contractual provision of those services.

Mr. Kleats directed the committee's attention to draft legislation reflecting the discussions of the work group.

## **Committee Discussion**

In response to Senator Stewart's query whether the 2.0 percent withholding would be eliminated for state-chartered charter schools under the draft legislation, the Chair conceded the bill includes an appropriation to fill the resulting gap in PED's budget. Mr. Kleats also suggested, based on previous reports from PED on their use of the 2.0 percent withholding, the services provided to state-chartered charter schools by PED may be different than the services provided to locally chartered charter schools by school districts.

Senator Stewart asked the committee to solicit feedback from Albuquerque Public Schools on the proposal and how it will work for them to ensure employees funded with the 2.0 percent withholding would continue to be employed.

Representative Townsend asked for a breakdown of the distribution of new appropriations to the public school funding formula between school districts and charter schools, to which Ms. Gudgel replied, of the \$214 million increase from 2008 to 2015, \$98.0 million went to charter schools and \$114 million went to the school districts. Noting nearly half of the money went to schools that teach only 6.0 percent of children; Representative Townsend related these funding issues to the fiscal problems facing small, rural school districts.

Referring to concerns that negotiation with charter schools may not always lead to favorable outcomes for school districts, including costs in excess of withheld amounts, Senator Brandt requested confirmation under the proposed legislation that a school district could authorize a charter school and still refuse to perform administrative duties for them. Mr. Kleats confirmed that was the case.

On Senator Brandt's point and citing his previous legislative work on performance contracts for charter schools, Senator Sapien recalled tightening up the current language in statute so school districts would have to perform services for the 2.0 percent administrative withholding. However, Senator Sapien also suggested the enacted provisions had not been explained to school districts by PED as intended, which could have contributed to the parties of charter school performance contracts not realizing their requirement to negotiate. He requested LESC staff research the matter more fully.

Citing the permissive language in law, the Chair suggested a charter school authorizer might not currently need to provide services if it chooses not to take the money. The Chair characterized the work group's recommendation as aiming to protect the autonomy of charter schools to get their resources wherever is best for them.

### ***d. Small School Size Adjustment***

Mr. Kleats explained the small school size adjustment factor in the public school funding formula was originally intended to steer resources to small, rural communities with small schools that do not benefit from economies of scale; however, some urban schools that offer special programs and limited enrollment have benefitted from size funding. The work group's discussions, he continued, considered whether the calculation of size adjustment units adequately and accurately reflects the costs and economies of scale faced by all schools currently generating those units, including micro districts and charter schools. The work group's recommendations included:

- maintaining current size adjustment funding for school districts available through district size, micro-district, and rural sparsity units;
- reducing school size adjustment units for existing charter schools over several years to accurately account for economies of scale and promote equity; and
- limiting school size adjustment units to charter schools currently in operation.

Mr. Kleats directed the committee's attention to draft legislation reflecting the discussions of the work group.

### **Committee Discussion**

Referring to an estimate that charter schools generate about 15 percent more formula funding per student than other public schools, Representative Townsend asked whether the work group recommendation argued there is an issue with this disproportionate funding. After Mr. Kleats suggested the work group discussion appeared to agree with that statement, Representative Townsend stated concerns that the funding formula was not treating certain rural students equitably.

Representative Townsend then asked how much it would cost to fund all public school students at the same level as charter school students. Though Mr. Kleats stated such an estimate was not currently available, he suggested LESC staff could use the average number of units each student generates compared to charter school students and the unit value to arrive at a cost. However, Ms. Gudgel cautioned that any estimate would have to be considered in the context of the funding formula's distributional properties.

Representative Youngblood emphasized the importance of charter schools in offering diverse choices to parents; however, even though they are public schools, they do not benefit from the same scale efficiencies school districts can for functions like school administration and facilities, leading to substantial additional costs.

Representative Smith pointed to traditional rural school districts also generating small-school size adjustment units, which also results in per-pupil funding far in excess of the state average. Mr. Kleats confirmed Representative Smith's assertion saying rural school districts tend to have the highest per-pupil funding in the state, but he reiterated the important context of micro-districts having large geographic dispersion. On that point, the Chair contended the difference is rural school districts are obligated to provide a service as opposed to discretionary charter schools of choice.

Senator Brandt questioned whether charter schools have an obligation to serve special education students. On that point, Representative Smith confirmed they do.

Though she expressed hope the committee would have the political will to make the proposed changes, Senator Stewart warned she had experienced extreme opposition to a similar bill she carried in the last legislative session. There are some excellent charter schools, she continued, but the state needs to address the issue of equity between charter schools and traditional public schools given that all charter schools combined are comparable to being the third largest school district in the state.

In response to comments from Senator Brandt about the equity of allowing charter schools but not district-operated alternative schools to benefit from school size adjustment units, Senator Stewart explained her previous bill attempted to provide that equity for alternative schools, but it would have cost roughly \$40.0 million.

***e. State-Chartered Charter School Student Transportation and Funding***

The work group's interest in state-chartered charter school transportation and funding issues, Mr. Kleats began, followed testimony during the July 2015 interim meeting of the LESC from school district transportation personnel, which indicated initial transportation allocations for some school districts had decreased precipitously, with some of that decline attributable to an increase in the number of charter schools receiving allocations. He explained the committee and the Legislature had previously been aware that state-chartered charter schools receive more funding than needed to transport students, resulting in persistently large transportation fund balances. The work group's recommendations included:

- create two separate transportation funding sources, one for school districts and one for state-chartered charter schools, to prevent dilution and accurately account for growth; and
- establish transportation boundaries for charter schools.

Mr. Kleats directed the committee's attention to draft legislation reflecting the discussions of the work group, as well as a copy of a bill previously endorsed by the LESC for comparison.

**Committee Discussion**

The Chair explained motivation for the work group's recommendations was to appropriately size the allocation to state-chartered charter schools so they do not maintain sizable transportation cash balances year after year. School districts use these cash balance for maintenance and bus fleet improvements, he explained, but since charter schools do not have their own buses, their cash balances accrue.

The Chair wondered whether portions of the state-chartered charter school transportation bill previously endorsed by LESC related to the provision of transportation services for charter schools with large populations of special education students needed to be incorporated into the work group's recommendation. On that point, Senator Sapien cautioned against making those types of assumptions without consulting staff from Legislative Council Service. Senator Brandt also suggested that consideration should be extended to school districts as well as charter schools if exceptions were eventually included for the transportation of special education students.

***f. Instructional Staff Training and Experience (T&E) Index***

For more than a decade, Mr. Sallee explained, the Instructional Staff Training and Experience (T&E) Index issues have been identified, including its impact on hard-to-staff high-poverty districts, as a multiplier for ancillary services staff units, and lack of alignment with the three-tiered licensure and salary system. In addition to noting the lack of uniformity in how schools count years of experience and educational credits, resulting in differences in T&E Index values, Mr. Sallee cited LFC evaluations that contemplated using the T&E Index to target additional compensation to teachers working at high-poverty schools. More recently, LESC analysis noted

how volatility in the T&E Index can significantly affect the budgets of small-school districts year to year. The work group's recommendations included:

- align the T&E Index with the three-tiered licensure system to address school district and charter school costs associated with advancement between levels;
- consider scaling back the types of program units multiplied by the T&E Index;
- allow funding associated with any reduction in units from a revision of the T&E Index to remain in the public school funding formula; and
- gather and analyze data on the relationship between licensure level, educational attainment, years of experience, and salary for subsequent revision of the T&E matrix.

Mr. Sallee directed the committee's attention to draft legislation reflecting the discussions of the work group and highlighted the following provisions of the bill:

- increase the at-risk index multiplier to 0.120, up from 0.106;
- change the program units multiplied by the T&E Index to only grade-level membership units beginning in FY 17;
- establish a new Teacher Cost Index (TCI), to replace the T&E Index beginning in FY 18 based on teachers only and aligned to experience and licensure level;
- require school districts to report to PED on numerous factors that may influence teacher staffing costs to be analyzed jointly by the LESC and LFC;
- provide a hold harmless for school districts that see a reduction in their program costs attributable to the funding formula changes; and
- sunset the use of the new TCI in FY 22 unless affirmative action is taken by the Legislature to make other substantive changes.

### **Committee Discussion**

When asked by the Chair whether the finance committee would take credit for legislative formula changes to the T&E Index, Ms. Gudgel indicated LFC staff had been directed to retain those funds in the formula. Although the Chair suggested a reduction of units from the T&E Index changes would be mitigated by a commensurate increase in the unit value, Senator Soules expressed worry the distributional effects of the change might not leave all school districts whole.

Raising concerns over changing the program units multiplied by the T&E Index, specifically the removal of special education units from that process, Senator Stewart cautioned the change could both affect the level of finance support for special education services as calculated for certain federal programs and undercut special education funding for school districts. On that final point, Senator Soules suggested base funding from special education program units does not pay for all special education activities. In response to these concerns, the Chair directed LESC to work with LFC staff to establish various scenarios for which program units would be multiplied by the T&E Index.

Senator Stewart also took issue with the removal of educational attainment from the proposed index, suggesting that for each study showing an insignificant relationship between advanced degrees of teachers on student outcomes there are more studies affirming that connection. Ultimately, she concluded more study is needed on how the proposal affects school districts.

Senator Stewart stated her belief that the way the work group's meetings were structured went against the spirit of the *Open Meetings Act*, and expressed a desire to conduct future LESC work groups or subcommittees in a public forum. On that point, Senator Sapien defended the work group process. In response to this exchange, the Chair asked staff to share bill drafts with the education partners and PED to encourage stakeholder feedback.

#### ***g. School Personnel Compensation***

Mr. Kleats explained teacher and school employee compensation was considered by the work group to be a continued area of concern for members of the Legislature. Work group discussions recognized the ultimate goal of compensation increases, such as rewarding effective teachers or improving regional labor market competitiveness, would inform the structure of the increase, whether through across-the-board, targeted, or performance-based policies, he continued. Based on these discussions, the work group's recommendations included:

- consider a multifocal approach to increase teacher compensation through across-the-board, targeted, or performance-based policies; and
- use teacher mentorship as a vehicle for some compensation increases to recognize the contributions of Level 2 and Level 3 teachers who support Level 1 teachers entering the profession.

#### **Committee Discussion**

The Chair commented on the advantages of using discretionary block grants to school districts, such as happens through the state equalization guarantee, to allocate compensation increases for employees. This, he posited, would allow local control to direct and prioritize funding to address areas of concern, and the decision of whether compensation takes the form of across-the-board, targeted, and performance-based increase would follow local priorities.

Senator Soules echoed the Chair's sentiment, noting each school district has different needs. He suggested funding for salary increases needs to be kept in the formula. In conclusion, Senator Soules attributed the discussions and contention around salary to an underfunding of public education.

Agreeing with comments from the Chair and Senator Soules, Senator Stewart highlighted the problem of teacher shortages by citing the 150 teaching vacancies in APS, 79 of which come from special education positions. Unless the Legislature works to increase teacher pay, she argued, it is not helping to solve the problem. However, before supporting a continuation of merit pay funded through an appropriation to PED, Senator Stewart said she would need accountability from PED including a report on what they have done with previous funding. With respect to mentorship, Senator Stewart advocated for allowing school districts to identify quality mentors and compensate them appropriately, arguing for amending and fully funding what is already a good statute.

Senator Brandt expressed appreciation for the comments on local control, but he contended that the role of elected school boards had been diminished in lieu of dependence upon superintendent authority since the enactment of legislation in 2003. He also emphasized that local control has to be combined with accountability, which he described as lacking. With respect to a cost-of-living

increase for teachers, Senator Brandt suggested inflation has not materialized to support those types of increases, which is why certain federal transfer programs have not been increased either.

Representative Townsend suggested throwing money into a bad process will not solve any problems or achieve change, and recommended to look beyond the taxpayers for additional funding.

## **ADJOURNMENT**

There being no further business, the Chair adjourned the LESC meeting at 12:06 p.m.