

State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE

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D. Pauline Rindone, Ph.D., Director
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**MINUTES
LESC MEETING
JANUARY 16, 2006**

Representative Rick Miera, Vice Chair, called the Legislative Education Study Committee (LESC) meeting to order on January 16, 2006, at 12:11 p.m., Room 321, State Capitol, Santa Fe, New Mexico.

The following LES C members were present:

Senators Cynthia Nava, Chair, Gay G. Kernan, Mary Kay Papen, and William E. Sharer; and Representatives Rick Miera, Vice Chair, Joni Marie Gutierrez, Dianne Miller Hamilton, Mimi Stewart, and W. C. "Dub" Williams.

The following LES C advisory members were present:

Senators Vernon D. Asbill, Carlos R. Cisneros, Mary Jane M. Garcia, and John Pinto; and Representatives Ray Begaye, William "Ed" Boykin, Kandy Cordova, Roberto "Bobby" J. Gonzales, Jimmie C. Hall, John A. Heaton, Harriet I. Ruiz, and Richard D. Vigil.

Vice Chairman Miera recognized Ms. Elizabeth Ethelbah, consultant with Ethelbah-Lawrence & Associates, to introduce newly selected Santa Fe Public Schools Superintendent, Ms. Leslie Carpenter.

<> Approval of Agenda

Upon a motion by Representative Miera, seconded by Representative Stewart, the committee unanimously approved the agenda with the addition of the following presentation.

Mr. R. Stephen Aguirre, Executive Director, High Plains Regional Education Cooperative (REC) #3, made a brief presentation to the committee regarding a \$500,000 proposal to implement a model project for RECs to provide consultation services for small member school districts on the management and operation of the Facilities Information Management System (FIMS). The FIMS pilot project is operated by the Public School Facilities Authority (PSFA).

Mr. Aguirre introduced Mr. Greg Lookabaugh, Director, and Mr. Fred Niccum, Facility Services Consultant, Facility Service Department, Region 4 Education Service Center, Houston, Texas. Mr. Lookabaugh stated that his organization is geared toward assisting school districts in Texas, Arkansas, and New Mexico to operate at maximum efficiency in the area of facilities management. He said that his staff provides superintendents and facilities staff with long-range planning and training in facilities management, safety, and regulatory compliance. His staff also implements energy conservation strategies that have produced large savings in energy costs for participating districts. Mr. Aguirre stated that High Plains REC would like to model this approach in New Mexico so that it can be implemented by all nine RECs statewide.

Vice Chairman Miera thanked the presenters and indicated that the committee would share the proposal with the PSFA.

PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE: ANNUAL REPORT AND RECOMMENDATIONS

Ms. Paula Tackett, Director, Legislative Council Service (LCS), reported that the Public School Capital Outlay Oversight Task Force (PSCOOTF) as a result of its work during the interim, has several recommendations for the committee to consider for endorsement for the 2006 legislative session. Ms. Tackett explained that the PSCOOTF was established in 2005 as a permanent oversight group that is the result of the various public school capital outlay task forces that were created in response to the *Zuni* lawsuit. She said that the work of the PSCOOTF builds on the work of the previous task forces. Ms. Tackett briefly explained the duties of the PSCOOTF, primarily to oversee the work of the Public School Capital Outlay Council (PSCOC) and the Public School Facilities Authority (PSFA) as they implement the statewide standards-based process for making grant awards. She introduced staff members, Mr. Gary Carlson, drafter of the bills, and Mr. Doug Williams, researcher, who were present with Ms. Tackett to answer questions.

Ms. Tackett said that, during the 2005 interim, the task force reviewed the statewide assessment of school facilities, the deficiencies correction program, the roof deficiency correction program, PSCOC awards, lease payment awards, the development of educational technology adequacy standards, and a number of issues related to charter schools. In addition, she continued, the task force explored a host of new subjects including high growth districts and schools, issues related to rural and very small schools, alternative capital financing options including tax increment financing and industrial revenue bonds, and opportunities for energy-efficient school buildings.

Ms. Tackett said that the PSCOOTF had endorsed two pieces of legislation - the "omnibus" capital outlay bill, which addresses issues raised during the first year of oversight of the standards-based capital outlay program, and a second bill that addresses adequacy standards for educational technology as directed by HB 511 from the 2005 Legislature.

Ms. Tackett reviewed the recommendations included in the omnibus capital outlay bill as follows:

1. before establishment of the PSFA, any school district wishing to construct a new facility had to receive approval from the former State Department of Education. Since its establishment in 2003, the PSFA has been the agency for approval of any school construction. The PSCOOTF endorsed the omnibus bill, which includes language that now requires all school districts – whether they are applying for *Public School Capital Outlay Act* funds or not – to have in place an up-to-date, five-year facilities master plan that includes any charter schools in the district;
2. in response to the issue of high-growth school districts and in cooperation with the administration, the task force is recommending the creation of a new construction loan program. Financed with a \$290.0 million dollar appropriation, the program will allow for 100 percent up-front funding for construction of new facilities based on criteria established by the PSCOC that include completion of the project within a 30-month construction period. School districts will have up to 10 years to repay the local share of the project cost;
3. the task force received considerable testimony on the subject of facilities master plans, both from members of the PSFA and superintendents. As a result, in noting that the initial and updated plan development can be costly, the task force is recommending that the Public School Capital Outlay Fund be authorized to finance the development of facilities master plans for districts unable to finance their own;
4. the task force is recommending the creation of a “New School Development Fund” to be administered by the Public Education Department (PED), with an initial appropriation of \$1.0 million to address the needs associated with the first year of operation of newly constructed schools;
5. the task force invested time exploring some of the obstacles that have been encountered in the development of the standards-based capital awards process;
 - in an effort to remain competitive with the private sector and to retain top quality employees at PSFA, the task force recommends continuing the status of PSFA employees as exempt rather than classified;
 - to facilitate the awarding of contracts throughout the state and in the interest of expediting capital projects, the task force recommends allowing the PSFA to be its own purchasing agent; and
 - the task force recommends that the PSCOC be authorized to use public school capital outlay funds to pay the cost for demolition of abandoned buildings;
6. on the subject of infrastructure needs and alternative financing techniques, the task force is recommending a study of the impact of certain local government actions on school district revenue;

7. in an effort designed to provide more funding for capital issues, such as providing a local match for a PSCOC grant and financing facilities master plans, the task force recommends that restrictions on end-of-the-year operational cash balances be eliminated;
8. the task force also recommends increasing the state guarantee (two-mill levy) of the *Public School Capital Improvement Act* from a minimum of \$60 per mill per unit to a minimum of \$90 per mill per unit for FY 07. The proposed legislation, however, maintains the language that requires a yearly adjustment (beginning in FY 08) to the state guarantee based on yearly consumer price index increases. Ms. Tackett added that task force members have continued to support increasing funding for public school facility maintenance expenditures and to express concern about the long-term deleterious effects of deferring maintenance;
9. a companion to actual hands-on maintenance is development and implementation of a Facility Information Management System (FIMS). The task force is recommending an appropriation that will allow the FIMS project to move to the next phase;
10. the statute establishing the PSCOOTF also requires it to appoint a subcommittee to study ways to address issues related to facilitation of “interaction between charter schools and their school districts on issues relating to facility needs.” The subcommittee made several recommendations that the task force adopted, including increasing the lease allocation amount from \$4.0 million to \$7.5 million in order to provide sufficient funding for the lease payment assistance program to maintain the \$600 per MEM established in legislation passed in 2005. As a reminder, Ms. Tackett continued, both charter schools and local districts can qualify for lease payment assistance under the legislation first enacted in 2004. Based on another recommendation of the charter school advisory committee, the task force further recommends studying the feasibility of creating alternative chartering authorities for charter schools;
11. the task force was asked to review the status of the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired and noted that, although these schools cover K-12, their unique nature had caused them to be excluded from the original deficiency correction program. The task force recommends a change in law to create a special deficiency correction program for these two schools and recommends \$40.0 million to correct deficiencies of the two institutions; and
12. finally, after examining the issue of indoor air quality, the task force is recommending expansion of the “Tools for Schools” program with an appropriation of \$300,000.

The appropriations to support the recommendations, Ms. Tackett reported, include the following:

- \$40.0 million from the General Fund to correct outstanding health or safety deficiencies at the New Mexico School for the Blind and Visually Impaired and the New Mexico School for the Deaf;

- \$2.5 million from the General Fund to the PSFA for development and implementation of FIMS;
- \$2.0 million from the General Fund for the purpose of demolishing abandoned school district facilities;
- \$50,000 from the General Fund to PED for a study of alternative charter school chartering authorities; and
- \$50,000 from the General Fund to the LCS for financing the expenses of a school district revenue impact study.

Referring to the second bill, Ms. Tackett said that, continuing work of PED on educational technology adequacy standards, the task force is recommending a two-fold approach to bringing all schools up to minimum standards in this critical area. She said the first element is an appropriation of \$94.4 million to raise schools up to minimum educational technology standards, which were developed by PED and the state Council for Educational Technology in response to the requirements in HB 511, which was enacted in 2005. The second element is a \$24.4 million appropriation to PED to make distributions to school districts in FY 06 and FY 07 to “refresh” or replace functionally obsolete computers and network devices in accordance with the State Technology Plan. She said the bill requires districts receiving this appropriation (which is the first in a proposed five-year cycle) to have a PED-approved educational technology plan in place and to produce a match based upon the same procedures used to determine matches for PSCOC grant awards.

Committee Discussion:

In response to a committee member’s question how the local match would work for the higher-growth districts program, Ms. Tackett explained that, pursuant to statute, the cost that is determined to be paid by the district would be the same as what the district would match for the other capital outlay projects.

In response to a committee member’s question regarding source of the loan, Mr. Carlson said it would come from the PSCOC.

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

DIRECTOR’S REPORT

a. Approval of LESC Minutes for November 2005

Upon a motion by Representative Miera, seconded by Representative Stewart, the LESC minutes for November 2005 were unanimously approved.

b. Approval of LESC Financial Report for December 2005

Upon a motion by Senator Papen, seconded by Representative Stewart, the LESC financial report for December 2005 was unanimously approved.

c. Approval of LESC Audit for FY 05

Upon a motion by Representative Stewart, seconded by Representative W. C. “Dub” Williams, the LESC Audit for FY 05 was unanimously approved. Ms. Eloise Gonzales-Okada, LESC Administrative Office Manager, was given the credit for no audit findings in the LESC Audit this year and for the past 20 years.

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.

e. Written Report: Sign Language Interpreter Licensure, HJM 80 and SJM 78

Dr. Rindone reported that, during the 2005 session, the Legislature passed two memorials: HJM 80, *Sign Language Interpreter Licensure*, and SJM 78, *Develop Sign Language Interpreter Licensure*. She said that this written report combines both joint memorials, which are identical, into one report.

CHARTER SCHOOLS: PED RECOMMENDATIONS

Dr. Rindone said that the 2005 interim workplan of the LESC has included charter schools as an issue for each meeting since August. She said that during the November and December LESC meetings, the committee heard tentative recommendations from the Public Education Department (PED) for amending the *1999 Charter Schools Act*, but because in each case the recommendations were in preliminary draft form, the Secretary of Public Education was invited to this meeting to report the final recommendations.

Dr. Rindone introduced Mr. Willie Brown, General Counsel, PED, representing Secretary of Public Education, Dr. Veronica C. García, who was en-route to the meeting; and Dr. Catherine Cross Maple, Deputy Secretary of Learning and Accountability, PED. Dr. Lisa S. Grover, Executive Director, New Mexico Coalition for Charter Schools, was also in attendance.

Mr. Brown reported that the center of PED’s proposed charter school reform legislation is the creation of a single charter school authorizer called the Charter Schools Commission consisting of 10 members appointed by the Governor. In addition, PED proposes the creation of a new Charter Schools Division within PED headed by an assistant secretary.

Listed below are the other PED charter school initiatives contained in the proposed bill:

1. the *Public Education Department Act* would be amended to add the Charter Schools Division to PED;
2. the *Public School Finance Act* would be amended to require charter schools to submit their budgets directly to PED’s Charter Schools Division instead of through their school districts. The at-risk and Training & Experience (T&E) indexes of the district where the charters are located would be used to compute their program units;

3. the districts would be entitled to a cost differential factor of 0.1 of a program unit to pay for the participation of charter students in New Mexico Activities Association (NMAA) activities at school districts;
4. all new and existing charter schools must qualify for board of finance status as of July 1, 2007. Staff must be trained, the person handling funds must be bonded, and status as a board of finance can be suspended for certain reasons. Failure to qualify as a board of finance can result in denial, revocation, or non-renewal of a charter;
5. serious or repeated mismanagement, improper recording, or improper reporting of public school funds is grounds for revocation or suspension of a charter (under the PED proposal, charters can be suspended and not just revoked as in the current act);
6. on July 1, 2007, all existing charter schools will be deemed to be chartered by the Charter Schools Commission, and the terms of their charters will still be in effect except for the requirement to comply with school district policies;
7. the Charter Schools Division must provide staff to support the commission, provide technical support to the charter schools, oversee and manage charter school budget matters, and make recommendations to the commission relative to approval, denial, suspension, or revocation of a charter school;
8. the charter schools must develop and maintain a five-year facilities plan to qualify for their own capital outlay funds from the Public School Capital Outlay Fund. Those funds will be made available to all charter schools as of July 1, 2007 and to any new charter schools when they renew. In the meanwhile, charter schools must continue to comply with last year's legislation that required them to be in public buildings by 2010 and to continue to comply with adequacy standards. They can continue to negotiate with school districts for use of available facilities;
9. a charter school can contract with a school district for provision of financial management, food services, transportation, facilities, education-related services, or other services;
10. each charter school will submit its own data directly to the Charter Schools Division through the Accountability Data System (ADS);
11. each charter school is directly responsible for complying with the *Individuals with Disabilities Education Improvement Act (IDEA)* and for providing a free appropriate public education to special education students. Each charter school must apply for its own federal funding, whether it is Title I, special education, or some other;
12. enrollment in a start-up charter school is by lottery. Conversion school membership is accomplished as it always has been;
13. given that they need no longer comply with district policies (rules), charter schools must develop and submit their own written policies;

14. there are no longer any automatic waivers, but the charter applicants may request waivers of individual class loads, graduation requirements, school principal duties, and driver education;
15. a charter may be approved for six years, provided that the first year is used exclusively for planning and not for completing the charter application. If the commission imposed any conditions during the planning year that are not met, it can refuse to authorize the charter but must then give the applicant a hearing. Renewals are for five-year increments;
16. the law relating to the contents of applications is largely unchanged, with the commission taking the role of a local board in reviewing an application;
17. in addition to teachers, parents or community members, a public postsecondary educational institution may start a charter school. However, municipalities, counties, private postsecondary educational institutions, and for-profit business entities would be prohibited from starting charter schools;
18. applicants must request board of finance status with their application;
19. the commission must hold at least one public meeting to obtain input from all stakeholders of a proposed charter school. (The stakeholders include local community members and local school board members from the district where the charter school would be geographically located). The commission must rule within 60 days. If it issues an adverse ruling, the applicant can appeal to the Secretary of Public Education for a hearing. The Secretary makes a final decision, which the applicant can appeal in district court (the same hearing procedures apply if the commission denies a charter school's renewal);
20. the Secretary can review and act upon the commission's decision to grant a charter;
21. charter schools must have at least a five-member governing body. Members of the governing body shall not engage in any activity that gives rise to a conflict of interest or the appearance of a conflict of interest with the performance of their duties, and they shall be guided by principles of full disclosure if the members represent, whether formally or informally, an organizational interest noted in paragraph 17 above (more details on governing body ethics will be provided by PED rule);
22. conversion schools are still permitted and the number of charter schools allowed each year remains unchanged;
23. the PED will not be entitled to any percentage of a charter school's program cost, provided that there is funding for its newly created charter schools division;
24. in addition to receiving State Equalization Guarantee (SEG) directly, given its status as having a board of finance, a charter school will also receive its own federal funds for which it has applied and for which it qualifies; and

25. all charter schools will be subject to an anti-nepotism policy modeled after the provision currently applicable to school districts and school boards.

Mr. Brown said that the Charter School Commission would be an independent commission with its own budget but administratively attached to PED, which must provide staff support.

Dr. Cross Maple led the committee through the proposed annual budget for the charter schools division, which included start-up costs, 22 FTEs and offices in Santa Fe and in Albuquerque, for a grand total of \$2.0 million.

Finally, Ms. Christine V. Trujillo, Chair, Public Education Commission (PEC), addressed the committee requesting the consideration of PEC taking on the added role of charter school authorizer since its present role is simply advisory. She said that the PEC could function either as an additional authorizer, along with local school boards, or as the appellate authority.

Committee Discussion:

In response to a committee member's question if it would be possible for the PEC to be given the dual role of Charter School Commission and Public Education Commission, Secretary García said that the Governor would like the opportunity to appoint the Charter School Commission members, whereas the PEC members are elected. She added that the Governor can appoint a PEC member only in the event that a position becomes vacant, for the length of the term vacated, as he has done in one case so far. Dr. García further explained that an appointed commission focused exclusively on charter schools could provide the fiscal oversight that charter schools would need once they become their own boards of finance.

In response to a committee member's questions, Dr. Cross Maple said that the current total of the 2.0 percent of program cost generated by charter schools statewide is approximately \$1.3 million. The additional \$700,000 in the PED proposal for the charter schools division is intended to accommodate the new charter schools approved to open in school year 2006-2007.

In response to a committee member's questions about capital outlay issues, Mr. Brown said that PED does not propose to have charter schools issue General Obligation Bonds but that the department does propose to make charter schools responsible for their own five-year facilities plans, funded directly through state capital outlay funds. Secretary García suggested that the Public School Capital Outlay Council (PSCOC) could determine whether there was a need for a statewide bond to support charter schools and that charter schools would not be eligible for "brick and mortar funding" until their charters are renewed, giving the PSCOC time to examine the viability of the charter.

On a related point, another committee member asked what effect the PED proposal might have on the state's compliance with the terms of the *Zuni* lawsuit. In response, Secretary García said that charter schools would be state-supported in terms of capital but that, as long as charter schools did not receive funding preference, *Zuni* would probably not be implicated.

In response to a committee member's question whether PED has considered the potentially adverse effects of its proposal upon school districts, Dr. Cross Maple said that the department is responding to a clear public mandate to offer school choice, which must be balanced with provisions to maintain regular public schools. She also said that this proposal will allow PED

more effective oversight of charter schools. Mr. Brown added that the PED proposal allows district input, noting that the criteria for approving a charter school application include a consideration of the best interest of the community, the students, and the district. And Secretary García said that this proposal would relieve school districts of having charter school audit findings attached to the district audit.

In response to several committee members' questions, both Secretary García and Mr. Brown asserted that the PED proposal would relieve school districts of any responsibility or liability for charter schools, although the districts and charter schools would still be able to negotiate for the provision of services as they do now.

Noting that the PED proposal for the charter schools division includes two attorney positions, a committee member asked about the need for attorneys in that division and the level of legal staff at PED now. In response, Secretary García said that, with seven attorneys now, the PED legal division is understaffed, and the Charter Schools Commission would need its own legal staff.

In response to a committee member's question whether PED would be amenable to the Legislature's placing charter schools under a moratorium so that they can be studied in more depth, Secretary García said she did not believe that a moratorium would be good for the charter school movement.

As the discussion progressed, committee members asked a number of other questions about the funding, governance, and operation of charter schools under the PED proposal. In response, the Secretary made the following points, among others:

- PED had not worked with the school boards or superintendents associations in drafting the proposal but that the Northern Network supports it;
- because they would no longer be involved with charter schools, school districts would no longer be allowed to retain the 2.0 percent of the program cost generated by charter schools;
- PED would have oversight responsibility for charter school audits, as it does now for school districts, but charter schools would not be component units of the PED audit;
- PED is not proposing to create a charter school district but a central charter school authority; and
- federal funds are not available for PED's administration of the *1999 Charter Schools Act*.

On behalf of Representative Boykin, Representative Hall asked PED to provide the number of states that have shifted from local school boards as charter authorizers to state-level authorizers.

There being no further questions, Senator Nava thanked the presenters.

EDUCATION-RELATED ISSUES FOR THE 2006 LEGISLATIVE SESSION

Directing the committee's attention to the table in their folders, Dr. Rindone briefly reviewed the FY 07 public school support recommendations that the committee had approved in December. She noted that there were four items remaining for consideration by the committee:

1. a hold harmless provision for school districts and charter schools having difficulty implementing the minimum salaries for teachers in the three-tiered system (Dr. Rindone noted that unreliable data provided to the Office of Education Accountability (OEA) by a number of school districts was making it very difficult to estimate the actual need);
2. funding for an additional 0.08 percent increase in the employer's contribution to the Educational Retirement Fund (ERF) (actuaries for the Educational Retirement Board stated that there would be a need for the additional 0.08 percent if the salary increase implemented by the Legislature exceeded the 5.0 percent average salary increase upon which their original estimate had been based);
3. an appropriation for truancy prevention programs; and
4. an appropriation to continue implementation of Public Education Department's (PED's) data warehouse.

Explaining that in December the committee had recommended that a total of \$9.0 million be appropriated to support the New Mexico PreK program in FY 07, Dr. Rindone indicated that the table had been changed to reflect the fact that the \$9.0 million would not all go to PED but would be divided equally between PED and the Children, Youth and Families Department. She said that the change reflected the way in which the funds had been divided in the executive budget recommendations.

Committee Discussion:

Chairman Nava asked how much money PED had requested to fund the department's initiatives to assist schools identified as "schools in need of improvement." In response, Dr. Rindone stated that the department had requested a total of \$10.4 million, with \$2.4 million to the Schools in Need of Improvement Fund and an additional \$8.0 million in nonrecurring dollars. Chairman Nava then asked if PED's request took into account any federal dollars. Noting that the federal appropriation for school year 2005-2006 was \$2.5 million, Dr. Rindone stated that the projected budget provided by the department did not include any federal dollars for FY 07, although PED staff had indicated that the department was expecting the federal funding to remain at approximately \$2.5 million for the upcoming school year. Dr. Rindone explained that, if the federal money were taken into consideration, PED would need approximately \$4.0 million in addition to the \$3.5 million recommended by the committee in December to reach the agency's total request.

On a motion by Representative Stewart, seconded by Representative Williams, the committee voted unanimously to recommend that, in addition to the \$3.5 million in recurring dollars approved by the committee in December, an additional \$4.0 million in nonrecurring dollars be appropriated to fund PED's efforts to assist schools designated as schools in need of improvement.

On a motion by Representative Stewart, seconded by Representative Hamilton, the committee voted unanimously to recommend that \$1.0 million be appropriated to fund truancy prevention programs.

On a motion by Senator Kernan, seconded by Senator Papen, the committee voted unanimously to recommend that approximately \$1.4 million to fund the additional 0.08 percent employer's contribution to the Educational Retirement Fund be included in the committee's public school support recommendations.

On a motion by Senator Papen, seconded by Representative Stewart, the committee voted unanimously to recommend that \$2.0 million be appropriated to fund continued implementation of PED's data warehouse.

Recognizing that at present OEA staff were unable to estimate the amount needed to hold districts harmless for costs incurred as a result of implementing the minimum salaries for teachers, Chairman Nava stated that she would like to retain a "three-tiered hold harmless" line in the table as a placeholder to remind both the Senate and the House education committees of the need to include a hold harmless appropriation in the *General Appropriation Act*.

a. Approval of Sponsors for Endorsed Legislation

On a motion by Representative Miera, seconded by Representative Stewart, the committee voted unanimously to approve the sponsors of legislation endorsed at the December meeting of the LESC, shown on the following list.

b. Endorsement of Potential Legislation

Dr. Rindone directed the committee's attention to a packet of potential legislation for approval. She stated that at the December 2005 LESC meeting the committee had voted to endorse proposed legislation based on the items requested by the committee at the November meeting. She stated that, in addition, the committee had deferred action or requested other items in the current packet to be presented at this meeting.

The committee discussed the following proposed items, noting in italics the result of committee deliberations and the sponsors for each piece of legislation:

33. Amend the *School Personnel Act* and appropriate funds to eliminate 1st grade from class-size averaging and to establish a maximum class load for elementary school teachers not to exceed 22 students in grade 1, provided that any 1st grade teacher with a class load of 21 or more shall be entitled to the full-time assistance of an educational assistant. (*Sponsors: Senator Gay G. Kernan, Representative Mimi Stewart*)

Members of the committee voiced concern regarding the estimated cost of this item of \$32.9 million, provided by LESC staff based on 2005-2006 40th day grade 1 class size data provided by PED. Dr. Rindone indicated that the staff had requested that PED resubmit its data as the basis for a revised estimate. The sponsors indicated that their sponsorship was contingent upon receiving a reliable and acceptable cost estimate for the proposed measure from PED.

34. Amend the *Assessment and Accountability Act* to require school districts to provide supplemental educational services to Title I students in schools that fail to make adequate yearly progress for three or more consecutive years to make the requirement consistent with the federal *No Child Left Behind Act of 2001* (NCLB); to require PED to adopt rules to require that any provider of supplemental educational services approved for contracts in New Mexico uses only certified teachers as tutors in New Mexico; and to require PED to prescribe a common pre- and post-assessment instrument to measure the gains that students achieve through these services. (*Sponsors: Senators Cynthia Nava and Mary Kay Papen, Representative Mimi Stewart*)
35. Introduce legislation to appropriate General Obligation Bond proceeds to PED for public school libraries and local juvenile detention facilities statewide; to Higher Education Department (HED) for academic libraries; to the Office of Cultural Affairs for New Mexico public libraries; and add language to require PED to identify eligible public school libraries and juvenile detention facilities and distribute available proceeds by providing a base amount of \$3,000 per library and the remaining balance on a per-MEM basis. (*Sponsors: Senators Cynthia Nava and Mary Jane M. Garcia, Representative Rick Miera*)
36. Appropriate funds to HED to allocate to two-year and four-year institutions of higher education with teacher preparation programs to support the expansion and improvement of educator preparation field experience courses. (*Sponsors: Senator Mary Kay Papen, Representative Roberto "Bobby" J. Gonzales*)
37. Introduce a joint memorial requesting the Rural Education Division and the Indian Education Division of PED to develop New Mexico-specific definitions of "rural school district" and "rural school" in order to determine those districts and schools eligible for assistance from the Rural Education Division and further requesting PED to work with the US Department of Education on an alternate definition of the term "rural" for federal funding purposes in order to ensure that the largest number of districts possible is designated eligible for federal rural funding. (*Sponsor: Representative Ray Begaye*)
38. Amend statute to require a school district with a school that has been ranked in need of improvement to provide documentation in its school improvement plan that the required public meeting has been held. Documentation shall include: date, an attendance roster, and a record of recommendations for school improvement. (*Sponsors: Senators Gay G. Kernan and Mary Jane M. Garcia, Representative John A. Heaton*)
39. Amend the *Public Education Department Act* and appropriate funds to create a science and mathematics division within PED (includes five FTEs). (*Sponsors: Senator Cynthia Nava, Representative John A. Heaton*)
40. Appropriate funds to PED to support truancy initiatives in the public schools statewide. (*Sponsors: Senator Mary Jane M. Garcia, Representative Thomas E. Swisstack*)

41. Amend statute to extend Kindergarten Plus to a six-year study and to expand the program beyond the original four school districts to include any other school district with high-poverty schools. (*Sponsors: Senators Mary Jane M. Garcia and Cynthia Nava, Representative Mimi Stewart*)
42. Support the Funding Formula Task Force recommendations to extend the Funding Formula Study Task Force until December 2007, to add one representative of a statewide teacher organization appointed by Legislative Council, and to make an appropriation. (*Sponsor: Representative Mimi Stewart*)
43. Per recommendations of the Public School Capital Outlay Oversight Task Force (PSCOOTF):
 - a. Enact an “omnibus” capital outlay bill to address issues raised in the oversight of the standards-based capital outlay program, as follows:
 - require all school districts – whether they are applying for *Public School Capital Outlay Act* funds or not – to have in place an up-to-date five-year facilities master plan that includes the charter schools in the district;
 - authorize the use of funds from the Public School Capital Outlay Fund to finance the development of facilities master plans for districts unable to finance their own;
 - create a “New School Development Fund” administered by PED to provide assistance for start-up costs to school districts opening a new school;
 - continue the status of Public Schools Facilities Authority (PSFA) employees as exempt rather than classified to remain competitive with the public sector to attract and retain quality employees;
 - allow the PSFA to be its own purchasing agent to facilitate the awarding of contracts and to expedite capital projects throughout the state;
 - authorize the Public School Capital Outlay Council (PSCOC) to use Public School Capital Outlay funds to pay for the cost of demolition of abandoned buildings;
 - appropriate funds to the Legislative Council Service to conduct a study of the impact on school districts of certain local government actions, such as the issuance of industrial revenue bonds and the assessment of impact fees on school districts;
 - eliminate restrictions on operational cash balances to maintain a reserve so that districts may have the opportunity to plan for efficient use of funds for capital outlay programs, i.e., local match or facilities master plan;

- increase the state guarantee amount in the *Public School Capital Improvements Act* (SB 9 or 2 mill levy) from \$60 to \$90 per mill per unit for FY 07 to provide additional state funding for the maintenance of public school facilities and public school grounds statewide and maintain the language that requires a yearly adjustment (beginning in FY 08) to the state guarantee based on yearly consumer price index increases;
 - appropriate funds to continue the implementation of the Facility Information Management System (FIMS) project to provide a web-based, centralized database of maintenance activities and comprehensive maintenance request and expenditure information about public school facilities statewide;
 - change the limitations on expenditures for lease payments from \$4.0 million to \$7.5 million in order to provide sufficient funding for the lease payment assistance program to ensure that public schools, including charter schools, receive the \$600 per MEM allocation as enacted in 2004;
 - appropriate funds to PED to conduct a study to examine the feasibility of creating alternative chartering authorities for charter schools;
 - create a special deficiency correction program to assist the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired to rectify deficiencies to their facilities;
 - appropriate funds to implement an Indoor Air Quality Tools for Schools initiative in New Mexico's public schools to ensure a safe and healthy learning environment for public school students and staff statewide; and
 - create a new construction loan program to allow for 100 percent up-front funding for construction of new facilities based on criteria established by the PSCOC that includes completion of the project within a 30-month construction period and that allows school districts up to 10 years to repay the local share of the project cost to address the issue of high growth schools and districts. (*Sponsors: Senator Cynthia Nava, Representative Rick Miera*)
- b. Make two appropriations for educational technology:
- appropriate funds for FY 06 and FY 07 for scheduled replacement of functionally obsolete school computers and network hardware in accordance with the state technology plan; to receive these funds, districts must have a PED-approved educational technology plan in place and must provide a match on the same basis as that used for PSCOC grant awards; and
 - appropriate funds to the Educational Technology Deficiencies Correction Fund for FY 06 and subsequent fiscal years to correct deficiencies in the education technology infrastructure and make allocations according to the *Technology for Education Act* based on priorities established by PED to raise all schools to the minimum educational technology adequacy standards developed by PED and the Council on Technology in Education. (*Sponsors: Senator Cynthia Nava, Representative Rick Miera*)

On a motion by Representative Stewart, seconded by Representative Hamilton, the committee voted unanimously to approve the foregoing list, with the exception noted on Item 33.

On a motion by Representative Gutierrez, seconded by Representative Stewart, the committee voted unanimously to fund FY 07 school-owned bus replacements through the capital outlay process.

c. Copies of Legislation Endorsed at the December 2005 LESC Meeting

Dr. Rindone reported that copies of legislation endorsed at the December 2005 LESC meeting were included in the committee notebooks.

d. Approval of Draft LESC Report to the 2nd Session of the 47th Legislature, 2006

On a motion by Representative Williams, seconded by Representative Hamilton, the committee unanimously approved the draft of the LESC Report to the 2nd Session of the 47th Legislature, 2006, with allowances for staff changes as necessary.

There being no further business, with the consensus of the committee, Senator Nava adjourned the LESC meeting at 3:03 p.m.

_____ Chairperson

_____ Date