

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
SEPTEMBER 27-30, 2010

Frances Ramírez-Maestas, Director
David Harrell, PhD, Deputy Director

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) to order at 9:26 a.m. on Monday, September 27 in Room 322 of the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, and Dennis J. Roch.

The following LESC advisory members were also present:

Senators Vernon D. Asbill, Howie C. Morales, John Pinto, and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Eleanor Chávez, Nora Espinoza, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

Also in attendance were Representatives Danice Picraux and James P. White.

**COHORT GRADUATION RATE REPORTS FOR 2009 (FOUR-YEAR RATES) AND
2008 (INCLUDING FIVE-YEAR RATES)**

The Chair recognized Ms. Pamela Herman, LESC staff, to provide the committee with a report on the 2010 release of cohort graduation rate data by Public Education Department (PED). Ms. Herman introduced Ms. Cindy Gregory, Chief Statistician, PED, to provide an update on the implementation of cohort graduation rate reporting and to answer committee members' questions regarding the calculation of graduation rates. Ms. Herman introduced the presentation, noting that the report included:

- four-year graduation rates for the class of 2009, released by PED in June 2010;
- five-year rates for the class of 2008, released in April 2010;
- a description of how the data are used for accountability purposes; and

- an update from PED on implementation of graduation rate reporting requirements in statute.

Ms. Herman reported that, according to PED data, 66.1 percent of the class of 2009 cohort graduated within four years of starting high school, a rate that exceeded the 2009 accountability target of 63 percent and represented a gain of 5.8 percentage points over that for the class of 2008. She pointed out that the PED report of four-year graduation rates for 2009, included in committee notebooks, included data disaggregated by gender, race, and ethnicity, and for low-income, disability, and English language learner (ELL) status for every high school, state-supported school, and school district in New Mexico. She also directed the committee's attention to attachments to the staff report that compared the four-year graduation rates for 2008 and 2009 for every high school in the state, and to tables showing which districts and high schools had the highest graduation rates for all students and for significant demographic subgroups. According to PED data, the graduation rate for all subgroups but one improved in 2009 over 2008.

Ms. Herman said that four-year graduation rates are used, along with student scores on state standards-based assessments, to determine if high schools make adequate yearly progress (AYP) as required by the federal *No Child Left Behind Act of 2001* (NCLB). She noted that annual graduation rate targets established by PED in the state Accountability Workbook and approved by the US Department of Education (USDE), increase by 3.0 percentage points each year to a goal of 85 percent in the year 2020. Based on data reported by PED, she said that it appeared that approximately 108 public high schools in the state achieved the 63 percent target for 2009, and approximately 78 did not. She explained that, beginning in 2012, federal rules will require the state, and each high school and school district, to achieve the annual graduation targets for each subgroup as well as for the class as a whole. Had that been the case in 2009, she said, PED data indicated that no more than 75 high schools would have met the target. She also noted that, although the committee had heard testimony indicating that AYP itself may no longer be an issue for public schools once the federal *Elementary and Secondary Education Act* is reauthorized, a communication from USDE indicated that the department considered high school graduation rates an important accountability factor in its proposed Blueprint for Reauthorization.

To illustrate how disaggregated data could offer insight into which districts and high schools appeared to be closing the achievement gap between subgroups, Ms. Herman took the example of the gender gap. Noting that LESC-endorsed legislation that passed in 2007 required all reported education data to be disaggregated by gender, she said that PED data for 2009 showed that the graduation rate for female students exceeded that for males by 7.5 points. She said that gap was smaller than the 2008 four-year graduation rate gender gap of 8.9 points; and she also noted that the gap varied among school districts, from a high of 34.6 points in Lake Arthur in favor of females, to a low of zero in districts with close to a 100 percent graduation rate, to a high of 21.7 points in Loving in favor of male students. Ms. Herman pointed to a table in the staff report showing the eight school districts in the state with cohorts of 200 or more students whose four-year graduation rates for all students exceeded the state target of 63 percent and whose gender gaps were smaller than 3.0 points. She observed that such data might provide researchers with an opportunity to explore the social, economic, and educational conditions that prevail in those communities to try to understand what distinguishes them from communities that have significantly larger gender gaps.

Turning to the second set of data included in the staff report, Ms. Herman recalled that in 2009 the Legislature passed a bill providing that any student who satisfied the requirements for graduation within five years of entering ninth grade (and no later than August 1 of a final summer session) may be counted as a high school graduate by the school system in which the student was enrolled for the year in which all requirements were satisfied. She said that in April 2010 PED announced its first five-year cohort graduation report, for the class of 2008, showing that 66.2 percent of all students in the cohort graduated within five years, an increase of 5.9 points, or approximately 1,830 students, over the four-year rate for that group. She said that the complete PED report of five-year graduation data for the class of 2008 was included in members' notebooks, and she pointed out the increases in graduation rates for each subgroup, included in the staff report. She also noted an attachment showing the districts and high schools with the greatest gains in four-year to five-year rates, as well as tables showing high schools with relatively favorable graduation rate achievement gaps for some subgroups, including students with disabilities, English language learners, Hispanic and American Indian students.

Finally, Ms. Herman explained that, while four-year graduation rates were used as a factor in calculating AYP for federal school accountability, five-year graduation rates were included in the report cards published by schools and districts, as required in state statute.

According to Ms. Gregory, in response to legislation passed in 2009, beginning with the class of 2010 PED would report on the outcomes of every student who was a ninth grader in 2006, the year that cohort started high school. These outcomes could include graduated, still enrolled, did not pass the exit test but received a certificate for coursework completed (also known as "completers"), exited with the intent to earn a general educational development certificate (GED) or other credential, and finally, whereabouts unknown or dropped out. Ms. Gregory also stated that PED was developing a richer database to collect information about reasons students left school, such as pregnancy, incarceration, and other factors that affect students' graduation. She said these data would be reported when the four-year cohort graduation data were released for the class of 2010 in January 2011.

Ms. Gregory stated that, in addition, PED was developing the capability to report a "promotion index" to understand how students were matriculating through high school. She said this information would include the number of students in any high school grade, how many were promoted, how many retained, and the number demoted; and that these data would also be reported in January 2011.

Committee Discussion

In response to a committee member's question whether the data collected for graduation rates had an impact on school district budgeting, Ms. Gregory indicated that the student count for budget purposes was separate from the system used to determine longitudinal outcomes.

In response to a question from a committee member whether there was a connection between the state's student data system and that used by the Bureau of Indian Education (BIE), Ms. Gregory stated that the two agencies made an effort to ensure that students' state ID numbers were captured when they transferred in and out of the BIE schools, but that once students transferred into a BIE school, the state could not track them. She indicated, however, that a

student who transfers to a BIE school or to another educational setting such as home school or a private school was not considered a dropout.

Representative Miera requested information, if available, comparing the rigor of the GED and the new high school exit exam/eleventh grade standards-based assessment.

Senator Nava raised a concern regarding students in residential treatment centers (RTCs) who cycle in and out of the centers and who, when they leave, cannot be tracked but instead count against the graduation rates of the district in which the RTC is located.

CARLSBAD GRADUATION SUMMIT

The Chair recognized Dr. Sheri Williams, Superintendent, Carlsbad Municipal Schools, to provide a presentation regarding the Carlsbad Graduation Summit. She also congratulated Dr. Williams on Carlsbad's recognition in September 2010 as one of the top 100 places for young people to live.

Dr. Williams described the issues that confronted the Carlsbad community, as evidenced by data showing that, despite progress, 25 percent of the 2009 four-year cohort in Carlsbad failed to graduate on time; nearly half of the college-going students from Carlsbad required remedial coursework in public postsecondary institutions; and a graduation gap of as much as 15 points divided the city's Hispanic students from their Caucasian peers. She said that, in response to those statistics, she convened a "Summit Organizers Team" in fall 2009 to plan a course of action that would engage all the stakeholders in the community to confront the graduation challenge. Dr. Williams said that the team worked throughout the school year to organize the community's first conversation about that challenge, culminating in a gathering of 150 diverse community representatives in May 2010.

According to Dr. Williams, the conversation was moderated and recorded by community volunteers trained by Public Agenda, a national nonprofit, non-partisan organization. The ideas that emerged were then prioritized based on their promise for action by partners in the home, school and community, and action groups were formed to follow up on those ideas deemed most likely to raise expectations about the importance of the high school diploma and to prepare more students for success in college and careers. She said three priorities emerged:

- Priority One: keep students safe, supported, and healthy through such actions as developing interventions for at-risk students, creating a center for student counseling, mentoring and tutoring; and providing other supports;
- Priority Two: create incentives for ambitious reforms that would raise the bar and reward excellence, such as expanding existing opportunities for STEM (science, technology, engineering and mathematics) internships in local businesses, creating new career tracks, and providing more flexible scheduling; and
- Priority Three: create innovative community solutions to remove barriers that impede student progress, including creation of community-wide awareness and action to address chronic absenteeism and summer learning loss, and expansion of community-sponsored enrichment and engagement programs and opportunities.

Dr. Williams said the summit results would be used to inform key stakeholders about the community's values, concerns, and priorities, and that participants were continuing to develop and implement concrete action plans based on ideas formulated at the summit.

Committee Discussion

In response to a question from a committee member about the cost to taxpayers of the summit, Dr. Williams indicated that the entire cost was born by local businesses, funds from the Kellogg Foundation, and community volunteers.

In response to a question from a committee member regarding who in the community was the "point person" to organize the summit, Dr. Williams said that the Organizers Team engaged 14 community leaders from the outset, and that this group was trained by the staff of Public Agenda and worked within the framework provided. She added that the structure and support provided by Public Agenda were essential in securing buy-in from key stakeholders and making the summit a success.

GRADUATE NEW MEXICO: UPDATE

The Chair recognized Dr. Susanna Murphy, Secretary of Public Education Designate, and Mr. Joel Nudi, IT Project Manager, Public Education Department (PED), to provide the committee with an update on Graduate New Mexico: It's Everybody's Business (GNM), a program designed to bring back 10,000 students so that they may earn their high school diplomas before fall 2011. The \$9.4 million *American Recovery and Reinvestment Act of 2009* (ARRA) initiative, according to Dr. Murphy, will use strategies such as expanding options for high school completion and community involvement to attract students to credit-recovery programs.

Dr. Murphy began by discussing the budget of GNM, which includes approximately:

- \$3.1 million for the expansion of Innovative Digital Education and Learning New Mexico (IDEAL-NM);
- \$25,000 to establish the Hispanic Education Liaison;
- \$150,000 for the Governor's Summits on the achievement gap;
- \$200,000 for cultural competence training for teachers;
- \$111,000 for the creation of an annual report card;
- \$350,000 for outreach, school support, and mentors;
- \$300,000 to fund a media campaign;
- \$300,000 to create a New Mexico Institute for Parental Leadership;
- \$150,000 for district training in the implementation of PED parental involvement and tool kit;
- \$1.2 million for the creation of the Lograr ("to achieve") Institute;
- \$1.0 million in teacher incentive pay;
- \$1.2 million in administrative costs; and
- \$1.2 million in agency budget administration funds.

Dr. Murphy then described the function and funding of the Lograr Institute, a two-FTE office charged with brokering information and relationships between students and districts and documenting best practices and programs across New Mexico. Funding for the Lograr Institute breaks down as follows:

- \$148,000 to fund the two FTEs – an executive director and an administrative assistant – for 12 months;
- \$625,292 to fund community involvement projects;
- \$360,000 to support districts; and
- \$105,708 for administration.

Committee Discussion

In response to a committee member's question, Dr. Murphy stated that the goal of GNM is not necessarily to provide assistance to the districts, which will not see their graduation rates increase, and that the program may incur additional costs. Dr. Murphy stated that the goal is to assist students by facilitating a method for them to complete the requirements to earn their high school diplomas.

Responding to a committee member's question why New Mexico is funding cultural competency training for teachers under GNM rather than requiring it from colleges of education, Dr. Murphy stated that what GNM provides in the way of cultural competency training adds depth to what teachers learn during their educator training in college.

A committee member inquired if the creation of a parental leadership institute duplicates an already existing institution, to which Mr. Nudi responded that the institute being created by GNM is in fact a new iteration of the institute that existed previously and that only one will exist.

In response to a committee member's inquiry about the sustainability of the Lograr Institute, Dr. Murphy stated that she is unaware of the need for any future appropriations to support it.

Mr. Nudi responded to a committee member's question by stating that PED is tracking the status of GNM and how it has affected different districts in a variety of ways, including enrollment.

When a committee member expressed concern that new programs were being started with one-time ARRA funds, Dr. Murphy responded that she hopes that by the time the money runs out a conversation will have been had about sustaining important programs. Another committee member suggested that the Hispanic Education Liaison was a duplication of efforts and resources for serving Hispanic students.

The Chair expressed support for the program and its value, and she stated that prospective students that GNM wishes to reclaim would otherwise go without the opportunity to earn their high school diplomas.

ELEMENTARY BREAKFAST PROGRAM FUNDING CRITERIA

The Chair recognized Dr. Susanna Murphy, Secretary of Public Education Designate, to discuss funding criteria for elementary school breakfasts and to explain why the majority of schools losing state funding for elementary school breakfasts were those that upgraded their Adequate Yearly Progress (AYP) designation.

Dr. Murphy began by providing a brief history of the funding for elementary school breakfast, noting that, between school year 2005-2006 and school year 2009-2010, the number of schools receiving funding for school breakfast had risen to 223. By school year 2010-2011, she said, the state decided not to fund 22 districts that had previously qualified for state-funded elementary breakfast because they improved their AYP status.

Committee Discussion

The Chair recognized Dr. Kris Meurer, Acting Assistant Secretary, Student Success Division, Public Education Department, to respond to a committee inquiry on the relationship between funding under Provision 2 of the federal *National School Lunch Act* and state funding.

Dr. Meurer stated that in districts where the *National School Lunch Act* covers the entire cost of breakfast, the state shifts the money to other schools. Dr. Meurer also stated that AYP was the primary criteria for state funding of districts' breakfast programs, and that the department had expected that all districts be funded.

In response to an inquiry from the Chair, Dr. Meurer reported that the amount of money schools receive for breakfast is calculated based on the number of meals that each district expects to serve, not the number of students the district expects to be eligible for such benefits.

The Chair encouraged Dr. Murphy to gather data on possible solutions to the funding change and to bring the data to the committee as soon as possible. She also expressed her desire that a letter be written to New Mexico's congressional delegation regarding the quality of school lunches.

INNOVATIVE DIGITAL EDUCATION AND LEARNING (IDEAL) NEW MEXICO UPDATE

The Chair recognized Mr. Peter B. van Moorsel, LESC staff; Ms. Virginia Padilla-Vigil, Interim Executive Director, Innovative Digital Education and Learning-New Mexico (IDEAL-NM); and Mr. Dan Koleski, Director, Information Technology Division, Higher Education Department (HED), for an update on the implementation and operation of IDEAL-NM.

Mr. van Moorsel noted that the staff report included:

- a review of the funding for IDEAL-NM and the New Mexico Cyber Academy, including the FY 11 budget and a history of appropriations to the program; and
- a summary of the IDEAL-NM structure, including the statewide eLearning system, the cyber academy, and the higher education and state agency training components of IDEAL-NM.

Mr. van Moorsel reported that the statewide e-learning initiative began with LESC-endorsed legislation in 2007 that established a statewide cyber academy to provide distance learning courses for grades 6 through 12 and a legislative appropriation to implement IDEAL-NM. Together, these initiatives aim to:

- provide eLearning services to public schools, higher education institutions, and state agencies;
- reduce geographic and other barriers to educational opportunity statewide; and
- increase the computer literacy skills of online learners.

Regarding the FY 11 budget, Mr. van Moorsel noted that approximately \$4.5 million was available for the operation of IDEAL-NM, including approximately \$684,440 in funding to the Public Education Department (PED), funding to HED of almost \$690,000, as well as \$3.16 million in funds from the Graduate New Mexico Program. Since the creation of the program, Mr. van Moorsel added, the Legislature has appropriated a total of approximately \$10.6 million to fund the implementation and operation of IDEAL-NM, including \$6.4 million in nonrecurring funds to HED to implement the IDEAL-NM infrastructure, including licensing fees for a Learning Management System (LMS).

Mr. van Moorsel next addressed the structure of IDEAL-NM, explaining that the program's goal is to establish a common infrastructure for online learning for the project's P-12 education, higher education, and state agency components. He reported that online learning is managed at the statewide eLearning services center, which is the physical location for administrative staff for IDEAL-NM and the cyber academy. He added that the staff at this center manages the statewide eLearning system, which is the infrastructure that supports all aspects of online learning.

Mr. van Moorsel then discussed another component of the eLearning system, the LMS, which is the environment in which students complete coursework, hear lectures, and take tests. IDEAL has contracted with Blackboard, Inc. to provide this service, Mr. van Moorsel said.

During fall 2009 and spring 2010, Mr. van Moorsel continued, both faculty and students were unable to access the LMS because of issues with stability and functionality. As a result, students were unable to log in or to complete tests or coursework. IDEAL-NM reported that the problems were the result of the LMS database being shared by multiple institutions. IDEAL staff added that the contract with Blackboard was amended and that Blackboard migrated each of the affected institutions from the shared database to an individual database. These changes, IDEAL-NM reported, have allowed the LMS to function since the start of the fall 2010 semester.

Mr. van Moorsel reported that LESC staff contacted representatives of the affected institutions to verify whether the migration to separate databases has resolved the issues, which the institutions of higher education (IHEs) confirmed. Most IHEs he added, reported positive experiences with the LMS in the current semester, although one representative noted a lack of confidence in the LMS resulting from past issues.

Regarding the LMS, Mr. Koleski added that the statewide contract for the LMS represented a potential savings for the state, as this contract permits the state, and all of its entities, full access

to the LMS. He reported that New Mexico IHEs could use the statewide LMS, as opposed to paying individual license fees for an identical product.

The Chair recognized Mr. Max Baca, Chief Information Officer, New Mexico Highlands University (NMHU), who addressed the committee concerning NMHU's experience with the Blackboard LMS. He noted that, while the K-12 portion of IDEAL-NM had been working perfectly, several IHEs had experienced continual problems with the LMS since the beginning of the project. Mr. Baca reported that, although the LMS seemed to be working currently, his institution was still not fully confident that all of the problems have been resolved. He also noted that the real stress test of the system would come during finals, when the LMS sees an increase in user traffic.

Mr. van Moorsel next discussed IDEAL-NM's web-portal at www.IDEAL-NM.org. This portal allows access to IDEAL-NM, and it features links for P-12 online learning, higher education online learning, and state agency online training.

The eLearning system, Mr. van Moorsel continued, also includes a web-conferencing system, and a help desk system that allows users to receive face-to-face instruction and online user support, respectively. These components, Mr. van Moorsel reported, are in place to support online learning, which for P-12 takes place through a cyber academy that first operated as a pilot program in school year 2007-2008 and that officially opened in school year 2008-2009. He added that school year 2009-2010 saw 2,240 course enrollments and that there were an additional 800 course enrollments in the current semester. He further noted that, according to IDEAL-NM staff, students from 72 school districts, 26 charter schools; three juvenile justice system schools, two Bureau of Indian Education schools, and six private schools have enrolled in cyber academy courses.

Regarding course development and enrollment costs associated with the cyber academy, Mr. van Moorsel stated that the IDEAL-NM website lists the 59 courses have been developed at a cost of approximately \$7,000. He added that the course materials are available for free, noting that the main cost of participating in the cyber academy is the eTeacher's salary. He stated that, if students take courses taught through the cyber academy, IDEAL-NM contracts with eTeachers for these courses, who are paid a \$200 per-student fee for each semester-long course that they teach via the cyber academy.

Regarding the eTeachers themselves, Mr. van Moorsel reported that the *Statewide Cyber Academy Act* requires that all online courses be taught by highly qualified teachers who also have experience as online learners. He added that PED requires cyber academy teachers to complete eTeacher training to prepare eTeachers in both the pedagogical aspects of online teaching and the technical aspects of teaching within the Blackboard LMS. He noted that eTeachers must also participate in a minimum of 16 hours each year of professional development in online teaching. Mr. van Moorsel said that, according to IDEAL-NM, a total of 175 eTeachers have been trained to date, of which 79 have taught courses in the cyber academy.

Concerning the higher education portion of IDEAL-NM, Mr. van Moorsel stated that many institutions had online education programs before the implementation of IDEAL-NM. According to IDEAL-NM, he said, the web-portal combines these institutions' online catalogs

into an online clearinghouse that provides a catalog and schedule of courses offered online, as well as links to the colleges and universities providing these courses.

Mr. van Moorsel concluded by addressing the state agency training portion of IDEAL-NM, whose potential advantages include reduced employee travel time and associated costs, expanded training opportunities, and flexible scheduling. IDEAL-NM, he said, has reported that the State Personnel Office and the Human Services Department have conducted an initial collaborative meeting of the State Trainers Network, which comprises state agencies and departments that intend to use IDEAL-NM for agency training. IDEAL-NM further states that it is developing an Online Developers Certification Course to train participants in the knowledge and skills of adult learning principles, online pedagogy, distance education learning theory, and course development. Finally, IDEAL-NM has reported that approximately 10 to 15 state agency participants will pilot this course in March of next year.

Committee Discussion

In response to a committee member's question whether IDEAL-NM can provide professional development specific to Pre-K programs, Ms. Padilla-Vigil stated that the Early Childhood Education staff at PED has contacted IDEAL-NM to provide pre-packaged course material and web-conferencing services for Pre-K professional development.

In response to a committee member's question regarding how many students take the New Mexico history course via the cyber academy, Ms. Padilla-Vigil stated that the cyber academy was currently teaching seven sections of that course and that 25 students could enroll in each section.

In response to a committee member's question regarding access to cyber academy courses, Ms. Padilla-Vigil stated that the students must have the permission of their school districts to enroll. She added that school districts could approve or deny requests to enroll, based on written policies adopted by the district. The committee member asked whether all districts had such policies in place, to which Ms. Padilla-Vigil responded that they did.

There were three committee requests:

- that LESC staff provide a table showing, by district, the number of students enrolled in New Mexico Cyber Academy courses and the number of enrollments;
- that New Mexico's IHEs report on the status of the Blackboard LMS; and
- that PED report to the LESC on the possibility of combining New Mexico Cyber Academy course material with field experience at local school districts as a for-credit course.

P-20 EDUCATIONAL DATA SYSTEM

Senator Nava recognized Ms. Eilani Gerstner, LESC staff, for a presentation on the prekindergarten through post-graduate (P-20) educational data system.

Ms. Gerstner began by explaining that, in 2010, LESC-endorsed legislation was enacted to codify the requirements for a P-20 education accountability data system in order to:

- collect, integrate, and report longitudinal student-level and educator data required to implement federal or state education performance accountability measures;
- conduct research and evaluation of federal, state, and local education programs; and
- audit program compliance with federal and state requirements.

Ms. Gerstner said the legislation also requires the creation of a data system council, led by the Secretary of Public Education and the Secretary of Higher Education, to oversee the development and implementation of the data system. This council, she added, had its first meeting on September 22, 2010.

Ms. Gerstner provided an overview of the components of the P-20 data system. Referring to Attachment 1 of the staff report, Ms. Gerstner indicated that a similar attachment was provided in 2009 and that items in red indicated additions or changes made in 2010. She noted that the Higher Education Department (HED) had been able to upload data from PED's Student Teacher Accountability Reporting System (STARS) and match data of high school graduates to their college records maintained at HED.

Next, Senator Nava recognized Mr. Yash Morimoto, Planning & Research Interim Director, HED, for a presentation on the capabilities of existing data systems to produce P-20 reports. Referring to a handout, Mr. Morimoto said that the legislation creating the P-20 data system required that the data system have the capability of producing a number of different reports and that HED and the Public Education Department (PED) were already capable of producing most of the reports required in the legislation.

Finally, Mr. Joel Nudi, IT Project Manager, PED, provided a brief update on the status of the implementation of the electronic student management system, or "Carve Your Path," an individual student-based, interactive system for personal management and review of requirements associated with graduation and being ready for college or the work force.

Committee Discussion

In response to a committee member's question regarding the collection of dropout data, Mr. Morimoto stated that currently students who state their intent to leave school are asked to provide information about their future plans. Ms. Minerva Carrera, Program Manager, Data Collection and Reporting Bureau, PED, added that the information, which formerly was collected at the school level, is now collected by districts.

STUDENT ID NUMBERS IN TWO-YEAR COLLEGE DATA SYSTEMS (RESPONSE TO LESC REQUEST)

The Chair recognized Ms. Eilani Gerstner, LESC staff, to report to the committee on the status of an LESC request of the Higher Education Department (HED), the Public Education Department (PED), the New Mexico Association of Community Colleges, and the New Mexico Independent Community Colleges that they form a work group to develop solutions for

reporting students' unique identification numbers (IDs) to those branch and community colleges that do not require high school transcripts for admission.

Ms. Gerstner informed the committee that in August 2010 a meeting took place between representatives from each of these parties and LESC staff, the result of which was an agreement between Central New Mexico Community College (CNM) and PED to conduct a pilot project to test the feasibility of CNM having access to PED's Student Teacher Accountability Reporting System (STARS). According to PED, Ms. Gerstner continued, the initial estimate to purchase software licenses to allow this type of data sharing is approximately \$500,000. The department will report any further developments during the December 2010 LESC meeting.

The Chair also recognized Ms. Kathy Ulibarri, Vice President for Planning and Budget, CNM, to address the pilot program to match Unique IDs for incoming college students. Ms. Ulibarri explained that CNM will have access to the Unique ID system and will test the feasibility of matching IDs of incoming students in bulk.

Committee Discussion

In response to a question from a committee member about the possibility of students receiving duplicate identification numbers, Ms. Ulibarri said that it does sometimes occur.

UPDATE: LOS ALAMOS NATIONAL LABORATORY (LANL) EDUCATION PROGRAM AND NORTHERN NEW MEXICO SCHOOLS

The Chair recognized Dr. Kurt Steinhaus, Director, Community Program Office, Los Alamos National Laboratory (LANL), to provide the committee with an update on LANL's Community Commitment Plan and the results it has achieved.

Since 2006, according to Dr. Steinhaus, LANL's investment in education has achieved the following:

- student math scores in Española show three years of steady improvement;
- LANL employee giving has increased by more than 230 percent in support of science, technology, and math education programs;
- northern New Mexico's economy has seen more than an \$8.8 million return on a \$2.3 million investment, creating job opportunities for New Mexico graduates; and
- in FY 10, science education community service time funded by LANL included over 2,900 hours wherein employees worked with more than 80 education initiatives.

Dr. Steinhaus then reviewed the goals that LANL has undertaken for 2011 and beyond:

- strengthening the lab's programmatic connection with New Mexico legislative education initiatives;
- conducting surveys to determine Los Alamos work force education and training needs;
- forging new partnerships with New Mexico schools and universities with the goal of strengthening the connection between LANL's work force pipeline and its economic development investments;

- reviewing data and making course corrections to ensure mutual benefit; and
- leveraging Los Alamos National Security and other resources to achieve long-term sustainability.

LANL employee giving, Dr. Steinhaus continued, totaled over \$2.3 million in 2010 alone, including matching funds by LANL. In addition, he said, LANL creates incentives for volunteerism by awarding nonprofits on behalf of LANL employees.

Developing the future work force of New Mexico is another focus of LANL, Dr. Steinhaus said, and he listed key programs in New Mexico's institutions of higher education:

- two-year Associate Degree in Applied Technologies (University of New Mexico);
- teacher preparation (Northern New Mexico College, or NNMC);
- nursing (NNMC);
- Bachelor of Science in Systems Administration to Expand Computer Science Department (New Mexico Highlands University); and
- two-year Associate Degree in Renewable Energy (Santa Fe Community College).

Finally, Dr. Steinhaus shared facts regarding work force development at LANL, including the intern and postdoctoral programs. He noted that 29 percent of all LANL employees and 23 percent of all managers were former student interns or postdoctoral researchers, and that LANL leads the US Department of Energy complex in the number of students who return to become employees.

Committee Discussion

In response to a committee member's question about the areas of the state represented by student interns and postdoctoral researchers, Dr. Steinhaus said that LANL is required by contract to focus on seven counties but that any New Mexico student may apply for an employee scholarship program.

SUPERINTENDENTS AND COMMUNITY INPUT

Ms. Mary Ellen Gonzales, Vice President, Board of Education, Santa Fe Public Schools (SFPS), explained her concerns about enrollment at Turquoise Trail Elementary School, a charter school authorized by SFPS. Because the number of students seeking enrollment there exceeds the school's capacity, Turquoise Trail holds an enrollment lottery as required under state law and federal regulations. Through this process, however, many students who reside within the school's former attendance zone (as defined when it was a traditional public school, before conversion to charter status) must be bused to other elementary schools, in some cases considerable distances from their homes. Ms. Gonzales asked that the LESC consider proposing an amendment that would require a conversion charter school to grant enrollment priority to students residing in the school's attendance zone.

As the committee discussed this request and possible alternatives, Dr. David Harrell, LESC staff, explained that amending the enrollment provisions in this way would likely jeopardize the school's eligibility for federal funds because the enrollment lottery is a federal requirement.

Ms. Sandra Davis, Principal of Turquoise Trail, noted that, to some extent, enrollment provisions constitute a trade-off in that Turquoise Trail helps relieve overcrowding in other elementary schools by admitting students from those schools' attendance zones.

There being no other business, Senator Nava, with the consensus of the committee, recessed the LESC meeting at 4:12 p.m.

**MINUTES
LESC MEETING
SEPTEMBER 28, 2010**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) to order at 9:30 a.m. on Tuesday, September 28, 2010 in Room 322 of the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, and Dennis J. Roch.

The following LESC advisory members were also present:

Senators Vernon D. Asbill, Howie C. Morales, John Pinto, and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Eleanor Chávez, Nathan P. Cote, Nora Espinoza, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

GOVERNMENT RESTRUCTURING TASK FORCE: UPDATE

The Chair recognized Dr. David Harrell, LESC staff, to provide the committee with an update on the recent discussions and actions of the Government Restructuring Task Force (GRTF). Dr. Harrell stated that during the September GRTF meeting, two draft bills related to public education were reviewed.

The first education-related bill draft discussed, according to Dr. Harrell, would propose two substantive amendments to Article 12, Section 6 of the state constitution:

1. have the members of the Public Education Commission (PEC) appointed by the Governor and confirmed by the Senate, rather than elected; and
2. remove the authority of the Secretary of Public Education over "functions relating to the distribution of school funds and financial accounting for the public schools," with the understanding that these functions would be assigned by law.

Dr. Harrell noted that, after discussion during the GRTF meeting, task force members agreed to have the draft amended to eliminate the PEC altogether.

The second education-related bill draft that GRTF reviewed would amend the *Public School Finance Act* and the public school funding formula to place additional conditions on schools and school districts in order for them to qualify for size adjustment program units, effective school year 2012-2013. The proposed changes are:

1. A school would qualify for additional program units only if it is located in “a small town, village or rural community” with a population of less than 3,000 and if it is located at least five miles from another public school that offers a “similar academic program.”
2. A school district would qualify only if it has a total membership of less than 3,000 (reduced from 4,000 in current law) and if its central office is located more than 15 miles from the central office of another school district with a total membership of less than 3,000.

Noting that the bill would essentially revoke the benefits of small size adjustment funding for small urban schools and charter schools, Dr. Harrell discussed a number of points and concerns, among them that:

- the draft employs several undefined terms;
- the location of a district’s central office may have little to do with the operation of that district in relation to other contiguous districts;
- the mileage designations are unclear and apparently arbitrary;
- through its changes to the public school funding formula, the draft would reduce funds allocated to affected schools and districts, exacerbating the shortfall created by reliance on one-time federal funds; and
- membership figures are subject to change as a result of the current census.

On a related point, Dr. Harrell noted that, while the bill draft does not address the consolidation of school districts specifically, provisions in it may encourage some small districts to consolidate.

Dr. Harrell then listed 25 districts that would be disqualified from small size adjustment funding because of either size or proximity to other districts, with a total net effect, according to the preliminary LESC analysis, of approximately \$5.3 million.

Dr. Harrell also reported that GRTF requested that staff from the LESC and the Legislative Finance Committee collaborate in order to develop a more refined proposal, accompanied by a fiscal impact report.

Concluding his presentation, Dr. Harrell listed a number of other items being considered by GRTF:

- a bill draft calling for year-round schools;
- a bill draft tying the evaluation of teachers and administrators to the achievement of their students;
- a bill draft combining the Economic Development Department, the Tourism Department, and the Department of Workforce Solutions;

- a request that staff examine overlap between bureaus and divisions within the Energy, Minerals and Natural Resources Department and the Environment Department and present proposals addressing the areas of overlap;
- a joint resolution to amend the state constitution to eliminate the Public Regulation Commission (PRC) as a constitutional body and transfer its oversight duties by law; and
- a bill to repeal the *Public Regulation Commission Apportionment Act* and the *Public Regulation Commission Act* and to appoint a legislative committee to recommend ways to integrate the PRC's duties into the executive branch.

Committee Discussion

In response to a question from the Chair why the measures affecting the PEC were being proposed, Dr. Harrell said that GRTF cited streamlining of services as the cause, rather than direct cost-savings.

In response to a committee member's question about the origin of the student enrollment figure of 3,000 as a cut-off for small school size adjustments, Dr. Harrell stated that he was unaware of any methodology or study supporting the figure.

As the discussion continued, committee members raised a number of points and concerns, among them: that the proposed size adjustment changes would have an economic impact in rural areas; that GRTF seems to be proposing sweeping changes in response to isolated, anecdotal instances of waste, fraud, and abuse; and that the proposed proximity criteria in the size adjustment bill might also apply to schools in Texas and Mexico.

Finally, in response to inquiry from the Chair, Dr. Harrell noted that GRTF has also discussed the idea of re-instating a superintendent of public instruction, as opposed to a cabinet-level position.

ELEV8 NEW MEXICO

The Chair recognized Ms. Renee Paisano-Trujillo, Director, Elev8 New Mexico, an initiative of the New Mexico Community Foundation, to provide enhanced learning opportunities and community engagement to participating middle schools. Ms. Paisano-Trujillo explained that Elev8 New Mexico supports Wilson Middle School, Grant Middle School, and the Native American Community Academy in Albuquerque; Gadsden Middle School in Anthony, and Laguna Middle School in the Pueblo of Laguna.

Ms. Paisano-Trujillo then discussed the key components of Elev8 New Mexico:

- extended learning opportunities before and after school designed to support increased academic achievement by offering a diverse choice of relevant, structured learning opportunities that are engaging and connected to the classroom;
- comprehensive school-based health centers that provide students and families with easily accessible age-appropriate preventive, physical, behavioral, and oral health services regardless of a student's ability to pay; and

- family engagement services that encourage parents to become full partners with the school and increase involvement with their child's education; and
- support services and resources located on school campuses and designed to promote economic stability, good health, and continuing education.

Ms. Paisano-Trujillo stated that the community schools enhance students' ability to succeed on their pathway either to college or a career, and she noted that healthy children miss fewer school days and do better in school. She also said that students who participate in extended learning activities improve learning and reduce risky activities.

Ms. Paisano-Trujillo cited a number of significant statistics tied to sites that have implemented Elev8, among them:

- almost half of families at Gadsden Middle School were engaged through home visits conducted by the Elev8 Family Resource Center;
- parents participating in Elev8 were more involved in school than non-Elev8 parents;
- students have made 7,000 visits to Elev8 New Mexico school-based health centers;
- dental visits to the Elev8 school-based health centers in Albuquerque nearly doubled from 2008 to 2009;
- students at Laguna Middle School demonstrated a 214 percent increase in nearing math proficiency between seventh and eighth grade;
- more than half of students participating in Elev8 New Mexico reported three or fewer absences in 2009;
- 67 percent of Elev8 Students reported a caring adult outside their home who knows what is going on in school and in their lives; and
- arrests at Wilson Middle school declined from an average of 60 per school year in 2005 to only one in 2009.

Committee Discussion

In response to a committee member's question regarding the sources of funding for Elev8, Ms. Paisano-Trujillo said that the state allocates \$125,000 for after-school programs and more than \$400,000 for pregnancy prevention programs. She also said that Elev8 received \$20.0 million in private funding for four years.

In response to a question from a committee member why the program does not begin in elementary school, Ms. Paisano-Trujillo stated that the private sponsor was interested primarily in middle schools.

The Chair stated that community involvement can be an important factor in promoting student success.

DUAL CREDIT PROGRAM REPORT

The Chair recognized Ms. Ally Hudson, LESC staff, for a presentation on the statewide dual credit program.

Ms. Hudson explained that dual credit programs allow high school students to take courses offered through a postsecondary institution and earn credit at both the high school and the college simultaneously. She further explained that in New Mexico the dual credit program continues to grow more popular. From an estimated figure of 10,000 during school year 2008-2009, actual enrollment during school year 2009-2010 grew to almost 11,000.

As she began her presentation, Ms. Hudson recognized the two primary sources for her report:

- a brief questionnaire that LESC staff sent to each of the 24 public institutions of higher education in New Mexico, the superintendents of the state-supported schools, and a sample of traditional high schools and charter high schools; and
- data provided by the Higher Education Department (HED), included as Attachment 1.

Ms. Hudson reviewed the progress in data collection at both the Public Education Department (PED) and HED, particularly in terms of the alignment of the departments' data sets. Whereas in 2009 there was a discrepancy of approximately 50 percent between PED and HED data on the number of students enrolled in dual credit classes, the discrepancy in 2010 is only 10 percent. One area that may be in need of further improvement, she added, is that of a seamless data system that connects student information from pre-kindergarten through postsecondary education.

Shifting her focus to the topic of uniformity in program features and requirements, Ms. Hudson referenced the provisions outlined in law to facilitate the uniform management of dual credit throughout the state. Despite these provisions, Ms. Hudson said, considerable variety still exists in the areas of student eligibility, course locations, and compensation for high school teachers.

- Regarding student eligibility, Ms. Hudson explained that state law provides two criteria for student eligibility to participate in the dual credit program: (1) enrollment in at least half of the required credits at the secondary school, and (2) permission from the secondary school. Yet because of fiscal constraints, the cost of textbooks, and a desire to make the dual credit experience available to as many students as possible, a number of secondary schools have placed additional conditions on students' eligibility for dual credit courses.
- Regarding course locations, Ms. Hudson noted that 45 percent of the dual credit courses in school year 2009-2010 were taught on high school campuses and 55 percent on college campuses. She noted that Attachment 1 shows an average GPA of 2.86 for dual credit courses taught at the college and an average GPA of 3.16 for those courses taught at the high school: a difference, in terms of letter grades, between a C+ and a B-.
- Regarding compensation for high school teachers, Ms. Hudson stated that the variation in the rate that was reported in 2009 has persisted in school year 2009-2010. The reported rates range from a high of \$600 per class for an instructor at Mesalands

Community College with a doctorate degree, to a low of no compensation at several postsecondary institutions including the University of New Mexico and New Mexico State University. Between those extremes, she stated, stipends of \$200 or \$250 per course are the most common.

Ms. Hudson explained that another issue identified in the 2009 report that persists in 2010 is the method for distributing funds to help secondary schools fulfill their requirement of providing textbooks and course supplies for their students who take dual credit classes. Although the Legislature appropriated funds for this purpose in FY 09, FY 10, and FY 11, the Legislature did not pass either of two LESC-endorsed bills that would have created a dual credit textbook fund in law. Furthermore, Ms. Hudson explained that when respondents to the questionnaire were asked what components or requirements of the dual credit program they would change, the most common recommendation was to improve the textbook adoption and reimbursement processes. Moreover, Ms. Hudson explained that the timeliness of reimbursements from PED was a prominent issue because reimbursement requests that were submitted in fall 2009 were not completed until summer 2010. Both PED and HED, Ms. Hudson added, have recommended that dual credit textbook funds be non-reverting.

Ms. Hudson then reviewed a number of developments in 2010. Perhaps the most significant, she said, was the enactment of legislation to include federal Bureau of Indian Education (BIE) high schools and tribal colleges in the dual credit program, which has created the need for new administrative procedures, particularly with regard to tuition reimbursement. Among other developments were revisions to the agency rules that govern dual credit, addressing such issues as the exclusion of physical education activity courses and the inclusion of core courses.

Another issue that Ms. Hudson discussed was the ratio of college to high school credit. She explained that, since the implementation of agency rules, a course credit ratio of 3:1 has been required – that is, three hours of college credit for one high school unit. However, HED has learned of several situations where dual credit courses, such as English 101, are being offered in a year-long format with a ratio of 6:1, which raises the question whether students experience college-level rigor if they are allotted twice the time to master the material.

Ms. Hudson concluded her presentation by suggesting that the LESC may wish to consider the following policy options:

- reintroduce legislation to create a dual credit textbook fund and to prescribe or provide for a standard mechanism for allocating and distributing funds for dual credit textbooks and course supplies; and
- amend the dual credit legislation to clarify acceptable course structures in terms of the ratio of the number of college credits earned to the number of high school units earned.

Committee Discussion

In response to a committee member's question when BIE high schools and tribal colleges will be included in the dual credit program, Ms. Hudson clarified that their eligibility began with the fall 2010 semester. She further explained that students who choose to attend tribal colleges for dual credit courses will be eligible for credit transfers to other New Mexico postsecondary institutions.

While addressing a committee member's concern about student readiness, Ms. Hudson referred to the various placement tests that are issued at the postsecondary level including the Accuplacer, COMPASS, ACT, and SAT. She further indicated that the cut scores for each test vary by institution.

A committee member asked whether course location (high school campus vs. college campus) and course structure (year-long vs. semester-long) might affect the rigor of the course. Ms. Hudson said that responses to the LESC questionnaire indicated that most high school teachers who serve as instructors for dual credit courses are approved as adjunct faculty by the postsecondary institution. She further referenced the amended agency rule wherein all dual credit courses are required to satisfy PED standards and benchmarks.

On a related point, a committee member asked if teacher's assistants or graduate assistants are permitted to teach dual credit courses. Both Ms. Hudson and the Secretary of Higher Education clarified that each college must approve instructors for all dual credit courses offered through the institution as a component of institutional accreditation. The Secretary also said that teachers' assistants and graduate assistants are not permitted to teach dual credit courses.

In response to a committee member's question about the comparative need for remedial education between the general student population and dual credit students, Mr. Yash Morimoto, Interim Planning and Research Director, HED, clarified that only 35 percent of dual credit students require remedial education as opposed to 47 percent of the general student population.

Acknowledging that the 3:1 credit ratio seems to be an issue, a committee member asked if a postsecondary institution might be penalized for a decision made by the local district partner to assign a credit ratio different than that outlined in rule. Mr. Morimoto explained that HED bases its decisions on the information it receives from the institutions, not from the district. Furthermore, the Secretary of Higher Education stated that the department has not denied funding to any postsecondary institution on the basis of credit ratios.

In response to a committee member's question about the most popular types of dual credit courses, Ms. Hudson explained that they are equally split between elective courses and core courses. Additionally, she noted that while the majority of courses are entry level, a percentage of dual credit classes are categorized as upper level coursework.

Several committee members emphasized the long-term cost savings provided by the dual credit program. By allowing students to earn college credits while still in high school – and therefore accelerating the timeline to completing a postsecondary degree – the dual credit program does not result in double funding, but rather early funding.

Related to the issue of double funding, a committee member emphasized the importance of continuing to fully fund the senior year of high school. According to HED, there are approximately 17,000 high school seniors in the state, of which approximately 4,000 enroll in dual credit. A committee member acknowledged that, while some students may not need four years of high school, others may need more than the traditional four years to complete the required coursework. The Chair emphasized that the objective is not always about saving money, but rather about providing the appropriate options to students.

A committee member asked about the consequences at both the secondary and postsecondary level when a student drops a dual credit course. Mr. Morimoto explained that, while drop dates vary by postsecondary institution, students are given ample opportunity to drop a course prior to any serious consequences. However, Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, noted that dropping a dual credit course may have more severe consequences at the secondary level because the specific course that is dropped may be required for high school graduation. Consequently, the student may be required to enroll in an online course to complete this requirement.

In response to the Chair's inquiry about what other states are doing, Deputy Secretary of Public Education, Dr. Sheila Hyde, remarked that the department has asked the Southwest Comprehensive Center to review other states' practices centering around dual credit programs.

The final point of discussion was the possible reintroduction of legislation to create a dual credit textbook fund in state law. The Chair suggested that LESC staff work with stakeholders to reach consensus on specific provisions of any proposed legislation.

NEW HIGH SCHOOL EXIT EXAM

The Chair recognized Ms. Pamela Herman, LESC staff, to provide a staff report on the status of the new high school exit exam. Ms. Herman noted that Public Education Department (PED) staff members Dr. Sheila Hyde, Deputy Secretary for Instruction and Accountability; Dr. Tom Dauphinee, Interim Supervisor, Assessment and Accountability Division; and Dr. Anya Dozier-Enos, High School Redesign Coordinator, were in the audience and were available to answer questions from the committee.

Ms. Herman observed that, in 2007, LESC-endorsed legislation was enacted to require that, beginning in school year 2010-2011, in order to graduate, a student must demonstrate competency in required subject areas on a standards-based assessment or assessments or a portfolio of standards-based indicators to be established by PED. She stated that, in conformity with a later amendment, PED had designated the eleventh grade standards-based assessment required in the *Assessment and Accountability Act* to serve as the exit exam. She said that by using the existing standards-based assessment also as an exit exam, the state resolved three problems: it ceased using a test for high school graduation that was not based on standards taught in the classroom; it addressed the perception of low expectations set by the old exit exam, which tested material at the eighth grade level; and it reduced cost and time in the state testing system by using one assessment for two purposes and eliminating one, the New Mexico High School Competency Exam (NMHSCE).

Ms. Herman said that, in order to receive a New Mexico Diploma of Excellence, students who are juniors in school year 2010-2011 (and those in future years) will have the following options pursuant to PED rule and guidance:

- they must first take the eleventh grade standards-based assessment/high school exit exam, which school districts will administer to all high school juniors between March 21 and April 22, 2011;

- they will have two additional opportunities, in the fall and winter of their senior year, to take and pass any sections of the test they did not pass as juniors;
- they will also have the chance, beginning in the fall of their senior year, to assemble a portfolio of alternative standards-based indicators of competency for all or any sections of the assessment they do not pass; and
- they may continue to retake any portions of the assessment, or work on their portfolios, for up to five years after they complete all the coursework necessary for graduation.

Ms. Herman described the process PED planned to use to set the passing score, or “cut score,” for graduation on the test, which she said may be different from the score that marks proficiency for school accountability purposes. She said that process included commissioning a study to examine the relationship between past scores on the eleventh grade standards-based assessment and the likelihood that a student took remedial coursework in a public postsecondary institution. In autumn 2010, she said, PED planned to convene committees to develop “performance level descriptors” of the knowledge and skills needed for both school accountability and high school graduation. After the assessment was scored, PED and the contractor would reconvene the committees to determine the cut scores both for school accountability and for graduation, with results reported to school districts by August 2011 prior to the start of students’ senior year.

Ms. Herman explained that PED staff had been engaged in ongoing discussions concerning the time frame and cost of aligning the eleventh grade standards-based assessment/exit exam with the new Common Core State Standards, which the Governor had committed the state to adopt in May 2009. In brief, she stated that, if the new standards were adopted and implemented for school year 2011-2012, PED anticipated that the process of fully aligning the 2012 exit exam with those standards would likely result in unfunded costs in the department’s FY 12 budget. She noted that New Mexico and 30 other states in the SMARTER Balanced Consortium had been awarded a \$160 million grant from the US Department of Education (USDE) to develop a series of online summative and formative multi-state assessments fully aligned with the Common Core State Standards, but that those assessments would not be operational until school year 2014-2015.

In response to continuing concerns at the school district and state level about the cost of assessments, Ms. Herman informed the committee that PED had conducted a survey of school district superintendents, charter school administrators, and state-supported school directors regarding their priorities among the currently required, non-federally mandated assessments in the Statewide Assessment System. Ms. Herman presented the results, which showed that the highest priority, on average, was to align the standards-based assessments with the Common Core Standards; other high priorities were grades 3-8 short-cycle assessments and grades 3-8 and 11 writing assessments. The Dynamic Indicator of Basic Early Literacy was ranked in the middle; and lower priority, on average, was given (in descending order) to the standards-based assessment in science, the grade 11 college readiness assessment, the grade 11 standards-based assessment in social studies, and finally the grade 11 workplace readiness assessment. She said that PED suggested the survey results could be useful to inform policy in the current climate of limited financial resources.

Regarding the alternate demonstration of competency prescribed in statute, Ms. Herman described the requirements of a PED rule, promulgated in January 2009, and the contents of a guidance memorandum sent by PED to school districts in June 2010 regarding the process for

demonstrating competency by alternative means. She said students would first be required to attempt to pass the exit exam before using a portfolio of standards-based indicators in order to graduate. The memo specified that other standards-based assessments, such as the ACT, Work Keys, PSAT and AP exams, could substitute for a passing score on some or all of the new exit exam. She cited other permissible types of standards-based evidence that could be included in portfolios, such as end-of-course exams, school-based projects, and other work that could be recorded in an electronic format on the Electronic Student Management System, the required repository for portfolios, starting in fall 2010. Ms. Herman told the committee that districts and charter schools were charged with making final policy decisions on criteria and scoring for the portfolio; however, at the request of many districts, PED planned, in October 2010, to release detailed guidance on the portfolio created by a statewide work group convened by the department.

Finally, Ms. Herman indicated that the LESC staff had conducted a brief telephone survey of five school districts around the state to determine how they were preparing students for the new exit exam, the results of which were included at the end of the staff report in committee notebooks.

Committee Discussion

In response to a question from a committee member, Ms. Herman said that the results of the new exit exam would be available in early August of a student's senior year, as they are currently for the eleventh grade standards-based assessment. Dr. Dauphinee reminded the committee that students would have two additional opportunities in their senior year to retake and pass the exam.

In response to questions from committee members regarding the relationship between the cut score for graduation and cut scores for AYP proficiency, Dr. Dauphinee stated that different "performance level descriptors" would be used so the cut-point might not be the same.

In response to a question from a committee member regarding whether any cost-savings might be found in the state assessment system, Dr. Dauphinee cited several options: eliminating all but the federally required assessments; reducing the "refreshment rate" for new items to be developed for tests; and discontinuing planned professional development on assessment scoring for school districts. He noted that the department's chief statistician occupied an exempt position that might be eliminated and that PED was seeking permission to support that position from federal assessment funds. Dr. Hyde indicated that PED had recently submitted a proposal to the USDE for additional funds to implement the Common Core State Standards on schedule in 2011 with fully aligned assessments. In response to a follow-up question regarding using IDEAL-NM (Innovative Digital Education and Learning-NM) to conduct professional development, Mr. Joel Nudi, IT Project Manager, PED, stated that it could be done but that developing a course would have a cost.

In response to a question from a committee member regarding PED's approval of ninth and tenth grade short-cycle assessments, intended to be indicators of whether a student was on-track to pass the graduation exam, Dr. Dauphinee indicated that PED had evaluated about half of the short-cycle assessments used by local districts. Some, he said, were found to be insufficiently

aligned with state standards, but two were provisionally approved based on vendor revisions to make them technically sound.

In response to a committee member's question whether all districts had access to the Electronic Student Management System for the portfolio process, Mr. Nudi stated that they all would by fall 2011.

In response to a question from a committee member regarding the cost to align the eleventh grade standards-based assessment and exit exam with the Common Core State Standards, Dr. Hyde said that PED could provide that figure. She noted that, since alignment of state assessments with the new standards was a national issue, PED could opt to delay implementation of the new standards until alignment tools become available to all states.

In response to a question from a committee member whether PED could go forward with implementation of the new exit exam but forego its high stakes aspect for a couple of years, Dr. Hyde said that would be a policy decision that should involve the Secretary of Public Education and others.

In response to a question from a committee member about positions taken by higher education entities regarding the exit exam and portfolio, Dr. Viola Florez, Secretary of Higher Education, responded that some higher education institutions had expressed concerns regarding the portfolio as well as the alignment of the exit exam with college readiness expectations relative to the ACT. She also expressed concern that implementation of this new test might encourage students to take the general educational development (GED) test instead. She said that, since the issues represented a major piece of P-20 policy, she hoped to meet with the Secretary of Public Education and Dr. Hyde to discuss them.

The Chair requested that PED provide the committee with the estimated cost of exit exam retests in FY 12.

DIRECTOR'S REPORT

a. Approval of LESC Financial Report for June 2010

On a motion by Representative Stewart, seconded by Representative Roch, the committee approved the LESC financial report for June 2010.

b. FY 12 LESC Budget Request

Ms. Frances Ramírez-Maestas, Director, LESC, presented the office budget for FY 12, noting that it represented a flat budget.

c. Correspondence and News Articles

Ms. Ramírez-Maestas reviewed the following items of correspondence and news articles, noting that they are retained in the LESC permanent files:

- a news release from the College Board noting that diversity “among SAT takers in New Mexico has shown a positive upward trend over the decade”;
- a letter from Secretary of Education Designate Susanna M. Murphy to Mr. Winston Brooks, Superintendent, Albuquerque Public Schools, stating that she had assembled a team of Public Education Department (PED) experts to visit Rio Grande High School and perform a needs assessment;
- a news release from PED announcing that the Public Education Commission had approved two new state-chartered charter schools: J. Paul Taylor Academy in Las Cruces and the New Mexico International School in Albuquerque;
- a news release from the Governor’s office announcing the launch of the NM STEM Network, designed to advance the core competencies of science, technology, engineering, and math in New Mexico and to prepare New Mexico students for the future;
- another news release from the Governor’s office announcing that the Governor would use \$1.4 million in federal stimulus money to prevent furloughs and lay-offs for executive and judicial branch employees;
- an announcement from the US Department of Education that the department had awarded grants to fund assessments based on common core standards to two groups of states, one of which was The SMARTER Balanced Assessment Consortium, which includes New Mexico; and
- a copy of the 42nd annual Phi Delta Kappa/Gallup Poll of the public’s attitudes toward public schools.

d. Written Report: Capital Outlay Awards

Mr. Adan Delval, LESC intern, presented a written report about capital outlay awards. Among the points covered were:

- a December 2009 memo from the Public School Facilities Authority (PSFA) to school districts and charter schools stating that the economic conditions in New Mexico and the corresponding uncertainty in funding availability necessitated certain revisions in state public school capital outlay for the 2010-2011 funding cycle:
 - the Public School Capital Outlay Council (PSCOC) would not be accepting applications for new standards-based capital outlay projects;
 - however, projects that have previously received a standards-based award for planning/design, an initial construction phase, or have a deferred award with out-of-cycle consideration pending completion of specified conditions would be eligible to apply for additional funding; and
 - only projects that meet all contingencies and show the greatest degree of readiness would be considered;
- an account of the September 2010 meeting of the PSCOC, when the council announced that a limited pool of funds would be available to make:
 - new planning and design awards for projects within the top 60 of the 2010-2011 New Mexico Condition Index (NMCI) ranking, subject to certain limitations; and

- up to \$10.0 million in awards for urgently needed school roof repairs, regardless of the schools' NMCI rankings, subject to certain limitations; and
- the PSCOC's approval of approximately \$9.9 million in lease-assistance awards to 80 charter schools and six public schools, identified in an attachment to the report.

e. Committee Requests

FY 12 Revenue Shortfall Update

The Chair recognized Mr. Peter B. van Moorsel, LESC staff, who presented a brief regarding a committee request made at the August 2010 LESC meeting. He reported that at this meeting the committee was provided with a state revenue update by Dr. Tom Clifford, Chief Economist for the Legislative Finance Committee, which included an estimate of the anticipated FY 12 budget deficit, based on:

- the July 2010 consensus revenue estimate;
- a flat budget from FY 11; and
- the need to replace with General Fund dollars a total of \$355 million in one-time funds in that budget, and \$41.0 million in one-time savings (as illustrated in Attachment 1, *FY12 Budget: Current Services Deficit*).

Mr. van Moorsel noted that, based on this scenario, the projected revenue would fall short of appropriations by approximately \$170 million.

At the August meeting, several members were concerned that the \$355 million in one-time funds might not include all of the federal *American Recovery and Reinvestment Act (ARRA)* funds that were included in the appropriation to the State Equalization Guarantee (SEG) for FY 10 and FY 11, and they requested a breakdown of the items included in the \$355 million.

Mr. van Moorsel referred the committee to an attachment to the brief that included information provided by Dr. Clifford that itemizes the one-time funds to be replaced, including \$23.9 million of federal ARRA dollars that was appropriated in the SEG for FY 11. He also referred the committee to the portion of that same attachment that contains a second scenario requested by the committee that estimates the projected budget deficit if the one-time federal funds to be replaced would include:

- \$45.5 million in federal ARRA dollars that was appropriated to the SEG for FY 10; and
- approximately \$64.4 million from the federal Education Jobs Fund that will be distributed through the funding formula in FY 11.

Mr. van Moorsel noted that this scenario increases to \$464.7 million the amount of one-time funds to be replaced, and it would increase the estimated FY 12 shortfall to approximately \$280.2 million.

School District and County Map

Mr. Delval presented a map prepared by the Office of the Secretary of State that shows not only the boundaries of the 89 school districts but also the boundaries of the 33 counties, illustrating the relationships and overlaps among the two jurisdictions. Mr. Delval explained that, in some cases, entire school districts are contained within a single county but that, in other cases, parts of school districts lie in one or more counties.

Framework for Building Charter School Quality

Dr. David Harrell, LESC staff, said that, during the August meeting of the LESC, Dr. Lisa Grover, Chief Executive Officer, New Mexico Coalition for Charter Schools (NMCCS), had discussed quality initiatives that the coalition was pursuing and had presented an excerpt of a draft framework for building charter school quality in New Mexico. During the discussion, Dr. Harrell said, the committee had asked for the complete draft. Presenting the draft, he said that the New Mexico framework is modeled on *A Framework for Academic Quality: A Report from the National Consensus Panel on Charter School Academic Quality* (June 2008), which was the product of a national effort called Building Charter School Quality (BCSQ).

The BCSQ framework for academic quality in charter schools, Dr. Harrell continued, is built around four “essential indicators of academic quality and associated measures, metrics, and benchmark comparisons”:

- student achievement level (status);
- student progress over time (growth);
- postsecondary readiness and success (for high schools); and
- student engagement.

The framework developed by the NMCCS adds three more quality indicators: financial performance and sustainability, board performance and stewardship, and parent and community engagement. Dr. Harrell added that the intent of the NMCCS is to ensure that its member charter schools adhere to these standards.

Sample Charter School Performance Contracts

Another committee request related to charter schools, Dr. Harrell said, was for samples of a charter school performance contract, a kind of document that clarifies the responsibilities of both the charter school and the authorizer with regard to such matters as the resolution of disputes and the process for closing ineffective charter schools. Dr. Harrell presented two samples:

- The first, *Charter School Contract*, was provided by the Friends of Education, a charter authorizer in Minnesota. As Friends of Education explains, the performance contract is a document separate from the charter application, and it is executed after the application is approved.
- The second, *Missouri Charter School Sponsor Model Charter Agreement*, was provided by the National Association of Charter School Authorizers (NACSA), which recently

completed an evaluation of the authorizing practices of the New Mexico Public Education Commission.

Both contracts, Dr. Harrell continued, begin with a resolution and conclude with a signature page. In between, they address such features as assessment; governance; student discipline; fiscal accountability and reporting; compliance with state and federal laws; revocation or nonrenewal of the charter; and the legal relationship between the authorizer and the charter school, including terms and conditions of the contract itself. Dr. Harrell also highlighted some differences between the two samples in terms of student enrollment provisions and accountability for student performance. Such differences, he said, are common, according to NACSA, depending upon the laws in the various states and the needs of charter schools and authorizers.

There being no other business, Senator Nava, with the consensus of the committee, recessed the LESC meeting at 4:15 p.m.

**MINUTES
LESC MEETING
SEPTEMBER 29, 2010**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) to order at 9:25 a.m. on Wednesday, September 29, 2010 in Room 322 of the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, and Gay G. Kernan; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart.

The following LESC advisory members were also present:

Senators Vernon D. Asbill, Stephen Fischmann, John Pinto, and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Nathan P. Cote, Nora Espinoza, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

Also in attendance was Representative Thomas A. García.

PUBLIC SCHOOL BUDGETS FOR FY11

The Chair recognized Mr. Peter B. van Moorsel, LESC staff, and Mr. Steve Burrell, Acting Deputy Secretary, Finance and Operations, Public Education Department (PED), for a presentation on the public school budgets for FY 11.

Mr. van Moorsel began by stating that current law requires school districts to establish their operating budgets for the upcoming fiscal year at a public hearing held before June 20, and that

PED must approve operating budgets for school districts and charter schools by July 1. These budgets, he said, are based on education-related appropriations for FY 11, which he outlined by referring to a table attached to the report that shows the appropriations for public school support for FY 11.

Mr. van Moorsel noted that the appropriations table was divided into five columns, the first two of which (A and B) show the initial and adjusted appropriations for FY 10, and the last three of which (C, D, and E) show the FY 11 appropriations for Public School Support, in various states of adjustment.

- Column C shows the approximately \$2.43 billion in recurring appropriations from the General Fund to public education as they appear in Section 4 of the *General Appropriation Act*, including nearly \$2.3 billion to the State Equalization Guarantee (SEG), commonly referred to as the “above the line” costs;

Mr. van Moorsel added that the SEG includes funding that reflects increases in costs or the funding of additional programs, including:

- \$164.7 million to replace one-time federal *American Recovery and Reinvestment Act of 2009* (ARRA) funds that were distributed through the formula in FY 10;
- a reduction of \$23.9 million, which was supplanted with the remaining ARRA state fiscal stabilization funds; and
- funding increases for the costs of “opening the doors,” which include enrollment growth, as well as increases in fixed costs and insurance costs.

He also reported that the appropriation for the SEG was determined by reducing the program cost by just over \$60.0 million in projected credits.

- Column D, Mr. van Moorsel continued, shows the appropriations from Column C after being sanded by 0.544 percent, as required in another section of *General Appropriation Act*.
- Column E shows the appropriations from Column D after having been further reduced by 3.244 percent to \$2.34 billion, pursuant to a requirement in the *General Appropriation Act* that General Fund appropriations in Section 4 be reduced proportionally in the event that the consensus revenue projections are insufficient to meet the FY 11 General Fund appropriations. Mr. van Moorsel emphasized that this action would mean a reduction of about \$78.4 million for all of public education and approximately \$73.6 million for the SEG.

Mr. van Moorsel next reported that the 3.244 percent reduction to the SEG would be partially offset by \$64.4 million in federal Education Jobs funds. He added that, in addition to this amount, which would be distributed through the funding formula, PED would retain nearly \$500,000, or roughly 0.75 percent, for administrative costs. The net effect of the 3.244 percent reduction and the addition of the Education Jobs funds, he added, would be a reduction of approximately \$9.2 million, or 0.4 percent

Referring to the unit value, Mr. van Moorsel noted that the initial unit value for the current school year was set by the Secretary of Public Education at \$3,712.45, based on a statewide projected total of 633,687 program units. He added that, as in FY 10, the initial unit value for FY 11 is a composite of \$3,674.75 in General Fund dollars and \$37.70 in federal ARRA dollars. He also noted that both the 3.2 percent reduction and the addition of the EduJobs funds will have an effect on the unit value, but that this change will not take place until the number of units statewide is verified in January. He further stated that any change in the unit value also depends on future consensus revenue estimates, which could affect the appropriation to the SEG.

Mr. van Moorsel reported that additional operational funding for education includes almost \$114.4 million in recurring dollars for categorical public school support, including funds for public school transportation, emergency supplemental funding, the Instructional Material Fund, dual credit instructional materials, and the Indian Education Fund. He also noted over \$30.0 million in related recurring appropriations to PED, including funding for the PED budget, the regional education cooperatives, and more than \$15.2 million for other education initiatives.

Regarding nonrecurring funding, Mr. van Moorsel discussed \$10.0 million in funds for emergency support for school districts, emphasizing that, because these appropriations are made in Section 5 of House Bill 2, they are not subject to the reductions that apply to the recurring appropriations. Considering the nearly \$2.0 million recurring appropriation for emergency supplemental, almost \$12.0 million is available for financial support to school districts or state-chartered charter schools statewide.

Mr. van Moorsel noted that over \$283 million in federal funds is available in formula-allocated and selected student aid programs for school districts. He added that the elementary and secondary funding is shown in Attachment 2 to the report and that descriptions of the programs were included in Attachment 3 to the report.

Mr. van Moorsel next reported the status of the implementation of 2010 legislation that grants flexibility to school districts in meeting state fiscal solvency requirements by allowing PED to waive requirements of the *Public School Code* and the PED rules pertaining to individual class load, teaching load, school day length, staffing patterns, subject areas, and instructional material purchases. He reported that PED's Quality Assurance Bureau processes any waiver requests on a case-by-case basis and monitors their effect on student learning. As of September 24, Mr. van Moorsel said, PED had received 21 requests for class-size waivers.

Mr. van Moorsel concluded by referring the committee to two pieces of guidance that PED issued to districts to facilitate their compliance with the budget flexibility legislation. The guidance provided school districts with examples of how 5.0 and 10 percent increases in class size (for grades K-6) and teacher load (for grades 7-12) would affect them; and it included additional conditions that the Quality Assurance Bureau would consider in cases of waiver requests for increases greater than 10 percent, such as aides required by law, the school's *No Child Left Behind* status, teacher qualification and number of years of experience, the presence of student teachers, student aides, parent volunteers, or clerical support, or assigned teacher mentors.

Mr. Burrell provided public school budget information in several graphs and tables that showed:

- by revenue source, \$4.7 billion in budgeted revenue, including nearly \$2.5 billion in operational revenue;
- the operational funds broken out by sub-function, including instruction, support services, and capital outlay;
- a comparison of the 2009-2010 and 2010-2011 budgeted expenditures;
- by district, 2010-2011 budgeted program units and budgeted program cost;
- a comparison, by district, of the 2009-2010 and 2010-2011 budgeted program units and MEM;
- by district, the budgeted ARRA State Fiscal Stabilization funds for school year 2010-2011;
- by district, the growth units budgeted for school year 2010-2011;
- by district, the operational fund budgeted cash balances;
- by district, the 2010-2011 budgeted cash balance credit;
- by district, the percentage of elementary school membership that is part of a funded physical education (PE) program;
- a list of the school districts that requested and budgeted approximately \$11.7 million in emergency supplemental funding; and
- an estimate of the net effect on school districts' and charter schools' SEG distributions of both the 3.244 percent cut and the nearly \$65.0 million in Education Jobs funds.

Committee Discussion

In response to a committee member's question whether General Fund dollars are reverted in the event that credits come in higher than projected, Mr. Burrell stated that this was indeed the case, noting that, although the money is reverted, school districts' budgets are not affected because the increased credits reflect increased revenues from the operational portion of Impact Aid, Federal Forest Reserve funds, and the operational 0.5 mill levy. He added that, if credits come in below projections, a possibility exists that school districts' budgets must be reduced.

In response to a committee member's question, Mr. Burrell stated that it was likely that the 3.2 percent reduction would affect the unit value, but it was unclear whether, and by how much, the unit value would change. He added that the actual effect depended on several factors, including any change in the number of program units as the data of the first reporting period comes in. Mr. Burrell also stated that the Secretary of Public Education would likely set the final unit value in January 2011.

In response to a committee member's question whether school districts were allowed to budget the Education Jobs funds in school years other than 2010-2011, Mr. Burrell stated that the federal Tidings amendment permits school districts to budget the Education Jobs funds for 27 months after they are awarded, meaning that they would have until 2012 to expend the funds.

In response to a committee member's question whether any school districts had requested class size or teacher load waiver increases greater than 10 percent, the Chair recognized Ms. Julia Rosa Emslie, of the PED Quality Assurance Bureau. Ms. Emslie said that, of the 22 requests for a waiver, six were for an increase of greater than 10 percent.

There were several committee requests:

- that PED provide more detail in its pie chart of budgeted operational expenditures, perhaps by subfund;
- that PED explain why, in the table of funded elementary PE programs, some school districts appeared to receive funding for more than 100 percent of their elementary students;
- information on how transportation contractors are affected by the reduced categorical funding to transportation; and
- a by-district list of each class size/teacher load waiver requested.

FY 12 BUDGET REQUESTS: NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY (NMPSIA) AND ALBUQUERQUE PUBLIC SCHOOLS (APS)

The Chair recognized Ms. Eilani Gerstner, LESC staff, to provide the committee with a report on the FY 12 insurance budget requests and FY 11 plan and premium changes for New Mexico Public Schools Insurance Authority (NMPSIA) and Albuquerque Public Schools (APS).

Ms. Gerstner began by reviewing plan changes and premium increases for FY 11:

- NMPSIA reports that no plan changes occurred for FY 11, but that medical and dental premiums have increased by 6.4 percent as of October 2010; and
- APS reports that, as of July 2010, the fund balance for medical, dental, and vision reserves was \$1.4 million and that the APS Board of Education approved the use of \$8.8 million from reserves to offset FY11 costs. In addition to the use of reserves in FY 11, the APS Board of Education approved the following FY 11 plan changes with a savings of just over \$1.1 million:
 - increase the specialist office co-pay to \$35 from \$30;
 - increase the urgent care co-pay to \$40 from \$35;
 - increase the emergency room co-pay to \$120 from \$100; and
 - charge actual *Consolidated Omnibus Budget Reconciliation Act* rates rather than setting premiums at lower amounts in order to use reserves.

Ms. Gerstner then reviewed the FY 12 budget requests from both APS and NMPSIA:

- NMPSIA has requested a decrease of approximately 2.0 percent from the FY 11 funding level and reported no premium increases or plan changes for FY 12; and
- APS is requesting an appropriation of \$4.7 million to provide for the employer's share of increased insurance premiums for members, including:
 - a 4.7 percent increase for medical insurance;
 - an 8.6 percent increase for vision insurance;
 - a 10 percent increase for life and disability insurance; and
 - no increase for dental insurance.

Also included in Ms. Gerstner's report was an update on the use of \$2.0 million in discretionary federal *American Recovery and Reinvestment Act* dollars allocated by the Governor to offset

insurance premiums for teachers and school employees in FY 11, including \$1.5 million to the Public Education Department for NMPSIA and \$500,000 to APS.

Next, Senator Nava recognized two representatives of NMPSIA – Mr. Sammy Quintana, Executive Director, and Ms. Ernestine Chavez – to address NMPSIA’s request. Mr. Quintana reviewed the handout (Attachment 1 of the staff report), and added that, because of healthy risk fund balances, NMPSIA was able to increase all school districts’ embezzlement coverage to \$1.0 million.

Finally, Senator Nava next recognized Mr. Joseph Escobedo, Special Assistant to the Superintendent, APS, to address the district’s request. Reviewing the memorandum included as Attachment 2 in the staff report, Mr. Escobedo noted that APS employees have begun to take advantage of a biometric screening program and health coaching. He said that employees who do not participate in the program pay an additional \$20 in monthly insurance premiums.

Committee Discussion

In response to a committee member’s question whether NMPSIA had considered biometric screenings for its employees, Mr. Quintana indicated that the agency has been considering such a program.

In response to a committee member’s question of the effect on premiums of consolidating the NMPSIA and APS insurance programs, Mr. Escobedo replied that such a move would result in higher premiums for APS employees.

LESC SCHOOL FINANCE WORK GROUP: STATUS REPORT

The Chair recognized Mr. Craig J. Johnson, LESC staff, for a status report on the work of the LESC School Finance Work Group. Mr. Johnson began by explaining that, at the June 2010 meeting of the LESC, the committee approved the objective, activities, and membership of the LESC School Finance Work Group. Since then, he said, the work group has met twice: July 12, 2010 and August 9, 2010.

Referring to the staff report, Mr. Johnson provided an overview of the outcomes of each of those meetings. He said the first meeting of the LESC School Finance Work Group served as an organizational meeting to discuss the approved objective and activities of the work group and to determine if additional issues required investigation. During the first meeting, the work group appointed two subgroups to conduct further work on (1) reviewing the PED’s *Public School Accounting and Budgeting Manual of Procedures*, and (2) creating guidance for school boards in their finance and audit duties.

At the second meeting, Mr. Johnson said, the work group heard updates from the appointed subgroups as well as presentations or reports on the following topics:

- licensure and training of school business officials;
- guidance for school boards developed by the New York State School Boards Association (NYSSBA), which has agreed to share the documents with the New Mexico School Boards Association to be adapted for use in New Mexico.

- a definition of “waste” from the Office of the State Auditor (OSA) staff; and
- services available through regional education cooperatives (RECs), including how RECs may help small school districts with school budget issues.

Mr. Johnson provided the committee with an update on progress toward revising and updating the *Public School Accounting and Budgeting Manual of Procedures*. He said that the subgroup reviewing the manual had determined that many of its 22 sections had not been updated since the 1990s. The subgroup requested \$50,000 from the New Mexico Public Schools Insurance Authority (NMPSIA) to hire one or more contractors to revise the manual; and at the August 5, 2010 NMPSIA board meeting, NMPSIA’s board approved the request. Mr. Johnson stated that LESC staff has drafted a preliminary scope of work to assist in the selection of contractors to update the manual and that this scope of work would be discussed during the work group’s next meeting on October 1, 2010.

Committee Discussion

The Chair asked staff members to seek ideas from the work group on ways to save money in education, and she requested feedback on possible consolidation of business functions at smaller districts.

SUPERINTENDENTS AND COMMUNITY INPUT

The Chair recognized Ms. Michele Lis, a representative of the Parent Legislative Action Network for Education (PLANE), a network of parents with a stated goal of preventing further cuts to public education and generating solutions to restore sufficient funding to education. She said that PLANE’s members are concerned about such issues as increased class sizes, lack of educational technology, loss of federal stimulus funds, furloughs, and lack of teacher preparation time; and that they want to work with the Legislature to find solutions.

Ms. Lis further explained that PLANE’s ideas to restore funding to education include:

- close out-of-state corporate tax loopholes (estimated revenue \$40 million);
- pass one-dime-a-drink bill (estimated revenue \$80 million);
- use the \$9.0 billion permanent school fund;
- and restore income tax levels for the wealthiest New Mexicans by rolling back tax cuts (estimated revenue \$350 million).

Ms. Lis also stated that PLANE supports changes in statutes that would allow schools to use available resources more efficiently including:

- allowing software and other technology to be purchased in lieu of textbooks (estimated revenue \$200,000);
- allowing capital outlay funds to be used on custodial staff salaries and property insurance (estimated revenue \$2.0 million);
- amending standardized testing requirements so that testing occurs at three grade levels instead of seven (estimated revenue \$200,000); and

- changing the school census timeline so that numbers are more accurate for purposes of funding.

As the committee discussed these recommendations, one member advised Ms. Lis to review the community involvement initiatives, including the graduation summit, recently conducted in Carlsbad; and another complimented the group of its proactive approach, noting that needs vary from one district to another.

There being no other business, Senator Nava, with the consensus of the committee, recessed the LESC meeting at 12:40 p.m.

COMMITTEE TOUR AND REVIEW OF NEW MEXICO SCHOOL FOR THE ARTS CHARTER SCHOOL

In the afternoon of Wednesday, September 29, 2010, LESC members and staff were invited to tour the New Mexico School for the Arts, a new charter school in Santa Fe, and to attend performances and demonstrations by the students.

MINUTES LESC MEETING SEPTEMBER 30, 2010

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) to order at 9:20 a.m. on Thursday, September 30, in Room 322 of the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, and Gay G. Kernan; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, and Mimi Stewart.

The following LESC advisory members were also present:

Senators Vernon D. Asbill, Stephen H. Fischmann, and John Pinto; and Representatives Ray Begaye, Eleanor Chávez, Nora Espinoza, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

PUBLIC EDUCATION DEPARTMENT (PED) WORK GROUP ON THE RESTRAINT AND SECLUSION OF STUDENTS IN PUBLIC SCHOOLS

The Chair recognized Ms. Ally Hudson, LESC staff, for a report on the Public Education Department (PED) work group on the restraint and seclusion of students in public schools.

Ms. Hudson explained that attention to issues of restraint and seclusion of students has risen across the country due to published accounts of alleged abuse. She also cited an investigation by the Government Accountability Office (GAO), whose report in May 2009 found that there were “no federal laws restricting the use of seclusion and restraint in public and private schools” and the laws at the state level were widely divergent. Also at the federal level, Ms. Hudson continued, in July 2009 US Education Secretary Arne Duncan sent a letter to all chief state school officers encouraging them to review their state’s existing policies and guidelines on restraint and seclusion of students and to develop or revise them as needed. In compliance with Secretary Duncan’s request, Ms. Hudson continued, former Secretary of Public Education Veronica C. García created a work group in November 2009 to consider legislation and/or rulemaking related to restraint and seclusion of all children in New Mexico public schools.

Ms. Hudson also summarized the provisions of two companion bills on the restraint and seclusion of students that Congress was considering – HR 4247 and HR 5628 – which were included as exhibits in the PED report.

Ms. Hudson recognized the primary source for her staff report as a report written by PED on behalf of the Restraint and Seclusion Work Group. She explained that the document, included as Attachment 1 of the staff report, has two parts:

- a memo that provides detailed background on New Mexico and federal law and guidance, activities of the work group, recommendations on the use of restraint and seclusion in public schools, and recommended definitions for rule or legislation; and
- a number of exhibits.

Ms. Hudson indicated that, according to the PED report, there are no state statutes or rules governing the use of restraint and seclusion in public schools. While physical restraint and seclusion are briefly addressed in provisions of the *Children’s Code*, the *Public School Code* does not include provisions specific to the restraint and seclusion of students in schools. Regardless, Ms. Hudson explained that PED has issued guidance on the subject in at least two instances:

- in March 2006, on the use of physical restraint as a behavioral intervention for students with disabilities; and
- in 2003, on the use of time-out rooms as a behavioral intervention.

She further explained that the PED report emphasizes that existing guidance supports the use of physical restraint in emergency situations only.

Ms. Hudson reviewed the work of the Restraint and Seclusion Work Group, including its creation of three subcommittees – the Survey Subcommittee, the Best Practices Subcommittee, and the Liability/Costs Issues Research Subcommittee – and she noted that the subcommittee activities, including a parent survey, were reflected in the PED report.

Ms. Hudson reported that the work group reached a consensus at its September meeting with respect to recommendations to be made to the Governor and the LESC. Among the recommendations are:

- prohibiting the use of seclusion in schools;
- prohibiting the use of aversive interventions;
- prohibiting prone, mechanical, and chemical restraints;
- requiring school districts to establish procedures to be followed after each incident of restraint including the requirement that parents be verbally notified immediately after a restraint occurs and in writing within 24 hours;
- requiring that each school district collect data on restraints; and
- prohibiting the use of corporal punishment in schools because it is contrary to establishing positive behavioral interventions and supports (PBIS) and to prohibiting the use of aversive interventions.

Ms. Hudson also cited the work group's recommendation that the LESC create a statewide Planning and Implementation Group to carry on their work. She emphasized that the group will need members who cut across all school disciplines as well as outside agencies that provide support to schools.

In conclusion, Ms. Hudson provided a brief explanation about a survey, distributed by PED to members of the National Association of State Directors of Special Education (NASDSE) in August 2010 and included as Attachment 2 of the staff report. She explained that the survey focused on two central issues:

- other states' policy developments since the GAO report and the letter from Secretary Duncan; and
- the population to whom any existing or proposed legislation applies.

After Ms. Hudson concluded her presentation, the Chair asked if any members of the audience had comments they wished to share with the committee.

- Ms. Grace Spulak, of Pegasus Legal Services for Children, presented a letter to the committee that expressed support for the recommendations included in the PED report, which should be implemented regardless of cost. This letter, she added, was also endorsed by a number of advocacy organizations including the American Civil Liberties Union of New Mexico (ACLU), Disability Rights New Mexico, Native American Disability Law Center, New Mexico Family Network, and Parents Reaching Out.
- Mr. Larry Fuller, of Parents Reaching Out, encouraged the committee to endorse the recommendations outlined in the PED report, and he emphasized his support for the implementation of PBIS.
- Ms. Leslye Sneider, of Disability Rights New Mexico, described the complexity of restraint and seclusion in schools and serious long-term effects it can have on children.
- Ms. Dianne Wood, ACLU, suggested that reporting data on restraint and seclusion to PED through the Student Teacher Accountability Reporting System (STARS) is important because it will help to ensure that PBIS is being implemented with fidelity in the schools.

- Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, said that the coalition had not had a chance to review the letter that Ms. Spulak presented; and he described some of the reservations of coalition members, including concerns that PED had underestimated the costs and that immediate notification of parents may be impractical. Nonetheless, Mr. Sullivan said that NMCSA could support most of the recommendations outlined in the PED report although some of them may require further study.
- Mr. Eduardo Holguin, National Education Association of New Mexico, expressed concern over the “trickle down accountability” outlined in the PED recommendations that will require more time for the completion of reports by teachers. Additionally, Mr. Holguin suggested that PED will be burdened by processing and responding to the additional reports submitted through STARS.

Committee Discussion

In response to a committee member’s question whether the proposed federal legislation requires states to respond through legislation or regulation, Mr. Albert Gonzales, Assistant General Counsel, PED, indicated that, while neither legislation nor regulation is specifically required in the proposed federal law, if the federal legislation is enacted states will have 18 months to produce a plan to meet the safety standards, monitoring, and enforcement outlined in that legislation.

While addressing a committee member’s concern about consensus on any possible legislation at the state level, Mr. Gonzales acknowledged the opposing arguments for inclusion of restraint language in a student’s Individualized Education Plan (IEP). While some advocates argue that children with extreme issues warrant planning for restraint in the IEP, other constituencies suggest that restraint is not an educational technique – yet by placing it in the IEP it may become normalized – and consequently should be banned from the IEP. On this point, Ms. Hudson clarified that the issue of including restraint language in the IEP was not included in the work group recommendations due to a lack of consensus on the issue.

In response to a committee member’s question about the audience to whom the Survey Subcommittee’s parent survey was sent, Ms. Kendra Morrison, with Parents Reaching Out, clarified that the survey was distributed to parents across the state. She also indicated that the survey was provided to agencies associated with Parents Reaching Out with directions for distribution to their list-servs.

Suggesting that additional active classroom teachers should be included in the work group, a committee member expressed concern regarding additional reporting requirements that may be included as a component of regulation or legislation on restraint and seclusion.

On a related topic, a committee member highlighted the need for ongoing work related to the unresolved issues of cost and program implementation. Ms. Hudson responded by echoing the work group’s recommendation for a planning and implementation group that would continue to address the concerns around training, conflicting agency rules, and the use of existing resources such as the regional education cooperatives.

The Chair asked how many school districts currently allow corporal punishment of students. Mr. Sullivan explained that, while he did not know the exact number of districts that allow this practice, he doubted that it was implemented on a regular basis.

Recognizing the cost-prohibitive nature of training all current teaching staff in the PBIS model, the Chair referred to a conference hosted by the Education Commission of the States that included a presentation on PBIS mentoring and training. The Chair went on to explain that the presentation outlined a requirement by some states to complete PBIS training as a component of licensure or of student teaching.

In conclusion, the Chair noted that corporal punishment might be a starting point for regulation or legislation. She further indicated that the LESC staff will continue the dialogue with stakeholders on how to proceed with this issue.

PROPOSED ADMINISTRATOR COMPETENCY RULE CHANGES

The Chair recognized Dr. Linda Paul, Executive Director, New Mexico School Leadership Institute; and Mr. Phil Baca, Program Manager, Professional Licensure Bureau, Public Education Department (PED) to provide the committee with a presentation on proposed changes to the entry-level competencies for education administrators.

Dr. Paul began by describing the current entry-level competencies for education administrators contained in the *New Mexico Administrative Code*, noting that they have not been revised since 1998. Competencies, she said, are designed to establish the content that preparing institutions must include to obtain approval for their preparation program. The competencies include nine broad forms of leadership, according to Dr. Paul, from ethical to political and professional leadership, that are further defined by 100 discrete indicators of competence.

Dr. Paul explained that the work of the school principal has changed significantly in the 12 years since the competencies were updated and that a work group was formed in October 2009 to examine more stringent preparation requirements. The work group includes representation from educational leadership preparation faculty, school districts, and professional organizations. She then listed five guidelines for the proposed changes:

1. a differentiated licensure through a three-tiered system implemented through PED rule with leadership competencies is needed to improve academic achievement;
2. start with the most current changes to rule – the performance evaluation requirements for principals and assistant principals;
3. add licensure renewal requirements linked to leadership competencies needed to improve academic achievement;
4. create a higher education pathway and a professional development pathway to obtain licensure renewal requirements; and
5. base evaluation of all administrators on the revised leadership competencies.

Dr. Paul ended by noting that the work group will complete drafts of rule revisions, which will be reviewed by the Professional Practices and Standards Council and the Secretary of Public Education before being submitted for public comment prior to adoption by the Secretary.

Committee Discussion

In response to a committee member's question about the nature of training being sought for people going into school leadership roles within the state, Mr. Baca replied that field experience in both the initial and recertification procedures is desirable, either through an approved program at an institute of higher education or sponsored by the New Mexico School Leadership Institute.

In response to a committee member's question, Mr. Baca stated that the new competencies would be required statewide upon completion, rather than going through a pilot process.

A committee member inquired about other states' administrator licensure requirements, and Mr. Baca explained that New Mexico is one of six states that offer only one class of administrator license.

In response to a committee member's question, Dr. Paul stated that in FY 10 the Legislature appropriated \$200,000 for the School Leadership Institute, funds which are currently being expended.

Several committee members expressed reservations about the proposed three-tiered licensure system for school administrators. Among the concerns were the time, nature, and cost of additional coursework; the effect of these new requirements on the pool of qualified candidates for administrative positions; the apparent lack of alignment between the administrative competencies and research, especially in reading; and the question whether changes of this nature could be implemented through agency rule or whether they would require statutory change.

The Chair recognized Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, to respond to a committee inquiry regarding the number of superintendent changes during the past year. He stated that between July 1, 2009 and July 1, 2010, there were 24 superintendent changes. In response to a related question, Mr. Sullivan stated that there are approximately 750 active principals in New Mexico.

The Chair recognized Mr. Joe Guillen, Executive Director, New Mexico School Boards Association, to respond to a committee member's question regarding the difficulty school boards face when searching for a superintendent. Mr. Guillen stated that any school board faces challenges when seeking highly qualified employees and that superintendents have a high turnover rate.

Finally, in response to a question from the Chair regarding the status of National Board certification relating to principals, Dr. Paul stated that New Mexico has been selected as a pilot site for implementing the program.

SUPERINTENDENTS AND COMMUNITY INPUT

Mr. Larry Fuller, with Parents Reaching Out, said that leadership was the primary issue with New Mexico's public schools as well as a factor in the reauthorization of the federal *Elementary and Secondary Education Act*. Other issues of concern with his organization, Mr. Fuller continued, were transparency in public schools, ethics, student attendance, and family involvement.

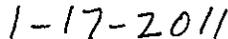
Mr. Gary Atwood and Ms. Deborah Hinwood, with the Albuquerque Principals' Association, raised several objections to the three-tiered administrative licensure structure that Dr. Linda Paul and Mr. Phil Baca had discussed (see "Proposed Administrator Competency Rule Changes," above), among them that all school administrators are equally important and that the requirement for additional hours is unnecessary, costly, and problematic for rural areas. In response to these concerns and the preceding committee discussion, the Chair asked Ms. Ruth Williams, Manager, Legislative and Community Relations Bureau, Public Education Department, to advise the Secretary of Public Education of the committee's concerns; Ms. Williams said she had already done so.

ADJOURNMENT

There being no other committee business, the Chair adjourned the LESC meeting at 11:52 a.m.



_____ Chair



_____ Date