

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

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**MINUTES**  
**LESC MEETING**  
**AUGUST 24-26, 2011**

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

Senator Cynthia Nava, Vice Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:15 a.m. on Wednesday, August 24, at the Rohovec Fine Arts Center on the New Mexico State University campus in Alamogordo, New Mexico.

The following LES C members were present:

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

The following LES C advisory members were present:

Representatives Ray Begaye and Shirley A. Tyler; and Senators Vernon D. Asbill, Mark Boitano, Stephen H. Fischmann, Howie Morales, and John Pinto.

In addition, Representative Richard D. Vigil and Representative Yvette Herrell; and Senator William F. Burt were in attendance.

On a motion by Representative Espinoza, seconded by Senator Lovejoy, the committee approved the agenda for the meeting.

The Vice Chair recognized the Honorable Ron Griggs, Mayor of Alamogordo; Dr. Cheri Jimeno, President, NMSU Alamogordo; Mr. Daniel Taylor, President of Student Government, NMSU Alamogordo; Dr. George Straface, Superintendent, Alamogordo Public Schools; and Mr. Mike Espiritu, Executive Director, Alamogordo Chamber of Commerce, to welcome the committee to Alamogordo and make introductions.

## UPDATES: PUBLIC EDUCATION DEPARTMENT

The Vice Chair recognized Ms. Hanna Skandera, Secretary-designate of Public Education, to provide the committee with updates on the A-B-C-D-F Schools Rating System and other activities at the Public Education Department (PED).

Referring to a committee handout, she began by presenting the merits of the proposed rating system.

Among those merits, Ms. Skandera stated that the rating system is informed by a school grading model constructed with the input of the Superintendents Advisory Council (SAC) coupled with baseline data. She stated that PED has run two different statistical models for both elementary and middle schools and will continue to refine the models and data to ensure that the final system provides the most accurate picture of how schools are achieving and growing. Also, she said, PED has developed a draft model for grading high schools and is preparing to run data.

In addition to two public rule hearings planned for fall in northern and southern New Mexico, PED will meet with SAC at least one more time regarding grading for public high schools.

Secretary-designate Skandera then discussed why PED intends to apply for a waiver from the US Department of Education (USDE), citing that Congress has not reauthorized the *Elementary and Secondary Education Act* (also known as the *No Child Left Behind Act of 2001*), and states need regulatory relief to recognize the progress schools are making. If the waiver application is approved, she said, our school grading system would be the singular accountability system for New Mexico. Ms. Skandera added that USDE will release their application parameters in mid-to late-September.

Secretary-designate Skandera stated that USDE intends for the application parameters to mirror reform areas outlined in the Race to the Top competition of 2010, which include:

- accountability;
- human capital;
- options (charter schools, supplemental services, and virtual schools);
- funding flexibility; and
- data.

Secretary-designate Skandera listed a number of states which have already implemented or passed legislation requiring similar grading systems, including:

- Florida;
- Indiana;
- Louisiana;
- Utah;
- Oklahoma; and
- Rhode Island.

Secretary-designate Skandera then reported on the Effective Teaching Task Force, which has met 10 times in addition to forming four work groups. The task force will submit recommendations to the Governor in August, and the recommendations represent input from experts throughout New Mexico and the United States, according to Ms. Skandera. The task force is charged with examining and improving:

- pre-service training and alternative programs;
- transition from the three-tier system;
- superintendent evaluation;
- the effective school leaders' academy;
- the technical advisory committee;
- licensure renewal;
- the dossier process; and
- implementation of professional development for teachers and school leaders.

Also, Secretary-designate Skandera discussed the transition New Mexico is making to Common Core State Standards (CCSS), and listed the following reasons why the state would benefit from such a system:

- CCSS are consistent, aligned with college and career expectations, and are evidence- and research-based;
- CCSS have been adopted by 49 states and territories;
- PED adopted CCSS in October 2010; and
- PED received a \$350,000 grant from the Kellogg Foundation to create an implementation plan for transitioning New Mexico to CCSS.

Secretary-designate Skandera noted that New Mexico has joined the Partnership for Assessment of Readiness for College and Careers (PARCC) to create assessments aligned to CCSS, and added that the Southwest Comprehensive Center is creating an alignment between New Mexico and CCSS as well as the establishment of a Common Core Planning Committee.

### **Committee Discussion**

A member of the committee asked how PED intends to address the situation in which a school has always made Adequate Yearly Progress (AYP), but due to lack of growth receives a low letter grade under the new system. Secretary-designate Skandera responded, that the majority of schools not meeting the growth requirement are just above the proficiency requirement and have room to improve.

A committee member commented that one of the criticisms of AYP is that it does not identify growth in schools. In reply, Secretary-designate Skandera emphasized that resources are a limiting factor, and PED intends to align School Improvement Grants with school grading.

A member of the committee asked whether, under the letter-grade system, schools would have an opportunity to appeal their designation, and Secretary-designate Skandera replied that a window of opportunity for appeals will exist, similar to the opportunity afforded schools now under AYP.

A committee member expressed concern that Innovative Digital Education and Learning is not funded in the bill to create a letter-grade system for schools, and the Secretary-designate replied that because of funding cuts, PED is looking at other resources including private grants to bolster alternative-education opportunities.

A member of the committee expressed concern that there are teachers in classrooms who, for many years, have not been educated on the latest developments in their fields, and encouraged PED to examine requiring continuing education credits.

In response to a committee member who asked how PED will define “highly effective” teachers, Secretary-designate Skandera replied that any definition would need to include student learning in the classroom, as well as classroom observations of teachers’ performance, and added that PED will have a list of factors that districts can include when determining teacher effectiveness.

A committee member advised that longitudinal data should be considered when applying letter grades to schools, so that one bad year would not ruin an otherwise strong trend in student achievement.

Responding to a committee member question regarding the timeline for implementation of the new grading system, Secretary-designate Skandera replied that public discourse, along with the recommendation of a phased-in implementation system, will be necessary. Regarding common core standards, she added that the initial PED plan was to begin implementation at the beginning of 2012, but will hold off until the department knows how well New Mexico standards are aligned with the common core; a report will be issued at the end of October, 2011, Ms. Skandera stated.

In response to a committee member question regarding the planned implementation of new assessments, Secretary-designate Skandera replied that the current target is school year 2014-2015, with a pilot program a year earlier.

A committee member expressed concern about poor Native American representation on the New Mexico Effective Teaching Task Force.

A member of the committee expressed concern about the narrowing of the focus as it applies to school designation, and Secretary-designate Skandera emphasized that the plan is to start only with reading and math to get baseline data, but as more expertise is gained more subject matters can be added.

In response to a committee member’s concern that a school will be graded based on only two scores in one year, Secretary-designate Skandera replied that Advanced Placement, PSAT, attendance, and other measures may be discussed as possible factors.

In response to a committee member’s advice that extra-curricular activities be considered when applying a designation to a school, Secretary-designate Skandera stated that while data suggests that students engaged in extra-curricular activities do better, the important data are the outcomes of schools, not input.

Responding to a committee member who asked how PED intends to measure non-tested subjects, Secretary-designate Skandera replied that PED will attempt to address this through gradual phase-in and examination of what other states are doing.

In response to a committee member's question about proposed changes to three-tiered licensure, Secretary-designate Skandera replied that teachers may be able to move to level two faster in the future if they are performing well.

The Vice Chair expressed concern regarding the licensure division at PED, noting that it currently holds only two staff. In reply, Secretary-designate Skandera stated that a 10-week backlog has been reduced to four weeks.

A committee member requested that Secretary-designate Skandera provide the committee with the names of all the individuals on SAC.

A committee member requested an update on the status of the New Mexico School Leadership Institute, which is currently housed at the University of New Mexico and seeking additional funding.

A committee member requested that PED provide the committee with access to the data regarding the two different statistical models for the A-B-C-D-F school ratings system.

## **WRITTEN REPORTS**

### ***a. Preliminary Adequate Yearly Progress (AYP) Report for 2011***

The Vice Chair recognized Ms. Pamela Herman, LESC staff, and Secretary-designate of Public Education Hanna Skandera, to provide the committee with an AYP report for 2011.

Ms. Herman began by stating that in July of 2011 Public Education Department (PED) issued preliminary AYP rankings for 831 New Mexico public Schools and 89 school districts, including school designations under the federal *Elementary and Secondary Education Act*, also known as the *No Child Left Behind Act of 2001*.

Ms. Herman noted that school districts had an opportunity to file appeals with PED regarding AYP designations until Friday, August 5 at 5:00 p.m. After the appeals process, she said that final AYP rankings will be published, and prior to the start of the school year, districts must inform families of students in public schools that fail to make AYP for two years in a row of their right to transfer to a more successful school under state and federal law. Ms. Herman also noted that PED indicated plans to submit a request for a waiver to the US Department of Education to replace the AYP ranking system with New Mexico's new A-B-C-D-F school ratings system.

According to Ms. Herman, AYP rankings take into account ratings and designations for math, reading, and "other" (attendance for elementary schools and graduation rates for secondary

schools and school districts), based on scores from state standards-based assessments taken in spring 2011.

***b. Preliminary Cohort Graduation Rate Reports: Four-year Rates for 2010 Cohort and Five-year Rates for 2009 Cohort***

Ms. Herman began by stating that on June 8, 2011, PED released reports of cohort graduation rates for all public high schools and local school districts, disaggregated for the key subgroups required by state and federal law.

She added that the data in the two reports include the number and percentage of graduates in each cohort of entering freshmen. According to Ms. Herman, data are disaggregated by gender and ethnicity, and for economically disadvantaged students, students with disabilities, and English language learners.

Referring to the PED data in Attachment 2 of her report, Ms. Herman stated that 67.3 percent of students who entered ninth grade in New Mexico public schools in the fall of 2006 had graduated by the end of the 2010 summer session, an increase of 1.2 percentage points over the class of 2009.

Next, Ms. Herman summarized the PED data in Attachment 3 of her report, showing that 70.5 percent of students who entered ninth grade in New Mexico public schools in the fall of 2005 had graduated within five years, by the end of the 2010 summer session. This rate represents an increase of 4.4 percentage points over the four-year graduation rate for the 2009 cohort, and this was an improvement of 4.3 percentage points over the five-year graduation rate for the class of 2008, Ms. Herman reported.

Ms. Herman also gave the following background information:

- In 2003, LESC-endorsed legislation was enacted to require PED to issue a unique student identifier to every New Mexico public school student, enabling the department to track the progress of students from year to year and school to school within the state in the PED Student and Teacher Accountability Reporting System.
- Beginning in 2009 for the class of 2008, PED has reported cohort graduation rates using a formula that tracks the success of students who entered high school as ninth-graders four years earlier. Previously, the department calculated graduation rates based on the percentage of students who entered twelfth grade in the fall of the school year and graduated the following spring.
- In 2009, legislation was enacted to provide that a school district could count among its graduates any student who completed all of the requirements for high school graduation within five years of entering ninth grade, including a final summer session.
- PED reported the first five-year cohort graduation data in April 2010 for the class of 2008.

Secretary-designate Skandera commented that pressure has been put on PED to publish graduation rates sooner than in the past, and she intends to provide the rates six months earlier than in past years.

*c. Preliminary 11<sup>th</sup> Grade Standards-based Assessment: Spring 2011 Results*

The Vice Chair recognized Mr. Craig J. Johnson, LESC staff, to brief the committee on the results of the eleventh grade standards-based assessment. During the 2010 interim, Mr. Johnson noted that the LESC heard a report on the use of the eleventh grade standards-based assessment as the new high school exit exam, replacing the New Mexico High School Competency Exam (NMHSCE). As that report explained, in 2007 LESC-endorsed legislation was enacted to require that, beginning in school year 2010-2011, a student must demonstrate competency in required subject areas on a standards-based assessment or assessments or on a portfolio of standards-based indicators established by the PED in order to graduate.

During the 2011 legislative session, Mr. Johnson continued, LESC-endorsed legislation was enacted to suspend almost all student assessments currently required in state law but not required in federal law for FY 12.

According to Mr. Johnson, one issue that the 2011 legislation creates is a discrepancy between the assessments that districts may suspend and assessments that students must take. Although the language of the new law excuses students scheduled to graduate in spring 2012 from the high school graduation test requirement, he said it does not do so for the class of 2013. Mr. Johnson explained that this cohort is still legally required to pass the test, although the law now excuses schools from administering the social studies and writing portions of the test, passage of which is required for graduation.

Mr. Johnson also noted that the New Mexico eleventh grade standards-based assessment administered in spring 2011 was developed by a new contractor, Measured Progress, the successful bidder on requests for proposals issued by PED in 2009. He added that at the May 2011 LESC meeting, the Secretary-designate of Public Education announced that PED had been awarded a grant of \$350,000 from the Kellogg Foundation to implement Common Core State Standards.

The new assessment, according to Mr. Johnson, differs from the old standards-based assessment as it has a ratio of 80 percent multiple choice items to 20 percent constructed-response items (rather than 75 percent multiple choice to 25 percent constructed-response, as in previous years). He noted that this change was made to reduce the cost and time required for scoring the exam, and added that the standards-based assessment still contains short-answer and essay items to measure advanced problem solving skills.

Currently, Mr. Johnson explained, New Mexico allows for a five-week assessment window for standards-based assessments in grades 3-8 and 11. Over the next two academic years (2011-2012 and 2012-2013), he noted that New Mexico will transition to a shorter assessment window. The goal, Mr. Johnson said, is to provide student achievement data to districts and schools in time to make instructional decisions and to plan for the upcoming academic year.

Referring to the Appendix in his report, Tables 3 through 10 showed subgroup performance in reading, math, science, and social studies for school year 2009-2010 and school year 2010-2011. Tables 11, 12, and 13 showed the eleventh grade standards-based assessment results by district,

high school, and charter school and compare the percent proficient and above to the most recent graduation rates.

Mr. Johnson stated that as the standards-based assessment will serve as the assessment required for high school graduation, PED will need to determine what level of performance on the standards-based assessment constitutes a demonstration of competency. Depending on where PED sets the cut scores for the graduation requirement, he suggested that passing the assessment could have a significant impact on New Mexico's high school graduation rate.

To conclude, Mr. Johnson stated that since 1986, to graduate from high school in New Mexico, students had been required by statute to pass the NMHSCE in certain required subjects. He added that, during the 2006 interim the LESC heard from representatives of PED and other sources that the NMHSCE:

- tested skills only at approximately the eighth grade level; and
- was not aligned with state high school standards.

Until spring 2009:

- high school students took the old NMHSCE in their sophomore year, had five additional opportunities to retake the exam and pass it before they were scheduled to graduate; and
- had five years after they completed the course requirements for graduation to successfully complete all six portions of the exam to earn a diploma.

### **Committee Discussion**

Superintendent James M. Phipps, Artesia Public Schools, commented that participation, attendance, and proficiency are all linked, saying that teachers cannot teach a student who is not in class. He also noted his hope that the school rating system can encourage students to get involved in extra-curricular activities.

A committee member expressed concern that graduation requirements are higher in some districts than in others, and stated that such data should be included in the AYP reports.

Secretary-designate Skandera stated that education evaluation has always been too focused on input, as opposed to outcome, and the Vice Chair noted that in order to improve outcomes, inputs must be incentivized.

A committee member expressed concern about the correlation between poverty and parental involvement, and Secretary-designate Skandera stated that PED wishes to incentivize parental involvement.

A committee member requested that Mr. Johnson provide a copy of Table 11, eleventh grade proficiency, for all school districts.

## DISTRIBUTION OF SPECIAL APPROPRIATIONS OF THE 2011 LEGISLATURE

The Vice Chair recognized Mr. Craig J. Johnson, LESC staff and Mr. Paul Aguilar, Deputy Secretary, Finance and Operations, Public Education Department (PED), to provide the committee with a report on the distribution of special appropriations of the 2011 Legislature.

For FY 12, Mr. Johnson said, approximately \$7.7 million is available for emergency support to districts, including

- \$1.9 million in recurring categorical Public School Support for expenditure in FY 12;
- \$2.0 million in nonrecurring funds for expenditure in FY 11 and FY 12; and
- almost \$3.8 million in nonrecurring funds unexpended in FY 11 and reauthorized for expenditure in FY 12.

Mr. Johnson clarified that the \$2.0 million in nonrecurring emergency support requires that:

- no funds be distributed to any district or state-chartered charter school that has any combination of reserves equaling 5.0 percent or more of its operating budget;
- the appropriation be from the “Education Lockbox”; and
- prior to the distribution of any funds, the Secretary-designate of Public Education must provide a report to the Legislative Finance Committee and LESC outlining the criteria used to qualify for funds, the financial status of the intended recipient, and cost-savings measures recipients have implemented prior to applying for the funds.

Mr. Johnson referred to a PED-supplied spreadsheet that indicated that districts budgeted nearly \$7.9 million in emergency supplemental funds. Although this amount exceeds the emergency funding available, Mr. Johnson said PED projects that, after districts’ second quarter financials are reviewed, the actual distributions will fall below the total available amount of funds.

According to Mr. Johnson, the *General Appropriation Act of 2011* also includes \$82.3 million for transportation, operational, and maintenance costs, including the purchase of fuel. In June, he noted, PED issued a memorandum to districts soliciting requests for fuel supplements, and the memorandum noted that districts must submit a number of items to be eligible for fuel supplements, including:

- third and fourth quarter expenditure reports;
- receipts for fuel purchased during the entire school year; and
- anticipated FY 11 transportation and operational cash balances.

### Committee Discussion

A committee member inquired about the contract PED has with the global positioning satellite service provider “Zonar,” and Mr. Aguilar replied that the contractor will continue running for a limited time at no cost to PED, but will terminate services before the 40<sup>th</sup> day of the school year.

The Vice Chair expressed concern that districts are forced to indicate anticipated growth but not allowed to budget for it, and Mr. Aguilar replied that revenue must be demonstrated in order to hire staff and make other commitments.

In response to a committee member's question about the current range of fuel prices, Mr. Aguilar stated that the wholesale price is currently between \$2.60 and \$3.60 per gallon.

A committee member suggested using a median figure for determining fuel prices, the use of which could eliminate large discrepancies between districts.

## **FY 12 PUBLIC SCHOOL BUDGETS**

The Vice Chair recognized Mr. Craig J. Johnson, LESC staff, and Mr. Paul Aguilar, Deputy Secretary, Finance and Operations, Public Education Department (PED) staff, to provide the committee with a report on FY 12 public school budgets.

Mr. Johnson referred to his staff report, which cited two other staff reports on the FY 12 public school budgets heard previously during the 2011 interim, including:

- a report in May, which summarized the annual budget approval process, addressed additional guidance from PED for FY 12 budgets, and provided a list of waivers available to school districts and charter schools; and
- a report in July, which provided the total statewide budgeted expenditures of school districts and charter schools in FY 12 compared to FY 11 and included preliminary survey results from the New Mexico Coalition of School Administrators on the impact of reduced funding on staffing patterns.

Mr. Johnson informed the committee what is required of PED by the *Public School Finance Act*, and noted that, for FY 12 PED issued guidance for school districts and charter schools in building their budgets based on the following principles:

- student achievement drives spending;
- classroom dollars come first;
- transparency and good policy govern budget making;
- academics inform long-range planning; and
- budgets reflect reasonable allocations for student and teacher services.

According to Mr. Johnson, PED indicated that the department did not send any FY 12 budgets back to school districts or charter schools for revision, but did adjust all of the budgets for various reasons, as is the case every year.

Mr. Johnson then discussed the change in the percentage of funding to instruction (which includes three different categories) from FY 08 to FY 12, and noted that:

- “instruction” changed -0.25 percent from FY 08 to FY 12;
- “student support services – students” changed -0.43 percent from FY 08 to FY 12;

- “support services – instruction” changed -0.34 percent from FY 08 to FY 12; and
- the total instructional funding changed -1.08 percent from FY -08 to FY 12.

Mr. Johnson then described how current law allows for waivers of certain requirements relating to the development of school budgets, including provisions in the *Public School Code*:

- to allow for a superintendent implementing a collaborative school improvement program to apply for a waiver of provisions relating to length of day, staffing patterns, subject area, or purchase of instructional materials;
- to exempt all charter schools from requirements pertaining to the length of the school day, staffing patterns, subject areas, and instructional materials;
- to allow school district superintendents to request waivers of the use of funds for the purchase of instructional material either included or not included on the multiple list; and
- for school year 2009-2010 through school year 2011-2012, allow the Secretary-designate of Public Education to waive certain requirements.

According to Mr. Johnson, PED reports that the only school year 2011-2012 waivers granted as of July 1, 2011 are class-load waivers for Texico Municipal Schools to increase two kindergarten classes to 22 students each.

Mr. Johnson then explained recent guidance by PED differentiating the calculation of units for developmentally *delayed* three- and four-year-olds, and developmentally *disabled* three- and four-year-olds. He stated that the committee may wish to consider amending the *Public School Finance Act* and possible sections of law related to special education to:

- define “developmentally delayed”; and
- include developmentally delayed three- and four-year-old students in the calculation of special education and early childhood education program units.

### **Committee Discussion**

The Vice Chair asked Mr. Aguilar whether the reassignment of some units would impact district budgets this year or next year, and he replied that PED has not made that determination yet.

Mr. Aguilar also added that pending the outcome of the audits, the unit redistribution could have a significant impact on some districts.

A committee member commented on the relationship between budgets and student performance and suggested that the relationship should be proportional.

### **FINAL REPORT: IMPACT OF REDUCED FY 12 FUNDING ON SCHOOL DISTRICT BUDGETS, PROGRAMS, AND STAFFING**

The Vice Chair recognized Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, to provide the committee with a final report on the impact of reduced school district funding in FY 12.

Mr. Sullivan began by referring to a letter to LESC, which explained a survey of New Mexico school districts to find out how three consecutive years of declining revenue has impacted staffing patterns. Mr. Sullivan explained that the survey queried districts for information leading as far back as the school year 2008-2009 to provide a clearer picture of school district budgets in light of the fact that two infusions of federal money in school year 2009-2010 and school year 2010-2011 from the *American Recovery and Reinvestment Act of 2009* provided nonrecurring funds to districts.

Mr. Sullivan described the drop in funding from the federal government as a “funding cliff,” and as a result of it, the Unit Value districts receive has declined \$306.50, or 8.0 percent since school year 2008-2009. The initial unit value for school year 2011-2012 is \$3,585.97, down from the school year 2008-2009 value of \$3,892.47.

Mr. Sullivan also reported that approximately 20 of the respondent districts saw decreases in total staff of more than 10 percent, and six districts reported deductions between 13percent and 20 percent. He added that these losses are not expendable and affect many students and communities.

Mr. Sullivan concluded his presentation by asking legislators to consider this data during budget conversations and discussions about educational reform initiatives.

### **Committee Discussion**

None.

### **2011 LEADERSHIP SURVEY**

The Vice Chair recognized Mr. Joe Guillen, Executive Director, New Mexico School Boards Association (NMSBA), Ms. Jennifer Viramontes, NMSBA Secretary-Treasurer/Secretary of the Gadsden Independent Schools Board of Education, Ms. Robin Parks, President of the Capitan Municipal Schools Board of Education, and Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, to provide the committee with the results of the NMSBA annual leadership survey of school board presidents and leaders from across New Mexico attending the NMSBA leadership retreat in Cloudcroft.

While summarizing the survey results in Section 6 of the LESC binder, Mr. Guillen noted that 59 school board presidents and leaders representing 48 school districts participated in the survey.

The results of the 2011 Leadership Survey, according to Mr. Guillen, will be utilized to guide the NMSBA Resolutions and Leadership Committee when they meet in September, 2011 to draft the 2012 legislative program for presentation to the NMSBA membership at their annual convention at the end of the year. He added that the survey results will serve as a guide to assist legislators in making recommendations.

Ms. Viramontes informed the Vice Chair that while fiscal training is universally viewed as good for board members, it is hard to reach consensus regarding the other responsibilities that boards

should be held accountable for, and it is difficult to provide the training necessary to meet those demands. Ms. Parks added that funding and student achievement are the main concerns shared among all board members.

### **Committee Discussion**

A committee member expressed concern about the lack of direct correlation between the size of a district's budget and the performance of their students.

Referring to the distinction between a leading question and an open ended question, a committee member expressed concern regarding the nature of some questions and how they were phrased. He also indicated that the frequency of questions solely pertaining to charter schools is not commensurate with the number of charter schools in the state, noting that 60 of the 89 districts do not have a single charter school.

In response to a committee member's comment suggesting that the Legislature wants to see higher participation in school board elections and desires to hold them with general elections, Mr. Guillen explained that school board elections are nonpartisan and should not be linked with partisan politics. A member of the committee agreed with Mr. Guillen's assertion that combining different types of elections into one could bring partisan politics into otherwise nonpartisan elections.

In response to a committee member's question regarding the possibility of returning hiring and firing authority to school boards, Mr. Sullivan replied that policies vary among the districts, noting that there is some degree of "shared pain."

## **SUPERINTENDENT AND COMMUNITY INPUT**

The Vice Chair recognized Mr. Russ Fisher, a retired school teacher and advocate for Robo-R.A.V.E. (Robots are Very Educational) International, a robotics competition that engages students in grades 3 through 12 in building and programming autonomous robots in payload delivery and mock fire fighting scenarios.

Mr. Fisher asked the committee to consider legislation that would provide \$200,000 over three years to the program, and noted that participation in the program has grown by 40 percent in the last year alone, outpacing the program's ability to pay for costs. Mr. Fisher said that he has put in more than \$10,000 of his own money to make the program successful, but state funding is needed to ensure the continued operation and possible expansion of the program.

### **Committee Discussion**

A member of the committee asked if children from Alamogordo are currently participating in the program, and Mr. Fisher replied that the most recent participation from Alamogordo took place in 2009, and he expects them to participate again during 2011.

In response to a committee member who asked whether schools match funds that are spent on the program, Mr. Fisher replied that several schools have provided matching funds.

A committee member asked if the organization has made a presentation to the New Mexico Activities Association (NMAA) and Mr. Fisher replied that the NMAA has restrictions in place that would prevent the program from operating under it, such as the grade point average (GPA) and grade-level requirements. Mr. Fisher added that a number of students with a GPA below 2.0 thrive in the program.

A committee member requested that LESC staff provide the rules for the New Mexico Activities Association and Title IX reporting requirements.

There being no other business, the Vice Chair, with the consensus of the committee, recessed the LESC meeting at 4:19 p.m.

### **MINUTES LESC MEETING AUGUST 25, 2011**

Senator Cynthia Nava, Vice Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:19 a.m. on Thursday, August 25, 2011, at the Rohovec Fine Arts Center on the New Mexico State University campus in Alamogordo, New Mexico.

The following LESC members were present:

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

The following LESC advisory members were also present:

Representatives Ray Begaye, Sheryl Williams Stapleton, and Shirley A. Tyler; and Senators Vernon D. Asbill, Stephen H. Fischmann, and John Pinto.

### **OPTIONS FOR PARENTS**

#### ***a. Charter Schools***

The Vice Chair recognized Dr. David Harrell, LESC staff; Ms. Carolyn Shearman, Commissioner, Public Education Commission (PEC); Mr. David Hansen, Vice President for Policy and Advocacy, National Association of Charter School Authorizers (NACSA); and Dr. Lisa S. Grover, Senior Director of State Advocacy, National Alliance for Public Charter Schools, to provide the committee with an update on charter schools in New Mexico and, specifically, the recent concerns expressed by members of the committee has had about the appeals process with regard to state-chartered charter schools.

After providing a review of the *Charter Schools Act*, Dr. Harrell reported that Albuquerque Public Schools (APS) held a hearing and ultimately denied the application submitted by the Kenny Thomas Preparatory School for a charter whose curriculum, according to APS, would focus on science, technology, engineering, and math (STEM) education as well as health education. Dr. Harrell also reported that Farmington Municipal Schools (FMS) held a hearing on the application of the New Mexico Virtual Academy for a charter to operate “a full-time virtual public school open to any grade K-12 child eligible for attendance in public schools in New Mexico.” He said that FMS has scheduled a second public hearing on the issue, and plans to announce its decision in a meeting scheduled for September 22. Dr. Harrell also noted that during the week of August 8, the PEC has scheduled public hearings in nine school districts across the state.

Regarding the LESC Work Group on Charter School Appeals, Dr. Harrell testified that LESC staff invited 12 representatives of constituencies involved in or affected by charter school appeals to serve on a work group to review the appeals process in the *Charter Schools Act* and to make recommendations for amending it. He reported that, during the first meeting of the work group, members reviewed and discussed a number of documents pertaining to the appeals process. There was broad agreement, according to Dr. Harrell, that once fully implemented, the charter school contract legislation enacted in 2011 may make the appeals process unnecessary. Noting that the legislation does not go into effect until July 1, 2012, he acknowledged that some recourse for charter schools is probably needed in the meantime.

Next, Dr. Harrell stated that significant charter school legislation was enacted in 2011 to provide for contracts between chartering authorities and charter schools, including legislation that:

- requires the contract to be part of the charter;
- allows either the charter school or the chartering authority to appeal to the Secretary-designate of Public Education to finalize the terms of the contract in the event that the two parties cannot agree on the process for revision or amendment to the terms of the contract;
- establishes procedures regarding conflicts of interest for a charter school governing body and administration; and
- requires an annual evaluation process for charter schools.

Dr. Harrell explained that certain provisions may reduce or even eliminate the need for a formal appeals process, including:

- requirements that the contract contain criteria and processes the chartering authority will use to gauge the performance of the school;
- a description of how the chartering authority will use the 2.0 percent of the school-generated program cost to which it is entitled;
- the dispute resolution process that the parties have agreed to use;
- the criteria and timelines that the parties have agreed upon to address charter revocation and deficiencies; and
- a requirement that the contract be based upon a performance framework that clearly sets forth the academic and operations performance indicators that will guide the chartering authority’s evaluation of each charter school.

Dr. Harrell noted that the charter school contract legislation also assigns several additional duties to the chartering authority. Among them, the chartering authority:

- must develop and maintain chartering policies and practices that are consistent with nationally recognized standards for quality authorizing;
- must set annual performance targets in consultation with its charter schools;
- must review state assessment data provided by each charter school that the chartering authority oversees;
- may conduct or require certain oversight activities;
- must visit each charter school at least once annually to evaluate it;
- must promptly notify the governing body if its review finds the management or operation of a charter school unsatisfactory in any way;
- may take appropriate corrective actions or impose sanctions other than revocation;
- must follow prescribed procedures if revocation is warranted;
- must develop a closure protocol; and
- submit an annual report to the Charter Schools Division of the Public Education Department (PED) for each charter school that it oversees.

Dr. Harrell then introduced Dr. Grover and Mr. Hansen to offer some observations on quality authorizing of charter schools.

Mr. Hansen began by referring to a booklet that NACSA produced to serve as a basis for consistency and quality in charter school authorizing. The booklet, called *Principles & Standards for Quality Charter School Authorizing*, addresses principles that have informed federal legislation and been written into state law to guide charter school authorizers.

Mr. Hansen states that there are three core principles of charter authorizing:

- maintain high standards for schools;
- uphold school autonomy; and
- protect student and public interests.

He also identified standards that quality charter school authorizers should recognize, which include:

- supporting and advancing the purposes of charter school law;
- ensuring that the authorizer's governing board, leadership, and staff understand and are committed to the three core principles of authorizing;
- defining external relationships and lines of authority to protect its authorizing functions from conflicts of interest and political influence;
- implementing policies, processes, and practices that streamline and systematize its work toward stated goals, and executing its duties efficiently while minimizing administrative burdens on schools; and
- evaluating its work regularly against national standards for quality authorizing and recognized effective practices, and developing and implementing timely plans for improvement when standards are not met.

Next, Mr. Hansen identified qualities that an authorizer should adhere to during the contract negotiation and execution, which include:

- executing a contract with a legally incorporated governing board independent of the authorizer;
- granting charter contracts for a term of five operating years, or longer only with periodic high-stakes reviews every five years; and
- defining the material terms of the contract while ensuring mutual understanding and providing for the allowance of contract amendments for material modifications.

Mr. Hansen also stated that a quality authorizer should revoke a charter during the term if there is clear evidence of extreme underperformance or violation of the law or public trust, but only through a fair and transparent process. In the event of a school closure, he said, the authorizer oversees and works with the school governing board and leadership in carrying out a detailed closure protocol that ensures timely notification to parents and the orderly transition of students and their records to new schools.

Next, the Vice Chair recognized Dr. Grover, who showed the committee some statistics regarding the growth and operation of charter schools, and referred to the booklet, *Building Charter School Quality in New Mexico*. She stated that in school year 2010-2011 charter schools saw 12 percent growth, and she expects New Mexico to move up in charter school ranking due to the implementation of Senate Bill 446, *Charter School Contracts*.

Dr. Grover stated that the next step for charter schools is to increase student achievement and ensure that public demand is consistently met. She said that New Mexico currently has 5,000 students on charter school waiting lists, and the replication of successful charter schools is the next step in charter school authorizing.

### **Committee Discussion**

A member of the committee expressed concern about charter school quality, stating that a teacher in his school district was fired from her job with the district then went on to start a charter school.

In response to a committee member's concern regarding local school districts being held responsible for charter schools they did not authorize, Dr. Grover stated that SB 446 contemplates this issue and charter school contracts are being negotiated to prevent this.

The Vice Chair noted that, currently PED is looking into whether a charter school is considered a "stand alone" unit and another committee member stated that work is currently being done to address this issue.

In response to a committee member's question regarding whether a stipulation in Race to the Top calls for removing the cap from charter school creation, Dr. Harrell replied that a state with no cap had a better chance to receive funding but it was not considered a guarantee.

A committee member expressed concerns that some legislators have with having to double fund students attending charter schools and subsequently diluting the unit value. Dr. Grover replied that the question was part of a larger philosophical question regarding whether funding truly follows the child.

In response to a committee member's question regarding charter school enrollment, Dr. Grover stated that APS currently has a 10 to 11 percent charter school enrollment. She added that statewide charter school enrollment is at 4.0 percent.

In response to a committee member's question regarding charter school authorizers, Mr. Hansen replied that in New Mexico, the largest authorizers are APS and the PEC.

In response to a committee member's question regarding SB 446, Mr. Hansen replied that SB 446 will allow New Mexico to avoid the malfeasance issues surrounding charter schools that have plagued other parts of the country.

Responding to the Vice Chair's question as to what the makeup of a board created specifically for the authorization of charter schools would be, Mr. Hansen asserted that seven members would be ideal, with three appointed by the Governor; three appointed by the Legislature; and one member with experience in education and/or nonprofit management. The board, he continued, should have the power and resources to hire a director and staff, and act as a statewide independent commission reporting to the Legislature.

In response to a committee member's concern that the creation of charter schools could draw teachers away from school districts because of higher pay rates at charter schools, Dr. Grover replied that teaching in a charter school is a very different job when compared to traditional instruction. She also explained that charter school teachers often have to design curriculum and act as managers.

Responding to a committee member's question as to what flexibility is in place for school districts with charter schools, Dr. Harrell described a number of possibilities, including legislation in Virginia that allows a waiver option for public schools that would examine outcomes to ensure no ill effects. Dr. Grover added that there are initiatives in statute to allow school districts to have more flexibility, but traditional systems usually take much longer to change.

A committee member asked whether charter schools would also adopt common core standards, and Dr. Grover said that charter schools would do so because they are required to be aligned with state standards and benchmarks.

In response to a question from the Vice Chair as to whether multiple authorizers within a state could present problems, Mr. Hansen replied that, as a rule of thumb, authorizers need to go through the approval process seven to 10 times to become proficient. Although he agreed that multiple authorizers can be troublesome, Mr. Hansen stated that NACSA actually encourages multiple authorizers in order to maintain continuity.

The Vice Chair encouraged NACSA to reach out to local school boards, and noted that there is a lack of positive communication between school boards and charter schools. Mr. Hansen concurred, and emphasized the value of his relationship with the National School Boards Association.

A committee member requested salary data from the state's charter schools to illustrate whether, despite the economic downturn, charter schools had granted salary increases to their teachers and administrators during school year 2010-2011 and school year 2011-2012.

***b. Virtual Schooling***

The Vice Chair recognized Mr. Craig J. Johnson, LESC staff, to brief the committee on the oversight of virtual schools and how the PED plans to oversee them.

Mr. Johnson reported that, according to PED staff, Innovative Digital Education and Learning-New Mexico (IDEAL-NM) will operate under the virtual schooling arm of the newly created Options for Parents Division at PED, and five full-time employees will comprise the staff.

According to PED staff, Mr. Johnson said, the initiatives to be addressed by the Virtual Schooling Bureau are the lack of programming for students in the K-6 grade level; individual district distance learning academies and the programs existing within them; and whether it is feasible to use IDEAL-NM as the "hub" of these programs.

Reviewing initiatives taken by the state to enable electronic distance-learning, Mr. Johnson noted that in 2007, the Legislature established both the New Mexico Cyber Academy and IDEAL-NM to provide eLearning options to public schools, higher education institutions, and state agencies while reducing geographic and other barriers to educational opportunity statewide.

Mr. Johnson stated that the IDEAL-NM website lists 67 courses developed for the cyber academy. IDEAL-NM cites two major advantages to the statewide cyber academy developing, maintaining, and housing its own courses:

- the cyber academy can use the same course in multiple semesters and school years without having to pay the fees charged by online course vendors; and
- the academy can maintain greater control over course content, allowing the academy to ensure that the online courses are aligned with the state's academic performance standards as required by state law.

The *Statewide Cyber Academy Act* requires that all online courses be taught by highly qualified teachers, in accordance with the *No Child Left Behind Act of 2001*. According to IDEAL-NM, as of September 2010, 175 teachers have been trained and 79 of those have taught in the cyber academy. To teach in the cyber academy, a prospective eTeacher must:

- be highly qualified to teach in New Mexico with a teaching endorsement that corresponds to the content area being taught; and
- have experience as an online learner.

Next, Mr. Johnson explained the Attorney General's (AG) opinion regarding virtual schools, which stated that the plain language of the statute suggested that the Legislature was contemplating the physical presence of children in school buildings rather than distance learning. The AG further noted that the Legislature had had the opportunity to amend the open enrollment statute when they passed the *Statewide Cyber Academy Act*, but did not. Finally, the AG stated that the regulations specifically require a student to have a "primary enrolling district."

In 2009, Mr. Johnson stated, three organizations applied to the Public Education Commission (PEC) to become virtual charter schools chartered by the state, but they were denied. Those organizations were:

- Sandia Academy;
- Senator Dennis Chavez Academy; and;
- The Kaplan Academy of New Mexico.

According to Mr. Johnson, the Sandia and Chavez academies both appealed the denial to the Secretary of Public Education who upheld the decision of the PEC, and both academies then took their appeal to district court. The Chavez Academy case is still pending, while the Sandia Academy case was denied by the court, he said.

Mr. Johnson continued, stating the Assistant Secretary for Public Education was concerned with the legality of virtual charter schools in general, and sought a legal opinion from the Charter School Division's in-house counsel, who stated that New Mexico law contemplated schools as "brick and mortar" buildings with other physical attributes. Counsel also suggested that the intent of the Legislature was for schools to have a physical presence. Therefore, his opinion stated that the PEC could not legally authorize virtual charter schools.

### **Committee Discussion**

A member of the committee asked if coursework for the Cyber Academy can be taken by anyone, and the Vice Chair responded that if a student needs to take a Cyber Academy course, courses exist that can be provided at no charge to the student.

In response to a committee member who expressed concern regarding the quality of the courses, another committee member replied that, according to her own personal experience, the courses were high quality.

A committee member requested that LESC staff provide a written report on virtual schools and how they are reviewed.

### **SCHOOL IMPROVEMENT GRANTS**

The Vice Chair recognized Dr. David Harrell, LESC staff, Dr. George Straface, Superintendent, and Dr. Jan Hunter, Title I Director, Alamogordo Public Schools, to present a report to the committee regarding School Improvement Grants (SIGs). Dr. Harrell began by explaining that the *Elementary and Secondary Education Act of 1965* authorizes SIGs through state educational

agencies to local educational agencies for use in Title I schools that are “identified for improvement, corrective action, or restructuring [and] that demonstrate the greatest need for the funds and the strongest commitment to use the funds to provide adequate resources in order to raise substantially the achievement of their students so as to enable the school to make adequate yearly progress and exit improvement status.”

According to the Public Education Department (PED), SIG funds can be used for school expenditures intended to enhance student success.

Dr. Harrell said that SIG funds are intended for the “persistently lowest achieving schools,” which include any Title I school in school improvement, corrective action, or restructuring that is among the lowest-achieving 5.0 percent of Title I schools; or any Title I high school with a graduation rate below 60 percent.

In reviewing applications from school districts, Dr. Harrell explained that PED looked for evidence that the district:

- is capable of using data to support the improvement model that the district has selected;
- has the capacity and will for major reform;
- intends to implement specific strategies to support the model and to enhance student achievement;
- has requested sufficient funds and directed the expenditure of those funds appropriately; and
- has a plan or process for sustaining the reforms after the grant funding period ends.

According to Dr. Harrell, allowable models for school improvement include the “turnaround model,” the “close/consolidate model,” the “restart model,” and the “transformation model.”

Dr. Harrell reported that PED has received three allocations of *American Recovery and Reinvestment Act of 2009* (ARRA) funds, and Title I SIG grants to award to New Mexico schools:

- approximately \$24.1 million in ARRA SIG funding for distribution in school year 2010-2011 through school year 2012-2013, which has been awarded to nine schools;
- approximately \$4.1 million in Title I SIG funding for distribution in school year 2010-2011 through school year 2012-2013; and
- nearly \$4.0 million in Title I SIG funding for school year 2011-2012 only, which has been awarded to six schools.

Dr. Harrell then provided a PED summary of the awards made to schools from each of the three SIG allocations noted above. The summary showed the awards, projections to year three where applicable, the model chosen, and the total projected award.

According to Dr. Harrell, PED records indicated that the department had assigned a staff member to support the nine schools that received SIG funding and the department has tracked the progress made in reading and mathematics interventions and growth for each school.

Dr. Harrell then reviewed testimony from school year 2010-2011 SIG recipient schools, including Ernie Pyle Middle School in Albuquerque, and Ramirez Thomas Elementary School in Santa Fe, with both schools testifying to the effectiveness of the “transformation model,” and the “turnaround model,” respectively.

Next, Dr. Straface and Dr. Hunter provided the committee with an overview of Alamogordo Public Schools’ plans to reform Alamogordo High School (AHS), one of the school year 2011-2012 SIG recipients. Dr. Hunter explained that Alamogordo Public Schools signed a memorandum of understanding with the teachers association, and the staff became aware that the SIG was a high-stakes issue. She added that the short time frame to transform AHS created a focused environment. Dr. Straface then briefed the committee on the grant application.

First, Dr. Straface reviewed the basic requirements for SIG application, which include:

- willingness to replace the current principal;
- identify and reward staff who are increasing student outcomes and remove those who are not;
- select and implement an instructional based on student needs;
- provide professional development that is designed to build capacity and support staff;
- ensure continuous use of data to inform and differentiate instruction;
- provide increased learning time for staff and students; and
- partner for ongoing parent and community involvement.

Second, Dr. Straface described the features of the AHS grant, including:

- a research-based framework for turning around lowest-achieving schools;
- administration and teacher involvement in assessing needs and developing plans;
- ongoing coaching and professional development;
- development of common assessment based on Common Core standards;
- integration of project-based learning;
- individualized tutoring support;
- positive behavior support incentives;
- increased participation in dual credit course offerings; and
- increased advanced placement pedagogy and coursework.

Third, he listed the activities to date as a result of the \$582,900 funding outcome, which include:

- developed contracts;
- a budget adjustment request developed and in place;
- leadership training for principals and the central office; and
- startup of professional development training with High Schools that Work.

Last, Dr. Straface concluded by stating that this grant provides the vision and funding support for the beginning step in transforming AHS into a premier and high-performing high school for New Mexico.

## Committee Discussion

A committee member requested that LESC staff provide SIG information for Newcomb Elementary School.

## DIRECTOR'S REPORT

### *a. Approval of LESC Minutes*

On a motion by Representative Hall, seconded by Senator Kernan, the LESC approved the draft LESC minutes for June 2011.

### *b. Adopted Rule: Children with Disabilities/Gifted Children*

The Chair recognized Ms. Frances Ramírez-Maestas, LESC Director, to review a rule recently adopted by the Public Education Department (PED) regarding children with disabilities and gifted children. She described the reasons behind the rulemaking, stating that federal law requires each state that receives funds under Part B of the *Individuals with Disabilities Education Act* (IDEA) to ensure that state law conforms to federal law. Mr. Kevin Force, LESC staff, also stated that the passage of, House Bill 230 (2010), *Dyslexic Student Intervention*, adopted requirements for students with dyslexia. Also part of the rationale for the rulemaking, Ms. Ramírez-Maestas said, was the Governor's veto message on Senate Bill 314, *Autism Education Plan Development*, which directed PED to adopt the rule.

### *c. Proposed Rulemaking*

- *Amended Rule (NMAC 6.11.2):* Public School Administration – Student Rights and Responsibilities, Rights and Responsibilities of the Public Schools and Public School Students

Ms. Ramírez-Maestas stated that, as a result of legislation passed in the 2011 regular legislative session, PED proposes to amend 6.11.2 NMAC to prohibit corporal punishment in public schools.

- *Amended Rule (NMAC 6.12.2):* Public School Administration – Health and Safety, Health Services

Ms. Ramírez-Maestas explained that PED proposes to amend 6.12.2 NMAC to allow children of military families to enroll and conditionally be placed in a school for 30 days while the student obtains the necessary immunization.

- *Proposed Rule (NMAC 6.12.9):* Elementary School Free Breakfast Program During Instructional Time

According to the requirements of legislation passed in the regular 2011 legislative session, Ms. Ramírez-Maestas said, PED proposes to create new rules implementing a school breakfast program.

- *Amended Rule (NMAC 6.19.6): Public School Accountability, Title I Supplemental Education Services*

Ms. Ramírez-Maestas explained that 2011 legislation requires PED to adopt rules that establish a range of provider rates for Supplemental Educational Services providers and require providers to furnish documentation that their services are consistent with the district school instructional program.

- *Amended Rule (NMAC 6.29.1): Standards for Excellence General Provisions*

Ms. Ramírez-Maestas explained the following amendments to 6.29.1 NMAC proposed by PED:

- change the definition of Response to Intervention (RtI) to mean “a multi-tiered organizational framework that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a system for making educational programming and eligibility decisions,” and notes that in New Mexico the RtI framework is called the “Three-Tier Model of Student Intervention”;
- add “gifted children” to the language regarding Tier 3 in 6.29.1 (D)(3);
- add a sentence to 6.29.1.9(E)(2) requiring all student records to be retained and disposed of according to the rules on retention and disposition of educational records in 1.20.2 NMAC;
- add language to 6.29.1.9(J)(7)(d) requiring results of standards-based assessments to be included in all school report cards; and
- strike all language except the first sentence in 6.29.1.13 so that the entire section reads, “This rule will be periodically amended to reflect changes in law or laws that were enacted with delayed effect provisions.”

#### *d. Committee Requests*

- *Public School Transportation: Zonar Company Representatives*

At the June 2011 meeting of the LESC, the committee received a report from Legislative Finance Committee (LFC) staff that raised issues regarding the purchase of global positioning systems for school buses. During the presentation, a committee member requested that PED provide contact information for representatives from Zonar. In response, PED provided two contacts.

- *Participation of Bureau of Indian Education (BIE) High Schools and Tribal Colleges in the New Mexico Dual Credit Program*

During the July 2011 meeting of the LESC, a member inquired about the funding per pupil afforded to BIE school students by the federal government in comparison with per-pupil funding in New Mexico public schools. After a review by LESC staff of funding allocated to BIE students in New Mexico, it was found that although BIE students receive

\$5,312 per unit as compared to the public school unit value of \$3,585, the two aren't comparable due to differences including what the BIE unit includes.

- *Public Education Department Reduction in Force*

During the June and July 2011 meetings of the LESC, a committee member asked for information about the reduction in force at PED. In response, PED issued a statement only indicating that "the agency has reorganized to ensure that services continue."

- *Legislative Lottery Scholarship Fund*

During the July 2011 meeting of the LESC, several committee members posed a number of questions that focused on three areas:

1. Distribution of Lottery Funds:

- how much lottery money is spent on students taking remedial courses;
- the figures on students who qualify for the lottery scholarship, then attain it, retain it, and graduate; and
- why the New Mexico Lottery pays out, as winnings, more than the statutorily mandated 50 percent.

2. Strategies to Preserve the Solvency of the Fund:

- raising Grade Point Average or credit-hour requirements;
- reducing scholarship distribution levels; and
- adopting a needs-based approach to distribution of the scholarship.

3. Lottery Vendors on Indian Lands:

- how many lottery vendors do business on Indian lands; and
- how much revenue is generated by these vendors.

In response to these questions, Mr. Kevin Force, LESC staff, prepared a report which addresses each of these issues.

*e. Correspondence*

Ms. Ramírez-Maestas, presented the following items of correspondence contained in the committee members' notebooks, a copy of which is retained in the LESC permanent files:

- a memorandum to Mr. David Abbey, Director, Legislative Finance Committee; Ms. Ramírez-Maestas, Director, LESC; and Mr. Raúl E. Burciaga, Director, Legislative Council Service (LCS) from Teresa Ryan, Law Student Intern, LCS, that updates a previous memorandum regarding contingent language in House Bill 2 appropriating funds to PED; and
- a news article from the Las Cruces Sun-News reporting Senator Nava's retirement from Gadsden Independent Schools.

*f. News Releases*

Ms. Ramírez-Maestas presented the following news releases to the committee, noting that they are retained in the LESC permanent files:

- an announcement from the Gateway to College notifying the public of a release of a brief entitled *Making Every Diploma Count: Using Extended-Year Graduation Rates to Measure Student Success*;
- a staff brief which reports that the Annie E. Casey Foundation has released the 2011 Kids Count Data Book;
- a staff brief reporting that ACT has released a report of data for each state called *The Condition of College and Career Readiness 2011*; and
- a staff brief which reports that on August 4, 2011, Jobs for the Future announced the award of \$200,000 in design grants to 11 states, including New Mexico.

**A DATA-BASED APPROACH FOR SCHOOL EVALUATION  
AND IMPROVEMENT IN NEW MEXICO**

The Vice Chair recognized Mr. Jack Jekowski, Board Member, Coalition for Excellence in Science and Math Education (CESE), and Mr. M. Kim Johnson, Board Member, CESE, to provide the committee with a report on a data-based approach for school evaluation and improvement in New Mexico, and “a rational methodology for applying the A-B-C-D-F schools rating system.”

Mr. Johnson began by explaining that the proposal of CESE is not aimed specifically at the *No Child Left Behind Act of 2001*, which CESE believes is flawed beyond repair. The proposal of CESE starts from the premise that current methods of evaluating schools are flawed and do not give a true picture of school performance, but CESE believes it can demonstrate a clear and technically correct method for accomplishing the task of improving the performance of struggling students and schools, and a pilot program can be started promptly with some nominal training and technical assistance provided by the Public Education Department (PED).

Mr. Johnson pointed out that the A-B-C-D-F ratings method focuses on New Mexico Standards-based Assessment (NMSBA) scores, which give a limited picture of the state of education, but the NMSBA scores are the only measure currently available, and additional methods should give a more complete picture, but also take into account NMSBA scores.

He said CESE proposes that a robust system of school measurement would include data on school demographics, current scores, and other outcome measures that can be used to develop “best fit” predicted scores for each school, and the actual score and the predicted score will be compared for each school, the difference of which is termed the “residual,” which, CESE states, is an accurate and fair measurement of true school performance.

Mr. Johnson then described several statistical technicalities as they apply to a school’s proficiency score. CESE uses statistical methodology in carefully selecting areas of score variance that can be reasonably attributed to a particular school’s performance. In an example of

a typical school's demographic information, he noted that only one-sixth of the spread in test results can be attributed to factors under school control. Mr. Jekowski indicated that factors such as last year's test scores, the type of neighborhood a student lives in, etc. most likely have influence over a school's proficiency percentage, but are not under the control of the school. Mr. Johnson added that CESE analyses have shown that a school's fraction of combined poverty and minority students is a far more accurate predictor than the fraction of either poverty or minorities alone.

He went on to explain that although high growth and high proficiency are both good, they seldom go together. Schools with high proficiency have little room for growth, while schools with low proficiency have more room for growth.

Mr. Johnson then explained several statistical methods for "washing" the data, or, removing factors that are not directly attributable to school performance, such as poverty, and minorities.

The heart of the CESE proposal, he continued, is to compare schools with similar demographics but dissimilar proficiency scores, study both schools, and find out what the successful school is doing that the unsuccessful school is not doing. However, without statistically correct and technically defensible models for school comparison, Mr. Johnson asserted that this becomes impossible. CESE believes that such a method could be developed to make a school grading system more robust, and assist struggling schools, rather than simply labeling them as such.

### **Committee Discussion**

A committee member stressed that factors such as local environment do impact learning and he cited problems with heat and high humidity in classrooms near irrigated farm lands around Farmington as being a serious issue. In reply, Mr. Jekowski agreed with the member's observations and stated the need for more research and data collection on those types of factors.

In response to a committee member who suggested that pre-screening individual students for multiple factors such as poverty, single parent family, etc. could have a big impact on the ratings system, Mr. Johnson replied that his report used available data. He added that rural and urban schools must be separated.

The Vice Chair recognized Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, who asserted that the Superintendents Advisory Council would be receptive to this presentation and mentioned that Dr. Pete Goldschmidt at PED has a model with controls for many of these variables. He added that the superintendents still have a number of questions, especially in regards to growth at the bottom quartile.

Responding to a committee member who asked whether CESE has looked at the Florida model, which is the base of the New Mexico model, Mr. Johnson replied that he has not reviewed it for some time but understands the demographics. He also noted that New Mexico and Florida have different Hispanic populations.

Several committee members expressed concerns regarding growth in high-performing schools and questioned the fairness of the ratings system.

## **GENDER ACHIEVEMENT GAP: WHERE ARE THE BOYS?**

The Vice Chair recognized Mr. Eugene Weisfeld, Executive Director, Educational Initiatives, Inc.; Mr. Reid Nunn, fourth grade teacher, McCollum Elementary, Albuquerque Public Schools; and Mr. Travis Dulany, LESC staff, to make a presentation to the committee regarding the gender gap in educational achievement.

Mr. Dulany reported that, during the 2006 interim, testimony on the issue came from the Boys Initiative and from the Santa Fe Boys Newsletter, interest groups that proposed the requirement that Public Education Department (PED) data posted on the department's website be disaggregated by gender and that increased funding be provided for the program initiated by the Legislature and Governor to ensure that every school or certain number of students has a physical education teacher.

Mr. Dulany reminded the committee of testimony on this topic during the 2006 interim. At that time he said, the Dean of the College of Education at the University of New Mexico reported that having a male figure in the classroom makes a significant impact on male achievement, and that many families do not have a male figure in the home.

Mr. Dulany also reported that according to the Pell Institute, data indicators point toward consistent or growing disparities in academic performance based on student gender, and data from the National Center for Education Statistics suggests that male students are less likely to graduate from high school, receive fewer degrees from institutes of higher education, are more likely to repeat grades, and be suspended or expelled from schools.

Data from PED also reveals a gap in achievement between females and males, as well as a gap in graduation rates from New Mexico high schools, according to Mr. Dulany.

Causes of the gender gap are subject to debate, however, according to Mr. Dulany, scientific research has identified a number of differences in neurological and cognitive development based on gender that may contribute to gaps in student achievement, with females possessing more advantages than males at certain ages.

Mr. Dulany stated that a number of educators, physicians, social scientists, and journalists point to several factors that they argue may contribute to the achievement gap, including low percentages of male teachers, learning differences between males and females that favor girls in a traditional classroom setting, social and emotional difficulties that boys experience when they are brought up in a home without a father figure, a commercial culture that devalues school and book learning – especially for boys, and more boys having problems with attention and focus than girls.

Regardless of theories posted by different groups on the reasons for the gender achievement gap, Mr. Dulany explained that most researchers urge caution against making assumptions about individual students based on such generalizations and point out that, on virtually any measure, individual males and females vary far more than the two groups.

Next, Mr. Weisfeld proposed various changes or additions to classroom activities to help boys overcome the achievement gap, and much of the current public debate about the gender gap focuses on single-sex schooling. In 2005, he said that the US Department of Education published a review that determined that there is a degree of support for the premise that single-sex schooling can be helpful. However, Mr. Weisfeld cautioned that Title IX regulatory requirements maintain that single-sex classes may only be provided if they are equally available to both sexes.

Mr. Nunn presented on his single-sex classroom composed of all males in school year 2009-2010. According to Mr. Nunn, his students' proficiency levels were higher than Albuquerque Public School (APS) averages and his students saw significant gains in attitude and confidence. Ms. Carrie Menapace, a Policy Analyst for APS, was present at the meeting and stated that:

- the program was implemented as a result of unique enrollment demographics for that year;
- the program has since been discontinued at the school; and
- APS believes the positive results of the program could be attributed to a low people-teacher ratio.

Mr. Dulany concluded, noting that in New Mexico there are two schools that provide or intend to provide single-sex classes; one school that currently does provide single-sex classes; and an additional school with a pending charter application seeking approval from the Public Education Commission.

### **Committee Discussion**

In reference to Mr. Nunn starting a charter school, a committee member asked whether the school will be for boys only, Mr. Nunn replied that the proposed school will have classes for both genders, with no requirement for teachers to be the same gender.

Responding to a committee member's question about the number of students for the proposed charter school, Mr. Nunn stated that the plan calls for a total enrollment of 290 students in kindergarten through sixth grade.

A committee member noted that same gender class concept is available to any school that wants to use it, noting that he saw great results when it was done in Carlsbad. However, he said the school received many complaints.

A committee member requested that the LESC send a letter to PED regarding single gender education to obtain PED's research and thoughts related to the subject.

## **THE BRIDGE OF SOUTHERN NEW MEXICO**

The Chair recognized Ms. Tracey Bryan, President and CEO, The Bridge of Southern New Mexico (The Bridge), to present the organization's platform and advocacy for Early College High Schools (ECHS). Ms. Bryan described The Bridge as one of the state's leading

public-private collaborations driving the conversation to build a better pipeline from education to the work force for future economic development.

The Bridge, Ms. Bryan stated, takes the following four-pronged approach:

- identify data-based best practices;
- build public-private collaborations to plan and launch those best practices;
- integrate a sustaining structure into implementation; and
- construct cross-sector metrics, prove outcomes, and advance solutions statewide.

The organization's board, Ms. Bryan said, includes Doña Ana County's top leaders in specific sectors of business, economic development, and government working alongside the top leaders in education.

Founded in 2009, Ms. Bryan noted that The Bridge has already opened New Mexico's first ECHS in partnership with Las Cruces Public Schools, Doña Ana Community College, and New Mexico State University. The ECHS, called Arrowhead Park ECHS, boasts a complete cohort of freshman going on to sophomore year without a single dropout.

She continued by describing the economic benefits that result from a dropout rate of zero, both county- and state-wide, and explained that, by supporting the advancement of dual-credit courses, The Bridge has seen the number of dual-credit students double and triple in districts since 2009.

Ms. Bryan explained the economic benefits of dual-credit, including:

- more than 91 percent of seniors who take dual-credit courses graduate from high school;
- 67 percent of dual-credit students go on to postsecondary education; and
- 65 percent of dual-credit students do not need to take remedial courses in college – saving taxpayers from paying twice for the same classes.

She concluded by stating that, with the support of the Legislature, The Bridge will maximize their influence and impact in creating a transformative, cross-sector approach that:

- reforms a broken educational system and becomes the “learning laboratory to effect reform across the state”;
- links educational outcomes with work force preparedness;
- equips students for lifetime economic and social well-being; and
- simultaneously supports long-term economic development for the county, state, and nation.

### **Committee Discussion**

A member of the committee expressed his enthusiasm for the work The Bridge is doing, especially with regard to having the community invested in education.

In response to a committee member's question regarding business relationships, Ms. Bryan stated that The Bridge is currently doing a survey of the business community to identify opportunities for mentoring teens in high school or college, and stated that building a trained work force is conducive to economic development.

In response to a committee member concern about the future of dual-credit funding, Ms. Bryan replied that she shares the same concern but believes that The Bridge is a strong example of success in dual-credit.

Ms. Frances Ramírez-Maestas, LESC Director, informed the committee of a proposal to consider dual-credit as an "input" rather than an "outcome" in the new higher education funding formula, which could jeopardize its future funding levels.

In response to a committee member who questioned why all the students at Arrowhead Park ECHS were from Las Cruces Public Schools, the Vice Chair explained that it was a logical place to start given the high growth rate in the district.

The Vice Chair also indicated that legislators are facing a challenge just to maintain the dual-credit program as it currently exists.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 3:58 p.m.

**MINUTES  
LESC MEETING  
AUGUST 26, 2011**

Senator Vernon D. Asbill, acting as Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:45 a.m. on Friday, August 26, at the Rohovec Fine Arts Center on the New Mexico State University campus in Alamogordo, New Mexico.

The following LESC members were present:

Representatives Mary Helen Garcia and Jimmie C. Hall; and Senators Gay G. Kernan and Lynda M. Lovejoy.

The following LESC advisory members were present:

Representatives Ray Begaye, Sheryl Williams Stapleton, and Shirley A. Tyler; and Senators Vernon D. Asbill, Stephen H. Fischmann, and John Pinto.

## **UPDATES: NMSU-ALAMOGORDO**

The Chair recognized Dr. Barbara Couture, President, New Mexico State University (NMSU); Dr. Cheri Jimeno, President, NMSU-Alamogordo; and Dr. Debra Teachman, Vice President of Academic Affairs, NMSU-Alamogordo.

Dr. Couture thanked the committee for their service and dedication to the state of New Mexico and discussed her history as a teacher in middle school, high school, and various community colleges. Dr. Couture also described activities at NMSU, including teacher preparation and a summer program for professional development.

### **Committee Discussion**

In response to a committee member's question regarding the Higher Education Funding Formula Task Force, Dr. Couture stated that NMSU is working with the President of the University of New Mexico and the Secretary of Higher Education to have a proposal ready for the Governor by October 15.

A committee member asked whether the new higher education funding formula will meet the needs of students, and Dr. Couture stated that some concern exists, but she feels that the overall structure of the formula will be designed to meet student needs.

Responding to a committee member's question about the result of the moratorium on building new branch campuses, Dr. Couture stated that NMSU will abide by the moratorium, but in the long run consideration will have to be given regarding the most effective location for further branch campuses.

In response to a committee member's question regarding graduation rates in the funding formula, Dr. Couture stated that a number of factors including the number of degrees awarded and retention will be considered.

In response to a committee member's concern regarding professor salaries, Dr. Couture stated that efforts have been made to provide a fair compensation package for faculty, and that \$1.0 million was distributed to departments for faculty compensation only.

Next, Dr. Jimeno and Dr. Teachman briefed the committee on activities at NMSU-Alamogordo.

Referring to her presentation, Dr. Jimeno reported that the school has a current enrollment between 3,500 and 3,900 students per semester. She then discussed some of the projects on campus, including the completion of updates to classrooms and plans to update roofing and the energy management system.

Dr. Teachman then gave an overview of NMSU-Alamogordo's student demographics and their academics program, including:

- the Associate Degree in Nursing;
- Associate of Applied Science Degrees;

- Apprenticeship and Workforce Certificates; and
- certificates and degrees currently under development (photovoltaic installation, weatherization, and energy auditing).

To conclude the presentation, Dr. Teachman provided figures on dual credit enrollment by school and percentages of students taking online courses over the last 10 years.

**Committee Discussion**

A committee member inquired about opportunities for active members of the military, and Dr. Teachman replied that NMSU maintains an education center and education coordinator at Holloman Air Force Base.

Responding to a committee member’s question regarding alternative energy and buildings at the NMSU-Alamogordo campus, Dr. Jimeno discussed the following projects:

- a recently completed solar-powered crosswalk;
- an upgrade of the facility energy management system currently in progress; and
- a wind farm project in Carrizozo also in progress.

In response to a committee member’s question regarding the population of incoming freshman who stay in town to take courses and then transfer to four-year institutions, Dr. Teachman stated that most students stay for at least one year, with some degree completion, such as Elementary Education, available on-site.

Responding to a committee member’s question regarding the success rate of dual-credit students at NMSU-Alamogordo, Dr. Teachman stated that, NMSU-Alamogordo enjoys the best success rate of any school in New Mexico.

A committee member requested that Dr. Teachman provide the number of Lottery Scholarship students enrolled at NMSU-Alamogordo.

**ADJOURNMENT**

There being no further business, the acting Chair, Senator Asbill, adjourned the LESC meeting at 10:30 a.m.

  
 \_\_\_\_\_ Chair  
 11-18-2011  
 \_\_\_\_\_ Date