

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
NOVEMBER 16-20, 2009

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

Senator Cynthia Nava, Chair, called the Legislative Education Study Committee (LESC) meeting to order at 9:24 a.m. on Monday, November 16, 2009 in Room 317 at the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Rick Miera, Vice Chair, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart.

The following LESC advisory members were present:

Senators John Pinto and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Eleanor Chávez, Nathan P. Cote, Nora Espinoza, Mary Helen Garcia, Karen E. Giannini, John A. Heaton, Sheryl Williams Stapleton, and Shirley A. Tyler.

Also in attendance was Senator Dianna J. Duran.

Approval of Agenda

On a motion by Representative Hall, seconded by Representative Roch, the committee approved the agenda as presented.

SUMMARY OF THE 2009 SPECIAL SESSION

Senator Nava recognized Ms. Frances Ramírez-Maestas, LESC Director, to provide an overview of the 2009 special session related to public school support and other education-related appropriations. Ms. Ramírez-Maestas began by citing the Governor's proclamation calling the Legislature into special session to address FY 09 and FY 10 budget shortfalls. For FY 09, she said, the proclamation requested consideration of the use of the state's reserves to meet FY 09 obligations. For the state's FY 10 budget, the Governor's proclamation prescribed 10 measures for the

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Legislature's consideration and excluded "any other measures that would alter existing taxation and/or revenue enhancement structures." The proclamation also prohibited "measures reducing salaries or raising tax rates, reducing or eliminating tax credits, rebates, exemptions, or deductions, or imposing new taxes."

Overall, Ms. Ramírez-Maestas continued, the 2009 Legislature, in special session, passed eight bills and one joint memorial. Seven of these bills were signed into law, two with partial vetoes, and one was pocket vetoed. As a package, these bills addressed solvency issues for FY 09 and FY 10 that had been identified by the Legislative Finance Committee (LFC). According to the LFC, in October 2009, the FY 09 budget exceeded appropriations by \$214 million. For FY 10, the LFC projected a shortfall of approximately \$650 million.

Addressing FY 09 was CS/HB 6, *Transfer Reserves to General Fund for 2009* (Laws 2009, 1st Special Session, Ch. 3, partial veto), which transferred \$225 million from the operating reserve to the appropriation account of the General Fund.

The other measures enacted during the special session addressed the fiscal issues of FY 10.

- CS/HB 6, *Transfer Reserves to General Fund for 2009* (Laws 2009, 1st Special Session, Ch. 3, partial veto) permitted the Governor, with State Board of Finance approval, to transfer from the Tax Stabilization Reserve to the appropriation account of the General Fund up to \$115 million to meet FY 10 shortfalls.
- HB 3a, with emergency clause, *Fund Transfers & Appropriation Voids* (Laws 2009, 1st Special Session, Ch. 2, partial veto) transferred \$108.3 million to the General Fund from various state funds and voided \$1.2 million appropriated in Laws 2008.
- HB 16, *Reduce Legislative Appropriations* (Laws 2009, 1st Special Session, Ch. 4) reduced by 5.3 percent the General Fund appropriations in the 2009 feed bill for permanent legislative offices, including the staff office of the LESC, and required the Legislative Council to determine the reduction of each legislative agency.
- CS/HB 17 & 33a, *Reduce 2009 General Fund Appropriations* (Laws 2009, 1st Special Session, Ch. 5, partial veto) reduced General Fund appropriations in the *General Appropriation Act of 2009* by various amounts; appropriated cash balances from the Tobacco Settlement Program Fund; appropriated emergency supplemental funding for public schools in FY 10; appropriated \$29.0 million from the Public School Capital Outlay Fund to the New Mexico Public School Insurance Authority (NMPSIA) to pay or reimburse school districts and charter schools for property insurance premiums; and required the Legislative Council Service, the LFC, and the Department of Finance and Administration to review General Fund unexpended capital outlay projects and identify \$150 million of voidable projects to be submitted for consideration of the 2010 Legislature.
- SB 24a, with emergency clause, *School District Flexibility & Insurance* (Laws 2009, 1st Special Session, Ch. 6) contains the appropriation and provisions for property insurance payment and reimbursement to school districts and charter schools that are included in CS/HB 17 & 33a.

- SB 29, with emergency clause, *General Fund Projects to STB Projects* (Laws 2009, 1st Special Session, Ch. 7, partial veto) voids approximately \$124.5 million in General Fund capital outlay projects authorized in previous years, including approximately \$4.7 million in education-related projects; and authorizes severance tax bonds to be issued for the purpose of funding the projects whose General Fund dollars were reverted.
- SJM 1, *Hold Tribal People Harmless on Medicaid Cuts*, requests that Native American tribes, nations, and pueblos be held harmless from cuts to Medicaid funding or programs.

Ms. Ramírez-Maestas added that the 2009 Legislature in its special session also passed SB 25, *School District Cash Balance Transfers*. This bill would have allowed school districts to make temporary cash transfers to their operational accounts of unexpended revenue from a tax imposed pursuant to the *Public School Capital Improvements Act* (SB 9) as long as none of the money were used for salaries and the district repaid the transferred amount by FY 16 according to a repayment schedule approved by the Public Education Department. However, the bill was pocket vetoed.

Regarding CS/HB 17 & 33a, Ms. Ramírez-Maestas noted that this bill would have reduced the State Equalization Guarantee by approximately 4.0 percent but would have offset 2.0 percent of this reduction with \$45.5 million from federal education stabilization dollars. The Governor vetoed the federal fund offset; however, in his veto message he indicated that he “will be distributing federal education stabilization funds in a timely manner to offset HB 17/33a’s cuts to public and higher education.” These actions, Ms. Ramírez-Maestas continued, may require the Secretary of Public Education to reset the FY 10 unit value of \$3,862.79. Overall, the adjustments to education appropriations resulted in a 4.1 percent decrease in total public school support.

Ms. Ramírez-Maestas also noted the debate during the session over the legality of the \$29.0 million appropriation from the Public School Capital Outlay Fund to NMPSIA and the possibly disequalizing effect of the appropriation. During the session, which moved very quickly, she said, there had been assurances that any issues could be resolved. Now, however, questions remain.

Committee Discussion:

In response to several questions from the committee about the status of capital outlay projects whose funds had been vetoed, a committee member suggested that the LFC examine the issue and make a determination.

In response to a committee member’s question about emergency supplemental funding, Ms. Ramírez-Maestas noted that the Legislature had appropriated an additional \$3.0 million for that purpose and that the original appropriations had been reduced by 6.5 percent.

FY 10 APPROVED PUBLIC SCHOOL BUDGETS

State Equalization Guarantee (SEG) Funding and Cash Balances

Senator Nava recognized Mr. Peter B. van Moorsel, LESC staff, to provide the committee with a report regarding FY 10 approved public school budgets. Mr. van Moorsel directed the committee’s attention to a table illustrating public school support figures for FY 10 as originally appropriated,

and he noted that, while reductions were made to the budget during the special session, school districts formulated budgets based on the figures shown.

Mr. van Moorsel explained that the Legislature appropriated approximately \$2.4 billion in FY 10 public school support during the regular session (down 9.0 percent from FY 09), designating \$2.2 billion for the State Equalization Guarantee (SEG), which, considering approximately \$65.3 million in credits, includes:

- \$8.4 million to fund enrollment growth;
- \$3.7 million to fund increases in fixed costs;
- \$2.6 million to increase the educational assistants' salary base to \$13,000;
- \$12.1 million to fund a 0.75 percent increase in the employer's FY 09 contribution to the Educational Retirement Fund; and
- \$1.05 million for school district assessment and test development costs.

Mr. van Moorsel reported that during March 2009 the Secretary of Public Education set the preliminary unit value for FY 10 at \$3,862.79, based on a projected total of 626,779.24 units. He added that the value includes \$256.39 in federal *American Recovery and Reinvestment Act of 2009* (ARRA) funds.

Mr. van Moorsel stated that other operational funding in the *General Appropriation Act of 2008* provides \$130.4 million in categorical public school support, including:

- \$103.1 million for public school transportation;
- \$2.0 million in recurring dollars for emergency support to school districts, plus a nonrecurring supplement of \$10.0 million;
- \$16.2 million to the Instructional Material Fund;
- \$1.5 million to fund textbook and course supply costs for dual credit; and
- \$2.4 million for the Educational Technology Fund; \$2.25 million for the Indian Education Fund; and \$2.5 million for the Schools in Need of Improvement Fund.

Mr. van Moorsel noted that the *General Appropriation Act of 2008* also includes \$48.2 million in recurring related appropriations and \$12.8 million in nonrecurring appropriations to the Public Education Department (PED).

Mr. van Moorsel then discussed the October 2009 special session convened to address budget shortfalls and restore solvency to state-funded programs. In November, the Governor signed legislation reducing the appropriation to the SEG by 2.0 percent and \$45.5 million – a total of almost 4.1 percent. He also described a provision which appropriates \$29.0 million from the Public School Capital Outlay Fund to the New Mexico Public School Insurance Authority, which effectively offsets 1.3 percent of the reductions noted above.

Mr. van Moorsel concluded by referring the committee to three attachments concerning federal funding. The tables provided a comparison of federal formula-allocated funds for New Mexico for federal FY 08, FY 09, and FY 10, including ARRA funding, for elementary and secondary programs; and it showed how the department had allocated these funds to school districts and charter schools.

The Chair then recognized Mr. Steve Burrell, Director, School Budget and Finance Analysis Bureau, PED, to provide an overview of FY 09 public school budgets and related issues.

Mr. Burrell presented data regarding budgeted revenue for school year 2009-2010, which totals \$4,694,515,872, including \$2,357,267,780 (50 percent) in state funds; \$1,016,842,780 (21 percent) in cash balances; \$684,072,419 (15 percent) in federal funds; and \$636,332,893 (14 percent) in local funds.

Mr. Burrell also reviewed the operational costs, which totaled almost \$2.5 million. He reported that of the total, 61 percent was budgeted in instruction, 37 percent was budgeted for support services, 0.4 percent to capital outlay, and 0.3 percent to non-instructional services. Mr. Burrell reported statewide operational fund cash balances of \$135,619,977 and the cash balance credit of \$174,232.00.

Mr. Burrell presented tables showing the 2009-2010 budgeted program cost and membership by district, stating that membership based on the average of 80- and 120-day counts is 324,043.50. He explained that the preliminary unit value for school year 2009-2010 comprised two funding sources, the General Fund and federal ARRA funds. According to Mr. Burrell, the 2009-2010 program cost based on the General Fund unit value of \$3,606.40 totals \$2,247,507,160.06, and the 2009-2010 program cost based on the federal ARRA funds unit value of \$256.39 totals \$160,615,865.

Mr. Burrell reported that, for school year 2009-2010, school districts statewide budgeted an increase in membership of 1,296.25.

Discussing school calendars, Mr. Burrell noted that many schools changed from a five-day calendar to a four-day calendar, using increased hours-per-day to remain in compliance with statute. He stated that the statewide average for instruction is 171 days and 179 total contract days.

Mr. Burrell reported a table showing, by district, the increase of the educational assistants' salary base to \$13,000, adding that the majority of school districts met the minimum.

Committee Discussion:

In response to a committee member's question regarding high district cash balances, Mr. Burrell reported that many of the cash balances shown reflect capital outlay and debt service funds and are not operational dollars.

In response to a committee member's question, Mr. Burrell noted that school districts cannot have their budget approved unless they meet the 180-day requirement for instruction, which schools with a four-day calendar meet by increasing the length of each instructional day.

In response to a committee member's question, Mr. Don Moya, Deputy Secretary, Finance and Operations, PED, reported that 40th day figures need to be tabulated in order to adjust the preliminary 2009-2010 unit value.

In response to a committee member's question, Mr. Moya reported that PED has received no negative feedback from the federal government regarding New Mexico's proposed use of federal funds.

Federal Funding from the American Recovery and Reinvestment Act of 2009 (ARRA) Relating to Title I and Individuals with Disabilities Education Act (IDEA) Programs

Senator Nava recognized Mr. Sam Ornelas, Program Manager, State Title I Services, Public Education Department (PED); and Mr. Joey Martin, Fiscal Manager, Special Education Services, PED, to provide the committee with an update on ARRA funding for Title I and IDEA.

Mr. Ornelas reported that last year PED distributed \$40.0 million in ARRA funds for Title I, which districts use for after-school programs, summer school, pre-school, extended years, professional development, reading/math coaches, parent outreach, technology purchases, and FTEs. He stated that approximately 800 jobs were retained or created by use of stimulus funding.

Mr. Martin described the \$93.0 million in ARRA funding allocation for IDEA as similar to Title I, stating that districts use it on FTEs, special education teachers, special educational assistants, professional development, and support staff.

Committee Discussion:

In response to a committee member's question, Mr. Moya stated that it would have been impossible for districts to maintain staffing without using stimulus money on direct instruction, and he noted that school districts were asked to be mindful of the fact that the funding would expire after 2011.

In response to a committee member's question, Mr. Moya stated that districts have 27 months from the time funding is issued to spend it, and that although the funding came in two installments they are under the same grant and share the 27-month timeline.

In response to a committee member's question, Mr. Ornelas stated that in spring 2009 the US Department of Education released guidance to school districts that prohibits states from using federal funds to supplant state funds. He did note that school districts may apply to PED to use stimulus money for existing programs that no longer have sufficient state funds. Doing so, he said, is not considered supplanting.

School Calendars

Senator Nava recognized Mr. David Peña, LESC staff, for an update regarding implementation of legislation enacted in 2009 that stipulates that, beginning in school year 2010-2011, school calendars shall consist of 180 full instructional days for regular calendars and 150 for variable calendars.

Mr. Peña presented a staff report that outlined the number of contract and instructional days included in the 2009-2010 approved budget for each school district and charter school. The data also includes information from school year 2008-2009.

Mr. Peña then presented the number of districts and charter schools that would need to add instructional days to meet the requirements of the 2009 legislation:

- 48 of the 89 school districts;
- 34 of the 58 locally chartered charter schools; and
- five of the 14 state-chartered charter schools.

Finally, Mr. Peña reviewed some of the other issues that had arisen around the 2009 school calendar legislation. For one, there was concern that, during the budget approval process for school year 2009-2010, a number of school districts and charter schools felt compelled to change their school calendars in the current school year, a year earlier than the effective date of the 2009 legislation. For another, a survey of certain school districts and charter schools indicated a wide range of per-day costs. Finally, the amended provisions in the *Public School Code* relating to the minimum hours required by grade level considered only students on a regular school-year calendar, not those on a variable school-year calendar.

Committee Discussion:

In response to a committee member's question regarding proposed regulations defining instructional hours, Dr. Kristine Meurer, Director, School and Family Support Bureau, PED, stated that the Quality Assurance Bureau is working toward full compliance; and Ms. Julia Rosa Emslie, Director, Quality Assurance Bureau, PED, stated that the department had issued a survey asking school districts and charter schools to provide their preference on the length of day.

In response to committee inquiry regarding the cost to bring schools into compliance, Ms. Ramírez-Maestas responded that the LESC has estimated the statewide cost of an additional day at \$17.0 million. Alluding to the staff report, she added that by-district estimates would probably be necessary. Also in response, Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, PED, said that the department would try to produce an estimate as well.

DIRECTOR'S REPORT

a. Approval of LESC Minutes for August 2009 and September 2009

Ms. Ramírez-Maestas informed the committee that the draft minutes from the August 2009 and September 2009 LESC meetings are included in the committee notebooks, and she stated that she would request an approval motion during the December LESC meeting in order to allow members time to review the contents.

b. Approval of LESC Financial Reports for June 2009 (Tentative,) and for July 2009 through October 2009

Referring the committee to a copy of the FY 09 operating budget, Ms. Ramírez-Maestas reminded the committee that four LESC staff members retired during the fiscal year. Ms. Ramírez-Maestas also reported that, out of budgetary consideration, the LESC staff office has undertaken cost-cutting measures and that approximately \$97,000 of the LESC budget will revert to the General Fund.

c. Correspondence and News Stories

Ms. Ramírez-Maestas reviewed the following correspondence, which is retained in the LESC permanent file:

- a letter from Secretary Veronica C. García to the LESC regarding high school redesign and parental consent to waive Algebra II;

- two letters from Dr. Tom Dauphinee, Interim Supervisor, Assessment and Accountability Division, Public Education Department (PED) to district superintendents regarding the suspension of college and workforce-readiness assessments; and
- a flier made available by PED regarding a program that would cover the basic ACT and WorkKeys assessment fee for 11th grade students.

Ms. Ramírez-Maestas also reviewed the following education-related news stories of potential interest to the committee:

- a US Department of Education (USDE) press release announcing the availability of the final Race to the Top application;
- a USDE packet summarizing the final requirements for State Fiscal Stabilization Fund use;
- a PED press release citing a National Center for Education Statistics report that places New Mexico among the top-performing states in proficiency standards;
- a *Washington Post* article highlighting the swift gains made by Tohatchi Elementary School in Gallup-McKinley County Public Schools, in proficiency and AYP status; and
- a press release from the Governor's Office announcing \$10.0 million to fund solar energy in New Mexico schools.

d. Written Reports

Senator Nava recognized Ms. Nicole Parra-Perez, LESC intern, to present several written reports that had been submitted to the committee in response to certain memorials.

Prevention of Teen Dating Violence, HM 53

Ms. Parra-Perez began with the written report on House Memorial 53: *Prevention of Teen Dating Violence*, which requests that the Department of Health (DoH) convene a work group to study and make recommendations regarding teen dating violence in New Mexico.

Ms. Parra-Perez noted the definition of the term *dating violence* according to the National Resource Center on Domestic Violence; and she discussed the findings of the work group, which include a strong correlation between being hit by a boyfriend or girlfriend and such conditions as mental health risks, substance abuse, behaviors associated with violence, and behaviors affecting academic success.

The recommendations in the report, Ms. Parra-Perez continued, include strategies for educating parents, raising public awareness, and utilizing/integrating existing resources as much as possible in the process of addressing teen dating violence. Some of the recommendations are addressed to DoH, PED, the Children, Youth and Families Department, and the Behavior Health Purchasing Collaborative, while others, such as those listed below, are addressed to the Legislature:

- make health education a graduation requirement taught by PED-licensed health education instructors;
- identify funding for a statewide teen dating violence coordinator position;
- allocate \$25,000 for a one-year teen dating violence community pilot project; and
- allocate \$10,000 to convene a Teen Dating Violence Task Force.

Finally, as a point of background, Ms. Parra-Perez noted House Bill 615, *School Dating Violence Policies*, which was introduced but not passed in 2009. This bill would have added sections to the *Public School Code* requiring schools to adopt dating violence policies and to incorporate dating violence information into health education.

Study School Staff Shortage Issues, HJM 3 (2008)

Ms. Parra-Perez informed the committee that during the 2008 interim the LESC received written reports from PED and the Office of Education Accountability (OEA) concerning issues that arise as a result of shortages of counselors and nurses in New Mexico schools. Ms. Parra-Perez also noted a letter of January 2009 from the LESC Chair to PED and OEA requesting the formation of a new work group to consider issues identified by the School Staff Shortage Work Group:

- alignment between PED's competencies for school counselors and nurses with those of national counseling and nursing associations;
- PED's career pathway requirements for school counselors and nurses;
- accountability measures for school counseling programs;
- working conditions of school counselors and nurses; and
- the creation of a systematic plan to reduce the ratio of students-to-counselors/nurses.

Ms. Parra-Perez also reviewed a letter of October 2009 from PED and OEA to the LESC stating their intent to comply.

One point raised in committee discussion was that, while exact figures are not readily available, various sources suggest that New Mexico's student-to-counselor and student-to-nurse ratios are well above the national average although the student-to-nurse ratio is closer to satisfactory than the student-to-counselor ratio.

Evaluate Drug Policy Approaches, SM 71

SM 71 requests that the New Mexico Health Policy Commission create a task force to evaluate New Mexico's current approaches to drug policy through the use of law enforcement, treatment, prevention, and harm reduction and to develop strategies for effective change. Ms. Parra-Perez discussed the findings of the work group established in response to the memorial, reporting that New Mexico has some of the most serious problems with drug abuse and alcohol in the nation. She stated that, of 39 participating states, New Mexico has the highest incidence of substance abuse among preteens, the second highest incidence of adolescent marijuana/cocaine use, and the second highest incidence of drug-related death.

Ms. Parra-Perez reported the task force recommendations to the Legislature, which include requiring health education to incorporate substance abuse prevention components and promoting legislation allowing judicial discretion for non-violent drug offenders possessing small amounts of narcotics.

e. Staff Reports

Proposed Amendment to Agency Rule Regarding Residential Treatment Centers

The Chair recognized Ms. Pamela Herman, LESC staff, to offer a brief summary of an amendment to the PED rule regarding students in residential treatment centers (RTCs), which the department published on September 30, 2009 and which was the subject of a public hearing on November 2, 2009. Noting that a more detailed review of the proposed rule was included in committee members' notebooks, Ms. Herman said that the rule was promulgated by PED pursuant to its authority under Laws 2009, Ch. 162 (HB 199, *School District and Training Center Agreements*), a bill endorsed by the LESC and passed by the 2009 Legislature to clarify the responsibility of local school districts and other parties for students placed in RTCs; and she reminded the committee that there had been a presentation regarding the implementation of that law earlier in the interim. Ms. Herman outlined some of the questions the committee had raised during that hearing about who should provide special education services in RTCs and who should be responsible for the costs.

Ms. Herman told the committee that, at the public hearing in November, LESC staff had recommended to PED that the rule could provide a clearer process and framework for developing uniform negotiated agreements between RTCs and school districts, and among school districts, to support those districts providing services to students and others in RTCs, to ensure statewide consistency in allocating and reimbursing costs for services, and to ensure that all qualified students receive the services to which they were entitled. She said that LESC staff had also recommended that, because generally speaking, the PED special education rule appeared to have been promulgated to implement federal special education law, not state law, PED staff undertake a more thorough review of state special education law and rule during the 2010 interim.

Finally, Ms. Herman stated that the committee might wish to consider requesting PED to provide more detailed guidance to school districts and RTCs regarding the negotiation of agreements; to clarify where longstanding practice may no longer be consonant with the law; and to ensure that services are planned and delivered efficiently and effectively when multiple school districts share responsibility for an individual student.

Proposed Agency Rule Regarding Eligibility for Driving Instruction Permits

Ms. Herman also informed the committee that, on November 4, 2009, PED had issued a news release containing a notice of proposed rule-making and a public hearing on December 14, 2009, concerning a rule to tie academic proficiency in math and reading, as demonstrated on the 8th grade state standards-based assessment, as well as 9th grade attendance, to eligibility of a minor for a driving instruction permit. She said that a companion rule requiring achievement of "nearing proficiency" in the 8th grade, and 90 percent attendance in 9th grade, had been adopted by the New Mexico Taxation and Revenue Department in January 2009. Ms. Herman noted that the rules will apply only to minors submitting applications for instruction permits on or after September 1, 2011.

f. Public Hearings Scheduled by PED on School Personnel and Licensure Rules

Finally, Ms. Ramírez-Maestas directed the attention of the committee to a list of 14 rules proposed by PED to be heard in a December public hearing.

RESPONSE TO INTERVENTION

Senator Nava recognized Dr. David Harrell, LESC staff, for a report on Response to Intervention (RtI). Dr. Harrell acknowledged three people from the Public Education Department (PED) who were available to respond to questions: Ms. Julia Rosa Emslie, Bureau Chief, Quality Assurance Bureau; Ms. Phyllis Bass, Education Administrator, Quality Assurance Bureau; and Ms. Denise Koscielniak, Program Director, Special Education Bureau.

Dr. Harrell began the presentation by citing the definition of RtI used by PED: a “multi-tiered organizational framework that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a system for making educational programming and eligibility decisions. It is a continuum of school-wide support that contributes to overall comprehensive school improvement efforts” (emphasis in the original). RtI, Dr. Harrell added, is intended “to ensure success for all students and [to] provide early assistance to students who are experiencing academic and/or behavioral challenges.”

In New Mexico, Dr. Harrell explained, RtI is prescribed not by state law but by PED rule, which mandates the three-tier model of student intervention. In this model, academic or behavioral interventions change or intensify as student needs are addressed in each tier:

- Tier 1, general education, consists of appropriate, research-based instruction in a standard curriculum, together with universal screening of students;
- Tier 2, involving student assistance teams, provides targeted interventions and small-group instruction for students identified in Tier 1 as needing additional assistance; and
- Tier 3, special education, provides specialized instruction according to a student’s Individualized Education Plan, or IEP.

Dr. Harrell said that the LESC has heard testimony on RtI since 2005, when the committee was briefed on the reauthorization of the federal *Individuals with Disabilities Education Act* (IDEA), which encourages the use of RtI. The most recent testimony was in 2008 in the form of a written report by the PED Quality Assurance Bureau in response to Senate Joint Memorial 9, *Monitor Response to Intervention Program*. Among other points, SJM 9 had requested that PED monitor school districts’ implementation of RtI and evaluate the impact that the approach has on the academic progress of students.

Reporting on the status of the findings and recommendations in response to SJM 9, Dr. Harrell noted these developments:

- Regarding the capacity to support school districts, PED has indicated that, while the department lacks the resources to devote one employee exclusively to RtI, an education administrator in the Quality Assurance Bureau is responsible for overseeing the framework, along with other duties.
- With regard to cost sharing with the National RtI Center, PED reports that collaboration is ongoing for technical assistance, guidance document review, and other aspects of RtI.

- Little progress has been made toward another of PED’s recommendations: collaboration with the Higher Education Department (HED); however, PED is working with the College of Education at New Mexico State University to bring RtI training to that part of the state. In addition, PED intends to contact the newly formed Leadership Institute for additional collaboration.

Dr. Harrell then described the progress toward statewide implementation of RtI. At the state level, he described such initiatives and activities as the link on the department’s website to a “one-stop shop about the RtI framework and New Mexico’s model” and the link to a help desk; the New Mexico RtI State Advisory Team; a statewide RtI conference in September 2009, produced through collaboration among PED, the National RtI Center, the New Mexico Education Network Center, and the Regional Education Laboratory Southwest; and the recently revised and updated technical assistance manual, *The Student Assistance Team and the Three-Tier Model of Student Intervention – A Guidance and Resource Manual for New Mexico’s Response to Intervention (RtI) Framework*.

At the district level, Dr. Harrell reviewed some of the developments reported in responses to a questionnaire disseminated by LESC staff. Several districts, he said, have extensive documents that spell out their RtI plans; 19 of the 27 respondents to the questionnaire said that they were implementing RtI across all grade levels, not just in the elementary grades; and the three respondents without a defined RtI framework or process in place are all working toward developing one.

Also from the district-level perspective, Dr. Harrell noted several other developments:

- Seventeen of the responding districts noted a decrease in the number of students referred to special education, and several of those districts reported that the referrals being made are more appropriate.
- All respondents reported having engaged in staff training to one degree or another, sometimes on the various components of RtI and sometimes on the overall framework itself, typically using the train-the-trainers model.
- Seventeen districts reported that RtI has had a fiscal impact, typically in terms of the costs of intervention materials, training or professional development, and staff time.
 - On this point, some districts described the fiscal impact in broad terms like “significant,” while others reported specific dollar amounts, ranging from \$4,000 to more than \$1.0 million. In general, Dr. Harrell said, the smaller costs were covered by reallocating state funds while the larger ones were covered by federal *American Recovery and Reinvestment Act* funds or Title I funds.
 - Finally, Dr. Harrell concluded, nine districts reported either no fiscal impact or a negligible impact, and the two remaining responses were unclear on that point.

Committee Discussion:

In response to committee members’ questions and concerns about reported delays in assessments and services for special education because of the RtI framework, Ms. Bass and Ms. Koscielniak

explained that, under IDEA, a parent may request an evaluation for special education services at any time and the school district must respond to that request without delay. On this point, one committee member said that not all parents are aware of their rights under IDEA; another suggested that teachers are in a position to inform parents of their rights; and Ms. Bass said that the RtI manual enumerates parents' rights.

In response to a committee member's question about the assessments that districts use to implement RtI, Ms. Bass said that PED does not require any particular assessments and that the RtI manual lists a number of assessments that may be used for a variety of purposes within the RtI framework.

Finally, in response to a committee member's question about the approaches taken at the district level, Dr. Harrell said that, at both the district and the national level, different terms are employed in reference to RtI: that is, it may be called a framework, a process, a method, an approach, or even a plan. Nonetheless, Dr. Harrell continued, responses to the LESC questionnaire indicate that districts are adapting the state-level guidance to local needs and they were looking forward to additional guidance from PED in the form of the new RtI manual.

SUPERINTENDENTS AND COMMUNITY INPUT

Senator Nava recognized Mr. Tom Sullivan, Executive Director of the New Mexico Coalition of School Administrators, to address three points related to school district budgets.

- Mr. Sullivan said that, in his experience, it is better for some school districts to have a flexible budget rather than fixed budgets, which may have to be adjusted mid-year to compensate for changing needs.
- Mr. Sullivan also noted that gate receipts from athletic events are used for incidental expenses such as compensation for gate employees, officials, and also for meals; and it would place undue hardship on athletic programs if those funds were appropriated to physical education.
- Regarding district cash balances, Mr. Sullivan noted that some districts heeded warnings of upcoming budgetary shortfall and in turn conserved their cash balances to avoid impacting salaries and full-time employees.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 3:30 p.m.

**MINUTES
LESC MEETING
NOVEMBER 17, 2009**

Senator Cynthia Nava, Chair, called the LESL meeting to order at 9:19 .a.m. on Tuesday, November 17, 2009 in Room 317 of the State Capitol, Santa Fe, New Mexico.

The following LESL members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, Gay G. Kernan, and Lynda M. Lovejoy; and Representatives Jimmie C. Hall, Dennis J. Roch, and Mimi Stewart.

The following LESL advisory members were present:

Senators John Pinto and Sander Rue; and Representatives Andrew J. Barreras, Ray Begaye, Nathan P. Cote, Nora Espinoza, Mary Helen Garcia, Karen E. Giannini, John A. Heaton, Sheryl Williams Stapleton, and Shirley A. Tyler.

HIGHER EDUCATION DEPARTMENT UPDATE AND OVERVIEW

Senator Nava recognized Dr. Viola Florez, Secretary-Designee of Higher Education, to provide the committee with an update and overview of restructuring and initiatives of the Higher Education Department (HED). Dr. Florez introduced the members of her staff, including Mr. Tino Pestalozzi, Deputy Cabinet Secretary for Planning and Research; Mr. David Hadwiger, Director and Chief Financial Officer, Administrative Services Division; Dr. Rick Scott, Director of P-20 Policy and Programs; Ms. Laura Mulry, Director of Communications; and Mr. Brandon Trujillo, Legislative Liaison.

Dr. Florez reviewed goals and initiatives that HED is undertaking, including renewed dedication to a P-20 program that encourages collaboration among colleges, universities, and the Public Education Department (PED) and HED to provide a seamless P-20 education system. Dr. Florez stated her dedication to creating an integrated system of education to raise student achievement at all levels, and she reviewed the vision and mission statements of HED.

Dr. Florez then presented the committee with an organizational flow chart depicting what she called minor restructuring of the six divisions of HED, plus the American Indian Education start-up initiative. Dr. Florez also discussed accountability and collaboration as it relates to intra-departmental communication and responsibility, and she provided the committee with a table listing HED areas of responsibility.

In addition, Dr. Florez presented the committee with a list of commitments related to P-20, including:

- expansion of dual credit opportunities and participation;
- increased collaboration with PED in a variety of areas, including student demographics, achievement, longitudinal data systems, and Race to the Top grants;
- commitment to improve graduation rates; and

- such initiatives as online credit transferability and increased access to high-quality teachers and courses for public 8th grade and high school students across the state, specifically those in rural areas.

Committee Discussion:

In response to a committee member's question regarding technical issues relating to the "Blackboard" service, Dr. Florez acknowledged that difficulties in the service resulted in a number of institutions losing online students but that HED is working to increase the reliability of the service.

In response to a committee member's question regarding the availability of higher education to military veterans, Dr. Florez stated that each institution works individually with veteran students and that HED is beginning work in the pursuit of expanded higher education opportunities for veterans and active military.

In response to a committee member's question regarding course transferability and student transfers from community colleges to four-year universities, Dr. Florez acknowledged that more needs to be done in order to streamline the transition and that HED is working on articulation standardization. She added that many institutions now have memoranda of agreement designed to clarify requirements for students wishing to transfer credits earned at community colleges to four-year institutions. Dr. Florez stated that the proliferation of such agreements is in the best interest of swift transferability and student progress.

In response to a committee member's question, Mr. Trujillo stated that legislation passed in 2005 makes undocumented students eligible for the lottery scholarship.

In response to a committee member's question about STEM (science, technology, engineering, and math) courses and related issues, Dr. Florez said that the success of individual courses and the quality of material contained therein are the responsibility of the individual institutions although HED seeks to inform and to be informed on such matters.

In response to a committee member's suggestion, Dr. Florez agreed to examine the possibility of placing high-achieving student-teachers into the classroom to offset projected class-size increases as early as next semester, under a possible agreement in which school districts would be able to obtain waivers for any stipend or compensation earned by the student-teachers.

UNIVERSITY OF NEW MEXICO PROPOSED ADMISSION REQUIREMENTS

Senator Nava recognized Mrs. Carmen Alvarez-Brown, Vice President, Enrollment Management Division, University of New Mexico (UNM), and Mr. Terry Babbitt, Associate Vice President, Enrollment Management Division, UNM, to brief the committee on proposed changes to admission requirements.

Mr. Babbitt began by informing the committee that, prior to the finalization of the proposed admission requirements, a variety of stakeholders were consulted, including students, faculty, superintendents and principals, as well as tribal leadership, community organizations, state legislators, and representatives from the Executive.

Mr. Babbitt then reviewed the proposed changes to admission requirements, which include the gradual increase of the required grade point average (GPA) from 2.25 to 2.5 and an increase in curriculum requirements from 13 to 16 units, including additional credit hours in math, science, and social science. Mr. Babbitt added that the proposal would incorporate a two-tier approach to UNM admission:

1. Those meeting the requirements will be admitted to the Albuquerque UNM Campus.
2. Students needing more preparation will receive admission to UNM through branch campuses or community colleges, where they would begin their postsecondary education.

Mr. Babbitt noted that “formula admission,” or Plan B, will be restructured to incorporate high school GPA in lieu of class rank. Mr. Babbitt also stated that these changes will de-emphasize test scores and ensure that no New Mexico beginning freshman will be denied admission to UNM.

Mr. Babbitt cited a study involving 80,000 University of California students, the results of which suggest that high school GPA is consistently the strongest predictor of four-year college outcomes and that using high school GPA as an admission criterion has less adverse impact on disadvantaged and underrepresented minority students than standardized tests.

Benefits from these changes, Mr. Babbitt added, include increased retention, increased access to UNM for New Mexicans, and a greater ability for New Mexico students to receive bridge and lottery scholarships.

Mr. Babbitt then outlined the proposed timeline for implementation:

- fall 2011: 2.3 GPA requirement and 14 college preparatory units (additional social science unit);
- fall 2012: 2.4 GPA requirement and 15 college preparatory units (additional laboratory science unit); and
- fall 2013: 2.5 GPA requirement and 16 college preparatory units (additional math unit, if schools are able to comply).

Finally, Mr. Babbitt informed the committee that a community input and outreach initiative is taking place regarding the proposed changes, which includes letters to high schools, outreach to school officials, newspaper notices, forums, and interest groups. Mr. Babbitt also noted that the community feedback opportunity is ongoing, and he provided the committee with an email address to which inquiries and input regarding the proposed changes may be directed.

Committee Discussion:

In response to a committee member’s question, Mr. Babbitt noted that UNM has no current requirement that incoming freshmen possess credit hours in New Mexico history.

In response to a committee member’s question, Mr. Babbitt explained that UNM does not use the 11th grade Standards-based Assessment for admission purposes because it would affect the eligibility of up to 900 UNM freshmen a year. Mr. Babbitt did note that UNM uses the Standards-based Assessment for placement purposes, however.

In response to a committee member's question, Mr. Babbitt stated that approximately 40 percent of incoming UNM freshman require remediation is roughly 40 percent and that the remediation courses are taught by Central New Mexico College staff at the UNM campus.

In response to a committee member's inquiry, Mr. Babbitt stated that 50 percent of the students taking first-year college algebra are unprepared and either do not finish or fail the class.

In response to a committee member's question, Mr. Babbitt agreed that, as UNM phases in the adjusted admission requirements, community college enrollment should increase but that the three-year implementation plan should help to mitigate hardship on community colleges.

In response to a committee member's question, Mr. Babbitt stated that UNM requires fewer credit hours and a lower GPA than comparable universities in the region.

Finally, in response to a committee member's question, Mrs. Alvarez-Brown acknowledged that UNM's international recruitment has suffered due to foreign competition but that the university's effort to recruit out-of-state students has resulted in a 20 percent increase in those students.

BEGINNING TEACHER MENTORSHIP PROGRAM REPORTS

Senator Nava recognized Ms. Eilani Gerstner, LESC staff, for a report on the beginning teacher mentorship program. Before beginning her report, Ms. Gerstner acknowledged Dr. Mary Rose CdeBaca, Assistant Secretary, Educator Quality Division, Public Education Department (PED), who was available in the audience to address committee questions.

Ms. Gerstner began by explaining that, in 2007, LESC-endorsed legislation was enacted to require PED to collaborate with teacher preparation programs, colleges of arts and sciences, and high schools to develop a mentorship model to provide structured supervision and feedback to graduates from New Mexico teacher preparation programs who obtain a teaching position in a public high school, including charter schools.

In the 2008 interim, she said, the LESC heard a staff report outlining the recommendations of a work group convened by the LESC to develop recommendations for a mentorship model, which included implementation of a mentorship model in two phases:

1. Phase I includes using existing resources and could be accomplished at no additional cost.
2. Phase II includes expanding on existing resources and creating new resources, which will require additional time and funding to implement.

Ms. Gerstner said that a number of issues were raised during the committee discussion of the 2008 interim presentation. To address some of these issues, she said, the LESC Chair and Vice Chair, on behalf of the committee, sent two separate letters to PED requesting the department to:

1. work with the Higher Education Department (HED), the Office of Education Accountability (OEA), teacher preparation programs, and colleges of arts and sciences to implement Phase I of the mentorship model and to develop a detailed implementation plan for Phase II of the model; and

2. work with OEA to study various aspects of mentorship services, including what levels of teachers are receiving and providing mentorship services.

She said that both letters requested that PED report to the committee in the 2009 interim.

Ms. Gerstner explained that the staff report summarized PED's responses, which were attached to the staff report in two separate attachments (Attachment 1, *Beginning Teacher Mentorship Program Reports: Implementation of Mentorship Model*; and Attachment 2, *Beginning Teacher Mentorship Program Reports: Licensure Levels and Mentorship Services*). She also noted that the staff report updates the committee on mentorship funding and the implementation of LESC-endorsed legislation enacted in 2009 to require PED to change the methodology of distributing mentorship funds to school districts and charter schools in order to provide more timely distribution of the funds.

Next, Ms. Gerstner provided an overview of PED's report on the implementation of the mentorship model. She said the department has begun to implement some aspects of Phase I; however, she indicated that the report from PED did not include an implementation plan for Phase II as requested by the committee.

Then, Ms. Gerstner addressed the study on licensure levels and mentorship services submitted by PED and OEA. She said the study indicated that, in school year 2008-2009, approximately 1,950 new teachers received mentoring from a total of 1,515 mentor teachers. Of the mentor teachers:

- 843, or 55.6 percent, were Level 3 teachers;
- 646, or 42.6 percent, were Level 2 teachers;
- 23, or 1.5 percent, were Level 1 teachers; and
- three, effectively zero percent, were retired teachers or mentorship coordinators who had held Level 3 licenses.

Ms. Gerstner indicated that the study did not address several items that the LESC had requested, such as the levels of teachers receiving mentorship services, and that the results of the study also raised some issues that may require additional research or changes to law, including:

- the instances of Level 1 teachers providing mentoring services;
- an instance where a school district reported having a new teacher and receiving funding to mentor that teacher, even though no mentor teacher was reported;
- instances where school districts have as many as four mentor teachers for each new teacher;
- whether New Mexico's Internship licensed teachers meet federal regulations to be "highly qualified";
- the sources and amounts of funding for mentoring Internship licensed teachers; and
- possible confusion because the *School Personnel Act* refers to both "beginning teachers" and "level one teachers" in the section on teacher mentorship.

Ms. Gerstner next addressed funding for beginning teacher mentorship programs. Referring to Table 1 in the staff report, she noted that since 2000 the Legislature has appropriated approximately \$11.4 million for beginning teacher mentorship, including approximately \$1.4 million for FY 10, and that the per-teacher allocation for mentorship has increased to \$1,016 (FY 10) from \$365 (FY 06). She also noted two issues with regard to the distribution of mentorship funds:

- PED distributes mentorship dollars for first-year teachers only, even though language in statute indicates that the mentorship program is required for at least three years; and
- because the term “beginning teachers” is used in statute when specifying funding requirements for the program, PED distributes mentorship funding to districts for Internship teachers, even though the mentorship program is for “all level one teachers.”

Finally, Ms. Gerstner provided the committee with policy options from the staff report, including requesting that PED and OEA study some of the issues raised in the staff report and endorsing legislation to clarify requirements in law for the beginning teacher mentorship program.

Committee Discussion:

Dr. CdeBaca accepted an invitation from the Chair to respond to issues raised in the staff report. Regarding districts showing mentoring expenditures without reporting any district teachers providing those mentoring services, Dr. CdeBaca explained that non-district employees may be providing the services. She further explained that PED will investigate instances where Level 1 teachers are providing mentoring services in certain districts; and that not all mentors spend the same number of hours with mentees, which may explain district figures showing a greater number of mentors than mentees.

In response to a committee member’s inquiry, Ms. Gerstner referred to the study conducted by PED and OEA that reported that in school year 2008-2009 there were 684 Internship, or Level 0, teachers and 3,796 Level 1 teachers. Dr. CdeBaca also noted that approximately 4,000 new teachers begin work each year.

**NATIONAL COUNCIL ON TEACHER QUALITY REPORT:
*PREPARING TOMORROW’S TEACHERS: ARE NEW MEXICO’S EDUCATION SCHOOL
 GRADUATES READY TO TEACH READING AND MATHEMATICS
 IN ELEMENTARY CLASSROOMS?***

Representative Stewart recognized Ms. Pamela Herman, LESC staff, to present a summary of the National Council on Teacher Quality (NCTQ) publication, *Preparing Tomorrow’s Teachers: Are New Mexico’s Education School Graduates Ready to Teach Reading and Mathematics in Elementary Classrooms?* Ms. Herman introduced Dr. Richard Howell, Dean, College of Education, University of New Mexico (UNM), to offer a response from the New Mexico Council of Deans and Directors of Colleges of Education, of which he was chair. She noted others in the audience available to answer committee questions, including Dr. Patricia Manzanares-Gonzales, Dean, College of Education, Western New Mexico University (WNMU); Ms. Erica Volkens, Director of Education Programs, Central New Mexico Community College (CNM); Dr. Viola Florez, Secretary-Designee of Higher Education; Dr. Rick Scott, Director of P-20 Initiatives, Higher Education Department (HED); and Dr. Mary Rose CdeBaca, Assistant Secretary, Educator Quality Division, Public Education Department (PED).

Ms. Herman explained that the NCTQ report published in September 2009 was an evaluation of eight undergraduate elementary teacher preparation programs: the College of Santa Fe (CSF); Eastern New Mexico University (ENMU); New Mexico Highlands University (NMHU); New Mexico State University (NMSU); Northern New Mexico College (NNMC); UNM; the University of the Southwest (USW); and WNMU. She said that the staff report in the committee

members' notebooks outlined the scope of analysis and methodology set forth by the NCTQ researchers. The first factor they evaluated was program admissions standards, judged by the rigor of the state teacher basic skills test and whether programs limit candidates to those from the top half of high school students going to college. Second, researchers evaluated teacher preparation in reading based on whether course syllabi and required texts showed that the courses provided instruction in the five essential components of reading enumerated by the National Reading Panel. Third, the researchers evaluated teacher preparation in elementary mathematics, again based on whether syllabi and required texts covered essential elementary mathematics content. Finally, the researchers looked at program exit standards, based on the adequacy of the state licensing examination or the programs' own exit examinations, if any.

According to Ms. Herman, the researchers found that the state's teacher preparation programs:

- have admission standards that are so low as to be meaningless;
- in most cases do not prepare candidates to teach the science of reading;
- use a wide variety of reading texts, most of which do not address the science of reading;
- in only one case satisfactorily cover the mathematics content that elementary teachers need (however, this finding did not extend to preparation for grades 7 and 8), while five programs were seriously deficient, with algebra preparation universally inadequate;
- in only one case selected a strong textbook for mathematics content coursework;
- all have a dedicated elementary mathematics methods course; and
- do not ensure that aspiring elementary teachers know the science of reading instruction and understand elementary mathematics content at a depth sufficient for instruction.

Ms. Herman told the committee that the NCTQ made three recommendations to PED, the agency with oversight of colleges of education:

- to establish entrance standards for teacher preparation programs to ensure that every aspiring teacher enters with appropriate reading, writing, and mathematics skills, which should include acceptable scores on standardized assessments such as the Collegiate Assessment of Academic Proficiency;
- to develop strong course standards in reading and mathematics and adopt wholly new assessments to test for these standards; and
- to eliminate its grade K-8 certification, which encourages programs to broadly prepare teachers while requiring too few courses specific to certain grades.

Ms. Herman said the report made two recommendations for the programs themselves:

- to improve reading preparation by building faculty expertise in the science of reading; by ensuring that overall program design allows for sufficient coverage and coordinated sequence of reading instruction; and by providing guidance to help instructors select strong textbooks from among the vast number of available options; and
- to improve mathematics preparation by requiring three mathematics courses addressing elementary and middle school topics, and one methods course focused on elementary topics, and numbers and operations in particular; by allowing an aspiring teacher to test out of mathematics content course requirements; and by giving higher priority to algebra in elementary content instruction.

Ms. Herman also noted that the report recommended two action steps for institutions to improve preparation in mathematics:

- university administrators should take the lead in orchestrating the interdepartmental communication, coordination, and innovation necessary for coherent preparation of elementary teachers to teach math; and
- mathematics departments must staff elementary content courses with instructors who have adequate professional preparation in mathematics, and ensure that instruction is rigorous and relevant.

Next, Ms. Herman directed the committee's attention to program-by-program rating sheets included in the NCTQ report and provided a summary of the ratings, as follows:

- for admission and exit standards, all programs were rated "fails to meet standards";
- for reading preparation, UNM was rated "meets standards," ENMU, NMHU, and WNMU were rated "meets a small part of standards"; CSF, NMHU, NMSU, and USW were rated "fails to meet standards;" and
- for mathematics preparation, UNM was rated "meets standards"; ENMU and NMHU were rated "nearly meets standards"; NMSU, NNMC, and WNMU were rated "partly meets standards"; and CSF and USW were rated "fails to meet standards."

Finally, Ms. Herman provided some background information about the NCTQ from the staff report; and she directed the members' attention to material describing the mission of the nonprofit, foundation-funded organization, its ongoing projects in comprehensive teaching reform, a list of the NCTQ Board of Directors and Advisory Council members, and the New Mexico rating sheet from the NCTQ 2008 State Teacher Policy Yearbook. Ms. Herman added that a document titled "Rebuttal Report by Colleges of Education in New Mexico" was attached to the staff report. Representative Stewart recognized Dr. Howell and invited him to provide the rebuttal.

Dr. Howell told the committee that, as the rebuttal statement indicated, none of the colleges knew that the study was being conducted until they received copies of the report in September, and that this lack of engagement by the authors with their subjects led them to characterize it as a "stealth study." He stated that the NCTQ was neither a governmental entity nor an accrediting entity, but was instead a private organization with a national agenda that seeks to embed standardized testing protocols at admission to and exit from teacher preparation programs across the country and to mandate that colleges of education teach the science of reading and mathematics, which he said the New Mexico institutions all do. He stated that the institutional reports used boiler-plate language for colleges in all three states studied (New Mexico, Wyoming, and Utah) and noted that mail to UNM was addressed to "Albuquerque, UT," indicating that the studies were done using a "cookie-cutter approach."

Dr. Howell said that the study's finding that admissions standards for programs in New Mexico were "so low as to be virtually meaningless" was simply false. He said the programs use a combination of previous grade point average for all coursework, New Mexico Assessment of Teacher Basic Skills (NMTA) scores, and applications including writing samples, references, evidence of tutoring or work with children, and individual interviews. Dr. Howell pointed out that the 2008 Teacher Education Accountability Reporting System (TEARS) showed that the mean grade point average of entering undergraduate applicants was 3.33, and he noted that many applicants are not accepted into the programs because they do not meet entrance standards.

Regarding NCTQ criticism of reading instruction in seven of the eight programs, Dr. Howell stated that every program integrates phonemic awareness and phonics instruction with silent and oral reading, reading in content areas, and other comprehension activities, an approach called “balanced literacy,” widely practiced across the country as an effective, research-based practice.

Regarding criticism of mathematics instructions in seven programs, Dr. Howell acknowledged that, while the deans took issue with the broadly worded claim that preparation for mathematics instruction in grades 7 and 8 was inadequate, there is a need for greater collaboration among colleges of education and colleges of arts and sciences to ensure better instruction in pre-algebra and algebra, since math content is taught by mathematics departments. He observed that the researchers failed to note passage of legislation in 2009 to raise the minimum math content requirement for elementary teachers from six to nine credits, or that a task force had been convened of faculty from math departments and teacher preparation programs to revise entry-level competencies to guide development of the courses. Dr. Howell also told the committee that colleges are working with area school districts to develop and implement model math instructional programs such as the highly successful Gadsden Math Model.

On the subject of program exit processes, Dr. Howell simply noted that, despite finding that the New Mexico Content Knowledge Assessment was inadequate to verify that teacher candidates know content at a depth adequate for instruction, the report made no recommendations to address this contention.

Dr. Howell said that the NMTA came under severe scrutiny in this report although the evaluators did not review any NMTA results nor did they have any information on its efficacy. He stated that the test is based specifically on New Mexico standards and competencies. While the report speculates that test takers in New Mexico need to answer only 33 to 45 percent of questions correctly to pass, Dr. Howell stated in fact test takers must correctly answer 75 to 80 percent of questions to pass, depending on the specific test, and that the rate of the colleges’ test takers who achieved those scores was a combined 88 percent, according to the 2008 TEARS report.

In summary, Dr. Howell concluded that the study used an inadequate and inappropriate methodology; therefore, its findings could not be considered valid. He said the report was part of a campaign to decrease confidence in the quality of colleges of education and to force them to make changes in concert with the NCTQ agenda. He said that the colleges acknowledged the need to increase the efficacy of their programs in response to serious and thoughtful concerns, and that they are working with the LESC, HED, and PED on a legitimate study of their programs’ performance to ensure that the programs meet the needs of the state.

Committee Discussion:

In response to a committee member’s question regarding who requested the study, who paid for it, and who chose NCTQ to do the study, Ms. Herman stated that the organization itself chose to do the study, but that it was funded in part by the Daniels Foundation, which has a connection to New Mexico. On a related point, a committee member pointed out a connection between a member of the NCTQ Advisory Panel and the company that published one of the recommended reading texts.

In response to a committee member’s question regarding the current HED mathematics education task force, Dr. Scott stated that the task force was revising the competencies that would form the

basis for the required nine credits of math content for elementary teacher candidates, as well as the content of the required math methods course. He said that this task force is not looking at reading issues.

In response to a committee member's question whether there was a standardized curriculum in teacher preparation, Dr. Howell stated that an articulated statewide curriculum had been developed in early childhood education and that another was being developed for educational leadership. The next area to be addressed, he added, would be mathematics and science education.

Several committee members expressed their concern and frustration about the continuing need among the state's public school graduates for reading and mathematics remediation in college. Tying this need to basic skills instruction in elementary school, they challenged the deans to reflect on the matters in the report and to be proactive and to take a leading role in the nation, to improve the system and address these long-standing problems.

Asked to respond, Dr. Howell stated that the deans did not discount the report, but that they took ownership in particular of issues of mathematics instruction, which they had taken on as a major project. He said the deans' group hoped to engage with the NCTQ on the subject of reading science and valued their contributions in such areas as the application for federal Race to the Top funds. He said that universities needed to value the diversity of viewpoints in the academic community without ignoring the critical need to teach phonics and phonemic awareness in reading instruction. He reaffirmed, however, that the deans did not believe that the NCTQ report was a valid study.

In response to a committee member's question whether the deans could meet, in communication with NCTQ, to look at the core texts used in other states, and make a decision to use the science-based reading texts and methods in their courses instead of the materials they were using that NCTQ rated "not acceptable," Dr. Howell said that at the next deans meeting, he would bring up the suggestion and, at the request of the Chair, return to report to the committee in December.

In response to a question from a committee member regarding the status of the reading competencies matrix created by the State Department of Education in 2002, Dr. CdeBaca stated that she would refer the question to the Secretary and find out what was intended, what happened, and what was the current status of the effort. Representative Stewart requested that Dr. CdeBaca join the deans when they returned in December to report to the committee.

In response to a comment from a committee member regarding the model BA/MD program at UNM, Dr. Howell stated that he and the Dean of the College of Arts and Sciences had just proposed a math and science incubator, modeled after the BA/MD program, that would reach down to the junior year in high school to attract the most promising candidates to all state postsecondary institutions and groom them through their undergraduate programs for all science, mathematics, engineering, and technology careers including science teaching. He stated that an application for funds for the project would be submitted to the National Institutes for Health.

There being no further questions, Representative Stewart thanked Dr. Howell for his presentation.

TEACHING LICENSE GIFTED EDUCATION ENDORSEMENT

The Chair recognized Ms. Pamela Herman, LESC staff, to provide an update regarding the Public Education Department (PED) rule-making regarding the gifted education teaching license endorsement. Ms. Herman stated that the rule was proposed by PED based on recommendations of a work group formed in response to two identical 2009 memorials, Senate Memorial 81 and House Memorial 103.

The proposed rule includes a “grandfather” provision for currently licensed teachers who, prior to July 1, 2012, provide verification of five years of experience in teaching gifted students; evidence of having passed a state-approved licensure test authorized by PED or any other state agency in the teaching of gifted students; or evidence of having successfully completed 12 credits in the pedagogy and methodology of teaching gifted students at an appropriately accredited institution of higher education. After June 30, 2012, beginning Level 1 teachers seeking an endorsement in teaching gifted students must satisfy all the PED-approved requirements for the license, including 24 credits in the pedagogy and methodology of teaching gifted students. After July 30, 2012, teachers seeking to add an endorsement in teaching gifted students to an existing license at any level must pass a PED-approved teacher licensure test or accepted comparable licensure test(s) from another state in teaching gifted students; and successfully complete at least 12 credits in the pedagogy and methodology of teaching gifted students. The proposed rule also includes required competencies for entry-level teachers of gifted students.

Ms. Herman informed the committee that a notice had been posted on the PED website announcing that the proposed new rule for competencies for teaching gifted children would be the subject of a public hearing on December 7, 2009. Committee members congratulated members of the work group for their many years of diligent effort to see the gifted endorsement issue addressed.

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

MINUTES LESC MEETING NOVEMBER 18, 2009

Senator Cynthia Nava, Chair, called the LESC meeting to order at 9:12 a.m. on Wednesday, November 18, 2009 in Room 317 at the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

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

The following LESC advisory members were present:

Senator Sander Rue; and Representatives Andrew J. Barreras, Nathan P. Cote, Mary Helen Garcia, Karen E. Giannini, John A. Heaton, Sheryl Williams Stapleton, and Shirley A. Tyler.

NEW MEXICO PreK EXTERNAL PROGRAM EVALUATION

Senator Nava recognized Mr. David Peña, LESC staff, for a presentation on the latest external program evaluation of New Mexico PreK. Mr. Peña introduced Dr. Ellen Frede, Co-Director, National Institute for Early Education Research (NIEER), which is based at Rutgers University, and Dr. Jason T. Hustedt, Assistant Research Professor, NIEER, to present the findings of the NIEER external program evaluation.

Mr. Peña began by providing background and context for New Mexico PreK, noting that in 2005 LESC-endorsed legislation was enacted to establish the *Pre-Kindergarten Act*, a voluntary program jointly administered by the Public Education Department (PED) and the Children, Youth and Families Department (CYFD) in order to provide reimbursement on a per-child basis for pre-kindergarten service providers at public schools, tribes, pueblos, Head Start centers, and licensed private-provider locations. Mr. Peña also noted that the act creates two non-reverting funds, one administered by PED and the other by CYFD.

Mr. Peña then reviewed previous external evaluations by NIEER:

- the 2006 report found that the state “has established a promising foundation for building its new PreK initiative”;
- the 2007 evaluation found that New Mexico PreK has made a statistically significant and meaningful impact on children’s early lingual, literary, and mathematical skills; and
- the 2008 evaluation focused on two dimensions of the New Mexico PreK: the benefits to children in terms of language, math, and literacy development; and the overall quality of PreK classrooms. While the 2008 report found continued gains in early lingual, literary, and mathematical skills, it also found the overall classroom quality of the New Mexico PreK programs to be limited or mediocre.

Finally, Mr. Peña reported that since 2005 the Legislature has appropriated over \$80.7 million to implement the program, and he provided a year-by-year accounting of the appropriations.

Dr. Frede and Dr. Hustedt began their presentation by noting that New Mexico has one of the highest enrollment levels of the seven states in the West that offer pre-kindergarten. Then they reviewed the findings of their evaluation, which, unlike previous evaluations, reflected four years of data.

In terms of the impact upon school readiness, the evaluation found that, according to several measures, New Mexico PreK produced statistically significant gains in all areas: vocabulary knowledge, math skills, and print awareness. According to the Early Childhood Environment Rating Scale (ECERS), overall classroom quality fell generally in the “good” to “excellent” range, especially in terms of “teaching and interactions”; whereas somewhat lower scores for “provisions for learning” were mostly the result of the program’s being only half-day. In terms of “support for early language and literacy,” however, Dr. Frede and Dr. Hustedt continued, the New Mexico PreK programs generally hovered in the mid-point range, indicating only mediocre to fair support for language and literacy. Furthermore, the evaluation found that classroom practices “for the broad range of math learning are inadequate.”

After presenting their findings, Dr. Frede and Dr. Hustedt emphasized that it is important to put the evaluation results in a national perspective. They explained that the scores for New Mexico PreK

are quite similar to those of pre-kindergarten programs in other states, some of which have been operating for a longer period of time. They concluded their presentation with recommendations for continued expansion of the program, improved classroom support for early language/literacy and math, and expanded professional development and teacher training.

Committee Discussion:

In response to a committee member's question regarding ECERS and the number of PreK classrooms evaluated, Dr. Frede stated that the most recent study included 139 of a total of 200 classrooms.

In response to a committee member's question, Dr. Frede responded that tests are administered regularly but not in every classroom, and the results are not shared with individual teachers because of privacy concerns. However, Dr. Frede added, teachers are provided with technical assistance in interpreting results from the different assessment instruments.

In response to a committee member's question regarding an exit interview or conference, Dr. Frede said that approximately 25 percent of results involve exit interviews with the principal, teacher, or the ECERS examiner.

In response to a committee member's question regarding the transition from high-quality PreK to high-quality kindergarten, Dr. Frede stated that the "fade-out" concept has been misunderstood, citing multiple studies indicating that, while effects do taper, the positive impact of PreK remains at least until the child is 10 years old.

In response to committee members' questions about training in math for PreK teachers, Dr. Frede cited the importance of teacher mentoring using training and a better math curriculum. Dr. Catherine Cross Maple, Deputy Secretary for Learning and Accountability, PED, added that PED has examined alignment and additional training, and she indicated that she will ask PED staff how to incorporate suggestions into department policy and rule.

In response to a committee member's question regarding the need for more professional development, Dr. Candace Kay, Associate Professor, Curriculum and Instruction, College of Education, New Mexico State University (NMSU), and Director, Southwest Institute for Early Childhood Studies, NMSU, illustrated some of the activities that the institute conducts for teachers and noted that the institute is examining the science of literacy in order to improve professional development programs. Dr. Kay added that she also served as Principal Investigator for Data Collection for NIEER in New Mexico.

NEW MEXICO K-3 PLUS EXTERNAL PROGRAM EVALUATION

Senator Nava recognized Mr. David Peña, LESC staff, for a presentation on the external program evaluation of the K-3 Plus pilot program. Mr. Peña introduced Dr. Linda Goetze, Economist, Early Intervention Research Institute (EIRI) at Utah State University, who had conducted the evaluation of the K-3 Plus program as implemented in five school districts: Albuquerque Public Schools, Gadsden Independent Schools, Gallup-McKinley County Public Schools, Roswell Independent Schools, and Taos Municipal Schools.

To provide some background, Mr. Peña said that K-3 Plus was enacted in 2007 as a six-year pilot project designed to demonstrate that increased instruction in early grades can narrow the achievement gap. Patterned after Kindergarten Plus, the project extends the school year in grades K-3 by at least 25 instructional days. The Public Education Department (PED)-administered program is intended to measure the effect of additional instruction on reading, math, and social skills; and the statute requires annual reports to the Legislature and the Governor.

Since FY 08, Mr. Peña continued, the Legislature has supported the program with General Fund appropriations totaling almost \$23.0 million dollars, including an appropriation of \$8.5 million for expenditure in FY 10. As a result of the special session in October, however, this appropriation was reduced by 6.5 percent to \$7.9 million. For school year 2009-2010, PED has approved 93 programs serving just over 8,000 students across 25 school districts. Moreover, because K-3 Plus programs may start prior to July 1, PED allowed school districts to encumber remaining funds for programs offered in conjunction with the school year.

Dr. Goetze began her presentation by noting that, because the existing data are insufficient to evaluate whether the K-3 Plus program has a significant effect on student academic achievement, her evaluation had focused on the implementation of the program, not the efficacy of the program. Then she described the assistance with data collection provided by PED and the Office of Education Accountability (OEA), and she shared results of stakeholder focus groups and surveys with the committee, noting that perception among parents and teachers alike was positive. Dr. Goetze also noted that, of the 118 teachers surveyed, all reported having earned at least a bachelor's degree, with a third having earned a master's degree and almost half being bilingual.

The EIRI evaluation, Dr. Goetze continued, found that, while the K-3 Plus program is generally well-received by districts and parents and implementation was well-documented, program administration guidelines would improve overall service delivery. She further noted that the impact of K-3 Plus remains unquantifiable due to lack of student achievement measures:

- the assessment measures that were available are not recommended for high-stakes testing or evaluation;
- there is no measure of how students were doing prior to entry into the K-3 Plus program; and
- there is no matched comparison group of students for this evaluation.

Dr. Goetze concluded her presentation by identifying a number of challenges facing the program, among them compiling the data needed to conduct a more comprehensive evaluation and accommodating the different needs and abilities of K-3 Plus students and non-K-3 Plus students when they are placed in the same classrooms in subsequent grades.

Committee Discussion:

In response to committee members' questions about assessment instruments and evaluations, Dr. Goetze recommended the Woodcock-Johnson and Peabody Picture assessments as better suited for high-stakes testing than the assessments currently in use, such as the Dynamic Indicators of Early Literacy Skills (DIBELS). Also in response, Mr. Richard LaPan, Senior Policy Analyst, OEA, said that OEA had submitted a grant application to the US Department of Education for a five-year study that, if funded, would begin in fall 2010.

In response to a committee member's question about the way the program is funded, Dr. Goetze said that she would recommend funding on a per-student rather than per-teacher basis. Doing so, she said, would create an incentive to recruit more students and to fill classrooms, and it would benefit families and children as well as assist with data collection.

In response to a committee member's question about the similarities and differences among the five school districts studied, Dr. Goetze said that the results of the focus groups were similar in that they revealed "positive stakeholder perceptions" but different in the numbers of people attending the focus groups. There were also differences in demographics among the districts.

CHARTER SCHOOL UPDATE

Senator Nava recognized Dr. David Harrell, LESC staff, who introduced Dr. Lisa S. Grover, Chief Executive Officer of the New Mexico Coalition for Charter Schools, for a presentation to the committee. Dr. Harrell also acknowledged Mr. Sam Obenshain, Program Manager, Charter Schools Division, Public Education Department (PED), who was available to respond to questions.

To provide a context for Dr. Grover's presentation, Dr. Harrell noted that, since 1993, the *Public School Code* has provided for charter schools to operate in New Mexico. From the original five that were authorized under the 1993 legislation, the number of charter schools in New Mexico has grown to 72 operating in school year 2009-2010 and another nine authorized to open for school year 2010-2011. Of those 81 charter schools altogether, 22 have been either authorized or renewed by the Public Education Commission (PEC) as state-chartered charter schools, and the rest have been authorized by their respective local school boards.

Dr. Harrell then reviewed the statutory provisions governing charter schools, some of them from the *Charter Schools Act* and the rest from other parts of the *Public School Code*. Some of the provisions, Dr. Harrell noted, impose certain restrictions on the number and scope of charter schools although it is debatable, he said, whether these provisions constitute a formal "cap" on the number of charter schools. For example, while there is no absolute limit to the number of charter schools that may be authorized in New Mexico, the *Charter Schools Act* does limit the number of start-up charter schools to 15 per year. However, the law also allows any unused slots to be transferred to the next year, so long as no more than 75 charter schools are established in any five-year period.

Certain other provisions in law apply to fiscal matters, Dr. Harrell continued, among them:

- the authorizer of a charter school is entitled to retain up to 2.0 percent of the State Equalization Guarantee (SEG) that the charter school receives "for its administrative support of a charter school"; and
- charter schools are entitled to receive their portion of money from state or federal programs that their students generate, and they are allowed to apply for any federal funds for which they might be eligible.

Still other provisions in law address the capital outlay needs of charter schools. For example:

- the *Public School Capital Outlay Act* requires the Public School Capital Outlay Council to provide grants to assist charter schools in being located in public buildings by the deadline in the *Charter Schools Act* of July 1, 2015; and it entitles charter schools to the same per-

MEM value (\$700, with an adjustment for inflation) for lease payments as traditional public schools; and

- both the *Public School Capital Improvements Act* (commonly known as SB 9) and the *Public School Buildings Act* (commonly known as HB 33) require school districts to include locally chartered and state-chartered charter schools in their property tax resolutions.

Finally, Dr. Harrell briefly discussed three other aspects of the charter school experience in New Mexico: the performance of charter schools, accountability of charter schools, and charter schools as a factor in a state's application for federal stimulus funds.

- According to standard measures and recent studies, Dr. Harrell said, the charter schools in New Mexico, as a group, have shown mixed results and seem to be performing at approximately the same levels as traditional public schools.
- Dr. Harrell reported that, according to PED, 12 charter schools in New Mexico either have closed of their own volition or been closed for cause, that is, fiscal mismanagement or legal or material violations.
- Finally, Dr. Harrell noted that a state's laws and policies regarding charter schools are a factor in the state's application for Race to the Top funds under the federal stimulus program. More specifically, applications will be scrutinized in terms of the extent to which state laws and policies:
 - do not restrict increasing the number of high-performing charter schools;
 - ensure that authorizers hold charter schools accountable and close them as needed;
 - ensure that charter schools receive equitable funding and support for leasing, purchasing, or improving facilities; and
 - allow districts to operate "innovative, autonomous public schools . . . other than charter schools."

Dr. Grover began her presentation with a review of her professional background and a description of the New Mexico Coalition for Charter Schools. As part of its three-year strategic plan, she said, the coalition has three organizational goals:

1. support the growth of quality schools (quality, not quantity);
2. protect and advance a strong policy environment; and
3. provide programs and services to increase school performance.

The coalition is also planning a quality schools program that charter schools must follow to maintain membership in the coalition. Two premises behind charter schools, Dr. Grover continued, are that charter schools are afforded flexibility in exchange for accountability and that poorly performing charter schools should be closed.

Reviewing the steady growth in the number of charter schools in New Mexico, Dr. Grover said that charter schools are located in 22 of the state's 89 school districts, with 42 charter schools in the Albuquerque Public Schools district alone. Two-thirds of the charter schools in New Mexico, she said, have waiting lists; and statewide approximately 4,000 students are waiting to enroll in charter schools. Dr. Grover also discussed the variety of charter schools in terms of their academic emphases, the facilities used by charter schools, and charter schools' access to local funds.

The performance of charter schools, Dr. Grover continued, is the number one priority of the coalition. Alluding to some of the same studies that Dr. Harrell had mentioned, Dr. Grover concurred that the performance of charter schools overall has been mixed.

Suggesting that a charter school task force be convened during the 2010 interim, Dr. Grover concluded her presentation with a discussion of six “mechanisms of reform,” most of which, she said, will enhance the state’s application for Race to the Top funds:

1. institute “smart caps” on the number of charter of schools to provide for accountable replication of successful charter schools through rewards;
2. create performance contracts in law for charter schools and their authorizers;
3. provide for authorizer oversight responsibilities in law regarding the use of the 2.0 percent of the school’s SEG and accountability reporting to PED and the LESC;
4. assure that all funding flows to charter schools on a timely basis;
5. create protocols in law for notifying and closing chronically poor-performing charter schools; and
6. use charter schools as a school turn-around strategy but also create “contract schools” within school districts, as charter schools are only one mechanism for reconstituting schools.

Committee Discussion:

In response to a committee member’s question whether an authorizer must wait until the charter is scheduled for renewal before closing a poorly performing school, Dr. Harrell said that a school that warrants closing can be closed at any time. He added that four of the 12 charter schools that have closed or been closed were among the original five authorized under the 1993 law and that they had closed of their own accord when the law was substantially rewritten in 1999. Dr. Grover said that closing a charter school is never easy but that the performance contracts and protocols in law that she had suggested would make the process less disruptive.

Regarding bond issues that school districts conduct pursuant to HB 33 and SB 9, a committee member asked who determines whether a state-chartered charter school meets the requirements of the district’s five-year facilities master plan and how the state’s authorizing a charter school is reconciled with the local district’s spending priorities. In response, Dr. Grover acknowledged the dilemma whether local taxpayers should be responsible for students in state-authorized charter schools and suggested that an adjustment to the law may be needed; Dr. Catherine Cross Maple, Deputy Secretary for Learning and Accountability, PED, concurred, citing the possibility of “disconnects” at several levels; and Mr. Antonio Ortiz, General Manager, Capital Outlay Bureau, PED, suggested that the law is unclear on this point and noted that PED has the responsibility of ensuring that each state-chartered charter school’s facilities master plan is complete although there is little or no contact with the district in this regard. The committee member then suggested that the question be studied and resolved before it becomes an issue.

In response to a committee member’s question whether charter school authorizers receive any training, Mr. Obenshain said that the Charter Schools Division has provided training sessions upon request over the past three years and that other training opportunities are available through the annual conference of the New Mexico Coalition of School Administrators. Dr. Grover added that a recent study by Stanford University of charter schools in 15 states, New Mexico among them, confirms that a willing, supportive, and well-informed authorizer is critical to the success of a charter school.

Senator Nava asked Dr. Grover whether her proposed “smart caps” means franchising successful charter schools or merely replicating their practices. In response, Dr. Grover said that she envisions not a franchise but separate charter schools, with their own governing boards, replicating and being mentored by high-performing charter schools, perhaps at the rate of one such new school per year. She added that the Race to the Top criteria would probably regard New Mexico’s provision of 15 new charter schools per year as an arbitrary cap.

Noting that authorizers, local school boards in particular, are often caught off guard when a charter that they initially approved is changed substantially during the planning year, Senator Nava also suggested the need for more oversight during that year.

Representative Miera requested that PED determine whether school districts have delayed flowing federal funds to charter schools.

UPDATE: 2008 COHORT GRADUATION RATE REPORT

Senator Nava recognized Ms. Pamela Herman, LESC staff, to provide the committee with an update on the 2008 cohort graduation rate. In August 2009, Ms. Herman said, the Public Education Department (PED) had reported a preliminary graduation rate of 54 percent; then in October, she said, after review and corrections, PED reported a certified graduation rate of 60.3 percent, an increase of 6.3 percent from the preliminary rate.

Ms. Herman stated that all school districts had changes to their data sets after the preliminary rate was released but that changes in data submitted did not necessarily affect their graduation percentages. Ms. Herman reported the following statistics regarding school district graduation rate changes:

- 33 school districts (37 percent) saw no change in their graduation rates after the data were revised;
- 56 school districts (63 percent) saw changes in their graduation rates;
- 12 school districts (13 percent) saw decreases in their graduation rates, from less than 1.0 percent to 16 percent; and
- 44 school districts (50 percent) saw increases in their graduation rates, from less than 1.0 percent to approximately 43 percent.

Ms. Herman further reported that the revised rates resulted in changes to adequate yearly progress (AYP) determinations for 18 schools:

- 16 public schools and one state-supported school that had appeared not to meet the graduation rate target for the class of 2008 were determined to have reached that target;
- two schools that appeared not to have made AYP were determined to have done so; and
- one school that appeared to have made AYP was determined not to have done so.

Ms. Herman also noted that the graduation rate target for the graduating class of 2009 has been set at 55 percent.

Committee Discussion:

In response to a committee member's question, Ms. Herman explained the methodology of determining the makeup and graduation rate of a cohort.

SUPERINTENDENTS AND COMMUNITY INPUT

Senator Nava recognized Mr. Tom Sullivan, Executive Director of the New Mexico Coalition of School Administrators, to discuss school delays and cancellations due to weather as they relate to the school calendars issue. Mr. Sullivan directed the attention of the committee to the protocol that requires a district to make up complete school days lost to inclement weather, and he cited a lack of clarity regarding requirements for schools to gain back hours lost when the district invokes a two-hour delay. Mr. Sullivan encouraged the committee to consider possible clarifications.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 3:37 p.m.

MINUTES LESC MEETING NOVEMBER 19, 2009

Senator Cynthia Nava, Chair, called the LESC meeting to order at 10:52 a.m. on Thursday, November 19, 2009 in Room 317 of the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, and Gay G. Kernan; and Representatives Jimmie C. Hall and Mimi Stewart.

The following LESC advisory members were present:

Senator Sander Rue; and Representatives Nathan P. Cote, Mary Helen Garcia, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

Also in attendance was Representative Richard D. Vigil.

ADEQUATE YEARLY PROGRESS (AYP) RESULTS FOR SCHOOL YEAR 2009-2010

Senator Nava recognized Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability, Public Education Department (PED), appearing on behalf of Veronica C. García, Secretary of Public Education, to present and discuss adequate yearly progress (AYP) results for school year 2009-2010.

Dr. Cross Maple directed the attention of the committee to the report *AYP and the Achievement Gap*, provided by PED, and she began reviewing the charts pertaining to the achievement gap and related trends over the past five years.

Dr. Cross Maple explained the standards and 37 components of the AYP designation, as mandated by the federal *No Child Left Behind Act of 2001* (NCLB) and state law. The annual determination of whether a school makes AYP, Dr. Cross Maple explained, is a combination of both math and reading achievement and participation among racial, economic, and learning disability subgroups. In addition to these criteria, elementary and middle schools must meet an attendance rate indicator, and high schools must meet a cohort graduation rate indicator.

Dr. Cross Maple reviewed achievement gap data presented to the committee in the form of bar graphs indicating student proficiency in math, reading, and science since school year 2004-2005. Dr. Cross Maple stated that New Mexico students show an upward trend in all three categories, with math, reading, and science proficiency increasing by 11 percent, 5.0 percent, and 6.0 percent, respectively. Dr. Cross Maple also reminded the committee that full-day kindergarten began in school year 2005-2006, and she noted that the first students to receive it were in third grade during school year 2008-2009.

Dr. Cross Maple then noted proficiency changes across subjects among subgroups, beginning with math, and she described proficiency progress as positive. She then reported that, during school year 2008-2009, four of the six subgroups (African-American, Native American, Hispanic, and economically disadvantaged students) showed increases in math proficiency of up to two and three times that of school year 2004-2005. When describing the data on economically disadvantaged students' proficiency in math, Dr. Cross Maple stated that, because students who fall into this category are also representative of other subgroups, the positive trend of their proficiency percentage is particularly indicative of progress in the education system. The other two subgroups (English language learners and students with disabilities) also showed marked improvement, according to Dr. Cross Maple, in the majority of grade level/school year categories.

Next, Dr. Cross Maple discussed data regarding proficiency in reading among subgroups. Again, four of the six subgroups (African-American, Native American, Hispanic, and economically disadvantaged) showed marked increases in proficiency percentage, while the proficiency of English language learners and students with disabilities remained relatively flat across the five-year scope of the data presented.

Proficiency percentages at grade 8, Dr. Cross Maple noted, are especially important because of the transitional nature of 8th grade; therefore, they have been a primary area of focus for PED.

Dr. Cross Maple cited data illustrating that proficiency in New Mexico's 8th grade classrooms has risen across subjects and subgroups.

Dr. Cross Maple then began a review of 4th grade proficiency disaggregated by race alone, and she noted the disparity that exists between Caucasian and Asian achievement and that of African-American, Native American, and Hispanic students. Dr. Cross Maple pointed out that, despite positive trends in the percentage of students scoring proficient or above in math and reading across all grade levels and subjects, the achievement gap persists along racial and economic lines. According to the data presented, 4th grade Asian and Caucasian students have consistently outscored their African-American, Native American, and Hispanic counterparts by roughly 20 percent, at times outscoring them by roughly 40 percent.

Regarding 8th grade proficiency in both math and reading, Dr. Cross Maple noted that achievement across racial lines is similarly disparate, and that the African-American, Native American, and Hispanic student population has been consistently outperformed by their Asian and Caucasian counterparts by roughly 20 percent.

Dr. Cross Maple then began a review of data presented in “pseudo-cohort” proficiency scales designed to indicate proficiency in grades 4 through 8, from school year 2004-2005 through school year 2008-2009. The pseudo-cohort was described simply as being “less refined” than a typical cohort.

During school year 2004-2005, Dr. Cross Maple explained, 39 percent of the total pseudo-cohort demonstrated proficiency in 4th grade math. During school year 2008-2009, the same pseudo-cohort’s 8th grade math proficiency percentage was rated at 43. Dr. Cross Maple indicated that, while the pseudo-cohort’s total proficiency percentage shows an increase, certain racial, economic, and learning impaired subgroups continue to perform at lower levels than their Caucasian, Asian, and non economically disadvantaged counterparts.

The pseudo-cohort subgroups are disaggregated in the same manner as the other data, Dr. Cross Maple explained, and she reviewed the students’ proficiency in math by subgroup:

- African-American math proficiency increased from 29 to 36 percent;
- Native American math proficiency increased from 25 to 28 percent;
- Caucasian math proficiency increased from 56 to 61 percent;
- Hispanic math proficiency increased from 32 to 35 percent;
- economically disadvantaged students’ math proficiency increased from 31 to 32 percent;
- English language learners’ math proficiency decreased from 25 to 19 percent; and
- students with disabilities’ math proficiency decreased from 16 to 9.0 percent.

Moving on to the pseudo-cohort’s reading data, Dr. Cross Maple noted that total proficiency increased from 52 to 62 percent. By subgroup:

- African-American reading proficiency increased from 45 to 59 percent;
- Native American reading proficiency increased from 33 to 49 percent;
- Hispanic reading proficiency increased from 45 to 55 percent;
- Caucasian reading proficiency increased from 70 to 79 percent;
- economically disadvantaged students’ reading proficiency increased from 43 to 52 percent;
- English language learners’ reading proficiency decreased from 33 to 32 percent; and
- students with disabilities’ reading proficiency decreased from 20 to 19 percent.

Dr. Cross Maple then reviewed data showing percentage and number of schools with their respective AYP designations for the past five years, indicating nearly a 15 percent drop in the number of schools achieving AYP from school year 2005-2006 to school year 2008-2009.

Dr. Cross Maple also reviewed the data by designation, reporting that schools designated as “progressing” fell by roughly 140 schools, or 30 percent, over the past five years, reducing the percentage of schools making AYP from approximately 70 percent in 2005 to approximately 40 percent in 2009. During the same period, the number of schools at the Restructuring 2 level, the final stage in the school improvement cycle, rose from 27 in 2005 to 160 in 2009.

Dr. Cross Maple then directed the attention of the committee to a statistics sheet listing 14 “Schools on the Rise” or schools upgrading their AYP designation from “school improvement” to “progressing” in 2009.

Senator Nava also recognized Dr. Tom Dauphinee, Interim Supervisor, Assessment and Accountability Division, PED, who briefly summarized the selection and implementation process regarding new English language learners (ELL) proficiency assessment material. Dr. Dauphinee stated that New Mexico is now a member of a 22-state consortium using the “Access for ELL” assessment and that the state’s assessment is now aligned to state standards.

Committee Discussion:

In response to a committee member’s question, Dr. Cross Maple reiterated that the data are designed for examining trends, as opposed to analysis of any single year’s outcomes; and she suggested that conclusions based on a single year’s proficiency percentages would be dubious.

In response to a committee member’s concern regarding changes to assessment scores each time a new vendor is used, Dr. Cross Maple stated that the most recent RFP to vendors included language under which PED would retain ownership of the test, enabling use of the content after the contract expires. Dr. Dauphinee added that a bridge study is also being conducted to assess consistency between assessments.

In response to a committee member’s question, Dr. Cross Maple stated that the Student Teacher Accountability Reporting System (STARS) has the capability of disaggregating data beyond subgroups such as Hispanic and ELL into more refined subgroups that would show, for example, ELLs within the Hispanic population.

In response to a committee member’s suggestion that legislation extending the contract period for assessment vendors be considered, Dr. Cross Maple stated her personal support for such a measure.

In response to a committee member’s concern regarding a reduction in the constructive response segment in the new assessment, Dr. Cross Maple indicated that it was decreased from 30 to 20 percent and that the decrease is acceptable given the related cost saving.

THE IMPACT OF STUDENT ABSENCES DUE TO H1N1 INFLUENZA ON AYP

Senator Nava recognized Dr. Tom Dauphinee, Interim Supervisor, Assessment and Accountability Division, Public Education Department (PED), to present information regarding adequate yearly progress (AYP) waiver requests due to Influenza A virus subtype H1N1. Dr. Dauphinee reported that the US Department of Education (USDE) issued a guidance document in September to help agencies and school districts respond to H1N1 occurrence. Dr. Dauphinee stated that flexibility waivers are being offered by USDE that would allow schools to close officially, continue services, address grant requirements, and respond to administrative challenges potentially presented by H1N1 occurrence. The waiver process may allow school districts to delay or completely waive certain AYP reporting requirements.

As part of this process, Dr. Dauphinee continued, the USDE is making state education agencies responsible for identifying needs and setting criteria for granting waivers. He also stated that PED is forming its guidelines with input from the Assessment Accountability Advisory Council.

Dr. Dauphinee reported that at some future date PED will be writing a letter to superintendents, charter schools, and all education administrators in order to provide guidance and information regarding potential H1N1 occurrence.

Committee Discussion:

In response to a committee member's questions about the possibility of New Mexico's waiver application to USDE being denied, Dr. Dauphinee reported that PED will be in communication with USDE and that guidance is being provided to state education departments regarding waiver applications.

In response to a committee member's question regarding the process of determining what constitutes an "H1N1 outbreak," Dr. Dauphinee stated that PED is looking into ways to distinguish H1N1 events and suggested that an H1N1 occurrence certification process may be necessary.

STATUS OF HJM 43a, *INCLUDE DYSLEXIA IN DISABILITIES*

The Chair recognized Ms. Pamela Herman, LESC staff, to provide a summary of the status of implementation by the Public Education Department (PED) of HJM 43a, *Include Dyslexia in Disabilities*, passed by the 2009 Legislature. Ms. Herman noted that Ms. Denise Koscielniak, Director, Special Education Bureau, PED; Ms. Minerva Carrera, Program Manager, Data Collection and Reporting Bureau, PED; and Mr. Albert Gonzales, Assistant General Counsel, Office of General Counsel, PED, were available to respond to questions. She added that Mr. Steven Sanchez, Associate Superintendent, Las Cruces Public Schools; Ms. Olga Cabada, Ms. Leah Johnson, Ms. Cynthia Romero, and Ms. Maridell Monnheim, from the Southwest Branch of the International Dyslexia Association (SWIDA); and Mr. David Hickey and Ms. Elisa Cabada-Gomez, two students with dyslexia, were also present.

Ms. Herman explained that HJM 43a requested that PED adopt a definition of dyslexia; identify dyslexia as a specific disability for purposes of New Mexico's interpretation of the federal *Individuals with Disabilities Education Act* (IDEA); provide technical assistance to school districts to develop effective interventions and specialized programs for students to address that specific learning disability; begin to establish certification criteria for specialists to carry out public school programs that assist students with dyslexia; and report findings and make recommendations to the LESC by August 2009.

Ms. Herman said that in June 2009 PED had informed LESC staff that, in response to the memorial, the department attempted to determine the number of students in the state identified with dyslexia, by adding dyslexia to the data component of PED's Student Teacher Accountability Reporting System (STARS) as a specific learning disability, and that PED wished to defer its report to the LESC until data collected after the 40th school day was compiled and a work group was convened to consider its implications. Ms. Herman said that the present progress report from PED had been rescheduled after the calling of the 1st Special Session of the 49th Legislature resulted in the October LESC meeting being cancelled.

Ms. Koscielniak told the committee that PED was still in the process of compiling and validating the data collected in STARS.

Ms. Herman noted that SWIDA had provided a position statement that was included in committee members' notebooks. The Chair recognized Ms. Cabada, who addressed the committee as a member of the board of SWIDA and the mother of a student with dyslexia. She said that dyslexia is a specific language-based disability that results in people having varying degrees of difficulties with the language-related skills of reading, writing, and spelling, as well as understanding the language they hear and expressing themselves clearly.

On behalf of SWIDA, Ms. Cabada requested that the Legislature enact legislation to identify dyslexia as a distinct disability; to establish a uniform statewide process to ensure that, before referral for special education services, a student receive appropriate screening and intervention for dyslexia as part of the Response to Intervention (RtI) process; and to revise teacher preparation standards to ensure that all accredited teacher preparation programs provide candidates with the knowledge and skills, including knowledge of evidence-based remediation practices, to work effectively with dyslexic students. She stated that SWIDA requested that the LESC collaborate with a group from K-12 education, higher education, PED, and other appropriate community stakeholders to develop statutory language and accompanying budgetary impact for consideration during the 2010 legislative session.

The Chair recognized Mr. Hickey, who told the committee about his experience in a private elementary school where he received accommodations and tutoring that enabled him to earn straight As in his classes; and Ms. Cabada-Gomez, who said she also earned straight As, described the accommodations she received at Zia Middle School and the results of the Scottish Rite program that improved her reading five grade levels in two years. Ms. Cabada-Gomez said she was currently helping an 8th grade classmate who she thought probably also had dyslexia.

Committee Discussion:

In response to a committee member's question regarding the process for identifying students with dyslexia in the public schools, Ms. Monnheimer said she was unaware of any consistent system in place statewide to ensure that teachers were trained to recognize dyslexia or to identify dyslexic students when they had learning problems. She said the problem could be addressed at least in part if elementary teachers were appropriately trained and if schools used sound research-based reading programs. She said that students participating in the Las Cruces Scottish Rite program had been identified by a school district diagnostician.

In response to a committee member's question regarding whether all districts were attempting to recognize and deal with dyslexia, Ms. Koscielniak said the Special Education Bureau was gathering data to determine the extent of districts' efforts. She told the committee that the Special Education Bureau had assembled a stakeholder group to develop revised department guidance for dual discrepancy, part of the third tier of the RtI framework, and as part of that work had asked districts what they were doing to identify dyslexia. She said that some districts had processes in place to recognize dyslexia, report it to PED, and implement successful interventions. She added that the students with dyslexia were identified by districts as having specific learning disabilities, and that the Special Education Bureau was trying to determine how many of the students in New Mexico categorized with specific learning disabilities had dyslexia.

In response to a committee member's question whether any districts failed to acknowledge or address the needs of students with dyslexia, Ms. Koscielniak said that some did. She said that the Special Education Bureau was trying to compel all districts consistently to screen and identify students with dyslexia. In response to committee members' questions about why some districts were so reluctant to screen and evaluate students who might have dyslexia, Ms. Koscielniak said that some diagnosticians were more comfortable than others with screening procedures. Mr. Sanchez noted that the Las Cruces Public Schools' Board had issued a statement in full support of SWIDA's position to establish a consistent statewide process, including professional development for teachers and diagnosticians, to ensure that students with dyslexia receive timely intervention.

In response to a committee member's question regarding parents' rights to request evaluations for students who were struggling, Ms. Koscielniak said that parents could do so at any point, and that if the district refused to order the evaluation, it had to document the decision and inform the parents of the reasons why, and of their right to dispute the decision through an alternative or formal dispute resolution process. She said that, by July 2010, the new interim guidance on dual discrepancy will make this process clear.

Committee members commented that identifying a student for special education could be a time-consuming process that delayed timely intervention. Ms. Cabada spoke positively about the system she had seen in Texas schools, where students are screened early, instead of waiting for a full-blown diagnosis in Tier Three of RtI, and then receive the interventions they need immediately.

A committee member noted that the SWIDA position paper mentioned the Texas law, passed 22 years ago, requiring districts to identify and tutor students with dyslexia. The member also reminded the committee that in the 2001 interim, in response to HJM 9 (2001), the State Department of Education had convened a stakeholder group that recommended, among other steps, that the state adopt a definition of dyslexia; ensure that all primary grade teachers have training in early assessment and reading instruction related to reading disabilities; and ensure that all general education teachers have such training in reading instruction and assessment for all students with reading disabilities. However, none of those steps had been taken.

In response to a question from the Chair whether SWIDA was represented on the Special Education Bureau's dual discrepancy stakeholder group, Ms. Koscielniak replied that it was not, but that when a group was assembled specifically to deal with dyslexia, SWIDA would be included. The Chair suggested that the Special Education Bureau include representatives of SWIDA in the dual discrepancy work group at its next meeting.

The Chair suggested that the LESC might wish to review the Texas legislation at its December meeting as a possible model for proposed legislation for the 2010 session.

OFFICE OF EDUCATION ACCOUNTABILITY (OEA) REPORT ON SCHOOL PRINCIPAL LEADERSHIP INITIATIVES

Senator Nava recognized Dr. David Harrell, LESC staff, for a presentation of the report on school principal leadership initiatives by the Office of Education Accountability (OEA). Dr. Harrell introduced the two presenters: Dr. Scott Hughes, Director, OEA; and Dr. Linda Paul, Director, New Mexico Leadership Institute. Dr. Harrell also noted that Mr. Phil Baca, Program Manager,

Professional Licensure Bureau, Public Education Department (PED), was available to respond to questions.

To provide a context for the presentation, Dr. Harrell discussed Senate Joint Memorial 3 (2008), which had requested that OEA, PED, and the Higher Education Department (HED), in collaboration with school districts and institutions of higher education, develop a plan to enhance the recruitment, preparation, mentoring, evaluation, professional development, and support for school principals and other school leaders. The report in response to this memorial, presented to the LESC in November 2008, offered six recommendations “for strengthening New Mexico’s capacity to attract and retain strong school leaders,” one of which, Dr. Harrell said, was to establish a school leadership institute to strengthen the preparation, mentoring, and professional development of school leaders in New Mexico.

In response to the report on SJM 3 and the recommendations, Dr. Harrell continued, the LESC endorsed several pieces of legislation during the 2009 session. Two of them were enacted:

- SB 123 (Laws 2009, Ch. 20), *Administrators in Accountability Reporting*, requires that data about administrative licensure candidates be included in the Educator Accountability Reporting System; and
- SB 133a (Laws 2009, Ch. 117), *Teacher Licensure Changes*, removes the requirement that applicants for a Level 3-B administrative license hold a Level 3-A teaching license for one year; and it creates a provisional Level 3-B license.

A third bill endorsed by the LESC, SB 124, *Create School Leadership Institute*, did not pass; however, the appropriation of \$200,000 to establish the leadership institute was included in the *General Appropriation Act of 2009*, creating what Dr. Harrell called a “funded unmandate.”

After reviewing the provisions of these pieces of legislation, Dr. Harrell summarized recent activities toward the implementation of school leadership initiatives, including the establishment of the Leadership Institute and selection of its director; a series of meetings hosted by OEA and PED directed toward establishing the Principal Mentoring Network; and the launch on October 27, 2009 of the Principal Mentoring Network website, which is intended to be a tool “for supporting and linking the work of mentoring new and aspiring principals in districts and charter schools throughout the state.”

A state’s laws and policies regarding school leaders, Dr. Harrell said, are a factor in the state’s application for Race to the Top funds under the federal stimulus program. As provided in federal regulations issued on November 12, 2009, there are six fundamental selection criteria. While school leadership may figure into all six of them, it is especially significant in these two: great teachers and leaders and turning around the lowest-achieving schools.

To illustrate the growing awareness of the importance of the school leader, Dr. Harrell noted three examples of recent media focus on school leadership in New Mexico in particular:

- the screening by KNME, the PBS affiliate in Albuquerque, of a documentary financed by the Wallace Foundation called *The Principal Story*, which included additional clips of interviews with principals at schools in New Mexico and a panel discussion featuring several New Mexico educators;

- an Associated Press story carried by *The Washington Post* and other newspapers about significant gains in student proficiency at Tohatchi Elementary School in Gallup-McKinley County Public Schools, under the leadership of Principal George Bickert; and
- the roll-out of the New Mexico Leadership Institute in conjunction with the premier of another Wallace Foundation-supported video called *Roundhouse to Schoolhouse: Policy to Practice*, which highlights the school leadership policies in New Mexico and which will be shown on the *New York Times* Knowledge Network website.

Dr. Harrell concluded his remarks by noting that the staff brief contains a background section that illustrates the LESC's long-standing interest in school leadership and that explains the impetus behind SJM 3.

Dr. Hughes and Dr. Paul began their presentation by showing the video *Roundhouse to Schoolhouse: Policy to Practice*. Then they reviewed points in the handout that they provided the committee, *Strong Leaders for New Mexico Schools: Senate Joint Memorial 3 (2008) Initiative Updates*. Their presentation focused on progress so far in implementing the six recommendations of the report on SJM 3.

1. Revitalize school principal standards: PED, in collaboration with OEA, has convened an entry-level competencies review committee comprising college faculty and deans, superintendents, principals, and other interested parties. The recommendations of this committee for strengthening school principal standards are expected to be finalized early in spring 2010.
2. Strengthen recruitment, incentives, and retention: There are three key initiatives to implement this recommendation: identify potential school leaders, develop financial incentives, and address principals' working conditions to retain effective school leaders. Although the economic recession put these plans on hold, federal stimulus funds – in particular the Race to the Top and School Improvement Grants – offer the state an opportunity to pursue the initiatives.
3. Develop and implement the New Mexico Leadership Institute: Under its new director, the institute will collaborate with school districts, postsecondary educational institutions, regional education cooperatives, professional organizations, and other parties to develop five programs: Licensure for Aspiring Principals, Mentoring for New Principals, Intensive Support of Principals of Schools in Need of Improvement, Professional Development for Aspiring Superintendents, and Mentoring for New Superintendents. Dr. Hughes and Dr. Paul provided some details about progress toward implementing these programs, including work toward a common core curriculum for principal preparation; developing two kinds of mentoring – one for new principals and the other for principals with provisional licenses; the development of the Principal Mentoring Network and its website; and the Aspiring Superintendent's Program, developed by the New Mexico School Superintendents' Association.
4. Establish data and accountability systems: Dr. Hughes and Dr. Paul discussed the need for sufficient data to track the career paths of school leaders in New Mexico. They also noted that, in response to legislation enacted in 2009, postsecondary teacher preparation programs will include detailed information on principals and other school leaders in the Educator Accountability Report to be issued in December 2009.

5. Refine current certification requirements: Legislation enacted in 2009 removed some barriers faced by highly qualified candidates seeking administrative licensure. For one thing, it reduced from seven to six the minimum number of years of teaching experience required for an administrator's license; for another, it provided a process for a provisional administrator license for districts experiencing difficulties in recruiting principals. So far, Dr. Hughes reported, five applications for provisional licensure have been submitted and approved.
6. Refine and revitalize university principal preparation programs: To develop a core educational leadership curriculum that focuses on what principals need to know and be able to do to improve student learning in PreK-12 schools, deans from the colleges of education have formed the Educational Leadership Faculty Core Work Team. This team expects to develop a common core curriculum by April 2010.

Dr. Hughes and Dr. Paul concluded their presentation with an overview of the federal grants available through the federal *American Recovery and Reinvestment Act of 2009*, with particular attention to the Race to the Top grant (almost \$4.4 million in competitive funds). The criterion Great Teachers and Leaders, they said, constitutes 28 percent of the total points in the Race to the Top proposal in terms of such factors as:

- providing high-quality pathways for aspiring teachers and principals;
- improving teacher and principal effectiveness based on performance;
- ensuring equitable distribution of effective teachers and principals;
- improving the effectiveness of teacher and principal preparation programs; and
- providing effective support to teachers and principals.

Committee Discussion:

Several committee members said that they were encouraged by the developments outlined in the presentation. Speaking of the success of Mr. Bickert in particular, one committee member suggested inviting him to the December LESC meeting so that the committee could learn more about his methods. Dr. Hughes said that Mr. Bickert had been active in the principal support network.

In response to a committee member's question about the Leadership Institute's attention to the scientifically based teaching of reading, Dr. Paul said that it would be a point of emphasis in the professional development for principals, with the first efforts directed toward current principals and subsequent efforts directed toward infusing the topic in principal preparation programs.

One committee member asked how the Leadership Institute will address the varied and complex responsibilities of the school principal. In response, Dr. Paul first concurred with the complex role of the principal and then said that it will be essential for the institute to address the frequent disconnect between principal preparation programs and the real world of the school principal. She added that most principal preparation programs have remained unchanged for decades.

In response to a committee member's question about the role of the principal in addressing the achievement gap, Dr. Paul said that the goal of the institute is to create more powerful and effective instructional leaders "with laser focus," noting that good teachers are inclined to leave a school run by a weak principal.

Finally, Senator Nava acknowledged Senator Kernan's role in these developments as the sponsor of the LESC-endorsed legislation that led to these initiatives.

FY 11 PUBLIC EDUCATION DEPARTMENT (PED) BUDGET REQUEST

The Chair recognized Mr. Peter B. van Moorsel, LESC staff, and Mr. Don Moya, Deputy Secretary for Finance and Operations, Public Education Department (PED), to provide a presentation regarding the PED budget request for FY 11.

Mr. van Moorsel noted that statute requires that state agencies submit their budget requests for the following fiscal year to the State Budget Division in the Department of Finance and Administration (DFA) no later than September 1, adding that these requests do not necessarily reflect the Governor's budget recommendations that must be submitted to the Legislative Finance Committee (LFC) and the Legislature prior to the session in January.

After explaining DFA's written directives that state agencies must follow in preparing their budget requests, Mr. van Moorsel directed the committee to the table in the report showing PED's FY 10 appropriated revenue, its FY 10 approved operating budget, and its FY 11 base and expansion budget requests. He reported that PED's FY 11 General Fund base request exceeds the General Fund revenue in the department's FY 10 operating budget by approximately \$1.1 million, or 7.1 percent, in accordance with exceptions allowed by DFA.

Mr. van Moorsel added that the department's federal funds request is approximately \$13.6 million lower than in the department's FY 10 operating budget because the budget includes carryover from previous fiscal years. He stated that, overall, the total request from all funding sources is \$13.9 million lower than revenues in the department's FY 10 operating budget and that there is no expansion request. Mr. van Moorsel concluded by stating that PED's vacancy rate is 18.5 percent due to 59 vacant positions.

Mr. Moya reiterated that the PED FY 11 base request is flat with one exception. He stated that the \$1.13 million increase brings the operating budgets for the Student Teacher Accountability Reporting System (STARS) and Operating Budget Management System (OBMS), which were previously funded by special appropriation, into the department's base budget.

Addressing the department's vacancy rate, Mr. Moya cited difficulty in filling positions because qualified personnel can often receive higher salaries at school districts than at the department. He added that filling many of the positions is difficult due to Santa Fe's high cost of living.

Committee Discussion:

In response to a committee member's question whether the vacancies will be filled, Mr. Moya stated that several finance positions would be filled but that the majority would remain vacant. Mr. Moya added that several positions were deleted after funding for those positions expired.

In response to a committee member's question regarding the 3.5 percent budget cut ordered by the Governor, Mr. Moya stated that the budget, as presented, considers the cut and also considers filling some of the vacancies.

In response to a committee member's question regarding the area of operations where vacancies have had the largest impact, Mr. Moya stated that he needed more employees to process federal flow-through requests for reimbursement.

In response to a committee member's question regarding the vacant school finance positions, Mr. Moya stated that these positions are not in demand just at PED but also in rural communities. He added that a potential solution would be for several small districts to pool resources to hire one joint district financial officer.

There being no other business, the Chair, with the consensus of the committee, recessed the LESC meeting at 4:35 p.m.

**MINUTES
LESC MEETING
NOVEMBER 20, 2009**

Senator Cynthia Nava, Chair, called the LESC meeting to order at 9:24 a.m. on Friday, November 20, 2009, in Room 317 at the State Capitol, Santa Fe, New Mexico.

The following LESC members were present:

Senators Cynthia Nava, Chair, Mary Jane M. García, and Gay G. Kernan; and Representatives Jimmie C. Hall and Mimi Stewart.

The following LESC advisory members were present:

Senator Sander Rue; and Representatives Eleanor Chávez, Nathan P. Cote, Mary Helen Garcia, Karen E. Giannini, Sheryl Williams Stapleton, and Shirley A. Tyler.

LESC POTENTIAL LEGISLATION, 2010 LEGISLATIVE SESSION

Referring committee members to the handout "Legislative Education Study Committee Potential Legislation, 2009 Legislative Session," Ms. Frances Ramírez-Maestas, Director, LESC, said that, with approval of Chair Nava and Vice Chair Miera, LESC staff had developed recommendations for potential legislation for the 2009 legislative session based on the 2008 LESC Interim Workplan. She noted that the handout also included a list of all the topics that the committee had studied during the 2010 interim and that accompanying it was a memorandum from the Legislative Council Service explaining what subjects were considered germane in a 30-day session.

Senator Nava told the committee that this agenda item was not an action item, but only a determination whether each suggested issue should be drafted for committee consideration at the December meeting, at which time the committee will endorse legislation as well as determine sponsors.

The committee reviewed the proposed items and agreed that legislation be drafted for consideration at the December meeting for the following items:

a. Issues Examined During the 2009 Interim

Cohort Graduation Rate

1. Introduce an amendment to the *Assessment and Accountability Act* to require that, when PED publishes cohort graduation data, it also provide information useful for a better understanding of on-time graduation and dropping out among New Mexico high school students, such as how many students:
 - are known to have dropped out;
 - have earned or are attempting a GED;
 - are known to still be in high school;
 - have all the credits required for graduation but still have not passed the graduation test; and
 - progress through high school from grade to grade.
2. Introduce a memorial requesting that public institutions of higher education, in collaboration with business and philanthropic organizations, work with the New Mexico Leadership Institute, PED, HED, OEA, and public school districts and charter schools to study the feasibility of creating a consortium to conduct educational research to support school reform.

High School Redesign

3. Introduce legislation to allow a financial literacy course aligned with New Mexico mathematics standards to count as one of the four mathematics units required for graduation.

P-20 Data System and Unique Student ID

4. Introduce legislation to codify the requirements for a comprehensive P-20 data system that collects, integrates, and reports data from PED, HED, and other agencies, as follows: establish a “data warehouse council” that includes PED, HED, OEA, CYFD, the Department of Information Technology, the Department of Workforce Solutions, public postsecondary institutions, and public school districts and charter schools, that will: assign responsibilities and authority for the operation and management of the system; develop interagency agreements; develop a strategic plan with timelines and budget requirements; provide that the system may be used for program research and evaluation, including the aggregation, collection, and distribution of data, but that personally identifiable student and educator data will be safeguarded as required by federal and state law; and require an annual system status report detailing the capability of the system to perform specified functions.

Restraint and Seclusion of Students

5. Introduce a memorial requesting that PED, in collaboration with directors of special education and other appropriate school personnel, advocacy group representatives, parents, and other appropriate stakeholders, form a work group to examine the issues and concerns related to restraint and seclusion of public school students; and report findings and recommendations to the LESC in the 2010 interim.

Dual Credit Program

6. Introduce a memorial requesting that HED and PED convene a broadly representative work group to develop a master plan for accelerated learning that would offer high school students a number of options for study at the postsecondary level, including:
 - issues related to dual credit as identified in the LESC staff report;
 - how the various programs – dual credit, Advanced Placement, articulated courses, concurrent enrollment, and middle college high school – could complement rather than compete with each other in the P-20 system by identifying the population and circumstances that each program can serve most effectively; and
 - the necessary agency oversight to ensure faithful and effective implementation.

School Calendars

7. Introduce legislation to: (1) delay the effective date of the statutory requirement that school districts and charter schools provide a minimum of 180 full instructional days for schools on a regular calendar and 150 days for schools on a variable school year calendar; and (2) include minimum grade-level hours for a variable school-year calendar.

Beginning Teacher Mentorship

8. Introduce legislation to amend the *School Personnel Act*:
 - to clarify the use of the terms “level one teachers” and “beginning teachers” in the same section on mentorship, including providing a definition of “beginning teacher” in statute if necessary; and
 - to clarify the required length of time for Level 1 teachers to participate in a formal mentoring program.

Teacher Licensure: Professional Development and Evaluation

9. Introduce legislation to amend the *School Personnel Act* to require that the evaluation process for teachers in the three-tier licensure system include a factor for how professionals in the system use the results of professional development they receive at district or charter school expense, through evidence that the results are both applied in their classrooms and shared with other teachers in the district or charter school.

K-3 Plus External Program Evaluation

10. Pending results of the PED K-3 Plus Work Group regarding the methodology for allocation and distribution of K-3 Plus funds.

Charter School Update

11. Introduce legislation requiring oversight and monitoring by the authorizer of a start-up charter school during the planning year to ensure that the organizers are adhering to their charter.

12. Pending recommendations of the Public School Capital Outlay Oversight Task Force regarding clean-up language to clarify how state-chartered charter schools should be included in school district bond elections.
13. Introduce a memorial requesting PED to study amending the *Charter School Law* to:
 - replace numerical caps in the number of charter schools that can be authorized in favor of “smart caps”;
 - provide for the negotiation of performance contracts between charter schools and their authorizers to be used for school evaluation and, if necessary, termination;
 - clarify the responsibilities of charter school authorizers;
 - provide for timely flow of federal funds to charter schools after school districts receive those funds from the state;
 - provide protocols for notification, improvement, or closure of failing charter schools; and
 - ease the process for chartering new schools that replicate successful charter school models to turn around failing schools or to open new charter schools.

Dyslexia

14. Introduce legislation to include a definition of dyslexia in statute and require PED to develop systematic statewide procedures, including teacher preparation and training, to screen and effectively intervene with students with dyslexia.

Public School Budgets

15. Introduce legislation to amend the *Public School Code* to allow the Secretary to waive class-size requirements for a class to which a student teacher who meets certain criteria has been assigned as a cost-saving measure.

b. Legislation Endorsed by the LESC in the 2009 Session that Did Not Pass

16. HB 139a, *Create Dual Credit Textbook Fund* — Create the Dual Credit Textbook Fund, administered by the Instructional Material Bureau in PED; require that money in the fund be used only to purchase textbooks and course supplies for students participating in the Dual Credit Program; require PED, by April 1 of each year, to allocate to each school district, charter school, and state-supported school a specific dollar amount for each dual credit course completed by an eligible student during the prior calendar year; and require PED, by July 31 of each year, to distribute 100 percent of those allocations, to the extent that funds are available.
17. SB 124, *Create School Leadership Institute* — Introduce legislation to establish the School Leadership Institute in statute.
18. SB 158a, *Educational Data Warehouse* — See Item 4 above.

c. Policy Options: Letters

High School Redesign

19. Write a letter to PED requesting that the department implement changes in STARS to:

- verify that students completed graduation requirements;
- document that schools offer courses that are required in law, including Algebra I for eighth graders and service learning and financial literacy for elective credit;
- document which schools offer media literacy and pre-apprenticeship for elective credit; and
- document whether students successfully complete courses.

P-20 Data System and Unique Student ID

20. Write a letter to HED, PED, the New Mexico Association of Community Colleges, and the New Mexico Independent Community Colleges requesting that they form a work group to develop solutions for reporting students' unique IDs to those branch and community colleges that do not require high school transcripts.

Beginning Teacher Mentorship

21. Write a letter to PED requesting that the department investigate the following:
- in the instance of Level 1 “mentor” teachers:
 - the specific mentoring services that each Level 1 mentor teacher is providing compared to the mentoring services provided by Level 2 and Level 3 mentors in the same school district;
 - the levels of teachers that each Level 1 teacher is mentoring; and
 - the years of teaching experience that each Level 1 mentor teacher has, including whether and for how long the teacher taught on an Internship license before receiving a Level 1 license; and
 - the specific uses of mentorship funds in each school district, including the amounts of compensation provided to mentor teachers.
22. Write a letter to PED requesting that the department work with OEA to address the following:
- whether Internship licensed teachers receive “sustained, intensive” professional development “before and while teaching” and participate in a “program of intensive supervision,” as required in federal regulations;
 - the number of Internship and Level 1 teachers receiving mentorship services in each district and charter school; and
 - the sources and amounts of funding for mentoring and other support of Internship licensed teachers, including those services provided by alternative licensure programs, and which agencies should receive and distribute this funding.

Residential Treatment Centers

23. Write a letter requesting that, in formulating a template for agreements between school districts and RTCs, PED provide detailed guidance to the parties to clarify where longstanding practice may no longer be consonant with the law; and to ensure that services are planned and delivered efficiently and effectively for all students residing at the RTC, particularly when multiple school districts and charter schools share responsibility for an individual student.

