

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
SEPTEMBER 26-28, 2012

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:20 a.m., on Wednesday, September 26, at the New Mexico Farm and Ranch Heritage Museum in Las Cruces, New Mexico.

The following voting members of the LESC were present:

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

The following voting member of the LESC was not present:

Representative Nora Espinoza.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, George Dodge, Jr., and Shirley A. Tyler; and Senators Stephen H. Fischmann, Linda M. Lopez, Howie C. Morales, John Pinto, and Sander Rue.

The following advisory members of the LESC were not present:

Representatives Ray Begaye, Eleanor Chávez, Roberto "Bobby" J. Gonzales, Tim D. Lewis, Sheryl Williams Stapleton, and Bob Wooley; and Senators Vernon D. Asbill and Mark Boitano.

Representative Andy Nuñez and Senator John M. Sapien were also in attendance.

Seeing no objection, the Chair approved the agenda for the meeting.

For welcome and introductions, the Chair recognized:

- Dr. Ricardo Jacquez, Dean, College of Engineering, New Mexico State University (NMSU), who welcomed the LESC to Las Cruces. Dr. Jacquez informed the committee that the College of Engineering has approximately 1,900 students in the undergraduate program and 500 graduate students; and noted that 26 percent of his staff is New Mexico-educated. He also discussed the NMSU robotics program sponsored by Texas Instruments, Inc. and the regional robotics competition held at the university.
- Dr. Steven A. Sanchez, Associate Superintendent for Teaching, Learning, and Research, Las Cruces Public Schools, who informed the committee on district-wide education initiatives and stated that the Las Cruces Public Schools:
 - has no F-rated schools;
 - addresses the learning needs of suspended students;
 - is engaged in significant school turnaround efforts;
 - is participating in a teacher evaluation pilot project;
 - is piloting a dual language model; and
 - is implementing the Common Core State Standards.
- Ms. Serina Lee Pack, an Honor Freshman Student at Western New Mexico University, who provided the committee with an overview of the program she created called, Creative Literacy in Motivating Book Reading (CLIMB)-Read for Joy. Ms. Pack explained that the program focuses on children 12 and younger, and uses teen mentors to encourage the young participants to read more. She then distributed CLIMB-Read for Joy brochures to the LESC and indicated that the program is currently funded by the sale of her own artwork and other fundraising efforts. Noting that the program is ready to launch on a broader scale, Ms. Pack told the committee she plans to reach every fourth grade classroom in southwest New Mexico.

FY 13 PUBLIC SCHOOL BUDGETS

The Chair recognized Mr. David Craig, LESC staff, and Mr. Paul J. Aguilar, Deputy Secretary for Finance and Operations, Public Education Department, for a report on FY 13 public school budgets, which included:

- an overview of the provisions in current law;
- a review of the FY 13 appropriations for public school support; and
- an update on federal funding and sequestration.

RECURRING AND NONRECURRING APPROPRIATIONS TO PED: FY 13 ALLOCATIONS BY SCHOOL DISTRICT AND CHARTER SCHOOL

The Chair recognized Mr. David Craig, LESC staff; and Mr. Paul J. Aguilar, Deputy Secretary for Finance and Operations, Public Education Department (PED), for a review of the allocation of recurring and nonrecurring appropriations to PED. Mr. Craig explained that these appropriations are outlined in the meeting agenda as follows:

Recurring Appropriations (in thousands of dollars)

- Instructional Materials Fund: \$26,975.8
- K-3 Plus Program: \$11,000.0
- Pre-kindergarten Program: \$10,000.0
- Early Reading Initiative: \$8,500.0
- Breakfast for Elementary Students: \$1,924.6
- Teaching Support for Schools with Low-income Students: \$500.0
- Interventions for Low-performing Schools (D & F Schools): \$3,500.0
- College and Career Readiness (ACT, SAT, PSAT, Explore, Plan): \$309.4
- Statewide Formative Assessments (Short Cycle Grades 4-10): \$2,500.0

Special Nonrecurring Appropriations (in thousands of dollars)

- Supplemental Funding for Increases in School District and Charter School Fixed Costs: \$2,500.0
- Emergency Support for School Districts Experiencing Shortfalls: \$4,000.0
- Emergency Supplemental Support to Small, Rural, and Isolated Districts with a total student membership of fewer than 200 in Elementary, Middle, and High Schools: \$1,500.0
- Common Core State Standards (CCSS) Transition: \$1,000.0
- K-12 Science Instructional Materials for School Districts with Low Student Performance in Science: \$1,500.0
- Increased Fuel Costs (Emergency Transportation Fund): \$1,500.0
- Reauthorized Funds from 2011 Appropriation to Implement New Teacher Evaluation System Based on Student Achievement Growth: \$1,000.0

Referring the committee to a PED handout, Mr. Aguilar reported allocations approved by the department by initiative and noted that for the recurring dollars:

- the initial (90 percent) allocation from the Instructional Material Fund supports 337,154 public school students, including 19,180 students attending charter schools, 21,767 students from eligible private schools, and 787 students enrolled in state-supported schools;
- participation in the kindergarten through third grade (K-3 Plus) program includes 21 districts and charter schools;
- participation in the Prekindergarten program includes a total of 2,850 students, an increase of 470 students or 20 percent over the prior year;
- the Early Reading Initiative funding includes:
 - \$3.0 million to procure a K-3 Common Formative Assessment;
 - \$1.0 million for professional development of teachers, coaches, and administrators; and
 - \$4.5 million to support regional and district-level reading coaches and intervention support;
- the Breakfast for Elementary Students program funds 62,692 students in 165 elementary schools statewide;

- contracts should be in place by October 31, 2012 to address teaching support in schools with a high proportion of low-income students;
- the appropriation to provide interventions for low-performing schools includes funding for:
 - professional development for teachers, coaches, and administrators, including:
 - a one-day training open to all D, F, Priority, and Focus schools on the use of data and criterion-referenced data;
 - a two-day summit (New Mexico Kids First Summer Institute) to include training on New Mexico's *A-F School Grading Accountability System*;
 - a one-day training and technical assistance session to support districts and schools on certain state initiatives, including instructional audits, reading, and math systems alignment and Web Educational Plan for Student Success revisions; and
 - a University of Virginia (UVA) School Turnaround Program for 10 state teams; and
 - a contract for a review of D and F school budgets;
- the appropriation for College and Career Readiness is being used to pay for part of the costs of implementing the 10th grade administration of the 11th grade exit assessment; and
- statewide formative assessments in grades 4-10 would support a total of 181,708 public school students statewide.

With regard to distributions from nonrecurring dollars, Mr. Aguilar reviewed items in the PED handout, including:

- a by-district, by-charter school spreadsheet outlining special supplemental funding for increases in fixed costs based on school year 2011-2012 final funded program units;
- a summary of preliminary budgeted amounts to 24 school districts experiencing budget shortfalls, including four small rural and isolated districts;
- the allocations to support the transition to the CCSS, including:
 - \$775,000 for professional development;
 - \$75,000 for program evaluation;
 - \$50,000 to update the CCSS website;
 - \$50,000 for employee travel; and
 - \$50,000 for printing communication materials;
- a Request for Information proposal to determine awards for K-12 science instructional materials for districts with low student performance in science;
- if need is determined by PED, the proposed allocations of the appropriation for increased fuel costs that will be based on district receipts for fuel for the fourth quarter in FY 12 and the first quarter of FY 13; and
- reauthorized funds from a 2011 appropriation, budgeted categorical amounts, including:
 - \$300,800 for professional services;
 - \$72,189 for training event facilitators;
 - \$81,900 for mileage and lodging costs of conference participants; and
 - \$250,534 "remaining for expenditure."

Committee Discussion

In response to a committee member's concern that participation in the K-3 Plus program decreased, Mr. Aguilar stated that two barriers exist, including obtaining teachers for 25 additional days in the school year and having parents commit to having their children complete the program. He added that parental contracts and promoting academic growth for participants beyond a school year may help to improve this situation.

In response to committee concern with regard to PED changes in K-3 Plus program expenditures and the formation of an advisory committee to help with program design, Mr. Aguilar stated that PED is in the process of selecting the committee members. The committee members then suggested that PED consider Dr. Linda Goetze, Project Co-Director, Start Smart K-3 Plus, Utah State University, as one of the advisory members.

Regarding the UVA School Turnaround Program, a committee member asked about the selection process. Mr. Aguilar replied that the opportunity to participate in the program was communicated to districts and charter schools via email and that districts and charter schools underwent an interview process to determine whether they had the capacity to implement the program.

Next, a committee member asked how UVA was selected, and, in response, Mr. Aguilar said it was done through an inter-governmental agreement. The committee member then requested a list of the 10 districts that are participating in the UVA School Turnaround Program.

A committee member asked whether PED has looked at the figures provided to the LESC by the National Conference of State Legislatures regarding the implementation of the CCSS that indicated the cost to be approximately \$70.0 million to \$75.0 million. Mr. Aguilar replied that PED is researching the costs and will provide some budget estimates that include infrastructure.

A committee member asked how districts were made aware of the teacher evaluation pilot program, and Mr. Aguilar replied that they were notified via a request for applicants sent by email. The committee member requested a copy of the email.

A committee member requested that PED provide the rubric for how funding was determined for the *New Mexico Reads to Lead!* applications and a list of applicants.

HIGH SCHOOL GRADUATION ASSESSMENT/ ALTERNATIVE DEMONSTRATION OF COMPETENCY

The Chair recognized Mr. Travis Dulany, LESC staff, and Ms. Hanna Skandera, Secretary-designate of Public Education for a presentation on high school graduation requirements.

Referring to his staff report, Mr. Dulany informed the committee that between 1986 and 2009 students were required to pass the New Mexico High School Competency Exam (NMHSCE) in certain subjects in order to receive a high school diploma. The test, Mr. Dulany explained, was administered during the students' sophomore year, and they had five additional opportunities to retake the exam and pass it before they were scheduled to graduate. Additionally, Mr. Dulany

said, candidates had up to five years after exiting the public school system to retake and pass the NMHSCE.

In 2006, according to Mr. Dulany, the LESC heard testimony from the Public Education Department (PED) that the NMHSCE only tested skills at the eighth grade level, and that it was not aligned with state high school standards at the time. In 2007, he continued, LESC-endorsed legislation was enacted to require students to demonstrate competency in required subject areas on a standards-based assessment (SBA), or via a portfolio of standards-based indicators in order to receive a “diploma of excellence” from a New Mexico high school. He added that the required subject areas outlined in statute include math, reading and language arts, writing, social studies, and science.

Other provisions in current law, Mr. Dulany continued, provide for students who exit high school without demonstrating competency on a standards-based assessment or by means of a portfolio of standards-based indicators to receive a certificate indicating the number of credits they earned and the grade level completed. Those students also have up to five years after they exit the public school system to demonstrate competency on a standards-based assessment or by submitting a portfolio of standards-based indicators, he added.

The law, which was slated to take effect during school year 2010-2011, was temporarily suspended during the 2011 legislative session due to an effort to reduce General Fund expenditures, according to Mr. Dulany. As a result, school year 2012-2013 is the first year that the law will be in effect. On March 20, 2012, Mr. Dulany said, PED staff issued a notice stating that the spring 2012 administration of the standards-based assessment would serve as the exit exam for students graduating in spring of 2013. The memo, Mr. Dulany continued, included the required score to demonstrate competency on the standards-based assessment, which, according to Mr. Dulany, is a composite score of 73 in both reading and math. Neither score can be below the “nearing proficiency” level, he added.

Mr. Dulany stated that, on August 31, 2012 PED issued another memo that outlined requirements for alternative demonstration of competency, an option available to students after they have exhausted all efforts to demonstrate competency on the standards-based assessment. Should a student seek to use the alternative demonstration of competency option, he continued, for each subject area that has a related college readiness or placement exam, a student can demonstrate competency by meeting the required cut score for the:

- Advanced Placement exam;
- ACT;
- SAT;
- PSAT;
- Accuplacer; or
- International Baccalaureate curriculum.

Additionally, Mr. Dulany stated, PED guidance allows students to demonstrate competency by passing an approved course or end-of-course exam. More specifically:

- for math, students may demonstrate competency by passing the appropriate math course:

- Algebra II;
 - Integrated Math 3; or
 - the corresponding existing district end-of-course exam for either Algebra II or Integrated Math 3;
- for reading and writing, students can demonstrate competency by passing English 3 or its corresponding district end-of-course exam;
 - for science, students may demonstrate competency by passing an appropriate science course — Biology or Chemistry — or that course’s existing district end-of-course exam; and
 - for social studies, students may demonstrate competency by passing an appropriate US History course or that course’s respective district end-of-course exam.

Mr. Dulany concluded by informing the committee that requirements for demonstration of competency are scheduled to be reviewed by PED once the state has switched to the Partnership for Assessment of Readiness for College and Careers exam in school year 2014-2015, which is in alignment with the department’s Common Core State Standards implementation plan.

Secretary-designate Skandera added that 73 New Mexico teachers are receiving training to develop end-of-course exams for the state. Until those exams are developed, she said, districts will be able to use their own end-of-course exams.

Committee Discussion

Ms. Frances Ramírez-Maestas, LESC Director, stated that her office has received commentary from districts that there has been confusion around the state over the graduation requirements, and that the districts did not receive final direction on the matter until after the start of school year 2012-2013. In response, a committee member said that the law requiring demonstration of competency was enacted four years previously, and districts had enough time to prepare.

Responding to a committee member’s concern for special education students, Secretary-designate Skandera said that nothing in the implementation of the statute will change for special education students, and the individual education plan for those students will set the expectations for graduation.

A committee member commented that she received calls from parents who are upset over the new graduation requirements.

ADEQUATE YEARLY PROGRESS (AYP) FOR SCHOOL YEAR 2011-2012: PRELIMINARY SCORES

The Chair recognized Ms. Hanna Skandera, Secretary-designate of Public Education, who did not report on the AYP preliminary scores and stated that “the current priority for the Public Education Department is to reach out to school districts regarding their A-F school grades to ensure that they are ready and informed.”

A-F SCHOOL GRADING SYSTEM UPDATE: INSTRUCTIONAL AUDITS

The Chair recognized Ms. Sarah Amador-Guzman, LESC staff, to provide the committee with an update on the A-F school grading system. Referring to her staff report, Ms. Amador-Guzman testified that, during the August 2012 LESC meeting, the committee received:

- an overview of the A-F school grading system appeals process;
- a summary of LESC staff interviews with school and district staff about the appeals process; and
- an initial review of the instructional audit process for schools receiving a D or F, or designated as a Focus or Priority school.

Next, she stated that the instructional audits began on September 1, 2012, and said that the Priority Schools Bureau (PSB) in the Public Education Department (PED) issued a number of online resources including:

- the *New Mexico Instructional Audit (NMIA) Handbook* with appendices;
- the *2012 Trainer's Manual for Strengthening New Mexico Schools Supporting New Mexico's Children*;
- New Mexico school grades and designations matrix;
- information on the Web Educational Plan for Student Success (Web EPSS); and
- New Mexico *No Child Left Behind* (NCLB) waiver highlights.

Ms. Amador-Guzman also explained that, according to the trainer's manual, a training session was held for two and one-half hours in July 2012 to review the information found in the NMIA handbook and appendices document. According to these documents, she said, the instructional audit process is to be:

- completed with the purpose of helping D, F, Focus, and Priority schools identify problems or potential problems related to the systems that support effective instruction, and allow schools the opportunity to address these problems;
- conducted for Priority and F schools under the management of a three-person PED team comprised of a PED staff member, a district representative from the school being audited, and an external consultant (serving the role as team leader, with PED approval and training);
- managed by the district for Focus and D schools (using district staff), following the same timeline and steps of Priority and F schools;
- completed over a three-day site visit, with some fluctuation depending on the size and location of the school; and
- guided by findings gathered through a triangulation of data including data reviews, classroom observations, and interviews with school leadership, teachers, parents, or students.

Although the NMIA handbook indicates that the instructional audit process is part of New Mexico's *A-F School Grading Accountability System*, Ms. Amador-Guzman testified that there appears to be no mention of these audits in rule or statute despite the requirement for 336 schools to complete an instructional audit.

Ms. Amador-Guzman added that an LESC staff review of the NMIA handbook found that one of the instructions to audit leaders — “at the end of a months’ [sic] time the Team Leader shall shred all documents” — may conflict with provisions of the *Public Records Act*. In response to an LESC staff inquiry, Ms. Amador-Guzman testified that the State Records Administrator (SRA) stated that the department’s instruction to audit leaders to shred all documents “does conflict with the *Public Records Act* because the records have not been described in a Records Retention and Disposition Schedule (RRDS).” This means that the records cannot be destroyed until the RRDS for PED is amended and approved by the SRA, she testified.

In addition, according to Ms. Amador-Guzman, the SRA contacted PED staff and arranged a meeting on September 24, 2012 to discuss how to amend the RRDS to adequately describe and retain this new set of records. She also noted that because the Commission of Public Records meets regularly four times a year, the amendment to the RRDS may not be heard until early 2013.

Next, Ms. Amador-Guzman reviewed the revisions to the Web EPSS and noted that, according to the NMIA handbook, the:

- responsibility of completing and submitting the finalized report for the instructional audit has been given to the school and district;
- expectation is that the school responds to each finding using the template provided in the instructional audit report;
- school must also incorporate the revisions into its 2012-2013 Web EPSS, by tagging the changes to the plan based on the instructional audit; and
- completed final NMIA Report must be uploaded to the school’s Web EPSS filing cabinet and the school principal must notify PSB when the upload is finalized.

Ms. Amador-Guzman then referred to a memorandum from Ms. Hanna Skandera, Secretary-designate of Public Education, issued to superintendents, charter school administrators and directors of state-supported schools notifying school administrators of the intended revisions to the Web EPSS that align these plans to the:

- New Mexico NCLB Waiver;
- New Mexico *A-F School Grading Accountability System*;
- District Program Budget Questionnaire; and
- District Reading Intervention Plans.

Prior to 2012, Ms. Amador-Guzman explained, the Web EPSS plans were aligned to NCLB and adequate yearly progress based on the New Mexico Standards-based Assessments. Under the current system, she stated, that all schools receiving a D or F, or a designation of Priority or Focus, are required to allocate annual budgeted funds to the Web EPSS action steps. In addition, Ms. Amador-Guzman noted, all D and F schools will have department budget reviews beginning in 2013, in accordance with the *A-B-C-D-F Schools Rating Act*, which requires the prioritization of resources toward proven programs and methods linked to improved student achievement, until the school earns a grade of C or better for two consecutive years.

Finally, according to the memo, Ms. Amador-Guzman testified that the dates for completing the Web EPSS were adjusted by PED and additional trainings were offered on the revisions to the

Web EPSS plans. She said that draft plans were originally due on September 1, 2012, and final drafts are now due on October 15, 2012. Ms. Amador-Guzman added that schools completing instructional audits may have received additional extensions.

Next, to provide some district-level perspectives on the instructional audit process, the Chair recognized representatives from three school districts: Mr. E. David Atencio, Superintendent, Jemez Valley Public Schools; Ms. Harvielee Moore, Superintendent, Deming Public Schools; and Ms. Carrie Menapace, Legislative Liaison and Policy Analyst, Albuquerque Public Schools (APS).

First, Superintendent Atencio testified that, in small school districts such as his, the superintendent is the only district representative for the audit team; even though PED was supportive and helped Jemez Valley Public Schools complete the audits, he observed that it is a difficult task for one district staff person.

The next presenter, Superintendent Moore, informed the LESC that the effects of poverty in her district are widespread, and students, some of whom are deportees, often have to start from behind to meet expectations. Alluding to a study showing that Deming Public Schools is underfunded by over \$10.0 million, she stated that she felt that the district's concerns were not being heard and commented that the current unit value is \$200 lower than it was in school year 2008-2009. On a positive note, Superintendent Moore stated that the dual credit program has inspired some of her students to do extra school work in addition to fulfilling their graduation requirements.

In regard to the instructional audit, Superintendent Moore stated that 140 teachers had to be observed, and despite following the template provided by PED, the process was disruptive because it came at the end of a grading period. She asserted that the template was a good planning tool and felt that Deming Public Schools should have received it earlier than in September.

The last district representative, Ms. Menapace, testified that APS is open to evaluation and wants to see the process improve. She added that the district has a large number of schools to be audited, and then distributed the APS audit calendar to the committee. According to Ms. Menapace, APS has 16 audit teams comprised of licensed educators who have taught in the classroom. APS also gathered information from a PED-led training on July 23, and received flexibility from the department to complete some of the audits of D and F schools with four-person teams in two rather than three days.

Regarding public records, Ms. Menapace testified that APS employees were instructed by the district not to destroy any documents because the district requires the records to be kept for at least two years.

Overall, she said, the instructional audits will take approximately 14,000 hours of staff work to conduct, and alluded to costs incurred to address a number of issues, including:

- substitute teachers;
- explanatory letters and interview consent forms sent to parents;
- APS-conducted trainings and background checks; and
- amended teacher contracts to address extended duty days.

Ms. Menapace also stated that APS asked PED to finish the Web EPSS for the district in order to prevent delays in the PED-established deadlines. She concluded with the assertion that “follow-up” is the biggest question regarding the audits, because now auditors have questions over what to do with the audit findings.

The Chair then recognized Secretary-designate Skandera, who testified that PED conducted 20 regional meetings to address alignment to the new accountability system. She said that PED received useful feedback, moved up the rollout of the Web EPSS, and allowed more flexibility. Ms. Skandera then introduced Ms. Annalisa Peña, an NMIA external consultant who conducted audits in the Deming Public Schools district. Ms. Peña distributed a packet of teacher interview questions to the committee and informed them that the audit team was there only to gather data, not to evaluate teachers or principals. Her team conducted classroom observations in 25-minute segments, sent preliminary reports to each principal and to PED, and received feedback before sending a final draft to the district. Last, Ms. Peña referred to the rating scale for the instructional audits, explaining that:

- “0” = no concern;
- “1” = aspect of concern; and
- “2” = great concern that needs to be addressed immediately.

Committee Discussion

In regard to unanticipated issues, such as the 14,000 additional staff hours reported by APS, a committee member alluded to the need to set benchmarks and asked how resources should be allocated to improve outcomes. Superintendent Moore replied that although more funding helps, dual credit has opened up a new world to students, and bonus points added to the school rating for parent involvement helped one of her schools go up two letter grades instead of one.

Another committee member inquired about feedback from principals, and Ms. Menapace answered that some principals feel the audits are more high stake, with greater consequences than a typical corrective action would have. Ms. Skandera then asserted that there are no negative consequences to complying with the audit because it is an informative process.

When a committee member asked what the districts are going to do with the audits, Ms. Menapace answered that PED wants the district to do follow-up visits.

Among other issues, committee members discussed:

- professional development and training at the University of Virginia, and concerns that turnover will result in the loss of staff and the funding used to train them;
- the cost of using external consultants;
- the need for PED to base the A-F grading system on a bell curve for the first year and the Secretary-designate’s commitment not to use a bell curve next year; and
- using the audits to find a common thread among schools that are not performing well.

There being no further business for the day, the Chair with consensus of the committee recessed the LESC meeting at 5:10 p.m.

**MINUTES
LESC MEETING
SEPTEMBER 27, 2012**

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:15 a.m., on Thursday, September 27, at the New Mexico Farm and Ranch Heritage Museum in Las Cruces, New Mexico.

The following voting members of the LESL were present:

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

The following voting member of the LESL was not present:

Representative Nora Espinoza.

The following advisory members of the LESL were present:

Representatives Alonzo Baldonado, Ray Begaye, George Dodge, Jr., and Shirley A. Tyler; and Senators Stephen H. Fischmann, Howie C. Morales, and John Pinto.

The following advisory members of the LESL were not present:

Representatives Eleanor Chávez, Roberto “Bobby” J. Gonzales, Tim D. Lewis, Sheryl Williams Stapleton, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, Linda M. Lopez, and Sander Rue.

Representatives Andy Nuñez and Joni Marie Gutierrez were also in attendance.

INSURANCE APPROPRIATION REQUESTS FOR FY 14

The Chair recognized Mr. David Craig, LESL staff; Mr. Sammy Quintana, Executive Director, New Mexico Public Schools Insurance Authority (NMPSIA); Ms. Christy Edwards, Deputy Director-Benefits, NMPSIA; Mr. Don Gonzales, Comptroller-Finance, NMPSIA; Mr. Don Moya, Chief Financial Officer, Albuquerque Public Schools (APS); and Ms. Carrie Menapace, Legislative Liaison and Policy Analyst, APS, to discuss projected FY 14 insurance increases.

Mr. Craig explained that each year, if funding is available, the Legislature appropriates dollars to the State Equalization Guarantee (SEG) distribution to provide for projected increases in the employer’s group health and risk insurance contribution rates of the state’s public schools. Current law, he noted, requires all of New Mexico’s charter schools and 88 of its school districts to participate in NMPSIA. The remaining school district, APS, is exempted from participation in NMPSIA; due to its size, APS is self-insured.

Consideration of the appropriation to SEG, Mr. Craig reported, is based on NMPSIA’s and APS’s respective budget requests. These requests are based on projected contribution rates

considered to be adequate to provide for anticipated insurance claims, administrative costs, and reserves in the next fiscal year. These increases may be offset by NMPSIA or APS board action that allows the agencies to use reserve fund balances to reduce the projected increases.

Mr. Craig testified that, for FY 14, NMPSIA and APS are requesting a combined \$29.8 million for increases in the employer's group health and risk insurance contribution rates; which amounts to approximately \$21.0 million for NMPSIA and \$8.8 million for APS.

Referring to a committee handout, Ms. Edwards reported that the NMPSIA appropriation request considers:

- a 10.4 percent increase in health premiums;
- a 6.0 percent increase in dental premiums; and
- no increases for vision or long-term disability premiums.

On the risk side, Mr. Quintana stated the NMPSIA appropriation request considers a 15 percent increase for risk insurance, which includes property, liability, and workers' compensation claims. He noted that the NMPSIA plan uses about \$3.5 million of its reserves from the risk fund.

Mr. Gonzales reported that the total reserve for benefits is currently at about \$40.0 million. Of this amount, he testified, approximately \$16.0 million is deposited with the State Treasurer's Office and the balance is in the Local Government Investment Pool at the State Investment Council (SIC). With regard to risk reserves, he said that approximately \$50.0 million are split between the SIC and the State Treasurer's Office. According to Mr. Gonzales, NMPSIA is asking for an appropriation for the risk program because claims projections may create a deficit, primarily because of settlements regarding hazing incidents in the Las Vegas City Public Schools and in the Los Lunas Public Schools.

Mr. Moya explained that the APS portion of the appropriation request considers an 8.6 percent increase in medical, dental, and vision insurance premiums; and no increases for life and disability. He reported that the district expects a 5.0 percent increase in property and liability premiums and workers' compensation claims; however, they are not factored into the appropriation request as the APS Board of Education has instructed the district to use \$6.35 million of its reserve fund to help offset these increases.

To conclude, Mr. Moya emphasized that for FY 14, APS forecasts:

- a contribution shortfall of \$8.7 million; and
- required reserves of \$8.6 million by the end of that year.

Ms. Menapace provided the committee with an overview of the APS plan design changes for 2013, which include:

- increases in copays and deductibles; and
- raises in employee contributions.

She indicated that the plan redesign will cause APS to lose its grandfathered employer status under the federal *Patient Protection and Affordable Care Act* (PPACA). As a result, she stated, APS will be required to increase employee premiums by about 2.0 percent. Employees covered

by Lovelace will see a higher increase in premium rates, and the district may see an increase in employees who weren't previously covered, including some hourly employees like substitute teachers and bus drivers.

Committee Discussion

In response to a committee member's question regarding the settlement for the Las Vegas City Public Schools, Mr. Gonzales reported that the settlement amount was \$8.0 million.

In response to the Chair's request for the appropriation amount for insurance that needs to be considered in House Bill 3, the *Education Appropriation Act*, Ms. Edwards reported that for NMPSIA approximately \$13.0 million on the benefits portion and \$6.5 million for risk was being requested. Mr. Moya reported an APS request of \$8.8 million.

A committee member requested APS to provide the number of people who will be impacted by the PPACA.

COMMON CORE STATE STANDARDS UPDATE

The Chair recognized Mr. Travis Dulany, LESC staff; Dr. Cathy Kinzer, Assistant Professor of Curriculum and Instruction, New Mexico State University (NMSU); and Dr. Elizabeth Marrufo, Director of Elementary Instruction, Las Cruces Public Schools, for an update on the Common Core State Standards (CCSS).

Mr. Dulany began by providing background on the CCSS. During the 2012 interim, Mr. Dulany stated that, the LESC heard several presentations from various educational experts and stakeholders, including:

- a Policy Specialist from the National Conference of State Legislatures, who presented a national overview of the CCSS during the June meeting of the LESC; and
- in August 2012, the committee heard testimony from Ms. Lena Trujillo-Chávez, Director, Regional Education Cooperative #8; Mr. David J. Chavez, Executive Director, Cooperative Educational Services; Ms. Robin Jarvis, Program Director, Southwest Educational Development Laboratory; and Ms. Sheryl White, English Language Arts Chair, New Mexico Educator Leader Cadre, all of whom shared information about the partnerships various groups around the state have created in order to implement the CCSS.

For the September meeting, Mr. Dulany said that, LESC staff arranged for Dr. Kinzer and Dr. Marrufo to testify to the committee on efforts among higher education and Las Cruces Public Schools to implement the CCSS.

Dr. Kinzer began her presentation with an overview of the CCSS background. The standards, she stated, are the result of a joint effort by the National Governors Association and the Council of Chief State School Officers, and are intended to:

- result in college- and career-readiness;
- be based on research and practice evidence; and
- include fewer, but clearer and more rigorous standards.

The CCSS for mathematics, Dr. Kinzer continued, provide for several benefits to K-12 education, among them:

- collaborative professional development based on best practices;
- development of common assessments and other tools;
- enablement of comparison of policies and achievement across states and districts;
- development of CCSS mathematics-aligned textbooks and resources; and
- development of resources for students to learn how to think and reason mathematically.

Dr. Kinzer added that the CCSS for mathematics are rigorous in content and application of higher-order skills, and they build on the strengths and lessons of current state standards. After providing the standards for mathematical content by grade, Dr. Kinzer then informed the committee of an ACT national curriculum survey from 2009, in which 89 percent of high school mathematics teachers responded that they feel their students are prepared for college-level mathematics work. Meanwhile, Dr. Kinzer stated, 26 percent of postsecondary mathematics instructors reported that their students were prepared for college-level work in mathematics.

Finally, Dr. Kinzer informed the committee of the Partnership for Assessment of Readiness for College and Careers, which includes two summative assessment components and two non-summative assessment components. The summative assessment components, she said, will include a performance-based assessment that is administered as close to the end of the school year as possible and will focus on the mathematical practices of applying skills, concepts, and understandings to solve multi-step problems. Additionally, the summative assessment components include an end-of-the-year assessment that will be administered after approximately 90 percent of the school year, of which the math portion will be comprised of innovative, machine-scored exams, according to Dr. Kinzer.

Dr. Kinzer concluded by informing the committee that NMSU is involved in efforts to help with the implementation of the CCSS, such as Mathematically Connected Communities — also known as MC² — and the university is participating in a joint meeting between the Higher Education Department and the Public Education Department, along with various higher education institutions from around the state.

Dr. Marrufo stated that Las Cruces Public Schools commenced its implementation of the CCSS over the summer of 2012, by developing pacing guides for teachers, ensuring that all students have access to the CCSS, and creating a K-3 report card aligned to the CCSS.

In developing pacing guides, Dr. Marrufo continued, the district created a pacing guide team composed of two teachers, one instructional specialist, one administrator, and one district Professional Development School representative for English/language arts and mathematics. In year one, according to Dr. Marrufo, the district seeks to create a user-friendly pacing guide with specific intentions for teachers to develop a full understanding of the CCSS. In year two, she added, the district will revise the pacing guides with knowledge gleaned from the first year.

Dr. Marrufo described the district's pacing guides as an interval-based description of what teachers teach in a particular grade or course, the order in which it is taught, and the amount of time dedicated to teaching the content. The purpose of the pacing guides, she added, is to ensure that all of the standards are addressed during the academic year.

To conclude, Dr. Marrufo provided an example of the district's pacing guides and a newly-designed K-3 standards-based report card. For the report card, she stated that, for school year 2012-2013, the district created a place holder report card in order to transition teachers and parents into the new CCSS. For school year 2013-2014, she added that, the district will revise the report card and prepare to import it into an electronic report card system, known as Synergy, for grades K-5.

In order to inform Las Cruces Public Schools parents of the CCSS and new report card, Dr. Marrufo added that, the district has created an information sheet available in both English and Spanish. As a follow up to the efforts by the district to implement the CCSS in K-3 during school year 2012-2013, Dr. Marrufo said that the district would provide an opportunity for K-3 teachers to give input and feedback for the pacing guides and report cards each nine weeks, which will be used to revise the scope and sequence, pacing guides, and report cards at the end of the school year.

Committee Discussion

A committee member asked Dr. Marrufo if all of the material she presented — the pacing guides and report cards, specifically — were developed by Las Cruces Public Schools. Dr. Marrufo replied that the pacing guides and report cards were developed by approximately 40 staff from the school district and has made them available to other school districts to use.

CHARTER SCHOOLS UPDATE

The Chair recognized Dr. David Harrell, LESC staff, for a charter schools update. Dr. Harrell explained that at each interim meeting, the LESC has received a charter school update.

For this committee meeting, Dr. Harrell noted the staff report focuses on:

- the status of the final four charter schools still pending approval;
- the process of renewing a charter and the renewal application kit developed by the Charter Schools Division (CSD) in the Public Education Department (PED); and
- the decisions of the Public Education Commission (PEC) on the applications for new charter schools in school year 2013-2014.

Dr. Harrell added that the report concludes with a background section illustrating the legal questions that the PEC raised about virtual charter schools.

Regarding the charter schools that were approved with conditions last year, he said the CSD reports that all four have met the conditions and have begun their operations. More specifically, Dr. Harrell noted that:

- Estancia Valley Classical Academy, in Moriarty, received a temporary certificate of educational occupancy (E-occupancy) good through September 30, and opened on September 4;
- La Tierra Montessori School of the Arts and Sciences, in Española, received its E-occupancy certification on September 7 and opened on September 10;
- Sage Montessori Charter School, in Albuquerque, received its E-occupancy certification on August 23 and opened on August 27; and
- Uplift Community School, in Gallup, received its E-occupancy certification on September 6 and opened on September 10.

Dr. Harrell then reported that according to PED, 10 charter schools are scheduled to submit their renewal applications by October 1, 2012.

For the current renewal cycle, Dr. Harrell explained, the CSD issued a charter school census report, as well as a new charter renewal application kit that all charter schools must use. Furthermore, he said that CSD's recommendations will be based on the four criteria in law that comprise grounds for revoking or not renewing a charter:

- a material violation of any of the conditions, standards, or procedures in the charter contract;
- failure to meet or make substantial progress toward the department's minimum educational standards or student performance standards identified in the charter contract;
- failure to meet generally accepted standards of fiscal management; or
- violation of any provision of law from which the charter school was not specifically exempted.

Regarding the 14 applications submitted to the PEC to open new charter schools in school year 2013-2014, Dr. Harrell summarized the status of the applications from three of the four out-of-state organizations profiled in the June LESC staff update:

- Academic Opportunities Academy, headquartered in El Paso, Texas, carried through with its plans to open charter schools in Anthony and Deming although it withdrew its applications for schools in Alamogordo, Carlsbad, and Las Cruces;
- New Mexico Connections Academy, affiliated with Connections Education, based in Maryland, applied to open a single virtual charter school in Santa Fe; and
- Starshine Academy, headquartered in Phoenix, applied to open the Lisa Law Peace School, also in Santa Fe.

Dr. Harrell also noted that the other applications submitted to the CSD came from:

- Columbus Community School, located within Deming Public Schools;
- Electus Academy, Health Leadership High School, and Indigo Hill Charter School, all located within Albuquerque Public Schools (APS);
- Health Sciences Academy, located within Gadsden Independent Schools; and
- Taos International School and Taos Mountain Charter School, in Taos.

As required under the *Charter Schools Act*, Dr. Harrell said, the PEC scheduled public hearings on these applications in the affected districts during the week of August 20 “to obtain information and community input to assist it in its decision whether to grant a charter school application.” Of the 11 applicants, he stated that the CSD recommended denying seven and approving four, all with conditions.

Dr. Harrell observed that the only application affiliated with an out-of-state organization that the CSD recommended approving was the New Mexico Connections Academy, a virtual charter school. Although the CSD found some shortcomings in the application, it also noted a number of strengths, among them:

- a clearly defined, research-based philosophical approach and curriculum;
- a governing body with a wide range of expertise, knowledge, and experience;
- general student policies “appropriate for an online school”; and
- sufficient evidence of need for the school.

The CSD recommendation to approve the application of the New Mexico Connections Academy also noted, “There may be a question concerning the ability of the PEC to approve statewide virtual programs.”

When the PEC met on September 19 and 20 to rule on the applications, Dr. Harrell stated the agenda listed all 14 schools. However, Dr. Harrell pointed out that three of the applicants were identified as withdrawn, and as the meeting progressed, two others — Indigo Hill Charter School and Taos Mountain Charter School — announced the withdrawal of their applications, leaving nine remaining applicants.

In most cases, Dr. Harrell noted, the PEC acted in accordance with the recommendations of the CSD; but by unanimous vote, the commissioners denied the applications from:

- Health Sciences Academy, in Gadsden;
- Academic Opportunities Academy, in Anthony;
- Academic Opportunities Academy, in Deming;
- Columbus Community School, in Columbus; and
- Starshine Academy Lisa Law Peace School, in Santa Fe.

Also, in accordance with the recommendations of the CSD, the PEC approved, with conditions, the application from Health Leadership High School in Albuquerque; however, the PEC imposed other conditions in addition to those recommended by the CSD.

Contrary to the recommendations of the CSD, Dr. Harrell reported, the PEC denied the applications from:

- New Mexico Connections Academy;
- Taos International School; and
- The Electus Academy.

Among their reasons for denying the application from New Mexico Connections Academy (on a vote of six to three), he said the commissioners cited:

- research indicating that the test scores of students in virtual schools are generally lower than those of students in traditional schools;
- the current availability of online learning through the New Mexico Cyber Academy and Innovative Digital Education Learning-New Mexico, as well as online programs in a number of school districts throughout the state;
- the inconsistent Internet connectivity throughout the state, suggesting that not all students would have equal access to a virtual charter school;
- the potential for harm to communities and districts throughout the state whose students enroll in the charter school, especially if, through this precedent, other virtual charter schools were to open; and
- the tenuous legal authority of the PEC to approve a virtual charter school. On this point, commissioners noted that the law is arguably ambiguous, but they cited two legal statements — a formal opinion from the CSD counsel in 2009 and an advisory letter from the Attorney General in 2008 — as well as rules of the PED, all suggesting that virtual charter schools are not permitted in New Mexico.

Despite these objections, Dr. Harrell commented that commissioners also found value in virtual education: as an alternative for students unable to attend a traditional school; as a supplement, through blended learning, to traditional schooling; and as a means of reducing the dropout rate.

Committee Discussion

A committee member asked how much time the applicants had to appeal the denials by the PEC, and Dr. Harrell replied that they have 60 days from the date of the hearing (September 20, 2012) to appeal.

Alluding to the growing number of charter school-related duties that the PEC is responsible for, the Chair recognized two PEC commissioners and asked for their input:

- Commissioner Gene Gant testified that the PEC and PED have a substantial workload and noted that a six-person staff at CSD is responsible for 96 charter schools. He also informed the committee that CSD lacks a staff attorney; and more staffing is needed to conduct audits on a regular basis.
- Commissioner Carolyn Shearman, PEC Vice Chair, testified on the benefits of the charter school census report which improves oversight and allows the PEC to make better decisions. She stated that the census revealed that 27 percent of the students in Taos Municipal Schools are enrolled in charter schools.

In response to committee questions regarding the saturation of charter schools in some districts, Commissioner Shearman noted that Taos Municipal Schools has five charter schools with a total enrollment cap of 793 students, and there are 269 empty seats. Commissioner Gant also testified that some charter schools receive additional funding for being small, yet claim to have a waiting list. In reply, a committee member referred to a Legislative Finance Committee recommendation that small school size funding adjustments not be allowed for charters.

Next, the Chair recognized Ms. Gloria O. Rendón, Executive Director, New Mexico Coalition of School Administrators (NMCSA), who testified that NMCSA is considering requesting a

temporary moratorium on charter schools until the inequities in the funding of charter schools can be resolved.

In response to hearing that some charter schools used funds from their operational budgets to pay for leases, the Chair indicated that the Public School Capital Outlay Council is considering the use of a standardized lease agreement.

A committee member requested a copy of the charter school census report.

STATEWIDE EDUCATION INITIATIVES

a. Cradle to Career Education Initiative (C2C)

The Chair recognized Senator Stephen H. Fischmann, who provided the committee with an overview of the Doña Ana County-based Cradle to Career Education Initiative (C2C). To begin, he said that C2C fosters partnerships across the community and education system that honor and build upon the strengths of existing neighborhoods and organizations.

The mission of C2C, according to Senator Fischmann, is to increase the community's ability to align resources and build partnerships that support success for all young people in education and in life. He stated that C2C fulfills its mission by:

- (1) gathering parents, students, educators, nonprofits, faith-based organizations, businesses, and government agencies to identify common goals that all agree to achieve;
- (2) gaining consensus on evaluating success to ensure that efforts stay focused on common goals; and
- (3) supporting communication and collaboration, which includes data collection and analysis, and administrative services to convene meetings, provide research, and maintain records.

To conclude, Senator Fischmann noted that C2C is funded by multi-year grants from national and state-based foundations, as well as local community donations.

Committee Discussion

A committee member suggested that in rural areas, C2C should collaborate with co-op extension services; as well as 4H Clubs, which have programs for at-risk youth; and the Future Farmers of America.

In response to a committee member's question regarding the validity of data from different reading programs, Senator Fischmann discussed the value of collaboration and the use of reliable measures and data to determine whether real progress is being made.

b. University of New Mexico: Spanish Resource Center

The Chair recognized Mr. Jesús M. Jurado Mendoza, Director of the Spanish Resource Center (SRC) at the University of New Mexico, and Mr. Rudy Leos, Principal of Loma Heights Elementary School in Las Cruces, who gave the committee a presentation on SRC activities and requested \$70,795 to expand statewide outreach and training. For the past five years,

Mr. Mendoza testified that, the SRC has provided in-service training focused on the promotion of the Spanish language and culture in the United States to approximately 100 teachers and educational assistants working in a dual language/bilingual setting. In addition, he said the SRC has sponsored several teachers to attend summer institutes in Spanish universities offering additional and/or advanced courses for teaching Spanish in school settings.

Mr. Leos testified that Loma Heights Elementary School has four visiting teachers as part of a partnership with the Ministry of Spain. He observed that both visiting and host teachers have benefitted from the exchange of teaching techniques, and the students have been exposed to a multi-cultural experience that will serve them well.

Committee Discussion

The Chair asked for the name of the certificate showing that students are truly bilingual, and Mr. Mendoza replied that, although he did not know the name, students who attend the SRC program receive a bilingual seal on their diploma. Mr. Leos added that the Las Cruces Public Schools is committed to providing a Spanish language continuum, starting from the elementary level through high school. He also referred to SRC's poetry program, Spanish spelling bee, and other opportunities for students to demonstrate mastery.

c. New Mexico State University (NMSU)

The Chair recognized Dr. Jonathan Schwartz, Department head, Counseling and Educational Psychology (CEP), Dr. Ivelisse Torres Fernandez, Assistant Professor, CEP, and Dr. Marlene B. Salas-Provance, Academic Department head, Special Education and Communication Disorders Department all from the College of Education, New Mexico State University (NMSU), to brief the committee on several of the college's programs and other activities.

Dr. Schwartz, distributed handouts to the committee on programs related to the department and informed the members that CEP's goal is to train doctoral students in psychology. He noted that CEP receives approximately 150 applicants to fill six openings every year. In addition, he discussed outreach efforts by CEP, noting that the Upward Bound Program is part of this department. He also noted that CEP runs programs in psychopharmacology, as well as school and mental health counseling.

Next, Dr. Schwartz introduced Dr. Torres Fernandez to provide the LESC with an overview of two programs:

- the Strong Kids Program, which is focused on social/emotional learning in children and teaches them how to learn more effectively. Dr. Torres Fernandez worked with Hermosa Heights Elementary School and now works with John Paul Taylor Charter School, both located in Las Cruces; and
- the Cruzando Fronteras Program, which, in partnership with Deming Public Schools, helps children traumatized by violence.

Dr. Torres Fernandez currently runs these programs without funding, she explained, and more support is needed for statewide expansion.

Last, Dr. Schwartz introduced Dr. Salas-Provance. Dr. Salas-Provance said that her department offers programs designed for students with career goals as master special education teachers, special education consultants and directors, educational diagnosticians, and speech-language pathologists.

She then gave the committee an overview of the department's alternative licensure program, which requires the completion of 21 credit hours to teach special education with a provisional license, and 18 more hours to receive a master's degree. Referring to her handout, Dr. Salas-Provance also informed the committee on:

- various areas of employment for program graduates, including school, community, and medical settings;
- facts about special education teachers, including their median pay of \$53,220 per year in 2010; and
- facts about speech-language pathologists, including their median pay of \$66,920 per year in 2010.

Committee Discussion

Responding to a committee member's question regarding CEP and the counseling center at NMSU, Dr. Schwartz stated that the two entities work closely together.

In response to a committee member's question whether her programs use students in practicum, Dr. Torres Fernandez responded in the affirmative and noted that the programs have trained more than 500 students over the last two years.

d. Forward New Mexico

The Chair recognized Mr. Charles Alfero, Chief Executive Officer, Hidalgo Medical Services (HMS), who provided the committee with an overview of the Forward NM Program, which works to establish pathways to health careers in rural New Mexico. Referring to his handout, Mr. Alfero displayed a map showing rural training sites established by HMS in Hidalgo and Grant counties; as well as proposed sites in Luna and Catron counties. He then discussed a five-step process to ensure access to primary care for everyone that includes:

- encouraging secondary students raised in rural communities to enter the health professions;
- following those students throughout their undergraduate education;
- continued involvement during their graduate education that provides rural training experiences;
- expansion of the model and increased recruitment of healthcare providers; and
- maintaining the program and its resources to train health professionals in southwest New Mexico and eventually statewide.

Committee Discussion

In response to a committee member who asked for more information on efforts to educate and retain local students in the health professions, Mr. Alfero referred to the "grow your own approach" documented in one of his handouts. He then discussed having a health presence in

public schools by performing dental exams at the elementary school level, explained efforts to demystify health careers in middle school, and described mentoring and other opportunities for secondary students.

SUPERINTENDENT AND COMMUNITY INPUT

The Chair recognized Ms. Stephanie Ly, President, American Federation of Teachers, New Mexico, who expressed concerns regarding the A-F school grading system, among them that the system does not:

- address the lack of resources in schools; and
- address the effect of poverty on children.

Next, the Chair recognized three individuals representing Teach for America:

- Ms. Christine Probasco, the Regional Director for Teach for America-Southern New Mexico, who thanked the LESC for its support and noted that the Legislature appropriated \$500,000 to support teachers in southern New Mexico, resulting in 24 Teach for America teaching positions;
- Ms. Erica Pressley, a math teacher at Mayfield High School in Las Cruces, who addressed the low math proficiency rates at Mayfield and her efforts to inspire students to work harder; and
- Mr. Javier Garcia, a math teacher at Centennial High School in Las Cruces and native Spanish speaker, who stressed the importance of discussing math with the families of his students.

Last, the Chair recognized Mr. Vincent Gutschick, Chair of the Board of Trustees for the Las Cruces Academy, who informed the committee on Las Cruces Academy's outreach efforts to other schools and adult communities.

There being no further business for the day, the Chair with the consensus of the committee recessed the LESC meeting at 4:13 p.m.

MINUTES LESC MEETING SEPTEMBER 28, 2012

Representative Rick Miera, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:30 a.m., on Friday, September 28, at the New Mexico Farm and Ranch Heritage Museum in Las Cruces, New Mexico.

The following voting members of the LESC were present:

Representatives Rick Miera, Chair, Mary Helen Garcia, and Mimi Stewart; and Senators Cynthia Nava, Vice Chair, Mary Jane M. García, and Lynda M. Lovejoy.

The following voting members of the LESC were not present:

Representatives Nora Espinoza, Jimmie C. Hall, and Dennis J. Roch; and Senator Gay G. Kernan.

The following advisory members of the LESC were present:

Representatives Ray Begaye and Sheryl Williams Stapleton; and Senators Stephen H. Fischmann, Howie C. Morales, and John Pinto.

The following advisory members of the LESC were not present:

Representatives Alonzo Baldonado, Eleanor Chávez, George Dodge, Jr., Roberto “Bobby” J. Gonzales, Tim D. Lewis, Shirley A. Tyler, and Bob Wooley; and Senators Vernon D. Asbill, Mark Boitano, Linda M. Lopez, and Sander Rue.

UNEMPLOYMENT COMPENSATION ASSESSMENTS OF SCHOOL DISTRICTS AND CHARTER SCHOOLS

The Chair recognized Mr. Ian Kleats, LESC staff; Mr. Robert (Mike) Unthank, Interim Director, Risk Management Division (RMD) of the General Services Department (GSD); and Mr. Stephen Vigil, Actuary, RMD, for a report on unemployment compensation assessments of school districts and charter schools.

Mr. Kleats explained that during the October 2011 meeting of the LESC, LESC staff provided testimony regarding the unemployment compensation assessments of school districts by the GSD. For FY 12, many of these districts had indicated that their rates for unemployment compensation increased substantially as compared to the previous year, which resulted in budget shortfalls for some districts.

Since that report, Mr. Kleats continued, GSD issued schools additional invoices in the fourth quarter of FY 12 for costs incurred from FY 08 through FY 12, and it appears that budget shortfalls will exist again in FY 13.

Mr. Kleats then directed the committee’s attention to an attachment comparing the amount each district budgeted in their operating budget for unemployment compensation to the amounts assessed by GSD. He noted that the statewide difference between unemployment compensation assessments and budgeted amounts is approximately \$800,000 in school year 2012-2013. He also suggested that aggregating assessments and budgeted amounts across all school districts into a statewide total can be misleading because some districts have surpluses that result in a smaller net budget deficit. Referencing another attachment, Mr. Kleats highlighted the following points:

- 42 districts did not budget sufficient resources in FY 13 to cover their unemployment compensation assessment resulting in a deficit of approximately \$2.5 million across those districts, over three times the statewide deficit;
- assessments from these 42 districts — just under half of all districts — accounted for \$3.4 million, more than 70 percent of total assessments against districts statewide;

- the shortfall between the amount budgeted for unemployment compensation and the amount assessed ranges from \$540,578 for Rio Rancho Public Schools to \$39 for Logan Municipal Schools; and
- each of the 42 districts, except for Chama Valley Independent Schools, had sufficient unrestricted cash balances as of June 30, 2012 to pay for the unemployment compensation assessment.

Mr. Kleats added that, although Chama Valley Independent Schools applied for emergency supplemental funding from the Public Education Department (PED), it is uncertain whether the emergency funding will be sufficient to overcome the projected shortfall for unemployment compensation assessments.

Next, Mr. Kleats presented copies of invoices sent by RMD to Pecos Independent Schools and Dora Consolidated Schools on April 23, 2012, which raised the following concerns:

- assessments do not appear to have been calculated in accordance with any rate schedule established by RMD prior to the start of FY 12 as required by statute;
- the invoices suggest an annual assessment while current law requires RMD to assess each state agency on a quarterly basis; and
- Dora Consolidated Schools was charged a \$253 administrative fee on a \$100 premium, more than 250 percent of the assessment, which may or may not be considered “reasonable” as required in current law.

He also presented and discussed the following six policy options for the committee’s consideration:

- (1) amend the date of publication for assessment schedules;
- (2) determine if assessments are legitimate;
- (3) provide additional education for school district administrators on unemployment compensation;
- (4) publish assessments by district to ensure adequate budget;
- (5) require PED to approve budgets only when budgeted resources are sufficient; and
- (6) allow districts to pay the assessments over time.

Mr. Kleats then introduced Mr. Unthank and Mr. Vigil to further discuss the unemployment compensation assessments of school districts. Mr. Unthank began by stating that he shares the committee’s concerns and noted that one of his goals in the capacity of Interim Director of RMD is to unravel these problems and provide more clarity. He added that RMD understands the impact on individual districts and the need to inform them in advance. Mr. Unthank also said that assessments should be fair, and because the Department of Finance and Administration (DFA) has de facto control over the established rates, it must be included in discussions. In addition, he suggested meaningful collaboration with the Department of Workforce Solutions (DWS), PED, LESC, and GSD to address inadequate reserve levels for unemployment compensation funds that force RMD to dip into other funds. Last, he reminded the committee that the system is a reimbursement, not insurance, program.

To conclude, Mr. Unthank indicated that GSD should work with heavily assessed districts to spread their expenses over several years, and reiterated that GSD is ultimately responsible. He also underscored his commitment to produce timely assessment rate schedules for the district in

the hope that GSD could do quarterly assessments, and suggested that in the past districts may have been charged more than circumstances warrant.

Committee Discussion

Ms. Frances Ramírez-Maestas, LESC Director, thanked Mr. Unthank and then reminded the committee that last year \$2.0 million had been budgeted for unemployment compensation, yet \$4.0 million was assessed, prompting the Chair to ask PED to work on this issue. Ms. Ramírez-Maestas added that many school officials mistakenly consider unemployment compensation as an insurance program rather than a reimbursement program, which indicates the need for more education and training. Noting that this item was a suggestion of the New Mexico Coalition of School Administrators (NMCSA), she solicited feedback from district administrators in the audience and heard from three respondents:

- First, Mr. E. David Atencio, Superintendent of Jemez Valley Public Schools, stated that districts have little control over the eventual assessment because former employees, who were not eligible for unemployment upon separation from the district, could create a liability against the district for future unemployment claims. Furthermore, he said there is no way for districts to track or budget that far in the future. The downturn in the economy was another factor, and now, according to Superintendent Atencio, the question involves how districts can budget adequately for the future.
- Second, Dr. Gloria O. Rendón, Executive Director, NMCSA, emphasized the need for education and training. Noting that there is still confusion over unemployment compensation, she offered to work with the Association of School Business Officials (ASBO) on incorporating training into their spring conference.
- Third, Mr. John Wolfe, Chief Financial Officer of Los Alamos Public Schools, spoke to the uncertainty of assessment size. Los Alamos Public Schools had a \$12,000 assessment one year, he said, but over \$100,000 the next. Although Los Alamos Public Schools' human resources staff failed to dispute some of the claims, Mr. Wolfe explained, the internal issue has since been addressed. He also offered to provide help and expertise to other districts.

When the Chair cited the unexpected assessment for Pecos Independent Schools, Mr. Unthank asserted that RMD will support statutory changes to resolve these issues because state agencies have been impacted in a manner similar to school districts.

Next, the Chair referred to a committee member's bill from a previous year, and said that the committee member provided a brief overview of the current state of the unemployment compensation fund, in which she emphasized that the fund acts as an insurance program for private citizens, but it does not act as an insurance program for the public. The committee member also noted that a high number of public employees have been laid off over the past few years, which contributes to larger assessments.

Noting the LESC's leadership role in the review process because of the large assessments on public schools, the Chair asked Mr. Unthank whom to include in future talks. In response, Mr. Unthank suggested an initial meeting of all parties and proposed that DWS, LESC, and GSD

meet to produce a formula and present it to DFA, and then involve PED. He said this process could produce a model of interest to other state agencies.

After receiving a positive response from PED, the Chair requested that a letter be sent to Legislative Finance Committee to discuss forming a work group. He also invited Dr. Rendón to participate, and she stated that NMCSA can work to get representation from districts of varying sizes and ASBO.

DIRECTOR'S REPORT

a. Approval of Draft LESC Minutes for August 2012

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

b. Approval of LESC Financial Report for June 2012

On a motion by Representative Garcia, seconded by Senator García, the LESC approved the financial report for June 2012.

c. Informational Items

Ms. Frances Ramírez-Maestas noted that for the committee's review, an LESC staff brief is included in the meeting materials regarding federal sequestration and the *Federal Budget Control Act*.

d. Correspondence

Ms. Ramírez-Maestas reviewed the items in this section of the committee notebooks, including:

- a memo from Mr. Paul J. Aguilar, Deputy Secretary for Finance and Operations, Public Education Department (PED), to the Directors of the LESC and Legislative Finance Committee regarding the planned expenditure of funds from the special appropriation for transition to the Common Core State Standards;
- a notice of disapproval and immediate suspension from authority regarding the Questa Independent Schools Board of Education;
- an email from Ms. Annjenette Torres, PED staff, to Representative Espinoza in reply to her request for the number of students statewide who graduated after completing the 11th grade (26 in 2011 and 72 in 2012);
- an email sent to Representative Begaye from Ms. Torres on behalf of Ms. Leighann Lenti, PED staff, in reply to the representative's list of triggers that can result in a school receiving a low A-F school grade;
- an email to Representative Stewart from Ms. Torres in reply to the representative's request for the list of external consultants for the PED instructional audits; and
- an email to Representative Gonzales from Ms. Torres in reply to the representative's inquiry regarding the distribution of library funds.

Regarding the suspension of the Questa Independent Schools Board of Education, the Chair recognized Mr. Joe Guillen, Executive Director, New Mexico School Boards Association (NMSBA); who provided the committee with a handout containing:

- a summary of the suspension notice;
- background information; and
- options for NMSBA to consider.

Among other things, Mr. Guillen informed the committee that a hearing is scheduled for November 5, 2012, and added that the Questa Independent Schools Board of Education needs approval from PED to incur legal costs to answer to the charges against them. He also said the board seeks a response within the next few days.

Next, Mr. Guillen explained that NMSBA intends to develop a plan of action to address the situation that will include training; he noted that NMSBA is working to develop a case to reinstate the Questa Independent Schools Board of Education.

Committee Discussion

In regard to issuing a statement of disappointment with Ms. Hanna Skandera, Secretary-designate of Public Education's action, a committee member asked if the statement would be from all NMSBA members or just individuals. Mr. Guillen answered that NMSBA is currently working to compose individual statements, but is also trying to develop a formal statement from all its members.

e. News Releases

The committee notebooks include a news release from *Education Week* stating that nearly 900 school districts plan to apply for new Race to the Top funding; including several districts in New Mexico.

f. LESC Interim Subcommittee on School Bus Transportation

The Chair recognized Ms. Theresa Saiz, District Lobbyist, Rio Rancho Public Schools, who confirmed that the LESC Interim Subcommittee on School Bus Transportation meeting will be held on October 15 and 16 at the Curriculum and Instruction Center on the campus of Rio Rancho Middle School.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 10:52 a.m.

 _____ Chair

December 19, 2012 _____ Date