

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

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Lee S. Cotter  
Daniel A. Ivey-Soto  
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Pat Woods

**MINUTES**  
**LESC MEETING**  
**April 23-24, 2014**

Frances Ramírez-Maestas, Director

Senator John M. Sapien, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:22 a.m., on Wednesday, April 23, 2014, in Room 322 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Senators John M. Sapien, Chair, Craig W. Brandt, and Gay G. Kernan; and Representatives Rick Miera, Vice Chair, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart.

The following voting members of the LESC were not present:

Senator Howie C. Morales; and Representatives Nora Espinoza and Sheryl M. Williams Stapleton.

The following advisory members of the LESC were present:

Senators Jacob R. Candelaria, Lee S. Cotter, Daniel A. Ivey-Soto, Linda M. Lopez, John Pinto, and William P. Soules; and Representatives Alonzo Baldonado, Nathan "Nate" Cote, David M. Gallegos, Stephanie Garcia Richard, Tomás E. Salazar, James E. Smith, and Christine Trujillo.

The following advisory members of the LESC were not present:

Senator Pat Woods; and Representatives George Dodge, Jr., Timothy D. Lewis, and Bob Wooley.

Senators Carlos R. Cisneros and Michael Padilla; and Representative Roberto "Bobby" J. Gonzales were also in attendance.

On a point of personal privilege, Representative Miera informed the committee that Representative Stewart will be assuming the role of LESC Vice Chair.

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

## **SUMMARY OF PUBLIC EDUCATION-RELATED LEGISLATION PASSED BY THE 51<sup>ST</sup> LEGISLATURE, 2<sup>ND</sup> SESSION, 2014**

The Chair recognized LESC staff for a review of FY 15 public school-related appropriations and selected language and public education-related legislation considered by the 51<sup>st</sup> Legislature, 2<sup>nd</sup> Session, 2014.

### **Education-related Appropriations**

Referring to Table 2 and pages 3-6 of the LESC staff report, Mr. Mark Murphy, LESC staff, highlighted the education-related appropriations included in the *General Appropriations Act (GAA) of 2014*, including: nearly \$2.5 billion to the State Equalization Guarantee distribution (commonly referred to as the public school funding formula (PSFF)), including:

- \$30.5 million to support enrollment growth, the employer's share of projected insurance increases, and "opening the doors" items;
- \$11.6 million for the final year of the 0.75 percent Educational Retirement Board retirement contribution increase;
- over \$56.0 million to provide for a 3.0 percent average compensation increase for all certified and noncertified school personnel;
- nearly \$2.7 million to provide for an additional 3.0 percent average compensation increase for licensed educational assistants;
- \$10.0 million for the increase in minimum salaries for Level 1 teachers and the Executive's line-item veto of the language that would have increased minimum salaries for Level 2 and Level 3 teachers as well;
- over \$15.2 million for a PSFF at-risk increase that was line-item vetoed by the Executive;
- nearly \$5.8 million for a PSFF change for school districts with memberships of less than 200 students;
- \$6.0 million for reinstating statutory class and teaching loads;
- \$1.0 million for statewide formative assessments;
- \$1.5 million for the teacher mentorship program for beginning teachers; and
- a nearly \$6.8 million reduction of the program cost, which reflects the Section 11 adjustment or 0.275 percent "sanding," as specified in the *GAA of 2014*.

With regard to categorical public school support appropriations on lines 30-50 of Table 2 of the staff report, which fund statutorily created funds and other recurring appropriations outside of the funding formula, Mr. Murphy noted the following appropriations:

- approximately \$101.8 million for total transportation (including a 3.0 percent average compensation increase for all transportation employees);
- a \$280,700 reduction per Section 11 of the *GAA of 2014* that was applied to the total transportation appropriation;
- just under \$2.0 million for emergency supplemental support;
- \$20.3 million for the Instructional Material Fund; and
- \$1.8 million for the Indian Education Fund, which also included \$675,400 in "Other State Funds."

Mr. Murphy commented that categorical appropriations decreased by \$9.8 million from FY 14, primarily due to the lack of a categorical appropriation for special education maintenance of effort in FY 15.

Mr. Murphy then focused on related appropriations to the Public Education Department (PED) on lines 54-87, Table 2, of the staff report and directed the committee to language and appropriations that were line-item vetoed by the Executive, including:

- language earmarking \$100,000 of the after-school and summer enrichment program appropriation for the Central Consolidated Schools;
- language requiring PED to provide reports to the LESC and the Legislative Finance Committee (LFC) on the \$2.9 million appropriation for college preparation, career readiness, and dropout prevention; and language earmarking money to the Mesa Vista Consolidated Schools and Peñasco Independent Schools;
- language requiring PED to provide reports to the LESC and the LFC on the \$10.5 million appropriation for interventions and support for students, struggling schools, and parents;
- language earmarking \$99,700 for a Parent Advocacy Project to go to Albuquerque Public Schools;
- language earmarking just under \$25,000 for reading support to go to Doña Ana County;
- language requiring PED to provide reports to the LESC and the LFC on the \$7.2 million appropriation for teacher and school leader programs and supports for training, preparation, recruitment, and retention; and
- \$99,700 for Native American students and the school library at Tibbetts Middle School in the Farmington Municipal Schools.

In total related appropriations, Mr. Murphy stated, PED received \$106.9 million, an increase of 55.4 percent over FY 14.

Referring the committee to the nonrecurring special appropriations and the supplemental and deficiency appropriations listed from lines 91-104 in Table 2 of the staff report, Mr. Murphy explained that \$10.1 million had been appropriated for FY 15, including:

- \$1.0 million for emergency support for school districts experiencing shortfalls;
- \$3.5 million for instructional materials;
- \$3.0 million for special education maintenance of effort requirements;
- \$100,000 for a nonprofit educational association of interscholastic activities in New Mexico; and
- \$2.5 million to the Teacher Professional Development Fund.

He emphasized that the *GAA of 2014* had included language that would have required that a \$10.0 million appropriation from 2013 for special education maintenance of effort requirements be distributed immediately; however, the Executive line-item vetoed that language, Mr. Murphy noted. He also directed the committee to Chart 1, which provided a visual regarding the special education maintenance of effort requirements.

To conclude, Mr. Murphy noted that the preliminary unit value for school year 2014-2015 was set at \$4,005.75 by the Secretary-designate. This reflects an increase of \$188.20 or 4.93 percent from the final unit value for school year 2013-2014.

## Committee Discussion

Referring to line 12 of Table 2, a committee member asked what the impact of the line-item veto of language for Level 2 and Level 3 minimum teacher salaries would be for local school districts, Mr. Murphy responded by stating that the appropriation to fund such increases was still included in the bill and that the distribution of that appropriation is at the discretion of each local board.

A committee member referred to line 58 of Table 2 and inquired about the distribution of the appropriation for after-school and summer enrichment programs. The Chair then commented that the LESC staff would be writing a letter to PED requesting distribution information for related appropriations, including this particular appropriation.

Another member of the committee requested information regarding the need for emergency supplemental support in the coming year. Mr. Murphy responded that the enactment of legislation (HB 35, *Additional Funding Units for Some Schools*)<sup>1</sup> during the 2014 session to provide additional operational funding units for school districts with fewer than 200 students has created a mechanism to help limit the need for emergency supplemental support for some, but not all, school districts.

Referring to line 46 of Table 2 and the corresponding language from the *GAA of 2014*, a committee member asked about the origin of the \$675,400 appropriation in “Other State Funds” for the Indian Education Fund. Mr. Murphy replied that the language specified that these funds are from the balance in the Indian Education Fund.

## Public School Capital Outlay

Mr. Ian Kleats, LESC staff, reported a marked increase in public school capital outlay appropriations over recent years. He noted that, during the 2012 legislative session, just under \$750,000 had been appropriated, after Executive action, from Severance Tax Bonds (STBs) for public schools and statewide projects through PED; however, he stated, the 2014 appropriations from STBs and the Public School Capital Outlay Fund (PSCOF) to school districts, charter schools, and PED amounted to over \$30.0 million, in addition to funds appropriated from General Obligation Bonds (GOBs) and funds appropriated to constitutional schools (i.e., the New Mexico School for the Deaf (NMSD) and the New Mexico School for the Blind and Visually Impaired (NMSBVI)).

Citing Table 4, Table 5, and Table 6 from the staff report, Mr. Kleats stated that the Legislature authorized:

- over \$18.0 million from the PSCOF, STBs, and GOBs to PED for five statewide projects;
- over \$12.0 million from STBs to school districts for 216 projects;
- approximately \$2.3 million from STBs to state-chartered charter schools for 27 projects;
- over \$15.0 million from the PSCOF to the NMSBVI and the NMSD for four projects; and
- the reauthorization of nine projects from STBs.

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<sup>1</sup> Laws 2014, Chapter 57

Mr. Kleats noted that, in addition to direct appropriations to school districts, Table 4 includes appropriations to PED for five statewide projects, including:

- \$2.5 million from the PSCOF to renovate and construct public school pre-kindergarten classrooms;
- \$7.395 million from the PSCOF to purchase school buses;
- \$5.0 million from STBs for educational technology infrastructure at public schools that have a minimum network speed of less than 5 Kilobytes per second per student to ensure these schools are able to administer computer-based assessments by school year 2014-2015;
- \$169,000 from STBs to purchase and install robot equipment and related infrastructure statewide for the public school robot education programs that participate in the annual robot competition in Albuquerque in Bernalillo County; and
- \$3.5 million from GOBs for library resource acquisitions, including library books, at public school libraries statewide.

### **LESC-endorsed Legislation**

Mr. Michael Bowers, LESE staff, briefed the committee on the status of 19 measures endorsed by the LESE for consideration of the 2014 Legislature. Among these measures, he indicated that:

- seven bills were enacted into law;
- one joint memorial was passed by the House of Representatives and the Senate;
- eight bills did not pass;
- one joint memorial did not pass; and
- two pieces of legislation were not printed.

The LESE Interim Subcommittee on School Bus Transportation, according to Mr. Bowers, made several recommendations that became law, including:

- \*CS/HB 55aa, *2014 Work NM Act – Severance Tax Bond Projects* (Laws 2014, Ch. 66), which creates the *2014 Work New Mexico Act* and authorizes the issuance of STBs; authorizes expenditures from certain funds and balances; clarifies conditions for the issuance of bonds; establishes the conditions for the expenditure of severance tax bond proceeds and for the reversion of unexpended balances; and makes appropriations, including: \$7.395 million to PED to purchase school buses statewide;
- HB 156, *Fuel Prices & School Transportation Emergency* (Laws 2014, Ch. 23), which amends a section of the *Public School Finance Act* to allow fuel price increases to be considered a transportation emergency;
- HB 157a, *School Transportation Training Fund* (Laws 2014, Ch. 74), which creates the School Transportation Training Fund in the State Treasury to be administered by PED; and provides that the fund consist of payments from school districts and charter schools for public school transportation training workshops and training services to school districts and charter schools, including supplies and professional development for PED staff; and

- SJM 12a, *Study Transporting School Students* (Signed), which requests PED to develop and implement a pilot program to study the fiscal and programmatic effects of transporting students between and among school districts to support school choice and report its findings to the LESC and the LFC before the start of the 2017 legislative session.

In addition to the transportation subcommittee legislation, Mr. Bowers reviewed four other LESC-endorsed bills that were enacted:

- \*SB 44aa, *Use of “High School Equivalency Credential”* (Laws 2014, Ch. 31), which conforms multiple varying terms in statute to the term “high school equivalency credential” and provides for the issuance of a high school equivalency credential to any candidate who is at least 16 years of age and successfully completes the high school equivalency tests;
- SB 153, *Home School Program Unit Calculations* (Laws 2014, Ch. 61), which amends the *Public School Finance Act* to incorporate in the program cost calculation the home school student program unit provisions included in legislation enacted during the 2013 legislative session (technical change);
- SB 158a, *Dual Credit Program Parity* (Laws 2014, Ch. 12), which amends the general provisions relating to state educational institutions to provide dual credit parity for all school-age persons as defined within the *Public School Code*; clarifies terms including “dual credit course,” “dual credit program,” and “high school”; and clarifies language relating to home school registration requirements; and
- \*SB 159aaaa, *Education Technology Infrastructure Funding* (Laws 2014, Ch. 28), which amends the *Public School Code*, establishes an education technology infrastructure deficiency correction initiative, and allows for the allocation of up to \$10.0 million of the PSCOF to be expended each year in FY 14 through FY 19 for the deficiency correction initiative.

## **Legislative Memorials**

Ms. BreAnna Padgett, LESC staff, referring to page 11 of the LESC staff report, explained that the memorials were divided between those directed to the committee, those with a potential report to the LESC, and other education-related memorials, further explained below.

### ***Memorials Directed to the LESC***

Ms. Padgett noted that, of the 13 memorials that passed the Legislature, three house memorials and one senate joint memorial were directed to the LESC, including:

- HM 71, *Study Common Core Standards*, which requests that the LESC examine the cost, benefits, disadvantages, and efficacy of New Mexico’s participation in the Common Core State Standards initiative and the Partnership for Assessment of Readiness for College and Careers and report its findings to the Legislature by November 1, 2014;

- HM 81, *International Baccalaureate Programs*, which requests that the LESC study the current and potential role of International Baccalaureate educational programs in New Mexico;
- HM 99, *Adult Education Program Funding Formula*, which requests that the Higher Education Department (HED), in cooperation with the LESC and the LFC, form a work group to study the feasibility of fully funding the formula for adult education programs and present the work group's recommendations to the LESC by August 1, 2014; and
- SJM 12a, *Study Transporting School Students*, which was discussed previously by Mr. Bowers.

### ***Memorials with a Potential Report to the LESC***

In addition, Ms. Padgett stated, there were four house memorials with a potential report to the LESC:

- HM 9, *School Athlete & Veteran Concussion Study*, which requests that the Brain Injury Advisory Council conduct a statewide concussion needs assessment for middle and high school student athletes and veterans and report its findings to the appropriate interim legislative committee by November 1, 2014;
- HM 16a, *Study Services to Sexually Exploited Minors*, which requests that a task force, including the Children, Youth and Families Department, be formed to study the delivery of services to sexually exploited minors, including the effects of a safe harbor law on the delivery of services; it further requests that the task force report to the appropriate legislative interim committee and the Legislative Health and Human Services Committee no later than November 2014;
- HM 37, *Tribal College Lottery Scholarship Exclusion*, which requests that HED examine state programs, including the Legislative Lottery Scholarship program, policies and procedures, and accompanying budget and funding processes; identify where tribal colleges are excluded; and prepare a report 90 days before the 2015 regular legislative session; and
- HM 49, *Mid & High School Science Teams*, which requests that the New Mexico Activities Association study the formation of science teams at all state middle and high schools and report recommendations to the appropriate legislative interim committee by December 1, 2014.

### ***Other Education-related Memorials***

Finally, Ms. Padgett reported that there were five other education-related memorials for committee consideration, including:

- HM 7, *Donation of Excess School Meals Work Group*, which requests that PED inform all school district and charter school food directors to donate excess school meals and requests

state agencies and nonprofit organizations to convene a work group to address food redistribution to hungry and homeless people in New Mexico;

- HM 44, *Study Oregon's "Pay it Forward" Tuition Pgm.*, which requests that the LFC study the feasibility of adapting Oregon's "Pay It Forward" deferred tuition payment model for implementation in New Mexico;
- HM 61, *Public Facility Energy & Water Study*, which requests that key agencies, including PED, conduct a joint study concerning clean energy performance contracting, water conservation, and related financing efforts for public facilities in New Mexico and how they might be expanded, improved, and promoted;
- SJM 4aaaa, *Study State Building Broadband Infrastructure*, which requests that a task force be convened to study appropriate ways for the state to participate in building broadband network infrastructure; that membership include representatives from the University of New Mexico, the New Mexico State University, the New Mexico Institute of Mining and Technology, and the New Mexico Highlands University; and that LFC, the Science, Technology and Telecommunications Committee, and the New Mexico Finance Authority Oversight Committee hear testimony and receive recommendations. (For the New Mexico Finance Authority Oversight Committee); and
- SM 69, *Education of Children in Juvenile Justice*, which requests that PED develop a comprehensive strategy for educating children who have been suspended, expelled, or detained in the juvenile or criminal justice systems for misconduct; and convene a work group to make strategy recommendations.

### **GLOBAL LEARNING FOR CHILDREN IN NEW MEXICO: THE OUT OF EDEN WALK**

The Chair recognized Mr. Mark Schulte, Education Director, Pulitzer Center on Crisis Reporting, for a presentation on the Out of Eden Walk Project.

Referring to a committee handout, Mr. Schulte informed the committee that:

- the Pulitzer Center is a nonprofit organization supporting global journalism, with a focus on issues that rarely make the news but affect millions of people around the world;
- the Out of Eden Walk has potential to advance literacy and global understanding in New Mexico public schools;
- two time Pulitzer Prize winning journalist Paul Salopek is on a seven-year journey following the path of human migration;
- the *National Geographic* and the Knight Foundation are supporting the project;
- the emphasis of the project is to "slow readers down" and examine overlooked global stories;
- the project builds a global community of learners around the world; and
- the success of large scale adoption in both Philadelphia and Chicago has helped teacher professional development by:

- providing a social studies “road map” for teachers, with professional development support;
- contributing to the Common Core State Standards (CCSS) for strong informational texts; and
- helping reiterate global competency as a key skill set.

Mr. Schulte then presented a video for the committee in which he indicated that:

- one year of the project is complete;
- the Out of Eden Walk was a cover story for *National Geographic's* December issue with another story coming in the next few months;
- Mr. Salopek has completed 72 blog posts on his journey thus far; and
- the project has a rich web and social media presence with maps and multimedia content.

Mr. Schulte concluded his presentation by informing the committee that, by first identifying a district to begin a collaboration around the Out of Eden Walk and adapting the project’s educational models to fit that district’s needs, New Mexico could become a model for broad state-level adoption of the project.

### **Committee Discussion**

In response to a committee member’s question relating to the creativity of the project and how it relates to testing, Mr. Schulte replied that it provides an alternative method for teaching CCSS skill sets and noted that the project helps with the literacy and global understanding needed within the CCSS tests.

In response to a committee member’s question requesting more information on the literacy aspect of the project, Mr. Schulte informed the committee that many of the texts students are required to read in classrooms may help improve literacy but may not encourage the student to enjoy reading. According to Mr. Schulte, this project’s approach motivates students to enjoy reading, and, as a result, the student is more engaged, which positively impacts literacy rates and test scores.

## **OPTIONS FOR CHARTER SCHOOL EXPANSIONS**

The Chair recognized Mr. Kevin Force, LESC staff, for testimony regarding the issue of charter school expansion, including legal and procedural concerns.

Also in attendance was Ms. Abby Lewis, of the Attorney General’s Office and counsel to the Public Education Commission (PEC).

Mr. Force offered a brief background of the issue:

- According to the *Charter Schools Act*, “The process for revision or amendment to the terms of the charter contract shall be made only with the approval of the chartering authority and the governing body of the charter school. If they cannot agree, either party may appeal to the secretary.”

- Common charter amendments include items such as the addition of a grade level to a school, a change in location, a change to the enrollment limitations, changes to the mission statement of the school, and/or any changes to the structure of a school’s governing body.
- The possibility of expansion of a charter school might take several forms, such as:
  - increasing a school’s enrollment cap;
  - adding one or more grade levels to the school; or
  - expanding facilities, either within the school’s current location or by relocating to another facility.
- The first two examples noted immediately above can be administered via the normal charter amendment process, including the submission of a request to the chartering authority, which reviews the request at a public hearing before rendering its decision approving or disapproving the proposed amendment.
- The instance, however, where an existing charter school seeks expansion of their current school, with the same charter and governance, into an additional location in a school district other than the school’s current district may run afoul of certain restrictions in the *Charter Schools Act*, most notably Section 22-8B-4(L) NMSA 1978:

“With the approval of the chartering authority, a single charter school may maintain separate facilities at two or more locations within the same school district; but, for purposes of calculating program units pursuant to the Public School Finance Act . . . the separate facilities shall be treated together as one school.”

- Thus such an expansion appears to be only permissible where it is within the same school district.

Mr. Force then briefly reviewed the legislative history of Section 22-8B-4(L) NMSA 1978, from its inception, where a charter school required approval of the school district to expand within the same district, to its most recent amendments in 2006, where, contemporaneous with the addition of the PEC as a chartering authority, the subparagraph allowed a charter school’s chartering authority to permit expansion within the same district. In no instance was a school district or chartering authority empowered to permit expansion across district lines, he stated. Mr. Force noted that possible reasons for the Legislature’s apparent decision not to permit such extra-district expansions include:

- the lack of public notice and opportunity to comment on a potential new school in the targeted district; and
- the effect on the State Equalization Guarantee in potential target districts, as program units follow the student and may, therefore, follow them out of their original home district to a charter school.

Mr. Force also indicated, however, that current law does allow for a student to attend a charter or virtual charter school in a district other than the student’s district of residence without prior

communication or notice, and with concomitant loss of program units to the student's home district.

### **Committee Discussion**

The discussion focused on the potential cross-district expansion of charter schools, the nature of the apparent prohibitions against such action noted in the *Charter Schools Act*, possible circumvention of these apparent prohibitions, and the potential review of the *Act* by the committee, with an eye toward correcting internal and external inconsistencies and cleaning up other drafting issues.

A member noted a pertinent instance, currently at issue in one of the member's school districts, and asked if the statute actually prohibits such expansion. Mr. Force replied that the plain language of the subparagraph does seem to simply prohibit such expansions, but that, as a result of the structure of the subparagraph, it may be arguable that the language would permit such an expansion, if the program units for the schools were counted separately. Mr. Force went on to indicate that staff were aware of no other provisions of the *Charter Schools Act*, the *Public School Code*, or the Public Education Department (PED) rule that would permit such an expansion, though they may be present in other areas of New Mexico law. This member went on to ask about the specific issue of the application of these provisions to New Mexico's statewide virtual charter schools, to which Mr. Force replied that the issue of virtual schools is one unaddressed by current New Mexico law.

Another member, expanding the topic slightly, noted the potential for inequities in regard to costs of student transportation: while locally chartered charter schools negotiate with the school district for transportation costs, provisions for state-chartered charter schools allows for allocation of transportation dollars, despite the fact that, as state-chartered charter schools, they lack geographical boundaries. This can result in a reduction of the allocation to districts due to increasing numbers of state-chartered charter schools, the member commented.

A member asked if the law might be read to construe a state-chartered charter school's district boundaries to be the boundaries of the entire state, to which Mr. Force replied in the negative. Ms. Lewis noted that, while undefined in the *Charter Schools Act*, the General Provisions of the *Public School Code* defines a "school district" as an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes. Thus, state boundaries could not be considered district boundaries unless the entire state is defined as a school district, which would still seem to be outside the plain meaning of the cited definition.

Another member asked, if a charter school desired to open in a separate location, whether that would be an appropriate concern for amendment of the school's charter. Mr. Force replied that, if the new location is within the same school district boundaries, statute would appear to allow for the addition through the amendment process; whereas, if it crossed district boundaries, the school may have to apply to a chartering authority for a new charter.

Ms. Lewis noted that, even if subparagraph 22-8B-4(L) NMSA 1978 were construed to prohibit expansion of charter schools across district boundaries, the statutes governing PED, specifically

Section 22-2-2.1 NMSA 1978, allows the secretary to waive nearly any requirement of the *Public School Code* if:

- the school exceeds educational standards;
- the requirement to be waived impedes innovation in education; and
- the waiver is supported by the teachers of the school requesting the waiver, as well as the requesting school's local school board.

Mr. Force cautioned that, despite provisions in law appearing to permit the secretary to waive these provisions, the waiver of requirements related to due process and public participation in the political process may be problematic and might result in significant pushback.

### ***CHARTER SCHOOL SHARE OF ED. TECHNOLOGY ACT*** **(2014 INTRODUCED LEGISLATION)**

The Chair recognized Senator Carlos R. Cisneros; Representative Roberto “Bobby” J. Gonzales; Mr. Arthur D. Melendres, Modrall Spering Lawyers and bond counsel to various school districts; and Mr. Paul Cassidy, Managing Director, RBC Capital Markets, for a presentation regarding distributions pursuant to the *Education Technology Equipment Act* to charter schools.

Representative Gonzales began by discussing legislation he cosponsored with Senator Cisneros during the 2014 legislative session – FL/SB 6, *Charter School Share of Ed. Technology Act* – which would have made charter schools eligible to receive a share of revenue or equipment acquired through the issuance of education technology notes (ETNs); however, the legislation did not pass.

Representative Gonzales explained that, under the current provisions of the *Education Technology Equipment Act*, a school district can generate revenue from the sale of ETNs without providing a portion of the revenue to the state-chartered charter schools located within the district's boundaries. These notes are able to be sold at the discretion of the school board without voter approval, he added. Representative Gonzales informed the committee that some districts, in the interest of fairness, allow charter schools to participate in this funding mechanism; however, he stated that the *Education Technology Equipment Act* was not intended to be discretionary, and all school districts should be required to share this source of revenue with charter schools located within their district boundaries, as was the intent of FL/SB 6.

Next, Senator Cisneros explained the reasoning behind the floor substitute for SB 6. Noting that the floor substitute required that charter schools receive equipment, rather than money, from the sale of ETNs, Senator Cisneros explained that the Public Education Department expressed concern that there would be a lack in accountability if charter schools received direct funding from ETNs.

Mr. Melendres discussed his role as bond counsel for several school districts, noting that his law firm has assisted 10 of the school districts that sell ETNs in New Mexico. He also provided the committee with some background regarding the sale of ETNs for the lease-purchase of technology equipment and informed the committee that 47 states now allow such lease-purchase agreements for equipment and buildings.

Mr. Cassidy provided an overview of the legal requirements and current conditions of ETNs in New Mexico. Referring to a committee handout, he stated that ETN debt is included in the calculation of bonding capacity, regardless of which source of funding is used to make payments for the lease-purchase agreements. The Constitution of the State of New Mexico, he said, limits the debt to 6.0 percent of the total assessed valuation of taxable property within the district, and the final maturity of the notes cannot exceed five years.

Regarding the method in which ETNs are sold, Mr. Cassidy informed the committee that the debt may be refunded or refinanced, and ETNs may be sold or issued at public competitive sale, negotiated sale, or private sale to the New Mexico Finance Authority or State Treasurer's office.

Finally, Mr. Cassidy outlined the various school districts in New Mexico that utilize ETNs, as well as the Moody's Investors Service credit rating for school districts throughout the state. He concluded his comments with recommendations for language to include in legislation, should it be introduced in the future, such as: (1) inclusion of expenditures for support, including salary, benefits, and training expenses of school district employees who oversee the administration of education technology projects funded by a lease-purchase arrangement; (2) language providing that, if a local school board wants the guarantee provided in Section 22-18-3 NMSA 1978, it shall comply with the requirements of that section in the same manner and to the same extent as if the lease-purchase arrangement were a General Obligation Bond; and (3) the provision of education technology equipment "or proceeds from debt" equal in value.

### **Committee Discussion**

In reply to a committee member's question as to why some districts listed in the committee handout did not have a credit rating from Moody's, Mr. Cassidy stated that some districts do not sell enough bonds to receive a rating from Moody's. Mr. Cassidy further noted that most large districts have a rating, while most small districts do not.

In response to a committee member's question regarding locally chartered and state-chartered virtual charter schools, Mr. Cassidy stated that it is unclear how revenue from ETNs would be used in those schools. The committee member commented that it appears that most school districts are meeting their technology needs without the sale of ETNs, utilizing funding from the State Equalization Guarantee instead.

A committee member commented that some school districts are using ETNs for software license renewals, which does not seem to fit the intended use of bond dollars.

Senator Cisneros suggested that Mr. Melendres work with staff in the Legislative Council Service to create a draft that incorporates the recommendations discussed during the LESC meeting.

### **SOCIAL WORKERS IN HIGH-POVERTY SCHOOLS (2014 INTRODUCED LEGISLATION)**

The Chair recognized Senator Michael Padilla; Ms. Cecy Franco, Licensed Master Social Worker (LMSW), School-based Social Worker, Robert F. Kennedy Charter School, Albuquerque Public Schools (APS); and Mr. Dan Frampton, LMSW, School-based Social Worker, Media Arts

Collaborative Charter School in Albuquerque, for a discussion of social workers in high-poverty schools and relevant legislation introduced during the 2014 legislative session.

Also in attendance were Ms. Ann List, former Lead Social Worker, APS; Mr. Robert Baade, Director, Robert F. Kennedy Charter School, APS; and Ms. Toni Sanchez-Romero, Licensed Independent Social Worker and constituent of one of the committee members.

Senator Padilla informed the committee that two of the presenters who were scheduled to speak on this topic – Dr. Tina Hancock, Director of the School of Social Work and Associate Dean of the College of Health and Social Services, New Mexico State University (NMSU); and Dr. Wanda Whittlesey-Jerome, Associate Professor at the School of Social Work, NMSU – fell ill and were unable to attend the hearing. Senator Padilla requested that time be set aside during a future LESC meeting in order to receive testimony from these two social work experts.

Senator Padilla then discussed legislation he had introduced during the 2014 legislative session that would have required the employment of a social worker in every high-poverty school in New Mexico by school year 2016-2017. Noting that fiscal impact studies estimated the cost of implementing the legislation to be over \$20.0 million, he provided the committee with a discussion draft of alternative legislation that would create a pilot project in which schools in a geographical area, designated by zip code, with a high proportion of free and reduced-price lunch eligible students and high home foreclosure rates would receive funding to employ a social worker for every 200 students. Senator Padilla stated that the estimated cost of such a pilot project would be between \$2.0 million and \$5.0 million, less than the estimated \$20.0 million of the original bill.

Mr. Frampton discussed the nature of a social worker's duties, including truancy enforcement, involvement in Individualized Education Programs, and crisis management. He also provided an overview of daily situations that he encounters as a social worker, such as a student bringing a knife to school, or a young female student having an anxiety attack after having flashbacks of a sexual assault that happened when the girl was 11 years old. Mr. Frampton said that many of these situations can occur simultaneously, which is a strain on the school's social worker resources. To help with this, Mr. Frampton said, one of the important duties for a social worker is to educate classroom teachers on signs of mental illness or abuse. Mr. Frampton concluded his statements by opining that social workers save money by connecting students and families to the resources necessary to keep students healthy and successful.

Ms. List reported that a considerable amount of research indicates that engaging families in the educational process – something that social workers do – improves attendance, reduces behavioral issues, and allows families to better support the student.

Finally, Ms. Sanchez-Romero and Mr. Baade expressed their support for the employment of social workers in public schools.

### **Committee Discussion**

A committee member commented that New Mexico should leverage Medicaid funding to provide social workers before using state dollars for these services.

A committee member discussed her experience as a teacher in the South Valley area of Albuquerque, where many students struggle with poverty and English as a second language. She said that the students and families in more affluent areas may struggle with some similar issues as those in poor areas; however, those in higher income areas have the resources to provide counseling, while those in impoverished communities do not.

A committee member suggested funding the pilot project through a special appropriation to the Public Education Department.

The Chair pointed out that the K-3 Plus program began as a pilot project, but excelled because it produced data indicating its results. He said that it may be difficult to understand the impact of the social worker project suggested by Senator Padilla because of a potential lack of measurable results. In reply, Senator Padilla said that the results would be measured by lower truancy rates, higher graduation rates, and higher grade point averages.

### **SUPERINTENDENT AND COMMUNITY INPUT**

The Chair recognized Mr. Ruben Desangles, Information Technology (IT) Manager, New Mexico School for the Arts, who asked the committee to look at IT services around the state.

Mr. Desangles questioned whether the Partnership for Assessment of Readiness for College and Careers test was ready to be implemented state-wide due to the remote nature of some of the school districts and limited internet accessibility. He concluded by asking the committee to fully explore New Mexico's IT capabilities and help districts prepare for the upcoming testing changes.

There being no further business, the Chair, with the consensus of the committee, recessed the LESC meeting at 4:05 p.m.

**MINUTES  
LESC MEETING  
APRIL 24, 2014**

Senator John M. Sapien, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:22 a.m., on Thursday, April 24, 2014, in Room 322 of the State Capitol, in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Senators John M. Sapien, Chair, Craig W. Brandt, and Gay G. Kernan; and Representatives Mimi Stewart, Vice Chair, Jimmie C. Hall, Rick Miera, and Dennis J. Roch.

The following voting members of the LESC were not present:

Senator Howie C. Morales and Representatives Nora Espinoza and Sheryl M. Williams Stapleton.

The following advisory members of the LESC were present:

Senators Lee S. Cotter, Daniel A. Ivey-Soto, Linda M. Lopez, John Pinto, William P. Soules, and Pat Woods; and Representatives Alonzo Baldonado, Nathan “Nate” Cote, David M. Gallegos, Stephanie Garcia Richard, Tomás E. Salazar, James E. Smith, and Christine Trujillo.

The following advisory members of the LESC were not present:

Senator Jacob R. Candelaria; and Representatives George Dodge, Jr., Timothy D. Lewis, and Bob Wooley.

**2014 LESC INTERIM**

***Committee Discussion of Potential 2014 Interim Workplan Issues/Topics***

The Chair emphasized that the discussion should focus on broader issues where there are known challenges and initiatives. He then recognized Ms. Frances Ramírez-Maestas, LESC staff, to review a discussion draft of potential interim topics for the committee’s consideration.

The committee discussed the topics included in the discussion draft as well as other initiatives requested by committee members, including forming an LESC subcommittee to examine provisions in current law relating to charter schools. On a motion by Representative Stewart, seconded by Representative Miera, the committee approved the initiatives discussed by the committee. Ms. Ramírez-Maestas stated that the staff would incorporate requested topics into a draft interim workplan. The Chair requested committee members willing to serve on the LESC subcommittee to apprise the LESC Director and for the Director to compile a list of potential subcommittee members for the Chair’s review.

***Approval of LESC 2014 Interim Meeting Schedule***

The Chair recognized Ms. Ramírez-Maestas, who referred the committee to a proposed 2014 interim schedule. She noted that the schedule included proposed meeting dates that had been reviewed by the Chair and that the meeting locations for July, August, and September included travel outside of Santa Fe.

On a motion by Representative Stewart, seconded by Representative Miera, the committee approved the following meeting dates and locations:

June 16 – 18  
Santa Fe

July 14 – 15 – 16  
Farmington

August 25 – 26 – 27  
Las Vegas  
(joint meeting with Legislative Finance Committee)

September 22 – 23 – 24  
Hobbs

October 13 – 14 – 15  
Santa Fe

November 17 – 18 – 19 – 20  
Santa Fe

December 18 – 19  
Santa Fe

January 20, 2014  
Santa Fe

**DIRECTOR'S REPORT**

***a. Approval of January 2014 LESC Minutes***

On a motion by Representative Stewart, seconded by Representative Roch, the committee approved the minutes for January 2014.

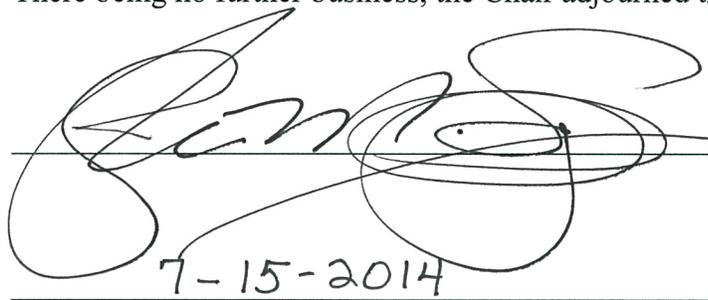
***b. Informational Items***

Ms. Frances Ramírez-Maestas, LESC staff, noted that, for the committee's review, the following items were included in the meeting materials for committee members:

- a staff brief on administrative rulemaking relating to:
  - Compulsory School Attendance;
  - School District Wellness Policy;
  - Bullying Prevention;
  - the Optional Full-day Kindergarten Program;
  - the Pre-Kindergarten Program; and
  - the K-3 Plus Program;
- a staff brief on the waiver of certain provisions of the *No Child Left Behind Act of 2001*;
- a staff brief summarizing two recently filed lawsuits regarding sufficiency of education funding;
- an email from Ms. Hanna Skandera, Secretary-designate of Public Education, outlining a Governor's directive for requests for information;
- an Attorney General Opinion: K12 Virtual Schools; and
- an Attorney General Opinion Request: Engage School, Santa Fe Public Schools.

**ADJOURNMENT**

There being no further business, the Chair adjourned the LESC meeting at 12:15 p.m.

 Chair

7-15-2014 Date