

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND
NAABIK'ÍYÁTI'; SUPPORTING COMMENTS BY DINÉ BI OLTA SCHOOL BOARD
ASSOCIATION CONCERNING PROPOSED SENATE BILL 2711 ENTITLED
"NATIVE AMERICAN EDUCATION OPPORTUNITY ACT"

WHEREAS:

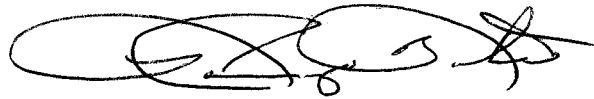
- A. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. It has the authority to review and recommend resolutions regarding certain matters, including health, education and social services. 2 N.N.C. §§ 164 (A)(9), 400 (A), 401 (B)(6)(a) (2012); see also CO-45-12.
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. It has the authority to "review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments." 2 N.N.C. §701(A)(7).
- C. Senate bill 2711, entitled "Native American Education Opportunity Act," is introduced in the United States Senate. Its purpose is stated as - "to provide an additional education option in certain States for Native American students served by schools funded by the Bureau of Indian Affairs." Section 2. Purpose. See attached Exhibit "A."
- D. The Diné Bi Olta School Board Association (DBOSBA) is an organization that represents local community school boards on the Navajo Nation. It has provided written comments on Senate bill 2711, generally raising questions on the rationale for the proposed funding formula which would involve states. See attached Exhibit "B."

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation hereby supports written comments submitted by the Diné Bi Olta School Board Association concerning proposed Senate bill 2711, the "Native American Education Opportunity Act." Comments supported are attached as Exhibit "B."

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 12 in favor, 0 oppose, this 26th day of May, 2016.

A handwritten signature in black ink, appearing to read "LoRenzo Bates", with a large, stylized flourish at the end.

LoRenzo Bates, Chairperson
Naabik'íyáti' Committee

Motion: Honorable Lee Jack, Sr.
Second: Honorable Seth Damon

NAVAJO NATION

RCS# 427

5/26/2016

Naa'bik'iyati Committee

05:27:34 PM

Amd# to Amd#

Legislation No. 0143-16

PASSED

MOT Jack

Supporting Comments by Dine'

SEC Damon

Bi Olta School Board Association

Concerning Proposed S.B. 2711

Yea : 12

Nay : 0

Not Voting : 12

Yea : 12

Begay, K
BeGaye, N
Bennett

Chee
Damon
Filfred

Hale
Jack
Smith

Tso
Tsosie
Yazzie

Nay : 0

Not Voting : 12

Bates
Begay, NM
Brown

Crotty
Daniels
Perry

Pete
Phelps
Shepherd

Slim
Vacant
Witherspoon



114TH CONGRESS
2D SESSION

S. 2711

To expand opportunity for Native American children through additional options in education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2016

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To expand opportunity for Native American children through additional options in education, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Edu-
5 cation Opportunity Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to provide an additional
8 education option in certain States for Native American
9 students served by schools funded by the Bureau of Indian
10 Affairs.

1 **SEC. 3. NATIVE AMERICAN EDUCATION OPPORTUNITY PRO-**
2 **GRAM.**

3 Part B of title XI of the Education Amendments of
4 1978 (25 U.S.C. 2000 et seq.) is amended—

5 (1) by redesignating section 1141 as section
6 1142; and

7 (2) by inserting after section 1140 the fol-
8 lowing:

9 **“SEC. 1141. BUREAU FUNDING OF STATE-BASED EDU-**
10 **CATION SAVINGS ACCOUNT PROGRAMS.**

11 **“(a) PROGRAM AUTHORIZED.—**

12 **“(1) BUREAU REIMBURSEMENTS.—**From
13 amounts made available to carry out sections 1127
14 and 1130, the Secretary shall, for the 2017–2018
15 school year and each subsequent school year, reim-
16 burse a State with an education savings account
17 program for each grant that the State has made to
18 an education savings account for an ESA eligible
19 student for such school year, in accordance with sub-
20 section (b).

21 **“(2) APPLICABILITY.—**This section shall apply
22 with respect to ESA eligible students who have sub-
23 mitted their application for an education savings ac-
24 count program to the State in which the student
25 lives or in which the reservation of the student is lo-

1 cated (as the case may be) on or after January 1,
2 2017.

3 “(b) AMOUNT OF REIMBURSEMENTS.—

4 “(1) AMOUNT.—The amount of the reimburse-
5 ment made by the Secretary under this subsection
6 for an ESA eligible student participating in an edu-
7 cation savings account program for a school year
8 shall be the lesser of—

9 “(A) the amount of the grant provided by
10 the State for the education savings account of
11 the ESA eligible student for the applicable
12 school year; and

13 “(B) 90 percent of the amount that the
14 Secretary would provide to a Bureau-funded
15 school on behalf of such student for the applica-
16 ble school year under sections 1127 and 1130.

17 “(2) NOTIFICATION TO STATES IF ADDITIONAL
18 REIMBURSEMENT IS AVAILABLE.—In any case where
19 the reimbursement available for an ESA eligible stu-
20 dent for a school year exceeds the amount of the
21 grant provided by the State under the education sav-
22 ings account program, the Secretary shall notify the
23 State of the higher amount of reimbursement that
24 the student could have qualified for under paragraph
25 (1)(B) for such school year.

1 “(3) TIMING OF REIMBURSEMENTS.—

2 “(A) NOTIFICATION.—A State that pro-
3 vides an education savings account program
4 grant to an ESA eligible student and desires a
5 reimbursement under this subsection shall sub-
6 mit a request for reimbursement and notify the
7 Secretary that includes the amount of the
8 grant.

9 “(B) REIMBURSEMENT.—Not later than
10 30 days after the Secretary receives a request
11 for reimbursement under subparagraph (A)
12 from a State, the Secretary will reimburse a
13 State for the grant.

14 “(4) RETURN OF OVERPAYMENTS.—A State
15 shall return to the Secretary any overpayment made
16 to the State under this section by not later than 30
17 days after the final determination that the State was
18 overpaid pursuant to this section.

19 “(c) AFFECT ON ALLOTMENTS.—

20 “(1) IN GENERAL.—For purposes of any cal-
21 culation regarding the total number of eligible In-
22 dian students under section 1127, the Secretary
23 shall include all ESA eligible students who partici-
24 pate in an education savings account program.

1 “(2) AVAILABILITY OF REMAINDER.—In any
2 case where the reimbursement provided by the Sec-
3 retary under subsection (b)(1) is less than the
4 amount that would be provided for the student
5 under subsection (b)(1)(B), the remaining amount
6 shall remain available to the Secretary to be used in
7 accordance with this part.

8 “(d) INFORMATION.—The Secretary shall work with
9 Bureau-funded schools located in each State with an edu-
10 cation savings account program to inform all parents of
11 ESA eligible students about the education savings account
12 program of the State and the students’ opportunity to par-
13 ticipate in the program.

14 “(e) RULE OF CONSTRUCTION.—The reimbursement
15 provided through an education savings account program
16 on behalf of an ESA eligible student under this section
17 shall be considered assistance to the student and shall not
18 be considered assistance to a school that enrolls the eligi-
19 ble student or any other educational service provider from
20 which the eligible student receives services. The amounts
21 provided on behalf of an ESA eligible student under this
22 section shall not be treated as income of the parents for
23 purposes of Federal tax laws or for determining eligibility
24 for any other Federal program.

25 “(f) DEFINITIONS.—In this section:

1 “(1) ESA ELIGIBLE STUDENT.—

2 “(A) IN GENERAL.—The term ‘ESA eligi-
3 ble student’ means an individual who—

4 “(i) is—

5 “(I) an elementary school or sec-
6 ondary school student who attended a
7 Bureau-funded school in the semester
8 preceding the date on which the stu-
9 dent first applies for an education
10 savings account program; or

11 “(II) a child who will be eligible
12 to attend a Bureau-funded school for
13 kindergarten or any other elementary
14 school grade in the next semester that
15 will start after the date on which the
16 student first applies for an education
17 savings account program;

18 “(ii) lives on the reservation of a
19 tribe;

20 “(iii) will not be attending a Bureau-
21 funded school, or other public elementary
22 school or secondary school, for the school
23 year for which the student is participating
24 in an education savings account program
25 of a State; and

1 “(iv) meets any eligibility require-
2 ments of the State education savings ac-
3 count program in which the student will
4 participate.

5 “(B) PERIOD OF ELIGIBILITY.—A student
6 who meets the requirements of clause (i) of sub-
7 paragraph (A) for a school year shall be deemed
8 to meet the requirements of such clause until
9 the date on which the student graduates high
10 school or reaches the age of 21 years, whichever
11 occurs first.

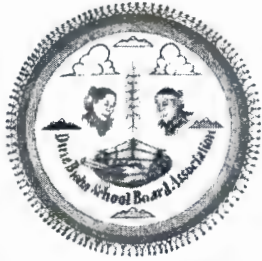
12 “(2) EDUCATION SAVINGS ACCOUNT PRO-
13 GRAM.—The term ‘education savings account pro-
14 gram’ means an educational option offered in a
15 State to families of elementary and secondary school
16 students in which the State provides a grant to an
17 account controlled by a parent from which the par-
18 ent may purchase goods and services needed for the
19 education of the student.

20 “(3) PARENT.—The term ‘parent’ means a par-
21 ent, guardian, custodian, or other person—

22 “(A) with the authority to act on behalf of
23 an ESA eligible student; and

1 “(B) who is a resident of the State where
2 the ESA eligible student resides.”.

○



DINÉ B I O L T A S C H O O L B O A R D A S S O C I A T I O N , I N C .

DBOSBA

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FAX (928) 871-5148



**Testimony of the
DINÉ B'OLTA SCHOOL BOARD ASSOCIATION, INC. (DBOSBA)
Before the Senate Committee on Indian Affairs
Concerning the
S. 2711 – Native American Education Opportunity Act
Sponsored by Senator John McCain March 17, 2016**

This is a very strange piece of legislation. It authorizes the Secretary to disperse funds to states that are participating in a program known as Education Savings Accounts (ESA) for eligible students. States in turn would provide grants to accounts controlled by a parent or guardian who would use the funds to *"purchase goods and services needed for the education of the student."*

Eligible students for ESA include:

- students who attended a BIE funded school the semester before the student first applied for the ESA program, or
- a child who is eligible to attend a BIE funded school for kindergarten or other elementary school grade in the semester after the child first applied for the ESA program
- a student who lives on the reservation of a tribe
- a student who will not be attending a BIE funded school or other public elementary or secondary school during the school year when the student is participating in the ESA program, and
- the student must meet any eligibility requirements of the state's ESA program for which the student is applying

Furthermore a student who is eligible by these criteria will be deemed eligible until he/she graduates from high school or reaches the age of 21.

Payments

The Bureau would be obligated to pay the state/s an amount for each grant, which is the lesser of

1. the amount of the grant provided by the state for the ESA program for the applicable school year, or
2. 90 % of the amount the Secretary would provide to a BIE funded school on behalf of each student for the applicable school year under the ISEP formula.

2. 90 % of the amount the Secretary would provide to a BIE funded school on behalf of each student for the applicable school year under the ISEP formula.

COMMENTS: It is difficult to imagine this in practice. The primary purpose of Education Savings Accounts seems to be investment planning by parents to pay for college expenses at a future point in time. S. 2711 would have the BIE giving money to the states to pay parents for educational programs not operated by either the BIE or the state. This would seem to allow parents to pay for school tuition and expenses at private/alternative/charter schools that were participating in the state's ESA program. It remains a question where the ESA students would attend school.

There would be many logistical challenges. The BIE's funding formula is based on student count, Schools already on tight budgets would resist being a collection agency for a state program and there is a legal question whether a school could count a student who was not in attendance.

Furthermore, if a state has a recognized ESA program, most if not all Indian students residing in the state would already be eligible to participate in it without going through the hassle of enrolling through the BIE.

DBOSBA questions the rationale for this bill, believes that it would be very cumbersome to implement, and feels that much more detail is necessary to properly consider such a bill.

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