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**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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Ian M. Kleats, Deputy Director

**MINUTES**  
**LESC MEETING**  
**May 28, 2015**

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:05 a.m., on Thursday, May 28, 2015, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting members of the LESC were present:

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

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, Jim Dines, Stephanie Garcia Richard, Jimmie C. Hall, Timothy D. Lewis, G. Andres Romero, Patricia Roybal Caballero, James E. Smith, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Lee S. Cotter, Linda M. Lopez, Michael Padilla, John Pinto, William P. Soules, Mimi Stewart, and Pat Woods.

The following advisory members of the LESC were not present:

Representatives David M. Gallegos and D. Wonda Johnson; and Senator Daniel A. Ivey-Soto.

**SUMMARY OF PUBLIC EDUCATION-RELATED LEGISLATION PASSED  
BY THE 52<sup>ND</sup> LEGISLATURE, 1<sup>ST</sup> SESSION, 2015, AFTER EXECUTIVE ACTION**

The Chair recognized LESC staff for a review of FY 16 public school-related appropriations and selected language and public education-related legislation considered by the 52<sup>nd</sup> Legislature, 1<sup>st</sup> Session, 2015.

## Education-related Appropriations

Referring to Table 2 and pages 3-6 of the LESC staff report included in the committee notebooks, Mr. Ian Kleats, LESC staff, highlighted the education-related appropriations included in the *General Appropriations Act (GAA) of 2015*, including approximately \$2.51 billion to the State Equalization Guarantee distribution (commonly referred to as the public school funding formula (PSFF), including:

- approximately \$6.7 million to increase the Level 1 teacher minimum salary by \$2,000 to \$34,000, up from \$32,000 as set by the *GAA of 2014*;
- approximately \$12.6 million to support the implementation of an “at-risk unit increase” in the funding formula;
- a \$309,400 reduction for college- and career-readiness assessments, including ACT, SAT, PSAT, Explore, and Plan;
- a \$6.0 million reduction for school year 2015-2016 Partnership for Assessment of Readiness for College and Careers (PARCC) assessments, which was transferred to a categorical appropriation for “Standards-based Assessments”;
- approximately \$5.2 million for enrollment growth units;
- a reduction of approximately \$2.9 million due to language in the *GAA of 2015* that prevents membership in new programs from generating enrollment growth units;
- approximately \$4.4 million for insurance increases; and
- \$5.0 million for fixed costs.

Mr. Kleats described the \$2.9 million reduction to the PSFF for changes to enrollment growth units as peculiar in that the language in the *GAA of 2015* would eliminate certain new enrollment growth units but should not affect units already built into the base. In this sense, the new provisions might more appropriately be scored as costing zero dollars rather than resulting in a negative adjustment against the PSFF base, he concluded.

With regard to categorical public school support appropriations on lines 32-48 of Table 2 of the staff report, which fund statutorily created funds and other recurring appropriations outside of the funding formula, Mr. Kleats specifically highlighted two of the seven appropriations:

1. \$6.0 million for standards-based test costs, an amount which corresponds to the PSFF reduction for school year 2015-2016 PARCC assessments; and
2. approximately \$1.8 million to the Indian Education Fund, which is supplemented with \$675,400 from Other State Funds, specifically the Indian Education Fund.

Mr. Kleats suggested that the \$6.0 million categorical appropriation for standards-based test costs was unusual in the sense that, unlike other categorical appropriations, there is no statutorily-created fund for that purpose. He emphasized that the committee may wish to review the administration of that appropriation with respect to any efficiency gains attributable to the Public Education Department (PED) handling those payments directly on behalf of school districts.

Mr. Kleats then focused on related appropriations to PED on lines 52-82, Table 2, of the staff report. Noting that most of the related appropriations were for programs that had been funded in the previous year, he directed the committee’s attention to the following additions or changes:

- Teacher and School Leader Preparation became a combined line item for FY 16, having been separated between Teacher Preparation and School Leader Preparation in previous fiscal years;
- the Teachers Pursuing Excellence is a new program modeled after the Principals Pursuing Excellence mentorship program that had been funded previously; and
- funding for the Mock Trials program, which had been funded through PED in previous years, was moved to the appropriation for the Attorney General.

Referring the committee to the nonrecurring special appropriations and the supplemental and deficiency appropriations listed from lines 86-95 in Table 2 of the staff report, Mr. Kleats explained that \$8.75 million had been appropriated for expenditure in FY 15 or FY 16, including:

- \$450,000 for costs associated with PED financial audits;
- \$2.0 million for teacher supplies, expected to be delivered in the form of debit cards to each classroom teacher;
- \$2.0 million in emergency support to school districts experiencing shortfalls;
- \$3.1 million for instructional materials, which includes \$1.1 million from the separate account of the Appropriation Contingency Fund dedicated for educational reforms, commonly referred to as the “Education Lockbox”; and
- \$1.2 million for legal fees that may be incurred by PED.

To conclude, Mr. Kleats noted that the preliminary unit value for school year 2015-2016 was set at \$4,025.75 by the Secretary of Public Education. This reflects an increase of \$20.00 or 0.5 percent from the final unit value for school year 2014-2015.

### **Public School Capital Outlay**

Mr. Kleats explained that, because legislation authorizing capital outlay projects from Severance Tax Bonds did not pass, there was little to report with respect to public school capital outlay. However, he highlighted that the failed capital outlay bill would have provided \$6.2 million for school bus replacement, noting when the Legislature does not appropriate funds for school buses, the state falls behind on its school bus replacement schedule, potentially requiring larger appropriations in subsequent years.

Mr. Kleats suggested that the resulting Severance Tax Bond capacity that is vacated may be utilized by the Public School Capital Outlay Council for long- or short-term Supplemental Severance Tax Bonds to fund standards-based capital outlay awards for school district and charter school infrastructure. Not only does this mitigate potential losses in construction jobs, he explained, but it could address recent solvency issues faced by the Public School Capital Outlay Fund (PSCOF) originating primarily from a change in accounting practices.

On top of those solvency issues, Mr. Kleats detailed that, when the provisions of Laws 2015, Chapter 63 are fully implemented in FY 22, the available revenue stream to the PSCOF will have been decreased by approximately 14.2 percent, a decline which is just under three times as severe as the fully-phased reduction to severance tax bonding capacity for legislative appropriations.

## **LESC-endorsed Legislation**

Mr. David Craig, LESL staff, discussed LESL-endorsed legislation relating to school transportation and public school capital outlay.

### *School Transportation*

During the 2014 interim, Mr. Craig stated, the LESL revisited the recommendations of the 2012 and 2013 interim LESL subcommittees on public school transportation, which included members of the Legislature; solicited input from interested stakeholders, such as school administrators and private school bus contractors; and considered issues related to school transportation, including:

- transportation safety for early childhood students;
- cross-district transportation for students of choice;
- school bus replacement schedules;
- allocations through the school transportation funding formula; and
- options to deal with high fuel costs.

As a result, he stated, the committee endorsed four bills for consideration of the 2015 Legislature. Of these bills, two were enacted into law and two did not pass.

Enacted into law, he reported, are the following measures:

- HB 164a, *School Transportation Info Reporting* (Laws 2015, Ch. 57), which amends the *Public School Finance Act* to change, beginning in FY 17, the reporting dates for school transportation funding of school districts and state-chartered charter schools to the second and third reporting dates of the prior year and changes the distribution of allocations based on new reporting dates; and
- SB 129, *School District Liens on Some School Buses* (Laws 2015, Ch. 46), which amends the *Public School Finance Act* to require school district liens on every contractor-owned school bus under contract to the school district.

Regarding the two bills that did not pass, Mr. Craig noted, one proposed to provide for the installation and operation of global positioning system devices in school buses statewide; the other bill proposed to provide for an exemption from certain taxes for school-related bus transportation.

### *Public School Capital Outlay*

To conclude, Mr. Craig reported that SB 128, *Public School Capital Outlay Building Needs* (Laws 2015, Ch. 93), was endorsed by both the Public School Capital Outlay Oversight Task Force and the LESL. As enacted, the bill amends the *Public School Capital Outlay Act* to allow the Public School Capital Outlay Council to provide temporary annual allocations to school districts and charter schools to address building system needs in existing buildings; defines building systems; and appropriates up to \$15.0 million of the Public School Capital Outlay Fund to be expended annually by the council for expenditure in FY 16 through FY 20 for a building system repair, renovation, or replacement initiative.

## *Charter School Legislation*

Referring to pages 6, 8, and 9 of the LESC staff report included in the committee notebooks, Mr. Kevin Force, LESC staff, reported that during the 2014 interim, the LESC convened the LESC Charter Schools Subcommittee, comprising five senators and six representatives from the full committee. The LESC Charter Schools Subcommittee, he noted, met each month from June to November, considering various issues related to charter school administration and finance, and submitted recommendations for endorsement of potential legislation to the full committee.

Of the three bills endorsed by the committee, he noted, two were passed by the Legislature and signed by the Governor, including:

1. SB 130a, *Public School Lease Purchase Act Definitions* (Laws 2015, Ch. 106), which amends the *Public School Lease Purchase Act* to clarify the definition of “governing body,” and establishes the relationship between a governing body and a school district or a charter school in the acquisition of public school facilities pursuant to lease-purchase arrangements; and
2. SB 148aa, *Charter School Responsibilities* (Laws 2015, Ch. 108), which amends the *Public School Code* to define certain charter school terms and clarify certain responsibilities of charter school authorizers, charter school governing bodies, and charter schools.

The Subcommittee bill that did not pass, Mr. Force explained, proposed to amend the *Public School Code* to require charter schools that choose to provide transportation services to negotiate those services with the school districts in which they are geographically located.

Mr. Force further explained that, in its final consideration of LESC-endorsed legislation during the December 2014 LESC interim meeting, the committee considered and endorsed legislation relating to charter schools to amend the *Audit Act* to address whether a charter school is a component unit of a primary government audit. As the sponsor requested certain changes to provisions in the legislation, the bill introduced during the 2015 legislative session addressed the committee’s legislative intent but, as a consequence, lost the committee endorsement. The bill, SB 257a, *Charter Schools & Public Audit Changes*, passed both chambers of the Legislature but was vetoed. Among its provisions, the bill would have amended the *Audit Act* to include charter schools in the definition of “agency” and allow a component unit of a primary government entity to request, at the component unit’s discretion, a separate audit from the primary entity; the bill would have also required the auditor for the primary government entity to accept the audit performed by the auditor selected by the component unit.

### **Other LESC-endorsed Legislation**

To conclude, Mr. Force reviewed a number of LESC-endorsed bills from the 2015 legislative session, including both legislation that was enacted and legislation that failed to pass.

Enacted legislation, he reported, included HB 165, *Remove AYP References in School Code* (Laws 2015, Ch. 58), which removes references to Adequate Yearly Progress (AYP) throughout the *Public School Code*. He noted that since New Mexico received its flexibility from certain provisions of the federal *Elementary and Secondary Education Act* (ESEA), the state had been operating under two distinct systems of review: (1) AYP, under the current version of *No Child*

*Left Behind Act of 2001*, which was waived under ESEA Flexibility; and (2) the New Mexico Teacher Evaluation Advisory Council (NMTEACH) system under authority of the *A-B-C-D-F Schools Rating Act*, which is required under the terms of New Mexico's flexibility request. He emphasized that in order to relieve the state, PED, and public schools from the onus of working under two distinct systems, HB 165 was introduced and passed in order to do away with state law requirements for, and the obligation to operate under, both systems, in favor of the A-F Rating System.

LESC-endorsed legislation that did not pass, Mr. Force explained, includes HB 74, *Public Education Commission as Independent*, which proposed to create the Public Education Commission (PEC) as an independent entity by amending the *Public School Code* to:

- remove PEC's administrative attachment to PED;
- provide for PEC rulemaking authority and staff support; and
- appropriate \$1.1 million to the PEC to carry out the provisions of the *Charter Schools Act*.

### **Committee Discussion**

Referring to line 5 of Table 2, a committee member asked why the appropriation for insurance had decreased between FY 15 and FY 16. Mr. Craig responded by stating that the appropriation is developed using estimates from multiple parties, including PED, the Legislative Finance Committee, Albuquerque Public Schools, and the New Mexico Public Schools Insurance Authority. The PED estimate, which ultimately formed the basis for the FY 16 appropriation, he stated, utilized data from the Centers for Medicare & Medicaid Services, which showed a marked decline in the growth rate of health care costs.

Referring to Mr. Kleats' statement on the solvency of the PSCOF, a committee member asked whether reduced revenues also played a role, to which Mr. Kleats responded that it was a combination of both factors but primarily attributable to the change to full project-based budgeting.

Another committee member asked for further clarification on the effects of Laws 2015, Chapter 63 on public school capital outlay funding. The Chairman responded that the Public School Capital Outlay Oversight Task Force would be meeting the following week and hearing a presentation on that subject. The Chairman requested that LESL staff share material presented at that meeting with the members of the committee.

### **HIGHER EDUCATION DEPARTMENT AND PUBLIC EDUCATION DEPARTMENT: PRIORITIES FOR THE 2015 INTERIM**

The Chair recognized Dr. Barbara Damron, Cabinet Secretary of Higher Education, and Mr. Andrew Jacobson, Deputy Cabinet Secretary, Higher Education Department (HED), for a discussion of HED priorities for the 2015 interim.

Overall, Dr. Damron explained, the goals of the HED priorities are to:

- promote a cohesive education system that links together New Mexico’s public schools, higher education institutions, and employers;
- implement standards of excellence for HED, institutions of higher education (IHEs), and the students of New Mexico; and
- build a Higher Education Department for the 21<sup>st</sup> Century to help steward the public’s annual investment of \$3.2 billion in IHE’s.

Referring to a committee handout, Dr. Damron summarized several department initiatives further outlined below.

*Higher Education in New Mexico*

In reporting that in 2012 approximately 35.1 percent of New Mexico adults, ages 25-64, possessed an associate or higher degree (as compared to a 39.4 percent US average), Dr. Damron stated that the Integrated Postsecondary Education Data Systems (IPEDS) data from the US Department of Education (USDE) primarily reports graduation rates in terms of 150 percent of standard graduation time, which is a:

- six year graduation time frame for four-year universities; and
- three year graduation time frame for two-year community colleges.

She noted that all IPEDS data are submitted by IHEs to USDE; however, graduation rate calculations do not account for all student populations because the graduation rates from these data will underreport student success at the IHEs because these graduation rates do not account for part-time undergraduate students who are:

- returning undergraduate students with any previous higher education experience;
- community college students who then graduate from four-year universities; and
- students who transfer to, or from, any other higher education institution.

Cautioning that it is important to keep these student populations in mind when reviewing IPEDS graduation rates, she explained that graduation rate calculations change when institutions change sectors. If an institution changes sectors (e.g. a community college becomes a university), she stated, then that institution’s reporting requirements to IPEDS will change as well. As an example, she reported that Northern New Mexico College (NNMC) was a community college that began offering bachelor degrees in 2003-2004. She explained that while there were only two bachelor degree students in that academic year, the change resulted in a high reported graduation rate for NNMC.

*Recent Developments in Higher Education and HED Following the 2015 Legislative Session*

Dr. Damron reported that HED has been promulgating rules and implementing policies for the following legislation passed by the 2015 Legislature and signed by the Governor:

- SB 446a, *Interstate Distance Education Act*, which, among its provisions, defines “state authorization reciprocity agreement” as an agreement that provides uniform standards and parameters for the interstate provision of postsecondary distance education and programs;

- SB 341a, *Use of Nurse Educators Fund for Degree*, (identical to HB 121a, *Use of Nurse Educators Fund*), which amends the purpose of the Nurse Educators Fund to enable the attainment of certain degrees, including a Bachelor of Science, Master of Science, and Doctor of Philosophy degree in nursing programs;
- CS/HB 170a, *Higher Education Endowment Fund Changes*, which changes the distribution process and use of the fund, creates the Higher Education Endowment Committee, and prescribes powers and duties;
- HB 341, *Children, Youth & Families Worker Loans*, which establishes the *Children, Youth, and Families Worker Loan Repayment Act*, a student loan repayment program administered by HED for eligible social workers at the Children, Youth and Families Department; and
- HB 282, *Higher Ed Common Course Naming & Numbering*, which amends the *Post-Secondary Education Articulation Act* to require HED to establish, by August 1, 2017, a common course naming and numbering system for courses identified as substantially equivalent lower-division courses.

### *New Mexico Higher Education Department*

Dr. Damron emphasized that HED is committed to building a department of excellence. Noting that the vacancy rate at HED had fluctuated from 28.3 percent to 33.3 percent through FY 14 to January 2015, she reported that, since January 2015, HED's vacancy rate has dropped to 14.3 percent. She emphasized that HED is developing, recruiting, and retaining a team that will promote excellence within HED and higher education.

She also noted that the department is assessing its statutory obligations and devoting time and resources to areas of need, such as: graduate program approvals, general education core courses, the Statewide Longitudinal Data System, and transfer and articulation.

Addressing the legislative lottery scholarship, Dr. Damron stated that since 2009 the cost of tuition scholarships has outpaced revenues from ticket sales resulting in a decline in the year-end balance of the Lottery Tuition Fund in recent years. She reported that, by June 1st of each year, the HED Cabinet Secretary sets the percentage of sector average tuition that the fund can support. For the Fall 2015 and Spring 2016 semesters, she noted, the scholarship will cover 90 percent of the sector average tuition. This decision, she emphasized, was made due to:

- declining enrollments;
- recent lottery revenues; and
- the impact of the 15 student credit hour requirement for lottery eligibility.

Finally, she reported that HED convened a Steering Committee for the Higher Education Funding Formula that will review research findings and reach consensus on formula factors for FY 17. The formula, she added, will then be developed by a seven-member subcommittee, which has a balanced representation of higher education sectors. On May 22, she said, the group of seven presented a report to the Steering Committee, which concluded that the current funding formula follows several national best/common practices, but stability would be needed to prove its efficacy. The Steering Committee also discussed the need for a long-term strategic plan for higher education in New Mexico.

## *HED's Long Term Vision for Higher Education*

Across three levels, Dr. Damron emphasized, the focus of HED's vision includes promoting cohesion:

1. among New Mexico IHEs by:
  - identifying, in collaboration with institutions, each IHE's areas of strength in order to reduce program duplication within communities and across the state;
  - encouraging institutional success through outcomes-based funding for graduating students and contributing to New Mexico's workforce; and
  - helping students graduate in four years via innovative incentives, consistent graduation requirements (e.g. 120 credit hours) for a bachelor degree, and seamless credit transfers across institutions;
2. between institutions and employers to meet New Mexico's workforce needs by:
  - assessing employment supply and demand data in order to match degree programs with the needs of the labor market;
  - developing loan-repayment programs for specific fields and occupations; and
  - bolstering the economy of New Mexico as a whole and the state's regional economies; and
3. across public and higher education to provide a comprehensive P-20 workforce system by:
  - expanding access to dual credit programs, which introduce students to college coursework and environments;
  - supporting early-college high schools, which enable students to jumpstart their degree coursework, job certification, and careers; and
  - promoting Advanced Placement programs in high schools in order to prepare students for collegiate studies.

### **Committee Discussion**

In response to a committee member's question relating to what maintaining stability in the higher education funding formula entails, Dr. Damron responded that HED has looked into keeping the internal mechanics of the formula unchanged in years to come. She explained that this includes maintaining the distribution percentages within the formula identical over time. She emphasized that stability within the funding formula would provide the department with more consistent data to inform better future decisions and added that there is agreement on this measure among higher education institutions.

A committee member asked what specifically is needed to improve four-year graduation rates in the state. Dr. Damron responded that one important step on this issue is to promote consistent graduation requirements among higher education institutions. She stated that higher education institutions in New Mexico may also need to consider adopting a standard requirement of 120 credit hours for students in order to graduate. Among other solutions, she noted the relevance of

articulating credit transfers for those students who change to another institution as well as to ensure that most of the preparatory credits can transfer between institutions.

In response to a committee member's question relating to how many college graduates stay in New Mexico after graduating from teaching or science, technology, engineering, and math programs, Dr. Damron responded that the department is currently collecting data on the topic.

With regard to the lottery scholarship a member of the committee inquired about the dollar amount for the upcoming academic year. Dr. Damron replied that the award amount generally averages to \$2,000 per student across all sectors. Deputy Secretary Jacobson added that within the research sector, the amount would probably be close to \$2,400 per student.

In response to a committee member's question regarding any critical needs in capital outlay, Dr. Damron responded that there are not any significant problems in capital outlay currently. Dr. Damron mentioned, however, that there are several capital outlay projects in place; she added that the department reviews these projects on a monthly basis.

A committee member asked whether HED has a specific plan to retain college and university graduates in New Mexico and help them join the workforce in the state. Dr. Damron responded that the department is looking into the types of certificates and credentials that employers require so that higher education institutions can accommodate employee needs of business statewide.

Next, the Chair recognized Ms. Hanna Skandera, Secretary of Public Education, for a presentation on the Public Education Department (PED) priorities for the 2015 interim.

Referring the committee to the PED handout, Ms. Skandera focused her testimony to three topics: (1) updates on department priorities; (2) opportunities for collaboration; and (3) educator equity data.

### **Updates on Department Priorities**

#### *Partnership for Assessment of Readiness for College and Careers Test*

With regard to recent Partnership for Assessment of Readiness for College and Careers (PARCC) testing, Ms. Skandera reported that:

- both windows of testing have been completed;
- New Mexico had the highest computer-based completion rate of any state in the PARCC consortium;
- testing results should be ready in late fall 2015; and
- changes anticipated for school year 2015-2016 include:
  - consolidation of the two testing windows into one;
  - reduction of testing time for students by 90 minutes; and
  - reduction in the number of test units by two for most students.

### *No Child Left Behind Waiver*

Ms. Skandera said that New Mexico was one of five states to receive a four-year *No Child Left Behind Act of 2001* waiver extension. She reported that, like the original waiver, all states had to address:

- Principle 1: college- and career-ready standards and assessments;
- Principle 2: differentiated school accountability system; and
- Principle 3: educator effectiveness based on state assessment data in grades/subjects where it is available.

### *Highly Qualified Teacher Waiver*

Ms. Skandera noted that New Mexico was the first state in the nation to qualify for the Highly Qualified Teacher (HQT) waiver, which allows for:

- highly qualified teacher flexibility;
- new flexibility for districts to place teachers rated as “effective” or higher into like-content areas. (for example, a “highly effective” Physics teacher could now also provide instruction in Algebra II or fifth and sixth grade math); and
- eliminating the so-called arbitrary and costly gate-keeper of the former HQT requirements.

### **Opportunities for Collaboration**

Four priority areas identified as opportunities for collaboration, Ms. Skandera emphasized, include: (1) truancy; (2) recruitment and retention of teachers; (3) competency-based learning; and (4) the training and experience index in the Public School Funding Formula.

#### *Truancy*

To help combat the issue with truancy, she reported, the department is:

- launching an Early Warning System (EWS) in the school year 2015-2016 in order to address the needs of students at risk of being identified as truants or habitual truants;
- instituting programming to help reduce truancy, including college counselors, social workers in middle schools, and truancy and dropout prevention coaches; and
- developing a truancy bill focused on older truant students.

A collaboration point between PED and the Legislature, she noted, should include using new information from EWS and the programming initiative to determine appropriate legislation to stem truancy at earlier points in time, such as middle school.

#### *Recruitment and Retention of Teachers*

To help with the recruitment and retention of teachers, Ms. Skandera stated that the department is focused on finding ways to eliminate unnecessary barriers for teachers to enter the profession and grow in it. Examples of recruitment and retention supports, she noted, include:

- alternative licensure;
- an administrative licensure bill;
- school licensure reciprocity;
- NMPrep programming;
- a pay-for-performance pilot;
- stipends for hard-to-staff schools;
- licensure advancement flexibility; and
- ongoing training and support.

A collaboration point for this initiative, she stated, is legislation that provides a new pathway to the classroom, such as the adjunct teacher bill introduced during the 2015 Legislature.

### *Training and Experience Index*

With regard to the Training and Experience (T&E) Index, Ms. Skandera emphasized that the non-alignment of the index to the three-tiered licensure system has resulted in a disincentive for districts to advance deserving teachers. As an example, she noted that a teacher advancing from licensure Level 1 to Level 2 receives a \$10,000 salary increase; however, the T&E index provides only a small incremental increase for the district in the funding formula which does not cover the salary increase for that teacher. As a result, she stated, licensure advancement stresses district finances. She emphasized that a collaboration point for this issue would include consideration for an updated, fair T&E Index in legislation that allows for fast-tracked licensure advancement of the state's best teachers.

### *Educator Equity Plan*

Ms. Skandera reported that the department's vision regarding the Educator Equity Plan is for every student to have access to an effective teacher that would advance learning toward the ultimate goal of being college- and career-ready. Per federal requirements, she stated, by June 1, all states must have a plan in place to: "ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the state education agency will use to evaluate and publically report the progress of the state education agency with respect to such steps."

In closing, Ms. Skandera emphasized that equity matters, primarily because:

- all students deserve an equal educational opportunity, including equal access to excellent educators;
- teachers and principals who work in our hardest-to-staff schools deserve the support they need to succeed; and
- excellent educators are those fully able to support students in getting and remaining on track to graduate from high school ready for college and careers.

### **Committee Discussion**

In response to a question as to whether the state should request a waiver from the USDE to not use student data in the school grading and the teacher evaluation system for two years in order to gather PARCC data, Ms. Skandera referred the member to the state's jump in the graduation rate

from 63 to 70 percent. She emphasized that all accountability measures incorporate three years of data.

In response to a member's comment that proficiency scores have decreased, Ms. Skandera noted that scores have increased in every subgroup and that the state is third in the nation for improved graduation rates.

A committee member commented that a letter from an elementary school teacher had been received with multiple misspellings and incorrect grammar. The member requested that higher education institutions focus on this issue, including the identification of public schools with the highest remediation rates.

A member commented that the Secretary's testimony indicated that testing time has been reduced; however, it did not mention a decrease in the number of tests. In response, Ms. Skandera stated that a state assessment system is mandated by federal law and emphasized that there are fewer assessments in PARCC.

A committee member referenced a PED memo that was sent out to school districts earlier in the year stating that teachers with a certain evaluation score would not have their teaching licenses renewed. The member asked if that would predicate hiring and firing practices that were outside of PED authority. Ms. Skandera responded that licensure advancement is in New Mexico state statute and that those provisions state that if a teacher is not competent, they cannot advance. The PED memo, she noted, provided flexibility at the local level for two years on these decisions.

## **DIRECTOR'S REPORT**

### ***a. State Auditor Approval of Legislative Education Study Committee Auditor for FY 15***

For the committee's review, Ms. Frances Ramírez-Maestas, LESC staff, referred to a memorandum in the committee notebooks stating that on May 5, 2015, the New Mexico Office of the State Auditor approved Mr. Robert J. Rivera, CPA, PC, to perform the LESC audit for the fiscal year ending June 30, 2015.

### ***b. Administrative Rulemaking***

#### ***(1) Implementation of Federal Requirements for Competitive Foods and (2) School District Wellness Policy***

Mr. Kevin Force, LESC staff, noted the adoption of two final rules from the December 15, 2014 issue of the *New Mexico Register*.

He reported that the provisions in the final rule for 6.12.5 NMAC, *Nutrition: Implementation of Federal Requirements for Competitive Foods*, repealed and replaced the previous version of 6.12.5 NMAC, *Nutrition: Competitive Food Sales*. Among its other provisions, he stated, the newly adopted version of the rule includes:

- the scope of the rules, which includes all schools that participate in the *Richard B. Russell National School Lunch Act* and the *Child Nutrition Act of 1966*;
- the implementation of federal requirements, such as:
  - new defined terms, taken from federal regulations, such as “combination foods,” “competitive foods,” and “entrée items”; and
  - all federal law, rules, guidance, and limitations governing sale of foods in schools under school meal programs;
- the establishment of limits on the number of allowable fundraisers permitted on school grounds during the school term; and
- the implementation of a wellness policy.

With regard to the second rule, 6.12.6 NMAC, *School District Wellness Policy*, Mr. Force reported that amended provisions include:

- a definition for “fundraiser,” which means the on-campus sale, to benefit a school or school organization, of beverage or food products limited by a US Department of Agriculture (USDA) school meal program for use, consumption, or sale during the school day in competition with school meals; a fundraiser may be conducted only for up to one school day on two occasions per semester or trimester term in a school that participates in USDA school meal programs; and
- elements required to be in a school district’s wellness policy, such as nutritional guidelines that meet federal requirements, as well as guidelines for fundraisers.

### ***Implementing the Indian Education Act***

Ms. Heidi L. Macdonald, LESC staff, discussed the adoption of the proposed Public Education Department (PED) rule, *Implementing the Indian Education Act* [6.35.2 NMAC].

Referring to the staff brief, Ms. Macdonald explained the notice of the proposed rulemaking solicited comments on the rule and announced three public hearings to be held in Gallup, Farmington, and Santa Fe.

Briefly summarizing the proposed rule, Ms. Macdonald informed the committee that, among the provisions, the rulemaking includes:

- the *Indian Education Act’s* purposes, which include:
  - maintaining Native American languages;
  - establishing a partnership between the PED and the tribes to increase tribal involvement and control over tribal schools and students on reservation land;
  - encouraging outreach to American Indian urban students; and
  - promoting parental involvement in the education of tribal students;
- the rule’s postsecondary education collaboration, which requires PED to work in partnership with the Higher Education Department and New Mexico’s postsecondary institutions to aid in the transition efforts for tribal students pursuing higher education;

- the rule’s Tribal Education Status Report, which requires school districts located on tribal lands to submit certain information by July 15th of each year to PED and all tribes to receive the report by November 15th annually; and
- the rule’s awards, which describe how PED will work in collaboration with the Indian Education Advisory Council regarding priorities for funding and the application process.

In conclusion, Ms. Macdonald stated that the proposed rule required PED to host semi-annual government-to-government meetings with tribal governments seeking input on the education of tribal students. PED’s Assistant Secretary for Indian Education is also tasked with the following:

- establishing, supporting, and maintaining an Indian Education Advisory Council;
- entering into agreements with each tribe to share programmatic information and to coordinate technical assistance for public schools that serve tribal students; and
- developing curricula based on tribal history and government that can be integrated in school districts throughout the state.

***Content Standards with Benchmarks and Performance Standards for Career and Technical Education, Grades 7-12***

Ms. Christina McCorquodale, LESC staff provided an overview of the new adopted rule by PED, *Content Standards with Benchmarks and Performance Standards for Career and Technical Education, Grades 7-12* [6.29.3 NMAC].

Referring to the staff brief, Ms. McCorquodale explained the relevance for the newly adopted rule about which the committee heard testimony during the December 2014 interim on a preliminary analysis conducted by the Southern Regional Education Board indicating that New Mexico needs a clear definition of high-quality career pathways that connect high school and postsecondary studies with job opportunities.

Ms. McCorquodale continued by explaining that, during the 2015 legislative session, HB 178a, *Career Technical Education Courses & Terms*, was enacted. Laws 2015, Chapter 60 will become effective July 1, 2015 which amended the *Public School Code* to allow students to:

- receive credit for certain career technical education courses as electives;
- defines certain career technical education terms; and
- allows districts to choose whether students who successfully complete an industry-recognized credential, certificate, or degree may receive additional weight in the calculation of their grade point average.

Briefly summarizing the newly adopted rule, Ms. McCorquodale informed the committee that, among the provisions, new and amended language was added:

- “career technical” was added to the Statutory Authority section;
- “career related” replaced “career and technical-related” to the existing content standards;
- new sections were added to include benchmarks and performance standards for each career cluster and pathway; and
- “career-ready practices” was added to the last section of the rule, which outlines benchmark indicators for a person who is career-ready.

Ms. McCorquodale concluded by referring to the attachment in her staff report and explained that each career cluster included a list of career pathways and their performance standards.

***c. Informational Items***

***Elementary and Secondary Education Act Flexibility***

Mr. Force noted two new events in the timeline of New Mexico's *Elementary and Secondary Education Act* flexibility:

- on March 31, 2015, the US Department of Education (USDE) approved New Mexico's request for a renewal of its flexibility program for four more years, through school year 2018-2019; and
- on May 11, 2015, USDE approved New Mexico's request for a waiver from certain requirements associated "highly qualified teachers."

At this point, the Chair noted that this material was possibly covered earlier in the remarks offered to the committee by Ms. Hanna Skandera, Secretary of Public Education and that additional material would possibly be covered more comprehensively in a future presentation by PED staff.

***Requests for Information***

Mr. Ian Kleats, LESC staff, explained that, since the conclusion of the 2015 legislative session, LESC staff have received the following information requests either through the *Inspection of Public Records Act* (IPRA) or requests for production with respect to open litigation:

- a request for production from the plaintiffs in *Yazzie v. State of New Mexico*;
- an IPRA request from Mr. Jonathan Lipshutz; and
- an IPRA request from J. Edward Hollington & Associates, P.A.

Referring to the attached documents in his staff report, Mr. Kleats suggested that LESC staff could provide further information on either IPRA response if requested by a member of the committee.

With respect to the request for production for the *Yazzie* lawsuit, Mr. Kleats stated that LESC staff have begun the process of scanning into a digital format all meeting materials dating back to the 2005 interim, with further submissions expected. Mr. Kleats said that LESC staff are currently having discussions with counsel at Montgomery & Andrews, P.A. about the extent to which LESC staff are obligated to produce other potentially responsive materials as well, and staff would continue to apprise the committee on actions taken with respect to the lawsuit.

To conclude, Ms. Ramírez-Maestas provided the committee with a letter of her intent to retire on December 31, 2015.

## 2015 LEGISLATIVE INTERIM: COMMITTEE DISCUSSION

### *Potential 2015 Interim Workplan Topics*

Referring to a committee handout, the Chairman called the committee's attention to a draft of potential LESC 2015 interim workplan topics. Reflecting suggested topics submitted by committee members and education stakeholders, the draft document organized specific topics under more general subject areas, including:

- reading interventions;
- training and experience realignment;
- transportation funding;
- funding formula issues;
- teacher compensation;
- virtual education;
- educator evaluation system;
- licensure renewal and advancement;
- assessment; and
- other miscellaneous topics.

Committee discussion yielded a handful of topics not originally included in the draft document for LESC consideration during the interim, including:

- additions to the reading intervention subject area for:
  - public school efforts outside of the Public Education Department (PED) "New Mexico Reads to Lead!" program;
  - differences between reading interventionists and reading coaches; and
  - developmental readiness of students for reading instruction;
- additions to the educator evaluation subject area for:
  - PED communications with teachers;
  - multiple measures used in evaluations;
  - teacher attendance; and
  - systemic anomalies in evaluation data or results;
- modification of an item under the funding formula issues subject area to a more general topic concerning status of sufficiency rather than litigation specifically;
- creation of a new subject area for children with special needs, with topics including:
  - maintenance of effort;
  - training for staff working with autistic children, including seclusion and restraint; and
  - PED and Children, Youth and Families Department collaboration towards foster children outcomes; and

- additions to the other miscellaneous topics subject area including:
  - social workers in high poverty schools;
  - paid leave for parent-teacher conferences;
  - early childhood education funding; and
  - approaches to truancy.

Further topics were discussed by the committee but deemed to fall more appropriately under the work of legislative interim committees other than the LESC, including:

- the status and modernization of the University of New Mexico Hospital (under the purview of the Legislative Health and Human Services Committee);
- school district participation in the Public School Capital Outlay Council standards-based awards process (under the purview of the Public School Capital Outlay Oversight Task Force);
- high school water conservation programs (under the purview of the Water and Natural Resources Committee); and
- costs and affordability of higher education enrollment (except for the extent to which teacher preparation programs are implicated, under the purview of the Legislative Finance Committee (LFC)).

On a motion by Senator Sapien, seconded by Representative Stapleton, the committee approved the draft work plan topics with consideration of the other topics discussed.

***Proposed LESC 2015 Interim Meeting Schedule***

Referring to a committee handout, the Chairman introduced a proposed meeting schedule for the LESC’s 2015 interim meetings. Based on requests made by members of the committee, he explained that, for meetings held outside of Santa Fe for June through September, the schedule includes travel to Raton, Rio Rancho, Roswell, and Silver City.

On a motion by Senator Kernan, seconded by Senator Morales, the committee approved the proposed schedule.

***Appointment of Subcommittees***

The Chairman appointed Representatives Roch and Salazar and Senators Kernan and Sapien to serve as members for a joint work group between LESC and LFC that would meet at various times throughout the interim.

**SUPERINTENDENTS AND COMMUNITY INPUT**

The Chair recognized the following individuals for community input:

- Mr. Tim Zaccaria, a middle school social studies and special education teacher for Albuquerque Public Schools (APS), to discuss issues regarding his teacher evaluation. Mr. Zaccaria stated that he taught three special education students with unique challenges

for three years, and the students passed into higher grades and demonstrated growth. However, despite these successes, Mr. Zaccaria indicated that he was evaluated on the student growth of the entire school because he taught fewer than 10 students, and therefore, received a minimally effective rating. He added that federal law already requires him to measure the growth of his students based on their Individualized Education Plan and expressed concern that the Public Education Department (PED) evaluation system does not take into consideration what he does on a daily basis to improve outcomes for his students. After explaining the negative impact on teacher morale and the threat to his career which forced him to take a new position two weeks ago, Mr. Zaccaria informed the committee that he may decide to teach in another state despite the fact that he likes teaching in New Mexico. In response, a committee member commented that the LESC heard testimony from APS indicating that there were issues related to special education teachers and the PED teacher evaluation system.

- Mr. Jim Jackson, representing Disability Rights New Mexico, who advocated for a number of special education-related issues to be placed in the LESC workplan, including:
  - the Special Education Memorandum of Understanding;
  - data sharing between PED and the Children, Youth and Families Department (CYFD); and
  - the use of seclusion and restraint on students with disabilities.

After alluding to the book-throwing incident at one of the Santa Fe public schools, Mr. Jackson explained that special education students face those kinds of situations every day. Although some schools deal with such matters internally, he said that other schools simply call CYFD or the police, resulting in many of these students dropping out.

- Dr. John R. Graham, Executive Director and Founder of Mentoring and Tutoring Create Hope (MATCH) New Mexico, a nonprofit organization that establishes one-to-one relationships between dedicated college students and at-risk children to prevent dropouts and grow individual potential. Dr. Graham asked the Chair whether the LESC will discuss and take action on SM 2, *College Students as 3<sup>rd</sup> Grade Reading Mentors* (2015), and HM 6, *College Students as 3<sup>rd</sup> Grade Reading Mentors* (2015). In response, the Chair advised Dr. Graham that his topic would be considered at a future LESC interim meeting.

## ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 3:04 p.m.



Chair



Date