

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0087-20\_\_

SPONSOR: Daniel E. Tso

**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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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0087-20

**DATE:** April 9, 2020

**TITLE OF RESOLUTION:** 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

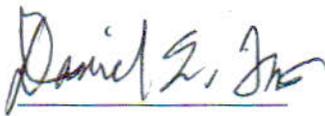
**PURPOSE:** This resolution, if adopted, would support the New Mexico State Court ruling in *Yazzie/Martinez v. New Mexico* which held that the state of New Mexico and its Public Education Department failed to meet its Constitutional responsibilities in the education of at-risk children, including Native 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.

5-DAY BILL HOLD PERIOD: None  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 04-15-20  
Eligible for Action: 04-16-20

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 24th NAVAJO NATION COUNCIL -- Second Year, 2020

3 INTRODUCED BY

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6 (Prime Sponsor)

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8 TRACKING NO. 0087-20

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10 AN ACTION

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

20  
21 BE IT ENACTED:

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23 **SECTION ONE. AUTHORITY**

- 24 A. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council. 2  
25 N.N.C. § 700. The committee is empowered to coordinate all federal and state  
26 programs, including education, with other standing committees for purposes of  
27 providing the most efficient delivery of services to the Navajo Nation. 2 N.N.C. §  
28 701(A)(4).
- 29 B. The Naabik'iyáti' Committee is also empowered to continually monitor the programs  
30 and activities of federal and state departments and to assist development of such

1 programs designed to serve the Navajo People and the Navajo Nation through  
2 intergovernmental relationships between the Navajo Nation and such departments. 2  
3 N.N.C. § 701 (A)(7).  
4

## 5 **SECTION TWO. FINDINGS**

6 A. The New Mexico Constitution provides as a fundamental obligation of the state:

7 “A uniform system of free public schools sufficient for the education of and open  
8 to all children of school age in the state shall be established and maintained.” N.M.  
9 Const. Art. XII, § 1.

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

11 “[E]nsure equitable and culturally relevant learning environments, educational  
12 opportunities and culturally relevant instructional materials for American Indian  
13 students enrolled in public schools; 1978 NMSA, §22- 23A-1, *et seq.* (2005).

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

18 C. Parents, families and school districts sued the state of New Mexico in the New Mexico  
19 District Court, County of Santa Fe, First Judicial District. *Yazzie/Martinez vs. State of*  
20 *New Mexico*, D-101-CV-2014-00793 [hereinafter, *Yazzie*]. See **Exhibit A**. The  
21 consolidated lawsuit concerned whether the state of New Mexico was “living up to [its]  
22 constitutional obligation to provide a sufficient education for those children  
23 characterized as at-risk.” *Id.*, at 2. Children “at-risk” included “those children who  
24 come from economically disadvantaged homes, those children who are English  
25 Language Learners, those children who are Native American, and those children with  
26 a disability.” *Id.* The court explained, “[t]his case raises a challenge as to the adequacy  
27 of the education being provided public school students who are Native American,  
28 English language learners, economically disadvantaged, or who have a disability. The  
29 Plaintiffs challenge as inadequate both the public school funding formula and the  
30

1 implementation of programs to meet statutory mandates which are designed to achieve  
2 the constitutional requirement.” *Yazzie*, at 5.

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

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

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

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

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

27 A. The Navajo Nation hereby supports the findings, rulings and orders in *Yazzie/Martinez*  
28 *v. New Mexico*, D-101-CV-2014-00793, issued by the District Court of the state of New  
29 Mexico, First Judicial District for the County of Santa Fe. The pertinent orders are  
30 attached as **Exhibits A and B**. The Navajo Nation agrees that the state of New Mexico

1 and its Public Education Department failed to meet its Constitutional responsibilities  
2 in the education of at-risk children, including Native American children.

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

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