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SENATE MEMORIAL 12

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

INTRODUCED BY

Linda M. Lopez and Harold Pope and Antoinette Sedillo Lopez

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

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

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

25 BE IT FURTHER RESOLVED that the public education

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

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

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

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

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1 the state institutions of higher education.

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