LEGISLATIVE SUMMARY SHEET
Tracking No. 0195-18

DATE: June 8, 2018

SUBJECT AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'IYATI' COMMITTEES; PURSUANT TO THE RECOMMENDATION OF THE NAVAJO NATION BOARD OF EDUCATION AND 25 U.S.C. §2502(f), RETROCEDING ADMINISTRATIVE CONTROL OF THE ALAMO NAVAJO SCHOOL SYSTEM FROM THE ALAMO NAVAJO SCHOOL BOARD, INC.TO THE BUREAU OF INDIAN EDUCATION FOR CONTINUED OPERATION AS A BUREAU OPERATED SCHOOL

PURPOSE: The purpose of this legislation is to approve the retrocession of the Alamo Navajo School system from the Alamo Navajo School Board to the Bureau of Indian Education to be operated as a Bureau operated school

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: N/A
Website Posting Time/Date: 10/8/2018 12:10pm
Posting End Date: 10/13/2018
Eligible for Action: 10/14/2018

Health, Education & Human Services Committee
Thence
Naa'bik'íyáti' Committee

PROPOSED STANDING COMMITTEE RESOLUTION

23RD NAVAJO NATION COUNCIL—Fourth Year, 2018

INTRODUCED BY

Jonathan L Hale

Primary Sponsor

TRACKING NO. 0195-18

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'IYATI' COMMITTEES; PURSUANT TO THE RECOMMENDATION OF THE NAVAJO NATION BOARD OF EDUCATION AND 25 U.S.C. §2502(f), RETROCEDING ADMINISTRATIVE CONTROL OF THE ALAMO NAVAJO SCHOOL SYSTEM FROM THE ALAMO NAVAJO SCHOOL BOARD, INC.TO THE BUREAU OF INDIAN EDUCATION FOR CONTINUED OPERATION AS A BUREAU OPERATED SCHOOL

Section One. Authority

A. The Health, Education and Human Services Committee of the Navajo Nation Council has legislative authority and oversight over all matters related to education on the Navajo Nation. 2 N.N.C. § 401 (C) (1)

B. The Naabik'iyati' Committee of the Navajo Nation Council has the legislative authority to authorize, review, approve and accept contracts implementing the Indian Self-Determination and Education Assistance Act, (P.L. 638, as amended; 25 U.S.C. 5301 *et seq.*) upon recommendation of the standing committee which has oversight of the division, department or program. 2 N.N.C. § 701(12)

Section Two: Findings

A. The United States Code (U.S.C.) Chapter 27: Tribally Controlled School Grants, § 2502 (f) recognizes the authority of a tribal governing body to retrocede any program under Chapter 27 to the Bureau of Indian Education.

B. The Naabik'iyati' Committee of the Navajo Nation Council, upon recommendation of the education oversight of the Health, Education and Human Services Committee, is the tribal governing body in this matter.

C. The Navajo Nation Board of Education, in Board Resolution No. NNBEMY-438-2018, has recommended to the Health, Education and Human Services Committee and the Naabik'iyati' Committee that the Navajo Nation, in the best interest of the Navajo Nation, school, children and community, to retrocede the administrative control of the Alamo Navajo School System from the Alamo Navajo School Board, Inc. to the U.S. Bureau of Indian Education for continued operation as a Bureau operated school. See Exhibit A.

D. The Health, Education and Human Services Committee of the Navajo Nation Council finds it to be in the best interest of the Navajo Nation and the school, children and community for administrative control of the Alamo Navajo School System to be retroceded from the Alamo Navajo School Board, Inc. to the U.S. Bureau of Indian Education for continued operation as a Bureau operated school.

E. The Naabik'iyati' Committee of the Navajo Nation Council finds it to be in the best interest of the Navajo Nation and the school, children and community of Alamo Navajo for administrative control of the Alamo Navajo School System to be retroceded from the Alamo Navajo School Board, Inc. to the U.S. Bureau of Indian Education for continued operation as a Bureau operated school.

Section Three. Approval

A. The Health, Education and Human Services Committee of the Navajo Nation Council hereby approves the recommendation of the Navajo Nation School Board as found at Exhibit A, to retrocede, pursuant to 25 U.S.C. Ch. 27, §2502(f), administrative control of the Alamo Navajo School System from the Alamo Navajo School Board, Inc. to the U.S. Bureau of Indian Education for continued operation as a Bureau operated.

B. The Naabik'iyati' Committee of the Navajo Nation Council, as tribal governing body in this matter, hereby approves the recommendation of the Health, Education and Human Services Committee and the Navajo Nation School Board as found at Exhibit A, to retrocede, pursuant to 25 U.S.C. Ch. 27, §2502(f), administrative control of the Alamo Navajo School System from the Alamo Navajo School Board, Inc. to the U.S. Bureau of Indian Education for continued operation as a Bureau operated.

C. The Navajo Nation reserves the right, upon the future determination of the best interest of the Navajo Nation, to request the return of the Alamo Navajo School System to community control.

D. The Superintendent of the Navajo Nation Department of Diné Education is hereby authorized to notify the U.S. Bureau of Indian Education and all other necessary parties of this action of the tribal governing body.

EXHIBIT
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A

NT OF DINÉ EDUCATION
E NAVAJO NATION
P.O. Box 670 · Window Rock, Arizona 86515
PHONE (928) 871 – 7475 · FAX (928) 871 – 7474

Russell Begaye
President

Jonathan Nez
Vice-President

NNBEMY-438-2018

RESOLUTION OF THE NAVAJO NATION BOARD OF EDUCATION

Relating to Education; Recommending to the Health, Education, and Human Services Committee and Naabik'iyati' Committee to Retrocede the Alamo Navajo School Board, Inc. to the Federal Government Pursuant to Public Law 100-297 and Public 93-638 (as amended).

WHEREAS:

1. The Navajo Nation Board of Education (hereinafter the "Board") is the education agent in the Executive Branch for the purposes of overseeing the operation of all schools serving the Navajo Nation. 10 N.N.C. § 106 (A). The Board carries out its duties and responsibilities through the Department of Diné Education (hereinafter the "Department"). 10 N.N.C. §106 (G)(3).

2. Pursuant to 10 N.N.C. § 107 (B), the Department is under the immediate direction of the Navajo Nation Board of Education. Further, the Department is the administrative agency within the Navajo Nation with responsibility and authority for implementing and enforcing the educational laws of the Navajo Nation. 2 N.N.C. § 1801 (B); 10 N.N.C. § 107 (A).

3. "The Board [has the] general power to monitor the activities of all Bureau of Indian Affairs funded schools and local community school boards serving the Navajo Nation." 10 N.N.C. § 106 (G)(1).

4. The Health, Education, and Human Services Committee is the oversight committee for the Department of Diné Education and Navajo Nation Board of Education. 2 N.N.C. § 401 (C)(1); 10 N.N.C. § 1(B). The Health, Education, and Human Services Committee of the Navajo Nation Council is empowered to "review, sanction and authorize applications, reapplications and amendments for Indian Self-Determination Act contracts and grants under the Tribally Controlled Schools Act for the operation of education programs… approval or denial of authorizations and reauthorizations shall constitute approval or denial by the Navajo Nation (as) the Tribal Governing Body." 2 N.N.C. § 401 (B)(4)(b).

5. The Alamo Navajo School Board, Inc. is a tribally controlled Public Law 100-297 grant school ("tribal organization") that is operating under the authorization, sanction, and jurisdiction of the Navajo Nation.

6. After discussion and deliberation, the Board has determined that continued operation of the Alamo Navajo School Board, Inc. in its present capacity will not result in any improvements to the operations of the school or achievement of its educational mission. Further, the Board has determined

BOARD OF EDUCATION
Dr. Pauline M. Begay, President · Marlene Burbank, Vice President · Dr. Delores Greyeyes, Secretary
Members: Bennie Begay · Gloria Johns · Priscilla B. Manuelito · Patrick D. Lynch · Dr. Bernadette Todacheene
Dr. Tommy Lewis, M. Ed, Navajo Nation Superintendent of Schools

that continued operation of the Alamo Navajo School Board, Inc. will result in significant harm the education of children who attend that school.

7. The Board also acknowledges that retrocession is an act of the Navajo Nation's inherent sovereignty and decision that the federal government must respect. Pursuant to 25 C.F.R. § 900(b)(4)-(5), "the Secretary (of Interior) recognizes that contracting under the Act is an exercise by Indian tribes of the government-to-government relationship between the United States and the Indian tribes... The Secretary recognizes that tribal decisions to contract or not to contract are equal expressions of self-determination."

8. The Board acknowledges recommendations provided by the Department of Diné Education regarding the Alamo Navajo School Board, Inc., including the recommendation to retrocede the school to the federal government as being in the best interests of the school, children and community. Pursuant to 25 U.S.C. §2502(f)(2), the Department and Board, through the Navajo Nation, recommends that the Navajo Nation to request that the retroceded school/program continue its operation as a Bureau-operated school.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Board of Education hereby recommends to the Health, Education, and Human Services Committee and Naabik'iyati' Committee to immediately retrocede the Alamo Navajo School Board, Inc. back to the federal government pursuant to Public Law 100-297 and Public Law 93-638 (as amended). Pursuant to 25 U.S.C. §2502(f)(2), the Department and Board recommends that the Navajo Nation to request that the retroceded school/program continue its operation as a Bureau-operated school.

2. The Navajo Nation Board of Education hereby recommends and empowers the Superintendent of Schools to take any actions deemed as necessary and proper to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Board of Education of the Navajo Nation at a duly called meeting at Window Rock, Arizona (Navajo Nation) at which a quorum was present, motion by Gloria Johns and seconded by Priscilla Manuelito and that the same was passed by a vote of 3 in favor; 2 opposed; 0 abstained, this 31th day of May 2018.

Delores Greyeyes

Dr. Delores Greyeyes, President *(Pro Tempore)*
Navajo Nation Board of Education

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576

Honorable LoRenzo Bates
Speaker
23rd Navajo Nation Council

MEMORANDUM

TO: Honorable Jonathan Hale
Navajo Nation Council

FROM: Edward A. McCool, Principal Attorney
Office of Legislative Counsel

DATE: June 8, 2018

SUBJECT AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'IYATI' COMMITTEES; PURSUANT TO THE RECOMMENDATION OF THE NAVAJO NATION BOARD OF EDUCATION AND 25 U.S.C. §2502(f), RETROCEDING ADMINISTRATIVE CONTROL OF THE ALAMO NAVAJO SCHOOL SYSTEM FROM THE ALAMO NAVAJO SCHOOL BOARD, INC.TO THE BUREAU OF INDIAN EDUCATION FOR CONTINUED OPERATION AS A BUREAU OPERATED SCHOOL

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§500, 501. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0195-18_____ SPONSOR: Jonathan Hale

TITLE: An Action Relating to Health, Education and Human Services, Naabik'iyati' Committees; Pursuant to the Recommendation of the Navajo Nation Board of Education and 25 U.S.C. §2505(f), Retroceding Administrative Control of the Alamo Navajo School System from the Alamo Navajo School Board, Inc. to the Bureau of Indian Education for Continued Operation as a Bureau Operated School

***Date posted*: June 8, 2018 at 6:10pm**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0195-18

SPONSOR: Honorable Jonathan L. Hale

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Posted: June 8, 2018 at 6:10pm

5 DAY Comment Period Ended: June 13, 2018

Digital Comments received:

Comments Supporting	***None***
Comments Opposing	***None***
Inconclusive Comments	***None***

Office Assistant
Office of Legislative Services

6.14.18 @ 9:44am
Date/Time

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0195-18

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating to Health, Education and Human Services, Naabik'iyati' Committees; Pursuant to the Recommendation of the Navajo Nation Board of Education and 25 U.S.C. §2505(f), Retroceding Administrative Control of the Alamo Navajo School System from the Alamo Navajo School Board, Inc. to the Bureau of Indian Education for Continued Operation as a Bureau Operated School

Posted: June 8, 2018 at 6:10pm

5 DAY Comment Period Ended: June 13, 2018

Digital Comments received:

Comments Supporting (1)	**1. Department of Dine Education Resolution No. NNBEMY-438-2018**
Comments Opposing	***None***
Inconclusive Comments	***None***

Legislative Secretary II
Office of Legislative Services

6/28/2018 4:45pm
Date/Time

DEPARTMENT OF DINÉ EDUCATION
THE NAVAJO NATION
P.O. Box 670 · Window Rock, Arizona 86515
PHONE (928) 871 – 7475 · FAX (928) 871 – 7474

Russell Begaye
President

Jonathan Nez
Vice-President

NNBEMY-438-2018

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2. The Navajo Nation Board of Education hereby recommends and empowers the Superintendent of Schools to take any actions deemed as necessary and proper to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Board of Education of the Navajo Nation at a duly called meeting at Window Rock, Arizona (Navajo Nation) at which a quorum was present, motion by Gloria Johns and seconded by Priscilla Manuelito and that the same was passed by a vote of 3 in favor; 2 opposed; 0 abstained, this 31th day of May 2018.

Dr. Delores Greyeyes, President *(Pro Tempore)*
Navajo Nation Board of Education

Committee Report

THE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE OF THE NAVAJO NATION COUNCIL to whom has been assigned;

LEGISLATION NO. 0195-18

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'IYATI' COMMITTEES; PURSUANT TO THE RECOMMENDATION OF THE NAVAJO NATION BOARD OF EDUCATION AND 25 U.S.C. §2502(f), RETROCEDING ADMINISTRATIVE CONTROL OF THE ALAMO NAVAJO SCHOOL SYSTEM FROM THE ALAMO NAVAJO SCHOOL BOARD, INC. TO THE BUREAU OF INDIAN EDUCATION FOR CONTINUED OPERATION AS A BUREAU OPERATED SCHOOL

Sponsor: Honorable Jonathan L. Hale

Has had under consideration and report the same with the recommendation that Legislation 0195-18 PASS with no amendment and no directive; and therefore referred the same to the **NAABIK'IYATI' COMMITTEE OF THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

N-MB,

Norman M. Begay, Vice-Chairperson
Health, Education and Human Services Committee

June 18, 2018 - Main Motion
Motion by: Honorable Jonathan L. Hale
Seconded by: Honorable Nelson BeGaye
Vote: 2 in favor; 1 Opposed; Vice-Chairperson Not Voting

Absent (excused): Steven Begay
Yeas: Jonathan L. Hale; Nelson BeGaye
Nays: Nathaniel Brown
Not Voting: Amber Kanazbah Crotty;

23rd NAVAJO NATION COUNCIL
NAABIK'ÍYÁTI' COMMITTEE REPORT
Fourth Year 2018

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0195-18

An Action Relating to Health, Education and Human Services, Naabik'íyáti' Committees; Pursuant to the Recommendation of the Navajo Nation Board of Education and 25 U.S.C. §2505(f), Retroceding Administrative Control of the Alamo Navajo School System from the Alamo Navajo School Board, Inc. to the Bureau of Indian Education for Continued Operation as a Bureau Operated School

Sponsored by: Honorable Jonathan L. Hale
Co-Sponsored by: Honorable Seth Damon

Has had it under consideration and reports the same **WAS TABLED WITH TWO DIRECTIVES AND REMAINS WITH THE NAABIK'ÍYÁTI' COMMITTEE.**

Respectfully Submitted,

Honorable LoRenzo C. Bates, Chairman
NAABIK'ÍYÁTI' COMMITTEE

28 JUNE 2018

TABLING MOTION

Motion to table legislation 0195-18 until the results of the recall are known or 45 days whichever is sooner and;

1. Direct the Department of Dine Education to file with the department of white collar crime for a formal investigation and file necessary complaint and for that office to report to Naabik'iyati' Committee on its findings.
2. Direct White Collar Crime to respond to the concerns of the Naabik'iyati' Committee and give this matter immediate attention and the highest priority.

Motioned by: Honorable Leonard Tsosie
Seconded by: Honorable Norman M. Begay

Vote: 14 in Favor, 00 Opposed (Chairman Bates Not Voting)

MAIN MOTION

Motioned by: Honorable Otto Tso
Seconded by: Honorable Norman M. Begay

Vote: Vote Pending

NAVAJO NATION

RCS# 939

6/28/2018
06:30:08 PM

Naa'bik'iyati Committee

Amd#Attendance
Vote to Amd#

FAILED

MOT

SEC

Yea : 14 **Nay : 0** **Excused : 0** **Not Voting : 10**

Yea : 14

Bates	Filfred	Slim	Tsosie
Begay, K	Hale	Smith	Witherspoon
Begay, NM	Jack	Tso	Yazzie
Begay, S	Phelps		

Nay : 0

Excused : 0

Not Voting : 10

BeGaye, N	Chee	Daniels	Pete
Bennett	Crotty	Perry	Shepherd
Brown	Damon		