

LEGISLATIVE SUMMARY SHEET

Tracking No. 0203-18

DATE: June 13, 2018

SUBJECT AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'ITYATI' COMMITTEES; SUPPORTING THE POSITION STATEMENT OF THE NAVAJO INDEPENDENT SERVICE PROVIDERS IN THEIR EFFORTS TO REDUCE THE DISPARITY BETWEEN RURAL AND URBAN REIMBURSEMENT RATE FOR SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL AND PHYSICAL DISABILITIES IN NORTHEASTERN ARIZONA, NEW MEXICO, COLORADO AND UTAH

PURPOSE: The purpose of this legislation is to support the Navajo Independent Service Providers efforts to reduce the disparity between urban and rural reimbursement rates for services to individuals with developmental and physical disabilities.

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: None
Website Posting Time/Date: 11:49am 11/18/18
Posting End Date: 11/23/2018
Eligible for Action: 11/24/2018

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0203-18

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND
NAABIK'IYATI' COMMITTEES; SUPPORTING THE POSITION STATEMENT OF
THE NAVAJO INDEPENDENT SERVICE PROVIDERS IN THEIR EFFORTS TO
REDUCE THE DISPARITY BETWEEN RURAL AND URBAN REIMBURSEMENT
RATE FOR SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL AND
PHYSICAL DISABILITIES IN NORTHEASTERN ARIZONA, NEW MEXICO,
COLORADO AND UTAH

Whereas:

- A. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. The Committee is empowered to review and recommend resolutions regarding certain matters, including health, education and social services. 2 N.N.C. §§ 164 (A)(9), 400 (A), 401 (B)(6)(a) (2012); see also C0-45-12.
- B. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council. Among other duties and responsibilities, it "coordinate[s] all federal, county and state programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation. 2 N.N.C. §701(A)(4).

- 1 C. The Navajo Independent Service Providers (NISP) is a consortium of non-profit
2 organizations dedicated to partnering with other stakeholders to support individuals
3 with developmental and physical disabilities residing in Northeastern Arizona, New
4 Mexico, Colorado and Utah.
- 5 D. Current organizational membership of the NSIP includes the Diné Bii' Association of
6 Disabled Citizens, Inc. of Tuba City, Toyei Industries, Inc.; Chinle Valley School Inc.
7 Annie Wauneka Life Care Inc., St. Michaels Association for Special Education, Inc.;
8 CCRC Inc. and Tohatchi Area of Opportunity and Service Inc.
- 9 E. The NISP is seeking certain reforms in the reimbursement rates for services to
10 individuals with developmental and physical disabilities as found in Exhibit A.
- 11 F. The Navajo Nation finds it to be in the best interest of individuals with developmental
12 and physical disabilities on the Navajo Nation and their families and communities to
13 support the reforms sought by the NISP as found at Exhibit A.

14
15 **Therefore Be It Resolved**

16 The Navajo Nation hereby supports the reforms sought in the reimbursement rates for
17 services to individuals with developmental and physical disabilities as proposed by
18 the Navajo Independent Service Providers and found at Exhibit A.

19
20
21
22
23
24
25
26
27
28
29
30

NAVAJO INDEPENDENT SERVICE PROVIDERS



Jefferson Kee, President

Walt Jones, Vice President

Michelle Spencer, Secretary

March 12, 2018

Honorable Jonathan Hale, Delegate-Navajo Nation Council
23rd Navajo Nation Council, the Navajo Nation
P. O. Box 3390
Window Rock Arizona 86515

Dear Honorable Hale,

Enclosed is our position statement in hopes to anchor your position with your Lobbyist in Phoenix to collaborate efforts with our Legislators in District 7. The Navajo Independent Service Providers is ready with testimony if an intergovernmental meeting should assemble in the process of meeting with AHCCCS Division going forward.

Your representation in this lead will make a difference in members served in Northeastern Arizona predominantly the Navajo Nation. Any questions I can be contacted at (928) 674-2706 or 674-2700.

Sincerely,

A handwritten signature in black ink, appearing to read "Walt Jones".

Walt Jones, Vice President
Navajo Independent Service Providers

File,

NAVAJO INDEPENDENT SERVICE PROVIDERS

Jefferson Kee, President

Walt Jones, Vice President

Michelle Spencer, Secretary

March 12th, 2018

Honorable Jonathan Hale, Delegate- Navajo Nation Council
23rd Navajo Nation Council, Navajo Nation
P.O. Box 3390
Window Rock, AZ 86515

Dear Honorable Hale,

I'm writing you on behalf of the Navajo Nation Independent Service providers (NISP), to obtain your assistance toward a remedy of significant funding barriers impacting NISP members on the Navajo Nation. Specifically, No-profit providers on the Navajo Nation charged with the responsibility to deliver services to individuals with developmental and related disabilities.

Funding:

NISP providers are primarily supported by two funding sources. The Division of Developmental Disabilities (DDD), and the Navajo Nation. The DDD is a State agency within the Department of Economic Security who fund a network of qualified vendors (QV), responsible for the delivery of services to over 36,000 individuals in Arizona. Funding is via a legislative State appropriation and includes a Federal match (Title XIX). NISP providers received the majority of their funding via the DDD with a matched funding stream. ***We are currently funded at 75% of what the DDD has determined to be the actual cost of providing services.***

NISP Background:

The Navajo Independent Service Providers (NISP) is a consortium of non-profit organizations that are dedicated to partnering with other stakeholders to support individuals with developmental and physical disabilities residing in Northeastern Arizona and other regions of New Mexico, Colorado and Utah. NISP educates, collaborates and provides the direct delivery of dignified services to the I/DD population through organizations that are owned and operated by individuals of Navajo descent. All NISP providers were established in the early 1970's, when it was an advisory committee to the Navajo Tribal Council. At that time the goals were to provide services close to home with for the purpose of full community inclusion.

Current Organization Membership of NISP:

Dine Bii' Association of Disabled Citizen Inc. of Tuba City, Arizona; Toyei Industries Inc. of Cottonwood, Arizona; Chinle Valley School Inc. of Chinle, Arizona; Annie Wauneka Life Care Inc.

of Ganado, Arizona; St. Michaels Association for Special Education Inc. of Window Rock Arizona; CCRC Inc. of Brimhall, New Mexico; and Tohatchi Area of Opportunity & Service Inc. of Tohatchi, New Mexico.

Mission:

NISP's mission, in partnership with individuals and their families, is to serve as a unified consortium of qualified providers who collectively advocate for policy changes that result in value added benefit to individuals with disabilities, their families and our community throughout the Nation. Furthermore, we desire to be the instrument of change for policies, funding or regulations that may impede the ability for individuals to live self-determined lives. We strive to identify and address appropriate issues of concern, expand and improve community services and facilitate remedies that are consistent with this mission.

We Value:

- a. Non-profit community based organizations that are owned and operated by individuals of Navajo descent.
- b. Traditional cultural values
- c. The professional delivery of services and supports by individuals who are well trained and well supported.
- d. A safe, supportive environment of services that are person centered, responsive to the community and offer meaningful engagement to meet the changing needs of those supported.
- e. Full compliance with all funding source requirements.

Operational Concerns on the Nation as it relates to funding:

- The prop 206 enactment has adversely impacted NISP members. Specifically, personnel costs, overtime, recruitment, retention and vacancy rates are increasingly becoming problematic for NISP members.
- In the recent years the reimbursement system simply does not take into consideration the unique circumstances of operating on the Nation. As a result, the rates have become woefully inadequate to meet current operational expenses. Specifically hard hit are the costs of transportation which includes, but is not limited to: transportation to and from meaningful community engagement, maintenance of vehicles, ability to meet medical visit responsibilities, home visit transportation, wheelchair maintenance and overall repair and upkeep of vehicles.
- NISP is experiencing significant recruitment and retention of support staff including, high turnover, training and overtime. With this staff shortage it affects members to staff ratio, a funding requirement for compliance with our contracts.

- Technology is not always favorable in northeastern rural region for effective communication thus working with only one local server at a significant higher cost. Most of the time the internet is slow or simply inadequate to meet response deadlines or other important transmittals from the DDD. The current reimbursement rates do not adequately address IT infrastructure expectations.
- NISP providers have been in existence for over four decades as it requires us to modify our facility for ADA compliance. The early 1970's building accommodated for services were BIA or tribally own. At times, as so to speak "we can't put a new wine into an old wine skin." At times we are fortunate to get a new building or modification using HUD funds as they are rated on feasibilities or available of funds. The Capital improvement needs and current maintenance are not adequately captured in the current DDD reimbursement system
- The QVA Policy changes: although the ADES/DDD language says to streamlining networking is not always favorable due to constant changes in policy which creates or tends to more changes in services, especially without proper training where technology is limited or costly. In other words, the regulatory expenses to comply with our DDD agreement are not adequately addressed in the reimbursement system.
- Utilities: NISP is experiencing the escalating cost of utility on the Navajo Nation with only one service providers available for internet, electricity, water, telephone, sewer system and waste transfer station activities. Our costs are not adequately captured in the current DDD reimbursement system.

Specific Ask:

NISP is seeking support and assistance from State (AHCCCS and DDD) and Tribal representatives that includes, but is not limited to:

1. The current reimbursement rate has both Rural and Urban Rates. Because of the formula used (density) to determine eligibility for rural rates, most of the services provided by NISP members are not receiving the rural rate. We believe this rate should be applied to operations on the Navajo Nation for all services.
2. **A cultural/geographical modifier should be built and applied into the rate reimbursement system that specifically addressing through enhanced funding the unique cultural, situational and operational exceptions of operating on the Navajo Nation.**
3. A specific carve out of the existing rate reimbursement systems with enhanced modifiers for residential room and board (RRB), transportation and capital improvement expenses not felt by network of providers off the Navajo Nation.

Thank you in advance for your support.

If you should have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Walt Jones". The signature is fluid and cursive, with the first name "Walt" and last name "Jones" clearly distinguishable.

Walt Jones, Vice President
Navajo Independent Service Providers (NISP)

Mr. Walt Jones
(928) 674-2706
wjones_cvs@yahoo.com



SUPPORT ONGOING FUNDING FOR AN ONGOING EXPENSE

THE ASK:

In addition to the funding provided in the Executive's budget request for the Department of Economic Security/Division of Developmental Disabilities (DDD), AAPPD asks for your support of the continuation of the \$12 million in one-time funding from FY 2018 as well as providing full funding to cover the next \$.50 increase in minimum wage, which occurs January 1, 2019.

| In Addition to Executive Budget: | General Fund Cost |
|---|-------------------|
| Make One-Time Overall Funding Permanent | \$10M |
| Make One Time Room and Board Funding Permanent | \$2M |
| Additional Funding Needed to Provide a Full \$.50 Increase on January 1, 2019 | \$1.8M |
| | \$13.8M |

WHY THIS MATTERS:

Providers of services to individuals with intellectual and developmental disabilities (I/DD) are simultaneously experiencing both a shortage of willing employees and increased overtime expenses for existing employees in order to maintain government established staffing levels established for the safety of those being served, both of which have been exacerbated by the enactment of Proposition (Prop.) 206.

The pool of potential individuals that are both eligible and interested in direct service staff jobs is limited. These potential employees have other employment options that offer more benefits and that are less demanding physically and emotionally — and are offered for equal or higher pay.

PROP. 206 IMPACT TO DIRECT SERVICE PROVIDERS:

- Prior to the enactment of Prop. 206, I/DD direct service staff were paid, on average, 16.5% above minimum wage. After the increase in the minimum wage, direct service staff now, on average, make **ONLY 2.6% above the minimum wage** (AHCCCS Network Adequacy Study). As a result, their wages have fallen significantly below the starting wages for positions in competing markets that were previously minimum wage jobs requiring less skill and compassion.
- **Turnover of direct service staff averages 45%** (annualized), according to the recently released AHCCCS Study on Network Adequacy. Staff turnover increases staff training expenses and, most importantly has a significant adverse impact on quality care and the relationship with the individuals receiving services, given the personal nature of the care provided by direct service staff.
- **69% of providers experienced more difficulties filling vacancies and 65% of providers absorbed increased overtime costs since Prop. 206**, as staffing ratios, for safety reasons, are mandated by DES at various levels. (AHCCCS Network Adequacy Study)
- With respect to the wage compression issue, "Without a partial upward adjustment in pay to the staff that had been earning above minimum wage due to tenure and experience, the DDD program will experience higher levels of turnover and program quality will decline." (*The Unintended Consequences of Minimum Wage Increases on the Taxpayer: A Case Study of Services for Individuals with Developmental Disabilities*, Goldwater Institute report dated February 5, 2018)

continued on back

THE PROBLEM:

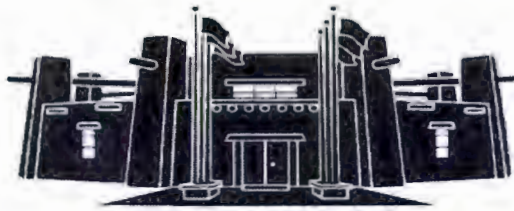
The unsustainable financial stress placed on I/DD providers has been caused because the costs of the increasing minimum wage have not been fully covered, which is a verifiable fact. For example, an approximate 24% increase in direct personnel costs (the cost increase from \$8.05 to \$10 an hour on January 1, 2017) was answered with a 1% to 8% increase for selected reimbursement rates; on average the increase provided was 7.59%.

| DES/DDD Survey Data Compared to All Costs for 2017 | | | | | | | |
|---|----------------------------------|--------------------------------|------------------|--|--|------------------------------|---------------------|
| | 12/31/2016 Wages (average) | 7/1/2017 Wages (average) | Cost Increase | Cost Increase for ERE (17.3%) | Cost Increase for Compression (16.5%) | Rate Increase Provided | % of Cost Funded |
| Attendant Care 1:1 | \$9.82 | \$10.31 | \$0.49 | \$0.08 | \$1.70 | \$1.24 | 54% |
| Day Treatment 1:1 (Unraveled 1:3.5) | \$9.66 | \$10.49 | \$0.83 | \$0.14 | \$1.73 | \$0.57 | 21% |
| Habilitation, Group Home | \$10.54 | \$11.20 | \$0.66 | \$0.11 | \$1.85 | \$1.48 | 56% |
| Habilitation, Hourly (1:1) | \$10.54 | \$11.20 | \$0.66 | \$0.11 | \$1.85 | \$1.59 | 61% |
| Respite, Hourly (1:1) | \$9.65 | \$10.31 | \$0.66 | \$0.11 | \$1.70 | \$1.22 | 49% |
| Average (Average Wages from AHCCCS Network Adequacy Study) | \$9.38 | \$10.26 | \$0.66 | \$0.11 | \$1.69 | \$1.22 | 50% |

(Grey Shaded columns contain information provided by DES to Senate Appropriations on 1/30/18)


| 2018 and 2019 Prop. 206 Wage Increases and Funding (Does not include other costs associated with Prop. 206.) | | |
|---|----------|----------|
| | 1/1/2018 | 1/1/2019 |
| Minimum Wage | \$10.50 | \$11 |
| Wage Increase | \$0.50 | \$0.50 |
| Cost Increase | 5.0% | 4.8% |
| Funding Response (enacted for FY 2018 and proposed in Executive Budget for FY 2019) | 1.24% | 1.24% |
| Wage Cost Not Funded (does not include ERE, compression and other costs associate with Prop. 206) | 3.76% | 3.52% |

Unless I/DD services are adequately funded to cover the increased costs in personnel services, the sustainability of the provider network will remain in jeopardy. While the one-time funding provided in FY 2018 did not eliminate the financial stress on I/DD providers, the added financial resources were a significant factor in many providers' ability to remain open and avoid system wide service reductions and eliminations.



MEMORANDUM

TO: Honorable Jonathan Hale
Navajo Nation Council

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

DATE: June 13, 2018

SUBJECT AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'ITYATI' COMMITTEES; SUPPORTING THE POSITION STATEMENT OF THE NAVAJO INDEPENDENT SERVICE PROVIDERS IN THEIR EFFORTS TO REDUCE THE DISPARITY BETWEEN RURAL AND URBAN REIMBURSEMENT RATE FOR SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL AND PHYSICAL DISABILITIES IN NORTHEASTERN ARIZONA, NEW MEXICO, COLORADO AND UTAH

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: _0203-18_____

SPONSOR: Jonathan Hale

TITLE: An Action Relating to Health, Education and Human Services and Naabik'iyati' Committees; Supporting the Position Statement of the Navajo Independent Service Providers in their efforts to reduce the disparity between rural and urban reimbursement rate for services to individuals with developmental and physical disabilities in Northeastern Arizona, New Mexico, Colorado and Utah

Date posted: June 18, 2018 at 11:49am

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.: 0203-18

SPONSOR: Honorable Jonathan Hale


TITLE: An Action Relating to Health, Education and Human Services and Naabik'iyati' Committees; Supporting the Position Statement of the Navajo Independent Service Providers in their efforts to reduce the disparity between rural and urban reimbursement rate for services to individuals with developmental and physical disabilities in Northeastern Arizona, New Mexico, Colorado and Utah

Posted: June 18, 2018 at 11:49am

5 DAY Comment Period Ended: June 23, 2018

Digital Comments received:

| | |
|------------------------------|-------------|
| Comments Supporting | <i>None</i> |
| Comments Opposing | <i>None</i> |
| Inconclusive Comments | <i>None</i> |



**Office Assistant
Office of Legislative Services**

6/25/2018 9:23am

Date/Time

Committee Report

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

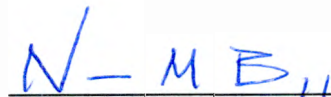
LEGISLATION NO. 0203-18

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK' IYATI' COMMITTEES; SUPPORTING THE POSITION STATEMENT OF THE NAVAJO INDEPENDENT SERVICE PROVIDERS IN THEIR EFFORTS TO REDUCE THE DISPARITY BETWEEN RURAL AND URBAN REIMBURSEMENT RATE FOR SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL AND PHYSICAL DISABILITIES IN NORTHEASTERN ARIZONA, NEW MEXICO, COLORADO AND UTAH

Sponsor: Honorable Jonathan L. Hale

Has had under consideration and report the same with the recommendation that Legislation 0203-18 PASS with no amendment and no directive; and therefore referred the same to the NAABIK' IYATI' COMMITTEE OF THE NAVAJO NATION COUNCIL

Respectfully Submitted,



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

June 25, 2018 - Main Motion

Motion by: Honorable Nelson BeGaye

Seconded by: Honorable Nathaniel Brown

Vote: 3 in favor; 0 Opposed; Vice-Chairperson Not Voting

Absent (excused): Steven Begay; Amber Kanazbah Crotty

Yeas: Nathaniel Brown; Nelson BeGaye; Jonathan L. Hale

Nays: None