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HOUSE MEMORIAL 77

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Sheryl Williams Stapleton

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

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1 boards and employees; and

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

5 WHEREAS, by constitution and practice, school boards in
6 New Mexico have a great deal of autonomy in handling their own
7 affairs, including controversies that may arise regarding
8 alleged misconduct by teachers, administrators and other
9 employees; and

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

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

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

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

6 B. the amount of attorney fees and legal expenses
7 expended by each of the state's school districts annually for
8 the last ten years in addressing legal questions for the
9 district and its school board and employees, including any
10 cases of particularly outstanding controversy or expense;

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

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

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

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

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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.