LEGISLATIVE SUMMARY SHEET Tracking No. 0135-17

DATE: April 6, 2017

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO LAW AND ORDER COMMITTEE, HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE, RESOURCES AND DEVELOPMENT COMMITTEE, **BUDGET** AND **FINANCE** COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ENACTING THE NAVAJO NATION BUILDING CODES OF 2017 AT 6 N.N.C. §§ 1180 ET SEQ.; ESTABLISHING THE NAVAJO NATION BUILDING AND SAFETY DEPARTMENT WITHIN THE DIVISION OF COMMUNITY DEVELOPMENT; ESTABLISHING THE NAVAJO NATION BUILDING CODES BOARD OF APPEALS, AND AMENDING 6 N.N.C. §§ 616 AND 620 AND RESCINDING OTHER INCONSISTENT NAVAJO NATION CODE SECTIONS

PURPOSE: The purpose of this proposed resolution is to enact the Navajo Nation Building Codes to be codified within Title Six of the Navajo Nation Code. This legislation would enact the International Building Code, the International Mechanical Code, the International Plumbing Code, the International Fire Code, the International Residential Code and the International Energy Conservation Code. These codes are available for viewing on the International Code Council Public Access website https://codes.iccsafe.org/public/collections/I-Codes. The National Electrical Code is available for viewing on the National Fire Protection Association website http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/mode=code&code=70. All inconsistent Navajo Nation Code sections will be rescinded to provide for uniform building codes.

These codes are not attached as Exhibits because this legislation is written to adopt the **latest** International and National Codes; these International and National Codes are changed every two or three years. Most state, county and tribal codes make reference to the International Building Codes and National Building Codes in the state, county and tribal code books just by reference; the International Building Codes and National Building Codes are not usually reprinted into the state, county and tribal law books. Again, this is because the International and National Building Codes are constantly updated by the industry. For that reason, this amendment to the Navajo Nation Code is written as follows:

5-DAY BILL Website Po	L HOLD PI	ERIOD: 101012017			Law & Order Co	mmittee THENCE
Posting End		4/15/2017		Hea	alth, Education & Human	
Eligible for	Action:_	411412017	TALLON GOL			THENCE
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9			AN ACT			
10		RELATING TO LAW AN			- 1	
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13		NAABIK'ÍYÁTI' COM				
14		ENACTING THE NAV	'AJO NATION BUILI	DING CODES OF 201	7 AT 6	
15			SEQ.; ESTABLISHING			
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17		COMMUNITY DEVELO				
18		BUILDING CODES BOA	ARD OF APPEALS, A	AND AMENDING 6 N	I.N.C. §§	
19		616 AND 620 AND RE	ESCINDING OTHER	INCONSISTENT NA	VAJO	
20		1	NATION CODE SECT	TIONS		
21						
22		BE IT ENACTED:				
23	,	Section One. Authorities				
24		A. The Law and Order	r Committee of the Nav	vajo Nation Council, p	oursuant to	
25		2 N.N.C. § 601(P	3)(14), reviews and n	nakes recommendation	ons to the	
26		Navajo Nation Cour	ncil proposed amendme	ents to the Navajo Nat	ion Code.	
27	Ţ	B. The Health, Educa	ation and Human Serv	vices Committee, purs	suant to 2	
28		N.N.C. § 400(C)(1), provides legislative	oversight on matters	involving	
29		health.				
30						

- C. The Resources and Development Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 500(C), exercises oversight authority over the Division of Economic Development, the Division of Community Development and housing issues on the Navajo Nation.
- D. The Resources and Development Committee is responsible for reviewing building code, electrical code, plumbing code, and housing code and recommending the same for adoption or amendment to the Navajo Nation Council. 6 N.N.C. § 5(A)(B); 2 N.N.C. § 501 (B) (4) (b).
- E. The Budget and Finance Committee of the Navajo Nation Council is to oversee the financial policies of the Navajo Nation. 2 N.N.C. § 300 (C) (1).
- F. The Naabik'íyáti' 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.

Section Two. Findings

A. The former Advisory Committee of the Navajo Nation Council, in 1963, provided for a "Code Advisory Committee," 6 N.N.C § 6, tasked to assist the former Transportation and Community Development Committee, now the Resources and Development Committee, with the responsibility "for reviewing building code, electrical code, plumbing code, and housing code and recommending the same for adoption or amendment to the Navajo Nation Council." This Advisory Committee was to be composed of "the General Manager of the Navajo Tribal Utility Authority, the Head of the Design and Engineering Services Department, Navajo Nation; Chief Sanitary Engineer, Public Health Service; Maintenance Engineer, Bureau of Indian Affairs, and such other persons as the President of the Navajo Nation may from time to time designate." However, fifty-three years has passed since 1963 and there is no evidence that a building code, electrical code, plumbing code, and housing code have been recommended for

- adoption to the Navajo Nation Council. The time has come to take action on the adoption of such codes.
- B. The enactment of building codes, including a building code, mechanical code, electrical code, plumbing code, fire code, residential code, energy conservation code for the Navajo Nation is a proper and necessary exercise of sovereignty of the Navajo Nation government directly affecting the health and safety of all residents of and visitors to the Navajo Nation.
- C. The International Building Code, the International Mechanical Code, the International Plumbing Code, the International Fire Code, the International Residential Code and the International Energy Conservation Code are available for viewing on the International Code Council Public Access website https://codes.iccsafe.org/public/collections/I-Codes. The National Electrical Code is available for viewing on the National Fire Protection Association website http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/mode=code&code=70.
- D. The enactment by the Navajo Nation of these building codes will provide an acknowledged industry standards of quality necessary for superior construction of residential and commercial buildings.
- E. The building codes enacted by this legislation will be applicable to new construction and to improvements to existing structures which are funded by Navajo Nation funds, state funds or federal funds and to all commercial construction no matter the funding sources. However, the building codes will not be applicable to Navajo traditional buildings and traditional structures.
- F. The Navajo Nation Council understands that water, electricity and sanitation facilities and infrastructure are not available at every location on the Navajo Nation. Therefore, at a later date, the Navajo Nation Council will revisit the question of whether these building codes will be made

applicable to all homes built, with the exception of traditional dwellings, on the Navajo Nation.

- G. The enactment of building codes necessitates the formation of a Navajo Nation Building and Safety Department for performing various administrative functions to ensure compliance with the building codes.
- H. The enactment of building codes necessitates the creation of a Navajo Nation Building Code Board of Appeals for the purpose of hearing and determination appeals regarding the suitability of construction materials and methods and other such questions on the applications of the Navajo Nation Building Codes.
- I. The Navajo Nation Code sections which are inconsistent with this legislation will be rescinded to insure uniformity in the implementation of Navajo Nation-wide building code standards.
- J. One such inconsistent Navajo Nation Code provision is Title Six Subchapter Five Section 616 relating to the Navajo Housing Authority. This section currently allows the Navajo Housing Authority to provide inspection services on all NAHASDA funded development projects. With the enactment of this legislation, this function will be provided by the Navajo Nation Building and Safety Department; therefore Section 616 will be rescinded by this legislation to allow conformity with the purpose of the Navajo Nation Building Codes.
- K. The Navajo Nation Council finds that it is in the best interest of the Navajo Nation to enact the Navajo Nation Building Codes, to create the Navajo Nation Building and Safety Department and to establish the Navajo Nation Building Code Board of Appeals.

Section Three. Enactment of the Navajo Nation Building Codes Act of 2017

The Navajo Nation hereby enacts the Navajo Nation Building Codes Act of 2017.

Section Four. Amendment of Title Six of the Navajo Nation Code

The Navajo Nation Council hereby amends Title Six of the Navajo Nation Code as follows:

NAVAJO NATION CODE ANNOTATED

TITLE 6. COMMUNITY DEVELOPMENT

CHAPTER 1. COMMUNITY ACTIVITIES AND DEVELOPMENT

SUBCHAPTER 1. GENERALLY

* * * *

§ 5. Code review

A. The Transportation Resources and Community Development Committee of the Navajo Nation Council is declared to be the body responsible for reviewing codes and recommending the same for adoption or amendment to the Navajo Nation Council.

B. Codes subject to review by the Transportation Resources and Community Development Committee shall include building code, electrical code, plumbing code, housing code, sanitation code, zoning code.

§ 6. Code Advisory Committee

To assist the Transportation and Community Development Committee of the Navajo Nation Council in discharging its responsibility for code review, there is created a Code Advisory Committee consisting of a representative of the Navajo Nation appointed by the President of the Navajo Nation; the General Manager of the Navajo Tribal Utility Authority; the Head of the Design and Engineering Services Department, Navajo Nation; Chief Sanitary Engineer, Public Health Service; Maintenance Engineer, Bureau of Indian Affairs, and such

1	other persons as the President of the Navajo Nation may from time to time
2	designate.
3	* * * *
4	TITLE 6. COMMUNITY DEVELOPMENT
5	CHAPTER 5. HOUSING PROJECTS
6	SUBCHAPTER 5. NAVAJO HOUSING AUTHORITY
7	* * * *
8	§ 616. Powers
9	A. The Authority shall have perpetual succession in its corporate name.
10	B. The Authority shall have the following powers which it may exercise
11	consistent with the purposes for which it is established:
12	
13	* * * *
14	20. To serve as the Construction Management Authority for the Navajo Nation on
15	all NAHASDA funded development project(s) notwithstanding any other
16	provision of law or plan of operation of any Navajo division. Such authorization
17	includes but is not limited to the authority to:
18	a. Provide planning, architectural, engineering, construction, inspection services.
19	and construction management services to chapters, Navajo Nation divisions and
20	other entities of the Navajo Nation on all NAHASDA funded development
21	project(s).
22	b. Provide planning, architectural, engineering, construction, inspection services,
23	and construction management services for Navajo Nation public facilities and
24	capital projects that are funded by NAHASDA to meet specifications satisfying
25	cultural and environmental conditions in accordance with applicable established
26	Navajo Nation, State and Federal regulations, codes and standards.
27	
28	* * * *
29	§ 620. Planning, zoning, sanitary and building regulations Navajo Nation
30	Building Codes

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All-projects of the Authority shall be subject to the planning, zoning, sanitary and building regulations applicable to the locality in which the planned project is situated.

All projects of the Authority constructed within the jurisdiction of the Navajo Nation shall be subject to the Navajo Nation Building Codes, 6 N.N.C. §§ 1180 et seq.

* * * *

TITLE 6. COMMUNITY DEVELOPMENT CHAPTER 8. NAVAJO NATION BUILDING CODES

§ 1180. Purposes

The purpose of the Navajo Nation Building Codes ("Codes") is to promote public health and safety by establishing an industry standard for the superior construction of buildings, including manufactured homes, on the Navajo Nation.

§ 1181. Applicability of the Navajo Nation Building Codes

- A. The Navajo Nation Building Codes shall be applicable to structures built with federal, state and Navajo Nation funding, and to any commercial structure no matter the funding source.
- B. The Navajo Nation Building Codes shall not applicable to Navajo traditional buildings including but not limited to such structures as hooghan nimazí (hogans), chaha'oh (shade houses), táchééh (sweathouses), and Navajo ceremonial structures whether or not the structures are to be built with federal, state or Navajo Nation funding.
- C. <u>The Navajo Nation Building Codes shall be applicable to structures built</u> within the jurisdiction of the Navajo Nation.

28 29

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§ 1182. Code Editions Adopted

A. All Codes adopted shall be the latest editions.

2	building permit is issued.
3	C. Copies of the Navajo Nation Building Codes will be available for viewing at
4	the Navajo Nation Building and Safety Department or on its website.
5	
6	§ 1183. Adoption of International Building Code
7	The International Building Code is adopted by the Navajo Nation and
8	incorporated into the Navajo Nation Building Codes.
9	
0	§ 1184. Adoption of International Mechanical Code
.1	The International Mechanical Code is adopted by the Navajo Nation and
2	incorporated into the Navajo Nation Building Codes.
3	
.4	§ 1185. Adoption of National Electrical Code
.5	The National Electrical Code is adopted by the Navajo Nation and
6	incorporated into the Navajo Nation Building Codes.
7	
8	§ 1186. Adoption of International Plumbing Code
9	The International Plumbing Code is adopted by the Navajo Nation and
0.	incorporated into the Navajo Nation Building Codes.
1	
2	§ 1187. Adoption of the International Fire Code
.3	The International Fire Code is adopted by the Navajo Nation and incorporated
.4	into the Navajo Nation Building Codes.
25	
6	§ 1188. Adoption of the International Residential Code
27	The International Residential Code is adopted by the Navajo Nation and
8	incorporated into the Navajo Nation Building Codes.
.9	
0	§ 1189. Adoption of the International Energy Conservation Code

B. All construction shall conform to the Codes in existence at the time the

The International Energy Conservation Code is adopted by the Navajo Nation and incorporated into the Navajo Nation Building Codes.

§§ 1190-1191 [Reserved]

§ 1192. Navajo Nation Building and Safety Department

- A. The Navajo Nation Building and Safety Department ("Department") is established within the Division of Community Development.
- B. The Department is responsible for ensuring compliance with the Navajo Nation Building Codes, the calculation and collection of building fees for the administration of building permits issued by the Department and the assessment of fines in the event of non-compliance with the Navajo Nation Building Codes.
- C. The Division Director of the Division of Community Development is to develop the Plan of Operation for the Navajo Nation Building and Safety Department for approval by the Resources and Development Committee.

 Amendments to the Navajo Nation Building and Safety Department Plan of Operation shall be approved by the Resources and Development Committee.
- D. The Navajo Nation Building and Safety Department shall be under the oversight of the Resources and Development Committee.

§ 1193. Navajo Nation Building Code Board of Appeals

- A. The Navajo Nation Building Code Board of Appeals ("Board") is established.
- B. The purpose of the Board is to hear and determine appeals regarding the suitability of construction materials and methods. The Board will hear requests for variances on the application of the Navajo Nation Building Codes. The Board shall determine its procedures for hearing such appeals.
- C. The Board may study proposed changes to the Navajo Nation Building Codes and may make recommendations for any proposed changes to the Resources and Development Committee as needed.

- D. The Board shall consist of five members appointed by the President of the Navajo Nation and confirmed by the Resources and Development Committee to serve four year terms. The Board shall be comprised of two engineers, an architect, a residential contractor, and a general building contractor. Three members are required for a quorum to conduct business. The Board will meet four times a year and as needed. When a vacancy occurs during an unexpired term, the newly confirmed Board Member shall serve the remainder of the unexpired term is less than one year, the newly appointed Board Member shall be confirmed for a term of four years. If the President does not fill a vacant position on the Board for a period of 10 months, the Resources and Development Committee shall confirm a Board Member for the vacant position. No members of the Board shall be Navajo Nation Council Delegates or Navajo Nation, state or federal elected officials.
- E. The Navajo Nation Building and Safety Department shall provide a budget for the Board and shall provide administrative assistance to the Board to enable the Board to fulfill its purposes.

§ 1194. Prior inconsistent law repealed.

All prior Navajo Nation laws, rules, regulations and provisions of the Navajo Nation Code previously adopted which are inconsistent with this Act are hereby repealed.

§ 1195. Amendments

Sections 1182 through 1194 herein may be amended from time to time by the Navajo Nation Council upon recommendation of the Resources and Development Committee of the Navajo Nation Council.

Section Five. Rescinding inconsistent Navajo Nation Code sections

The Navajo Nation Code sections which are inconsistent with this legislation are rescinded to insure uniformity in the implementation of Navajo Nation-wide building code standards.

Section Six. Effective Date

These Building Codes shall become effective at the beginning of the First Ouarter of Fiscal Year 2019, October 1, 2018.

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 Act 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 Act which are not determined invalid shall remain the law of the Navajo Nation.

Section Nine. Directive to the Division of Community Development

The Executive Director of the Division of Community Development shall present a report to the Naabik'íyáti' Committee and the Resources and Development Committee sixty (day) days after the enactment of this resolution. The report shall provide plans for the implementation of the Navajo Nation Building Codes Act of 2017, the establishment of the Navajo Nation Building and Safety Department and the progress and concerns regarding this new law including budgetary issues.

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



Honorable LoRenzo Bates Speaker 23rd Navajo Nation Council

MEMORANDUM

TO:

Honorable Jonathan Hale

Oak Springs and St. Michael's Chapters

FROM:

Mariana Kahn, Attorney

Office of Legislative Counsel

DATE:

April 6, 2017

SUBJECT:

PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO LAW AND ORDER COMMITTEE, HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE, RESOURCES DEVELOPMENT COMMITTEE, BUDGET AND FINANCE COMMITTEE. NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ENACTING THE NAVAJO NATION BUILDING CODES OF 2017 AT 6 N.N.C. §§ 1180 ET SEQ.; ESTABLISHING THE NAVAJO NATION BUILDING AND SAFETY DEPARTMENT WITHIN THE DIVISION OF COMMUNITY DEVELOPMENT; ESTABLISHING THE NAVAJO NATION BUILDING CODES BOARD OF APPEALS, AND AMENDING 6 N.N.C. §§ 616 AND 620 AND RESCINDING OTHER INCONSISTENT NAVAJO NATION CODE SECTIONS

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. 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.

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 his 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. §§301, 401, 501, 601 and 701. 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).

These codes are not attached as Exhibits because this legislation is written to adopt the latest International and National Codes; these International and National Codes are changed every two or three years. Most state, county and tribal codes make reference to the International Building Codes and National Building Codes in the state, county and tribal code books just by reference; the International Building Codes and National Building Codes are not usually reprinted into the state, county and tribal law books. Again, this is because the International and National Building Codes are constantly updated by the industry. For that reason, this amendment to the Navajo Nation Code is written as follows:

§ 1182. Code Editions Adopted

- A. All Codes adopted shall be the latest editions.
- B. All construction shall conform to the Codes in existence at the time the building permit is issued.
- C. Copies of the Navajo Nation Building Codes will be available for viewing at the Navajo Nation Building and Safety Department or on its website.

For your information, I have addressed a letter to the Speaker, the Executive Director of the Office of Legislative Services and yourself regarding how to access the six International Codes and the National Electrical Code via the two companies' free public viewing websites. The letter also gives information on how the Speaker's Office and the Office of Legislative Services may obtain paper copies of the seven building codes.

The information provided in the proposed legislation is as follows: The building codes to be adopted are the International Building Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code and the International Energy Conservation Code and the National Electrical Code. The Navajo Nation Council delegates and the Navajo Nation public and constituents may view the codes on the International Code Council Public Access website https://codes.iccsafe.org/public/collections/I-Codes. The National Electrical Code is available for viewing on the National Fire Protection Association website http://www.nfpa.org/codes-and-standards/list-of-codes-and-standards/mode=code&code=70.

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- B. All construction shall conform to the Codes in existence at the time the building permit is issued.
- C. Copies of the Navajo Nation Building Codes will be available for viewing at the Navajo Nation Building and Safety Department or on its website.

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.

THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0135-17____ SPONSOR: <u>Jonathan Hale</u>

TITLE: An Action Relating To Law and Order, Health, Education and Human Services
Committee, Resources and Development Committee, Budget and Finance Committee,
Naabik'iyati' Committee and the Navajo Nation Council; Enacting the Navajo Nation
Building Codes of 2017 at 6 N.N.C. § § 1180 ET SEQ.; Establishing the Navajo Nation
Building Codes Board of Appeals, and Amending 6 N.N.C. § § 616 and 620 and Rescinding
other Inconsistent Navajo Nation Code Sections

Date posted: April 10, 2017 at 5:01pm

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 Nav, ajo 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.: 0135-17

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating To Law and Order, Health, Education and Human Services Committee, Resources and Development Committee, Budget and Finance Committee, Naabik'iyati' Committee and the Navajo Nation Council; Enacting the Navajo Nation Building Codes of 2017 at 6 N.N.C. § § 1180 ET SEQ.; Establishing the Navajo Nation Building Codes Board of Appeals, and Amending 6 N.N.C. § § 616 and 620 and Rescinding other Inconsistent Navajo Nation Code Sections

Posted: April 10, 2017 at 5:01 PM

5 DAY Comment Period Ended: April 15, 2017

Digital Comments received:

Comments Supporting	None
Comments Opposing	None
Inclusive Comments	None

Policy Analyst

Office of Legislative Services

Date/Time