

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

23<sup>RD</sup> NAVAJO NATION COUNCIL - FIRST YEAR, 2015

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND  
NAABIK'ÍYÁTI'; SUPPORTING UNITED STATES SENATE BILL 1177, THE  
EVERY CHILD ACHIEVES ACT OF 2015

WHEREAS:

- A. The Navajo Nation established the Health, Education and Human Services Committee (HEHSC) as a Navajo Nation Council standing committee and as such empowered HEHSC to review and recommend resolutions regarding education. 2 N.N.C. §§ 164 (A) (9), 400 (A), 401 (B) (6) (a) (2012); see also CO-45-12.
- B. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to coordinate all federal programs and to assist and coordinate all requests for information, appearances and testimony relating to federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 164 (A) (9), 700 (A), 701 (A) (4), 701 (A) (6) (2012); see also CO-45-12.
- C. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- D. On April 30, 2015, Senate Bill 1177 - also known as the Every Child Achieves Act of 2015 (ECAA) - sponsored by Senator Lamar Alexander was introduced in the United States Senate and placed on the Senate Legislative Calendar. See Text of S.B. 1177 at <https://www.congress.gov/114/bills/s1177/BILLS-114s1177pcs.pdf>.
- E. The ECAA was introduced as a reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), which was last reauthorized as the No Child Left Behind Act, and it proposes various amendments and improvements to the ESEA.

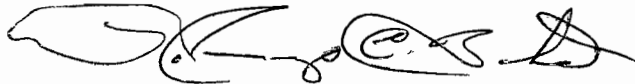
- F. The Navajo Nation Washington Office wrote a briefing paper on the ECAA, which outlines the proposed amendments to the ESEA, which include requiring States, Local Education Agencies, and schools to consult with Indian tribes; increasing the number of grant programs that Bureau of Indian Education (BIE) funded schools are eligible for; expanding the opportunities for the inclusion of language and culture in the classroom; and promotion of tribal self-determination in education through expanded grant funding and promotion of state-tribal cooperation. See Briefing Paper attached as Exhibit A.
- G. The ECAA builds upon previous gains by maintaining authority to develop and use tribally developed solutions to academic achievement by authorizing the use of tribally developed assessments at tribally accredited schools; maintaining grant funding for tribal education departments; and maintaining the right to request waivers of ESEA statutory and regulatory requirements.
- H. In the words of former Navajo Nation Vice-President Rex Lee Jim, "The Navajo Nation must have first access to the minds of its children." As the ECAA and ESEA reauthorization are being debated in Congress, more can and must be done to empower tribes to exercise sovereignty in education.

**NOW THEREFORE, BE IT RESOLVED:**

- A. The Navajo Nation supports United States Senate Bill 1177, the Every Child Achieves Act of 2015, to the extent that it emphasizes consultation between States, Local Education Agencies, and schools with Indian tribes, increases the number of grant programs for BIE schools, expands the opportunities for the inclusion of language and culture in the classroom, and promotes tribal self-determination in education through expanded grant funding and promotion of state-tribal cooperation.
- B. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation Speaker, the Navajo Nation Chief Justice and their designees, to advocate for United States Senate Bill 1177.

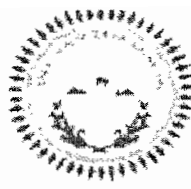
**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23<sup>rd</sup> 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 13 in favor and 1 opposed, this 27<sup>th</sup> day of August, 2015.



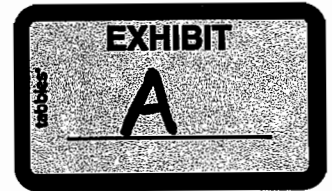
LoRenzo C. Bates, Chairperson  
Naabik'iyáti' Committee

Motion : Honorable Tuchoney Slim, Jr.  
Second : Honorable Davis Filfred



## EVERY CHILD ACHIEVES ACT OF 2015

NAVAJO NATION WASHINGTON OFFICE



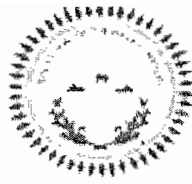
### BRIEFING PAPER

SYNOPSIS: The Senate Health, Education, Labor and Pensions Committee unanimously reported a bill to reauthorize and amend the *Elementary and Secondary Education Act* (ESEA) to the Senate. The bill returns a lot of authority to states but maintains some federal requirements, annual testing, and 'challenging state academic standards' in at least math, reading or language arts, and science. There are several provisions mandating consultation or coordination with tribes, and there would be some changes to Title VII's Indian education provisions. The bill as amended also contains a Native Language Immersion Schools program similar to one previously endorsed by the Navajo Nation.

ACTION: Educate Senators ahead of floor vote on Navajo education priorities.

### FULL BRIEF

The Senate Health, Education, Labor and Pensions Committee unanimously reported a bill to reauthorize and amend the *Elementary and Secondary Education Act* (ESEA) to the Senate. ESEA was last reauthorized as the much criticized *No Child Left Behind* (NCLB) law, and has been up for reauthorization since 2007. The *Every Child Achieves Act of 2015* is the result of bipartisan negotiations. The Obama Administration has praised the Senate's bipartisan efforts, but maintains that further

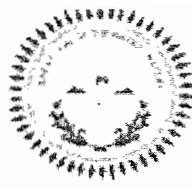


improvements are necessary to ensure that students in all states receive an equal education. The bill now heads to the full Senate. It is unclear how well the bill would be received in the House.

The bill routinely prohibits the Secretary of Education from specifying, defining, prescribing, mandating, directing, or controlling various specific actions or policies. While the bill returns a great deal of authority to states over education policy, it sets some parameters on assessments and accountability.

The bill requires states to still test students annually, and have “challenging academic content standards and aligned academic achievement standards” (to be known as ‘challenging state academic standards’) in at least math, reading or language arts, and science. These standards must be aligned with 1) entrance requirements, without the need for academic remediation, for the system of public higher education in the state, and 2) relevant state career and technical education standards. States would have a great deal of authority to determine and develop assessments, school accountability systems and interventions in failing schools. Academic assessments must measure annual academic achievement, and use multiple measures of student academic achievement. Local Education Agencies (LEA’s) would develop and implement evidence-based school intervention and support strategies, but State Education Agencies (SEA’s) may develop alternative strategies.

The bill would strike the highly qualified teacher requirement. The bill maintains the maintenance of effort requirement. Funds may be used to establish, expand, or enhance preschool programs for children aged 5 or younger. The bill

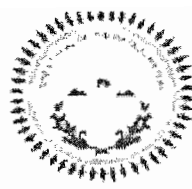


would allow students to choose to transfer to other public schools from failing schools, unless prohibited by State law, with priority given to the lowest-achieving children from low-income families, and the students may remain at their new schools until graduation.

There are several provisions mandating consultation or coordination with tribes. The bill requires states to 'consult' with, among others, representatives of Indian tribes located in the state in developing state plans. States would also have to ensure that tribes are notified of that state's challenging academic standards, academic assessments, and state accountability system. LEA's would be required explain how they will 'coordinate' programs and integrate services with, among others, tribal services and programs. Schools operating schoolwide programs must consult with tribes and Native organizations in the development of plans.

The bill would effect Native education programs in a number of additional ways, including:

- Bureau of Indian Education (BIE) funded schools would be included in a number of programs that they weren't previously specifically eligible for including programs for LEA's for children and youth who are neglected, delinquent, or at-risk.
- Requires set asides for the BIE in a number of programs that appear to equal the small state guaranteed minimum (1/2 of 1%). Reservation of ¾ of 1 percent would be required for BIE funded schools for a new program to improve academic outcomes through innovative uses of technology.



- While the outcome of programs must be increased English proficiency, the bill maintains an exception from the general English language proficiency requirements for the preservation of Native languages.

- In regards to BIE-funded or operated schools, the assessments to be used are determined by the accrediting agency:

- Schools accredited by a State use the State's assessments.
- Schools accredited by regional accrediting organizations will adopt "appropriate" assessments in consultation with, and approval of, the Secretary of the Interior and consistent with assessments adopted by other schools in the same State or region.
- Schools accredited by a tribal accrediting agency or tribal division of education shall use assessments developed by that agency or division "except that the Secretary of the Interior shall ensure that such assessment meets the requirements" of section 1111.

- Tribes and tribal organizations would be eligible for the 21<sup>st</sup> Century Community Learning Centers program which aims to provide opportunities for academic enrichment, including tutoring; offer a variety of additional services, programs, and activities such as youth development, service learning, nutrition and health education, and other activities; and offer families opportunities for "active and meaningful engagement in their children's education".



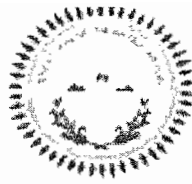
- Strikes existing Sections 7132-7134, and 7136 from Title VII. Some of these purposes may fall under other programs. §7132 provided for in-service training for teachers of Indian children. §7133 authorized fellowships to Indian students to enable them to study in graduate and professional programs. §7134 authorized the establishment of two centers for gifted and talented Indian students at tribally controlled community colleges, and support for demonstration projects. §7136 authorized grants to SEA's, LEA's and Indian tribes, institutions and organizations for the improvement of educational opportunities for adult Indians.

- Amends the Purpose section of Title VII at 20 U.S.C. §7402 to include meeting the "unique cultural, language, and educational needs" of American Indian students; ensure that they "gain [a] knowledge and understanding of Native communities, languages, tribal histories, and cultures"; and "ensure that educators have the ability to provide effective instruction and supports".

- Amends 20 U.S.C. 7421 regarding the purpose of Formula Grants to Local Education Agencies to include meeting the "unique cultural, language and educational needs" of Native students; and at 20 U.S.C. §7422 allows consortia of 2 or more LEA's to apply for grants.

- The bill also allows cooperative agreements under the formula grants subpart between LEA's and tribes if the tribe requests and meets certain requirements. Indian tribes that operate schools not affiliated with either an LEA or the BIE would be eligible to apply for formula grants. The Secretary



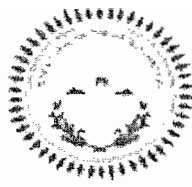


would provide technical assistance to LEA's to develop applications; improve implementation, content, and evaluation; and integrate activities. Also amend the activities that may be carried out using formula grant funds to include "activities that support Native American language programs and Native American language restoration programs, which may be taught by traditional leaders"; activities to prevent violence and suicide; drop out prevention strategies and programs for students in correctional facilities or transitioning from such facilities.

- Funds would not be able to be used for long-distance travel expenses for training activities available locally.
- In regards to student eligibility forms, the bill amends the rules on acceptable documentation and when it is required, and directs the Secretary of Education to provide technical assistance to LEA's.

- The Improvement of Educational Opportunities for Indian Children grant program would be amended to include "youth". Also amended to support activities that incorporate "traditional leaders", instead of "appropriately qualified tribal elders and seniors".

- Amends 20 U.S.C. §7455, 'Grants to tribes for education administrative planning, development, and coordination' to say that the Secretary may award grants to tribes, tribally-approved tribal organizations, or tribal education agencies to 1)



“promote tribal self-determination in education”; 2) “improve the academic achievement of Indian children and youth”; and 3) promote the coordination and collaboration of tribal education agencies with state and local education agencies “to meet the unique educational and culturally related academic needs of Indian students”.

- These grants would be used to directly administer education programs; build capacity to administer and coordinate education programs, and improve the relationship and coordination between tribes, SEA’s and LEA’s that educate students from the tribe; receive training and support in areas such as data collection and analysis; train and support SEA’s and LEA’s in areas related to tribal history, language, or culture; build on existing activities or resources “rather than replacing other funds”; and other activities “subject to the approval of the Secretary”. However, no such funds “may be used to provide direct services”.

- The bill as amended contains a Native American and Alaska Native Language Immersion Schools program similar to one previously endorsed by the Navajo Nation found in the *Native Language Immersion Student Achievement Act* from the 113<sup>th</sup> Congress. This program would support schools that use Native languages as the primary language of instruction; maintain, protect, and promote the rights and freedom of Native Americans to use, practice, maintain and revitalize their



languages; and support efforts to maintain and revitalize languages and cultures, and to improve student outcomes.

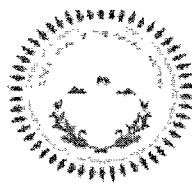
- The bill would authorize the appropriation of “such sums as may be necessary for each of fiscal years 2016 through 2021” for Title VII programs. This ‘such sums’ language will likely be controversial in the House.

- The law would make several changes to the Impact Aid program, including authorizing the appropriation of “such sums as may be necessary for each of fiscal years 2016 through 2021”.

- A consortium of schools operated by the BIE; contract or grant schools in consortium with another contract or grant school or a tribal or community organization; or a BIE school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization, will still be “given the same consideration as [an LEA]” for purposes of any competitive ESEA program.

- The bill also amends 20 USC §7861 while retaining the authority of tribes and SEA’s to request waivers of ESEA statutory and regulatory requirements. The Secretary would generally be required to issue a written determination within 90 days, and provide an opportunity to revise and resubmit a waiver request if denied. The Secretary may not require anything not otherwise required by ESEA and directly related to the request.

- Adds a new section requiring LEA’s to “consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served” by an LEA during the design and development of the LEA’s programs under ESEA “with the overarching goal of meeting the unique cultural, language, and



educational needs of" Native students where the LEA has an enrollment of not less than 50% Native students or an enrollment of not less than 50 students. Consultation must occur before the LEA makes any decision regarding how it will meet the needs of Native children, and the LEA must maintain records containing "a written affirmation signed by officials of the participating tribes or tribal organizations approved by the tribes" indicating that consultation occurred.