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HOUSE MEMORIAL 12

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Derrick J. Lente

A MEMORIAL

REQUESTING THE PUBLIC EDUCATION DEPARTMENT TO DEVELOP A
COMPREHENSIVE EDUCATION PLAN TO ADDRESS THE FOUR STUDENT GROUPS
DEEMED AT RISK IN THE CONSOLIDATED *YAZZIE/MARTINEZ V. STATE OF
NEW MEXICO* COURT DECISION AND ORDER IN CONSULTATION WITH THE
PLAINTIFFS; REQUESTING THE PUBLIC EDUCATION DEPARTMENT TO
PROVIDE THE LEGISLATURE WITH AN ANNUAL REPORT ON THE
IMPLEMENTATION OF THE COMPREHENSIVE EDUCATION PLAN AND
COMPLIANCE WITH THE CONSTITUTION OF NEW MEXICO TO PROVIDE
AT-RISK CHILDREN WITH A UNIFORM AND SUFFICIENT EDUCATION.

WHEREAS, all New Mexico children have a constitutional and
human right to a quality and sufficient education; and

WHEREAS, persistent systematic and institutional racism in
the state's education system and historical lack of education
funding have deprived children of educational opportunities and

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1 access to quality teachers, classroom instruction, materials,
2 programs, services, transportation and supports essential to
3 become college, career and civic-participation ready; and

4 WHEREAS, in the consolidated *Yazzie/Martinez v. State of*
5 *New Mexico* court decision and order of July 2018, the court
6 held that the state was violating the constitutional rights of
7 at-risk students to a sufficient education, including Native
8 American students, English language learners, students with
9 disabilities and low-income students; and

10 WHEREAS, the court ordered the state to take immediate
11 steps to increase funding, programs and services for New
12 Mexico's educational system and provide adequate support for
13 at-risk students; and

14 WHEREAS, the court's decision and findings detail the
15 deficiencies of the state's educational system, including
16 insufficient overall funding for school districts and for
17 programs and services to specifically support at-risk students;
18 the failure to comply with state law requiring multicultural
19 and multilingual education for students; the lack of
20 experienced and well-prepared teachers in classes serving
21 at-risk students; the lack of adequate curricula that is
22 culturally and linguistically responsive such as extended
23 learning programs, early childhood education and pre-K
24 programs; the need for smaller class sizes and reading
25 programs; the lack of student supports such as technology,

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1 transportation and career and vocational programs; inadequate
2 programming for English language learners; insufficient special
3 education programs and ancillary services; and insufficient
4 resources for health and social services, among other areas;
5 and

6 WHEREAS, in June 2020, the court rejected the state's
7 motion to dismiss the consolidated *Yazzie/Martinez v. State of*
8 *New Mexico* case and held that the state must ensure that long-
9 term comprehensive reforms are made so that all at-risk
10 students have the opportunity to be ready for college and
11 careers and that the court would retain jurisdiction over the
12 case to enforce compliance with its 2018 decision and order and
13 2019 final judgment; and

14 WHEREAS, in the 2021 regular legislative session, the
15 house of representatives unanimously passed House Memorial 26
16 requesting the public education department to immediately
17 develop a comprehensive education plan by September 30, 2021 to
18 address the systemic education inequities and deficiencies
19 identified by the court in the consolidated *Yazzie/Martinez v.*
20 *State of New Mexico* case and to come into compliance with the
21 state's constitutional duty to provide at-risk students with a
22 sufficient education; and

23 WHEREAS, the public education department failed to provide
24 the legislature with a comprehensive education plan as
25 requested with short- and long-term goals and action steps that

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1 address the insufficiencies detailed by the court's decision
2 and findings, time frames, staffing, accountability measures
3 and the projected funding amounts required to meet at-risk
4 students' education needs by the deadline set out in House
5 Memorial 26; and

6 WHEREAS, the public education department did not attempt
7 to work cooperatively with the plaintiffs to jointly develop a
8 comprehensive education plan to meet the mandates of the
9 *Yazzie/Martinez* court ruling and avoid ongoing litigation by
10 resolving the case; and

11 WHEREAS, it has been more than eight years since the
12 initial filing of the consolidated *Yazzie/Martinez v. State of*
13 *New Mexico* case against the state and more than three years
14 since the July 2018 decision and order, and the state has not
15 developed a comprehensive plan to fix and make transformative
16 changes and improvements to the educational system and provide
17 multiyear funding needed to guide state resource investments;
18 and

19 WHEREAS, the state has appropriated at least eight million
20 dollars (\$8,000,000) for fighting the consolidated
21 *Yazzie/Martinez v. State of New Mexico* case that could have
22 been directed to transforming the state's education system, as
23 mandated by the court; and

24 WHEREAS, Native American students, who comprise nearly
25 eleven percent of the public school student body, continue to

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1 be denied a culturally and linguistically relevant education as
2 required by the Indian Education Act; lack access to community-
3 based programs and services contained in the tribal remedy
4 framework proposed by New Mexico's Indian nations, tribes and
5 pueblos to support Native American students' success; and most
6 rarely see themselves reflected in a diverse teacher workforce,
7 given that only two percent of all teachers in the state are
8 Native American; and

9 WHEREAS, English language learners, who comprise fifteen
10 percent of the public school student body, continue to be
11 denied the full array of services and supports required by the
12 Bilingual Multicultural Education Act and the Hispanic
13 Education Act and lack access to bilingual or teaching-English-
14 to-speakers-of-other-languages-endorsed teachers, thus risking
15 English language learner students spending the majority of the
16 class day without adequate instruction and dependent on other
17 students to translate for them; and

18 WHEREAS, students with disabilities, who comprise sixteen
19 percent of the public school student body, still do not have
20 timely assessments needed to qualify for special education
21 services or teachers with proper training and professional
22 development to support those students' special education needs,
23 nor are these students provided with the option to enter a
24 workforce of special education professionals in New Mexico, and
25 the state is now resorting to requesting volunteers to assist

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1 students and their families to access services and navigate the
2 complex special education system; and

3 WHEREAS, the seventy-three percent of the public school
4 student body who are students from low-income households
5 continue to lack adequate wraparound supports such as health,
6 mental health and socio-emotional support services, nutritious
7 meals, transportation and high-speed internet and digital
8 devices at home that are necessary for student learning and
9 proven to help students succeed in school and into the future;
10 and

11 WHEREAS, without a comprehensive plan, the legislature's
12 investments are failing to result in a sufficient education
13 largely because root issues, such as the lack of capacity
14 within the state's education system to adequately recruit,
15 retain and sufficiently prepare the teacher workforce,
16 especially in rural, low-income communities of color,
17 socioeconomic barriers faced by students and the lack of
18 culturally and linguistically responsive education standards,
19 are not being addressed; and

20 WHEREAS, without a comprehensive education plan, the
21 legislature is unable to provide targeted investments to remedy
22 the consolidated *Yazzie/Martinez v. State of New Mexico* case
23 and ensure proper multiyear investments to meet the specific
24 needs of Native American students, English language learners,
25 students with disabilities and students from low-income

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1 families;

2 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
3 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the state,
4 through the public education department, be once again
5 requested to immediately develop a comprehensive education
6 plan, by no later than June 1, 2022, to address the systemic
7 education inequities and deficiencies identified by the court
8 in the consolidated *Yazzie/Martinez v. State of New Mexico*
9 lawsuit and to come into compliance with the state's
10 constitutional duty to address the specific needs of the four
11 student groups deemed "at-risk", including Native American
12 students, English language learners, students with disabilities
13 and low-income students; and

14 BE IT FURTHER RESOLVED that the comprehensive education
15 plan include short- and long-term goals and action steps that
16 address the insufficiencies detailed by the court's decision
17 and findings, time frames, staffing, accountability measures
18 and the projected funding amounts required to meet the four
19 student groups' education needs; and

20 BE IT FURTHER RESOLVED that this comprehensive education
21 plan build on existing plans and recommendations developed by
22 education and tribal community stakeholders, experts and
23 researchers that contain the blueprints for building an
24 equitable education system to address the needs and uplift the
25 strengths of the four student groups; and

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1 BE IT FURTHER RESOLVED that the public education
2 department be requested to work with the higher education
3 department to address the statewide teacher shortage crisis and
4 to build a highly qualified, effective and diverse teacher
5 workforce to meet the educational needs of the four student
6 groups; and

7 BE IT FURTHER RESOLVED that the public education
8 department be requested to develop the comprehensive education
9 plan jointly in consultation with the *Yazzie* and *Martinez*
10 plaintiffs and attempt to resolve the case; and

11 BE IT FURTHER RESOLVED that the public education
12 department be requested to provide the legislature, the
13 legislative finance committee and the legislative education
14 study committee with an annual report on the state's
15 implementation of the comprehensive education plan and
16 compliance with the constitution of New Mexico to provide at-
17 risk students with a uniform and sufficient education; and

18 BE IT FURTHER RESOLVED that copies of this memorial be
19 transmitted to the governor, the secretary of public education,
20 the secretary of higher education, the secretary of early
21 childhood education and care, the secretary of Indian affairs,
22 the legislative finance committee, the legislative education
23 study committee, the Indian education advisory council, the
24 Hispanic education advisory council, the bilingual
25 multicultural education advisory council, the Black education

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1 advisory council and the regents, chancellors and presidents of
2 the state institutions of higher education.

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