

State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE

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John Pinto
William P. Soules
Mimi Stewart
Pat Woods

MINUTES
Legislative Education Study Committee
State Capitol, Room 307
Santa Fe, New Mexico
November 16-18, 2016

Wednesday, November 16

The following voting and advisory members were present:

Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, Sheryl M. Williams Stapleton, Christine Trujillo, and Monica Youngblood; and Senators John M. Sapien, Vice Chair, Craig W. Brandt, and Gay G. Kernan; and

Advisory: Representatives Alonzo Baldonado, G. Andrés Romero, and Patricia Roybal Caballero; and Senators Lee S. Cotter, Michael Padilla, John Pinto, William P. Soules, and Mimi Stewart.

The following voting and advisory members were not present:

Voting: Representative James E. Smith; and Senator Howie C. Morales; and

Advisory: Representatives Jim Dines, Nora Espinoza, David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, D. Wonda Johnson, Timothy D. Lewis, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, and Pat Woods.

Senator Nancy Rodriguez and Representative Antonio Maestas were also in attendance.

On a motion by Representative Salazar, seconded by Senator Morales, the committee approved the agenda for the November 2016 interim meeting. On a motion by Senator Kernan, seconded by Representative Salazar, the committee approved the minutes for the October 2016 interim meeting.

Teacher Evaluation Results and Educator Licensure Trends.

Matt Montaña, Director, Educator Quality Division, Public Education Department (PED), provided an overview of changes to the teacher evaluation system that were implemented in January 2016 pursuant to a court injunction, which required PED make the system more uniform. The changes included transitioning to the new STEPS system, which replaced the graduated considerations table. Step one teachers do not

have student achievement data, thus the observation and multiple measures portions of the evaluation are given more weight. Step two teachers have one or two years of student achievement data that can be tied to their teacher evaluations and 25 percent of the overall summative score is based on student achievement. Step three teachers have three years of student achievement data that can be tied to their teacher evaluations and this is worth 50 percent of their teacher evaluation.

Next, Mr. Montaña reviewed licensure trends. In the 2015-2016 school year, there were 13,672 total licenses issued, 2,697 of which were new licenses. He noted the increase in total number of licenses issued during the 2014-2015 school year increased dramatically because those licenses were the first wave of renewals from the three-tiered licensure system. Licenses will increase each year until FY17 and should start to level out after that.

The Chair commented that for many years teachers licensed to teach seventh through 12th grade could teach sixth grade course-specific content as long as those courses were in a middle school or junior high setting and not in an elementary setting. The Chair noted this appears to have been changed in the student teacher accountability reporting system (STARS) manual so that it is no longer allowed. Mr. Montaña said this change took place a while ago, and school districts were being required to put instructional plans together for those specific teachers to teach the sixth grade. PED is working on a process to allow for these teachers to continue teaching sixth grade students.

Mr. Montaña stated some teachers exit the teaching profession each year. After the 2014-2015 school year, 2,596 teachers exited the teaching profession and were no longer included in the STARS system, including: 57 exemplary teachers; 492 left highly effective teachers; 1,166 effective teachers; 713 minimally effective teachers; and 168 ineffective teachers.

Mr. Montaña stated during the 2015-2016 school year, teachers who were considered to be habitually absent, on average, missed 15 days of school in the state. The cost of substitute teachers over the last four years totaled approximately \$3 million. He noted that teachers missing less school will lead to students receiving more certified teacher instruction by hundreds of hours.

Dr. George Bickert, Superintendent, Ruidoso Municipal Schools, said the NMTEACH rubric and trainings have improved over the past year and classroom observations improved the quality of school district's administrators. Students and parents are providing positive feedback in instructional surveys, and school administrators are incorporating the feedback to improve their overall systems. He also noted PED staff corrected data errors last year for his school district on the teacher evaluations in a timely manner, and he was appreciative of PED's efforts.

Dr. Bickert suggested PED could improve the teacher evaluation system by improving communication with school districts and transparency. He noted it would be beneficial if PED would better communicate changes to the evaluation system and look to school districts for advice when they consider changes. He highlighted specific teacher concerns, including how PED determined what student achievement scores will be tied to individual teachers, how scores are calculated, and what are the expected scores of students who are taking end-of-course exams (EoCs). Additionally, Dr. Bickert said he

asked PED to address whether they have created expected scores on EoCs and whether they would share those scores, though he noted he has not received a response from PED.

Lisa Durkin, Teacher, Valencia High School, Los Lunas Schools, spoke about how EoCs are driving curriculum. She noted PED does not have an EoC for her school district's freshman science course; therefore, the curriculum had to be changed this year to meet the material on the EoCs provided by PED.

Ms. Durkin noted the overall rating on her teacher evaluation summative scores changed from effective to exemplary over the past three years. She noted she has not changed her teaching methods or style. The only thing that has changed is the amount of documentation she submitted to show evidence for the different components of the rubric system.

Senator Padilla wanted to know if there is adequate staffing for special education teachers. In response, Mr. Montaña said he would have to obtain that data; he also noted the National Center for Education Statistics released a student teacher ratio for New Mexico of 15.1:1, but PED did not agree with this ratio. Senator Padilla requested the updated student teacher ratio number, and asked for retention rates of special education ancillary staff.

Representative Romero asked about the implementation of a new system this school year and if PED staff could address any changes with the new system. Mr. Montaña said the Frontline Oasys software system, which purchased Teachscape, replaced Teachscape; however, the platform educators are used to using will remain the same in the 2016-2017 school year. Trainings for the new system were provided to administrators throughout the year at different sites. Representative Romero noted it is important that teachers receive notice of these changes that are taking place.

Senator Soules asked PED to provide the institution that trained newly licensed teachers and identify what type of license the teacher received.

Senator Stewart said there are fewer candidates going into teacher preparation programs over the past couple of years and noted the state should find ways to address this. She also voiced concern about the large number of effective teachers that are exiting the profession. She noted some superintendents are concerned because many teachers cross the border near their school districts and receive better salaries in other states, making it hard for local superintendents to compete with neighboring states salary structures.

Representative Salazar asked about teacher vacancies in New Mexico, and Mr. Montaña replied around 400 vacancies existed around the state. Representative Salazar said an October report from the New Mexico School Superintendents' Association showed 595 vacant positions broken down into subgroups; 20 percent of those vacancies were for special education ancillary services.

No Time to Lose: How to Build a World Class Education System State by State.

Madeleine Webster, Policy Associate, National Conference of State Legislatures (NCSL), stated NCSL's report, *No Time to Lose*, is a culmination of two years of study of the top performing countries and the lessons the United States might take from these

countries. Top performing countries have certain policies in common, and there are steps states can take to begin implementing these policies.

Ms. Webster said, in 2012 the United States was in the middle of countries on the PISA test, ranking 24th in reading, 38th in math, and 28th in science. The U.S. was outranked not only by most of the advanced countries around the world but also by a growing number of developing countries as well, especially among education of disadvantaged students.

Ms. Webster presented the common elements of successful countries:

- Governments may provide supports for early childhood education, and once they are in school children who are struggling get the most support. The best teachers in these countries work in the most challenging schools.
- World-class teachers are selectively recruited. In top performing countries teacher candidates are selected from the top quartile of secondary school graduates. Teacher preparation programs are extremely competitive, take longer to complete, and are more rigorous. These countries understand that more rigorous teacher preparation will not work without increasing teacher pay.
- In high performing countries teachers teach for about 30 percent of their time and spend the remainder perfecting lesson plans and working in teams to help struggling students. Observation of practice, evaluation of effectiveness, and professional development are all done as a team.
- Top performing countries view career and technical education (CTE) as a route to education skills and high paying jobs. CTE programs have declined in the U.S. in recent decades; top performers like Switzerland and Singapore have developed strong CTE systems tied to industry needs.
- Top performers have adopted comprehensive system-wide reforms; they think of education policy not as a collection of silver bullets but rather as an ecosystem where success in one area is dependent on success in each other area in turn.

The study group agreed that states are well-positioned to create this kind of long-term comprehensive reform plan, especially with implementation of the federal Every Student Succeeds Act (ESSA). Ms. Webster recommended that states create a shared statewide vision, benchmark current policies and compare them to policies in top performing countries, and identify specific strategies for implementation of necessary shifts in policy, and recommended tackling the issues one at a time.

Ms. Webster asked the Honorable Senator David Sokola of Delaware, and Representative Wendy Horman of Idaho, to discuss the single most important finding that came from their work on the report. Representative Horman said she found Finland was very adamant about their admission to teacher preparation programs. One in 10 applicants is admitted after showing academic mastery and the ability to work with children. Finland also does not have standardized tests every year as a benchmark since the country has exit exams that determine student's advancement opportunities.

Senator Sokola said the lesson plan process was considered to be important in China. A first-year teacher who went through a more rigorous teacher preparation program would never be expected to start lesson plans from scratch. They consider lesson plans to be “polished stones.” Teachers are given lesson plans developed by the best master teachers. Some new teachers have great ideas and deviate from the plans they are given, but China makes sure teachers are building on a strong foundation, even in the first year.

Senator Soules asked how states can go about recruiting teachers from the top quartile when those students are being recruited into higher paying fields. Ms. Webster said states should inspire the belief that teaching is a valued profession. To make teaching a prestigious, well-paying, well-respected career, states have to start celebrating what they have right now.

Representative Youngblood asked how demographic differences and the socioeconomic status of students affected student performance in top performing countries. Representative Horman noted the achievement gap for low-income students when compared to high-income students in Finland was fairly low – around 8 percent. Senator Sokola said Poland was interesting because their top performers did not perform very high at the beginning; everybody grew about the same in Poland but everybody had a long way to go. They believed all kids could learn and their results showed that can happen.

Representative Youngblood asked if other countries had standardization so that the educational system was in alignment for students moving to other areas of the country. The presenters noted centralized core standards within a number of top performing countries.

Senator Kernan noted teacher preparation and teacher candidate recruitment needs to be address. The Chair said it seems counterintuitive to raise the bar for teachers when you have a shortage of them. Ms. Webster noted this should be a long-term goal. Senator Sokola said teachers in most other countries do not teach outside of their field. The Chair asked how other countries measure highly effective teachers and how that compares to what states are doing. Representative Horman said the study group will answer that question in-depth in the future, but said Singapore teachers are annually evaluated on 16 competencies ranging from academic performance to character. In Finland, evaluation is peer-oriented, with peers doing a lot of the evaluation of their colleagues.

The Chair asked for details on CTE programs in other countries. Representative Horman replied the Singapore education system has significant connections with industry that result in partnerships that students can take advantage of as part of their coursework. Senator Sokola said CTE around the world is becoming more complex for life-long learners because technical jobs are constantly changing.

The Chair noted statutes can be complex and interrelated. He asked the presenters about how states identify a starting point? Representative Horman said Idaho started by developing a career ladder system where teachers are able to progress if they pass their evaluation and receive more compensation when they progress to new roles. Senator Sokola said Delaware is working on creating higher bars to get into the teacher development programs in the state.

With no further business, the Chair recessed the LESC meeting at 5:29 p.m.

Thursday, November 17

The following voting and advisory members were present:

Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, Sheryl M. Williams Stapleton, Christine Trujillo, and Monica Youngblood; and Senators Craig W. Brandt, Gay G. Kernan, and Howie C. Morales; and

Advisory: Representatives Alonzo Baldonado, G. Andrés Romero, and Patricia Roybal Caballero; and Senators Lee S. Cotter, Michael Padilla, John Pinto, William P. Soules, and Mimi Stewart.

The following voting and advisory members were not present:

Voting: Representative James E. Smith; and Senator John M. Sapien, Vice Chair; and

Advisory: Representatives Jim Dines, Nora Espinoza, David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, D. Wonda Johnson, Timothy D. Lewis, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, and Pat Woods.

Senator Daniel A. Ivey-Soto was in attendance as a presenter.

Virtual Charter Schools Impact on Student Learning.

Dr. Margaret “Mackie” Raymond, Director, Center for Research on Education Outcomes (CREDO) at Stanford University, spoke about CREDO’s 2015 study of online charter schools reviewing the impact of virtual charter schools on student outcomes using standardized test scores. Dr. Raymond said there are almost 450 full-time virtual schools in 33 states; approximately two-thirds of the enrolled students are in kindergarten through eighth grade.

The study found students in online schools perform at a lower rate in math and English than traditional school students. Dr. Raymond said the performance results translate into online students progressed 72 fewer days than traditional students in reading, and made no comparative progress in math, based on a 180-day school year. New Mexico online student data at the time of the study did not show similar results, but was based on a single virtual charter school that was in its first year of operation.

Another issue of concern noted was the expectations that virtual schools had of parents; CREDO noted a certain intersection between home schooling and virtual instruction in cases where parents were expected to take an instruction role, as well as schools where parents were expected to act as social activity coordinators. While expectations in most cases were clearly communicated to parents, over-reliance on parents’ contributions was associated with more negative student outcomes, in contrast with schools that took more of these responsibilities on themselves where the student outcomes were more positive.

Finally, Dr. Raymond touched on a survey of several state charter school laws: where there is a specialized oversight policy dedicated to cyber education, student outcome results are much better, particularly for math. She noted New Mexico’s charter school law is rated highly. Additionally, with the caveat that it does not apply to the New Mexico data in the study, Dr. Raymond noted there is a negative association between higher proportions of fees paid to authorizers and a school’s outcomes, though

these tended to be providers authorized by municipal and rural authorizers where schools were permitted to enroll students from across the state.

Dr. Raymond concluded with the following concerns: first, while the charter landscape appears discouraging, as a modality it has too much potential to help students not to be properly exploited; states should limit expansion and growth only to schools showing positive outcomes; parents are ill informed regarding the reality of virtual charter school outcomes; and the potential isolation of virtual students, particularly those logging low contact hours, is very troubling.

Dr. Lisa Grover, Senior Director, State Advocacy and Support, National Alliance for Public Charter Schools (NAPCS), focused on four policy options that New Mexico, and other states, should consider for virtual charter schools, having to do with authorizing practices, enrollment levels, funding, and governance.

Dr. Grover said virtual charter schools should only be authorized by statewide authorizers, and district-authorized virtual charter schools should be limited to serving students within the geographic boundaries of the school district the charter school is located within; school districts often lack the expertise and resources needed to properly oversee virtual schools with statewide enrollment. Dr. Grover recommended authorizing fees be capped at a certain percentage, noting New Mexico's authorized 2 percent state equalization guarantee withholding may be too high.

Dr. Grover noted virtual charter schools should be open to all students, with the caveat that when data begin to show interventions for virtual charter schools are ineffective at improving student outcomes states should consider establishing enrollment criteria. Dr. Grover advocated for crafting entirely separate virtual charter school laws, allowing states to better address their unique issues.

Dr. Grover noted that states should require full-time virtual charter school applicants to propose and justify a price per student, using detailed costs, as part of the application process; she also noted performance-based funding for virtual charter schools is worth considering, especially considering virtual charter school underperformance.

Finally, Dr. Grover recommended requiring negotiation of additional virtual-specific goals for online charter schools related to enrollment, attendance, engagement, achievement, truancy, attrition, finances and operation, to be included in the contract. Noting the silence of New Mexico law on virtual schools, she urged consideration of these policies for inclusion in a virtual charter school law.

Addressing concerns about class size, Dr. Raymond noted that it is a more difficult issue for virtual schools, since many of them rely heavily on asynchronous instruction. She suggested these concerns be addressed in the application process, perhaps by focusing on contact time, a better metric for virtual schools than class size.

Senator Kernan noted a simple data review may not be sufficient to fully gauge a school's suitability, and urged the presenters to visit these schools to see how they operate on a day-to-day basis. Regardless of current performance, these sorts of schools are not going away, and we should make them as good and viable as possible.

When discussing the problems of connectivity in New Mexico in response to a question from Representative Baldonado, particularly in smaller and rural communities, Dr. Raymond noted many online schools use fast mobile cellular networks to transfer data and deliver instruction, which are ubiquitously available, even in New Mexico, suggesting technological barriers to participation is less problematic than it used to be.

In response to Senator Soules' question about student performance disaggregated by grade span, Dr. Raymond noted elementary-level performance is slightly worse than overall performance, middle school-level performance is slightly better, and high school-level performance is about the same. She went on to note that while New Mexico appeared to be doing better with its "neutral" result when comparing virtual schools to traditional schools, New Mexico does not compare well with other jurisdictions overall, so even this indication of virtual school parity with traditional schools is not dispositive, as it sets a low bar for comparing comparison between the two types of schools.

Responding to reports of problems in Colorado, Florida, and some other states, Dr. Raymond noted that while issues related to for-profit education management organizations are troubling, in general, New Mexico is actually in a good position to get ahead of the issue, since New Mexico virtual schools were reported to be generally performing on par with traditional schools. New Mexico has the opportunity to craft law to encourage better performance, perhaps putting the state in a better position than some other states with longer-standing, more established virtual charter school landscapes.

The Chair noted LESC has been considering outcome-based renewals or expansion and was interested in presenters' further thoughts on that issue. Dr. Grover said a good approach may be to set application standards high, then use that as a bar for determining renewals, expedited renewals, or closures, but that NACPS is not in favor automatic renewal.

Every Student Succeeds Act (ESSA): State Title I Plan Update.

Matthew Pahl, Director of Policy, Public Education Department (PED), said PED has engaged with numerous stakeholder groups over the past five months including parents, teachers, tribal leaders, and community leaders. He explained PED has engaged with other states on their ESSA state plans and has been able to use these engagements to work with other states to problem solve in a collaborative manner.

Mr. Pahl said PED participated in three Title I director webinars that included the draft regulations for "supplement not supplant." Mr. Pahl noted these regulations are quite restrictive and there appears to be consensus among states that the current draft regulations are too restrictive.

Mr. Pahl reminded the committee of PED's ESSA portal and explained there is a link on the department's website that hosts information on PED's efforts, background information, and stakeholder engagement opportunities, as well as additional resources. He explained the department extended the online comment period until the end of the month.

Mr. Pahl stated New Mexico First is consolidating the information received at stakeholder engagement meetings around the state, which have been similar to the

work group meetings PED has conducted with legislators. Over 600 education stakeholders, including 40 local education agencies and tribal communities, have participated in over 50 stakeholder meetings stakeholder meetings with the department, 21 of which were with teachers and parents.

Mr. Pahl noted some of the recommendation received, stating they included the ways PED can measure the growth of students and teacher performance; attendance, which included some recommendations aligned with current practice; parent engagement, which is something that is currently missing from the evaluation systems; and connecting families and school staff to community partners and services. Mr. Pahl said he thought the LESC work group came up with great recommendations as well. He explained these work groups may not have the same recommendations, but they are having the same conversations which may lead PED to gain consensus and make changes to how the department grades schools.

Mr. Pahl stressed a major piece of ESSA stakeholder engagement is with students and families and noted Gloria Ruiz, Family Engagement Coordinator, PED, and Alicia Duran, Teacher Liaison, PED, have been engaging with teachers and parents. Ms. Ruiz and Ms. Duran shared their engagement work with the committee, and Mr. Pahl noted the feedback they have received will be included in the final report.

In response to the Chair's question about the report, Mr. Pahl noted it could be ready by mid to late December. The Chair asked whether the report will be a compilation of all stakeholder meetings and Mr. Pahl explained New Mexico First will report only on the meetings they were involved in, but PED has several other avenues of feedback that will be incorporated. Mr. Pahl also said PED wants to incorporate the work done by the New Mexico Learning Alliance along with the New Mexico Coalition of Educational Leaders and the New Mexico Coalition for Charter Schools. He noted Colorado received an extension of the deadline for submitting their ESSA plan from March to April and PED is considering requesting an extension to allow more time to consider all stakeholder input.

Potential Committee Sponsored Legislation.

Rachel S. Gudge, Director, and Kevin Force, Senior Research Analyst I, LESC, presented a number of bills for the committee's possible endorsement for the 2017 legislative session that are the result of the committee's interim work. The committee endorsed the following five bills:

- A bill to increase the statutory minimum salaries for levels one, two, and three teachers to \$34 thousand, \$42 thousand, and \$52 thousand, respectively;
- A bill to eliminate the requirement that high school students take at least one course that is an advanced placement, dual credit, online, or honors course to be eligible for a diploma of excellence, beginning with the incoming ninth grade class of the 2017-2018 school year.
- A bill to increase the statutory school bus replacement cycle from 12 years to 15 years.
- A bill similar to last year's Senate Bill 141 that made funding formula changes to the at-risk index, training and experience index, and size adjustment program units.
- A bill similar to last year's Senate Bill 165 to eliminate the double counting of students in both basic membership units and enrollment growth units.

The committee declined to endorse a Joint Resolution to replace the current cabinet level Public Education Department with an elected and appointed State Board of Education that oversees the department. A number of other bills were considered but the committee requested staff continue to work on them and bring them back to the committee in December.

New Mexico Learning Alliance Every Student Succeeds Act Stakeholder Engagement.

Ian Esquibel, Executive Director, Learning Alliance New Mexico, in partnership with the New Mexico School Superintendents' Association (NMSSA), New Mexico Coalition for Charter Schools (NMCCS), and the University of New Mexico (UNM) Center for Education Policy Research (CEPR), built a tool kit for Every Student Succeeds Act (ESSA) stakeholder engagement. He explained ESSA offers an opportunity to engage stakeholders and that by identifying commonalities across the state, there can be a clear understanding of what New Mexicans want in their schools. Mr. Esquibel noted the group is working with New Mexico First to see if the groups can coordinate their data analysis.

Dr. Meriah Heredia-Griego, Director and Research Assistant Professor, UNM CEPR, explained the toolkit examines the different areas ESSA addresses. She said they will be seeking feedback on: challenging academic standards, high-quality student academic assessments and alternative demonstration of competency; and teacher and school accountability.

Greta Roskom, Co-Executive Director, NMCCS, added NMCCS conducted focus groups at their October conference, and Mr. Esquibel, Dr. Heredia-Griego, and the coalition conducted focus groups at the Business Roundtable conference.

Stan Rounds, Executive Director, New Mexico Coalition of Educational Leaders (NMCEL) and NMSSA, noted the toolkit was distributed to all superintendents so they would be able to distribute and use it locally. Mr. Rounds noted he supports PED's intent to submit the state plan during the first available window, noting concerns that if the department submits during the second window, school districts may not have sufficient time to prepare for implementation depending on the federal timeline.

Dr. Heredia-Griego explained there are several school districts that have collected significant input and data and they are trying to sort through this information in the coming weeks. CEPR asked all educational entities to give CEPR their stakeholder input data by December 16. She said this will give CEPR about two weeks to sort through the data and scrub it to get it ready for coding. Dr. Heredia-Griego explained CEPR's preparation includes arranging a template for long-term analysis. CEPR will code the data at the beginning of January and is planning on having a final draft for PED by the end of February. Mr. Esquibel noted the Learning Alliance will distribute the report as soon as it is completed.

In response to Representative Trujillo's question whether PED will incorporate information included in the report because it was not completed by the department, Dr. Heredia-Griego said PED has indicated they are looking forward to the information included in the report. Dr. Heredia-Griego noted it is unclear if PED will incorporate the information into the final state plan because of the deadlines each entity has set for their processes.

Representative Salazar asked about engagement of the state's colleges of education and panel members noted they have not engaged the colleges specifically. Mr. Rounds noted he would follow up with the deans and directors at the colleges of education to ensure they are aware of the stakeholder toolkit.

The Chair observed the stakeholder engagement process the Learning Alliance conducted will likely capture input from some stakeholders that were not informed of PED's stakeholder engagement opportunities. He noted this will likely lead to a richer compilation and perspectives before the final state plan is submitted.

In response to Senator Stewart's concern about all the work done with stakeholder engagement and fears of it not being reflected in the state plan, the Chair explained every agency with rulemaking authority, including PED, is required to listen but not required to act upon the information they hear. Senator Stewart suggested the joint House and Senate education committees meet in the first few weeks of the session and hear the results from the Learning Alliance, New Mexico First, PED, and any other groups.

Superintendent and Community Input.

Meredith Machen, President, League of Women Voters of New Mexico, distributed the league's charter school policy platform. She noted support of the committee's consideration of placing an upper age limit of public school students in statute, though suggested the committee may want to consider grandfathering in charter schools that have older students as part of their mission. Ms. Machen also noted issues with charter school capital outlay funding.

There being no further business, the Chair recessed the LESC meeting at 4:52 p.m.

Friday, November 18

The following voting and advisory members were present:

Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, Sheryl M. Williams Stapleton, Christine Trujillo, and Monica Youngblood; and Senators Craig W. Brandt and Gay G. Kernan; and

Advisory: Representative Alonzo Baldonado; and Senators Lee S. Cotter, Michael Padilla, John Pinto, William P. Soules, and Mimi Stewart.

The following voting and advisory members were not present:

Voting: Representative James E. Smith; and Senators John M. Sapien, Vice Chair, and Howie C. Morales; and

Advisory: Representatives Jim Dines, Nora Espinoza, David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, D. Wonda Johnson, Timothy D. Lewis, G. Andrés Romero, Patricia Roybal Caballero, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Linda M. Lopez, and Pat Woods.

Senator Nancy Rodriguez was also in attendance.

Director's Report

Informational Items

a. Administrative Rulemaking

Kevin Force, LESC staff, noted the final adoption of the Children, Youth and Families Department (CYFD) rules adopted to remain in compliance with the requirements of the federal Child Care and Development Block Grant that were reviewed in detail at a previous LESC meeting. The rules were adopted without change on September 30.

Mr. Force reviewed the Public Education Department's (PED) proposed amendments to the instructional materials and technology rule, 6.75.2 NMAC. The proposed amendments remove all references to nonpublic schools, including Bureau of Indian Education (BIE) schools. Additionally, the rule changes the deadline by which schools and districts must submit requisitions for materials to PED from March 31 to April 15. The rulemaking also proposes a number of new definitions consistent with statute, although the proposed definition for "electronic media" excludes computers, laptops, hand-held, and other devices, which is not language currently in the statute. Mr. Force noted that the proposed rule relates to issues raised in the case of *Moses v. Skandera*, wherein the New Mexico Supreme Court found that the state's provision of free textbooks to private school students violated the New Mexico constitution, Article XII, Section 3, prohibiting educational funds from being allocated to any sectarian, denominational, or private school.

Marit Rogne, LESC staff, reported the Dual Credit Council, an advisory committee consisting of PED and Higher Education Department (HED) staff, is currently working to develop updated draft dual credit regulations and a procedures manual. Although work is ongoing, changes are substantial and relate to student eligibility, course standards and quality, teacher credentials, ongoing support of high school teachers and students, including professional development opportunities for high school teachers and academic advising for high school students, and course offerings. Ms. Rogne noted the rules appear to limit access to low-performing students.

The Chair noted there has been significant focus on these changes in the education community. Senator Kernan recalled a visit to the early college high school in Carlsbad and observed that the enrolled students were not typical 3.0 GPA students. Senator Kernan expressed concern about establishing high student eligibility requirements and ruining a program that is actually working.

The Chair expressed concern about limiting the number of courses a high school student can take to no more than 6 credit hours a semester. He noted some students in his school district take courses that are four credit hours and the six credit hour limitation would mean those students could only take one class per semester.

Senator Soules asked why the rule changes are being considered and what data has been analyzed to indicate the changes are needed. The Chair noted some small colleges are opposed to the changes, but it may be appealing to some of the larger colleges because it may generate more tuition revenue, as students will be limited in the number of tuition free courses they can take in high school, requiring them to take more classes when they enroll in college after graduation.

Senator Soules asked how you demonstrate a high level of motivation and an adequate amount of time, as required in the draft regulation. In reply, the Chair noted there are

gifted and talented students who have no motivation until they get into a rigorous course because they are challenged for the first time.

Representative Trujillo also voiced strong concerns. She mentioned dual credit keeps students in school because there is an alignment in the dual credit classes with math and technical vocational classes and dual credit courses often inspire students to move their ideas forward. The representative would like to know the impetus for creating the rule change and who is opposed to it.

Senator Stewart asked about inviting members from the Dual Credit Council to address LESC. She noted there are problems inherent with how this has proceeded; we started off with around 9,000 students and now there are over 20 thousand students. That has got to put stresses on the system so if we heard from them that would be better, then we could publicly state our concerns and have a dialogue. The Chair asked Ms. Gudgel to invite PED and HED to address the committee in December.

b. LESC November Newsletter

c. General Fund Revenue Update

Rachel S. Gudgel, Director, LESC, noted general fund revenues continue to be volatile and reviewed the Legislative Finance Committee's most current general fund revenue update with the committee. Ms. Gudgel said, in December, LESC will get updated information and a clearer picture of FY17 and FY18 revenue projections. Senator Stewart requested a review of special session action at the December meeting.

Senate Bill 153 Report: Military Training and Experience for College Credit.

Dr. Harrison Rommel, Financial Aid Director, Higher Education Department (HED), said the Military and Veterans' Affairs Committee heard concerns from students about their military service not being counted or being counted in inconsistent ways for college credit. These students were receiving elective credits that were not articulating toward a degree and jeopardizing financial aid. HED indicated SB153 aligns well with HED initiatives related to articulation and credit transfer.

SB153 charged HED with ensuring the consistent statewide articulation and transfer of military service for college credit. Dr. Rommel indicated HED wants military service credits to apply toward a degree though the department has not seen that happen in the past. After a veteran completes their military service, they receive a joint service transcript (JST) that HED is using to develop articulation transfer pathways. A JST does not look like a college transcript. However, the American Council of Education made recommendations for entries in the JST to be converted to college credit.

Dr. Rommel also discussed broader articulation transfer reforms in the state. New Mexico has 32 governing boards and institutions including the tribal and special schools. Creation of a common course numbering system for courses offered by all institutions is a significant part of HED's reforms; currently each institution has its own course numbering system.

HED is also developing meta-majors, broader categories of majors a student can choose as they matriculate that puts them on a broad pathway before narrowing to a specific degree. Students can divert within their meta-major and not lose momentum because many of the credits will count toward another degree pathway within that meta-major.

The last of HED's reforms connected to SB153 is core general education courses. Currently, there are 32 credits that every student must take in five areas and HED is moving toward aligned learning objectives. Dr. Rommel emphasized HED is not seeking to standardize curricula or impact academic freedom with these initiatives. HED developed faculty committees that are reviewing and aligning learning objectives so courses will truly be equivalent across postsecondary institutions. He indicated chief academic officers and provosts are supportive of the efforts. Under the leadership of Provost Howard from New Mexico State University, postsecondary institution faculty and HED staff are making sure the general education requirements have well-rounded skills students need to ensure that they succeed.

HED is also collaborating with the Institute of Design and Innovation at the University of New Mexico (UNM) on degree mapping to map out every single degree in the State of New Mexico and devise pathways where a student who starts at one postsecondary institution can end up on another pathway at another postsecondary institution with minimal coursework duplication.

HED is on schedule for the August 1, 2017 statutory deadline for a common course numbering system and plans on convening a task force in the spring with the registrars, HED staff, and possibly some other faculty and career technical experts to start mapping JSTs into the common course numbering system. HED should have made significant progress by next fall.

Senator Rodriguez stated a large number of veterans return to the United States with post-traumatic stress disorder (PTSD) and other ailments and asked whether special help and support exists for veterans to ensure they succeed in postsecondary education. Dr. Rommel said every postsecondary institution has a veterans' center to provide wraparound services to veterans. The Department of Veterans' Affairs (DVA) also works with those entities to ensure services are available; DVA also conducts outreach to incoming veterans. Every postsecondary institution allows accommodations for documented disabilities, including extra tutoring, allowing additional time to take exams, and other supports. Senator Brandt noted only 3 percent of veterans have PTSD and cautioned the committee to be cautious about labeling all veterans as having PTSD.

Senator Brandt recalled a presentation at the Military and Veterans' Affairs Committee meeting about a veteran who had too many credits, many of which were credits for military service, and lost his G.I. Bill and Pell Grant. Dr. Rommel indicated a recipient will lose funding at 180 earned credit hours, or 150 percent of the required credit hours to graduate. Senator Brandt expressed this story is what motivated him to sponsor SB153; he also noted NMSU was working with that veteran to remove some of the excess credits from his transcript so he would continue to be eligible for the G.I. Bill and Pell Grant and could continue his education. Representative Roch said he submitted an article about the bill to the Council of State Governments and they are using it as model legislation around the country.

Senate Joint Memorial (SJM) 2 Physical Education Task Force Report.

Senator Mimi Stewart reported on the work completed over the interim related to requiring elementary student to engage in 150 minutes of physical education each week pursuant to SJM 2 (2016). Noting that the task force members were aware of the state's difficult current revenue situation, the senator stated the task force is not

recommending expanded elementary PE funding at this time. But she reminded the committee that the Legislature began funding elementary physical education in the 2006-2007 school year, beginning with schools in the greatest need, and was only able to partially fund the program because of the Great Recession.

Susan Scott, MD, JD, Emeritus Professor of Pediatrics, University of New Mexico (UNM) School of Medicine, testified to the increasing incidence of Type 2 diabetes among children and youth in the state. Currently, about 10 percent of the U.S. population has diabetes, with most patients having Type 2 diabetes. Type 2 diabetes among children is becoming so widespread it is overwhelming the capacity of endocrinologists. The only effective way to prevent the spread of the disease is help control childhood weight; at current rates, one out of every three people in the United States will have diabetes by 2050.

She indicated, while it may seem counterintuitive, children do not necessarily know how to move spontaneously without instruction, at least partly due to generally decreased playtime and outdoor activity, which in turn affects brain development. Brains develop better in children who exercise. Overweight children, on the other hand, have a smaller hippocampus, the area of the brain that stores memory. Exercise actually increases the size of the hippocampus. The rates of childhood obesity are also troubling because the mental and physical effects will follow New Mexico students into adulthood, and affect both their school and career performance, which can, in turn, directly affect the economic health of the state.

Ms. Anne Paulls-Neal, Executive Director, Society for Health and Physical Educators, SHAPE New Mexico, noted that as little as a two- to three-minute activity break can increase a kid's attention for the next 20 minutes. She noted only one in three children are actually active for the 60 minutes per day that they need; only six states require PE in every grade and only 20 percent of school districts have daily recess.

It is in PE classes that students are taught the skills to be physically active for a lifetime, understanding the importance of health and physical activity, and how to be a part of individual, partner, group and team activities. By definition, PE develops the physically illiterate individual through a deliberate practice of well-designed learning tasks that allow for skill acquisition in an instructional climate focused on mastery.

Quality PE is not a specific curriculum or program; rather it is an instructional philosophy that emphasizes a variety of motor and physical skills needed for a lifetime of physical activity, the knowledge to make activity an everyday part of life, and building students' confidence in their physical abilities. The best guide for a quality PE program is standards and grade-level outcomes which reflect a move toward increasing physical literacy and helping students to move with competence and confidence in a wide variety of physical activities and multiple environments. It is the job of physical educators to provide a standards-based approach to teaching basic skills and foster a love of moving in all students, which is why updated PE standards that align with national standards and grade-level outcomes are necessary.

Bette Castoria, Brain Education Trainer, Power Brain Education, said PE is necessary for our children to develop motor skills, improve their physical health, efficacy, and emotional intelligence. Moving with mindfulness helps students connect their body to their brain. Connecting the brain's hemispheres optimizes learning and efficiency.

Senator Stewart indicated LESC has two bills that have come out of the task force; one is a recommendation for PED to adopt nationally recognized PE standards; the second one is a memorial requesting PED to work with LESC in answering questions about how many PE teachers we have, how much PE instructional students receive, whether school districts are combining their PE programs, and how many certified PE instructors there are teaching in the state.

Chairman Roch asked about available PE funding. Senator Stewart replied it was uncertain. The state-funded elementary PE program was partially funded, but due to the recession was never fully funded. Additionally, she reiterated the current state-funded PE program has never been audited to ensure programs are being provided or funding is accurately being claimed. Ms. Gudgel, Director, LESC, said there were two appropriations made in FY07 and FY08 of \$8 million each, which funded 50 percent of elementary schools statewide. Staff analysis shows approximately \$23 million is needed to entirely fund program units that would be generated, assuming every school district had a qualifying elementary PE program. PED does not appear to have adjusted allocations since the original allocations of units; there are actually some school districts that have decreased elementary school enrollment and continue to receive funding for more students than they have enrolled; she noted between \$300 thousand and \$700 thousand has been over-allocated to a number of school districts. Conversely, the Chair observed there may be some school districts with increased enrollment and they should receive more money to fund their programs. Ms. Gudgel indicated staff will provide the committee with a list of school districts and charter schools that are receiving state funding for elementary PE programs.

The Chair noted the availability of a PE program in an elementary school is not contingent upon a PE grant by PED. A school district may choose to use other formula funding for PE, fine arts, or other subjects, reflecting local autonomy. Senator Stewart noted if New Mexico were to adopt nationally recognized PE standards, federal resources may become available.

Senator Kernan said she thought every school was likely to be different; even just encouraging recess would help, since kids need to get out and play and spend some time outside. She would also like to see the current standards for New Mexico compared to the national standards to see where we are meeting their standards and where we need to improve.

Senator Brandt observed that some school districts do better without PE programs than others. Rio Rancho does not get any special funding for PE but all Rio Rancho schools provide PE. It seems like the funding formula needs adjusting if certain schools receive funding for PE through the state equalization guarantee distribution while others cannot.

With no further business, the Chair adjourned the LESC meeting at 10:57 a.m.