

A MEMORIAL

REQUESTING THAT STAFF FROM THE PUBLIC EDUCATION DEPARTMENT AND THE LEGISLATIVE EDUCATION STUDY COMMITTEE, IN CONSULTATION WITH STAFF FROM THE LEGISLATIVE FINANCE COMMITTEE AND LEGISLATIVE COUNCIL SERVICE, IDENTIFY AND ANALYZE THE LEGITIMACY OF THE EXPENDITURE OF STATE FUNDS BY SCHOOL DISTRICTS FOR THE PURPOSE OF DEFENDING THE DISTRICTS AND THEIR SCHOOL BOARDS AND EMPLOYEES IN LEGAL ACTIONS ALLEGING MISCONDUCT.

WHEREAS, certain recent controversies in New Mexico public school districts have brought public attention to alleged misconduct in New Mexico school districts; and

WHEREAS, those controversies have lead to litigation in which school districts use state funds channeled through the public school funding formula to finance litigation expenses for lawsuits brought against school districts and their school boards and employees; and

WHEREAS, decision-making at the school district level regarding expenditure of state funds for legal expenses may not be reviewed or approved by the public education department; and

WHEREAS, by constitution and practice, school boards in New Mexico have a great deal of autonomy in handling their own affairs, including controversies that may arise regarding

alleged misconduct by teachers, administrators and other employees; and

WHEREAS, in order to exercise properly its oversight powers, the legislature should gather information on the expenditure of state funds by school districts for the purposes of paying attorney fees and other legal expenses in defense of alleged misconduct by teachers, administrators and other employees;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that staff from the public education department and the legislative education study committee, in consultation with staff from the legislative finance committee and the legislative council service, be requested to identify and analyze the legitimacy of the expenditure of state funds by school districts for the purpose of defending the districts and their school boards and employees in legal actions alleging misconduct; and

BE IT FURTHER RESOLVED that the study include research on the following issues:

A. the existing criteria in New Mexico public school districts for evaluating the merits of legal actions against districts and their employees and whether to expend funds in defense of those legal actions;

B. the amount of attorney fees and legal expenses expended by each of the state's school districts annually for

the last six years in addressing legal questions for the district and its school board and employees, including any cases of particularly outstanding controversy or expense;

C. whether school districts impose limits on the expenditure of funds for attorney fees and litigation expenses;

D. any elements that may keep the legal expenses of certain school districts consistently low; and

E. the practices of school districts and state governments in surrounding states and comparable jurisdictions with regard to the expenditure of state funds by school districts to defend the districts and their school boards and employees against legal action; and

BE IT FURTHER RESOLVED that the staffs of the public education department, the legislative education study committee, the legislative finance committee and the legislative council service present a report on their research and findings to the legislative education study committee and the legislative finance committee no later than November 1, 2007; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the secretary of public education and the directors of the legislative education study committee, the legislative finance committee and the legislative council service.