

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
JANUARY 20, 2014

Frances Ramírez-Maestas, Director

Senator John M. Sapien, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 10:22 a.m., on Monday, January 20, 2014, in Room 322 of the State Capitol, in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Senators John M. Sapien, Chair, Craig W. Brandt, Gay G. Kernan, and Howie C. Morales; and Representatives Rick Miera, Vice Chair, Nora Espinoza, Jimmie C. Hall, Dennis J. Roch, Sheryl M. Williams Stapleton, and Mimi Stewart.

The following advisory members of the LESC were present:

Senators Jacob R. Candelaria, Lee S. Cotter, William P. Soules, and Pat Woods; and Representatives Alonzo Baldonado, Nathan "Nate" Cote, David M. Gallegos, Stephanie Garcia Richard, Tomás E. Salazar, James E. Smith, Christine Trujillo, and Bob Wooley.

The following advisory members of the LESC were not present:

Senators Daniel A. Ivey-Soto, Linda M. Lopez, and John Pinto; and Representatives George Dodge, Jr., and Timothy D. Lewis.

On a motion by Representative Stewart, seconded by Senator Kernan, the committee approved the agenda for the meeting.

DIRECTOR'S REPORT

a. Approval of December 2013 LESC Minutes

On a motion by Representative Stewart, seconded by Senator Kernan, the committee approved the December 2013 minutes.

b. LESC-endorsed Legislation with Sponsors

Ms. Frances Ramírez-Maestas, LESC staff, reported that this section of the Director's Report included a letter, dated January 15, 2014, to the Governor from the LESC Chair and Vice Chair requesting a message on the legislation endorsed by the committee during the December LESC interim meeting. Documents behind the letter, she noted, include a list of the committee-endorsed legislation with sponsors and a discussion draft of each piece of legislation.

c. LESC FY 13 Audit Report

For the review of the committee, LESC staff distributed a copy of the final LESC audit report for the year ended June 30, 2013. Ms. Ramírez-Maestas stated that the report did not contain any findings and acknowledged the competent work of Ms. Alice S. Madrid, LESC Office Manager.

d. Approval of Draft LESC Report to the 2nd Session of the 51st Legislature, 2014

On a motion by Representative Stewart, seconded by Senator Kernan, the committee approved the draft LESC Report to the 2nd Session of the 51st Legislature, 2014.

e. Informational Items

Ms. Ramírez-Maestas noted that for the committee's review, material for the following items were included in the committee notebooks:

- administrative rulemaking relating to final adoption of amendments to two sections of the Educational Retirement Board (ERB) rules, including a change to the composition of the ERB Investment Committee;
- two written reports, including the K-3 Plus Annual Report for school year 2012-2013 and the PreK Annual Report for school year 2012-2013;
- the LESC Public School Data Reference Guide, 2014; and
- Legislative Council Service Memo: Germane Bills in the Even-Year Regular Session.

**REVIEW OF SELECTED COMPONENTS OF THE
INSTRUCTIONAL MATERIAL PROCESS**

The Chair recognized Mr. Mark Murphy and Mr. Ian Kleats, LESC staff, to provide the committee with a review of selected components of the instructional material process.

Mr. Murphy stated that the staff report reviews:

- the administration of the instructional material adoption process;
- the distribution of instructional material allocations;
- special provisions for charter schools;
- oversight of the *Instructional Material Law*;
- the role of the in-state depository; and
- the 2010 General Obligation (GO) bond for school books and instructional material.

The Administration of the Instructional Material Adoption Process

In the 2005 interim, Mr. Murphy said, the LESC reviewed endorsed legislation that was enacted to amend the *Instructional Material Law*. He said it requires the Public Education Department (PED), by rule, to establish a summer review process during the first full week of June each year, for core/basal instructional material in the content area under adoption that is facilitated by content area experts and that:

- ensures that instructional material purchased from the multiple list meets the standards and benchmarks of PED;
- utilizes Level 2 and Level 3-A teachers as reviewers; and
- includes Level 1 teachers, students in teacher preparation programs, parents, and community representatives.

By June 2005, according to Mr. Murphy, PED staff reported that the department conducted its first Instructional Material Summer Review Institute.

Administrative rule, Mr. Murphy continued, delineates particular “Responsibilities of the Department” as related to the adoption of instructional material. These responsibilities require the department to ensure that:

- there be one annual adoption;
- material be adopted for a six-year period; and
- the subject area at each annual adoption consist of those subject areas whose adoption period expires at the end of the year during which the adoption is conducted.

Among its other provisions, Mr. Murphy explained, PED rule requires that:

- printed and digital materials reviewed be judged and scored for alignment with New Mexico Standards and Benchmarks along with other relevant criteria as determined by the Chief of the Instructional Material Bureau;
- educational digital media be reviewed in the same manner as print materials with certain additional criteria;
- materials, upon completion of the review, be recommended to the Secretary of Public Education for adoption by a panel of reviewers and department staff; and
- the Secretary of Public Education authorize adoption of instructional material no later than August 1 of each adoption cycle.

Currently, Mr. Murphy continued, the Instructional Material Bureau has only one individual on staff – a contractor hired by PED to manage the instructional material process. Mr. Murphy said that, according to the contractor, PED conducted the Summer Review Institute in 2013 for Career Technical Education and Driver Education instructional material, and adopted a “multiple list” of approved educational material in late August or early September, after the August 1 deadline required in PED rule. The contractor also indicated that parents, Level 1 teachers, and students preparing for careers as teachers were not included as observers at the Summer Review Institute.

Mr. Murphy then reported that, during the 2012 legislative session, PED staff indicated that the FY 13 material would be focused on reading. However, in the 2012 interim, PED staff stated that the FY 13 appropriation to the Instructional Material Fund would be used for materials aligned with the Common Core State Standards.

The Distribution of Instructional Material Allocations

Mr. Kleats referred to an attachment that provided instructional material allocation amounts since FY 00. Historically, he said, the LESC has examined the adequacy of appropriations for instructional material and the allocation calculation in statute. For instance, Mr. Kleats explained that, in 1999 the LESC endorsed a bill that changed the allocation calculation for additional pupils to a six-times multiplier to reflect the six-year adoption cycle, as advocated by the State Board of Education, which was directing public education at that time.

Mr. Murphy also indicated that the allocation and distribution of funds could be interpreted as two distinct concepts within the context of the *Instructional Material Law*. The allocation describes how much money each public school, state institution, and nonpublic school is entitled to receive; the distribution is the actual receipt of the allocation by the public school, state institution, or nonpublic school. Neither law nor PED rule, according to Mr. Kleats, details a specific timeline for the distribution of funds.

Mr. Kleats added that final audited trial balance summaries for the Instructional Material Fund from FY 09 through FY 12, and the preliminary trial balance summary for FY 13 indicated that PED has:

- distributed the initial 90 percent allocation in the first month of the fiscal year only once, in FY 09; and
- in the other years, distributed the initial 90 percent allocation as late as September, the third month of the state's fiscal year.

Guidance in Public Schools Accounting and Budgeting, Supplement 9 (PSAB 9), Mr. Kleats continued, suggests that public schools, state institutions, and nonpublic schools should place instructional material orders by April 15 in order to have those materials ready for the start of the school year. However, the PED rule requires that purchase orders may not be issued prior to July 1 for any funds that are part of the new allocation, and furthermore, that obligations may be made with available funds only. Mr. Kleats asserted that it is unclear whether schools' purchases or the instructional material depositories' cash flows have been negatively affected, but he noted PED staff said that it has not received any complaints about the timeliness of its distributions.

Although PED is required by law to make the final 10 percent allocation by January 15, Mr. Kleats indicated that the final distribution actually occurred in either May or June for each of the five fiscal years for which data were obtained. Eligible educational institutions, according to Mr. Kleats, might not be able to spend the final portion of their allocation in such limited time. He suggested that this situation may explain the finding in the Legislative Finance Committee (LFC) program evaluation of the *Instructional Material Law* that some school districts retain year-end instructional material cash balances that are large relative to their annual allocations.

Mr. Kleats added that the *Instructional Material Law* provides for allocations only to "each school district, state institution or private school." Since "School district" is defined to include

state-chartered charter schools, for the purposes of the allocation, locally chartered charter schools are considered only to the extent that their membership is included within the membership of their chartering school district.

In its calculation of initial and final allocations, Mr. Kleats said it appears that PED does not include locally chartered charter school membership within district enrollment. Rather, he explained that, PED calculates a separate allocation for each locally chartered charter school, and school district enrollment includes only non-charter schools, which may make the statutory calculation of additional pupils more difficult to complete.

With regard to additional pupils, Mr. Kleats said it appears that PED has not counted them as more than one pupil in membership counts for the purposes of these allocations since FY 10. Not allocating the required funds for additional pupils over a six-year cycle may have impeded the ability of schools to meet statutory obligations providing for the free use of instructional material by students, he said, and it is unclear whether the amounts appropriated in those fiscal years have sufficiently funded additional pupils. If insufficient funds were appropriated for additional pupils, Mr. Kleats noted that a correction of the calculation might have resulted in a redistribution among schools, but not more money overall.

Special Provisions for Charter Schools

Turning to charter schools, Mr. Murphy noted that, during the 2012 legislative session the committee endorsed successful legislation that extended for another school year a temporary waiver provision modeled on language in the *Charter Schools Act*. As a means of addressing fiscal constraints at that time, this legislation allowed the Secretary of Public Education to grant for school districts waivers of certain requirements in law and PED rule that are automatically granted to charter schools, one of which was the purchase of instructional material. In addition, Mr. Murphy said that PSAB 9 specifies that charter schools have 100 percent discretionary authority to purchase on or off the adopted list.

Mr. Murphy then reported information gleaned from interviews with administrators from one locally chartered charter school and one state-chartered charter school to determine how they use their Instructional Material Fund allocations. Staff from the locally chartered charter school indicated that it:

- had only just received its first allocation in the previous year;
- had not yet spent it; and
- intends to use it for online and internet-based instructional material.

Staff from the state-chartered charter school stated that it:

- had used past allocations for digital and online content, including licenses to use certain web-based curriculum;
- would likely continue to expend instructional material allocations in this way; and
- had not received enough through the allocation to cover all of the costs of online instructional material.

Oversight of the Instructional Material Law

In November 1999, Mr. Murphy reported, a joint audit report of instructional material presented to a joint meeting of the LESC and LFC focused on the effectiveness of the oversight by the Instructional Material Bureau. At the time, he said, the audit made 11 findings, including:

- confusing and contradictory regulations;
- a lack of oversight ensuring that districts were receiving the lowest price offered in the country for particular materials on the multiple list; and
- Instructional Material Bureau awareness of instances of noncompliance while not withholding or withdrawing instructional material funds for those entities out of compliance.

According to an interview with the PED contractor, Mr. Murphy reiterated that the department is currently operating without an Instructional Material Bureau chief. The contractor also stated that the primary responsibilities in the contract involve:

- ensuring that the Summer Review Institute was executed effectively;
- ensuring that accredited private/nonpublic schools were able to apply for instructional material funding; and
- working with accredited private/nonpublic schools that had incomplete components of their application to finalize necessary sections and receive funding.

Mr. Murphy added that the Deputy Secretary of Finance and Operations, PED, indicated that the department is currently engaged in the process of hiring a full-time chief, but the expected timeline for hiring someone is uncertain.

On responsibility that no one is currently monitoring, according to the contractor, is ensuring that the prices for items on the multiple list are the lowest in the nation. The PED contractor also stated that in the past, the Instructional Material Bureau held trainings during the Spring Budget Workshop. Although training on instructional material was not provided at the 2013 Spring Budget Workshop, Mr. Murphy said that a training session is anticipated for the 2014 Spring Budget Workshop.

Mr. Murphy concluded this portion of the presentation by citing one oversight requirement mandated by the *Instructional Material Law* that is unclear as currently written in that it requires PED to report to itself:

“upon request, the department of education [public education department] shall make reports to the state board [department] concerning the administration and execution of the Instructional Material Law.”

This wording, Mr. Murphy explained, was the result of statutory accommodations for a constitutional amendment adopted in 2003, which dissolved the State Board of Education and created the Public Education Department (formerly known as the State Department of Education) as a cabinet-level agency headed by a secretary. According to a temporary provision enacted in 2004, all references in law to the State Board of Education became references to the Public

Education Department, as did all references to the State Department of Public Education or the Department of Education.

The Role of the In-state Depository

Mr. Murphy said the provisions of the *Instructional Material Law* relating to accredited private/nonpublic schools had been amended during the 2009 legislative session to require these schools to purchase all instructional material from an in-state depository. Then, in 2012, the committee discussed the provisions in law that requires instructional material end-of-the-year balances for a private school to remain available for material purchases in subsequent years. One point of concern was that PED was unable to provide private schools with an accurate accounting of their end-of-the-year balances. Mr. Murphy explained that PED staff reported that the issues related to cash balances were caused by two situations:

1. a \$4.0 million appropriation to PED for assessment and test development that included a \$3.0 million funds sweep from Instructional Material Fund balances; and
2. an in-state depository ceasing operation without reconciling transactions with PED.

Mr. Murphy reported that the *Instructional Material Law*:

- requires PED to provide payment to an in-state depository on behalf of a private school for instructional material; and
- makes reference to “instructional material depositories” but does not define the term.

PED rule, however, specifies that the term “New Mexico instructional material depository” means a facility authorized through application to the bureau chief to serve as an agent representing multiple publishers and other educational entities for the purpose of managing district/school instructional material orders. PED rule further provides that accredited private/nonpublic schools are eligible for instructional material funds, but they must apply every two years; and accredited private/nonpublic schools may purchase items of instructional material only through a New Mexico instructional material depository or in-state distribution point.

Citing Archway Depository, the only operating depository in the state, Mr. Murphy noted that benefits from purchasing through a depository include:

- lower shipping fees;
- more direct access to publishers;
- the depository staff’s familiarity with New Mexico’s instructional material process; and
- the readiness of depository staff to act as advocates for the school district.

Mr. Murphy also stated that, based on a review by LESC staff on orders completed through Archway Depository, it appears that some eligible accredited private/nonpublic schools did not make purchases in FY 13, and some may not have applied for instructional material funding. In order to gather more information to determine why eligible accredited private/nonpublic schools may not be applying for or expending available funds, Mr. Murphy said that LESC staff interviewed administrators from two eligible accredited private/nonpublic schools. One administrator asserted that a lack of training from PED on how to apply for the funds is problematic; and the other asserted that past situations that limited available year-end cash

balances may be leading some eligible schools to save their allocation amounts for more expensive purchases.

The 2010 General Obligation (GO) Bond for School Books and Instructional Material

In October 2012, Mr. Murphy noted, PED issued a memorandum stating that “awards to purchase books and instructional material [would be given] to schools which received a letter grade of ‘A’ or [to those] recognized as a ‘Top Growth’ school.” At its November 2012 interim meeting, the LESC discussed the provisions of legislation that was enacted (Laws 2010, Chapter 3) authorizing the issuance of general obligation (GO) bonds upon voter approval for certain public school initiatives, including \$2.0 million to purchase school books and instructional material statewide.

Mr. Murphy mentioned that, in response to a committee member’s question as to how the awards were funded, the Secretary-designate of Public Education stated that the 2010 GO bond proceeds were distributed for this purpose. Some committee members commented that the funds were to be used in schools statewide, rather than a few, select schools; and they questioned the legality of spending GO bond proceeds in order to reward “Top Growth” and “A” schools.

To address the above concerns, Mr. Murphy said that LESC staff consulted with staff from the Legislative Council Service (LCS), who observed that proceeds would go to PED to be expended in the following way:

“two million (\$2,000,000) to purchase school books and instructional material statewide.”

According to LCS staff, it appeared that, because the term “statewide” was used rather than a phrase such as “all public schools statewide,” PED may have had the latitude to distribute the GO bond proceeds for instructional materials to select schools. However, some LESC members indicated that the legislative intent behind this language may not align with the way in which PED expended the GO bond proceeds.

Potential Actions the Committees May Wish to Consider

Based on the results of this review, Mr. Murphy stated that the LESC and LFC may wish to consider the following actions:

- when considering legislation authorizing the issuance of GO bonds to provide distributions to public schools statewide, ensure that the language clarifies whether the proceeds are for all public schools or selected public schools;
- require PED to provide an annual report to the committees outlining its administration of the *Instructional Material Law* and related PED rule, including certain requirements; and
- direct LESC and LFC staff to conduct a follow-up review of the instructional material process and provide a report with potential policy considerations.

At the request of the Chair, committee discussion was withheld until after the next presentation on instructional materials, by the LFC, and the PED response.

LFC PROGRAM EVALUATION: OVERSIGHT AND SPENDING OF INSTRUCTIONAL MATERIALS IN PUBLIC SCHOOLS

The Chair recognized Ms. Rachel Mercer-Smith, Program Evaluator and Dr. Jon Courtney, Program Evaluator, Legislative Finance Committee (LFC) staff; and Mr. Paul J. Aguilar, Deputy Secretary for Finance and Operations, Public Education Department (PED), to review the LFC program evaluation of the Instructional Material Fund.

Referring to the LFC evaluation report that was distributed to the members, Ms. Mercer-Smith briefed the committee on several of the evaluation's findings, specifically that:

- the instructional material process suffers from a lack of oversight, and school districts and charter schools sometimes expend funds in ways inconsistent with state law;
- the system for funding instructional material does not meet current needs, resulting in reports of inadequate resources while allocated money goes unspent; and
- New Mexico is unprepared for a transition to a personalized digital learning environment.

In regard to the first finding, Ms. Mercer-Smith noted that ongoing vacancies have affected the duties of the bureau. Between April 2013 and December 2013, she said that all positions in the Instructional Material Bureau were vacant; and prior to April 2013, the bureau had one of three full-time equivalent (FTE) positions filled from November 2011 to March 2013. According to district surveys, Ms. Mercer-Smith reported, calls and questions to the Instructional Material Bureau have gone unanswered, though the bureau has become more responsive through the work of an instructional material bureau contractor. Similarly, she explained that school districts and charter schools report PED guidance and communication regarding instructional material has declined in recent years.

In early 2013, PED hired a part-time contractor to staff the bureau and began advertising to fill vacant positions. During the LFC evaluation, according to Ms. Mercer-Smith, PED reported difficulty filling these positions and said the department was considering assigning some oversight responsibility to the PED Audit Bureau. In December 2013, the department hired a budget director for the Instructional Material Bureau.

Without staffing, Ms. Mercer-Smith implied that the bureau has not been able to identify school districts violating statutory spending requirements or to conduct audits since 2011. She stated that PED did not provide records of any audits; however, in 2011, the department identified 15 school districts that had not adhered to statutory requirements limiting instructional material spending for supplemental or non-adopted material. According to Ms. Mercer-Smith, the only documentation suggesting action regarding these violations indicates that one district was contacted and encouraged to provide a statement committing to adhere to statute in the future. PED does not appear to have monitored follow-through of these violations, she said, though statute allows the bureau to withdraw or withhold instructional material in case of violation or noncompliance with the provisions of the *Instructional Material Law*.

Ms. Mercer-Smith also stated that:

- districts report insufficient dual credit instructional material funds and appear to be using instructional material allocations to purchase dual credit material;

- Instructional Material Fund distributions are potentially problematic (referring to the LESC review indicating that PED may not be including additional funding for new pupils in allocation adjustments as required by statute);
- required reporting by school districts, charter schools, and private schools is incomplete;
- internal controls surrounding inventory of purchased instructional material are lacking without sufficient staffing, leaving PED unable to actively verify whether New Mexico is receiving the best price for instructional material;
- in recent years, between 30 and 40 percent of districts have spent more than 50 percent of their funds on material not on the multiple list, not adhering to statutory limits on instructional material expenditures;
- several states have removed instructional material restrictions to allow school districts more flexibility in addressing school district needs and changes in technology; and
- states have also eliminated line-item instructional material appropriations and increasingly expect school districts to fund instructional material purchases with general operating funds.

Next, Dr. Courtney summarized the recommendations made by the LFC, noting that the Legislature should:

- amend the *Instructional Material Law* to require that instructional material funds be used on state-approved material on the multiple list, which includes both core/basal and supplemental material;
- direct PED to develop quality and accountability standards for all digital content, e-reader devices, and electronic courses, and other technologies used for instruction; and
- consider sweeping and re-appropriating the Education Technology Fund balance.

In addition, Dr. Courtney asserted that PED should:

- adequately staff the Instructional Material Bureau to fulfill statutory obligations;
- start enforcing penalties, including withholding Instructional Material Fund allocations when school districts, charter schools, and private schools do not comply with statute and regulations;
- update guidance about instructional material expenditures and inventory to ensure that the information provided accurately reflects statutory requirements, eliminating references to “core/basal” and “supplemental” expenditure limits that conflict with statute;
- assign oversight requirements of instructional material funds relating to use of funds and compliance issues to the PED Audit Bureau;
- eliminate one FTE from the Instructional Material Bureau as it has been vacant since creation in 2011 and reprioritize to meet other PED needs;
- review inventory reports annually;
- require districts to report dual-credit instructional material expenditures separately as part of the annual budget report;
- maintain the Summer Review Institute for purposes of alignment;
- seek out the use of open education resources digital content during the Summer Review Institute and list approved items on the state’s multiple list; and
- allocate the remaining Education Technology Fund balance according to statutory guidance regarding the administration of the fund for the FY 15 budget cycle.

Mr. Aguilar distributed a handout to the committee containing the PED response to the LFC evaluation. Alluding to PED concerns, he said that policymakers should be careful not to rely on a limited, short-term evaluation to drive legislative change without examining the long-term implications.

In response to the finding that the Instructional Material Bureau is understaffed and lacks the ability to provide oversight, Mr. Aguilar stated that PED has hired fiscal support for the bureau and interviewed applicants to fill the Instructional Material Bureau Chief position. He added that PED expects the Instructional Material Bureau to be fully staffed by the end of the third quarter of FY 14.

Regarding the finding that some school districts may be spending more than 50 percent of their funds on non-adopted material in violation of statutory limits, Mr. Aguilar explained that the LFC finding was based on PED stat books containing expenditures that may include carryover funding, which may skew the noted percentages. He added that superintendents made the case for retaining funds year-over-year in order to pay for the cost of expensive material (e.g., math, science) rather than skirt the expenditure guidelines.

To address LFC concerns that audits have not been conducted, Mr. Aguilar referred to Appendix E of the evaluation report, which lists the FY 14 initial allocation for private schools. He said it shows that 29 out of more than 200 schools listed, or approximately 14 percent, are deemed to be ineligible for funding. This finding was a result of significant review and audits of these schools by PED, according to Mr. Aguilar.

With regard to the finding that school districts may be transferring instructional material funds to their operational funds, Mr. Aguilar explained that PED relies on district and school audits to identify problems of this nature. He added that the appropriate expenditure of funds is one of the test items conducted during a district's annual audit.

In response to the finding that districts, charter schools, and PED consistently carry-over instructional material funds, Mr. Aguilar stated that the cost of purchasing instructional material differs depending on the adoption cycle and needs of a district. Furthermore, he disagreed with the LFC assertion that \$5.2 million appropriated by the Legislature in FY 13 for the Partnership for Assessment of Readiness for College and Careers (PARCC) was not entirely allocated according to statute. Noting that the means by which funds were to be allocated were not included in the appropriation language, Mr. Aguilar stated that PED developed a methodology to distribute these funds in accordance with the appropriation.

Alluding to the LFC finding that the LESC review indicates potential problems with distributions from the Instructional Material Fund, Mr. Aguilar commented that many stakeholders believe that new pupils need to be funded at six times the per pupil rate. However, he said it is very clear that when re-computing the final entitlement, PED must use the 40-day membership for that year and readjust the initial allocation accordingly.

Responding to another finding that short-staffing at the Instructional Material Bureau makes PED unable to verify that New Mexico is receiving the best price for instructional material, Mr. Aguilar said that one of the reasons for crafting the current adoption cycle was to ensure that it aligned with the adoption cycles of Texas, California, and New York to take advantage of

large-scale pricing. He added that PED relies on the state's book depository to review pricing as publications change to ensure the best price available.

Regarding the PED request of \$30.0 million for instructional material adoption this year when the actual adoption cost is \$8.6 million, Mr. Aguilar emphasized that there are multiple considerations when determining how to fund a statewide instructional material program. He added that the executive budget recommendation includes the cost of all material for grades 9 through 12; the adult education set-aside; costs associated with new pupils, teacher material, and classroom resource material; and the cost of off-cycle consumables.

Mr. Aguilar also responded to the LFC finding that New Mexico is unprepared for a transition to a personalized digital learning environment. He said that PED is working closely with the Department of Information Technology, the Public School Facilities Authority, and other agencies to address this issue and develop a long-term strategy.

In response to the LFC recommendations, Mr. Aguilar noted that:

- the instructional material adoption process should be well thought out, with attention given to the impact on school districts and schools;
- calls to make the Instructional Material Fund a reverting fund are premature;
- the review of open education resources requires thought about how to put the process in place;
- many of the LFC recommendations require statutory changes that may interfere with the ability of local school boards and superintendents to make decisions that work best for their schools; and
- PED finds value in some of the issues raised, including an increase in audits and working with districts and charter schools to report that sufficient instructional material is available to students.

Committee Discussion

Regarding the fact that 15 percent of schools do not meet broadband requirements and 25 percent do not have the capacity to administer the PARCC assessments, a committee member asked whether these schools were scattered or clustered. In reply, Mr. Aguilar explained that such schools are not located in pockets, but exist in urban and rural areas. He also explained that broadband capability and hardware capacity are two distinct issues.

A committee member asked LFC staff about its process for conducting the statewide teacher survey, and Ms. Mercer-Smith answered that 1,500 out of 22,000 teachers responded. When the member questioned whether LFC asked superintendents about their process for adopting a reading series, Ms. Mercer-Smith said that she received a variety of responses that included adoption at the district level and on a per-school basis. The committee member requested that LFC provide information on the cost of a reading series compared to other series.

In regard to purchases from the multiple list, a committee member commented that it is hard to determine how much certain materials cost due to the free add-ons provided by publishers.

When a committee member questioned whether growth money will be used to purchase more instructional material, Mr. Aguilar answered in the affirmative, noting that the state equalization guarantee (SEG) money can be used for that purpose.

Committee members also discussed:

- inaccurate numbers for Career and Technical Education instructional material;
- the use of instructional material funds to purchase software licenses;
- providing leeway for school districts to spend their carryovers;
- whether funding for an adoption cycle can or should be spent in other cycles;
- PED rules that may not comply with statute; and
- issues regarding rural broadband infrastructure.

The Chair thanked the presenters, and Mr. Aguilar offered to provide the PED response to the LESC review at the first LESC interim meeting of 2014.

Regarding the schedule for LESC interim meetings, the Chair informed committee members that, after a review of dates for other important legislative meetings in 2014, he has tentatively chosen the following dates for members' consideration:

- March 24-25 (organizational meeting);
- the week beginning April 21 (note that Easter is on April 20);
- the week beginning May 19 or the first part of the week beginning May 26 (note that the Vice Chair has an NCSL Executive Committee Meeting on May 29-30);
- the week beginning June 16 or 23;
- the week beginning July 14;
- the week beginning August 25;
- the week beginning September 15 or 22;
- the week beginning October 20 or 27;
- the week beginning November 10 or 17 (note that the CSG West Leadership Academy is on November 17-20); and
- the week beginning December 8 (note that the NCSL Fall Forum is on December 10-12).

In addition, the Chair informed the committee members that he will confer with the Legislative Finance Committee to see which dates to conduct joint meetings.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 1:49 p.m.



Chair

5-7-2014

Date