

State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
December 18-19, 2008

Frances Ramírez-Maestas, Director

At the request of the Chair, Representative Mimi Stewart called the Legislative Education Study Committee (LESC) meeting to order on Thursday, December 18, 2008, at 9:12 a.m., Room 322, State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Representatives Rick Miera, Chair, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Vernon D. Asbill, Mary Jane M. García, and Gay G. Kernan.

The following LESC advisory members were present:

Representatives Andrew J. Barreras, Ray Begaye, Nathan P. Cote, Nora Espinoza, Thomas A. Garcia, and Jim R. Trujillo; and Senators Lynda M. Lovejoy, Howie C. Morales, and John Pinto.

Also in attendance was Representative Miguel P. García.

<> Approval of Agenda

On a motion by Representative Stewart, seconded by Senator Kernan, the committee unanimously approved the agenda as presented.

REVIEW OF PROPOSED PUBLIC SCHOOL FUNDING FORMULA

a. National Education Association (NEA)-New Mexico

Representative Stewart welcomed Mr. Eduardo Holguín, President, National Education Association-New Mexico (NEA-NM), and Dr. Richard G. Sims, Chief Economist, NEA Research, Washington, DC, and President and CEO, Sierra Institute on Applied Economics, who provided the committee with a PowerPoint presentation and handout titled *Taxes, Education Funding, and States' Economic Future*.

Speaking of state funding formulas, in general, Dr. Sims said the formulas relate to critical issues such as funding equity and funding adequacy and that New Mexico's formula is more equitable than most. Looking ahead to the year 2050, Dr. Sims projected a downward trend in the

revenues that New Mexico will receive from its current tax structures with a prediction that future revenues will fall very short of funding needs. He also said that most tax structures of local governments decline over time in their ability to produce revenues and that, if rates are not raised, revenues produced by current tax structures will decline steadily. Dr. Sims added that the gap between needs and funding is primarily due to rising health care costs, which, over the next 30 years, will force tax increases, absorb all growth in state and local revenues, and force cuts in non-health care budget sectors.

Reviewing New Mexico's tax structure, Dr. Sims said that, because of the state's reliance on gross receipts taxes, New Mexico taxes low-income people more than middle- and upper-income people. Consequently, because the growth in income over the last 30 years has been mostly in the upper-income range, New Mexico derives most of its revenue from people whose income is not growing. Another factor is that income taxes are more "elastic" – that is, more reliable in changing fiscal circumstances – than sales or gross receipts taxes, which may decline if consumer spending declines. Therefore, income taxes make a more dependable source of state revenue. Dr. Sims added that, if a state relies more on a sales-based, consumption-based tax, that state passes on to future generations less funding ability than was received by previous generations.

Dr. Sims then illustrated the various income levels of jobs coming into New Mexico with the corresponding income taxes paid at each level. Generally, he said, a person coming into New Mexico brings at least one school-age child; and not until a family's income reaches approximately \$85,000 do the state and local taxes paid cover the cost of a student's public education.

In terms of state corporate income tax rates, Dr. Sims said that New Mexico is right at the national average – 7.6 percent, with the mid-point at 7.5 percent. For corporations considering locating in a state, however, a greater factor than corporate tax rates is the availability and skill of the local labor force. More specifically, a recent survey by the Federal Reserve Bank of Boston found that, for manufacturing firms, labor was 36 percent of the reason for relocation and taxes were 4.0 percent of the reason; for office firms, labor was 72 percent of the reason and taxes were 5.0 percent of the reason. Moreover, Dr. Sims continued, site selection data do not suggest any correlation between low taxes and positive economic growth, or between high taxes and slow growth.

Another study that Dr. Sims cited found that a major factor in a business's selection of one city over another is the educational opportunities through the local public education system, the postsecondary system, and the community and vocational education system. Tax incentives, he said, are popular, but businesses seldom make decisions based on those incentives alone. In a similar vein, Dr. Sims cited an analysis by the *Wall Street Journal*, which found that, especially in rural communities, schools are the best business in town because their investments in human capital contribute to community growth.

Committee Discussion:

In response to a committee member's question what type of tax would be the best to use to raise the funds to implement the new public school funding formula, Dr. Sims recommended an income-based tax rather than a gross receipts tax. Also in response to that question, Mr. Laird Graeser, Chief Economist, New Mexico Department of Finance and Administration, who was in the audience, said that the New Mexico gross receipts tax is far broader and more elastic than the

average sales tax in other states because it is a mixture of both services tax and consumption tax. Although Dr. Sims' overall conclusion and recommendation to the committee are valid, Mr. Graeser continued, the proposed gross receipts tax does not necessarily have to be abandoned. Mr. Graeser also cautioned against making recommendations based on information taken from other states because of the different policy making environments.

In response to a committee member's question how other states fund work force training, Dr. Sims said that many states fund it through their general fund budgets. Georgia funds work force training through the state lottery program. The payoff for the state, he added, is better retention of a broad work force.

In response to a committee member's question about tax incentives for businesses like the film industry, Mr. Graeser said that there has been no study of the effects of the tax incentives that New Mexico has provided to businesses. With the film industry in particular, he continued, the credits and projects tend to be short-term although some of the jobs created may be long-term or permanent.

Finally, Mr. Holguín confirmed that NEA-NM supports the proposed public school funding formula and the proposed gross receipts tax increase as a mechanism to fund it. He added that Dr. Sims had been invited to the meeting as an objective economist to present other funding methods for consideration. A committee member asked that a copy of Dr. Sims' presentation be provided to each member of the committee and that Dr. Sims be invited to repeat his presentation to the Legislative Finance Committee and/or the House Taxation and Revenue Committee.

b. Summary of Public School Districts and Charter Schools Survey

The Chair recognized Dr. Kathleen Forrer, LESC staff, who provided a preliminary summary of the survey of all 89 public school districts and charter schools for the purpose of examining the potential impact on school district programs and student achievement of the proposed public school funding formula. This formula had been introduced in HB 241 (2008) and would be introduced again in the 2009 legislative session.

District and charter school responses took two forms, Dr. Forrer explained: one was written responses to a set of questions jointly developed by LESC staff and the Secretary of Public Education; and the other was testimony to the committee based upon those written responses. To facilitate this effort, Dr. Forrer further explained, the districts were grouped according to student membership and scheduled to attend one of six LESC interim meetings held in Albuquerque, Chama, Deming, Kirtland/Farmington, Roswell, and Santa Fe. To secure broad representation, the charter schools were chosen in conjunction with the New Mexico Coalition for Charter Schools on the basis of their geographic location and grade-level configuration (elementary, middle, or high school) and invited to attend the meeting in Albuquerque. While the staff report summarizes the written responses, it was marked "Draft" because not all of the responses had been received in time for Dr. Forrer's presentation to the committee. Dr. Forrer added that all but one of the 89 districts – Pojoaque Valley Public Schools – had either provided a written response or testified before the committee. Of the charter schools, nine of the 14 invited made presentations to the committee, but only one, Taos Charter, provided a written response.

Dr. Forrer then provided an overview of the responses to some of the questions, referring to the questions themselves and attachments to the report that provided detailed responses. With regard to question 1 – "How will the implementation of the proposed funding formula affect your

district's program cost?" – Dr. Forrer alluded to Attachment 2 of the staff report, which provides an updated comparison for school districts, grouped by size, of the projected program cost generated by the proposed funding formula versus the actual program cost generated under the current public school funding formula, together with the actual supplemental emergency distributions for school year 2007-2008. She said that three of the 89 school districts – Los Alamos, Pecos, and Mosquero – indicated loss under the proposed funding formula.

To review the responses to question 2 – “How will the implementation of the proposed funding formula impact the educational programs and student services provided by your district?” – Dr. Forrer grouped the responses by district membership and by educational programs and student services provided. She said that many districts chose not to distinguish between educational programs and student services and that they placed librarians and nurses, counselors, and social workers in both places. The larger districts in particular expressed intentions to reduce class size; hire additional teachers; target professional development; extend the school day, school year, or both; and hire additional intervention specialists and instructional coaches, particularly in math and reading. Dr. Forrer said the most common theme running through the student services piece is the need for nurses, both academic and mental health counselors, social workers, and certified elementary school librarians.

Dr. Forrer said Attachment 3 enumerates the additional state-funded full time equivalents (FTEs) in all personnel categories that the school districts anticipated as a result of the implementation of the proposed funding formula. Altogether, the districts with membership of 5,000 or greater estimated 1,705 FTEs; the mid-size districts, with membership between 1,000 and 5,000, estimated 794; and the school districts with membership less than 1,000 estimated 479. Dr. Forrer said that at least eight school districts (Cobre, Española, Lake Arthur, Maxwell, Pecos, Roy, Springer, and Vaughn) indicated either that any increase in program cost generated by the proposed funding formula would be insufficient to allow them to increase staff, or that they have no need to increase staff. Los Alamos, she said, indicated that the decrease in program cost would be so significant, barring a hold harmless provision, that the district would be required to reduce staff by approximately 57 FTE positions.

Attachment 4, Dr. Forrer continued, illustrates the number of students in each school district identified as needing special education and the percentage of the district's enrollment this number represents. She said that, in the first group of districts with an enrollment of 5,000 or greater, four districts showed slightly greater than 16 percent special education students, which is the percentage built into the base of the proposed funding formula. Within the middle group, there are more districts above that 16 percent mark. Within the smaller districts, Wagon Mound reported 57.5 percent special education students because of the residential treatment center within the district boundaries; and two other school districts reported relatively high percentages: Pecos, at 24 percent, and Melrose at 23.3 percent. Dr. Forrer added that a catastrophic fund is built into HB 241 to provide another revenue source for any districts with a special education rate higher than anticipated.

Dr. Forrer said that Attachment 4 also provides information about gifted students (derived from question 11 of the questionnaire) like that provided about students needing special education. She pointed out that there is a 4.0 percent gifted population assumed in the base funding and that many school districts are under that percentage although many others are over it, such as Los Alamos with 13.3 percent gifted students.

Attachment 5, Dr. Forrer said, reflects the responses of school districts and charter schools to the request to identify any other issues not specifically addressed in the questionnaire. The Chair asked that the LESC staff distribute that attachment, as well as the draft report and its other attachments, to all members of the Legislature and to the Governor.

Attachment 6, Dr. Forrer said, provides an updated comparison for charter schools of the projected program cost generated by the proposed funding formula versus the actual program cost generated under the current public school funding formula, together with the actual emergency supplemental distributions for school year 2007-2008. One issue identified by charter schools that participated in the funding formula discussion is that the Student Teacher Accountability Reporting System (STARS) data used in the proposed formula calculation did not accurately reflect the needs of their schools. In addition, several charter schools explained that they did not report the number of students eligible for free and reduced-fee lunches either because they did not participate in the program or because the district provided the meals and included the charter school students in the district's count. Because the proposed funding formula is dependent upon accurate free and reduced-fee data as one of its major cost adjustments, Dr. Forrer said, the lack of accurate data results in lower overall adjustment factors for a number of charter schools and possibly for some school districts, as well. She said the proposed funding formula without a hold harmless clause would result in a loss of program cost in 22 of the 67 charter schools analyzed.

Dr. Forrer informed the committee that, when American Institutes for Research (AIR) did its estimate of program cost for the proposed funding formula for the charter schools, not all of the charter schools were included because they were either new or not yet approved.

Another issue with charter schools, Dr. Forrer explained, is a wider range in the percentage of special education and gifted students, as illustrated in Attachment 7. Middle College High School, in Gallup, for example, reports zero percent special education students while La Academia de Esperanza, in Albuquerque, reports 47.1 percent. For gifted students, the percentages range from zero in the Village Academy, in Bernalillo, to 26.7 percent at Sidney Gutierrez School, in Roswell. As a result, the contractor for the funding formula study, AIR, used actual numbers rather than an average in the calculations for charter schools.

Referring to the issue of incorrect data used in the proposed formula calculations, Dr. Forrer said that the new numbers on free and reduced-fee lunches are similar to the previous numbers from AIR; however, only 10 of 67 charter schools are included in these data, indicating an issue that needs to be resolved.

Finally, on a point of personal privilege, Dr. Forrer announced her retirement. Various committee members expressed appreciation to her for her many years of service and dedication to education, in particular her work on the proposed public school funding formula. Ms. Ramírez-Maestas announced that Dr. Forrer would continue to work on contract with the committee staff and members during the 2009 legislative session and that her departure as a permanent staff member would be difficult.

Committee Discussion:

In response to a committee member's question how data would be compiled and validated for the free and reduced-fee lunch count to ensure accuracy of the numbers since various school districts reported incorrect figures on the calculator for their district, Dr. Forrer explained that the data are

compiled by each school district through collection of the application forms for free and reduced-fee lunch that are sent home with each student to be completed. Discrepancies arise, Dr. Forrer said, when students do not return the forms to the school.

In response to a committee member's question about safeguards and audits of these free and reduced-fee lunch application forms, Secretary of Public Education Veronica C. García said that the Public Education Department (PED) has considered using census data to determine the actual poverty level of a school district because of the difficulty in validating these forms. Another committee member added that AIR has been contracted to review this year's numbers, to update them if needed, and to see if there is a calculation problem with the numbers given for the proposed public school funding formula. Regarding charter schools in particular, the Chair suggested that the Director of the New Mexico Coalition for Public Charter Schools discuss this issue with member schools to ensure accurate reporting.

c. Gifted Education Survey

The Chair recognized Mr. Peter van Moorsel, LESC staff, who reported the findings of a survey of parents and teachers of students identified as gifted. Mr. van Moorsel explained that, at the May LESC meeting in Roswell, in response to concerns expressed by parents and teachers of gifted children, the Chair had directed LESC staff to examine the impact of the proposed funding formula on gifted education.

In response, Mr. van Moorsel continued, LESC staff drafted a memorandum that included a brief history of the Funding Formula Study Task Force, a comparison of current statute and the draft legislation, and four questions regarding gifted programs. The survey was sent to members of the New Mexico Association for the Gifted, the Albuquerque Association for Gifted and Talented Students, and the Roswell Association for Gifted Students. Mr. van Moorsel stated that LESC staff received over 80 responses from administrators, teachers and parents of gifted students, and from students themselves. He added that, while many answered the questions in the memo, other respondents wrote to express their concern for, as well as satisfaction with, gifted education programs in New Mexico.

The Chair then recognized Ms. Jonelle Maison, Legislative Council Service staff, who presented a similar analysis of gifted education and explained how gifted students would be served under the proposed funding formula. Ms. Maison reminded the committee of Dr. Forrer's point that funding for gifted education is built into the base of the formula; but she also suggested that the committee consider adding for gifted students something on the order of a special education student's individualized education program (IEP) to further ensure that the needs of gifted students are met.

Finally, the Chair also recognized a parent of two gifted students in Albuquerque Public Schools (APS), who echoed the concerns expressed by the respondents to the survey.

Committee Discussion:

In response to several questions from committee members about gifted education, Representative Stewart, the sponsor of HB 241 from the 2008 session, said:

- the bill does not contain language requiring highly qualified instructors for gifted education programs;

- the proposed funding formula would actually enhance gifted education programs by providing funding in the base and by requiring that gifted students be identified and served; and
- PED is considering including something like an IEP for gifted students.

On this last point, Mr. van Moorsel added that all of the survey respondents supported the idea of an educational plan for gifted students.

d. Educational Plan for Student Success (EPSS)

The Vice Chair welcomed Dr. Veronica C. García, Secretary of Public Education, to discuss the Educational Plan for Student Success (EPSS) as an accountability tool for the proposed public school funding formula. Alluding to the work of an LESC subcommittee and to a handout titled *HB 241, Funding Formula Bill EPSS Budget Approval Process*, the Secretary proposed that the EPSS be modified to address two levels of accountability: (1) a basic educational programming checklist, which includes such items as bilingual and multi-cultural education, career-technical education, art and music, gifted education, and special education; and (2) a connection between program outcomes and performance indicators, in which PED and a district's EPSS budget review team examine the results of standards-based assessments and short-cycle assessments; review the operating budget for that fiscal year; align the assessment results with the budget; and, depending on performance indicators, make program recommendations.

The EPSS, the Secretary continued, implements the Standards of Excellence and other state and federal requirements, focuses on areas and goals based on demographic data and student achievement data, identifies areas of student needs to meet benchmarks, and identifies resources to address the needs.

The Secretary then illustrated a possible EPSS accountability timeline:

- in September, October, or November of any given year, PED and school district EPSS budget review teams will review the test data from the previous year in reading, math, and science; revise the EPSS; focus on subgroup performance indicators; check attendance of staff and students; check graduation, dropout, and proficiency rates for all subgroups; check school safety; ensure teacher quality, and monitor resources allocated;
- in January, February, or March, the budget review teams will review short-cycle assessment results, the current fiscal year operating budget, and the alignment of results and budget; and, depending on performance indicators, the teams may develop program recommendations for district consideration;
- in April, May, or June, the Secretary said, districts and boards will develop the budget; the school budget office will revise and resubmit it, if needed; and the PED multi-disciplinary team and deputy secretaries will review the budgets, with final approval by the Secretary; and
- in August there will be an annual report to the Governor, the Legislature, and the public regarding the program checklist and performance outcomes, reported by state, district, and charter school.

Finally, the Secretary described a planned pilot project involving three school districts – one small, one medium, and one large – and three charter schools to assess the accountability-related use of the EPSS with the proposed funding formula. In addition to suggesting the impact of this proposal on PED and local schools and school districts, this pilot project, the Secretary said, is likely to lead to more interagency collaboration.

NEW MEXICO EDUCATIONAL RETIREMENT BOARD (ERB) LEGISLATIVE RECOMMENDATIONS

The Chair recognized Ms. Jan Goodwin, Executive Director of the New Mexico Educational Retirement Board (ERB), for a status report relating to the Educational Retirement Fund and for a review of the board's legislative recommendations for the 2009 legislative session.

Ms. Goodwin stated that Mr. Jeff Riggs, Deputy Director of ERB, was also in attendance to assist with committee questions.

Referring to a committee handout, Ms. Goodwin reviewed the board's strategic goals, FY 10 base budget and expansion request, accomplishments, and report timelines. She also provided a summary of ERB's investments, indicating that over the 12 months ended September 30, 2008, the Educational Retirement Fund experienced a gross investment loss of \$1.5 billion. She also noted that total assets decreased from \$8.7 billion at the beginning of the quarter to \$8.0 billion on September 30, 2008.

Ms. Goodwin reported that the ERB was proposing six initiatives for potential legislation during the 2009 session. These initiatives would amend the *Educational Retirement Act* (ERA) to:

- for new members only, change from 25 to 30 the years of service required to be eligible for retirement and change the sum of the member's age and years of service credit from 75 to 80;
- authorize the ERB director or the director's designee to conduct an audit at any time of any local administrative unit in order to ensure compliance with the act and board rules;
- protect confidential member information from unauthorized disclosure;
- extend the sunset date for the return to work (RTW) program and clarify what types of services rendered to an ERB employer during the 12-month layout period would disqualify the individual from participating in the program;
- allow eligible employees who have contributed to an alternative retirement plan for a cumulative total of seven years or more to exercise a one-time option to become a regular member; and if the option is exercised within 120 days of becoming eligible; and
- allow members with five or more years of ERB employment to be eligible to purchase at any time military service or service in the United States Public Health Service Commissioned Corps if the member agrees to pay both the employee's and the employer's share of the contribution and if payment is made within 60 days of the date when the member is informed of the required amount.

Committee Discussion:

In response to a committee member's question relating to confidential member information maintained by ERB, Ms. Goodwin indicated that information open to public inspection includes the name of the member, the member's employer, dates of retirement, reported death, service credit, reported salary, and the contribution amount. Other member information, she noted, may be disclosed only to the member, the member's spouse or authorized representative, or persons specifically identified by a member in a written consent form.

A committee discussion ensued regarding the ERB legislative initiative to change to a 30-year service requirement for new members. Ms. Goodwin explained the board's position that the increased longevity of members warranted a longer service requirement. She added that New Mexico is one of only five states in the country that allow a 25-year service requirement, noting that all of the surrounding states have a 30-year service requirement. She also emphasized that the 30-year requirement will affect only employees hired on or after July 1, 2010.

Referring to a committee member's question why legislation would be required to grant audit authority to the ERB director, Ms. Goodwin said that some local administrative units pay late and some may not pay correctly on behalf of all of their members; consequently, it is the responsibility of ERB, as fiduciary agent to all of its members, to have statutory audit authority to review the contributions of every employer.

In response to a committee member's question if ERB will be able to impose penalties if it acquires audit authority, Ms. Goodwin indicated that ERB currently has the authority to charge fees to employers who remit their contributions late.

In response to a committee member's question why the board proposed legislation to allow the purchase of military service at any time, Ms. Goodwin stated that current provisions in law require the purchase of military service only within the first three years of employment. This requirement, Ms. Goodwin emphasized, proved to be a hardship for eligible members.

DIRECTOR'S REPORT

a. Approval of LESC Minutes for October 2008

On a motion by Representative Stewart, seconded by Senator Kernan, the committee unanimously approved the LESC minutes for October 2008.

b. Correspondence

Ms. Ramírez-Maestas reviewed several items of correspondence included in the committee members' notebooks, adding that these items are also kept in the LESC permanent files. They include several responses to committee requests.

c. Written Reports

Ms. Ramírez-Maestas reported that three written reports were included in the committee notebooks in response to joint memorials passed during the 2008 legislative session. Each

report, she noted, is prefaced by a memorandum from LESC staff summarizing the charge, activities, findings, and recommendations related to each joint memorial:

- *Study School Staff Shortage Issues, HJM 3*, requesting that the Public Education Department (PED) and the Office of Education Accountability (OEA) examine issues related to turnover and emergencies resulting from predicted shortages of school counselors, nurses, and other professional instructional support personnel in public school districts and charter schools;
- *School Principal Recruitment and Mentoring, SJM 3*, requesting that OEA, the LESC, and the Legislative Finance Committee, in collaboration with school districts and institutions of higher education, develop a plan to enhance the recruitment, preparation, mentoring, evaluation, professional development, and support for school principals and other school leaders; and
- *Study Education Accountability Targets, SJM 43*, requesting that the LESC, in collaboration with PED, the Legislative Council Service, public school superintendents, directors of special education, directors of bilingual education, and other appropriate educators, form a study group to meet during the 2008 interim to discuss the possible use of certain supplements or alternatives to New Mexico accountability targets.

Referring the committee to a letter from Mr. Gilbert Perea, Assistant Secretary, Program Support and Student Transportation, PED, Ms. Ramírez-Maestas reported that PED was unable to convene a work group to address the charge of *Study School Transportation Funding, SJM 12*. The memorial, she stated, requested that a work group consisting of PED, the LESC, and the LFC, in collaboration with public school district administrators and representatives of private school bus contractors, examine the funding of school transportation contracts to ensure that employees of private school bus contractors have full access to the wages and benefits available to the contractor. She noted that in his letter Mr. Perea stated that the department was unable to address the memorial primarily because of a school bus contractor walk-out in Moriarty, a school bus contractor change in Las Cruces, and the 2008 special session, which required PED to formulate estimates for fuel cost shortfalls.

PUBLIC SCHOOL SUPPORT RECOMMENDATIONS FOR FY 10

The Chair recognized Dr. Veronica C. García, Secretary of Public Education, and Mr. Don Moya, Deputy Secretary, Finance and Operations, Public Education Department (PED), to discuss the public school support recommendations for FY 10.

Referring to a committee handout, *Public School Support Request for FY 10*, Secretary García stated that, in developing the FY 10 requests, PED considered the Department of Finance and Administration (DFA) guidelines, the Governor's *Making School Work* education reform initiatives, statewide student performance data relating to academic performance and the achievement gap, and federal and state requirements, including the *No Child Left Behind Act of 2001*. Recognizing the state's declining revenues, she noted, the request may need to be adjusted.

Secretary García noted that, a review of the last three years of student membership and program units by district and charter schools shows that student membership continues to decrease

statewide. However, because of student growth in pockets around the state, growth units continue to increase. In FY 09, she added, units are anticipated to increase by approximately 4,000 after the numbers from the 40th day of school are finalized.

Noting that the department had not included a compensation increase for public school employees, Mr. Moya stated that the FY 10 request includes over \$2.6 billion in recurring dollars for public school support and related appropriations, an increase of \$56.8 million, or 2.2 percent, over the FY 09 appropriations.

In program cost, Mr. Moya explained, the request provides nearly \$2.5 billion, including:

- approximately \$30.6 million for enrollment growth, fixed costs, and the employer's cost for insurance increases;
- approximately \$12.1 million for a 0.75 percent increase in the employer's contribution to the Educational Retirement Fund;
- \$5.0 million to continue the implementation of elementary PE programs in grades K-6; and
- approximately \$1.6 million for school districts' costs associated with administering, scoring, and reporting test results.

Noting an increase from the previous year in projected credits and in other state funds, Mr. Moya indicated that the appropriation request for the State Equalization Guarantee (SEG) distribution totaled over \$2.4 billion, an increase of nearly \$45.1 million, or 1.9 percent, over the FY 09 appropriation for the SEG, or what is commonly referred to as the "above-the-line" appropriation.

In categorical public school support, Mr. Moya reported a request of approximately \$2.6 billion, including:

- over \$107.8 million to support school transportation operations and distributions, exclusive of a salary increase for school transportation employees;
- over \$41.7 million for the Instructional Material Fund for the FY 10 language arts/reading, modern classical and native languages, and reading intervention adoption in grades 9-12; and
- \$1.6 million for the Incentives for School Improvement Fund.

Mr. Moya reported "flat" appropriation requests for Supplemental Distributions, the Educational Technology Fund, the Indian Education Fund, the School Library Material Fund, the Schools in Need of Improvement Fund, and the Teacher Professional Development Fund.

Referring the committee to the table included in PED's handout, Mr. Moya outlined approximately \$50.2 million in public school support related appropriation requests. In alphabetical order by topic, he explained, these requests support recurring initiatives focused on:

- early childhood education, including approximately \$7.2 million for K-3 Plus and nearly \$13.6 million for New Mexico PreK;
- educator quality, including \$2.0 million for the Beginning Teacher Mentorship Program and \$2.5 million for summer reading, math, and science institutes;
- New Mexico Cyber Academy/Innovative Digital Education and Learning (IDEAL), including \$1.0 million for IDEAL;
- school finance, including \$300,000 to the Charter School Stimulus Fund and over \$2.2 million to support the operations of regional education cooperatives;
- student achievement, including appropriation requests to support Advanced Placement, after-school enrichment programs, the Apprenticeship Assistance Program, rural education revitalization, the School Improvement Framework, and truancy and dropout prevention initiatives; and
- student health, safety, and well-being, including requests to support anti-obesity initiatives, elementary school breakfast programs statewide, the *Family and Youth Resource Act*, family and parental involvement programs, the Food to Schools Program, GRADS, and *Speak Up New Mexico*, a statewide school safety program.

Finally, in nonrecurring appropriations, Mr. Moya reported that the FY 10 request includes:

- over \$15.2 million in one-time costs for related public school support initiatives;
- \$9.3 million in data processing costs; and
- nearly \$28.2 million in capital outlay requests, including PreK classrooms, school bus replacements, and an IT management system.

Committee Discussion:

In response to a question from a committee member why the FY 10 request includes an appropriation for enrollment growth even though PED reports that student membership continues to decline statewide, Mr. Moya stated that the growth is attributable to an increase in new programs, primarily when charter schools add new grade levels.

In response to a committee member's question whether the Secretary has the authority to decline a charter school's request to add grade levels, Secretary García explained that the grade levels are outlined in a charter school's application. She noted that if a charter school is approved, for example, for grades K-8 and the charter begins with only grades K-3, the charter school can incrementally add extra grades until it reaches its approved grade 8.

In response to a question from a committee member relating to additional funding from the federal Temporary Assistance for Needy Families (TANF) for the K-3 Plus and pre-kindergarten programs, Secretary García reported that in FY 09 New Mexico PreK was funded with an additional \$1.0 million in federal TANF dollars.

In response to a committee member's question why the K-3 Plus program was not funded with federal TANF funds in FY 09, Mr. Paul Aguilar, Senior Fiscal Analyst, Legislative Finance Committee, reported that the FY 09 appropriation for the K-3 Plus program included \$3.0 million in TANF money; however, the federal funding was vetoed by the Governor. According to the veto message, Mr. Aguilar added, the Governor vetoed the appropriation because an external longitudinal evaluation of the K-3 Plus program had not been completed.

TRUANCY: LESC WORK GROUP RECOMMENDATIONS

Ms. Dorinda Fox, LESC staff, reported truancy and attendance issues studied by the LESC 2008 Truancy Work Group. She said that the work group included staff from the Public Education Department (PED), courts, school personnel, the Children, Youth and Families Department (CYFD), education organizations, and the LESC. She also introduced two members of the work group: Dr. Kristine Meurer, Director, Coordinated School and Family Support Bureau, PED; and Mr. Ted Lovato, Deputy Director, Juvenile Justice Services, CYFD, who were available for questions.

Ms. Fox said that the LESC has recognized the importance of student attendance since at least 2000, when the committee conducted a formal study of the issue of truancy. She described LESC-endorsed legislation that was enacted to amend the *Compulsory School Attendance Law* in 2004, 2005, and 2007 to focus on parental responsibility and intervention to keep students in school. Ms. Fox also reported that, since FY 05, the New Mexico Legislature has appropriated approximately \$3.8 million for truancy and dropout prevention, including \$495,000 for school-based attendance projects at 16 sites in FY 09. Despite the work of the LESC and the Legislature as a whole, however, truancy remains a concern. Statewide, Ms. Fox said, according to PED data for school year 2007-2008, 13.2 percent of students in school districts and 13.4 percent of students attending charter schools were habitually truant.

In February 2008, Ms. Fox continued, the LESC Director, at the request of the Chair, convened a work group to address unresolved issues related to truancy. During the interim, the LESC 2008 Truancy Work Group focused on a number of topics, including provisions in current law related to school attendance. A particular focus of the 2008 work group, Ms. Fox reported, was the discussion of intervention strategies and best practices to address issues of attendance and truancy. She said the following are some of the approaches that the work group found most effective in New Mexico:

- a case management approach;
- pre-adjudication training sessions for parents and students;
- age and grade-level interventions;
- school-based behavioral health services; and
- community coordination teams.

Ms. Fox then reported some results of an LESC survey on truancy and attendance sent to all 89 school superintendents and 16 truancy/dropout prevention programs. With 38 school districts responding, the survey found that district approaches to truancy and practices to prevent it are

varied, including intervention and enforcement techniques. Ms. Fox said that one point of agreement among the respondents is the need for adequate numbers of trained staff to address the requirements of the *Compulsory School Attendance Law*.

Finally, Ms. Fox reported the recommendations of the LESC 2008 Truancy Work Group, among them:

- To address definitions, reporting, enforcement, and other statutory issues, amend the *Compulsory School Attendance Law* to:
 - remove the term “truant,” replacing it within the definitions and elsewhere in statute with “a student in need of early intervention”;
 - require PED to review and approve school district and charter school attendance policies;
 - require statewide consistent counting and reports of unexcused absences by schools;
 - require that written parental notices of unexcused absences include a date, time and place for the parent to meet with the school or charter school to develop intervention strategies that focus on keeping the student in an educational setting; and
 - allow juvenile probation officers to send written notices to a parent of the student directing the parent and student to report to the Juvenile Probation Office to discuss services for the student or the family.
- Align the *Children’s Code* with the *Compulsory School Attendance Law* by amending the *Families in Need of Court-Ordered Services Act* to provide that a family in need of such services is one with a student who has accumulated the equivalent of 10 or more unexcused absences within a school year.
- To create a comprehensive approach to truancy/dropout prevention predicated on best practices found in New Mexico pilot projects, introduce legislation establishing a statewide program of truancy/dropout prevention that will provide truancy liaison staff in each district; local planning support for community partnerships in which communities fund a portion of the planning effort; technical assistance to schools on essential leadership skills including cultural competency; and evaluation.
- To provide additional support to address student and family needs that affect school attendance and success, increase appropriations to the *Family and Youth Resource Act* (FYRA) to provide funding of case management liaisons in more schools within the state; and allow schools to be eligible to receive FYRA grants for a period of more than three years.

Committee Discussion:

In response to a committee member’s question whether the work group members generally agreed with all of the recommendations, Ms. Fox said, “Yes.” When asked the same question, Mr. Lovato concurred that work group members were in general agreement.

Dr. Meurer added that the consensus of the group was a desire for a consistent definition of how to count unexcused absences, especially in terms of half-day versus full-day. To illustrate the inconsistency in current practices, Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, said that school district policies vary widely: one district may

consider a student eligible for a perfect attendance certificate if he or she misses two periods after lunch every day, whereas another will count a student absent for missing a single period.

In response to a committee member's question how to align the *Children's Code* with the *Compulsory School Attendance Law* and the *Families in Need of Court-Ordered Services Act*, Mr. Lovato said that changes have occurred over the last few years, primarily through funding with federal dollars of the Justice Advisory Committee, which has developed smaller committees within communities. He said he could name 14 New Mexico communities that have juvenile justice committees and that part of their involvement is a community response to providing youth services. Mr. Lovato said that a strong community group tends to do a better job of working with a truant child or a child at risk than communities without a coordinated effort.

In response to a committee member's request for more explanation of the meaning of alignment of these laws, Ms. Fox said the work group is recommending a correction or alignment of the time period in the definitions within the laws related to habitual truancy.

In response to a committee member's question if juvenile justice should be placed back into PED, Dr. Meurer directed the committee to the third recommendation to create a comprehensive approach to truancy/dropout prevention predicated on best practices. She cited the case management approach in particular, which has proven to be successful and which PED would like to apply statewide, somewhat like programs through the FYRA approach. Ms. Ramírez-Maestas noted the current eligibility requirements of FYRA and LESC-endorsed legislation, both in the 2008 session and in the upcoming 2009 session, to expand eligibility.

In response to a committee member's question about the conditions that make a student an official truant, Ms. Fox said that, if the work group recommendations are enacted, a student who has 10 unexcused absences in a school year would be a truant.

EDUCATION PARTNERS LEGISLATIVE PACKAGE

The Chair recognized Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators (NMCSA); Mr. Bud Mulcock, registered lobbyist for New Mexico public schools; Mr. Charles Bowyer, Public Affairs and Program Director, National Education Association-New Mexico (NEA-NM); and Mr. Joe Guillen, Executive Director, New Mexico School Boards Association (NMSBA) to present to the committee the legislative recommendations of New Mexico's Education Partners, which include the Albuquerque Teachers Federation, NEA-NM, American Federation of Teachers (AFT), NMCSA, New Mexico Congress of Parents and Teachers Association (PTA), and the NMSBA.

Mr. Sullivan said the major goal of NMCSA and the Education Partners is passage of the funding formula bill and a funding source to support it. He noted that the key for NMCSA is the constitutional mandate to provide sufficient school funding for students.

Mr. Sullivan then presented other NMCSA recommendations, noting that the organization:

- supports the committee's specific request to fund recurring revenue for the operational needs of regional education cooperatives (RECs);

- would support, under the return-to-work provisions, a contribution from the employee as well as the employer to improve the solvency of the retirement fund;
- supports the outcomes of the LESC Truancy Work Group;
- recommends that the Legislature closely watch Response to Intervention (RtI) instructional programs because they could become unfunded mandates;
- recommends that current technology and data collection systems be running glitch-free before any additional technology programs are implemented in the schools; and
- requests adequate funding of schools' fixed costs.

Mr. Mulcock said the Education Partners agreed to support the 1.0 percent gross receipts tax to sustain sufficiency for public schools because:

- the tax would provide a surplus to fund other education programs in the short term; and
- surveys show that communities will support the 1.0 percent tax if they are assured that the money will go to education.

Mr. Guillen presented the following views from NMSBA:

- It has become increasingly difficult to make decisions at the local level based on the tremendous accountability requirements and a lack of adequate resources from the federal and state levels.
- Tough decisions mean that many students are going without services because of the shortage of revenues.
- The school boards across the state have joined in support of sufficient funding for public schools on a permanent basis to meet the requirements set forth in the state constitution.
- NMSBA opposes vouchers and any other program that diverts funds from public schools.
- NMSBA supports:
 - the new funding formula with a permanent hold harmless provision to ensure that no district is hurt by the formula;
 - gross receipts tax revenues as the permanent funding source for the funding formula; and
 - legislation that restores the authority of local school boards to approve the offer of administrative-level employment within local school districts.

Mr. Bowyer conveyed regrets from Ms. Angi Gonzales-Carver, President, PTA, and Dr. Ellen Bernstein, President, Albuquerque Teachers Federation, who were unable to attend the meeting, adding that their goal, along with the other Education Partners, is to ensure a quality instructional program for every student in New Mexico's public schools.

On behalf of Ms Gonzales-Carver and the New Mexico PTA with its over 7,000 members, Mr. Bowyer cited:

- full support of the proposed public school funding formula;
- the position that all children are needy when it comes to education;
- full support of family-school partnerships; and
- the belief that family involvement promotes student success.

Then on behalf of Dr. Bernstein and himself, Mr. Bowyer listed some of the points in the handout titled *National Education Association-New Mexico/AFT New Mexico, 2009 Joint Legislative Goals*:

- high school redesign requires the necessary resources to implement it;
- teachers need to be adequately prepared for the new rigor of the math and science courses required;
- schools need to be prepared for the additional requirements for science classes;
- part of quality learning and teaching is professional development; and
- effective teacher induction and mentoring programs are needed for preparing professionals.

P-20 INITIATIVE

a. Common Public Education Department and Higher Education Department Student ID

The Chair recognized Dr. Reed Dasenbrock, Secretary of Higher Education, and Mr. Peter van Moorsel, LESC staff. Mr. van Moorsel provided the committee with a presentation on the current status of the data warehouse project, which was initiated in 2005 when the Legislature appropriated approximately \$6.65 million to the Public Education Department (PED) in the *General Appropriation Act* to implement a data system to meet state and federal reporting requirements. He explained that the purpose of the data warehouse, known as the Student Teacher Accountability Reporting System (STARS), is to collect and store in one comprehensive system all student, teacher, course, testing, and financial data for public education through grade 12. He said that the Legislature has supported the implementation of STARS with appropriations to PED totaling approximately \$14.0 million, including \$2.9 million for FY 09. Mr. van Moorsel added that legislation enacted in 2007 requires that the PED student ID be assigned to students enrolled in higher education, and that PED collaborate with public teacher preparation programs and the Higher Education Department (HED) to create a uniform statewide Teacher Education Accountability Reporting System (TEARS) to measure and track teacher candidates from pre-entry to post-graduation, a report of which was to follow.

Mr. van Moorsel said that, during the 2007 interim, the LESC heard a presentation on the work of the Data Sharing Task Force convened by HED in response to a memorial requesting HED, PED, and other departments to plan for implementation of a common P-20 longitudinal student data system. The recommendations of the task force included three phases: (1) extending the student ID system in STARS into higher education at a cost of nearly \$2.0 million; (2) expanding STARS to include higher education data submitted by postsecondary institutions using that ID; and (3) adding enhancements such as a common online application for admission to college and access to electronic transcripts between P-12 and postsecondary institutions at a cost of \$2.3 million. He said that the LESC endorsed legislation to codify the data warehouse and support the task force recommendations during the 2008 session; however, the bill was ruled “not germane.”

Mr. van Moorsel said that in 2008 the work of the Data Sharing Task Force focused on preparing an application to the federal Institute of Education Sciences (IES) for a \$9.0 million grant for a statewide longitudinal data system, including: \$6.0 million for a foundational grant, awarded over three years, to “build an educational user interface capable of responding to constituent needs and implement an instructional management system”; and \$3.0 million for a concurrent expansion grant, also over three years, to work in partnership with HED to develop and implement the postsecondary agency component of STARS. According to PED, the IES applications were under review at the time of the presentation, with awardees to be announced in January or February 2009.

Mr. van Moorsel reported that HED had identified several challenges that the department faced in meeting the requirement to assign PED ID numbers to students in public postsecondary institutions. He said that, when existing institutional systems (known by the vendor name Banner) were upgraded with funds provided by the 2008 Legislature, those systems would be able to search for records using the PED ID number if it had been entered. However, he added HED states that institutions often do not have access to that number for two reasons:

- the number is not included on high school transcripts, and students rarely know their own ID number; and
- even if the transcript includes the ID number, community colleges with open enrollment policies do not require high school transcripts for admission, since most students are seeking vocational training, a General Educational Development (GED) certificate, or adult basic education rather than a degree. In the case of dual credit courses, the dual credit forms provided by high schools to colleges often leave the student ID field blank.

Mr. van Moorsel presented policy options developed by LESC staff for the committee’s consideration to facilitate efficient transfer of the PED student ID to public postsecondary educational institutions:

- introduce legislation to phase in the creation of a P-20 educational data system;
- amend current statute to require that the PED student ID number be included on all high school transcripts and GED certificates; and
- request that PED, HED, and public postsecondary educational institutions collaborate during the 2009 interim to address other issues regarding the implementation of the P-20 student ID.

Secretary Dasenbrock stated that HED supports the idea of a P-20 longitudinal data system. However, he emphasized the complexity of the task; and he echoed the LESC recommendation to phase in the system, focusing first on aspects with minimal cost, including the recommendation that the STARS ID be placed on high school transcripts. Dr. Dasenbrock noted differences between the existing data systems at HED and PED, and he stressed that the primary function of the HED data system is to flow nearly \$1.0 billion of state money to the higher education institutions. He said that the system, known as the Data Editing and Reporting (DEAR) System, contains more than 300 data elements, of which only a few overlap with current STARS data elements, and he urged that the overlapping elements should be the focus of the longitudinal system.

Dr. Dasenbrock expressed concern about the proposal that PED, in collaboration with HED, procure or develop a data module for “grades 13 to 20” that would reside in STARS. He said that data governance should not reside within one agency, but rather be symmetrical and bilateral, so that each department owns the data it needs for its own operations, while sharing the data applicable to both departments. He added that to pay for its portion of such a bilateral system HED would require state funding.

Committee Discussion:

In response to the Chair’s question if any aspect of the P-20 data system implementation could move forward immediately, Dr. Dasenbrock said the proposed requirement to place the STARS ID on high school transcripts could be enacted in the 2009 legislative session. The Chair recognized Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, PED, who said that PED would examine whether this requirement could be accomplished in rule, or if it would require a statutory change.

In response to the Chair’s question about the views of the institutions of higher education regarding the P-20 data system, Dr. Dasenbrock said that he thought they were very interested in a coherent, well-functioning HED system because that data system determines their funding. He added that they are less interested in a common P-20 system since they do not rely as closely on the data points that are important to P-12 education policy. Dr. Dasenbrock also said that institutions may be concerned about data ownership, particularly if data that determine their funding are to be housed at PED.

In response to the Chair’s question whether shared ownership of the P-20 data system is possible, Mr. Robert Piro, Chief Information Officer, PED, said that each department could maintain ownership of its respective system and share the data necessary to make informed policy decisions. He agreed that the STARS ID must be assigned to students in higher education in order to match data between the two systems.

In response to the Chair’s question what would be necessary to gain the support of institutions of higher education in implementing the data system, Dr. Dasenbrock said that phasing in a well-designed data system would send the message that the Legislature is moving at a careful, measured pace.

b. Implementation of the Teacher Education Accountability Reporting System (TEARS)

Ms. Pamela Herman, LESC staff, introduced Dr. Jerry Harmon, Dean, College of Education and Technology, Eastern New Mexico University, to present the *2009 Teacher Education*

Accountability Report on behalf of the deans and directors of teacher preparation programs. Dr. Harmon introduced members of the work group who had assembled the report and who were in the audience: Dr. Mary Rose CdeBaca, Assistant Secretary, Educator Quality Division, PED; Dr. William Flores, Deputy Secretary, HED; Dr. Peter Winograd, Director, Office of Education Accountability (OEA), Department of Finance and Administration; Dr. Patricia Manzanares-Gonzales, Dean, School of Education, Western New Mexico University; Dr. Richard Howell, Interim Dean, College of Education, University of New Mexico; Ms. Erika Volkers, Director, Teacher Education Program, Central New Mexico Community College; and Dr. Michael Anderson, Dean, School of Education, New Mexico Highlands University.

Ms. Herman explained that legislation enacted in 2007 requires PED to collaborate with teacher preparation programs and HED to create a uniform statewide Teacher Education Accountability Reporting System (TEARS) to measure and track teacher candidates from pre-entry to post-graduation in order to benchmark the productivity and accountability of New Mexico's teacher work force. According to Ms. Herman, in the 2007 interim, the LESC heard a presentation on progress made by a work group composed of the deans and directors of teacher preparation programs, HED, PED, OEA, and LESC staff to design the template for the TEARS report. She said that, as the group had pledged in 2007, the first TEARS report was now ready to be presented to the LESC. As required by law, it includes a report by each teacher preparation program in the state and a statewide summary report. The report was provided to the committee on a CD-ROM, and Ms. Herman said that it was also posted on the OEA webpage.

Dr. Harmon directed the committee's attention to the introduction to the 2008 TEARS report, which states that the data in the report show that teacher education programs in New Mexico attract academically prepared candidates, as measured by average statewide grade-point averages on admission; that standards for admission use common factors that enhance transparency and seamless transferability among institutions; and that field and clinical programs in general are designed to connect classroom practices to candidate preparation, limited, however, by the level of institutional supervision due to fiscal constraints. He said that the 2008 report provided the data mandated by statute regarding preparation of candidates in the high-needs areas of mathematics, science, and technology. Dr. Harmon indicated that data for other shortage areas identified by PED (special education, bilingual education, teaching English as a second language, and elementary education) would also be reported in the 2009 TEARS report.

According to Dr. Harmon, the report identified certain issues that remain to be resolved to ensure that future TEARS reports are complete and accurate. These include: lack of consistent data definitions related to alternative licensure programs and budget and finance; the lack of a validation procedure for students' institutional affiliations in the application process for the New Mexico Teacher Assessments; the lack of a fully functional P-20 data system to generate report data, requiring much of the contents of the 2008 report to be generated through hand counting; the lack of validated data from PED regarding new teachers' preparing institutions; and the failure of one teacher preparation program to provide its report. Representatives of the work group stated their intention to continue work over the 2009 interim to address these issues to provide educators and policymakers with an appropriate accountability mechanism for teacher preparation programs in the state.

Committee Discussion:

A committee member expressed concern that colleges of education require teacher candidates to take only one math methods course. Dr. Harmon noted that if local superintendents or others

have concerns about the quality of teaching skills commanded by new teachers, TEARS will provide the data to hold the appropriate institutions accountable.

SCHEDULED SUPERINTENDENTS AND COMMUNITY INPUT

Healthy Kids Initiative

Dr. Patty Morris, Senior Advisor, Office of the Secretary, Department of Health (DOH), said the DOH is piloting a community-wide obesity prevention effort in partnership with the city of Las Cruces, local stakeholders, and eight state government departments. This initiative, Healthy Kids - Las Cruces, connects and builds on a cross-section of community efforts to motivate children and youth to eat healthier and to be more active. Healthy Kids - Las Cruces was awarded a \$100,000 National Governors Association grant as start-up funding for the program.

Dr. Morris described first-year key accomplishments of the Healthy Kids pilot initiative and its next steps to replicate the program across the state to build a strong statewide children's obesity monitoring and program evaluation system; to build greater alignment and collaborative obesity prevention efforts and messages across New Mexico; and to address gaps that exist in the continuum and quality of nutrition and physical activity services, especially for those who are low-income and minorities.

Summer Science Program, Inc.

Mr. Stephen L. Cotler, Vice Chairman of the Board, Summer Science Program, Inc., referred to a handout titled, *Request for Funding to LESC: SSP Scholarships for New Mexican Students*. Mr. Cotler said the Summer Science Program is in its sixth year in New Mexico and in its 50th year of operation in California. For six weeks each summer, the program brings 36 high school science students – the brightest rising seniors from around the nation and several foreign countries – to the New Mexico Tech campus and provides them with an intense, college-like experience that inspires these students to realize their potential in college and beyond.

The Summer Science Program requested a recurring appropriation of \$48,000 per year (eight students at \$6,000 each) from the 2009 legislative session for Summer Science Program 2009-2010.

There being no further committee discussion, the Chair, with the consensus of the committee, recessed the meeting at 6:30 p.m.

**MINUTES
LESC MEETING
December 19, 2008**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on Friday, December 19, 2008, at 9:12 a.m., Room 322, State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Representatives Rick Miera, Chair, Roberto J. Gonzales, and Mimi Stewart; and Senators Vernon D. Asbill, Mary Jane M. García, and Gay G. Kernan.

The following LESC advisory members were present:

Representatives Andrew J. Barreras, Ray Begaye, Nathan P. Cote, Nora Espinoza, Thomas A. Garcia, Sheryl Williams Stapleton, and Jim R. Trujillo; and Senators Carlos R. Cisneros, Dianna J. Duran, Lynda M. Lovejoy, John Pinto, and William E. Sharer.

Also in attendance was Senator Nancy Rodriguez.

EDUCATION-RELATED ISSUES FOR THE 2009 LEGISLATIVE SESSION

a. Endorsement of Public School Support Recommendations

Ms. Frances Ramírez-Maestas, LESC Director, explained that the Chair and Vice Chair were awaiting revised revenue forecasts for FY 10, which were expected prior to the start of the 2009 session, before working with committee staff to develop public school support recommendations for the January 19, 2009 LESC meeting. She also indicated that the LESC and Legislative Finance Committee (LFC) staffs were working together as much as possible to arrive at consensus on public school support recommendations prior to the session.

b. Endorsement of Potential Legislation/Approval of Sponsors

Ms. Ramírez-Maestas directed the committee's attention to a packet of proposed legislation prepared by LESC staff in collaboration with the Legislative Council Service, based on the items requested by the committee at its November meeting. She noted that the summary of legislation was followed by copies of the draft bills. The committee considered each item on the list of proposed legislation, with the understanding that votes would not preclude non-substantive drafting changes made before the jacketed bills were provided to members for filing. The committee's deliberations are noted in italics, as follows:

DATA WAREHOUSE

1. ***Codify Requirements for P-20 Data System:*** Introduce legislation to codify the requirements for a comprehensive P-20 data warehouse (Student Teacher Accountability Reporting System, or STARS) at the Public Education Department (PED) that collects, integrates, and reports data from PED, Higher Education Department (HED), and other agencies; and incorporate the following provisions:

- a. require the PED student ID number to be included on high school transcripts and dual credit forms;
- b. phase in the implementation of the data system; and
- c. incorporate the provisions of Item 14 below, *Postsecondary Reports to High Schools*.

Ms. Ramírez-Maestas noted that the committee had endorsed a bill filed in the 2008 session to codify the requirements for the P-20 data system; however, the bill was ruled not germane. The Chair requested that staff research whether Item 14 should be included in this bill or filed separately.

DUAL CREDIT

2. ***Dual Credit Textbook Fund:*** Introduce legislation to create the Dual Credit Textbook Fund, administered by the Instructional Material Bureau in PED; require that money in the fund be used only to purchase textbooks and course supplies for students participating in the Dual Credit Program; require PED, by April 1 of each year, to allocate to each school district, charter school, and state-supported school a specific dollar amount for each dual credit course completed by an eligible student during the prior calendar year; require PED, by July 31 of each year, to distribute 100 percent of those allocations, to the extent that funds are available; and appropriate funds from the General Fund to PED for the Dual Credit Textbook Fund for FY 10.

Ms. Ramírez-Maestas indicated that LFC staff had agreed to recommend at least \$1.5 million for FY 10 for the fund created in this bill.

EDUCATOR QUALITY

3. ***Professional Development Reports:*** Amend the Professional Development Framework to require PED, in conjunction with public school districts and charter schools, to provide an annual report to the LESC and the LFC regarding all professional development activities, regardless of funding source; and to make any changes to the system of accounting and budgeting for all public schools and school districts necessary to fulfill this requirement.

Ms. Ramírez -Maestas noted that the committee had endorsed a bill to require annual professional development reporting in the 2008 session; however, the bill was ruled not germane.

4. ***Professional Development Dossier:*** Introduce legislation to define the professional development dossier (PDD) as a requirement for advancement to Level 2 and to Level 3 in the three-tiered teacher licensure system and to require PED to exercise more oversight of the PDD process, including such components as the selection and training of PDD reviewers.

Dr. David Harrell, LESC staff, reminded the committee that this proposed bill was based on recommendations of the joint study by the LESC, LFC, and Office of Education Accountability (OEA) of the three-tiered teacher licensure system during the 2007 interim.

5. ***Educator Licensure Fund:*** Amend statute to clarify that money in the Educator Licensure Fund is subject to the annual legislative appropriation process and that the money in the fund may be used to cover costs of licensing educators, including costs associated with evaluating

and processing licensing applications and PDDs, conducting background checks, and enforcing educator ethics requirements.

According to Ms. Ramírez-Maestas, this item, like the previous one, is based on the recommendations of the joint LESC/LFC/OEA study of the three-tiered licensure system conducted during the 2007 interim. A similar bill was ruled not germane in the 2008 session.

6. **Reciprocity for School Counselors:** Amend the *School Personnel Act* to provide conditions for reciprocity for school counselors and other instructional support providers licensed in other states.
7. **Remove ERA Return to Employment Sunset Date:** Amend the *Educational Retirement Act* to eliminate the 2012 sunset date in the current “return to employment” provision.

8. **Beginning Teacher Mentorship and Internship License:**

This item was deferred to the list of items to be considered in January (see Item 22, below).

9. **Implement Mentorship Model:** Write a letter to PED requesting that the department:
 - a. implement Phase I of the mentorship model for beginning high school teachers, including use of free, existing online resources such as IDEAL-NM and Teach New Mexico; begin conversations about how to implement regional support; and work with teacher preparation programs to prepare annual reports;
 - b. develop an implementation plan for Phase II including expanding online resources through IDEAL-NM; expanding regional support for new high school teachers; developing a three-year induction program for all new teachers; and expanding annual reporting; and
 - c. report the results of the implementation of Phase I and the development of the plan for Phase II to the LESC during the 2009 interim.

10. **Educational Assistants Minimum Hourly Wage:** Amend the *School Personnel Act* to provide for a minimum annual salary of \$13,000 for educational assistants, and appropriate funds from the General Fund for FY 10 to distribute to school districts and charter schools through the state equalization guarantee to pay the cost of implementation.

The Chair noted that a cost estimate on this item would be provided in January, pending receipt of data from PED.

11. **Educational Assistants Minimum Wage Levels:** Amend the *School Personnel Act* to provide for minimum annual salaries based on licensure levels and qualifications for educational assistants in public schools; and make an appropriation from the General Fund for FY 10 to distribute to school districts and charter schools through the state equalization guarantee to pay the cost of implementation.

The Chair noted that a cost estimate on this item would also be provided in January, pending receipt of data from PED.

FAMILY AND YOUTH RESOURCE ACT (FYRA)

- 12. FYRA Program Eligibility:** Amend the *Family and Youth Resource Act* to include a provision to enable a school that met the poverty level eligibility criteria at the time of its application and program approval by PED to continue to receive funding so long as its poverty level does not drop below an average of 80 percent over any three-year period; and appropriate additional funds to expand the program.

Ms. Ramírez-Maestas indicated that this item was addressed in a bill endorsed by the LESC in the 2008 session, but ruled not germane. The Chair noted that a recommended appropriation for this item was contingent on revenue estimates and subject to change at the January LESC meeting.

LESC ENABLING LEGISLATION

- 13. Include Higher Education in LESC Authority:** Amend statute to include higher education in the committee's study of all education in New Mexico.

P-20 INITIATIVE

- 14. Postsecondary Reports to High Schools:** Introduce legislation to require New Mexico public postsecondary institutions to report annually to New Mexico public high schools on their students who enroll within three years of graduating or leaving the high school regarding freshman year outcomes, including remedial courses taken, total credits earned, grade point averages, and retention from first to second semester.

Ms. Ramírez-Maestas stated that this item was addressed in a measure endorsed by the LESC for the 2008 session, but it was ruled not germane. She noted that LESC staff would work with the Legislative Council Service to research whether this item should be included in Item 1 or filed as a separate measure and that staff would consult with the Chairman before the January meeting.

PRE-APPRENTICESHIP PROGRAMS

- 15. Running Start for Careers Program:** Introduce legislation to enact the *Running Start for Careers Act* to create a pilot project, directed by the Public Education Commission; to provide industry-led or -guided pre-apprenticeship opportunities to high school students; to exempt industry instructors from teacher licensure requirements but require criminal background checks; to create the non-reverting Running Start for Careers Fund; and make an appropriation to the fund for FY 09 and subsequent fiscal years for contracts for partial reimbursement of industry training costs.

Ms. Ramírez-Maestas noted that this item had also been endorsed for the 2009 session by the interim Economic and Rural Development Committee.

- 16. Pre-Apprenticeship Programs:** Introduce legislation to allow school districts to offer industry-led or -guided pre-apprenticeship programs as electives for qualified high school students; to provide for approval of the programs, providers, and industry instructors; and to exempt industry instructors from teacher licensure requirements but require criminal background checks.

Ms. Ramírez-Maestas noted that this item had also been endorsed for the 2009 session by the interim Economic and Rural Development Committee.

REGIONAL EDUCATION COOPERATIVES (REC)

17. **REC Services:** Amend the *Regional Cooperative Education Act* to:

- a. authorize a cooperative, on behalf of its members and in cooperation with PED, to apply for, accept, and expend state, federal, local, and private funds that are available for programs of educational benefit;
- b. allow a cooperative to provide and to be reimbursed for revenue-generating education-related services to non-members, so long as services provided do not detract from the ability of the cooperative to fulfill its responsibilities to its members; and
- c. require each cooperative to: (1) submit to PED, on a schedule to be determined by the department, a report and evaluation of the technical assistance and other services provided by the cooperative; and (2) make these reports available upon request to the LESC and the LFC.

SPECIAL EDUCATION

18. **Residential Treatment Centers:** Amend statute relating to the placement of a student in a residential treatment center (RTC) to:

- a. clarify the state's responsibility to provide a free and appropriate public education (FAPE) to any student, including an out-of-state student, who has been placed in a private RTC; and
- b. require PED to determine which New Mexico school district is responsible for providing FAPE to a student who has been placed in an RTC located outside the student's home district; and to provide a reasonable reimbursement to the receiving district.

Ms. Ramírez-Maestas stated that this item had been endorsed by the committee for the 2008 session but ruled not germane. She also indicated that the provisions contained in this proposed item were also included in the proposed new public school funding formula.

LANGUAGE IN THE GENERAL APPROPRIATION ACT

19. **21st Century Community Learning Centers:** Include language in the *General Appropriation Act* to require that a specified amount of the dollars from the FY 10 appropriation for the after-school enrichment program be allocated to the 21st Century Community Learning Centers statewide that in school year 2008-2009 are in their final year of eligibility for federal funding.

The Chair noted that this item would be contingent on revenue estimates and subject to change at the January LESC meeting.

20. **Summer Science Program:** Appropriate funds to New Mexico Tech for the high school Summer Science Program to provide full scholarships for New Mexico students in FY 09.

On a motion by Representative Gonzales, seconded by Representative Stewart, with a quorum being present, the committee unanimously agreed to endorse Items 1 through 7 and 9 through

20, with the understanding that any appropriations for those items would be brought before the committee in January for endorsement.

PENDING JANUARY MEETING

Ms. Ramírez-Maestas next directed the committee's attention to a list of items for the members to review so that drafts might be prepared for the committee's consideration for endorsement at the January LESC meeting.

EDUCATOR QUALITY

21. ***Assessment of Teacher Candidates Who Are Deaf:*** Amend the *School Personnel Act* to provide for an appropriate alternative to passage of all, or part, of the New Mexico Teacher Assessments for teacher candidates who are deaf or hard of hearing.
22. ***Beginning Teacher Mentorship and Internship:*** Write a letter to PED and OEA requesting that they study: (1) the requirements and provisions of the PED regulatory internship license in terms of their compliance with state and federal laws and regulations; (2) the number and levels of teachers receiving mentoring services and the sources of funding for those services in school districts and charter schools; and (3) the number and level of teachers providing formal mentoring services in school districts and charter schools; and report their findings and recommendations to the LESC during the 2009 interim.
23. ***Beginning Teacher Mentorship Funds Distribution:*** Amend the *School Personnel Act* to require PED, on or before August 15 of each fiscal year, to allocate to school districts no less than 50 percent of the available funds for mentorship programs based on the estimated number of beginning Level 1 teachers on the 40th day of the school year and, on or before January 15 of each fiscal year, to allocate the balance of the available funds based on the actual number of teachers on the 40th day of the school year, adjusted for any over- or under-estimation made in the first allocation.
24. ***School Principal Recruitment and Mentoring Work Group:*** Per the recommendations of the School Principal Recruitment and Mentoring Work Group (SJM 3):
 - a. appropriate funds to HED to develop and implement the New Mexico Leadership Institute;
 - b. amend statute to include academic and demographic data about candidates for administrative licensure in the Teacher Education Accountability Reporting System (TEARS); and
 - c. amend the *School Personnel Act* to delete the requirement that, to hold a Level 3-B license, an applicant must have been a Level 3-A teacher for at least one year.
25. ***School Staff Shortages:*** Write a letter to PED and OEA requesting that a work group be convened to consider the recommendations of the School Staff Shortage Work Group (HJM 3), including:
 - a. the alignment between the content and performance standards for school counselors and nurses in New Mexico with those of the national association;
 - b. career pathway requirements;
 - c. oversight responsibilities;

- d. a systematic plan to reduce student-to-counselor and student-to-nurse ratios;
- e. working conditions; and
- f. request that the work group report any findings and recommendations to the LESC in the 2009 interim.

PUBLIC SCHOOL FUNDING FORMULA

26. ***New Public School Funding Formula:*** Amend statute to phase in a new public school funding formula that:
- a. incorporates four measures of student need, namely poverty, English language learners, special education, and mobility;
 - b. recognizes costs associated with school district size and school size;
 - c. is based on the concept of educational sufficiency in that it enables schools and school districts to provide a comprehensive instructional program designed to meet the needs of all students; and
 - d. is conditional on the identification of appropriate revenue sources.
27. ***Increase Gross Receipts Tax to Fund Public Schools:*** Amend the *Gross Receipts and Compensating Tax Act* to increase the statewide gross receipts tax by 1.0 percent, from 5.0 percent to 6.0 percent, and dedicate the revenue derived from the increase to fund the proposed public school funding formula.

SCHOOL TRANSPORTATION

28. ***School Transportation Task Force:*** Create a school transportation task force to examine provisions in current state and federal laws and regulations governing public school transportation in New Mexico, including the transportation funding formula; the personnel costs to school districts and school bus contractors; the costs of fuel, equipment, and maintenance; and the administration of the public school transportation program.

The Chair noted that this item may require an appropriation.

OTHER ITEMS

29. Recommendations of the LESC Truancy Work Group;
30. Recommendations of the LESC Assessment and Accountability Work Group (SJM 43); and
31. Recommendations of the Public School Capital Outlay Oversight Task Force, to be presented to the committee in January by Ms. Paula Tackett, Director, Legislative Council Service.

<> SCHEDULED SUPERINTENDENTS AND COMMUNITY INPUT (continued)

Citizen Schools

Ms. Suzanne Goodwin, Executive Director, Citizen Schools New Mexico, provided a description of this nonprofit organization, which partners with local middle schools in Santa Fe and Albuquerque to expand learning time for low-income children by nearly three hours every day.

She said the program addresses high dropout rates and their economic consequences for both students and the community at large. Every semester, Citizen Schools engages 40 to 50 volunteers from throughout the community to share what they know and love with young people in real-world projects. Ms. Goodwin reported that data from their longitudinal study indicate that Citizen Schools' graduates increased their state exam proficiency over time, academically outperformed their peers in high school, and were 24 percent more likely than their peers to graduate.

Ms. Goodwin said that, by working in partnership with the state and Albuquerque and Santa Fe school districts, Citizen Schools is planning to pilot a 6-8 Plus Extended Learning Time Program. Building on the gains and momentum of the K-3 Plus program already in existence, the 6-8 Plus model, she said, would provide high-quality extended learning opportunities to sixth, seventh, and eighth graders in an entire school district.

New Mexico RoboRAVE International

Mr. Russ Fisher-Ives, President, Inquiry Facilitators, Inc., founder of New Mexico RoboRAVE International, said he has been conducting a free semi-annual statewide robotics competition for middle and high school-aged children, a unique educational experience for participants. He said that, since starting in the fall of 2001 with 11 teams, the program has grown to over 100 teams from 20 different schools mainly in New Mexico, but also in Texas and Ciudad Juárez in Mexico.

This legislative session, Mr. Fisher-Ives said, New Mexico RoboRAVE International is seeking LESC endorsement for a request of financial support. He said an amount of \$184,240 would fund increases in the robotic kit loaner program; teacher/student workshops that introduce design and programming fundamentals; bus support to defer travel costs for participants; venue space; and workshop facilitators. A list of budgetary expenses was included in a handout.

University of New Mexico (UNM) Center for P-20 Math and Science

Dr. Richard Howell, Interim Dean, College of Education, UNM, introduced his colleague, Dr. Sherman Wilcox, Associate Dean, College of Arts and Sciences, UNM, who accompanied him. Dr. Howell said the Center for P-20 Math and Science is designed to create a statewide point-of-engagement that proposes a mixture of targeted and broad-based approaches to improving student achievement in mathematics and science throughout schools in New Mexico.

Dr. Howell estimated that in the first year (school year 2009-2010), the activities proposed will directly affect 40 pre-service teachers, 80 in-service teachers, and over 1,600 students in the public schools. He said that by the fifth year these numbers are expected to quadruple as projects expand across all participating entities. Dr. Howell requested \$500,000 to implement the math and science center, with \$105,000 in recurring funding for faculty and staff, and \$395,000 for other expenses.

University of New Mexico (UNM) Sevilleta Outreach Initiative

Mr. Don Hathy, Professor, Biology Department, UNM, reported on the Sevilleta Outreach Initiative at the Sevilleta Field Station. Mr. Hathy said the program is one of 26 National Science Foundation long-term ecological research (LTER) sites around the country and is designed as a platform for ecological research and education. Headquartered at the Sevilleta

Wildlife Refuge, the program is focused mainly on the study of global ecological change and its effects on New Mexico.

Mr. Hathy said the strategic five-year plan calls for a major expansion in science education to include college-level courses for public school teachers, programs for K-12 students, and workshops for adults. The program includes biology, geology, astronomy, computer science, and communications with a goal to provide students with experiences in the world outside the traditional classroom. Mr. Hathy said there are currently over \$15.0 million in active grants associated with work being done at the field station; however, without additional funding, the program will be unable to sustain operations, and UNM will be at risk of losing these awards. He said there is a need for \$200,000 in FY 09 and FY 10, with a proposed increase of \$100,000 per year in FY 11, FY 12, and FY 13.

University of New Mexico (UNM) Health Career Pathways

Dr. Valerie Romero-Leggott, Vice President for Diversity, UNM, introduced Mr. Joaquin Baca, Associate Director, Health Sciences Center. Dr. Romero-Leggott said the UNM Health Sciences Center and the School of Medicine continue their commitment to the state of New Mexico by recruiting, selecting, and retaining qualified disadvantaged and underrepresented students from around the state, especially in rural and poor communities, through the Pathways to Health Careers Program. She said many students face formidable challenges and barriers that prevent them from entering health and biomedical professions.

Conducted in four Albuquerque schools, Pathways introduces students to careers in medicine, pharmacy, dentistry, and other health careers, as well as encourages the families of students to be actively involved in supporting their students in achieving their goals. The purpose of the new funding, Dr. Romero-Leggott explained, is to increase the capacity of the UNM Pathways program to be implemented in rural communities and to reach students who are currently unable to participate. The FY 09 budget is \$31,700, and the proposed budget for additional funding requested for FY 10 is \$200,000.

UNM Bachelor of Arts/Doctor of Medicine Degree (BA/MD) Program

Dr. Romero-Leggott said the BA/MD Program is a partnership between the College of Arts and Sciences and the School of Medicine designed to help address the critical issue of physician shortages in New Mexico. She said that, with 30 of New Mexico's 33 counties federally designated as being medically underserved, this program is a long-term solution to adding more physicians around the state. She said the program will assemble a class of high school students who are broadly diverse and committed to practicing medicine in New Mexico communities with the greatest need.

Dr. Romero-Leggott said that the BA/MD Program is open to New Mexico high school seniors and that it will expand the current medical school class from 75 to 100 students in fall 2010. She said the FY 10 and recurring FY 09 funding of \$1,141,100 is essential for UNM to fulfill its commitment to the state of New Mexico in helping to address the severe shortage of physicians. In particular, she said, FY 10 funds are needed to maintain the comprehensive curriculum, student services, and scholarship support for the current class of 86 BA/MD students (classes of 2006, 2007, and 2008); recruit and admit the next class of 28 BA/MD students; and prepare for the class of 2006 phasing in to the medical school.

Healthy Kids, Healthy Economy

Ms. Pamela Roy, Director, New Mexico Food and Agricultural Policy Council, requested funding of \$3.3 million for the purchase of New Mexico-grown (when available) fresh fruits and vegetables for school meals. She said funding will help to ensure that the state's young people develop life-long nourishing eating habits that promote health and academic achievement, which will also help to strengthen New Mexico's farm and ranch economies, preserve our environment, and reduce the cost of treating diet-related diseases. Ms. Roy said that close to 221,000 lower income New Mexico children participate in the free or reduced-fee school meal program, which means that meals in school may be the most important meal of the day for these children; and Healthy Kids seeks to give them healthy food, fresh fruits, and vegetables.

Mr. Craig Maple, Marketing Specialist, New Mexico Department of Agriculture, said that this project, which began in Santa Fe Public Schools, has been in operation for several years. He described the participating districts and said the project is not only helping kids but also growing the economy in some rural areas.

New Mexico Advisory Council for Arts Education

Ms. Julia Bergen, Executive Director, Fine Arts for Children and Teens, and Co-chair, New Mexico Advisory Council for Arts Education, representing members of both organizations, informed the committee of their support of opportunities for all students (K-12) to be able to participate in visual and performing arts and requested increased funding for these programs. Ms. Bergen indicated that, if the intent of the *Fine Arts Education Act* (FAEA) is retained regarding sustained funding for elementary fine arts instruction, the organizations she represents will support and recommend the passage of that legislation with full funding. To ensure quality arts experiences for K-12 students, she said they strongly encourage the committee to consider holding school districts accountable for the delivery of K-12 fine arts instruction by providing highly qualified teachers and/or highly qualified teacher-supervisors of teaching artists, and providing for continued professional development in the arts for certified specialists, teaching artists, and classroom teachers. Ms. Bergen also alluded to a handout compiled by the New Mexico Alliance for Arts Education, which listed 10 reasons that New Mexico needs the arts.

New Mexico Association for the Gifted

Mr. Geoffrey Moon, Treasurer, New Mexico Association for the Gifted, and Coordinator for the Gifted at Gallup-McKinley County Public Schools, said that his vision of gifted education in New Mexico is simple – school districts should excel academically. Mr. Moon said that the new funding formula is an intelligent move toward progressive funding; however, he questions the provision of services to gifted students if the bill is passed in its present form.

Mr. Moon listed four things the committee can do to ensure a quality education for New Mexico's gifted students:

1. amend the proposed public school funding formula bill to require that gifted students have individual education plans and caseload maximums;
2. pass legislation requiring that teachers of gifted students be highly qualified;

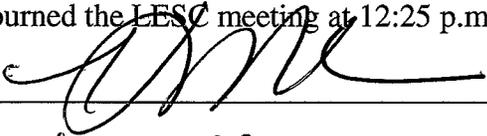
3. require state oversight of gifted identification and services to ensure that gifted students make adequate yearly progress; and
4. pass the proposed public school funding formula bill and provide progressive funding to help districts based on their need.

Local 4127 Union – Albuquerque Secretarial/Clerical Association

Ms. Yvonne Rodriguez, President, Local 4127 Union, Albuquerque Secretarial/Clerical Association, representing secretaries, clerks, and bookkeepers working at school districts throughout New Mexico, asked for the committee's support to pass legislation to help in their fight for a living wage. She referred to a study related to a bill in 2005 that indicated that secretaries, bookkeepers, and clerks were some of the lowest paid employees in the schools. The study also found, she said, that, while most employees in these categories are experienced and possess many skills necessary to perform their jobs, 40 percent are taking home less than \$10.99 an hour and earning less than \$20,000 a year. On behalf of the union, Ms. Rodriguez requested that the Legislature propose and fund a bill in 2009 for secretaries/clerks and bookkeepers so that they can work toward establishing a more uniform salary system. In addition, she said that her group also supports higher salaries for all classified personnel working for public schools in New Mexico.

<> ADJOURNMENT

There being no further business, and with the consensus of the committee, Representative Miera adjourned the LESC meeting at 12:25 p.m.



Chairperson

6-22-09

Date