

1 SENATE JOINT MEMORIAL 37

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 George K. Munoz

5
6
7
8
9
10 A JOINT MEMORIAL

11 REQUESTING A STUDY TO EVALUATE THE PUBLIC SCHOOL CAPITAL OUTLAY
12 ACT'S RANKING METHODOLOGY AND THE PUBLIC SCHOOL FACILITY
13 AUTHORITY'S ADMINISTRATION OF THE STANDARDS-BASED PROCESS.
14

15 WHEREAS, the primary responsibility for funding public
16 school facilities in New Mexico has been borne historically by
17 local school districts, primarily through the issuance of
18 general obligation bonds or the imposition of direct property
19 tax mill levies dedicated to capital outlay needs; and

20 WHEREAS, in 1978, the legislature passed the Public School
21 Capital Outlay Act, which has served and continues to serve as
22 the principal funding mechanism for state funding of public
23 school capital outlay projects; and

24 WHEREAS, the public school capital outlay council, which
25 was created by statute in 1978, was reconstituted in law in

.188252.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
~~[bracketed material] = delete~~

1 1994 to include the governor, the secretary of finance and
2 administration, the director of the construction industries
3 division of the regulation and licensing department, the
4 secretary of public education, the chair of the public
5 education commission, the president of the New Mexico school
6 boards association and the directors of the legislative council
7 service, legislative education study committee and the
8 legislative finance committee; and

9 WHEREAS, the public school capital outlay council is
10 charged with investigating all applications for assistance from
11 the public school capital outlay fund and certification of
12 approved applications to the secretary of finance and
13 administration for distribution of funds; and

14 WHEREAS, in January 1998, the Zuni public school district,
15 joined later by the Gallup-McKinley county and Grants-Cibola
16 county school districts, filed a lawsuit in state district
17 court challenging the constitutionality of the New Mexico's
18 laws related to funding public school capital outlay given
19 local school districts' disparate abilities to raise local
20 revenues; and

21 WHEREAS, in October 1999, Judge Joseph L. Rich, eleventh
22 judicial district, ruled that New Mexico's current system for
23 funding capital outlay violated the state's constitutional
24 requirement that "a uniform system of free public schools
25 sufficient for the education of, and open to, all the children

.188252.1

underscored material = new
[bracketed material] = delete

1 of school age shall be established and maintained"; and

2 WHEREAS, the 2000 legislature passed legislation to
3 increase the limit for issuance of supplemental severance tax
4 bonds and authorized an additional four hundred seventy-five
5 million dollars (\$475,000,000) in bonds for public school
6 capital improvements and to correct life and safety facilities
7 deficiencies; and

8 WHEREAS, in 2001, the state adopted a new statewide
9 capital outlay funding distribution system based on adequacy
10 standards and a state-share formula system, established a
11 short-term deficiencies correction program in the public
12 education department and appropriated two hundred million
13 dollars (\$200,000,000) to fund it; and

14 WHEREAS, in 2001, the legislature also appropriated
15 funding for a statewide assessment of all school facilities to
16 be used to rank schools against the adequacy standards; and

17 WHEREAS, in May 2001, the district court in the *Zuni*
18 lawsuit appointed a special master to review the state's
19 progress in developing a uniform system for funding public
20 school capital improvements; and

21 WHEREAS, in January 2002, the special master issued a
22 report that the state "is in good faith and with substantial
23 resources attempting to comply with the requirements" of the
24 court; and

25 WHEREAS, in May 2002, the district court adopted the

.188252.1

underscored material = new
~~[bracketed material] = delete~~

1 findings of the special master and agreed to continue to review
2 the state's progress; and

3 WHEREAS, in September 2002, the public school capital
4 outlay council adopted the newly developed adequacy standards
5 and began the first yearlong funding cycle under this program;
6 and

7 WHEREAS, in 2003, the legislature created a new permanent
8 public school facilities authority to implement the newly
9 adopted standards-based process; and

10 WHEREAS, since that time, the public school facilities
11 authority, a quasi-state agency under the control of both the
12 legislative and executive branches of government and the
13 operation of which is funded through supplemental severance tax
14 bonds, has continued to oversee the standards-based process
15 under the supervision of and serving as staff to the public
16 school capital outlay council; and

17 WHEREAS, since the standards-based process went into
18 effect during the 2004 funding cycle, the public school
19 facilities authority has overseen projects in four hundred
20 thirty-six schools in eighty-seven of the state's eighty-nine
21 school districts for a total of one billion two hundred ninety
22 million four hundred thirty-four thousand eight hundred ninety-
23 three dollars (\$1,290,434,893); and

24 WHEREAS, although the system to rank public school
25 facilities has been adjusted from time to time, some

.188252.1

underscored material = new
~~[bracketed material] = delete~~

1 stakeholders have expressed concern about the current and
2 continued efficacy of the system;

3 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
4 STATE OF NEW MEXICO that the legislative finance committee, in
5 consultation and cooperation with the public school capital
6 outlay council, the legislative education study committee and
7 the public education department, be requested to conduct an
8 analysis of the public school facilities authority's system of
9 ranking school buildings against the adequacy standards and
10 against one another to determine whether the system, after ten
11 years of operation, continues to serve the needs and the best
12 interests of students, parents, school district employees who
13 work in New Mexico's schools and taxpayers of the state; and

14 BE IT FURTHER RESOLVED that the legislative finance
15 committee, in consultation and cooperation with the public
16 school capital outlay council, the legislative education study
17 committee and the public education department, report the
18 results of the study to the legislature and the governor by
19 December 1, 2012 along with any recommendations for changes or
20 adjustments to the ranking system; and

21 BE IT FURTHER RESOLVED that copies of this memorial be
22 transmitted to the chair of the public school capital outlay
23 council, the directors of the legislative finance committee and
24 legislative education study committee and the secretary of
25 education.

.188252.1