

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
OCTOBER 12-14, 2011

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) to order at 9:22 a.m. on Wednesday, October 12, 2011 in Room 307 of the State Capitol, Santa Fe, New Mexico.

The following LES C members were present:

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

The following LES C advisory members were also present:

Representatives Ray Begaye, Eleanor Chávez, George Dodge, Jr., and Sheryl Williams Stapleton; and Senators Vernon D. Asbill, Stephen H. Fischmann, and Howie C. Morales.

On a motion by Senator García, seconded by Representative Hall, the committee approved the agenda.

NEW MEXICO VOICES FOR CHILDREN

The Chair recognized Mr. Bill Jordan, Policy Director, New Mexico Voices for Children, and Mr. Miguel Gomez, Advocacy Liaison, St. Joseph Community Health (SJCH), to discuss the results of a recent study conducted by Research and Polling, Inc. and commissioned by SJCH to measure public opinion regarding early childhood education programs in New Mexico.

Mr. Jordan reported that the results of the study indicate a perceived need for greater state involvement in early childhood programs and support to fund these programs through the state's Land Grant Permanent Fund. He explained that, after being informed of how the fund is currently used to fund education, 71 percent of the respondents indicated they would support allocating an additional 1.5 percent of the distributions from the fund for early childhood programs.

Referring to a committee handout, Mr. Gomez stated that the survey included a random telephone interview of 603 adult New Mexico residents.

- In response to the first question, which was intended to gauge public perception of the importance of state support for early childhood education, and noted that 80 percent of survey respondents wanted investment for these programs to be placed on an election ballot.
- In response to the second question, which asked respondents about the current level of state support for early childhood education, 58 percent of the respondents felt that the state is doing too little.
- In response to the third question, which asked respondents to use a five-point scale (where 5 is “strongly support” and 1 is “strongly oppose”) regarding the dedication of more funds to early childhood programs, 54 percent of respondents said “strongly support” for the dedication of more funds to these programs.
- In response to the fourth question, which asked respondents about their awareness of the Land Grant Permanent Fund, 76 percent said that they were not aware of the fund prior to the survey.
- In response to the fifth question, which asked respondents if they were aware of the permanent fund balance of over \$10.0 billion, 71 percent responded in the negative.
- In response to the sixth question, which asked respondents if they would support a proposal to distribute an additional 1.5 percent of the fund, 57 percent strongly supported such a proposal and 14 percent opposed it.

Committee Discussion

In response to a committee question about the total amount being requested from the Land Grant Permanent Fund for early childhood programs, Mr. Jordan stated that the request is for a distribution of 1.5 percent of the balance of the fund over a 10-year period.

A committee member stated that, while the survey respondents indicate support for early childhood education, the survey questions did not address the effect on the fund, primarily the impact to the beneficiaries of the fund. In response, Mr. Gomez indicated that the committee handout only summarized the results and that the full survey report addressed the fund’s growth and investments.

In response to a committee member’s question what percentage of the fund would go to public schools if 1.5 percent were approved for early childhood education programs, Mr. Gomez stated that the 1.5 percent would not affect any of the current beneficiaries, including public schools.

A committee member expressed concern that the use of state dollars to support private early childhood education programs may violate the anti-donation clause in the state constitution. In response to this concern, Mr. Gomez stated that he was in receipt of correspondence from attorneys stating that using state dollars to fund early childhood education programs statewide would not violate the state’s constitution.

A committee member requested that Voices for Children provide a copy of the full survey report.

Another committee member requested a copy of the attorney letter stating that state dollars to private programs does not violate the state constitution.

TITLE IX: *SCHOOL ATHLETICS EQUITY ACT*

The Chair recognized Dr. David Harrell, LESC staff; Ms. Sally Marquez, Assistant Executive Director, New Mexico Activities Association (NMAA); and Ms. Dorene A. Kuffer, Legal Director, Southwest Women’s Law Center, to discuss the provisions of the *School Athletics Equity Act*, which requires reports from public schools to ensure that their athletic programs comply with federal and state laws.

Dr. Harrell began by reviewing federal requirements under Title IX, which prohibits discrimination on the basis of sex. He reported that the New Mexico *School Athletics Equity Act* (SAEA) mirrors a number of these federal requirements in that the act requires that each public school that has an athletics program for grades 7 through 12 “operate its program in a manner that does not discriminate against students or staff on the basis of gender.” Among its provisions, Dr. Harrell noted, the act prescribes two phases of annual public school reporting of certain data to the Public Education Department (PED) to assure compliance with Title IX: the first phase by August 31, 2011 and the second phase by August 31, 2012. Other provisions require PED, beginning December 1, 2011, to report annually to the Legislature and the Governor, including recommendations on how to increase gender equity in athletics in public schools.

While the SAEA places the responsibility of state-level implementation on PED, Dr. Harrell reported that NMAA has taken the initiative to assist its member schools in their compliance with state requirements. He noted that, in assuming these responsibilities, the NMAA incurred a financial impact to enhance its reporting software and database and that the NMAA is anticipating additional expenses to include financial data from athletic programs in grades 7 and 8. Dr. Harrell also noted several documents on the PED website, including a memorandum of understanding between PED and the NMAA that reviews the requirements and outlines the responsibilities of both entities.

Dr. Harrell then reviewed concerns among school districts and schools as reported by the New Mexico Association of School Business Officials (ASBO), among them:

- the act is widely regarded as an unfunded mandate in that it requires additional reporting but provides no additional resources;
- because booster clubs are unaccustomed to the sort of requirements imposed by the act, school officials have found it challenging to explain the change in circumstances from “just supporting our team” to detailed reporting of the various forms of support;
- if they are 501(c)(3) organizations, schools cannot ask to see the booster clubs’ books but they can ask for reports. Under those conditions, school business officials cannot validate the data and, therefore, may be out of compliance without realizing it;
- while schools must report the employment status of coaches – whether full-time, part-time, contractual, or seasonal – they have received no instructions on how to make these determinations. As a result, these data are likely to be reported differently from school to school; and

- schools that are members of the NMAA may use the association’s enhanced software program; however, non-member schools must report via a PED document, resulting in “significant differences simply due to the different systems.”

Alluding to her handout, Ms. Marquez reviewed the role that the NMAA has taken in the implementation of the SAEA. Among the points she noted were:

- the number of presentations that staff had made (approximately 70) to school boards, booster clubs, and other entities;
- a review of the reporting process used by member schools through the association’s software program, the MVP Database, which the NMAA expanded to accommodate the new reporting requirements, at a cost of approximately \$60,000;
- the absence of an interpreting or enforcement authority indicated in the SAEA; and
- examples of the questions that schools have raised, such as:
 - how do schools that co-op athletic activities with other schools report their data?
 - how is “access” to locker rooms and other facilities reported?
 - do “pot-lucks” constitute reportable meal expenses?

Ms. Marquez also suggested several amendments to the act, among them:

- require reporting by program rather than by team; and
- remove the equipment and supplies data points because they are addressed on an as-needed basis rather than according to a schedule.

Ms. Kuffer emphasized that the SAEA is a reporting act that other states are looking to as a model. The data required to be reported, she added, are already publicly available; however, when they are requested through the *Inspection of Public Records Act* (IPRA), the data are not always in clear form. Ms. Kuffer cited instances in Georgia and Kentucky in which media publication of data obtained through IPRA requests resulted in public demand for reporting laws similar to the SAEA.

Addressing booster clubs in particular, Ms. Kuffer cited a letter from the Office of Civil Rights, which enforces Title IX, to a high school in California. Among the points raised in this letter are that private funds used to support school athletics are likely to be subject to “the same historical patterns that Title IX was enacted to address”; and that all benefits must be taken into account as schools and districts try to provide equitable treatment and opportunities for boys’ athletics as for girls’.

Ms. Kuffer also cited Silver Consolidated Schools and Rio Rancho Public Schools as examples of districts in New Mexico that had taken the initiative to address some of the issues surrounding the SAEA reporting requirements; she agreed with ASBO about the need for further guidance from the state; and she described the benefits for schools and students alike in making relevant data more readily available.

Committee Discussion

In response to a committee member's question how schools that are not members of NMAA report to PED, Dr. Kristine Meurer, Director, School and Family Support Bureau, PED, stated that data must be submitted to PED on paper, or hard copy, because the department's current data base does not have the capability of collecting athletic data. Responding to related questions from committee members, Dr. Meurer described the administrative burden on PED and indicated the need for some amendments.

In response to a committee member's question regarding the number of schools NMAA serves across the state, Ms. Marquez replied that NMAA currently serves 156 high schools and more than 200 middle schools representing over 40,000 students. This committee member noted that the NMAA has incurred costs related to the SAEA with no financial support from the state.

In response to a question why the act did not include the NMAA in its provisions, Mr. Gary Tripp, Executive Director, NMAA, said that, as the bill was being drafted and heard in committee, the focus was on reporting to PED; and Ms. Kuffer added that, because the NMAA is not a state agency, it was more appropriate for the association to be formally involved through the memorandum of understanding.

Among the other points raised during the discussion were:

- the time and costs associated with complying with the requirements;
- the penalizing effect that the act seems to have had on schools that comply with Title IX; and
- the challenges in gathering and submitting accurate and consistent data, including the lack of guidance and direction on how to determine what is to be reported.

On a motion by Senator Nava, seconded by Representative Stewart, the committee approved the formation of an LESC work group to include LESC members, who shall receive per diem, as well as representatives from the Southwest Women's Law Center, PED, NMAA, and other stakeholders, to examine the concerns regarding the act and to provide recommendations for consideration of the committee during the November LESC meeting. The Chair then appointed Senators Asbill, Morales, and Nava, and Representatives Dodge, Hall, and Roch to the work group.

EDUCATION COMMISSION OF THE STATES (ECS) REPORT: *WORKING TOGETHER TO BOOST COLLEGE COMPLETION*

The Chair recognized Mr. Bruce Vandal, Director, Postsecondary Education and Workforce Development Institute, ECS, to discuss college completion in New Mexico and its impact on the state's work force and economy.

Referring to a PowerPoint and committee handout, *College Completion in New Mexico: The Impact on the Workforce and the Economy*, Mr. Vandal reported that in New Mexico:

- only 34 percent of adults, ages 25 to 64, hold an associate degree or higher as compared to 39 percent nationally;
- the attainment gap between young adults (ages 25 to 34) and older adults (ages 45 to 64) is the second largest in the nation;
- the percentage of working-age adults with a bachelor's degree or higher lags behind the national average;
- minority groups complete college credential at similar rates, but the Latino population is the largest and, thus, will require the most policy attention;
- minority populations are more than twice as likely to have no exposure to postsecondary education as their white counterparts. Similarly, whites are twice as likely to have some type of postsecondary credential (46 percent compared to 23 percent for minorities);
- to improve postsecondary attainment, the state needs to increase both the number of students who graduate high school and the number who enter college directly;
- two- and four-year retention rates lag behind the national average;
- although Hispanic/Latino students out-represent white students when entering college as first-time freshmen, white students complete college at a higher overall rate;
- improving degree odds for Latinos is particularly important given future population and economic data;
- nearly one in three workers with no college degree and some college but no degree are earning less than a living wage; and
- by 2018, approximately 574,000, or 58 percent, of the state's jobs will require a postsecondary education.

Mr. Vandal also reported that the college attainment in New Mexico is substantially lower than in most other states and the country as a whole, due in large part to low rates of college retention and completion. He stated that strategies the state could consider include:

- leveraging resources to evaluate the effectiveness of existing postsecondary and work force systems in accomplishing state goals;
- strengthening transitions from year-to-year among college students, with clear pathways and adaptable support structures to engage the state's minority population;
- increasing college participation rates in New Mexico for young adults between the ages of 18 and 24 by creating and marketing academic programs where the value of a college degree outweighs the cost of postsecondary attendance;
- developing college and career pathways that lead to employment in high-earning occupational fields that will further attract new business to the state; and
- enhancing student completion odds through new delivery models, degree and certificate articulation agreements, and adult-friendly programs that emphasize flexibility.

Referring to a handout, *New Mexico Policy Profile*, Mr. Vandal noted that the New Mexico State Legislature has identified the core challenges associated with postsecondary retention, degree completion, and work force outcomes. The data, he emphasized, are clear: the primary challenge is getting adults into college and into livable wage jobs. He suggested that, to more effectively meet college and career challenges, the Legislature should consider:

- evaluating whether current policies increase college attainment in high-demand fields and close equity gaps between whites and Latinos;
- examining how to unlock the educational and work force potential of two adult populations: those with limited English proficiency and those with some college but no credential; and
- structuring the education/work force pipeline to meet economic demands and to improve access to livable-wage jobs.

Committee Discussion

A committee member stated that the dual credit program should have an effect on the state’s remedial education rate. Mr. Vandal agreed, adding that the state also needed to consider early college high schools.

In response to a committee member’s question about the meaning of “some college,” Mr. Vandal noted that certificates earned by students are often included in the “some college” category; however, for industry these certificates are necessary and important to the state’s work force and economy.

In response to a committee member’s question why the 85 percent rate for New Mexico residents having at least a high school diploma is higher than the high school graduation rate, Mr. Vandal indicated that the rate may include those students who require an additional year or two to graduate as well as those who have acquired a general educational development certificate, or GED.

A committee member requested data on the dropout rate of students taking remedial courses in two- and four-year postsecondary institutions.

REVIEW OF HB 603a (2011), *CHILD CARE REGISTRY*

The Chair recognized Mr. Travis Dulany, LESC staff, and Mr. Joe Miera, Associate Dean of Operations at The University of New Mexico (UNM), for a discussion of the provisions of HB 603a (2011), *Child Care Registry*, which was introduced during the 2011 regular legislative session but did not pass.

Mr. Dulany explained that the legislation, if it had been enacted, would have required the Children, Youth and Families Department (CYFD) to develop and maintain a statewide database available on the department’s website that would track early childhood educators who are employed by child-care centers, including those that participate in state or federal child-care assistance programs or participate in state or federal child-care assistant programs as licensed family child-care providers.

Among the information to have been gathered and published, Mr. Dulany noted, were:

- the early childhood educator’s name;
- the employing child-care center’s name;

- whether the early childhood educator has fulfilled the required 45-hour class and the required 24 hours of on-site training;
- the early childhood educator's status;
- the number of professional development or relevant training hours accrued by the early childhood educator in the current calendar year; and
- the number of years that the early childhood educator has provided child-care.

In its analysis of the bill, Mr. Dulany stated, CYFD suggested that it would need to expand its current Child Care Resource and Referral (CCR&R) service in order to comply with the requirements of the proposed legislation.

Mr. Miera reported that the federal Child Care and Development Fund (CCDF) requires the department to provide a CCR&R service, which is offered through a contract with UNM for a website known as New Mexico Kids (www.newmexicokids.org). An example of information provided for a particular program or center in the database, he stated, could include:

- the name of the program or center;
- the name of the contact person, which is usually the site director or owner;
- the phone number of the program or center;
- major cross streets;
- the hours of operation;
- the *Look for the Stars-Aim High* rating of the program or center;
- ages of children served;
- if available, current openings;
- fees and other charges;
- whether meals and/or snacks are served; and
- other specific information, such as specializations, if the program or center has a certain religious teaching, or if the program or center offers potty training.

Along with the CCR&R service, Mr. Miera added, the New Mexico Kids website also provides:

- *Look for the Stars for Caregivers and Educators*, a rating system for licensed child-care centers and licensed family child-care homes;
- child-care regulations and statutes;
- professional development resources for child-care centers and employees; and
- guidance for parents and guardians seeking child-care.

Mr. Miera reported that the CCR&R service is supported by a product called NACCRRAware, which is the software and data hosting service from the National Association of Child Care Resource and Referral Agencies (NACCRRRA). The expansion of CCR&R to incorporate the data fields mandated in HB 603a would be possible through one of two alterations to the current system:

1. *An amendment to the NACCRRAware licensing agreement:* Under this option, UNM Continuing Education would purchase additional software and data hosting support from NACCRRAware, including increased digital storage space and an application or terminal

for licensed and registered child-care centers to enter individual child-care employee information; or

2. *An internally built child-care registry system:* UNM staff estimate that, under adequate staffing conditions, this option would require at least six to nine months to complete.

Under either option, Mr. Miera noted, several additional components would need to be in place in order to implement the requirements under HB 603a:

- requirements for licensed and registered child-care centers to self-report the required information to New Mexico Kids based on a defined reporting schedule. However, Mr. Miera reported that, because the annual turnover rate for child-care workers in New Mexico can range from 20 to 40 percent, the child-care centers would need to submit information about their employees to New Mexico Kids at least annually in order to ensure accuracy;
- an initial appropriation to purchase, expand, or create additional software mentioned in the two potential options above; and
- additional recurring funding to CYFD in order to fund additional staff to maintain the expanded system.

To conclude, Mr. Miera reported that preliminary cost estimates indicated that approximately \$331,000 to \$387,000 would be required to accommodate the expansion of the department's current system. He cautioned that the cost estimates were preliminary and that additional personnel would be required to ensure the accuracy of any information published through www.newmexicokids.org.

Committee Discussion

In response to a committee member's question about who would have access to the data in the registry, Mr. Miera stated that currently parents are referred to programs without being able to access the quality of the services being offered. Representative Eleanor Chávez, the sponsor of the legislation, added that the current database lacks work force data. The expansion of the database, if the legislation had been enacted, would have allowed parents to determine who is working in a center as well as allow center directors to verify the employment information provided by potential employees.

The Chair then recognized Ms. Brenda Villegas, the owner of a child-care center in Deming, who stated that, among its other capabilities, the registry would make it easier to verify applicants' work experience, improve worker education, and increase competition.

DIRECTOR'S REPORT

[THIS ITEM WAS MOVED AND HEARD ON FRIDAY, OCTOBER 14, 2011]

SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized Mr. David Maddox, representing the advocacy group Restore Everyone's Liberty Elsewhere Abolish Slavery and Exploitation, also known as RELEASE.

Mr. Maddox explained that human trafficking is the modern-day practice of slavery and one of the fastest growing criminal industries in the world. Each year, he noted, traffickers generate between \$32.0 and \$36.0 billion by exploiting those seeking to cross international borders in search of a better life, as well as those who are vulnerable within the United States, including New Mexico. He emphasized that between 100,000 to 300,000 children are at risk of sexual exploitation every year and that the National Human Trafficking Resource Center and Hotline has received over 35,000 calls since 2007. In 2010, he noted, the hotline received 35 calls from New Mexico, seven of which referenced potential victims of human trafficking.

Referring to a committee handout, Mr. Maddox requested that the committee consider requiring the Public Education Department to have the state's social studies standards include certain benchmarks for grades K-12 that allow students to "understand how to exercise social justice at home, school, work and relational, societal, and global situations by practicing trained awareness, observation, and empowerment."

Committee Discussion

Responding to a committee member who asked what he wanted the LESC to do, Mr. Maddox replied that RELEASE is asking for two things:

1. that New Mexico add the subject of human trafficking to its social studies curriculum; and
2. that the committee consider legislation similar to Maryland's HB 674 to provide training and awareness of human trafficking.

A member of the committee commented that many people come to the LESC asking that certain special interests be addressed by legislation, and recommended that advocates consider first addressing issues on a community level.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 3:55 p.m.

**MINUTES
LESC MEETING
OCTOBER 13, 2011**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) to order at 9:23 a.m. on Thursday, October 13, 2011 in Room 307 of the State Capitol, Santa Fe, New Mexico.

The following LESG members were present:

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

The following LESG advisory members were also present:

Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chávez, George Dodge, Jr., and Sheryl Williams Stapleton; and Senators Mark Boitano, Stephen H. Fischmann, and Sander Rue.

Also in attendance was Representative Richard D. Vigil.

PUBLIC EDUCATION DEPARTMENT (PED) UPDATES

a. Effective Teaching Task Force Recommendations

The Chair recognized Ms. Pamela Herman, LESG staff, and Ms. Leighann Lenti, Director of Policy, Public Education Department (PED), to discuss the recommendations of the Effective Teaching Task Force.

Ms. Herman explained that in 2011 the Legislature considered, but did not pass, SB 502, *School Teacher & Principal Evaluation*. Among its provisions, the bill required PED to:

- convene a work group to develop and make recommendations for a highly objective uniform statewide evaluation framework for school district and charter school teacher evaluation models and school principal evaluations; and
- propose a performance-based compensation system that provides incentives for effective teachers and school principals.

Ms. Lenti noted that in April 2011 the Governor issued Executive Order 2011-024 creating the New Mexico Effective Teaching Task Force. The order, she stated, called for a task force of up to 15 members appointed by and serving at the pleasure of the Governor, consisting of individuals who represent the geographic distribution and cultural diversity of the state, with the Secretary-designate of Public Education serving as chair and the directors of LESG and the Legislative Finance Committee serving as *ex officio* members.

The final task force report, Ms. Lenti reported, includes:

- an executive summary and introduction drafted by PED staff;
- a narrative with four sections drafted by task force work groups, organized around four topic areas, each including an overview, recommendations, and the rationale for each recommendation:
 - Section I: Teacher and School Leader Evaluation;
 - Section II: Professional Development;
 - Section III: Recruitment and Retention; and
 - Section IV: Compensation and Advancement;
- a fifth section, entitled “Next Steps,” drafted by PED staff; and
- appendices.

The report, Ms. Lenti continued, makes 38 recommendations, which are listed below as they appear in the report:

1. New Mexico should replace its overly simplistic pass/fail teacher evaluation system with five effectiveness levels.
2. Effectiveness levels should only be assigned after careful consideration of multiple measures, including student achievement data, observations, and other proven measures selected by local districts from a list of options approved by New Mexico’s PED.
3. In order to reliably capture student achievement, we recommend the use of a value-added model (VAM) of data analysis. Each teacher’s value-added contribution would be calculated by PED staff, and after a data review procedure similar to that which occurs before the release of school-wide student achievement data, this calculation would be disseminated to local districts for inclusion in the locally adopted teacher evaluation process. In addition, each teacher should receive a copy of his or her value-added calculation in order to inform instruction. Teachers in tested grades and subjects will be evaluated in the following way:
 - a. 50 percent based on VAM of student achievement;
 - b. 25 percent based on observations; and
 - c. 25 percent based on locally adopted (and PED approved) multiple measures.
4. We recommend phasing in the use of value-added evaluations, first for teachers in tested grades and subjects and subsequently for teachers in non-tested grades and subjects, though both subsets of teachers will be evaluated through observations and other approved measures immediately. Until such time as other assessments are available and/or approved for use in calculating value-added measurements of student achievement in non-tested grades and subjects, teachers in non-tested grades and subjects will be evaluated in the following way:
 - a. 25 percent based on a school’s A-B-C-D-F Schools Rating System grade;
 - b. 25 percent based on observations; and
 - c. 50 percent based on locally adopted (and PED approved) multiple measures.
5. In addition to student achievement, we recommend the continued use of observations, with objective protocols, in the evaluation of each teacher’s performance.

6. As local districts adopt research-driven, PED-approved measures for the remaining portion of a teacher's evaluation, it is important to ensure opportunity for key stakeholders (teachers, school leaders, parents, community members, etc.) to provide public input on the policy decision.
7. New Mexico's teacher evaluation system should utilize a matrix in which the multiple components of a teacher's evaluation combine to determine a teacher's overall effectiveness rating.
8. We recommend that a post-evaluation conference with the evaluator provide each teacher with actionable feedback, though we caution that this conference and the feedback delivered therein not be considered a "due process" requirement without which an ineffective teacher may not be terminated.
9. As with teachers, New Mexico should replace its overly simplistic pass/fail principal evaluation system with five effectiveness levels.
10. We recommend that the emphasis on student achievement in teacher evaluation also be reflected in the evaluation of the school leader.
11. The remaining 50 percent should be comprised of other measures, half of which must consider the fidelity with which the principal implements the teacher evaluation process.
12. Similar to that used in the teacher evaluation system, New Mexico's principal evaluation system should utilize a matrix in which the components of a teacher's evaluation combine to determine a principal's overall effectiveness rating.
13. Establishment of a Professional Development Committee by PED to review research in the area of effective professional development and make recommendations on allowable, research-driven, proven professional development opportunities to be chosen by the state, districts, and administration. The purpose of the standing committee is to ensure that professional development is designed to enhance student learning and continuously improve the quality of teaching and educational leadership in New Mexico schools.
14. Redirect current established state and federal professional development funds toward approved professional development.
15. Professional Development approved by the Professional Development Committee must be implemented by districts and schools and individuals in a manner which has demonstrated positive student achievement impact.
16. Make Student Teacher Accountability Reporting System data available to individual schools, administrators, and teachers so that accurate data can be effectively utilized. Additionally, provide professional development on the use of data specific to the state, district, school, teacher, and student needs and goals.
17. In an effort to ensure fidelity and continuity of programs, professional development programs should total no less than 49 hours in a specific area of need.
18. Data should be collected quarterly to assure professional development techniques presented are implemented in the classroom. PED should keep records of individual teacher's professional development and professional intervention plan documentation.
19. Statewide professional development should be implemented annually across the state and it should be "frontloaded" prior to the beginning of the school year.
20. Principal professional development should align to teacher professional development. In conjunction with their direct supervisors, principals should be developing data-driven professional development plans that improve student outcomes for their building, increase their school grade, which accounts for 50 percent of their evaluation, and allow them to meet other measures of performance captured in the other 50 percent of their annual evaluation.

21. Create a diversified pay structure that is based on teacher effectiveness (outputs) as evidenced by student growth, observations, and other clear, multiple measures. As the New Mexico Teacher Evaluation System is refined, it is recommended that a task force is assembled to research incentive and compensation programs that have been implemented in recent years to determine the best practices within those programs that lead to improved student academic achievement and teacher retention and recruitment.
22. Create a system for incentive pay to teach in critical-shortage subject areas (i.e. math, science, special education classes, in rural areas and other hard to staff areas). This system could support incentives for teachers who work in Title I schools, as well as other at-risk factors identified in each district's area (i.e. math and science, urban, rural, etc).
23. Provide academic scholarships in New Mexico for those going into education, including high-quality, alternative programs for mid-career recruits in exchange for teaching for at least four years in a high-need field or location.
24. Develop a program that offers an opportunity for an adjunct license for part-time teaching.
25. Provide advancement and leadership opportunities for teachers. Utilize three-tiered licensed teachers' expertise by providing greater leadership capacity throughout schools, districts, and in the state.
26. Adequately fund school budgets to give teachers time to plan and collaborate with their colleagues.
27. Provide state-generated principal support groups to provide training in the state's teacher evaluation methods, priority school requirements, and uniform interventions. New Mexico processes need to be uniform, transparent, and implemented with fidelity. In addition, like principal groups should be allowed to share challenges, solutions, questions, and concerns.
28. Beware of increasing paperwork and administrative burden for administrators. Be sure accountability processes are aligned within the state department, districts offices, and schools.
29. Develop and implement research-based recommendations for ways that central office administration, starting with the superintendent, can support principals in their instructional leadership roles.
30. Examine principal pay scales and remove disincentives to advancement for qualified school leaders moving from the classroom to the principal's office.
31. Require annual evaluations and professional development plans which are in alignment with the licensure system.
32. Incorporate teacher effectiveness into the licensure process.
33. Restructure the current three-tier salaries/shift funding to results tied to annual evaluations and professional development plans.
34. Provide incentives to effective teachers and remove ineffective teachers from the classroom.
35. Align the training and experience with the three-tiered licensure system.
36. Require annual principal evaluations.
37. Evaluate the current three-tiered licensure system and dossier to minimize administrative costs and determine effectiveness. This should occur within three months to a year.
38. Delay implementation of performance-based compensation system until school year 2013-2014.

The next steps of the task force, Ms. Lenti stated, are to develop a policy proposal based on the recommendations of the task force and develop a teacher accountability system.

Committee Discussion

In response to a committee member's question regarding teacher evaluation, Ms. Lenti stated that members of the task force recommended that teachers be measured on growth and VAM. If proficiency gains are realized, she added, that will be noted as well.

Responding to a committee member's question about student achievement, Ms. Lenti noted that the US Department of Education (USDE) has recommended that states be required to include student achievement as a factor in any evaluation system.

In response to a question from the Chair, Ms. Lenti clarified that the members of the task force developed the recommendations, not PED, and that a full policy proposal has yet to be created.

In response to committee questions regarding how the task force proposes to pay for the diversified pay structure recommended in its report, Ms. Lenti replied that PED will evaluate its existing funds and redirect them to any newly implemented system.

A committee member asked about the task force's recommendations regarding superintendents, noting that currently they are evaluated only by their school board. In reply, Ms. Herman stated that the task force was aware of this issue and that some members had made related recommendations; however, the current system would prohibit the department from enforcing any type of evaluation system on superintendents.

In response to a committee member's question regarding the use of Title II funds for the development of an evaluation system, Ms. Lenti stated that she understands those funds can be used for "incentive pay." In response to a related question, Ms. Lenti stated that the USDE has extended a flexibility option to states allowing Title I and Title II administrative funds to be used to support implementation of a new teacher compensation system.

A committee member expressed her concern regarding the effectiveness of the current three-tiered licensure system in New Mexico, but noted that significant resources were invested in implementing the system. The member suggested that in the interest of efficiency and efficacy any new system should consider using elements from the existing system.

A committee member asked about teacher due process rights, and Ms. Lenti stated that the task force recommended extending due process rights to teachers only after they have reached a certain level.

In response to a committee question regarding professional development, Ms. Lenti stated that PED seeks to align professional development with teacher evaluations.

b. A-B-C-D-F Schools Rating System

The Chair recognized Mr. Kevin Force, LESC staff; Ms. Lenti; and Dr. Pete Goldschmidt, Director of Accountability and Assessments, PED, to discuss proposed rulemaking regarding the grading of public schools.

Mr. Force reported that on September 30, 2011, PED published in the *New Mexico Register* a notice of proposed rulemaking that would create new rules to implement the requirements of the *A-B-C-D-F Schools Rating Act*. The notice, he continued, states that PED will conduct two public hearings on the proposed rules: (1) in Santa Fe on October 31, 2011; and (2) in Alamogordo on November 2, 2011. Written comments may be submitted to the department through 5:00 p.m. on the date of the public hearing. The rules, he emphasized, include a proposed effective date of November 30, 2011.

Ms. Lenti explained that in 2011, legislation was enacted (Laws 2011, Chapter 10) to create new sections of the *Public School Code* known as the *A-B-C-D-F Schools Rating Act*, and to amend current law relating to school budget approval and program costs to ensure that local school boards and charter school governing authorities appropriately prioritize their resources for schools receiving a “D” or an “F” under the new system. The legislation provides that all New Mexico public schools shall be graded annually by PED, according to criteria established by department rules.

In order to address concerns that the model utilizing adequate yearly progress (AYP) under the federal *No Child Left Behind Act of 2001* (NCLB) is ineffective and unclear, many states have adopted school rating systems similar to New Mexico’s A-B-C-D-F Schools Rating System. Moreover, she noted, the new system addresses student, parent, and stakeholder concern that AYP ratings are difficult to understand. As such, the new system will be more transparent and understandable, allowing for better informed decisions regarding school and student performance.

Dr. Goldschmidt provided the committee with an overview of the statistical process of a “value-added model” (VAM), and he discussed how the “inputs” – like economic status and minority population – of a school can affect the “outputs” – like proficiency and achievement. He added that avoiding this type of statistical inconsistency and the resulting misleading information is at the core of VAM.

Committee Discussion

In response to a committee member’s question regarding student growth, both Ms. Lenti and Dr. Goldschmidt confirmed that under the proposed model points would be awarded for growth.

A committee member asked for clarification regarding value-added modeling and proficiency scores, and Dr. Goldschmidt replied that individual student’s scores are used to determine proficiency and that all related aspects of the student, such as ethnicity, English-language learner, are balanced in VAM.

A member of the committee expressed concern that the task force’s recommendations do not address accountability in grades K-2.

c. Reversion of Federal ARRA Funds

[THIS ITEM WAS HEARD ON FRIDAY, OCTOBER 14, 2011]

d. FY 13 PED Budget Request

[THIS ITEM WAS HEARD ON FRIDAY, OCTOBER 14, 2011]

FY 12 UNEMPLOYMENT COMPENSATION ASSESSMENTS OF SCHOOL DISTRICTS

The Chair recognized Mr. Craig J. Johnson, LESC staff, for a report on the FY 12 unemployment compensation assessments of school districts.

Mr. Johnson explained that, for FY 12, school districts have received invoices from the General Services Department (GSD) for unemployment compensation assessments. Many of these districts, he emphasized, have indicated that their rates for unemployment compensation have risen substantially as compared to the previous year; however, the unemployment compensation rate assessments did not include an explanation or justification for increases.

Referring the committee to an attachment to the LESC staff report, *FY 12 Unemployment Compensation Impact by School District*, Mr. Johnson reported that LESC staff compiled the data in the attachment to assess the impact of the unemployment compensation assessment increases by school district. Through a comparison of the amount each district budgeted for unemployment compensation to the amounts assessed by GSD, the analysis shows:

- districts have budgeted just over \$2.0 million for unemployment compensation in school year 2011-2012;
- GSD assessed school districts a total of approximately \$4.8 million; and
- the difference between unemployment compensation assessments and budgeted amounts is approximately \$2.8 million.

Based on information provided by PED and GSD, Mr. Johnson added, the analysis further indicates that:

- 42 districts did not budget sufficient resources in FY 12 to cover their unemployment compensation assessment;
- 41 of the 42 districts had sufficient unrestricted cash balances as of June 30, 2011 to pay for the unemployment compensation assessment however, Mesa Vista Consolidated Schools did not have sufficient cash balance to cover the assessment;
- the shortfall between the amount budgeted for unemployment compensation and the amount assessed ranges from \$587,091 for Rio Rancho Public Schools to \$75 for Elida Municipal Schools; and
- as a percentage of the FY 12 operational expenditures, the unemployment compensation shortfalls range from 2.345 percent for Maxwell Municipal Schools to 0.005 percent for Gadsden Independent Schools.

For consideration of the committee, Mr. Johnson indicated that the LESC staff report includes four policy options:

1. The committee may wish to consider requesting that GSD publish rates by individual school district.
2. The committee may wish to consider amending current law to require that PED not approve budgets unless the districts and charter schools have budgeted sufficient resources to cover unemployment compensation expenses.
3. Given that approximately 15 percent of the increased assessments were not justified, the committee may wish to receive a report from GSD on the process to determine if claims are legitimate.
4. Given the impact on school district budgets, the committee may wish to formally request that the GSD Secretary allow districts to pay the increase for unemployment compensation assessments over time, perhaps three years.

To conclude, Mr. Johnson stated that Mr. Jay Hone, Director of the Risk Management Division (RMD) at GSD, was available for committee discussion.

Committee Discussion

In response to a committee concern that the assessments affect agencies statewide and not just public schools, Mr. Hone affirmed that it is a statewide issue and that, while school systems have the ability to have cash balances to cover unexpected costs, other agencies do not. Mr. Hone reported that RMD has been looking at a statewide solution; however, the only solution is employment, followed by education. He explained that the unemployment program is a reimbursable program – not, as sometimes thought, an insurance program. In reality, he emphasized, it is a pay-as-you-go program in which unemployment compensation is paid as incurred. He added that, while the federal unemployment data show that New Mexico's rate has decreased, the rate does not count individuals who have quit looking for work.

In response to a committee question whether districts could pay their assessments over a number of months or years, Mr. Paul Aguilar, Deputy Secretary for Finance and Operations, PED, reported that the assessments are due when received; however, districts receive their program cost appropriations in 12 allotments.

In response to a question relating to the possible use of emergency supplemental funding to assist districts with high assessments, Mr. Aguilar, indicated he was not prepared to address the question, although the department has considered assisting those districts with little or no cash balance. He noted, however, that emergency supplemental funds are allocated based on an application basis.

In response to a question whether federal *American Recovery and Reinvestment Act of 2009* dollars could be used to minimize high assessments, Mr. Aguilar indicated that these federal dollars are no longer available.

**FY 13 INSURANCE PROJECTIONS:
NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY (NMPSIA) AND
ALBUQUERQUE PUBLIC SCHOOLS (APS)**

The Chair recognized Mr. Craig J. Johnson, LESC staff; Mr. Sammy Quintana, Executive Director, New Mexico Public Schools Insurance Authority (NMPSIA); Mr. Don Gonzalez, Comptroller, NMPSIA; Ms. Christy Edwards, Deputy Director, NMPSIA; Mr. Don Moya, Chief Financial Officer, Albuquerque Public Schools (APS); and Ms. Carrie Menapace, Policy Analyst, APS, to discuss projected FY 13 insurance increases.

Mr. Johnson explained that each year, if funding is available, the Legislature appropriates dollars to the State Equalization Guarantee (SEG) distribution to provide for projected increases in the employer's group health and risk insurance contribution rates of the state's public schools. Current law, he noted, requires all of New Mexico's charter schools and 88 of its school districts to participate in NMPSIA. The remaining school district, APS, is exempted from participation in NMPSIA, due to its size is self-insured.

Consideration of the appropriation to the SEG, Mr. Johnson reported, is based on NMPSIA's and APS's respective budget requests. These requests are based on projected contribution rates considered to be adequate to provide for anticipated insurance claims, administrative costs, and reserves in the next fiscal year. These increases may be offset by NMPSIA or APS board action that allows the agencies to use reserve fund balances to reduce the projected increases.

Referring to a committee handout, Mr. Quintana reported that the NMPSIA FY 13 budget request was less than a 1.0 percent increase from the previous year. On the benefits side, he stated, the FY 13 project fund balance is approximately \$1.84 million. On the risk side, he reported, to offset increases, the agency will be using approximately \$9.0 million in fund balance dollars, leaving an FY 13 balance of \$8.0 million.

Ms. Edwards noted that the agency would not be requesting an appropriation for FY 13 increases; however, for the benefits program the agency is anticipating, effective October 1, 2012:

- an 8.1 percent increase in medical premiums; and
- a 5.1 percent increase in dental premiums.

Potential medical plan changes, Ms. Edwards added, include:

- a \$500 deductible (from \$300 deductible in current plan); and
- a \$4,000 out-of-pocket limit (from \$2,800 out-of-pocket limit in the current plan) for those individuals under an 80 percent/20 percent co-insurance.

To conclude, Ms. Edwards stated that increases in the prescription program include:

- \$4 for generic (from \$2 in the current plan);
- \$20/\$60 for preferred (from \$16/\$42 in the current plan); and
- \$100 for specialty (from \$50 in the current plan).

For APS, Ms. Menapace provided the committee with a handout indicating that the total FY 13 appropriation request for the district is approximately \$2.8 million. The request, she reported, reflects a 2.8 percent rate increase effective January 1, 2013 through December 31, 2013.

To conclude, Ms. Menapace stated that, with regard to the benefits programs, APS projects a fund balance of approximately \$9.8 million on December 31, 2012. Regarding the risk program, however, the district reports that the property and liability reserves reached unacceptably low levels and required a transfer of approximately \$1.0 million to restore reserve levels.

Committee Discussion

In response to committee discussion relating to insurance plan changes required to offset premium increases, Ms. Menapace emphasized that insurance is one of many fixed costs for districts and that the district is anticipating a \$15.0 million increase in other fixed costs that include utilities and maintenance costs associated with the upkeep of equipment, buildings, and vehicles. Mr. Moya added that APS staff have been tracking the ratio of actual costs to appropriations and have found that insurance is underfunded by at least \$30.0 million and that fixed costs are underfunded by approximately \$40.0 million. The impact on school districts, he emphasized, is that districts have had to absorb at \$70.0 million in these costs over a number of years.

NOTE: Subsequent to this hearing, NMPSIA staff notified LESC staff that the numbers presented were incorrect and that NMPSIA would revise its request. Readers are advised to review minutes from the November hearing for the updated information.

READING IN TEACHER PREPARATION PROGRAMS: IMPLEMENTATION OF RECOMMENDATIONS OF HJM 16, *STUDY READING CURRICULA IN TEACHER EDUCATION (2010) WORK GROUP*

The Chair recognized Mr. Kevin Force, LESC staff; Dr. Michael A. Morehead, Dean, College of Education, New Mexico State University (NMSU); and Ms. Erica Volkens, Director of Education, Central New Mexico Community College, for an update on behalf of the New Mexico Deans and Directors of Colleges of Education on implementing the recommendations of a 2010 work group formed to address HJM 16, *Study Reading Curricula in Teacher Education*.

Mr. Force explained that in 2009 the LESC heard testimony concerning a report by the National Council on Teacher Quality entitled *Preparing Tomorrow's Teachers: Are New Mexico's Education School Graduates Ready to Teach Reading and Mathematics in Elementary Classrooms?* The report claimed, based on its own review of New Mexico teacher preparation program reading curricula and syllabi, that most programs in New Mexico were not preparing candidates to teach the science of reading and that the programs used a wide variety of reading textbooks, most of which did not address the science of reading.

Mr. Force noted that the New Mexico Deans and Directors of Colleges of Education presented a rebuttal to the report before the LESC at its December 2009 meeting, contesting the methodology of the study. The deans volunteered at that time to sponsor a study using in-state

reading experts, and they worked with LESC members and staff to formulate HJM 16, which the LESC endorsed and which was passed by the 2010 Legislature, setting the stage for the six-month-long study that was presented to the committee during the 2010 interim.

HJM 16, Mr. Force further explained, was an LESC-endorsed memorial requesting that the New Mexico Deans and Directors of Colleges of Education form a work group to examine the curricula and assigned text materials of all required reading courses in programs that prepare teachers for state licensure; to determine if those courses meet the statutory requirement that they are based on current scientifically based research; and to report findings and recommendations to the appropriate interim legislative committee and the Governor in the 2010 interim.

To comply with the criteria in the joint memorial, Mr. Force stated, the work group selected six reviewers from nominees suggested by the members. The reviewers examined all syllabi and required materials using a rubric agreed upon by the work group, including:

- master or lead course syllabi;
- individual instructor's syllabi;
- assigned texts and all supplemental assigned reading;
- assessments that candidates were taught to use to guide instruction; and
- assessments that candidates take to show what they have learned.

In teams of two, the reviewers also interviewed program faculty, via conference calls, to clarify questions the reviewers had about program content. Prior to completion of the work group's final report, all participating programs were given an opportunity to provide feedback on the review process and to submit a response to the findings.

During the December 2010 interim LESC meeting, work group representatives presented the five recommendations:

1. Rigorously assess candidate knowledge of how to teach reading based on the scientific research as a condition for elementary licensure, either through the New Mexico Teacher Content Knowledge Assessment in Elementary Education or through a separate exam.
2. Convene a statewide gathering of programs in early spring 2011 for faculty to review the issues raised in the report and to share texts, supplemental resources, syllabi, instructional activities and assessments, and other resources and approaches, for the purpose of strengthening reading instruction statewide.
3. Develop a list of recommended texts that address the five essential elements of literacy instruction, among which programs would be encouraged but not required to select for coursework beginning in the school year 2011-2012.
4. During the 2011 interim, convene the Deans and Directors at an LESC meeting to present the approaches and solutions developed at the spring gathering.
5. Explore the feasibility of including a review of required reading courses based on alignment with scientific research as part of the National Council for Accreditation of Teacher Education.

Referring to a committee handout, Dean Morehead reported that, during the 2011 spring semester, teacher preparation programs participated in a meeting with reading faculty from teacher education programs statewide. Subsequent to that meeting, faculty members from 11

programs continued to study the reports provided by reviewers and made modifications in their programs and materials. Included in the committee handout, he emphasized, are the individual reports provided by each institution.

Dean Morehead noted that a review of the reports found that over 180 educational actions incorporate scientifically based reading research in the curricula and programs. Statements from the programs' reports, he stated, demonstrate that teacher education programs in New Mexico integrate:

- scientifically based research components in reading programs;
- field experiences that include more diagnostic and assessment work with students, including scientifically based research components that can be used in classrooms with children;
- increased English-language learner instructional activities and assessments; and
- text additions.

Dean Morehead reported that next steps include setting up a spring meeting with reading faculty to discuss program changes and adaptations. During the meeting, he emphasized, faculty will continue to review programs to meet the requirements of the LESC-endorsed joint memorial.

Committee Discussion

Several committee members expressed their pleasure with the activities and continued work of the deans and directors.

Echoing the praise for the work group, another committee member noted that PED still needs to develop a reading test for teachers.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 4:40 p.m.

MINUTES LESC MEETING OCTOBER 14, 2011

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) to order at 9:13 a.m. on Friday, October 14, 2011 in Room 307 of the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

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

The following LESC advisory members were also present:

Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chávez, George Dodge, Jr., Roberto J. Gonzales, and Sheryl Williams Stapleton; and Senator Stephen H. Fischmann.

PUBLIC EDUCATION DEPARTMENT (PED) UPDATES
[MOVED FROM OCTOBER 13, 2011]

c. Reversion of Federal ARRA Funds

The Chair recognized Ms. Eilani Gerstner, LESC staff, and Mr. Paul Aguilar, Deputy Secretary for Finance and Operations, Public Education Department (PED) to discuss how the reversion of *American Recovery and Reinvestment Act of 2009* (ARRA) funds has affected school districts.

Ms. Gerstner explained that in FY 09 the federal government distributed ARRA dollars to states for local educational agencies (LEAs) to supplement regular *Individuals with Disabilities Education Act* Part B (IDEA-B), IDEA-B preschool, and Title I allotments. In addition, LEAs received federal stimulus dollars to support the use of educational technology and the education of homeless students. According to the US Department of Education (USDE), these additional stimulus dollars were intended “to save and create jobs and to reform education.”

Ms. Gerstner stated that in May 2011 the LESC received a staff report on the expenditure of federal dollars distributed to PED and that committee members were particularly concerned about the amount of federal ARRA dollars that were due to expire September 30, 2011 but had not yet been expended. She noted that \$3.6 million, or 2.0 percent, of all stimulus funds remain to be requested for reimbursement, and that October 28, 2011 is the last date to make that request.

Mr. Aguilar stated that:

- the federal funds have been available to school districts, charter schools, and regional education cooperatives (RECs) on a reimbursement basis through the department;
- school districts, charter schools, and RECs were required by the USDE to obligate the funds by September 30, 2011; and
- as noted by Ms. Gerstner, school districts, charter schools, and RECs have until October 28, 2011 to submit final requests for reimbursements to PED.

Referring to an attachment to the LESC staff report, *American Recovery and Reinvestment Act Statewide Expenditure Report*, Mr. Aguilar reported that the school districts and charter schools have been reimbursed for nearly all of their allocations as of September 30, 2011.

Mr. Aguilar noted that, at the spring budget workshop, some superintendents said that they had not realized that ARRA money was still unspent. However, Mr. Aguilar added, New Mexico is among the top states in terms of percentage of ARRA funds spent.

Committee Discussion

In response to a committee question whether districts made good use of the ARRA funds, Mr. Aguilar responded that in expending the funds, the USDE encouraged LEAs to consider strategies and activities that are consistent with ARRA's four reform goals: (1) increasing teacher effectiveness and equitable distribution of effective teachers; (2) adopting rigorous college and career-ready standards and high-quality assessments; (3) establishing data systems and using data for improvement; and (4) turning around the lowest performing schools.

d. FY 13 PED Budget Request

The Chair recognized Ms. Gerstner and Mr. Aguilar to discuss the FY 13 PED budget request.

Ms. Gerstner explained that current statute requires each state agency to submit a budget request for the following fiscal year to the State Budget Division (SBD) of the Department of Finance and Administration (DFA) no later than September 1 of the current fiscal year. She noted that each year the SBD issues written directives that a state agency must follow in preparing its budget request for the succeeding fiscal year. For FY 13, SBD's directives:

- require all state agencies to submit flat budget requests;
- direct agencies to contact their budget analyst if an agency is experiencing a budget hardship; and
- require all agencies to include in their cover letter the specific details of the budget reductions that are required to keep their FY 13 appropriation budget request flat.

Mr. Aguilar stated that the revised FY 13 PED budget request includes a General Fund appropriation of approximately \$10.6 million, a \$100,000 increase over the FY 12 operating budget. The increase, he noted, is a result of the transfer of two staff positions from the Office of Education Accountability at DFA; however, the FY 13 PED budget request includes 256.8 full-time equivalents (FTE), 56 fewer than authorized for FY 12. He also reported that, during FY 12, PED implemented a reduction in force of 33 positions to meet a 24.5 percent budget reduction from FY 11.

Committee Discussion

A committee member requested that PED provide a list of PED contract employees to determine whether contractors may have replaced employees that were included in the department's reduction in force.

On a topic related to the department budget, a committee member requested that PED provide a list of PED-approved Supplemental Education Service providers.

DIRECTOR'S REPORT
[MOVED FROM OCTOBER 12, 2011]

a. Approval of LESC Minutes for July 2011 and August 2011

On a motion by Representative Hall, seconded by Representative Gonzales, the committee approved the LESC minutes for July 2011 and August 2011.

b. Approval of LESC Financial Reports for May 2011 and June 2011

On a motion by Senator García, seconded by Representative Hall, the committee approved the LESC financial reports for May 2011 and June 2011.

c. Committee Requests

Ms. Frances Ramírez-Maestas, LESC Director, noted that this section of the committee notebooks contained responses to committee requests from the August LESC meeting, including:

- a PED evaluation of Newcomb High School's school improvement grant;
- the number of lottery scholarship students at New Mexico State University-Alamogordo;
- a list of the members of the Superintendents' Advisory Council; and
- the status of the New Mexico School Leadership Institute.

d. Correspondence

Ms. Ramírez-Maestas reviewed the following pieces of correspondence, which are retained in the LESC permanent file:

- a letter to Ms. Hanna Skandera, Secretary-designate of Public Education, from the LESC requesting an explanation of New Mexico's withdrawal from the SMARTER Balanced Consortium;
- a letter to the LESC from Secretary-designate Skandera explaining New Mexico's withdrawal from the SMARTER Balanced Consortium; and
- a copy of the Phi Delta Kappa/Gallup Poll on what Americans say about public schools.

e. News Releases

The following news releases were included in the committee notebooks:

- a *Silver City Sun-News* article about Senator Morales being honored by the New Mexico Coalition of School Administrators;
- a KOAT-7 news release regarding proficiency score increases at Ernie Pyle Middle School in Albuquerque following a \$2.0 million federal grant;
- an *Alamogordo Daily News* article describing parents' concern with the new report card format being used by Alamogordo Public Schools;
- an *Albuquerque Journal* article about Albuquerque Public Schools (APS) board members' mixed reviews of the PED's proposed A-B-C-D-F Schools Rating System; and

- an *Albuquerque Journal* article about a voluntary program to test “merit-pay” for teachers being piloted at four APS schools.

f. Proposed Rulemaking

Ms. Ramírez-Maestas reported that the committee notebooks include a report by LESC staff on two proposed rules being considered by PED:

- amending the *New Mexico Administrative Code* (NMAC) 6.60.5, “School Personnel-General Provisions, Competency Testing for Licensure”; and
- repealing NMAC 6.30.00, “Proficiency and Attendance Tied to Instruction Permits.”

**HIGH SCHOOL REDESIGN PROJECT FOR
UNDER-REPRESENTED STUDENTS**

The Chair recognized Mr. Kevin Shendo, Chair, Indian Education Advisory Council and Director of the Pueblo of Jemez Department of Education; Dr. Anya Dozier-Enos, Santa Fe Indian School (SFIS); and Dr. Sandra Rodriguez, League of United Latin American Citizens (LULAC), to discuss the Campaign for High School Equity (CHSE), a special project of Rockefeller Philanthropy Advisors.

Referring to committee handouts, Mr. Shendo reviewed CHSE policy visions, including:

- providing expanded learning opportunities to high school students with a focus on students of color; and
- addressing the needs of communities of color in the development, implementation, and evaluation of expanded learning opportunity programs.

Mr. Shendo emphasized that New Mexico is one of only four states that have been chosen to be part of the CHSE. He noted that the New Mexico team, which includes representatives from LULAC, the National Indian Education Association, and the Mexican American Legal Defense and Educational Fund, will be conducting community forums focused on four priorities:

- rigorous and relevant teacher and leader preparation programs;
- college/career readiness for all students;
- community investment, resource equity, and sustained funding for joint education priorities; and
- meaningful involvement from communities.

To conclude, Mr. Shendo stated that, with funding from LULAC and in partnership with community groups, the first community forum is scheduled for November 30, 2011 in Albuquerque.

Committee Discussion

In response to a question from the Chair regarding the location of the first forum, Mr. Shendo stated that he would provide the LESC with literature once the locations for each of the four forums are determined.

CHARTER SCHOOLS UPDATE

The Chair recognized Dr. David Harrell, LESC staff, for an update on the current authorization status of charter schools and a status report on the LESC Work Group on Charter School Appeals.

Altogether, Dr. Harrell reported, there were 24 applications for new charter schools submitted by the deadline of July 1, 2011: 21 to the Public Education Commission (PEC) and one each to Albuquerque Public Schools (APS), Española Public Schools, and Farmington Municipal Schools. Of those 24 applications, he stated, 12 were approved, all with conditions (11 by the PEC and one by Farmington Municipal Schools). In addition, one charter school authorized by APS has had its charter revoked.

Dr. Harrell stated that, after holding a series of public hearings in affected districts throughout the state and a two-day hearing in Santa Fe, the PEC voted to deny 10 applications but voted to approve, with conditions, the 11 other applications. With each approved application, Dr. Harrell noted, the term of the charter is for six years, including a planning year; and there are six conditions attached to the approval. The first condition varies according to the needs and circumstances of the application; but the other five are standard, common to all approved applications.

Dr. Harrell noted one of the five standard conditions in particular: that the charter school must acknowledge that, to comply with recent changes in federal law that affect New Mexico's eligibility for federal charter school program funds, all charter contracts are legally binding; and the Public Education Department (PED) shall use increases in student achievement for all groups of students as the most important factor when determining to renew or revoke the school's charter, "regardless of current language in the *Charter Schools Act*, whether implied or explicit."

- The federal *Consolidated Appropriation Act of 2010*, Dr. Harrell explained, specifies criteria that make a state eligible for funding, one of which is that the authorized chartering authorities must use "increases in student academic achievement for all groups of students described in [the *No Child Left Behind Act of 2001*] . . . as the most important factor when determining to renew or revoke a school's charter."
- The phrase "regardless of state law," Dr. Harrell suggested, is perhaps an acknowledgement that the *Charter Schools Act* identifies four criteria for denying a renewal or revoking a charter, one of which relates to student performance standards but all of which appear to have equal weight. In other words, because state law does not make student achievement the primary factor in determining whether to renew or revoke a school's charter, PED is apparently attempting to comply with that federal requirement through this condition for approval.

For local school board authorizers, Dr. Harrell reported that:

- In August 2011, APS had denied the application of the Kenny Thomas Preparatory School and that, according to the Director of Charter and Magnet Schools, the applicant has not filed an appeal.
- In September, in response to issues raised in an audit by the Legislative Finance Committee, the APS board voted to revoke the charter of the Career Academic and Technical Academy Charter School (CATA); in October the APS board voted to suspend the charter school's governing council to assume day-to-day operations of the school; and, according to APS, CATA has decided not to appeal the revocation or oppose the suspension.
- In September, the board of Farmington Municipal Schools, following the recommendations of the superintendent, approved the charter application of the New Mexico Virtual Academy for a charter to operate "a full-time virtual public school open to any grade K-12 child eligible for attendance in public schools in New Mexico" – but with a number of conditions. Among these conditions:
 - the school will serve only grades 6-12, not K-12 as proposed;
 - enrollment will be limited to 500 students rather than the proposed 1,600; and
 - the governing council must enter into a memorandum of understanding with the curriculum vendor, K12 Virtual Schools, LCC, regarding the services the vendor will provide, the vendor's involvement in the school's decision-making process, the resolution of any disputes between the vendor and the school, and the financial relationship between the vendor and the school.
- In August, the board of Española Public Schools held a hearing to consider an application for a charter from Sangre de Cristo Charter School, but the motion to approve the school died for lack of a second; the item was not included in the agenda for the next board meeting; and, according to PED, the school has filed an appeal on the grounds that the school board failed to follow the law.

With regard to the work of the Charter Schools Appeal Work Group, Dr. Harrell reported that the work group met for a second time on August 31, 2011. After an extensive discussion, he stated, the members reached consensus on three recommendations, one of which requires amendments to legislation enacted in 2011 – legislation that requires performance contracts between charter schools and their authorizers. The amendments that the work group recommended, he stated, (1) would have clarified that these provisions apply not just to new applications but also to charter renewals; and (2) would have applied these provisions to all charter schools by July 2013. Dr. Harrell explained, however, that efforts to draft this second amendment raised a number of questions and issues that could not be resolved through email correspondence among the work group members. Therefore, the work group will hold at least one more meeting, with the intention of presenting recommendations to the LESC in November.

Committee Discussion

A committee member asked about the number of virtual charter schools in the state. Dr. Harrell replied that currently there are none; however, as noted in the LESC staff report, Farmington Municipal Schools has recently approved a virtual charter school, with conditions.

In response to a committee member's question regarding the number of newly approved state-chartered schools, Dr. Harrell replied that 11 of the 12 are state-chartered.

A committee member asked whether, under the new charter contract legislation, the districts in which state-chartered schools are located receive copies of the PEC's reports on those charter schools. In reply, Dr. Harrell stated that he would consult the law and report his findings.

SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized Mr. Tom McGaghie, Adult Basic Education (ABE) Director from the Grants Campus of New Mexico State University, who reported that nearly 400,000 New Mexico adults do not have a high school diploma and/or English language skills; however, the state currently has the capacity to serve only 5.0 percent of this population. He emphasized that in the current year over 23,000 students were receiving ABE services; however, each of the state's 29 ABE centers has a waiting list because of a lack of state capacity. Mr. McGaghie requested that the LESC consider a discussion of ABE and the holistic role and benefit that the program has for education in New Mexico.

The Chair stated that the ABE program is indeed a key to a child's academic success, primarily because if a parent has a diploma or a general educational development certificate, or GED, the odds for ensuring that his or her children succeed in their education are much higher. He requested LESC staff to place the ABE program on the November LESC interim agenda.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 11:45 a.m.



Chair

12/16/2011

Date