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HOUSE MEMORIAL 75

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Patricio Ruiloba and Rebecca Dow

A MEMORIAL

REQUESTING THE SECRETARY OF CHILDREN, YOUTH AND FAMILIES AND THE SECRETARY OF PUBLIC EDUCATION TO CONVENE A TASK FORCE TO REVIEW ISSUES RELATING TO SCHOOL STABILITY FOR SCHOOL-AGE CHILDREN IN FOSTER CARE AND TO RECOMMEND STATUTES, POLICIES AND PRACTICES TO ENSURE EDUCATIONAL STABILITY FOR STUDENT IN FOSTER CARE.

WHEREAS, children and youth in foster care represent one of the most vulnerable student subgroups in this country; and

WHEREAS, of the approximately four hundred fifteen thousand children in foster care in 2014, nearly two hundred seventy thousand were in elementary and secondary schools, and, at any given time, there are approximately two thousand three hundred children in foster care in New Mexico, of which eighty-six percent are school-age youth; and

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1           WHEREAS, studies find that children in foster care are  
2 much more likely than their peers to struggle academically and  
3 fall behind in school; and

4           WHEREAS, students in foster care, at age seventeen, are  
5 also less likely to graduate from high school, and children in  
6 foster care score lower on assessments and show less progress  
7 in scores over time compared to peers of similar backgrounds  
8 who were not in foster care, according to a study of foster  
9 youths; and

10          WHEREAS, educational stability means the assurance that a  
11 student in foster care remains in the student's school of  
12 origin, including preschool if the school district offers a  
13 public preschool education, unless it is determined that  
14 remaining in the school of origin is not in the student's best  
15 interest; and

16          WHEREAS, "school of origin" means the school in which a  
17 student is enrolled at the time of placement in foster care  
18 and, if a student's foster care placement has changed, the  
19 school of origin would then be considered the school in which  
20 the student was enrolled at the time of the placement change;  
21 and

22          WHEREAS, the United States department of education and the  
23 United States department of health and human services guidance  
24 on foster care provisions of the federal Elementary and  
25 Secondary Education Act of 1965, as amended by the federal

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1 Every Student Succeeds Act, states that the factors relating to  
2 the child's best-interest determination may include preferences  
3 of the child; preferences of the child's parent or parents or  
4 education decision-makers; the child's attachment to the  
5 school, including meaningful relationships with staff or peers;  
6 placement of the child's siblings; the influence of the school  
7 climate on the child, including safety; the availability and  
8 quality of services in the school to meet the child's  
9 educational and socio-emotional needs; the child's history of  
10 school transfers and how school transfers have impacted the  
11 child; and how the length of the commute would impact the  
12 child, based on the child's developmental stage; and

13 WHEREAS, the passage of the federal Fostering Connections  
14 to Success and Increasing Adoptions Act of 2008 was a  
15 significant step toward supporting the importance of school  
16 stability for children in foster care and requires child  
17 welfare agencies to collaborate with educational agencies to  
18 keep a child in foster care in the same school when living  
19 placements change, if remaining in that school is in the  
20 child's best interest; and

21 WHEREAS, if it is determined that it is not in the child's  
22 best interest to stay in the child's school of origin,  
23 collaboration is needed with educational agencies to ensure  
24 that the child is immediately enrolled in a new school even if  
25 the child's caregiver is unable to produce records normally

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1 required for enrollment; and

2 WHEREAS, in December 2015, the United States congress  
3 passed the Every Student Succeeds Act, which reauthorized the  
4 Elementary and Secondary Education Act of 1965, instituting new  
5 protections for children in foster care; and

6 WHEREAS, the provisions in the federal Every Student  
7 Succeeds Act complement those in the federal Fostering  
8 Connections to Success and Increasing Adoptions Act of 2008 and  
9 require state and local education agencies to work with child  
10 welfare agencies to ensure the educational stability of  
11 children in foster care, unless it is determined to be in the  
12 children's best interest to change schools; and

13 WHEREAS, when making decisions regarding the educational  
14 placement of students with disabilities under the federal  
15 Individuals with Disabilities Education Act and Section 504 of  
16 the federal Rehabilitation Act of 1973, the school district or  
17 charter school must ensure that all required special  
18 educational and related services and supports are provided in  
19 the least restrictive placement where the child's unique needs,  
20 as described in the student's individual educational plan, or  
21 Section 504 plan, can be met; and

22 WHEREAS, the foster care provisions of the federal Every  
23 Student Succeeds Act emphasize the importance of collaboration  
24 and joint decision-making between child welfare agencies and  
25 educational agencies; and

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1           WHEREAS, the provisions of the Fostering Connections to  
2 Success and Increasing Adoptions Act of 2008 and the Every  
3 Student Succeeds Act emphasize the importance of limiting  
4 educational disruption by keeping a child who moves in foster  
5 care, due to entering the foster care system or changing  
6 placements, in the child's schools of origin, unless it is  
7 determined to be in the child's best interest to change  
8 schools; and

9           WHEREAS, the provisions of the federal Fostering  
10 Connections to Success and Increasing Adoptions Act of 2008 and  
11 the federal Every Student Succeeds Act encourage the  
12 establishment of a mechanism through which relevant parties,  
13 such as the child, the child's family and the child's immediate  
14 caregivers, whether a foster family or kinship placement, can  
15 meaningfully participate in the best-interest determination;  
16 and

17           WHEREAS, some children will need transportation to remain  
18 in their schools of origin when it is in their best interest,  
19 and to facilitate transportation for these children, the  
20 children, youth and families department and the school district  
21 or charter school must collaborate to develop and implement  
22 clear written procedures governing how students will be  
23 maintained in their schools of origin and how to ensure that  
24 transportation for children in foster care is arranged,  
25 provided and funded; and

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1           WHEREAS, the cost of transportation should not be a factor  
2 in determining the best interest of the child;

3           NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
4 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the secretary  
5 of children, youth and families and the secretary of public  
6 education be requested to convene a task force to study the  
7 educational stability of students in foster care and to review  
8 and make recommendations to the children, youth and families  
9 department, the public education department, school districts,  
10 charter schools, the legislative education study committee and  
11 the legislative health and human services committee for the  
12 creation of statutes, policies and procedures to create  
13 standardization and consistency for educational stability for  
14 students in foster care; and

15           BE IT FURTHER RESOLVED that the task force be requested  
16 to:

17           A. review the requirements of the Fostering  
18 Connections to Success and Increasing Adoptions Act of 2008 and  
19 the Every Student Succeeds Act pertaining to ensuring  
20 educational stability for children in foster care;

21           B. make recommendations for consideration  
22 concerning responsibilities for foster care points of contact  
23 for the children, youth and families department, the public  
24 education department, school districts and charter schools;

25           C. make recommendations for consideration

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1 concerning the process for the children, youth and families  
2 department and school districts or charter schools to ensure  
3 that transportation for children in foster care is arranged,  
4 provided and funded and to recommend solutions to ensure that  
5 the cost of transportation is not a factor in determining the  
6 best interest of the child;

7 D. make recommendations for considerations  
8 concerning dispute resolution if the children, youth and  
9 families department and the school district or charter school  
10 do not agree on a best-interest determination decision or  
11 transportation plan;

12 E. make recommendations for consideration  
13 concerning the establishment of a mechanism through which  
14 relevant parties, such as the student, the student's family,  
15 the student's immediate caregivers, whether a foster family or  
16 kinship placement, can meaningfully participate in the best-  
17 interest determination; and

18 F. make recommendations for consideration  
19 concerning transparency around educational stability for  
20 students in foster care and training needs for traditional  
21 foster care, treatment foster care, residential treatment  
22 centers, school districts, foster care case workers and others;  
23 and

24 BE IT FURTHER RESOLVED that the secretary of children,  
25 youth and families and the secretary of public education be

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1 requested to include the following participants in the task  
2 force:

3 A. an employee of the public education department  
4 with a special education background;

5 B. the foster care point of contact for the  
6 children, youth and families department;

7 C. a children's court judge or designee;

8 D. an urban school district representative who is a  
9 foster care point of contact;

10 E. a rural school district representative who is a  
11 foster care point of contact;

12 F. a foster parent or designee;

13 G. a representative from the New Mexico coalition  
14 for state charter schools; and

15 H. a representative of law enforcement within the  
16 school community; and

17 BE IT FURTHER RESOLVED that findings and recommendations  
18 of the task force be presented to the legislative education  
19 study committee and the legislative health and human services  
20 committee by December 1, 2019; and

21 BE IT FURTHER RESOLVED that copies of this memorial be  
22 transmitted to the governor, the chair of the legislative  
23 education study committee, the chair of the legislative health  
24 and human services committee, the secretary of children, youth  
25 and families, the secretary of public education and the chair

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1 of the education committee of the children's court improvement  
2 commission.

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