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 STUDENTS 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

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

WHEREAS, students in foster care, at age seventeen, are
also less likely to graduate from high school, and children
in foster care score lower on assessments and show less
progress in scores over time compared to peers of similar
backgrounds who were not in foster care, according to a study
of foster youths; and
WHEREAS, educational stability means the assurance that a student in foster care remains in the student's school of origin, including preschool if the school district offers a public preschool education, unless it is determined that remaining in the school of origin is not in the student's best interest; and

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

WHEREAS, the United States department of education and the United States department of health and human services guidance on foster care provisions of the federal Elementary and Secondary Education Act of 1965, as amended by the federal Every Student Succeeds Act, states that the factors relating to the child's best-interest determination may include preferences of the child; preferences of the child's parent or parents or education decision-makers; the child's attachment to the school, including meaningful relationships with staff or peers; placement of the child's siblings; the influence of the school climate on the child, including safety; the availability and quality of services in the school to meet the child's educational and socio-emotional
needs; the child's history of school transfers and how school transfers have impacted the child; and how the length of the commute would impact the child, based on the child's developmental stage; and

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

WHEREAS, if it is determined that it is not in the child's best interest to stay in the child's school of origin, collaboration is needed with educational agencies to ensure that the child is immediately enrolled in a new school even if the child's caregiver is unable to produce records normally required for enrollment; and

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

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

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

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

WHEREAS, the provisions of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and the Every Student Succeeds Act emphasize the importance of limiting educational disruption by keeping a child who moves in foster care, due to entering the foster care system or changing placements, in the child's schools of origin, unless it is determined to be in the child's best interest to change schools; and
WHEREAS, the provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 and the federal Every Student Succeeds Act encourage the establishment of a mechanism through which relevant parties, such as the child, the child's family and the child's immediate caregivers, whether a foster family or kinship placement, can meaningfully participate in the best-interest determination; and

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

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

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

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

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

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

C. make recommendations for consideration
concerning the process for the children, youth and families
department and school districts or charter schools to ensure
that transportation for children in foster care is arranged,
provided and funded and to recommend solutions to ensure that
the cost of transportation is not a factor in determining the
best interest of the child;

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

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

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

BE IT FURTHER RESOLVED that the secretary of children,
youth and families and the secretary of public education be
requested to include the following participants in the task
force:

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

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

C. a children's court judge or designee;

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

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

F. a foster parent or designee;

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

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

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

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor, the chair of the legislative education study committee, the chair of the legislative health and human services committee, the secretary of children, youth and families, the secretary of public education and the chair of the education committee of the children's court improvement commission.