

LEGISLATIVE SUMMARY SHEET

Tracking No. 0355-18

DATE: November 8, 2018

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'YATI' COMMITTEES; SUPPORTING AND AUTHORIZING THE NEGOTIATION OF A MEMORANDUM OF AGREEMENT BETWEEN THE NAVAJO NATION AND THE UNITED STATES DEPARTMENT OF EDUCATION FOR AN ONGOING, STABLE FUNDING UNDER TITLE 1, PART A AND B, TO IMPLEMENT THE DINE SCHOOL ACCOUNTABILITY PLAN

PURPOSE: The purpose of this legislation is to authorize the Superintendent of Schools of the Navajo Nation Department of Diné Education to negotiate a Memorandum of Agreement with the United States Department of Education to facilitate the implementation of the Diné School Accountability Plan.

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:
Website Posting Time/Date: 3:10pm 11/8/18
Posting End Date: 11/13/2018
Eligible for Action: 11/14/2018

Health, Education & Human Services Committee
Thence
Naabik'iyati' Committee

PROPOSED STANDING COMMITTEE RESOLUTION
23RD NAVAJO NATION COUNCIL—Fourth Year, 2018

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0355-18

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES,
NAABIK'IYATI' COMMITTEES; SUPPORTING AND AUTHORIZING THE
NEGOTIATION OF A MEMORANDUM OF AGREEMENT BETWEEN THE
NAVAJO NATION AND THE UNITED STATES DEPARTMENT OF
EDUCATION FOR AN ONGOING, STABLE FUNDING UNDER TITLE 1,
PART A AND B, TO IMPLEMENT THE DINE SCHOOL ACCOUNTABILITY
PLAN

WHEREAS:

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 health on the Navajo Nation. 2 N.N.C. § 401 (C)
- B. The Naabik'iyati' Committee of the Navajo Nation Council has the legislative authority to assist the development of needed programs designed to serve the Navajo People. 2 N.N.C. § 701(A)(7)

Section Two: Findings

- A. The Navajo Nation Department of Diné Education developed and submitted for approval of the Naabik'iyati' Committee of the Navajo Nation Council the Navajo Nation Alternative Accountability Workbook as official Navajo Nation policy.

- 1 B. The Naabik'iyati' Committee subsequently approved the Navajo Nation Alternative
2 Accountability Workbook as official Navajo Nation policy on December 22, 2014
3 through Resolution NABID-77-14. See Exhibit A.
- 4 C. The Diné School Accountability Plan aims to improve academic achievement of
5 Navajo students and implement one uniform assessment throughout the Navajo
6 Nation with a rigorous set of standards and assessments for all Bureau of Indian
7 Education funded schools on the Navajo Nation.
- 8 D. The Diné School Accountability Plan (Plan) requires and is not currently receiving
9 ongoing and stable funding from the United States Department of Education as
10 provided under Title 1, Parts A-B thereby impeding the full implementation of the
11 Plan.
- 12 E. The Navajo Nation Board of Education has by Resolution NNBEOC-475-2018 has
13 directed the Superintendent of Schools of the Department of Diné Education to
14 negotiate a Memorandum of Agreement with the United States Department of
15 Education to ensure the necessary ongoing and stable federal funding under Title 1,
16 Parts A-B in order to fully implement the Diné School Accountability Plan. See
17 Exhibit B.
- 18 F. The Navajo Nation finds it in the best interest of the Navajo People and their children
19 to endorse the action of the Navajo Nation Board of Education and authorize the
20 Superintendent of Schools of the Department of Diné Education to negotiate a
21 Memorandum of Agreement with the United States Department of Education to
22 ensure the necessary ongoing and stable federal funding under Title 1, Parts A-B in
23 order to fully implement the Diné School Accountability Plan.

24
25 **NOW THEREFORE, BE IT RESOLVED:**

26 The Navajo Nation hereby endorses the action of the Navajo Nation Board of
27 Education and authorizes the Superintendent of Schools of the Department of Diné
28 Education to negotiate a Memorandum of Agreement with the United States
29 Department of Education to ensure the necessary ongoing and stable federal funding
30

under Title 1, Parts A-B in order to fully implement the Diné School Accountability Plan.



ABID-77-14

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

22nd NAVAJO NATION COUNCIL—FOURTH YEAR, 2014

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE AND NAABIK'ÍYÁTI' COMMITTEE; OPPOSING THE IMPLEMENTATION OF THE BUREAU OF INDIAN EDUCATION REDESIGN AND REQUESTING THAT THE U.S. DEPARTMENT OF EDUCATION APPROVE THE NAVAJO NATION ALTERNATIVE ACCOUNTABILITY WORKBOOK

WHEREAS:

1. The Health, Education and Human Services Committee has the power to establish Navajo Nation policy, promulgate rules and regulations governing education of the Navajo Nation. 2 N.N.C. § 401(B)(1).

2. The Health, Education and Human Services Committee ensures compliance and implementation of laws and policies of the Navajo Nation relating to education. 2 N.N.C. § 401(B)(2).

3. The Health, Education and Human Services Committee serves as the oversight committee for the Department of Diné Education and the Navajo Board of Education. 2 N.N.C. § 401(C)(1) & (3).

4. The Naabik'íyáti' Committee has the power to assist and coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation. 2 N.N.C. § 701(A)(6).

5. On June 13, 2014, the Assistant Secretary - Indian Affairs, proposed a Blueprint for Reform. One of the Blueprint's major recommendations focused on transforming the BIE from a traditional organization operating schools to a "school improvement organization."

6. Consequently, on June 13, 2014, the Secretary of the Interior issued Secretarial Order 3334 directing Indian Affairs to "redesign" and restructure the Bureau of Indian Education (BIE).

7. The Navajo Nation does not support the BIE Redesign for four (4) major reasons:

- a. The BIE redesign does not implement Navajo sovereignty in education. The Navajo Nation Sovereignty in Education Act of 2005 calls for the Department of Dine Education to implement an education system to meet the needs of the Navajo students.
- b. The BIE redesign is an administrative exercise attempting to improve the efficiency of the BIE as a federal agency. It reinforces the fact that BIE is still in charge of Indian education.
- c. The BIE does not have a reliable and valid education system that addresses the needs of Navajo students attending BIE operated and grant schools on the Navajo Nation. A reliable and valid education system is the cornerstone of academic accountability and a fundamental requirement of No Child Left Behind (NCLB).
- d. After 12 years of NCLB BIE schools have not made significant Adequate Yearly Progress (AYP) as determined by state accountability systems and state criterion referenced assessments. The BIE does not have an accountability plan that holds schools accountable or provides corrective measures to improve student achievement of Navajo students. During the 2010 - 2011 school year 64% of BIE schools on the Navajo Nation did not meet Adequate Yearly Progress, and without consequences.

8. The Navajo Nation seeks to waive, pursuant to NCLB Act § 9401, the existing Annual Adequate Yearly Progress (AYP) accountability plan administered by the Bureau of Education (25 C.F.R. § 30.104), and has proposed its own alternative accountability proposal in the Navajo Nation Alternative Accountability Workbook which was submitted to the U.S. Department of Education in January 2011.

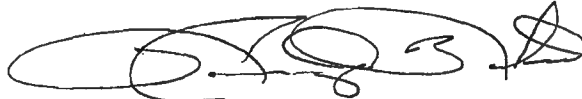
NOW, THEREFORE BE IT RESOLVED:

1. The Navajo Nation hereby does not support the Bureau of Indian Education's Redesign.

2. The Navajo Nation seeks to waive the existing Annual Yearly Progress Accountability Plan administered by the Bureau of Indian Education and requests that the U.S. Department of Education approve the Alternative AYP plan submitted in the Navajo Nation Accountability Workbook in January 2011.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 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 9 in favor and 4 opposed, this 22nd day of December 2014.

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

LoRenzo Bates, Pro Tem Chairperson
Naabik'iyáti' Committee

Motion: Honorable Dwight Witherspoon
Second: Honorable Duane Tsinigine



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

NNBEOC-475-2018

Relating to Education; Supporting and Approving a Memorandum of Agreement between the United States Department of Education and Navajo Nation to Seek Ongoing and Stable Federal Funds Under Title I, Part A and B, to Implement the Diné School Accountability Plan

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. 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). The Department is under the immediate direction of the Navajo Nation Superintendent of Schools, subject to the overall direction of the Board. 10 N.N.C. §107(B).
3. "(T)he Department, through the Superintendent of Schools, is authorized and directed to: Negotiate cooperative arrangements and intergovernmental agreements with local, state and federal agencies and governmental bodies, subject where required, to the approval of the Navajo Nation Council or designated standing committee." 10 N.N.C. §107(B)(2).
4. The Department shall carry out the following duties and responsibilities in consultation with and subject to the review of the Board: "Negotiate and recommend to the appropriate Navajo Nation officials joint powers agreements or memoranda of understanding/ agreement or other intergovernmental agreements as necessary to coordinate the activities of the Department of Diné Education with the Bureau of Indian Education and the departments of education of the states overlapping the Navajo Nation." 10 N.N.C. §107 (B)(12)(i).
5. On December 22, 2014, the Naabik'iyáti' Committee of the Navajo Nation Council, including the Health, Education, and Human Services Committee, approved **Resolution NABID-77-14** (Navajo Nation's Alternative Accountability Workbook) as official Navajo Nation policy. The Navajo Nation Board of Education reasserted their support for the Diné School Accountability Plan ("DSAP") through **Resolutions NNBEAP-276-2015** (approved April 10, 2015), **NNBEFE-360-2017** (approved February 3, 2017), **NNBESE-264-2014** (approved September 12, 2014) and requested the U.S. Department of Education and the Bureau of Indian Education to approve the Navajo Nation's Alternative Accountability Workbook.
6. The goal of the Diné School Accountability Plan ("DSAP") is to improve academic achievement of Navajo students and implement one uniform assessment throughout the Navajo Nation with a

BOARD OF EDUCATION

*Dr. Pauline M. Begay, President · Marlene Burbank, Vice President · Dr. Delores Greyeyes, Secretary
Members: Gloria Johns · Priscilla B. Manuelito · Dr. Bernadette Todacheene
Dr. Tommy Lewis, Navajo Nation Superintendent of Schools*

rigorous set of standards and assessments for all Bureau of Indian Education ("BIE") funded schools on the Navajo Nation. The DSAP is based on the use of the Common Core State Standards and Partnership for Assessment of Readiness for College and Careers ("PARCC") assessment.

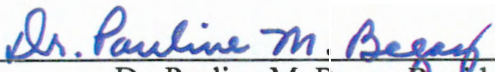
7. The DSAP is in critical need of ongoing and stable funding, such as Title I, Part A and B federal funds channeled through the United States Department of Education, for full implementation. The lack of ongoing and stable funding is currently impeding the implementation of the DSAP. Upon information and belief, the Bureau of Indian Education (BIE) is using a percentage of Title I, Part A and B federal funding that is earmarked for all BIE-funded schools, including Public Law 100-297 grant and Public Law 93-638 contract schools.
8. The Board finds that it is in the best interest of Navajo education, children and families, local school districts, and educational entities, to authorize the Superintendent of Schools of the Department of Diné Education to negotiate a Memorandum of Agreement with the United States Department of Education to seek ongoing and stable federal funding under Title I, Part A and B, to implement the Diné School Accountability Plan (DSAP).

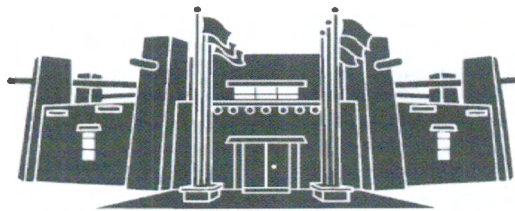
NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Board of Education supports, approves, and authorizes the Superintendent of Schools of the Department of Diné Education to negotiate a Memorandum of Agreement with the United States Department of Education to seek ongoing and stable federal funding under Title I, Part A and B, to implement the Diné School Accountability Plan (DSAP).
2. The Navajo Nation Board of Education hereby recommends and empowers the Superintendent of Schools to take any actions deemed necessary and proper to carry out the purposes of this resolution.

C E R T I F I C A T I O N


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 B. Manuelito and that the same was passed by a vote of 3 in favor; 0 opposed; 0 abstained, this 17th day of October 2018.


 Dr. Pauline M. Begay, President
 Navajo Nation Board of Education



MEMORANDUM

TO: Honorable Jonathan Hale
Navajo Nation Council

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

DATE: November 5, 2018

SUBJECT: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'ITYATI' COMMITTEES; SUPPORTING AND AUTHORIZING THE NEGOTIATION OF A MEMORANDUM OF AGREEMENT BETWEEN THE NAVAJO NATION AND THE UNITED STATES DEPARTMENT OF EDUCATION FOR AN ONGOING, STABLE FUNDING UNDER TITLE 1, PART A AND B, TO IMPLEMENT THE DINE SCHOOL ACCOUNTABILITY PLAN

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: _0355-18_____

SPONSOR: Jonathan Hale

TITLE: An Action Relating to Health, Education and Human Services, Naabik'iyati' Committees; Supporting and Authorizing the negotiation of a Memorandum of Agreement between the Navajo Nation and the United States Department of Education for an ongoing, stable funding under Title 1, Part a and B, to implement the Dine School Accountability Plan

Date posted: November 8, 2018 at 3:10pm

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.: 0355-18

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating to Health, Education and Human Services, Naabik'iyati' Committees; Supporting and Authorizing the negotiation of a Memorandum of Agreement between the Navajo Nation and the United States Department of Education for an ongoing, stable funding under Title 1, Part a and B, to implement the Dine School Accountability Plan

Posted: November 8, 2018 at 3:10 PM

5 DAY Comment Period Ended: November 13, 2018

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comment	<i>None</i>



**Legislative Secretary II
Office of Legislative Services**

11/14/2018 8:15am

Date/Time

Committee Report

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

LEGISLATION NO. 0355-18

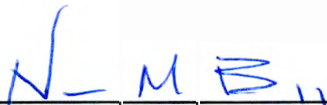
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NEGOTIATION OF A MEMORANDUM OF AGREEMENT BETWEEN THE NAVAJO NATION
AND THE UNITED STATES DEPARTMENT OF EDUCATION FOR AN ONGOING,
STABLE FUNDING UNDER TITLE 1, PART A AND B, TO IMPLEMENT THE DINE
SCHOOL ACCOUNTABILITY PLAN

(Note: Eligible for Committee Action November 14, 2018)

Sponsor: Honorable Jonathan L. Hale

Has had under consideration and report the same with the recommendation
that Legislation 0354-18 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

November 19, 2018 - Main Motion

Motion by: Honorable Olin Kleyoomia

Seconded by: Honorable Jonathan L. Hale

Vote: 4 in favor; 0 Opposed; Vice-Chairperson Not Voting

Yeas: Olin Kleyoomia; Johnathan L. Hale; Amber Kanazbah Crotty;
Nathaniel Brown

Nays: None

Absent (excused): Nelson BeGaye

Not Voting: Nelson BeGaye

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
Regular Meeting
November 19, 2018

Roll Call
Vote Tally Sheet

LEGISLATION NO. 0355-18

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NAA'BIK'IYATI' COMMITTEES; SUPPORTING AND AUTHORIZING THE
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SCHOOL ACCOUNTABILITY PLAN

(Note: Eligible for Committee Action November 14, 2018)

Sponsor: Honorable Jonathan L. Hale

November 19, 2018 - Main Motion

Motion by: Honorable Olin Kieyoomia

Seconded by: Honorable Jonathan L. Hale

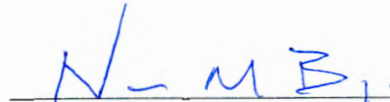
Vote: 4 in favor; 0 Opposed; Vice-Chairperson Not Voting

Yeas: Olin Kieyoomia; Johnathan L. Hale; Amber Kanazbah Crotty;
Nathaniel Brown

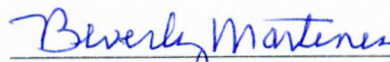
Nays: None

Absent (excused): Nelson BeGaye

Not Voting: Nelson BeGaye



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



Beverly Martinez, Legislative Advisor
Health, Education and Human Services Committee