

**MINUTES
LESC MEETING
MONDAY, MAY 23, 2005**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on May 23, 2005, at 9:19 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LESL members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, and Mary Kay Papen; and Representatives Rick Miera, Vice Chair, Joni Marie Gutierrez, Mimi Stewart, Thomas E. Swisstack, and W.C. "Dub" Williams.

The following LESL advisory members were present:

Senators Vernon D. Asbill, Dianna J. Duran, Mary Jane M. Garcia, and John A. Pinto; and Representatives Ray Begaye, William "Ed" Boykin, Roberto J. "Bobby" Gonzales, Sheryl M. Williams Stapleton, Richard D. Vigil, and Teresa A Zanetti.

Upon a motion by Representative Gutierrez, seconded by Senator Papen, the committee unanimously approved the agenda as presented.

**SUMMARY OF 2005 PUBLIC SCHOOL-RELATED LEGISLATION
AND FY 06 APPROPRIATIONS**

Referring to documents included in the committee notebooks, Dr. D. Pauline Rindone, Director, LESL, provided the committee with a review of public school-related legislation and appropriations passed by the 2005 Legislature, including the FY 06 appropriations for public school support, capital outlay, and a summary of legislation that was passed and signed into law.

Dr. Rindone reported that in 2005 the Legislature passed two general appropriation acts: CS/HB 2, et al., as amended, and CS/SB 190, as amended, nicknamed "House Bill 2 Junior."

Focusing on Table 1, which delineates the funding for public schools for FY 06, Dr. Rindone stated that the 2005 Legislature appropriated more than \$2.1 billion in public school support, an increase of approximately \$132.3 million, or 6.7 percent, over the FY 05 appropriation.

Dr. Rindone noted that this appropriation was the largest increase in new dollars designated for education since the 2001 legislative session. Also included in this appropriation bill, she added, is an additional \$19.2 million to fund Public Education Department (PED) and recurring education-related appropriations and \$23.8 million in special nonrecurring appropriations. The only item vetoed by the Governor, she noted, was a special nonrecurring appropriation of \$200,000 to the Legislative Council Service to fund a study of the Public School Funding Formula.

Dr. Rindone then highlighted the following items included in the State Equalization Guarantee:

- approximately \$14.7 million to provide a mandated 1.25 percent salary increase for school employees other than those teachers who are receiving the \$40,000 minimum salary;
- approximately \$11.8 million to fund a 0.75 percent increase in the employer's contribution to the Educational Retirement Fund for FY 06;
- \$6.0 million for the final year of the three-year phase-in of elementary fine arts programs. Dr. Rindone explained that language included in the appropriation bill, which is in accordance with current law, bases FY 06 funding on a .05 cost differential and on a .8 FTE, meaning that children should be exposed to fine arts for 80 percent of the school day; and
- \$51.8 million to provide a \$40,000 minimum salary for levels 2 and 3-A teachers, the third year of the five year phase-in of the three-tiered licensure system. Dr. Rindone noted that language within the appropriation bill will ensure that every district and charter school will have sufficient dollars to provide the required minimum salary at these two levels.

With regard to the preliminary unit value for FY 06, Dr. Rindone indicated that the Secretary of Public Education called a meeting in early April that included Representatives Rick Miera and Luciano "Lucky" Varela and staff from the LESC, the Legislative Finance Committee, the Department of Finance and Administration (DFA), and the Office of the Governor. By consensus, Dr. Rindone reported, the group agreed on an initial unit value of \$3,165.02, an increase of \$96.32, or 3.14 percent, over the FY 05 final unit value. Dr. Rindone indicated that, to comply with language in the appropriation bill, the unit value calculation excludes the \$51.8 million that PED will allocate after verifying the amount needed by each school district and charter school to pay for the minimum teacher salaries. Without this adjustment, she stated, the unit value would have increased by approximately \$179.31, or 5.8 percent. However, she added, the \$51.8 million will remain in the FY 07 program cost.

Referencing reform initiatives, Dr. Rindone reported that the 2005 Legislature designated \$51.8 million in recurring reform dollars to implement the \$40,000 minimum salary for Level 1 and Level 2 teachers and approximately \$14.6 million in nonrecurring appropriations from the "lockbox" contingency fund which includes the following appropriations to PED: \$7.0 million for assessment and test development; \$400,000 to provide a licensure and evaluation system for teachers; \$600,000 to implement a uniform public school chart of accounts; and approximately \$6.6 million to implement a comprehensive data warehouse at PED.

Dr. Rindone then summarized additional public-school related appropriations contained in the "Junior" appropriation bill that were included in Table 2, *General Appropriation Act of 2005 (CS/SB 190, as amended), Public School-related Appropriations*. Included in this bill were approximately \$7.1 million to PED and about \$4.4 million to other state agencies, after executive action, for various programs, including an additional \$950,000 to DFA for pre-kindergarten services. Dr. Rindone noted that all of the appropriations in the "Junior" bill were sanded, or reduced, by 5.0 percent.

In regard to capital outlay for public schools, Dr. Rindone explained that the 2005 Legislature had appropriated, after executive action, more than \$103.0 million for public school capital outlay needs, including \$24.9 million in nonrecurring General Fund dollars, more than \$16.1 million in Severance Tax Bonds, and \$62.0 million in Short-term Severance Tax Bonds.

To conclude her presentation, Dr. Rindone highlighted some of the legislation that was passed by the 2005 Legislature and signed by the Governor that will have a direct effect on school district operations. She said the summaries were included in the committee notebooks.

Finally, with specific reference to LESC-endorsed legislation, Dr. Rindone reported that 37 pieces of legislation were considered by the 2005 Legislature and that 21 were passed by the 2005 Legislature and signed by the Governor. In addition, two of the three joint memorials endorsed by the LESC passed in the legislative session.

Committee Discussion:

In response to a committee member's question relating to the offset of direct appropriations for educational technology based on Public School Capital Outlay Council (PSCOC) awards to a school district, Dr. Rindone stated that the 2005 Legislature passed legislation to eliminate the offset for educational technology against the Education Technology Fund; however, the offsets for all direct appropriations (including those for both educational technology and capital outlay projects) will be offset against PSCOC grant awards for recipient districts' respective capital outlay projects.

Dr. Rindone also pointed out that the 2005 Legislature passed a bill (HB 511) to require the PED Educational Technology Bureau, with the advice of the Council on Technology in Education and the Chief Information Officer, to define and develop minimum educational technology adequacy standards to supplement the adequacy standards developed by the PSCOC for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure and to make recommendations to the 2006 Legislature.

In response to a committee member's question as to the amount of funding available for the replacement of school-owned buses, Dr. Rindone reported that PED had requested a \$176,400 appropriation in the school transportation budget and that an additional \$600,000 was appropriated as a direct legislative appropriation for school buses statewide. A committee member stated that there is a shortfall of \$2.4 million for the replacement of school buses in FY 06.

Senator Nava requested that the LESC staff examine the direct appropriations from the 2003, 2004, and 2005 Legislatures to determine what effect, if any, the offsets against the Educational Technology Fund distributions (2004) and the offsets against grants for school district PSCOC awards (2005) have had in terms of the number and type of direct appropriations.

Representative Vigil requested that PED staff outline the shortfall for the replacement of school-owned buses in FY 06 and its effect on school districts statewide.

DIRECTOR'S REPORT

a. Approval of Minutes for December 2004 and January 2005

Upon a motion by Representative Miera, seconded by Senator Papen, the LESC minutes for December 2004 and January 17, 2005 were unanimously approved.

b. Approval of Financial Reports for January 2005 through April 2005

Upon a motion by Representative Miera, seconded by Senator Papen, the LESC financial reports for January 2005 through April 2005 were unanimously approved.

c. Review of LESC Budget for FY 06

Dr. Rindone reported that the committee notebooks included the LESC Operating Budget for FY 06 for committee review. She reminded the committee that, each September, the committee reviews and approves a budget request prior to the legislative session. The operating budget, she indicated, reflects the appropriations of the 2005 Legislature. Dr. Rindone indicated that the *General Appropriation Act of 2005* includes a 1.75 percent salary increase for committee staff effective July 1, 2005, and committee action would be required during the June LESC meeting.

d. Review of LESC Proposed Auditor

Dr. Rindone reported that, on May 13, 2004, the LESC approved a three-year proposal by Mr. Robert J. Rivera, CPA, PC, to perform the LESC audit for FY 04, FY 05, and FY 06. The committee notebooks, she added, provide a breakdown of Mr. Rivera's fees for the performance of the FY 04 audit and proposed fees for FY 05 and FY 06.

e. LESC Laws and Policies

For informational purposes, Dr. Rindone stated, the committee notebooks included a copy of the LESC laws and policies. Dr. Rindone indicated that, because the LESC uses the same leave policies as the Legislative Council Service, a copy of that policy was also included in the notebooks.

Dr. Rindone emphasized that, consistent with the policy of the Legislative Council, all members are paid on a calendar-day basis for each day of the interim committee meeting and necessary travel. However, LESC voting members are reimbursed from LESC funds and advisory members are reimbursed by the Legislative Council. Dr. Rindone emphasized that, for travel other than interim committee meetings, voting members of the committee must obtain prior approval from the LESC chair and advisory members must obtain approval from the Speaker of the House or the President Pro Tempore, as appropriate.

In response to a committee member's question relating to legislation passed by the 2005 Legislature that allows legislators to be reimbursed for an additional calendar day for official interim committee business within the state, Senator Nava requested that the LESC staff contact Mr. John Yaeger, Assistant Director for Legislative Affairs, Legislative Council Service, for an explanation of the new provision.

Mr. Yaeger provided the committee with a copy of SB 839, *Per Diem for Certain Legislative Meetings*, and explained that, effective June 17, 2005, legislators may be reimbursed for an additional day of per diem if they travel 100 miles or more from their point of departure to attend official interim committee business and if they do not claim any travel days. For example, he said that, if a legislator chooses to travel to a meeting on the day of the meeting rather than the day prior to the meeting and the legislator lives 100 miles or more (one-way) from the meeting location, the legislator is entitled to claim an additional day of per diem just the same as if the legislator had left for the meeting on the prior day.

f. Correspondence

Dr. Rindone reviewed several items of correspondence, including a table summarizing the *Public School Capital Improvements Act* (SB 9) distributions by district for FY 06. She noted that amendments to the act by the 2005 Legislature increased the state guarantee from \$50 per mill per unit to \$60 per mill per unit and that each succeeding year's increase is to be indexed to the consumer price index (CPI) published by the US Department of Labor. Other correspondence items, Dr. Rindone stated, included the final, by district, SB 9 calculation for FY 05, and a PED press release reporting that 844 (out of 960) Level 1 teachers advanced to Level 2 licensure. Dr. Rindone noted that all of the items are also included in the permanent file in the LESC office.

Senator Nava requested that the LESC staff provide a table that shows a comparison of the *Public School Capital Improvements Act* (SB 9) state guarantee at the \$50 and \$60 per mill per unit rates.

Representative Stewart requested that PED provide the committee with a report outlining the reasons why the dossiers of 116 Level 1 teachers who applied for Level 2 licensure were not approved.

PROPOSED ACTIVITIES FOR THE 2005 LEGISLATIVE INTERIM

a. Approval of Proposed 2005 LESC Interim Meeting Schedule

Dr. Rindone provided a tentative LESC meeting schedule for the 2005 interim. She stated that she had reviewed the proposed dates with the Chair and Vice Chair and had received their concurrence on the proposed schedule.

After committee discussion and upon a motion by Representative Stewart, seconded by Representative Gutierrez, the following 2005 interim meeting schedule was adopted unanimously by the committee: May 23-24, Santa Fe; June 13-14-15, Santa Fe; August 8-9-10, Red River; September 7-8-9, Cloudcroft; October 5-6-7, Albuquerque; November 14-15-16, Santa Fe; December 12-13-14, Santa Fe; and January 16, 2006, Santa Fe.

b. Development of the 2005 LESC Interim Workplan

Dr. Rindone also presented the committee with a draft 2005 Interim Workplan, pointing out two handouts – one that included the workplan and the other, *Issues for the 2005 LESC Interim Workplan* (see Attachment), which provided a written description of most of the issues to be examined. She also stated that both the Chair and Vice Chair had reviewed and approved the workplan.

Dr. Rindone reviewed the issues included in the LESC workplan listed by month of presentation. By consensus, the committee unanimously adopted the interim workplan as presented by Dr. Rindone with the following additions – either to be included as single issues or incorporated into some of the issues that were already on the workplan at the discretion of Dr. Rindone (note: the name of the legislator making the request is listed after each issue):

- advanced placement (Senator Nava);
- international education (Senator Kernan);
- supplemental educational services for schools in need of improvement (Representative Miera);
- dual chartering and boards of finance issues of charter schools (presented by Dr. Rindone at the request of Senator Boitano)
- curriculum and standards and benchmarks for pre-kindergarten (Senator Kernan);
- assistance available for individuals who have been unsuccessful in passing the teacher examination (Senator Garcia);
- high school preparation (Representative Zanetti);
- high school math standards (Representative Stewart);
- salary schedules for instructional support providers (Representative Stewart);
- charter school salaries (Representative Gutierrez);
- potential impact on risk insurance premiums when a district employs an employee from another district with a questionable background (Senator Kernan); and
- local school district termination discharge proceedings (Representative Vigil).

Representative Vigil requested that a subcommittee be formed to gather input from the public on the issue of local school district termination discharge proceedings; however, the Chair stated that the issues were debated both during the 2004 interim and during the 2005 legislative session, and the topic would be scheduled with sufficient time for an extended hearing to ensure the committee is well apprised of both sides of the issue and to allow for input from the interested parties. There being no opposition to this decision, the committee accepted this topic as an agenda item for the 2005 interim.

Senator Nava requested that the class load requirements and waiver report be changed from a written report to a committee presentation.

Representative Stapleton requested that the career and technical-vocational education presentation be moved to the October meeting.

Representative Begaye requested that the *Indian Education Act* presentation be moved to the October meeting.

Senator Nava requested that Dr. Rindone consider staff workloads in accommodating the committee requests.

The committee acknowledged the professionalism of the LESC Director and the LESC staff and thanked them for their hard work during the legislative session and the interim.

PRE-KINDERGARTEN ACT AND REQUESTS FOR PROPOSALS

Dr. David Harrell, LESC staff, introduced the two presenters: Dr. Mary-Dale Bolson, Secretary, Children, Youth and Families Department (CYFD); and Dr. Kurt Steinhaus, Deputy Secretary, Public Education Department (PED), to review their respective departments' requests for proposals (RFPs) and the technical assistance that each department had offered to potential respondents pursuant to the *Pre-Kindergarten Act*. Secretary Bolson was representing CYFD in the absence of the scheduled presenter, Deputy Secretary Dianne Rivera.

As background, Dr. Harrell reminded the committee that the 2005 Legislature had enacted the *Pre-Kindergarten Act* to establish a voluntary program of pre-kindergarten services for four-year-old children offered by public schools, tribes or pueblos, Head Start centers, and licensed private providers. Known as New Mexico PreK, the program is being administered jointly by CYFD and PED. In addition, Dr. Harrell continued, through the two general appropriation acts of 2005, the Legislature appropriated a total of nearly \$5.0 million to implement the program (\$4.0 million for a pre-kindergarten pilot program for FY 05, FY 06, and FY 07; and \$950,000 for pre-kindergarten services for FY 05 and FY 06). As required by law, Dr. Harrell explained, PED will fund programs offered through the public schools and CYFD will fund all other programs, including those offered by private providers.

Regarding the RFPs themselves, Dr. Harrell said that CYFD and PED issued similar RFPs for eligible providers on April 12, 2005. Two days later, CYFD and PED hosted the PreK Pre-Proposal Workshop in Albuquerque for public school districts and private child-care providers. According to the announcement, the purpose of the voluntary workshop was to review the PreK RFPs and to provide guidance and technical assistance on the application process. In addition, between April 25 and May 12 the two departments scheduled grant writing workshops in seven different cities throughout New Mexico: Farmington, Gallup, Albuquerque, Las Cruces, Carlsbad, Taos, and Las Vegas.

The two RFPs, Dr. Harrell continued, present the same fundamental concepts, terms, goals, and purposes of the pre-kindergarten initiative. They also offer the same per-child reimbursement rate, \$2,278.81 (for 540 hours), and they specify the same criteria for funding, taken from the *Pre-Kindergarten Act*. However, while they agree on these major components, the two RFPs differ in several other respects. One of the more significant differences between the two RFPs, Dr. Harrell said, is the credentials required of the teachers. In brief, the PED RFP requires a licensed teacher in every classroom, whereas the CYFD RFP is somewhat more flexible. Dr. Harrell noted that the presenters would comment on these components in more detail.

Finally, Dr. Harrell said that, as additional assistance to respondents, CYFD and PED posted on their websites a document called *Pre-Kindergarten Proposal: Frequently Asked Questions and Answers* (FAQ). This document raises and answers questions regarding the configuration of the 540 funded hours, attendance policies, reimbursement schedules, allowable uses of funds, collaboration among eligible entities, licensure of facilities and persons, and program evaluation, among other topics. Dr. Harrell noted that he had included this FAQ as an attachment to his staff brief.

Before they began the actual presentation, Dr. Steinhaus explained that, because PED and CYFD were in the midst of a procurement process, there were legal restrictions upon what he and Secretary Bolson could say about the responses to the RFPs at this point. They were unable, for example, to offer any details about the number of proposals, the kinds of providers submitting proposals, or the collaborations among the providers, for fear either of giving unfair advantage to certain proposals or discouraging potential respondents from replying to the RFP.

As another preliminary point, Secretary Bolson told the committee that she had met recently with Senator Edward Kennedy (D-Massachusetts) and his staff about pre-kindergarten initiatives in New Mexico as well as in some 40 other states. Because of the widespread and growing interest in pre-kindergarten among the states, Secretary Bolson said, Senator Kennedy is considering a proposal for federal funds to support these state initiatives.

As the first point in the presentation, Dr. Steinhaus reviewed the purposes of the pre-kindergarten initiative:

- to increase access to voluntary high-quality pre-kindergarten programs;
- to provide developmentally appropriate activities for children in New Mexico;
- to expand early childhood community capacity;
- to support a linguistically and culturally appropriate curriculum; and
- to focus on school readiness.

He had recently seen these purposes fulfilled, Dr. Steinhaus continued, at a pre-kindergarten program in the Agua Fria community of Santa Fe, a public/private partnership in which the teacher integrated academics into virtually every activity during the day.

As prescribed by the *Pre-Kindergarten Act*, Dr. Steinhaus explained, the programs must address the total developmental needs of preschool children, including physical, cognitive, social, and emotional needs; and they must include health care, nutrition, safety, and multicultural sensitivity. The act also requires the two departments, CYFD and PED, to collaborate on promulgating rules to govern New Mexico PreK. As part of this collaboration, staff members from the two departments have been meeting each Tuesday, first to develop the RFPs and, in May, to begin drafting rules.

Noting the legislative findings related to the special needs of New Mexico's four-year-old children and the benefits of high-quality pre-kindergarten, Secretary Bolson said that New Mexico PreK will focus on those children most in need. To be eligible for funding, potential providers must serve those communities with (1) the highest percentage of elementary students not meeting proficiency in reading and math as determined in the calculation of adequate yearly progress (AYP) as required by the federal *No Child Left Behind Act of 2001* (NCLB) and (2) the highest percentage of children to be served living in the attendance zone of a Title I elementary school (by law, the minimum is 66 percent).

Regarding fiscal matters, Dr. Steinhaus said that the \$4.0 million appropriation in the *General Appropriation Act of 2005* will provide a per-child reimbursement rate of \$2,278.81 for 540 hours of direct services. The figure of 540 hours was determined by multiplying 180 (the minimum number of days in a school year) by 3 (on the presumption of a half-day program). The reimbursement rate, Dr. Steinhaus added, compares favorably with that of the Georgia program (one of the few in the country that has attempted to be statewide), which is \$3,400 per child for a program of 6.5 hours. The other appropriation – \$950,000 in SB 190 – will support professional development for pre-kindergarten teachers, especially in the form of TEACH scholarships and collaborations with institutions of higher education. New Mexico State University, for example, has proposed developing an assessment tool to give providers credit for prior learning and a web-based professional development program in both English and Spanish. Also on higher education, Dr. Bolson added that, at its May 2005 commencement, the University of New Mexico graduated the highest number of students in early childhood education in the history of the university. Many of these students, Dr. Bolson continued, had switched majors because of the pre-kindergarten initiative.

The standards for New Mexico PreK, Dr. Bolson said, were developed over a year's time and designed to allow programs the flexibility to accommodate each community's cultural and linguistic strengths and needs. These standards lead to the prescribed learning outcomes, which provide programs with the framework they need for comprehensive, on-going assessment of children's growth and development according to research-based indicators of school readiness. Dr. Steinhaus added that the state standards correspond to those of two major national preschool associations: the National Association for the Education of Young Children and the National Institute for Early Education Research.

Addressing the RFPs themselves, Dr. Bolson gave credit to her department and to PED for being able to release the RFPs so quickly after the end of the session. The CYFD, she said, mailed an RFP to each licensed child-care provider and PED mailed one to each school district superintendent and to each regional education cooperative. In both cases, she continued, the departments stressed that the funds available through New Mexico PreK must supplement services already being provided, either by increasing the number of students being served or by offering additional programs. Within the constraints of the procurement process, Dr. Bolson was able to say that CYFD had so far received 57 letters of intent.

Each RFP, Dr. Bolson said, requires eligible providers to include in their proposal a description of the services that will be offered, including:

- an explanation of how the services meet CYFD standards;
- the number of children to be served;
- the site and floor plan of the facility where the program will be offered;
- other sources of revenue for the program;
- a plan for communicating with and involving parents;
- the qualifications and experience of the staff; and
- an explanation of how the program will meet the continuum of services for children.

While they agree on these points, Dr. Steinhaus explained, the two RFPs specify different credentials for the pre-kindergarten teachers:

- According to the RFP issued by PED, which is funding programs offered by public schools, "a licensed teacher" must be placed "in every classroom funded through the PreK Initiative."
 - Dr. Steinhaus further explained that three state-issued licenses will satisfy this requirement: the Early Childhood Education license (birth to grade 3), the Elementary Education license (K through grade 8), and the Special Education license (K through grade 12), although the department's preference is that providers hold the Early Childhood Education license.
 - Also, any teacher with a class load of 11 to 20 students (with 20 as the maximum allowed) is entitled to a licensed educational assistant (EA).
- According to the RFP issued by CYFD, which is funding programs offered by providers other than public schools, "a qualified Early Childhood Developmental Specialist" must be placed "in every classroom funded through the PreK Initiative." This specialist, Dr. Steinhaus explained, should hold a PED-issued Early Childhood Education license within five years or demonstrate progress toward meeting a professional development plan. EAs should have an associate degree in early childhood education within five years or a professional development plan leading to an associate degree.

Another difference between the two RFPs, Secretary Bolson said, is the implementation timeline. In their original forms, the two RFPs had prescribed different criteria for maximum class size and for assigning educational assistants to the pre-kindergarten classrooms. However, CYFD recently amended its RFP to make the class size and educational assistant criteria correspond to those of the PED RFP (described above). To comply with procurement requirements related to this change, CYFD also amended its timeline to extend the proposal deadline to June 8, 2005 and the notification of awardees to June 20. For those respondents applying to PED, Secretary Bolson noted, the original deadline of May 24 still applies, with notification on June 13. Dr. Steinhaus added that for both departments, the effective contract date is still the original date of July 1, 2005. (NOTE: After the meeting ended, Mr. Roger Gillespie, Acting Deputy Director of Family Services, CYFD, delivered copies of a corrected amended implementation timeline for CYFD, which posts a proposal due date of June 6, with notification on June 13.)

Turning to technical assistance for potential providers, Dr. Steinhaus said that the seven grant-writing workshops attracted 111 participants altogether. In compliance with the procurement process, these workshops focused on grant writing in general, not the New Mexico PreK RFP in particular. In addition, Dr. Steinhaus continued, Dr. Baji Rankin, Director, New Mexico Association for the Education of Young Children, had worked with PED and CYFD to prepare a template for the RFP and to offer two other workshops.

As their final points, Secretary Bolson reviewed the evaluation factors and the points assigned to them, which the departments will apply in ranking the proposals they receive; and Dr. Steinhaus explained the three levels of assessment and evaluation of the program, a feature that the Legislature should find helpful, he said, in determining whether to fund the program next year:

- Level 1: pre-, midpoint-, and post-assessment of children's development and readiness;
- Level 2: assessment of program's achievement of unique program goals; and
- Level 3: external statewide evaluation of New Mexico PreK.

The statewide evaluation, Dr. Steinhaus noted, will be "double-blind" in that the Office of Education Accountability will issue an RFP for a third-party evaluator.

To conclude their presentation, Secretary Bolson acknowledged the assistance of Dr. Rankin and of Dr. Elizabeth Gutierrez, Education Advisor, Office of the Governor; and Dr. Steinhaus advised the committee that, while he still retains his title within PED, he is on temporary assignment to the Governor's office to coordinate the establishment of New Mexico PreK.

Committee Discussion:

In response to a committee member's question, Secretary Bolson said that New Mexico PreK can serve as many as 1,566 four-year-old children in school year 2005-2006 and the same number during the following year.

In response to a committee member's questions about the pre-kindergarten curriculum, Secretary Bolson said that the program does not prescribe a specific curriculum but, instead, developmental milestones based on child development skills. In addition, there are program standards posted on each department's website. Dr. Steinhaus added that the state has no plan to adopt a specific curriculum; rather, the plan is to rely on the professionals in the classrooms, whose approaches he hopes will be eclectic. As an example, he once again cited the public/private program at Agua Fria, in which the teacher recognizes the learning style of each child, whether kinesthetic, visual, or verbal.

In response to a committee member's question about teacher credentials, Dr. Steinhaus explained that CYFD's current goal is that each early childhood developmental specialist have a PED-issued Early Childhood Education license within five years, whereas PED allows any one of the three licenses already noted. Dr. Steinhaus also explained that the state does require a license in Special Education for teachers in the program for three- and four-year-old developmentally delayed children.

In response to a committee member's question about the number of programs the departments expect to fund, Secretary Bolson said that the focus is on the number of children to be served, not the number of programs. She also said that CYFD and PED will try to cover the state in order to determine which models work best in which areas.

In response to a committee member's questions about means of ensuring that those communities with the greatest needs are served, Dr. Steinhaus noted a data sheet in the CYFD RFP, "PreK Eligibility List," which contains both Title I and NCLB data for all school districts in New Mexico. He also indicated that a particular community must take the initiative to apply. On this point, within the constraints of the procurement process Dr. Steinhaus said that PED and CYFD have been averaging three inquiries per day from parents interested in the program.

In response to a committee member's question whether location could be a priority for funding, Dr. Steinhaus said no, that the law does not recognize location as a priority. Secretary Bolson added that, while location is not a funding priority, demographic and target population information is one of eight evaluation factors that reviewers of the proposals will consider and that this factor is worth 10 of 100 total points.

One committee member relayed concerns that he had heard from early childhood education providers that New Mexico PreK may be placing too much emphasis on academics before children are ready for such exposure. In response, Dr. Steinhaus explained that the program calls for those activities that are "developmentally appropriate" and that both PED and CYFD are aware of concerns over the possible "push-down effect": that is, the fear that children will be expected to learn progressively more at earlier and earlier ages, sooner than they are ready for such learning. Also in response, Secretary Bolson described the sorts of developmentally appropriate pre-academic activities that four-year-old children might engage in, activities that teach such concepts as identifying colors, learning to take turns, and beginning to recognize logical sequences through story-telling.

As the discussion progressed, committee members expressed a number of other concerns, among them: that, with its requirement for 540 hours, the program is not as flexible as had been hoped, particularly in terms of coordinating with the Kindergarten-Plus Program; that the appropriation may be insufficient; that rural areas may continue to be underserved; and that the proof of the program will be in its results.

Finally, the Chair said that she had attended one of the grant-writing workshops and found it to be an excellent presentation, attended by both public school and private providers. She also suggested that, when the RFPs are issued again, the time that teachers spend in parent visits be counted as direct services.

Senator Nava thanked the presenters and, with the consensus of the committee, recessed the LESC meeting at 4:40 p.m.

**MINUTES
LESC MEETING
TUESDAY, MAY 24, 2005**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on May 24, 2005, at 9:10 a.m., State Capitol, Room 322, Santa Fe, New Mexico.

The following LES C members were present:

Senators Cynthia Nava, Chair and Mary Kay Papen; and Representatives Rick Miera, Vice Chair, Joni Marie Gutierrez, Mimi Stewart, and W.C. “Dub” Williams.

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Senators Vernon D. Asbill, Dianna J. Duran, Mary Jane M. Garcia, John A. Pinto, and Leonard Tsosie; and Representatives Ray Begaye, William “Ed” Boykin, Roberto J. “Bobby” Gonzales, Sheryl M. Williams Stapleton, Richard D. Vigil, and Teresa A Zanetti.

Also in attendance was Representative Miguel P. García.

NO CHILD LEFT BEHIND ACT OF 2001

a. NCLB State and District-level Costs

Senator Nava recognized Representative Miguel García, who came for the federal *No Child Left Behind Act of 2001* NCLB cost study presentation. She invited him to sit on the dais with the committee and told him to feel free to ask questions.

Ms. Sharon Ball, LES C staff, introduced Dr. Kurt Steinhaus, Deputy Secretary for Learning and Accountability, Public Education Department (PED), and Dr. Robert Palaich, Vice President, Augenblick, Palaich, and Associates, Inc. (APA), to provide a report on the state and district-level costs associated with the implementation of NCLB.

By way of background, Ms. Ball explained that the New Mexico PED, in May 2004, joined a cost consortium of states under the aegis of the Council of Chief State School Officers (CCSSO) to examine the costs of administering NCLB at the state and district levels (Regarding identification of participating states, she said that, at the request of the CCSSO, each state agreed to identify only itself and its results publicly and not to identify any of the other states because CCSSO considers this information to be proprietary between CCSSO and the consortium states). Ms. Ball said that, to develop data gathering procedures for consortium members, CCSSO contracted with APA, a Denver-based consulting firm.

Ms. Ball said that five New Mexico districts—Albuquerque, Las Cruces, Rio Rancho, Gallup-McKinley County, and Jemez Valley—volunteered to work with PED to provide data for the project.

Before beginning his part of the presentation, Dr. Steinhaus asked to recognize several people who had worked to provide district-level data for the study, including:

- Dr. Diego Gallegos, Assistant Superintendent, Albuquerque Public Schools (APS);
- Ms. Karen White, Superintendent, Gallup-McKinley County Schools (GMCS);
- Mr. Randy Evans, Finance Executive Director, Rio Rancho Public Schools (RRPS);
- Dr. Mel Morgan, Director, Data Management, Las Cruces Public Schools (LCPS); and
- Ms. Sandra Henson, Superintendent, Jemez Valley Public Schools (JVPS).

He noted that the data necessary to respond to requirements of the study were highly detailed and required literally hundreds of hours to complete.

Dr. Steinhaus reminded the committee that the primary purposes of NCLB is improving student performance—with the goal of having all students reach “proficiency” by 2014—by closing the achievement gap between historically underperforming students and students who historically achieve at proficient levels. He said that PED’s purpose in participating in the CCSSO Cost Consortium is to provide information in this report that will assist the Legislature, the Governor, the Secretary of Education, district administrators, and local school boards in making informed policy decisions about implementation of NCLB.

Directing committee members’ attention to the information behind tab 5 in their notebooks, Dr. Steinhaus stated that this report focuses on NCLB state and district-level administrative costs since the legislation was enacted in 2001, with state projections through school year 2007-2008 and district projections through school year 2004-2005. He said for the purpose of this report, the cost of NCLB is defined as the value of the resources—both time and materials—the state needs to accomplish the following:

- implement the explicit requirements of NCLB that are related to accountability (including the development and implementation of school and district performance standards, assessments to measure student performance, and consequences of not meeting performance expectations);
- meet any new requirements of NCLB that go beyond what was required under previous authorizations of the *Elementary and Secondary Education Act of 1965* (ESEA)—such as requirements in regard to qualifications of educators who work with students and data collection and reporting for all schools; and
- administer all aspects of NCLB, including managing the numerous federal grant programs it supports.

Dr. Steinhaus noted that this cost definition of NCLB does not include every action the state, school districts, and schools will take to make sure that every student becomes proficient in reading, math, and science by 2014. He said that this report focuses on resources expended above and beyond those that the state is already expending to develop and implement its own accountability system and also includes costs attributable to NCLB that would not have been incurred if NCLB did not exist.

Utilizing a series of Microsoft Excel-based templates, Dr. Steinhaus explained, APA developed and provided a detailed framework of NCLB requirements based upon a close reading of NCLB legislation, regulations and non-regulatory guidance issued by the US Department of Education (USDE), and input from members of the cost consortium. He said that the templates are organized around the following seven cost-driving NCLB components:

Component 1A	Standards and Assessments
Component 1B	Accountability
Component 2A	Technical Assistance for Local Districts and Schools
Component 2B	School Choice and Supplemental Services
Component 3	High Quality Educators
Component 4	NCLB Data Management
Component 5	Administration of NCLB and Title Programs

Dr. Steinhaus explained that each component further breaks down into subset *areas* and associated *tasks*. For example, he said, Component A includes a set of areas that NCLB requires every state to address dealing with the creation of state standards and assessments for reading, math, and science. The framework then delineates a standard series of associated tasks within each area, such as the need to develop and disseminate support materials and to train educators. And finally, the framework templates require state and district officials to delineate their own respective unique sets of activities that reflect the strategies the state has adopted to implement NCLB such as convening study groups, holding meetings, preparing materials, managing contracts, responding to questions, resolving disputes, developing reports, or other steps taken to complete a task in the templates.

Dr. Steinhaus said that, of the seven components identified for the study, the most costly for New Mexico (i.e., those components that are not adequately funded through federal dollars) were Component 1A, Standards and Assessments; Component 2A, Technical Assistance for Local Districts and Schools (including school improvement strategies and ongoing administration); and Component 4, Data Management. He stated that data generated by the report appear to indicate that federal funding for the remaining four components is generally more in line with federal requirements than is the case with the other three components.

In response to a committee request for clarification, Dr. Palaich said that this “activities-based” process is designed to cost out the resources that people at the state and district levels think are necessary to accomplish activities associated with New Mexico’s federally-approved “Consolidated Plan and Accountability Workbook.” He added that activities are actions, products, or events and could include, besides those mentioned by Dr. Steinhaus, developing a data collection procedure, informing parents, or training teachers.

Referring committee members to his handout, “Estimating NCLB Cost for States and Districts,” Dr. Palaich explained that state and district-level staff were asked—to the best of their ability—to identify the resources needed to complete activities associated with each task. In response to additional committee members’ questions, Dr. Palaich explained that “resources” could include personnel time, supplies and materials, travel, and contracts. He added that the cost of the time is based on the hours, days, and/or weeks that people devoted to the task together with the different job titles and the average salaries for each job title.

Cautioning that, in some cases demographic anomalies can create problems for extrapolation of data provided by the five subject districts, Dr. Palaich stated that the resulting estimate for New Mexico at the state level indicates the cost of implementing NCLB using the agreed upon definition ranges from a total of \$10.1 million to \$17.7 million per year for school year 2002-2003 through school year 2007-2008, which amounts to a per-pupil, per-year dollar figure of between \$32 and \$56. He added that the resulting estimate of local school districts ranged from \$71.0 million to \$108.0 million per year for school year 2002-2003 and school year 2004-2005, which amounts to a per-pupil, per-year dollar figure of \$228 and \$345, respectively.

Dr. Palaich said that, while efforts aimed at improving student performance, narrowing the achievement gap, and ensuring high-quality schooling for all children are the kind of investments that help schools and local districts to meet AYP requirements, NCLB does not mandate prevention and intervention strategies *before* a school's failure to meet AYP. Therefore, these types of expenditures are not counted in this cost study. He added that the same is true of initiatives such as pre-school and after-school programs, class size reduction, summer school, or summer leadership academies for educators: They are worthwhile activities, but, in New Mexico, they were undertaken independently of any federal requirements and prior to passage and implementation of NCLB and therefore cannot be counted in this cost study.

As a result, therefore, Dr. Palaich pointed out, this report presents a conservative estimate of New Mexico's costs to administer NCLB. He said that the resulting cost figures in this report are tabulated costs of new activities initiated at the state and district levels solely for the purpose of complying with and administering the provisions of NCLB. While commending all persons participating at the state and district levels for their commitment and diligence in providing the data required, Dr. Palaich emphasized that this report necessarily relies both on objective data and professional judgment. Therefore, he said, the resulting figures should be treated as cost estimates rather than precise dollar specifications.

Dr. Palaich added that, having generated an estimate of compliance costs associated with NCLB, APA would pose several questions that he said were not answered as a result of this study and that must be addressed within the New Mexico political context:

1. What sources of revenue are available to pay for these costs?
2. What should be the state role in paying for these costs? The federal role?
3. Should an estimate of the cost of helping districts, schools, and ultimately students meet AYP requirements be generated?
4. Are the adopted compliance strategies effective and efficient?

At the request of Dr. Steinhaus, Chairwoman Nava asked representatives from districts that participated in the study to provide additional information as a result of their work on gathering the data required to complete the templates. The committee heard from Dr. Gallegos, Ms. White, and Mr. Evans. All agreed that gathering the data had been a challenging, time consuming process. Ms. White stated that, once she understood the magnitude of the task, she hired a former district administrative assistant on contract to complete the work. Calling the work a "daunting task," Dr. Gallegos stated that the APS NCLB Steering Committee took on the responsibility of assembling the data for the district. He noted that the templates consisted of a total of 187 tasks with as many as six activities per task.

All three district representatives agreed that their work consisted of educated "guestimates" and that their most difficult task was to determine whether each activity associated with each task was related to NCLB. All three also agreed that, while each participant was conscientious in his or her "guestimates," comparisons between and among districts would be difficult because of honest differences in professional judgment.

For example, Dr. Gallegos said, APS was working with standards long before NCLB became law. But with the enactment of NCLB, making sure that teachers understand the standards and are able to teach to them became much more important because NCLB-required high stakes assessments of students are based upon their mastery of those standards. Because most of that work was done by teachers, he said, the district's operational dollars paid for this activity.

Likewise, he said, the district extended the contracts for 10 days in school year 2003-2004 for teachers in schools in need of improvement—another cost that could not be paid for from federal funds but something that needed to be done in order to comply with NCLB requirements.

Ms. White indicated that GMCS D reordered many of its priorities because of NCLB requirements, particularly in the area of professional development and transportation expenditures.

All three district representatives agreed that the information in this report reflects only those costs associated with administering the program, supporting teachers, and assessing students. Dr. Gallegos emphasized that this report does not reflect the funding required to bring all students to proficiency by 2014.

Committee Discussion:

Committee members had a number of questions and expressed a number of concerns about the NCLB term “proficiency.” In response to several committee members’ questions, Dr. Steinhaus explained that the NCLB requirement of 100 percent proficiency by 2014 does *not* mean that all students will achieve a score of 100 percent on the statewide criterion-referenced tests in language arts, reading, and mathematics. Outlining the process for determining proficiency, he explained that, once the tests are scored for a particular year—which, he said, is a time consuming process because these tests require students to provide “constructed responses,” which are more detailed than filling in the “bubbles” on the old standardized tests, technical experts in the area of testing (sometimes called “psychometricians”) together with classroom teachers set a proficiency level—i.e., a “cut score”—for each group of students that year. In response to additional questions, Dr. Steinhaus confirmed, for example, that the cut score for a particular test in a specific year *could* be as low as 20 percent so that any student who scored at least 20 percent on that particular criterion-referenced test would be determined to be proficient in that area. He added that, theoretically, if 95 percent of all students in all subgroups achieved at least the “cut score” for that particular year, they would achieve proficiency in that specific area.

Committee members concurred with the presenters in expressing their support for some of the goals of NCLB, particularly the goal of closing the achievement gap between lower and higher socio-economic groups. Committee members expressed concern, however, that, as long as the current requirements for making AYP remain in place, this positive goal requires that negative labels—which can be harmful to students, staff, and school community members—be placed upon some schools and districts. They noted that the negative effect of these negative labels may outlive the benefits to students of helping them to achieve higher standards.

Committee members expressed concern that New Mexico, because of the size of its Title I and other federal grants, cannot at this time afford the projected decline in federal dollars for federal fiscal year 2005 and fiscal year 2006. Dr. Gallegos indicated that the APS board plans to take the information generated by this report to the New Mexico congressional delegation to bolster the case for providing additional federal dollars to fund NCLB provisions for which some districts are currently using State Equalization Guarantee dollars. He also noted that, even though APS is currently receiving 25 percent more in Title I funds since enactment of NCLB in 2001, the district now must take 20 percent “off the top” of its Title I allocation to pay for transportation and supplemental educational services. In addition, he said, NCLB provisions do not allow districts to pay teachers to spend additional time tutoring students; rather, those dollars must go to a qualifying vendor who may, in turn, hire the same teacher on a contract basis.

Senator Nava requested that the APS board provide to the LESC the presentation that it plans to make to the New Mexico congressional delegation to request additional federal NCLB funding.

b. NCLB Funding to New Mexico

Chairman Nava recognized Ms. Frances Maestas, LESC staff, and Dr. Kathleen Forrer, LESC staff, to continue the presentation with information related to NCLB funding to New Mexico.

Ms. Maestas stated that she and Dr. Forrer would provide a report on their efforts to determine what revenues the five school districts participating in the NCLB cost study had used to cover the estimated costs identified in the report. She then introduced Mr. Don Moya, Deputy Secretary for Finance and Operations, Public Education Department (PED), to preview the new revenue and expenditure reporting system being piloted by PED.

To begin the presentation, Ms. Maestas reiterated that, although the NCLB report does not address the identification of available revenue sources, it does stress the importance of determining those sources and of identifying those costs that should be paid for with federal dollars and those that should be paid with state dollars. She explained that, in an effort to begin to answer these questions, she and Dr. Forrer had attempted to determine the federal revenue available to the state and to school districts for NCLB. She noted, however, that even though information regarding federal allocations to the state is readily available from the US Department of Education (USDE), the system used by PED to collect district revenue and expenditure data does not have the ability to tie revenue sources to NCLB costs. Ms. Maestas then asked Dr. Forrer to present the results of their efforts to tie revenue to the NCLB cost components included in the NCLB report.

Dr. Forrer referred the committee to an attachment to the staff brief containing brief descriptions of the 30 programs recognized by the federal government as providing funding for NCLB implementation; however, she noted that three of those programs—the Eisenhower Professional Development State Grants, the federal Class-Size Reduction Program, and the Emergency Immigrant Education Program—no longer exist in their original form.

Dr. Forrer directed the committee’s attention to Attachment 2 of the brief, which details the funds allocated to New Mexico for the 30 federally-identified NCLB programs. Explaining that the largest federal source of funding available to support the requirements of NCLB is Title I, Dr. Forrer noted that the actual amount of funding allocated for Title I grants to school districts statewide was \$70.3 million in federal fiscal year 2001, the year before NCLB was enacted. By federal fiscal year 2004, she said, that amount had increased to \$114.7 million. Overall, she reported, total funding for all NCLB programs increased from \$187.8 million in federal fiscal year 2001 to \$282.4 million in federal fiscal year 2004. She added that for federal fiscal year 2005, the federal government estimates that \$276.3 million will be available to fund all NCLB programs in New Mexico, including Title I.

Pointing out that one of the programs identified as an NCLB program is the Impact Aid Basic Support Payments program, Dr. Forrer cautioned that because of the state’s funding formula, that portion of federal Impact Aid for which the state takes credit should be excluded from consideration as additional federal revenue. Prior to the 2005 legislative session, she noted, PED estimated the statewide Impact Aid credit for school year 2004-2005 to be \$48.0 million; thus, using those credits as an estimate of future credits, the total amount available for NCLB implementation for federal fiscal year 2005 after deducting the Impact Aid credit from the estimated total allocation of \$276.3 million would be approximately \$228.3 million.

Noting that detailed expenditure information is unavailable from PED, Ms. Maestas said that she and Dr. Forrer were not able to link revenues to the corresponding expenditures associated with NCLB cost components identified in the report. The solution, she stated, is to find a way to secure better data. She said that the process is twofold, requiring both the implementation of a uniform chart of accounts and the development of a better data collection and reporting system. In addition, she suggested that the committee might want to consider the following additional actions that PED could take to better answer questions regarding the relationship between federal revenue and the costs incurred as a result of NCLB requirements:

- identify and define all cost-driving NCLB components in addition to the seven components identified in the NCLB report;
- identify available federal and state revenues to provide for those costs;
- develop guidelines for department and school district personnel for compiling and reporting NCLB costs and revenues in a consistent manner;
- assign/dedicate state-level staff to monitor and compile statewide data; and
- train department and school district staff in analyzing and reporting NCLB cost and revenue data to better understand the true costs of NCLB.

Ms. Maestas stated that, in order to assist the education department to secure better data, the 2000 through 2003 Legislatures appropriated a total of \$4.2 million to PED for performance-based budgeting software, which did not prove to be successful. The 2005 Legislature, she added, appropriated \$6.7 million to PED for a data warehouse, which had been a recommendation contained in the Legislative Finance Committee audit of PED's Accountability Data System (ADS). Finally, she noted that PED is pilot testing a new Web-based Operating Budget System that will allow PED to receive detailed expenditure reports for all federal funds allocated to school districts.

To begin his discussion of the PED web-based budgeting system, Mr. Moya provided the committee with a one-page handout entitled "Uniform Chart of Accounts Initiative." He explained that the ultimate goal of the initiative is to fully implement both the new reporting system and the uniform chart of accounts on July 1, 2006.

Mr. Moya noted that school districts and charter schools currently submit two types of revenue and expenditure information to PED: budget data and actual data. He stressed that the new reporting system will provide a more effective means for districts to submit both types of information. In particular, he stated, the system will allow more frequent and more detailed reporting of actual revenues and expenditures, both state and federal. He explained that until now, the School Budget and Finance Analysis Bureau at PED has only received aggregate data regarding federal expenditures. As an added benefit, he continued, the web-based budgeting system will give districts the ability to submit and to track budget adjustment requests (BARs) on line. He said that 25 school districts, including the Albuquerque Public Schools, are pilot-testing the new system.

To develop the web-based budgeting system, Mr. Moya explained, PED has contracted with POD, Inc., an Albuquerque-based firm specializing in systems integration and management solutions. Adding that POD will also be developing a training module for the implementation of the uniform chart of accounts, Mr. Moya introduced two representatives from POD, Inc. – Ms. Samantha Lapin, President and Chief Executive Officer, and Mr. Dale Atkinson, Chief Technology Officer—who were in attendance and available to answer questions from the committee. In response to an inquiry from the chair, Ms. Lapin noted that "POD" used to stand for Programs on Demand but that when the company began to expand its products and services beyond software development, POD became the actual name of the company as opposed to an acronym.

Dr. Rindone pointed out a discrepancy between the legislators' view of data and the school districts' view of data. Citing a recent conversation she had had with a school district administrator, she noted that while legislators often feel that they have insufficient data with which to make decisions, the school administrator stated that superintendents often feel that they "have data coming out of their ears." She pointed out a need for PED to determine what data are required to answer legislators' questions. Stating that the point was a good one, Mr. Moya said that the implementation of the uniform chart of accounts will help to ensure consistency in the way in which districts collect and report data. He also stressed the need for good professional development to sustain that consistency among districts.

Noting that many legislative questions are centered around NCLB requirements, a committee member suggested that PED find a way to track all NCLB revenues, including those that go directly to school districts. Mr. Moya stated that the new web-based budgeting system will allow the state to collect detailed revenue and expenditure data for all federal funds, including both those that flow through PED and those that go directly to the districts.

Ms. Maestas said that the new budgeting system should enable easier tracking and reporting of federal carryover funds, which have been a source of concern to legislators. She reported that a number of legislators have been receiving reports from USDE indicating that New Mexico has large, unexpended balances in a number of federal grants, leading some legislators to conclude that the state is in danger of reverting those funds. However, she said, these reports may be somewhat misleading. Part of the problem, she explained, is that federal funds are appropriated for multiple federal fiscal years, and school districts generally have 27 months to spend those funds. As a result, she continued, although the state may appear to have a large unexpended balance in a given fund, the money may not be in danger of reverting because of the time remaining in the grant period to expend the funds. Mr. Moya stated that due to problems that predate the current administration, the department has had difficulty reconciling some of the federal fund accounts. In order to ensure that those funds are properly reconciled, he added, the department has restricted expenditures to current year funds; once the reconciliations are complete, PED will go back and "book" expenditures to the correct year.

Committee Discussion:

In response to a committee member's question regarding the increase in federal revenues since the enactment of NCLB, Dr. Steinhaus reiterated that in 2001, the state received \$187.8 million and in 2004, the state received \$282.4 million. Mr. Sam Ornelas, Title I Director, PED, explained that federal funds to the state are estimated to decrease to \$276.3 million in federal fiscal year 2005, due primarily to a decrease in Title I funds. He explained that Title I funds are based on a state's poverty rate, and because of a change in the way poverty is now calculated at the federal level, New Mexico's poverty rate has declined.

Several committee members asked how PED had determined the amount by which NCLB was underfunded. Dr. Steinhaus stated that PED had considered the difference between the NCLB costs estimated in the report and the increase in federal funds received each succeeding year in relation to the funds received in federal fiscal year 2001, the year prior to NCLB implementation. Using this methodology, he explained, PED had determined that the gap between the estimated state and local-level NCLB costs identified in the report and the federal revenue allocated for NCLB programs was \$37.0 million for school year 2002-2003, \$31.0 million for school year 2003-2004, and \$26.0 million for school year 2004-2005.

In response to a committee member's question regarding the nature of the costs included in the NCLB report, Dr. Steinhaus reiterated that the study examined state and district-level costs to administer NCLB rather than classroom-level expenditures.

NCLB UPDATE AND THE COUNCIL ON EXCELLENCE & EQUITY

Because the presenter, Dr. Veronica C. García, Secretary of Public Education, was unable to attend the meeting, this item was deferred until the June 2005 LESC meeting.

AREA SUPERINTENDENTS AND COMMUNITY INPUT

Senator Nava recognized Dr. Diego Gallegos, Assistant Superintendent, Albuquerque Public Schools (APS), who expressed concern regarding the consequences of the federal *No Child Left Behind Act of 2001* (NCLB) for Albuquerque Public Schools that do not receive Title I funds but that have been identified as schools in need of improvement. In such cases Dr. Gallegos questioned whether Title I funds could be used to provide the school choice and supplemental services required by law. According to Dr. Gallegos, approximately 20 Albuquerque Public Schools are faced with this problem.

Senator Nava recognized Ms. Judy Binder, who stated that she is a substitute teacher in APS. She raised concerns about the condition of teachers in classrooms, hamstrung by paperwork, and stated that in her eight years as a substitute teacher, she had never been observed by a school principal. According to Ms. Binder, NCLB is “leaving everyone behind.” She indicated that research shows that teachers need to be better paid.

Senator Nava recognized Mr. Terry Riley, representing New Mexico Democratic Friends, an advocacy group within the Democratic Party, who stated that he objected to NCLB for many reasons. Mr. Riley said that he had four children, two in special education, one gifted and one normal. Mr. Riley said that in his experience, state and federal mandates have created a situation where exemplary, hard-working teachers can’t use original approaches to improve the system. He stated that standardized testing has no connection to real world teaching and is not taken seriously by students, and that New Mexico can claim an excellent education system without interference from the federal government. Mr. Riley said that he wondered why more school districts don’t take advantage of opportunities to speak out against the punitive mandates of NCLB.

Senator Nava recognized Ms. Betty W. Smith, media chair for the American Association of University Women–New Mexico (AAUW). Ms. Smith stated that the AAUW has voted to oppose NCLB as it stands, although the organization supports full funding for the law as long as it is in force. According to Ms. Smith, AAUW’s opposition to NCLB is based in part on the statistical impossibility of 100 percent of students achieving proficiency as well as on the law’s over-reliance on testing. She indicated that she spoke from experience as a teacher for 37 years, both in the Gallup area and in Albuquerque’s south valley, and that she was impressed by what the LESC and the Legislature have done to improve education in New Mexico, but that New Mexico can succeed without NCLB.

There being no further business, Senator Nava thanked the presenters and, with the consensus of the committee, adjourned the LESC meeting at 12:04 p.m.

Chairperson

Date

**LEGISLATIVE EDUCATION STUDY COMMITTEE
2005 INTERIM WORKPLAN**

Dates/Locations	Topics
May 23-24, 2005 (Santa Fe)	<ul style="list-style-type: none"> • Summary of 2005 Public School-related Legislation and FY 06 Appropriations (<i>Rindone</i>) • Proposed Activities for the 2005 Legislative Interim (<i>Rindone</i>) <ul style="list-style-type: none"> ➤ Approval of Proposed 2005 LESC Interim Meeting Schedule ➤ Development of the 2005 LESC Interim Workplan • <i>Pre-kindergarten Act</i> and Requests for Proposals (<i>Harrell</i>) • NCLB Update and The Council on Excellence and Equity (<i>Herman</i>) • <i>No Child Left Behind Act of 2001</i> <ul style="list-style-type: none"> ➤ NCLB: State and District-level Costs (<i>Ball</i>) ➤ NCLB: Funding to New Mexico (<i>Maestas/Forrer</i>)
June 13-14-15 2005 (Santa Fe)	<ul style="list-style-type: none"> • NCLB: NCSL Task Force Report (<i>Herman</i>) • Reauthorization of the Federal <i>Higher Education Act</i> (<i>Forrer</i>) • Reading First Progress Report (<i>Herman</i>) • <i>Fine Arts Education Act</i> (<i>Salinger</i>) • Instructional Materials Process (<i>Maestas</i>) • Special Education <ul style="list-style-type: none"> ➤ Reauthorization of the Federal <i>Individuals with Disabilities Education Act</i> (IDEA) (<i>Forrer</i>) ➤ Due Process Hearings for IDEA (<i>Harrell</i>) ➤ Residential Treatment Centers (<i>Maestas</i>)
August 8-9-10, 2005 (Red River)	<ul style="list-style-type: none"> • High School Reform (<i>Salinger</i>) <ul style="list-style-type: none"> ➤ New Mexico High School Initiative: PED Report ➤ Smaller Learning Communities ➤ Career Pathways • Career Technical-Vocational Education <ul style="list-style-type: none"> ➤ Reauthorization of Federal <i>Carl D. Perkins Vocational and Technical Education Act of 1998</i> (<i>Forrer</i>) ➤ Vocational Education State Plan (<i>Forrer</i>) ➤ Career Technical-Vocational Education Centers (<i>Maestas</i>) • Charter School Facilities (<i>Ball</i>) • Pre-kindergarten FY 06 Expenditure Plan (<i>Maestas</i>) • Educator Quality <ul style="list-style-type: none"> ➤ Preparation of School Leaders (<i>Herman</i>) ➤ Wallace Foundation Grant Report (<i>Herman</i>) ➤ <i>Educator Quality Council Progress Report</i>, HJM 13 (<i>Harrell</i>) • Land Grant Permanent Fund Distributions (<i>Ball</i>) • <i>Study Certain 2005 Session Education Bills</i>, HM 52 (<i>Forrer</i>)
September 7-8-9, 2005 (Cloudcroft)	<ul style="list-style-type: none"> • FY 06 Public School Budgets (<i>Forrer</i>) • Schools in Need of Improvement Audit (<i>Harrell</i>) • Kindergarten Plus Interim Report (<i>Harrell</i>) • <i>Children's Cabinet Act</i>, SB 435 (<i>Salinger</i>) • Indian Education <ul style="list-style-type: none"> ➤ <i>Indian Education Act</i> Progress Report (<i>Ball</i>) ➤ <i>Elevate Standing of Indian Education Division</i>, HM 3 (<i>Herman</i>) ➤ <i>American Indian Advanced School Curriculum</i>, SB 215 (<i>Herman</i>) • Adequate Yearly Progress: PED School Designation Report (<i>Herman</i>) • New Mexico Public Schools Insurance Authority (<i>Maestas</i>) • Written Report: <ul style="list-style-type: none"> ➤ <i>Revise School Reading Performance Standards</i>, HJM 87 (<i>Herman</i>)

Dates/Locations	Topics
October 5-6-7, 2005 (Albuquerque)	<ul style="list-style-type: none"> • Capital Outlay (<i>Ball</i>) <ul style="list-style-type: none"> ➤ PSCOC and the Standards-based Awards Process ➤ PSCOC Report on District and Charter School Grant Awards for Leases • Data Warehouse Implementation at PED (<i>Maestas</i>) • Uniform Public School Chart of Accounts Update (<i>Maestas</i>) • <i>Career Technical Education Study</i>, HJM 39 (2004) (<i>Ball</i>) • <i>Educational Retirement Fund Yearly Reports</i>, HJM 15 (<i>Ball</i>) • Full-day Kindergarten Report (<i>Harrell</i>) • Criterion-referenced Test Progress Report (<i>Herman</i>) • Remedial Education and Placement Tests in Higher Education (<i>Herman</i>) • <i>Study Prescription Drugs for Child Behavior</i>, SJM 52 (<i>Harrell</i>) • <i>School Secretary and Clerk Salary Study</i>, HM 36 (<i>Salinger</i>) • <i>Study School Nurse Delivery of Health Care</i>, SJM 9 (2004) (<i>Forrer</i>)
November 14-15-16, 2005 (Santa Fe)	<ul style="list-style-type: none"> • Potential Issues for the 2006 Legislative Session (<i>Rindone</i>) • PED Budget Request for FY 07 (<i>Forrer</i>) • Pre-kindergarten Progress Report (<i>Harrell</i>) • <i>Study Changing Educational Retirement System</i>, HJM 9 and SJM 17 (<i>Ball</i>) • NCLB Highly Qualified Teachers: Status Report (<i>Harrell</i>) • <i>Examine School Social Studies Curricula</i>, SJM 29 (<i>Herman</i>) • Rural School District Definition (<i>Forrer</i>) • <i>Improve Education and State Parks Relationship</i>, SJM 24 (<i>Salinger</i>) • <i>Suicide Prevention Programs in All Schools</i>, SJM 61 (<i>Salinger</i>) • Written Reports: <ul style="list-style-type: none"> ➤ <i>Use of Professionals for School Computers</i>, HM 15 (<i>Ball</i>) ➤ Federal Fund Distribution Report (<i>Maestas</i>) ➤ Teacher Professional Development Fund (<i>Herman</i>)
December 12-13-14, 2005 (Santa Fe)	<ul style="list-style-type: none"> • Public School Support Recommendations for FY 07 (<i>Forrer</i>) • Education-related Issues for the 2006 Legislative Session (<i>Rindone</i>) • Public School Funding Formula Study (<i>Maestas</i>) • Public School Capital Outlay Oversight Task Force Annual Report (<i>Ball</i>) • <i>Create State Investment Funds Task Force</i>, SJM 13 (<i>Ball</i>) • Technology in Education (<i>Ball</i>) <ul style="list-style-type: none"> ➤ <i>Correct Educational Technology Deficiencies</i>, HB 511 ➤ Council on Technology in Education Report • <i>Higher Education Department Act Implementation</i> (<i>Forrer</i>) • <i>Lottery Scholarship Study Committee</i>, SJM 74 (<i>Herman</i>) • Written Reports: <ul style="list-style-type: none"> ➤ Class Load Requirements and Waiver Report (<i>Salinger</i>) ➤ <i>School Meal Nutrition Rules</i>, HB 61 (<i>Harrell</i>) ➤ <i>Study Ways to Improve Health of Youth</i>, SJM 2 (<i>Harrell</i>) ➤ <i>Sign Language Interpreter Licensure</i>, HJM 80 & SJM 78 (<i>Herman</i>)
January 16, 2006 (Santa Fe)	