

State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC Meeting
August 17-19, 2016

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:35 a.m., on Wednesday, August 17, 2016, in the Quimby Gymnasium, New Mexico School for the Blind and Visually Impaired, Alamogordo, New Mexico.

The following voting and advisory members were present:

Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, James E. Smith, Sheryl M. Williams Stapleton and Monica Youngblood; and Senators Craig W. Brandt, Gay G. Kernan, and Howie C. Morales; and

Advisory: Representatives David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, and James G. Townsend; and Senators Lee S. Cotter, Michael Padilla, John Pinto, William P. Soules, and Mimi Stewart.

The following voting and advisory members were not present:

Voting: Representative Christine Trujillo and Senator John M. Sapien, Vice Chair; and

Advisory: Representatives Alonzo Baldonado, Jim Dines, Nora Espinoza, D. Wonda Johnson, Timothy D. Lewis, G. Andrés Romero, and Patricia Roybal Caballero; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, and Pat Woods.

Senator Ron Griggs was also in attendance.

On a motion by Representative Smith, seconded by Senator Kernan, the committee approved the agenda for the August 2016 interim meeting. On a motion by Representative Smith, seconded by Senator Kernan, the committee approved the minutes for the July 2016 interim meeting.

New Mexico School for the Blind and Visually Impaired, Alamogordo Public Schools, and Cloudcroft Municipal Schools Strategic Initiatives

Linda Lyle, Superintendent, New Mexico School for the Blind and Visually Impaired (NMSBVI), explained NMSBVI is a specialized campus that provides services to the blind and visually impaired. Ms. Lyle explained a majority of their challenges are tied to being a special education school. Students who attend NMSBVI are generally behind their peers academically, presenting issues when student performance is used in teacher evaluations. The Partnership for Assessment of Readiness for College and Careers test and other mandated assessments do not begin to capture the skills students need to have. NMSBVI students have accessibility issues, which complicates online testing. Ms. Lyle also explained the latest report card does not give enough information about NMSBVI, because different groups of students are tested at the beginning of the year and end of year.

Ms. Lyle stated NMSBVI receives about 75 percent of the school's funding from the Land Grant Permanent Fund in the same manner as colleges and noted legislative mandates to increase minimum teacher salaries affect the school but funding has generally not been appropriated to NMSBVI to cover increases.

Ms. Lyle highlighted how the school is working with blind and visually impaired students and noted NMSBVI is improving student test scores by extending learning time for students, partnering with New Mexico State University (NMSU) on teacher education programs, and providing mentorship for beginning teachers. Ms. Lyle noted partnerships with Lea County Correctional Institute and the University of New Mexico Hospital.

Ms. Lyle concluded with remarks about the school's dedication to serving the visually impaired. She stressed that every child should have the right services, be in the right place, have accessible materials, and access to a highly qualified teacher of the visually impaired.

The Chair asked about individualized education programs (IEPs) and provision of services to students in their home school districts. Ms. Lyle said NMSBVI participates in the development of student IEPs at their home school districts. She also said the Outreach Department provides mentorship, assessments, consultation, support, and even direct services to school districts. Finally, the Chair recalled Ms. Lyle's comments about funding sources, and asked if the school receives federal Individuals with Disabilities Education Act (IDEA) funding. Ms. Lyle said NMSBVI receives about \$34 thousand in federal IDEA funds annually.

Representative Salazar asked what challenges administrators face with special education in their districts, and what can be done to fix them. Ms. Lyle said one of the common challenges is that isolation, specialized programs, and separation from peers are viewed negatively, while full inclusion is viewed more positively. Ms. Lyle noted the need to understand what a student needs and being able to provide those services, even if they are restrictive, is important.

In response to the Chair, Ms. Lyle noted NMSBVI has several visually impaired staff, but NMSBVI generally struggles to find visually impaired staff with the right credentials.

Adrienne Salas, Superintendent, Alamogordo Public Schools, noted the district developed a new strategic plan for the next three years. She said the strategic plan focuses on three goals: increased academic achievement, creation of community partnerships, and ensuring effective

utilization of district resources. Ms. Salas shared some of Alamogordo Public Schools' recent successes, including a new Oregon-Heights combination elementary school, receiving United Way's Helen Kirk Circle award, and partnerships with NMSU-Alamogordo to expose elementary students to college at a young age.

Ms. Salas noted several challenges. She noted a decline in Alamogordo Public Schools' training and experience (T&E) index is resulting in less funding. Many Alamogordo teachers are retiring, leaving Alamogordo, or leaving the profession, which has resulted in replacing these teachers with less experienced teachers. She noted many teachers indicate they are leaving the profession because of the teacher evaluation system. She also noted the district struggles to provide competitive salaries. She also highlighted the credit the state takes for federal impact aid payments, and noted eliminating this credit would help Alamogordo.

Travis L. Dempsey, Superintendent, Cloudcroft Municipal Schools (CMS), highlighted the positive relationship he has with Ms. Salas and the Alamogordo Public Schools, though he cautioned the committee about comparing a small rural school to much larger ones. He stated CMS covers 850 square miles and serves 322 students. He highlighted CMS' graduation rate of 97.4 percent in FY14 and 94.8 percent in FY15, and five-year average ACT score of 21.6. He noted success with the dual credit program, though noted he would like to expand agreements to more universities.

Mr. Dempsey said CMS is struggling with its math curriculum. CMS is working to ensure the curriculum is aligned to state content standards, and is creating interim assessments to inform instructional decisions. He also noted issues with the school grading system and bonus points. Additionally, he said CMS only receives about one-third of the cost of dual credit books from the Public Education Department (PED) and suggested the Legislature should consider shifting the cost of books to students.

Senator Morales asked both school districts about enrollment trends over the last three years. Mr. Dempsey said CMS enrollment has declined from 360 students three years ago to 322 students currently. Mr. Dempsey said Cloudcroft has a high mobility rate and a large tourist population, and that the decline of the national economy hit Cloudcroft hard. Ms. Salas said Alamogordo enrollment began declining six years ago and stabilized this year. She estimated enrollment was impacted by military transition and a lack of employment in Alamogordo.

Senator Morales noted the current decline in state revenues and asked each superintendent to comment on a 3 percent to 5 percent cut in FY17 operating budgets. Mr. Dempsey noted a 3 percent to 5 percent cut likely means he will have to eliminate some positions; approximately 78 percent of the CMS budget is allocated to salaries and benefits. Ms. Salas said a 3 percent to 5 percent cut would compound cuts that have been made over the past several years and would likely impact the number of staff and class sizes.

Representative Smith asked Ms. Salas to explain her statements about impact aid funding. Ms. Salas said Alamogordo receives the full amount of impact aid funding from the federal government, but the district's state equalization guarantee distribution is reduced by an amount equal to 75 percent of their impact aid allocation.

Senator Stewart said the federal Every Student Succeeds Act (ESSA) provides a unique opportunity to change the way the state is evaluating schools, teachers, and students. She also noted ESSA requires states to reduce duplicative testing and allows lawmakers to use alternative assessments like the ACT, SAT, and PSAT for graduation. She asked each district if they had been asked to weigh in on any of these issues or contacted to address other parts of the state's Title I plan. Both superintendents noted PED had not yet formally reached out to them but indicated conversations about ESSA are taking place.

Representative Garcia Richard asked if the school districts have had issues with the data in Accuroster. Ms. Salas said Alamogordo has had difficulty with Accuroster, noting PED works closely with Alamogordo staff to ensure accuracy; however, she noted many revisions appear to be lost or not completed by PED. Representative Garcia Richard asked the superintendent to give her thoughts on how that will impact the accuracy or confidence in the teacher evaluation summative scores and possibly the school grade scores. Ms. Salas answered her district already does not have much confidence in the scores. Mr. Dempsey noted it is relatively easy to tie the correct student with the correct teacher in a small school district. He said it is harder to correlate data from the Student Teacher Accountability Reporting System with data in Accuroster and stated he does not believe those complement each other. Representative Garcia Richard noted teachers in large school districts may not be able to count on the accuracy of their teacher evaluation scores and expressed an interest in identifying an effective, accurate way to measure teacher effectiveness.

At-Risk Funding for Charter Schools

Erik Bose, Executive Director, Albuquerque Charter Academy (ACA), said 100 percent of ACA students dropped out of school at one point and have chosen to re-engage in earning their high school diploma. Ninety percent of the students are Title I eligible and many require special education services. Mr. Bose said charter schools receive at-risk funding based on the student characteristics of the school district they are geographically located within. He said that means a school like ACA has the same at-risk multiplier as more affluent charter schools. Mr. Bose said at-risk students are more expensive to educate and noted it is important to get at-risk funding to the students the funding is intended to serve.

Joseph W. Simon, LESC staff, provided a historical review of the at-risk index, noting the index was adopted in 1997 and went into effect in 1999, following a comprehensive study of the funding formula's equity and fairness by an independent consultant and a statewide stakeholder task force of stakeholders in New Mexico.

Previously, school districts were compensated for the higher cost of educating at-risk students with a density factor that gave additional units to school districts with more than 10 thousand students. Some were critical that this was not a research-based indicator of the number of at-risk students. Research in the late 1990s found there were four things that correlate with a larger number of at-risk students: poverty; English language proficiency; mobility; and low-standardized test scores. The at-risk index uses three of these: Title I eligibility, English language proficiency, and student mobility. Between 1999 and 2002 the formula also considered the percentage of dropouts in a school district. Mr. Simon said a 2011 joint study by LESC and the Legislative Finance Committee concluded the formula was too complex.

Mr. Simon explained the information used to calculate the at-risk index and reiterated that charter schools receive the at-risk index of the school district in which they are geographically located and compared selected schools in terms of the percentage of enrolled students that receive free lunch. Mr. Simon said Title I eligibility was from the U.S. Department of Education, and was difficult to determine for charter schools. Many schools in New Mexico operate a school-wide program for Title I and in those cases eligibility for Title I would equal school enrollment and is not necessarily a good indicator of student poverty. Mr. Simon said that LESC staff would continue to work with the Public Education Department (PED) to identify a suitable source of poverty information for charter schools. He said one possible source was the New Mexico Human Services Department, which shares data with PED on students who receive benefits from the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families.

Mr. Simon said most states use eligibility for free and reduced-fee lunch (FRL) as their indicator of at-risk students and most states use only a single indicator. He said states that use data from the U.S. Census Bureau have generally accounted for charter schools similarly to New Mexico and assign charter schools at-risk funding based on the local school district. He said funding charter schools is easier for states that use data that is identifiable by school, for example, FRL. Mr. Simon noted any change to the calculation of a charter school's at-risk index would directly go to serve that school's students. Currently, New Mexico only allocates 4 percent of formula funding to serve at-risk students through the index; other states direct up to 20 percent more funding to at-risk students. He also said the committee should address issues related to virtual charter schools and charter schools that educate a large number of adult students over age 23.

The Chair asked Mr. Bose if New Mexico is using the right indicators for identifying at-risk students. Mr. Bose said the three measures the state uses to calculate the at-risk index appear to be good indicators, though he noted the current calculation does not capture factors like teen pregnancy. The Chair said he would like charter schools to be proactive on identifying the appropriate measures and emphasized the importance of all stakeholders weighing in.

Representative Garcia Richard said schools with large numbers of students living in poverty face significant challenges and agreed the three indicators used in the at-risk index are good measures. She also noted potential differences between brick-and-mortar schools and virtual charter schools, and asked how the outcomes of at-risk services are measured. Mr. Simon said PED reviews at-risk services as part of the annual budget review process and the Chair noted this is mostly a fiscal accounting of what expenditures have been made.

Representative Garcia Richard said she would be interested in pursuing that aspect of at-risk funding. Mr. Bose noted at-risk students require an intensive level of service both in and out of the classroom and at-risk funding is used to support the principal, teacher, social worker, counselor, and other individuals. All of these supports help at-risk students become successful.

The Chair said at-risk funds are part of a larger picture that includes bilingual education program dollars as well as federal Title I and Title III dollars. He suggested looking in-depth at how these programs interact.

Representative Salazar asked what a change to the at-risk index would do to available resources and the equity of the formula. Mr. Bose indicated he did not know if calculating an at-risk index

for charter schools based on their own data would have a cost because some schools would likely see an increase in their at-risk index while others might see a decrease.

Representative Hall said traditional public schools and charter schools that cater to at-risk students offer unique services to students, and that the unique nature of the students in these schools are sometimes ignored by policymakers. Mr. Simon said at-risk funding goes to the school district and because of the system of local responsibility the school district is not necessarily required to allocate those funds to the schools that generate them.

Senator Kernan asked how a change in the calculation of the at-risk index for charter schools would impact school districts without charter schools, cautioning the committee to ensure these school districts are not impacted if changes are made. Mr. Bose noted charter schools are directly receiving at-risk funding in their school equalization guarantee allocations and communities without charter schools would not be impacted.

The Chair noted there is general consensus that the three indicators are good indicators of at-risk status but the committee may need to look at how they are implemented.

Charter School Facilities and 2015 Public Building Deadline

Robert Gorrell, Director, Public School Facilities Authority (PSFA), began with an overview of facility requirements outlined in Section 22-8B-4.2 NMSA 1978, that charter schools must meet to receive lease assistance funding overseen by the Public School Capital Outlay Council (PSCOC).

Mr. Gorrell noted several problems with lease agreements. Many charter schools lease purchase contracts do not meet statutory requirements. Maintenance is often not provided by the lessor in many leases as required by statute; and some charter schools have triple net contracts that require the charter school to maintain the facility. Insufficient information is available to ensure public facilities were not available for many charter schools that are leasing from private entities. Additionally, where charter schools are leasing from nonprofit entities, PSFA has not been able to confirm whether the nonprofit foundation was formed solely for the purpose of providing facilities to the charter school, another statutory requirement. Mr. Gorrell concluded his presentation by providing a history of the lease assistance program. He indicated the lease assistance program was intended to provide charter schools with money for facilities and was not meant to cover the total cost of the lease. Lease assistance was designed to be around half of the estimated \$1,400 per student cost to lease a facility.

Representative Townsend asked Mr. Gorrell about opportunities for school consolidation at schools that are underutilized and opportunities to provide school districts with better architecture. Mr. Gorrell noted there are opportunities for both, but added consolidation is a difficult thing to do in school districts. Representative Townsend noted a conversation last year with the superintendent in Hobbs who had recently completed the construction of an elementary school. Within a 12-month period, the same contractor, using almost the same plans, built a similar school in Seminole, Texas, that cost 28 percent less than the school in Hobbs because of the prevailing wage requirement in New Mexico. Mr. Gorrell indicated the wage scale in New Mexico impacts construction costs.

Senator Stewart asked if PSCOC engages with school districts to see if they have public buildings available for charter schools to use. Rachel S. Gudgel, Director, LESC, and PSCOC member, noted the council has not engaged with school districts to date on available public space but said the council is addressing this currently.

The Chair asked Mr. Gorrell which entity is responsible for providing oversight when a charter school first enters a lease agreement. Mr. Gorrell said he believes the authorizer determines whether the charter school meets all the requirements of the law. The Chair asked if the authorizer could set that as a condition of approval. Matthew Pahl, Director of Policy, Public Education Department (PED), said the Public Education Commission (PEC) includes these requirements in their charter school approval checklist; however, he noted this was just included in 2015. Ms. Gudgel noted statute says PSCOC is supposed to ensure compliance with Section 22-8B-4.2 NMSA 1978 and could do a better job of communicating the requirements. She noted authorizers do not contact PSCOC to ensure compliance before authorizing or renewing a charter school. Mr. Gorrell suggested a process should be formalized to ensure compliance.

Tony Monfiletto, Director, New Mexico Center for School Leadership, detailed his experience with charter school funding as the founder of the Amy Biehl High School and as the executive director of the Architecture, Construction & Engineering (ACE) Leadership High School (both in Albuquerque). He emphasized those two projects were done in a way that did not overburden the operating revenue of the schools. The financing strategy relied on lease reimbursement funding, and the projects were funded without having to tap into operating revenue.

Mr. Monfiletto said he thinks there is some opportunity, at least in Albuquerque, to combine lease reimbursement funding and Laws 2016, Chapter 38 (House Bill 33), *Approval of Certain Projects*, funding to enable charter schools to avoid private education bonds that are very expensive and inefficient, taking money away from students. He noted combining the two sources of funding coupled with identifying a state entity to guarantee a loan or build a loan pool would go a long way toward solving the charter school facility problem. He indicated this would also help keep state funding in public buildings.

Kizito Wijenje, Executive Director, Albuquerque Public Schools (APS) Capital Master Plan, highlighted APS collaboration with charter schools, emphasizing collaboration has to be consensual to preserve charter school autonomy. He began by outlining the APS Capital Master Plan. APS has invested about \$57.8 million in seven charter schools in the APS Capital Master Plan. The pilot program was started in 2008 and was offered to all the charter schools in APS at that time. Since 2010 about \$33 million in HB33 funds have been collected and distributed directly to charter schools. Since 2013, about \$20 million from Senate Bill 9, *Public School Capital Improvements Act*, have also been collected and distributed to charter schools. This year HB33 was authorized, and it is estimated that it will generate \$58 million that will be collected and distributed directly to charter schools over the next six years.

Mr. Wijenje explained the pilot program has legally binding memorandums of understanding between APS charter schools with regard to the roles, responsibilities, location, capital outlay requirements, and issues about usage and maintenance of the building. The charter schools also turn over their lease reimbursement and HB33 money to APS which then goes back to either build or maintain the building they occupy. APS has so far provided 350 thousand square feet of permanent public facilities on over 45 acres to charter schools since 2007.

The Chair asked Mr. Wijenje to comment on the issues that hinder charter schools and local school districts from entering into agreements for facilities. Mr. Wijenje emphasized any kind of agreement has to be mutual; superimposing a statewide policy may supersede local priorities, causing issues. On the other hand you do not want to place a charter school in a facility they do not feel totally comfortable in just because the facility exists.

Representative Hall said he has discussed this very difficult process with several bond attorneys and realized charter schools are not helping pay off bond money that they receive and this needs to be considered going forward. Representative Hall asked Mr. Gorrell for a list of all the partially occupied and vacant buildings in the 89 school districts. Mr. Gorrell indicated he would provide the requested information to Representative Hall.

Representative Townsend asked if the state or school districts would be better off if a private corporation built buildings and leased them to a school district, questioning whether there was a more efficient facility arrangement than current practice. The Chair noted theoretically there may be some cost effectiveness except for a couple of things. First, lease assistance is funded through supplemental severance tax bonds that are carved out for PSCOC to make the assistance available for schools. PSCOC funds would likely not go far enough to cover all lease costs under Representative Townsend's scenario. Second, it is probably more appropriate to the jurisdiction of the Public School Capital Outlay Oversight Task Force (PSCOOTF). The Chair observed that in the charter school world there may be a private business that is willing to make an investment to create a building that would be suitable for that charter school, but the charter school is only authorized for a five-year term and may not be renewed. The Chair noted he would talk to the PSCOOTF Chair and see if it is something they want to look at.

Charter School Authorizer Best Practices: National Association of Charter School Authorizers' Audit of the Public Education Commission

Katie Piehl, Director of Authorizer Development, National Association of Charter School Authorizers (NACSA), said the Public Education Commission (PEC), a NACSA member since 2008, invited NACSA to conduct a formative authorizer evaluation of PEC's authorizing practices against NACSA's nationally recognized principles and standards for quality charter school authorizing. Additionally, NACSA focused on progress PEC has made since its last evaluation in 2010.

NACSA has conducted more than 70 evaluations of authorizers responsible for authorizing more than half of the charter schools in the country. Their evaluations are formative, offering practical guidance, and identifying priorities for improvement. The evaluation process includes an in-depth document review, surveys, a two-day site visit, and an opportunity for the authorizer to review and comment on the draft evaluation prior to finalization; however, Ms. Piehl said PEC declined to provide feedback prior to finalization. NACSA offered to re-open the comment period for the commission to provide input, and are still processing that feedback.

Ms. Piehl said, subsequent to the completion of the evaluation site visit, PEC passed a position paper clarifying the process for contract negotiations and defining when a contract may be renegotiated. This new policy indicates PEC is already working to clarify authorizing processes for schools and the public. PEC also passed a motion defining a high-quality charter school, and is currently reviewing data related to that definition. Ms. Piehl noted, however, that none of the recommendations contained in the report would be changed as a result of these actions by PEC,

as they represent NACSA's professional judgment based on national best practices. Ultimately, the authorizer decides how to use the recommendations.

John Hedstrom, Vice President, Policy and Advocacy, NACSA, provided LESC with a perspective of New Mexico's charter school policy and some suggestions for moving forward. He noted NACSA's advocacy efforts over the past five years focused on providing high-quality charter schools that protect student and public interests through oversight, accountability measures, as well as encouraging charter school autonomy. These policies ensure a legal framework that encourages high-quality schools, while closing failing schools. Nevertheless, most states' law and policy can be improved, as noted in NACSA's annual state policy analysis, which includes specific policy recommendations for each state and serves to foster better policies, and increase the number of states with good charter school laws.

Mr. Hedstrom said specific policy recommendations for New Mexico, as of the 2014-2015 school year, include: implementation of a strong renewal standard; creation of a default closure provision; and assessment of the difficult relationship between PEC and the Public Education Department (PED), which has impeded the implementation of strong authorizing standards. NACSA recommended the Legislature abandon the dual entity structure and allow one entity to serve as the authorizing body.

Mr. Hedstrom said NACSA supports policy requiring strong renewal standards that allow authorizers to hold schools accountable for failure to achieve agreed upon outcomes. In some jurisdictions, statutory language addressing "reasonable progress" has led some courts and appellate bodies to keep failing schools open because they argued that state law required the authorizers to keep them open if they provided any evidence of simple progress. New Mexico's law contains a similar standard, "substantial progress," an issue Mr. Hedstrom said the Legislature may want to address. He said NACSA supports policy requiring a state to set minimally acceptable academic, financial, and organizational performance standards. Schools performing below standards at the time of renewal should expect closure.

Patricia Gipson, Chair, PEC, noted PED received the report on August 1, leaving them insufficient time to review it, particularly since PEC had not met since they received the preliminary report. While the commission employs NACSA best practices, those practices are always evolving. She noted PEC has had preliminary discussions on closure policies, among other issues, and that they have considered establishing a subcommittee to more closely review the NACSA report.

The Chair noted NACSA's recommendation regarding the relationship between PED and the commission, was qualitative in nature, and that there may be impediments to changing the law governing that relationship. He asked if the provisions of Senate Bill 446, *Charter School Contracts*, 2011 regular legislative session, requiring all charter schools to include performance frameworks in their charter school contracts helped New Mexico meet NACSA expectations. Mr. Hedstrom replied that one of the issues with the statutory language is the reference to "substantial progress," an ambiguous term that in other jurisdictions had led to failing schools being allowed to stay open.

In response to the Chair's question about whether the NACSA recommendations for renewal standards could be successfully implemented, Ms. Gipson replied that even clearly defined

standards for renewal may not be enough because PEC tries to consider schools holistically. Thus, the Commission hesitates to make it as black and white as the recommendations suggest, especially because these standards do not fit schools that are recovery programs, which serve their students despite not meeting requirements. Matthew Pahl, Director of Policy, PED, said PED is a member of a work group established by the New Mexico Coalition for Charter Schools (NMCCS) to redefine the standard of renewal for schools that are recovery programs, and then indicated NMCCS may be interested in working with a legislator on a bill to establish formal accountability standards for those schools that are recovery programs.

The Chair inquired whether New Mexico law already contemplates automatic closure for not meeting renewal standards. Ms. Gipson noted that while there is no real default closure requirement, closure at midterm for poor performance, or later revocation remains an option, though thus far PEC has only declined to renew charter schools for financial issues. The Chair noted there are traditional public schools that may also be failing, but are not subject to automatic closure, and asked for NACSA's perspective on the issue. Mr. Hedstrom replied that perhaps some traditional public schools should be closed, but the charter schools' bargain was to teach children in a better, more efficient manner, and be held accountable, in exchange for affording charter schools greater autonomy.

Representative Youngblood asked why no schools had faced automatic closure when it is not prohibited by New Mexico law. Ms. Gipson replied that PEC lacks the data necessary to convene a revocation hearing, as required by due process considerations. Representative Youngblood said that with the availability of school grades and student achievement scores, it is clear that the necessary data to make closure and renewal decisions are there, but are not being used.

Representative Youngblood asked if there are other states that have a similar structure to New Mexico with regard to the PEC and PED. In response, Mr. Hedstrom noted Arkansas has a similar dual entity structure with advisory capacity and repeal authority, leading to similar difficulties.

Representative Salazar noted that, ideally the Legislature will put in place minimal requirements to increase transparency in authorization and focus on validated metrics to examine outcomes and ensure that charter schools are held to the same minimal standards as the rest of the public school system. Representative Salazar asked Mr. Pahl to discuss PED's position on the issue, to which Mr. Pahl answered PED does not anticipate trying to bring up any legislation but putting requirements in statute may increase the oversight of authorizers in the state. Local authorizers often do not get the scrutiny PEC does, and it is unclear that PED has authority to oversee their activities. With standards in statute, he continued, there would be more accountability for the 90 authorizers in New Mexico.

There being no further business, the Chair with the consensus of the committee, recessed the LESC meeting at 4:30 p.m.

**MINUTES
LESC MEETING
August 18, 2016**

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:40 a.m., on Thursday, August 18, 2016, in the Quimby Gymnasium, New Mexico School for the Blind and Visually Impaired, Alamogordo, New Mexico.

The following voting and advisory members were present:

Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, James E. Smith, Sheryl M. Williams Stapleton and Monica Youngblood; and Senators Craig W. Brandt, Gay G. Kernan, and Howie C. Morales; and

Advisory: Representatives Alonzo Baldonado, David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, and James G. Townsend; and Senators Lee S. Cotter, John Pinto, and Mimi Stewart.

The following voting and advisory members were not present:

Voting: Representative Christine Trujillo and Senator John M. Sapien, Vice Chair; and

Advisory: Representatives Jim Dines, Nora Espinoza, D. Wonda Johnson, Timothy D. Lewis, G. Andrés Romero, and Patricia Roybal Caballero; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, Michael Padilla, William P. Soules, and Pat Woods.

Flight on NASA's Stratospheric Observatory for Infrared Astronomy (SOFIA)

Jeffrey Killebrew, Science Teacher, New Mexico School for the Blind and Visually Impaired (NMSBVI), introduced Michael Shinabery, Education Specialist, New Mexico Museum of Space History, who accompanied him on the stratospheric observatory for infrared astronomy (SOFIA) flights. Mr. Killebrew said he and Mr. Shinabery were selected as the National Aeronautics and Space Administration (NASA) airborne astronomy ambassadors. So far, they are the only two teachers from New Mexico selected to participate in the program, and Mr. Killebrew is the only teacher for the visually impaired in the nation to be selected. SOFIA is a Boeing 747 special purpose plane that NASA turned into an airborne observatory. Mr. Killebrew explained how SOFIA's onboard telescope pays special attention to invisible infrared light. Mr. Killebrew explained how he used this experience to relate to his students. He took an image of the constellation Orion and an infrared scan of Orion from the telescope and used a Braille printer to make the images tactile. He repeated this process for an image of the Milky Way Galaxy and a scan that shows matter being drawn into a black hole. On these images, dots with different elevations indicate the intensity of the energies which is a representative way for visually impaired students to explore astronomy.

Representative Garcia Richard said she loved the idea of making the images accessible to the students. Since the naked eye cannot see infrared light, it levels the playing field. She asked how Mr. Killebrew has used this information in his classroom and lessons. Mr. Killebrew answered that he teaches all middle school sciences and most high school sciences, including

earth, physical, and life sciences, biology, chemistry, and physics, and SOFIA has applications for all sciences. He said that he is still looking for ways to incorporate lessons from SOFIA.

New Mexico Teacher of the Year

David Morales, Social Studies Teacher, Mayfield High School (MHS), Las Cruces Public Schools, noted he is an advanced placement Human Geography teacher at MHS. He said that the teacher voice is a vitally important part of policymaking, but does not mean everyone always has to agree. Comparing policies to school lessons, he remarked that oftentimes intentions are good but policies once implemented may not have the intended consequences. Mr. Morales proposed the creation of an LESC teacher advisory group, similar to Hanna Skandera, Secretary of Public Education's teacher advisory council. He referred to a handout that showed teachers should be selected for the advisory group based on merit to provide input on policies that are relevant to their specific background. Mr. Morales indicated stakeholders would include legislators, education advocacy groups, the Public Education Department, state and local boards of education, and parent and community groups. He noted there are many teachers that would like to be involved in informing policy and should be able to participate.

Senator Morales asked what message Mr. Morales would share with fellow educators. In reply, Mr. Morales remembered when he was tempted to give up, but watching his students graduate reminded him why teaching is important. Mr. Morales also stated the condition in schools needs to be improved to make sure the right message is being sent to kids to encourage them into the field of teaching.

In response to Senator Cotter's question, Mr. Morales stated he did not receive any money for being the Teacher of the Year.

Representative Townsend said he wished teachers who performed better were rewarded with higher income, believing this would increase the number of high-quality teachers. Mr. Morales said he was not sure he agreed with merit-based pay unless the Legislature can compare apples to apples. Two teachers that teach different subjects can both be excellent, but if you put them in the same room and decided which one will be paid more, it can be hard to compare them. Senator Kernan congratulated Mr. Morales and commented that merit-based pay on teacher effectiveness ratings can be problematic because several teachers that received awards in her district were rated minimally effective.

The Chair recalled when he and Mr. Morales were in Washington D.C. this summer, one of the closing speakers stated "education reform is something we should do with teachers not to teachers." Mr. Morales replied that reform can be stronger when it comes from a place of reflection and experience. The Chair came back to Mr. Morales' proposal, stating the committee could invite teachers to meetings and spend the last half of the third day of hearings discussing their thoughts on issues and come up with solutions LESC may not have thought of. The Chair expressed interest in building a structure that might take hold in the next interim.

Teacher and School Leader Retirement Trends

John D. Abraham, Co-Director, Center for Workers' Benefits and Capital Strategies Research, American Federation of Teachers (AFT), addressed national and state level workforce trends. Dr. Abraham said the retirement age for all workers has increased over the last 25 years, from age 62 in 1990 to 64 in 2010 for men and from 58 to 62 for women. Dr. Abraham suggested the

decline of employer provided retiree health care for early retirees, an increase in life expectancy and the shift to 401(k) plans have led to people working longer. He also said that changes to Social Security have increased incentives for working longer.

The average age of teacher retirement has also increased. At the national level, the teacher workforce has gotten bigger, older, less experienced, and the profession has become somewhat unstable, while in New Mexico the state's education labor force has gotten bigger but not older. Dr. Abraham said that between 1987 and 2012, the number of people who participate in the Educational Retirement Board plan increased by 34 percent, from about 45 thousand to 61 thousand employees. Dr. Abraham said that the number of members under age 30 has increased by 65 percent while the number of members over age 60 has increased 276 percent in the last 25 years.

Dr. Abraham said generally there have been enough new entrants into the teaching workforce to cover the retirements but retention is an issue. Dr. Abraham noted the growth in attrition rates over the last 25 years. He said one study found 41 percent of all teachers left the teaching profession after five years and that 45 percent of teachers that left were dissatisfied with the profession. He said that high poverty, high minority, urban, and rural public schools have higher turnover rates than suburban schools. Dr. Abraham offered some ideas for keeping older teachers in the workforce, including additional benefits for retirees who delay receiving their retirement benefit, additional credits for people who delay retiree health care, and life insurance benefits for people who stay longer on the job. He also suggested tools for retaining new and mid-career teachers such as updated equipment for educators' use, first-year salaries of at least \$40 thousand, teacher mentorships, faculty input on school-wide decisions, and teacher control and discretion over instruction. Dr. Abraham also called on the Legislature to listen to teachers when discussing education policy.

In closing, Dr. Abraham noted AFT's support for the National Conference of State Legislatures' *No Time to Lose* report and the creation of a world-class instruction system where every student has access to highly effective teachers and is expected to succeed.

Representative Salazar asked Dr. Abraham to compare the New Mexico plan with pension plans in other states, and Dr. Abraham said as a general proposition New Mexico's benefits are probably a little richer compared to the national average but salaries are a little lower than the national average.

Representative Garcia Richard asked about reasons for leaving the teaching profession and if those reasons have changed over time. Dr. Abraham said for many years researchers estimated 50 percent of teachers left in the first five years but recent studies show it is 41 percent; 45 percent said they left due to dissatisfaction with the profession, which is not unusual. Representative Garcia Richard asked how dissatisfaction is defined, and Dr. Abraham said teachers generally complain that they do not have input to make changes in curriculum or classroom that will affect their ability to teach. Representative Garcia Richard noted giving teachers input would not cost anything.

Representative Stapleton asked what causes the teaching profession to be less stable across the country, and Dr. Abraham said in general first-year salaries are quite low, in addition to a lack of teacher input. He said many young teachers who have a lot of ambition are discouraged when

they are told what to do, when to do it, and given no ability to use their professional judgment. Representative Stapleton asked if the data shows younger teachers leave faster, and Dr. Abraham replied that younger teachers definitely leave quicker.

Senator Brandt told Dr. Abraham the median income is \$44,800 in New Mexico and a starting salary of \$40 thousand is a lot different in New Mexico than in other states. He also said New Mexico had better benefits compared to places like Colorado, Oklahoma, Texas, and other surrounding states. Senator Brandt said he agreed teachers needed input but argued that both union and non-union teachers needed input, noting the majority of the teachers in New Mexico are not union members.

The Chair said recruitment and retention are often lumped together but Dr. Abraham highlighted retention as the key. The Chair noted Dr. Abraham said 300 thousand fewer teachers are in the recruitment pool in the last 15 years nationally, so the focus on retention is important. He also noted that some of Dr. Abraham's recommendations do not have a big price tag.

The Chair introduced Mr. Ron Singleton, President, New Mexico School Boards Association.

Director's Report

Action Item

a. LESC Letter to the Public Education Department in Support of Los Alamos Public Schools' Request to Develop and Pilot an Alternative Teacher Evaluation System

Rachel S. Gudgel, Director, LESC, referred to a draft letter written at the direction of the Chair pursuant to Los Alamos Public Schools' (LAPS) request at the July meeting to write a letter to the Public Education Department (PED) in support of LAPS piloting an alternative teacher evaluation system. The letter was drafted with the help of LAPS.

Kurt Steinhaus, Superintendent, LAPS, recognized the current teacher evaluation system as an improvement when compared to how teachers were evaluated in the past. He noted principals are in the classrooms more and most people in the state like the observation protocol. Dr. Steinhaus highlighted the fact that his teachers would like to be involved in piloting a new teacher evaluation system, but stated LAPS is not looking to implement a new system during the current school year. LAPS wants to work through the 2016-2017 school year to develop an alternative evaluation system and would request a waiver from PED in the 2017-2018 school year to pilot the new system they develop.

Concerns were noted by some committee members, including: development of a new evaluation system by a particular school district that may not be exactly what another school district would want to create for their teachers; LESC support of a waiver for a single school district; LESC support for a system that has not yet been created; and the potential to open the door to multiple pilots across the state.

It was noted the LAPS request was in line with the flexibility the Every Student Succeeds Act (ESSA) provides. In addition, LAPS is simply asking for an opportunity to improve on the current system and not to throw out the existing system.

Matthew Pahl, Director of Policy, PED, stated PED does not have a problem with pilots operating in school districts or innovation in school districts; however, he said PED believes the

state is already in compliance with evaluation requirements of the ESSA and he noted concern with uniformity requirements in statute if a second evaluation system were created. He did note PED would be interested in partnering with LAPS to think about how to move forward with the district's request. In conclusion, Mr. Pahl noted issues with the letter that it may be premature to request a waiver when a new, parallel system has yet to be created.

Senator Morales moved to have LESC sign a letter of endorsement to PED allowing LAPS to move forward on a pilot; and Representative Salazar seconded the motion. By a vote of 5-3 the letter will be sent to PED.

b. Administrative Rulemaking

Kevin Force, LESC staff, noted a couple of final rules adopted this month: a rule change that lifts the prohibition on making disparaging or diminishing remarks about the significance or importance of standardized tests; and a rule adopted by the Educational Retirement Board (ERB) regarding educational retirement administrative unit reporting and remittances, which requires reporting by administrative units of all compensation paid to all employees, not just ERB members, to help determine if local administrative units are making all required contributions particularly for members that are working for multiple administrative units.

Mr. Force stated ERB has scheduled a discussion of a proposed rule to change membership eligibility for substitute teachers to August 26. Ms. Gudgel said discussions with the Legislative Finance Committee (LFC) and ERB had not changed the view of LESC staff that this proposal is a substantive change, proposing to remove an entire class of potential employees from an exemption to ERB membership. Representatives from ERB agreed to present the proposed rule to the committee at the September meeting, to discuss the board's view of the rule, and the reasoning behind the proposed changes.

Committee discussion focused on the thought that ERB may be overreaching by attempting to make certain employees members of the fund who have never been members before, wondering whether the rationale behind the proposal is the capture of funds not previously available to the board as an attempt to address long-term solvency, without proper consideration of the financial impact on the substitute teachers and the school districts, which contribute matching funds for their employees. Ms. Gudgel affirmed that ERB had conducted no analysis of the issue, but promised to request one from them before their appearance in September. Also discussed was a more general need to hear from ERB staff regarding potential shortfalls in the fund.

d. General Fund Revenue Update

Ms. Gudgel discussed the most current Legislative Finance Committee general fund revenue tracking report. She clarified the Executive Order requiring executive agencies to reduce spending by 5 percent in FY17 only applied to executive agencies and does not apply to public school support or higher education appropriations.

Senator Kernan asked about the intent to sweep cash balances to address part of the FY17 shortfall and noted Hobbs has saved a significant amount to address bond repayments. Representative Hall noted sweeping cash balances is being talked about however other solutions are being discussed as well, including instructional materials appropriations and the emergency transportation fund. He said all potential solutions are being considered.

Tour of New Mexico School for the Blind and Visually Impaired

Linda Lyle, Superintendent, New Mexico School for the Blind and Visually Impaired, conducted a tour of the school campus.

Teacher and School Leader Preparation Programs: NMPrep and NMLead

Matthew Pahl, Director of Policy, Public Education Department (PED), noted that NMPrep is a program that provides structure and funding for innovative teacher preparation programs. Certain parameters, such as a higher grade point average to become accepted into the program, were put in place to ensure higher admission standards than traditional teacher preparation programs. NMLead, which also has higher admission standards, is a program that focuses on training on leadership competencies through a practice-based curriculum. He stated both programs provide financial assistance for students to participate. Initially, PED-approved partners were finalized in September 2015 to begin collaboration on the NMPrep and NMLead programs in partnership with institutions of higher education.

Mr. Pahl provided a brief overview of each NMPrep program. New Mexico Highlands University (NMHU) works in collaboration with Albuquerque Public Schools (APS) to train special education teachers. By the end of this school year, approximately 56 special education teachers will be licensed to teach. The University of New Mexico (UNM), in partnership with APS, has instituted an accelerated alternative licensure program for science, technology, engineering, and mathematics (STEM) teachers. Twelve STEM teachers have completed this program with 10 participants prepared to begin the program this fall. New Mexico State University (NMSU) has initiated Aggie Prep, which will focus on licensing STEM teachers. Ten people have completed this program with 15 set to participate in the next school year.

He continued by describing each NMLead program. NMSU and UNM, in partnership with the Woodrow Wilson National Fellowship Foundation, created a master's degree in business administration (MBA) focused on school leadership. In the first cohorts at UNM and NMSU, there were 27 participants with 41 participants anticipated for the next school year. Eastern New Mexico University (ENMU) has established a train-the-trainer model for its program and focuses extensively on leadership competencies. The first cohort included 19 future school leaders and 20 participants are expected to begin in the next school year.

To conclude, Mr. Pahl stated PED will conduct a study on NMPrep and NMLead programs to determine the successes and improvements for these programs in the future.

Andrea Fletcher, Chief Academic Officer, Las Cruces Public Schools (LCPS), spoke from a school district perspective on her experiences with the NMSU MBA program's first cohort. She provided an overview of what participants experienced in this program, including participating in online classes and in-person meetings and completing a capstone project. She noted that participants, after completing the program, felt more confident in their abilities and could utilize the tools they learned, including structured problem solving and improved communication. She noted the cohort structure and blended classes have positively enhanced participants' experiences. To improve the program, she suggested making weekend classes more meaningful as well as expanding recruitment efforts.

James Alarid, Professor, Special Education, NMHU, stated NMHU Prep is working in collaboration with APS to license more special education teachers in the state. After completing

the program in two semesters, teachers will be special education certified. Classes are offered in-person and online.

Claudia Gutierrez, Director, Student Achievement, APS, noted APS began the 2016-2017 school year with 92 special education vacancies. NMHU Prep participants will assist in filling those vacancies. This program will allow participants to get special education certification and, eventually, a master's degree in special education. Participants work in collaboration with APS master teachers to learn the complexities they will encounter once they begin teaching.

Penny A. Garcia, Dean, College of Education and Technology, ENMU, said the university's program focuses on serving the needs of small rural school districts. The program utilizes curriculum from the National Institute of School Leadership (NISL), and participants meet on a monthly basis for one weekend a month. She also noted participants were teacher leaders, principals, and superintendents from Albuquerque, Clovis, Hagerman, Hobbs, Jal, Loving, Lovington, Portales, Roswell, Texico, and Tucumcari.

Janet Buzzard, Dean, College of Business, ENMU, described the courses in the program. For instance, there is an emphasis on researching standards-aligned instructional systems that produce effective outcomes for school districts. She noted that the courses also focus on pedagogical knowledge that will assist participants in their administrative positions.

The Chair inquired about the cost of each program. Dr. Garcia said ENMU's per-student program costs vary. In the first year, it was approximately \$12 thousand per student, which does not include the free tuition ENMU offers for the program. This year, it was approximately \$7 thousand per student, and in the future, it will decrease to about \$5 thousand per student. Next, Dr. Alarid stated it cost about \$6 thousand per student for NMHU Prep.

The Chair noted it is expensive to maintain these programs based on the total funding invested. For instance, Aggie Prep received approximately \$800 thousand and there were only 10 participants who completed the program. Based on these numbers, it is an investment of about \$80 thousand per completer. Mr. Pahl said the figures PED provided to staff were award figures and not expenditure amounts, though he did not know the per-student costs of each program. Mr. Pahl stated he would provide expenditure information to staff.

Representative Salazar asked what kind of evaluation the programs are using. Mr. Pahl replied PED will work in collaboration with the programs to connect the New Mexico Teacher Evaluation Advisory Council (NMTEACH) summative evaluation results to participants. Upon seeing if this provides successful results, PED will work with the partners to see how to improve the programs.

Every Student Succeeds Act Title I State Plan Efforts

Christopher N. Ruszkowski, Deputy Secretary, Policy and Program, Public Education Department (PED), briefed the committee on current stakeholder engagement to include: ongoing superintendent conference calls; a presentation at the Council of Chief State School Officers conference in June; the August LESC meeting; and PED's teacher summit in July. He explained Hanna Skandera, Secretary of Public Education, met with superintendents at the New Mexico Coalition of Educational Leaders conference in mid-July, and PED staff met with members of the New Mexico School Boards Association and the Indian Education Advisory

Council. Mr. Ruszkowski explained PED is finalizing future Every Student Succeeds Act (ESSA) stakeholder engagement meetings that will be held statewide, including meetings with LESC in October and November. He indicated stakeholder meetings would also likely be convened in Albuquerque, Gallup, Las Cruces, Roswell, and Santa Fe, along with an online survey to respond to pressing questions posed by ESSA.

Mr. Ruszkowski explained New Mexico has built a strong foundation over the last decade and in the last five years. Referring to accountability and school grades, he further noted feedback from stakeholder engagement that took place recently was to create some stability and continuity within these areas, especially since New Mexico is in full compliance with many of ESSA's requirements. Mr. Ruszkowski noted because New Mexico has moved forward with reforms, ESSA will not create a financial burden like other states that have to start from scratch.

In the context of accountability, Mr. Ruszkowski said PED has made some adjustments to graduation requirements and school grades based on feedback from the field. Mr. Ruszkowski said engagement also included discussion about the New Mexico Teacher Evaluation Advisory Council's teacher attendance policies. He indicated, however, that these are not the major areas of focus for New Mexico's ESSA state plan.

Mr. Ruszkowski highlighted the following key issues for discussion in developing the state Title I plan and noted PED will host a technical working group on these elements.

In response to the Chair's question about replicating the success and information gathered from the teacher summit, Mr. Ruszkowski said given the positive feedback that was received, PED wants to replicate the annual teacher summit and host regional summits. He explained PED will share the information gathered at the recent summit with LESC.

In response to the Chair's inquiry about meeting with the ESSA subcommittee, Matthew Pahl, Director of Policy, PED, said PED wants to work with LESC on the structure of meetings that will likely begin in September or October. Representative Garcia Richard requested LESC be notified of any future teacher summits and to be included to participate.

The Chair also noted he appreciated PED acknowledging feedback from the field and evidence that some of that feedback has been incorporated into PED initiatives. The Chair also noted the delay on requiring a score of four or five on the Partnership for Assessment of Readiness for College and Careers for graduation purposes and highlighted this likely become an issue for graduation rates.

In response to Representative Garcia Richard's question regarding discussions about ESSA at the teacher summit, Mr. Ruszkowski explained some of the topics were not ESSA specific but discussions around accountability referred back to ESSA. He explained ESSA gives states a set of minimum requirements they must be in compliance with but allows states more flexibility to approach their different instructional packages in their own ways. He noted it was important that every teacher know how their kids were doing particularly with end-of-course (EOC) exams and how those exams may have a role in alternative demonstrations of competency. Mr. Pahl added EOCs are not required by the old federal No Child Left Behind Act of 2001 (NCLB), and EOC requirements stem from a New Mexico state statute that says students must meet competency in five different subject areas to graduate. If an EOC is replacing a final or being used as a final,

that is another opportunity to streamline testing. Mr. Ruszkowski explained PED intends on focusing on maintaining a high bar but establishing multiple options to demonstrate competency pursuant to ESSA.

In response to Representative Garcia Richard's question regarding NCLB waivers and their expiration date, Mr. Ruszkowski noted the 2016-2017 school year is a transition year during which states are essentially maintaining their current systems. During the 2017-2018 school year all of ESSA's provisions will take effect. He noted the NCLB waiver expired recently but did not force states to move back to some of the onerous requirements of NCLB. Representative Garcia Richard asked if PED will continue school grades under ESSA, and Mr. Ruszkowski noted many aspects included in New Mexico's grading system – proficiency, growth, graduation rates, transparent information for parents and families, and a single summative rating – meet ESSA requirements although he noted some of these things are still in the negotiating process. In addition, attendance and surveys are still required under ESSA. Representative Garcia Richard added she has issues with how the current grading system is conducted and hopes PED will hear feedback from stakeholders.

Representative Garcia Richard noted ESSA provides an opportunity to re-look at everything New Mexico is doing from teacher evaluations to school grades and bring communities together to ask everybody what they think and solicit ideas.

In closing, the Chair reinforced that these will be the kind of discussions PED will have with the subcommittee.

Superintendent and Community Input

Ron Singleton, President, New Mexico School Boards Association (NMSBA), expressed his appreciation to LESC, and Joe Guillen, Executive Director, NMSBA, invited LESC to the regional school board meetings in September and October. Mr. Guillen noted legislative priorities and the Every Student Succeeds Act input would be topics of discussion.

Lucinda Simmons and Gretchen Phillips, art teachers at Roswell Independent School District spoke about their support of arts education in schools and Senate Bill 135, *Arts Education Standards*, sponsored by Senator McSorley during the 2016 regular legislative session.

There being no further business, the Chair with the consensus of the committee, recessed the LESC meeting at 4:55 p.m.

**MINUTES
LESC MEETING
August 19, 2016**

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:40 a.m., on Friday, August 19, 2016, in the Quimby Gymnasium, New Mexico School for the Blind and Visually Impaired, Alamogordo, New Mexico.

The following voting and advisory members were present:

Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, James E. Smith, Sheryl M. Williams Stapleton, and Monica Youngblood; and Senators Craig W. Brandt and Gay G. Kernan; and

Advisory: Representatives David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, and James G. Townsend; and Senators Lee S. Cotter, John Pinto, and Mimi Stewart.

The following voting and advisory members were not present:

Voting: Representative Christine Trujillo; and Senators John M. Sapien, Vice Chair, and Howie C. Morales; and

Advisory: Representatives Alonzo Baldonado, Jim Dines, Nora Espinoza, D. Wonda Johnson, Timothy D. Lewis, G. Andrés Romero, and Patricia Roybal Caballero; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, Michael Padilla, William P. Soules, and Pat Woods.

Truancy Prevention Programs

Gary Perkowski, Superintendent, and Ms. Kelli Barta, Assistant Superintendent, Carlsbad Municipal Schools (CMS), presented CMS' truancy prevention program to the committee. Mr. Perkowski noted that the program involved the magistrate judge in Carlsbad, and was a very successful partnership, leading to a considerable drop in the truancy and dropout rates. However, the Administrative Office of the Courts (AOC), in response to a query from the judge, sent a letter indicating that the judge's participation in the program violated the judicial Code of Ethical Conduct, by inadvertently creating an atmosphere of coercion when holding truancy court in the judge's courtroom while he was wearing his robes. As a result, CMS dropped the program. CMS, with Senator Kernan, and Representatives Townsend, Hall, and Ruiloba attempted to pass legislation addressing the problem in the 2016 legislative session, but it failed to pass.

Ms. Barta reviewed some of the particulars of the program, noting that in February 2009, CMS implemented a truancy court intervention program in collaboration with the magistrate judge. Students with five unexcused absences were identified as "at-risk," and were asked to appear before a magistrate who was not acting in the capacity of a judge but rather in a support role. In May 2013, AOC informed the magistrate of potential conflicts of interest due to using a sitting judge. After the judges left the program, truancy rates in CMS sharply increased. CMS therefore decided to move ahead with a new truancy prevention program with community support and grants from United Way.

The current CMS truancy prevention program provides interventions that are based on individual student needs addressing the underlying cause of their truancy, rather than merely imposing consequences. They developed a truancy intervention panel made up of community members, including law enforcement, the Children, Youth and Families Department (CYFD), and local nonprofit agencies. Many students were becoming truant due to a lack of basic necessities, such as food, shelter, clothing, child care, transportation, or homelessness. After five absences, students received a letter asking them to attend and present their case to the principal who may recommend help getting families access to basic services and necessities, such as groceries and assistance navigating government bureaucracy, so that natural excuses for truancy were no longer available. Ninety-eight percent of those who attended truancy court saw their attendance improve.

Representative Hall asked what kind of government money the program received, and Mr. Perkowski replied that some local tax dollars support an employee to oversee their homelessness issue and the Grace House program. Most of their efforts are funded by grants from United Way and from other community organizations. Representative Hall noted truancy in prekindergarten and kindergarten is a more challenging problem, due to parents' inability to get the children to school. Ms. Barta said they used a \$35 thousand grant to hire a truancy interventionist, in addition to the truancy officer they currently employ, to directly deal with families. Representative Hall indicated his disappointment with the AOC over the letter that curtailed judicial participation in the program, and promised to follow up with the courts.

On that point, Representative Townsend said it is imperative for LESC to address the court system not only for their reasoning but also their support in correcting this issue. He asked that LESC draft a letter to the AOC asking for their support.

Representative Hall noted the bill that he and others have been working on will allow some flexibility for the differing issues present in different communities, and that the bill no longer includes revocation of driving privileges. Senator Kernan suggested legislation may not be needed to continue this program, except for addressing AOC concerns.

Senator Stewart noted being on a panel at the National Conference of State Legislatures on healthy students, where it was noted a large percentage of students miss school due to dental issues. Senator Stewart inquired whether the CMS program addressed this issue, and Mr. Perkowski replied that CMS does have a very successful dental program using Medicaid funds that offers treatment and referrals.

Representative Salazar asked about bilingual services, and Ms. Barta replied that bilingual staff are available to communicate with parents and discuss any services that are needed. They also make sure documents are provided in other languages, including Laotian and Chinese on occasion, to assist non-English speaking parents.

Next, Grace Spulak, Director, FosterEd New Mexico, briefed the committee on FosterEd, an initiative of National Youth Law out of Oakland, California, which came to New Mexico after the state Supreme Court recommended a joint task force to examine education issues for foster students in 2012. She noted the demonstration project in Lea County, crediting Senator Kernan for her support. There is a liaison in Lea County who works with students who are in foster care and on court-ordered probation. This liaison, with offices in the Lovington Municipal Schools

and in the Hobbs CYFD office, works closely with both agencies. The FosterEd program identifies an education champion and a long-term support for the student, and reaches out to biological families and other community support, and forms an education team that devises a plan for the student, including concrete goals that can be reassessed within six weeks to keep students on track.

Ms. Spulak noted that as of July 1, 2016, there were 37 students in the county who were in foster care and 32 students on court-ordered probation, necessitating another education liaison to help make certain students are enrolling in school and that they have the basic needs fulfilled, such as school supplies. She went on to note FosterED is working on statewide implementation of the Every Student Succeeds Act (ESSA) foster care provisions and expansion of FosterEd's work statewide.

Representative Gallegos asked if CYFD has a caseworker or designated staff working with FosterEd, and Ms. Spulak answered that while they have caseworkers and juvenile probation officers, CYFD does not have staff dedicated to education. Representative Gallegos wondered about asking Monique Jacobson, Cabinet Secretary, CYFD, if they could provide staff with educational expertise and noted his intention to follow up with Ms. Jacobson.

Representative Hall asked about job fairs and other opportunities, and Ms. Spulak said they work with older youth on job skills and job searching because they realize that education and success also involves the issue of employment and job applications. Mr. Perkowski noted CMS also has an alternative program for troubled students who need a place to go to where they can work during the day and go to school at night and online.

The Chair suggested using the ACT WorkKeys to get students and their parents' national career readiness certificates.

Representative Salazar asked about the overview of foster youth provisions for ESSA and tracking student success through data, noting states must make public any disaggregated achievement data on graduation rates for foster youth. He asked if New Mexico was ready to provide this kind of information, and Ms. Spulak answered that the data does exist and AOC, CYFD, and the Public Education Department executed a Memorandum of Understanding for the exchange of data and analysis of graduation and other academic indicators.

Representative Garcia Richard suggested CYFD present to LESC on their portion of ESSA since it is to be established by this December. The Chair noted that LESC often looks at prekindergarten programs and understands that only half the programs are in public education and half are overseen by CYFD, so it may indeed be appropriate for CYFD to present to the committee on foster education and ESSA requirements.

Senator Brandt made a motion for LESC to send a letter to the chief justice and AOC requesting an explanation of their decision to not allow magistrate judges to assist school districts with truancy prevention measures and also to ask for their help in curbing truancy rates in our state by partnering with school districts on early intervention programs, and stress the fact that by taking early steps to prevent truancy and dropout rates they will reduce the likelihood of those students ending up in the court system. The Chair noted the motion and seconded by Senator Kernan for

LESC to send the letter. Senator Brandt also suggested that the tone of the letter be cooperative. The motion passed without opposition.

Early Literacy: Carlsbad Municipal Schools Retention Policies

Kim Arrington, Director of Elementary Education, Carlsbad Municipal Schools (CMS), informed the committee she created a triangular data set together with other teachers to help teachers communicate with parents about interventions so parents would know their child needed support and how the process of the student assistant team worked. She explained the triangular data approach was implemented in the 2014-2015 school year to drive intervention, retention, and promotion decisions for students in kindergarten through third grade.

Ms. Arrington explained the triangular data set utilizes the response to intervention (RtI) framework together with: classroom grades in reading, language arts, and math; data from a state-approved reading interim assessment, Dynamic Indicators of Basic Early Literacy Skills; and Renaissance Learning STAR (STAR) short-cycle assessment for early literacy and math to measure proficiency. Student progress on the aforementioned data sets is monitored regularly to ensure student progress. She said CMS assigns a value to certain marks achieved by each student on the data set, referred to as data points. The data set is based on points earned for each area measured. If the student meets four out of seven data points the student is considered academically on track and will advance to the next grade level. If a student only meets three of the data points, the student is considered “at risk” and will be closely monitored. A student who only meets two of the data points is referred to the student assistant team for Tier 2 targeted interventions.

Ms. Arrington stated the student assistant team reconvenes after nine weeks of targeted instruction to determine if the student meets their academic goal. If the student meets their goal, the student moves back to Tier 1 instruction with continued progress monitoring. If the student does not achieve their goal but growth is evident, the student will continue with Tier 2 interventions. If the goal was not met and no growth was evident, a new goal is determined and the student receives an additional nine weeks of Tier 2 level interventions. At the end of the year, the student assistant team discusses the student’s progress and further analyzes the triangular data set to determine if the interventions were successful or if the student will be recommended for retention or Tier 3 interventions if a special education evaluation indicates a learning disability.

Ms. Arrington explained this process has helped teachers better communicate with parents about their children’s progress as well as improved the use of data to assess student growth. The triangular data set has also helped streamline the RtI process and create efficiency.

Ms. Arrington concluded this is a culmination of resources and time and has been streamlined from instructional practices at Joe Stanley Smith Elementary School. She said within three years school grades rose 23 points and within four years reading comprehension went from 41 percent to 91 percent. Ms. Arrington explained how the use of data improved school culture and allowed teachers to better inform parents of their student’s learning progress.

In response to Senator Kernan’s question regarding assessments used for the triangular data set for upper grades, Ms. Arrington explained students in third, fourth, and fifth grades use STAR but it is administered through eighth grade. She said for students in ninth and 10th grade, the

Partnership for Assessment of Readiness for College and Careers is used and confirmed it is used as part of the data set as well.

Referring to the promotion practices data collection, Ms. Arrington indicated only two students were retained in the 2015-2016 school year based on their triangulated data approach. Senator Kernan noted CMS' alternative approach to retention might provide an alternative for the Legislature to consider that does not rely on one test and captures a more comprehensive picture of students prior to making retention decisions. Senator Kernan further noted that CMS does this process very well by getting SAT involved in the decision-making process.

Gary Perkowski, Superintendent, CMS, said CMS won the National Invitational Education Award and due to work that Ms. Arrington has done for the district, CMS will be the international site for the National Invitational Education Conference in November 2017. He explained CMS would like to extend an invitation to LESC. Senator Kernan noted the Invitational Education program in Carlsbad is run by former Senator Vernon Asbill's wife and encouraged LESC to hear from the program.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 10:42 a.m.