

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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Sheryl M. Williams Stapleton
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MINUTES
LESC MEETING
JANUARY 14, 2013

SENATORS

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Gay G. Kernan
Howie C. Morales

ADVISORY

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Linda M. Lopez
John Pinto
William P. Soules
Pat Woods

Frances Ramírez-Maestas, Director

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 1:08 p.m., on Monday, January 14, 2013, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart; and Senators Mary Jane M. García and Gay G. Kernan.

The following voting members of the LESC were not present:

Senators Cynthia Nava, Vice Chair, and Lynda M. Lovejoy.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., Roberto "Bobby" J. Gonzales, Tim D. Lewis, and Sheryl Williams Stapleton; and Senators Linda M. Lopez, Howie C. Morales, John Pinto, and Sander Rue.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, and Stephen H. Fischmann.

On a motion by Senator García, seconded by Representative Stewart, the committee approved the agenda for the meeting.

At 1:11 p.m., the LESC held an executive session to discuss personnel matters. When the committee reconvened at 1:34 p.m., the Chair announced that, on a motion by Senator Kernan, seconded by Representative Garcia, the LESC voted 7-1 in favor of increasing the salary of the LESC Director to \$120,000.

DIRECTOR'S REPORT

a. Approval of Draft LESC Minutes for December 2012

On a motion by Representative Stewart, seconded by Representative Roch, the committee approved the LESC minutes for December 2012.

b. Approval of LESC Financial Reports for November 2012 and December 2012

On a motion by Representative Roch, seconded by Senator García, the committee approved the LESC financial reports for November 2012 and December 2012.

c. LESC FY 12 Audit Report

Ms. Frances Ramírez-Maestas, LESC Director, distributed the independent auditor's report and financial statements for FY 12 from Robert J. Rivera, CPA, PC, to the committee members.

d. News Releases and Correspondence

Ms. Ramírez-Maestas reviewed this section of the committee notebooks, noting that the items are retained in the LESC permanent files:

- an article from the *Official Blog of the US Department of Education* posted on January 7, 2013, *Language and Learning on the Border*;
- a letter, dated December 17, 2012, from the Cibola High School Department Chairs and Testing Coordinators to the LESC, proposing to replace the grade 11 standards-based assessment with the ACT; and replace the grade 11 end-of-year exams in the subjects of social studies and math with Scholastic Aptitude Test Subject Exams in order to align with the Common Core State Standards; and
- a memorandum, dated December 10, 2012, from the Deputy Secretary of the Public Education Department (PED) to the Directors of the LESC and Legislative Finance Committee related to the expenditure of the \$2.5 million special appropriation to be used for the Governor's educational reforms and initiatives.

e. Written Report

Ms. Ramírez-Maestas noted that the Educator Accountability Reporting System (EARS) annual report had been released by the deans of New Mexico colleges of education.

The Chair then recognized Mr. Travis Dulany, LESC staff, who referred to a written report regarding the 2012 EARS report in the committee binders. Mr. Dulany stated that:

- the key findings of the 2012 EARS report are summarized on pages 2 and 3 of the written report;
- printed copies of the full 256-page 2012 EARS report are available at the request of LESC members; and
- current statute requires that the EARS report be disseminated to statutorily designated education stakeholders by November 1 of each year.

On that point, Ms. Ramírez-Maestas indicated that the deans of New Mexico colleges of education previously requested that the due date of the annual EARS report be changed from November to July to align with Title II reporting requirements. She added that, while current law requires PED to compile educator accountability data and prepare the annual report, the New Mexico colleges of education have assembled the annual report since 2009.

On a motion by Representative Stewart, seconded by Representative Hall, the committee endorsed an amendment to the *School Personnel Act* to require the annual EARS report to be compiled and disseminated by July 1 of each year.

PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE RECOMMENDATIONS

The Chair recognized Ms. Sharon Ball, Researcher III, Legislative Council Service, to discuss the recommendations of the Public School Capital Outlay Oversight Task Force (PSCOOTF).

Referring to discussion drafts included in the committee notebooks, Ms. Ball indicated that, based on the poll of members unable to attend the final task force meeting, the PSCOOTF endorsed six bills for the 2013 Legislature:

1. **Public School Capital Outlay Fund Distributions for Building Systems:** Defines “building system”; allows a specific distribution each year from FY 14 to FY 18 from the Public School Capital Outlay Fund for building systems repair, remodel, or replacement; and provides guidelines for council determination of grant award recipients.

On a motion by Representative Stewart, seconded by Senator García, the committee voted unanimously to endorse this legislation.

2. **Local Match Waiver Eligibility:** Provides more flexibility to the Public School Capital Outlay Council (PSCOC) to determine local match waiver eligibility; provides that, before making any adjustments to the local share of appropriations made for a capital project, the council “may,” rather than “shall,” consider certain school district factors, including enrollment, bonding capacity, and property tax rates; and adds districts with fewer than 800 students to the eligibility.

On a motion by Representative Stewart, seconded by Senator García, the committee voted unanimously to endorse this legislation.

3. **Lease Assistance Program Consumer Price Index (CPI) Adjustment:** Allows the PSCOC to modify or not grant the automatic CPI adjustment from the lease-assistance program; and provides that the amount of a grant to a school district “may,” rather than “shall,” be adjusted by the percentage change between the next to last calendar year and the immediately preceding calendar year of the CPI for the United States.

On a motion by Representative Stewart, seconded by Senator García, the committee voted unanimously to endorse this legislation.

4. **Charter School Facility Standards:** Expands the powers of chartering authorities to consider the charter school facility standards in Section 22-8B-4.2 NMSA 1978, including the requirement to submit a plan to meet designated facilities standards within 18 months of occupancy or relocation; and allows the PSCOC to recommend to the chartering authority for the suspension, non-renewal, or revocation of the charter of new or relocating charter schools based on the facility condition index.

On a motion by Representative Stewart, seconded by Representative Hall, the committee voted unanimously to withhold approval of this legislation to ensure full discussion in the House Education Committee.

5. **Charter School Capital Outlay Fund:** Re-establishes the Charter School Capital Outlay Fund, which was repealed July 1, 2012, and re-establishes the criteria for grant awards from that fund.

On a motion by Representative Hall, seconded by Representative Stewart, the committee voted unanimously to endorse this legislation.

6. **Deferred Maintenance for School Districts and Charter Schools:** Makes an appropriation of \$10.0 million from the Public School Capital Outlay Fund to the PSCOC for expenditure from FY 14 to FY 16 to establish a program to assist districts and charter schools with deferred maintenance issues.

On a motion by Representative Garcia, seconded by Senator García, the committee voted unanimously to endorse this legislation.

EDUCATION-RELATED ISSUES FOR THE 2013 LEGISLATIVE SESSION

The Chair recognized Ms. Frances Ramírez-Maestas, LESC Director, to review potential LESC-endorsed legislation for consideration of the 2013 Legislature. Ms. Ramírez-Maestas reminded the committee that, due to inclement weather and lack of a quorum at the December meeting, the Chair requested that LESC staff mail copies of the following four discussion drafts so that sponsors could be assigned during the January meeting.

a. Discussion Drafts

- **General Educational Development (GED) Testing:** Amends statute to provide for an alternative term for “GED,” which is a registered trademark of the American Council on Education. (.190765.1) *Sponsor: Senator Gay G. Kernan*
- **Standards-based Assessment (SBA) Costs to be Borne by the Public Education Department (PED) Rather than by Districts:** Amends the *Assessment and Accountability Act* to require PED to pay the costs of standards-based assessments. (.190927.2) *Sponsor: Representative Dennis J. Roch*
- **K-3 Plus Transportation Costs:** Amends current law to provide for to-and-from school bus transportation for students enrolled in department approved K-3 Plus

programs, with a priority on schools graded D and F and schools with 80 percent or more of their enrolled students eligible for free or reduced-fee lunch. (.190942.2)

Sponsor: Representative Mimi Stewart

- **Public Education Commission (PEC) as an Independent Administrative Body:** Introduces a resolution to create the PEC as an independent administrative body, with oversight of the charter school applications, renewals and appeals, rulemaking authority, and staff. (.190766.2) *Sponsor: Representative Mary Helen Garcia*

b. Policy Proposals for the Committee's Consideration

- **Virtual Charter Schools:** Amends the *Public School Code* to: prohibit virtual charter schools; delay approval of other virtual charter schools until outstanding questions and issues can be addressed; or review the *Public School Code* and other parts of state law to identify those sections that may affect or be affected by virtual charter schools and amend or repeal them as needed or enact new sections to accommodate and regulate virtual charter schools.

On a motion by Senator Kernan, seconded by Representative Garcia, the committee voted 4-2 to consider delaying approval of virtual schools; however, after discussion, the committee adopted a consensus statement that called for the delay of virtual charter school approvals while issues continue to be reviewed.

- **Adequate Yearly Progress (AYP):** Amends the *Assessment and Accountability Act* to suspend administration of AYP until the end of school year 2014-2015. After committee discussion, a committee member asked why all references to AYP in state law were removed, and Ms. Ramírez-Maestas stated that the Legislative Council Service drafters recommended the removal of all references in current law to AYP, resulting in a repeal of all provisions related to AYP. As a result of committee discussion, the LESC did not endorse this legislation.

- **LESC Interim Subcommittee on School Bus Transportation Recommendations**

- **Bus Rental Fee Extension:** Amends the provisions in law for school transportation equipment to extend the period of time during which a school district can pay rental fees on any one bus to 12 from five years to allow for flexibility in contractor financing and align with the 12-year school bus replacement cycle.

On a motion by Representative Roch, seconded by Representative Garcia, the committee voted unanimously to endorse this legislation.

- **Gross Receipts Exemption for Fuel Purchase:** Amends the *Gross Receipts and Compensating Tax Act* to allow for a gross receipts tax exemption for school bus contractors who purchase gasoline and special and alternative fuels.

On a motion by Senator Kernan, seconded by Senator García, the committee voted unanimously to endorse this legislation.

- **Global Positioning System (GPS) Appropriation:** Introduces legislation to make a \$565,000 special appropriation to PED for expenditure in FY 14 for purchase and/or operation of GPS equipment based on an estimate for operating costs for GPS hardware; provide a method for PED to verify mileage, idle time, and fuel use to accurately reimburse costs; and inform future studies of the school transportation funding formula, including site characteristics.

On a motion by Representative Garcia, seconded by Representative Stewart, the committee voted unanimously to endorse this legislation.

- **School Bus Transportation Distribution Based on Prior-year 80th Day Reporting:** Amends law to base prior-year reporting on the 80th day reporting date.

On a motion by Representative Roch, seconded by Representative Espinoza, the committee voted unanimously to endorse this legislation and amend it to base the prior-year reporting on the average of the 80th and 120th day reporting dates.

- **School-owned Bus Replacements Capital Appropriation:** Through severance tax bonds, appropriates \$20.145 million to PED for the purchase of school-owned buses.

On a motion by Senator Kernan, seconded by Representative Stewart, the committee voted unanimously to endorse this legislation.

- **Supplemental Fuel Funding Based on Mileage:** Appropriates \$1.0 million to PED for quarterly supplemental fuel funding based on to-and-from mileage if the Secretary of Public Education determines there is a need due to an increase in fuel costs.

On a motion by Representative Roch, seconded by Representative Stewart, the committee voted unanimously to endorse this legislation.

- **Study of School Bus Transportation Issues:** Introduces legislation to create a school transportation task force to examine provisions related to the transportation funding formula, recruitment and retention of school bus drivers, and costs of and funding for fuel; to review all safety concerns for school transportation; and to appropriate \$90,000 to the Legislative Council Service to hire an independent contractor.

On a vote of 4-4, the motion to endorse this legislation failed.

- **Investments and Pensions Oversight Committee Recommendations**

- **Educational Retirement Act Contribution Changes:** Amends the *Educational Retirement Act* to: increase certain members' contribution rates; change the benefits for new members by imposing a minimum retirement age of 55; delay the cost-of-living adjustment eligibility; and increase the age and service requirements. (.191180.2)

On a motion by Representative Stewart, seconded by Representative Roch, the committee voted unanimously to endorse this legislation.

- **Public Employee Retirement Changes:** Amends the *Public Employees Retirement Act* to: improve the actuarial standing of the retirement fund; reduce the cost-of-living adjustments for all retirees; delay the cost-of-living adjustment for certain future retirees up to seven years from the current two-year waiting period, with a three-year phase-in of the provision; suspend cost-of-living adjustments for certain return-to-work retirees; provide for an increase in employee and employer contributions; clarify definitions; provide that municipal employers will not pay any portion of the 1.5 percent increase in employee contributions effective July 1, 2013 without passing a resolution or executing a collective bargaining agreement; provide that municipalities may by subsequent resolution or agreement elect to pay a portion of employee contribution increases that may occur after July 1, 2013; clarify how service credit earned under multiple coverage plans will be calculated; change the benefits for members initially employed after June 30, 2013 by reducing the multiplier and increasing the number of years used to calculate the final average salary; increase the vesting period; increase age and service requirements for normal retirement and increase the maximum pension benefit; and limit plan enhancements. (.190837.3SA) (For the Investments and Pensions Oversight Committee)

On a motion by Senator García, seconded by Senator Kernan, the committee voted unanimously to endorse this legislation.

- **LESC Unemployment Compensation Work Group Recommendations**

Ms. Ramírez-Maestas reported that LESC staff convened a meeting with Risk Management Division (RMD) staff on November 26, 2012 to discuss the date in current law by which RMD must prescribe unemployment compensation assessment schedules. While the staff recognized that the date conflicts with the date public schools must submit their preliminary operational budgets to PED, Ms. Ramírez-Maestas noted that the group did not reach consensus on an alternative date that alleviates this conflict. For the committee's consideration, she stated, the committee notebooks included LESC staff recommendations for amending current law to: (1) change the date relating to the unemployment compensation assessment schedules to allow public school budgets to reflect the appropriate assessment from the RMD schedule; and (2) require that RMD publish its unemployment compensation assessment schedules, which serve to address an additional concern expressed by the committee during the interim. After discussion, the committee did not endorse any action on this item.

- **Obstacles Faced by Teen Parents in Completing Their Education**

Ms. Ramírez-Maestas reported that, during the December LESC interim meeting, the committee discussed reviewing definitions for "attendance" and "excused absence" to address the maximum amount of time a pregnant or parenting student can be absent from school. As background, she stated, the committee notebooks included the minutes from that meeting as well as the provisions in current law relating to compulsory school attendance. During the committee discussion, Senator Lopez stated that she was having

legislation drafted to address this initiative. As a result, the committee did not take action on this item.

- **Educator Accountability Reporting System (EARS) Annual Report Submission Date:** Refer to “Written Report,” pages 2 and 3, for committee endorsement.

c. Other Potential Legislation/Approval of Sponsors

Ms. Ramírez-Maestas also reviewed the list of appropriation requests, including:

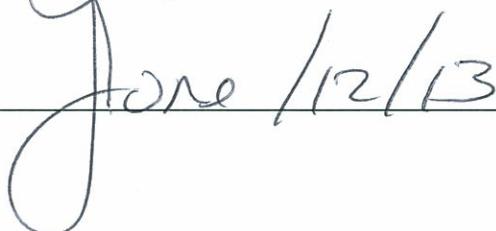
- \$50,000 to support the Summer Science Program at the New Mexico Institute of Mining and Technology;
- \$1.45 million to support the distribution of locally grown produce for school meals in public schools statewide;
- \$65,000 to support the UNM Family Development Program;
- \$500,000 to provide teaching support by a nonprofit organization in schools with high populations of Native American and low-income students; and
- \$140,000 to support the Golden Apple Scholars Program.

The Chair thanked Senator García and Representative Begaye for their service to the LESC.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 5:15 p.m.


_____ Chair


_____ Date