

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

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

**MINUTES  
LESC MEETING  
JUNE 18-20, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:19 a.m., on Monday, June 18, in Room 307 at 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, 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 voting members of the LESC were not present:

Representative Nora Espinoza.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., Roberto "Bobby" J. Gonzales, Tim D. Lewis, and Shirley A. Tyler; and Senators Mark Boitano, Stephen H. Fischmann, Linda M. Lopez, Howie C. Morales, and John Pinto.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, Sheryl Williams Stapleton, and Bob Wooley; and Senators Vernon D. Asbill and Sander Rue.

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

## **PUBLIC SCHOOL-RELATED FY 13 APPROPRIATIONS AND SELECTED LANGUAGE**

The Chair recognized Ms. Frances Ramírez-Maestas, LESC Director, for a review of the public school-related FY 13 appropriations and selected language. She noted that the budget for FY 13 had approximately \$254 million in additional funds compared to FY 12. However, she added that the state is obligated to pay approximately \$50.0 million for the 1.75 percent employee retirement swap, leaving approximately \$204 million in new money. For school year 2012-2013, she reported that the initial unit value is \$3,668.18 – an increase of \$69.31, or 1.9 percent, over the final unit value for school year 2011-2012.

Next, the Chair recognized Mr. David Craig, LESC staff, who reported on FY 13 capital outlay passed by the Legislature and signed by the Governor. He testified that in the 2012 session, the Legislature passed LESC-endorsed SB 196a, *Schools for Deaf & Blind Capital Outlay* (Laws 2012, Chapter 53), which amends the definitions in the *Public School Capital Outlay Act* to:

- 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;
- remove the schools from the Higher Education Department's (HED) capital outlay;
- make them part of the Public School Facilities Authority process; and
- give the schools a 50 percent local match.

Mr. Craig then acknowledged staff from the Legislative Council Service and the Legislative Finance Committee who informed him that the legislation for special schools to access public school capital outlay funds did not remove schools from HED's capital outlay funding source but merely added a new funding source.

Next, Mr. Craig referred to Table 3, *Education-related 2012 Severance Tax Bond Projects*; Table 4, *Education-related 2012 General Obligation Bond Projects*; and Table 5, *Public School Capital Outlay Reauthorizations*, to summarize capital outlay projects from the 2012 session. He said Table 5 includes a reauthorization of no more than \$2,500,000 of the unexpended balance from a prior information technology appropriation to the Human Services Department (Laws 2011, Chapter 5, Section 11). The appropriation is reauthorized for the purchase of school buses by the Public Education Department (PED). Mr. Craig also highlighted the remaining \$1.6 million that was reauthorized from a school project in the Gadsden Independent Schools district and from the Española Military Academy, which did not have its charter renewed.

To conclude, Ms. Ramírez-Maestas summarized the 13 measures endorsed by the LESC, five of which were passed and signed into law. She also addressed the education-related memorials which the Legislature passed, including one endorsed by the LESC, and she noted the amount of work that the memorials would involve.

### **Committee Discussion**

Regarding transportation, a committee member expressed concern that oversight on transportation must be addressed because there are unique situations all over the state.

A committee member cautioned that the language in HB 14, *K-3 Plus Program to Public Education Department* (Laws, 2012, Chapter 21) requires that the 25 days of supplemental instruction be given prior to the start of the school year.

The Chair observed that the reading adoption for the Common Core State Standards was vetoed and asked for an update on the situation. In response, Mr. Paul Aguilar, Deputy Secretary, Finance and Operations, PED, replied that PED would ensure that reading materials were available.

A committee member requested that PED provide the remaining balances from the library allocations in Table 4.

## **PUBLIC EDUCATION DEPARTMENT (PED) UPDATES**

The Chair recognized Ms. Hanna Skandera, Secretary-designate of Public Education; Mr. Paul Aguilar, Deputy Secretary, Finance and Operations, PED; and Ms. Leighann Lenti, Director of Policy, PED; for a presentation on current PED activities and initiatives.

Secretary-designate Skandera began by discussing the implementation of teacher and principal evaluation, noting that PED will use the rulemaking process to put the required framework in place to meet the requirements of the waiver of provisions of the *Elementary and Secondary Education Act*. She added that the program will be fully implemented by school year 2013-2014, as outlined in CS/CS HB 249, *Teacher and School Leader Effectiveness Act*, and she explained that it would be based on a pilot program (during school year 2012-2013) requiring the stakeholders to hold a number of meetings and advise PED on implementation. The group, Ms. Skandera noted, will comprise superintendents, teachers (union and non-union), and the business community. The pilot, she said, will include observation protocols, use of multiple measures, and data runs.

Ms. Skandera then discussed the appropriations, beginning with \$8.5 million for the Early Reading Initiative to support a common screening assessment, professional development, and reading coaches. She explained that PED is working with parents, as well as tribes and pueblos around the state, to develop interventions that can be taken home, and she noted that reading coaches to help with interventions will be trained at what the Secretary-designate has termed “boot camp” in July. In addition, she said that PED is working with nine regional education cooperatives to enter into an agreement, effective July 1, 2012, to place one reading coach in each region.

Next, the Secretary-designate reported that investments in professional development for Common Core State Standards (CCSS) have been developed for two types of groups:

- K-3 lead teachers (training on the components of reading instruction aligned with the use of assessment data to plan for instruction); and
- K-3 reading coaches, district staff, principals, and lead teacher teams.

An \$11.0 million appropriation for K-3 Plus, according to the Secretary-designate, represents a \$5.0 million increase to serve 9,295 students, and expectations are aligned to HB 14, *K-3 Plus Program to Public Education Department* (Laws 2012, Chapter 21), with per-pupil distributions at 30 percent of the initial unit value. PreK distributions of \$10.0 million, she said, represent an increase of \$3.7 million from the previous year and will increase the districts served from 22 to 28. The Secretary-designate also indicated that PED met with the Children, Youth and Families Department and

Dr. Peter Winograd at the University of New Mexico Center for Education Policy Research to determine where targeted appropriations could be directed in investment zones.

With regard to formative assessments, Ms. Skandera noted that 80 percent of districts use NWEA (Northwest Evaluation Association) MAPS (Measures of Academic Progress), which will be phased out because it is anywhere between 20 to 30 percent below the expectation of proficiency and not aligned to the CCSS. As an alternative, the Secretary-designate said a local education agency (LEA) can choose what formative assessment it wishes to use, including three assessments approved by PED (Albuquerque Public Schools District Benchmark, Discovery Education, and Riverside Interim), but will not be reimbursed for NWEA MAPS. She also explained that:

- there will be tenth grade testing on the New Mexico Standards-based Assessment, and high schools will conduct testing in tenth, eleventh, and twelfth grades;
- for interventions in D and F schools, PED will use funds to select, support, and train staff;
- breakfast for elementary students will be served in 32 districts in 135 schools for approximately 49,861 students in 2013; and
- \$2.5 million in supplemental funding for fixed costs was distributed outside the formula.

With regard to emergency supplemental funding, the Secretary-designate reported that:

- the district review of budgets will be completed by the June 30 deadline for reviewing budgets;
- increases in requests appear linked to the decrease in Forest Reserve Funds and a decrease in membership;
- the \$1.5 million budget for increased fuel costs was developed based on a cost of \$3.15 per gallon, and if it increases more than 10 percent, PED will reimburse the district; and
- approximately \$700,000 of the \$1.0 million extension for teacher evaluation is still available, mainly for professional development.

Last, the Secretary-designate addressed the \$27.0 million appropriation for instructional materials, stating that:

- funds will be made available to LEAs on July 1;
- districts can choose between common core or science;
- private schools did not take into account a funds sweep (that occurred prior to the Martinez administration) and were spending money that could not be reimbursed;
- with regard to private schools, the former book depository did not reconcile its books upon the sale of the depository; and
- PED is trying to determine the need for a book depository.

### **Committee Discussion**

Noting that MAPS is not a PED-approved assessment, a committee member asked if the other assessments were going to be provided in Spanish, as MAPS is. The Secretary-designate said she did not know.

In response to committee member questions regarding early reading and the statewide literacy plan, the Secretary-designate replied that a plan has been submitted to inform PED guidelines around

reading coaches and other aspects of the plan. She added that school districts should be informed by the end of June and PED will provide the plan on its website.

A committee member expressed concern over lower participation in the free and reduced-price breakfast program. In reply, Mr. Aguilar noted that school districts need a minimum of 65 percent of students to be eligible for the program, resulting in fewer districts. The Secretary-designate has also encouraged districts to participate in the “Seamless Summer” food program in coordination with community-based sites around the state.

In response to a committee member question about professional development, the Secretary-designate replied that PED is forming a New Mexico cadre of trainers that is building a knowledge base and spreading it throughout the state.

Committee members also discussed the need to develop a pipeline of Native American teachers to serve in their communities, the alignment of pre-K with kindergarten, multiple avenues to provide regional reading coaches, and professional development for teachers, including the teachers’ need to have collaborative planning time.

The Chair, noting a committee member’s concern over increased fuel costs for bus transportation, suggested the creation of a transportation subcommittee to address the needs of bus contractors.

### **PED UPDATE: AUDIT RESULTS OF PED-SELECTED SCHOOL DISTRICTS AND CHARTER SCHOOLS**

The Chair recognized Secretary-designate of Public Education, Hanna Skandera and Mr. Paul Aguilar, Deputy Secretary, Finance and Operations, Public Education Department (PED); and Mr. David Craig, LESC staff, for a briefing on the PED audits of selected school districts and charter schools. Mr. Craig reviewed testimony that the LESC had heard during the 2011 interim on the audits of 34 selected school districts and 28 charter schools. He also indicated that, after the initial audit, nine school districts and one charter school were selected for a tier II audit, the results of which were released on Friday, June 15.

Next, the Secretary-designate testified that, as a result of the audits, reporting for special education (SPED) and other funding formula factors has improved. She also explained that flat enrollment and reduction of SPED units produce increases in the unit value. The identified schools, according to the Secretary-designate, were sent an email saying that they had two weeks to respond to any findings. She also said that PED would have a regular schedule for audits with a third of school districts or charter schools reviewed on an annual basis. The Secretary-designate further explained that PED now has an audit team in place, as well as an online handbook for audit procedures.

### **Committee Discussion**

A committee member asked for additional information on the audit schedule, as well as the memo that indicated the need for regular audits. In response, Mr. Aguilar said that PED intends to send out general notices regarding upcoming audits at its spring budget workshops, and to send letters to each district and charter school selected for review. He also offered to provide the memo.

Responding to a committee member who asked what kind of feedback the districts received, the Secretary-designate said that each district had an exit conference, and PED is improving on its reporting.

The Chair indicated that future audits should expand beyond SPED. In response, the Secretary-designate outlined the compliance categories from the tier I audits: from minor to major findings. She also explained that the 16 percent number for SPED may have to be updated because it needs to be balanced to determine what schools can do to transition students out of special education.

The Chair then invited audience comment on the tier I and tier II audits. In response:

- Mr. Winston Brooks, Superintendent of Albuquerque Public Schools (APS), reviewed the allegations made last spring by the Secretary-designate that some school districts were “gaming the system”; and he described the ambiguous status of APS and a number of other districts: not among the seven initially cleared in the tier I audit or among the nine districts subjected to tier II audits, these other districts had received no notification about their status from PED.
- Mr. Jamie Widner, Superintendent of Melrose Public Schools, described the 15-month-long process in which his district, first accused of wrongdoing and then subjected to the tier II audit, was eventually cleared of any findings. Mr. Widner also explained that he had to come to Santa Fe in person to learn these results, and he expressed his concern over the damage that the district had suffered because of media coverage of this issue.

Next, the Chair asked about the status of the PED audit of Sierra Vista Elementary School in APS, which had been prompted by allegations of testing irregularities. Mr. Aguilar replied that PED had sent a report to APS stating that the investigation found anomalies but nothing that would require licensure actions. Mr. Brooks said that he had been given less than 24 hours notice of the audit, and he questioned the propriety of PED’s including among the audit team a former employee of APS.

A committee member requested that PED notify those 25 school districts that had preliminary audits and explain their status; and send copies of the notifications to the LESC Director.

### ***SCHOOL ATHLETICS EQUITY ACT REPORTING GUIDELINES: UPDATE***

The Chair recognized Dr. David Harrell, LESC staff, for an update on the development of reporting guidelines for the *School Athletics Equity Act* (SAEA). Dr. Harrell introduced Pamela P. Herndon, JD, Executive Director of the Southwest Women’s Law Center (SWLC), who would be participating in the presentation.

Dr. Harrell reminded the committee of two presentations on the SAEA during the 2011 interim, which led to successful LESC-endorsed legislation that simplified the school reporting requirements under the act and which produced a motion creating a drafting group to develop guidelines to help schools meet the reporting requirements. The purpose of this presentation, Dr. Harrell said, was to report the status of the draft guidelines, as the motion called for such a report to the LESC at the first meeting of the 2012 interim.

Noting that the drafting group had met three times thus far, Dr. Harrell focused on the third meeting, in late May 2012, when the direction of the work changed somewhat though with the same end in mind. At that meeting, he said, Dr. Kristine Meurer, Director of the School and Family Support Bureau, Public Education Department (PED), presented expanded instructions for an electronic reporting system to replace the paper reports filed with PED in 2011; and she announced that all schools would report directly to PED according to these instructions in 2012. This development was significant, Dr. Harrell explained, because in 2011 schools that were members of the New Mexico Activities Association (NMAA) reported through the NMAA's software program, which had been modified to accommodate the first-year's data required under the SAEA, and non-member schools reported to PED on paper forms. Thus, the NMAA would no longer be a conduit for the required reports; and its representatives had withdrawn from the drafting work group, Dr. Harrell added.

The consensus of members at the May meeting, Dr. Harrell continued, was that, while the new PED system will standardize and enhance the reporting process, it is unlikely to resolve the wide variety of questions of interpretation that came to the attention of the LESC in 2011. Therefore, members agreed to use the PED instructions as the base document and to supplement it with questions and answers, illustrative scenarios, and other explanatory material to address questions and issues raised by school officials and others.

Dr. Harrell concluded his part of the presentation by noting that the staff report contained some background information about the LESC's review of the SAEA in 2011, which had identified many of the issues the work group was attempting to address; the provisions of state law, as amended by LESC-endorsed legislation; and provisions of the federal Title IX and corresponding regulations.

Ms. Herndon described the collaborative effort of school administrators, athletic directors, coaches, PED staff, LESC staff, and other interested parties to produce reporting guidelines to help schools comply with the SAEA. Given the new direction at the May meeting, which Dr. Harrell had explained, Ms. Herndon said that a legal intern working this summer for the SWLC was helping SWLC staff review the revised PED instructions to determine what questions or issues the supplementary material should address. Once this review is completed, Ms. Herndon continued, the SWLC staff would draft some supplementary information for review and discussion at another meeting of the work group. With this timeline, Ms. Herndon suggested, there may be some material prepared in time to assist schools with their August 31, 2012 reporting deadline, well ahead of the schedule in the LESC motion.

Ms. Herndon concluded her part of the presentation by noting some plans of the SWLC. The center, she said, intends to analyze the data submitted in August, discuss them with schools, and identify those schools that could serve as models or resources for schools that are working to improve either their data submission or the alignment of their policies and practices with the SAEA.

### **Committee Discussion**

In response to a committee member's question about the current role of the NMAA with the SAEA, Dr. Harrell said that it was his understanding that the NMAA had to withdraw from the drafting group in order to focus resources on services to its member schools.

A committee member asked whether a school that follows PED's new reporting instructions will be expected to file additional information once the additional reporting guidelines are complete. In

reply, Dr. Harrell said that the PED instructions address the data requirements in law so that a school following those instructions can demonstrate compliance with the SAEA. He emphasized that the material that the drafting group intends to produce will merely supplement those instructions by addressing unusual circumstances and questions of interpretation. This material will also be subject to change as circumstances change. Dr. Harrell added that, according to the motion that created the drafting group, this supplementary material will be presented to the LESC for review.

The committee discussion reflected a variety of viewpoints. On one hand, some members welcomed the PED development and indicated that the reporting requirements under the SAEA will help schools demonstrate compliance with the federal Title IX; others, however, noted that NMAA-member schools had been given short notice about the change in the reporting process, questioned the extent of noncompliance with Title IX, and expressed concerns about athletics programs being cut at some schools. In response to some of these concerns, Ms. Herndon said that the reporting requirements are a means toward transparency; and she described some of the benefits of girls' participating in athletics, among them better health, higher self-esteem, and increased civic engagement.

### **CHARTER SCHOOL UPDATE**

The Chair recognized Dr. David Harrell, LESC staff, for an update on charter schools. Dr. Harrell introduced Ms. Kelly Callahan, Interim Director, Options for Parents, Public Education Department (PED), who would be providing some details about new state-chartered charter schools and the recent activities of the Charter Schools Division (CSD) in PED.

Dr. Harrell began by reminding committee members that, during the 2011 interim, the LESC heard several staff presentations on charter schools. One of the points addressed during these presentations was the approval by the Public Education Commission (PEC) of 11 applications to open new state-chartered charter schools and the approval of one application by Farmington Municipal Schools to open a locally chartered virtual charter school. If they meet the conditions placed upon those approvals, Dr. Harrell said, all 12 charter schools are scheduled to open in fall 2012. The staff update for June 2012 would address not only the status of those 12 applications approved in 2011 but also: the 43 notices of intent to open new charter schools submitted in January 2012; and an investigation by PED into course credits awarded by Southwest Secondary Learning Center (a state-chartered charter school) to students at high schools in Albuquerque Public Schools.

On the first topic, Dr. Harrell noted that the staff report lists the 11 PEC-approved applications and the conditions placed upon them. In general, he said, those schools seem to be on track for satisfying the conditions and opening this fall, with more information coming shortly from Ms. Callahan.

Like the 11 schools approved by the PEC, Dr. Harrell said, the New Mexico Virtual Academy (NMVA), approved by the board of Farmington Municipal Schools in September 2011, has been working during its planning year to meet the conditions applied by the school board; however, there is still work to be done. At a meeting on June 14, 2012, Dr. Harrell reported, the school board tabled approval because some expected amendments to the memorandum of understanding (MOU) between the NMVA and the provider of the virtual education program, K12 Inc., had not been

completed and because the special education policies and procedures were not sufficiently aligned with those of the district. The school board will review the application once again at the meeting on July 17, with the expectation that the school will open on August 20.

Dr. Harrell called the committee's attention to the MOU because it indicates the relationship between a virtual charter school and the provider of the virtual educational program, a topic of interest partly because some of the notices of intent submitted in 2012 are for virtual charter schools. Among its provisions, the MOU:

- anticipates a "long-term relationship," with an initial term of 10 years and renewal terms of seven years each;
- assesses an administrative services fee to the school of 15 percent of the school's "program revenues," which include state and local per-pupil basic education funds and federal funds;
- provides that K12 Inc. will hire administrative personnel – perhaps including a "school operations director" – to deliver the educational services; and will be involved in recruiting, interviewing, and recommending certain administrative positions at the school: head administrator, business manager, and special education coordinator; and
- enumerates a number of other general and administrative services that K12 Inc. will perform.

For the notices of intent, Dr. Harrell credited Ms. Callahan and the staff of CSD for implementing a new format that provides considerably more information about the plans of the prospective applicants than in years past. Of the 43 such notices submitted early in 2012, most were submitted by parties in New Mexico; and they cover a wide range in terms of mission, targeted population, and curriculum. Some of these schools, Dr. Harrell said, intend to focus on Science, Technology, Engineering, and Mathematics education while others plan to emphasize health care; some propose traditional classroom settings, while others have a virtual school in mind; and several schools plan to address the needs of a particular student demographic, such as special needs students or Native American students.

A notable difference this year, Dr. Harrell emphasized, is that for the first time multiple out-of-state charter management organizations (CMOs) have submitted notices to open multiple charter schools in New Mexico: 18 altogether. Dr. Harrell then provided brief overviews of each of the four CMOs and their intentions for New Mexico.

- Headquartered in El Paso, Texas, Academic Opportunities Academy, a nonprofit corporation, plans to open charter schools in five school districts: Alamogordo, Carlsbad, Deming, Gadsden, and Las Cruces. A major component of the instruction will be a software program that prepares individualized learning plans for each student according to the student's needs.
- Connections Education, based in Maryland, has submitted notices to open schools in four districts: Española, Los Alamos, Moriarty-Edgewood, and Santa Fe; however, Dr. Harrell said that one member of the applicant team – the president of the Rio Grande Foundation – has stated that the intention is to open only one, to be identified as the "best partner." The model or focus of the proposed school is virtual education.

- Formed in Texas in 1997, Responsive Education Solutions (ResponsiveEd), a 501(c)(3) nonprofit organization located in Lewisville, has proposed opening one Premier High School in each of five school districts in New Mexico: Albuquerque, Clovis, Farmington, Las Cruces, and Santa Fe. The model or focus of these five schools will be to reach students who have dropped out of other schools or who are at risk of dropping out.
- Recognized by the United Nations as one of the best examples of world peace, StarShine Academy, headquartered in Phoenix, Arizona, has proposed opening charter schools in four school districts in New Mexico: Albuquerque, Los Alamos, Rio Rancho, and Santa Fe. The model or focus is college preparatory K-12 through individualized instruction for each child, targeted to students who are having little success in traditional public schools, students in need of individualized instruction, and students who have dropped out or who are lacking credits.

One point these applicants have in common, Dr. Harrell said, is that, consistent with state law (which prohibits a charter school’s governing board from contracting with a for-profit company to manage the charter school), all four CMOs intend for nonprofit organizations to run the schools – although in at least two cases these nonprofits are associated with or plan to contract with a for-profit company. Another point in common, Dr. Harrell continued, is that all four plan to apply to the PEC.

The final topic of Dr. Harrell’s presentation was an account of a case in Albuquerque involving a senior at an Albuquerque Public Schools (APS) high school who had failed senior English but who, in fewer than four days in mid-May, earned a C in the course at Southwest Secondary Learning Center (SSLC) and thereby satisfied the graduation requirements. In response to this incident – and to the discovery that 289 APS students have earned a total of 387 credits from SSLC during school year 2011-2012 – the Superintendent of APS wrote to the Secretary-designate of Public Education asking that PED investigate what the superintendent called the “granting of ‘quick’ credit” from SSLC.

Dr. Harrell reviewed some of the points from the Superintendent’s letter and the letters of the Secretary-designate to the Superintendent and to the Chief Academic Officer of SSLC, announcing that PED would conduct a review of the senior English incident, as well as the 387 credits and the APS policy of accepting recovery credits from neighboring districts. Dr. Harrell also noted that, in response to queries from LESC staff about the status of the investigation, PED reported on June 15, 2012, “the site visits have been completed and the report is being compiled.”

Finally, Dr. Harrell said that the issue had also attracted the attention of the PEC, which held a special hearing on June 8, 2012. At that hearing, PEC members presented a number of questions for consideration by Ms. Callahan, questions that addressed such issues:

- definitions of terms;
- written agreements;
- fees;
- student accountability;
- the policies that govern summer school, credit recovery programs, and extended learning programs offered by charter schools and school districts;
- provisions of the SSLC charter; and

- the prospect of students from other districts earning credits at SSLC under similar circumstances.

Ms. Callahan began her part of the presentation with a description of the several training sessions that the 11 schools had attended, the last of which was held on June 6. Then she provided an overview of the status of the 11 schools.

All of them, she said, had met the school-specific conditions that the PEC had imposed, and the 11 schools were at various stages in meeting the facilities requirements. On this point, Ms. Callahan emphasized legislation enacted in 2011 and in effect for the first time this year, which prohibits a charter school from opening or relocating unless its facilities equal or exceed the average New Mexico condition index for that year or the school demonstrates a plan to achieve that rating within 18 months. Noting that the acquisition and completion of facilities is the largest, most complex challenge facing charter schools now, Ms. Callahan explained that many approved schools do not have “E-Occupancy” because they are in the middle of renovations.

Referring to a handout, *2011-2012 New PEC Authorized Charter Schools Planning Year Activities Status Report*, Ms. Callahan then reviewed the status of each of the 11 schools. All of them, she said, had substantially met the requirements of the planning year checklist. She also noted which schools had met which of the facilities-related requirements and whether, in cases where they had not, the schools had contingency plans in place.

### **Committee Discussion**

In response to a committee member who asked what is being done to ensure the quality of charter applicants, Ms. Callahan explained that SB 446a, *Charter School Contracts* (Laws 2011, Chapter 14), will be in effect as of July 2012, and it requires a framework in which schools must demonstrate how well they perform. The PEC, she added, approves and renews charters; and its members receive training from the National Association of Charter School Authorizers to remain current on updates.

Regarding the NMVA in Farmington, a committee member observed that a large number of its students are coming from Albuquerque and asked whether funds will be taken from the Student Equalization Guarantee (SEG) for APS. In response, Ms. Frances Ramírez-Maestas, LESC Director, said that is one of the questions about virtual schools that must be answered.

One committee member reviewed the debate over the creation of the PEC. In response to a query, Ms. Carolyn Shearman, Vice Chair, PEC, agreed that authorizing charter schools has become the PEC’s greatest responsibility.

The committee also discussed a provision in the *General Appropriation Act* stating that no school district or charter school may use SEG funds for marketing or recruiting purposes.

A committee member asked for the enrollment figures of each of the 11 schools approved by the PEC.

Another committee member asked for third-grade reading proficiency data sorted by charter school.

## **SUPERINTENDENT AND COMMUNITY INPUT**

The Chair recognized Mr. Tom McGaghie, the General Educational Development (GED) Coordinator at New Mexico State University in Grants, who expressed concerns over the privatization of the GED test resulting in a cost increase from \$35.00 per battery to \$125.00 per battery. According to Mr. McGaghie, Pearson Education, Inc., which is one of the world's leading education services companies, intends to acquire the contract to be New Mexico's sole provider of the GED test. He urged the committee to look at possible alternatives for the GED test, as other states are doing so in light of the prospect of increased fees.

Committee members expressed additional concerns about the impact on other GED test providers, such as the University of New Mexico and Central New Mexico Community College, as well as the validity of the tests and the security of information. There were also concerns that Pearson may intend to market the names and addresses of test-takers.

Finally, the Chair recognized Ms. Barbara Vigil-Lowder, Communications and Leadership Coordinator for the New Mexico Coalition of School Administrators (NMCSA), who expressed NMCSA's support for Superintendents Widner and Brooks and asked PED to acknowledge and correct the damage done to school districts that were misrepresented by the media.

There being no further business, the Chair with the consensus of the committee, recessed the LESC meeting at 4:38 p.m.

### **MINUTES LESCMEETING JUNE 19, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:15 a.m., on Tuesday, June 19, in Room 307 at 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, 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 voting members of the LESC were not present:

Representative Nora Espinoza.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Mark Boitano, Stephen H. Fischmann, Linda M. Lopez, Howie C. Morales, and John Pinto.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, Roberto “Bobby” J. Gonzales, and Sheryl Williams Stapleton; and Senators Vernon D. Asbill and Sander Rue.

Senator Bernadette M. Sanchez was also in attendance.

### **WAIVER OF CERTAIN PROVISIONS OF THE NO CHILD LEFT BEHIND ACT**

The Chair recognized Mr. Kevin Force, LESC staff, for a presentation on the waiver of certain provisions from the *No Child Left Behind Act of 2001* (NCLB). He started with the following chronology of events:

- September 23, 2011: US Department of Education (USDE) Secretary Arne Duncan invites states to request flexibility from certain provisions of NCLB.
- November 14, 2011: New Mexico submits an initial request, which is declined due to deficiencies noted by peer review.
- February 15, 2012: New Mexico receives approval of its amended request.
- April 2012: the New Mexico Public Education Department (PED) releases public notice of intention to apply for two additional waivers offered by USDE.

Mr. Force noted that 13 waivers are available under Secretary Duncan’s package. In particular, he said the requirement that districts identify Title I schools that fail to make Adequate Yearly Progress (AYP) for two consecutive years is waived; however, districts are still required to focus on low-performing schools categorized as “priority” or “focus” schools. Furthermore, Mr. Force indicated that PED will use A-F school grades instead of AYP determinations. He also testified that requirements for improvement plans for Highly Qualified Teachers are waived in favor of focusing on “more meaningful evaluation systems” for teachers and principals.

Mr. Force then listed the four principles of the NCLB waiver:

- College- and Career-Ready Expectations of All Students (Common Core State Standards);
- State-developed Differentiated Recognition, Accountability and Support (A-F school grading system);
- Supporting Effective Instruction and Leadership (Teacher and Principal Evaluation System); and
- Reducing Duplication and Unnecessary Burden.

Referring to an attached table, Mr. Force explained that, in order for the flexibility request to be approved, PED had to agree to undertake 14 different assurances of certain actions, most of them related to one of the four principles.

According to Mr. Force, PED is also required to submit a description of how the department solicited input from groups representing teachers, students, and parents, as well as community-based and civil rights organizations, Indian tribes, students with disabilities, and English language learners.

He also reported that the Congressional Research Service has reviewed Secretary Duncan's waiver authority, noting that the Secretary can grant waivers from almost any statutory or regulatory requirement of the *Elementary and Secondary Education Act* (ESEA) to states, districts, schools, or tribes that receive funds under an ESEA program. Mr. Force stated that waivers are limited to four years, with the possibility of an extension if it is determined to improve student achievement and is in the public interest. The language of the act, he asserted, as well as the courts' interpretation of similar powers of other secretaries, would indicate that the waiver authority is very broad and likely to be upheld by courts unless the specific exercise of that authority is found to be "arbitrary and capricious."

According to Mr. Force, the issue of waiving authority in exchange for meeting requirements not otherwise in law has not been addressed by the courts as yet; however:

- the Secretary can grant waivers in response to a request, but cannot unilaterally impose new requirements;
- the Secretary may invite applications and condition their approval on new conditions because compliance would be seen as voluntary, with conditions not being viewed as "requirements";
- possible new conditions not currently in law that are not sufficiently justified might be considered to be exceeding authority;
- other agencies have imposed conditions for waivers, but the USDE requirements are much broader in scope than any imposed to date; and
- a review of the federal register indicates that of more than 600 waivers granted between 2009 and 2010, none of the waivers in that period imposed new conditions on grantees.

Mr. Force implied that few, if any, waivers other than those in Secretary Duncan's flexibility package will be granted to states. So far, he noted that 37 states and Washington, DC have applied for the waivers, and 19 have been approved. It seems likely, Mr. Force said, that the other states that applied will be granted flexibility, much like New Mexico was. He mentioned that Vermont withdrew its request when it became apparent that the Secretary would not consider allowing the state to develop its own "measurements for progress and teacher qualifications." Mr. Force explained that California has expressed dissatisfaction at the conditional nature of the waiver package, and has indicated that the state will not apply because of the cost of implementing a new teacher evaluation system. He added that the state is preparing a waiver request that includes many of the required principles, but not the evaluation system, despite indications that such requests will likely be denied.

Mr. Force also reported that USDE Assistant Secretary Michael Yudin has indicated that Secretary Duncan, sympathetic to districts in states that have not applied for the waiver, may offer waivers to individual districts after the September request deadline. Mr. Force noted that this action would be particularly problematic for California and Texas, which comprise nearly 2,000 districts. Now, according to Mr. Force, state education chiefs are concerned about the possibilities of undermining state authority and creating a patchwork of requirements and waivers across a state.

Mr. Force concluded his presentation by noting that the waiver package will be in effect until at least 2014, with the probability of an extension through school year 2014-2015. However, if Congress continues work toward reauthorization of NCLB and does it without provision for the

waiver package, many states, including New Mexico, would have to shift their focus and requirements again.

Finally, Ms. Frances Ramírez-Maestas, LESC Director, called the committee's attention to a point in one of the footnotes to Mr. Force's staff report: although the USDE has waived certain requirements of federal law, some of those requirements – the provisions for adequate yearly progress and the actions required of schools in need of improvement, for example – still exist in state law, specifically in the *Assessment and Accountability Act*, one of the explicit purposes of which is to comply with federal accountability requirements.

### **Committee Discussion**

Concerned that district-level waiver requests would bypass a state's authority, a committee member asked if any districts had yet applied for waivers. In reply, Mr. Force said that the superintendent of the Houston school district had announced an intention to apply because the state had chosen not to.

Responding to the point that Ms. Ramírez-Maestas had raised, committee members expressed concern over the prospect of schools being subjected to two accountability measures until the Legislature has an opportunity to review the *Assessment and Accountability Act* during the 2013 legislative session. A committee member asked whether that prospect had been discussed at the recent School Law Conference, hosted by the New Mexico School Boards Association. In reply, Mr. Joe Guillen, Executive Director, said that there had been no such discussion and noted that school board members are urging Congress to reauthorize the ESEA.

Among other points, committee members discussed the unclear relationship between a school's letter grade under the A-F school grading system and that school's status as a "focus" or "priority" school under the terms of the waiver; the kinds of rewards that PED may be able to offer schools that achieve "reward" status under federal terms; and the similarities among the concerns raised by the original NCLB and now by the requirements and conditions of the waiver.

A committee member requested an account of PED's responses to the 14 assurances that Mr. Force had mentioned.

### **COMMON CORE STATE STANDARDS INITIATIVE: OVERVIEW**

The Chair recognized Mr. Travis Dulany, LESC staff, and Mr. Daniel G. Thatcher, Policy Specialist/Education Program, National Conference of State Legislatures (NCSL), for an overview of the Common Core State Standards (CCSS) initiative.

Referring to the staff report, Mr. Dulany informed the committee that the report outlines CCSS activities in New Mexico, including the development of New Mexico's CCSS implementation plan, the transition from the SMARTER Balanced Assessment Consortium to the Partnership for Assessment of Readiness for College and Careers (PARCC), and some background information. Mr. Dulany then yielded to Mr. Thatcher for an overview of CCSS activities nationwide.

Mr. Thatcher began by stating that the CCSS initiative, some might argue, dates back to the 1980s during Ronald Reagan's presidency, and continued through the George H.W. Bush educational summit in 1989, the proposed national assessments under President Bill Clinton, the *No Child Left*

*Behind Act of 2001* and Adequate Yearly Progress under President George W. Bush, and finally the Race to the Top grant competition under President Barack Obama's administration. Mr. Thatcher added that the CCSS initiative, specifically, was the product of the National Governors Association and the Council of Chief State School Officers, when the two organizations formed a collaborative effort and published the document *Benchmarking for Success* in December of 2008. Currently, Mr. Thatcher stated, the CCSS initiative includes 48 states, the District of Columbia, Guam, and the US Virgin Islands.

Mr. Thatcher summarized the criteria used to develop the CCSS, which include alignment with college and career expectations, realistic and effective classroom use, and both content and application knowledge through high order skills. He emphasized that the CCSS are: (1) not a federal mandate, but rather a common effort among the states; (2) focused on the core areas of English/language arts and mathematics; (3) state-led; and (4) not a curriculum or a national assessment, but rather a set of standards. Mr. Thatcher also provided the committee with an example of the mathematics and English/language arts standards in order to better show what the standards might cover in the classroom.

Mr. Thatcher then informed the committee of the timeline for implementation of the standards, along with the efforts to develop assessments that align with the CCSS. The process for implementation of CCSS, he stated, continues through 2015 and includes several years of pilot programs in various districts and states. He added that the PARCC assessment consortium, of which New Mexico is a governing state, will administer its first summative assessment in 2015 as well.

Finally, Mr. Thatcher addressed the cost of implementing the CCSS across the country, highlighting two estimates from two different institutes – the Pioneer Institute and the Fordham Institute.

- Estimates from the Pioneer Institute, a more conservative organization according to Mr. Thatcher, place the cost of implementing the CCSS at approximately \$16.0 billion. He cautioned that the Pioneer Institute has expressed opposition to the CCSS in the past.
- The Fordham Institute, Mr. Thatcher continued, provides three estimated costs for implementing the CCSS: the “business as usual model” at \$12.0 billion, the “bare bones model” at \$3.0 billion, and the “balanced implementation model” at \$5.0 billion. He cautioned that the Fordham Institute did not have specific data when estimating these costs.

Of additional concern, Mr. Thatcher continued, Microsoft Corporation recently announced that it will no longer support the Windows XP computer operating system, a platform upon which many computers run. This change may have fiscal implications for school districts as they transition to more technology-dependent curricula, instructional materials, and assessments such as PARCC, Mr. Thatcher said.

### **Committee Discussion**

In response to a committee member's question, Mr. Thatcher stated that the Bureau of Indian Education and the Department of Defense have both adopted the CCSS, meaning that a student transferring from schools operated by either organization will not have to start from scratch when attending a New Mexico public school.

A committee member pointed out that New Mexico's standards have traditionally been ranked very high among other states, but high standards do not necessarily lead to high-quality outcomes, to which Mr. Thatcher responded that high standards are good only if they are implemented well.

In response to a committee member's question, Mr. Thatcher stated that no state has opted out of its initial commitment to the CCSS initiative, although some states have required state-level departments of education to obtain legislative approval to adopt the CCSS.

A committee member expressed concern that teachers in New Mexico have not experienced a salary raise in several years, yet the state will be spending money to implement the CCSS, explaining that, if New Mexico does not have good teachers in the classroom, the state will not be able to effectively implement the CCSS. The committee member recommended that Mr. Thatcher make his presentation to the Legislative Finance Committee (LFC) as well.

Regarding Microsoft Corporation's suspension of support for Windows XP, the Chair asked Ms. Linda Sink, Chief Academic Officer, Albuquerque Public Schools (APS), what the change in technology support means for APS. Ms. Sink replied that she had not yet heard of the changes by Microsoft, and expressed concern that the changes could exacerbate networking capacity issues and lengthen the time students are taken out of the classroom for testing.

A committee member said that the larger school districts may be able to deal with the need to upgrade technology better than the smaller districts, where Internet bandwidth may be limited. This committee member added that more effort needs to be exerted when distributing capital outlay funds to rural districts.

A committee member stated that, although the need for newer or more current technology in order to implement the CCSS and administer the PARCC presents a challenge, she is optimistic about and encouraged by the opportunity to push forward the state's technology infrastructure, adding that more current technology is necessary for more than just administering the PARCC assessment.

The Chair asked Mr. Thatcher whether the instructional materials offered to schools are aligned with the CCSS, to which Mr. Thatcher responded that several entities are exploring various media and delivery systems for instructional materials, adding that the NCSL conference in August will offer a session on digital media.

On a motion by Senator Nava, seconded by Representative Hall, the committee approved forming a subcommittee involving PED, the Governor's staff, and the LFC, to review the existing policies and alignment of educational infrastructure related to the CCSS in preparation for the legislative session.

A committee member requested that Mr. Thatcher provide information on how the CCSS may affect college admissions.

### **A-F SCHOOL GRADING SYSTEM REVIEW**

The Chair recognized Mr. David Craig, Ms. Sarah Amador-Guzman, and Mr. Kevin Force, LESC staff, for a review of the A-F grading system. Mr. Craig began with a brief overview of SB 427, *A-B-C-D-F Schools Rating System* (Laws 2011, Chapter 10), which created the A-B-C-D-F

accountability framework and amended current public school finance law relating to school budget approval and program costs to ensure that local school boards and charter schools prioritize resources for schools receiving a D or F under the current system. He noted that the LESC heard testimony during the 2011 interim on implementation of the system and implementation via administrative rule.

Preliminary grades were released in January of this year and final grades are to be issued by June 26, 2012. Mr. Craig said that in order to continue to comply with the LESC focus on implementation of current law, LESC staff developed a comparison of the statute to department rule, requested details of the calculations of the preliminary grades, and requested a meeting with the Public Education Department (PED) to discuss how grades were calculated. Currently, Mr. Craig said he is working with PED staff to finalize this meeting, and he noted that PED has asked for a memorandum of understanding with the LESC before providing requested data.

In addition, Mr. Craig said he met with other stakeholders interested in preliminary grade calculations and the technical elements of the grading system, including the University of New Mexico Center for Education Policy Research (CEPR). He then gave the committee a review of some of the elements of the A-F framework; discussed how PED implemented the A-F grading system; addressed some of the financial implications; and provided background information on some of the current developments.

The state assigns grades, Mr. Craig continued, based on criteria established in administrative code, with D and F schools targeted to receive interventions. He also said that the A-F system is separate and distinct, as evidenced in the outcomes comparison between A-F and Adequate Yearly Progress (AYP). Currently, at the federal level, the A-F grading system has superseded the AYP school accountability system under the *No Child Left Behind Act of 2001* (NCLB).

As part of its *Elementary and Secondary Education Act* (ESEA) waiver, Mr. Craig said that PED integrated its A-F system into the US Department of Education ESEA requirements for the waiver by creating reward, strategic, focus, and priority schools. Reward schools, he noted, are schools that are high performers and represent approximately 5.0 percent of all Title I schools. Focus schools, Mr. Craig continued, are the lower performing schools and make up approximately 10 percent of Title I schools, while priority schools are the lowest 5.0 percent of performers among Title I schools. He also said that strategic schools are a continuation of focus schools and comprise approximately 10 percent of schools not identified in the other areas. Strategic schools receive targeted interventions to close achievement gaps.

Mr. Craig further explained that the waiver sets the 90<sup>th</sup> percentile of current performance as the school growth target, which was termed the Annual Measurable Objective under AYP. PED says the system can serve both as a mechanism for monitoring school performance and generating student growth targets. Mr. Craig then explained how PED had calculated that nearly 12.5 percent of students would be proficient within a year's time. Together this equates to roughly 85 percent of elementary or middle school students being on track to being proficient or above. The same methodology, he indicated, yields 87 percent for reading.

Mr. Craig also discussed some of the differences between the A-F grading system and the school accountability system currently in state law. One difference, he noted, is that PED rule and guidance reference standards-based testing in 10<sup>th</sup> grade, whereas the state *Assessment and Accountability Act* defines the tested grades as 3-8 and 11. Mr. Craig also noted the question raised

during the earlier presentation on the federal waivers, whether schools in New Mexico are subject to two accountability systems: the new A-F system and the NCLB-based requirements in state law, adding that PED had not yet provided an explanation in response to LESC staff queries.

In January, Mr. Craig continued, PED released a report of preliminary grades for public schools throughout New Mexico. Approximately 64 percent of schools earned a grade of A, B, or C, while 36 percent received grades of D or F. The grades were based on:

- student data from school years 2008-2009, 2009-2010, and 2010-2011;
- graduation rates from four-year and five-year cohorts; and
- student data from reading and math standards-based assessments.

Among the financial implications, Mr. Craig stated that, as required by the new law, any public school rated D or F for two consecutive years is subject to PED's ensuring that the local school board or charter school governing body prioritizes resources toward proven programs until the school earns a C or better for two consecutive years. Mr. Craig also noted that the 2012 Legislature did not appropriate \$1.25 million that the executive had requested for monetary rewards for A-grade schools but did appropriate \$3.5 million for interventions in low-performing schools, those that received grades of D or F.

Mr. Craig concluded his part of the presentation by calling the committee's attention to the background section of his staff report, which summarized testimony on the A-F grading system that the committee had heard during the 2011 interim, including testimony from the Superintendents Advisory Council (SAC) that the A-F legislation could provide a better school accountability system than NCLB but that the timeline for implementation seemed too short.

Next, Mr. Craig introduced Ms. Beata I. Thorstensen and Dr. Adai Tefera, with CEPR to provide more context on the A-F grading system. Ms. Thorstensen said it was their goal to help think through some of the questions regarding long-term implementation of the system, intended and unintended consequences, and the distribution of grades throughout the state. She said that CEPR supports a system that provides better information to schools than AYP does and plans to do exploratory analyses to understand how grades are assigned and how the system avoids grading schools with regard to circumstances outside their control. Geographic Information Systems mapping, Ms. Thorstensen noted, is one means of doing so. She added that interpreting grades is more complex under the A-F system, and identified things to study further, including:

- the relationship between specific economic disadvantaged areas and school grades;
- the relationship between the school grade and overall poverty level of the school;
- the application of a school grade to a school with a high special education population;
- how schools use data to improve; and
- how the system will mesh with other large changes like Common Core State Standards and teacher evaluation.

Ms. Frances Ramírez-Maestas, LESC Director, mentioned the possibility of a joint evaluation of the A-F grading system with CEPR. She also addressed the continuing efforts of LESC staff to confer with PED staff regarding the technical manual and data requests, and she indicated that LESC staff may be contacting school districts for additional information.

## **Committee Discussion**

A committee member expressed concern about the difficulty of explaining school grades to districts, schools, and the community, noting the demoralizing impact on D and F schools. He also asked whether the grades, scheduled to be posted in July, should not be issued until accuracy can be assured. When asked if there had been any input from the SAC, Ms. Barbara Vigil-Lowder, from the New Mexico Coalition of School Administrators, verified there has been some input, and Moriarty Superintendent Karen Couch added that the SAC did meet with PED and Secretary-designate Skandera regarding the legislation and development of system but that was over a year ago.

In response to a committee member who asked for details on how many reward schools will receive part of the available \$600,000, Mr. Craig replied that PED has not released a distribution plan at this time.

Among other topics, the committee discussed:

- the possibility that cohort schools had been used in the calculations;
- the reasons for the preliminary release of grades in January;
- the effect on school grades of conditions beyond a school's control;
- asking the Secretary-designate to delay the release of school grades; and
- communication between PED and LESC staff.

## **TEACHER AND PRINCIPAL EVALUATION SYSTEM**

The Chair recognized Mr. Phil Baca, LESC staff, for a report on recent developments toward the creation and implementation of a new teacher and school leader evaluation system that gives more weight to student achievement. Referring to a press release attached to his report, Mr. Baca noted that Governor Martinez stated that it is important for New Mexico to be able to:

- identify those teachers and principals who are contributing most to the academic success of their students, so that we can reward them for the impact they are having on our kids; and
- provide support and professional development to those teachers who are struggling.

The press release, Mr. Baca continued, indicates that a condition for the waiver from the *No Child Left Behind Act of 2001* is the development of a new evaluation system prior to school year 2012-2013, with full implementation in school year 2013-2014. Governor Martinez directed the new evaluation system to:

- base 50 percent of each evaluation on three years worth of student achievement, as measured by the New Mexico Standards-based Assessment and other achievement measures selected by districts;
- measure teachers and principals within one of five different categories: Exemplary, Highly Effective, Effective, Minimally Effective, and Ineffective;
- work within New Mexico's current three-tier licensure system, but allow effective teachers and principals to move through the system faster based upon performance in the classroom;

- provide strategic interventions for teachers and principals who are rated minimally effective or ineffective; and
- provide strong professional development for all teachers, targeted to particular needs that are identified by the evaluation system.

Mr. Baca then discussed a press release from Public Education Department (PED) requesting nominations for 18 seats on the New Mexico Teacher Evaluation Advisory Council (NMTEACH). He said the release indicates that council members would serve a two-year term, with their first meeting held May 23, 2012. According to the press release, Mr. Baca indicated that the role of the council would be to:

- enable New Mexico to maintain the waiver from the *Elementary and Secondary Education Act* (ESEA);
- identify excellent teachers and work toward better practices and training; and
- develop a new teacher and school leader evaluation system based on student achievement.

The first NMTEACH meeting, Mr. Baca said, was held on June 4, 2012, with two other meetings scheduled later in June and other meetings to be announced on a month-to-month basis. Mr. Baca also reviewed the implementation schedule for a number of events, including a public hearing on the draft regulation on July 18 and an effective date of the final regulation on August 30.

Next, Mr. Baca reviewed Principle 3 of the ESEA flexibility request, *Supporting Effective Instruction and Leadership*. He stated that the components and weights of the proposed teacher and school leader evaluation system were identified in the approved flexibility request as follows:

First, for teachers in New Mexico Standards-based Assessment content areas:

- 50 percent of the evaluation is based on a Value-Added Model of student achievement;
- 25 percent is based on a strategically designed observation model; and
- 25 percent is based on locally adopted and PED-approved measures.

Second, for teachers in non- New Mexico Standards-based Assessment content areas and grades:

- 50 percent of the evaluation is based on locally adopted and state-approved multiple measures;
- 25 percent is based on observation; and
- 25 percent is based on the school's A-F grade.

And third, for school leaders:

- 50 percent of the evaluation is based on the school's A-F grade;
- 25 percent is based on fidelity of teacher observations and evaluations; and
- 25 percent is based on other measures approved by PED as determined by the district and state-chartered charter school, according to the approved flexibility request.

According to Mr. Baca, PED will create a Technical Assistance Council (TAC) including representatives of teachers, administrators, and outreach groups from all regions of the state, to include representation from the Hispanic Education Advisory Council and Indian Education

Advisory Council. In addition to remaining intact for study and feedback of the new system, he continued, TAC will assist in establishing:

- the overall evaluation model;
- a professional development strategy to support implementation;
- operational procedures; and
- timelines, to include spending the first year providing technical assistance, and using the regional education cooperatives as resources for statewide outreach.

Mr. Baca stated that the approved flexibility request for the model to measure student growth in New Mexico Standards-based Assessment content areas still needs to be developed, and PED will seek to use three years of data where possible. He also indicated that the model for measuring student growth in non- New Mexico Standards-based Assessment content areas and grades is intended as a transition model until better measures are developed and implemented.

Mr. Baca then delineated the methods that PED will use to measure evidence of change in teacher and leader practice, and he identified two actions that the plan contains though without details on how they will be implemented:

- the removal of teachers who receive multiple ineffective evaluations and fail to improve despite opportunities to do so; and
- the possibility that an effective teacher's compensation may be accelerated.

The US Department of Education, Mr. Baca commented, did not require states to address the issue of equitable access to effective teachers as part of their waiver plan. He said although New Mexico's plan states that personnel decisions will be informed by the results of the evaluation, the plan does not explain how New Mexico will use evaluation results to monitor and address any inequities in the assignment of the least effective teachers or principals to students with the highest need.

Mr. Baca also noted that the request included the following steps to ensure the reliability and validity of school district evaluation systems:

- require school districts to report annual evaluation outcomes online;
- have PED evaluate the selected observation procedures during the pilot period to establish quality control measures and make necessary changes; and
- have PED develop an audit structure, which will run on a cyclical schedule for district compliance with evaluation requirements.

Finally, in addressing the challenges of school districts with collective bargaining, Mr. Baca explained that the request states that New Mexico will continue to engage the union leaders of the state in the planning and the implementation of the regulations.

### **Committee Discussion**

A committee member asked whether a teacher and principal evaluation system in law was necessary, first to obtain the waiver, and now to maintain the waiver. In reply, Mr. Baca referred to

a conversation that LESC staff had had with USDE suggesting that the system may be implemented through rule instead of law.

## SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized several people who wished to address the committee.

- Ms. Celia Merrill, Executive Director of the Golden Apple Foundation of New Mexico, commented that:
  - the validity of teachers depends upon a teacher evaluation system;
  - teachers who care about the quality of their work want to be evaluated; and
  - over-reliance on the Standards-based Assessments, which fail to address higher order thinking skills, has the unintended consequence of producing teacher burnout.

Ms. Merrill also commented that she was intrigued by the Met Life Teacher Survey sponsored by the Gates Foundation, and she distributed a white paper to the committee entitled, “Teacher Evaluation in New Mexico: *From the Perspective of Recipients of the Golden Apple Award for Excellence in Teaching.*”

- Mr. Lee Vega, Principal of Santa Rosa Elementary School, said he was pleased that now schools are getting credit under the A-F grading system for things that Adequate Yearly Progress never allowed credit for; and teachers, students, and parents feel validated for the work that they do.
- Dr. Meredith Machen, the League of Women Voters (LWV) of New Mexico:
  - expressed disappointment over the insistence by the Public Education Department (PED) on a memorandum of understanding with the LESC staff before sharing requested data;
  - emphasized that data must be shared in order to improve student achievement; and
  - expressed frustration over PED’s inability to explain the formula for school grading.
- Ms. Alyssa Agranat, a teacher with Albuquerque Public Schools, distributed a handout to the committee and testified that she has been researching teacher evaluation models only to find that none of them have improved student achievement. Ms. Agranat also commented on:
  - the unreliability of the Standards-based Assessments, which she said at times contained wrong answers and unanswerable questions; and
  - how the Golden Apple Foundation and the National Council on Teacher Quality are both known for their expertise in teacher evaluation, yet neither of them uses student test scores.
- Mr. Robert Baade, Director of the Robert F. Kennedy (RFK) Charter High School, wondered why his school had been selected for audit, since they had a decrease in special education numbers. Although RFK was created to serve students in the bottom quartile, he said the media accused him of incompetence. Mr. Baade then discussed teacher evaluation,

noting that most teachers are being evaluated on subjects they do not teach. He believes that no teachers would want to work at his school under this system, since evaluation scores say more about the students in the class than the teacher.

- Ms. Stephanie Ly, President of AFT New Mexico (American Federation of Teachers of New Mexico, testified that:
  - the “AFT Representative” on NMTEACH was not appointed by the AFT; and
  - PED is pushing changes through too fast, which threatens the likelihood of having a good teacher evaluation system.
  
- Ms. Cathy Chavez, a grandmother of three public school students – two of whom have maintained high grades and one of whom, with Down syndrome, will never make high grades – expressed her concern that the proposed teacher evaluation system plays one teacher against another. She said that all three of her grandchildren have had good teachers and strong parental support; yet she fears that ratings for both the schools and the teachers will be adversely affected because of conditions like Down syndrome that are beyond anyone’s control.

There being no further business, the Chair with consensus of the committee recessed the LESC meeting at 4:31 p.m.

**MINUTES  
LESC MEETING  
JUNE 20, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:20 a.m., on Wednesday, June 20, in Room 307 at the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Mary Helen Garcia, Dennis J. Roch, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Gay G. Kernan, and Lynda M. Lovejoy.

The following voting members of the LESC were not present:

Representatives Nora Espinoza and Jimmie C. Hall; and Senator Mary Jane M. García.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., Tim D. Lewis, and Bob Wooley; and Senators Mark Boitano, Stephen H. Fischmann, Linda M. Lopez, Howie C. Morales, and John Pinto.

The following advisory members of the LESC were not present:

Representatives Eleanor Chávez, Roberto “Bobby” J. Gonzales, Sheryl Williams Stapleton, and Shirley A. Tyler; and Senators Vernon D. Asbill and Sander Rue.

## **DIRECTOR’S REPORT**

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

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

### ***b. Approval of LESC Financial Reports for December 2011 through April 2012***

On a motion by Representative Roch, seconded by Representative Garcia, the LESC approved the financial reports for December 2011 through April 2012.

### ***c. Approval of Independent Auditor for FY 12***

On a motion by Senator Kernan, seconded by Representative Garcia, the LESC approved the Independent Auditor for FY 12.

### ***d. Informational Items***

Ms. Frances Ramírez-Maestas, LESC Director, said that the committee notebooks include reports by LESC staff regarding the following items:

- Administrative Rulemaking;
- Decision Regarding the Petition to Create the Kirtland School District;
- Notice of Hearing in the Matter of the Superintendent of Reserve Independent Schools; and
- Race to the Top (RTT) District-Level \$400 Million Grant Competition.

### ***e. Committee Requests***

The committee notebooks also include responses by LESC staff to committee requests regarding:

- involvement of Native Americans in the implementation of the *Early Childhood Care and Education Act*; and
- recommendations from the community meetings hosted by New Mexico First on the implementation of the *Early Childhood Care and Education Act*.

### ***f. Correspondence***

The committee notebooks include letters regarding Public Education Department support in addressing concerns to close the gender gap in New Mexico.

***g. News Releases***

The following news releases were included in the committee notebooks:

- a *Santa Fe New Mexican* article, dated May 15, 2012, pertaining to legal action by Santa Fe Community College in an attempt to have the Higher Education Department review and approve the college's plans to build a new Higher Education Learning Center; and
- an *Albuquerque Journal* article, dated May 15, 2012, noting that the School of Education at New Mexico Highlands University has regained its national accreditation, more than four years after losing it.

**PROPOSED ACTIVITIES FOR THE 2012 INTERIM**

***a. Approval of LESC 2012 Interim Workplan Issues/Topics***

On a motion by Senator Nava, seconded by Senator Lovejoy, the committee approved the LESC workplan for the 2012 interim.

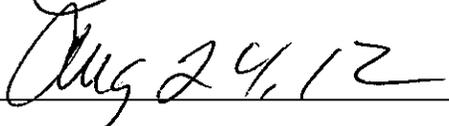
***b. Approval of LESC 2012 Interim Meeting Schedule***

On a motion by Representative Roch, seconded by Senator Kernan, the LESC approved holding its July meeting in Portales and its September meeting in Las Cruces. The remaining interim meetings will be held in Santa Fe.

**ADJOURNMENT**

There being no further business, the Chair adjourned the LESC meeting at 12:05 p.m.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Date