State of New Mexico
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Teresa A. Zanetti

State Capitol North, 325 Don Gaspar, Suite 200
Santa Fe, New Mexico 87501
PH: (505) 986-4591 FAX: (505) 986-4338
http://legis.state.nm.us/lcs/lesc/lescdefault.asp

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MINUTES
LESC MEETING
JUNE 28, 2007

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on June 28, 2007 at 9:43 a.m., State Capitol, Room 307, Santa Fe, New Mexico.

The following LESC members were present:

Representatives Rick Miera, Chair, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, Mimi Stewart, Thomas E. Swisstack, and W. C. "Dub" Williams; and Senators Vernon D. Asbill, Mary Jane M. Garcia, and Gay G. Kernan.

The following LESC advisory members were present:

Representatives Ray Begaye, Nora Espinoza, Mary Helen Garcia, Thomas A. Garcia, Dianne Miller Hamilton, John A. Heaton, Rhonda S. King, Jim R. Trujillo, and Teresa A. Zanetti; and Senators Carlos R. Cisneros, Dianne J. Duran, Lynda M. Lovejoy, and Mary Kay Papen.

Chairman Miera welcomed the returning and newly appointed committee members, commenting on the substantial size of the committee as result of its popularity among legislators.

<> Approval of Agenda

Upon a motion by Representative Williams, seconded by Representative Hall, the committee unanimously approved the agenda as presented.

SUMMARY OF 2007 PUBLIC SCHOOL-RELATED LEGISLATION AND FY 08 APPROPRIATIONS

Chairman Miera recognized Dr. D. Pauline Rindone, Director, Legislative Education Study Committee (LESC), who, together with LESC staff, presented a summary of public school support and related appropriations for FY 08, as well as other legislative initiatives of the 2007 legislative session.

Dr. Rindone called the committee's attention to a memorandum dated April 11, 2007, entitled, *Summary of Public Education-related Legislation Passed by the Forty-eighth Legislature, First Session, 2007*. Dr. Rindone said that this document is prepared by LESC staff after every legislative session to provide legislators with a summary of all education-related legislative activity during the session.

Dr. Rindone said the 2007 legislative session was very successful for education – not only did the Legislature provide approximately 200 million new dollars for education, but in terms of legislation, 15 out of the 27 LESC endorsed initiatives passed and were enacted into law. As in past years, Dr. Rindone noted that the Legislature passed two appropriation acts: CS/HB 2, et al., the *General Appropriation Act of 2007*, which contains the funding for public school support and for the Public Education Department (PED) and CS/SB 611, as amended, *State Agency Expenditures* (also known as HB 2 Junior), which includes a number of public education-related appropriations. Dr. Rindone said both of these acts were signed by the Governor, with partial vetoes.

Dr. Rindone called the committee's attention to three tables in the Memorandum that would be summarized by LESC staff: Table 1, Public School Support and Related Appropriations for FY 08, *General Appropriation Act of 2007*; Table 2, *Public Education-related Appropriations*; and Table 3, *Public School Capital Outlay*. She added that the final piece of the Memorandum, *Public School-related Legislation*, contained a list and short summary of bills that passed (after executive action).

Dr. Kathleen Forrer, LESC staff, discussed Tables 1 and 2 of the Memorandum. She first explained two terms related to the discussion: (1) "above the line," which refers to items included in the State Equalization Guarantee (SEG) appropriation, such as fixed costs and salaries, and (2) "below the line," which includes all of the categorical and related appropriations. She then directed the committee's attention to Table 1, Public School Support and Related Appropriations for FY 08, *General Appropriation Act of 2007*.

Dr. Forrer said that of the approximately $2.5 billion appropriated by the 2007 Legislature for public school support and related recurring appropriations, close to $2.3 billion is designated for distribution through the SEG. She explained that, for each school district, the SEG plus certain local and federal revenue equal Program Cost, which is the amount of money assumed under the Public School Funding Formula for districts to be able to provide the educational services necessary for all of their students, taking into account the students' individual needs. Noting that the total previous year Program Cost serves as the base for the subsequent fiscal year appropriation, Dr. Forrer stated that the FY 08 Program Cost of more than $2.3 billion includes:

- approximately $26.6 million to open the school doors, which includes dollars for enrollment growth; the employer portion of the insurance costs; and fixed costs (which were fully funded by the Legislature, based on a five-year average of actual expenditures);

- approximately $90.6 million for a mandatory average 5.0 percent salary increase for teachers, other instructional staff, and all other certified and non-certified school personnel; almost $3.2 million for an additional average 2.0 percent salary increase for professional instructional support staff with annual salaries below $60,000; and slightly more than $1.7 million for an additional average 2.0 percent salary increase for principals and assistant principals based on responsibility;

- approximately $9.1 million to implement the $50,000 minimum salary for Level 3-A teachers, thereby completing the five-year phase-in of the three-tiered teacher licensure system. Dr. Forrer noted that, to ensure that districts had sufficient funds for both the mandated salary increases and the minimum salary for the Level 3-A teachers, language in the *General Appropriation Act* was included directing the Secretary of Public Education to verify that school districts gave the salary increase prior to implementing the minimum salary for Level 3-A teachers;

- approximately $14.3 million to fund the .75 percent increase in the employer's contribution to the Educational Retirement Fund (ERF); and

- $8.0 million to fund elementary physical education programs on a priority basis, to be implemented first in schools with the highest percentage of students eligible for the federal free and reduced-fee lunch program. (For FY 06, FY 07, and FY 08, the Legislature had appropriated a total of approximately $5.4 million to fund elementary physical education programs; however, this funding was categorical and not distributed through the Public School Funding Formula.)

With regard to the ERF, Dr. Forrer noted that the Legislature had also appropriated an additional $14.5 million in recurring funds outside the SEG to accelerate the employer's contribution for FY 09 and that the Governor had vetoed the supplemental language describing the appropriation but not the amount of the appropriation. Dr. Rindone directed the committee's attention to correspondence in their notebooks from Legislative Council Service (LCS) and Department of Finance & Administration (DFA) attorneys regarding this issue, explaining that LCS considered the appropriation to be intact but DFA considered the appropriation to have been vetoed. She stated that because DFA approves state agency budgets, unless the matter went before the courts for further clarification, the $14.5 million would remain unbudgeted and revert to the General Fund at the end of the fiscal year.

With regard to elementary physical education, Dr. Forrer noted that, during the 2006 interim, the LESC had endorsed legislation to fund elementary physical education programs through the Public School Funding Formula and to phase-in the programs over a four-year period, beginning in FY 08. However, she explained, during the 2007 session, the legislation was amended to remove the provision for a phase-in. Language now requires that PED "annually determine the programs and the consequent number of students in elementary physical education that will receive state financial support in accordance with funding available in each school year."

Dr. Forrer then discussed the "below-the-line" appropriations, noting (1) that the $37.2 million for instructional material was the full amount requested by PED and (2) that the 2007 Legislature had amended the *Instructional Material Law* to permit school districts to expend up to 25 percent of the instructional material allocation for materials not included on the state-adopted multiple list for "other classroom materials." Among the other appropriations to PED, she said, were close to $2.4 million for emergency supplemental distributions (plus an additional nonrecurring appropriation of $6.3 million); $5.0 million for pre-kindergarten programs; and approximately $7.2 million for Kindergarten-three Plus.

Finally, Dr. Forrer briefly reviewed Table 2, *Public Education-related Appropriations*, which summarizes additional nonrecurring public education-related appropriations. She noted that the appropriations to PED totaled approximately $9.3 million, including $6.0 million for use by PED statewide ($2.0 million each for pre-kindergarten programs, breakfast for elementary students,

and after-school enrichment programs). An additional $4.9 million is appropriated to other state agencies for a variety of programs, including $2.0 million to the Children, Youth and Families Department (CYFD) for pre-kindergarten programs. Summarizing the total funding for pre-kindergarten programs, Dr. Forrer noted that the Legislature had appropriated a total of $14.0 million for FY 08: $5.0 million to PED and $5.0 million to CYFD in the *General Appropriation Act of 2007*, and an additional $2.0 million to PED and $2.0 million to CYFD in CS/SB 611, also known as "HB 2 Junior."

Ms. Frances Maestas, LESC staff, reviewed Table 3, *Public School Capital Outlay*. She said this table summarizes over $110.0 million in direct capital outlay appropriations to PED, school districts, other state agencies, and nonpublic entities. It contains appropriations from the General Fund and Severance Tax Bond (STB) proceeds incorporated in two separate pieces of legislation – SB 710, as amended, which includes four statewide appropriations and 167 projects for 37 school districts, and CS/SB 827, which includes 12 statewide appropriations and 460 projects for 55 school districts, as well as six appropriations for nonpublic entities. Ms. Maestas said that, unless otherwise noted, all of the appropriations are directed to PED for distribution. She said that total appropriations by source are summarized at the end of the table (p. 29). Of the $110.0 million appropriated, $71.7 million came from the General Fund and $38.3 million from STB receipts. Ms. Maestas stated that included in the $38.3 million of STBs was a $4.5 million appropriation to the Charter School Capital Outlay Fund for charter school facilities. She said this fund was created in the *Public School Capital Outlay Act* to address charter school facility needs. With a repeal date of July 1, 2012, Ms. Maestas said, the fund can be used for the following two priorities: (1) to assist state-chartered charter schools with the local match for an approved public school capital outlay project; and (2) if dollars are not needed for the first priority, to provide assistance to charter schools in securing public buildings by 2010.

Directing the committee to the "Other Appropriations" section of Table 3, Ms. Maestas stated that the total amount of these appropriations is $13.6 million. She noted that out of this amount, $2.5 million was appropriated to PED for nonpublic schools statewide to "assist in integrating technology into the learning process and to provide computers/related technology at nonpublic schools that are owned/operated/controlled by an entity that owns/operates/controls five or more schools in New Mexico." Ms. Maestas explained that because of the specificity of the language, it appears that the $2.5 million is directed to a specific entity, which in this case would be the Archdiocese of Santa Fe. Ms. Maestas stated that PED staff agreed "the criteria was quite specific," and indicated that the department was in the process of developing the Request for Applications (RFA). The $11.1 million remaining in this section, Ms. Maestas stated, include funding for two Catholic schools in Albuquerque and for three public entities (the Juvenile Justice Program in Albuquerque, the New Mexico School for the Deaf, and the New Mexico School for the Blind and Visually Impaired).

- Among other capital outlay initiatives, Ms. Maestas summarized the recommendations of the Public School Capital Outlay Oversight Task Force, which were included in two identical bills (HB 328, as amended, and CS/SB 395, as amended), *Public School Capital Outlay Omnibus Bill*. She said the House version received a pocket veto, and although the Senate version was signed, it was partially vetoed by the Governor.

Ms. Pamela Herman, LESC staff, highlighted and summarized the following LESC-endorsed bills that were enacted into law in 2007:

- *High School Redesign* (HB 584, as amended, and SB 561, as amended - identical bills) makes numerous changes to the *Public School Code*. The amendments eliminate the existing 9th grade standards-based assessment and replace it with college and workplace readiness assessments. In addition, the law establishes the Diploma of Excellence for all students who enter 9th grade in school year 2009-2010 or later, with an additional unit in mathematics at the level of Algebra II or higher (unless a parent consents to a lower level), and a requirement that one unit be taken as an advanced placement (AP), distance learning, or dual credit course. Among other changes, the new law requires school districts to offer Algebra I in grade 8; requires high schools to offer two years of a language other than English as well as dual credit and distance delivered courses; provides for a middle and high school literacy initiative; increases minimum instructional requirements for grades 1-3; raises the dropout age to 18; eliminates certificates of employment for students; and amends the Public School Reading Proficiency Fund.

- *High School Reforms* (CS/SB 211, as amended) requires PED to collaborate with the Higher Education Department (HED) and with public school teacher preparation programs to create a uniform statewide teacher education accountability reporting system; requires PED to distribute teacher mentorship funds to school districts based on the 40th day of the current, rather than the prior, school year; requires PED to provide an abbreviated alternative route to Level 1 licensure; and to provide by rule for the use of unlicensed content-area experts as resources in schools. It also requires teacher preparation programs to work with colleges of arts and sciences and high schools to develop a model teacher mentorship program and to report to the LESC by November 2007. Finally, this new law requires HED to use the PED-issued student ID number for all students enrolled in postsecondary education.

- *Uniform Curricula in Each School District* (HB 911, as amended) enacts a new section of the *Public School Code* to require each school district to align its curricula for each grade level for mathematics by school year 2008-2009 and for language arts and science by school year 2009-2010. In addition, it requires that school districts align curriculum related professional development for classroom teachers and educational assistants with state standards.

Dr. David Harrell, LESC staff, reviewed the following LESC-endorsed bills that were also enacted in 2007:

- *Dual High School & Post-secondary Credits* (SB 943, as amended) defines the term "dual credit program" and establishes eligibility criteria for students wishing to participate in it. The bill divides the cost among the parties participating – the school district, the institution, and the student – and requires a uniform master agreement. In addition, it requires HED and PED to promulgate rules to implement the program, requiring them to evaluate it in terms of its accessibility to students statewide and its effect on student achievement in secondary education. It also requires evaluation of the program in terms of student enrollment and student completion of higher education degree programs, and evaluates how well school districts and public postsecondary institutions perform in their involvement.

Dr. Harrell stated that implementation of these provisions has begun and that HED and PED have established a task force that has met several times. He said that drafts of rules and a uniform master agreement are underway and HED is looking into the higher education funding formula to encourage waiver of tuition. He further stated that this legislation corresponds to several other initiatives introduced during the 2007 legislative session, notably the LESC-endorsed *Cyber Academy Act*, which will facilitate distance education as a means of offering courses for dual credit, and the legislation calling for high school redesign which require school districts to offer options for course delivery.

- *School Volunteer Background Checks* (CS/SB 210, as amended) addresses the issue of a licensed school employee who has been charged with a serious form of ethical misconduct and who agrees to leave the district quietly in return for the district agreeing not to reveal or report the incident. Under this law, a superintendent, a charter school administrator, or a director of a regional education cooperative (REC) must investigate all allegations of unethical conduct by a licensed school employee who leaves employment after an allegation has been made. If the investigation produces evidence of wrongdoing, this bill requires the administrators to report the incident to PED (and notify the employee of the report), and to use a standardized form that includes the identity of the individual and the circumstances of the misconduct, regardless of any confidentiality agreement between the employer and the licensed school employee. The bill also requires the superintendent, charter school administrator, or REC director to report any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee to PED and stipulates penalties for failure to report such information.

Dr. Harrell also reported that SB 189, as amended, *Charter School Employment Provisions*, which was passed and signed by the Governor, will not become law because of an error in the enrolled and engrossed (E&E) version of the bill. He said that the version signed by the officers of the Legislature and the Governor and chaptered by the Secretary of State differs from the version that the Legislature passed. In short, Dr. Harrell explained that the provision in the *Charter Schools Act* that allows a charter school to decide whether the head administrator <u>or the governing body</u> makes hiring and firing decisions remains intact, despite the Legislature's intent to amend the provision to assign hiring and firing authority to the <u>head administrator exclusively</u>. The change would have aligned the process in charter schools with that in public schools, which assign the hiring and firing authority to the school district superintendent. Dr. Harrell said that the second LESC endorsed change to this legislation relating to alignment of the provisions regarding nepotism with those applicable to regular public schools, remains intact. Upon advice of the LCS, Dr. Harrell stated, this erroneous version of SB 189, as amended, is law, unless it is challenged in court or until the Legislature amends the statute again.

Directing the committee's attention to House Concurrent Resolution (HCR) 2, Dr. Harrell said that this piece of legislation amended an existing joint rule of the Legislature and added a new one. The amendment expands Joint Rule 10-1 to prevent duplicate bills. He said for bills, resolutions, or memorials endorsed by an interim committee or an executive agency, the Legislative Council Service must prepare the document "for introduction in only one house." The new rule, *Joint Sponsorship* (11-1) allows a member of one house to cosponsor a bill, memorial, or resolution introduced in the other house by filing a written notice with the clerk prior to the third reading.

Mr. Peter van Moorsel, LESC staff, summarized two other pieces of LESC endorsed legislation that were also enacted into law:

- *Cyber Academy Act* (CS/HB 201, as amended, and CS/SB 209, as amended - identical bills), creates the statewide cyber academy as a collaborative program among PED, HED, telecommunications networks, and representatives of other state agencies to provide distance education to school districts. The law prescribes duties of the statewide cyber academy; prescribes enrollment criteria for a distance learning student; amends the duties of the Council on Technology in Education; and amends the *Technology for Education Act* to provide oversight for allocations from the Educational Technology Deficiency Correction Fund.

  Mr. van Moorsel stated that for the fall of 2007 HED will implement the Cyber Academy as a high school pilot program based in Albuquerque, and serving 500 students statewide. Mr. van Moorsel added that HED is planning on the cyber academy being fully implemented in the fall of 2008. Dr. Rindone added that, according to HED, the cyber academy would not be fully implemented and able to serve grades 6-12, as stated in the legislation, because insufficient funds were appropriated and it appeared that more time would be needed to implement the program statewide.

- *Dept. of Information Technology Act* (HB 959, as amended, and SB 979, as amended - identical bills) creates a single, unified executive branch cabinet department to administer all laws and exercise all functions formerly administered by other departments or bureaus. In addition, it provides for a secretary and prescribes duties as well as creates the Information Technology Commission, one of whose members is appointed by the Secretary of Public Education and another by the Secretary of Higher Education.

Dr. Rindone concluded this presentation by calling the committee's attention to the last document included in Item 1 of the member notebooks. She said that if a member is interested in any particular education-related legislation that was introduced, but did not pass, it was summarized in a memorandum dated June 5 and entitled *Public School-related Legislation Introduced but **Not Passed** by the 48th Legislature, 1st Session, 2007.*

Chairman Miera recognized Mr. Mike Phipps, Superintendent, Artesia Public Schools, to discuss the implementation of HB 208, as amended, *School Physical Education Programs & Costs*, enacted during the 2007 legislative session. Mr. Phipps noted that the legislation, which provides for elementary physical education program units in the calculation of program cost, specifies the criteria to be used by PED in approving and funding programs in order to ensure that all schools will be eligible to participate in elementary physical education programs on a priority basis: "In granting approval for funding of elementary physical education programs, [PED] shall provide that programs are first implemented in public schools that have the highest proportion of students most in need based on the percentage of students eligible for free or reduced-fee lunch …."

Mr. Phipps expressed his concern that PED may not be following the statutory criteria as intended by the Legislature, stating that PED had announced to the superintendents at a Region VI New Mexico School Boards Association (NMSBA) meeting that the distributions would be based on federal Provision II eligibility criteria rather than on "Schedule A." According to Mr. Phipps, Provision II permits a school that has at least 40 percent of its students qualifying for free or reduced-fee lunches to be classified as 100 percent eligible so long as it pays the cost of

providing meals to those students who do not actually qualify for the federal lunch program; Schedule A, which is compiled by PED from each school's application for participation in the program, includes the actual percentage of students eligible for the free and reduced-fee lunch program for each school. He noted that the only drawback to Schedule A data is that Provision II schools do not have to submit updated student information on a yearly basis. Mr. Phipps expressed his belief that Schedule A, although not totally current, provides a more accurate representation of the poverty levels of individual schools. With this in mind, Mr. Phipps said that he had asked his legislative representative, Senator Vernon D. Asbill, to request an Attorney General's opinion on the interpretation of the criteria specified in the legislation.

Committee Discussion:

Representative Miera complimented the LESC for their role in keeping education appropriations at a constant level despite the fact that there have been serious attempts to take money away from education.

In response to a committee member's question (Table 3, "Other Appropriations") about how the $2.5 million appropriation for technology related purchases for nonpublic schools would be provided to the Archdiocese of Santa Fe, if that is in fact the case, Ms. Maestas stated that as PED is only in the development stage of the Request for Applications (RFA) on this particular appropriation, the Archdiocese has not applied for these funds. She noted that the anti-donation clause in the Constitution of the State of New Mexico, [Art. IX, Sec. 14] precludes the distribution of state dollars "to or in aid of any person, association or public or private corporation." Several committee members voiced concerns about the importance of clarification on this issue because many of their constituents have approached them about similar funding for their various projects. The Chairman agreed on the importance of clarification of this matter, adding that this question has come up many times in his discussion with constituents as well.

In response to a committee member's request to hear about insurance costs this interim from the New Mexico Public School Insurance Authority (NMPSIA), Representative Miera said a presentation by NMPSIA would be included in the workplan for October.

Referring to HJM 40/SJM 36, *Study Truancy & Delinquency Notices*, a committee member said it was her understanding that the CYFD and PED were going to work together to avoid the same kind of tragedy happening in New Mexico that occurred at the Virginia Polytechnic Institute and State University (referring to the shooting tragedy on April 16, 2007 where 33 people were killed by a student). Dr. Rindone explained that CYFD and PED, in consultation with the Attorney General and other parties, will study truancy and the issues surrounding the timely notification of public and private schools when a student is the subject of a delinquency petition. The study, she said, will include a comprehensive review of the intervention and enforcement provisions in the *Compulsory School Attendance Law* and the *Children's Code*; and CYFD and PED will report findings and recommendations to the LESC at its November 2007 meeting.

A committee member expressed frustration that the statewide cyber academy would not be implemented as proposed by HED and as included in the legislation. He said that the Legislature funded this initiative with the understanding that the cyber academy would begin serving students in grades 6 through 12 and would also utilize some of the existing programs throughout New Mexico; however, it now appears that the cyber academy has been scaled back significantly.

Explaining that adequate funding for small school districts is one of the issues being considered by the Funding Formula Task Force, Representative Stewart, co-chair of the task force, asked PED to provide the contractor conducting the study of the Public School Funding Formula with current information regarding school district requests for emergency supplemental funding for school year 2007-2008, including the amount requested by each district, the amount initially authorized by PED, and the reasons for each district's request. Dr. Rindone stated that a report on emergency supplemental funding would also be included in the presentation on school district budgets tentatively scheduled for the committee's September meeting.

PROPOSED ACTIVITIES FOR THE 2007 LEGISLATIVE INTERIM

a. Approval of Proposed LESC 2007 Interim Meeting Schedule

Dr. Rindone provided the following tentative Legislative Education Study Committee (LESC) meeting schedule for the 2007 interim, and stated that she had reviewed the proposed dates and locations with the Chair and Vice Chair and had received their concurrence on the proposed schedule:

DATE	LOCATION
June 28-29, 2007	Santa Fe
August 15-17, 2007	Taos
September 12-14, 2007	Rio Rancho
October 15-17	Las Cruces
November 14-16	Santa Fe
December 12-14	Santa Fe
January 14, 2008	Santa Fe

After committee discussion and upon a motion by Senator Asbill, seconded by Representative Swisstack, the 2007 interim meeting schedule was adopted unanimously by the committee.

b. Approval of Proposed LESC 2007 Interim Workplan

As an introduction to the proposed 2007 LESC Interim Workplan, Chairman Miera said that this workplan is different from the past. He stated that it was his hope that the committee would not hear individual requests for funding of new programs, but instead would concentrate on examining the programs that the Legislature has implemented. He said that the Legislature has appropriated a significant amount of money to education in 2007, as well as in past years, and it is imperative for the committee to take an in-depth look at how those dollars are being spent and for what purposes. He said the LESC will conduct its own evaluations of the education system to determine the success and effectiveness of the programs that the Legislature has initiated in recent years. Chairman Miera said the LESC will work with the Legislative Finance Committee (LFC) in its review of some programs, and Dr. Rindone and staff will report on these reviews.

Dr. Rindone presented the committee with a draft 2007 LESC Interim Workplan, stating that the plan was reviewed and approved by both the Chair and Vice Chair. She explained that the month-by-month workplan was accompanied with an Issues Framework that provided an explanation of each topic. In explaining the proposed LESC workplan, Dr. Rindone said that rather than relying on outside presenters, LESC staff will be responsible for the majority of the presentations and will use national and state research, surveys or interviews, test results and/or

other information available. She said a letter will go to the superintendents advising them of this new direction the LESC is taking and of the fact that data will be gathered directly from school districts as much as possible. She said that the following broad questions will be asked for each issue addressed during the interim to help the committee determine whether current programs have lived up to their promise and whether newly initiated programs are being implemented as expected:

1. What results have programs established by the Legislature produced? How have the results been measured and by whom? Which programs should be replicated or expanded; which ones consolidated; and which discontinued?

2. What results are the newly initiated programs expected to produce? How and when will their results be measured? How do these new programs support or complement the established programs?

Dr. Rindone said that answers to the questions should provide the committee with the necessary information regarding educational programs that have been implemented and the data it needs to craft public school support recommendations for FY 09.

Dr. Rindone proceeded with a discussion of the issues listed in the document entitled 2007 LESC Interim Workplan. (See attached.)

In regard to Memorials Directed to the LESC, Dr. Rindone stated that the majority of the memorial reports would be written rather than oral. In addition, she asked the committee whether HM 92, *Combine Educational & Public Retirement*, should be considered at this time, given that the Legislature is still appropriating funds to bring the educational retirement system in compliance with the Governmental Accounting Standards Board (GASB). She directed the committee to page 10 and the NOTE included right after HM 92 regarding the constitutional provision that might limit any efforts to combine the two retirement systems at this time. Chairman Miera responded that discussion on this memorial would be taken separately.

Committee Discussion:

Several committee members prefaced their remarks complimenting Chairman Miera on the new direction that the committee will take during the 2007 interim. Committee members made the following recommendations to be included in the workplan, either as single issues or as components incorporated into some of the issues that were already on the workplan.

1. Under Funding of Public Schools in the Issues Document, Chairman Miera requested the LESC staff to include federal dollars that PED and the school districts receive. Specifically, he said that the Legislature needs to know the amount of federal funding the state receives for education, how this funding is used, and if the funds are being used in the most effective and efficient manner to help students;

2. Under the same section, Representative Stewart requested that progress reports of the Public School Funding Formula Study Task Force be scheduled for September and October, as well as final recommendations in December;

3. Representative Stewart asked that HM 109, *Scientifically Based Instructional Materials*, be moved from November to September so that it can be included with the topic on Reading in the Primary Grades;

4. Representative Stewart, as sponsor of HM 92 – *Combine Educational & Public Retirement*, suggested that it be deferred until a later time;

5. Senator Papen requested that the Hospitality and Tourism Initiative be included with the Career Clusters in August; and

6. Chairman Miera asked that residential treatment centers and instructional materials be added to the Workplan at the request of Vice Chair Cynthia Nava.

Upon a motion by Representative Swisstack, seconded by Representative Stewart, the committee unanimously approved the LESC 2007 Interim Workplan to include the recommendations by the committee.

In response to a committee member's question if it is anticipated that staff will give the committee members information as to which education programs might and might not work in New Mexico so that they can make a valid determination of which programs to fund based on information provided, Chairman Miera said that staff would provide information and options so that the committee could make the appropriate decisions.

At the invitation of Chairman Miera, the following individuals in the audience offered their comments about the workplan.

Mr. Moises Venegas, Director, The Albuquerque Partnership, spoke on the importance of teachers in the achievement of students. He said the committee should measure the achievement of students in charter schools compared to their achievement prior to enrolling in a charter school. In terms of the university retention graduation rates, Mr. Venegas suggested the committee look at departments and individual professors (especially those professors who have been in particular departments for a long period of time).

Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators (NMCSA), thanked the committee for its pursuit of quality education for New Mexico's children, and said his organization will be happy to hear that the LESC will focus on programmatic issues this interim.

Mr. Bud Mulcock, Lobbyist, Superintendents and School Administrators Association, asked the committee to review budget shortfalls, particularly as they relate to fixed costs. He indicated that during the 2007 legislative session, LESC and PED staff reviewed a 10-year comparison of appropriations to actual expenditures that reflected approximately a $35.0 million shortfall in fixed costs. The result, he emphasized, is that school districts have been required over the years to provide for these shortfalls with dollars for other operational needs.

Ms. Theresa Saiz, Government Liaison, Rio Rancho Public Schools, offered her assistance and that of her school district in providing the committee the requested data as per its new strategy in conducting business, and extended a formal invitation on behalf of the Rio Rancho Public Schools to host the September LESC meeting.

DIRECTOR'S REPORT

a. Approval of LESC Minutes for December 2006 and January 2007

Upon a motion by Representative Stewart, seconded by Representative Williams, the Legislative Education Study Committee (LESC) Minutes for December 2006 and January 2007 were unanimously approved.

b. Approval of LESC Financial Reports for September 2006 through May 2007

Dr. Rindone explained that because of problems encountered by agencies with the implementation of the Statewide Human Resources Accounting and Management Reporting System (SHARE), LESC staff had been unable to provide the committee with the LESC Financial Reports for September 2006 through May 2007 prior to the June 2007 interim meeting.

Upon a motion by Representative Stewart, seconded by Representative Williams, the LESC Financial Reports for September 2006 through May 2007 were unanimously approved.

c. Approval of LESC Budget for FY 08

As a reminder, Dr. Rindone said the committee had approved the LESC budget for FY 08 in September 2007; however, the budget needs committee approval again because of two appropriations to the LESC by the 2007 Legislature: $40,900 for a 5.0 percent salary increase for LESC staff and $50,000 for LESC participation in the American Diploma Project (ADP).

Upon a motion by Senator Garcia, seconded by Representative Stewart, the committee unanimously approved the LESC budget for FY 08, including a 5.0 percent salary increase for the LESC staff and director effective the first full pay period of FY 08 and the $50,000 appropriation for LESC participation in the ADP.

d. Approval of LESC Auditor for FY 07

Dr. Rindone reported that, on May 13, 2004, the LESC approved Mr. Robert J. Rivera, CPA, PC, to perform the LESC audits for FY 04 through FY 06, based on the multi-year proposal he submitted on April 28, 2004. Dr. Rindone stated that according to the State Auditor, the same independent public accountant can conduct the audit for six consecutive years and that pending the approval of the Committee, Mr. Rivera could continue to perform the LESC audits for FY 07, FY 08, and FY 09. Dr. Rindone stated that the committee's notebooks included a breakdown of Mr. Rivera's proposed fees by each fiscal year.

Upon a motion by Senator Garcia, seconded by Representative Williams, the committee unanimously approved Mr. Rivera to perform the LESC FY 07 audit.

e. ADP Contracts

Dr. Rindone reminded the committee that in the 2006 interim the LESC had agreed that New Mexico should join the American Diploma Project (ADP) Network, an initiative conducted by Achieve, Inc., a bipartisan, nonprofit organization that helps states raise academic standards, improve assessments, and strengthen accountability to prepare all young people for postsecondary education, work, and citizenship.

Dr. Rindone stated that the LESC had endorsed a $75,000 appropriation to the LESC for the American Diploma Project; and instead the Legislature appropriated $50,000 for use in FY 08. This appropriation, she explained, would facilitate technical assistance by Achieve in the alignment of high school standards in mathematics and English with college and workplace readiness expectations and provide for the participation of a state alignment team in three alignment institutes conducted by Achieve, Inc.

Dr. Rindone said that in order to cover the cost of $70,000, the chair and the vice chair had approved a $20,000 payment to Achieve, Inc. from the FY 07 LESC budget for the first alignment institute which was conducted in April 2007. Therefore, Dr. Rindone requested the committee to consider two separate motions: (1) approval of the $20,000 adjustment from the FY 07 LESC budget to fund FY 07 expenses for ADP, as approved by the chair and vice chair, and (2) approval of a contract in the amount of $50,000 for FY 08 participation in the ADP.

Upon a motion by Representative Stewart, seconded by Senator Garcia, the committee unanimously approved the $20,000 adjustment of the FY 07 LESC budget, as approved by the chair and vice chair, to fund FY 07 expenses for ADP.

Upon a motion by Representative Stewart, seconded by Senator Garcia, the committee unanimously approved the contract in the amount of $50,000 to fund ADP initiatives in FY 08.

f. Correspondence

Dr. Rindone reviewed several items of correspondence included in the committee members' notebooks, adding that these items are also included in the permanent file in the LESC office.

g. Written Report: LFC Audit of Regional Education Cooperatives

Dr. Rindone reported that the committee notebooks included the final report of a review of the Regional Education Cooperatives (RECs) conducted by Legislative Finance Committee (LFC) audit staff. She explained that during the 2006 interim, the RECs requested the LESC and LFC to consider a $2.7 million appropriation to establish a permanent operational base to address annual funding shortfalls. Subsequent to the request, she noted, the LFC performance auditors conducted a review of the RECs to determine (1) the level of fiscal oversight provided by PED; (2) how RECs operate; (3) what services they provide to school districts; and (4) the funding they receive. The LFC review, Dr. Rindone noted, addressed applicable laws; PED and REC policies and procedures; financial audits of RECs for FY 04 through FY 06; and reimbursement submission payments. Also, the LFC performance auditors conducted interviews of PED and REC officials, and reviewed other documents and data provided during field visits to five RECs.

Included in the report, Dr. Rindone stated, are the findings and recommendations of the LFC audit staff and the responses of PED and the RECs.

AREA SUPERINTENDENTS AND COMMUNITY INPUT

Mr. Gene Gant introduced himself as a newly elected Public Education Commission Member and Las Cruces Public School Board Member. He requested that when seeking information directly from the school districts, the committee not impose an undue burden on them.

Dr. Ellen Wedum, retired Cloudcroft educator, said that because of limited enrollment, rural high schools might not be able to offer all the classes necessary for the new requirements of the proposed Diploma of Excellence. She suggested that a cyber academy pilot program could be established in Cloudcroft as one way of providing Diploma of Excellence coursework to students in this rural area.

Mr. Carlos Romero, Lobbyist, University of New Mexico (UNM), offered his services and those of the university to assist the committee in their interim work. He stated that at the committee's next meeting, he would like to introduce Dr. David J. Schmidly, newly appointed president of UNM.

Chairman Miera thanked the presenters, and with the consensus of the committee recessed the LESC meeting at 4:10 p.m.

MINUTES
LESC MEETING
FRIDAY, JUNE 29, 2007

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on June 29, 2007, at 9:00 a.m., State Capitol, Room 307, Santa Fe, New Mexico.

The following LESC members were present:

Representatives Rick Miera, Chair, Roberto "Bobby" J. Gonzales, Mimi Stewart, Thomas E. Swisstack, and W. C. "Dub" Williams; and Senators Vernon D. Asbill, Mary Jane M. Garcia, and Gay G. Kernan.

The following LESC advisory members were present:

Representatives Ray Begaye, Nora Espinoza, Mary Helen Garcia, Thomas A. Garcia, Dianne Miller Hamilton, John A. Heaton, Rhonda S. King, Jim R. Trujillo, and Teresa A. Zanetti; and Senators Carlos R. Cisneros, Dianna J. Duran, and Mary Kay Papen.

ASSESSING EDUCATIONAL RESEARCH

In reiterating Chairman Miera's announcement of a new direction for the committee, Dr. Kathleen Forrer, Legislative Education Study Committee (LESC) staff, described in more detail its new role. She said that after years of hearing presentations from outside entities, this year the committee will hear more from staff, whose role will be to assist the committee in its determination of what has been accomplished with the appropriations recommended by the committee to support public education in New Mexico. To that end, staff will review research at the national and state level and speak to educators, to students, and to other stakeholders in the field.

Because not all research is created equal and because there will be a change in the way issues will be presented to the committee this interim, Dr. Forrer provided the committee with guidelines to use in evaluating the validity and relevance of educational research and which will help to describe acceptable educational choices and practices. She explained the importance of

reviewing research at the national level because students in New Mexico have much in common with students from other states such as poverty, English as a second language, and schools that cannot make AYP (adequate yearly progress). She said the challenge will be in determining what scientifically based evidence to use in basing funding decisions for specific educational programs and practices.

For non-researchers who are often presented information in terms only a researcher can understand, Dr. Forrer shared the following three questions that can help the reader distinguish between research that confirms the effectiveness of an instructional practice and research that does not:

1. Has the study been published in a peer-reviewed journal or approved by a panel of independent experts? Peer review provides a baseline of quality control because it exposes ideas and experimentation to examination and criticism by other researchers. Its absence should raise doubt about the quality of the research.

2. Have the results of the study been replicated by other scientists? To be considered scientifically based, a research finding must be presented in a way that enables other researchers to reach the same results when they repeat the experiment.

3. Is there consensus in the research community that the findings of the study are supported by a critical mass of additional studies? Issues are most often decided when the community of scientists in a field comes to agreement, over time, that sufficient evidence has been compiled to support one theory over another. Scientists evaluate data from many experiments, each containing some flaws but providing part of the answer.

Dr. Forrer said that other questions to keep in mind in assessing the validity of a particular research study are:

1. What is the research question?

2. Does the research design match the research question?

3. How was the study conducted? The research report should include sufficient details that the study can be replicated.

4. Are there rival explanations for the results? If the results can be used to support more than one conclusion, the conclusion offered must be viewed cautiously.

Dr. Forrer presented a table adapted from *A Policymaker's Primer on Education Research*, which provides a means of working through these last four questions logically. It includes the research question and design, participants, treatment, data collection, data analysis, and rival explanations.

In order to assist the committee in its efforts to decipher educational research, Dr. Forrer then asked the committee members to apply the techniques outlined in the staff brief to a description of a quasi-experimental study on design-based learning and student achievement.

Because research has its own language that is difficult for the non-researcher to penetrate, Dr. Forrer provided the committee with a glossary of selected educational research terms, as well as a list of websites that provide easily understood analyses of current research. She also mentioned two written guides designed to help non-researchers evaluate educational research: *A Policymaker's Primer on Education Research: How to Understand, Evaluate and Use It*, issued in February 2004 by Mid-continent Research for Education and Learning (McREL) and the Education Commission of the States (ECS) and *Identifying and Implementing Educational Practices Supported by Rigorous Evidence: A User Friendly Guide*, issued in December 2003 by the Institute of Education Sciences, US Department of Education.

Committee Discussion:

In response to a committee member's question if textbook publishers do sample testing before a textbook is used, Dr. Forrer said that the validation of the material in a textbook is normally done by the authors rather than by the publisher. Dr. Rindone added that in the case of scientifically based reading materials, validation is generally done by a panel of experts.

A lengthy discussion was held by the committee on the importance of proper textbooks in the learning development of the child. One committee member expressed concern that his school district purchased an elementary textbook that was printed half in English and half in Spanish for a school with predominantly Navajo students. He commented on the importance of purchasing instructional material that is best suited for the individual school district. Dr. Rindone explained that in 2005, the Legislature amended the *Instructional Material Act* to allow up to 50 percent of a school district's instructional material allocation to be used for materials not on the state adoption list. Dr. Rindone explained that this amendment gave school districts greater flexibility in selecting textbooks that are suitable for their schools.

Continuing the discussion, another committee member said that as former director of bilingual programs in one of the largest school districts in the state, which has a large population of second language learners, she came to the realization that a person only learns to read once and that person needs to learn to read in their own native language. She said it is imperative for school districts to adopt materials that are parallel (materials printed in the English language with materials printed in the first language of the student), so once a child learns to read in his/her own language, that child can readily make the transition from their own language to English. The committee member also mentioned the importance of taking into consideration the literacy level of parents.

Returning to the initial subject and referring to the staff brief, Chairman Miera said that among educational leaders and policymakers, there has been increasing concern regarding the need for scientifically based evidence on which to base funding decisions for specific educational programs and practices. This concern is fundamentally about having better evidence for making decisions about what programs and practices "do" or "do not work." The need for such evidence leads to causal questions, such as whether particular programs and practices improve student achievement, social development, and educational attainment.

Finally, Chairman Miera noted that the Legislature has appropriated approximately $16.0 million to the Teacher Professional Development Fund but does not know whether the programs receiving money from the fund have had the desired impact. He said that as we look at where the money is going and what is being done with it, the committee has to determine if this is what students need, and if they are learning better because of it.

DEVELOPMENTAL COURSEWORK (REMEDIATION) IN HIGHER EDUCATION

As a follow up to Dr. Forrer's presentation on assessment of educational research, Ms. Pamela Herman, Legislative Education Study Committee (LESC) staff, said she would present an example of recent educational research in New Mexico – the Office of Education Accountability's (OEA) 2007 report: "Ready for College 2007: A Report on New Mexico High School Graduates Who Take Remedial Classes in New Mexico Colleges and Universities." Ms. Herman explained that this is a follow-up to the OEA widely noted study on the same topic released in 2006.

Deleted:

Ms. Herman directed the committee's attention to the documents contained in this presentation, which included the staff report with an appendix of charts and tables provided to the committee by Central New Mexico Community College (CNM) and Albuquerque Public Schools (APS), four attachments (New Mexico Public Postsecondary Placement Exam Cut Score Matrix, "Cost of Remedial Education in New Mexico – 2006-2007" provided by the Higher Education Department (HED), a table of Initiatives to Reduce the Need for Developmental Course-taking at Selected Post-secondary Institutions, and a map of Geographic Areas of Post-secondary Institutional Areas of Responsibility provided by HED), and a copy of the OEA written report.

Ms. Herman introduced Dr. Peter Winograd, Director, OEA, Department of Finance & Administration (DFA), to present the 2007 update. Joining him in the audience to respond to questions were: Dr. Reed Dasenbrock, Cabinet Secretary, HED; Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, Public Education Department (PED); Ms. Katherine Bercaw, Vice-President for Planning and Budget, CNM; and Dr. William V. Flores, Deputy Secretary of Academic Affairs, Planning and Research, HED.

Dr. Winograd presented a power point description of the 2007 update to the 2006 OEA study, which had reflected data for recent high school graduates who attended a New Mexico public postsecondary institution in the fall semesters of 2000 through 2004. The 2007 update includes data for fall 2005 and 2006.

Dr. Winograd introduced his presentation by reminding the committee of several 2006 and 2007 alignment and high school redesign policy initiatives designed to address needs that the 2006 OEA study made clear. Among these initiatives were: Governor Richardson's High School Redesign proposal; the LESC 2006 Work Group on College/Workplace Readiness and High School Redesign; the HED/PED Alignment Task Force; the state's membership in the American Diploma Project Network and Alignment Institute of Achieve, Inc.; the HED/PED/CYFD (Children, Youth and Families Department) Student Data Sharing Task Force; New Mexico Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP); the Lumina Foundation Achieving the Dream Project; the New Mexico Business Roundtable for Educational Excellence; partnerships between public schools and Sandia National Laboratories; PED's collaborative efforts to redesign New Mexico's high schools; the New Mexico First Town Hall on Higher Education in September 2006; and key legislation passed by the 2007 Legislature and signed by the Governor.

Dr. Winograd said this report continues the focus on student readiness for college by examining baseline data derived from 63,832 high school graduates over seven years to measure the state's efforts to ensure that students graduate from high school ready for college. He reported new findings that 49.3 percent of recent high school graduates took one or more remedial courses when they enrolled as freshmen in a New Mexico college or university by fall 2006 semester. He said this is a slight decrease in the percentages of high school graduates who took remedial courses in each of the previous four fall semesters from 2002 through 2005.

In seeking to identify trends, Dr. Winograd looked at data for the first and last year of the study, 2000 and 2006. He indicated that comparing those two years, remedial course-taking increased for most ethnic groups in New Mexico by: 4.0 percent for Native American, 3.0 percent for Hispanic, 1.0 percent for Black, and 13 percent for Asian students. However, the percentage of white students who took remedial courses decreased by 3.0 percent (from 36 percent in 2000, to 33 percent in 2006).

He directed the committee's attention to the appendix of the report, which included baseline and trend data for high schools, with the exception of high schools with less than 10 high school graduates a year to protect the confidentiality of the students. Dr. Winograd said that over a span of seven years, the average percentage of graduates who needed remediation, ranged from a high of 85.8 percent to a low of 17.9 percent in New Mexico's high schools.

Dr Winograd said that the data obtained from this study provides a baseline to show where New Mexico has been and to measure the effectiveness of future efforts. He noted that the changes mandated in high school reform and redesign bills passed in 2007 will begin to be implemented in school year 2008-2009, but results will not be fully evident until students affected by those reforms (who are in 6th grade now) reach college in the year 2014 or later.

Dr. Winograd indicated that the 2007 data set contains information from five universities, including 10 of their branches, two colleges, six community colleges, one junior college, the New Mexico Institute of Mining and Technology, and the New Mexico Military Institute. Dr. Winograd said the 2008 data set will include student information from these same postsecondary institutions and will also contain student information from New Mexico tribal colleges – Navajo Technical College (Crownpoint Institute of Technology), Diné College, Institute of American Indian Arts, and Southwestern Indian Polytechnic Institute – made possible by Memoranda of Agreement (MOA) signed on February 15, 2007 between the New Mexico Higher Education Department and each New Mexico tribal college.

In noting the limitations of the 2007 study, Dr. Winograd said it reports on approximately 45 percent of New Mexico high school graduates who attend New Mexico colleges and universities, but does not provide information on what happens to college students after they take remedial courses. He said the OEA, HED, and PED are planning to conduct these kinds of analyses. He also stated that the report does not include the approximately 11 percent of New Mexico students who leave the state to attend college.

As to questions that still need to be addressed, Dr. Winograd identified the following:

- Are high school courses aligned with New Mexico curriculum standards?
- What are the qualifications of high school teachers who teach these students?
- Can gaps in student learning be identified and addressed through corrective action in curriculum design and teacher training?
- How do colleges define remedial courses?
- What happens to college students who take remedial classes? Do they graduate at the same rate as other students? How long does it take them to graduate compared to other students?
- What do colleges need to do to improve the success of students in higher education? and, most importantly,
- Will the number of college freshmen taking remedial courses decline, as HED and PED strengthen their alignment and new legislation and policies are implemented?

If we extend consideration of how many public high school students are ready for college five years after they enter 9th grade, Dr. Winograd said the analysis indicates that only approximately 13 percent of those students were freshmen in New Mexico colleges in the fall of 2005 and not in remedial classes. He said the fate of the 73 percent of the students who started as ninth graders in 2001 to 2002 and did not immediately enroll in state public postsecondary institutions, is unclear, nor do we yet know how many public high school graduates who attend New Mexico colleges finish programs or earn their degree.

Dr. Winograd said that his office had compared results of the New Mexico Standards Based Assessment with remediation rates for a sample of 100 public high schools. That comparison reveals a high degree of correlation between the New Mexico Standards Based Assessment performance in reading and math in 2005 and 2006 and subsequent remediation rates in 2006. He explained the data show that as the percentage of high school students meeting proficiency on the New Mexico Standards Based Assessment increases in the sample schools, the percentage of high school graduates requiring remediation in college decreases, indicating an alignment between New Mexico's expectations of high school proficiency and higher education entrance expectations.

Dr. Winograd concluded his presentation by saying that research of the type he had just presented will be greatly facilitated when New Mexico implements an effective PreK-20 accountability data system that links public education and higher education student data records by use of the PED unique student identifier. Completion of that initiative will provide researchers and policymakers accurate and reliable data to address important policy questions about student progress.

Calling the committee's attention to her written report in the notebooks, Ms. Herman indicated that she would address the following points related to the subject of remediation in higher education: (1) a few points regarding the OEA data; (2) estimates of the cost of remediation in the nation and in New Mexico; (3) some positive things to bear in mind when considering remediation issues; and (4) the use of remediation data in New Mexico. In addition, she said she would give a brief synopsis of the CNM/APS Remediation Study.

When reviewing the data presented in the OEA report, Ms. Herman said it is important to bear in mind the limitations that face researchers when attempting to do this type of longitudinal research. To help explain the fluctuations in outcomes, she said there is much that is not known about the students in these cohorts, and not all students give accurate information, oftentimes having dropped out of the high school they claim to have graduated from. In addition, she noted that the data in the OEA report only includes remediation courses taken in the fall semester.

Regarding the placement of students in remedial courses, Ms. Herman called the committee's attention to Attachment 1, Placement Exam Cut Score Matrix, English and Math. She said that postsecondary institutions use a variety of assessment instruments, including ACT, SAT, Accuplacer and Compass, as well as GPAs and in-house tests. She said cut-scores range widely within postsecondary institutions and also differ regarding whether placement based on test scores is mandatory or optional – some institutions allow students to by-pass the recommended developmental course.

Ms. Herman said there are several problems with placement standards that are widely varied, but an important one is that the state and school districts are required to align their curricula and end-of-course tests with placement tests used in higher education in New Mexico, and currently there is no single placement standard, so alignment is not possible. Ms. Herman said that the good news is that in June 2007, HED and the provosts of postsecondary institutions began discussing how to bring consistency to placement standards.

On her second point, Ms. Herman said that estimates of the cost of remediation vary widely and are not even consistent in what they define as remedial. The costs are paid by students and their families, scholarship contributors, and taxpayers, and cover salaries, classroom space, and support services such as tutoring, as well as some indirect expenses. Ms. Herman said in 2006, the Alliance for Excellent Education suggested an estimated annual national cost for remediation of approximately $1.0 billion in public funds for community colleges, plus $283.0 million from tuition payments. She added that other earlier estimates, summarized in a paper by the League for Innovation in Higher Education, range from $400,000 to $1.0 billion. Ms. Herman stated that at least three estimates for components of the cost of remediation exist for New Mexico. The first, in the 2006 Alliance for Excellent Education paper, estimated a cost of approximately $9.8 million. According to the Legislative Finance Committee (LFC) in a 2007 bill analysis, out-of-pocket tuition and fees for recent high school graduates for remedial education amount to approximately $580,000 per semester, or $1.2 million annually. The third estimate from HED contained in Attachment 2, The Cost of Remedial Education in New Mexico 2006-2007, places the total cost of remediation in the Higher Education Funding Formula at $23.2 annually; however, HED states that only about 16 percent of that amount is attributable to recent high school graduates, for a total of about $3.8 million. Ms. Herman said that other costs not included in these estimates are books and materials, costs of additional semesters on scholarship, and the cost of student loans when scholarships run out because of additional semesters.

Ms. Herman said that although the negative aspects of remediation are many (including cost, increased rates of college dropouts, and the economic impact of lost income for many residents who don't complete a degree), there are some positives. She pointed out that remedial courses make open access to higher education a reality for thousands of students each year, and noted also that research from respected authorities such as Dr. Clifford Adelman, Senior Associate, Institute for Higher Education Policy, Washington, DC, suggests that the need for remediation, taken alone, does not "make a strategic difference in degree completion."

Ms. Herman outlined briefly the ways in which remediation data is used in New Mexico. For example, the data are used by the state alignment team of American Diploma Project (ADP) Network, PED, HED, college/high school partnerships, and the Lumina Foundation Achieving the Dream initiative to identify the scope of the need for school reform and P-20 alignment, and to track improvement over time.

Ms. Herman pointed to material in the notebooks as an example of use of remediation data by college-public school partnerships. She referred the committee's attention to Attachment 3, Initiatives to Reduce the Need for Developmental Course-taking at Selected New Mexico Postsecondary Institutions. She briefly explained that in May and June 2007, LESC staff conducted a series of interviews with administrators at the state level and at selected two-year public postsecondary institutions in order to determine how the data in the 2006 OEA report and remediation data available at individual colleges are being used, and what P-20 partnerships were underway actually to reduce the need for remediation. The interviews produced an inventory of communication and program planning strategies and initiatives underway (often in concert with local school districts), in order to use remediation data to better understand the scope of the problem, and directly to reduce the need for remediation.

Ms. Herman explained that HED is encouraging higher education institutions to meet with their partner high schools to share data from institutional research concerning the performance of graduates from those high schools, and is also encouraging research similar to a study undertaken by CNM with APS. She said that CNM and APS looked at the transcripts of recent

APS graduates between 2001 and 2005 who enrolled at CNM and who took the Accuplacer placement test or were referred to college-level or developmental courses based on their incoming ACT score. CNM provided a computer file to APS of all the first-time, first-year students who enrolled at CNM in the five-year time period who had stated they had graduated from one of the 11 APS regular or five alternative high schools, along with information about whether each student was placed into college-level or developmental English and mathematics. APS then searched its data base to match the records forwarded by CNM with its former students, and identified each student's 12th grade English course, highest level of mathematics taken regardless of the grade in which it was taken, and highest level of mathematics taken in the 12th grade.

Ms. Herman said that, in all, 5,258 recent APS graduates were included in the study (approximately 23.5 percent of the total 22,248 graduates from APS high schools between 2001 and 2005). Some of these graduates were regular CNM students, and some were University of New Mexico (UNM) students whose developmental coursework is provided through CNM. Ms. Herman explained that UNM students were not accounted for separately; however, their presence must be borne in mind when reviewing the data since UNM students that did not require remediation were not included in the sample. She reviewed several pages of the data reported by CNM to provide committee members with a sense of the type of school-by-school, course-by-course comparisons it contained for their future reference.

Of the issues raised by this study, Ms. Herman said that APS is studying differences between its end-of-course Algebra tests (designed to address state standards), and the expectations of college-level coursework. She said that APS cites work on an aligned K-12 math curriculum, a new math text adoption, and a range of teacher professional development activities as strategies that address these concerns. CNM states that the data raised particular concerns regarding the needs of its students whose primary home language is not English and students with special needs, and that the college is developing new strategies to provide those students with appropriate support.

Ms. Herman said that CNM reports it has begun discussions with Bernalillo Public Schools and Rio Rancho Public Schools about a similar data review and intends to replicate the APS study in three years, while Santa Fe Community College and Santa Fe Public Schools have begun a data review similar to the CNM/APS project.

In conclusion, Ms. Herman said that with the release of its second annual report regarding remediation of New Mexico public high school graduates, OEA has provided New Mexico policymakers with a substantial amount of useful information. However, she reiterated Dr. Winograd's earlier statements concerning the limitations of the data, including the need to determine outcomes for college students who take remedial courses. Ms. Herman said this data can be used to move toward a better aligned P-20 system, and more specifically to achieve the alignment of high school curricula and end-of-course tests with higher education placement tests mandated in statute.

Ms. Herman also noted that Dr. Winograd's point regarding the importance of fully implementing the use of the PED unique student identifier in higher education records systems to facilitate research on student outcomes was echoed by many of the informants she spoke to during the staff telephone survey.

Finally, Ms. Herman reported that HED is taking various steps to use remediation data, which was presented to the chief academic officers of all public postsecondary institutions in June 2007. In addition, she said the matrix of widely varying placement tests and cut-scores will spur a system-wide move to common cut scores, as New Mexico works on achieving alignment of high school assessments and college placement tests required by law.

Committee Discussion:

In response to a committee member's question concerning the percentage of students who are in remedial reading, and whether the public school teachers of students who subsequently take remedial reading in college are being tracked, Ms. Herman said that the 2007 Legislature passed CS/SB 211, *High School Reforms*, which requires PED to assign a student identification number which will follow a student into college and teacher education programs and eventually track teachers into the classroom. On this point, from the audience, Secretary of Public Education Veronica C. García stated that 94 percent of New Mexico's teachers are highly qualified; however, in the department's collection of data, it was found that in high poverty areas, the proportion of Level 1 teachers is higher than in other schools.

In response to a committee member's question if New Mexico has a mechanism for tracking students who move out of state to go to college, Dr. Winograd said that he hopes to track them better; however, he does not know what types of agreements have to be in place in order to do so. Secretary García added that this would be difficult to do. From the audience, Ms. Bercaw suggested tracking students to other states through the national student clearinghouse, adding however, that the cost of membership is "hundreds of thousands of dollars."

A committee member expressed skepticism about the data presented and said he would continue to be doubtful about the data until the college placement test and high school curriculum are in alignment.

In response to a committee member's question regarding the economic status of students who took remediation and the characteristics of their high schools and curricula, such as class size and course-taking patterns, Dr. Winograd indicated that the data enable researchers and educators to take a closer look at specific schools to identify problems and promising initiatives.

In response to a committee member's question as to how the 100 public high schools were chosen for the study with correlating school performance in reading and math on the New Mexico Standards Based Assessment in 2005 to remediation rates in 2006, Dr. Winograd said that an exploratory analysis was used to obtain the data. Dr. Winograd pointed out that a high percentage of the state's 119 public high schools were included in the sample. On this point, the committee member asked that small schools not be excluded in determining the data, and Dr. Winograd assured the member he would redo this analysis by school size.

In response to a committee member's question regarding disparities in postsecondary cut scores and placement tests, Secretary Dasenbrock responded that he was confident that HED and the provosts of the postsecondary institutions would arrive at a single test, and that he was hopeful there would be clear agreement on a single cut score as well. He added that the goal was to achieve alignment between the placement tests and the new three-pronged high school assessments.

In response to a committee member's question to Secretary García regarding PED's position on the single placement test and cut score, Dr. García stated that PED supports this initiative. Several committee members cautioned against the proliferation of more new tests, but instead urged adoption of tests that can serve multiple purposes.

A committee member made the observation that oftentimes poverty is looked upon as a deterrent to education; however, Mora County, which has the highest poverty level in the state, ranks first for the number of individuals who have a doctoral degree.

A brief discussion transpired on the merits and availability of career technical programs. Dr. Dasenbrock stated that HED is looking at a plan to have every county in the state be assigned to a two-year institution that will concentrate its curriculum on the needs of the community. If that institution is unable to meet all of those needs, arrangements among institutions will enable them to deliver programs from other parts of the state. Chairman Miera informed the committee that career clusters will be on the LESC September 2007 agenda.

At the invitation of the Chairman for comments from the audience, Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, invited the LESC committee and staff to its July 19-20, 2007 summer conference.

ADJOURNMENT

There being no further business, and with the consensus of the committee, Representative Miera adjourned the LESC meeting at 12:40 p.m.

_____ Chairperson

_____ Date