

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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Rick Miera, Chair
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MINUTES
LESC MEETING
JANUARY 16, 2012

SENATORS

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Mary Jane M. García
Gay G. Kernan
Lynda M. Lovejoy

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

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

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 2:20 p.m. on Monday, January 16, 2012, in Room 307 of the State Capitol, Santa Fe, New Mexico.

All of the voting members of the LESC were present:

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

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chávez, George Dodge, Jr., Roberto "Bobby" J. Gonzales, Sheryl Williams Stapleton, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Stephen H. Fischmann, and Sander Rue.

The following advisory members of the LESC were not present:

Representative Tim D. Lewis; and Senators Mark Boitano, Howie C. Morales, and John Pinto.

On a motion by Senator García, seconded by Representative Hall, the committee approved the agenda for the meeting.

PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE
RECOMMENDATIONS

The Chair recognized Ms. Sharon Ball, Researcher III, Legislative Council Service, to discuss the recommendations of the Public School Capital Outlay Oversight Task Force (PSCOOTF).

Ms. Ball explained that making the New Mexico School for the Blind and Visually Impaired (NMSBVI) and the New Mexico School for the Deaf (NMSD) eligible for grants and the

conditions for their eligibility for *Public School Capital Outlay Act* grants were agenda topics at the July 28, September 2, October 5, and December 19 task force meetings. She noted that task force members made it clear during the 2011 interim that the task force was in support of the development of adequacy standards to determine funding requirements for these two constitutional special purpose schools. Working on an accelerated schedule and working together with legislative staff and appropriate staff members from the two schools, Ms. Ball reported, Public School Facilities Authority staff members were able to provide the task force the opportunity to review and comment on proposed statutory and rule changes that will eventually make the NMSBVI and the NMSD eligible to participate in the standards-based process. The task force, she stated, also voted to allow the Public School Capital Outlay Council (PSCOC) to allocate approximately \$12.0 million in deficiency correction funds to address immediate health and safety issues at both schools. In terms of proposed legislation, Ms. Ball indicated, the task force considered endorsement of a bill that would allow the two constitutional special purpose schools to be a part of the standards-based process.

Ms. Ball reported that weather conditions kept the task force from having a quorum for its final meeting on December 19, 2011 and from endorsing bills. Instead, the task force members in attendance, acting as a subcommittee, discussed proposed legislation and made subcommittee recommendations for task force endorsement. Staff was then requested to forward copies of the subcommittee-approved legislation to members not present at the December 19 meeting and to poll these members about endorsement of these bills. Ms. Ball noted that the subcommittee-endorsed bills included provisions to amend the:

1. *Public School Capital Outlay Act* to repeal the 2012 repeal of the Charter School Capital Outlay Fund and repeal the language regarding reversion of unencumbered balances in the fund;
2. *Public School Capital Outlay Act* to make the NMSBVI and the NMSD eligible to participate in the act's standards-based process and provide for funding sources for the two schools to meet local match requirements;
3. *Public School Buildings Act* to allow mill levy proceeds to be used to meet local match requirements for *Public School Capital Outlay Act* grants; and
4. *Procurement Code* to clarify the use of "best and final offer" as it relates to requests for proposals for construction, maintenance services, and repairs.

Ms. Ball emphasized that the 2011 interim recommendations of the PSCOOTF continued the work of the task force in terms of monitoring the continuing implementation of the standards-based process established in the *Public School Capital Outlay Act*, while continuing to be mindful of the state's commitments related to the *Zuni* lawsuit and the standards-based process for allocating PSCOC funds.

Referring to discussion drafts included in the committee notebooks, Ms. Ball indicated that, based on the poll of members unable to attend the final task force meeting, the PSCOOTF endorsed three bills for the 2012 Legislature:

- **Repeal Charter School Capital Outlay Fund** — repealing the delayed repeal of the charter school capital outlay fund; repealing the reversion of unencumbered balances (.188084.1).

There being no motion to endorse this bill, Representative Begaye indicated he would sponsor the legislation.

- **Schools for Deaf and Blind Capital Outlay** — making the facilities at the NMSBVI and the NMSD eligible for *Public School Capital Outlay Act* funding; exempting these institutions from the required share of project funding under certain conditions (.187790.2).

On a motion by Representative Stewart, seconded by Representative Hall, the committee voted unanimously to endorse this legislation. The Chair then requested that Senator Nava sponsor the legislation.

- **Public Procurement Best and Final Offers** — clarifying circumstances under which a best and final offer price may be negotiated (.188168.1).

After a discussion of the complex issues raised by this bill, the committee decided that a sponsor from the PSCOOTF would probably be more appropriate.

DIRECTOR'S REPORT

a. Approval of Draft LESC Minutes

On a motion by Representative Hall, seconded by Senator Lovejoy, the committee approved the LESC minutes for December 2011.

b. Approval of LESC Financial Report

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

c. Staff Brief: Bullying Prevention Efforts by New Mexico State University

Ms. Frances Ramírez-Maestas, LESC Director, reported that the committee notebooks include an LESC staff brief describing a comprehensive two-day workshop conducted in October 2011 by New Mexico State University (NMSU) titled “A Systematic and Comprehensive Workshop on Bullying Assessment, Prevention, Intervention, and Evaluation.” She added that NMSU staff indicated a willingness to provide a full report and updates on efforts to prevent bullying to the LESC during the 2012 interim.

d. Approval of Draft LESC Report to the 2nd Session of the 50th Legislature, 2012

On a motion by Senator García, seconded by Senator Nava, the committee approved the draft LESC Report to the 2nd Session of the 50th Legislature, 2012.

e. Approval of Draft LESC Public School Data Reference Guide, 2012

On a motion by Senator Kernan, seconded by Senator García, the committee approved the draft LESC Public School Data Reference Guide to the 2nd Session of the 50th Legislature, 2012.

EDUCATION-RELATED ISSUES FOR THE 2012 LEGISLATIVE SESSION

a. Endorsement of Potential Legislation and Approval of Sponsors

The Chair recognized Ms. Frances Ramírez-Maestas, LESC Director, to review the list of potential legislation for the 2012 session and to present discussion drafts of bills not previously seen by the committee.

Ms. Ramírez-Maestas directed the committee's attention to the section in the committee notebooks containing the list of items endorsed during the LESC December 2011 interim meeting and the list of items to be reviewed at the LESC January 2012 interim meeting.

b. FY 13 Public School Support Recommendations

For the 2012 legislative session, Ms. Ramírez-Maestas explained, the LESC chose not to make its own recommendations for public school support but instead to assist the House Education Committee in developing recommendations for House Bill 3, the *Education Appropriation Act*.

ITEMS ENDORSED BY THE COMMITTEE

1. **School Flexibility:** Amend the *Public School Code* (Laws 2011, Chapter 68) to allow the Secretary of Public Education to waive requirements in statute and rule pertaining to individual class loads, teaching loads, length of school day, staffing patterns, subject areas, and purchases of instructional materials for school year 2012-2013 (.188225.1). *Sponsor: Senator Vernon D. Asbill*
2. **Definition of “Developmentally Delayed”:** Introduce legislation amending the *Public School Code* to include a definition of “developmentally delayed” in reference to the provision of speech-only services for three- and four-year-olds (no discussion draft available). *Sponsor: Senator Cynthia Nava*

HIGHER EDUCATION DEPARTMENT UPDATES

3. **Joint Memorial Requesting the Creation of an Interim Higher Education Committee:** Introduce a joint memorial requesting that the Legislative Council create a two-year interim legislative Higher Education Committee (1) to examine: ways to coordinate offerings and degrees; the impact of regional and national accreditation and professional standards; education and work force needs; the state's demographics and institutional statistics; and faculty and staff compensation; (2) to consider funding and revenue issues; and (3) to report to the Legislature by November 30, 2012 and again by November 30, 2013 (.187755.1). *Sponsor: Senator Timothy M. Keller*

FISCAL ISSUES

4. **Joint Memorial to Study Regionalization of School District Business and Administrative Services:** Introduce a joint memorial requesting the Public Education Department (PED) and the State Auditor to convene a work group (1) to consider the efficacy of having regional education cooperatives or other similar entities provide business and administrative services for public schools on a regional basis; (2) to design a pilot project for legislative consideration; and (3) to report the work group's findings to the LESC and the Legislative Finance Committee (LFC) by November 1, 2012 (no discussion draft available).
Sponsor: Representative Jimmie C. Hall

ASSESSMENT AND ACCOUNTABILITY

5. **K-3 Plus:** Amend the *Public School Code*, with emergency clause, to convert the six-year K-3 Plus pilot program to a continuing program within PED for the purpose of providing funding for additional educational time for disadvantaged students in kindergarten through third grade; create a non-reverting K-3 Plus Fund; and require per-student funding to be based on 30 percent of the unit value (.188010.3). *Sponsor: Representative Mimi Stewart*

MEETING THE NEEDS OF STUDENTS

6. **School Athletics Equity Act:** Amend the *School Athletics Equity Act* to eliminate revenue, expenditure, and benefits and services reporting requirements for seventh and eighth grade athletic programs, and to clarify other reporting requirements (.187856.1). *Sponsors: Representative Dennis J. Roch and Senator Howie C. Morales*
7. **Charter Schools:** Amend the *Charter Schools Act* to require start-up schools and renewing charter schools to enter into charter contracts with their chartering authorities according to a prescribed timeline (.187339.3). *Sponsor: Pending*
8. **Charter School Audit Monitoring:** Introduce legislation amending the *Public School Finance Act* to require (1) that each charter school submit its annual financial audit not only to the State Auditor, but also to the school's authorizer; (2) that the authorizer monitor a charter school whose audit shows internal control deficiencies or material weaknesses until those deficiencies and weaknesses are corrected; and (3) that, in the case of a charter school that receives a qualified opinion on its audit, PED work with the charter school authorizer to assist the charter school to improve its accounting and internal control system and to require monthly status reports (no discussion draft available). *Sponsor: Representative Jimmie C. Hall*
9. **ABE Instructional Materials:** Introduce legislation to require the Higher Education Department (HED), beginning in FY 13, to match the allocation from the Instructional Material Fund for adult basic education with funding from the appropriation to the Adult Basic Education Fund (.188247.1). *Sponsor: Representative Rick Miera*

OTHER PRESENTATIONS AND REPORTS

10. **Constitutional Special Schools:** Amend the definitions in the *Public School Capital Outlay Act* to (1) provide for the facilities at the New Mexico School for the Blind and Visually Impaired and the New Mexico School for the Deaf to be eligible for *Public School Capital Outlay Act* funding; (2) remove the schools from HED's capital outlay bill; (3) make them part of the Public School Facilities Authority process; and (4) give the schools a 50 percent local match (see Public School Capital Outlay Oversight Task Force Recommendations, pages 2 and 3). *Sponsor: Senator Cynthia Nava*
11. **Memorial to Review Reporting Requirements:** Introduce a memorial requesting PED, in collaboration with the New Mexico Coalition of School Administrators and other stakeholders, to conduct a review of all reporting requirements specified in statute and PED rule; to develop recommendations regarding the streamlining of those requirements; and to report the group's findings to the LESC and the LFC by November 1, 2012 (no discussion draft available). *Sponsor: Representative Jimmie C. Hall*
12. **"Erin's Law":** Introduce legislation, with an emergency clause, creating the Child Sexual Abuse Prevention Task Force, specifying the task force membership, and directing the task force to study and make recommendations regarding the prevention and reporting of child sexual abuse. The task force will sunset on December 1, 2012 (.188035.1). *Sponsor: Senator Mary Jane M. García*
13. **General Obligation Bonds:** Endorse a capital outlay request for \$29.6 million in General Obligation Bonds to fund public, academic, tribal, and public school libraries. *Sponsor: Senator Lynda M. Lovejoy*

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 4:00 p.m.


_____ Chair

July 18, 2012
_____ Date