TITLE: An Action Relating to Naabik’íyáti’; Supporting the New Mexico State Court ruling in Yazzie/Martinez v. New Mexico that the State of New Mexico and its Public Education Department failed of at-risk children, including Native American children; Opposing any and all efforts if the New Mexico Public Education Department seeking dismissal of the case; Requesting complete compliance, including adequate funding for education of school children as mandated by Constitution

Date posted: April 10, 2020 at 7:23 PM

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DATE: April 9, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK’IYÁTI; SUPPORTING THE NEW MEXICO STATE COURT RULING IN YAZZIE/MARTINEZ V. NEW MEXICO THAT THE STATE OF NEW MEXICO AND ITS PUBLIC EDUCATION DEPARTMENT FAILED TO MEET ITS CONSTITUTIONAL RESPONSIBILITIES IN THE EDUCATION OF AT-RISK CHILDREN, INCLUDING NATIVE AMERICAN CHILDREN; OPPOSING ANY AND ALL EFFORTS OF THE NEW MEXICO PUBLIC EDUCATION DEPARTMENT SEEKING DISMISSAL OF THE CASE; REQUESTING COMPLETE COMPLIANCE, INCLUDING ADEQUATE FUNDING FOR EDUCATION OF SCHOOL CHILDREN AS MANDATED BY CONSTITUTION

PURPOSE: This resolution, if adopted, would support the New Mexico State Court ruling in Yazzie/Martinez v. New Mexico which held that the state of New Mexico and its Public Education Department failed to meet its Constitutional responsibilities in the education of at-risk children, including Native American children. The resolution opposes any and all efforts of the New Mexico Public Education Department seeking dismissal of the case. The Navajo Nation is requesting complete compliance with the case, including the provision ordering adequate funding for the education of all at-risk school children as mandated by the state of New Mexico Constitution.

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 to review each proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0087-20

AN ACTION

RELATING TO NAABIK'ÍYÁTI; SUPPORTING THE NEW MEXICO STATE COURT RULING IN YAZZIE/MARTINEZ V. NEW MEXICO THAT THE STATE OF NEW MEXICO AND ITS PUBLIC EDUCATION DEPARTMENT FAILED TO MEET ITS CONSTITUTIONAL RESPONSIBILITIES IN THE EDUCATION OF AT-RISK CHILDREN, INCLUDING NATIVE AMERICAN CHILDREN; OPPOSING ANY AND ALL EFFORTS OF THE NEW MEXICO PUBLIC EDUCATION DEPARTMENT SEEKING DISMISSAL OF THE CASE; REQUESTING COMPLETE COMPLIANCE, INCLUDING ADEQUATE FUNDING FOR EDUCATION OF SCHOOL CHILDREN AS MANDATED BY CONSTITUTION

BE IT ENACTED:

SECTION ONE. AUTHORITY
A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700. The committee is empowered to coordinate all federal and state programs, including education, with other standing committees for purposes of providing the most efficient delivery of services to the Navajo Nation. 2 N.N.C. § 701(A)(4).
B. The Naabik'íyáti' Committee is also empowered to 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. N.M.C. § 701 (A)(7).

SECTION TWO. FINDINGS

A. The New Mexico Constitution provides as a fundamental obligation of the state:
   "A uniform system of free public schools sufficient for the education of and open to all children of school age in the state shall be established and maintained." N.M. Const. Art. XII, § 1.

B. A purpose of the state of New Mexico Indian Education Act ("NMIEA") of 2003 is to:

   Other purposes of the act include ensuring the "maintenance of native languages" and providing "for the study, development and implementation of educational systems that positively affect the educational success of American Indian students." Id., at subsections (B) and (C).

C. Parents, families and school districts sued the state of New Mexico in the New Mexico District Court, County of Santa Fe, First Judicial District. Yazzie/Martinez vs. State of New Mexico, D-101-CV-2014-00793 [hereinafter, Yazzie]. See Exhibit A. The consolidated lawsuit concerned whether the state of New Mexico was "living up to [its] constitutional obligation to provide a sufficient education for those children characterized as at-risk." Id., at 2. Children "at-risk" included "those children who come from economically disadvantaged homes, those children who are English Language Learners, those children who are Native American, and those children with a disability." Id. The court explained, "[t]his case raises a challenge as to the adequacy of the education being provided public school students who are Native American, English language learners, economically disadvantaged, or who have a disability. The Plaintiffs challenge as inadequate both the public school funding formula and the
implementation of programs to meet statutory mandates which are designed to achieve the constitutional requirement.” Yazzie, at 5.

D. According to the court, “[i]n New Mexico the number of school aged children who qualify for at least one of these at-risk factors is no small number.” Among those “at-risk,” Native American children constituted 10.6% of the total number of children in the state public schools. Yazzie, at 2-3.

E. Upon hearing, the court ruled that the state of New Mexico failed in meeting its constitutional obligations in providing a sufficient and uniform system of education to all New Mexico students, including Native American children. The court found that the state failed to provide the necessary programs and services for “at-risk” students, violating state and federal laws. The schools failed to provide the necessary programs and service in preparing students for college and careers, the ruling stated. Further, the court did not see lack of funding as a defense, ruling that the state’s Public Education Program failed to meet its oversight functions. It stated, “as a legal matter, lack of funds is not a defense to providing constitutional rights.” Yazzie, at 54. “[T]he remedy for lack of funds is not to deny public school children a sufficient education, but rather the answer is to find more funds,” the court ruled. Id., at 56. Based on its findings, the court correctly ordered the state of New Mexico to “create a funding system that will meet the constitutional requirement.”

F. The New Mexico District Court issued a final order, essentially restating its findings and rulings, on February 14, 2019. Attached as Exhibit B.

G. The Navajo Board of Dine Education, by resolution NNBEMA-609-2020, opposes dismissal of the case as requested by the State of New Mexico. See Exhibit C.

SECTION THREE. OPPOSING EFFORTS OF THE NEW MEXICO PUBLIC EDUCATION TO DISMISS CASE

A. The Navajo Nation hereby supports the findings, rulings and orders in Yazzie/Martinez v. New Mexico, D-101-CV-2014-00793, issued by the District Court of the state of New Mexico, First Judicial District for the County of Santa Fe. The pertinent orders are attached as Exhibits A and B. The Navajo Nation agrees that the state of New Mexico
and its Public Education Department failed to meet its Constitutional responsibilities in the education of at-risk children, including Native American children.

B. The Navajo Nation opposes any and all efforts of the New Mexico Public Education Department in seeking dismissal of Yazzie/Martinez v. New Mexico. Dismissal requests should immediately be withdrawn. The Navajo Nation requests complete compliance of rulings and orders of the District Court, including the orders for adequate funding for the education of at-risk school children as mandated by the state’s Constitution.