LEGISLATIVE SUMMARY SHEET

Tracking No. 0256-18

DATE: July 2, 2018

TITLE OF RESOLUTION: AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 1 ENROLLMENT PROCEDURE AT 1 N.N.C. §§ 701, 703, 752, AND 753

PURPOSE: The purpose of this legislation is to amend Title 1 at Sections 701, 703, 752 and 753 of the enrollment procedures.

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: lean
Website Posting Time/Date: 12:08pm 7/18/18
Posting End Date: 7/17/2018
Eligible for Action: 7/18/2018

Health, Education & Human Services Committee
Thence
Law & Order Committee
Thence
Naa'bik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0256-18

AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 1 ENROLLMENT PROCEDURE AT 1 N.N.C. §§ 701, 703, 752, AND 753

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Health, Education and Human Services Committee is a standing committee of the Navajo Nation Council and is empowered to review and recommend resolutions relating to social services, health, environmental health, education, veterans and veterans services, employment and labor. 2 N.N.C. §§ 164(A)(1),400(A) and 401(B)(6)(a) (2012); CO-45-12.

B. 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. §§ 164(A)(1), 600(A), and 601(B)(14) (2012); CO-45-12

C. 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. CO-45-12.

D. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164(A) (2012); CO-45-12.

SECTION TWO. FINDINGS

A. As a sovereign nation, the Navajo Nation has the inherent right to self-governance and to determine the requirements for enrollment in the Navajo Nation. *See generally* 1 N.N.C. § 701 *et seq*.

B. Currently, under Navajo Nation law, persons must possess one-fourth degree of Navajo Indian blood to be eligible for enrollment. *See generally* 1 N.N.C. § 701.

C. The foundation of the Navajo way of life is reflected in K'é. K'é stresses the duties and obligations of individuals to their community. *See Atcitty v. Dist Ct. for the Judicial Dist. of Window Rock*, No. SC-CV-25-96, slip op. at 7-8 (Nav. Sup. Ct 1996).

D. Under Diné Customary Law, "it is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and participate in the growth of the Navajo Nation." 2 N.N.C. § 204(F).

E. "Knowing one's point of origination... is extremely important to the Navajo people, because only then will a person know which adoone'e (clan) and Dine'e (people) the person is." *In re A.M.K.*, No. SC-CV-38-10, 2010 WL 4159270 (Navajo Oct. 8, 2010).

F. There is a long history of American Indian children, including Navajo children, being removed from Indian homes and families. The Indian Child Welfare Act ("ICWA") was enacted to "promote the stability and security of Indian tribes and families" . . . with the understanding that "[t]here is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe." 25 U.S.C. §§ 1901(3)(4); 1902.

G. Currently, under Navajo Nation law, children who do not possess one-fourth degree of Navajo blood and ineligible for enrollment in another tribe cannot seek ICWA

relief. The amendments to the enrollment requirements will allow for the application of ICWA for Navajo children involved in state dependency cases who do not possess the current requisite one-fourth degree Navajo blood.

H. In addition to providing ICWA relief, the amendments to the enrollment requirements will allow for persons of Navajo ancestry who have unique circumstances such as adoption, overseas birth, and other special situations to obtain membership into the Navajo Nation.

I. It is within the best interest of the Navajo Nation to amend 1 N.N.C. §§ 701, 703,752 and 753 for the reasons stated herein.

SECTION THREE. AMENDMENT TO TITLE 1

The Navajo Nation amends Title 1 as follows:

NAVAJO NATION CODE

TITLE 1. GENERAL PROVISIONS

CHAPTER 3. ENROLLMENT PROCEDURES

SUBCHAPTER 1. GENERAL PROVISIONS

§ 701. Composition

The membership of the Nation Nation shall consist of the following persons:

A. All persons of Navajo blood whose names appear on the official roll of the Navajo Nation maintained by the Bureau of Indian Affairs.

B. Any person who has Navajo ancestry, ~~is at least one-fourth degree Navajo blood,~~ but who has not previously been enrolled as a member of the Navajo Nation, ~~is eligible for membership and enrollment.~~ is a member and shall be enrolled, if approved by a final decision of the Enrollment Screening Committee issued pursuant to Sections 752 and 753 of this Title.

C. Children born to any enrolled member of the Navajo Nation shall automatically become members of the Navajo Nation and shall be enrolled, provided they are at least one-fourth degree Navajo blood.

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~~**§703. Member of another tribe**~~

~~No person, otherwise eligible for membership in the Navajo Nation, may enroll as a member of the Navajo Nation, who, at the same time, is on the roll of any other tribe of Indians.~~

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§752. Enrollment Screening Committee

A. An Enrollment Screening Committee consisting of designated representatives of the Navajo Nation President, the Vice-President, the Executive Director of the Division of Natural Resources, the Office of Vital Records and Identification ~~Agency Census Clerk~~, and the Attorney General is established. The Enrollment Screening Committee shall consider all applications for enrollment for those persons ineligible for automatic enrollment under Section 701(C) of this Title ~~in the first instance~~.

B. In all cases where ~~the records of the Navajo Agency do not show that the applicant is of at least one-fourth degree Navajo blood or the applicant does not establish such fact by documentary evidence independent of this own statement~~ an applicant is not eligible for automatic enrollment, the Office of Vital Records shall forward the application for enrollment to the Enrollment Screening Committee. The applicant shall submit evidence of Navajo ancestry to the Enrollment Screening Committee, through ~~consisting of the~~ affidavits ~~of disinterested persons~~, certified copies of public or church records, or other documents, or through witness testimony. ~~the like, the Screening Committee shall reject the application. In all cases where the applicant appears to be enrolled in another Indian tribe, the Screening Committee shall reject the application.~~ In all cases the Screening Committee ~~or any successor committee lawfully established~~ shall inform the applicant of his or her rights of appeal under this Section. The Committee or its successor shall establish a record of any hearing or proceeding on any application, and this record shall contain the evidence used by the Committee in making its decision, a statement of its decision, and its reasons therefore, and the date.

C. The Committee ~~or its successor~~ shall transmit ~~this record established under Subsection (B) to an appropriate District Court of the Navajo Nation and~~ a copy of its decision to the Office of Vital Records and Identification and the Office of the Prosecutor.

§753. Standards for Screening Committee ~~recommendations~~ Decisions

The Screening Committee shall be guided by the following standards in making its ~~recommendations:~~ decision whether to recognize an applicant as a member of the Navajo Nation and order his or her enrollment:

~~A. If the applicant appears to be a Navajo Indian of full blood it shall recommend approval.~~

~~B. If the applicant appears to have Navajo blood of one-fourth degree or higher, but not full blood, i~~

A. It shall base its decision on~~recommendations on his degree of Navajo blood~~, how long he or she has lived within the Navajo Nation~~among the Navajo People~~, whether he or she is presently living within the Navajo Nation~~among them~~, whether he or she can identify their Navajo clans~~can be identified as a member of a Navajo clan~~, whether he or she can speak and understand the Navajo Language, whether he or she is knowledgeable of Navajo customs and traditions, and whether he or she is married to an enrolled Navajo. ~~The Screening Committee is authorized to make investigations to determine such facts, but the burden of proof in all cases shall rest on the applicants.~~

B. If the applicant is unable to demonstrate and of the considerations listed in §753(A), the Screening Committee shall permit the applicant to present mitigating circumstances to be taken into consideration for enrollment.

C. The Enrollment Screening Committee is authorized to make investigations to determine such facts, but the burden of proof in all cases shall rest on the applicant.

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SECTION FOUR. CODIFICATION

The provisions of the 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 FIVE. SAVINGS CLAUSE

Should any provision 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, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

Amendments enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

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

Honorable LoRenzo Bates
Speaker
23rd Navajo Nation Council

MEMORANDUM

TO: Honorable Amber Crotty
23rd Navajo Nation Council Delegate

FROM: _____
Candace French, Attorney
Office of Legislative Counsel

DATE: July 2, 2018

RE: AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 1 ENROLLMENT PROCEDURE AT 1 N.N.C. §§ 701, 703, 752, AND 753

Per your request, attached is the above-reference proposed resolution and associated legislative summary sheet. Based on existing law and the documents submitted, the resolution as drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge.

The Office of Legislative Counsel recommends the appropriate standing committee(s) reviews 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).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If you approve, please sign as "Primary Sponsor" and submit it to the Office of Legislative Services where the proposed resolution will be given a tracking number and referred to the Office of the Speaker. If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0256-18_____ SPONSOR: Amber Crotty

TITLE: An Action Relating to Health, Education and Human Services, Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending Title 1 Enrollment Procedure at 1 N.N.C. §§ 701, 703, 752 and 753

***Date posted*: July 12, 2018 at 12:08pm**

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 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.: **0256-18**

SPONSOR: **Honorable Amber Kanazbah Crotty**

TITLE: **An Action Relating to Health, Education and Human Services, Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending Title 1 Enrollment Procedure at 1 N.N.C. §§ 701, 703, 752 and 753**

Posted: **July 12, 2018 at 12:08pm**

5 DAY Comment Period Ended: **July 17, 2018**

Digital Comments received:

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

Legislative Secretary II
Office of Legislative Services

7/18/2018 8:20am
Date/Time