

March 1, 2004

MEMORANDUM

TO: New Mexico Legislators

FROM: D. Pauline Rindone

RE: **Summary of Public School-Related Legislation Passed by the Forty-Sixth Legislature, Second Session, 2004 (*most prior to executive action*)**

Enclosed are materials that represent an overview of the 2004 legislative action related to public schools, including public school appropriations and other public school-related legislation – ***most prior to executive action.***

One of the major priorities of the 2004 Legislature was maintaining the integrity of the funding for education reforms passed in 2003, especially additional funding generated by voter approval of Constitutional Amendment 2. When voters adopted this amendment in September 2003, they did so with the understanding that the Legislature would use the additional dollars from the increase in the permanent fund distribution to public schools to *supplement – not supplant*– current public school funding and to support public school reforms. The Legislature was diligent in its effort as it worked to develop the FY 05 budget for public schools.

Table 1 provides a summary of public school support and related education appropriations in the *General Appropriation Act of 2004*. For FY 05, the Legislature appropriated nearly \$2.0 billion, an increase of approximately \$112.8 million, or 6.0 percent, over FY 04 to fund public school support and recurring related education appropriations. Identified with an asterisk are more than \$46.9 million in recurring funds and approximately \$11.1 million in non-recurring funds to support public school reform initiatives in the 2004-2005 school year.

As part of the approximately \$1.9 billion for program cost, the Legislature appropriated sufficient funds:

- for a 2.0 percent salary increase for all public school personnel and included language specifying that the increase is mandatory for school districts with membership greater than 10,000;
- for a \$35,000 minimum salary for Level 2 and Level 3 teachers in FY 05 to implement the second year of the five-year phase-in of the three-tiered licensure framework;
- to “open the doors” (including funding for increased enrollment growth, fixed and insurance costs);
- to annualize in FY 05 the 6.0 percent salary increase for teachers and instructional staff provided no later than the last pay period in December 2003 (FY 04);
- for the final year of the five-year phase-in of full-day kindergarten;
- for the second year of the three-year phase-in of elementary fine arts education; and
- to establish a career advancement initiative for educational assistants beginning in school year 2004-2005 (contingent upon enactment of CS/HB 304, as amended, *Educational Assistant Licensing and Salaries*).

In Categorical Public School Support, the Legislature appropriated approximately \$134.5 million for public school transportation operations (including a 2.0 percent salary increase for transportation employees), supplemental distributions, the Instructional Material Fund, the Educational Technology Fund, and the Incentives for School Improvement Fund.

Recurring, related appropriations include approximately \$17.3 million to fund the Public Education Department (PED) and education-related initiatives, such as the Beginning Teacher Mentorship Program, Family and Youth Services in the *Family and Youth Resources Act*, and the *Indian Education Act*.

The Legislature also appropriated approximately \$13.6 million in special, non-recurring funds for education reform initiatives in PED; contingencies related to district purchases of instructional materials; and the School Library Fund. The Legislative Education Study Committee (LESC) also received a special appropriation to examine the inclusion of instructional support staff in a training and experience index in the Public School Funding Formula.

Table 2 summarizes other appropriations in the *General Appropriation Act of 2004* that affect PED and the public schools, including Supplemental and Deficiency Appropriations, Additional Appropriations, and federal Temporary Assistance for Needy Families (TANF) funds.

Major pieces of legislation that were endorsed by the LESC and passed by the 2004 Legislature include the *Public Education Department Act*, which transfers the powers and duties of the former State Board of Education and the State Superintendent of Public Instruction to PED and the Secretary of Public Education and defines the powers and duties of the Public Education Commission (PEC); an amendment to the *Compulsory School Attendance Law* requiring local school boards to establish attendance and truancy policies that provide early identification of students with attendance problems and provide for intervention measures to prevent truancy; and

an amendment to the *School Personnel Act* requiring PED to institute a licensure system for educational assistants and establishing a minimum salary of \$12,000, in accordance with each year's appropriation.

With regard to public school capital outlay, the 2004 Legislature continued to address adequacy of public school facilities. With passage of CS/SB 399, as amended, the *Omnibus Public School Capital Outlay Bill*, which was recommended by the Public School Capital Outlay Task Force and endorsed by the LESC, the Legislature accomplished the following:

- increased the amount of severance tax revenues that can be used to support supplemental severance tax bonds from 37.5 percent to 45.0 percent to provide some additional capacity, especially in years when revenues are rising because of high oil and natural gas prices;
- provided a distribution from FY 05 through FY 09 from the Public School Capital Outlay Fund to school districts and charter schools to make lease payments with the intent that these funds also be used to match federal funds provided as part of the federal *No Child Left Behind Act of 2001* (NCLB) for charter schools;
- provided a cause of action against recalcitrant school districts for specified constitutional violations, remedies for which may include the imposition of a property tax;
- included technical training and certification for both maintenance and facilities management personnel among purposes for expenditure of the *Public School Capital Improvements Act* (also called SB 9) funds; and
- amended the *Technology for Education Act* to limit the period of offsets against a school district's Education Technology Fund distributions to three years.

This legislation also authorized the continuation of the Public School Capital Outlay Task Force, which began its work during the 2001 interim, until July 1, 2005, to oversee the implementation of the new standards-based process and to evaluate the adequacy of funding sources.

In terms of direct appropriations, the 2004 Legislature provided more than \$24.2 million in non-recurring General Fund dollars and nearly \$12.3 million in Severance Tax Bond dollars for public school capital outlay projects and educational technology for nearly 200 schools in 49 of the state's 89 districts. In addition, legislators earmarked up to \$32.0 million in Public School Capital Outlay Fund dollars to complete projects that were the last ones authorized under the old "critical capital outlay" system of funding, which, effective in FY 04, was replaced by a standards-based system.

Finally, in passing *CS/HB 294, as amended, the Legislature supported the acquisition of new, updated materials for public school libraries (including juvenile detention center libraries) with a \$6.2 million appropriation, also provided \$5.0 million to address facilities needs for the final year of implementation of full-day kindergarten throughout the state. Since these appropriations are in the form of authorizations for General Obligation Bonds (GOBs), they will require voter approval at the November 2004 general election.

The following materials are included for your information:

- Table 1, Public School Support and Related Appropriations for FY 05 General Appropriation Act of 2004;
- Table 2, Public School Related Appropriations;
- Table 3, Public School Capital Outlay, 46th Legislature, 2nd Session, 2004;
- Selected Public School-Related Language, General Appropriation Act of 2004; and
- Public School-Related Legislation, 46th Legislature, 2nd Session, 2004.

A separate listing of public school-related legislation that did not pass is available upon request from the LESC office.

xc: Governor Bill Richardson
Lieutenant Governor Diane D. Denish
Dr. Veronica C. Garcia, Secretary of Public Education
Members of the Public Education Commission
Presidents of Local School Boards
Public School District Superintendents
Other Interested Parties

TABLE 1
PUBLIC SCHOOL SUPPORT AND RELATED APPROPRIATIONS FOR FY 05
GENERAL APPROPRIATION ACT OF 2004

(Dollars in Thousands)

	FY 04 APPROPRIATION	CS/HB 2 et al. (before Executive Action)
1 PROGRAM COST	\$1,714,906.2	\$1,802,906.6
2 Resource Reallocation: 1.0 percent of FY 03 program cost	(\$18,000.0)	
3 Adjustment for Overprojection of FY 04 Cash Balance Credit		(\$11,600.0)
4 Adjusted Program Cost	\$1,696,906.2	\$1,791,306.6
5 ENROLLMENT GROWTH	\$4,473.1	\$5,200.0
6 FIXED COSTS	\$3,325.5	\$1,900.0
7 INSURANCE COSTS	\$25,000.0	\$19,000.0
8 COMPENSATION for Public School Employees (2.0 percent in FY 05):		
9 Teachers	\$32,098.3	\$19,276.0
10 Instructional Staff	\$5,879.0	\$3,531.1
11 Other Certified and Non-certified	\$11,554.5	\$7,991.7
12 Annualize FY 04		
13 Teachers (6.0 percent base in FY 05/Annualize FY 04)		\$21,831.8
14 Instructional Staff (6.0 percent base in FY 05/Annualize FY 04)		\$3,998.7
15 Three-tiered Licensure Structure (1st yr. to \$30,000 in FY 04)	\$5,700.0 *	
16 Three-tiered Licensure Structure (Levels 2 & 3 to \$35,000 in FY 05) ¹		\$8,638.7 *
17 Full-day Kindergarten Phase V ²	\$7,000.0 *	\$9,600.0 *
18 Student Assessment CRTs/School District Costs	\$2,000.0 *	\$1,800.0 *
19 National Board Certification (formula change)	\$470.0	
20 Enrollment Growth (formula change)	\$4,500.0	
21 Elementary Fine Arts (year 2 of phase-in)	\$4,000.0	\$4,000.0 *
22 Career Ladder for Educational Assistants		\$5,000.0 *
23 PROGRAM COST	\$1,802,906.6	\$1,903,074.6
24 Dollar Increase over FY 04 Appropriation		\$100,168.0
25 Percentage Increase		5.6%
26 LESS PROJECTED CREDITS (from school district cash balances)	(\$16,400.0)	
27 LESS PROJECTED CREDITS	(\$58,600.0)	(\$61,000.0)
28 LESS OTHER STATE FUNDS (from driver's license fees)	(\$3,000.0)	(\$1,700.0)
29 STATE EQUALIZATION GUARANTEE	\$1,724,906.6	\$1,840,374.6
30 Dollar Increase over FY 04 Appropriation		\$115,468.0
31 Percentage Increase		6.7%
32 CATEGORICAL PUBLIC SCHOOL SUPPORT		
33 TRANSPORTATION	\$94,500.0	
34 Operational		\$84,717.8
35 School-owned Bus Replacements		\$342.6
36 Rental Fees (Contractor-owned Buses)		\$12,336.0
37 Compensation (2.0 percent in FY 05)	\$1,222.2	\$840.4
38 TOTAL TRANSPORTATION	\$95,722.2	\$98,236.8
39 SUPPLEMENTAL DISTRIBUTIONS		
40 Out-of-state Tuition	\$495.0	\$495.0
41 Emergency Supplemental	\$2,600.0	\$2,600.0
42 INSTRUCTIONAL MATERIAL FUND ³	\$32,700.0	\$26,600.0
43 EDUCATIONAL TECHNOLOGY FUND	\$5,000.0	\$5,000.0
44 INCENTIVES FOR SCHOOL IMPROVEMENT FUND	\$1,600.0 *	
45 Adequate Yearly Progress Program (at least 60 percent)		\$960.0 *
46 State Improving School Program (up to 40 percent)		\$640.0 *
47 Three-tiered Licensure Evaluation System Implementation	\$250.0	
48 TOTAL CATEGORICAL	\$138,367.2	\$134,531.8
49 TOTAL PUBLIC SCHOOL SUPPORT	\$1,863,273.8	\$1,974,906.4
50 Dollar Increase over FY 04 Appropriation		\$111,632.6
51 Percentage Increase		6.0%
52 RELATED APPROPRIATIONS: RECURRING		
53 Public Education Department	\$9,463.2	\$10,351.2
54 Advanced Placement Framework	\$381.6	\$381.6
55 Apprenticeship Assistance	\$650.0	\$650.0
56 Beginning Teacher Induction/Mentorship	\$900.0 *	\$900.0 *
57 CHARTER SCHOOLS STIMULUS FUND	\$200.0	\$200.0
58 Family and Youth Resource Act/Family and Youth Services		\$1,800.0 *
59 Indian Education Act of 2003		
60 Teacher & Princ. Quality, Exemp. Progs., Curric. Dev. & Monitoring/Expanded Services	\$2,000.0	\$2,500.0 *
61 Kindergarten Plus (Extended Kindergarten for High-poverty Areas)	\$100.0 *	\$100.0 *
62 Re:Learning	\$900.0	
63 Regional Education Technology Assistance (RETA)	\$500.0	
64 Service Learning	\$100.0	
65 Strengthening Quality in Schools (SQS)	\$500.0	
66 To CHE: Teacher Loan for Service	\$386.5 *	\$386.5 *
67 TOTAL RELATED APPROPRIATIONS: RECURRING	\$16,081.3	\$17,269.3
68 TOTAL RECURRING GENERAL FUND	\$1,879,355.1	\$1,992,175.7
69 Dollar Increase over FY 04 Appropriation		\$112,820.6
70 Percentage Increase		6.0%

¹ Original estimate of \$11.4 million adjusted to \$8.6 million to reflect 2.0 percent salary increase for FY 05.

² For FY 05, the Legislature appropriated an additional \$4.0 million in TANF funds for implementation of full-day kindergarten programs.

³ Language in the General Appropriation Act of 2004 requires the Secretary of Public Education to certify that the allocation to each entity reflects the deduction of an amount equal to its prorated share of \$6.1 million attributed to instructional materials cash balances.

TABLE 1

PUBLIC SCHOOL SUPPORT AND RELATED APPROPRIATIONS FOR FY 05
GENERAL APPROPRIATION ACT OF 2004

(Dollars in Thousands)

	FY 04 APPROPRIATION	CS/HB 2 et al. (before Executive Action)	
71	Section 5: Special Non-recurring Appropriations to PED (for expenditure in FY 04 and FY 05)		71
72		\$500.0 *	72
73		\$200.0 *	73
74		\$350.0 *	74
75		\$475.0 *	75
76		\$100.0 *	76
77		\$200.0 *	77
78		\$113.6 *	78
79		\$47.6 *	79
80		\$200.0 *	80
81		\$50.0 *	81
82		\$113.6 *	82
83		\$113.6 *	83
84		\$200.0 *	84
85		\$1,500.0	85
86		\$200.0 *	86
87		\$200.0 *	87
88		\$100.0 *	88
89		\$150.0 *	89
90		\$200.0 *	90
91	\$1,000.0	\$1,800.0 *	91
92		\$2,400.0 *	92
93		\$300.0 *	93
94		\$113.6 *	94
95		\$100.0 *	95
96		\$113.6 *	96
97		\$1,000.0	97
98	\$300.0	\$93.0 *	98
99		\$385.5 *	99
100		\$350.0 *	100
101		\$140.0 *	101
102		\$1,000.0 *	102
103		\$500.0 *	103
104		\$225.0 *	104
105		\$75.0 *	105
106	TOTAL SPECIAL APPROPRIATIONS	\$1,300.0	\$13,609.1

REFORM FOR FY 05⁵	
Public School Reform Initiatives (recurring)	\$36,325.2
FY 04 program cost dollars to be "booked" to reform in FY 05 ⁶	\$8,170.0
2.0 percent salary increase adjustment (three-tiered minimum salaries for teachers and educational assistants)	\$2,500.0
Total Public School Reform Initiatives (recurring)	\$46,995.2
Public School Reform Initiatives (non-recurring)	\$11,109.1
TOTAL REFORM	\$58,104.3

NOTE: Amounts that are marked with an asterisk are reform initiatives.

⁴ "The general fund appropriation includes nine hundred thousand dollars (\$900,000) for re:learning, five hundred thousand dollars (\$500,000) for strengthening quality in schools and the balance for other professional development programs. In fiscal year 2005, the public education department shall evaluate programs funded through the professional development fund including re:learning, regional education technology assistance, strengthening quality in schools, service learning, and golden apple; train staff in probationary schools in cultural competencies on reducing the current achievement gap among New Mexico students; and provide a report to the legislative education study committee by November 2004."

⁵ Section 12 of the General Appropriation Act of 2004 transfers \$120.0 million from the General Fund to the Appropriation Contingency Fund during FY 05 to be "expended only upon appropriation by the legislature and only for the purpose of implementing and maintaining educational reforms."

⁶ The \$8,170.0 includes \$5.2 million for Three-tiered Licensure Structure (1st yr. to \$30,000), \$2.0 million for Student Assessment CRTs/School District Costs, and \$470,000 for National Board Certification (formula change).

TABLE 2

PUBLIC SCHOOL RELATED APPROPRIATIONS

GENERAL APPROPRIATION ACT OF 2004

(Dollars in Thousands)

SECTION 4F

Human Services Department	
TANF funds to PED for Teen Pregnancy Education and Prevention (GRADS program)	\$1,300.0
TANF funds to PED for Early Childhood Development (before- and after-school programs)	\$2,982.5
TANF funds to PED for Full-day Kindergarten	\$4,000.0
TOTAL (before Executive action)	\$8,282.5

SECTION 5

Special Appropriation to the Energy, Minerals and Natural Resources Department for expenditure in FY 04 and FY 05	
Competitive grant program for energy efficiency and renewable energy projects (public schools are eligible to apply)	\$500.0
TOTAL (before Executive action)	\$500.0

SECTION 6

Supplemental and Deficiency Appropriations to the Public Education Department for expenditure in FY 04 and FY 05	
Personal services, employee benefits, operating expenses and contractual services	\$730.0
Testing contracts	\$810.0
TOTAL (before Executive action)	\$1,540.0

SECTION 7

Additional Appropriations to the Public Education Department for expenditures in FY 05	
Alamogordo headstart teacher training	\$25.0
Capital projects at West Mesa High School in Bernalillo County	\$25.0
Character building program for underprivileged and Native American youth in San Juan County	\$80.0
Character Counts in Roswell	\$25.0
Character Counts program services in Chaves County	\$35.0
Dropout prevention, leadership development and family education programs	\$200.0
Drug demand reduction program through the civil air patrol cadet program for at-risk middle and high school students	\$30.0
Magnet career high school in the Gadsden Independent School District	\$10.0
New Mexico foundation costs for human rights workshops	\$35.0
New Mexico government education fund contingent upon enactment of House Bill 18, as amended, or similar legislation	\$75.0
Prof. development activities for all staff and for extracurricular activities for students in the Quemado Independent School District	\$37.5
Prof. development activities for all staff and for extracurricular activities for students in the Reserve Independent School District	\$37.5
Smaller learning communities pilot project at Santa Fe and Capital high schools in Santa Fe	\$75.0
Southeastern educational resource center to support middle schools that implement career technical education programs	\$100.0
TOTAL (before Executive action)	\$790.0

***CS/HB 293, as amended**

(Dollars in Thousands)

Appropriation to the Public Education Department for expenditure in FY 04 and FY 05	
Statewide dropout prevention, leadership development and family education program plan for at-risk Hispanic teenagers	\$500.0
TOTAL (before Executive action)	\$500.0

SELECTED PUBLIC SCHOOL-RELATED LANGUAGE

GENERAL APPROPRIATION ACT OF 2004 (prior to executive action)

OTHER EDUCATION (Section 4, I)

The public education department shall submit a quarterly program evaluation to the legislative finance committee detailing the benefits to the state of New Mexico and public school districts from having implemented reform programs.

The appropriation for family and youth services shall be to fund programs pursuant to the Family and Youth Resource Act. The appropriation for teacher loan for service shall be transferred to the commission on higher education.

PUBLIC SCHOOL SUPPORT (Section 4, K)

The rate of distribution of the state equalization guarantee distribution shall be based on a program unit value determined by the secretary of public education. The secretary of public education shall establish a preliminary unit value to establish budgets for the 2004-2005 school year and then, upon verification of the number of units statewide for fiscal year 2005 but no later than January 31, 2005, the secretary of public education may adjust the program unit value.

For the 2004-2005 school year, the state equalization guarantee distribution contains sufficient funding for school districts implementing a formula-based program for the first time. Those districts shall use current year membership in the calculation of program units for the new formula-based program.

The general fund appropriation for the state equalization guarantee distribution contains sufficient funds to provide a two percent salary increase for teacher[s,] other instructional staff and other certified staff and noncertified staff, effective July 1, 2004.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenues pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments commonly known as "impact aid funds" pursuant to 20 USCA 7701 et seq., formerly known as "PL 874 funds".

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from the federal Mineral Lands Leasing Act receipts otherwise unappropriated.

Each school district shall demonstrate support for career technical education offerings before approval and certification of its fiscal year 2005 operating budget by the public education department.

The general fund appropriation for the state equalization guarantee contains sufficient funds to initiate the implementation of a three-tier career licensing framework for educational assistants in fiscal year 2005 contingent upon the enactment into law of House Bill 304 or similar legislation of the second session of the forty-sixth legislature.

For those school districts with MEM greater than ten thousand, the secretary of public education, prior to the approval of school district and charter school budgets for fiscal year 2005, shall verify that the school board is providing a two percent salary increase for teachers and staff.

The expenditure of school funds for Gallup McKinley school district is contingent on Smith Lake elementary school remaining open for school year 2005.

The general fund appropriation for the state equalization guarantee distribution includes funding for bilingual multicultural educational programs. The public education department shall evaluate the program effectiveness and use of bilingual multicultural education program funds to ensure that program needs are met. The public education department shall compile and report the progress made toward achieving program goals to the legislative education study committee and legislative finance committee, including a status report by July 2004 and a final report by December 1, 2004.

Prior to the approval of a school district, state institution, private school or adult basic education center instructional material allocation for fiscal year 2005, the secretary of public education shall certify to the secretary of finance and administration that the allocation reflects the deduction of an amount equal to its prorated share of six million one hundred thousand dollars (\$6,100,000) attributed to instructional materials cash balances for that school district, state institution, private school or adult basic education center.

The following language applies to both the State Equalization Guarantee distribution and the supplemental distribution: Any unexpended or unencumbered balance in the distributions authorized remaining at the end of fiscal year 2005 from appropriations made from the general fund shall revert to the general fund.

The general fund appropriation to the transportation distribution includes sufficient funds for a two percent salary increase for transportation employees effective July 1, 2004.

The purpose of public school support is to carry out the mandate to establish and maintain a uniform system of free public schools sufficient for the education of and open to all children of school age in the state.

COMPENSATION APPROPRIATIONS (Section 9, A)

(7) one hundred seventy-nine thousand six hundred dollars (\$179,600) to provide teachers in the department of health, corrections department, children, youth and families department and commission for the blind with a two percent salary increase;

FUND TRANSFER (Section 12)

One hundred twenty million dollars (\$120,000,000) is transferred from the general fund to the appropriation contingency fund during fiscal year 2005. A portion of the amount transferred represents a distribution from the permanent fund pursuant to Paragraph (1) of Subsection G of Section 7 of Article 12 of the constitution of New Mexico. The transferred amount shall be held in a separate account of the appropriation contingency fund and expended only upon appropriation by the legislature and only for the purpose of implementing and maintaining educational reforms.

PUBLIC SCHOOL-RELATED LEGISLATION
FORTY-SIXTH LEGISLATURE, SECOND SESSION, 2004
(most prior to executive action)

HOUSE BILLS

- *H 1a** **FEED BILL (SGND (Jan 29) Ch. 1 (partial veto)-(VETO OVERRIDE - PASSED/H)(VETO OVERRIDE - FAILED/S), *Picraux*** — funds the 2004 legislative session and other legislative activities, including the Legislative Education Study Committee (LESC) for FY 05.
- H 2** **GENERAL APPROPRIATION ACT OF 2004, *Coll*** — makes general
CS/H 2a appropriations from the General Fund and authorizes the expenditures by agencies
et al. for FY 05; among its provisions, appropriates approximately \$2.0 billion in Public School Support and education-related appropriations from the General Fund to public schools in FY 05; public school support appropriations include the State Equalization Guarantee, Public School Transportation, the Instructional Material Fund, the Educational Technology Fund, the Incentives for School Improvement Fund, and other related appropriations. (CS/H 2, 3, 4, 5, 6, 8, & 177)
- H 25** **AFFORDABLE HOUSING ACT, *Lujan,B*** — enacts the Affordable Housing Act and
***CS/H 25** prescribes conditions under which a school district may transfer land to a county or municipality for part or all of an affordable housing grant.
- H 39a** **INDIAN AFFAIRS DEPARTMENT ACT, *Madalena*** — enacts the Indian Affairs Department Act to create a single unified department to administer all laws and exercise all functions formerly conducted by the Office of Indian Affairs; creates the Secretary of Indian Affairs; prescribes duties of the department and the secretary and specifies that one of the department’s duties shall be to investigate, study, consider and act upon Indian conditions and relations within the state, including education. [Similar to S 364a]
- H 62** **NATIONAL BOARD CERTIFICATION IN PROGRAM COST, *Hamilton*** — inserts “clean-up” language in the Public School Finance Act to align numerical references related to the total program units used to determine program cost related to National Board Certification. (For the LESC)
- H 96a** **PUBLIC EDUCATION DEPARTMENT ACT, *Stewart*** — amends the Public School Code to transfer the powers and duties of the State Board of Education (SBE) and the State Superintendent of Public Instruction to the Public Education Department (PED) and the Secretary of Public Education; defines the powers and duties of the Public Education Commission (PEC); requires the secretary to consult with PEC before suspending a local school board, local superintendent, or school principal; provides for hearings and appeals to district court; and repeals several sections of the Public School Code. (For the LESC)

PUBLIC SCHOOL-RELATED LEGISLATION
FORTY-SIXTH LEGISLATURE, SECOND SESSION, 2004
(most prior to executive action)

- H 106a **ENFORCEMENT OF HABITUAL TRUANCY**, *Swisstack* — amends the
CS/H 106a Compulsory School Attendance Law to require local school boards to establish attendance and truancy policies that provide early identification of students with attendance problems and provide for intervention measures to prevent truancy; defines the terms “truant,” “habitual truant,” and “unexcused absence”; allows charges against a parent to be filed in metropolitan, magistrate or district court; and provides for the suspension of an habitual truant’s driver’s license by the Children’s Court. (For the LESC)
- *H 124a **NMFA PUBLIC PROJECT REVOLVING FUND LOANS**, *Silva* — authorizes the New Mexico Finance Authority to make loans for public projects from the Public Project Revolving Fund to certain qualified entities, among them numerous public school districts.
- H 158 **SCHOOL DISTRICT CASH BALANCE CALCULATION**, *Miera* — amends the Public School Finance Act to change the basis for calculating the amount of excess cash balance to be used in reducing a school district’s or charter school’s State Equalization Guarantee from the “allowable limit” to the “allowable, unrestricted, unreserved operational cash balance and the emergency reserve.” (For the LESC)
- *H 161a **REPEAL EDUCATION DEPARTMENT TRANSITION LAWS**, *Miera* — repeals effective immediately the part of Laws 2003, Chapter 143 (SB 911 of 2003) that repealed portions of the Public School Code relating to the state public education governance structure. (For the LESC)
- *H 175 **MVD CLEANUP & FEDERALLY REQUIRED PROVISIONS**, *Taylor, TC* —
*CS/H 175a among its provisions, amends the Motor Vehicle Code to clarify the definition of the term “school bus.”
- H 186a **DEAF CHILDREN’S EDUCATIONAL BILL OF RIGHTS**, *Silva* — enacts the Deaf and Hard-of-Hearing Children’s Educational Bill of Rights to ensure that deaf and hard-of-hearing children receive an appropriate education and that their parents receive accurate, balanced, and complete information about their children’s educational needs and available services; and requires PED to develop a model “communication consideration for students who are deaf or hard-of-hearing” as part of the Individual Education Plan (IEP) process. [Identical to S 206a]
- H 239a **PROCUREMENT CODE EXEMPTIONS**, *Varela* — amends the Procurement Code to exempt several items, among them items of tangible personal property, works of arts for display in public buildings, and procurement by PED from the US Department of Education relating to parent training pursuant to the IDEA, up to \$200,000.
- H 251a **ADVANCED ENERGY TECHNOLOGY DEVELOPMENT ACT**, *Salazar* — enacts the Advanced Energy Technologies Economic Development Act; creates the Clean Energy Grants Fund and the Clean Energy Grants Program, administered by the Energy, Minerals and Natural Resources Department, to provide clean energy grants to public schools, among other recipients; and requires the Energy, Minerals and Natural Resources Department to disburse no more than \$200,000 to state agencies and public schools to implement the provisions of the bill. (For the Governor)

PUBLIC SCHOOL-RELATED LEGISLATION
FORTY-SIXTH LEGISLATURE, SECOND SESSION, 2004
(most prior to executive action)

- H 254a IMMUNIZATION ACT**, *Beam* — enacts the Immunization Act; creates an immunization registry; requires the Secretary of Health to adopt rules for the immunization registry; and limits access to information in the registry to certain appropriate health care providers, among them school nurses. [Identical to S 203a]
- H 271a BEHAVIORAL HEALTH PLANNING COUNCIL**, *Sandoval* — amends the Public Health Act to create the Behavioral Health Planning Council, whose members include a representative from education; prescribes duties of the council; amends the duties of the New Mexico Health Policy Commission; creates the Interagency Behavioral Health Purchasing Collaborative, whose members include the Secretary of Public Education; prescribes duties of the collaborative, among them to plan, design, and direct a statewide behavioral health system; and requires that the Secretary of Public Education and the Vocational Rehabilitation Division of PED, among other agencies, ensure that behavioral health services comply with the law. (For the Governor)
- *H 293 CAPITAL OUTLAY PROJECTS**, *Sandoval* — among its provisions, appropriates funds
***CS/H 293** from the Capital Projects Fund and the sale of Severance Tax Bonds to PED for various public school projects throughout the state.
- *H 294 2004 GO BOND ACT**, *Sandoval* — enacts the 2004 Capital Projects General
***CS/H 294a** Obligation Bond Act; designates \$6.2 million from the proceeds from the sale of General Obligation Bonds to PED for public school libraries and juvenile detention center libraries; designates \$5.0 million to PED for portable classrooms and classroom renovations for full-day kindergarten; and requires voter approval.
- H 304 EDUCATIONAL ASSISTANT LICENSING & SALARIES**, *Miera* — specifies
CS/H 304a licensure requirements for and conditions under which individuals may perform educational assistant services; requires PED to institute a licensure system for EAs, the highest level of which must meet the federal standard for paraprofessionals for employment in a Title I program; establishes a \$12,000 minimum annual salary for licensed EAs beginning in FY 05, but authorizes the Secretary of Education to adjust the minimum salary in accordance with appropriations for that purpose in each school year. (For the LESC)
- H 451a STATE EMPLOYEE GROUP INSURANCE CONTRIBUTIONS**, *Varela* — amends group insurance statutes to increase the percentage of the required employers' contribution to state employees' group insurance, and raises the salary limits to which the employers' contribution rates apply effective July 1, 2004; provides that, within available revenue, school districts, charter schools, and participants in the Public School Insurance Authority Act may contribute up to 80 percent of the cost of the insurance of all employees; and includes temporary provisions to hold employees harmless for any salary increases between January 2005 and January 2006.
- H 471a CONTRACTOR & SUBCONTRACTOR REGISTRATION**, *Taylor, JG* — requires contractors and subcontractors who submit bids valued at more than \$50,000 for public works projects subject to the Public Works Minimum Wage Act to be registered with the Labor and Industrial Division of the Labor Department; exempts vocational classes in

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public schools or public postsecondary educational institutions from this requirement; imposes an annual registration fee of \$200; creates the Labor Enforcement Fund; and provides means by which the Director of the Labor and Industrial Division may seek remedies for violations. (May affect public schools)

H 522a HIGH SCHOOL GRADUATION NEXT-STEP PLANS, *Stapleton* — clarifies and recompiles existing language in the Public School Code relating to next-step plans filed by high school students; provides that an approved IEP will satisfy the next-step requirements; requires PED to establish a procedure for students to be awarded credit through completion of specific career technical education courses for certain graduation requirements; and requires the Secretary of Public Education to monitor compliance and to report annually to the LESC and the Governor.

H 581 NEW MEXICO TELEHEALTH ACT, *Picraux* — enacts the New Mexico Telehealth Act to provide a framework for health care providers to follow in providing telehealth to New Mexico citizens who find it impractical to receive face-to-face health care consultations; and identifies several originating sites for telehealth care, among them school-based health programs.

HOUSE RESOLUTION

HR 2 CAPITAL OUTLAY FUND EXPENDITURE GUIDELINES, *Larrañaga* — proposes guidelines for the appropriation of state funds for capital outlay projects in 2004. (May affect public schools)

HOUSE JOINT MEMORIALS

HJM 8 STUDY VIRTUAL ANATOMY INSTEAD OF DISSECTION, *Stewart* — requests that PED study the use of virtual anatomy as an acceptable alternative to animal dissection in science classes. (For the LESC)

HJM 17 AFTER-HOURS SCHOOL SITE WORK SAFETY, *Zanetti* — requests that PED develop a model policy governing work by employees, contractors, and volunteers at school sites during nonschool hours, disseminate the model policy to the school districts, and require school districts to adopt such a policy; and requests PED to report to the LESC by October 2004 on the status of the adoption and implementation of these policies. (For the LESC)

HJM 18 STUDY TESTING STUDENTS IN THEIR HOME LANGUAGE, *Zanetti* — requests that PED study the feasibility of testing students in their home language and requiring each school district to determine the appropriate assessments and test accommodations for testing English language learners.

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- HJM 25** **BUSINESS PROFESSIONALS OF AMERICA PROGRAM**, *Vigil* — requests that the United States Congress continue funding the Business Professionals of America. (May affect public schools)
- HJM 39** **CAREER TECHNICAL EDUCATION STUDY**, *Stapleton* — requests that PED, in cooperation with the LESC and school district personnel, study the feasibility of including a weighting factor for career technical education in the Public School Funding Formula; and that PED report its findings and recommendations to the LESC by November 2004.
- HJM 47** **NEW MEXICO MESA DAY**, *Rodella* — designates February 2, 2004, as “New Mexico MESA Day.”
- HJM 53** **PAROLEE REINTEGRATION TASK FORCE**, *Martinez* — requests that the Secretary of Corrections convene a task force to study barriers to successful reintegration of parolees into their communities and that the task force include the Secretary of Public Education as one of its members.
- HJM 59a** **WORK WITH SOUTHERN PUEBLOS COUNCIL**, *Madalena* — requests that PED and the Vocational Rehabilitation Division of PED study ways to provide a more consistent and streamlined approach to servicing tribal members; and study the feasibility of providing services to the southern pueblos serviced by the Albuquerque offices through one centralized office.
- HJM 65** **“KIDS- NEW MEXICO’S NUMBER ONE PRIORITY”**, *Miera* — requests that the Legislature and the Governor ensure that state policies consider the effect on New Mexico’s families and children; and requests that the Governor’s cabinet make “Kids – New Mexico’s Number One Priority” in 2004. [Similar to SM 11]

HOUSE MEMORIALS

- HM 3** **AUDIT BILINGUAL EDUCATION PROGRAMS**, *Begaye* — requests that PED conduct audits of all public schools with bilingual programs.
- HM 7** **RETIREMENT PARITY TO ATTRACT TEACHERS**, *Cordova* — requests that the state move toward parity between the Public Employees Retirement Act and the Educational Retirement Act to attract and retain teachers statewide and to provide a high-quality education for the children of New Mexico.
- HM 21** **“TELEVISION TURN-OFF WEEK” IN NEW MEXICO**, *Trujillo* — requests that the Governor proclaim the week of April 19 to April 25, 2004, “Television Turn-Off Week” in New Mexico.

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- HM 25 **AUTISTIC REGISTRY FEASIBILITY STUDY**, *King* — requests that the
CS/HM 25 Legislative Health and Human Services Committee study the feasibility of establishing a system to determine the number and protect the confidentiality of individuals with autism spectrum disorders and study the feasibility of several agencies – including the LESC – collaborating in the development of a “one stop shop” to coordinate all necessary autism specialists to evaluate a child in one setting and in the development of a comprehensive plan of action for early intervention.
- HM 28 **CHILDHOOD OBESITY STUDY**, *Taylor, JG* — requests that the LESC create a working group to study whether the lack of physical education and nutrition programs and the sale of low-nutrition foods and beverages in public schools are contributing to childhood obesity, including the feasibility of increasing funding for nutrition and physical education programs through contracts with vending machine companies.

SENATE BILLS

- S 27 **EMERGENCY DRILLS IN PRIVATE & PUBLIC SCHOOLS**, *Sharer* — amends the fire drill statute in the Public School Code to require – without increasing the number of drills – that public and private schools conduct two shelter-in-place drills and one evacuation drill during the school year, as directed by PED. (For the LESC)
- S 74a **WORKERS’ COMP ASSESSMENTS & DISTRIBUTIONS**, *Rawson* — increases the fees paid by employers covered by the Workers’ Compensation Act. (May affect public schools)
- S 138a **CHANGE WRITING TEST FOR CERTAIN GRADES**, *Nava* — amends the Assessment and Accountability Act to eliminate the individual writing assessment in grades 4, 6, and 8 and to require school districts to apply writing assessment parameters to the extended response portion of the new criterion-referenced tests. (For the LESC)
- S 149 **ISSUANCE OF SUBSTITUTE TEACHER CERTIFICATES**, *Nava* — requires PED, rather than local school boards, to issue substitute teacher certificates. (For the LESC)
- S 163a **NORTHERN NM STATE SCHOOL TEACHER PROGRAM**, *Martinez* — authorizes the Board of Regents of NNMSS to develop, implement, and seek accreditation for a baccalaureate degree program in teacher education for the Española campus in a partnership with NMHU.
- *S 184a **PUBLIC PROPERTY AMENDMENT RECONCILIATION**, *Aragon* — prescribes conditions under which a public school district, among other state agencies or local public bodies, may sell or otherwise dispose of real property to an Indian nation, tribe, or pueblo or to another state agency or public body. (May affect public schools)

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- S 203a **IMMUNIZATION ACT**, *Lopez* — enacts the Immunization Act and creates an immunization registry; requires the Secretary of Health to adopt rules for the immunization registry; and limits access to information in the registry to certain appropriate health care providers, among them school nurses. [Identical to H 254a]
- S 206a **DEAF CHILDREN’S EDUCATIONAL BILL OF RIGHTS**, *Nava* — enacts the Deaf and Hard-of-Hearing Children’s Educational Bill of Rights to ensure that deaf and hard-of-hearing children receive an appropriate education and that their parents receive accurate, balanced, and complete information about their children’s educational needs and available services; and requires PED to develop a model “communication consideration for students who are deaf or hard-of-hearing” as part of the IEP process. [Identical to H 186a]
- S 364a **INDIAN AFFAIRS DEPARTMENT ACT**, *Tsosie* — enacts the Indian Affairs Department Act to create a single, unified department to administer all laws and to exercise all functions formerly conducted by the Office of Indian Affairs; creates the Secretary of Indian Affairs; prescribes duties of the department and the secretary; specifies that one of the department’s duties shall be to investigate, study, consider, and act upon Indian conditions and relations within the state, including education; and creates the Indian Affairs Commission and prescribes duties of the commission. [Similar to H 39a]
- S 399a **OMNIBUS PUBLIC SCHOOL CAPITAL OUTLAY BILL**, *Nava* — among its provisions, amends the Public School Capital Outlay Act to increase the amount of severance tax revenues that can be used to support supplemental severance tax bonds from 37.5 percent to 45 percent; amends the Property Control Act to allow the Public School Facilities Authority to purchase and own portable classrooms; provides a cause of action against specific types of school districts for specified constitutional violations and provides for a tax imposition as a remedy; authorizes the Public School Capital Outlay Task Force to continue its work until July 1, 2005; provides a distribution, from FY 05 through FY 09, from the Public School Capital Outlay Fund to school districts and charter schools to make lease payments with the intent that these funds also be used to match federal funds provided as part of the No Child Left Behind Act of 2001 (NCLB) for charter schools; amends the Public School Capital Improvements Act (also called SB 9) to include expenditures for technical training and certification for maintenance and facilities management personnel among purposes for expenditure of the funds; amends the Technology for Education Act to limit the period of offsets against a school district’s Education Technology Fund distributions to three years; and excludes any appropriations for full-day kindergarten facilities that are in the 2004 General Obligation Bond Act from capital outlay formula offsets. (For the PSCOTF and the LESC)
- *S 426a **AMEND PUBLIC EMPLOYEE RETIREMENT ACT**, *Altamirano* — among its provisions, amends the Public Employees Retirement Act to impose numerous conditions upon the purchase of credit and a member’s return to employment. (May affect public schools and PED employees)

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- S 471a BILINGUAL EDUCATION PROGRAM ACCOUNTABILITY**, *Tsosie* — amends the Bilingual Multicultural Education Act; among its provisions, requires PED to issue rules for the development and implementation of bilingual multicultural education programs, including assisting school boards in evaluating those programs; requires each school district to provide professional development in bilingual multicultural education programs and to maintain academic achievement and language proficiency data and update them annually; and establishes criteria for eligibility for state financial support of bilingual multicultural education programs, among them forming a parent advisory committee and administering language proficiency assessments in both English and the home language until students are proficient in both.

SENATE JOINT MEMORIAL

- SJM 9a STUDY SCHOOL NURSE DELIVERY OF HEALTH CARE**, *Nava* — requests that the Department of Health and PED create a task force to study the appropriate use and staffing of nurses in the public schools and to consider several questions left unanswered by an earlier task force; and report to the LESC and the Legislative Health and Human Services Committee by October 2005.

SENATE MEMORIAL

- SM 11 KIDS AS NEW MEXICO'S NUMBER ONE PRIORITY**, *Romero* — resolves that the state Senate designate kids as New Mexico's number one priority. [Similar to HJM 65]