

**State of New Mexico**  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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Mimi Stewart  
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**LESC MEETING**  
**WEDNESDAY, SEPTEMBER 12, 2007**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on September 12, 2007 at 9:12 a.m., Eagle Ridge Middle School Gymnasium, Rio Rancho, New Mexico.

The following LESC members were present:

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

The following LESC advisory members were present:

Representatives Ray Begaye, Nathan P. Cote, Nora Espinoza, Mary Helen Garcia, Thomas A. Garcia, Dianne Miller Hamilton, John A. Heaton, Rhonda S. King, Sheryl Williams Stapleton, and Jim R. Trujillo; and Senators Dianna J. Duran and Lynda M. Lovejoy.

Also in attendance were Representative Thomas A. Anderson and Senator Joseph J. Carraro.

**<> Approval of Agenda**

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

**<> Welcome and Introductions**

Representative Miera introduced the following individuals who welcomed the committee to Rio Rancho: Honorable Michael J. Williams, Mayor, City of Rio Rancho, Ms. Deborah "Debbie" L. Moore, President/CEO, Rio Rancho Regional Chamber of Commerce, and Dr. V. Sue Cleveland, Superintendent, Rio Rancho Public Schools, who in turn, introduced the principal of Eagle Ridge Middle School, Ms. Debbie Morrell.

## FY 08 PUBLIC SCHOOL BUDGETS

Dr. Kathleen Forrer, Legislative Education Study Committee (LESC) staff, introduced Mr. Stephen Burrell, Director, School Budget and Finance Analysis Bureau, Public Education Department (PED), to provide an overview of FY 07 public school budgets and related issues. She also noted that Ms. Sandy Gladden, Director, Regional Education Cooperative (REC) #9, was available to answer questions regarding the RECs.

Dr. Forrer reported that current law requires each local school board to establish the operating budget for the district for the upcoming fiscal year prior to June 20. In turn, she said, PED is required to approve operating budgets for school districts and charter schools on or before July 1 and to provide timely information to the LESC upon request. Directing the committee's attention to the staff report, Dr. Forrer noted that the report includes state and federal education funding, the results of a survey of school district superintendents and charter school administrators regarding the implementation of salary mandates for the school year 2007-2008, an explanation of the "65 percent solution," and the role and function of the REC centers.

To begin, Dr. Forrer said that on April 9, 2007, the Secretary of Public Education announced that the preliminary FY 08 unit value for school district and charter school operating budgets would be \$3,645.77. She explained the unit value is based on a statewide projected total of 638,790.218 units and represents an increase of \$199.33 (5.8 percent) over the FY 07 final unit value of \$3,446.44. Dr. Forrer also said that, according to PED, this initial unit value reflects the consensus reached at a meeting of PED staff with a number of stakeholders, including legislative and executive staff and representatives of the public schools and their employees.

Regarding state funding for FY 08, Dr. Forrer explained that the Legislature appropriated approximately \$2.5 billion in public school support and recurring related education appropriations, representing an increase of \$197.8 million, or 8.6 percent, over the FY 07 appropriations. Dr. Forrer noted that nearly \$2.3 billion of the \$2.5 billion is the State Equalization Guarantee (SEG) appropriation, which includes \$8.0 million to fund approved elementary physical education programs through the Public School Funding Formula for students in kindergarten through the sixth grade. She explained that Attachment 2 of the staff report includes a list of the physical education programs approved by PED as of August 28, 2007, along with the projected amount of funding generated by those programs (\$4.2 million), adding that PED planned to approve additional programs in the near future.

With regard to salaries for school year 2007-2008, Dr. Forrer noted that the SEG appropriation included the following: (1) approximately \$90.6 million to provide a mandated average 5.0 percent salary increase for all teachers, other instructional staff, and other licensed and unlicensed staff; (2) nearly \$3.2 million to provide a mandated additional 2.0 percent average salary increase "for those instructional support providers who practice licensed professions that require a bachelor's or higher degree and whose annual salaries on a full-time basis are below sixty thousand dollars (\$60,000)"; (3) a little more than \$1.7 million to provide a mandated additional 2.0 percent average salary increase "for principals and assistant principals with priority given to the level of responsibility each principal or assistant principal is charged with"; and (4) slightly more than \$9.1 million to fund the \$50,000 minimum salary for Level 3-A teachers to implement the fifth and final year of the five-year phase-in of the three-tiered licensure system.

To supplement the information gathered annually by PED, Dr. Forrer explained that LESC staff had requested that all school district superintendents and charter school administrators complete a web-based survey regarding implementation of the salary increases mandated in the *General Appropriation Act of 2007*. In summarizing the results, Dr. Forrer noted the respondents (41 school districts and 13 charter schools) had indicated that they had complied with the mandates, although one charter school had indicated some confusion regarding instructions provided by PED on the mandated 2.0 percent average salaries for principals. Dr. Forrer said that many of the respondents chose to give the same percentage raise to everyone in a specific employment category, such as teachers. Of those who gave differentiated raises to teachers, the most frequently cited reason was the need to meet the \$50,000 minimum salary for Level 3 teachers.

Dr. Forrer said that although most respondents provided the mandated additional average 2.0 percent salary increase for instructional support providers only to those support providers who met the criteria in the *General Appropriation Act*, three respondents provided the salary increase to all instructional support providers regardless of educational background or salary level. She noted that, in determining the “level of responsibility” on which to base the mandated average 2.0 percent salary increase for principals and assistant principals, most respondents used school level as the guiding factor. Finally, she said the survey provided respondents with an opportunity to make additional comments regarding the mandated salary increases for school year 2007-2008 that they wished to share with the committee, which was also included as an attachment to the report.

With regard to federal funds, Dr. Forrer noted that total allocations to New Mexico for all elementary and secondary level education programs were estimated to increase by approximately \$1.5 million, from \$363.1 million for federal fiscal year 2006 (school year 2006-2007) to \$364.6 million for federal fiscal year 2007 (school year 2007-2008). However, she said, funding for Education for the Disadvantaged (Title I) is estimated to decrease by approximately \$9.0 million, attributable primarily to a decrease in Title I grants to local education agencies. She said funding is estimated to remain basically flat for programs classified by the US Department of Education as components of the *No Child Left Behind Act of 2001* (NCLB).

Dr. Forrer explained that of the \$364.6 million in federal funds allocated to the state for school year 2007-2008, PED had already allocated approximately \$164.7 million as of September 10, and she directed the committee’s attention to attachments 6 through 19 for details regarding the following programs: Title I Basic (ESEA Title I Grants to Local Education Agencies); Reading First; Title I Even Start; Title I Migrant; Title I Neglected and Delinquent; Title II-A Improving Teacher Quality; 21<sup>st</sup> Century After-School Learning Centers; Title V-A Innovative Programs; Rural and Low-Income Schools Program; Title IV-A Safe and Drug Free Schools and Communities; Title III Language Instruction; Title I Education for Homeless Children and Youth; Carl Perkins; and Carl Perkins – Tech-Prep Education. She added that, according to PED, allocations have not yet been made for an additional eight programs, including *Individuals with Disabilities Education Improvement Act of 2004* (IDEA) Grants to States, and that School Improvement Grants will be distributed on a contractual rather than allocation basis.

To preface the upcoming discussion regarding how public schools budget their funds, Dr. Forrer noted that in past years, part of the discussion has usually centered on just what percentage of those funds should be devoted to instruction and exactly what the term instruction includes. She stated that a concept put forth by an organization called First Class Education, the so-called “65 percent solution,” sometimes enters the mix. Dr. Forrer explained that the stated aim of First Class Education is to change the law in each of the 50 states and the District of Columbia by the end of 2008 to require that “at least 65 percent of what taxpayers spend on K-12 education

actually makes its way into the classroom.” According to First Class Education, if school spending can be reallocated so that 65 cents of every dollar goes directly to the classroom, spending on instruction can be increased with no accompaniment increase in taxes.

Since this movement began, Dr. Forrer said, four states have instituted this concept as public policy; however, there is opposition, and although it comes from a variety of sources, all of the sources agree that any measure that looks only at inputs, i.e. where the money goes, without tracking outcomes, in this case student achievement, is fatally flawed. Dr. Forrer cited a study done by Standard and Poor’s (S&P) in fall 2005 in which S&P analyzed data in nine states that, at the time, were considering implementing the 65 percent solution. The study found “no significant positive correlation between the percentage of funds that districts spend on instruction and the percentage of students who score proficient or higher on state reading and math tests.”

Directing the committee’s attention to several pie charts in a handout entitled “FY 08 Public School Budgets,” Mr. Burrell explained that for school year 2007-2008, nearly \$2.5 billion has been budgeted statewide in the operational subfund: approximately \$2.25 billion (91.3 percent) is state revenue; \$72.5 million (2.9 percent) is federal revenue; \$333.8 million (1.4 percent) is local revenue; and the remaining \$109.0 million (4.4 percent) is estimated cash balance remaining from the prior fiscal year. Mr. Burrell noted that in terms of percentages, budgeted revenues in the operational subfund for school year 2006-2007 were similar: 91.5 percent state, 3.3 percent federal, 1.3 percent local, and 3.9 percent cash balance.

In regard to revenue budgeted in all subfunds, including debt service and capital outlay, Mr. Burrell noted that state revenue had increased from 58 percent in school year 2006-2007 to 59.9 percent in school year 2007-2008, and that federal revenue had remained essentially flat at 10 percent; however, he added, during that same period, local revenue had decreased from 13.9 percent in school year 2006-2007 to 12.8 percent in school year 2007-2008.

For school year 2007-2008, Mr. Burrell noted, out of a total of approximately \$2.5 billion, school districts and charter schools statewide have budgeted 61.1 percent, or \$1.5 billion, of their expenditures in instruction. Support services constitute 38 percent (\$940.6 million) of the total budgeted expenditures, while non-instructional services and operational capital outlay combined make up the remaining 0.9 percent (\$21.8 million).

Referring to the table “Comparison of 2006-2007 and 2007-2008 Budgeted Expenditures,” Mr. Burrell explained that current uniform chart of accounts includes four functions in the operational fund, whereas the chart of accounts used prior to school year 2006-2007 included 12 functions. He noted that budgeted operation funds have increased by 6.9 percent, from \$2.3 billion in school year 2006-2007 to almost \$2.5 billion in school year 2007-2008. When all budgeted expenditures, including special revenues and capital outlay, are considered, the increase is 2.6 percent, from approximately \$4.0 billion in school year 2006-2007 to slightly more than \$4.1 billion in school year 2007-2008.

Referring to two spreadsheets—“2007-2008 Budgeted Program Cost” and “Comparison of 2006-2007 and 2007-2008 Budgeted MEM and Grand Total Units,” Mr. Burrell explained that beginning with school year 2006-2007, the basis of funding changed from an average of the prior year 40<sup>th</sup>, 80<sup>th</sup>, and 120<sup>th</sup> day memberships to an average of the prior year 80<sup>th</sup> and 120<sup>th</sup> day memberships. Thus, he said, comparison of membership and units between school years 2006-2007 and 2007-2008 is once again “apples to apples.” Noting that on a statewide basis, budgeted

membership and units have both increased (membership from 323,673 to 324,025 and units from 628,826.378 to 631,814.505), Mr. Burrell stressed that many of the small school districts throughout the state once again saw a decrease in their units, which, depending on the severity of the decrease, could result in a loss of funding. He added that although the SEG appropriation includes sufficient funds on a statewide basis to cover the costs of salaries, fixed costs, and other recurring expenditures, because the funds are allocated through the funding formula, districts with declining enrollment may not receive sufficient funds to pay required expenses, resulting in a need for supplemental funds.

Referring to the spreadsheet “2007-2008 Budgeted Growth Units Based on 2006-2007 40<sup>th</sup> Day and 2007-2008 Projected MEM,” Mr. Burrell explained that actual growth units are based on the difference between the 40<sup>th</sup> day memberships of the current and prior school years. As a consequence, growth units do not always materialize in the school districts and charter schools that budget them. Nevertheless, he said, on a statewide basis, actual growth units almost always exceed budgeted growth units, partly because PED advises school districts and charter schools expecting growth to be cautious in the number of growth units they choose to budget. For school year 2007-2008, he noted, districts and charter schools have budgeted a total of 2,888.313 growth units; however, actual growth units for school year 2006-2007 were 5,100.183.

Regarding supplemental emergency funding, Mr. Burrell noted that the 2007 Legislature appropriated \$8.3 million for FY 08: \$2.0 million in recurring and \$6.3 million in nonrecurring revenue. He explained that although 25 school districts have been allowed to budget a total of approximately \$8.39 million for operational costs, ranging in amount from a low of \$50,000 (Cobre Consolidated Schools) to a high of \$645,000 (Lake Arthur Municipal Schools), all amounts are subject to review in January when the final unit value is established.

With regard to salary increases for FY 08, Mr. Burrell said that, based on data submitted by the individual school districts and charter schools, all have complied with the legislatively mandated raises. Mr. Burrell also said that Level 3-A teachers who did not receive the required \$50,000 minimum salary as a result of the mandated average 5.0 percent raise for teachers did receive the additional dollars necessary to reach the minimum. He noted that although some school districts were still engaged in collective bargaining, they would still have to meet all of the salary requirements in the *General Appropriation Act*.

Explaining that at this point in the year, all cash balance amounts are unaudited, Mr. Burrell reported that school districts and charter schools have a total of \$107.0 million unrestricted cash balance available to budget for FY 08, an increase of almost \$20.0 million over the amount available for FY 07, primarily attributable to the 2007 amendment to the cash balance credit statute. Mr. Burrell called attention to the fact that Gallup Middle College has an unusually high cash balance for a charter school, \$289,825, which is 39.4 percent of the school’s budgeted operational expenditures. He explained that the school, which is chartered by the University of New Mexico (UNM), is unique in that the university pays most of the staff’s salaries.

With regard to the cash balance credit used to calculate the SEG, Mr. Burrell noted that the statewide total of cash balance credits for school year 2007-2008 is \$312,712 (for school year 2006-2007 the total was \$801,898): two school districts and two charter schools are affected, with credits ranging from a low of \$36,465 for Nuestrros Valores Charter School in Albuquerque to a high of \$169,092 for Clayton Public Schools.

In conclusion, Mr. Burrell noted that the elementary fine arts program is now fully implemented. He explained that all but one school district had included elementary fine arts program units in calculating program cost; the remaining district, Mora Independent Schools, has an approved program but was uncertain of the number of students who would participate and therefore decided to wait until after the 40<sup>th</sup> day to include the units in its budget.

In explaining the issue of the RECs, Dr. Forrer noted that one of the responsibilities of RECs is to manage the flow-through funds from IDEA for their member districts; some of those funds are also used to operate the REC offices. According to PED, Dr. Forrer explained, in past years, \$1.0 million in federal IDEA-Part B funds was set aside annually to be allocated equally among the nine RECs for infrastructure costs. She said that prior to July 1, 2005 PED provided the RECs federal fund allotments in 12 monthly installments. However, beginning in FY 06, PED changed to a twice monthly reimbursement system in order to comply with federal law. Dr. Forrer explained that the RECs have testified to the LESC and other legislative committees that this change has resulted in cash flow problems at the beginning of the fiscal year. In addition, several REC directors informed LESC staff that a communication from PED in July 2007 indicated that the RECs would no longer receive any IDEA-Part B funds for infrastructure costs, thus exacerbating the cash flow problem.

Dr. Forrer outlined the actions taken by the Legislature to assist the RECs. The 2006 Legislature provided \$750,000 in a special nonrecurring, non-reverting appropriation to PED to provide temporary cash flow assistance for REC operations to address funding shortfalls due, in part, to federal reimbursement cycles. Any REC receiving an advance was required to return the funds to PED by June 30, 2007, and once returned, the funds would remain available for advances to RECs in FY 08. Subsequently, the 2007 Legislature appropriated an additional \$1.05 million to PED for use beginning in FY 08, bringing the total amount of funding available for temporary REC cash flow assistance to \$1.8 million. In order to receive cash flow assistance, Dr. Forrer said, language in the *General Appropriation Act of 2007* requires the REC to submit timely quarterly reports, be in compliance with state and federal financial reporting requirements, be financially stable, adequately justify a need for the cash advance, and prepare a plan to address cash flow issues and submit the plan to PED for approval.

At the request of the Chair, Ms. Gladden addressed the committee regarding the RECs' financial situation, including problems caused by the lack of award letters from PED for IDEA-Part B funds; the lack of accessibility to cash flow assistance appropriated by the Legislature; whether RECs could serve as fiscal agents for their member districts with regard to receiving and disbursing federal IDEA funds; and the length of time taken by PED and the Department of Finance & Administration in processing reimbursement requests. She reported that the RECs had met briefly with PED earlier in the day to determine if these issues could be amicably resolved. As a result, she explained, a partial plan was developed to address the immediate fiscal needs of the RECs. She noted that PED and the RECs have agreed to meet on September 18 to work out a long-term solution.

The Chair asked PED to respond to Ms. Gladden's report. Dr. Catherine Cross Maple, Deputy Cabinet Secretary, Learning and Accountability, PED, said that she had a personal commitment to support the efforts of RECs in providing services to school districts and would work toward addressing their concerns. She stated that the quickest way to get IDEA money to the RECs was through intergovernmental agreements.

## **Committee Discussion:**

In response to a committee member's request to explain the Teacherage Fund, Mr. Burrell said the term "teacherage" refers to housing made available to teachers by school districts in isolated or rural areas where no other accommodations are available. He noted that rent receipts from teacherages are deposited by districts in the Teacherage Fund and are used to maintain the facilities.

In response to a committee member's question, noticing an increase in funds budgeted for athletics, if this money comes from the SEG, Mr. Burrell explained that the athletics fund is a special revenue fund and that most of the money for athletics comes from gate receipts.

In response to a committee member's question how cash balance is determined, Mr. Burrell responded that cash balance is revenue remaining after all obligations have been met for the fiscal year. He explained that school districts and charter schools then budget most of those balances for use during the ensuing fiscal year, noting that June credit receipts are considered restricted cash balance and are unavailable for budgeting in the ensuing fiscal year.

A committee member expressed concern that districts opening new schools received insufficient instructional material funds to meet the needs of students.

Representative Miera asked the RECs to provide a written report to the committee following the upcoming meeting between the RECs and PED to resolve issues regarding cash flow assistance and receipt of federal IDEA funds.

Senator Nava requested PED, together with LESC staff, to examine the methodology used to determine the department's instructional material appropriation request and to make any adjustments required to ensure that the request adequately addresses all costs, including those incurred by districts when opening a new school.

There being no further discussion, Representative Miera thanked the presenters.

## **UNM-RIO RANCHO CAMPUS: PROGRESS REPORT**

Representative Miera recognized Dr. David J. Schmidly, President, University of New Mexico (UNM), to give a progress report on the proposed UNM-Rio Rancho Campus (UNM West), and Dr. Kathie Winograd, President, Central New Mexico (CNM) Community College, to give a brief report of the involvement of the community college in this partnership.

Dr. Schmidly said that he and the UNM Board of Regents are committed to developing the vision, curriculum, and programs for UNM West (Rio Rancho campus) that will serve the needs of the community and enhance the overall strength and vitality of the UNM. He said the most cost-effective, quickest, and best way to meet this goal is to make effective use of partnerships involving universities noting that currently a Memorandum of Understanding has been signed between UNM and CNM. He indicated that plans are underway to include New Mexico State University (NMSU) as a partner using their programs in nursing, the hospitality industry, and agricultural sciences. In addition, Dr. Schmidly said that at some point soon, there would be a mill levy vote on the issue of opening a hospital in Rio Rancho. Included also in this plan is a transportation system to allow students easy mobility between campuses. Finally, Dr. Schmidly said there is a good pool of potential students, and he expects that through these partnerships UNM West will come to fruition and will be a success.

Dr. Winograd expressed her commitment to work with Rio Rancho in this endeavor and thanked the Legislature for a number of their decisions which made it possible for CNM to move forward with this collaboration, including:

- the statutory name change from Albuquerque Technical-Vocational Institute to Central New Mexico Community College;
- permitting a vote for the mill levy in November of this year;
- the legislation passed last year to facilitate awarding dual credit; and
- strengthening the kindergarten to 12<sup>th</sup> grade partnership with the postsecondary institutions.

Dr. Winograd said that CNM receives about 200 first-time freshmen every year from the Rio Rancho Public Schools, and she would guess that from the approximately 14,000 citizens working in Rio Rancho at least one course at CNM has been taken by each one. Finally, Dr. Winograd said that she looks forward to working with UNM and Rio Rancho in this significant undertaking.

### **Committee Discussion:**

In response to a committee member's question on whether there would be other universities included in the partnership besides UNM, CNM, and NMSU, Dr. Schmidly said that the curriculum needs of the community would determine the partner.

In response to a committee member's question if there will be student credit transferability between the partner institutions, Dr. Schmidly said, "Yes."

In response to a committee member's question about dual credits, Dr. Winograd said that CNM is working with the Albuquerque Public Schools on this issue, and that about 80 students are currently participating in dual credit courses.

A committee member advised Dr. Schmidly and Dr. Winograd not to abandon old projects that have worked in order to implement this initiative. Dr. Schmidly assured the committee member that he has no intention of abandoning good programs.

There was a brief discussion by the committee regarding empty classrooms at postsecondary institutions and whether buildings are used as efficiently as possible and the need for another campus. The discussion centered around the long-term growth of Rio Rancho, which is predicted to be the third largest city in the state, and the placing of a new campus there.

In response to a committee member's wish that New Mexico Highlands University (NMHU) be included in the deliberations for the new campus, Dr. Winograd said that they plan to work with NMHU as their plans move forward.

In response to a committee member's question regarding the actual time frame for the public to see progress, Dr. Winograd said that CNM is currently in the process of providing citizens information about the November 2007 mill levy vote in the form of print and TV ads regarding the proposed hospital. She added that by November 15, they should have an answer on the mill levy. Dr. Schmidly added that in the spring of 2008, UNM will do some polling about the gross receipts tax, and they will find out about the number of hospital beds needed. He added that

assuming these elections are successful, CNM will build the first building to get started and UNM and CNM will share in the use of the building to give them time to get through the gross receipts tax issue. Their hope is that as early as the fall of 2009, UNM West will be in operation.

In response to a committee member's question if this campus would reach out to the seven Native American groups that are within its boundaries, Dr. Schmidly said the proposed campus will reach out to everyone in the community and, in his opinion, will offer a great opportunity to serve Native American groups better than anyone else.

## **DIRECTOR'S REPORT**

### ***a. Approval of LESC Financial Report for June 2007***

Upon a motion by Representative Gonzales, seconded by Representative Swisstack, the LESC Financial Report for June 2007 was unanimously approved.

### ***b. Approval of LESC Operating Budget Request for FY 09***

Referring the committee to the LESC Operating Budget Request for FY 09, Dr. Rindone reported that the request basically reflects a flat budget except for an increase in the Contractual Services category. The increase, Dr. Rindone explained, will allow her to contract for additional personnel services to address the increased workload of LESC staff in the interim and particularly during the legislative session.

Upon a motion by Representative Swisstack, seconded by Representative Hall, the LESC Operating Budget Request for FY 09 was unanimously approved.

### ***c. Approval of Criteria for Community Input***

Upon review of the Criteria for Community Input document, Representative Gonzales suggested that the time limit on prepared remarks be changed from three minutes to five minutes.

Upon a motion by Senator Nava, seconded by Representative Swisstack, the Criteria for Community Input document, as amended, was unanimously approved.

### ***d. Correspondence***

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

## **EARLY CHILDHOOD EDUCATION**

Prior to beginning the presentation on full-day kindergarten, Dr. David Harrell, Legislative Education Study Committee (LESC) staff, introduced the following Public Education Department (PED) staff, who would be available for questions on the realm of early childhood education, specifically, on full-day kindergarten and reading in the primary grades: Dr. Lana Paolillo, Director, Early Childhood Bureau, Dr. Patricia Parkinson, Assistant Secretary, Instructional Support and Vocational Education Division, and Ms. Jennifer Sallee, Education Administrator, Early Childhood Bureau.

***a. Full-day Kindergarten***

Dr. Harrell said the 2000 Legislature passed legislation to implement voluntary full-day kindergarten programs statewide, to be phased in over a five-year period, allowing one-fifth of the kindergarten classes to become full-day each year. He said that as required by law, the programs were first implemented in schools with the highest proportion of students most in need (based on the at-risk index in the Public School Funding Formula) and in schools with available classroom space. At that time, he said, a number of districts were already offering full-day kindergarten on a limited basis, funded through various means, but the 2000 legislation established a state-supported program to provide full-day kindergarten in every school district.

Dr. Harrell said this legislation had several provisions, one of which authorizes PED to require schools with full-day kindergarten programs to conduct “age-appropriate assessments” (Dynamic Indicators of Basic Early Literary Skills – DIBELS) and one that requires that school districts provide professional development to teachers, educational assistants, and principals in three specific areas: scientifically based reading research and its implications for instruction; best practices of English as a second language and English language learner instruction; and the principles of peer and expert coaching.

In regard to funding, Dr. Harrell stated that from FY 01 through FY 05, the Legislature appropriated more than \$50.0 million in operational funds for full-day kindergarten through the Public School Funding Formula. Since then, he said, full-day kindergarten has been fully funded as part of base program cost each year, which makes New Mexico, according to the Education Commission of the States (ECS), one of only seven states to provide a strong incentive for full-day kindergarten, which ECS defines as providing more funding for full-day kindergarten than for half-day and providing a weight to full-day kindergarten that is equal to, or greater than, the weight provided to first grade. In addition, Dr. Harrell said the Legislature has also provided funding for facilities for full-day kindergarten so that every kindergarten class has an appropriate space, whether in a permanent building or a portable classroom.

Regarding full implementation of the full-day kindergarten program and according to data submitted by school districts and compiled by PED for school year 2004-2005, Dr. Harrell said 25,551 students (99.6 percent) were enrolled in full-day programs, and 91 students in half-day programs.

In citing national research regarding short-term effects of full-day versus half-day kindergarten, Dr. Harrell said that most studies have found better results from full-day programs. He noted that of these studies, probably the best source of national data on kindergarten programs is the collection maintained by the National Center for Education Statistics (NCES), whose data supports the 2004 Early Childhood Longitudinal Study – Kindergarten Class of 1998-1999 (ECLS-K). Dr. Harrell described the findings of NCES and the findings of ECLS-K in his report and said that one source summarized the findings of research as follows: “In studies about the benefits of full-day kindergarten versus half-day programs, researchers found evidence supporting stronger academic achievement and grade retention, fewer special education referrals, and improved social and behavioral attitudes.” He said that while nationally, the authors contend their findings are statistically significant, they caution against making policy decisions about kindergarten based upon a single outcome, like children’s cognitive growth, because kindergarten affects so many other aspects of a child’s life and development.

Regarding long-term effects of full-day versus half-day kindergarten, Dr. Harrell said that while full-day kindergarten may indeed produce better results than half-day over the course of the kindergarten year, the bigger question is whether the benefits extend into subsequent grades. He said some studies have found evidence of prolonged benefits while others find either no such evidence or even indications of detrimental effects. Dr. Harrell detailed two recent studies using the ECLS-K database that have concluded that full-day kindergarten programs do not produce lasting benefits. Finally, Dr. Harrell noted that the lack of evidence of lasting benefits in some studies does not necessarily mean that full-day kindergarten is less effective than half-day kindergarten over the long term, but may instead be more of an indication that the single-year gains must be deliberately sustained through aligned, effective programs in subsequent grades.

In his evaluation of kindergarten in New Mexico, Dr. Harrell said the PED oversight of the full-day kindergarten program has been limited. The department requires annual reports from each program, he said, but the reports are not always filed in a timely fashion and they consist mostly of check-off items, such as tests, curricula, special education referrals, and categories of professional development, which provide little indication of program quality. To further explain, Dr. Harrell said that when PED has reported to the LESC on the quality of full-day kindergarten programs, it has based its evaluation on DIBELS data, which are received, compiled, and reported through contract with the University of Oregon.

Dr. Harrell explained that the DIBELS data illustrate that over a five-year period from school year 2002-2003 through school year 2006-2007 students consistently began at approximately the same skill levels on the four components tested and demonstrated consistent growth by the end of the year. He said there are several other kinds of information that might be examined to obtain a sense of the effectiveness of full-day kindergarten in New Mexico; although, the opportunity for a large-scale comparison of half-day to full-day kindergarten in New Mexico has now passed.

As to full-day kindergarten and student proficiency in math and reading, Dr. Harrell said that in the absence of any true longitudinal studies by PED or anyone else, it is nevertheless possible to compare the performance of students from full-day kindergarten schools to that of all students in the district in grades 3, 4, and 5 using data from the annual school district report cards. He said that of the 68 schools to implement full-day kindergarten in school year 2000-2001, only 19, or 27.9 percent, posted proficiency rates in math during school year 2005-2006 either equal to or greater than the district average for all students; and only 16, or 23.5 percent, equaled or exceeded the district average in reading. Dr. Harrell said that for the second wave of full-day kindergarten schools, of 86 schools, 37, or 43 percent, posted proficiency rates in math during school year 2005-2006 either equal to or greater than the district average for all students, and 41, or 47.7 percent equaled or exceeded the district average in reading. This comparison, however, contains serious deficiencies since it does not follow the same cohort of students (comparing schools, not students) and makes no attempt to account for other factors between kindergarten and subsequent grades.

Dr. Harrell said that in view of the inconsistent findings of research, the investment that the state has made, and the virtually universal enrollment in full-day kindergarten programs, the committee may want to consider the following policy options to assure that the program realizes its potential:

1. request that PED determine the most effective and reliable single assessment – whether DIBELS or the Early Childhood Environment Rating Scale used in New Mexico PreK or some other assessment to provide consistent and comparable data through several grades. Such data could then be incorporated into the Student Teacher Accountability Reporting System (STARS) as part of a research design to conduct a longitudinal study of students' progress;
2. request that PED add questions about follow-up in subsequent grades or request more information from school districts to support the school's responses about program content and quality (PED continues to collect annual reports from full-day kindergarten programs; however the information is limited and seldom verified);
3. conduct a survey of kindergarten teachers, school principals, and parents of elementary-age children soliciting information on satisfaction levels with full-day kindergarten and possible modifications to the program;
4. request that PED or the Office of Education Accountability (OEA) examine the professional development provided to full-day kindergarten teachers, especially in terms of time management, to see whether teachers are making effective use of the full school day;
5. request a re-examination of the state's content standards for kindergarten to ensure that they are designed to take advantage of the full-day program and that they align with the early learning outcomes expected through New Mexico PreK. (This option is in keeping with a recommendation of ECS that state policymakers ensure that kindergarten policies connect and align with policies that support children's learning experiences both before and after the kindergarten year. This option also corresponds to a finding of the RAND Corporation study: "there is some evidence that the initial academic advantages held by students in full-day programs erode if the curriculum in the upper grades is not changed to reflect the progress made during kindergarten.").

At the request of the Chair, Dr. Peter Winograd, Director, OEA, addressed the committee and advised that it is crucial for New Mexico to conduct valid and solid evaluations of major initiatives, of which full-day kindergarten is one. He complimented the LESC staff on the suggested policy options, adding that full-day kindergarten has been in place long enough to begin tracking its students.

### **Committee Discussion:**

In response to a committee member's question of the number of states that mandate kindergarten attendance, Dr. Harrell said only three states actually mandate attendance adding that the majority of states have a system similar to that of New Mexico.

In response to a committee member's question of how New Mexico compares to other states in the number of students enrolled in full-day kindergarten, Dr. Harrell stated that New Mexico is ahead in providing full-day kindergarten throughout the state.

In response to a committee member's question of what basic qualifications are required for a full-day kindergarten teacher, Dr. Paolillo said a kindergarten teacher is required to be licensed in either elementary PreK-8 or Early Childhood Birth-Grade 3, with preference given to a teacher that has an early childhood specialty.

In response to a committee member's question if there is any data comparing private to public kindergarten, Dr. Harrell said that full-day kindergarten is commonly offered at private schools, but he was not aware of any such studies for comparable data.

In response to a committee member's question whether there is data on students that attend full-day kindergarten directly from Head Start, Dr. Paolillo responded in the negative.

***b. Reading in the Primary Grades/Scientifically Based Instructional Materials, HM 109***

Ms. Pamela Herman, Legislative Education Study Committee (LESC) staff, said that reading is the fundamental skill upon which all formal education is based. Recognizing the importance of the relationship between reading and educational success, Ms. Herman said the LESC has heard presentations on early literacy during every interim since 2001 and has sponsored successful legislation and appropriated funds to provide resources for literacy for young students. She noted, however, that according to the 2005 National Assessment of Education Progress (NAEP), only 21 percent of New Mexico fourth grade students scored at or above proficiency in reading compared to 31 percent in the United States. Ms. Herman said that her report would focus on the success of the reading initiatives around the state that are currently in place as demonstrated by evaluation data.

Beginning with scientifically based reading research, Ms. Herman said that in 1997, the National Reading Panel identified the essential components of effective reading instruction that have come to be known as the "five big ideas." She said these include explicit and systematic instruction in the skills of phonemic awareness, phonics, vocabulary development, reading fluency, and reading comprehension strategies. Ms. Herman said there is now ample evidence of what works in the teaching of reading and that the information is readily available to educators to inform their practice.

Ms. Herman said that one year after the release of the report of the National Reading Panel, Congress passed the *No Child Left Behind Act of 2001* (NCLB), which created a new Reading First Initiative whose purposes are to provide assistance to state and local educational agencies to establish reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above by the end of grade 3.

Ms. Herman said that the act provides six-year formula grants to states, the size of which are determined by the relative proportion of children from low-income families living in the state. In April 2002, Ms. Herman said the United States Department of Education (USDE) put out a guidance document summarizing the key issues established in law that a state educational agency must address in its Reading First application and in August 2002, the Public Education Department (PED) submitted its Reading First application to USDE and New Mexico was awarded approximately \$55.0 million over a six year period beginning in FY 03. She said each year USDE announces Reading First allocations to states based on the amount appropriated by Congress and the relative proportion of low income students (Title I eligible) in each state. Ms. Herman stated that during the six-year grant period from federal FY 2002 through FY 2007, New Mexico was allocated approximately \$57.2 million in Reading First funds. Ms. Herman also described the eligibility criteria for school districts to apply to PED for Reading First sub-grants, and PED's process for funding projects.

In regard to the New Mexico Reading First subgrants, Ms. Herman reported that a total of 110 public schools in 36 school districts have received three-year awards, and PED states that it has extended funding for 73 of those schools for one or two additional years when the school sought an extension. She said PED states that its current subgrantees, including those in the 2006 competition, were selected based on criteria established in the original 2002 approved state Reading First application. In 2005, she said, the Instructional Support and Vocational Education Division of PED submitted a revised application to USDE that established new criteria, which PED says will apply to future rounds of awards to school districts. According to PED, the primary reason for submitting a revised state plan was to alter the way in which state technical assistance is provided to Reading First programs based on the experience of the first years of Reading First in New Mexico. She said, however, that because the state's efforts to improve early literacy have moved many third grade students out of the lowest category on the state standards-based assessment (Beginning Step) and into the second lowest category (Nearing Proficiency), PED also needed to establish new award criteria to open up eligibility to more school districts. Ms. Herman said a list on the USDE website shows that only 20 New Mexico school districts would be eligible for a new Reading First subgrant based on the current test data and previous eligibility criteria. Of the 36 school districts that have ever received New Mexico Reading First grants, Ms. Herman said most have improved their early literacy to the extent that only six would be eligible for new grants under the old eligibility criteria.

Ms. Herman stated that the major issue that should be considered is that the previous district eligibility requirements established by PED appear to have limited the field of potential applicants too much. She said it is not apparent that the revised requirements have been analyzed to determine if they fairly target the districts most in need without unduly restricting access to Reading First funds.

In terms of evaluation, Ms. Herman said that although the contractor for New Mexico Reading First (Center for Children and Technology of the Education Development Center – EDC) submitted a large volume of evaluation data for the New Mexico Reading First statewide program, it did not provide a simple synopsis. She was, however, able to report key findings from the June 2007 Year End Report for School Year 2006-07, which draws upon analyses and data reported since September 2003 to cover the full four years of the program. The findings include:

- gains in the number of students at Benchmark (students at low risk for reading problems) at all grade levels;
- gains by ethnicity at Benchmark at all grade levels, as follows:
  - Hispanic students made the greatest gains of all groups, increasing by approximately 25.2 points;
  - white students increased by approximately 21.2 percentage points; and
  - Native American students increased by approximately 16.6 percentage points.
- An analysis of data by funding cohort (that is, schools funded in 2003, 2004, or 2006) indicates that the New Mexico Reading First program is improving in its ability to support schools in implementing Reading First, with Cohort 3 schools making great gains during their first year of implementation;
- at each grade level there are more students at Benchmark and fewer students at Intensive each year since the program began;

- at the end of each year of program implementation, the increase in the percentage of students of all racial/ethnic groups at Benchmark has been greater than the previous year (Table 2 of the Report); and
- the achievement gap between ethnic groups has narrowed over time.

Ms. Herman said that in its June 2007 report, EDC analyzed the scores on the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) assessment compared with those on the New Mexico 3<sup>rd</sup> grade standards based assessment and found there was a small trend of the non-participating schools performing better. Although preliminary 3<sup>rd</sup> grade New Mexico standards based assessment results suggest that some non-Reading First schools may be succeeding as well as, or better than, Reading First schools, the programs and approaches in place in the non-Reading First schools have not been studied to determine what they are, or how they compare with Reading First. The major issue, Ms. Herman said, is that DIBELS data are not entered into the Student Teacher Accountability Reporting System (STARS), and longitudinal tracking of individual student scores has not been conducted.

Regarding funding, Ms. Herman said that in federal FY 2007 Congress appropriated a total of approximately \$1.03 billion for Reading First and funds are currently allocated for Reading First programs for school year 2007-2008. She said that for FY 08, the President has requested approximately \$1.02 billion; however, in September 2006, the Office of the Inspector General issued an inspection report that found serious irregularities in the USDE implementation of Reading First. In the face of these irregularities, Ms. Herman said Reading First faces the possibility of a substantial budget decrease in FY 08, and as of September 12, 2007 US Congress is moving forward on two fronts to address the future of Reading First: reauthorization of NCLB, and appropriation of funds for USDE programs for federal FY 08. She said that although a number of bills have been filed or proposals made for NCLB reauthorization, the Education Commission of the States does not indicate that Reading First is a focus of proposals for changes in the act.

Ms. Herman said that LESC staff had conducted telephone interviews of a sample of districts to better understand some of the specific issues faced by Reading First school districts and the approaches districts are taking to address these issues. Ms. Herman highlighted the following districts whose programs were noteworthy in one or both of the following ways: (1) they have had varying degrees of success with Reading First programs in a bilingual or dual language context as measured by assessment results; or (2) they are replicating Reading First district-wide, in non-Reading First funded schools, or into the upper elementary grades in Reading First funded schools, by marshalling non-Reading First resources such as Title I and operational funds.

- Alamogordo Public Schools
  - in addition to five Cohort 2 sites, Alamogordo has included all six of its other non-Reading First funded elementary schools in its program by leveraging Title I, Title II, and operational funds. All 11 elementary schools in Alamogordo use the same core program and implement Reading First methods through fifth grade;
  - the district states that the approximate annual cost of non-Reading First sites has been \$490,000, for the following: \$320,000 for the salaries of five literacy coaches; \$150,000 for two-day literacy best practices workshops plus two in-class modeling/coaching cycles per teacher per year; and \$20,000 to pay for the cost of DIBELS assessments;

- Alamogordo also provides additional supports not included in the estimate above, such as a 1<sup>st</sup> grade Reading Recovery Intervention Program, English as a Second Language supports, and a commitment to common time for teachers to plan together;
  - the percentage of K-3 students in Alamogordo Reading First sites reading at Benchmark, according to EDC, increased by approximately 20 points, from 55.7 percent in September 2006 to 75.5 percent in April 2007; and
  - the percentage of all Alamogordo third graders reading at or above proficiency on the state standards based assessment, according to the PED website, increased by approximately 1.5 points, from 68.4 percent in 2006 to 69.9 percent in 2007. Statewide, approximately 54.1 percent of third graders were reading at or above proficiency in spring 2007, an increase of approximately a 0.5 percentage point from 2006.
- Bernalillo Public Schools
    - Bernalillo has five Reading First sites in Cohort 2. Of these, the district states that three have two-hour per week bilingual programs in either Spanish or Keres or both, while two, Roosevelt and Carroll, are Spanish-English dual language schools. Only one elementary school in Bernalillo, Placitas Elementary, is a non-Title I school that does not participate in Reading First;
    - the district states that it provides reading instruction in Spanish at Roosevelt and Carroll Elementary schools using the Spanish-language version of its district-wide core reading program – *Houghton-Mifflin's Lectura*. The district states that the schools use all of the Reading First strategies including oral and social language development in a dual language context;
    - the percentage of all K-3 students in Bernalillo Reading First sites reading at Benchmark, according to EDC, increased by 30.4 points, from 35.1 percent in September 2006 to 65.5 percent in April 2007;
    - the percentage of third grade students at Carroll Elementary reading at Benchmark, indicated by EDC, increased by 27.5 points in school year 2006-2007, from 29.6 percent to 57.1 percent;
    - the percentage of students in grades K-2 at Roosevelt Elementary reading at Benchmark increased by 45.9 percent, from 28 percent to 73.9 percent; and
    - the percentage of all Bernalillo third graders reading at an above proficiency, according to the PED website, increased by approximately 5.7 points, from 48.9 percent in 2006 to 54.6 percent in 2007.
  - Central Consolidated Schools
    - four elementary schools in Central Consolidated School District are Cohort 3 sites that have been implementing Reading First for one year. All have bilingual programs; one, Nataani Nez, is a dual language school;
    - the district states that Nataani Nez uses both Diné and English in Reading First oral language development activities; uses the Navajo language to identify synonyms; and students discuss passages that have been read in English in both languages from a cultural perspective (i.e., how would the story be different if set on the Navajo Nation or if the protagonists were Navajo?);
    - the district states that three schools with bilingual programs use similar strategies less aggressively, since students in those schools generally have less command of the Navajo language;
    - the percentage of all K-3 students in Central Consolidated Reading First sites reading at Benchmark, according to EDC, increased by 16.9 points, from 36.1 percent in September 2006 to 53 percent in April 2007;

- the percentage of students at Nataani Nez Elementary reading at Benchmark, according to EDC, increased by 15.6 points, from 39.9 percent in September 2006 to 55.5 percent in April 2007; and
  - the percentage of all third grade students in Central Consolidated Schools reading at or above proficiency, according to the PED website, increased by approximately 1.0 percent, from 39.6 percent in 2006 to 40.6 percent in 2007.
- Dulce Independent Schools
    - the sole elementary school in Dulce has been a Reading First site since school year 2004-2005. Dulce has begun extending Reading First to 4<sup>th</sup> and 5<sup>th</sup> grades, using the same core reading program as in the lower grades;
    - the district states that it is providing two reading coaches in the elementary school so every teacher can be trained to use data to differentiate instruction, working almost exclusively in small groups or one-on-one with students;
    - the district has also focused on building community confidence in the likelihood of success for its children based on the positive results of the Reading First program;
    - the percentage of students at Dulce Elementary reading at Benchmark, according to EDC, increased by 23.8 points, from 47.6 percent in September 2006 to 71.4 percent in April 2007;
    - the percentage of all third grade students in Dulce reading at or above proficiency, according to the PED website, increased by approximately 14.6 points, from 34.2 percent in 2006 to 48.8 percent in 2007; and
    - the percentage of third grade students in Dulce reading at the beginning level, as per the PED website, declined by 33.6 points, from 47.4 percent in 2006 to 13.6 percent in 2007.
- Española Public Schools
    - all of the 12 elementary school sites in Española have funded Reading First programs. Five schools funded in Cohort I are in their fifth and final year of Reading First funds. The district indicates that these sites are funded at a much lower level than the seven Cohort 3 sites;
    - Española is using Title I and operational funds to pay the salaries of approximately five full-time equivalent staff acting as interventionists and coaches to maintain the Reading First program at the five original sites. Reading First funds pay for assessments and teacher professional development at those sites, including trained substitute teachers;
    - the district indicates that like Alamogordo and Dulce, it is expanding Reading First to every elementary school grade level, using the Open Court core reading program district-wide; and
    - the percentage of all third grade students in Española reading at or above proficiency, according to PED, increased by approximately 11.1 points, from 39.6 percent in 2006 to 50.7 percent in 2007.
- Grants-Cibola County Schools
    - three elementary schools in Grants are in their fifth year at Reading First funding and two have begun their second year. Two elementary schools in Grants are not Reading First sites; however, through Title I, operational and federal Indian Education funds, those two sites are also implementing Reading First curricula, methods, and professional development. In fact, Grants-Cibola County states that it has been a district-wide Reading First district for five years. All of the sites also have bilingual programs in the Spanish, Navajo, and/or Keres languages;

- the district indicates that it uses Reading First oral language development methods to encourage bilingualism;
- because its bilingual programs are structured as “pull-outs” the district’s schools are challenged to schedule the 90-minute literacy block, 30 and 60 minute interventions, and bilingual sessions;
- the district states that its primary strategy for meeting this challenge is to encourage teachers to earn both reading and TESOL (Teaching English to Speakers of Other Languages) endorsements and to support them by paying for courses and tests to earn those endorsements. The district also provides one bilingual resource person at each site;
- according to the district, although teachers “are a bit overwhelmed” they are also motivated by the success students are showing;
- the percentage of Reading First students in Grants-Cibola County schools at Benchmark, according to EDC, increased by 25.2 points, from 47 percent in September 2006 to 72.2 percent in April 2007; and
- the percentage of all third grade students in Grants-Cibola County Schools reading at or above proficiency, according to the PED website, increased by approximately 0.7 percent, from 50 percent in 2006 to 50.7 percent in 2007.

To conclude, Ms. Herman discussed several issues related to reading in the primary grades including: reading instruction in non-reading First Schools; the Rural Literacy Initiative; the Reading Materials Fund; and the 2007 legislation (HM 109, *Scientifically Based Instructional Materials*) requesting that the LESC study PED’s reading instructional materials adoption process to ensure that only scientifically proven instructional materials are adopted.

As to policy options, Ms. Herman said the committee may wish to consider encouraging research and analysis about reading in the primary grades, by:

- encouraging appropriate research entities, such as colleges of education at New Mexico research universities or the Office of Education Accountability, to compare and analyze available assessment data for reading programs in primary grades to better understand what works for which populations of students;
- requesting that PED go forward with announced plans to enter DIBELS and other short-cycle assessment data into the STARS in Phase III of STARS implementation, including retroactively entering data collected for other programs, including at a minimum Reading First and full-day kindergarten so this data is available for a systematic longitudinal study;
- requesting PED to make recommendations if other action is needed to collect assessment data for reading in grades 1 and 2, or to measure long-term outcomes for students who participate in Reading First and other primary grades reading programs as they proceed through the later grades; and
- supporting the work of the Instructional Materials Bureau in ensuring that only those reading resources that are supported by sound scientific research are included on the materials list, and to:
  - require PED to establish clearly articulated standards for the quality and type of research that can be submitted in support of a publisher’s application; and
  - consider requesting that the PED Instructional Support and Vocational Education Bureau develop a rubric or other guidance regarding the selection of language arts and literacy intervention materials for high school students, based on the research compiled in *Reading Next* and any other appropriate reviews of research on adolescent literacy.

## **Committee Discussion:**

In response to a committee member's request for clarification regarding which eligibility criteria applied for extensions of Reading First grants, Dr. Paolillo explained that, while new grantees in Cohort 3 had to be eligible under the old criteria, PED had permission from USDE to extend existing grants up to a total of six years if grantees were showing success. She stated that there were no grantees with successful programs that wanted an extension and that did not receive one. Dr. Paolillo also explained that eligibility for new Cohort 3 grants changed after the RFP was issued when the results of the 2006 New Mexico standards based assessments were released, because the reading scores of some school districts improved to reduce the percentage of third graders in the lowest quartile below 20 percent, making those districts ineligible for new grants.

In response to a committee member's question concerning the composition of the Reading Leadership Team that met every six weeks, Dr. Paolillo explained that it was the team appointed in FY 05. She stated that she was remiss in failing to continue to meet with the original Reading Leadership Team created in 2002, and that she would do so in the future.

In response to a committee member's question whether a change in statute would be required to mandate that PED consider research-based effectiveness in selection of reading materials, Mr. Perea stated that it would, since current statute simply provides that PED may consider research in selection. Mr. Perea indicated that because of that language, however, the adoption lists are becoming much shorter than they used to be. Dr. Cross Maple stated that she anticipated the adoption list for reading that results from the new process will closely resemble the Reading First list.

A committee member expressed concern that Native American students in particular continue to do poorly in reading, writing, and mathematics.

Several committee members expressed renewed concern about what actually is covered in the reading courses required by statute for teacher licensure programs, and whether stronger mandates need to be added to the law to ensure that the courses are based on scientific reading research.

Committee members noted their concern about the potential decrease in federal funding for Reading First.

Senator Kernan requested PED to provide a list of the school districts that were not eligible for the 2006-2007 "round" of Reading First grants and the data on which the determination was based.

Senator Nava requested that PED provide a list using the most recent assessment data comparing the public school districts eligible for Reading First grants based on the previous eligibility criteria and those eligible for grants based on the new eligibility criteria.

With the consensus of the committee, Representative Miera recessed the meeting at 5:14 p.m.

**MINUTES  
LESC MEETING  
THURSDAY, SEPTEMBER 13, 2007**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on September 13, 2007, at 9:14 a.m., Eagle Ridge Middle School Gymnasium, Rio Rancho, New Mexico.

The following LESC members were present:

Representatives Rick Miera, Chair, Roberto “Bobby” J. Gonzales, Jimmie C. Hall, Mimi Stewart, Thomas E. Swisstack, and W.C. “Dub” Williams; and Senators Cynthia Nava, Vice Chair, and Mary Jane M. Garcia.

The following LESC advisory members were present:

Representatives Ray Begaye, Nathan P. Cote, Mary Helen Garcia, Thomas A. Garcia, Dianne Miller Hamilton, John A. Heaton, Rhonda S. King, Jim R. Trujillo, and Teresa A. Zanetti; and Senators Dianna J. Duran and Lynda M. Lovejoy.

Also in attendance were Representative Thomas A. Anderson and Senator Joseph J. Carraro.

**STUDENT ACHIEVEMENT AND FUNDING OF EDUCATIONAL TECHNOLOGY:  
VISIT TO RIO RANCHO CYBER ACADEMY AND DEMONSTRATION OF  
EDUCATION TECHNOLOGY PROGRAMS**

Mr. Peter van Moorsel, Legislative Education Study Committee (LESC) staff, began his presentation by saying that this report represents the first of a two-part review of educational technology. This first portion, he said, includes state and federal education technology funding for New Mexico public schools and the effect of educational technology on student achievement. The second portion, which will be presented in October, will include a review of educational technology programs, including IDEAL-NM (Innovative Digital Education and Learning-NM), and the Statewide Cyber Academy. Mr. van Moorsel introduced Ms. Elaine K. Manicke, Director, Rio Rancho Cyber Academy and Mr. Richard Bruce, Information Technology Executive Director, Rio Rancho Public Schools, and said they were available to respond to questions.

In explaining the *Technology for Education Act*, Mr. van Moorsel said it was enacted in 1994, and its purposes were to provide sustained support for telecommunications and educational technology and to establish a strategic plan and funding strategy for the development and maintenance of an effective technological infrastructure for all learners in New Mexico. He said the act creates an Education Technology Bureau within the state education department and creates the Educational Technology Fund, which provides for distributions on a per student membership (student enrollment) basis of educational technology funds to school districts. In addition, he said the act also stipulates that school districts must develop a plan for the integration of educational technology into the public schools and must coordinate technology-related education activities with other state agencies, the federal government, business consortia and public or private agencies or individuals. He said that according to the act, the Education Technology Bureau must review and approve the school district’s plans on an annual basis prior to distributing money from the Education Technology Fund.

Mr. van Moorsel said that an issue is that even though technology plans have not been approved, PED reports that allocations from the fund have been made to the districts. At this time, he said 16 districts and 20 charter schools currently do not have an approved technology plan because they have expired and new plans have either not been submitted, submitted but not approved, or submitted and pending approval. Also, he said that 10 of the charter schools without technology plans have never had an approved technology plan.

In terms of educational technology funding, Mr. van Moorsel said that in past fiscal years, both state and federal funding sources have been utilized to integrate educational technology into New Mexico public schools. He said the *Technology for Education Act* defines educational technology as “tools used in the educational process that constitute learning resources and may include closed circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser and CD ROM discs, video and audio tapes or other technology.” He said the definition also includes the training, maintenance, equipment and computer infrastructure information, techniques and tools, used to implement technology in classrooms and library and media centers.

Mr. van Moorsel said funding for educational technology from both state and federal sources since FY 00 has totaled approximately \$340.1 million, including approximately \$37.8 million for FY 08. State funding since FY 00 totals approximately \$150.0 million, including approximately \$35.9 million for FY 08. This funding includes:

- approximately \$47.0 million to the Educational Technology Fund, including \$6.0 million for FY 08;
- approximately \$4.3 million to the Educational Technology Deficiency Correction Fund for FY 07 and subsequent fiscal years; and another \$1.5 million appropriated by the 2006 Legislature, used for the same purpose;
- approximately \$89.4 million in direct appropriations, including approximately \$24.1 million for FY 08; and
- \$10.2 million since FY 04 for the New Mexico Laptop Learning Initiative (NMLLI), including \$1.5 million for FY 08.

Mr. van Moorsel said that direct appropriations are a significant source of educational technology funding for New Mexico schools, and the Capital Outlay Bureau (COB) at PED administers the direct appropriations. He said that according to PED, before expending funds on projects for which the Legislature has appropriated funds, districts must submit a request for project plan approval to the COB. If approved, the school district may then make these purchases with its own funds to be reimbursed by the COB.

In terms of federal educational technology funding, Mr. van Moorsel said the federal government is a significant source of educational technology funding for states. Two major federal initiatives are administered by the US Department of Education (USDE), and the Federal Communications Commission (FCC). He said the USDE’s Enhancing Education Through Technology (EETT) program awards money to states to help integrate educational technology into public schools, and the FCC administers the Universal Service Fund, from which money is allocated to states for telecommunications and internet connectivity through the Schools and Libraries Program, more commonly known as E-Rate. Since FY 00, Mr. van Moorsel said, these two sources have provided New Mexico with approximately \$189.3 million in educational technology funding and discounts on telecommunications services and infrastructure. This funding includes:

- approximately \$23.1 million for the EETT program, which first provided funding to New Mexico in FY 03; and
- approximately \$166.1 million for the E-Rate program since FY 00.

Mr. van Moorsel provided a brief overview of the effect of educational technology on student achievement. He said that, according to the National Education Association, “the technology environment of today’s public schools should match the tools and approaches of the work and civic life that students will encounter after graduation.” Integrating technology “will ensure that schools stay relevant to today’s students, as well as equip them for success in life after school.” Mr. van Moorsel said a November 2006 National Conference of State Legislatures (NCSL) article cites educational technology as a tool for teaching and learning which, when well implemented, can provide many educational benefits, including;

- engaging students through multi-media, interactive content;
- strengthening understanding and thinking skills through exploration, collaboration, and creation;
- adapting to support differentiated or personalized learning for students who have a specific learning style, pace, or needs;
- keeping knowledge current and information accurate;
- enhancing accessibility for physical or learning disabled students through assistive technologies and presentation of content in alternative modalities; and
- integrating testing and classroom management tools, thus allowing real-time tracking of student performance to inform instruction and provide accountability.

Continuing with this issue, Mr. van Moorsel said that the effectiveness of educational technology in improving student achievement is still somewhat controversial. He said research findings have generally shown a positive effect of educational technology on learning. However, a meta-analysis of educational technology studies finds that “many of the studies currently available are descriptive studies, and do not use treatment and control groups for comparisons; rather, they typically compare gain scores from pre- and post-tests to expectant gains based on historical data.” The NCSL report adds that a definitive relationship between computer use and student achievement is difficult to identify and quantify since the link may depend on how the technology is used as well as how achievement is defined and measured.

Mr. van Moorsel said that although there has been little significant study of educational technology programs in New Mexico in general, one program, the NMLLI was the subject of an Legislative Finance Committee (LFC) limited scope review in 2006. The review found insufficient implementation of the program, deficient networks, lacking technology-based curricula, and insufficient program evaluation and data collection. He said this finding should not be interpreted as a failure of educational technology, but rather as evidence of the importance of proper implementation.

Given the positive findings of national research on the effectiveness of educational technology in improving student achievement and the investment the state has made in educational technology, Mr. van Moorsel said the committee might wish to consider the following policy options:

- A major finding of the LFC review of the NMLLI was that the program suffered from insufficient implementation and insufficient data collection by the Public Education Department (PED) for evaluation of the initiative. The committee may wish to consider including language with the appropriation for NMLLI that a portion of the appropriation be used for program administration and evaluation;
- School districts are required by law to use the adequacy standards to complete a self-assessment of the outstanding educational technology deficiencies within the school district and to provide cost projections to correct the outstanding deficiencies. By FY 09, these self-assessments must, by law, be validated by an independent third party. To ensure that these validations are completed in a timely manner, the committee may wish to require PED to develop a plan for meeting the FY 09 requirement of validating these self-assessments and to provide this plan to the committee prior to December 2007; and
- Despite the statutory requirement that districts have approved technology plans in place in order to receive allocations from the Educational Technology Fund, PED has distributed funds to districts without approved technology plans. PED also reports that 16 districts and 20 charter schools currently do not have approved technology plans. In order to ensure that PED complies with this provision in law, the committee may wish to require PED to submit a report of its activities in reviewing and approving the plans, together with assurance that future allocations will be contingent upon approved plans.

Dr. Rindone reported on an issue regarding PED's practice for distributing funds from the Educational Technology Fund. She said that the night before, in speaking with a staff member from the Administrative Services Division, Finance and Operations, she learned that PED distributes 90 percent of the funds directly to school districts based on the districts' estimated adjusted entitlement as specified in statute. The remaining 10 percent, Dr. Rindone noted, should be distributed on or before January 30 of each year after PED recalculates the adjusted entitlement based on the final funded membership; however, she said PED does not distribute this amount unless the school districts request it. She said the explanation from PED for this practice, is because the statute only says to "allocate" and not to "distribute" funds. In concluding her remarks, Dr. Rindone said that state statute also uses this same methodology of distributing funds with the Instructional Material Funds; however, these funds are distributed to districts automatically, without districts requesting them. Since both of these programs are entitlement programs, Dr. Rindone questioned why districts needed to request the 10 percent allocation prior to PED disbursing these funds.

In conclusion, Mr. van Moorsel said that considering the caveats of the research conducted, educational technology appears to have the potential for improving student achievement; however, research indicates that this potential will not be fully realized without the support of ongoing and sustainable teacher professional development, teacher preparation, access to tools and resources, curricular design, and leadership.

The committee and staff visited the Rio Rancho Cyber Academy where Ms. Elaine K. Manicke, Director, Rio Rancho Cyber Academy, and two students gave an overview of the academy. Ms. Manicke said the program objectives of the academy are to enhance learning through effective technology and to create a model school for distance learning. She said the school serves grades 7-12, and has a current enrollment of 143 full-time students and 30 blended students. Ms. Manicke said the school is in its third year of operation, graduating 12 students in May 2007 and that its instructional delivery is aligned to state standards and benchmarks and has continuous formative and summative assessments. She said highly qualified instructors monitor progress and provide tutoring. The visit afforded the committee members the opportunity to observe and visit with students that were working on programs related to career pathways.

Upon return from the Cyber Academy, Mr. Richard Bruce, Information Technology Executive Director, Rio Rancho Public Schools, and his technology staff – Ms. Terri Meier, Eagle Ridge Middle School; Ms. Tammy Karler, Ernest S. Stapleton Elementary School; and Ms. Michelle Schroer, Rio Rancho Mid-High, gave a short demonstration of the SmartBoard Classroom Response System.

### **Committee Discussion:**

In response to a committee member's question whether PED intends to flow money when the school districts have the technology plans or will funds be held until all of the plans are received, Dr. Jim Holloway, Assistant Secretary, Rural Education Division, PED, said the money will be distributed once the districts submit their plans.

In response to a committee member's question whether the school districts have experts to write the technology plans, Dr. Holloway said that school districts use a template to write the plan, and the expertise in technology is not needed in the planning development stage. On this point, a concern was expressed by a committee member on the amount of dollars that are poured into technology for school districts without the expertise to implement and educate personnel on its use.

Representative Miera called attention to the remark by Mr. van Moorsel of the NMLLI program, which should not be interpreted as a failure of educational technology, but rather as evidence of the importance of proper implementation, and asked if there is a plan to improve this program and address the discrepancies found in it by the LFC. Dr. Holloway said there is a plan underway which includes distance learning, statewide cyber academy, as well as the lap top initiative, adding that PED is also working on staff development issues regarding the lack of expertise to implement and educate personnel on the use of technology.

Senator Nava and Representative Miera requested that PED provide (1) the rationale of why the final 10 percent allocation of the appropriation to the Educational Technology Fund is distributed only upon the request of a school district; (2) the current balance in the Educational Technology Fund; and (3) the final 10 percent allocation of the appropriation by district of the Educational Technology Fund for school year 2006-2007; and (4) the fund balance that remains undistributed.

### **STUDENT TEACHER ACCOUNTABILITY REPORTING SYSTEM (STARS): DEMONSTATION OF STARS**

Ms. Frances Maestas, Legislative Education Study Committee (LESC) staff, said that in 2005, language was included in the *General Appropriation Act* to establish a comprehensive data warehouse at the Public Education Department (PED) to begin to collect and to store student, teacher, course, testing, and financial data in one comprehensive system. She said that together with the requirement for the conversion to a uniform public school chart of accounts (financial data), the data warehouse should provide the state with accurate, consistent, and reliable data to assist in the decision-making process. She said the implementation of a comprehensive data warehouse at PED has been supported by the Legislature with appropriations of approximately \$11.1 million to PED, including four full-time term equivalent positions.

Before reporting on the progress of the Student Teacher Accountability Reporting System (STARS), Ms. Maestas presented background on the national organization upon which New Mexico is basing the formation of its longitudinal data system. Acknowledging the relationship of data to sound education decision making, Ms. Maestas said, states are at various stages of building and using data warehouses to collect, store, and analyze longitudinal student data, which provide access to timely, valid, and relevant data for teachers to use to tailor instruction to help students improve, for administrators to effectively and efficiently manage, and for policymakers to evaluate which policy initiatives show the best evidence of increasing student achievement and outcomes. She said that data-driven decision making to improve student achievement is taking its rightful place among the important tools used by policymakers, teachers, and administrators.

Ms. Maestas said that according to the Data Quality Campaign (DQC), an initiative of the Education Commission of the States (ECS), it is difficult to provide a single price tag for developing a state data warehouse because of the differences in each state's demographic characteristics. Furthermore, she said it is difficult for states or districts to estimate the costs of a data warehouse system because so much of the process is absorbed into the current infrastructure. Cost differences also may differ because some states implement complete new systems while other states enhance or upgrade existing systems, she said, in an effort to better understand the scope and design of diverse systems, including the costs to create them. Ms. Maestas said that in 2006, DQC conducted a case study of four leading states – Florida, Utah, Virginia, and Wisconsin. A table was included in the report which compares the differences in demographics among the case study states including New Mexico's demographics demonstrating the issue of any valid comparisons.

The DQC study, Ms. Maestas said, emphasizes that the costs do not take into account the real and potential savings that occur as a result of better data quality and the reduction of outdated and duplicate data collections. She said district and state representatives in every state indicate that although changing systems was difficult, the benefits outweighed the costs when considering the improved data quality and information available for research and decision making.

Another point of emphasis, Ms. Maestas said, is that although building and implementing a longitudinal data system is costly and time consuming, it is not a one-time cost. She said the systems not only will need to be maintained in terms of hardware, software, and annual training, but they also will need to be adapted over time to add and delete data elements as state and federal reporting requirements and accountability systems change. For these reasons, she said, instituting a detailed process for the annual review of data elements, data collection procedures, training methods and infrastructure upgrades should be a part of the state's long term vision of the data system.

Reporting on the New Mexico data warehouse, Ms. Maestas said that in 2006 in a presentation to the LESC, PED outlined the progress it was making in implementing STARS data warehouse. She said PED reported that, with the completion of phase one (design and development) of STARS, the PED project team identified 11 school districts to participate in a 2006 pilot project to train school district personnel on the data submission and the support capabilities of the system. She said the objectives of the pilot, were to validate the data collection and submission process prior to requiring all New Mexico school districts to submit data to STARS for school year 2006-2007. Ms. Maestas said that PED emphasized that all districts and charter schools were in the process of submitting their 40<sup>th</sup> day data for school year 2006-2007, and eight of the 10 elements identified by the DQC as being essential in a longitudinal data system had been implemented in STARS.

A major issue, Ms. Maestas said, is that LESC staff must make cost estimates for public school support recommendations for upcoming legislative sessions and need the data from PED to develop those recommendations; however, during the 2007 legislative session, data for school year 2006-2007 was not provided by PED because according to them, unreliable data was submitted to STARS by school districts and charter schools keeping the department from providing final approval of data for the 40<sup>th</sup>, 80<sup>th</sup>, and 120<sup>th</sup> school days required reporting. As a result, LESC staff had to adjust the 120<sup>th</sup> day data from school year 2005-2006 in all of its cost estimates. More problematic, she said, is the report by PED staff to LESC staff that data had to be collected outside of STARS in order to determine enrollment growth program units and to set the final unit value for school year 2006-2007.

In discussing STARS' components and capability, Ms. Maestas said, according to school year 2007-2008 STARS' user guide developed by PED, STARS uses the eScholar data warehouse model which stores data in a relational database that integrates summary detailed student and staff information. She said this model uses a standard set of templates for nine domains that provide a consistent format for loading data from various school district information systems into the warehouse. Ms. Maestas referred to several attachments that illustrated the eScholar templates used in STARS and schedules for the submission of data.

However, Ms. Maestas stated that there is an issue with regard to pre-kindergarten students. She said current law requires PED to issue a state identification (ID) number for each public school student for use in the accountability data system; however, the reporting requirements for STARS do not consider New Mexico pre-kindergarten students in the public schools other than those in the three- and four-year-old programs. In addition, although a student ID is currently issued by PED for state-supported pre-kindergarten students in Children, Youth and Families Department-approved programs, the law does not require that student data to be submitted to STARS because technically they are not public school students.

Regarding accessibility to STARS data, Ms. Maestas reported that many school districts and charter schools do not have the systems capability to submit template data for all nine domains. Therefore, PED developed STARS access, an easy-to-use editor that can be used to create the STARS templates. She said the issue here is that in its STARS Access User Manual, PED refers to STARS Access User Guide as a "template editor" rather than an application because it is organized around the STARS templates. She said the STARS user guide does not include or describe who has access to STARS data nor describe security measures. According to PED, only the designated STARS coordinators in each district have access to STARS data and reports, and other authorized personnel vary from district to district based on approval from their respective superintendents. Therefore, security appears to be an issue in some districts. According to PED staff, if funded in the 2008 legislative session, the phase 3 implementation initiatives for STARS will include security administration.

Ms. Maestas said the LESC staff distributed a survey to all school district superintendents and charter school administrators on August 25, 2007 requesting information on district and charter school personnel that perform STARS activities, including data entry staff at the district and school levels. She said other questions on the survey related to staff training and costs. Ms. Maestas said the last item on the survey also allowed respondents to provide general comments about the implementation of STARS. In total, she said responses from 11 public school personnel representing 10 charter schools and six districts were received by the survey deadline. The largest school district responding to the survey has an enrollment of approximately 1,800 students and the smallest has an enrollment of 280 students. Ms. Maestas stated that because the number of surveys returned was so small, the responses cannot be

generalized to all school districts and charter schools. She added that LESC staff will attempt to obtain responses from the rest of the school districts and charter schools in order to present a clearer picture of these issues prior to the legislative session.

Overall, Ms. Maestas said, the district and charter school respondents report that:

- they do not employ a full-time STARS coordinator;
- the functions of the STARS coordinator are generally performed by a secretary. One district reported that these activities are performed by 15 staff, including the superintendent, business manager and at all school levels the principal, secretary, nurse, and bilingual teachers;
- secretaries generally enter STARS data at the district and school levels;
- school-level data is primarily being submitted directly into a school-level information system; however, four charter schools report that they submit data to the district STARS coordinator in hard copy;
- PED staff are generally courteous when contacted for assistance but not always readily accessible;
- PED staff do not consult with district or charter school before making changes to STARS;
- training for school-level data entry personnel is mostly provided by district or charter school staff. Charter school responses indicate that little or no training is provided by either the district or PED; and
- STARS data is currently being used to primarily inform teaching, project enrollment, and to communicate with parents. One school district states that they “are anxious to continue data-driven decision-making.”

Given the importance of timely, accurate, and comprehensive data, together with the sensitive nature of these data, Ms. Maestas suggested the committee’s policy options might focus on both the collection of data and the secure access to and use of data. Therefore, she said, the committee may wish to consider requesting LESC staff to examine the feasibility of amending current law to codify the requirements for the comprehensive data warehouse to ensure that the Legislature has access to uniform, consistent, and reliable data for decision-making purposes.

Mr. Robert Piro, Communication Information Officer (CIO) Assistant Secretary, Information Technology Division, PED; Mr. Daryl Landavazo, STARS Project Manager, PED; and Mr. Mitch Johnson, Contractor and Assistant Project Manager, PED, demonstrated the capabilities of STARS from the PED website.

### **Committee Discussion:**

Representative Miera expressed concern over the fact that only the STARS coordinators can access the information. He said this information does no good if STARS is not accessible to teachers to determine proper instruction to help each student improve, to administrators to manage their school districts effectively, and to policymakers to evaluate which programs are most effective for student achievement. He also expressed concern that the coordinators consist of a multitude of school district individuals with varying job classifications, which may act as an obstacle for inputting prompt and accurate information into STARS for immediate access. He also expressed concern on the extremely low response to the LESC survey that was sent out to the school districts for completion.

In response to a committee member's question of how accurate the information in STARS is, Mr. Piro said the data is reflective of what the districts use to manage its day-to-day work. He said PED did not want the districts to be responsible for computations, so the school districts were asked to submit raw data, which then makes PED responsible for computation or comparisons.

In response to a committee member's question if there will ever be a time with STARS that a parent can access this information, Mr. Piro said that a lot of information is on the website now and accessible to parents as well as others.

In response to a committee member's question of who handles the data system in New Mexico, Ms. Maestas said PED oversees the public education data and the Higher Education Department (HED) handles the postsecondary data – two separate executive agencies, while in Florida the data system is under one umbrella. She added that legislation was enacted to require HED to incorporate the student higher education ID number into STARS, and a memorial was passed in 2006 on data sharing among HED, PED and other state agencies.

In response to a committee member's question of what districts the Regional Education Cooperative (REC) #9 represents and if a survey was sent to them also, Ms. Sandy Gladden, Director, said her REC represents Capitan, Carrizozo, Cloudcroft, Corona, Hondo, Ruidoso, and Tularosa and that she responded to the survey on their behalf.

In response to a committee member's question of what strategy will be used to get consistency on the input of data, Ms. Maestas said that PED has provided a data conference and will provide another in October to address this issue.

In response to a committee member's question if this system can be connected to student achievement, Mr. Piro said that currently it is not possible; however it will be done when the system goes into its next phase of implementation.

In response to a committee member's question of how information can be shared from one school district to another, Mr. Piro said there must be an agreement in place with the parent in order to comply with the *Family Rights and Privacy Act*.

In response to a committee member's question if STARS has the ability to see which teachers are able to move students further along from one school year to another, Mr. Piro said the system can now tie a student to a teacher, a teacher to a course, and a course to a school.

In response to a committee member's concern that PED is sharing their data with the Office of Education Accountability (OEA) and not with LESC staff, Mr. Piro said PED does not treat OEA any differently than the LESC or the Legislative Finance Committee (LFC).

In response to a committee member's contention that PED does not have a system, they only have raw data that is sent to them by school districts and they are only collecting it, not doing anything with it, Mr. Piro said that although it may not necessarily be the best data, they do have a system that can produce a district profile; however, PED does not have the funds to build the security system that is needed.

At the request of Representative Miera, Dr. Peter Winograd, Director, OEA, was asked for his comments on STARS. Dr. Winograd said OEA is in partnership with PED through a grant with the Wallace Foundation. He said the focus of the grant is to help leadership manage their districts to achieve adequate yearly progress for all of their students in all of their schools, and to this end OEA has worked closely with Mr. Piro and Mr. Landavazo.

In response to a committee member's question as to how much training has been given to the STARS coordinators on the system, Mr. Piro said PED held a training data conference in the spring of 2007 and plans to hold another one in a couple of weeks in Albuquerque. He added that there are some districts that are not trained in the system and that is because they do not attend the trainings.

In response to a committee member's question if part of the appropriation for STARS has been used to oversee training at the district level, Mr. Piro said the funds were primarily to build and implement the system.

At the request of Representative Miera, Mr. Mike Phipps, Superintendent, Artesia Public Schools, and Ms. Melany Cardwell, STARS Coordinator, Artesia Public Schools, addressed the committee on how public schools are dealing with STARS. Mr. Phipps said that Ms. Cardwell collects data from 10 schools and submits it through the internet to PED and then corrects the data that is collected to make sure it is accurate. He said that together with Mr. Jack Wiley, Superintendent, Clayton Municipal Schools, Mr. T. J. Parks, Superintendent, Tatum Municipal Schools, and Dr. R. L. Richards, Superintendent, Texico Municipal Schools, they worked with Mr. Landavazo on the 40<sup>th</sup> day count information in STARS. He suggested that four things are needed to improve STARS: 1) improve software and communications with schools; 2) PED needs more staff and school districts also need more technology personnel; 3) more training on STARS is needed – principals are using the data from Dr. Winograd not from STARS; and 4) ensuring that data is accurate and reliable. Ms. Cardwell said the data entry to STARS in Artesia is facilitated by clerical staff at the school level. She said she gives them training twice a year and then visits each school every semester, or as often as needed. She said that currently she is not comfortable with the accuracy of the data.

Representative Miera requested LESC staff write a letter on behalf of the committee to Public Education Secretary Veronica C. García asking that she contact Dr. Rindone to discuss the issuance of a log-in ID for LESC staff.

## **SUPERINTENDENTS AND COMMUNITY INPUT**

### **CNM/High School Film Initiative**

Mr. Jim Graebner, Film Instructor, Central New Mexico (CNM) Community College, presented information on the CNM/High School Film Initiative, which is in response to the increasing demand for New Mexico residents trained in below-the-line film crew positions. He said this initiative would give high school students up to 12 articulated college credits in two years, tuition free; allow students to have completed up to half of CNM's film crew technician program prior to graduation; allow students hands-on and real world experience using the equipment of the industry and allow high school students throughout the state to begin a high demand career pathway with jobs starting at \$22.50 per hour. He said the basic start-up equipment package required for each participating high school to initiate this program will cost approximately \$12,000.

## New Mexico Consortium of Academic Libraries

Dr. Holly Shipp Buchanan, Director, Health Sciences Library & Information Center, thanked the committee for the support that has been given to them in the past, but pointed out that 10 years of funding lower than their national peers have left New Mexico libraries endangered. She said that for higher education to succeed in the 21<sup>st</sup> Century all academic libraries need to be transitioning to the digital world and adopting new roles to serve the needs of students, faculty, and life-long learners. She said the goal of the New Mexico Consortium of Academic Libraries is to rectify this inadequate funding over the next three years so that libraries in colleges and universities can serve not only local students and faculty but also be partners in meeting the collective needs of citizens statewide.

Dr. Buchanan said that New Mexico colleges and universities spend \$232 per student on library services while the national average allocated for academic libraries is \$386, resulting in a funding gap of \$150 per student. She said that passing the General Obligation Bond during the November 2008 election will help public academic libraries to provide round-the-clock access to library information resources for all students and faculty no matter where they live, update current library materials for college students across New Mexico, and help college libraries and programs meet accreditation standards. She asked the LESC for their support of the statewide General Obligation Bond initiative.

## New Mexicans for Responsible Sexuality Education

Ms. Joan Sanford, Vice President, New Mexicans for Responsible Sexuality Education, asked the committee to consider responsible sexuality health education as part of the overall education improvement efforts set forth by the Legislature. She said responsible sexuality education is about more than just sex. Comprehensive programs are about relationships, families, and health. She said existing research has shown that comprehensive sexuality education programs that include age-appropriate and medically accurate information about abstinence, contraception, and condoms delay the onset of sexual activity among teens and make them more likely to protect themselves when they do become sexually active. She said this approach ensures that young people receive a quality education that will help prepare them for life.

Ms. Sanford said that congress has spent over \$1.0 billion on ineffective abstinence-only-until-marriage programs, and New Mexico received \$1,336,251 in federal funds for these programs in FY 06. She said a federally supported evaluation of abstinence-only-until-marriage programs by Mathematica Inc., has proven the program is ineffective in changing teens' sexual behavior. She noted that abstinence only programs do not meet the New Mexico PED Health Education Standards and Benchmarks, which states, "Health education is the instructional program that provides the opportunity to motivate and assist all students to maintain and improve their health, prevent disease, and reduce health-related risk behaviors. It allows students to develop and demonstrate increasingly sophisticated health-related knowledge, attitudes, skills, and practices. It meets the content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC."

Ms. Sanford asked that the committee consider responsible sexuality health education as part of the overall education improvement efforts set forth by the state legislature. She said the New Mexico Department of Health and the New Mexico PED should be encouraged to collaborate to create healthier students which will foster their academic success.

With the consensus of the committee, Representative Miera recessed the LESC meeting at 4:55 p.m.

**MINUTES  
LESC MEETING  
FRIDAY, SEPTEMBER 14, 2007**

Representative Rick Miera, Chair, called the Legislative Education Study Committee (LESC) meeting to order on September 14, 2007, at 9:12 a.m., Eagle Ridge Middle School Gymnasium, Rio Rancho, New Mexico.

The following LESL members were present:

Representatives Rick Miera, Chair, Roberto “Bobby” J. Gonzales, Jimmie C. Hall, Mimi Stewart, Thomas E. Swisstack, and W.C. “Dub” Williams; and Senator Mary Jane M. Garcia.

The following LESL advisory members were present:

Representatives Ray Begaye, Nathan P. Cote, Mary Helen Garcia, Thomas A. Garcia, John A. Heaton, Rhonda S. King, Sheryl Williams Stapleton, Jim R. Trujillo, and Teresa A. Zanetti; and Senators Mark Boitano, and Dianna J. Duran.

Also in attendance were Senator Joseph J. Carraro and Representative Thomas A. Anderson.

**NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY (NMPSIA)**

Ms. Frances Maestas, Legislative Education Study Committee (LESC) staff, introduced Mr. Sammy Quintana, Executive Director, Ms. Christy Edwards, Deputy Executive Director, Mr. Robert Romero, Comptroller; and Mr. Frank Coppler, General Counsel, New Mexico Public School Insurance Authority (NMPSIA) to discuss the agency’s FY 09 budget request.

Ms. Maestas explained that each year, the Legislature appropriates dollars to the State Equalization Guarantee Distribution (Public School Funding Formula) to fund increases in the employer’s group insurance contribution rate for member school districts and charter schools participating in NMPSIA. The dollars appropriated, she noted, are based on an appropriation request by NMPSIA that is based on projected contribution rates that NMPSIA considers to be adequate for its member districts and charter schools to provide for anticipated insurance claims, administrative costs, and reserves in the ensuing fiscal year. These increases are often offset by NMPSIA board action that allows the agency to use unrestricted cash balances to reduce the projected increases for both the employer and the employee.

Prior to outlining the health benefits portion of the FY 09 request, Ms. Edwards reported that updated FY 08 projections by NMPSIA indicate additional revenues will be available in the current year. As a result, Ms. Edwards said the NMPSIA board has decided to return dollars to its members and has voted to use \$9.2 million from its benefits fund balance to provide two additional enhancements effective January 1, 2008: (1) a decrease to \$15 from \$20 in primary care office visit co-pays; and (2) a zero co-pay for formulary diabetic prescriptions. In addition, the board voted to defer the FY 08 medical insurance increases to February 1, 2008 instead of October 1, 2007.

For FY 09, Ms. Edwards noted, an appropriation of approximately \$17.3 million would be required to cover the employer's share of increased insurance premiums for public schools statewide. Using \$2.0 million of its health benefits fund balance to offset increases for its members' districts and charter schools, she emphasized, the benefits portion of the FY 09 budget request includes a 9.9 percent increase in medical insurance premiums for NMPSIA that would go into effect for public school employees October 1, 2008; a 4.7 percent increase in dental insurance premiums; and no increases for vision, life, and disability insurance.

Mr. Quintana reported that with regard to the risk program, the FY 09 request reflects an overall 10.2 percent increase in property, liability, and worker's compensation increase premiums. The overall risk fund balance, Mr. Quintana added, has fluctuated primarily because weather issues have caused significant losses, for example: the hail in Socorro about five years ago, the tornado in Clovis this year, and the flood in Hatch last year.

Mr. Quintana reported that currently, the five districts with the highest liability losses are Las Cruces, Española, Ruidoso, Hobbs, and Santa Fe. The top causes of liability, he added, include improper touching, violation of civil rights, assault (student versus student), and falls. Mr. Quintana noted that charter school liability claims usually pertain to employment issues. He noted that while the charter school claims are small, it appears that charter school administrators often do not follow proper procedure for dismissal of employees.

To conclude, Mr. Quintana noted, that the risk program request does not include premium increases resulting from due process reimbursements incurred by school districts or charter schools authorized in legislation that was enacted in 2007. The legislation, he noted, defines the term "due process reimbursement" as "the reimbursement of a school district's expenses for attorney fees, hearing officer fees and other reasonable expenses incurred as a result of a due process hearing conducted pursuant to the federal *Individuals with Disabilities Education Improvement Act* (IDEA).

Mr. Coppler provided the committee with a copy of the 2007 legislation (SB 1095, *School Insurance Due Process Reimbursement*) which amends the *Public School Insurance Authority Act* to provide reimbursement coverage for IDEA-related due process expenses incurred by school districts or charter schools, to authorize NMPSIA to collect due process reimbursement premiums from school districts and charter schools, and to set a limit of \$300,000 for any single due process reimbursement. He stated that in its original version, the legislation contained an appropriation request of \$1.3 million; however, that appropriation was stripped from the bill in the final hours of the session.

In regard to options for the committee to consider for due process reimbursements, Mr. Coppler noted that due process hearings involve administrative claims as opposed to claims that are filed against a district. He explained that under the *Tort Claims Act*, NMPSIA has a duty to defend and indemnify tort and civil rights claims; however, this requirement does not include administrative claims. As General Counsel to the NMPSIA board, Mr. Coppler added, he is of the opinion that there is merit to the argument that these are not insurance claims but costs of providing a free and appropriate public education. Rather than requiring the NMPSIA board to collect due process reimbursement premiums, as required in the 2007 legislation, he suggested that the Legislature consider providing an appropriation to NMPSIA which can be placed in a special fund to reimburse school districts and charter schools for such claims. He noted that after each legislative session, NMPSIA drafts a memorandum of coverage that set the limits of

coverage and claims. He stated that the provisions for disbursement of due process reimbursements could be included this memorandum specifying how any appropriation for these claims would be allocated based on the total of the appropriation.

### **Committee Discussion:**

In response to Chairman Miera's inquiry regarding the statewide impact of authorizing NMPSIA to collect due process reimbursement premiums from school districts and charter schools, Mr. Tom Sullivan, Executive Director, New Mexico Coalition of School Administrators, stated that the association had requested the legislation during the 2007 legislative session. He noted that while the superintendents understood that a premium would be assessed to all districts, they also agreed that the premium should be based on a sliding scale amount that considers the due process claim experience of each district.

In response to a committee member's question relating to the number of due process cases that have gone to court, Mr. Coppler indicated that at least six cases have been settled in federal court. He noted that the settlement amount generally includes attorney fees and the value of the economic opportunity lost by a student as a result of a school district not diagnosing a disability properly and, as a consequence, not providing a free and appropriate public education.

In response to a committee member's question as to how many liability and property claims are settled or litigated, Mr. Quintana reported that usually all property claims and approximately 95 percent of liability are settled.

In response to a committee member's question as to the primary causes of liability claims statewide, Mr. Quintana reported that improper touching, violation of civil rights; assault among students, injury associated with falls, and falling object injuries were the top five liability causes.

In response to a committee member's question as to whether the liability claims of charter schools are comparable to school districts, Mr. Quintana reported that charter schools have a higher incidence of liability claims, primarily because charter school administrators are not as familiar with provisions in current state law relating to personnel reprimands and Occupational Safety and Health Administration regulations.

Senator Boitano requested NMPSIA to provide a list comparing the top five causes of liability claims of charter schools to those of school districts.

## **THE OUTDOOR CLASSROOM INITIATIVE**

Ms. Eilani Gerstner, Legislative Education Study Committee (LESC) staff, introduced Mr. David J. Simon, Director, State Parks Division, Energy, Minerals & Natural Resources Department (EMNRD), and Ms. Patricia Concannon, Education Administrator, Instructional Support and Vocational Education Division, Public Education Department (PED), who were present to respond to questions.

Ms. Gerstner said that the LESG endorsed funding for the Outdoor Classroom Initiative in 2006 and in 2007, but it was not until 2007 that the Legislature appropriated \$250,000 to PED and an additional \$20,000 to the EMNRD for this initiative. With these funds, Ms. Gerstner said, PED and State Parks are partnering to formally pilot the first year of the initiative in FY 08. She said

the mission of this initiative is to “improve academic achievement and encourage resource stewardship by engaging New Mexico’s children in heritage education.” The initiative, she said will provide expanded curriculum-based outdoor activities and service learning projects for students in grades K-12, teacher training, and transportation grants to schools for students to travel to outdoor education locations.

Ms. Gerstner stated that prior to receiving funding from the Legislature for the Outdoor Classroom Initiative in FY 08, State Parks implemented a number of educational programs and maintained a staff of educational instructors, who provide educational programs to park visitors.

A survey conducted by State Parks of school participation in all 32 New Mexico state parks for school year 2004-2005 indicated, Ms. Gerstner said, that the size and extent of State Parks outdoor education programs varied widely. She said the largest was the Rio Grande Nature Center (RGNC) in Albuquerque, serving approximately 71 New Mexico public, charter, and state-supported schools. She said the smallest was Fenton Lake, which involved a single class visit by a tribal school in which the teacher provided the educational programming. The survey data indicated, she said, that approximately 167 New Mexico public, charter, alternative, and state-supported schools visited 27 of the 32 existing state parks to take part in educational activities provided by State Parks staff or teachers. State Parks interpreters also traveled to schools to provide in-school lessons to approximately 244 classes.

The Outdoor Classroom Initiative being implemented in school year 2007-2008, Ms. Gerstner said, builds upon and expands on several previously existing State Parks education programs. She said that one program, will be used as a model in the initiative is the RGNC’s teacher training sessions. Another existing program that will be expanded as part of the FY 08 Outdoor Classroom Initiative, Ms. Gerstner said, is the KIDS to Parks transportation grant program. She said that beginning with the 2005 New Mexico Personal Income Tax (PIT) return, taxpayers have been able to make a voluntary donation to State Parks to fund Kids to Parks transportation grants for schools to participate in educational field trips outdoors. State Parks reports that in spring 2007, transportation grants were awarded to one school district, seven public schools in four districts, and one private school, allowing 1,024 students in grades 4 through 9 to travel to outdoor education programs at state and national parks and monuments and municipal locations. She said the PIT donation will continue to fund the Kids to Parks transportation in future years.

In 2006, Ms. Gerstner said, a series of meetings with these partners resulted in the Leave No Child Inside Campaign, which has served to increase and coordinate outdoor education programming in New Mexico. She said as part of the campaign, State Parks created Family Outdoor Explorer Passes, which are coupons for a free day trip or night of camping in a state park for New Mexico children and their families, and has collaborated with the Rural Education Division of PED to distribute the coupons.

Regarding the implementation of the Outdoor Classroom Initiative in FY 08, Ms. Gerstner stated that the appropriation of \$250,000 to PED will fund four projects proposed in the 2005 response to SJM 24: Outdoor Education Institutes, a Teacher Resource Program, Kids to Parks Grants, and Service Learning Project Grants. She said State Parks and PED will formally pilot these programs at parks in the following four regions of the state in order to reach as many students as possible: Clayton Lake in the northeast; Navajo Lake in the northwest; Mesilla Valley Bosque in the southwest; and Bottomless Lakes in the southeast. She said in 2007, the Legislature also provided a separate appropriation of \$20,000 to EMNRD to support a statewide public school

outdoor classroom program. She said that according to State Parks, this money will be used to provide Kids to Parks transportation grants to every 5<sup>th</sup> grade class in Doña Ana County that wishes to participate. Ms. Gerstner said that a draft FY 08 budget provided to LESC staff by PED and State Parks indicates that, of the \$250,000 appropriation, \$83,000 will go to PED and \$167,000 will go to State Parks to provide for outdoor education institutes, the Teacher Resource Program, Kids to Parks Grants, Service Learning Project Grants, Evaluation and Reporting, and travel reimbursement.

Ms. Gerstner provided information on outdoor education programs in other states. She said that three entities (the National Environmental Education Advancement Project, the Environmental Education Association of Washington, and the Environmental Education and Training Partnership at the University of Wisconsin-Stevens Point) conducted a survey of federal, state, and nonprofit agency environmental education coordinators in 2004 to determine the status of environmental education among the 50 states. The survey results indicated that:

- 43 states had environmental education programs that correlated to state education standards or were developing such programs;
- 29 states had environmental education programs with learning objectives for science, social studies, mathematics, language arts, art, economics, and/or health;
- 21 states had enacted legislation to support environmental education; and
- two states, Texas and California, have established outdoor education programs through legislation.

In conclusion, Ms. Gerstner presented the following policy options:

- because of the limited funding available, the Outdoor Classroom Initiative could be targeted to schools in need of improvement;
- PED's student ID (identification) should be used to identify students who participate in Outdoor Classroom Initiative programs, and State Parks should work with PED to determine appropriate methods to link participation to student achievement;
- PED and State Parks could work together to incorporate extended outdoor education activities by providing multiple visits for individual classes throughout the year and building upon previous activities; and
- if the LESC wishes to ensure that the Outdoor Classroom Initiative continues in the future, the committee may want to consider endorsing legislation that would incorporate the program into the elementary science curriculum.

### **Committee Discussion:**

In response to a committee member's question of how schools and students were identified to attend these outdoor programs, Mr. Simon said schools were selected from a pool of applicants, with funds being distributed geographically and by the quality of the program, and students were chosen by the individual teacher and school.

In response to a committee member's question of how many students took advantage of the Family Outdoor Explorer Passes that were distributed for a free day trip or night of camping in a state park, Mr. Simon said the coupons were distributed equitably by PED to rural school districts; however, no information has been gathered as to redemption of these coupons.

In response to a committee member's question of how much money was received through the 2005 New Mexico Personal Income Tax return, Mr. Simon said they received about \$10,000; but have not yet received the total for the second year.

In response to a committee member's question of what is the target population for the outdoor initiative, Mr. Simon said that right now it is elementary students.

Several committee members commended Mr. Simon for the success and implementation of this classroom initiative.

Representative Miera asked PED to inform the LESC when participating students in the outdoor initiative are included in the Student Teacher Accountability Reporting System (STARS).

## **ADJOURNMENT**

There being no further business, and with the consensus of the committee, Representative Miera adjourned the LESC meeting at 12:17 p.m.

\_\_\_\_\_ Chairperson

\_\_\_\_\_ Date