

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

**REPRESENTATIVES**

Rick Miera, Chair  
Nora Espinoza  
Mary Helen Garcia  
Jimmie C. Hall  
Dennis J. Roch  
Mimi Stewart

State Capitol North, 325 Don Gaspar, Suite 200  
Santa Fe, New Mexico 87501  
Phone: (505) 986-4591 Fax: (505) 986-4338  
<http://www.nmlegis.gov/lcs/lesc/lescdefault.aspx>

**SENATORS**

Cynthia Nava, Vice Chair  
Mary Jane M. García  
Gay G. Kernan  
Lynda M. Lovejoy

**ADVISORY**

Alonzo Baldonado  
Ray Begaye  
Eleanor Chávez  
George Dodge, Jr.  
Roberto “Bobby” J. Gonzales  
Tim D. Lewis  
Sheryl M. Williams Stapleton  
Shirley A. Tyler  
Bob Wooley



**ADVISORY**

Vernon D. Asbill  
Mark Boitano  
Stephen H. Fischmann  
Howie C. Morales  
John Pinto  
Sander Rue

**MINUTES**  
**LESC MEETING**  
**DECEMBER 14-16, 2011**

Frances Ramírez-Maestas, Director  
David Harrell, PhD, Deputy Director

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:20 a.m. on Wednesday, December 14, 2011 in Room 322 at the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Vice Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy.

The following voting member of the LESC were not present:

Representative Dennis J. Roch.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chávez, and Sheryl Williams Stapleton; and Senators Vernon D. Asbill, John Pinto, and Sander Rue.

The following advisory members of the LESC were not present:

Representatives George Dodge, Jr., Roberto “Bobby” J. Gonzales, Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Mark Boitano, Stephen H. Fischmann, and Howie C. Morales.

**2012 EDUCATION RECOMMENDATIONS**

The Chair recognized two groups of people to present their education recommendations for the 2012 legislative session. Representing the New Mexico Business Roundtable (NMBR) were Mr. Larry Langley, President and Chief Executive Officer; Mr. Michael D. DeWitte, Chairman of the Board; and Ms. Lillian Montoya-Rael, Chair, Education Public Policy Committee. Representing the New Mexico Education Partners (NMEP) were Dr. Gloria O. Rendón and

**LESC Minutes**  
**12/14-16/2011**

Mr. Tom Sullivan, New Mexico Coalition of School Administrators; Mr. Joe Guillen, New Mexico School Boards Association; Mr. Charles Bowyer, National Education Association-New Mexico; and Ms. Christine Trujillo, American Federation of Teachers-New Mexico.

On behalf of the NMBR, Mr. Langley provided 10 policy recommendations for the 2012 regular legislative session:

1. continued implementation of SB 120 (2011), *Early Childhood Care and Education Act*, infrastructure development, and program expansion through the prioritization of additional state revenue and further commitment to high-quality early childhood care and education;
2. no new distribution from the Land Grant Permanent Fund (LGPF), as the NMBR believes the fund is intended to be a trust for future LGPF-specified beneficiaries;
3. no new distribution of the LGPF for use in early childhood care and education, as the *Enabling Act for New Mexico* (1910) does not include provisions allowing distribution of the fund to faith-based or private sector providers;
4. support for New Mexico's adoption of Common Core State Standards, which the NMBR believes will enhance skills, learning, and the retention of content knowledge;
5. support for ending social promotion at grade 3 as a last resort, and assessments of students in kindergarten through grade 2 to determine student learning capacity and cognitive processing skills, based on research showing education and student success is a function of both pedagogy and student learning capacity;
6. support for the development and implementation of the 38 recommendations from the Effective Teaching Task Force as they apply to legislation and rule;
7. no moratorium on charter schools, with the understanding that there must be a rigorous development and implementation of standards for authorizing state and district-authorized charter schools;
8. support for a new higher education funding formula that recognizes and rewards performance-based outcomes, including the measurement of outcomes that recognize the different missions of the various higher education institutions, with a hold-harmless for the implementation transition year; furthermore, the NMBR discourages artificial caps for funding outcomes;
9. support for efforts to ensure fiscal and program accountability within the PreK-12 education system in New Mexico, which includes continued funding for the development and implementation of data systems and accountability measures to determine longitudinal results to be shared with all stakeholders; and
10. support for strategic improvements to the public school funding formula in order to hold schools and teachers accountable, as the current formula allows recipients to "game the system."

Additionally, Mr. Langley requested that the committee, during the 2012 interim, consider the examination of a constitutional amendment that would lock in 51 percent of the state budget for education. The NMBR is committed to researching this issue during the 2012 interim, he added, and intends to make a formal recommendation to the LESC during the December 2012 meeting of the LESC.

Next, representatives of the NMEP presented the group's legislative priorities. Mr. Guillen explained that the NMEP is a member organization that meets regularly and supports

accountability through a fair and valid system. He then presented the NMEP's seven priorities for the 2012 regular legislative session:

1. support sufficient funding for New Mexico's public schools and the removal of all of the Public Education Department's unfunded, unnecessary, excessive, or duplicative reporting requirements;
2. request that the state trust local school districts to make the best decisions for their school communities, specifically those school districts that use stake-holder processes;
3. oppose any new reform that is pushed through or mandated via rule process, but instead request that all education stakeholders be involved in a collaborative process of identifying, developing, and implementing all new initiatives and reforms;
4. advise against creating any high-stakes reform based on the current New Mexico Standards-based Assessment, as any such reform would need to be changed within a year and would put teachers, students, and school systems in a constant state of confusion;
5. discourage an over-reliance on the use of standardized tests for grading schools, evaluating teachers and principals, and determining student grade placement, as the test was not originally designed for these uses;
6. stand ready to work collaboratively with the Educational Retirement Board and the Legislature on measures that address realistic solvency goals for the Educational Retirement Fund, and respectfully ask the Legislature to reverse the 1.75 percent contribution swap enacted in 2011 to again become an obligation of the employer, funded by the state through the public school funding formula; and furthermore oppose any changes in benefits for current educational retirees or any changes in promised benefits for currently vested employees; and
7. support a system with ample elasticity to provide adequate funding for public education, even during economic downturns without tax giveaways to the wealthy and big corporations at the expense of sufficient funding for public education.

### **Committee Discussion**

A committee member asked if there are any Native Americans involved with the New Mexico Business Roundtable, to which Mr. Langley replied yes. The NMBR, he explained, has reached out to the Native American community and is continuously speaking with superintendents within the Native American community.

A committee member asked how much of the New Mexico education budget is supported by the federal government, to which Mr. Guillen replied 10 to 15 percent.

A committee member asked if the NMBR would be opposed to the idea of lending funds to school districts from the LGPF, with the understanding that the full amount of the loan would be paid back with interest. Mr. Langley replied that the NMBR would not be opposed to such action.

Two committee members expressed their disagreement with legislation to end "social promotion" that was introduced during the 2011 regular legislative session, adding that students who are retained early in their education are stigmatized. The legislators instead encouraged parental involvement and quality early childhood care and education.

Among other points raised during the discussion, committee members stated that more needs to be done in order to hold superintendents and principals accountable for the success and achievement of their students; that the Legislature must demand more from higher education institutions in preparing teachers for New Mexico schools; and that, despite calls for improvement, many studies have shown New Mexico to have one of the most equitable funding formulas in the country.

## **STATEWIDE EDUCATION IMPROVEMENT SUPPORT**

The Chair recognized Ms. Lena Trujillo-Chávez, Executive Director, Regional Educational Cooperative (REC) #8; and Mr. David Chavez, Executive Director, Cooperative Educational Services (CES), for a presentation on regional meetings that the organizations had conducted during the fall of 2011 to discuss the possibility of a statewide support system for public schools in need of improvement.

Referring to a PowerPoint presentation titled *Statewide Educational Improvement Support*, Ms. Trujillo-Chávez explained the background of CES and listed the members of the CES Vision Team: New Mexico superintendents (current and retired), REC directors, special education and health services representatives, curriculum and instruction specialists, assessment and data specialists, and finance representatives. She also described the regional meetings and noted that all New Mexico districts and approximately 80 percent of charter schools are members of CES.

Ms. Trujillo-Chávez explained that CES provides educational improvement support through research, based on a systematic approach developed through an organization previously known as the Southwest Education Development Laboratory (SEDL). This approach, she continued, incorporates three dimensions — levels, components, and competencies — and is further broken down into five phases: (1) scanning the system; (2) analyzing the system; (3) planning action; (4) taking action and monitoring progress; and (5) assessing and reflecting on outcomes. She added that the approach from SEDL helps teachers understand how to implement competencies, which is important as New Mexico prepares to transition to Common Core State Standards during school year 2012-2013.

### **Committee Discussion**

A committee member asked who determines the units of study for the model, to which Ms. Trujillo-Chávez replied the content teams make that determination.

A committee member asked if schools and districts pay for the training they receive, to which Ms. Trujillo-Chávez replied that districts that make up the collaborative are eligible to participate in REC-sponsored trainings at no charge.

A committee member expressed appreciation for the services the collaborative provides, particularly to the smaller school districts, as the RECs provide personnel cost savings.

## **LOS ALAMOS NATIONAL LABORATORY (LANL) FOUNDATION: INQUIRY SCIENCE EDUCATION CONSORTIUM (ISEC) AND LASER i3**

The Chair recognized Ms. Susan Herrera, Chief Executive Officer, Los Alamos National Laboratory (LANL) Foundation; Dr. Rick Scott, Inquiry Science Education Consortium (ISEC) Director, LANL; and Dr. Eugene Schmidt, Superintendent, Los Alamos Public Schools, for a presentation on two curriculum intervention programs that seek to improve science education.

Dr. Scott began by providing an overview of the ISEC. He said the idea of the program is to serve as a pilot and model, with the intent of future expansions and replication. In ISEC's first year, he continued, 10 schools in four districts implemented the model, and during the second year 12 schools in one additional district participated. Overall, he added, 150 teachers and 3,000 students have come in contact with the program.

Because the model is being implemented as a pilot, Dr. Scott emphasized the use of strong, robust evaluation to ensure that the program is making a meaningful difference in the participants' lives. The program provides evaluations of the students before and after implementation. Data show at least some gains in understanding of various sciences among grades 3 through 6, including astronomy, animal studies, physical sciences, and geology. Although no significant gains have been shown in standards-based assessments between students participating in the ISEC program and students not participating, Dr. Scott emphasized that the LANL Foundation has hypothesized that it will take three years to show the desired gains in science, math, and reading scores. He added that many curriculum intervention programs show an "implementation dip," which students in ISEC have not experienced.

Also important, Dr. Scott continued, is the ability for students of the program to learn to communicate effectively about science through writing and drawing. He said the program incorporates the use of science literacy coaches in order to support teachers in the classroom, provide model lessons, co-teach portions of the curriculum, proctor pre- and post-evaluations, help manage learning materials, and serve as liaisons to the LANL Foundation.

The presenters also said that the LANL Foundation is now a partner in the National Science Resource Center's Leadership and Assistance for Science Education Reform (LASER i3) model, which is defined as a systematic and sustainable approach for achieving high standards in science. The LASER i3 research project is a five-year study that commenced in October of 2010; New Mexico joined the research project in April of 2011. The independent study includes randomized control trials and case studies in three regions, including North Carolina, New Mexico, and Houston, with 75,000 students participating in both rural and urban areas.

Dr. Schmidt said that six schools in Los Alamos Public Schools are participating in LASER i3, with three schools placed in a "research group" and three in the "control group." He said the non-textbook driven instruction helps in a multi-lingual student population, and the program has cross-subject learning, as well as journaling and cooperative learning. Dr. Schmidt added that the national program helps not only New Mexico but also Houston and North Carolina, by creating a vast network of collegial cooperation.

## **Committee Discussion**

In response to a committee member who asked if the curriculum intervention models include parental involvement, Ms. Herrera said that parental involvement is incorporated during biannual conferences, as well as at participating schools during “Science Nights.”

A committee member requested that the LANL Foundation consider providing curriculum intervention programs to other portions of the state, specifically the southeastern region.

## **PROFESSIONAL DEVELOPMENT DOSSIER**

The Chair recognized Mr. Matthew Montaña, Director, Educator Quality Bureau, Public Education Department (PED), for a presentation on the professional development dossier (PDD) that teachers must complete in order to advance from one licensure level to another, a presentation that supplemented Mr. Montaña’s presentation on the current teacher evaluation system during the November meeting of the LESC.

Mr. Montaña began by reviewing the evaluation process, Highly Objective Uniform Statewide Standard of Evaluation, noting that the evidence-based evaluation system was composed of two processes: an annual evaluation process conducted at the local level and a licensure advancement process conducted at local and state levels. Mr. Montaña said that the annual evaluation process is composed of;

- an annual professional development plan (PDP), based on nine teaching competencies;
- a reflection on the PDP;
- a summative evaluation conducted annually for Level 1 teachers and every third year for Level 2 and Level 3 teachers; and
- progressive documentation of teacher performance over a four-year period.

The PDD, Mr. Montaña said, is a requirement of the licensure advancement process and it is implemented in the following ways:

- The Level 1 license is a five-year license that cannot be extended except in exigent circumstances. After three years at Level 1, a teacher may advance to Level 2, which requires a successful PDD submission or National Board certification and mentorship program. A Level 1 license is allowed an extension for the number of years not taught.
- A Level 2 license is a nine-year renewable license. Advancement from Level 2 to Level 3 requires a minimum of three years of teaching at Level 2, successful PDD submission, and a master’s degree.

Mr. Montaña said that the PDD is composed of five strands, which include nine teacher competencies. Strands A, B, and C are completed by the teacher. Strand A consists of competencies 1 (knowledge of content and curriculum), 2 (teaching methods and resources), and 5 (assessment techniques and procedures). Strand B consists of competencies 3 (student communication and feedback), 4 (knowledge of student growth and development), 6 (classroom management and environment), and 7 (student diversity). Strand C consists of competencies 8

(change agency) and 9 (collaboration with colleagues, parents, and community). Strands D (verification of mentorship participation, leadership roles, and PDD authenticity) and E (annual evaluation and superintendent recommendation) are completed by school/district administration.

Mr. Montaña concluded with a review of applicable statutes and PED rules and of recent passage rates at each licensure level.

Mr. Montaña used graphics to emphasize the following PDD data:

- Session 16 featured a passage rate of 75.99 percent for initial submitters;
- Session 16 featured pass totals of 807, from Level 1 to Level 2; and 333, from Level 2 to Level 3; and
- over 700 Level 1 licenses expired in each year from 2007 to 2010 and almost 600 in 2011.

### **Committee Discussion**

In response to a committee member who asked for suggestions for improving the PDD process, Mr. Montaña noted the possibility that some PDDs may be plagiarized. A committee member responded that, because PDD submissions must show student work and justify a teacher's methods and because the evaluators are well trained, plagiarism seems unlikely, especially as a reason for considering replacing the PDD system. Mr. Montaña said there may be a need for requiring submissions to use more video examples of their teaching, similar to what is required by National Board certification. Most teachers, Mr. Montaña continued, see the PDD as a rite of passage and not as a continuing benefit; and he added that he is not inclined to replace it. Another committee member noted the preparation workshops provided by the American Federation of Teachers.

In response to a committee member's question about the licensure of teachers at Bureau of Indian Education (BIE) schools, Mr. Montaña explained that BIE employed teachers are required to follow the New Mexico licensure system.

A committee member asked how the PDD was scored. Mr. Montaña explained that PDDs are scored as "does not meet," "meets," or "exceeds" standards. In response to a related question, Mr. Montaña offered to provide additional information on the differences between "meets" and "exceeds."

Citing the large number of Level 1 licensed teachers who do not advance to Level 2, allowing their license to expire, a committee member asked how many of those Level 1 teachers left the profession. In response, Mr. Glenn Walters, Deputy Secretary of Higher Education said that the Higher Education Department does not track those data but the institutions do. Mr. Montaña offered to provide that information to the LESC staff.

### **ADULT BASIC EDUCATION (ABE)**

The chair recognized Mr. Travis Dulany, LESC staff; Ms. Frances Bannowsky, J.D., Program Director, Adult Basic Education (ABE) Division, Higher Education Department (HED); and

Mr. Thomas McGaghie, ABE Director, New Mexico State University-Grants Campus, to provide information regarding New Mexico's ABE program.

Referring to his staff report, *Adult Basic Education*, Mr. Dulany stated that, during the October meeting of the LESC, the committee heard community input from Mr. McGaghie. In his testimony, Mr. McGaghie reported that, although census data show 400,000 New Mexico adults do not have a high school diploma and/or English language skills, only 5.0 percent of the population in need is served by ABE programs. Mr. Dulany also noted that in school year 2009-2010 approximately 23,000 adults received ABE services at 29 ABE centers throughout the state.

The current ABE system came into being through a series of federal legislation, Mr. Dulany continued, most recently the *Workforce Investment Act of 1998* (WIA). Title II of that act, he continued, provided \$3.9 million in federal funds to New Mexico in FY 12, which is used for instruction to individuals below the postsecondary level:

- who have attained 16 years of age;
- who are not enrolled or required to be enrolled in secondary school under state law; and
- who:
  - lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;
  - do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or
  - are unable to speak, read, or write the English language.

The WIA requires a 25 percent match from states that receive federal funds, which, Mr. Dulany continued, New Mexico has historically met and surpassed. The New Mexico legislative appropriation for ABE in FY 12 was \$5.3 million. To maximize the return on investment, Mr. Dulany continued, HED has selected six ABE centers throughout New Mexico for a pilot program based on the state of Washington's Integrated Basic Education and Skills Training (I-BEST) model, which focuses students toward additional academic achievement beyond the general educational development (GED), including completion of one year of college-level coursework and obtainment of a nationally recognized professional certificate.

Speaking on behalf of HED, Ms. Bannowsky elaborated on the I-BEST program, stating that a high school diploma in current times does not retain the same value it had in previous years. She noted that the GED does not guarantee the skills that local employers are seeking in potential employees, and the new I-BEST model will attempt to close this gap and better prepare graduates from the ABE centers selected for the pilot program. Ms. Bannowsky added that, if the program is successful, the department hopes to offer it to other ABE students throughout New Mexico.

Next, referring to his handout, *2011 New Mexico Adult Basic Education Fact Sheet*, Mr. McGaghie stated that the return on investment for ABE in New Mexico indicates that the program is a wise use of state funds. Mr. McGaghie continued by providing data and other information about the students with which he works. Those students, Mr. McGaghie said, are of a wide variety of ages and educational backgrounds, some of whom are not only unable to read words on a page but also unable to read clocks.

## Committee Discussion

One committee member said he supports ABE because of the positive effects it has on Native American education; and another pointed out that, in Bernalillo County, a farrier has good potential to find success, second only to a welder when examining the financial success among technical trades in the area.

In response to a committee member's question about New Mexico State University's water science credential, Ms. Bannowsky replied that students could receive an associate degree upon completion of the program.

Referring to Mr. McGaghie's handout, the Chair pointed out the relatively low cost of providing ABE services compared with K-12 education. He also stated that he has found statistics showing a 70-80 percent graduation rate among children of parents with a GED or high school diploma.

Finally, the Chair said that the committee will further research basic education among jail and prison inmates in New Mexico to determine which department is responsible for providing educational services for those individuals, whether it be the New Mexico Department of Corrections, the Public Education Department, or HED.

## STATE REVENUE UPDATE

The Chair recognized Ms. Elisa Walker-Moran, Chief Economist, Legislative Finance Committee, to discuss the December 2011 consensus revenue estimate.

Referring to a committee handout, *General Fund Consensus Revenue Estimate*, Ms. Walker-Moran reported that "new money" in FY 13, which is defined as FY 13 projected revenue less FY 12 recurring appropriations, is projected to be \$254 million, or 4.7 percent of FY 12 appropriations. She noted, however, that, after setting aside approximately \$50.0 million to reverse a 1.75 percent employee/employer retirement swap, the FY 13 new money is \$204 million.

Ms. Walker-Moran explained that legislation enacted for the 2011 regular legislative session implemented a 1.75 percent contribution shift from the employer rate to the employee rate for those making more than \$20,000. Among other provisions, the legislation allows the contribution shift or swap to continue in FY 13 if the December 2011 revenue forecast indicates an FY 12 reserve ratio less than 5.0 percent and revenue estimates to be less than \$100 million less than the revenue estimate used to determine the FY 12 appropriation. Based on the current reserve projections of 9.2 percent for FY 12 and the revenue estimate of more than \$100 million, the contribution swap will not continue in FY 13. Ms. Walker-Moran emphasized that an additional 1.5 percent contribution swap that was enacted during the 2009 legislative session will remain in place until FY 14.

Among other revenue highlights, Ms. Walker-Moran reported that:

- the December estimate for corporate income tax receipts is unchanged from the October estimate;

- State Treasurer’s earnings were revised downward in FY 11 due to an expected write-down of \$2.8 million attributable to the remaining balance of the Reserve Primary Fund, a money market fund with New Mexico holdings that experienced a run following the collapse of the financial markets in 2008;
- energy-related revenues were increased due to correction of the model for federal lease revenues. The correction, Ms. Walker-Moran explained, was in the modeling of royalty revenue from minerals other than oil and gas; and
- revenues associated with the permanent funds are expected to decline in FY 13 due to a much lower market value.

With regard to risks to the forecast, Ms. Walker-Moran stated that:

- the failure of the “super committee” to agree to a federal deficit reduction deal could lead to large reductions in Social Security, Medicaid, and military spending, which could have significant impacts on the New Mexico economy;
- the economic recovery remains vulnerable to weakness in consumer sentiment, personal income, the housing market, currency volatility, financial sector weakness, and federal fiscal imbalance;
- energy markets are inherently volatile;
- the European Union is headed toward another recession according to leading economists;
- as reported previously, the Attorney General has disclosed that New Mexico is now facing a second legal challenge from those cigarette manufacturers participating in the tobacco master settlement agreement. These manufacturers claim that New Mexico no longer has a valid qualifying statute as required by the settlement, including a 2006 change that established tax exempt stamps for tribal sales; and
- if the federal payroll tax reduction is extended in calendar year 2012, this action will potentially add revenue to personal income tax and gross receipts tax.

### **Committee Discussion**

In response to a committee member’s question about the balance of the education lockbox, Ms. Walker-Moran reported that ending FY 12 balance in the lockbox is \$47.1 million.

In response to a committee question regarding the reserves balance, Ms. Walker-Moran stated that the balance is approximately \$501 million, or 9.2 percent of recurring appropriations in FY 12. She emphasized that national rating agencies, such as Moody’s and Standard & Poor’s, traditionally have considered balances of 5.0 percent or above as sufficient.

A committee member requested a history of the education lockbox, including the transfer of dollars “in and out” of the fund.

### **SUPERINTENDENT AND COMMUNITY INPUT**

The chair recognized Mr. David A. Bryant, a teacher at Capital High School (CHS), Santa Fe Public Schools, who expressed his concerns over unprepared students being promoted to the next grade level.

Referring to a committee handout, Mr. Bryant reported that at CHS:

- 75 percent of entering freshmen are below grade level in math and English;
- students average 70 percent attendance;
- if passing the state Standards-based Assessment last year had been a graduation requirement, only 40 of the 200 graduating seniors would have graduated; and
- according to a study of last year's graduates, approximately 100 graduates attend Santa Fe Community College; however, 60 of these students are enrolled in remedial or general educational development classes.

Mr. Bryant emphasized that “promotion without competence starts in elementary school and continues through middle and high school.” He recommended requiring students to be at or above grade level in math and English to advance through elementary school and that middle and high school students pass exit exams for each subject prior to advancing to the next level course.

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

**MINUTES  
LESC MEETING  
DECEMBER 15, 2011**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:10 a.m., Thursday, December 15, 2011, in Room 322 at the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy.

All of the voting members were present.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chávez, George Dodge, Jr., Roberto “Bobby” J. Gonzales, Sheryl Williams Stapleton, and Bob Wooley; and Senators Vernon D. Asbill and John Pinto.

The following advisory members of the LESC were not present:

Representatives Tim D. Lewis and Shirley A. Tyler; and Senators Mark Boitano, Stephen H. Fischmann, Howie C. Morales, and Sander Rue.

Senator Linda M. Lopez and Senator John M. Sapien were also in attendance.

## ***EARLY CHILDHOOD CARE AND EDUCATION ACT (LAWS 2011)***

The Chair recognized Dr. David Harrell, LESC staff, for a presentation on the *Early Childhood Care and Education Act* (ECCEA). The Chair also recognized Senator John M. Sapien, the sponsor of the legislation.

Dr. Harrell introduced several people who reviewed their activities to implement the ECCEA: Ms. Lillian Montoya-Rael, State Director, New Mexico Early Childhood Development Partnership (NMECDP); Ms. Katherine Freeman, Chair, NMECDP; Ms. Diana Martinez-Gonzalez, Director, Early Childhood Services, Children, Youth and Families Department (CYFD); Ms. Hanna Skandera, Secretary-designate of Public Education; Mr. Larry Langley, President and Chief Executive Officer, New Mexico Business Roundtable (NMBR); Ms. Heather Balas, President and Executive Director, New Mexico First; and Dr. Peter Winograd, Director, Center for Education Policy Research, University of New Mexico.

Dr. Harrell first cited the purpose of the ECCEA: “to establish a comprehensive early childhood care and education system through an aligned continuum of state and private programs, including home visitation, early intervention, child-care, early head start, head start, early childhood special education, family support and pre-kindergarten, and to maintain or establish the infrastructure necessary to support quality in the system’s programs.”

Then Dr. Harrell called to the committee’s attention the several parts of the staff report included in their notebooks:

- a review of some of the targeted efforts that led to the legislation;
- an overview of the provisions of the ECCEA, with particular attention to the state Early Learning Advisory Council;
- an account of an implementation session in April 2011, convened in Santa Fe by the NMECDP, CYFD, and the NMBR, and organized by New Mexico First;
- an enumeration of the four implementation teams that resulted from the implementation session, together with a brief account of their planned activities:
  - the Data Systems and Outcomes Team;
  - the School Readiness Team;
  - the Quality Standards Team; and
  - the Funding Strategies Team;
- a brief description of the Race to the Top Early Learning Challenge Grant for which the state had applied, a grant for up to \$50.0 million whose “overarching goal is to make sure that many more children, especially children with high needs, enter kindergarten ready to succeed”<sup>1</sup>; and
- a background section reviewing the LESC’s longstanding interest in early childhood care and education.

On this final point, Dr. Harrell emphasized that, through all the studies, reports, and presentations that the LESC had conducted, one theme was pervasive: the need for greater

---

<sup>1</sup> Later that week, state officials learned that New Mexico did not receive this grant.

statewide coordination of early childhood services. The ECCEA, he added, is intended to meet that need.

Ms. Montoya-Rael said that she had participated in drafting the bill that Senator Sapien sponsored, and she acknowledged a grant from the Kellogg Foundation for helping to bring resources from around the state to implement the legislation. This effort is of particular interest to the business community, she added, which is focused on helping CYFD implement the act.

Ms. Freeman reviewed the work of the four implementation teams, noting, among other points, that children need informed adults around them in order to be successful; that the data system will help identify communities in need; and that New Mexico is at the forefront nationally in developing quality standards for early childhood care and education.

Ms. Martinez-Gonzalez addressed the Early Learning Advisory Council (ELAC), noting that the Governor has appointed five of the seven members subject to gubernatorial appointment and that résumés of two other potential members are under review by the Governor's staff. She also said that this council satisfies the federal requirement for a statewide coordinating council to ensure collaboration and alignment in early childhood care and education. The partners in this effort, she added, are counting on the Early Challenge Grant to support development of the data system.

Continuing that point, Ms. Skandera said that the partners have established a good foundation for building a seamless system of education and that \$2.0 million of the grant funds is intended for alignment and \$10.0 million for early kindergarten assessments, together with interventions to help all third-graders reach reading proficiency. New Mexico, she said, is among the top five contenders.

Mr. Langley spoke about the needs of a 21<sup>st</sup> Century workplace, which include greater technical knowledge than was required even 10 years ago. To emphasize this point, he said that there will be more technological developments during the next 24 months than there have been in the last 10 years. The business community, he added, has expanded its earlier focus on grades 9 through 12 to include not only elementary school but also birth and prenatal conditions.

Alluding to a handout titled *Early Childhood Care and Education: Community Meeting Overview*, Ms. Balas described the three community meetings that New Mexico First had held in Farmington, Las Cruces, and Taos, with a fourth planned for Clovis. Prominent themes at all of the meetings, she said, were the importance of providing support to families with young children, the need to simplify regulations, and the value of local businesses becoming involved in early care and education. On this last point, Ms. Balas noted that not all business leaders see early care and education as their issue; therefore, she continued, outreach to businesses is needed, especially with regard to such opportunities as flex time, dual credit, and work force development.

Dr. Winograd discussed a series of slides in his PowerPoint presentation called *New Mexico's Young Children: Their Needs, Our Future*. He credited CYFD and the Department of Health as the sources of some of the data but emphasized the need for additional data. He called attention to a slide showing the return on investment in early childhood care and education in terms of the estimated tangible costs of such conditions as child abuse and high school dropout, costs that effective early childhood programs can either prevent or reduce. Dr. Winograd also emphasized slides showing communities in poverty, in rural and urban areas alike; the locations of existing

Head Start, New Mexico PreK, and child-care sites; and the frequent lack of alignment between these locations and the areas of greatest need.

At the invitation of the Chair, Senator Sapien added some observations, among them that providing services for children ages 0 to 5 can help the entire system of education, that ELAC can be a driving force in these efforts, and that the Legislative Finance Committee is committed to providing more resources for young children.

### **Committee Discussion**

Citing a committee presentation on adult basic education, the Chair observed that one reason why early childhood care and education is so important is that many parents lack basic education themselves.

In response to a committee member's question about the involvement of private providers, Senator Sapien said that he had made sure that private providers were represented on ELAC.

In response to questions from a committee member about the early childhood work force, Ms. Martinez-Gonzalez said that CYFD currently reviews health and safety matters and personnel background checks but that tracking providers' credentials and their movement throughout the system is especially challenging. With funds from the Early Challenge Grant, she said, such a tracking system could be implemented fairly soon; otherwise, it is likely to take several years.

On a related point, a committee member asked about the status of a report on the early childhood work force that the member had requested in September. In reply, Ms. Martinez-Gonzalez said that the report is still unfinished and that the Secretary of CYFD and the Governor must both approve it before it is released.

In response to a committee member who asked about financing an early childhood program, Ms. Montoya-Rael said that the NMECDP is considering tax credits; Ms. Kelly O'Donnell, an attorney on contract with NMECDP, listed a number of possibilities that have been considered and that come with certain conditions or concerns: tax credits for an employer that provides care, corporate tax credits for donations to certified programs, property taxes, increased taxes on liquor, the Land Grant Permanent Fund, and the General Fund; and Ms. Martinez-Gonzalez said that funds allocated for New Mexico PreK and K-3 Plus will not go into the Early Childhood Care and Education Fund.

Two committee members expressed their concern about the seemingly limited involvement of Native Americans in the implementation of the act and as members of ELAC. In response, Ms. Montoya-Rael said that Native Americans are represented in the NMECDP and the four implementation teams; and Ms. Martinez-Gonzalez said that one of the ELAC members is Native American. On this point, the Vice Chair asked for a report at the next LESC meeting on the involvement of Native Americans.

Finally, in response to a committee member who asked how the recommendations of the four community meetings would be implemented, Ms. Balas said that she would provide a copy of New Mexico First's final report on the outcomes.

## FY 13 PUBLIC SCHOOL SUPPORT RECOMMENDATIONS

The Chair recognized Mr. Craig Johnson, LESC staff, Secretary-designate of Public Education Hanna Skandera, and Mr. Paul Aguilar, Deputy Secretary, Finance and Operations, Public Education Department (PED), to discuss the department's FY 13 public school support recommendations.

Mr. Johnson explained that current law requires PED to review the financial needs of each school district or state-chartered charter school for the succeeding fiscal year; and to submit annually, on or before November 30, to the Secretary of Finance and Administration the recommendations of the department for:

- amendments to the public school funding formula;
- appropriations for the succeeding fiscal year to the public school fund for inclusion in the executive budget document; and
- appropriations for the succeeding fiscal year for pupil transportation and instructional materials.

Mr. Johnson noted that statute also requires that the Governor's recommendations be submitted "not later than January 5 in even-numbered years and not later than January 10 in odd-numbered years."

Referring the committee to a spreadsheet included as an attachment to the LESC staff brief, Mr. Johnson stated that, in total, the department has requested over \$2.4 billion in funding, which represents an increase of \$70.0 million, or 3.0 percent, over the FY 12 appropriation, including approximately \$11.0 million for enrollment growth and \$10.2 million for insurance costs. He noted that PED has reported that the department's request also includes \$27.0 million to offset the retirement swap for employees; however, these dollars are not reflected in the department's total request.

Referring the committee to a handout, *Public School Support Request-FY 13*, Mr. Aguilar reported that the PED appropriation request reflects an increase of over \$100 million in new funding for New Mexico's students, including:

- \$13.0 million in new funding for instructional materials;
- \$8.0 million to the State Equalization Guarantee for enrollment growth;
- \$27.0 million to offset the retirement swap for employees;
- \$11.5 million for early reading interventions;
- \$5.5 million in new funding for the PreK and K-3 Plus programs;
- \$1.25 million for rewarding high performing schools;
- \$4.3 million for targeted assistance for struggling schools; and
- \$2.5 million for early adopters of the teacher evaluation system to reward highly effective teachers.

In one-time, nonrecurring dollars, Mr. Aguilar stated, the department request includes:

- \$3.0 million to transition into a teacher evaluation system over three fiscal years;
- \$3.0 million to transition to common core standards over three fiscal years;

- \$1.5 million for the innovation fund for expenditure in three fiscal years; and
- \$2.5 million to support the Charter School Stimulus Fund.

Secretary-designate Skandera emphasized that the early reading intervention appropriation request focuses on interventions for struggling readers, including reading coaches and district-level training on effective reading instruction. Uses of these funds, she reported, include:

- securing and providing a formative assessment tool in grades 1 to 3 to identify struggling readers at a cost of approximately \$1.5 million;
- \$2.8 million to districts to target interventions for students with the highest need; and
- \$6.3 million to support a reading coach for every six elementary students.

With regard to teacher effectiveness, the Secretary-designate stated that the department's waiver request under the federal *Elementary and Secondary Education Act* includes the implementation of a redesigned teacher and school leader evaluation system that includes student learning as a significant component. As a result, the PED request includes a \$3.0 million appropriation to support:

- development of key components in the new system;
- dissemination of information on the new system to districts and schools statewide;
- technical assistance and training to districts on the new evaluation system;
- creation of a technical advisory committee to provide guidance and technical assistance on the development of a statistical model to be used to measure the impact on student learning; and
- baseline data runs.

### **Committee Discussion**

In response to a committee member's question regarding the department's request for the K-3 Plus program, Secretary-designate Skandera stated that the expanded funding request for the program could provide for after-school reading programs instead of extended school year programs.

On this point, a committee member expressed concern that the K-3 Plus program would be used to fund after-school programs. The member emphasized that the program has received national attention for its focus on extended year programs and stated that the department should consider alternative funding for after-school programs.

In response to a committee member's question regarding the development of a K-2 diagnostic reading assessment, the Secretary-designate reported that the reading assessment should be ready by July 2012.

### **EDUCATING NEW MEXICO'S MINORITY/MAJORITY CHILDREN**

The Vice Chair recognized several people involved in bilingual and multicultural education who expressed their concerns about the administration of bilingual and multicultural education programs in New Mexico: Mr. David Briseño, Executive Director, New Mexico Association for

Bilingual Education; Dr. Diane Torres-Velasquez, College of Education, University of New Mexico (UNM); Ms. Christine P. Sims, American Indian Language Policy Research Center, UNM; and Mr. Kevin Shendo, Chair, New Mexico Indian Education Advisory Council.

The presenters provided two handouts for the committee, both under the same title: *Educating New Mexico's Minority/Majority Children: Testimony on Behalf of New Mexico's Minority/Majority Children*. One of the handouts presented the "collective positions" of the presenters; the other, from Dr. Torres-Velasquez, provided further details on Hispanic education in New Mexico.

Mr. Briseño, on behalf of the New Mexico Association for Bilingual Education, described the experience and expertise of the members and expressed their concern that the current administration seems to be excluding them from discussions and policy decisions affecting bilingual education. As an example, Mr. Briseño cited the lack of response from the Secretary-designate of Public Education to two letters from the association offering the assistance of its members. Another concern was that the Public Education Department (PED) seemed to be using incomplete data about English language learners and their participation in bilingual education programs.

Ms. Sims addressed the federal *Native American Language Act* and the state *Indian Education Act* and the value of native languages in the education of Native American students. Two concerns she noted were that the position of Assistant Secretary of Indian Education at PED was vacant and that school districts have generally not implemented language revitalization programs. Although there are 17 memoranda of understanding between PED and native tribes, there are inconsistencies among them. Ms. Sims also noted that the Indian Education Advisory Council has opposed earmarking Indian education funds for the programs Save the Children and Teach for America because those programs do not empower local districts or teachers. Another concern is that the most recent report on Indian education posted on the PED website is from 2008.

Dr. Torres-Velasquez emphasized that minorities are the majority in New Mexico, which makes the achievement gap between minorities and the majority especially significant. Citing figures from the Alliance for Excellence in Education, she estimated that New Mexico could save over \$100 million in health care costs over the lifetime of each class if all students earned high school diplomas; and over \$31.0 million in remediation costs if the state's high schools graduated all of their students ready for college. She and the other presenters and organizations represented, she said, agree with the Governor's call for bold education reform, but they object to the lack of input from these organizations. A particular concern is that the statewide status report required by the *Hispanic Education Act*, due by November 15, was posted on December 30 but removed a few days later, without explanation. Another concern is the status of the Hispanic Education Advisory Council. According to Dr. Torres-Velasquez, the Secretary-designate dismissed the original members and met with their replacements in November 2011 but without issuing any recommendations.

### **Committee Discussion**

The Vice Chair asked the presenters what they were seeking. In response, they listed several desired outcomes: more attention by PED to research on bilingual education and input from the groups represented; posting of the status report on the *Hispanic Education Act*; reports from

school districts on their implementation of the *Indian Education Act*; and more frequent and consistent communication among the groups represented, PED, and the Legislature. As an example of the last point, Dr. Torres-Velasquez noted the PED request for a waiver from requirements of *No Child Left Behind*, which, according to her, required input from the English language learner community that PED did not solicit.

Among other points, committee members discussed the funding of bilingual education programs, the meaning of English language learner services, and the distinctions between state- and community-level responsibilities.

The Vice Chair asked PED to report to the LESC in January on the steps the department has taken to address the concerns and requests of the presenters.

### **K-3 PLUS PROGRAM EVALUATION REPORT**

The Chair recognized Mr. Phil Baca, LESC staff, for a presentation on the ongoing evaluation of the K-3 Plus program. Mr. Baca introduced Dr. Linda Goetze, Start Smart K-3 Plus Project Co-director, Utah State University (USU); and Dr. Damon Cann, Start Smart K-3 Plus Project Co-investigator, USU, who presented the findings and recommendations of *A First Look at the Effectiveness of New Mexico K-3 Plus*.

Dr. Cann began by providing an overview of the K-3 Plus Program and the evaluation study, highlighting the following points:

- K-3 Plus provides 25 additional days for students in high-poverty schools;
- cost is affordable at \$800 per student;
- 3.5 years remain in the federally funded evaluation program (Start Smart);
- data sources used in the evaluation are 2010 New Mexico Standards-based Assessment results and Student Teacher Accountability Reporting System; and
- the study included over 11,000 students: 1,600 third-graders who participated in K-3 Plus prior to school year 2009-2010 and a control group of 10,000 students.

Initial results, Dr. Cann continued, show that K-3 Plus can remove a portion of costly remediation and that student achievement is boosted in reading, math, and writing. More specifically, Dr. Cann said that the evaluation study has yielded the following statistically significant results:

- a conservative prediction that students participating in K-3 Plus are more likely to be on grade level than non-participants; and
- for 1,000 third grade participants, over 100 additional students were performing on grade level in writing, 234 additional students were performing on grade level in reading, and over 300 additional students were performing on grade level in math.

Addressing the cost-benefit implications of the K-3 Plus program, Dr. Goetze made the following points:

- to serve 1,000 students for one year costs \$800,000, \$1.6 million for two years, and \$2.4 million for three years;
- one year of third grade retention costs \$6,858 per student, and one year of third grade retention for 234 students costs \$1,604,722;
- the summer school cost savings for 234 third grade students is \$122,148, not including transportation or instructional materials; and
- preventing one year of retention, remediation, and summer school for 234 third grade students saves \$2.2 million.

Based on the evaluation study, Dr. Goetze offered the following observations and recommendations:

- evidence from the evaluation does not support the program change suggested by the Secretary-designate of Public Education to deviate from the model that is working and to allow K-3 Plus funds to be used during the school year;
- the Public Education Department (PED) changes in application, timeline, and funding for school year 2011-2012 did not benefit the program;
- the allowable 4.0 percent for professional development and administrative costs is apparently being used elsewhere and not for the intended purpose;
- the K-3 Plus program does not have sufficient state level support;
- New Mexico needs to identify the most cost-effective staffing model and the success stories in K-3 Plus;
- different per-student funding for K-3 Plus in schools and districts where class sizes are small should be considered;
- there should be state funding for additional K-3 Plus slots to allow more families to participate in the program; and
- it is especially effective to try to close the achievement gap early when it makes a difference in the lives of students and their families over the long term.

Dr. Goetze concluded by emphasizing that the data from the evaluation study clearly support the continuation and expansion of the K-3 Plus program in New Mexico.

### **Committee Discussion**

A committee member asked if there are data for students who start the program at kindergarten and continue through third grade. Dr. Cann replied that such data will be available in three to five years, because students were not tracked before school year 2009-2010.

A committee member asked if a participating student who achieves grade level proficiency should continue in the K-3 Plus program. Dr. Goetze suggested asking PED to conduct that study.

A committee member asked how much longer the evaluation study will be conducted. Dr. Goetze replied that there are four years remaining on a five-year grant and that continuing the evaluation is dependent on the continuation of the program.

In response to a committee request for more specific per-student cost data, Dr. Goetze said she could provide that by summer or fall of 2012 and that she would provide a range of fixed costs, such as teacher salaries based on licensure level, by January 16, 2012.

Finally, a committee member asked if PED has a full time K-3 Plus Program Manager. In response, Ms. Brenda Kofahl, Early Childhood Education Bureau, PED, said no.

### **RETIREMENT BENEFIT PLAN DESIGN CHANGES**

The Chair recognized Mr. Craig Johnson, LESC staff; Ms. Jan Goodwin, Executive Director, Educational Retirement Board (ERB); and Mr. Wayne Propst, Executive Director, Retiree Health Care Authority (RHCA), to discuss the continued efforts of ERB and RHCA to improve the solvency of their current funds.

Mr. Johnson explained that the New Mexico ERB administers retirement benefits to active and retired members from school districts, higher education, and educational agencies. According to the agency's website, ERB has 31,192 retirees and 63,698 active members.

Mr. Johnson noted that, now that the impact of prior-year investment losses is more fully recognized, actions to improve the funding status of ERB's pension plan are being considered. Given the severity of the economic downturn, he added, the plan appears unsustainable in the long run without additional pension reform to reduce the unfunded obligations. Mr. Johnson indicated that employer and employee contributions into the ERB plan are less than the pensions and expenses paid out of the plans. Thus, the fund, he emphasized, depends on investment returns to keep the plan solvent. The ERB has worked to improve the solvency of the fund, including working with the Legislature in 2005 to develop higher contribution rates for members and employers to address long-term funding. To conclude, he stated that Buck Consultants estimated that ERB may run out of money by 2039.

With regard to RHCA, Mr. Johnson explained that the New Mexico RHCA provides optional medical, dental, vision, and life insurance benefits to eligible retirees and their dependents. The RHCA was created and began collecting contributions in July 1990 and began paying benefits six months later. The state of New Mexico and public schools were required to participate while other public entities, such as municipalities, counties, and institutions of higher learning, were allowed to opt out. According to RHCA staff, Mr. Johnson said, the authority has 466 participating employers, including all state agencies, public school districts, 56 charter schools, 22 counties, 23 cities, and 10 institutions of higher education.

Ms. Goodwin reported that in August the Investment and Pension Oversight Committee (IPOC) requested that the ERB develop a recommendation by its December meeting that meets the ERB's guidelines for solvency improvement. As a result of this directive, she stated, in September, the ERB directed staff to develop a series of plan design changes to achieve funding goals of 80 percent by 2030 and 95 percent by 2040. In October, Ms. Goodwin continued, the ERB reviewed these plan design changes and selected scenarios that were then presented to ERB members.

From October 24 through November 17, Ms. Goodwin explained, members of the ERB and staff conducted meetings across the state so that ERB members and the general public could comment

on the scenarios and vote for their preference. In early December, she stated, the IPOC endorsed the ERB-adopted proposal to:

- reduce the cost-of-living adjustment (COLA) by 12.5 percent for all current and future retirees. The ERB COLA, she explained, is based on the change in the Consumer Price Index (CPI) and typically begins the year a retiree turns age 65;
- establish a minimum retirement age of 55 for members who would not be eligible to retire within 10 years of the proposal's adoption; and
- include a grandfather provision that protects all members who meet any of the current retirement eligibility requirements either before or during the 10-year period.

Mr. Propst reported that in 2007 a report evaluating the long-term trend and actuarial condition of the RHCA fund was presented to the Legislature. This report projected RHCA would become insolvent by 2014. In response, several solutions were identified and implemented. For example, the RHCA board increased premiums and reduced the subsidy provided to retirees. In addition, in 2009, the Legislature adopted several changes to the program including:

- increasing employee and employer contributions to the program from 1.95 percent to 3.0 percent over a four-year period;
- removing the sunset clause for a \$3.0 million tax suspense fund distribution;
- increasing employee and employer contributions for employees in "enhanced retirement plans" from 1.95 percent to 3.75 percent over a four-year period;
- requiring that retirees purchase service credit from RHCA equal to the actuarial present value when purchasing service credit from Public Employees Retirement Association and ERB; and
- requiring that return-to-work employees and their employers contribute to the fund.

Mr. Propst emphasized that the RHCA board approved several changes to the program beginning January 1, 2010, including:

- consolidating the three-plan design model (gold, silver, and bronze) into a two-plan design model (premium and premium plus);
- increasing premiums charged to retirees an average of 8.0 percent for calendar year 2010;
- increasing premiums charged to retirees an average of 8.0 percent for calendar year 2011; and
- increasing the annual out-of-pocket maximum on the premier plan from \$3,000 to \$4,000 effective January 1, 2011.

Mr. Propst noted that:

- the RHCA board policy is to maintain a 15-year solvency period;
- in 2011, the RHCA again increased health premiums 8.0 percent to pre-Medicare retirees and 6.0 percent to Medicare retirees, and discontinued the subsidy for basic life for all new retirees in 2012;
- the lower percentage increase for Medicare retirees is expected to be offset by additional revenue opportunities within the Medicare Part D prescription drug program;
- taken together, these actions have helped to extend program solvency from 2014 to 2027;

- despite the changes initiated by the Legislature and actions taken by the board, current and future retirees can still expect to receive a subsidy in excess of the employee and employer contributions paid to the program over a 25-year period;
- with an unfunded accrued actuarial liability of \$2.9 billion, the RHCA program is expected to become insolvent by 2027 according to an updated long-term solvency analysis;
- expenditures are expected to exceed all available revenue sources by \$141 million per year;
- the analysis assumes the board will continue to increase premiums annually at an amount equal to medical trends, currently projected at 8.0 percent annually; and
- in addition, the analysis assumes that payroll will remain flat through FY 12 and grow 4.0 percent thereafter.

To conclude, Mr. Propst reported that, for FY 12, employee and employer contributions to the RHCA increased for a second year in a row, from 2.5 percent to 2.75 percent. This increase, he emphasized, was part of a four-year phased increase beginning in FY 10 from 1.95 to 3.0 percent in FY 13.

### **Committee Discussion**

In response to a committee member's question whether the Interagency Benefits Advisory Committee had endorsed the proposed changes to ERB, Ms. Goodwin stated that the committee had endorsed the proposal.

In response to a committee question regarding pre-Medicare plans, Mr. Propst stated that the majority of retirees are eligible for Medicare. He noted that the deductible for pre-Medicare members is significantly higher and that rate sheets are provided at ERB seminars.

The Chair recognized Ms. Gloria Birkholz, representing the benefits committee for University of New Mexico staff. She expressed concerns that the current COLA should not be changed but recognized that the COLA comprises up to 40 percent of the unfunded liability. Referring the committee to a handout, *Talking Points from the UNM Retirees Association Regarding Solvency of the ERB Fund Dec 12, 2011*, she emphasized that a decrease in the ERB COLA would translate to a 47 percent loss in purchasing power for retirees and requested that the committee not support any proposal for a change in the COLA.

## **DIRECTOR'S REPORT**

### ***a. Approval of LESC Minutes for November 2011***

On a motion by Representative Roch, seconded by Senator García, the committee approved the LESC minutes for November 2011.

### ***b. Approval of LESC Financial Report for October 2011***

On a motion by Representative Stewart, seconded by Senator García, the committee approved the LESC financial report for October 2011.

*c. News Releases*

The following news releases were included in the committee notebooks:

- an *Albuquerque Journal* article, dated December 6, 2011, indicating that New Mexico's pension funds for government workers and educators lost more than \$2.0 billion in the past quarter because of a downturn in financial markets;
- an Associated Press article, dated December 5, 2011, outlining the availability of approximately \$250 million for the state's budget in the 2012 Legislature;
- an Associated Press article reporting an improvement in the state unemployment fund outlook;
- an article, posted December 2, 2011, from *The Daily Times* (Farmington) regarding a proposed split of the Central Consolidated Schools;
- documents from the Public Education Department (PED) regarding final Adequate Yearly Progress rankings for the state's public schools; and
- a summary of the National Assessment of Education Progress results for New Mexico.

*d. Update on Rulemaking*

The committee notebooks include a report by LESC staff regarding the following rules by PED:

- 6.60.5 NMAC, *School Personnel-General Provisions, Competency Testing for Licensure*;
- 6.3.11 NMAC, *Academic Proficiency and Attendance Tied to Instruction Permits*;
- 6.10.7 NMAC, *Statewide Standardized Testing Security Issues and Irregularities*; and
- Comparison of the Proposed Rule to the Adopted Rule: 6.19.8 NMAC, *Grading of Public Schools*.

There being no further business, the Chair with the consensus of the committee recessed the meeting at 3:45 p.m.

**MINUTES  
LESC MEETING  
DECEMBER 16, 2011**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:16 a.m., Friday, December 16, 2011, in Room 322 at the State Capitol, Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy.

All of the voting members were present.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chávez, George Dodge, Jr., Roberto “Bobby” J. Gonzales, Sheryl Williams Stapleton, and Bob Wooley; and Senators Vernon D. Asbill, Stephen H. Fischmann, Howie C. Morales, and John Pinto.

The following advisory members of the LESC were not present:

Representatives Tim D. Lewis and Shirley A. Tyler; and Senators Mark Boitano and Sander Rue. Senator Carlos R. Cisneros and Senator Timothy M. Keller were also present.

### **EDUCATOR ACCOUNTABILITY REPORTING SYSTEM (EARS)**

The Chair recognized Mr. Phil Baca, LESC staff, for a presentation on the Educator Accountability Reporting System (EARS). Mr. Baca introduced Dr. Michael A. Morehead, Dean, College of Education, New Mexico State University (NMSU); and Dr. Jerry Harmon, Dean, College of Education, Eastern New Mexico University, who reviewed highlights of the 2011 report. Mr. Baca also informed members that, in addition to the staff report, there were two attachments prepared by the deans, “Introduction” and “Summary Tables.”

Mr. Baca began by outlining the statutory responsibilities of the EARS report, including that statute identifies the Public Education Department (PED) as the agency responsible for designing and issuing the annual EARS report. Mr. Baca then reviewed the data required in the report, among them:

- number of hours required for field experience, student teaching, and administrative internship;
- numbers and types of degrees received by students completing each program;
- numbers and percentages of students who pass the New Mexico teacher or administrator assessments for initial licensure on the first attempt;
- numbers and percentages of students hired by New Mexico school districts; and
- evaluation plan with high performance objectives for:
  - increasing student achievement for all students;
  - increasing teacher and administrator retention; and
  - increasing the percentage of students passing the New Mexico Teacher Assessment (NMTA) for initial licensure on the first attempt.

Dean Harmon discussed the findings of the report as well as the objectives, strategies, and measurements used in evaluation of the EARS report. Among other report findings, Dr. Harmon cited the following;

- Educator preparation programs consistently attract academically prepared candidates per cumulative grade point average, NMTA, and ACT or Scholastic Aptitude Test scores.

- Standards for admission to teacher education programs use common factors that enhance transparency and seamless transferability among institutions.
- Field and clinical experiences are designed to connect classroom practices to candidate preparation. At the beginning, middle, and end all educator preparation programs in the state, whether standard or alternative licensure, engage candidates in practical classroom experiences that meet or exceed PED regulations.
- The 2011 EARS report contains significant improvements in financial data collection and analysis. Financial representatives from each institution collaborated in the development of a formula that standardizes budget, expenditure, student credit-hour generation, revenues, and cost per student credit-hour figures. The deans and directors continue to address minor differences in definitions and interpretation that still exist across institutions. One conclusion from this year's data is that the average cost per student credit-hour in initial licensure preparation coursework exceeds the reimbursable amount for Tier 1 (per the higher education funding formula), upper division coursework where most of undergraduate educator preparation occurs.

When discussing the statutory requirement for common evaluation measures across all educator preparation programs, Dr. Harmon cited, among others, the following objectives, strategies, and measurements established by the deans of New Mexico colleges of education:

- To increase student achievement for all students, New Mexico colleges of education will collaborate with P-20 stakeholders in developing an assessment system linking student performance to teacher performance. This strategy will be measured once a student achievement assessment system linked to teacher performance is developed.
- To increase teacher and administrator retention, New Mexico colleges of education need baseline data on teacher and administrator retention from PED before a measurement system can be identified.

Dr. Morehead presented the following data limitations and recommendations to address the identified limitations:

1. Because students self-report their preparing institution, NMTA scores are not always correctly attributed to the preparing institutions.

Recommendation 1: Include revised Title II NMTA reporting for test scores of students who are enrolled but are not program completers.

2. The role of colleges of arts and sciences in the preparation of candidates is not captured in the financial aspect of the EARS report. Dr. Morehead stated that this issue is beyond the scope of this report.
3. Information technology for gathering data needed for the EARS report is inconsistent among institutions.

Recommendation 2: PED and the Higher Education Department (HED) should involve the deans and directors of teacher education in ongoing work to create a fully functional P-20 longitudinal data system.

4. Colleges of education and PED are not equipped to accurately report the number and percentage of candidates hired by New Mexico school districts.

Recommendation 3: PED and appropriate stakeholders collaborate to ensure that the information in the Student Teacher Accountability Reporting System (STARS) regarding the institution preparing the candidate for licensure is accurate.

5. PED is not compiling institutional reports and summary data, leaving the responsibility to the deans and directors.

Recommendation 4: Responsibility to compile institutional reports and summary data cannot be the sole responsibility of deans and directors.

6. All reporting EARS institutions and PED are responsible for separate annual Title II reports to the federal government. Two separate sets of the same data may cause conflicting interpretations.

Recommendation 5: Align the 2012 EARS with the annual Title II reporting data.

### **Committee Discussion**

A committee member asked about the grammatical ability of teachers. Dr. Morehead said that at NMSU there is a requirement for three essays as well as demonstrated writing ability during pedagogy. Dr. Harmon added that candidates in all New Mexico colleges of education take the NMTA, which has a writing and grammar component. First-time NMTA takers, Dr. Harmon continued, have a pass rate of 85 percent.

Committee members asked several questions about the new reading test for teachers in preparation programs and the collaboration between schools of education and PED. Deans Harmon and Morehead said the institutions have been informed that the test is coming. In the past there were opportunities for feedback and roundtables for validity issues, but these activities were not conducted for this new reading test. The universities are trying to determine how to time appropriate reading courses that position candidates for success on the new reading assessment, which is part of the NMTA. Dr. Harmon confirmed that Teach for America teachers must pass the same reading test before obtaining a standard license.

In response to a committee member's question whether PED has shared STARS data with HED and the Legislature, Ms. Frances Ramírez-Maestas, LESC Director, said that the deans have taken the initiative to compile the data required under the statute. Dr. Harmon said that the mandated data are not readily available, requiring manual data collection; hence Recommendation 3 to move to an automated data collection.

Finally, Mr. Baca informed the committee of a recent honor bestowed on Dr. Morehead: he was selected by the US Department of Education to serve on a national committee responsible for drafting the proposed re-authorization of the *Elementary and Secondary Education Act*.

## LESC POTENTIAL LEGISLATION FOR THE 2012 LEGISLATIVE SESSION

On a motion by Representative Stewart, seconded by Senator Nava, the committee approved the endorsement of a joint memorial requesting the Legislative Council to create a two-year interim legislative higher education committee.

On a motion by Representative Stewart, seconded by Representative Espinoza, the committee approved the endorsement of legislation relating to charter schools to clarify that start-up schools and renewing charter schools must enter into charter contracts with their chartering authorities within certain time frames.

On a motion by Representative Stewart, seconded by Senator Nava, the committee approved the endorsement of legislation to amend the *School Athletics Equity Act* to eliminate certain reporting requirements for grades 7 and 8 and to clarify other reporting requirements.

On a motion by Senator Nava, seconded by Senator García, the committee approved the endorsement of legislation to convert the K-3 Plus program from a pilot project.

On a motion by Senator Nava, seconded by Senator Kernan, the committee approved the endorsement of legislation to create a child sexual abuse prevention task force.

On a motion by Senator Kernan, seconded by Representative Roch, the committee approved the endorsement of legislation for a temporary provision in the *Public School Code* to provide school districts with budget flexibility for school year 2012-2013. The provision would allow the Secretary of Public Education to waive certain requirements of the *Public School Code* and the Public Education Department (PED) rules.

On a motion by Senator Nava, seconded by Representative Stewart, the committee approved the endorsement of legislation to amend the *Public School Finance Act* to limit the allowable number of licensed ancillary and diagnostic service personnel in special education programs.

On a motion by Senator Lovejoy, seconded by Representative Hall, the committee approved the endorsement of a capital outlay request for a \$29.6 million 2012 General Obligation Bond to support funding for academic, public, school, and tribal libraries.

On a motion by Senator Nava, seconded by Senator García, the committee approved the endorsement of either:

- legislation to amend, if PED has reliable data, the *Public School Finance Act* to (1) define “developmentally delayed” and (2) include developmentally *delayed* three- and four-year-old students in the calculation of special education and early childhood education program units; or
- a joint memorial to examine the issue in the 2012 interim.

The Chair directed staff to prepare a letter requesting a message from the Governor for each of the committee-endorsed bills.

For consideration during the January LESC interim meeting, the committee discussed potential legislation relating to:

- amendments to the *Public School Finance Act* relating to the public school funding formula factors;
- amendments to the *School Personnel Act* to require that candidates for Level 1 licensure, including those individuals seeking alternative Level 1 licensure, have their score on the science of teaching reading assessment, as well as the postsecondary institution from which they graduated, posted on the PED website;
- amendments to the *Public School Code* and the provisions in the higher education statutes to address the funding of instructional materials for Adult Basic Education;
- a joint memorial requesting PED, the State Auditor, Regional Education Cooperatives, and others to study the regionalization of business and administrative services for public schools;
- a joint memorial requesting the Legislative Council to convene a task force to review education governance systems; and
- appropriations for: a New Mexico First town hall meeting to examine charter school facility issues; the Summer Science Program at New Mexico Tech; the Instructional Materials Fund; public school insurance increases; and the Math, Engineering, Science Achievement program.

Finally, in response to a request from the Chair during the November meeting, Dr. Lisa Grover, Senior Director of State Advocacy, National Alliance for Public Charter Schools, offered some observations on the prospect of converting Bureau of Indian Education (BIE) schools to charter schools and creating a third chartering authority to authorize tribal charter schools. Regarding the possibility of conversion, Dr. Grover said that their federal funding might be jeopardized if BIE schools were converted to charter schools, a situation that has been an issue in Michigan, which is the only state to authorize a tribal charter school. Regarding a tribal authorizer, Dr. Grover said that it may be an idea worth pursuing, especially in terms of increasing Native American student achievement, but that this prospect would also involve a number of considerations, one of which is that any new chartering authority should adhere to national best practices.

## ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 12:00 p.m.

  
 \_\_\_\_\_ Chair

February 16, 2012  
 \_\_\_\_\_ Date