

ELEVENTH JUDICIAL DISTRICT
COUNTY OF MCKINLEY
STATE OF NEW MEXICO

FILED
11th JUDICIAL DISTRICT COURT
McKinley County
6/18/2021 11:48 AM
WELDON J. NEFF
CLERK OF THE COURT
Valarie Baretinich

THE ZUNI PUBLIC SCHOOL DISTRICT, et al,
Plaintiff,

-vs-

No. D-1113-CV-98-14-II

THE STATE OF NEW MEXICO, et al,
Defendants.

ORDER DENYING STATE DEFENDANT'S POST JUDGMENT MOTIONS

THIS MATTER is before the Court on the motions filed by the State Defendants on January 28, 2021. The Court has reviewed the motions, their exhibits, and all pleadings generated by the motions. Being sufficiently advised, the Court concludes the motions should all be denied.

1. **The Judgment of the Court is not too vague to guide the legislature.** The judgment instructs the legislature to reform the statutory funding scheme by ending the codification that requires property-poor school districts to tax their citizens to maximum capacity before getting state money, when property-rich school districts, under the same scheme, do not have to tax their citizens to the maximum or even ask the state for money at all. A good place to start would be at the top of the Public School Capital Outlay Act, NMSA 1978 Section 22-24-2. The legislature should change the purpose of the act to ensure uniform funding between school districts not just adequate funding. The legislature should reform NMSA 1978 Section 22-24-5 which creates the unconstitutional disparities found by the Court. And while they're at it, the legislature should reform NMSA 1978 Section 22-25-9, which funds school districts based upon how much it taxes its citizens. Funding schemes like New Mexico's which are based on taxable property within the

school districts with no relationship to the capital needs of the district, will not meet the constitutional requirement of uniformity. *Hull v. Albrecht*, 950 P. 2d 1141, 1144 (Ariz. 1977).

2. The “newly discovered evidence” submitted by the State Defendants would not likely change the judgment of the Court. Regarding the new evidence that the Defendants argue makes this case moot, the Court will say that it is wonderful the Plaintiff’s federal impact aid will no longer be taken by the State. However, House Bill 6, Senate Bill 20, the other legislative enactments, and direct appropriations, all enacted subsequent to the trial in this case do not appear to remedy the fact that the citizens in Plaintiff’s school districts will continue to be taxed more and get less than citizens in other school districts.

3. The Court exercised independent judgment in reaching its decision. The Court makes a distinction between evidentiary facts (which can number into the hundreds) and ultimate facts (which usually number just a few depending on the issues). The Court made that distinction in its Decision and Order. The Court made two ultimate findings of fact (uniformity and sufficiency) based on the evidentiary facts in order to resolve the ultimate issue of the constitutionality of the public school funding scheme. The evidentiary facts adopted by the Court were sufficiently established at trial. That is all that is required. *Coulter v. Stewart*, 1982-NMSC-035, ¶3.

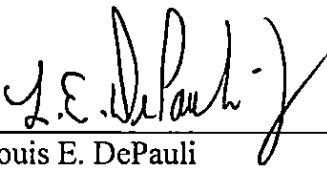
As to the “indiscriminate acceptance” of the Plaintiff’s evidentiary facts, the Court will tell the parties it considered the Defendant’s Proposed Findings of Facts. Many of them were established by the evidence and undisputed. Regardless, the Defendants did not meet their burden to prove the Public School Capital Outlay Act and the Public School Capital Improvement Act achieves or is reasonably related to achieving the constitutional requirement of providing a uniform and sufficient education to the children of New Mexico. Because the

Defendants did not meet their burden, the Court found it unnecessary to adopt any of the Defendant's Proposed Findings of Facts in its Decision.

4. In the Court's opinion Plaintiffs brought a facial challenge to the legislatively adopted funding formula. It seems the Defendants also concluded the Plaintiffs brought a facial challenge. See Defendant's Proposed Conclusions of Law filed October 28, 2019, p. 13 numbers 3 and 4. The Court imposed a burden of proof in its Decision and Order consistent with a facial challenge to legislation affecting a fundamental constitutional right.

Based on the above findings the Court concludes the motions by the State Defendants should be denied.

IT IS SO ORDERED.



Louis E. DePauli
District Judge