LEGISLATIVE SUMMARY SHEET

Tracking No. 0008-20

DATE: January 10, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-35-19

PURPOSE: This resolution, if approved, will override veto of CO-35-19.

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: 2300
Website Posting Time/Date: 1/10/20 5:59PM
Posting End Date: 1/15/20
Eligible for Action: 1/16/20

Naabik'íyáti Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

(Sponsor) Kee Allen Begay Jr.

TRACKING NO. 0008-20

AN ACTION

RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-35-19

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation Council enacts laws of the Navajo Nation. 2 N.N.C. § 102.

B. All resolutions enacting new law or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and override by the Navajo Nation Council. 2 N.N.C. § 164(A)(17).

C. A vetoed resolution must first be submitted to Naabik'íyáti' Committee before consideration by the Navajo Nation Council. 2 N.N.C. § 164 (A)(17).

D. Legislation vetoed by the President of the Navajo Nation is subject to override "by two-thirds (2/3) vote of the membership of the Navajo Nation Council." 2 N.N.C. § 1005 (C) (11).

SECTION TWO. FINDINGS

A. Resolution CO-35-19 was passed by the Navajo Nation Council on October 23, 2019. The resolution is entitled, "AN ACT RELATING TO THE LAW AND ORDER

COMMITTEE, HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ADOPTING THE "ACCESSIBLE PUBLIC RESTROOMS ACT"; ESTABLISHING THE REQUIREMENT FOR ALL NAVAJO NATION GOVERNMENT AND PUBLIC SERVICE PROVIDERS TO PROVIDE CLEARLY INDICATED ACCESSIBLE PUBLIC RESTROOMS AMENDING THE NAVAJO NATION CODE, TITLE 13, CHAPTER 53; ADDING NEW SECTIONS 4501, 4502, 4503, AND 4504."

B. The "Accessible Public Restrooms Act" enacted through *CO-35-19* made restrooms in government and public service offices accessible to the general public. This enactment was vetoed by the President. See Exhibit "A," veto letter and resolution *CO-35-19*.

C. The Navajo Nation Council finds it in the best interest of the Navajo Nation to override the Presidential veto herein.

SECTION THREE. OVERRIDING VETO

The Navajo Nation Council hereby overrides the Navajo Nation President's veto of Resolution CO-35-19.

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

November 9, 2019



Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CO-35-19, *Adopting the "Accessible Public Restroom Act;" Establishing the Requirement for All Navajo Nation Government and Public Service Providers to Provide Clearly Indicated Accessible Public Restrooms Amending the Navajo Nation Code, Title 13, Chapter 53; Adding New Sections 4501, 4502, 4503, and 4504*

Dear Speaker Damon,

Pursuant to the authority vested in the Navajo Nation President, I am vetoing CO-35-19.

I appreciate the Navajo Nation Council's attempt to provide a service to our elders, adults, young adults, and children. We understand the need to provide many services, including access to public restrooms; however, I have two concerns with CO-35-19 which could be addressed should the issue be brought forward for review.

First, terms in the Resolution are not clear and could be subject to debate for those who were not privileged to know the background of this matter. "Accessible public restrooms" carry a connotation that could place the Navajo Nation and public service providers in a quandary over how to comply with the new law. While it is unclear from a reading of the Resolution the term "accessible public restroom" may be interpreted to comply with certain standards of accessibility and creates a debate from the beginning.

Second, based on the first concern, the Resolution is an unfunded mandate. To require the Navajo Nation and public service providers to provide accessible public restrooms will create a cost that is not addressed in the Resolution. The Navajo Nation and public service providers will need to expend funds to retrofit current public restrooms to meet the accessibility standards. No consultation was done with the Division of General Services or the Division of Social Services who have information on what will be required to make the changes to comply with an accessibility standard. This information would have been important to the discussion of this matter.

The questions that come with this Resolution is the responsibility of making the changes to accessible public restrooms. The Navajo Nation government buildings, such as Chapters, may fall under the responsibility of the Chapter who may not have the funds available to make changes.

The other question is Navajo Nation buildings considered historic buildings and the increase costs of making changes in the designated buildings.

We believe in working together we can address these issues where there is a clear direction on providing services to our People who do business with the Navajo Nation government or public service providers. Working with the Division of General Services, Division of Social Services, and other Departments and Programs we can craft legislation that serves the needs of our People.

We look forward to working with the Navajo Nation Council on this matter.

Sincerely,

Jonathan Nez, President
THE NAVAJO NATION

POST OFFICE BOX 7440 | WINDOW ROCK, AZ 86515 | PHONE: (928) 871-7000 | FAX: (928) 871- 4025

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL -- First Year, 2019

AN ACT

RELATING TO THE LAW AND ORDER COMMITTEE, HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ADOPTING THE "ACCESSIBLE PUBLIC RESTROOMS ACT"; ESTABLISHING THE REQUIREMENT FOR ALL NAVAJO NATION GOVERNMENT AND PUBLIC SERVICE PROVIDERS TO PROVIDE CLEARLY INDICATED ACCESSIBLE PUBLIC RESTROOMS AMENDING THE NAVAJO NATION CODE, TITLE 13, CHAPTER 53; ADDING NEW SECTIONS 4501, 4502, 4503, and 4504

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Law and Order Committee is a standing committee of the Navajo Nation Council and is empowered with the authority to review and make recommendations to the Navajo Nation Council on amendments to and enactments in the Navajo Nation Code. 2 N.N.C. § 601(B)(14).

B. The Health, Education and Human Services Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 401(B)(6), has the power to provide legislative oversight on matters involving health, social service, education, general governmental services, and human services.

C. The Naabik'iyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164 (A)(9), reviews proposed legislation which requires final action by the Navajo Nation Council.

D. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164(A).

SECTION TWO. FINDINGS

A. The Navajo Nation Government maintains offices throughout Navajo Nation providing services to community members.

B. Public Service Providers also maintain offices throughout Navajo Nation providing services to Navajo Nation community members.

C. A Public Service Provider is a non-governmental entity that delivers services essential to the public interest such as electricity, gas, or transportation.

D. The Navajo Nation community consists of many citizens who are disabled including elders, adults, young adults, and children.

E. Navajo Nation community members conduct their personal business and acquire necessary resources from the various governmental and public service provider offices from the Navajo Nation Departments, Programs, Offices, and other important entities.

F. Navajo Nation community members, including disabled elders, adults, young adults, and children, may need to use the restroom facilities while conducting personal business from Navajo Nation Government and public service provider buildings.

G. It is within the best interest of the Navajo Nation to adopt the "Accessible Public Restrooms Act" and amend Title 13, establishing Subchapter 53 and sections 4501, 4502, 4503, and 4504 of the Navajo Nation Code to require that all Navajo Nation Government and public service provider buildings that provide direct services to the Navajo Nation community provide clearly indicated accessible public restrooms for the general public.

SECTION THREE. AMENDMENT TO TITLE 13

The Navajo Nation amends Title 13 as follows:

TITLE 13. HEALTH AND WELFARE
SUBCHAPTER 53. ACCESSIBLE PUBLIC RESTROOMS

****

§ 4501. TITLE

A. This Act shall be known and cited as the "Accessible Public Restrooms Act"

§ 4502. PURPOSE

The Navajo Nation declares that it is in the best interest of the Diné that the Navajo Nation shall provide clearly indicated accessible public restrooms in all governmental and public service provider buildings that provide direct services to the Navajo Nation community to serve the disabled elderly, adult, young adult, and children of the community.

§ 4503. DEFINITIONS

Public Service Provider is a non-governmental entity that delivers services essential to the public interest such as electricity, gas, or transportation.

§ 4504. ACCESSIBLE PUBLIC RESTROOMS

A. The Navajo Nation shall provide accessible public restrooms in all governmental buildings that provide direct services to the Navajo Nation community.

B. The Navajo Nation, through its Department of Health, shall ensure that all governmental buildings and public service provider buildings that provide direct services to the Navajo Nation community provide accessible public restrooms and provide clear indication of the location of these public restrooms.

SECTION FOUR. APPROVAL AND ACCEPTANCE OF AMENDMENTS to 13 N.N.C. §§ 4501, 4502, 4503, and 4504

The Navajo Nation hereby approves the Amendments to 13 N.N.C. §§ 4501, 4502, 4503, and 4504.

SECTION FIVE. DIRECTIVE

Therefore Navajo Nation hereby directs all Navajo Nation Government offices and public service provider offices that provide direct services to the Navajo Nation community to provide clearly indicated accessible public restrooms no later than one year from the date this act is adopted and signed into law. All Navajo Nation Government offices and public service provider offices shall take the necessary steps to comply with this act and shall inform the Department of Health quarterly of their progress towards full compliance.

SECTION SIX. EFFECTIVE DATE

The Navajo Nation Code amendment enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

SECTION SEVEN. CODIFICATION

The provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION EIGHT. SAVING CLAUSE

Should any provisions of this ordinance be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this ordinance which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th 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 18 in Favor, and 00 Opposed, on this 23rd day of October 2019.

Honorable Seth Damon, Speaker
24th Navajo Nation Council

11-01-19
DATE

Motion: Honorable Mark A. Freeland
Second: Honorable Charlaine Tso

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2019.

_____
Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 10th day of November, 2019 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

NAVAJO NATION

182

10/23/2019
10:58:06 AM

NNC 2019 FALL SESSION

Amd# to Amd#

Legislation 0174-19:
Establishing the Requirement for all Navajo Nation Government and Public Service Providers...

PASSED

MOT Freeland, M
SEC Tso, C

Yea : 18 **Nay : 0** **Excused : 4** **Not Voting : 1**

Yea : 18

Begay, E	Freeland, M	Slater, C	Tso, D
Begay, K	Halona, P	Stewart, W	Wauneka, E
Begay, P	Henio, J	Tso	Yazzie
Brown	James, V	Tso, C	Yellowhair
Charles-Newton	Nez, R		

Nay : 0

Excused : 4

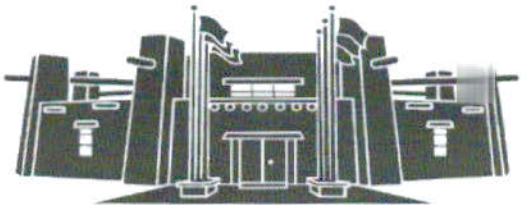
Daniels	Smith	Tso, E	Walker, T

Not Voting : 1

Crotty

Presiding Speaker: Damon

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Hon. Kee Allen Begay, Council Delegate
Navajo Nation Council

From : Ron Haven, Attorney
Office of Legislative Counsel

Date : January 10, 2020

Re : AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-35-19

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, although, as with all legislation, challenges are possible in the courts. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

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. Ahéhee'.

OLC # 20-013-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0008-20__ SPONSOR: Kee Allen Begay Jr

TITLE: An Action Relating NAABIK'IYATI And Navajo Nation Council; Overriding The Navajo Nation President's Veto Of Navajo Nation Council Resolution CO-35-19

Date posted: January 10, 2020 at 5:59 PM

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) 871-7586

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.: 0008-20

SPONSOR: Honorable Kee Allen Begay Jr.

TITLE: An Action Relating to Naabik'íyáti and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-35-19

Posted: January 10, 2020 at 5:59 PM

5 DAY Comment Period Ended: January 15, 2020

Digital Comments received:

Comments Supporting	*None*
Comments Opposing	*None*
Inconclusive Comments	*None*

Legislative Tracking Secretary
Office of Legislative Services

1/16/20 8:24 AM

Date/Time