

HOUSE JOINT MEMORIAL 49

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Rick Miera

A JOINT MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO APPOINT AN INDIVIDUALS WITH DISABILITIES EDUCATION ACT MAINTENANCE OF EFFORT TASK FORCE TO STUDY AND MAKE RECOMMENDATIONS TO ADDRESS STATE FUNDING FOR SPECIAL EDUCATION.

WHEREAS, federal Individuals with Disabilities Education Act, part B funding allocations are dependent on the state providing or making available the same amount of funding for special education and related services from year to year; and

WHEREAS, failure of a state to meet the required level of maintenance of effort triggers a reduction of the Individuals with Disabilities Education Act, part B allocation in the following year equal to the amount of the shortfall unless a state requests a waiver of maintenance of effort requirements for "exceptional or uncontrollable circumstances such as . . .

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1 a precipitous and unforeseen decline in the financial resources
2 of the State", which waiver can be granted for one year; and

3 WHEREAS, state-level funding available for special
4 education in fiscal year 2009 seems to be the level of funding
5 upon which funding for fiscal years 2010 through 2014 is based
6 for federal funding allocations; and

7 WHEREAS, although local districts have met their required
8 level of maintenance of effort based on consistent expenditures
9 from year to year, the state may not have met its required
10 level of maintenance of effort, which has an impact on the
11 districts' continued ability to meet their maintenance of
12 effort requirement; and

13 WHEREAS, although the public education department has
14 requested the federal office of special education to reconsider
15 its preliminary decision to deny the maintenance of effort
16 waiver requests for fiscal years 2010 and 2011, the state has
17 not yet received a response to the department's request for
18 reconsideration of the waivers; and

19 WHEREAS, it is important to understand what may be
20 included in maintenance of effort for purposes of Individuals
21 with Disabilities Education Act, part B funding and what the
22 possible shortfall amounts may be; and

23 WHEREAS, it is also important to be prepared to replace
24 the reduction of federal funding if the waivers are not
25 granted; and

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1 WHEREAS, other methods of making available funds for
2 special education maintenance of effort that would meet the
3 federal law and possible options for readjusting the base
4 amount for which the state is held accountable should be
5 explored; and

6 WHEREAS, it is important to develop common solutions and
7 ensure that maintenance of effort funding is in compliance with
8 federal law;

9 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
10 STATE OF NEW MEXICO that the New Mexico legislative council
11 appoint an Individuals with Disabilities Education Act
12 maintenance of effort task force to study issues related to
13 special education and maintenance of effort requirements,
14 including an understanding of shortfall amounts, if any; and

15 BE IT FURTHER RESOLVED that the task force identify
16 sources of funding to replace the reduction of federal funds if
17 no waiver is forthcoming and also explore other methods of
18 showing availability of funds by the state; and

19 BE IT FURTHER RESOLVED that the New Mexico legislative
20 council appoint a task force that includes members of the
21 finance and education committees, local district administrative
22 personnel, the secretary of public education or the secretary's
23 designee and other persons knowledgeable in school finance; and

24 BE IT FURTHER RESOLVED that the task force be staffed by
25 the legislative council service, with assistance from the

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1 legislative education study committee and the legislative
2 finance committee, and that the staff of the public education
3 department also be invited to participate and assist in the
4 work of the task force; and

5 BE IT FURTHER RESOLVED that the task force prepare its
6 findings and recommendations no later than November 15, 2013
7 and submit its report to the New Mexico legislative council,
8 the legislative finance committee, the legislative education
9 study committee and the public education department; and

10 BE IT FURTHER RESOLVED that copies of this memorial be
11 sent to the co-chairs of the New Mexico legislative council,
12 the chairs and vice chairs of the legislative education study
13 committee and legislative finance committee and the secretary
14 of public education.