

1 SENATE JOINT MEMORIAL 7

2 47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

3 INTRODUCED BY

4 Cynthia Nava

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8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9  
10 A JOINT MEMORIAL

11 REQUESTING THE PUBLIC EDUCATION DEPARTMENT TO RESOLVE ISSUES  
12 REGARDING FEDERAL AND STATE LAWS AND REIMBURSEMENT TO SCHOOL  
13 DISTRICTS FOR EDUCATIONAL SERVICES TO NONDISTRICT STUDENTS  
14 PLACED IN CERTAIN PUBLIC OR PRIVATE FACILITIES.

15  
16 WHEREAS, public school districts in New Mexico often  
17 provide educational services to nondistrict students who have  
18 been placed in a public or private facility within a district's  
19 boundaries, including residential treatment centers, juvenile  
20 detention centers, foster care homes, domestic violence  
21 shelters and homeless shelters; and

22 WHEREAS, the federal Individuals with Disabilities  
23 Education Improvement Act of 2004 requires each state to ensure  
24 that "a free and appropriate public education" is available to  
25 all children with disabilities who reside within the state; and

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1           WHEREAS, the state Public School Code requires that a free  
2 public school education "shall be available to any school-age  
3 person who is a resident of this state and has not received a  
4 high school diploma or its equivalent"; and

5           WHEREAS, the Public School Code also provides that, with  
6 certain exceptions, "any school-age person shall have a right  
7 to attend public school within the school district in which the  
8 student resides or is present"; and

9           WHEREAS, all school districts are required to provide  
10 special education and related services appropriate to meet the  
11 needs of all children requiring them; and

12           WHEREAS, in practice, it has sometimes been unclear under  
13 what conditions school districts providing educational services  
14 to nondistrict students housed in public or private facilities  
15 located within the district may count those students for state  
16 funding purposes; and

17           WHEREAS, it has also sometimes been unclear under what  
18 circumstances and from what sources school districts may be  
19 reimbursed for providing these services; and

20           WHEREAS, in some cases educational services have been  
21 provided by charter schools intending to target special-needs  
22 populations even though their enrollment procedures pursuant to  
23 the 1999 Charter Schools Act make no provision for special-  
24 needs populations;

25           NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE

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1 STATE OF NEW MEXICO that the public education department be  
2 requested to examine state and federal laws to ensure that  
3 nondistrict school-age children who have been placed in public  
4 or private facilities within a district's boundaries, including  
5 residential treatment centers, juvenile detention centers,  
6 foster care homes, domestic violence shelters and homeless  
7 shelters, receive the educational services to which they are  
8 entitled, and to ensure that districts are reimbursed for these  
9 services; and

10 BE IT FURTHER RESOLVED that the public education  
11 department make recommendations regarding the development of a  
12 uniform procedure through which school districts may provide  
13 these services and be reimbursed for them; and

14 BE IT FURTHER RESOLVED that the public education  
15 department examine the practice of some charter schools of  
16 targeting special-needs populations to determine whether this  
17 practice complies with the enrollment provisions in the 1999  
18 Charter Schools Act; and

19 BE IT FURTHER RESOLVED that the public education  
20 department report its findings and recommendations to the  
21 legislative education study committee by October 2006; and

22 BE IT FURTHER RESOLVED that copies of this memorial be  
23 transmitted to the secretary of public education and the  
24 director of the legislative education study committee for  
25 appropriate distribution.

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