

**MINUTES  
LESC MEETING  
NOVEMBER 14, 2005**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order on November 14, 2005, at 9:31 a.m., Room 322, State Capitol, Santa Fe, New Mexico.

The following LES C members were present:

Senators Cynthia Nava, Chair, Mary Kay Papen, and William E. Sharer; and Representatives Joni Marie Gutierrez, Dianne Miller Hamilton, Mimi Stewart, and W. C. "Dub" Williams.

The following LES C advisory members were present:

Senator Vernon D. Asbill; and Representatives Ray Begaye, William "Ed" Boykin, Kandy Cordova, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, John A. Heaton, and Harriet I. Ruiz.

**<> Approval of Agenda**

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

**PUBLIC EDUCATION DEPARTMENT  
(PED) BUDGET REQUEST FOR FY 07**

Dr. Kathleen Forrer, LES C staff, introduced Dr. Veronica C. García, Secretary of Public Education, and Mr. Don Moya, Deputy Secretary for Finance and Operations, PED, to review the budget request and subsequent revisions that PED submitted to the Department of Finance and Administration (DFA). Ms. Cynthia Marietta, Assistant Secretary for Administrative Services Division, PED, was also available to respond to questions.

As introduction, Dr. Forrer explained that current statute requires (1) state agencies to submit their budget requests to the State Budget Division of DFA for the following fiscal year no later than September 1 of the current fiscal year; (2) the State Budget Division to review the

completed budget forms of all state agencies, make recommendations, and submit a tentative budget to the Governor; and (3) the Governor to prepare the budget and submit it to the Legislative Finance Committee (LFC) and to every member of the Legislature “not later than January 5 in even-numbered years and not later than January 10 in odd-numbered years.”

Dr. Forrer then gave a brief overview of the *Appropriation Request Preparation Manual: Fiscal Year 2007*, issued by the State Budget Division. She said that for FY 07 DFA has directed agencies to keep their budget requests flat and has discouraged expansion requests unless the cost of the expansion can be accommodated within a flat budget through savings in other categories or object codes.

Mr. Moya reported that PED had submitted a flat base budget request for FY 07, which included a General Fund self-imposed vacancy rate of 5.8 percent. Mr. Moya reviewed a table showing FY 06 PED vacancies at 12 specific points of time but noted that the most recent number of General Fund vacancies on the table would increase due to the addition of four FTEs assigned to the development of the agency’s data warehouse, which had just been approved by DFA and the State Personnel office. Nevertheless, he said, the overall vacancy rate has decreased from 17.8 percent on August 16, 2005 to 11.1 percent on November 1.

Referring to a table depicting PED’s base and expansion requests for FY 07, Mr. Moya noted that the base request is approximately \$32.0 million, which includes a flat revenue amount for General Fund but increases in both federal and other program revenues. He explained that, although PED’s original budget request submission to DFA was for slightly more than \$1.2 million, PED would be requesting that that amount be reduced by \$1.0 million, which would be included instead with the public school support recommendations to be presented to the committee in December. The remaining agency expansion request of \$240,000, he said, would be used to support three additional full-time, permanent positions in existing programs, all of which are consistent with the Governor’s priorities for children. Listed in order of priority, these positions are a behavioral health specialist, a truancy coordinator, and a physical education consultant.

Mr. Moya reported that PED also has submitted one deficiency request for FY 05 for approximately \$1.5 million to reimburse the General Fund for driver’s license fee revenues transferred by the department to the State Equalization Guarantee fund to prevent a reduction in unit value for school year 2003-2004. Noting that the transfer had been allowed by DFA, he explained that PED’s just-completed audit for FY 04 indicated that the driver’s license fee revenues should have reverted to the General Fund. However, he added, PED is working with Mr. Anthony Armijo, Director of Financial Control, DFA, to determine if the problem can be resolved without a deficiency appropriation.

In addition to the deficiency request, Mr. Moya continued, PED has also submitted two supplemental appropriation requests for FY 06: \$3.2 million for school bus replacements and \$70,000 for the department to contract for additional legal services related to the Impact Aid case before the US Tenth Circuit Court of Appeals.

Finally, Mr. Moya said, PED has submitted a hardship request of \$333,700 to cover increases in the cost of the department’s annual financial audit. He explained that, although the current contract for the FY 05 audit totals \$73,000 for both PED and the Department of Vocational

Rehabilitation, the bill for the just-completed FY 04 audit of PED is \$184,700 plus tax. Mr. Moya noted that the Human Services Department, which also has multiple revenue sources, spends in excess of \$300,000 for its audits. If PED's audit costs increase in a similar fashion, the department might well have to expend as much as \$375,000 for its FY 06 audit.

**Committee Discussion:**

In response to a committee member's question whether PED had truly submitted a flat budget request, Secretary García said that, although PED has tried to operate within DFA's guidelines to keep the budget request flat, the department has submitted an expansion request that PED believes is in accordance with the Governor's education priorities. Mr. Moya added that DFA guidelines allow a request for additional funds if they will be used to support a program that is absolutely necessary.

A committee member asked PED to explain why it had submitted a \$3.2 million supplemental request for school bus replacements. Mr. Moya noted that, although the department had requested \$3.8 million during the 2005 legislative session, only \$600,000 had been appropriated. He noted that the remaining \$3.2 million was still needed to catch up with the 12-year school bus replacement requirement in current statute.

In response to a committee member's question about duties of the behavioral health specialist position that PED had requested, Secretary García explained that the Department of Health had asked PED to create a staff position focused on behavioral health so that the two agencies can collaborate on behavioral health initiatives. She explained that this expansion request supports the Governor's priorities of school-based health clinics, youth suicide prevention, and the whole-child approach for closing the achievement gap. She added that the position will also provide districts with support for prevention services, screening assessment, and treatment planning.

A committee member asked why PED had not submitted an expansion request for the Indian Education Division in support of the *Indian Education Act*. Secretary García explained that, because of the large amount of unexpended funds, PED felt that it could not justify an expansion request at this time. She noted that the department's public school support recommendations would include a request for an appropriation to the Indian Education Fund.

In response to a committee member's question for further explanation regarding the \$1.5 million deficiency request, Mr. Moya explained that, when the department was faced with the possibility of having to reduce the unit value, PED looked for a way to bolster the unit value; because driver's license fee revenues are non-reverting, PED worked with DFA to use these funds to keep the unit value intact. However, he noted, the department's independent auditor has determined that, when the driver's license fee revenue was transferred to the State Equalization Guarantee fund, which is reverting, the driver's license fee revenue lost its separate identity and also became subject to reversion. Further, he explained that the use of funds that should have reverted to the General Fund produces a negative fund balance in the audit; therefore, PED needs the deficiency appropriation in order to reimburse the General Fund.

Referring to an editorial in the *Albuquerque Journal* indicating that charter schools reduce the amount of revenue that would otherwise flow to their host districts, a committee member noted that PED was requesting to become the sole chartering authority in the state. The committee

member then asked how many FTEs at PED are dedicated to working with charter schools. Mr. Moya said that, at the current time, there are four. (At this point Secretary García excused herself, and Deputy Secretary Catherine Cross Maple, PED, replaced her for the remainder of the presentation.)

A committee member asked if the current *1999 Charter Schools Act* had been implemented as the compromise in the debate regarding funding private schools with public money. Deputy Secretary Cross Maple said that the charter school concept was a way to build in public school choice and thus was, in a sense, an alternative to vouchers.

Senator Nava requested that PED provide an updated revenue and expenditure report of appropriations to fund activities under the *Indian Education Act*, including the effective date and ending date of all contracts and joint powers agreement (JPAs).

Senator Nava requested that PED provide an estimate of the additional FTEs the agency would require if PED becomes the chartering authority of charter schools.

Senator Nava requested that PED provide an update regarding the distribution and use of the money appropriated for implementation of the *Family and Youth Resource Act* for FY 06 when the department presents the Public School Support Request to the LESC in December.

## **TEACHER PROFESSIONAL DEVELOPMENT FUND**

Ms. Pamela Herman, LESC staff, introduced Mr. Don Moya, Deputy Secretary for Finance and Operations, Public Education Department PED; Mr. Willie Brown, General Counsel, PED, and Mr. Scott Spencer, General Counsel, Department of Finance and Administration (DFA), to provide a presentation on the process used by PED to fund projects from the Teacher Professional Development Fund. From the audience, Ms. Herman also introduced representatives of various entities that have received funding under the Teacher Professional Development Fund: Ms. Laurel Moore, Executive Director, Strengthening Quality in Schools (SQS); Dr. Carmen L. Gonzales, Project Director, Regional Educational Technology Assistance (RETA), New Mexico State University (NMSU); Dr. Celia Merrill, Executive Director, Golden Apple Foundation of New Mexico; and Mr. Stephen J. Dilg, Director, New Mexico Re:Learning Project. Ms. Herman also introduced Mr. James Ball, Assistant Secretary, Educator Quality Division, PED, who was available to respond to committee questions.

Ms. Herman reported that in 2003, in conjunction with the comprehensive school reforms enacted in HB 212, *Public School Reforms*, the LESC endorsed and the Legislature passed bills in both houses to create the Teacher Professional Development Fund. She said this non-reverting fund is administered by PED to provide funding for professional development programs statewide. She said that statute requires PED to evaluate the success of each professional development program that is funded and to report its findings to the LESC each year.

For FY 05 and FY 06, Ms. Herman said that in the *General Appropriation Act* the Legislature has appropriated \$4.8 million to the fund. Ms. Herman directed the committee's attention to two attachments to the staff brief that listed for each year the projects receiving allocations from the

fund; each project's fiscal agent; the amount allocated; the effective date of the contract or joint powers agreement (JPA) for each project; and a summary of the activities provided in each case. Ms. Herman noted that, for FY 05, the contracts or JPAs were executed between August 31, 2004 and March 17, 2005; and that for FY 06, only one of six planned agreements had been executed as of November 8, 2005.

Mr. Brown provided the committee with a handout titled "Constitutional Provisions and State Laws Applicable to the Expenditure of State Educational Dollars." He described how PED carries out its responsibility to administer the Teacher Professional Development Fund, stating that in April 2005 a committee of PED staff members was formed to determine how the allocation of funds to contractors and agencies would be handled. He said that he takes responsibility for contracts with private entities and that Deputy General Counsel Arlene Strumor oversees JPAs. Mr. Brown said that, in general, the department attempts to "utilize the path of least resistance" in determining what vehicle to use to commit the funds within constitutional limits.

Mr. Spencer said that DFA does its best to implement the will of the Legislature regarding the expenditure of state funds. He said that the state *Procurement Code* and DFA rule govern the spending process, and that the anti-donation clause of the New Mexico Constitution, limits how public funds may be paid to private entities. If the recipient of funds is a political subdivision of the state, such as a school district, public postsecondary institution, city or county government, there is no problem. However, when the recipient is a nonprofit corporation, the state must enter into a professional services contract to provide a service required by the government. If there is only one entity that can provide the service the state seeks to procure, then a "sole source" contract is allowed, but if there is more than one entity that can provide the service, the agency must engage in a request for proposal (RFP) process and select the most competitive bid.

### **Committee Discussion:**

In response to a concern expressed by a committee member regarding the critical importance of start times for contractors in limiting their ability to provide programs,

Mr. Spencer stated that DFA rules specify that a contractor not start work until it has a signed agreement in hand. In fact, he said, DFA commonly approves a retroactive agreement where one is requested. He stated that, for the most part, state agencies are responsible for the delays that make retroactive contracts necessary and that DFA has a form it uses to document what causes a delay. He stated that the issue of retroactivity is covered in DFA rule, not in statute.

Senator Nava asked if audience members representing teacher professional development projects wished to speak regarding the disbursement of funds and how they managed during the months while they awaited for their first payment from PED. Mr. Dilg said that Eastern New Mexico University (ENMU) had been very gracious about providing funds up front pending a final contract from PED. Ms. Virginia Trujillo, Director of Youth Development, Inc. (YDI) indicated that YDI experiences extreme difficulty keeping its program operating pending a final contract. Ms. Moore said that, as of the date of the presentation, SQS did not have a final contract. Dr. Gonzales and Ms. Merrill said that RETA and Golden Apple had recently received signed contracts from PED.

Ms. Nan Elsasser, Executive Director, The Working Classroom, also spoke from the audience to describe her organization's experience with a \$47,500 special appropriation included in the second *General Appropriation Act of 2005* (commonly referred to as the "junior" appropriation bill). She said that PED issued a contract for \$30,000 without any communication with her organization and decided to bypass the RFP process by contracting directly with consultants for the remaining \$17,500 of the appropriation. She said that, while her organization waited for a final contract, her artists and staff went unpaid, and she feared that her organization would experience financial difficulties because of the manner in which PED had handled this contract.

In response to a committee member's question regarding how often DFA is threatened with a lawsuit or actually appears in court over anti-donation cases, Mr. Spencer said, "Never." He indicated that over the years the contracting process has become quite loose, and stated that DFA processes contracts as soon as the department receives them and that therefore he did not believe DFA was causing a contracting backlog. Mr. Spencer added that DFA rarely raises anti-donation clause issues with professional services contracts as opposed to capital projects, and urged committee members to call him or DFA Secretary James Jimenez if a problem did arise.

In response to a committee member's question regarding laws or rules that dictate whether an agency can take a percentage of an appropriation for administrative costs, Mr. Spencer said this was allowed by statute only in specific cases. He clarified that agencies and fiscal agents generally incur a cost for managing funds. Mr. Moya concurred, explaining that fiscal agents incur actual costs in administering these funds. He explained further that agencies such as universities or municipalities generally charge very low indirect rates. He pointed out, however, that contractors who use public entities as fiscal agents must abide by state procurement policies, whereas private organizations might charge a higher indirect rate but have less stringent procurement and other financial policies for contractors to follow.

In response to a committee member's question whether the professional development funds have been tied to the three-tiered licensure system, Mr. Ball said that the money is not earmarked specifically for three-tiered licensure; however, several programs have worked with PED to provide training regarding preparation of dossiers and other issues related to licensure.

In response to a committee member's question whether PED had received evaluation results of these programs, Mr. Ball explained that his division has a written evaluation of Re:Learning for the one year that his division was responsible for and had oversight of this project, and he would be glad to share it with the LESC. Ms. Herman indicated that PED would be providing the evaluation report required in statute for the LESC December meeting.

In response to a committee member's question regarding other professional development funds, Dr. Rindone reminded the committee that between 1998 and 2001 the Legislature appropriated a total of \$10.5 million to public school districts through the State Equalization Guarantee that remained in the base of the Public School Funding Formula; however, because these funds are at the discretion of local districts, it is not possible to track how that money is spent.

Members of the committee asked Mr. Spencer and Mr. Moya whether it would be practicable to enter into multi-year contracts to smooth the flow of funds, particularly in the case of a teacher professional development organization with a longstanding relationship with PED. Mr. Moya responded that PED was allowed to enter into a multi-year contract as long as it was stipulated in the contract that the project would continue, pending availability of funds.

Senator Nava requested that PED and DFA provide recommendations to streamline the process for distribution of legislative appropriations to ensure that funds are allocated as early as possible after July 1.

Senator Asbill requested that PED provide evaluations showing documented outcomes of the programs funded by the Teacher Professional Development Fund.

## **DIRECTOR'S REPORT**

### ***a. Approval of Financial Report for October 2005***

Upon a motion by Representative Stewart, seconded by Representative Williams, the LESC financial report for October 2005 was unanimously approved.

### ***b. Written Report: Residential Treatment Centers Recommendations***

Dr. Rindone called the committee's attention to a written report on residential treatment centers (RTC). She said that, at its June 2005 interim meeting, the committee heard a presentation by PED relating to services being provided by a school district for students with disabilities who have been placed in a RTC within a district's boundaries. She added that the LESC had requested PED to provide recommendations for reimbursing school districts that provide services to students in RTCs. Dr. Rindone said that in its report, the Public Education Department (PED) is requesting additional time to map the current RTC placement system; examine facility licensure requirements; explore interstate joint power agreements (JPAs); develop school district guidance; and identify potential statutory changes. She said that it appears that a memorial would be in order. A committee member requested that the enrollment provisions for charter schools also be examined because some charter schools provide services to targeted populations even though the enrollment provisions in the *1999 Charter Schools Act* do not address targeted populations.

### ***b. Written Report: Study Prescription Drugs for Child Behavior, SJM 52***

Dr. Rindone summarized a letter from Dr. Mary-Dale Bolson, Secretary of the Children, Youth and Families Department (CYFD), to Senator Sue Wilson Beffort in response to SJM 52, which Senator Beffort had sponsored. She said SJM 52 requested the Department of Health (DOH) to convene a task force to identify alternative approaches to prescription medication and estimate the safety and effectiveness of these approaches. She said that although DOH did not respond to this memorial, the letter from Secretary Bolson included a report, *NAMI Policy Research Institute Task Force Report, Children and Psychotropic Medications, June 2004*, which includes the results of a 2003 task force established by the Nation's Voice on Mental Illness (NAMI) that studied the use of psychotropic medications with children and adolescents.

Dr. Rindone said that according to the executive summary of the report, approximately 10 percent of children in the United States have a significant mental disorder and approximately 80 percent of these children do not receive treatment. Also within the summary of the NAMI report is the following recommendation: "Psychotropic medications for young children should be used

only when anticipated benefits outweigh risks. Parents should be fully informed and decisions made only after carefully weighing these factors. Children and adolescents must be closely monitored and frequently evaluated, as the side effects common to some medications can be particularly difficult for children. At the same time, psychotropic medications can be lifesaving.”

Dr. Rindone said that also included in the report is an article from NAMI, *The Campaign for Mental Health Reform Briefing on Early Identification and Intervention, A Public Health Crisis: Children and Adolescents with Mental Disorders*, describing the prevalence of mental disorders in children and adolescents and the possible consequences when these disorders are not treated. In addition to the NAMI reports, CYFD submitted approximately 150 pages of supporting research, which is available upon request at the LESC office.

## **EARLY CHILDHOOD EDUCATION**

### ***a. Full-day Kindergarten Evaluation Report***

Dr. David Harrell, LESC staff, introduced Dr. Catherine Cross Maple, Deputy Secretary of Learning and Accountability, Public Education Department (PED), who provided an overview of early literacy programs in New Mexico including the roles of full-day kindergarten and Kindergarten Plus; and Dr. Lana Paolillo, Bureau Chief, Early Literacy Bureau, PED, who discussed the evaluation data for the full-day kindergarten programs from school year 2004-2005.

Dr. Harrell said that the statute that implemented full-day kindergarten, enacted in 2000, requires that PED compile evaluation results on full-day kindergarten and make annual reports to the LESC and the Legislature. Among other provisions, Dr. Harrell continued, the 2000 law requires PED to adopt rules for the development and implementation of “child-centered and developmentally appropriate full-day kindergarten programs”; requires school districts to apply to PED for funding; and requires PED to monitor the programs and notify them that failure to meet the benchmarks prescribed by PED will “result in the cessation of funding for the following school year.”

Continuing with his discussion of the requirements of the law, Dr. Harrell said that PED must require schools with full-day kindergarten programs to conduct “age-appropriate assessments,” adding that, since school year 2003-2004, PED has required that the programs use as their assessment instrument the Dynamic Indicators of Basic Early Literacy Skills (DIBELS), an instrument designed by researchers at the University of Oregon to measure student reading development.

Dr. Harrell said that school year 2004-2005 marked the completion of the five-year phase-in of voluntary full-day kindergarten statewide so that, currently, students in all 89 school districts in New Mexico have access to full-day kindergarten.

Calling the committee’s attention to the background section of the brief, Dr. Harrell said that the committee would find information about the phase-in and funding of full-day kindergarten in New Mexico, both operational and capital funding; information about full-day kindergarten in

other states; and some research findings on the effectiveness of the program at the national level. In conclusion, Dr. Harrell noted a study published by the Education Commission of the States (ECS) in June 2005, which highlighted

New Mexico's program as an effective method of providing universal access to full-day kindergarten. He said this finding is in stark contrast to what ECS discovered about a number of other states – that they do not even know the percentage of their school districts that offer full-day kindergarten.

Dr. Cross Maple began her presentation by explaining the activities being undertaken by PED's Early Literacy Bureau, which oversees the following programs: Kindergarten Plus, PreK, Even Start, Full-day Kindergarten, and Reading First. She said PED's mission is for all students to be reading at grade level by the end of third grade.

In her overview of full-day kindergarten, Dr. Cross Maple said that, with all 89 school districts in New Mexico offering it, full-day kindergarten is available at 396 elementary schools, with 24,543 students, or 99.7 percent attending full-day programs. She explained that DIBELS is used as the assessment instrument for program evaluation because it is predictive of a student's later reading proficiency and because it is an effective tool in the early identification of students who are not progressing as expected.

Dr. Paolillo explained that DIBELS is used in kindergarten and first grade. She provided several charts that showed the progress of kindergarten children in the following categories: Letter Naming Fluency, Nonsense Word Fluency, and Phoneme Segmentation Fluency.

Dr. Paolillo said that adequate progress is determined by the movement of students toward meeting benchmark-level performance based on the three tiers of instructional support: intensive, strategic, and benchmark. Specific criteria are established for each tier to determine whether a program has made adequate progress.

In presenting the analysis of program effectiveness, Dr. Paolillo said that, based on school year 2004-2005 DIBELS assessment results, 23 percent of the full-day kindergarten programs demonstrated strength, 60 percent needed some assistance and support, and 16 percent required substantial support. She explained that:

1. Schools demonstrating program strength include those schools that fully met expectations with all students, demonstrated program strength at all three tiers of instructional support, or demonstrated strength or relative strength in two or more tiers of instructional support.
2. Programs identified as needing some support may have, for example, strength in one of the three tiers but need support or substantial support in two of the remaining tiers. These programs may also need some support in all three tiers of instruction.
3. Programs identified as needing substantial support are not yet making adequate progress in any of the three tiers of instruction.

In conclusion, Dr. Cross Maple said that, by looking at the charts provided, the teacher can see how these programs are working and at the same time identify those children who are still at high risk of failing. These data also provide PED with a clear indicator of which school districts and schools are in most need of technical assistance and professional development.

### **Committee Discussion:**

In response to a committee member's question regarding school district accountability, Dr. Paolillo said that action plans were being developed particularly for those school districts that have been identified as needing additional support. She added that it will take at least three years to see the full effects of full-day kindergarten.

In response to a committee member's question whether students who are not at risk and achieving above required levels are given appropriate instruction, Dr. Paolillo said that, in terms of the assessments, those students would score at grade level. She added her hope that teachers are letting them "soar" by giving these students challenging work.

In response to a committee member's question if there has been any dialogue with teachers on their perspective of full-day kindergarten, Dr. Paolillo said that PED staff have had conversations with first grade teachers, and a national study will be released in February depicting the results of the full-day kindergarten program nationwide.

One committee member expressed concern that reservation schools have had full-day kindergarten programs for several years but that students are still not doing very well. This committee member asked whether PED has examined the reasons for this under-achievement. Dr. Cross Maple said "No," but she added that the department has seen improvement since full-day kindergarten was begun.

In response to a committee member's question whether PED has any longitudinal results of students who started full-day kindergarten five years ago, Dr. Paolillo said that she was not aware of any.

In response to a committee member's question whether PED provides uniform staff training for teachers in all school districts, Dr. Paolillo said that districts are responsible for professional development for all their teachers unless additional funds are provided to PED.

In response to a committee member's question whether PED has met with school districts and discussed the data, particularly for those districts that require substantial support, Dr. Paolillo said that the department has not done so to date; however, PED will conduct site visits to all the school districts and require the superintendent to participate. Dr. Cross Maple stressed that, when a school district shows chronic trouble in reading, PED will be prescriptive and make sanctions on the district.

In a brief discussion of the charts and the amount of data provided in them, a committee member suggested that PED should provide these data to all school districts in order to inform teachers so that instruction can be modified as necessary.

Senator Nava requested that the Office of Education Accountability (OEA) analyze the full-day kindergarten data so that PED will have more time to focus on instruction. She also expressed her concern about the placement of student teachers in schools that are in need of improvement and with teachers in Level I. She said that universities should be placing student teachers with Level III teachers since novice teachers should be learning from master teachers.

Representative Stewart requested that PED prepare a single chart illustrating the growth of full-day kindergarten programs, by district, in the four skill sets measured by DIBELS, in order to obtain a more meaningful picture of the success of each district in helping students meet the benchmarks.

Representative Begaye requested that PED collect full-day kindergarten performance data from BIA schools.

#### ***b. Kindergarten Plus Evaluation Report***

Dr. David Harrell, LESC staff, introduced Dr. Lana Paolillo, Bureau Chief, Early Literacy Bureau, PED, and Ms. Beata I. Thorstensen, Education Policy Analyst, Office of Education Accountability (OEA), who presented the findings and recommendations derived from the OEA evaluation of the second year of the Kindergarten Plus Pilot Project. He also introduced Ms. Cynthia Risner-Schiller, Elementary Reading and Curriculum Director, Las Cruces Public Schools, who was in the audience.

Dr. Harrell said that, in addition to creating the Kindergarten Plus Pilot Project, the statute, enacted in 2003, requires annual reports to the Governor and the Legislature on the efficacy of the pilot project. Dr. Harrell directed the committee to the four attachments in their notebooks: the statute, OEA's evaluation report of school year 2003-2004, an article from *Education Week* featuring the Kindergarten Plus program in Las Cruces, and an article from the *Gallup Independent* featuring the program in Gallup-McKinley County Public Schools.

Dr. Harrell said that the Kindergarten Plus Pilot Project was created as a three-year study that extends the kindergarten year by 40 days for participating students and measures the effect of additional time on literacy, numeracy, and social skills development. He explained that the purpose of the pilot project is to demonstrate that increased time in kindergarten narrows the achievement gap between disadvantaged students and other students, increases cognitive skills, and leads to higher test scores for all participants. He said that, as provided in statute, the three-year Kindergarten Plus Pilot Project has been conducted in high-poverty schools in four school districts – Albuquerque Public Schools, Gallup-McKinley County Public Schools, Gadsden Independent Schools, and Las Cruces Public Schools.

Regarding the funding for Kindergarten Plus, Dr. Harrell said that for the first year of the pilot project (school year 2003-2004) the Legislature appropriated \$100,000, which PED supplemented with an additional \$300,000 from the federal Reading First funds so that each of the four districts could receive an appropriation of \$100,000. That same arrangement prevailed for the second year (school year 2004-2005); but for the third year (school year 2005-2006), the Legislature appropriated the full \$400,000 because PED had indicated that Reading First funds could no longer be used for that purpose.

As background information, Dr. Harrell stated that the concept for Kindergarten Plus originated with the late Sandra Feldman, former president of the American Federation of Teachers (AFT). He said that, in a speech to the AFT convention in July 2002, Ms. Feldman called on the federal government “to help states and districts to provide disadvantaged children with the opportunity to start kindergarten during the summer months before they would ordinarily enter, and then to stay on through the summer before they will enter first grade.” Ms. Feldman proposed Kindergarten Plus as a “down payment” on her ultimate goal of universal access to high-quality preschool, especially for poor children.

Dr. Harrell said that New Mexico is evidently the first jurisdiction to implement a Kindergarten Plus program. In 2004, Louisiana enacted an extended kindergarten pilot project to be implemented in school year 2005-2006, but it was subject to availability of funds. At the national level, Dr. Harrell said that the *Kindergarten Plus Act of 2004* was introduced in Congress, but the bill was still pending before the US Committee on Health, Education, Labor and Pensions.

Alluding to the handout provided to the committee, Dr. Paolillo said that, in three of the four pilot districts, at least for the first year, the project extended the kindergarten year by 40 instructional days; the fourth district, Gadsden Independent Schools, chose to implement a half-day pre-kindergarten program for four-year-olds, the approach that this district has used for each of the three years. In another variation, for the second and third year of the project, Las Cruces Public Schools chose to add time at the beginning of first grade rather than at the end of kindergarten.

As a measure of student progress, Dr. Paolillo said three of the four districts have used the DIBELS, which assesses four skill sets which are the “key foundation skills of early literacy”: Initial Sound Fluency, Letter Naming Fluency, Nonsense Word Fluency, and Phoneme Segmentation Fluency. Dr. Paolillo said that Gadsden Independent Schools has used the Bracken Basic Concepts assessment, which is designed to measure such concepts as students’ sense of direction and position, self-awareness and social awareness, shapes, sizes, numbers, and time sequences.

Reporting on the Kindergarten Plus evaluation, Ms. Thorstensen said that this evaluation was requested by Lt. Governor Diane Denish in spring 2004 and conducted by OEA and PED. She said that the report on year one was issued in January 2005 and that OEA and PED are continuing to collaborate on the Kindergarten Plus evaluation for year two. Ms. Thorstensen explained that the evaluation plan emphasized the need for comparison and longitudinal data to determine the program’s effectiveness. To prepare the evaluation of year two, she said OEA conducted site visits in August, September, and October of 2005 to each of the Kindergarten Plus sites.

Ms. Thorstensen provided key evaluation findings for year one and said that all four Kindergarten Plus projects were implemented in a variety of ways to fit the needs of the district. Referring to Dr. Paolillo’s statement that DIBELS was administered in three of the four districts, with Gadsden administering the Bracken Basic Concepts assessment, Ms. Thorstensen said that the DIBELS assessments showed positive results in Letter Naming Fluency, Nonsense Word Fluency, and Phoneme Segmentation Fluency, as well as increases in social maturity skills and parental involvement. She said that time spent in the program in the beginning of the school year

held the most value in terms of better attendance and better student and teacher engagement. In addition, teachers and administrators felt that Kindergarten Plus helped students. Some of the suggested improvements in the year one evaluation included more support for student transportation, increased flexibility in the arrangement of program days, and additional support for Kindergarten Plus curriculum development.

In explaining the evaluation for year two, Ms. Thorstensen said that, overall, teachers and administrators continue to feel that Kindergarten Plus is an important method of helping kindergarten students prepare for first grade. As to the funding, she said that each district supplements the program with additional funding, from Title I, 21<sup>st</sup> Century grants, and Reading First. She said many teachers and administrators have expressed interest in expanding the program to allow for additional Kindergarten Plus classrooms, and she added that flexibility in the allotment of program days and class size continues to be an important component to the program.

In conclusion, Ms. Thorstensen said that, given the success of Kindergarten Plus programs in the four pilot districts and anecdotal evidence from districts with Kindergarten Plus programs not in the pilot, the Early Literacy Bureau recommends including Kindergarten Plus as an option to the PreK program. Although doing so would mean revising the 540 hour requirement of the PreK program, Ms. Thorstensen said the success of the Kindergarten Plus pilot programs illustrates that significant gains can be made in an alternative PreK structure.

Ms. Risner-Schiller spoke of the Kindergarten Plus program in Valley View Elementary School, in Las Cruces Public Schools, where the students are much farther ahead than they would have been otherwise. She encouraged the committee to continue funding this unique and successful program.

### **Committee Discussion:**

In response to a committee member's question regarding the continued assessment of the growth and achievement of children as they progress through school, whether in the context of full-day kindergarten or Kindergarten Plus, Dr. Paolillo said that PED is doing longitudinal analysis in some programs – Reading First, in particular – but not all. The OEA, she said, is tracking data from Kindergarten Plus, and PED intends to gather more longitudinal data for full-day kindergarten. All programs, Dr. Paolillo added, must be measured in terms of their effectiveness in helping students reach third-grade reading proficiency.

In response to a committee member's question about an OEA finding related to curriculum development, Ms. Thorstensen said that, to encourage consistent quality among programs, OEA had suggested in its year one evaluation that PED work more closely with school districts to develop a common curriculum.

The committee discussion addressed a number of other points, among them: the flexibility that districts exercised in extending the kindergarten year by the prescribed 40 days; the possibility that DIBELS might be used as a common assessment instrument to facilitate longitudinal studies; the resources available through the Reading First program; the benefits of Kindergarten Plus students having the school all to themselves for a few days before the beginning of the

regular school year; and the prospect of Kindergarten Plus continuing in some form, perhaps as a component of New Mexico PreK.

Representative Stewart requested that the Las Cruces program provide the DIBELS data that it has collected through grade 2.

***c. Pre-Kindergarten Progress Report and Cost Projections for FY 07***

Dr. Kathleen Forrer, LESC staff, introduced Dr. Kurt Steinhaus, Deputy Secretary, Office of the Governor, who provided cost projections for New Mexico PreK in FY 07; Mr. Danny R. Sandoval, Deputy Secretary, Children, Youth, and Families Department (CYFD), substituting for CYFD Secretary Mary Dale Bolson; and Dr. Veronica C. García, Secretary of Public Education, who provided an update on the status of pre-kindergarten programs approved for school year 2005-2006; and Dr. W. Steven Barnett, Director, National Institute for Early Education Research (NIEER) at Rutgers University, who explained the methodology NIEER and the Early Intervention Research Institute (EIRI) at Utah State University will use to evaluate New Mexico PreK.

Dr. Forrer said that the *General Appropriation Act of 2005* includes language requiring “the public education department and the children, youth and families department [to] develop criteria to determine if the program results in improved student readiness for schools using scientific methods.” She said the 2005 Interim Workplan of the LESC also includes a presentation on the progress being made by PED and CYFD in implementing and evaluating pre-kindergarten programs in FY 06 and an estimate of the cost of maintaining and/or expanding the number of approved pre-kindergarten programs in FY 07.

Dr. Forrer explained that the *Pre-Kindergarten Act*, enacted in 2005, was endorsed by the LESC. She said the act establishes 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, adding that the program, known as New Mexico PreK, is to be administered jointly by CYFD and PED.

Dr. Forrer said that the act requires CYFD and PED to “monitor pre-kindergarten contracts to ensure the effectiveness of child-centered, developmentally appropriate practices and outcomes” and to “provide an annual report to the governor and the legislature on the progress of the state’s voluntary pre-kindergarten program.” Noting that the 2005 Legislature appropriated a total of nearly \$5.0 million to implement New Mexico PreK (\$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), Dr. Forrer stated that the “Pre-Kindergarten Program Expenditure Plan” submitted by the Department of Finance and Administration (DFA) to the LESC on July 1 budgeted the entire \$4.95 million, including \$180,000 for a statewide PreK evaluation, in FY 05 and FY 06.

Dr. Steinhaus said that his presentation was designed to help answer the question, “If New Mexico were to provide statewide high-quality voluntary PreK, what costs should be considered?” He said he would address the following topics: national expertise, cost studies, and a 14-state survey. He would also estimate the cost of statewide voluntary PreK, including funding trends and guiding principles, innovative programs and additional support, and braided funding.

Dr. Steinhaus said that, in establishing the cost estimates, he had examined several sample cost studies from national experts. He said a survey of 14 states indicated that about one-half of those states provide funding for transportation, facilities, and instructional materials. Dr. Steinhaus also said that “in most states, pre-kindergarten funding has not resulted in savings in childcare assistance.”

Dr. Steinhaus said that if the state were to implement New Mexico PreK statewide, the estimated cost would be approximately \$59.4 million in recurring General Fund dollars. He said the program would serve 17,266, or 70 percent, of the total population of 24,666 pre-kindergarten children. This amount, he said, would include funding for the reimbursement rate, professional development, program evaluation, instructional material, transportation, and state and local administration. In addition, Dr. Steinhaus stated that he had estimated an additional \$6.0 million in nonrecurring revenues for program startup, equipment replacement, and safety issues. This amount would provide about \$20,000 per 300 sites. Dr. Steinhaus added that the estimate did not include any possible increases in the reimbursement rate nor capital outlay costs.

Explaining that the term “braided funding” refers to the utilization of more than one source of funding to support a program, Dr. Steinhaus provided two examples of programs that are utilizing braided funding - Agua Fria Elementary School in Santa Fe, and Apple Tree Educational Center in Truth or Consequences. He explained that Agua Fria uses the state PreK funds and funding from Title I, 21st Century Grant, operational dollars, special education, Santa Fe County, and United Way to support its PreK program. Apple Tree Educational Center, he noted, uses state PreK funding, CYFD child-care subsidy, and other private and state funding sources to support its PreK program.

Dr. Steinhaus concluded his presentation by explaining that, in October 2005, NIEER, which is located at Rutgers University (the State University of New Jersey) was selected to conduct the evaluation of the New Mexico PreK program. For the initial contract year, NIEER will:

- randomly select 500 four-year-olds from across the state during spring 2006 and conduct observations in 28 classrooms;
- conduct teacher interviews; and
- observe children for seven commonly recognized measures of appropriate development.

To begin her portion of this presentation, Secretary García listed the accomplishments of PreK, which include: effective inter-agency collaboration, management and planning; programs serving children in 11 public school districts in 45 classrooms at 21 locations; and establishment of the Child Assessment Task Force. Secretary García said that the PreK site visits by PED staff have just begun because the department wanted to give the programs time to begin operating before any visits occurred.

In discussing the CYFD programs, Mr. Sandoval stated the following:

1. There are 19 contractors, 33 sites, and 45 classrooms, with 683 of 768 funded slots. There are currently 413 children on the CYFD waiting lists.

2. CYFD made three visits in October to five sites, and there will be visits in November to 18 sites, and six visits in December to 10 sites, with all of the programs visited by December 31, 2005, and another round of visits scheduled in the spring.
3. CYFD ensures that providers are meeting performance standards by: (a) all classrooms scoring at least 5, in the Early Childhood Environmental Rating Scale (ECERS); (b) making referrals for children's health/vision/dental; (c) administering developmental screening; (d) making home visits/teacher-parent conferences; and (e) recording observations based on early learning outcomes.
4. The PreK website located on [NewMexicoKids.org](http://NewMexicoKids.org) provides current information regarding each contractor and each program, student information, and assessment data.
5. The CYFD PreK Program Manager position was re-advertised and will close on November 18. The programs are excited about being part of PreK and parents are very positive; however, the programs that are operating solely with PreK funding are struggling financially; whereas, the programs that are using braided funding are able to provide more comprehensive services.

In explaining the research approach that NIEER will use, Dr. Barnett said a regression-discontinuity design is employed to estimate the effects of the preschool program by comparing children starting kindergarten who attended the preschool program in the previous year to children who are just entering the preschool program, adjusting for age. He said this design has been used successfully to estimate the effects of preschool programs in other states including Oklahoma, Michigan, South Carolina, West Virginia, and New Jersey. This approach, he said, avoids the problem of selection bias that threatens the validity of simple comparisons of kindergarten children who attended the preschool program to kindergarten children who did not attend the program.

In spring 2006, Dr. Barnett said that 500 preschool children will be tested to provide estimates of their knowledge and skills at the end of the preschool year. These scores, he said, can be compared to *Get it Got it Go* scores. The assessment will demonstrate the quality of the preschool programs. In fall 2006, he said, another 500 preschoolers and 500 kindergartners who attended the preschool program the year before will be tested. Preschool and kindergarten classrooms and children will be randomly selected for the study. Data collection will be conducted by a New Mexico based partner who will forward the data to NIEER for statistical analysis and preparation of reports, and NIEER will provide training for data collectors.

The tests administered to children for this study, Dr. Barnett explained, will include:

- a test of receptive vocabulary, the Peabody Picture Vocabulary Test or its Spanish language equivalent;
- tests of early phonological development and print awareness in English or Spanish, as appropriate;
- a measure of early math skills, the Woodcock-Johnson Applied Problems subtest or its Spanish language equivalent;
- a social skills evaluation such as the Social Skills Rating System – Teacher Rating; and
- *Get It Got It Go!*

The assessments of teaching and classroom quality will include:

- Early Childhood Environmental Rating System-Revised – preschool classroom quality;
- Support for Early Literacy Assessment – classroom supports for children’s early literacy; and
- Preschool Classroom Mathematics Inventory – classroom supports for children’s early math skills.

Chairman Nava asked if anyone in the audience would like to comment on the issues being discussed. Observations from audience members included the following:

- New Mexico PreK provides children with valuable learning opportunities.
- A number of New Mexico PreK programs are at capacity and have children on a waiting list.
- New Mexico PreK is designed to first serve disadvantaged children, who otherwise might not be able to receive such services.
- The professional development that has been made available to program providers and their staff will enable them to obtain postsecondary degrees.
- Stating that PreK providers are receiving mixed messages, one provider indicated that, although CYFD does not allow private providers to teach children English and mathematics concepts, PED requires public school providers to address these issues. Another private provider observed that private programs have high standards but that the New Mexico PreK requirements for assessing children and monitoring results are burdensome.
- Some private providers said that because funding for PreK is insufficient, they have had to raise tuition for those children not enrolled in New Mexico PreK.
- Several providers requested that CYFD and PED consider allowing more flexibility in the number of hours that an approved program must offer, noting that the current requirement actually exceeds the number of hours that are required for an approved half-day kindergarten program.
- Consider “inclusive licensure,” which includes the former 2004 New Mexico Child Care Regulations for Level I and Tiered ADM Higher Essential Elements for Levels 2 – 5, to implement PreK goals.

### **Committee Discussion:**

A committee member asked if the PreK cost estimate provided by Dr. Steinhaus would be included in PED’s public school support request. Secretary García stated that, although PED would probably request an expansion of the program, the department was not likely to recommend universal PreK, adding that she hoped to have a firm cost estimate for the committee in December.

In response to a committee member’s question regarding the inclusion of a cost analysis in the program evaluation, Dr. Steinhaus noted that the portion of the evaluation being conducted by the EIRI at Utah State University will include a detailed analysis of the actual cost of providing quality pre-kindergarten services in the state. He cautioned that, because the initial evaluation will not be completed until FY 07, the cost data will not be available for consideration during the 2006 legislative session.

In response to a committee member's question whether PreK teachers will know ahead of time the criteria by which the programs will be evaluated, Mr. Richard E. LaPan, Education Administrator, PED, explained that the Pre-Kindergarten Early Literacy Bureau at PED will provide appropriate professional development.

Several committee members requested that the problems expressed by the private providers be adequately addressed by CYFD. Mr. Sandoval stated that CYFD staff are conducting site visits and providing technical assistance, not to burden providers but to help them meet their stated program goals.

In response to a committee member's question regarding parental involvement, Dr. Steinhaus explained that the *Pre-Kindergarten Act* requires providers to include in their plans a discussion of the methods they will use to communicate with and to involve parents in the program. As an example, he noted that, in October, providers throughout the state had conducted several literacy evenings involving parents.

Dr. Barnett added that the evaluations being conducted by NIEER will include verification of parental involvement.

A committee member asked if there is a specific curriculum and set of outcomes required of every approved New Mexico PreK program. Mr. LaPan said that the programs are based on the developmentally appropriate needs of preschool children, including physical, cognitive, social, and emotional needs. Secretary García added that, although programs are not required to use a specific curriculum, any curriculum used must be aligned to the standards. Adding that there are specific learning outcomes expected of all programs, she stated that she would provide the committee with a copy of those outcomes. Further responding to this question, Dr. Barnett stated that it is very difficult to specify the exact content and methodology of instruction because the teacher must be responsive to the particular needs of each child. Another committee member then asked how the program evaluation would measure the effectiveness of the various curricula being used in terms of the expected learning outcomes. Noting that individual teachers are the best source of information, Dr. Barnett said that data would be gathered through site visits and samples of work completed by the children.

Representative Hall asked Dr. Steinhaus to provide a copy of the best proposal and a copy of the worst proposal submitted in response to the request for proposals issued by PED and CYFD to select pre-kindergarten service providers.

#### <> AREA SUPERINTENDENTS AND COMMUNITY INPUT

There being no input or any further business and with the consensus of the committee, Senator Nava recessed the meeting at 5:53 p.m.

**MINUTES  
LESC MEETING  
NOVEMBER 15, 2005**

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) to order on November 15, 2005, at 9:20 a.m., Room 322, State Capitol, Santa Fe, New Mexico.

The following LES C members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, Mary Kay Papen, and William E. Sharer; and Representatives Dianne Miller Hamilton, Mimi Stewart, and W. C. "Dub" Williams.

The following LES C advisory members were present:

Senators Vernon D. Asbill, Mark Boitano, Dianna J. Duran, Mary Jane M. Garcia, and Leonard Tsosie; and Representatives Ray Begaye, William "Ed" Boykin, Kandy Cordova, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, Harriet I. Ruiz, Sheryl M. Williams Stapleton, and Richard D. Vigil.

**TEACHER QUALITY**

***a. Teacher Preparation Programs Articulation Compact***

Ms. Pamela Herman, LES C staff, introduced Dr. Jerry Harmon, Dean of the College of Education, Eastern New Mexico University (ENMU) and Past Chairman of the New Mexico Deans' Council; and Dr. Frank J. Renz, Executive Director, New Mexico Association of Community Colleges (NMACC), who described the provisions of the teacher preparation program articulation compact and its implementation by teacher preparation programs at two- and four-year institutions of higher education in New Mexico. Ms. Herman indicated that a copy of the final compact was attached to the staff brief in committee notebooks.

Ms. Herman said that in June 2003 representatives from New Mexico including the LES C Chair, LES C staff, the Governor's Education Advisor, and NMACC attended a national Community College Education Summit sponsored by the Education Commission of the States (ECS). She said one of the measures decided upon by the New Mexico delegation to improve P-20 collaboration was to develop a statewide compact among New Mexico two- and four-year teacher preparation programs to help supply local districts with highly qualified teachers and educational assistants. She said the group expressed the intent that this compact would form the basis for a contract between the institutions and their education students, guaranteeing that if students took the appropriate classes, those courses would be accepted in all public and private teacher preparation programs in the state.

Continuing with a brief background on the formalization of the compact, Ms. Herman said that, two years later, on September 13, 2005, representatives of 14 two- and four-year public and private teacher preparation programs unanimously approved the language of a final draft compact.

Dr. Renz thanked the LESC for its support of this effort. He said that he believed the New Mexico compact represented a model articulation program for the state, especially in the context of other efforts such as the system-wide common course name and numbering system that is currently being developed in response to legislation passed by the 2005 Legislature. He commended all the parties involved in successfully negotiating the compact.

Dr. Renz noted that this compact included 14 programs: ENMU, Clovis Community College; Eastern New Mexico University; New Mexico Highlands University; New Mexico State University; Santa Fe Community College; San Juan College; Albuquerque Technical-Vocational Institute; College of Santa Fe; College of the Southwest; University of New Mexico (UNM); UNM-Gallup; UNM-Taos; UNM-Valencia County; and Western New Mexico University.

Dr. Harmon said that the purpose of the compact is to create a seamless transition between two- and four-year teacher preparation programs. He said this effort provides a generalized, statewide agreement that opens educational opportunities for prospective teachers. The compact is based upon teacher education competencies and other qualifications consistent with licensure requirements of PED. One objective of the compact, he said, is to ensure that all interested community colleges have a pre-service teaching curriculum from the New Mexico Transfer Module for Teacher Education that aligns with education programs of the four-year public universities and participating private institutions in the state. Another objective, he said, is to develop joint admissions standards and advisement practices with New Mexico community colleges and universities that address expectations, procedures, and a commitment to an educational career.

Dr. Harmon explained the process of finalizing the compact on September 13, when 35 representatives from the 14 teacher preparation programs met at Albuquerque TVI and voted on a working document that was unanimously approved. He added that, on October 31, all of the institutions verified and approved the final compact and the vote was recorded in the minutes of the New Mexico Deans' Council.

Dr. Harmon reviewed the compact and explained that, to participate in this compact, teacher education institutions (public and private) must address PED's teacher preparation competencies within their introductory coursework that is contained in the New Mexico Higher Education Department's Transfer Module for Teacher Education: Pre-Service Curriculum.

The "Rules of Engagement" delineated in the compact, Dr. Harmon said, were designed to facilitate the successful implementation and maintenance of the compact, as follows:

1. The approved coursework demonstrating the alignment of the core competencies supersedes course title, number, and credit hour designations.
2. The field experience components may be separate credit hours or integrated into an introductory or foundations course. The field experience must contain an elementary, secondary, and special education component and be at least 45 field contact hours. This provision recommends 15 contact hours in each level. Dr. Harmon explained that previously the special education compact had been optional.

3. Each participating institution must address any program changes that impact the provision of the compact during its next normal Public Education Department review cycle.
4. In this compact, lower division hours are acceptable for the substitution of upper division professional education coursework related to the matrix. However, this compact does not authorize the use of lower division hours in accounting for upper division hours needed in a baccalaureate.
5. For analysis purposes, the assessments plans from the separate schools, colleges, and departments of education, as well as their respective branches, must reflect equivalent measures.
6. Students may bring perceived unresolved violations of this compact to the attention of the New Mexico American Association for Colleges of Teacher Education (NMAACTE) Deans' Council by filing a formal complaint through the New Mexico Higher Education Department (HED). Dr. Harmon said an ad hoc committee of representatives from the membership of the participating institutions of higher education (IHEs) will be appointed to conduct a hearing for the complaint, and the peer review process is spelled out in the compact.

Dr. Harmon said the admission standards at the IHEs have not changed; however, there is a strong move to consider changing the 2.5 cumulative grade point average (GPA) for all courses required of all undergraduate teacher education candidates to 2.8, which is the admission requirement at ENMU. He said all undergraduate teacher education candidates must obtain at least a "C" in all pre-service teacher education coursework related to the matrix from the two-year institution; however, the UNM requires that all candidates must obtain at least a "B" in all pre-service teacher education coursework.

Dr. Renz explained that one aspect of the compact that concerned him was the proviso that admission to a four-year program might be competitive, not guaranteed, for students who had met all requirements. He suggested that, if there were not adequate space, IHEs could work with neighboring programs to find room for students transferring from two-year programs. Dr. Renz also noted that there had been no reference to data gathering, which is most important, and expressed the hope that HED will consider the importance of data collection and analysis so that IHEs, the Legislature, and the public know how their students are doing.

### **Committee Discussion:**

In response to a committee member's question regarding those institutions that have not signed the compact, Dr. Renz shared the following list of IHEs that had not responded: ENMU-Roswell Campus; ENMU-Ruidoso Instruction Center; Luna Community College; Mesalands Community College, three of the UNM branches, except for UNM Los Alamos, Southwestern Indian Polytechnic Institute (SIPI), and Crownpoint Institute of Technology.

In response to a committee member's question regarding the reason why some programs had not signed on to the compact, Dr. Renz suggested that size and the ability to offer the necessary courses might be an issue for some; and that being a branch college with registration centralized through the main campus might also be an issue.

In response to a committee member's question regarding how the implementation of the compact would be evaluated, Dr. Harmon stated that the success of the agreement would be measured both through the program accreditation process and through the Deans' Council, which includes department heads of both two- and four-year programs.

Dr. Renz agreed that it was very important to track the success of students transferring between IHEs, and he indicated that the Office of Education Accountability and HED would be responsible for putting a tracking system in place. He said that the accountability system in the original draft compact had been removed because of expense, not because of a desire to avoid being held accountable.

In response to a committee member's question regarding the effective date of the compact, Dr. Harmon stated that it was in effect immediately. In response to another question regarding how students would be notified of the terms of the compact, Dr. Renz stated that he anticipated that all participating teacher preparation programs would share a copy of the compact with existing and new students in the spring 2006 semester. He said that the deans needed to emphasize to their faculty that, at the time of enrollment into a teacher preparation program, all students should receive a copy of the compact.

In response to a committee member's question whether the compact had been signed, and if not, how it would be enforced, Dr. Renz said that the agreement was documented in the minutes of the Deans' Council, but that if problems arose later, it might be worth re-considering the issue of securing signatures.

In response to a committee member's question why ENMU required a higher GPA for admission than other four-year programs, Dr. Harmon stated that the college had reviewed the records of students who started their junior year with GPAs between 2.5 and 2.8 and determined that most of the problems those students experienced were in passing the New Mexico Assessment of Teacher Basic Skills and in English composition. He said that, based on that analysis, ENMU decided to establish the higher requirement.

In response to a committee member's question whether HED had any American Indian staff, Mr. Brandon Trujillo, Special Assistant to the Secretary Designee of Higher Education, stated that HED had recently hired Ms. Maggie George to work with tribal colleges and Native American programs. The committee member indicated the importance of including American Indian colleges in the compact.

In response to a committee member's question regarding a recommendation from ECS (included in the staff brief) that incentives should be offered to promote better articulation, Dr. Renz indicated the idea of incentives for postsecondary schools had been raised several times; but he added that incentives will only be viable if the state has an effective tracking system in place to follow students through the entire P-20 educational continuum.

In response to a committee member's question regarding the placement of student teachers with highly qualified teachers, Dr. Harmon indicated that the Secretary of Public Education had asked the Deans' Council to review the current standards for student teacher placement, which are that the school be accredited and that the teacher be licensed in good standing with at least three years of experience. He stated that the Council would explore what other criteria might be appropriate to ensure a meaningful practicum for student teachers.

Senator Nava requested that LESC staff and NMACC determine if any of the teacher preparation programs that have not already signed on to the compact wish to participate, and, if they do not, determine why.

***b. NCLB Highly Qualified Teachers: Status Report***

Ms. Sonja Halsey, LESC staff, introduced Dr. Peter Winograd, Director, Office of Education Accountability (OEA), who provided an update on the progress made toward meeting the federal *No Child Left Behind Act of 2001* (NCLB) requirements for highly qualified teachers; Mr. James Ball, Assistant Secretary, Educator Quality Division, Public Education Department (PED), who addressed this issue from the perspective of PED. Ms. Halsey said that the 2005 Interim Workplan of the LESC included a report on the status of highly qualified teachers in New Mexico, as defined by NCLB.

As background, Ms. Halsey said, that during the 2004 legislative interim, the LESC had requested the OEA to report to the LESC on the progress that school districts were making toward meeting the NCLB requirement that all teachers must be highly qualified by the end of school year 2005-2006. She said the OEA submitted a written report to the LESC in January 2005, and then in June 2005, the LESC requested OEA to update the information contained in the January 2005 report. She said that, in addition to the information included in the 2005 report, the LESC requested that OEA also include information on the definition of a high-poverty district; for each district and Regional Education Cooperative (REC), the amount of funds, by source, used to provide professional development activities to ensure that teachers meet the NCLB requirements; and information concerning any flexibility measures granted to the state by the US Department of Education (USDE) in regard to high-quality teachers and whether that flexibility has made a difference in the state's ability to meet the NCLB requirements.

Dr. Winograd said that as early as 1998, the LESC heard testimony about the impending shortage of high-quality teachers and since that time the committee has demonstrated its continued interest in the issue by endorsing successful legislation to recruit and retain high-quality teachers. He said some of this legislation included the *Beginning Teacher Mentorship Program*, the *Teacher Loan for Service Act*, *Alternative Certification*, and the *Return to Work Law*.

Dr. Winograd reviewed the OEA's report, *The Status of Teacher Quality in New Mexico: 2005*. He said that New Mexico has reduced the percentage of teachers on waivers over the last five years statewide. The total decreased from 8.4 percent in school year 2000-2001 to 1.9 percent in school year 2004-2005, and in higher poverty districts waivers decreased from 15.7 percent in school year 2000-2001 to 3.5 percent in school year 2004-2005.

In defining "high-poverty" districts, Dr. Winograd said that Title II of the federal *Higher Education Act* requires states to report the number of teachers on waivers both statewide and in high-poverty districts. He said that the USDE uses census data to calculate a poverty rate for each district in each state. The child poverty rates are then ranked from highest to lowest and districts falling into the top quartile are defined as high-poverty. Dr. Winograd directed the committee to a chart in his report that showed the 23 school districts ranked as high-poverty.

Dr. Winograd said that the teaching fields with the most waivers in school year 2000-2001 were special education, followed by Bilingual/TESOL, and elementary education. In school year 2004-2005, Bilingual/TESOL had 210 waivers, special education had 58, and elementary education had 26.

Dr. Winograd explained that NCLB requires states to report on the percentages of classes taught by highly qualified teachers (HQT). He referred to three charts showing the percentage of elementary, middle school, and high school classes taught by HQTs in New Mexico's school districts using 40<sup>th</sup> day data for school year 2005-2006:

- 89.4 percent of elementary classes are taught by HQTs;
- 85.7 percent of high school classes are taught by HQTs; and
- 76.4 percent of middle school classes are taught by HQTs.

Dr. Winograd reported the following recent flexibility provisions from USDE related to NCLB requirements for highly qualified teachers:

- rural school districts have one additional year for current teachers to meet the requirements for being highly qualified. New hires have up to three years to become highly qualified in every core subject they teach if they are highly qualified in at least one core subject;
- new to the profession, special education teachers hired in any school district may have two years from the date of hire to become highly qualified in every core subject they teach if they are highly qualified in at least one core subject; and
- On October 21, 2005, US Secretary Spellings assured states that if they do not reach the 100 percent goal by the end of school year 2005-2006, they will not lose federal funds if they are implementing the law and making a good faith effort. USDE will determine if a state is making a good faith effort in four ways: (1) the state's definition of "highly qualified" teacher; (2) the reports the state has made to parents and the public on highly qualified teachers; (3) the completeness and accuracy of the "highly qualified" data; and (4) the steps the state has taken to ensure that experienced and qualified teachers are equitably distributed among classrooms with poor and minority children and those classrooms with their peers.

In terms of professional development, Dr. Winograd reported that NCLB requires each school district that receives Title I funds to reserve not less than 5.0 percent of the funds to be used for professional development activities to help ensure that all teachers become highly qualified by the end of school year 2005-2006. Teachers in rural districts who teach in more than one core subject area have until the end of school year 2006-2007 to meet this qualification. He said that New Mexico's 89 school districts have received nearly \$315.0 million in total Title I funds in the last three fiscal years (FY 03, FY 04, and FY 05) of which approximately \$15.7 million, or 5.0 percent, is to be used for professional development. A chart depicting what each school district has received in these three fiscal years was provided to the committee. Dr. Winograd also provided a chart that showed the funds, by source, that RECs use to ensure that teachers meet NCLB requirements.

In conclusion, Dr. Winograd said that although New Mexico is making progress in its efforts to improve teacher quality and is receiving national attention for those efforts, the state still faces a number of challenges, especially with the three-tiered teacher licensure system:

- providing adequate professional development for the administrators who must evaluate teachers and for the teachers who will seek licensure advancement;
- addressing the concerns of other educators who feel that the three-tiered licensure system benefits only teachers; and
- revising the Public School Funding Formula to keep pace with the changes in the ways that teachers are evaluated and compensated. This issue is being addressed by the Public School Funding Formula Task Force.

### **Committee Discussion:**

In response to a committee member's question on the reason for the vast decrease in the number of teacher waivers, Mr. Ball said that the main reason is that NCLB does not allow them.

In response to a committee member's question regarding the low percentages of core academic classes taught by highly qualified teachers in the middle schools, Mr. Ball said that some of the scores are low in the middle schools because the school districts have not done the work yet to determine if the teachers are qualified. He explained that PED has set timelines for schools to meet NCLB requirements for highly qualified teachers and that the school districts have been notified of those timelines, with the first deadline set for the 80<sup>th</sup> day of the school year. Mr. Ball added that school districts that do not meet their target by January will have additional pressure placed upon them to be on time, and follow-up visits will be made.

In response to a committee member's concern that, in "Indian Country," Native American teachers are being replaced by non-Native teachers, predominantly Anglo, Mr. Ball acknowledged this continuing concern; however, using Gallup-McKinley County as an example, he said that the passage rate indicates that Native American teachers are passing the Professional Development Dossier (PDD), which is required for level advancement in the three-tiered licensure system.

In response to a committee member's question why a teacher on a waiver for three years who then receives a master's degree cannot advance to Level II, Mr. Ball said that the law does not allow for substandard licenses to count toward advancement on the three-tiered licensure system. In response to another question on whether the three years on a waiver would count toward retirement, Mr. Ball said he did not know.

In response to a committee member's questions regarding the support given to teachers to assemble their dossier and any differences in the quality of the mentoring, Mr. Ball said that the Legislature, in the first year of the three-tiered licensure system, provided \$1.0 million to develop the evaluation system and to provide the teacher training. He said the primary contractors for training are RECs but that some school districts do their own training. In general, Mr. Ball said he has been pleased with the uniform rollout of the training. He added that projects such as Regional Educational Technology Assistance (RETA), Re:Learning, and Strengthening Quality in Schools (SQS) also provide training in this area.

In response to a committee member's question whether Level I teachers who failed the PDD would be given another year to pass, Mr. Ball said that the 2005 Legislature had changed the law so that Level I teachers now have five years instead of three to move to Level II. He said the aim of the three-tiered licensure system is not to eliminate teachers from New Mexico schools but to have them meet a higher standard. He said that PED will work with HED to get the colleges of education to strengthen their instruction, particularly in those competencies that teachers are having difficulty with when working on their dossier.

Dr. Harmon stated that it would be helpful if OEA and PED shared this report with each higher education institution, so that their faculty could then incorporate the necessary modification to their courses.

Senator Nava said the committee had sent a letter to USDE Secretary Spellings on its concerns of NCLB, and to date, no response has been received, and at the suggestion of Senator Kernan, staff was directed to send another inquiry.

Senator Nava asked OEA to provide a rate of passage for teacher exams.

Senator Tsosie asked OEA to provide the grand total spent on professional development.

***c. Professional Practices and Standards Council: Progress Report, HJM 13***

Ms. Sonja Halsey, LESC staff, introduced Dr. Kate Friesner, Chair, Department of Education, College of Santa Fe, and Chair, Professional Practices and Standards Council (PPSC), who presented a report on the recent activities of the council; and Mr. James Ball, Assistant Secretary, Educator Quality Division, Public Education Department (PED), who discussed the future efforts to promote the autonomy of the education profession.

Ms. Halsey said that, in 2005, the Legislature passed House Joint Memorial (HJM) 13, endorsed by the LESC, which requested that PED report to the LESC on the progress of development of procedures and processes of the PPSC and other efforts to promote the autonomy of the education profession.

Mr. Ball said that, in December 2004, PED adopted a rule to establish the PPSC to perform the functions of the former Professional Standards Commission, an advisory panel created by the former State Board of Education. He explained that the PPSC serves in an advisory capacity to the Secretary of Public Education and that it consists of 20 voting members appointed to four subcommittees by the Secretary. The subcommittees address the following four major areas in which the council makes recommendations to the Secretary: (1) approval of educator preparation programs; (2) licensure of school personnel; (3) professional development of school personnel; and (4) ethics of licensed school personnel.

Dr. Friesner said discussion items on the council were meeting dates, the need to have more practitioners, and the importance of meeting only as needed so that teachers who are members on the council will not spend so much time out of the classroom attending meetings. She said that the group that meets the most is the Educator Preparation Programs Committee.

Dr. Friesner reported that necessary changes have been made to the licensure of school personnel to include the NCLB requirements, including the licensure for librarians.

**Committee Discussion:**

There being no discussion on this issue, Senator Nava thanked the presenters.

**JOURNEYS IN FILM: AN ODYSSEY IN GLOBAL EDUCATION**

Senator Nava recognized Ms. Anna Rutins, Director of Programs, and Ms. Amy Shea, Director of Research and Development, both with Journeys in Film, a nonprofit organization dedicated to teaching cross-cultural understanding, social studies, media and visual literacy and geography to middle school students through the use of quality foreign films.

Ms. Rutins said that Journeys in Film is committed to transforming the way secondary school children experience the world by developing an innovative curriculum based on foreign films. She said that the program includes facilitated discussion, innovative lesson plans, and foreign language films, with no increase in personnel and operating costs. Ms. Rutins said that, through integrated lesson plans, students learn about similarities and differences among their peers around the world. She said that the Journeys in Film approach strengthens existing school curricula by incorporating artful examples of a popular entertainment form with rigorous, standards-based lesson plans for core subjects in social studies, science, the arts, math, language arts, and media literacy.

Ms. Rutins explained that the program focuses on middle school students (ages 10 to 13) who are at a critical time in their emotional and physical development. Another thing that makes this program unique is the use of films for instructional purposes, providing an innovative, dynamic option for the classroom and complimenting more traditional forms of teaching. In addition, Ms. Rutins explained, Journeys in Film meets federally and state mandated standards, as it uses the McRel national standards rather than the standards for any particular state. She said that the delineated standards contained in each lesson plan allow a teacher to recognize the corresponding subject-area standards for the particular state, even if the language is slightly different. Ms. Rutins said that Journeys in Film is committed to developing culturally accurate learning materials by enlisting the editing assistance of specialists from the culture depicted in each film. Through these efforts, she added, Journeys in Film is at the forefront of a movement to produce a new generation of culturally aware leaders who will possess the necessary skills for proficient and effective participation in the global marketplace. To illustrate the points she was making, Ms. Rutins showed the committee four clips from films used for instruction.

Ms. Shea discussed the evaluation process used by Journeys in Film to measure student outcomes.

Representative Mimi Stewart said that Journeys in Film is requesting \$600,000 from the Legislature.

## CHARTER SCHOOL RECOMMENDATIONS

Dr. David Harrell, LESC staff, introduced Mr. Willie Brown, General Counsel, Public Education Department (PED), representing Secretary of Public Education Veronica C. García; and Dr. Lisa S. Grover, Executive Director, New Mexico Coalition for Charter Schools, who provided recommendations regarding the *1999 Charter Schools Act*. Mr. Don Moya, Deputy Secretary for Finance and Operations, PED, was in the audience to respond to questions as needed.

Dr. Harrell provided a brief overview of the LESC's efforts to amend the *1999 Charter Schools Act*. He said that, beginning with the 2002 interim, the LESC created charter schools work groups to address a variety of issues and problems that have arisen since the implementation of the law. One notable success he said, was the passage in 2005 of legislation that resolved some of the outstanding issues related to charter school facilities. Dr. Harrell stated that other broader consensus-built charter school legislation has failed in 2003, 2004, and 2005, and as a result, issues related to such matters as chartering authority, fiscal procedures, applying for and renewing a charter, and settling disputes remain unresolved.

Now, Dr. Harrell continued, as the 2006 regular legislative session approaches, the LESC is once again considering amendments to the *1999 Charter Schools Act*. He explained that this presentation included the recommendations the committee had considered or heard so far, either in the form of provisions that the LESC adopted for the 2005 legislative session or in the form of testimony or discussion earlier in the interim.

Dr. Harrell listed recommendations that had been provided through testimony during the 2005 interim:

1. retain the chartering authority with local school boards exclusively;
2. allow an alternative to local school boards as the chartering authority, perhaps PED or a charter school commission that reports to the Secretary of Public Education;
3. require local school board members to receive training in charter schools and charter school authorizing;
4. assign the responsibility for supplementing a charter school's special education services to the school district in which the charter school is located rather than to PED;
5. provide for an intermediate step, such as suspending certain functions of the school or its governing board, prior to revoking a charter;
6. include an anti-nepotism clause similar to the one in the *Public School Code* for regular public schools;
7. implement a temporary moratorium on the creation or authorization of any new charter schools until some of the outstanding issues are resolved. During this moratorium, PED, in conjunction with the Public School Facilities Authority (PSFA), is to conduct a financial analysis of the impact of requiring charter schools to be in public buildings by 2010;

8. grant to regular public schools that are making adequate yearly progress the same automatic waivers that are granted to charter schools;
9. assign the hiring and firing authority over all employees of a charter school to the principal or equivalent, to correspond with the hiring and firing authority already assigned to the school district superintendent; and
10. defer substantial amendments to the *1999 Charter Schools Act* until the 2007 session to allow time for proper deliberation.

Speaking on behalf of Secretary García, Mr. Brown reported the following recommendations of PED, which, though tentative and still in draft form, represented the intentions of the department and the Governor:

- PED will seek sole chartering authority; each charter school would be its own board of finance, and 96 percent of program cost would go to the charter school with 4.0 percent to PED;
- the law should include a nepotism policy like that already in the *Public School Code* for public schools in general;
- regarding charter school governing councils, PED will propose that there be a minimum number of members, approximately five, and that a local election be held after the charter school has been in operation for two years to elect a new governing body because the goals of an operating charter school may be different from those of a charter school seeking to become established;
- charter schools should be able to decide how to hire and fire employees, but they must also have due process procedures and protections in writing;
- each charter school must be its own board of finance, no longer a component unit of the school district and not a component unit of PED;
- include a provision to prohibit municipalities, counties, private postsecondary educational institutions, and for-profit businesses from starting charter schools;
- require that the planning year be used actually for planning, not for completing the application; otherwise, PED could never deny an application;
- provide intermediate sanctions prior to revoking a charter;
- provide funding for charter school students who are participating in extra-curricular activities at regular public schools where the charter is located;
- change the renewal date to January in the year in which the charter expires rather than the year before, as it is now;
- regarding capital outlay, PED will wait until the Public School Capital Outlay Oversight Task Force (PSCOOTF) makes its recommendations, which may include the concept of a 90<sup>th</sup> district; and
- grant charter schools the right of first refusal on any vacant school district building.

Dr. Grover said that the coalition believes the *1999 Charter Schools Act* is a complex problem that needs to be addressed in a more complete way; therefore, she said, the coalition would like to wait until the 2007 legislative session to bring forth any recommendations. In the meantime, however, the coalition has hired an outside expert to help address charter schools' long-term capital outlay needs, which have been the coalition's chief priority for several years.

On that point, Dr. Grover asked to return to the LESC in December to present some solutions as recommended by the Charter School Subcommittee of the PSCOOTF. Senator Nava explained that the recommendations of the subcommittee would be reported to the task force, which in turn would present its report to the LESC in January.

**Committee Discussion:**

In response to a committee member's question about the 90<sup>th</sup> district and whether all charter schools would be part of that district, Mr. Brown said that PED is not suggesting that there be a 90<sup>th</sup> district; it was however, an issue that was being discussed by the PSCOOTF.

In response to a committee member's question regarding the salaries of charter school teachers, Dr. Grover said that charter school teachers work very long hours and wear many hats; therefore, they can be paid more than teachers in other public schools.

Referring to Mr. Brown's earlier remarks that the PED recommendations are "still fluid," a committee member asked when PED expected to make more solid recommendations. Mr. Brown said that, since he had just been briefed on these recommendations earlier in the day, it was impossible to say. He added that both Secretary García and the Governor intend to recommend that PED be the single charter school authorizer; however, the specific details would probably be ready by the time the legislative session begins.

In response to a committee member's question whether the Albuquerque Public Schools Board had been consulted by PED regarding these recommendations, given that it has the most charter schools and the most problems, Mr. Brown said "No."

Several committee members voiced concerns regarding PED's recommendations:

- adding one more charter school to a small school district, such as Questa Independent Schools, would cause financial difficulties and may force that district to close;
- conventional public schools should be provided with the same waivers that charter schools are granted;
- charter schools need to be examined thoroughly before any drastic changes are made to the law since they do not appear to be the "magic bullet" that was expected when first conceived in law;
- to resolve the problems and concerns of charter schools, a moratorium may be in order; and
- an investigation to examine the cost of charter schools to the school districts may be necessary. There is a need to rethink support for expansion of charter schools until there is more data to substantiate their need.

Senator Nava asked Mr. Mack J. Mitchell, Executive Director, New Mexico School Boards Association, for the school boards' reaction to the recommendation that PED be the sole chartering authority. Mr. Mitchell said that local school boards would prefer to continue as the chartering authority.

## LESC POTENTIAL LEGISLATION, 2006 LEGISLATIVE SESSION

Referring committee members to the handout “Legislative Education Study Committee Potential Legislation, 2006 Legislative Session,” Dr. Rindone said that staff had developed the following recommendations that had been approved by Chairman Nava.

Senator Nava told the committee that today’s discussion of potential legislation would include only a determination about whether each suggested issue would be drafted for committee consideration at the December LESC meeting, at which time the committee would determine which legislation would receive an LESC endorsement.

Dr. Rindone reviewed the proposed items for potential legislation and the LESC agreed that legislation be drafted for consideration at its December meeting for the following items, with corrections to those items as noted in italics:

### ASSESSMENT AND ACCOUNTABILITY

1. Introduce legislation to require PED to pay the recurring costs of administering state-mandated assessments, and transfer the amount required from the state equalization guarantee to the PED agency budget, plus an additional appropriation for FY 07 requested by PED.
2. Amend statute to allow more flexibility in the use of money in the Incentives for School Improvement Fund.
3. Introduce legislation to amend the *Procurement Code* to allow contracts of up to eight years for services related to the development and implementation of standardized tests of students in grades K-12 to ensure comparability of data from year to year.
4. Introduce a memorial to request that the Office of Education Accountability assume responsibility for compiling and publishing the annual Quick Facts brochure formerly published by PED. *By consensus, the committee agreed to include language in this bill to require that PED use the most current data available prior to the legislative session.*

### CAPITAL OUTLAY

5. Amend statute to increase the state guarantee amount under the *Public School Capital Improvements Act* (SB 9) from \$60 to \$90 per mill per unit to provide additional state funding for the maintenance of public school facilities and public school grounds statewide.
6. Appropriate funds to PED to implement an Indoor Air Quality Tools for Schools initiative in New Mexico’s public schools to ensure a safe and healthy learning environment for public school students and staff statewide.
7. Amend the *Water Law* to include public schools among those entities that are allowed to implement a forty-year water use plan.

## **EARLY CHILDHOOD EDUCATION**

8. Introduce a memorial requesting that CYFD and PED, in collaboration with the Department of Health, the Child Development Board, and other appropriate agencies, develop a plan to create an Office of School Readiness that would coordinate the range of publicly funded programs and services for children from birth through age four currently offered by multiple agencies. Among the programs to be considered are Family Infant Toddler, Child Care, Child Development, Head Start and Early Head Start, special education services for developmentally delayed three- and four-year-olds, Child Find, Even Start, GRADS, Kindergarten Plus, and New Mexico PreK.

## **INDIAN EDUCATION**

9. Introduce a memorial requesting the Indian Education Division of PED to study the successful academic initiatives undertaken in other states that have large American Indian populations to reduce the achievement gap, and consider implementing the most successful initiatives in New Mexico schools with a high proportion of American Indian students.

## **LOTTERY SCHOLARSHIP**

10. Amend current law to maintain scholarship eligibility for those students who are simultaneously enrolled in both a four-year and a two-year institution per the requirements of the student's program or primary institution.

## **P-20 AND HIGHER EDUCATION**

11. Amend statute to require that all New Mexico public institutions of higher education administer standardized placement tests in English and mathematics; that before commencing the 11<sup>th</sup> grade all high school students take such tests; and that school districts be required to offer the developmental coursework the student needs, prior to graduation, to be placed in a college course meeting general education degree requirements.
12. Amend the *Assessment and Accountability Act* to require that PED benchmark New Mexico high school content standards and assessments with national postsecondary entry-level standards to ensure alignment of high school curricula with the placement tests administered by two- and four-year public postsecondary educational institutions in New Mexico. *By consensus, the committee agreed to have a bill drafted that combined the provisions of items 11 and 12.*
13. Amend statute to require a school district to transfer to a two-year or four-year postsecondary institution the tuition and fees for any student concurrently enrolled, unless the school district and the postsecondary institution have agreed to waive or reduce tuition or fees.
14. Pending recommendations of the Secretary of Higher Education, amend the *Higher Education Department Act* to include the statutory organization of the department.

15. Introduce legislation and appropriate funds to New Mexico State University to implement a statewide demonstration school leadership program that balances rigorous classroom instruction with field experience in school improvement strategies that reflect the needs of New Mexico's diverse students.
16. Introduce a memorial requesting the LESC to study the standards used by PED to approve school leadership programs, to ensure that graduates have the knowledge and skills they need to manage reform in New Mexico schools and make a positive impact on student achievement.
17. Introduce a memorial to require colleges and universities that have teacher preparation programs to establish criteria for placing student teachers with experienced teachers in schools making adequate yearly progress or in instructional programs meeting the required benchmarks. *By consensus, the committee agreed this item should be drafted in the form of a memorial requesting that teacher preparation programs study the feasibility of a requirement that student teachers be placed with teachers holding a Level 3A license in schools making AYP or in instructional programs achieving benchmarks, and that the programs report findings and recommendations to the LESC during the 2006 interim.*

#### **PUBLIC SCHOOL FUNDING**

18. Pending completion of a comprehensive study of the Public School Funding Formula, include language in the *General Appropriation Act of 2006* to appropriate nonrecurring funds for FY 07 to be used upon verification of need by PED to assist school districts with membership of 200 or fewer to cover required operational expenditures, including any legislative salary mandates or guidelines, for which appropriated program cost is insufficient. Eligible school districts must apply for the funding to PED and document the need for the additional funds.
19. Appropriate funds to the State Support Reserve Fund so that the fund, at the beginning of the fiscal year, has a credit balance of at least \$10.0 million as required by current statute to safeguard the unit value against a shortfall.
20. Appropriate funds to PED to provide assistance for start-up costs to a school district that is opening a new school; to be eligible for these funds, a school district must submit a request to PED, and the request must be approved by both PED and PSFA.

#### **PUBLIC SCHOOL PROGRAMS**

21. Appropriate funds to the State Parks Division of the Energy, Minerals and Natural Resources Department to fund the Outdoor Classroom Initiative pilot program in collaboration with PED so students experience New Mexico's natural and cultural resources through increased learning opportunities that address state content standards.
22. Appropriate funds to PED for Advanced Placement: to expand AP to non-traditional participants; to replace lost federal funds for the AP summer institute; to expand AP programs for rural school students; and to expand AP professional development for teachers.

23. Appropriate funds to support GRADS teen pregnancy prevention and services to teen parents in public schools.
24. Appropriate funds to PED to be distributed to the University of New Mexico, New Mexico State University, and Santa Fe Community College for the ENLACE program.
25. Introduce a memorial requesting PED to identify statutory language to ensure that districts are reimbursed for the services provided to school-age children that have been placed in a private facility within a district's boundaries (including residential treatment centers, juvenile detention centers, and foster care homes) and to report findings and recommendations to the LESC by October 2006.

*By consensus, the committee agreed that the memorial drafted for this item specify that reimbursable services be educational; include reference to other temporary placements such as domestic violence and homeless shelters; and request PED to examine whether enrollment provisions in the 1999 Charter Schools Act allow schools to serve targeted populations.*

### **SCHOOL PERSONNEL**

26. Amend statute and appropriate funds to implement a career ladder for educational assistants in FY 07 that includes the following four licensure levels and minimum salaries:
  - a. Level 1—a two-year provisional (nonrenewable) license for beginning educational assistants who do not meet the federal *No Child Left Behind Act of 2001* (NCLB) certification requirements but who meet the current minimum requirements established in PED regulation: \$12,000 (already implemented);
  - b. Level 2—a nine-year renewable license for individuals who are not required to meet NCLB certification requirements but who have held a Level 1 license for two years: \$14,000 minimum salary;
  - c. Level 3—a nine-year renewable license for individuals who meet NCLB certification requirements but who do not have an earned academic degree from an accredited institution (a person seeking a Level 3 license need not have held a Level 1 or Level 2 license): \$16,000; and
  - d. Level 4—a nine-year renewable license for individuals who meet NCLB certification requirements and who also have an earned associate or higher degree from an accredited institution (a person seeking a Level 4 license need not have held a Level 1 or Level 2 license): \$18,000 minimum salary.
27. Introduce legislation to require PED:
  - a. effective July 1, 2006, to (1) establish a progressive licensure and compensation framework for all instructional support providers; and (2) issue licenses for instructional support providers, including occupational therapists, physical therapists, school counselors, school nurses, speech-language pathologists, audiologists, psychologists, social workers, diagnosticians, and recreational therapists;

- b. by school year 2008-2009, to adopt a highly objective performance evaluation for professional instructional support providers; and provide minimum salary levels for specified instructional support providers at \$30,000 for Level 1, at \$40,000 for Level 2, and at \$50,000 for Level 3; and
- c. amend current law and appropriate funds to implement minimum annual salaries for principals and assistant principals that include a responsibility factor and an evaluation component. *By consensus, the committee agreed that this item be drafted as a separate piece of legislation.*

#### **SPECIAL EDUCATION**

- 28. Amend the *Public School Insurance Authority Act* to require NMPSIA to offer school districts reimbursement coverage for the costs of due process hearings required under the federal *Individuals with Disabilities Education Improvement Act* (IDEA 2004) and appropriate funds to support this coverage option.

#### **SUPPLEMENTAL EDUCATIONAL SERVICES**

- 29. Introduce legislation to amend the *Assessment and Accountability Act* to require school districts to provide supplemental educational services to Title I students in schools that fail to make adequate yearly progress for three or more consecutive years to make the requirement consistent with NCLB.
- 30. Introduce legislation to require PED to ensure that any provider of supplemental educational services approved for contracts within New Mexico uses only certified teachers as tutors in New Mexico. *By consensus, the committee agreed that this item also include language to require providers of supplemental educational services to administer a common pre- and post-assessment instrument to measure student gains.*

#### **PENDING DECEMBER AND JANUARY LESC MEETINGS**

- 31. Pending the recommendations of the Lottery Tuition Scholarship Subcommittee.
- 32. Pending recommendations from the December LESC meeting regarding the *1999 Charter Schools Act*.
- 33. Pending recommendations of the Public Schools Capital Outlay Oversight Task Force.
- 34. Pending recommendations of the Funding Formula Study Task Force.

In addition to the proposed potential legislation presented, LESC members requested that legislation also be drafted for the following items:

- 35. Representative Stewart requested that a memorial be drafted requesting PED to identify appropriate literacy assessment instruments that may be used as alternatives to the DIBELS for students in kindergarten through grade 2.

36. Senator Nava requested that a bill be drafted making an appropriation to the College Affordability Fund created by the 2005 Legislature.
37. Representative Boykin requested that a bill be drafted requiring New Mexico public postsecondary institutions to use the unique student identification number assigned by PED to students in the K-12 system.
38. Senator Tsosie requested staff to research the need for a bill to be drafted providing an appropriation of matching funds to UNM Hospital for a training program sponsored by the National Cancer Institute.
39. Senator Tsosie requested that a bill be drafted making an appropriation to support Native American centers at New Mexico State University and the University of New Mexico.
40. Senator Tsosie requested that a memorial be drafted requesting HED to study policies regarding the granting of tenure and the current composition of tenured faculty by gender and ethnicity at New Mexico public postsecondary institutions, and to report to the LESC in the 2006 interim.
41. Senator Tsosie requested that a memorial be drafted requesting HED to determine the retention and graduation rates of students at each New Mexico public postsecondary institution, disaggregated by gender, ethnicity, age, and other factors, and to report its findings and recommendations during the 2006 interim.
42. Representative Stewart requested that a bill be drafted making an appropriation to PED to support the Journeys in Film project.
43. Senator Tsosie requested that a memorial be drafted requesting PED to study the *Procurement Code* to determine how to provide the required state match under the federal “e-rate” program.
44. Representative Stewart requested that a bill be drafted requiring that school buses equipped with wheelchair lifts be air conditioned.
45. Senator Kernan requested that a bill be drafted to eliminate class size averaging for grade one.

There being no input or any further business and with the consensus of the committee, Senator Nava recessed the meeting at 5:00 p.m.

**MINUTES  
LESC MEETING  
NOVEMBER 16, 2005**

Representative Mimi Stewart, who served as chair for the day's meeting, called the Legislative Education Study Committee (LESC) meeting to order on November 16, 2005, at 9:14 a.m., Room 322, State Capitol, Santa Fe, New Mexico.

The following LESOC members were present:

Senators Gay G. Kernan and Mary Kay Papen; and Representatives Dianne Miller Hamilton, Mimi Stewart, and W. C. "Dub" Williams.

The following LESOC advisory members were present:

Senator Vernon D. Asbill, Dianna J. Duran, Mary Jane M. Garcia, and Leonard Tsosie; and Representatives Ray Begaye, William "Ed" Boykin, Kandy Cordova, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, Harriet I. Ruiz, Sheryl M. Williams Stapleton, and Richard D. Vigil.

**RURAL SCHOOL DISTRICT DEFINITION**

Dr. Kathleen Forrer, LESOC staff, introduced Dr. James Holloway, Assistant Secretary for Rural Education, Public Education Department (PED), who discussed a proposed definition of the term "rural" as it applies to school districts in New Mexico and provided an update on the activities undertaken by the Rural Education Bureau at PED to address specific problems faced by rural districts.

During the 2005 legislative session, Dr. Forrer said, legislation was introduced that would have codified a definition of "rural" as it applies to school districts in New Mexico; however, it did not pass. Subsequently, a house memorial was introduced that would have requested the LESOC to conduct such a study; however, it also failed.

Dr. Forrer explained that PED's working definition of the term "rural" differs from the definitions used by the US Census Bureau and by the National Center for Education Statistics (NCES), which govern eligibility for federal funding designated specifically for rural school districts. She also noted that, at this time, PED's definition has no effect on either state or federal funding for rural school districts in New Mexico.

Dr. Holloway introduced his staff, who were seated in the audience. Referring to his handout entitled *Rural Education: Definition and Action Plan*, Dr. Holloway said that rural education is like "plowing through new ground" because the division has only been in existence for two years. He explained that the present PED definition of a rural school district is a district with fewer than 1,000 students. Based on this definition, 48 districts in New Mexico are rural. Dr. Holloway added that these 48 districts enroll only 5.5 percent of the state's students. Dr. Holloway reviewed several other definitions: one from a nationwide study by the Rural Schools and Community Trust, which identifies 27 New Mexico districts as rural, and another from the federal *No Child Left Behind Act of 2001* (NCLB), which identifies approximately

45 New Mexico districts as rural. He stated that if a definition were crafted using density indicators of 30 people per square mile or towns with fewer than 30,000 people, the number of districts identified would increase to 70 with a total student enrollment equal to 21.3 percent of the state's student population.

Dr. Holloway noted a recommendation of the Rural Education Advisory Committee, which includes 11 superintendents from rural districts in New Mexico. According to this committee, the definition should not reflect size or density alone but rather a combination of several factors such as size, isolation, and rural designation, as well as the district's capacity to deliver services.

Explaining that the Rural Education Bureau has a limited staff, Dr. Holloway said the bureau first will respond to the requirements of school districts eligible for the federal Small Rural School Achievement (SRSA) Program, an initiative included within the Rural Education Achievement Program (REAP). Noting that the number of school districts identified as rural under SRSA varies from year to year, he said that for FY 05 to FY 06 the number is 45.

Dr. Holloway said that school districts not identified as rural under SRSA may request assistance from the bureau through an application process. By instituting an application process in addition to using the SRSA definition to identify rural districts, Dr. Holloway explained, the bureau can address such issues as a district's capacity to deliver services. He cautioned that this approach will have no effect on a district's ability to receive funds from the federal government; however, he said, it will allow more districts to participate in the state's initiatives. Dr. Holloway said that he has recommended this approach to Secretary García and that if she accepts his recommendation, rules will be developed to formalize the process.

Dr. Holloway introduced Dr. George Otero, President of the Center for Relational Learning, who was in the audience, explaining that the center creates tailored programs and workshops on art, culture, history, education, organizational change, and cross-cultural communication.

Dr. Holloway said that Dr. Otero has worked with the Rural Education Bureau and the Indian Education Division at PED to assist rural Native American schools. Dr. Holloway said that it is important to work closely with the Indian Education Division to ensure that schools are being served through either the Indian Education Division or the Rural Education Bureau, or both.

With regard to the other activities of the Rural Education Bureau, Dr. Holloway said that the vision of the bureau, which was developed by the advisory committee, is to ensure vibrant, productive, rural school districts and communities. Dr. Holloway said that he and members of his staff had traveled to Australia to witness a success story in the operation of rural schools and community revitalization, with Dr. Otero making the arrangements for the visit.

Some of the challenges of implementing the bureau's vision, Dr. Holloway said, are that schools meet the requirement of highly qualified teachers in all areas; meet adequate yearly progress (AYP) in all categories; balance the budget for three-tiered licensure; and increase their use of technology in order to deliver more effective and efficient educational service.

Dr. Holloway enumerated the next steps for the Rural Education Bureau, which include: reviewing policies and statutes; finalizing the rural education definition and implementing the rural education action plan and statewide deployment of school-led partnerships for community revitalization. He concluded his presentation by reviewing the Rural Education Bureau's Action Plan, the School Led Community Revitalization Project, and the Statewide Community

Partnerships for Revitalization. He identified the following districts involved with the Community Partnerships for Revitalization (CPR): Jemez Valley Public Schools, Jemez Mountain Public Schools, Cimarron Municipal Schools, Maxwell Municipal Schools, Clayton Public Schools, Tatum Municipal Schools, and Loving Municipal Schools, and he introduced those superintendents who were present in the audience.

### **Committee Discussion:**

In response to a committee member's question whether the definition of rural education would affect either state or federal funding, Dr. Holloway said that he is working with Mr. Moya and Secretary García on a request for state categorical funding for the CPR Program for those school districts identified as rural, and for this purpose it would be beneficial to have a definition; however, he reiterated, unless such funding is appropriated, neither PED's current nor its proposed definition of rural would affect either state or federal funding at this time.

A committee member expressed concern that schools in rural areas with a majority of Native American students, such as Naschitti and Newcomb Elementary schools, do not qualify as rural, even though a great percentage of the families live in poverty with no running water, the communities have poor roads, and teachers must drive long distances to teach. Dr. Holloway said the concerns have been noted and he has talked with the Assistant Secretary of Indian Education Ms. Bird in this regard; however, his bureau mainly deals with school districts, not individual schools. He said that he would work with rural educators to see if it were possible to change the definition to accommodate individual schools.

A committee member suggested that the bureau consider other potential partners for the CPR Project, including the proposed spaceport in the southern part of the state and the State Parks Division, to ensure that all rural schools are served.

In response to a committee member's question whether PED has completed a comprehensive report on the status of rural schools, Dr. Holloway said that the bureau has completed an action plan but there has been no formal report published at this time.

A committee member suggested that rather than working on a definition of rural education, the bureau could make better use of time by helping rural schools with the myriad of problems they face including: children attending rural schools and having to travel long distances, a lack of recreational facilities available for youth, and the high crime rate on the reservation.

In response to a committee member's request for further information regarding the trip to Australia, Dr. Holloway explained that he and the other participants spent five days visiting rural schools and another four days in consultation with experts from Flinders University in Adelaide. What they saw was rural school districts capitalizing on what was good in their communities instead of what they do not have. He added that the CPR Project in New Mexico was a result of this trip, as participants hoped to focus on the resources of the community and assist in revitalizing the economy of the community.

Serving as Chair, Representative Stewart asked Dr. Otero if he had any comments. Dr. Otero said that he has worked for 35 years with schools and school districts facing similar problems nationally and internationally. He said that partnerships between schools and communities are the key to success in revitalizing communities because the process allows the community to act on its own behalf.

Senator Tsosie requested that PED provide a yearly status report on rural education in New Mexico.

Representative Stewart asked that PED provide an explanation of the uses for which school districts may expend their federal SRSA grants and provide a list of the Rural and Low-Income School sub-grants made by PED to school districts for school year 2005-2006.

The chair thanked the presenters. In closing, Dr. Holloway said that because rural education is a new initiative, he would welcome any support and ideas from the committee.

### **SCHOOL SECRETARY AND CLERK SALARY STUDY, HM 36**

Ms. Frances Maestas, LESC staff, introduced Dr. Peter Winograd, Director, Office of Education Accountability (OEA), and Ms. Christine V. Trujillo, President, American Federation of Teachers (AFT)-New Mexico, who discussed the school secretary and clerk study requested in House Memorial 36.

Ms. Maestas explained that the 2005 Interim Workplan of the LESC includes a report from the OEA on HM 36, *School Secretary and Clerk Salary Study*. Passed in 2005, this memorial requests that OEA conduct a study to:

- assess the appropriate salaries for the skill levels required of school district secretaries, clerks, and bookkeepers;
- recommend a salary schedule process for these employees; and
- provide a report to the Legislature no later than December 1, 2005.

Dr. Winograd said that, in response to the memorial, OEA convened a task force composed of representatives from AFT-New Mexico, the National Education Association (NEA)-New Mexico, the New Mexico Association of School Business Officials (ASBO), and the New Mexico School Boards Association (NMSBA), to collaborate on the activities, findings, and recommendations of OEA staff. He stated that the key questions considered by the task force were:

- How many clerks, secretaries, and bookkeepers work in New Mexico's schools?
- What are their current skill levels?
- What are their current salaries?
- What recommendations should be made for a salary schedule process for clerks, secretaries, and bookkeepers?

Dr. Winograd said that a review of the salary and other data available in PED's Accountability Data System (ADS), revealed that districts vary in how they classify personnel as secretaries, bookkeepers, and clerks and in the number of days they use to determine the length of contracts for these employees. He said the average number of days that these employees worked was 223 days; the most common number of days was 260; the number of days ranged from a prorated contract of 65 days to 264 days and in some cases they vary in whether they work full time (1 FTE) or part-time (a percentage of FTE). In addition, he said districts vary widely in the way they determine the skill levels of these employees.

Dr. Winograd said that ADS data and PED budget data do not provide detailed information about clerks, secretaries, and bookkeepers; consequently, OEA, AFT New Mexico, and ASBO developed and conducted a survey of all 89 school districts and all charter schools to obtain additional information. He said that all 89 school districts and 23 charter schools had responded to the survey.

Dr. Winograd reviewed graphs illustrating the findings from the survey, among them that:

- school districts classify these employees by skill levels of “Entry, Intermediate, and Advanced”;
- 75 percent of bookkeepers are in the advanced level;
- the average hourly salaries by skill level and category range from \$9.49 for a clerk at entry level to \$15.31 for a bookkeeper at the advanced level; and
- approximately 1,118, or 40 percent, of the total pool of 2,794 secretaries, bookkeepers, and clerks make less than \$10.99 per hour.

Ms. Trujillo presented the following task force recommendations:

- “People in these categories should receive no less than an average of 8.0 percent increase in compensation for FY 07.” (This raise is estimated to cost \$5.9 million);
- “No employee in public schools receive less than \$7.50 an hour as minimum wage”;
- “School districts shall create salary schedules that encourage career development across the entry, intermediate, and advanced skill levels of secretaries, clerks, and bookkeepers”;
- “The PED should collect and make available detailed data about secretaries, bookkeepers, and clerks including such factors as number of years of experience, length of contract, grade or skill level, salary schedules, and other information that may be useful”;
- “The PED shall not approve any school district budget that does not meet the intent of these recommendations. Further, the Legislature should consider ways to ensure that the public school appropriation is adequate for each school district to meet these requirements”; and
- “The Legislature should consider providing funding to support the continuation of the HM 36 Task Force to monitor and further study the implementation of these recommendations.”

Representative Stewart invited members from the audience to comment on this issue.

- Ms. Yvonne Rodriguez, President, Local 4127, reported that the union began a living wage campaign in 2004 in Albuquerque Public Schools (APS) that now has turned into a statewide initiative. She emphasized that secretaries, clerks, and bookkeepers often work over 40 hours a week; however, they are among school employees that receive the lowest salary increases in the school district.
- Ms. Gloria Deffenbaugh, Secretary, Osuna Elementary School, APS, summarized the varied daily duties of secretaries including: fixing equipment, making copies, laminating, making coffee, and running errands. She noted that secretaries are expected to know everything about a school without professional development or any other training.

- Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, said that low pay for secretaries, clerks, and bookkeepers has always been an issue with superintendents and that, as a former principal and superintendent, he can attest to the importance of the secretaries, clerks, and bookkeepers in the daily administration and operation of the schools and school districts statewide.
- Mr. Alan Armijo, Legislative Liaison, APS, emphasized the district's support for the recommendation of the task force in providing pay increases for school district secretaries, clerks, and bookkeepers.

**Committee Discussion:**

In response to a committee member's question relating to higher pay for other school employees, such as cafeteria workers, bus drivers, and custodians, Ms. Trujillo said that task force members are working with a coalition of education partners on another plan, which will include recommendations for pay for all other job positions in the schools.

In response to a committee member's question whether secretaries, clerks, and bookkeepers are represented by any of the organizations in the state, Ms. Caron Snow, Business Finance Director, Alamogordo Public Schools, and task force member, responded that the New Mexico Educational Office Personnel also represented these employees.

In response to a committee member's question relating to the difference between the Governor's FY 07 salary increase recommendation for these employees and that of the task force, Mr. Charles Bowyer, NEA-NM, indicated that the task force is recommending an 8.0 percent increase, whereas the Governor is asking for a 4.0 percent increase.

In response to a committee member's question whether the task force was recommending a mandatory salary increase or whether it would be left to the discretion of the district, Ms. Trujillo said that, since there is a requirement for a minimum wage in the state, the individual school districts could negotiate from the base minimum wage.

In response to a committee member's question relating to the impact of the recommended salary increase on the Educational Retirement Fund, Ms. Trujillo said that the task force had not considered this issue.

**ADJOURNMENT**

There being no further business, Representative Stewart thanked the presenters and, with the consensus of the committee, adjourned the LESC meeting at 12:45 p.m.

\_\_\_\_\_ Chairperson

\_\_\_\_\_ Date