STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
APRIL 29-30, 2010

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order at 9:22 a.m., on Thursday, April 29, 2010, in Room 322 at the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, Dennis J. Roch, and Jack E. Thomas.

The following LESC advisory members were present:

Senators Stephen H. Fischmann, Howie C. Morales, John Pinto, and Sander Rue; and Representatives Ray Begaye, Eleanor Chávez, Nora Espinoza, Mary Helen Garcia, John A. Heaton, Sheryl Williams Stapleton, and Shirley A. Tyler.

The Chair recognized Ms. Paula Tackett, Director, Legislative Council, and Dr. Catherine Cross Maple, Deputy Secretary for Learning and Accountability, Public Education Department (PED), and provided each of them with the opportunity to address the committee about their plan to retire from state service. Individually, the committee members acknowledged and thanked both Ms. Tackett and Dr. Cross Maple for their state service and support of public education in New Mexico.

OVERVIEW OF 2010 PUBLIC SCHOOL-RELATED LEGISLATION AND FY 11 APPROPRIATIONS

The Chair recognized Mr. Peter B. van Moorsel, LESC staff, for an overview of the public school-related legislation and FY 11 appropriations from the 2010 regular and special sessions.

Referring the committee to a memorandum and its attachments dated April 29, 2010, *Summary of Public Education-related Legislation Passed by the 49th Legislature, 2nd Session, 2010, and* *the 49th Legislature, 2nd Special Session, 2010 (after executive action)*, Mr. van Moorsel summarized certain sections of the materials, including:

- revenues and appropriations;
- public school capital outlay; and
- solvency adjustments to public school support made in both FY 09 and FY 10.

Revenues and Appropriations

Reviewing the revenue-generating measures included Table 1, *FY 11 General Fund Revenue Measures of the 2010 Regular and Special Legislative Sessions (after Executive action)*, Mr. van Moorsel reported that, in the final hours of the special session, the Legislature produced a balanced budget with the passage of the *General Appropriation Act of 2010* supported by measures projected to provide over $235.5 million in recurring dollars and $2.1 million in nonrecurring dollars. He noted that after Executive action, however, the recurring revenues were reduced to approximately $186.2 million, resulting in FY 11 appropriations exceeding recurring revenues by approximately $45.0 million – a shortfall that the Legislative Finance Committee (LFC) reports may require transfers from reserves.

With regard to appropriations, Mr. van Moorsel reported that Table 2, *FY 11 Public School Support and Related Appropriations from the General Fund and the Federal American Recovery and Reinvestment Act of 2009* (ARRA), summarized the recurring and nonrecurring appropriations for public school support and related appropriations for FY 11. Noting that the table included color-coded columns and rows, he explained that the yellow-shaded columns in the table outlined the reduction, or sanding, of 0.544 percent, of the recurring appropriations, including the State Equalization Guarantee (SEG), Categorical Public School Support, and Related Appropriations. The green-shaded rows, he noted, reflected the use of one-time federal dollars in the SEG appropriation that replaced recurring General Fund dollars in both FY 10 and FY 11.

Mr. van Moorsel stated that, in total, after sanding, the 2010 Legislature, in special session, appropriated over $2.4 billion in recurring General Fund dollars and allocated an additional $23.9 million in federal ARRA dollars to fund public schools in FY 11. The appropriations, he explained, include:

- nearly $2.3 billion to the SEG, including:
  - $164.7 million to restore with General Fund dollars the federal ARRA dollars allocated to the SEG in FY 10;
  - the use of nearly $23.9 in federal ARRA dollars;
  - approximately $14.0 million to fund enrollment growth;
  - over $3.7 million for fixed costs; and
  - $11.5 million to fund the employer's share of insurance cost increases;
- over $118.2 million for categorical public school support for statutorily created funds and initiatives; and
- $31.4 million to fund the operations of the Public Education Department (PED) and other education-related initiatives funded with recurring dollars.

Finally, Mr. van Moorsel reported that the FY 11 appropriations include $10.0 million in nonrecurring funds for emergency support for school districts. Combined with nearly $2.0 million in recurring dollars for emergency supplemental needs, he added, a total of $12.0 million will be available to provide emergency financial support to school districts statewide, including charter schools. However, he reported, language in the appropriation bill earmarks $4.0 million of the appropriation for small rural school districts with a total membership of fewer than 600 students.

Additional language in the appropriation bill, Mr. van Moorsel reported, outlines:

- required appropriation reductions; and
- the authority of the Governor, with the approval of the State Board of Finance, to:
  - proportionately reduce General Fund allotments to all agencies, funds, programs, and other recipients of a General Fund appropriation; and
  - address insufficient revenues at the end of FY 10 or FY 11 by transferring specified amounts to the General Fund from the Tax Stabilization Reserve and to the SEG from the "education lockbox."

Vetoed language, Mr. van Moorsel added, would have provided an additional $15.0 million to the SEG from the ARRA public safety and other government services allocation to the Governor.

With regard to the FY 11 unit value, Mr. van Moorsel reported that the Secretary of Public Education has set a preliminary unit value of $3,712.45, a decrease of $80.20 from the final unit value for school year 2009-2010. This preliminary unit value, he added, comprises two components – $3,674.75 from the General Fund and $37.70 from federal ARRA dollars.

Public School Capital Outlay

In discussing public school capital outlay, Mr. van Moorsel stated that the FY 11 amendments to current law concerning public school capital outlay were included in an "omnibus bill," which amended the *Public School Capital Outlay Act* to:

- extend the sunset date of the roof repair and replacement initiative from 2012 to 2015;
- require the Public School Facilities Authority to manage procurement, contractor selection, and contract administration of certain emergency school projects;
- add a temporary provision to require the Public School Capital Outlay Oversight Task Force to continue the work group that has been studying performance-based procurement issues for public school capital outlay projects; and
- repeal the $29.0 million appropriation from the Public School Capital Outlay Fund directly to the New Mexico Public Schools Insurance Authority for the purpose of paying property insurance premiums for school districts and charter schools, including up to $7.0 million for Albuquerque Public Schools.

Reporting on two other pieces of legislation enacted into law from the 2010 regular session, Mr. van Moorsel stated that:

- one bill permits the allocation of bonds designated as interest-free Qualified School Construction Bonds on a priority basis; and
- the other bill sets minimum energy performance standards for the design and construction of new public buildings, including public schools.

Mr. van Moorsel also reported that:

- Table 4, *Education-related Capital Outlay Reversions for Solvency*, outlines approximately $6.4 million in voided education-related capital outlay projects;
- Table 5, *Education-related General Obligation Bond Projects*, outlines $13.5 million in general obligation bond projects; and
- Table 6, *Education-related Severance Tax Bond Projects and Reauthorizations*, summarizes $1.4 million in projects funded with severance tax bond (STB) proceeds and approximately $2.8 million of STB projects that have been reauthorized.

To conclude, Mr. van Moorsel stated that the attachments to the memorandum also included two tables depicting the solvency adjustments made to public school support for both FY 09 and FY 10 and an additional table summarizing the amount and percentage of recurring General Fund dollars to public education over the last decade.

Committee Discussion

In response to a committee member's question whether instructional materials funds for one fiscal year may be used to purchase materials from the previous year's adoption, Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, PED, stated that school districts and charter schools have the autonomy to determine their curriculum purchases and are not held to purchase "on cycle" if they find the need to deviate in the best interests of their students. She added that unused instructional material fund balances at the end of a fiscal year remain available for instructional material purchases in subsequent fiscal years.

In response to a committee member's question relating to the purpose of the PreK Fund, PED staff reported that dollars appropriated to the fund are appropriated to PED to carry out the provisions of the *Pre-Kindergarten Act* in the *Children's Code*, namely to implement a voluntary public school program for the provision of pre-kindergarten services statewide. The provisions, PED staff stated, allow PED to use up to 10 percent of the money in the fund to administer the program each year.

In response to a committee member's question regarding the current balance in the PreK Fund, PED staff reported a fund balance of approximately $1.4 million.

In response to a committee member's question how PED would address a reduced appropriation for PreK in FY 11, PED staff stated that staff training and travel costs would be reduced by $230,589 in FY 11. This amount, PED staff explained, is the amount by which a contract with the University of New Mexico was reduced for staff training and travel costs of PreK teachers, administrators, and education assistants in FY 11.

In response to a committee member's question how the transportation needs of PreK students will be addressed in FY 11, PED staff reported that FY 11 transportation cost requests were evaluated and adjusted for each program site. PED staff indicated that the department's evaluation revealed that some programs were requesting more funds than needed and that some programs did not expend all of their FY 10 allocations. In addition, PED staff noted that program sites have been requested consider supplementing the costs for PreK students with special education, Title I, and other available funds.

OUTCOME OF LEGISLATION ENDORSED BY
THE LEGISLATIVE EDUCATION STUDY COMMITTEE,
2010 LEGISLATIVE SESSION

The Chair recognized Ms. Pamela Herman, LESC staff, to provide the committee with a review of the outcome of committee recommendations, including LESC-endorsed measures for consideration of the 2010 Legislature and interim topics requested to be reviewed in the 2010 interim.

Ms. Herman first referred the committee to Table 7, *Recommendations of the Legislative Education Study Committee for the 2010 Regular Session*, one of the attachments to the April 29 LESC memorandum summarizing the public-education related legislation passed by the 2010 Legislature. Ms. Herman then explained that, prior to the start of the 2010 regular session, the LESC endorsed 22 substantive measures, of which 11 were ultimately enacted, including:

1. CS/HB 70a (Laws 2010, Chapter 112), *Educational Data System*, which codifies requirements for a comprehensive P-20 data system to collect, integrate, and report prescribed data from the Public Education Department (PED), the Higher Education Department (HED), and other agencies;

2. CS/HB 230 (Laws 2010, Chapter 59), *Dyslexic Student Intervention*, which amends the *Public School Code* by adding a definition of dyslexia and prescribing interventions for students displaying characteristics of dyslexia;

3. SB 85 (Laws 2010, Chapter 65), *School Leadership Institute*, which adds a new section to the higher education provisions in law to create the institute, administratively attached to HED;

4. HJM 16, *Study Reading Curricula in Teacher Education*, which requests that the New Mexico Deans and Directors of the Colleges of Education create a work group to study reading curricula in teacher education programs and report findings and recommendations to the Legislature and the Governor in the 2010 interim;

5. HB 71a (Laws 2010, Chapter 113), *Mentorship Requirements for Level 1 Teachers*, which amends the *School Personnel Act* to clarify the required length of time for beginning or Level 1 teachers to participate in a mentorship program and to require that mentors be Level 2 or Level 3 teachers;

6. SB 111a (Laws 2010, Chapter 107), *Additional Teacher Evaluation Standards*, which mandates that the teacher professional development plans include documentation of how the results of professional development received from or offered by a state, school district, or charter school are incorporated into the classroom;

7. HB 53a (Laws 2010, Chapter 25), *Financial Literacy as School Math Requirement*, which allows a financial literacy course aligned to New Mexico mathematics standards to count as one of the four mathematics units required for graduation;

8. HB 69a (Laws 2010, Chapter 111), *Reporting of Cohort Graduation Data*, which amends the *Assessment and Accountability Act* to specify what data must be reported by PED, school districts, and state-chartered charter schools about high school cohort graduation rates;

9. SJM 12, *Study Various School Calendars*, which requests that the Office of Education Accountability study school calendars and their effect on student learning, teachers, school operations, and school district budgets; and report findings and recommendations to the LESC in the 2010 interim;

10. CS/SB 87 & 92 (Laws 2010, Chapter 66), *Delay School Year & Day Length Changes*, which delays for one year the effective date of the requirement that school districts and charter schools provide a minimum of 180 full instructional days for schools on a regular calendar and 150 full instructional days for schools on a variable school year; and

11. HB 74a (Laws 2010, Chapter 48), *Charter School Oversight for 1 Year*, which amends the *Charter Schools Act* to require a new charter school, during its planning year, to file status reports with its chartering authority and PED.

Ms. Herman noted that another measure that was passed by the Legislature, SB 78a, *Alternative School Curricular Plans*, was pocket vetoed. This legislation, she stated, would have amended the *Public School Code* to allow the Secretary of Public Education to waive class-size requirements for classes in which a student teacher meeting certain requirements had been assigned.

Also for consideration of the 2010 Legislature, Ms. Herman added, the committee recommendations included five other items:

- an appropriation recommendation for New Mexico libraries from general obligation bond proceeds. Although this measure did not pass in the regular session, it was included in legislation that was passed in the special session and signed by the Governor: CS/SB 1a, *2010 Capital Projects GO Bond Act*. The legislation, Ms. Herman explained, provides: \$2.0 million each for academic, public school, and public library acquisitions statewide and \$1.0 million for tribal library acquisitions and capital improvements;
- language for a special appropriation to PED for the K-3 Plus program to provide for allocations in the current and subsequent fiscal year; and
- special appropriations for three public education-related programs: the Summer Science Program; the Minority Math, Engineering and Science Program; and the Outdoor Classroom Program.

To conclude, Ms. Herman stated that Table 7 also outlines four letters to PED and other state agencies requesting that the department:

- determine how it can document and report information related to course offerings and course completion in middle and high schools;
- form a work group to develop a proposal for collecting student identification numbers by branch and community colleges that do not require high school transcripts for admission;
- examine the mentoring services, licensure status, and years of teaching experience of Level 1 “mentor” teachers and the use of mentorship funds in each school district; and
- formulate a template for agreements with residential treatment centers to clarify where practices may not conform to current law and to ensure that services for students residing in these facilities are planned, efficient, and effective, particularly when multiple school districts and charter schools share responsibility for a student.

In each instance, Ms. Herman stated, a report to the committee is requested in the 2010 interim.

Committee Discussion

The Chair noted that one of the LESC-endorsed measures that did not pass in the 2010 regular session was a joint memorial requesting that the Office of Education Accountability, in consultation with the State Auditor and PED, convene a work group to examine school district finance and operations. She stated, however, that, as school finance issues would be a focus of the LESC in the 2010 interim, LESC staff had been directed to identify potential membership and draft an interim workplan for an LESC interim work group. These items, she stated, are to be presented at the June LESC interim meeting for committee approval. Representative Hall requested that the work group’s activities include the feasibility of establishing a tiered audit system for districts and charter schools.

Ms. Herman noted that New Mexico State University has expressed interest in creating an educational research and reform consortium. The initiative, she reported, was an LESC-endorsed measure included in a joint memorial that also did not pass in the regular legislative session.

DEVELOPMENT OF FY 11 PUBLIC SCHOOL AND PUBLIC EDUCATION DEPARTMENT (PED) BUDGETS

The Chair recognized Mr. Don Moya, Deputy Secretary, Finance and Operations, Public Education Department (PED), and Mr. Austin Buff, Director, Administrative Services Division, PED, for a report on the process for developing budgets for public schools and the department.

Referring to a committee handout, *Development of FY 11 Public School and Public Education Department Budgets*, Mr. Moya outlined the school district and charter school budget process timeline:

- by April 15: preliminary budgets should be submitted to PED;
- prior to June 20: local school board action required on the next fiscal year’s budget; and

- on or before July 1: PED must approve and certify a budget for each school district and charter school.

Mr. Moya reported that for FY 11 PED will approve a total of 170 budgets including 89 school district budgets, 33 state-chartered charter school budgets, and 48 locally chartered charter schools. On the average, he emphasized, each PED budget analyst has 21 assignments. The analyst assignment, he noted, may increase each fiscal year depending on the number of approved charter schools.

For informational purposes, Mr. Moya added, the committee handout included a selected set of frequently asked questions about the budget process, including queries about the determination and distribution of State Equalization Guarantee (SEG) and supplemental emergency dollars, as well as PED and local board activities in the budget process.

With regard to supplemental emergency funds, Mr. Moya stated that almost $12.0 million in emergency supplemental funding is available for FY 11, including $4.0 million designated for small rural school districts with a total membership of fewer than 600 in their elementary, middle, and high schools in financial need. He emphasized that any district or charter school can apply for emergency funding; however, the typical applicants are small and rural school districts with declining enrollment struggling with economies of scale.

Addressing the department budget process, Mr. Buff reported that current state law requires all state agencies, including PED, to submit a budget request for the following fiscal year by September 1 to the Department of Finance and Administration (DFA). Based on the appropriations and language requirements contained in the appropriation for each legislative session, the department is also required to submit an operating budget for the following fiscal year to DFA by May 1.

Mr. Buff reported that, because of the continuing state budget crisis, the PED budget has received budget reductions since FY 09, among them:

- a $479,900 agency budget cut based on a November 2009 executive order issued by the Governor;
- a 6.5 percent (approximately $2.1 million) reduction in special appropriations to PED from the 2009 special legislative session; and
- a 3.8 percent ($658,800) reduction to the department budget and an additional $943,500 reduction in special appropriations to PED from the 2009 regular legislative session.

After these appropriation reductions, Mr. Buff noted, the FY 11 PED budget will comprise just over $14.4 million from the General Fund, supplemented with $1.2 million in Government Services Funds pursuant to ARRA to assist with assessments, pay the operating costs of the Student Teacher Accountability Reporting System and Operating Budget Management System at PED, and supplement personal services to avoid reductions in force (RIFs) or furloughs.

To conclude, Mr. Buff reported that PED, as well as other cabinet agencies, are subject to a "50 percent rule" that prohibits the expenditure of more than half of the department's operating budget prior to the halfway point of a fiscal year.

Committee Discussion

In response to a committee member's question why the percentage reduction in the appropriation to the SEG would not be the same as the percent reduction to the unit value, Mr. Moya explained that, in distributing the appropriation to the SEG, the state takes credit for 75 percent of the local 0.5 mill levies and 75 percent of federal forest reserve funds and certain Impact Aid dollars, with the exception of Impact Aid funds for special education or for students living on Indian lands, which remain in the local districts. After these credits are applied, what is distributed from the SEG appropriation is called "program cost." The total program cost, he emphasized, is what is considered in the calculation of unit value. Total statewide program units, he noted, must also be considered in the calculation since the total units are divided into total program cost to arrive at the dollar amount for the unit value. He explained that, while the appropriation to the SEG may be higher or lower than the previous fiscal year, the total amount of credits taken in any year and higher or lower total statewide program units affect the calculation of the unit value.

In response to a committee member's question regarding the relationship between membership and program units, Mr. Moya explained that, historically, each student generates an average of 1.9 units.

In response to a committee member's question regarding the effects of the 50 percent rule, Mr. Buff explained that the rule could cause cash-flow issues if PED incurs costs that require it to make large one-time payments at the beginning of the fiscal year.

In response to a committee member's question regarding the nature of changes PED may make to a district's or a charter school's budget, Mr. Moya stated that, generally, PED makes only technical adjustments to ensure that the budgets comply with statute and administrative rule.

CHANGES TO RETIREMENT BENEFITS FOR EDUCATORS AND PUBLIC EMPLOYEES

The Chair recognized Ms. Ally Hudson, LESC staff, for a review of changes to retirement benefits for educators and public employees.

Referring to an attachment included in the committee notebooks, *2010 Legislation Impacting Retirement Benefits for Educators and Public Employees*, Ms. Hudson noted that in 2010 the Legislature passed and the Governor signed five bills that amended either the *Educational Retirement Act* (ERA) or the *Public Employees Retirement Act* (PERA). The attachment, she stated, provides a comparison of current provisions in law to the amended provisions enacted into law.

Ms. Hudson explained that two of the five bills amend only the PERA by:

- aligning the return-to-work (RTW) provisions in that act more closely with those in the ERA; and
- allowing a retired member a one-time opportunity to change the designated beneficiary.

The three remaining bills amend the ERA by:

- ensuring that retirees will not see a decrease in pensions due to a negative cost-of-living adjustment (COLA);
- delaying, by one year, the 0.75 percent contribution increase scheduled for Educational Retirement Board (ERB) employers in FY 11; and
- correcting an unintended consequence of previous legislation by clarifying that pension amounts can be disclosed.

Ms. Hudson noted that an additional attachment to the staff report, *Comparison of ERA and PERA Benefits*, was developed by LESC staff to provide a comparison of selected benefits in each retirement plan.

In conclusion, Ms. Hudson recognized Ms. Jan Goodwin, Executive Director, ERB, and Ms. Mary Frederick, Deputy Director of Member Services, Public Employees Retirement Association of New Mexico, both of whom were available to respond to questions and comments from the committee.

Committee Discussion

In acknowledging the amendment to the PERA that allows a one-time change of a designated beneficiary, a committee member asked if a similar opportunity is available for ERB members. Ms. Goodwin explained that no such option is available in the ERA. She further explained that pension amounts are determined by looking at the expected life term for members as well as the life expectancy of the beneficiary. Changing the designee to a younger person would result in a reduction to the monthly pension payment; changing the designee to an older individual would result would in an increase in pension payments.

In response to a committee member's request for an explanation regarding how the PERA addresses the actuarial soundness of its fund, Ms. Frederick explained that the PERA follows a similar recalculation process as that described by Ms. Goodwin. Once a new beneficiary is designated, pension benefits are recalculated depending upon the retirement option that is chosen.

The Chair inquired about the impact of furlough days on both the ERA and the PERA funds as well as an employee's retirement. Both Ms. Goodwin and Ms. Frederick clarified that the furlough days do not affect the stability of funds. A minimum of 30 furlough days would be necessary to negatively impact either fund. Ms. Frederick explained that PERA has enacted a special rule for part-time employees to ensure that their ability to earn service credit is not impacted by furloughs.

The Chair asked if a statutory requirement is necessary in order for an employee to make a higher contribution to his or her retirement plan. Ms. Goodwin confirmed that a change to statute would be necessary for an employee or employer to contribute more than the currently required amount.

DIRECTOR'S REPORT

a. Approval of Draft LESC Minutes for December 2009 and January 2010

On a motion by Representative Roch, seconded by Representative Miera, the draft LESC minutes for December 2009 and January 2010 were approved by the LESC.

b. Approval of LESC Financial Reports for November 2009 through February 2010

On a motion by the Chair, seconded by Senator García, the LESC financial reports for November 2009 through February 2010 were approved by the LESC.

c. Approval of Pre-publication Version of the Report of the 2009 Interim

Ms. Frances Ramírez-Maestas, LESC Director, informed the committee that tables contained in the report of the 2009 interim were reconciled to reflect solvency adjustment measures as well as one-time *American Recovery and Reinvestment Act of 2009* funds. Ms. Ramírez-Maestas also directed committee attention to tables in this year's report which have not been in previous versions.

d. Review of Draft LESC Policies and Procedures

The Chair recognized Dr. David Harrell, LESC staff, to outline the draft LESC Policies and Procedures. Dr. Harrell explained that the policies of the Legislative Finance Committee and the Legislative Council Service (LCS) served as a guide for this draft. He emphasized that the draft document was being presented to the committee at this meeting to allow for their review and comment. Prior to being presented to the committee for approval at the June interim meeting, Dr. Harrell stated, the draft would be reviewed by an attorney in the LCS.

e. Correspondence and News Articles

The following correspondence items and news articles are retained in the LESC permanent file, which is available at the LESC staff office:

- a February 9, 2010 memorandum from Secretary Veronica C. García to superintendents, charter school administrators, and state educational institution administrators exempting them from requiring certain student assessments;
- an April 22, 2010 *Santa Fe New Mexican* article recognizing the retirement of Paula Tackett, Director, Legislative Council Service, after 22 years of public service;
- an April 12, 2010 press release from Secretary García reporting an increase in the state graduation rate; and
- an April 7, 2010 news release from Secretary García describing $28.0 million in school improvement grants awarded to New Mexico.

There being no other business, Senator Nava, with the consensus of the committee, recessed the LESC meeting at 4:20 p.m.

MINUTES
LESC MEETING
APRIL 30, 2010

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) to order at 9:15 a.m., on Friday, April 30, 2010, in Room 322 at the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, Dennis J. Roch, and Jack E. Thomas.

The following LESC advisory members were present:

Senators Stephen H. Fischmann and Sander Rue; and Representatives Ray Begaye, Eleanor Chávez, Nora Espinoza, Mary Helen Garcia, John A. Heaton, Sheryl Williams Stapleton, and Shirley A. Tyler.

STATE REVENUE UPDATE

Senator Nava recognized Dr. Tom Clifford, Chief Economist, Legislative Finance Committee (LFC), for a forecast on state revenues. Dr. Clifford indicated that the presentation included work of other LFC staff members as well as members from the consensus revenue estimating group.

Dr. Clifford began by explaining that there have been signs of recovery from the recession, both in New Mexico and nationally, particularly in the employment and manufacturing sectors. However, he said, while non-agriculture employment growth is improving nationwide, it has weakened slightly in New Mexico from the December 2009 estimate to the April 2010 estimate, as has New Mexico personal income tax (PIT) growth.

Dr. Clifford provided the committee with an overview of revenue changes since FY 08. He said that, from FY 08 to FY 10, state revenues decreased a total of $1.2 billion, or 20 percent; and although 6.0 percent growth is predicted in FY 11 and FY 12, revenues will not reach FY 08 levels until FY 15.

Dr. Clifford explained that taxable gross receipts have declined more than 10 percent since March 2009 and that all business sectors have been affected; gross receipts from the construction industry in particular are down 20 percent. Oil and gas prices, however, have improved since October 2009.

From FY 09 to FY 11, he said, total funding (including recurring General Fund dollars and one-time state and federal dollars) has decreased for public schools by 5.1 percent; for higher education 6.8 percent; for other agencies by 12 percent; and slightly for Medicaid.

Next, Dr. Clifford provided an overview of the revenue forecast for FY 11. He said that, although revenue growth is expected in oil and gas, PIT, corporate income tax (CIT), gross receipts tax (GRT), and sales, FY 11 spending still exceeds projected revenue by $277 million, even after taking into account revenue increase measures enacted during the 2010 regular and special sessions. Even though the *General Appropriation Act of 2010* gave the Governor authority to transfer $132 million from reserves, Dr. Clifford said that nearly $100 million for FY 10 and FY 11 has already been transferred to cover revenue lost from the Governor's vetoes, leaving the Governor only $32.0 million to transfer.

Dr. Clifford said that for FY 11 reserves are predicted to fall to 4.2 percent of recurring appropriations; however, he added, even 10 to 15 percent reserves could be inadequate to face the budget challenges for FY 12, during which the state is predicted to experience a $236 million revenue shortfall. During the recession, he said, reserves would have fallen to 16 percent below zero if not for solvency measures.

Committee Discussion

In response to several questions on the effect of film industry tax credits on state revenues, Dr. Clifford indicated that little information is available, but that LFC staff has been studying the issue with the Workforce Solutions Department (WSD).

In response to a committee member's question what areas of employment are experiencing growth, Dr. Clifford said that nearly all the growth is in the health care sector.

In response to a committee member's question how much state revenue is being expended to keep vacant positions open, Dr. Clifford replied that many departments' FY 11 budgets did not include funding for vacant positions.

Finally, the Chair asked Dr. Clifford when he thought the state would be able to provide adequate funding for education. He replied that sustainability of revenue would be the main issue because the growth the state has experienced in the past was unsustainable. As an economist, he said, he was more concerned with building a broad, stable tax base. He said that property tax is a more reliable revenue source, but it is an unpopular tax. Likewise, he said, the GRT is also stable but has some flaws because it taxes business-to-business transactions more heavily than households.

PROPOSED ACTIVITIES FOR THE 2010 LEGISLATIVE INTERIM

a. Approval of Proposed LESC 2010 Interim Meeting Schedule

Ms. Frances Ramírez-Maestas, LESC Director, directed the committee's attention to the tentative LESC 2010 interim meeting schedule and stated that the proposed dates had been reviewed with the Chair and Vice Chair for their concurrence. She noted that the Legislative Council has requested that interim committees consider reducing committee travel and the number of interim meetings. To address this request, she stated, the interim schedule does not include meetings in May, July, or October; and the June, August, and September meetings are scheduled in the Albuquerque area. The November, December, and January meetings are scheduled for Santa Fe.

At the request of Representative Thomas, the committee agreed that the June interim meeting be changed to June 15-18 (rather than June 14-17).

At the request of Senator Kernan, the committee agreed that the September interim meeting be held in Santa Fe.

On a motion by Representative Roch, seconded by Senator Kernan, the LESC approved the 2010 interim meeting schedule, as amended.

b. Committee Discussion and Approval of Proposed LESC 2010 Interim Workplan

Prior to presenting the committee with a draft of the 2010 LESC Interim Workplan, Ms. Ramírez-Maestas directed the members to two documents outlining: (1) in alphabetical order, the interim topics included in the draft workplan; and (2) the work groups or task forces to be staffed by LESC staff. She also asked the committee to review the synopsis outlining the interim work of the Government Restructuring Task Force (GRTF), including the restructuring of education.

Committee members requested that the following issues be included in the workplan either as single issues or as components incorporated into issues already in the workplan:

- Senator Fischmann requested a review and report on items that make classroom management difficult and recommendations on streamlining bureaucratic requirements. The Chair requested LESC staff to propose a plan for responding to this request.
- Senator Fischmann requested that the committee examine the possible administrative consolidation of public schools. The Chair indicated that this issue is to be examined by the GRTF in this interim.
- Senator Kernan requested a presentation by the New Mexico Museum of Art History during the August LESC meeting.
- Representative Hall requested that a work group be considered to examine the feasibility of instituting a tiered audit system for school districts. The Chair stated that the initiative could be included in the interim work of the LESC work group that is to be convened to examine school finance issues.
- Senator Lovejoy requested that the state's tribal colleges be invited to the dual credit program report scheduled for September.
- Representative Gonzales requested that the interim work of the committee include identifying new revenue sources to fund education. The Chair noted that an update on the state's revenues is scheduled for each interim meeting, which will afford the committee an opportunity to discuss potential revenue sources for consideration of the next Legislature.

On a motion by Senator Kernan, seconded by Representative Roch, the LESC adopted the workplan for the 2010 interim, as amended.

ADJOURNMENT

There being no further committee business, the Chair adjourned the LESC meeting at 11:40 a.m.

C Nova ______ Chairperson

August 24, 2010 ______ Date