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

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## MINUTES
## LESC MEETING
## DECEMBER 17-19, 2012

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:23 a.m., on Monday, December 17, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

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

The following voting members of the LESC were not present:

Senators Cynthia Nava, Vice Chair and Mary Jane M. García.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., Roberto "Bobby" J. Gonzales, Sheryl Williams Stapleton, and Bob Wooley; and Senators Stephen H. Fischmann, Linda M. Lopez, Howie C. Morales, John Pinto, and Sander Rue.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, Tim D. Lewis, and Shirley A. Tyler; and Senators Vernon D. Asbill and Mark Boitano.

Representative Thomas A. Garcia and Representative-elect Christine Trujillo were also in attendance.

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

## STATE REVENUE UPDATE

The Chair recognized Ms. Elisa Walker-Moran, Chief Economist, Legislative Finance Committee (LFC); and Ms. Leila Burrows, Chief Economist, Department of Finance and Administration, to discuss the December 2012 consensus revenue estimate.

Referring to a committee handout, *General Fund Consensus Revenue Estimate*, Ms. Walker-Moran reported that, "new money" in FY 14, which is defined as FY 14 projected revenue less FY 13 recurring appropriations, is projected to be $282 million, or 5.0 percent of FY 13 appropriations. She noted, however, that after setting aside approximately $36.0 million to reverse a 1.5 percent employee/employer retirement swap; $16.0 million for an Educational Retirement Board employer contribution increase of 0.75 percent, and replacing 50 percent of tobacco settlement funds with about $20.0 million in general funds, the FY 14 new money is approximately $210 million.

Ms. Burrows explained that the forecast assumes the federal government will not go off the so called "fiscal cliff" and that decision-makers in Washington D.C. will come to a compromise. She then indicated that the forecasting is outsourced by the Bureau of Business and Economic Research (BBER) at the University of New Mexico. The BBER forecast, according to Ms. Burrows, assumes a slight increase of 0.8 percent in job growth, yet predicts that the peak payroll of 820,000 statewide employees will not be achieved again until FY 16. Among other revenue forecast highlights, she reported that:

- wages and salaries, which drive the gross receipts tax, are projected to have 3.6 percent growth in FY 13 and 3.7 percent growth in FY 14;
- energy-related revenues have increased in recent years and the BBER may be under-forecasting these revenues;
- oil prices are expected to remain around $85 per barrel in FY 13, and each one dollar change in the price per barrel of oil, sustained over one year, adds or subtracts $4.5 million in revenues to the General Fund; and
- natural gas is forecasted at $4.50 per thousand cubic feet for FY 13, and a $.10 change in the price of natural gas, sustained over one year, adds or subtracts $8.5 million to the General Fund.

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

- the *Patient Protection and Affordable Care Act* will generate additional revenues with premiums being subject to state tax;
- energy markets are inherently volatile; and
- a deeper Euro zone recession and slower than expected economic growth in China threatens the world economy.

### Committee Discussion

A committee member commented that General Fund reserves stand at around 14 percent although many rating agencies are comfortable with 5.0 percent. The member then asked what the state intends to do with the funds above 5.0 percent, and in reply Ms. Walker-Moran said that, due to the volatility of oil and gas prices, it would be prudent to maintain reserves of 10 to 15 percent.

In response to a committee member who asked for the amount of money that represents 1.0 percent of reserves, the Chair recognized Mr. David Abbey, Director, LFC, who stated that 1.0 percent of reserves is approximately $58.0 million.

In response to a committee member's question regarding the status of the Education Lockbox, Mr. Abbey indicated that it consists of revenues that were earmarked for education reform purposes. He noted that, education reform appropriations are generally recurring, but there is also a need to use the lockbox to fund reforms that are nonrecurring.

## NATIONAL HEALTH INSURANCE IMPACT ON FY 14 INSURANCE APPROPRIATION REQUESTS

The Chair recognized Mr. Ian Kleats, LESC staff; Ms. Christy Edwards, Deputy Director-Benefits, New Mexico Public Schools Insurance Authority (NMPSIA); Ms. Carrie Robin Menapace, Legislative Liaison and Policy Analyst, Albuquerque Public Schools (APS); and Mr. Aaron Wells, Consultant to APS, Willis Group, for a discussion relating to the impact of the federal *Patient Protection and Affordable Care Act* (PPACA) on the FY 14 insurance appropriation requests of NMPSIA and APS.

Mr. Kleats explained that during the September 2012 LESC meeting the committee heard FY 14 insurance appropriation requests from both APS and NMPSIA. Because these requests were prepared prior to the outcome of the November 2012 national elections, he noted, they did not include certain costs associated with the implementation of the PPACA.

Mr. Kleats distinguished between the programmatic and non-programmatic ways in which insurance could be impacted. Programmatic impacts, he explained, are foreseeable costs that can be directly estimated. Non-programmatic impacts, on the other hand, will remain unforeseen until the PPACA is fully implemented. One example of a non-programmatic impact, he said, would be if the new limits on health savings accounts were to result in fewer members opting for high-deductible plans.

Mr. Kleats reminded the committee that the prior FY 14 insurance appropriation requests for APS and NMPSIA were approximately $8.8 million and $19.5 million, respectively, for a total request of approximately $28.3 million. In contrast, he noted that the Public Education Department (PED) budget recommendation presented to the Legislative Finance Committee proposed an increase of $17.6 million. Based on the PED proposal, Mr. Kleats indicated that APS would receive approximately $4.5 million and NMPSIA would receive approximately $13.1 million for increased insurance contributions.

Referring to Attachment 1 of his staff report, he showed the committee a timeline of selected provisions of the PPACA that could be relevant to the discussion, then introduced Ms. Menapace and Mr. Wells.

Noting that the APS request was approximately $8.8 million, Ms. Menapace explained that the number has been adjusted upwards to reflect additional costs associated with the PPACA. She added that APS is trying to ensure that its reserve balances for employee benefits remain stable, and if the PED request of $4.5 million prevails, APS may have to come to the Legislature with a $16.0 million request next year.

Mr. Wells began his presentation by providing the committee with some background on the complexity of the PPACA. When a key federal provision that mandated insurance programs to continue health insurance coverage to some employees after leaving employment – the *Consolidated Omnibus Budget Reconciliation Act of 1985* (COBRA) – became law in 1986, it was a six-page document. In contrast, he said, the PPACA contains over 2,700 pages, rivaling the federal tax code in length, and is expected to grow longer.

One of the key features of the PPACA, Mr. Wells continued, is the "play or pay" mandate for employers. Under this mandate, he said, certain employers must provide coverage to eligible employees, or be subjected to a fine. This fine, according to Mr. Wells, amounts to the lesser of $2,000 for all employees beyond the first 30, or $3,000 for each employee who obtains insurance through an exchange and is eligible for a tax credit. Moreover, the insurance offered by the employer has to meet a minimum value determination and has to be affordable. If it does not meet the adequacy and affordability thresholds, he said, the employer would be subject to the fines as well.

In an effort to quantify the number of employees who did not qualify for coverage in the past, but will qualify in 2014, Mr. Wells detailed the current rules by which APS can determine employee eligibility for mandatory insurance coverage. Those rules, he explained, state that employees must be covered if they work more than 30 hours per week in a given period. Mr. Wells noted that regular, full-time teachers generally work between 7 and 7.5 hours per day under a 185 day contract period. He said that, over a 12-month period, this would equate to approximately 27.5 hours per week. If the district wanted to, according to Mr. Wells, it could exclude teachers from coverage under the PPACA. He indicated that this safe harbor will likely be changed, but could not postulate how it would. Because APS does not provide insurance benefits for its substitute teachers, Mr. Wells suggested that, if the safe harbor is changed, APS could face additional costs to provide mandatory coverage for substitute teachers.

He also pointed out that Section 105(h) of the federal Internal Revenue Code allows APS to provide coverage only to regular full-time teachers, because substitute teachers do not have collective bargaining agreements.

Another source of additional costs from the PPACA, Mr. Wells stated, is the transitional reinsurance program. This program, implemented to assist previously uninsurable individuals in finding coverage, is funded through a transitional reinsurance fee assessed on all managed care plans on a per-member, per-month basis. He said the amount of this fee was not finalized at the time of the prior FY 14 insurance appropriation request, but is now estimated to cost APS approximately $1.1 million per plan year.

Mr. Wells noted that another cost to APS may come from the migration of spouses and dependents to the APS plan. The affordability and adequacy thresholds of the PPACA apply only to an employee's insurance coverage, not the employee's spouse or dependents. As such, he indicated, some employers might shift contributions away from those additional covered members in order to ease the cost of meeting the requirements for individual employees. This would increase the cost for an employee to cover his or her family members, which could result in increased migration of family members of APS employees to APS plans. That possibility, according to Mr. Wells, represents a significant risk factor for APS to consider.

Additionally, he indicated that projected growth in Medicaid and Medicare enrollment could increase costs for employer-provided health insurance. Medicaid and Medicare pay approximately 70 percent and 90 to 95 percent, respectively, of the cost of care while commercial plan sponsors are paying about 125 percent of Medicare rates. As the share of Medicaid beneficiaries increases, Mr. Wells suggested, the costs paid by commercial plans could rise to compensate, resulting in increased premium payments for employees and employers. At the same time, he said, the PPACA prevents denial of coverage for pre-existing conditions, which is difficult to quantify but will further increase premium costs.

Last, Mr. Wells summarized the anticipated changes for plan year 2014 that were not included in the initial appropriation request, including:

- the transitional reinsurance fee of approximately $1.1 million per year;
- approximately $1.4 million in additional employer contributions; and
- at least $2.5 million due to impacts from the PPACA, with the possibility of more unforeseen costs.

Ms. Edwards prefaced her discussion of the updated NMPSIA insurance appropriation request by emphasizing that Mr. Wells had covered in-depth many of the major costs that NMPSIA is facing as well. In addition to the costs presented by APS, Ms. Edwards explained that, beginning in 2013, there will be a 2.3 percent tax on durable metal equipment, including medical devices from defibrillators to wheel chairs.

Ms. Edwards noted that, NMPSIA's requirements are more liberal than the requirements of the PPACA with regard to benefits; part-time employees currently can qualify for coverage when working at least 20 hours per week compared to the 30 hour per week benchmark for PPACA. However, Ms. Edwards stated that NMPSIA excludes substitute teachers from benefits coverage. Although the broader coverage requirements under the PPACA could increase NMPSIA's costs, she said it could be viewed as beneficial because it may help districts recruit and retain substitute teachers. Moreover, the NMPSIA plan is considered an affordable and valuable plan under PPACA definitions.

Ms. Edwards also explained the bottom line increase to the NMPSIA FY 14 appropriation request and suggested a $3.0 million increase in addition to the $19.5 million requested in September based on a cost increase of approximately $4.5 million with approximately two-thirds paid by the employer.

**Committee Discussion**

A committee member asked whether districts declining to provide benefits could push those teachers to the insurance exchange. When Mr. Wells answered in the affirmative, the member noted that this could have other consequences.

A committee member asked whether part-time employees receive benefits and, speaking for NMPSIA, Ms. Edwards explained that anyone who works more than 30 hours can get benefits. For APS, Mr. Wells stated that, the determination of benefits eligibility will follow the safe harbor rules for all employees, part-time or full-time; if the employees work more than 30 hours per week in a particular period, they are eligible.

The Chair asked the APS presenters whether bus drivers would be covered by the provisions of the PPACA, specifically if their employer would have to provide benefits above the 30 hours per week threshold. Ms. Menapace answered yes, and stated that school bus drivers will have the same protections as any other worker under the PPACA; however, all APS school transportation is provided by private contractors. The Chair then asked Ms. Edwards whether NMPSIA took bus drivers into account in its projections, and she replied that all workers considered by the districts as school employees were taken into account.

A committee member asked whether NMPSIA has discussed cost savings based on the benefits in excess of requirements, and Ms. Edwards responded that it has not been on the board agenda because it is still relatively early in the implementation of the PPACA. The member commented that legislative funding for insurance benefits is limited and program decisions will need to be made to offset costs.

The Chair requested that APS put their revised insurance appropriation request in writing, and Ms. Menapace agreed to comply, but reminded the committee that, because the APS plan year is offset from the state's fiscal year, the APS request will reflect that funds are needed from the appropriation made in 2013 to cover the first six months of the 2014 plan year.

## ADEQUATE YEARLY PROGRESS (AYP) FOR SCHOOL YEAR 2011-2012

The Chair recognized Ms. Hanna Skandera, Secretary-designate of Public Education, who informed the committee that the Public Education Department has not finished the adequately yearly progress report because the department is still "working around [its] commitments to school grades, etc. and will continue to pursue that as [it goes] forward."

## FY 14 APPROPRIATION REQUESTS

The Chair recognized Ms. Hanna Skandera, Secretary-designate of Public Education, and Mr. Paul J. Aguilar, Deputy Secretary for Finance and Operations, Public Education Department (PED), to provide the committee with an overview of FY 14 appropriation requests for the PED budget and public school support.

Referring to her handout, Ms. Skandera reported that the PED appropriation request reflects an increase of over $140 million in additional funding for New Mexico public school students, including approximately:

- $6.9 million in funding for enrollment growth;
- $17.5 million for insurance costs;
- $3.8 million for fixed costs;
- $13.5 million for an early reading initiative;
- $11.5 million for K-3 Plus;
- $11.0 million for pre-kindergarten;
- $4.7 million for *New Mexico Graduates Now!*;
- $11.3 million for rewarding highly effective teachers and principals;
- $3.1 million for Rewards for High Performing Schools;

- $2.0 million for statewide formative assessments (K-3 math);
- $2.5 million for statewide formative assessments (grades 4-10);
- $1.0 million for teaching support in schools; and
- $1.5 million for virtual schooling (Innovative Digital Education and Learning-New Mexico, or IDEAL-NM).

Ms. Skandera emphasized the need to fund assessments and reduce the backlog of applications for reimbursement from 10 to four weeks. She also discussed the new PED audit schedule and noted that the achievement gap has narrowed in about 77 percent of classrooms.

Ms. Skandera went on to provide an overview of the department's request for one-time, nonrecurring dollars, including:

- $2.0 million to transition to the Common Core State Standards;
- $7.0 million for emergency supplemental support;
- $5.0 million to transition into a new teacher evaluation system;
- $8.4 million for the Partnership for Assessment of Readiness for College and Careers (PARCC) infrastructure; and
- $20.1 million for school-owned bus replacements.

Mr. Aguilar added that although current statute requires bus replacements to occur every 12 years, a "funding bubble" can be avoided by purchasing the new buses over a period of several years rather than spending the entire $20.1 million in one year.

Ms. Skandera also informed the committee on:

- PED's work to enact SB 446, *Charter School Contracts* (Laws 2011, Chapter 14);
- the forthcoming K-3 diagnostic assessment; and
- the successful early reading initiative to give every first grader a book.

With regard to the $1.3 million increase in the PED budget request, Mr. Aguilar said the department is requesting $750,000 to move the Operating Budget Management System and the Student Teacher Accountability Reporting System (also known as STARS) into the PED database. He also indicated that PED is looking to fill vacancies and increase staffing from 192 to 233 employees. The remainder of the request, according to Mr. Aguilar, reflects increased insurance costs and the employer share of the retirement contribution swap.

**Committee Discussion**

A committee member expressed concern that the insurance increase request was 7.9 percent and based on estimates from the Centers for Medicare & Medicaid Services used in the reports from the New Mexico Public Schools Insurance Authority and Albuquerque Public Schools regarding adjustments for the *Patient Protection and Affordable Care Act*. The committee member also emphasized that with regard to fixed costs her school district was informed by its electricity provider that power bills would increase 26 percent at the beginning of the next school year.

In response to a committee member's question regarding the department's request for the K-3 Plus program, Ms. Skandera stated that the expanded funding request for the program could provide for

after-school reading programs instead of extended school year programs. The committee member also noted that the success of the K-3 Plus program may not have been apparent if the program was funded "above the line" and distributed equally among the school districts according to size.

Another committee member commented on the new requirements and funding for PARCC assessment, and said that more flexibility in test scheduling would be helpful. The Chair recognized Ms. Leighann Lenti, PED staff, who said that PARCC recommends scheduling the tests over a couple of weeks. The member also expressed concern over cost estimates based on one-to-one student-to-computer ratios, and Ms. Lenti indicated that the PED request reflects a four-to-one ratio.

A committee member observed that *Indian Education Act* funding has remained the same from year to year and should be at $10.0 million by now. Ms. Skandera replied that PED has not seen significant increases in student achievement associated with this program, and the committee member noted that this may indicate the need to increase funding.

## FY 13 RECURRING AND NONRECURRING APPROPRIATIONS TO THE PUBLIC EDUCATION DEPARTMENT

The Chair recognized Ms. Sarah Amador-Guzman, LESC staff, to provide a report on the FY 13 recurring and nonrecurring appropriations to the Public Education Department (PED).

Ms. Amador-Guzman reported on three FY 13 recurring appropriations to PED:

- $11.0 million for the K-3 Plus Program;
- $8.5 million for the Early Reading Initiative; and
- $3.5 million for the Interventions of Low-performing Schools (D and F schools).

Additionally, she reported on the $1.0 million nonrecurring appropriation to PED for the Common Core State Standards (CCSS) transition.

According to Ms. Amador-Guzman, PED used the $11.0 million appropriation for the K-3 Plus Program in three ways.

- $7.8 million to provide programming to 7,100 students across New Mexico;
- $140,000 for administrative costs; and
- $300,000 for professional development contracts.

To date, Ms. Amador-Guzman stated, PED has used $8.2 million from this appropriation, leaving a balance of $2.8 million.

Ms. Amador-Guzman explained that, due to the differences between the start and end of the school year and the fiscal year, K-3 Plus is funded through two fiscal years. Because of this, Ms. Amador-Guzman explained, this may result in a balance of $1.3 million for the K-3 Plus Fund.

Furthermore, Ms. Amador-Guzman reported that the K-3 Plus Program is in statute and it provides an extension of the school year by at least 25 instructional days up to two months before the start of the regular school year for full-day kindergarten, grades 1, 2, and 3. The program, she said, is required to be in schools where at least 85 percent of the student population qualifies for free and reduced-price lunch (FRPL).

Ms. Amador-Guzman also discussed the details regarding the K-3 Plus Program application process and explained that PED staff provided a total of seven calendar days for school administrators and districts to complete and submit their applications to the department. Email applications were not accepted, and she noted that program funds could be used to support teacher and educational assistant salaries, supplies and materials, recruitment activities, and student transportation for the program.

Regarding the K-3 Plus Program, Ms. Amador-Guzman said that PED prioritizes time on literacy instruction, so kindergarten students receive at least 90 minutes of literacy instruction daily and grades 1 through 3 receive at least 120 minutes. Additionally, the department requires all students participating in the program to complete the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) Next reading assessment.

According to Ms. Amador-Guzman, PED also received $8.5 million for a recurring appropriation to go toward Governor Martinez's Early Reading Initiative. In FY 14, the department is requesting an increase to $13.5 million. She noted that this appropriation is divided between three expenditures:

- $3.0 million for a contract with Wireless Generation DIBELS Next to provide a K-3 common formative assessment and professional development;
- $1.0 million for professional development on reading instruction, use of data, and the alignment with CCSS; and
- $4.5 million for 14 regional- and 13 district-level reading coaches and interventions.

The 13 school districts that received funding had one month to complete the application, Ms. Amador-Guzman noted, and electronic applications were accepted, in contrast to the application process for the K-3 Plus Program.

She informed the committee that a $3.5 million appropriation to PED in FY 13 for Interventions for Low-performing Schools (D and F schools) was divided among three items:

- $150,000 for professional development of teachers, reading coaches, and administrators;
- a $300,000 Request for Proposals (RFP) for a contractor to provide a comprehensive review of D and F school budgets to identify efficiencies and cost savings; and
- $2.55 million to send school and district leaders to the University of Virginia School Turnaround Specialist Program (UVA-STSP).

Regarding the UVA-STSP program cost per school, according to Ms. Amador-Guzman, is $75,000, and to date a total of 10 schools have participated. The remaining balance of the $3.5 million appropriation is $2.3 million, and she reported that PED will be requesting an increase of this appropriation for FY 13 totaling $4.7 million.

She added that the UVA-STSP was developed in 2004 specifically for the state of Virginia, but began expanding outside of that state in 2006. Ms. Amador-Guzman said that the program specializes in school turnaround efforts and is managed as a partnership between the UVA Darden School of Business and the UVA Curry School of Education. The program also began a partnership with the Southwest Comprehensive Center (SWCC) at WestED, which is part of the US Department of Education's (USDE) federal network of 16 regional comprehensive centers offering technical assistance to low-performing schools and districts.

The SWCC at WestED, she said, serves the states of Arizona, Colorado, Nevada, Utah, and New Mexico; these states formed a consortium where each participates in UVA-STSP as a cohort. Additionally, Ms. Amador-Guzman stated that, WestED has committed to providing schools with a reimbursement for participant travel and lodging when necessary. A total of eight district personnel from three school districts participated, along with 30 school personnel from the 10 schools, and two PED staff members.

After speaking with staff from UVA-STSP and education staff from the states participating in the program along with New Mexico, Ms. Amador-Guzman reported, it was discovered that Arizona, Colorado, Nevada, and Utah all used Title I School Improvement Grants to fund their participation in the program.

Ms. Amador-Guzman then reported on the $1.0 million nonrecurring appropriation to PED for the Common Core transition. According to PED, $850,000 was allocated to provide statewide professional development on the CCSS. The remaining $150,000 would be used for administrative costs including staff travel, communication, and website and online updates, she said.

Ms. Amador-Guzman went on to provide the committee with information that had been disseminated at a recent meeting of legislative education staff convened by the National Conference of State Legislatures to inform staffers that the Race to the Top Grant of $170 million awarded to the Partnership for Assessment of Readiness for College and Careers (PARCC) to develop the common core assessments in mathematics and English would be ending in 2014. Additionally, she reported that the PARCC consortium would be dissolved, and that McKinsey & Company was working on a sustainability and operations plan for PARCC following the end of federal funding.

To date, Ms. Amador-Guzman reported, PARCC has created several assessments including a summative version that will replace the New Mexico Standards-based Assessment in 2015. The summative assessment will include both math and English and is estimated to cost $22.50 per student. This year approximately 193,000 students took the New Mexico Standards-based Assessment; if it were 2015, she indicated that PARCC would have cost the state about $4.3 million.

Ms. Amador-Guzman concluded her comments by making the committee aware of the procurement violations that the State Purchasing Division had filed against PED, including a violation with WestED for failing to issue a contract. She added that a total of six violation notices were issued to the department within the last year.

**Committee Discussion**

A committee member commented that Los Alamos Public Schools had received additional funding while other districts with higher needs had not.

In regard to the K-3 Plus Program, a committee member commented on the possibility of changing the qualifications for schools and increasing the eligibility by allowing schools with a minimum of 80 percent FRPL to participate in the program instead of 85 percent.

A committee member expressed concern that schools were not receiving enough funds to fully implement the K-3 Plus Program and suggested making the program mandatory and specifically opening it up to D and F schools.

Another member commented that making the program mandatory may be unconstitutional and cautioned the committee about designating the program specifically to D or F schools because those grades are volatile.

In response to a committee member's question regarding the UVA program, Ms. Amador-Guzman stated that no similar program exists in New Mexico. She added that, despite the $75,000 fee per school, there is no guarantee that the school will have an effective turnaround. Ms. Frances Ramírez-Maestas, LESC Director, then suggested that staff from the New Mexico School Leadership Institute should be sent in order to develop expertise in the area and provide statewide training.

Regarding the UVA program, another committee member asked why only Grants-Cibola County Schools and Las Cruces Public Schools were participating districts, and Ms. Amador-Guzman replied that the schools and districts must go through an intensive review process to determine if they have the capacity for turnaround.

A committee member asked whether the UVA-STSP was a sole source program for PED to help low-performing schools, and expressed concerns about the lack of participation from districts with high Native American student populations. Additionally, the committee member commented that the University of New Mexico and New Mexico State University were not given an opportunity to provide this service.

Another committee member suggested that research should be collected to see if student performance is improving as a result of the program at UVA, and commented that there is no guarantee that the professionals being sent to the UVA program will remain in New Mexico.

When a committee member inquired about the status of the contract between PED and UVA, she requested that PED provide documentation on the type of contract to determine whether it was a memorandum of understanding or an intergovernmental agency contract, either of which allow the department to bypass the RFP process. Ms. Amador-Guzman responded by stating that LESC and Legislative Finance Committee staff asked PED about this contract and neither received any details.

The Chair closed the discussion by stating that these appropriations would be further discussed by the House Education Committee.

## 2014 EDUCATION PARTNERS LEGISLATIVE PACKAGE

The Chair recognized Dr. Gloria O. Rendón, Executive Director, New Mexico Coalition of School Administrators (NMCSA); Mr. Joe Guillen, Executive Director, New Mexico School Boards Association (NMSBA); Mr. Charles Bowyer, Executive Director, National Education Association-New Mexico (NEA-NM); Ms. Sharon Morgan, President, NEA-NM; Ms. Stephanie Ly, President, American Federation of Teachers New Mexico (AFT-NM); and Ms. Ellen Bernstein, President, Albuquerque Teachers Federation, to present the 2014 Education Partners Legislative Package, followed by comments on behalf of their individual organizations.

Mr. Guillen informed the committee that New Mexico Education Partners (NMEP) is a member organization that meets regularly and supports accountability through a fair and valid system. He then presented the NMEP's seven priorities for the 2013 regular legislative session:

1. Sufficient funding for New Mexico's public schools:

    - return funding to the 2008 legislative appropriation of $2.432 billion, which would require an additional $142 million;
    - provide cost-of-living raises for all public school employees;
    - endorse a resolution to let the public decide whether or not to restore the 5.8 percent distribution from the Land Grant Permanent Fund; and
    - return to the statutory limit for class sizes and provide appropriate funding to do so.

2. Support a memorial directing the LESC to conduct a review and analysis of the state public education governance system to determine effectiveness, results, and stakeholder satisfaction.

3. Full partnership in education initiatives and reforms:

    - NMEP asserts that major reform initiatives should be through the legislative process and not mandated via rulemaking;
    - reform the A-F School Grading System;
    - have the Legislature examine recent changes to high school graduation requirements; and
    - oppose any reading initiative that has student retention and forfeiture of parental rights in current law as a primary emphasis.

4. Appropriate professional development and funding for transition to the Common Core State Standards (CCSS) and avoid creating high-stakes reform based on the current New Mexico Standards-based Assessment.

5. Appropriate funding for all education professionals to utilize the diagnostic features incorporated into the Partnership for Assessment of Readiness for College and Careers (PARCC) testing process.

6. Educational retirement:

    - support the consensus plan put forward by the Educational Retirement Board;
    - support (with reservations) an increased contribution rate of 10.7 percent for education employees earning over $20,000; and
    - oppose any changes in the benefits of current educational retirees or any changes in promised benefits or retirement eligibility rules for current employees.

7. Support a system with ample elasticity to provide adequate funding for public education, even during economic downturns.

The following NMEP members addressed the LESC on behalf of their own organizations:

- Mr. Charles Bowyer and Ms. Sharon Morgan, NEA-NM:

    - stressed that the NEA-NM is opposed to any erosion of education funding;
    - cited a funding decrease of 8.0 percent since 2008 resulting in the loss of approximately 2,000 education jobs;
    - called on the Legislature to create an education board that emphasizes the professionalism of teaching;
    - stated opposition to merit pay, but willingness to discuss how teachers transition through the three-tiered licensure system; and
    - emphasized the need for support, time, and resources to implement the CCSS.

- Dr. Gloria O. Rendón, NMCSA:

    - distributed two brochures to the LESC on behalf of NMCSA and the New Mexico State Superintendents Association;
    - expressed concerns regarding the A-F School Grading System;
    - stated that her organizations favor “intervention,” not “retention”; and
    - explained that retention is an option to be considered early on, and with parental involvement.

- Ms. Stephanie Ly, AFT-NM, distributed a handout and discussed five priorities:

    - restore funding by increasing education revenues;
    - increase the solvency of the Educational Retirement Board;
    - increase educator compensation by 5.0 percent;
    - adopt measures to increase appropriate learning interventions starting in kindergarten while integrating parental decisions at every stage; and
    - pass a fair and equitable teacher evaluation system that is focused on improving classroom instruction and opportunities, not test scores.

- Mr. Joe Guillen, NMSBA:

    - expressed concern regarding the delay of the Diploma of Excellence;
    - called for school boards to establish their own police departments; and
    - discussed the:

- need for a moratorium on new charter schools and virtual charter schools;
- ability of school boards to look at the budgets of their locally chartered charter schools; and
- separation of charter school financial statements from school district financial statements.

**Committee Discussion**

Referring to the Public Education Department (PED) budget, a committee member discussed the rewards for teachers and principals, and asked how the rewards were related to the New Mexico Standards-based Assessment. Mr. Bowyer replied that, 50 percent of teacher and principal evaluation is based on student achievement, with 30 percent based on the New Mexico Standards-based Assessment, if available. For teachers in untested subjects, Mr. Bowyer stated that, the NEA-NM supports performance pay through the three-tiered licensure system.

A committee member observed that the $142 million request for additional funding is more than half of the new money for FY 14, and commented that the Legislature has other priorities, including Medicaid. However, the committee member agreed that funding is needed for professional development of teachers, and she also informed the committee that, according to the committee member's own research on the topic, she finds that a teacher evaluation should never be based on more than 35 percent student achievement.

In response to a committee member who questioned NMSBA's opposition to an increase in employee retirement contributions, Mr. Guillen explained that Santa Fe Public Schools won the vote for a resolution calling for no increases to employee contributions without stakeholder approval.

A committee member stated her opposition to class size waivers and questioned the logic of taking actions that hurt academic achievement while tightening resources at the same time. Another committee member commented on class size waivers and the difficulties facing her school district because new teachers cannot find housing.

## BRANCH COLLEGE TAXING DISTRICT

The Chairman recognized Mr. Ty Trujillo, Executive Director, New Mexico Association of Community Colleges; and Dr. Clayton C. Alred, President, Eastern New Mexico University-Ruidoso, to discuss a potential legislative initiative regarding the expansion of branch college taxing districts.

Mr. Trujillo explained that during the 2012 legislative session House Bill 132, *Community College Election Procedures*, was introduced. The bill, which did not pass, would have amended the *Branch Community College Act* to allow the expansion of branch community college districts through voter approval and include school districts in or adjacent to any county containing a branch community college. Mr. Trujillo then indicated that a similar bill would be carried in the upcoming legislative session and introduced Dr. Alred, who referred the committee to a presentation regarding the need for this legislation.

Dr. Alred testified that a branch community college's "geographic area of responsibility" is not the same as its college district, resulting in students who reside outside the district who:

- pay higher tuition rates; and
- lack representation on their community college's advisory board.

This proposal, Dr. Alred explained, provides the same mechanism used by other two-year institutions to allow a school board or electorate in a public school district to call for an election to expand a community college district. By exercising such an option, branch community colleges could provide educational services to more school districts and receive revenues to do so, he said.

**Committee Discussion**

The Chair asked why the bill was not enacted, and Mr. Trujillo replied that several significant issues with the bill were identified during debate. Although attempts were made to address these concerns through floor amendments, he noted that the bill could not generate enough support in the end. However, Mr. Trujillo emphasized that these concerns will be rectified in the future version of the bill.

A committee member asked whether the proposal would increase property taxes, and Dr. Alred answered that the legislation itself would not increase property tax levies. However, if voters were to approve the expansion of a branch community college district, he said, the local mill levy would adjust to reflect what was previously decided within that district. Although this could increase the tax rate, Dr. Alred noted, any increase would be decided by referendum, not legislative action.

## THE NEW MEXICO EDGE
## (EDUCATION DESIGNED TO GENERATE EXCELLENCE IN THE PUBLIC SECTOR)

The Chair recognized Mr. Mark Murphy, LESC staff; Ms. Mary C. DeLorenzo, Program Director, New Mexico Education Designed to Generate Excellence in the Public Sector (NM EDGE); Mr. Paul Gutierrez, Executive Director of the New Mexico Association of Counties (NMAC); and Dr. Jon C. Boren, Associate Dean and Director of New Mexico State University's (NMSU) Cooperative Extension Service (CES), for a presentation on the NM EDGE program.

Mr. Murphy began by providing an overview of the NM EDGE program. Specifically, he stated that, the NM EDGE program provides continuing education opportunities in management behaviors and strategies for individuals working in leadership roles in the public sector. NM EDGE programs are New Mexico-focused and open to public sector administrators, managers, elected officials, or staff in local, tribal, state, or national government, Mr. Murphy said. Through NM EDGE courses, he continued, students can obtain a:

- New Mexico Certified Public Official, New Mexico Certified Public Supervisor, or New Mexico Certified Public Manager certification;
- position specific certification, such as becoming a New Mexico Certified Treasury Official or New Mexico Certified County Clerk; and/or
- certification in public ethics.

Referring the committee to his staff report, Mr. Murphy stated that there was additional background information about NM EDGE and a brief focus on the program's nationally recognized accreditation within the report. He also explained that attachments 1 and 2 were 2012 course catalogs for certification programs offered within the NM EDGE program.

Mr. Murphy then introduced Dr. Boren, Ms. DeLorenzo, and Mr. Gutierrez to provide more details regarding the NM EDGE program.

Dr. Boren began by providing information about the relationship between the NM EDGE program and NMSU's CES. He stated that the CES is designed to identify education gaps and provide specialized training. Dr. Boren continued that the intent of the NM EDGE program is to encourage better government through education.

Ms. DeLorenzo then provided general information about the NM EDGE programs, in particular the New Mexico Certified Public Manager program. Referring to a power point presentation, she stated that she had been honored to see the NM EDGE program evolve into a nationally recognized program. Ms. DeLorenzo highlighted that the NM EDGE is highly collaborative with partner organizations such as the NMAC.

To conclude the presentations, Mr. Gutierrez detailed the value of the NM EDGE courses by providing anecdotes about the dedication NM EDGE students have to their coursework. He stated that NM EDGE programs initially began with a partnership with the NMAC and were only open to county officials, but that since then NM EDGE has expanded to be open to all leaders in the public sector. Mr. Gutierrez also thanked several legislators who had served on a panel at a recent NMAC event and referred members to the County Commissioner Handbook provided to committee members.

There being no further business for the day, the Chair with the consensus of the committee recessed the LESC meeting at 4:43 p.m.

**MINUTES**
**LESC MEETING**
**DECEMBER 18, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:25 a.m., on Tuesday, December 18, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Mary Helen Garcia, Jimmie C. Hall, and Dennis J. Roch; and Senators Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy.

The following voting members of the LESC were not present:

Representatives Nora Espinoza and Mimi Stewart; and Senator Cynthia Nava, Vice Chair.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., Roberto "Bobby" J. Gonzales, and Sheryl Williams Stapleton; and Senators Stephen H. Fischmann, Linda M. Lopez, John Pinto, and Sander Rue.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, and Howie C. Morales.

Representative Bill B. O'Neill and Senator Carlos R. Cisneros were also in attendance.

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

The Chair recognized Ms. LaNysha Adams, LESC staff; and Ms. Lillian Montoya-Rael, Program Director, New Mexico Early Childhood Development Partnership (NMECDP), for an update on the implementation of the *Early Childhood Care and Education Act* (ECCEA).

Ms. Adams explained that during almost every interim from the early 1990s to the current interim, the LESC has heard testimony about the value of early childhood care and education. She noted that in addition to the federal Head Start programs, there are three state agencies that provide early childhood care and education programs, including:

- the Children, Youth and Families Department (CYFD), which provides child-care assistance, home visiting, and pre-K;
- the Public Education Department (PED), which provides pre-K, early childhood special education, and K-3 Plus; and
- the Department of Health (DOH), which administers the Family Infant Toddler program, and a number of other programs designed to promote the wellness of young children ages

birth to eight years old by addressing the physical, emotional, social, and behavioral aspects of their development.

Additionally, Ms. Adams discussed the provisions in the ECCEA that created the state Early Learning Advisory Council (ELAC), which is attached to CYFD.

Ms. Adams then provided a summary of the ECCEA provisions, which:

- designates ELAC as the required federal Head Start program council;[1]
- creates the Early Childhood Care and Education Fund, a non-reverting fund administered by CYFD for carrying out the provisions of the act;
- allows ELAC to apply for grants and funds from any source and to contract with any federal or state agency or private organization to further the purposes of the act;
- requires ELAC to make recommendations to CYFD and the Legislature on the most efficient and effective way to leverage state and federal early childhood program funds, including grant applications by CYFD;
- requires ELAC to terminate on July 1, 2017 pursuant to the provisions of the *Sunset Act*; and
- requires ELAC to make recommendations to CYFD and the Legislature on the coordination and alignment of an early childhood care and education system.

Ms. Adams indicated that during the 2011 interim the LESC heard a report from several members of ELAC on their collaborative efforts to obtain federal funding by applying for a $50.0 million Race to the Top-Early Learning Challenge (RTT-ELC) grant. She noted that, included in the testimony was a history of legislative interest in early childhood that preceded the enactment of ECCEA and targeted efforts by New Mexico First, New Mexico Business Roundtable, and NMECDP.

Ms. Adams stated that while New Mexico received the 10th highest score on the RTT-ELC grant application the state was not awarded funds for FY 11. She then said that the US Department of Education (USDE) published a notice inviting applications from five high-scoring states for Phase 2 of the RTT program, and on December 6, 2012, the USDE announced that New Mexico was one of five states to receive a RTT-ELC grant in the amount of $25.0 million to be paid out over four years.

Referring the committee to an attachment in her staff report, Ms. Adams explained that, in the budget narrative of the RTT-ELC grant application, the state requested $25.0 million to support the three state agencies that provide early childhood care and education programs:

- $3.4 million to PED for managing the overall statewide budget for its share of the Data Project, Kindergarten Entry Assessment Project, and Tiered Quality Rating and Improvement System (TQRIS) Project;

[1] ELAC is mandated through the federal *Improving Head Start for School Readiness Act of 2007*. According to a 2011 Legislative Finance Committee Fiscal Impact Report on ECCEA, the council was funded through the *American Recovery and Reinvestment Act* and ELAC may require funds from the Head Start collaboration grant to carry out its activities.

- $20.2 million to CYFD for managing the overall statewide budget for its share of the TQRIS Project, Data Project, Investment Zones Project, Evaluation Project, Professional Development Project, and Grantee Technical Assistance Project; and
- $1.4 million to DOH for managing the overall statewide budget for a portion of the Data Systems Project.

Ms. Adams then introduced Ms. Montoya-Rael, who began by explaining her two primary roles as the Program Director of NMECDP, which is a W. K. Kellogg Foundation-funded initiative; and as Executive Director of the Independent Community Colleges. She stated that the primary intent of NMECDP's efforts to pass the ECCEA was to bring CYFD, PED, DOH, and the business community together to provide a continuum of services for children and families. Referring to a report from NMECDP, Ms. Montoya-Rael explained that it focuses on seven recommendations to the Legislature:

1. invest in home-visiting programs that are universal, voluntary, and standards- and evidence-based;
2. develop child-care systems that should be for all children ages zero to five from homes with income 200 percent below federal poverty guidelines;
3. provide universal, half-day pre-K with the long-term objective of universal full-day pre-K for all children in New Mexico;
4. create heightened professional standards for teachers in state-funded early childhood programs;
5. improve access to higher education for early childhood professionals through the expansion of the Teacher Education Assistance for College and Higher Education (TEACH) scholarship program;
6. generate unique identifier numbers and a data system that supports following children through all of the early childhood programs; and
7. develop a five-year investment plan for scaling the investment in all of these programs for a total of approximately $15.9 million for the first year, including:

    - $4.2 million for home visiting;
    - $8.1 million for child-care;
    - $2.5 million for pre-K;
    - $400,000 for TEACH scholarships; and
    - $600,000 for Training and Technical Assistance Programs (TTAPS).

Ms. Montoya-Rael indicated that the number of children accessing Medicaid was used as a proxy for the expected number of new births and noted that this was a major assumption that NMECDP factored into the cost analysis she presented.

For home visiting, Ms. Montoya-Rael noted the following recommendations from NMECDP:

- ensure universal, voluntary home visiting to all mothers, with a priority on at-risk populations;
- limit funding to programs that are standards- and evidence-based;
- ensure a General Fund commitment to CYFD home visiting;
- provide funding for services to ensure quality, improve capacity, and strengthen professional development; and

- align investments with a *Home Visiting Accountability Act*, which will ensure that quality in services is consistent across locations.

Referring the committee to her presentation, Ms. Montoya-Rael stated that it currently costs $3.2 million to provide home visiting for about 1,900 babies. She also indicated that the recommendation to serve 10,317 babies by 2018 would require service, professional development, and program evaluation costs. She stated that there are approximately eight home-visiting programs, with the typical home-visiting program providing 21 months of service.

For child-care, Ms. Montoya-Rael reviewed the following recommendations from NMECDP:

- make access available to all children five years of age and under;
- increase eligibility to families with incomes below 200 percent of the federal poverty line;
- improve child-care assistance subsidy slots by one star level in TQRIS to increase quality for all children; and
- ensure that additional children are served with child-care assistance subsidy slots.

Currently there are approximately 22,000 children receiving child-care assistance subsidies, she added.

For pre-K, Ms. Montoya-Rael discussed the NMECDP recommendation to increase pre-K funding by an additional $2.5 million, which would serve 900 more students in 2013.

For professional development, she reviewed the following recommendations from NMECDP:

- heighten professional standards and increase the educational attainment of the early childhood education workforce;
- increase funding for additional TEACH scholars to enhance the quality of learning at pre-K sites;
- increase the rigor, intensity, and number of TTAPS opportunities for early childhood education programs and workers; and
- increase the minimum 45-hour course requirement for TTAPS.

Ms. Montoya-Rael also emphasized the importance of professional development, noting that the TEACH early childhood scholarship program provides tuition assistance to early childhood education professionals who are pursuing higher education.

**Committee Discussion**

Responding to a committee member's request for clarification about her relationship to the ELAC, Ms. Montoya-Rael noted that she was a member of the council. The committee member also asked if the presentation was on behalf of the council, and Ms. Montoya-Rael stated that her presentation was on behalf of NMECDP.

A committee member noted that child-care is primarily private and asked how these private early childhood care providers would be held accountable for requiring higher quality programs. In reply, Ms. Montoya-Rael explained that while increasing the quality of child-care programs is voluntary, CYFD has encouraged providers by supplying them with an additional subsidy as they

undergo the TQRIS process in order to move from one level to the next. The committee member expressed concern about the costs associated with improving child-care centers, and noted that if the centers could not afford to complete the improvement process they should not be shut down.

In response to a committee member's question regarding when the funding requests from NMECDP would end and maintenance would begin, Ms. Montoya-Rael reported that the analysis was conducted for a maximum of five years.

In response to a committee member's question about targeting at-risk families and children, Ms. Montoya-Rael noted that the implementation strategy was focused on the populations with the highest risk. Ms. Montoya-Rael mentioned the work of Dr. Peter Winograd, Director, Center for Education Policy Research at the University of New Mexico (UNM), who conducts analyses of at-risk populations for CYFD and others throughout the state.

The Chair recognized Dr. Winograd, who noted that New Mexico has many needs and explained that challenges in identifying locations of the greatest needs require close analyses of data.

In response to the Chair's request for more information on Native American children's access to early childhood education programs, Dr. Winograd explained that there are still unanswered questions about where private and federal providers target service for this population in New Mexico.

In response to the Chair's question about a universal identification number, Dr. Winograd reminded the committee of the enactment of HB 70, the *Educational Data System* (2010).

Referring to the staff report attachment, the Chair commented that CYFD is receiving the majority of the funding for the RTT-ELC grant and asked how DOH related to the data system project. In reply, Dr. Winograd explained that the role of DOH is to be the "data warehouse" because all three agencies providing early childhood programs have their own individual data systems.

The Chair commented that one of the problems with early childhood education is that legislators do not have essential information about the number of children serviced in the various programs and cautioned that without these numbers, when it is time to build pre-K facilities, some areas will encounter a number of problems meeting basic requirements.

## DIRECTOR'S REPORT

### *a. Approval of Draft LESC Minutes for November 2012*

On a motion by Representative Garcia, seconded by Senator Lovejoy, the committee approved the LESC minutes for November 2012.

On a motion by Senator Kernan, seconded by Representative Garcia, the committee approved the formation of an LESC work group (rather than a task force) to address the Bureau of Indian Education issues noted on page 41 of the LESC minutes for November 2012.

### *b. Approval of LESC Financial Report for October 2012*

On a motion by Representative Roch, seconded by Representative Hall, the LESC approved the financial report for October 2012.

### *c. Informational Items*

Ms. Frances Ramírez-Maestas, Director, LESC, noted that, for the committee's review, an LESC staff brief is included in the meeting materials regarding administrative rulemaking.

### *d. Correspondence*

Ms. Ramírez-Maestas reviewed the items in this section of the committee notebooks, including:

- a letter, dated December 7, 2012, from the LESC Chair to the Secretary of the Department of Information Technology requesting information on how the department intends to address the connectivity needs of New Mexico public education, including postsecondary institutions, with particular regard to un-served and underserved areas; and
- a letter, dated November 21, 2012, from Mr. Winston Brooks, Superintendent, Albuquerque Public Schools (APS), to Mr. Andrew Garrison, Chair, Public Education Commission (PEC), to notify the PEC that credit from Southwest Secondary Learning Center, an APS charter school, is not approved by the National Collegiate Athletic Association for non-traditional course offerings.

### *e. News Releases*

Ms. Ramírez-Maestas reviewed the items in this section of the committee notebooks, noting that they are retained in the LESC permanent files:

- an article in the *Albuquerque Journal*, dated December 6, 2012, "*Teacher Colleges Not Good Enough*";
- an article in the *Huffington Post*, dated November 29, 2012, "*Online Charter Schools Spent Millions of Taxpayer Dollars on Advertising to Recruit New Students*"; and
- an article in the *Albuquerque Journal*, dated December 12, 2012, "*School Consortium Misses Cut for the Money*."

### *f. Written Reports*

Ms. Ramírez-Maestas reviewed the items in this section of the committee notebooks, including:

- Teacher and Administrator Preparation in New Mexico;
- *School Athletics Equity Act* Summary Report;
- Math and Science Advisory Council Annual Report; and
- National Assessment of Educational Progress (NAEP): Results from the 2009 and 2011 NAEP Vocabulary Assessments.

## TRUANCY IN NEW MEXICO

The Chair recognized Dr. Peter Winograd, Director, Center for Education Policy Research (CEPR), University of New Mexico (UNM); and Dr. Angelo J. Gonzales, Associate Director for Community Engagement, UNM CEPR, for a presentation on truancy in New Mexico.

Referring to a handout, Dr. Winograd began by defining habitual truancy as 10 or more unexcused absences within a school year, as specified in current state law [Section 22-12-9 NMSA 1978]. He further noted that the Public Education Department (PED) compiles reports on the rates of unexcused absences within a school year and the CEPR report relies heavily on that data.

Dr. Winograd then explained that there are many ways to respond to habitual truancy, but the state does not know what happens to habitually truant students. Legally, he said, a number of entities may take action in the enforcement of penalties for habitually truant students, including:

- the school of the truant student;
- PED;
- the Probation Services Office of the Children, Youth and Families Department (CYFD);
- the District Attorney; and
- law enforcement agencies.

In school year 2011-2012, Dr. Winograd stated, 51,034 of New Mexico's students were habitual truants, which is more than the combined population of New Mexico's 66 smallest school districts. He also reviewed the truancy rates broken down by district across the state and stressed that truancy is an issue at the elementary, middle, and secondary school levels.

Dr. Gonzales then explained how school boundaries can be used to portray truancy rates of individual schools within districts. He showed maps depicting truancy rates in Albuquerque and Las Cruces at the elementary, middle, and high school levels for school years 2010-2011 and 2011-2012 to demonstrate how truancy rates can vary widely by school. Dr. Winograd added that the data used for these maps was received from partnerships with Albuquerque Public Schools (APS) and Las Cruces Public Schools.

In regard to the academic and social costs of truancy, Dr. Winograd stated that chronic absences in kindergarten were correlated with lower fifth grade achievement for poor children. He noted that, statistically speaking, grade 9 attendance rates reasonably predict graduation rates for students of all economic backgrounds, and displayed the graduation rates by district for the class of 2011.

Dr. Winograd also reported inverse correlations between habitual truancy and grade 8 reading and math proficiency scores, and then stated that according to the *2009 Youth Risk and Resiliency* study, habitual truants in New Mexico were more likely to have:

- used cocaine;
- had sex; or
- considered or attempted to commit suicide.

Indicating that the educational attainment of a child's mother is the best predictor of the student's educational attainment, Dr. Winograd reviewed:

- the teen birth rate by county across New Mexico;
- the percentages of birth mothers without a high school diploma; and
- the percentages of middle and high school students who attempted suicide.

Alluding to the school shootings in Newtown, Connecticut, he suggested that schools need to have support personnel and behavioral health professionals in place to deal with suicide, cocaine use, and other risky behaviors. He added that the issues faced by New Mexico students in terms of mental health are formidable.

Dr. Winograd then discussed the school-to-prison pipeline and indicated that stops along the pipeline include:

- inadequate resources in public schools;
- zero-tolerance and other school discipline policies;
- increased reliance on police rather than educators to maintain discipline;
- disciplinary alternative schools; and
- court involvement leading to juvenile detention.

In addition, he referred to a 2007 study of the New Mexico school-to-prison pipeline indicating that the state mirrors a national trend of young people from minority communities being overrepresented in the juvenile justice and criminal justice systems. Dr. Winograd then emphasized that New Mexico has two options:

- criminalize more of its children's behaviors; or
- invest in the resources needed to ensure that children are more engaged and supported.

This led to a discussion on the economic costs of truancy, and Dr. Winograd referred to a Lumina Foundation estimate that by 2018 approximately 58 percent of US jobs will require a college degree. After stating that approximately 33 percent of working adults in New Mexico hold higher education degrees, he discussed the "disconnected youth" who are not in school or the labor force.

Dr. Gonzales then described the causes of truancy. He stated that truancy is a symptom of three general factors:

- *individual challenges*, such as low academic performance, low educational aspirations, boredom with school, drug use, or pregnancy;
- *relational challenges*, such as a lack of caring adults, bullying, or a lack of participation in school sports and activities; and
- *structural challenges*, such as weak truancy policies, institutional racism and discrimination, class size and school size, transportation issues, and family economics.

Dr. Winograd briefly reviewed several issues, including how to ensure that schools have the resources needed to reduce truancy, and said that it is unknown what happens to habitually truant students when they enter probation services, the district attorney's office, etc. The CEPR, he noted, is working closely with CYFD and the Student, Family and Community Support office at APS to learn more about these students. Referencing the work that both organizations do, Dr. Winograd introduced representatives from each organization and reiterated that the strongest

message CEPR hears nationally and across New Mexico is that truancy is a symptom of a wide variety of issues.

The Chair recognized Dr. Kristine Meurer, Executive Director, Student, Family, and Community Supports, APS, to present on the district's Truancy Intervention Program. She explained that 12 schools are going to begin piloting an intervention program which automatically enrolls students upon a fifth unexcused absence. Dr. Meurer noted that the project includes smaller and larger schools at the elementary, middle, and high school level, and strong partnerships have been developed with the APS police force and CEPR.

In addition, the Chair recognized Ms. Valerie Lopez, a CYFD juvenile parole supervisor in Bernalillo County, to provide her perspective on truancy issues. Ms. Lopez explained that CYFD receives referrals from schools every day, and the department has conversations with each school to determine whether the truancy record was caused by the child or the adult. Although child safety is the utmost concern, she said, it is difficult to demonstrate in court that truancy is the result of child neglect. Furthermore, Ms. Lopez explained that a court mechanism to allow truancy to be considered child neglect may be worth exploring, but noted that harsh penalties will not work; she suggested that more conversation is needed to address a number of complex issues.

**Committee Discussion**

A committee member noted that truancy is often a cycle in families, and asked whether a law should be created to tie the receipt of food stamps with attendance results. Dr. Winograd responded that there do appear to be families where truancy is consistently an issue, but how one deals with them depends on the circumstances. Ms. Lopez added that one does not want to put a family in an even worse situation.

A committee member observed that criminalizing truancy does not solve the issue and expressed hope that more thoughtful solutions could be implemented.

Describing truancy as a symptom of many issues, a committee member asked what other states are doing, and Dr. Meurer responded that, despite many models found among the states, a hard caseload approach is the best way to address truancy. She stated that this approach involves meeting with the parent(s), student, and staff to come up with meaningful solutions and a commitment to follow through. A soft approach involves automated phone calls or other methods that use less direct intervention, Dr. Meurer said.

A committee member asked Ms. Lopez whether the implementation of larger scale programs based on the APS pilot would yield results for the whole state, and Ms. Lopez replied that addressing truancy issues on the front end with adequate local support could bring measurable results. Dr. Meurer added that New Mexico must fund truancy prevention programs "above the line" instead of "below the line" so districts can have the flexibility to consistently fund these programs.

A committee member expressed concern over the high truancy rates in the northwest part of the state and stressed the need to make education more interesting for students starting in elementary school. The member also stated that an extensive case management system might require more training and funding and suggested that CYFD and the Department of Health should collaborate with the educational system.

Emphasizing the importance of vocational and arts programs for students, a committee member observed that the more punitive a system is, the harder it is to win over tough students.
Dr. Winograd noted that one clear message from the Connecticut shootings is how important it is for students to have positive relationships with adults at school.

A committee member asked whether truancy could be reduced if schools were more engaging places where students wanted to be, and Dr. Meurer replied that student engagement is crucial.

When asked about reducing class size and increasing one-on-one teacher and student interactions as a means for addressing truancy, Dr. Winograd agreed to this approach and reiterated that schools need positive relationships between adults and students.

Responding to questions regarding the literacy rates and labor force entry of students who drop out, Dr. Winograd stated that national findings indicate that those who drop out are often either struggling academically or bored with the material at school. He further indicated that CEPR intends to find more information relating to drop-out students and the labor force through its partnership with APS.

In response to a request for CEPR to return with policy recommendations, Dr. Winograd stated that CEPR could present to the LESC in the next interim.

## OTHER SCHEDULED PROGRAM INPUT

The Chair recognized the following individuals who previously contacted the LESC staff office to request to be included in the agenda for program input:

- Public Education Commissioner Jeff Carr, who discussed a proposal to draft a resolution granting more authority to the Public Education Commission (PEC);
- Dr. Eric Korevaar, President, Summer Science Program, Inc. (SSP), who recommended an appropriation of $50,000 to support the SSP, a 39-day residential enrichment program in which high school students, working in teams of three, complete a hands-on research project at the New Mexico Institute of Mining and Technology;
- Ms. Pam Roy, representing New Mexico-Grown Produce for School Meals, who recommended an appropriation of $1.45 million to support the distribution of locally grown produce for school meals in public schools statewide;
- Ms. Lois Vermilya Weslowski, Program Director, UNM Family Development Program, who suggested an appropriation of $65,000 to support the UNM Family Development Program, including professional development for early childhood educators and parents;
- Mr. Nate Morrison, Executive Director, Teach for America-New Mexico (TFA-NM), who requested consideration of appropriations currently supported by the Legislature relating to teaching support in schools with high populations of Native American and low-income students. He then briefed the committee on:

    - the TFA-NM partnership with the Native American Community Academy;
    - the new TFA-NM region in southern New Mexico; and
    - research relating to effectiveness of TFA; and

- Mr. Brian O'Connell, Executive Director, New Mexico Golden Apple Foundation, who referred to a handout requesting the Legislature to support an appropriation request of $140,000 to support the Golden Apple Scholars Program, an initiative that recruits students in New Mexico Colleges of Education and partners them with master-level teachers to provide them with hands-on classroom experience.

## SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized the following presenters from Albuquerque Interfaith:

- Ms. Lena Romero, a retired Albuquerque Public Schools (APS) teacher, stated that unplanned charter school growth is problematic for New Mexico and asked the LESC to consider legislation to place a limit on charter school funding to out-of-state contractors.

- Ms. Tina Garcia, a board member of Robert F. Kennedy Charter School and an APS graduate, emphasized the need to ensure that charter schools do not undermine the effectiveness of public schools.

- Ms. Sharon Frey Prewitt, a member of St. Andrews Presbyterian Church, discussed the value of public education and her experience working for a Head Start program in Appalachia. She also told the committee that she favors an additional distribution from the Land Grant Permanent Fund to get resources to students who need them now.

- Mr. Robert Baade, Director, Robert F. Kennedy Charter School, who commented that his school received an "F" school rating, but it is not an F school. Noting that the school works with the lowest quartile, Mr. Baade indicated that issues such as student health, nutrition, and truancy must be addressed by proper funding. He also stated that New Mexico schools are underfunded by $500 million and cannot afford to distribute funds to out-of-state entities.

There being no further business for the day, the Chair with the consensus of the committee recessed the LESC meeting at 4:32 p.m.

**MINUTES**
**LESC MEETING**
**DECEMBER 19, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:09 a.m., on Wednesday, December 19, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Jimmie C. Hall, and Mimi Stewart; and Senators Mary Jane M. García and Lynda M. Lovejoy.

The following voting members of the LESC were not present:

Representatives Nora Espinoza, Mary Helen Garcia, and Dennis J. Roch; and Senators Cynthia Nava, Vice Chair, and Gay G. Kernan.

The following advisory members of the LESC were present:

Representatives Ray Begaye, Roberto "Bobby" J. Gonzales, and Sheryl Williams Stapleton; and Senators Stephen H. Fischmann, John Pinto, and Sander Rue.

The following advisory members of the LESC were not present:

Representatives Alonzo Baldonado, Eleanor Chávez, George Dodge, Jr., Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, Linda M. Lopez, and Howie C. Morales.

## K-3 PLUS PROGRAM EVALUATION REPORT

The Chair recognized Ms. LaNysha Adams, LESC staff; and Dr. Damon M. Cann, Project Co-Investigator Statistical Lead, Start Smart K-3 Plus, Utah State University (USU), for a presentation on the status of the K-3 Plus Program.

Referring to her staff report, Ms. Adams provided the committee with some background on the K-3 Plus Program, which is patterned after the Kindergarten Plus Program that was piloted in four New Mexico school districts and extended the school year for kindergarteners by 40 days in 2003. She also explained that in 2007 legislation endorsed by the LESC was enacted to create K-3 Plus – a six-year pilot project that extends the school year in kindergarten through grade 3 by at least 25 instructional days. In 2012, the K-3 Plus provisions in law were amended to convert it from a pilot project to a permanent Public Education Department (PED) program, Ms. Adams said.

She also explained that, as a permanent program, the provisions in law require:

- PED to grant priority to schools with research-based, scientific reading strategies;
- that K-3 Plus programs be funded at no less than 30 percent of the unit value per student;

- the funded school district to use up to 2.0 percent of the money received for student recruitment and to ensure regular attendance by K-3 Plus students;
- that schools that are awarded funding be notified by April 15;
- PED to report annually to the Legislature and the Governor on the efficacy of the project;
- PED to develop and disseminate information on best practices in student recruitment, retention, and academic success of early learners;
- the Secretary of Public Education to appoint the K-3 Plus Advisory Committee, comprising representatives of participating school districts and other stakeholders;
- the advisory committee to meet twice yearly to advise PED on the implementation of K-3 Plus;
- the creation of a non-reverting K-3 Plus Fund, administered by PED;
- the money in the fund to be used for K-3 Plus programs, K-3 Plus-related professional development, and department administrative costs; and
- that the unexpended or unencumbered balance of the FY 12 appropriation for K-3 Plus shall not revert to the General Fund and shall be transferred to the K-3 Plus Fund.

Ms. Adams then provided the committee with an overview of state funding for the K-3 Plus Program and referred the committee to a December 2012 staff report for more detailed information on FY 13 recurring and nonrecurring appropriations to PED. She explained that since 2008 the Legislature has appropriated a total of approximately $45.0 million in General Fund revenue to fund the K-3 Plus Program, including:

- $7.2 million for expenditure in FY 08:

  - for school year 2007-2008, PED allocated $7,145,809; and
  - approved 54 programs serving 5,069 students in 17 school districts.

- $7.2 million for expenditure in FY 09:

  - for school year 2008-2009, PED allocated $5,613,848; and
  - approved 92 programs serving 6,996 students in 25 school districts.

- $8.5 million for expenditure in FY 10:

  - as a result of the special session in October 2009, this appropriation was reduced by 6.5 percent to $7.9 million;
  - for school year 2009-2010, PED allocated $5,613,848; and
  - approved 93 programs serving 8,053 students in 25 school districts.

- $5.5 million for expenditure in FY 11:

  - in the 2010 special session, the appropriation was reduced by 0.544 percent to $5,470,100. After the 3.244 percent reduction in August 2010, $5,292,600 was available for K-3 Plus;
  - for school year 2010-2011, PED allocated $5,121,992; and
  - approved 62 programs serving 5,816 students in 19 districts, plus one state-chartered charter school.

- $5.3 million for expenditure in FY 12:

  - for school year 2011-2012, PED allocated $3,702,615; and
  - approved 50 programs serving 4,564 students in 14 districts, plus one state-chartered charter school.

- $11.0 million for expenditure in FY 13:

  - for school year 2012-2013, PED allocated $8,902,829; and
  - approved 75 programs serving 7,163 students in 20 districts and one state-chartered charter school.

Ms. Adams then introduced Dr. Cann, who referred the committee to his presentation on the Start Smart K-3 Plus Project, which is a federally funded study at USU examining the effect of K-3 Plus on student achievement and the cost-benefit aspects of the program. He also described the design behind the study, which is a randomized controlled trial where students are randomly assigned to an intervention group and to a control group in order to eliminate selection bias. Dr. Cann noted that the report given to the LESC during the 2011 interim was based on non-randomized control trial data, then stated that this report will provide:

- an update on the status of the Start Smart program;
- information on data gathered to date; and
- a review of the lessons learned.

He explained that in New Mexico, K-3 Plus provides an additional 25 days of school to children in at-risk schools and that it currently serves approximately 7,000 students statewide. Dr. Cann added that about 1,700 students in eight districts are served by the Start Smart K-3 Plus Project, with half of the students randomly assigned to an intervention group and half randomly assigned to a control group.

During school year 2011-2012, he said, 600 incoming kindergarten students were recruited, with approximately 350 attending summer services in 2011. Dr. Cann further noted that one school district withdrew from the study, which reduced the number of kindergarten student participants. Now these students are in first grade and are Cohort 1, he said. During school year 2012-2013, Dr. Cann stated, 1,100 new incoming kindergarten students were recruited, and these students are now Cohort 2.

He cautioned that the information presented to the committee was preliminary because the data for Cohort 1 was gathered over a short period of time from the spring of 2011 to the fall of 2012. Dr. Cann also indicated that the small sample size for Cohort 1 made it difficult to detect statistically significant results, and he stated that final and conclusive results will take more time because the students are being tracked until they reach fourth grade.

Across four outcome domains for kindergarten readiness, he reported that strong and statistically significant outcome effects of the Start Smart K-3 Plus program were found in broad reading, broad writing, basic math, and expressive vocabulary. Dr. Cann also described the kindergarten readiness effects in terms of percentile ranks on the National Assessment of Educational Progress (NAEP). Referring the committee to a graphic representation of the effects, he explained that,

Start Smart K-3 Plus participants in the intervention group received higher percentile ranks than those in the control group. These effects were larger given that students in the intervention group only received 25 additional days of school. Dr. Cann then stated that this provided clear and compelling evidence that Start Smart K-3 Plus helps students to be more prepared when they begin kindergarten.

Noting that one of the questions they sought to answer was whether the effects of the program endure over time as students continue through their education, Dr. Cann explained that, small effects in reading, math, writing, and vocabulary were found for students in first grade, but were not statistically significant at the 95 percent level of confidence.

Dr. Cann reported that one has to interpret these results as indeterminate on the effectiveness of the Start Smart K-3 Plus Project. To address the issue of indeterminacy, Dr. Cann explained that USU will:

- gather more data;
- follow the students for a longer period of time; and
- examine whether certain subgroups may benefit more than others.

Dr. Cann emphasized that the research project is still in progress and none of the information presented should be interpreted as a final conclusion. He also noted the following lessons that research staff on the Start Smart K-3 Plus Project learned:

- early notification of families helps because in the second year the sample size was doubled by sending information to families sooner;
- student participation requires student and family interest and availability, schools that offer the program, and resources to run the program; and
- getting the full sample size from both cohorts is important to be able to detect any effects.

**Committee Discussion**

The Chair notified Mr. Cann that he may be invited to present to the House Education Committee during the upcoming legislative session. There was no discussion because the meeting adjourned early due to inclement weather.

## LESC POTENTIAL LEGISLATION FOR THE 2013 LEGISLATIVE SESSION

Due to the lack of a quorum as a result of inclement weather, the LESC delayed making its recommendations for potential legislation until the next meeting on January 14, 2013.

**ADJOURNMENT**

There being no further business, the Chair adjourned the LESC meeting at 9:55 a.m.

_____ Chair

March 15/13 _____ Date