

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

May 30, 2020

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

RE: CMY-43-20, *An Action Relating to the Resources and Development Committee, Naabik'iyáti' Committee and Navajo Nation Council; Extending Resolution CJN-24-19, Approving and Authorizing the Navajo Agricultural Products Industry to extend and expand the Hemp Pilot Research Project with New Mexico State University under the provisions of the 2014 Farm Bill; Creating a singular exception to the Navajo Nation's prohibition on the cultivation, growth, possession, development or propagation of hemp*

Dear Speaker Damon,


Pursuant to the authority vested in the Navajo Nation President, I am signing CMY-43-20 into law, which extends and expands the Hemp Pilot Research Project to five (5) acres at the Navajo Agricultural Products Industry farmlands for the 2020 growing season.

The Navajo people must keep in mind that the growth, cultivation and marketing of industrial hemp is still unauthorized and can place Navajo farm permits in jeopardy when grown outside of this pilot research project. The initial report by New Mexico State University has show favorable prospects and the expansion of the project is necessary to explore the possibilities of industrial hemp production in the future. I commend the 24<sup>th</sup> Navajo Nation Council for supporting this research and development project that may promote economic development for our Nation.

Therefore, I am signing resolution, CMY-43-20, into law.

Sincerely,

  
Jonathan Nez, President  
THE NAVAJO NATION

  
Myron Lizer, Vice President  
THE NAVAJO NATION

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; EXTENDING RESOLUTION NO. CJN-24-19, APPROVING AND AUTHORIZING THE NAVAJO AGRICULTURAL PRODUCTS INDUSTRY TO EXTEND AND EXPAND THE HEMP PILOT RESEARCH PROJECT WITH NEW MEXICO STATE UNIVERSITY UNDER THE PROVISIONS OF THE 2014 FARM BILL; CREATING A CONTINUING SINGULAR EXCEPTION TO THE NAVAJO NATION'S PROHIBITION ON THE CULTIVATION, GROWTH, POSSESSION, DEVELOPMENT OR PROPAGATION OF HEMP

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is a standing committee of the Navajo Nation Council with oversight authority over land, agriculture and economic development on the Navajo Nation. 2 N.N.C. § 500(c).
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with authority to hear all proposed resolutions that require final action by the Navajo Nation Council and to coordinate all federal, county and state programs. 2 N.N.C. §§ 164 (A) (9) and 700(A) and 701 (A) (4).
- C. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 164(A) (2012); CO-45-12.

SECTION TWO. FINDINGS

- A. On August 1, 2000, the Navajo Nation enacted Resolution CJY-54-00, attached as **Exhibit 1 (A)**, which amended the Navajo Nation Criminal Code, 17 N.N.C. § 390 *et. al*, to distinguish between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant; and on November 2, 2018, the Navajo Nation enacted Resolution CO-75-18, attached as **Exhibit 1**, amending the Navajo Nation Criminal Code to conform with the federal law standard set forth in Public Law 113-79 for industrial hemp, i.e., a T.H.C. of not more than 0.3 percent on a dry weight basis.
- B. Resolutions CJY-54-00 and CO-75-18 both contain provisions that prohibit the growth, possession, development or



propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits for industrial hemp production. **Exhibits 1 and 1 (A)**.

- C. The Navajo Nation has *not* adopted a regulatory system for industrial hemp and has *not* authorized the growth, possession, development or propagation of industrial hemp on the Navajo Nation except as set forth in CJN-24-19.
- D. On June 6, 2019, the Navajo Nation enacted Resolution CJN-24-19, attached as **Exhibit 2**, creating a singular project specific exception to the existing ". . . prohibition on the growth, possession, development or propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits" as established by Resolution CO-75-18; and approving and authorizing the Navajo Agricultural Products Industry (NAPI) to conduct a Hemp Pilot Research Project (Project) with New Mexico State University (NMSU) under the provisions of the 2014 Farm Bill, attached as **Exhibit 2 (B)**.
- E. Farmers on the Navajo Nation should be aware that industrial hemp was and still is unauthorized on the Navajo Nation and forewarned that the planting of hemp could place their farm permits in jeopardy for growing a banned or unauthorized crop; CJN-24-19, like CJY-54-00 and CO-75-18, specifically states that with the exception of the Project, "cultivation, growth, possession, development or propagation of industrial hemp continues to be prohibited on the Navajo . . . until such time as the Navajo Nation creates a regulatory system and obtains the necessary and applicable permits for industrial hemp cultivation and production," **Exhibit 2**; the Navajo Nation has not as of yet created a regulatory system for the cultivation, growth, possession, development or propagation of industrial hemp.
- F. Pursuant to CJN-24-19, the NMSU Hemp Pilot Research Project was approved to occupy 200 square feet of the land leased to NMSU; the purpose of the Project was to determine the best hemp producing plants for cultivation in the many growing zones and conditions on the Navajo Nation. **Exhibit 2**.
- G. NAPI and NMSU have requested an extension to the Hemp Pilot Research Project for another year and expansion of the Project area to 5 acres for the 2020 crop season. **Exhibit 3**.

- H. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to approve the proposed extension and expansion of the NAPI-NMSU Hemp Pilot Research Project as requested in **Exhibit 3**.
- I. The Navajo Nation Council also finds it to be in the best interest of the Navajo Nation to reiterate that, with the exception of the Project, the cultivation, growth, possession, development or propagation of industrial hemp continues to be prohibited on the Navajo until such time as the Navajo Nation creates and adopts a regulatory system and obtains the necessary and applicable permits for industrial hemp cultivation and production.

### **SECTION THREE. APPROVAL**

- A. The Navajo Nation hereby approves the proposed extension of the Hemp Pilot Research Project ("Project") authorized by CO-75-18 involving Navajo Agricultural Products Industry and New Mexico State University for another year and expansion of the Project area to 5 acres for the 2020 crops season as described herein.
- B. The Navajo Nation Council hereby creates and approves a project specific exception to the existing ". . . prohibition on the growth, possession, development or propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits" established by Navajo Nation Council Resolution CO-75-18 specifically and only for the proposed research and development Project as described in **Exhibit 3** and only for the duration of the Project.
- C. Other than the specific Project exception authorized herein, the cultivation, growth, possession, development or propagation of industrial hemp continues to be prohibited on the Navajo Nation, as established by Council Resolution CO-75-18 and CJY-54-00, until such time as the Navajo Nation creates a regulatory system and obtains the necessary and applicable permits for industrial hemp cultivation and production.

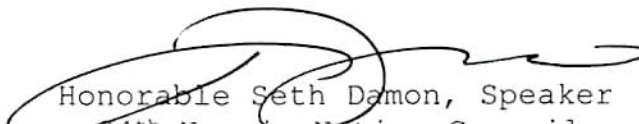
### **SECTION FOUR. EFFECTIVE DATE**

This Action shall become effective pursuant to 2 N.N.C. § 221 (B).



**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> 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 02 Opposed, on this 15<sup>th</sup> day of May 2020.

  
Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

May 22, 2020  
DATE


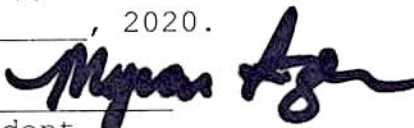
Motion: Honorable Wilson Stewart, Jr.

Second: Honorable Daniel E. 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 30<sup>th</sup> day of MAY, 2020.

   
Jonathan Nez, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

RESOLUTION OF THE  
NAVAJO NATION COUNCIL23<sup>rd</sup> Navajo Nation Council - - Fourth Year, 2018

## AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE "CONTROLLED SUBSTANCE DEFINITION ACT OF 2018"; AMENDING TITLE 17 CHAPTER 3, CONTROLLED SUBSTANCES AT 17 N.N.C. §§ 390, 394

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 Resources and Development Committee is a standing committee of the Navajo Nation Council and is empowered to review and make recommendations to the Navajo Nation Council for final approval resolutions requiring Navajo Nation Council approval to accomplish or impact the Committee purposes. 2 N.N.C. §§ 164(A) (1), 500(A) and 501(B) (4) (f) (2012); CO-45-12.
- C. 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.
- D. 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. CO-45-12.
- E. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164(A) (2012); CO-45-12.

EXHIBIT

1



**SECTION TWO. FINDINGS**

- A. The Navajo Nation is responsible for the enforcement of the Criminal Code, including amendments, as may be enacted by the Navajo Nation through its Council and the President.
- B. The purposes of the Navajo Nation Criminal Code, being applied in harmony with the other Titles of the Navajo Nation Code and policies of the Navajo Nation, include, among others, proscribing certain substances that may pose the threat of inflicting substantial harm to individuals or public interests, giving all persons entering into the territorial jurisdiction of the Navajo Nation Courts a fair warning of such proscribed substances by clear statement within the Criminal Code, and protecting and promoting the interests of the Navajo Nation, its public, and its economy and economic development within its territorial jurisdiction.
- C. The Navajo Nation Code, at Title 17, Chapter 3, Controlled Substances, Definitions was last amended with respect to the definition of "Marijuana" on July 20, 2000, by Council Resolution CJY-54-00, which defined "Marijuana" as "...those Cannabis plants that contain an amount equal to or more than one and four-tenths percent (1.4%) tetrahydrocannabinol" (THC). See **Exhibit A**.
- D. The Agricultural Act of 2014, (the Federal Farm Bill) made that standard under federal law more restrictive, lowering the amount of allowable THC from 1.4% to 0.3% (less than one percent); defining Cannabis as hemp, not marijuana, provided that no part of the plant, including the leaves and flowers, exceeds "... a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis". 128 Stat 649 Sec. 7606 (b) (2); Public Law 113-79-Feb. 7, 2014; See **Exhibit B**.
- E. The Navajo Nation Code defining controlled substances is not consistent with existing federal law, and in fact, allows more THC than federal law permits.
- F. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to enact "The Controlled Substances Definition Act of 2018" and thereby amend the Navajo Nation Code to conform to the Federal definition of industrial hemp/marijuana.

**SECTION THREE. RESOLVED**

- A. The Navajo Nation hereby enacts "The Controlled Substances Definition Act of 2018" to conform Navajo Nation Code with the Federal definition of industrial hemp/marijuana as found in the Public Law 113-79, February 7, 2014, The Agricultural Act of 2014.
- B. The enactment of this resolution does not authorize the cultivation, growth possession, development or propagation of industrial hemp until the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits for industrial hemp.
- C. The Navajo Nation hereby amends the Title 17 as follows:

**NAVAJO NATION CODE**  
**TITLE 17. LAW AND ORDER**  
**CHAPTER 3.**  
**SUBCHAPTER 10. CONTROLLED SUBSTANCES**

\* \* \* \*

**§ 390. Definitions**

The following definitions apply in this Subchapter:

- A. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.
- B. "Marijuana" means ~~those Cannabis plants that contain an amount equal to or more than one and four-tenths percent (1.4%) tetrahydrocannabinol.~~ the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of more than three tenths percent (0.3%) on a dry weight basis.
- C. "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

\* \* \* \*

**§ 394. Possession or sale of controlled substances**

- A. Offense. A person commits an offense pursuant to this Section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:



1. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, apomorphine and its salts excepted, and including the following:
  - a. Acetorphine;
  - b. Acetyldihydrocodeine;
  - c. Benylmorphine;
  - d. Codeine;
  - e. Codeine methylbromide;
  - f. Codeine-n-oxide;
  - g. Cyprenorphine;
  - h. Desomorphine;
  - i. Dihydromorphine;
  - j. Drotebanol;
  - k. Ethylmorphine;
  - l. Etorphine;
  - m. Heroin;
  - n. Hydrocodone;
  - o. Hydromorphenol;
  - p. Hydromorphone;
  - q. Methyldesorphine;
  - r. Methyldihydromorphine;
  - s. Metopon;
  - t. Morphine;
  - u. Morphine methylbromide;
  - v. Morphine methylsulfonate;
  - w. Morphine-n-oxide;
  - x. Myrophine;
  - y. Nalorphine;
  - z. Nicocodeine;
  - aa. Nicomorphine;
  - bb. Normorphine;
  - cc. Oxycodone;
  - dd. Oxymorphone;
  - ee. Pholocodine;
  - ff. Thebacon;
  - gg. Thebaine;
  - hh. Cocaine.
2. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers;
  - a. Lysergic acid diethylamide;
  - b. Mescaline;

- c. Psilocybin;
  - d. Psilocyn;
  - e. Hashish;
  - f. Peyote;
  - g. 4-bromo-2, 5-dimethoxyamphetamine;
  - h. Bufotenine;
  - i. Diethyltryptamine;
  - j. 2, 5-dimethoxyamphetamine;
  - k. Dimethyltryptamine;
  - l. 5-methoxy-3, 4-methylenedioxyamphetamine;
  - m. 4-methyl-2, 5-dimethoxyamphetamine;
  - n. Ibogaine;
  - o. Lysergic acid amide;
  - p. Methoxymethylenedioxyamphetamine (MMDA);
  - q. Methylenedioxyamphetamine (MDA);
  - r. 3, 4-metyulenedioxyamphetamine;
  - s. 3, 4-methylenedioxy-n-ethylamphetamine;
  - t. N-ethyl-3-piperidyl benzilate (JB-318);
  - u. N-hydroxy-3, 4-methylenedioxyamphetamine;
  - v. N-methyl-3-piperidyl bezilate (JB-336);
  - w. N-(1-phenylcyclohexyl) ethylamine (PCE);
  - x. Nabilone;
  - y. 1-(1-phenylcyclohexyl) pyrrolidine (PHP);
  - z. 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine;
  - aa. Para-methoxamphetamine (PMA);
  - bb. Synhexyl;
  - cc. Trimethoxyamphetamine.
3. Any material, compound, mixture or preparation which contains an amount ~~equal to or~~ more than ~~1.4%~~ three tenths percent (0.3%) quantity of tetrahydrocannabinol (T.H.C.) on a dry weight basis.
4. Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, isomers, and salts of isomers having a potential for abuse associated with a stimulant effect on the central nervous system:
- a. Amphetamine;
  - b. Benzphetamine;
  - c. Cathine ((+)-norpseudoephedrine);
  - d. Clorpheniramine;
  - e. Clortermine.
  - f. Diethylpropion;
  - g. Fencamfamin;
  - h. Fenethylline;
  - i. Fenproporex;



- j. Mazindol;
  - k. Mefenorex;
  - l. Methamphetamine;
  - m. 4-methylaminorex;
  - n. Methylphenidate;
  - o. N-ethylamphetamine;
  - p. N, N-dimethylamphetamine;
  - q. Pemoline;
  - r. Phendimetrazine;
  - s. Phenmetrazine;
  - t. Pipradol;
  - u. Propylhexedrine;
  - v. Pyrovalerone;
  - w. Spa ((-)-1-dimethylamino-1, 2-diphenylethane).
5. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
- a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted;
  - b. Alprazolam;
  - c. Bromazepam;
  - d. Camazepam;
  - e. Chloral betaine;
  - f. Chloral hydrate;
  - g. Chlordiazepoxide;
  - h. Chlorhexadol;
  - i. Clobazam;
  - j. Clonazepam;
  - k. Clorazepate;
  - l. Clotiazepam;
  - m. Cloxazolam;
  - n. Delorazepam;
  - o. Diazepam;
  - p. Estazolam;
  - q. Ethchlorvynol;
  - r. Ethinamate;
  - s. Ethyl loflazepate;
  - t. Fenfluramine;
  - u. Fludiazepam;
  - v. Flunitrazepam;
  - w. Flurazepam;
  - x. Gamma hydroxyl butyrate;
  - y. Glutethimide;

z. Halazepam;  
aa. Haloxazolam;  
bb. Ketamine;  
cc. Ketazolam;  
dd. Loprazolam;  
ee. Lorazepam;  
ff. Lormetazepam;  
gg. Lysergic acid;  
hh. Metabutamate;  
ii. Mecloqualone;  
jj. Medazepam;  
kk. Meprobamate;  
ll. Methaqualone;  
mm. Methylprylon;  
nn. Midazolam;  
oo. Nimetazepam;  
pp. Nitrazepam;  
qq. Nordiazepam;  
rr. Oxazepam;  
ss. Oxazolam;  
tt. Paraldehyde;  
uu. Petrichloral;  
vv. Phencyclidine;  
ww. Pinazepam;  
xx. Praxepam;  
yy. Scopolamine;  
zz. Sulfondiethylmethane;  
aaa. Sulfoethylmethane;  
bbb. Sulfomethane;  
ccc. Quazepam;  
ddd. Temazepam;  
eee. Tetrazepam;  
fff. Tiletamine;  
ggg. Triazolam;  
hhh. Zolazepam.

6. Narcotic drugs, including the following, whether of natural or synthetic origin and any substance neither chemically or physically distinguishable from them:

a. Acetyl-alpha-methylfentanyl;  
b. Acetylmethadol;  
c. Alfentanil;  
d. Allyprodine;  
e. Alphacetylmethadol;  
f. Alphameprodine;  
g. Alphamethadol;



h. Alphamethylfentanyl;  
i. Alphamethylioefentanyl;  
j. Alphaprodine;  
k. Amidone (methadone);  
l. Anileridine  
m. Benzethidine;  
n. Benzylfentanyl;  
o. Betacetylmethadol;  
p. Betahydroxyfentanyl;  
q. Betahydroxy-3-methylfentanyl;  
r. Betameprodine  
s. Betamethadol;  
t. Betaprodine;  
u. Bezitramide;  
v. Buphrenorphine and its salts;  
w. Cafentanil;  
x. Clonitazene;  
y. Detropoxyphenone;  
z. Diampromide;  
aa. Diethylthiambutene;  
bb. Difenoxin;  
cc. Dihydrocodeine;  
dd. Dimenoxadol;  
ee. Dimepheptanol;  
ff. Dimnethylthiambutene;  
gg. Dioxaphetyl butyrate;  
hh. Diphenoxylate;  
ii. Dipipanone;  
jj. Ethylmethyliambutene;  
kk. Etonitazene;  
ll. Etoxeridine;  
mm. Fentanyl;  
nn. Furethidine;  
oo. Hydroxypethidine;  
pp. Isoamidone (isomethadone);  
qq. Isonipecaïne;  
rr. Ketobemidone;  
ss. Levomethorphan;  
tt. Levoaramide;  
uu. Levophenacetylmorphan;  
vv. Levorphanol;  
ww. Metazocine;  
xx. 3-Methylfentanyl;  
yy. 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);  
zz. 3-Methylthiofentanyl;  
aaa. Morpheridine;  
bbb. Noracymethadol

ccc. Norlevorphanol;  
 ddd. Normethadone;  
 eee. Norpipanone;  
 fff. Paraflourofentanyl;  
 ggg. Pentazocine  
 hhh. Phenadoxone;  
 iii. Phenampromide;  
 jjj. Phenazocine;  
 kkk. 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine  
 (PEPAP);  
 lll. Phenomorphan;  
 mmm. Phenoperidine;  
 nnn. Piminodine;  
 ooo. Piritramide;  
 ppp. Prohepatazine;  
 qqq. Properidine;  
 rrr. Propiram;  
 sss. Racemethorphan;  
 ttt. Racemoramide;  
 uuu. Racemorphan;  
 vvv. Sufentanil;  
 www. Thenylfentanyl;  
 xxx. Thiofentanyl;  
 yyy. Tilidine;  
 zzz. Trimeperidine.

B. Defense. It is a defense to a prosecution under this Section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.

C. Peyote. This listing of Peyote (more commonly known as azee') in Subsection A does not apply to the use of azee' by an enrolled member of an Indian tribe for bona fide ceremonial purposes in connection with nahaghá. Individuals who use, possess, or transport azee' for use in nahaghá are exempt from this prohibition. Azee' is lawful on the Navajo Nation.

D. Sentence.

1. Any person found guilty of possession or sale of controlled substances shall be sentenced to imprisonment for a term not to exceed three hundred sixty-five (365) days, or be ordered to pay a fine not to exceed five thousand dollars \$5,000.00 or both.



2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and whether restitution or nályééh shall be paid to the victim(s).
  3. The trial court may utilize the services of the Navajo Peacemaker Court to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
  4. The trial court may consider the imposition of a peace or security bond upon the defendant, including the pledges of family or clan sureties.
  5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
  6. The trial court shall consider the utility of labor or community service sentences, under the supervision of the Navajo Nation Department of Public Safety or a public or private organization, including the Chapter in which the defendant resides.
- E. Rehabilitation. At the discretion of the court, any person found guilty of violating this Section, and found to be addicted to a controlled substance, may be ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

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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).

### CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 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 15 in favor and 02 opposed, on this 18th day of October 2018.



LoRenzo C. Bates, Speaker  
23rd Navajo Nation Council

10-24-18

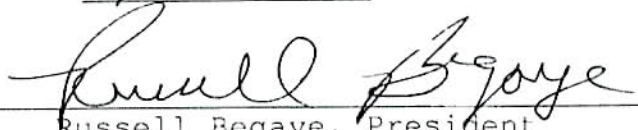
Date

Motion: Honorable Jonathan Perry  
Second: Honorable Nathaniel Brown

Speaker LoRenzo C. Bates not voting

### ACTION BY THE NAVAJO NATION PRESIDENT:

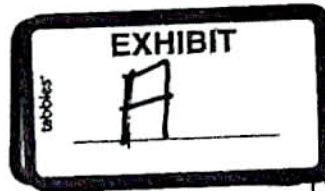
1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(10), on this 2nd day of November 2018.



Russell Begaye, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this \_\_\_\_\_ day of \_\_\_\_\_ 2018 for reason(s) expressed in the attached letter to the Speaker

\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation



CJY-54-00

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

Approving Amendments to 17 N.N.C. §§ 390-395 to  
Distinguish Between Industrial Hemp and Marijuana  
Based on the Percentage of T.H.C. Contained  
Within the Cannabis Plant

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and
2. Pursuant to 2 N.N.C. §103, all powers not delegated are reserved to the Navajo Nation Council; and
3. During 1996, several members and entities of the Navajo Nation expressed a desire to grow industrial hemp (not marijuana) for economic purposes; and
4. Although industrial hemp and marijuana are from the same species of plant - Cannabis sativa, there is a scientific difference between them, documents supporting this are attached hereto as Exhibit "A". Industrial hemp generally refers to plant species of cannabis sativa and Cannabis indica that possess high fibers and usually contain low levels of Tetrahydrocannabinol (T.H.C.) Marijuana refers to plant species of cannabis sativa that possess low fibers and high levels of T.H.C. It is high levels of T.H.C. that gives marijuana its hallucinogenic effect; and
5. Hemp can be used for many purposes, such as fabrics, pulp, paper, oil, paints, sealants, fuel and food. Documents supporting this assertion are attached hereto as Exhibit "B". In fact, hemp has long been used throughout United States history; the first two copies of the Declaration of Independence were written on hemp. Until the 1820's, 80 percent of America's textile and fabrics and other products were made from hemp. During World War II, the United States encouraged farmers to grow hemp which was used for wartime purposes, like parachutes, riggings, ropes and fire hoses of wartime ships. Documents supporting these assertions are attached hereto as Exhibit "C"; and



6. President Bill Clinton in Executive Order 121 dated June 7, 1994, (attached hereto as Exhibit "D") Part IX General Provisions (a) states that cannabis hemp is a strategic food source; and

7. The growing of industrial hemp in the United States is allowed only by federal permit, and several states have permits pending to grow industrial hemp within their jurisdiction. These states have passed legislation recognizing the distinction between industrial hemp and marijuana and have amended their criminal laws and passed legislation regulating the growing of industrial hemp. Documents supporting this assertion are attached hereto as Exhibit "E"; and

8. During this time of declining Navajo Nation revenues, the Navajo Nation should begin exploring other means of economic development for its members. Researching or allowing the production of industrial hemp may provide economic development to the Navajo Nation. However, before the Navajo Nation can research or allow industrial hemp to be produced, the Navajo Nation must first amend its criminal law; and

9. In order for the Navajo Nation to allow the growing of industrial hemp for economic development purposes, the Navajo Nation must amend its criminal law that pertains to controlled substance, 17 N.N.C. §§ 390-395. Attached hereto as Exhibit "F" are proposed amendments to the 17 N.N.C. §§ 390-395; and

10. The Resources Committee of the Navajo Nation Council by Resolution RCAP-75-00, attached hereto as Exhibit "G", approved and recommended that the Public Safety Committee of the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395; and

11. The Economic Development Committee of the Navajo Nation Council by Resolution EDCMY-39-00, attached hereto as Exhibit "H", approved and recommended that the Public Safety Committee of the Navajo Nation Council, and the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395; and

12. The Public Safety Committee of the Navajo Nation Council by Resolution PSCAP-08-00, attached hereto as Exhibit "I", approved and recommended that the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395, to distinguish between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant; and

13. The Navajo Nation Council finds that it is in the best interest of economic development within the Navajo Nation that these amendments be adopted and the health, welfare and safety of the Navajo people will not be endangered thereby.

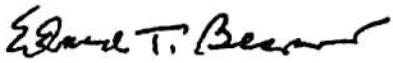
NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby approves amendments to 17 N.N.C. §§ 390-395, attached hereto as Exhibit "F", which distinguishes between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant.

2. The enactment of this resolution does not authorize the cultivation, growth, possession, development or propagation of industrial hemp until the Navajo Nation creates a regulatory system for industrial hemp and obtains necessary and applicable permits for industrial hemp.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 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 58 in favor, 11 opposed and 1 abstained, this 20th day of July 2000.

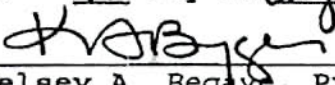
  
Edward T. Begay, Speaker  
Navajo Nation Council

July 24, 2000  
Date

Motion: Jones Begay  
Second: Peter Watchman

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 ©(10), on this 1st day of August 2000.

  
\_\_\_\_\_  
Kelsey A. Begaye, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 ©(10) this \_\_\_\_ day of \_\_\_\_\_ 2000 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Kelsey A. Begaye, President  
Navajo Nation



EXHIBIT "F"

Proposed Amendments

17 N.N.C. Chapter 3  
Subchapter 10. Controlled Substance,  
§§ 390 et seq.

Subchapter 10. Controlled Substances

§ 390. Definitions

The following definitions apply in this subchapter:

A. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

B. "Marijuana" means those Cannabis plants that contain an amount equal to or more than 1.4% tetrahydrocannabinol.

B-C. "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

§ 391. Possession of Marijuana

A. Offense. A person commits an offense pursuant to this section if he or she possesses marijuana and such marijuana is intended for his or her personal use.

B. Sentence. Any person found guilty of violating this section with respect to:

1. One avoirdupois ounce or less of marijuana shall, for the first offense, be ordered to pay a fine not to exceed \$50 and, for subsequent convictions of possession of marijuana within a period of 180 days of any previous conviction based upon violation of this section, he or she shall be ordered to pay a fine not to exceed \$100;

2. More than one avoirdupois ounce and less than eight avoirdupois ounces of marijuana shall be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$250, or both;

3. Eight avoirdupois ounces or more of marijuana shall be sentenced to imprisonment for a term not to exceed 180 days, ~~or~~ be ordered to pay a fine not to exceed \$500, or both.

### § 392. Production or Delivery of Marijuana

A. Offense. A person commits an offense pursuant to this section if he or she intentionally or knowingly produces, delivers, or possesses marijuana with intent to deliver such marijuana to another.

B. "Deliver" or "delivery" means the actual or constructive transfer of possession of marijuana to another with or without consideration, whether or not there is an agency relationship.

C. Sentence. Any person found guilty of producing or selling marijuana shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

### § 393. Delivery of Marijuana to Minors

A. Offense. A person commits an offense pursuant to this section if he or she is at least 18 years of age, and violates 17 N.N.C. §391 by delivering marijuana to a person under 18 years of age.

B. Deliver or delivery means the actual or constructive transfer of possession of marijuana, with or without consideration, whether or not there is any agency relations.

C. Sentence. Any person found guilty of delivering marijuana to minors shall be sentenced to imprisonment for a term not to exceed 180 days and to pay a fine not to exceed \$500.

### § 394. Possession or Sale of Controlled Substances

A. Offense. A person commits an offense pursuant to this section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:

1. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, unless specifically excepted;

2. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers:

- a. Lysergic acid diethylamide;
- b. Mescaline;
- c. Psilocybin;
- d. Psilocin;
- e. Hashish;
- f. ~~Tetrahydrocannabinol (T.H.C.)~~
- g. ~~f.~~ Peyote.



3. Any material, compound, mixture or preparation which contains an amount equal to or more than 1.4% quantity of tetrahydrocannabinol (T.H.C.).

B. Defense. It is a defense to a prosecution under this section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.

C. Peyote. It shall not be unlawful for any members of the Native American Church to transport, buy, sell, possess or use peyote in any form in connection with recognized religious practices, sacraments or services of the Native American Church.

D. Sentence. Any person found guilty of possession or sale of controlled substances shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

E. Rehabilitation. At the discretion of the court, any person found guilty of violating this section, and found to be addicted to a narcotic, maybe ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

#### § 395. Forfeiture and Destruction of Controlled Substances

A. Upon the conviction of any person based upon violation of this subchapter, the court shall order the marijuana, controlled substance or narcotic forfeited to the Navajo Nation and destroyed or otherwise disposed of.

B. A record of the place where such controlled substance or narcotic was seized, the kinds and quantities of the substance or narcotic so destroyed, and the time, place and manner of destruction shall be kept, and a return under oath reporting such destruction shall be made to the court by the officer who destroys such controlled substance or narcotic.





U.S. Code › Title 7 › Chapter 88 › Subchapter VII › § 5940

## 7 U.S. Code § 5940 - Legitimacy of industrial hemp research

(a) **IN GENERAL** Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), chapter 81 of title 41, or any other Federal law, an institution of higher education (as defined in section 1001 of title 20) or a State department of agriculture may grow or cultivate industrial hemp if—

- (1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- (2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS** In this section:

(1) **AGRICULTURAL PILOT PROGRAM** The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

(A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and

(B) in a manner that—

- (i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;
- (ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and
- (iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP**

The term "industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(3) **STATE DEPARTMENT OF AGRICULTURE**

The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

(Pub. L. 113–79, title VII, § 7606, Feb. 7, 2014, 128 Stat. 912; Pub. L. 114–95, title IX, § 9215(f), Dec. 10, 2015, 129 Stat. 2166.)

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# One Hundred Thirteenth Congress of the United States of America

## AT THE SECOND SESSION

*Began and held at the City of Washington on Friday,  
the third day of January, two thousand and fourteen*

## An Act

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2015, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Act of 2014".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary of Agriculture.

### TITLE I—COMMODITIES

#### Subtitle A—Repeals and Reforms

##### PART I—REPEALS

- Sec. 1101. Repeal of direct payments.
- Sec. 1102. Repeal of counter-cyclical payments.
- Sec. 1103. Repeal of average crop revenue election program.

##### PART II—COMMODITY POLICY

- Sec. 1111. Definitions.
- Sec. 1112. Base acres.
- Sec. 1113. Payment yields.
- Sec. 1114. Payment acres.
- Sec. 1115. Producer election.
- Sec. 1116. Price loss coverage.
- Sec. 1117. Agriculture risk coverage.
- Sec. 1118. Producer agreements.
- Sec. 1119. Transition assistance for producers of upland cotton.

##### Subtitle B—Marketing Loans

- Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
- Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
- Sec. 1203. Term of loans.
- Sec. 1204. Repayment of loans.
- Sec. 1205. Loan deficiency payments.
- Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
- Sec. 1207. Special marketing loan provisions for upland cotton.
- Sec. 1208. Special competitive provisions for extra long staple cotton.
- Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.
- Sec. 1210. Adjustments of loans.

##### Subtitle C—Sugar

- Sec. 1301. Sugar policy.

##### Subtitle D—Dairy

##### PART I—MARGIN PROTECTION PROGRAM FOR DAIRY PRODUCERS

- Sec. 1401. Definitions.

H. R. 2642—8

- Sec. 7602. Concessions and agreements with nonprofit organizations for National Arboretum.
- Sec. 7603. Agricultural and food law research, legal tools, and information.
- Sec. 7604. Cotton Disease Research Report.
- Sec. 7605. Miscellaneous technical corrections.
- Sec. 7606. Legitimacy of industrial hemp research.

TITLE VIII—FORESTRY

Subtitle A—Repeal of Certain Forestry Programs

- Sec. 8001. Forest land enhancement program.
- Sec. 8002. Watershed forestry assistance program.
- Sec. 8003. Expired cooperative national forest products marketing program.
- Sec. 8004. Hispanic-serving institution agricultural land national resources leadership program.
- Sec. 8005. Tribal watershed forestry assistance program.
- Sec. 8006. Separate Forest Service decisionmaking and appeals process.

Subtitle B—Reauthorization of Cooperative Forestry Assistance Act of 1978 Programs

- Sec. 8101. State-wide assessment and strategies for forest resources.

Subtitle C—Reauthorization of Other Forestry-Related Laws

- Sec. 8201. Rural revitalization technologies.
- Sec. 8202. Office of International Forestry.
- Sec. 8203. Healthy forests reserve program.
- Sec. 8204. Insect and disease infestation.
- Sec. 8205. Stewardship end result contracting projects.
- Sec. 8206. Good neighbor authority.

Subtitle D—Miscellaneous Provisions

- Sec. 8301. Revision of strategic plan for forest inventory and analysis.
- Sec. 8302. Forest service participation in ACES program.
- Sec. 8303. Extension of stewardship contracts authority regarding use of designation by prescription to all thinning sales under National Forest Management Act of 1976.
- Sec. 8304. Reimbursement of fire funds.
- Sec. 8305. Forest Service large unit tanker and aerial asset firefighting recapitalization pilot program.
- Sec. 8306. Land conveyance, Jefferson National Forest in Wise County, Virginia.

TITLE IX—ENERGY

- Sec. 9001. Definitions.
- Sec. 9002. Biobased markets program.
- Sec. 9003. Biorefinery assistance.
- Sec. 9004. Repowering assistance program.
- Sec. 9005. Bioenergy program for advanced biofuels.
- Sec. 9006. Biodiesel fuel education program.
- Sec. 9007. Rural Energy for America Program.
- Sec. 9008. Biomass research and development.
- Sec. 9009. Feedstock Flexibility Program for Bioenergy Producers.
- Sec. 9010. Biomass Crop Assistance Program.
- Sec. 9011. Repeal of forest biomass for energy.
- Sec. 9012. Community wood energy program.
- Sec. 9013. Repeal of biofuels infrastructure study.
- Sec. 9014. Repeal of renewable fertilizer study.
- Sec. 9015. Energy efficiency report for USDA facilities.

TITLE X—HORTICULTURE

- Sec. 10001. Specialty crops market news allocation.
- Sec. 10002. Repeal of grant program to improve movement of specialty crops.
- Sec. 10003. Farmers' market and local food promotion program.
- Sec. 10004. Organic agriculture.
- Sec. 10005. Investigations and enforcement of the Organic Foods Production Act of 1990.
- Sec. 10006. Food safety education initiatives.
- Sec. 10007. Consolidation of plant pest and disease management and disaster prevention programs.
- Sec. 10008. Importation of seed.
- Sec. 10009. Bulk shipments of apples to Canada.



- (1) an overview of the threat FOV Race 4 poses to the cotton industry in the United States;
- (2) the status and progress of Federal research initiatives to detect, contain, or eradicate FOV Race 4, including current FOV Race 4-specific research projects; and
- (3) a comprehensive strategy to combat FOV Race 4 that establishes—

- (A) detection and identification goals;
- (B) containment goals;
- (C) eradication goals; and
- (D) a plan to partner with the cotton industry in the United States to maximize resources, information sharing, and research responsiveness and effectiveness.

**SEC. 7605. MISCELLANEOUS TECHNICAL CORRECTIONS.**

Sections 7408 and 7409 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2013) are both amended by striking "Title III of the Department of Agriculture Reorganization Act of 1994" and inserting "Title III of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994".

**SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

(a) **IN GENERAL.**—Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.), chapter 81 of title 41, United States Code, or any other Federal law, an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a State department of agriculture may grow or cultivate industrial hemp if—

- (1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- (2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL PILOT PROGRAM.**—The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

- (A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and
- (B) in a manner that—

- (i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

- (ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

- (iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP.**—The term "industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol

concentration of not more than 0.3 percent on a dry weight basis.

(3) STATE DEPARTMENT OF AGRICULTURE.—The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

## TITLE VIII—FORESTRY

### Subtitle A—Repeal of Certain Forestry Programs

#### SEC. 8001. FOREST LAND ENHANCEMENT PROGRAM.

(a) REPEAL.—Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is repealed.

(b) CONFORMING AMENDMENT.—Section 8002 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 16 U.S.C. 2103 note) is amended by striking subsection (a).

#### SEC. 8002. WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b) is repealed.

#### SEC. 8003. EXPIRED COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

Section 18 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2112) is repealed.

#### SEC. 8004. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.

Section 8402 of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 1649a) is repealed.

#### SEC. 8005. TRIBAL WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 303 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542) is repealed.

#### SEC. 8006. SEPARATE FOREST SERVICE DECISIONMAKING AND APPEALS PROCESS.

(a) REPEAL.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note; Public Law 102-381) is repealed.

(b) FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS.—Section 428 of division E of the Consolidated Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112-74) shall not apply to any project or activity implementing a land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that is categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1 **SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

2 (a) **IN GENERAL.**—Notwithstanding the Controlled  
3 Substances Act (21 U.S.C. 801 et seq.), the Safe and  
4 Drug-Free Schools and Communities Act (20 U.S.C. 7101  
5 et seq.), chapter 81 of title 41, United States Code, or  
6 any other Federal law, an institution of higher education  
7 (as defined in section 101 of the Higher Education Act  
8 of 1965 (20 U.S.C. 1001)) or a State department of agri-  
9 culture may grow or cultivate industrial hemp if—

10 (1) the industrial hemp is grown or cultivated  
11 for purposes of research conducted under an agricul-  
12 tural pilot program or other agricultural or academic  
13 research; and

14 (2) the growing or cultivating of industrial  
15 hemp is allowed under the laws of the State in which  
16 such institution of higher education or State depart-  
17 ment of agriculture is located and such research oc-  
18 curs.

19 (b) **DEFINITIONS.**—In this section:

20 (1) **AGRICULTURAL PILOT PROGRAM.**—The  
21 term “agricultural pilot program” means a pilot pro-  
22 gram to study the growth, cultivation, or marketing  
23 of industrial hemp—

24 (A) in States that permit the growth or  
25 cultivation of industrial hemp under the laws of  
26 the State; and



1 (B) in a manner that—

2 (i) ensures that only institutions of  
3 higher education and State departments of  
4 agriculture are used to grow or cultivate  
5 industrial hemp;

6 (ii) requires that sites used for grow-  
7 ing or cultivating industrial hemp in a  
8 State be certified by, and registered with,  
9 the State department of agriculture; and

10 (iii) authorizes State departments of  
11 agriculture to promulgate regulations to  
12 carry out the pilot program in the States  
13 in accordance with the purposes of this  
14 section.

15 (2) INDUSTRIAL HEMP.—The term “industrial  
16 hemp” means the plant *Cannabis sativa* L. and any  
17 part of such plant, whether growing or not, with a  
18 delta-9 tetrahydrocannabinol concentration of not  
19 more than 0.3 percent on a dry weight basis.

20 (3) STATE DEPARTMENT OF AGRICULTURE.—  
21 The term “State department of agriculture” means  
22 the agency, commission, or department of a State  
23 government responsible for agriculture within the  
24 State.

# NAVAJO NATION

RCS# 1307

2018 Fall Session

10/18/2018

06:13:27 PM

Amd# to Amd#

Legislation 0268-18: Enacting  
the "Controlled Substance  
Definition Act of 2018";  
Amending Title 17 Chapter 3...

PASSED

MOT Perry  
SEC Brown

Yea : 15

Nay : 2

Excused : 0

Not Voting : 6

## Yea : 15

Begay, K  
BeGaye, N  
Bennett  
Brown

Chee  
Damon  
Daniels  
Filfred

Jack  
Perry  
Phelps  
Shepherd

Slim  
Smith  
Witherspoon

## Nay : 2

Tsosie

Pete

## Excused : 0

## Not Voting : 6

Bates  
Begay, NM

Crotty  
Hale

Tso

Yazzie

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

24<sup>th</sup> NAVAJO NATION COUNCIL -- First Year, 2019

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; APPROVING AND AUTHORIZING THE NAVAJO AGRICULTURAL PRODUCTS INDUSTRY TO CONDUCT A HEMP PILOT RESEARCH PROJECT WITH NEW MEXICO STATE UNIVERSITY UNDER THE PROVISIONS OF THE 2014 FARM BILL; CREATING A SINGULAR EXCEPTION TO THE PROHIBITION ON CULTIVATION, GROWTH, POSSESSION, DEVELOPMENT OR PROPAGATION OF INDUSTRIAL HEMP ON THE NAVAJO NATION AS ESTABLISHED BY COUNCIL RESOLUTIONS CO-75-18 AND CJY-54-00

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is the oversight committee for land, agriculture and economic development on the Navajo Nation. 2 N.N.C. §500(C).
- B. The Naabik'iyáti' Committee is authorized to recommend resolutions to the Navajo Nation Council and coordinate all federal, county and state programs. 2 N.N.C §701 A (3)(4).

SECTION TWO. FINDINGS

- A. The Agricultural Act of 2014 (2014 Federal Farm Bill) distinguishes between hemp and marijuana based on a threshold concentration of THC (delta-9 tetrahydrocannabinol) contained in the plant. THC levels of 0.3 percent and below constitute industrial hemp. THC levels above .3 percent constitute marijuana. See **Exhibit A**.
- B. The Navajo Nation, through Navajo Nation Council Resolution CO-75-18 amended its criminal statute to incorporate this distinction between industrial hemp and marijuana pursuant to federal law. See **Exhibit B**.



- C. Council Resolution CO-75-18 contains a provision that prohibits the growth, possession, development or propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits for industrial hemp production. See **Exhibit B**.
- D. The Navajo Nation has not adopted a regulatory system for industrial hemp at this time.
- E. The 2014 Farm Bill also legalized the cultivation, growth, possession and development of hemp in connection with a state sanctioned research project where the participating State has legalized industrial hemp under state law and pursuant to the 2014 Farm Bill.
- F. The Navajo Nation has a long term lease agreement with New Mexico State University for the Agricultural Science Center which provides technical assistance at the request of NAPI and other San Juan County farmers. See **Exhibit C**.
- G. The Navajo Agricultural Products Industry (NAPI) with the approval of its Board of Directors has offered to participate in a pilot industrial hemp research and development project (Project) with the New Mexico State University (NMSU) authorized by the State of New Mexico's legalization of industrial hemp under state law pursuant to the 2014 Farm Bill. See **Exhibit D**.
- H. The Project will occupy 200 square feet of the land leased to the NMSU and will operate to determine the best hemp producing plants for cultivation in the many growing zones and conditions on the Navajo Nation and will be subject to the provisions of New Mexico and its participation in the 2014 Farm Bill. See **Exhibit D**.
- I. The cultivation and production of industrial hemp on the Navajo Nation has the potential to serve as an important revenue producing crop for Navajo farmers.

- J. The Project has been endorsed by the President of the Navajo Nation and the Speaker of the Navajo Nation Council. See **Exhibit E**.
- K. In order for the Project to take place, the Navajo Nation Council will need to create and approve a project specific exception to the existing ". . . prohibition on the growth, possession, development or propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits" established by Navajo Council Resolution CO-75-18.
- L. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to approve of the proposed research and development Project involving NAPI and NMSU as described herein.
- M. The Navajo Nation Council finds it to be in the best interest of the Navajo People to create and approve a project specific exception to the existing ". . . prohibition on the growth, possession, development or propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits" established by Navajo Council Resolution CO-75-18.

### **SECTION THREE. APPROVALS**

- A. The Navajo Nation hereby approves the proposed research and development Project involving NAPI and NMSU as described herein.
- B. The Navajo Nation Council hereby creates and approves a project specific exception to the existing ". . . prohibition on the growth, possession, development or propagation of industrial hemp until such time as the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits" established by Navajo Council Resolution CO-75-18 specifically and only for the proposed research and development Project as described herein and only for the duration of the Project.

C. Other than the specific Project exception authorized herein, the cultivation, growth, possession, development or propagation of industrial hemp continues to be prohibited on the Navajo Nation, as established by Council Resolutions CO-75-18 and CJY-54-00, and until such time as the Navajo Nation creates a regulatory system and obtains the necessary and applicable permits for industrial hemp cultivation and production.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> 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 16 in Favor, and 05 Opposed, on this 5<sup>th</sup> day of June 2019.

  
Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

6.6.19  
DATE

Motion: Honorable Pernell Halona  
Second: Honorable Jamie Henio

Speaker Seth Damon not voting



Cornell Law School



U.S. Code › Title 7 › Chapter 88 › Subchapter VII › § 5940

## 7 U.S. Code § 5940 - Legitimacy of industrial hemp research

(a) **IN GENERAL** Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), chapter 81 of title 41, or any other Federal law, an institution of higher education (as defined in section 1001 of title 20) or a State department of agriculture may grow or cultivate industrial hemp if—

- (1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- (2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS** In this section:

(1) **AGRICULTURAL PILOT PROGRAM** The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

(A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and

(B) in a manner that—

- (I) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;
- (II) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and
- (III) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP**

The term "industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(3) **STATE DEPARTMENT OF AGRICULTURE**

The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

(Pub. L. 113–79, title VII, § 7606, Feb. 7, 2014, 128 Stat. 912; Pub. L. 114–95, title IX, § 9215(f), Dec. 10, 2015, 129 Stat. 2166.)

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H. R. 2642

# One Hundred Thirteenth Congress of the United States of America

AT THE SECOND SESSION

*Began and held at the City of Washington on Friday,  
the third day of January, two thousand and fourteen*

## An Act

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2018, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Act of 2014".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary of Agriculture.

#### TITLE I—COMMODITIES

##### Subtitle A—Repeals and Reforms

###### PART I—REPEALS

- Sec. 1101. Repeal of direct payments.
- Sec. 1102. Repeal of counter-cyclical payments.
- Sec. 1103. Repeal of average crop revenue election program.

###### PART II—COMMODITY POLICY

- Sec. 1111. Definitions.
- Sec. 1112. Base acres.
- Sec. 1113. Payment yields.
- Sec. 1114. Payment acres.
- Sec. 1115. Producer election.
- Sec. 1116. Price loss coverage.
- Sec. 1117. Agriculture risk coverage.
- Sec. 1118. Producer agreements.
- Sec. 1119. Transition assistance for producers of upland cotton.

###### Subtitle B—Marketing Loans

- Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
- Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
- Sec. 1203. Term of loans.
- Sec. 1204. Repayment of loans.
- Sec. 1205. Loan deficiency payments.
- Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
- Sec. 1207. Special marketing loan provisions for upland cotton.
- Sec. 1208. Special competitive provisions for extra long staple cotton.
- Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.
- Sec. 1210. Adjustments of loans.

###### Subtitle C—Sugar

- Sec. 1301. Sugar policy.

###### Subtitle D—Dairy

###### PART I—MARGIN PROTECTION PROGRAM FOR DAIRY PRODUCERS

- Sec. 1401. Definitions.

## H. R. 2642—8

- Sec. 7602 Concessions and agreements with nonprofit organizations for National Arboretum.
- Sec. 7603 Agricultural and food law research, legal tools, and information.
- Sec. 7604 Cotton Disease Research Report.
- Sec. 7605 Miscellaneous technical corrections.
- Sec. 7606 Legitimacy of industrial hemp research.

### TITLE VIII—FORESTRY

#### Subtitle A—Repeal of Certain Forestry Programs

- Sec. 8001 Forest land enhancement program.
- Sec. 8002 Watershed forestry assistance program.
- Sec. 8003 Expired cooperative national forest products marketing program.
- Sec. 8004 Hispanic-serving institution agricultural land national resources leadership program.
- Sec. 8005 Tribal watershed forestry assistance program.
- Sec. 8006 Separate Forest Service decisionmaking and appeals process.

#### Subtitle B—Reauthorization of Cooperative Forestry Assistance Act of 1976 Programs

- Sec. 8101 State-wide assessment and strategies for forest resources.

#### Subtitle C—Reauthorization of Other Forestry-Related Laws

- Sec. 8201 Rural revitalization technologies.
- Sec. 8202 Office of International Forestry.
- Sec. 8203 Healthy forests reserve program.
- Sec. 8204 Insect and disease infestation.
- Sec. 8205 Stewardship and result contracting projects.
- Sec. 8206 Good neighbor authority.

#### Subtitle D—Miscellaneous Provisions

- Sec. 8301 Revision of strategic plan for forest inventory and analysis.
- Sec. 8302 Forest service participation in ACES program.
- Sec. 8303 Extension of stewardship contracts authority regarding use of designation by prescription to all thinning sales under National Forest Management Act of 1976.
- Sec. 8304 Reimbursement of fire funds.
- Sec. 8305 Forest Service large aircraft and aerial asset firefighting recapitalization pilot program.
- Sec. 8306 Land conveyance, Jefferson National Forest in Wise County, Virginia.

### TITLE IX—ENERGY

- Sec. 9001 Definitions.
- Sec. 9002 Biobased markets program.
- Sec. 9003 Bioefficiency assistance.
- Sec. 9004 Bioprocessing assistance program.
- Sec. 9005 Bioenergy program for advanced biofuels.
- Sec. 9006 Biodiesel fuel education program.
- Sec. 9007 Rural Energy for America Program.
- Sec. 9008 Biomass research and development.
- Sec. 9009 Feedstock Flexibility Program for Bioenergy Producers.
- Sec. 9010 Biomass Crop Assistance Program.
- Sec. 9011 Repeal of forest biomass for energy.
- Sec. 9012 Community wood energy program.
- Sec. 9013 Repeal of biofuels infrastructure study.
- Sec. 9014 Repeal of renewable fertilizer study.
- Sec. 9015 Energy efficiency report for USDA facilities.

### TITLE X—HORTICULTURE

- Sec. 10001 Specialty crops market news allocation.
- Sec. 10002 Repeal of grant program to improve movement of specialty crops.
- Sec. 10003 Farmers' market and local food promotion program.
- Sec. 10004 Organic agriculture.
- Sec. 10005 Investigations and enforcement of the Organic Foods Production Act of 1990.
- Sec. 10006 Food safety education initiatives.
- Sec. 10007 Consolidation of plant pest and disease management and disaster prevention programs.
- Sec. 10008 Importation of seed.
- Sec. 10009 Bulk shipments of apples to Canada.



- (1) an overview of the threat FOV Race 4 poses to the cotton industry in the United States;
- (2) the status and progress of Federal research initiatives to detect, contain, or eradicate FOV Race 4, including current FOV Race 4-specific research projects; and
- (3) a comprehensive strategy to combat FOV Race 4 that establishes—

- (A) detection and identification goals;
- (B) containment goals;
- (C) eradication goals; and
- (D) a plan to partner with the cotton industry in the United States to maximize resources, information sharing, and research responsiveness and effectiveness.

**SEC. 7603. MISCELLANEOUS TECHNICAL CORRECTIONS.**

Sections 7408 and 7409 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2013) are both amended by striking "Title III of the Department of Agriculture Reorganization Act of 1994" and inserting "Title III of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994".

**SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

(a) **IN GENERAL.**—Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.), chapter 81 of title 41, United States Code, or any other Federal law, an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a State department of agriculture may grow or cultivate industrial hemp if—

- (1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- (2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL PILOT PROGRAM.**—The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

- (A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and
- (B) in a manner that—

(i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

(ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

(iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP.**—The term "industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol

concentration of not more than 0.3 percent on a dry weight basis.

(3) STATE DEPARTMENT OF AGRICULTURE.—The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

## TITLE VIII—FORESTRY

### Subtitle A—Repeal of Certain Forestry Programs

#### SEC. 8001. FOREST LAND ENHANCEMENT PROGRAM.

(a) REPEAL.—Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is repealed.

(b) CONFORMING AMENDMENT.—Section 8002 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 16 U.S.C. 2103 note) is amended by striking subsection (a).

#### SEC. 8002. WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b) is repealed.

#### SEC. 8003. EXPIRED COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

Section 18 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2112) is repealed.

#### SEC. 8004. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.

Section 8402 of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 1649a) is repealed.

#### SEC. 8005. TRIBAL WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 303 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542) is repealed.

#### SEC. 8006. SEPARATE FOREST SERVICE DECISIONMAKING AND APPEALS PROCESS.

(a) REPEAL.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note; Public Law 102-381) is repealed.

(b) FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS.—Section 428 of division E of the Consolidated Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112-74) shall not apply to any project or activity implementing a land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that is categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1 SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.

2 (a) IN GENERAL.—Notwithstanding the Controlled  
3 Substances Act (21 U.S.C. 801 et seq.), the Safe and  
4 Drug-Free Schools and Communities Act (20 U.S.C. 7101  
5 et seq.), chapter 81 of title 41, United States Code, or  
6 any other Federal law, an institution of higher education  
7 (as defined in section 101 of the Higher Education Act  
8 of 1965 (20 U.S.C. 1001)) or a State department of agri-  
9 culture may grow or cultivate industrial hemp if—

10 (1) the industrial hemp is grown or cultivated  
11 for purposes of research conducted under an agricul-  
12 tural pilot program or other agricultural or academic  
13 research; and

14 (2) the growing or cultivating of industrial  
15 hemp is allowed under the laws of the State in which  
16 such institution of higher education or State depart-  
17 ment of agriculture is located and such research oc-  
18 curs.

19 (b) DEFINITIONS.—In this section:

20 (1) AGRICULTURAL PILOT PROGRAM.—The  
21 term “agricultural pilot program” means a pilot pro-  
22 gram to study the growth, cultivation, or marketing  
23 of industrial hemp—

24 (A) in States that permit the growth or  
25 cultivation of industrial hemp under the laws of  
26 the State; and



1 (B) in a manner that—

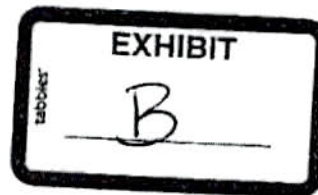
2 (i) ensures that only institutions of  
3 higher education and State departments of  
4 agriculture are used to grow or cultivate  
5 industrial hemp;

6 (ii) requires that sites used for grow-  
7 ing or cultivating industrial hemp in a  
8 State be certified by, and registered with,  
9 the State department of agriculture; and

10 (iii) authorizes State departments of  
11 agriculture to promulgate regulations to  
12 carry out the pilot program in the States  
13 in accordance with the purposes of this  
14 section.

15 (2) INDUSTRIAL HEMP.—The term “industrial  
16 hemp” means the plant *Cannabis sativa* L. and any  
17 part of such plant, whether growing or not, with a  
18 delta-9 tetrahydrocannabinol concentration of not  
19 more than 0.3 percent on a dry weight basis.

20 (3) STATE DEPARTMENT OF AGRICULTURE.—  
21 The term “State department of agriculture” means  
22 the agency, commission, or department of a State  
23 government responsible for agriculture within the  
24 State.



CO-75-18

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23<sup>rd</sup> Navajo Nation Council - - Fourth Year, 2018

AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE "CONTROLLED SUBSTANCE DEFINITION ACT OF 2018"; AMENDING TITLE 17 CHAPTER 3, CONTROLLED SUBSTANCES AT 17 N.N.C. §§ 390, 394

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 Resources and Development Committee is a standing committee of the Navajo Nation Council and is empowered to review and make recommendations to the Navajo Nation Council for final approval resolutions requiring Navajo Nation Council approval to accomplish or impact the Committee purposes. 2 N.N.C. §§ 164(A) (1), 500(A) and 501(B) (4) (f) (2012); CO-45-12.
- C. 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.
- D. 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. CO-45-12.
- E. 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. The Navajo Nation is responsible for the enforcement of the Criminal Code, including amendments, as may be enacted by the Navajo Nation through its Council and the President.
- B. The purposes of the Navajo Nation Criminal Code, being applied in harmony with the other Titles of the Navajo Nation Code and policies of the Navajo Nation, include, among others, proscribing certain substances that may pose the threat of inflicting substantial harm to individuals or public interests, giving all persons entering into the territorial jurisdiction of the Navajo Nation Courts a fair warning of such proscribed substances by clear statement within the Criminal Code, and protecting and promoting the interests of the Navajo Nation, its public, and its economy and economic development within its territorial jurisdiction.
- C. The Navajo Nation Code, at Title 17, Chapter 3, Controlled Substances, Definitions was last amended with respect to the definition of "Marijuana" on July 20, 2000, by Council Resolution CJY-54-00, which defined "Marijuana" as "...those Cannabis plants that contain an amount equal to or more than one and four-tenths percent (1.4%) tetrahydrocannabinol" (THC). See **Exhibit A**.
- D. The Agricultural Act of 2014, (the Federal Farm Bill) made that standard under federal law more restrictive, lowering the amount of allowable THC from 1.4% to 0.3% (less than one percent); defining Cannabis as hemp, not marijuana, provided that no part of the plant, including the leaves and flowers, exceeds "... a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis". 128 Stat 649 Sec. 7606 (b) (2); Public Law 113-79-Feb. 7, 2014; See **Exhibit B**.
- E. The Navajo Nation Code defining controlled substances is not consistent with existing federal law, and in fact, allows more THC than federal law permits.
- F. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to enact "The Controlled Substances Definition Act of 2018" and thereby amend the Navajo Nation Code to conform to the Federal definition of industrial hemp/marijuana.

**SECTION THREE. RESOLVED**



- A. The Navajo Nation hereby enacts "The Controlled Substances Definition Act of 2018" to conform Navajo Nation Code with the Federal definition of industrial hemp/marijuana as found in the Public Law 113-79, February 7, 2014, The Agricultural Act of 2014.
- B. The enactment of this resolution does not authorize the cultivation, growth possession, development or propagation of industrial hemp until the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits for industrial hemp.
- C. The Navajo Nation hereby amends the Title 17 as follows:

**NAVAJO NATION CODE**  
**TITLE 17. LAW AND ORDER**  
**CHAPTER 3.**  
**SUBCHAPTER 10. CONTROLLED SUBSTANCES**

\* \* \* \*

**§ 390. Definitions**

The following definitions apply in this Subchapter:

- A. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.
- B. "Marijuana" means ~~these Cannabis plants that contain an amount equal to or more than one and four-tenths percent (1.4%) tetrahydrocannabinol~~ the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of more than three tenths percent (0.3%) on a dry weight basis.
- C. "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

\* \* \* \*

**§ 394. Possession or sale of controlled substances**

- A. Offense. A person commits an offense pursuant to this Section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:

1. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, apomorphine and its salts excepted, and including the following:
  - a. Acetorphine;
  - b. Acetyldihydrocodeine;
  - c. Benylmorphine;
  - d. Codeine;
  - e. Codeine methylbromide;
  - f. Codeine-n-oxide;
  - g. Cyprenorphine;
  - h. Desomorphine;
  - i. Dihydromorphine;
  - j. Drotebanol;
  - k. Ethylmorphine;
  - l. Etorphine;
  - m. Heroin;
  - n. Hydrocodone;
  - o. Hydromorphenol;
  - p. Hydromorphone;
  - q. Methyl-desorphine;
  - r. Methyl-dihydromorphine;
  - s. Metopon;
  - t. Morphine;
  - u. Morphine methylbromide;
  - v. Morphine methylsulfonate;
  - w. Morphine-n-oxide;
  - x. Myrophine;
  - y. Nalorphine;
  - z. Nicocodine;
  - aa. Nicomorphine;
  - bb. Normorphine;
  - cc. Oxycodone;
  - dd. Oxymorphone;
  - ee. Pholcodine;
  - ff. Thebacon;
  - gg. Thebaine;
  - hh. Cocaine.
2. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers:
  - a. Lysergic acid diethylamide;
  - b. Mescaline;

- c. Psilocybin;
  - d. Psilocyn;
  - e. Hashish;
  - f. Peyote;
  - g. 4-bromo-2, 5-dimethoxyamphetamine;
  - h. Bufotenine;
  - i. Diethyltryptamine;
  - j. 2, 5-dimethoxyamphetamine;
  - k. Dimethyltryptamine;
  - l. 5-methoxy-3, 4-methylenedioxyamphetamine;
  - m. 4-methyl-2, 5-dimethoxyamphetamine;
  - n. Ibogaine;
  - o. Lysergic acid amide;
  - p. Methoxymethylenedioxyamphetamine (MMDA);
  - q. Methylenedioxyamphetamine (MDA);
  - r. 3, 4-metyulenedioxymethamphetamine;
  - s. 3, 4-methylenedioxy-n-ethylamphetamine;
  - t. N-ethyl-3-piperidyl benzilate (JB-318);
  - u. N-hydroxy-3, 4-methylenedioxyamphetamine;
  - v. N-methyl-3-piperidyl bezilate (JB-336);
  - w. N-(1-phenylcyclohexyl) ethylamine (PCE);
  - x. Nabilone;
  - y. 1-(1-phenylcyclohexyl) pyrrolidine (PHP);
  - z. 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine;
  - aa. Para-methoxamphetamine (PMA);
  - bb. Synhexyl;
  - cc. Trimethoxyamphetamine.
3. Any material, compound, mixture or preparation which contains an amount ~~equal to or~~ more than ~~1.4%~~ three tenths percent (0.3%) quantity of tetrahydrocannabinol (T.H.C.) on a dry weight basis.
4. Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, isomers, and salts of isomers having a potential for abuse associated with a stimulant effect on the central nervous system:
- a. Amphetamine;
  - b. Benzphetamine;
  - c. Cathine ((+)-norpseudoephedrine);
  - d. Clorpheniramine;
  - e. Clortermine.
  - f. Diethylpropion;
  - g. Fencamfamin;
  - h. Fenethylline;
  - i. Fenproporex;



- j. Mazindol;
  - k. Mefenorex;
  - l. Methamphetamine;
  - m. 4-methylaminorex;
  - n. Methylphenidate;
  - o. N-ethylamphetamine;
  - p. N, N-dimethylamphetamine;
  - q. Pemoline;
  - r. Phendimetrazine;
  - s. Phenmetrazine;
  - t. Pipradol;
  - u. Propylhexedrine;
  - v. Pyrovalerone;
  - w. Spa ((-)-1-dimethylamino-1, 2-diphenylethane).
5. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
- a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted;
  - b. Alprazolam;
  - c. Bromazepam;
  - d. Camazepam;
  - e. Chloral betaine;
  - f. Chloral hydrate;
  - g. Chlordiazepoxide;
  - h. Chlorhexadol;
  - i. Clobazam;
  - j. Clonazepam;
  - k. Clorazepate;
  - l. Clotiazepam;
  - m. Cloxazolam;
  - n. Delorazepam;
  - o. Diazepam;
  - p. Estazolam;
  - q. Ethchlorvynol;
  - r. Ethinamate;
  - s. Ethyl loflazepate;
  - t. Fenfluramine;
  - u. Fludiazepam;
  - v. Flunitrazepam;
  - w. Flurazepam;
  - x. Gamma hydroxyl butyrate;
  - y. Glutethimide;

z. Halazepam;  
aa. Haloxazolam;  
bb. Ketamine;  
cc. Ketazolam;  
dd. Loprazolam;  
ee. Lorazepam;  
ff. Lormetazepam;  
gg. Lysergic acid;  
hh. Metabutamate;  
ii. Mecloqualone;  
jj. Medazepam;  
kk. Meprobamate;  
ll. Methaqualone;  
mm. Methylprylon;  
nn. Midazolam;  
oo. Nimetazepam;  
pp. Nitrazepam;  
qq. Nordiazepam;  
rr. Oxazepam;  
ss. Oxazolam;  
tt. Paraldehyde;  
uu. Petrichloral;  
vv. Phencyclidine;  
ww. Pinazepam;  
xx. Praxepam;  
yy. Scopolamine;  
zz. Sulfondiethylmethane;  
aaa. Sulfoethylmethane;  
bbb. Sulfomethane;  
ccc. Quazepam;  
ddd. Temazepam;  
eee. Tetrazepam;  
fff. Tiletamine;  
ggg. Triazolam;  
hhh. Zolazepam.

6. Narcotic drugs, including the following, whether of natural or synthetic origin and any substance neither chemically or physically distinguishable from them:

a. Acetyl-alpha-methylfentanyl;  
b. Acetylmethadol;  
c. Alfentanil;  
d. Allyprodine;  
e. Alphacetylmethadol;  
f. Alphameprodine;  
g. Alphamethadol;

h. Alphamethylfentanyl;  
i. Alphamethyllofentanyl;  
j. Alphaprodine;  
k. Amidone (methadone);  
l. Anileridine  
m. Benzethidine;  
n. Benzylfentanyl;  
o. Betacetylmethadol;  
p. Betahydroxyfentanyl;  
q. Betahydroxy-3-methylfentanyl;  
r. Betameprodine  
s. Betamethadol;  
t. Betaprodine;  
u. Bezitramide;  
v. Buphrenorphine and its salts;  
w. Cafentanil;  
x. Clonitazene;  
y. Detropoxyphenone;  
z. Diampromide;  
aa. Diethylthiambutene;  
bb. Difenoxin;  
cc. Dihydrocodeine;  
dd. Dimenoxadol;  
ee. Dimepheptanol;  
ff. Dimnethylthiambutene;  
gg. Dioxaphetyl butyrate;  
hh. Diphenoxylate;  
ii. Dipipanone;  
jj. Ethylmethyliambutene;  
kk. Etonitazene;  
ll. Etoxadine;  
mm. Fentanyl;  
nn. Furethidine;  
oo. Hydroxypethidine;  
pp. Isoamidone (isomethadone);  
qq. Isonipeccaine;  
rr. Ketobemidone;  
ss. Levomethorphan;  
tt. Levoaramide;  
uu. Levophenacetylmorphan;  
vv. Levorphanol;  
ww. Metazocine;  
xx. 3-Methylfentanyl;  
yy. 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);  
zz. 3-Methylthiofentanyl;  
aaa. Morpheridine;  
bbb. Noracymethadol



ccc. Norlevorphanol;  
 ddd. Normethadone;  
 eee. Norpipanone;  
 fff. Paraflourofentanyl;  
 ggg. Pentazocine  
 hhh. Phenadoxone;  
 iii. Phenampromide;  
 jjj. Phenazocine;  
 kkk. 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine  
       (PEPAP);  
 lll. Phenomorphan;  
 mmm. Phenoperidine;  
 nnn. Piminodine;  
 ooo. Piritramide;  
 ppp. Prohepatazine;  
 qqq. Properidine;  
 rrr. Propiram;  
 sss. Racemethorphan;  
 ttt. Racemoramide;  
 uuu. Racemorphan;  
 vvv. Sufentanil;  
 www. Thenylfentanyl;  
 xxx. Thiofentanyl;  
 yyy. Tilidine;  
 zzz. Trimeperidine.

- B. Defense. It is a defense to a prosecution under this Section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.
- C. Peyote. This listing of Peyote (more commonly known as azee') in Subsection A does not apply to the use of azee' by an enrolled member of an Indian tribe for bona fide ceremonial purposes in connection with nahaghá. Individuals who use, possess, or transport azee' for use in nahaghá are exempt from this prohibition. Azee' is lawful on the Navajo Nation.
- D. Sentence.
1. Any person found guilty of possession or sale of controlled substances shall be sentenced to imprisonment for a term not to exceed three hundred sixty-five (365) days, or be ordered to pay a fine not to exceed five thousand dollars \$5,000.00 or both.

2. The trial court shall review all charges to ascertain whether there is a personal victim of the offense(s) and whether restitution or nályééh shall be paid to the victim(s).
  3. The trial court may utilize the services of the Navajo Peacemaker Court to determine nályééh and make a sentencing recommendation regarding that sentence, and the trial court may require the defendant to pay the fee of the peacemaker.
  4. The trial court may consider the imposition of a peace or security bond upon the defendant, including the pledges of family or clan sureties.
  5. Upon the imposition of a bond or security pledges, the district Office of Probation and Parole shall counsel the sureties of the consequences of breach of the bond or pledge.
  6. The trial court shall consider the utility of labor or community service sentences, under the supervision of the Navajo Nation Department of Public Safety or a public or private organization, including the Chapter in which the defendant resides.
- E. Rehabilitation. At the discretion of the court, any person found guilty of violating this Section, and found to be addicted to a controlled substance, may be ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

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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).

### CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 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 15 in favor and 02 opposed, on this 18th day of October 2018.



LoRenzo C. Bates, Speaker  
23rd Navajo Nation Council

10-24-18

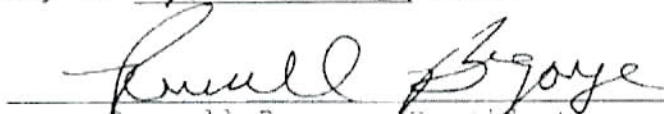
Date

Motion: Honorable Jonathan Perry  
Second: Honorable Nathaniel Brown

Speaker LoRenzo C. Bates 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 2nd day of November 2018.

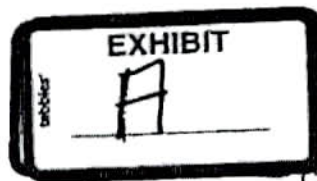


Russell Begaye, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this \_\_\_\_\_ day of \_\_\_\_\_ 2018 for reason(s) expressed in the attached letter to the Speaker

\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation





CJY-54-00

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

Approving Amendments to 17 N.N.C. §§ 390-395 to  
Distinguish Between Industrial Hemp and Marijuana  
Based on the Percentage of T.H.C. Contained  
Within the Cannabis Plant

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and
2. Pursuant to 2 N.N.C. §103, all powers not delegated are reserved to the Navajo Nation Council; and
3. During 1996, several members and entities of the Navajo Nation expressed a desire to grow industrial hemp (not marijuana) for economic purposes; and
4. Although industrial hemp and marijuana are from the same species of plant - Cannabis sativa, there is a scientific difference between them, documents supporting this are attached hereto as Exhibit "A". Industrial hemp generally refers to plant species of cannabis sativa and Cannabis indica that possess high fibers and usually contain low levels of Tetrahydrocannabinol (T.H.C.) Marijuana refers to plant species of cannabis sativa that possess low fibers and high levels of T.H.C. It is high levels of T.H.C. that gives marijuana its hallucinogenic effect; and
5. Hemp can be used for many purposes, such as fabrics, pulp, paper, oil, paints, sealants, fuel and food. Documents supporting this assertion are attached hereto as Exhibit "B". In fact, hemp has long been used throughout United States history; the first two copies of the Declaration of Independence were written on hemp. Until the 1820's, 80 percent of America's textile and fabrics and other products were made from hemp. During World War II, the United States encouraged farmers to grow hemp which was used for wartime purposes, like parachutes, riggings, ropes and fire hoses of wartime ships. Documents supporting these assertions are attached hereto as Exhibit "C"; and

6. President Bill Clinton in Executive Order 121 dated June 7, 1994, (attached hereto as Exhibit "D") Part IX General Provisions (a) states that cannabis hemp is a strategic food source; and

7. The growing of industrial hemp in the United States is allowed only by federal permit, and several states have permits pending to grow industrial hemp within their jurisdiction. These states have passed legislation recognizing the distinction between industrial hemp and marijuana and have amended their criminal laws and passed legislation regulating the growing of industrial hemp. Documents supporting this assertion are attached hereto as Exhibit "E"; and

8. During this time of declining Navajo Nation revenues, the Navajo Nation should begin exploring other means of economic development for its members. Researching or allowing the production of industrial hemp may provide economic development to the Navajo Nation. However, before the Navajo Nation can research or allow industrial hemp to be produced, the Navajo Nation must first amend its criminal law; and

9. In order for the Navajo Nation to allow the growing of industrial hemp for economic development purposes, the Navajo Nation must amend its criminal law that pertains to controlled substance, 17 N.N.C. §§ 390-395. Attached hereto as Exhibit "F" are proposed amendments to the 17 N.N.C. §§ 390-395; and

10. The Resources Committee of the Navajo Nation Council by Resolution RCAP-75-00, attached hereto as Exhibit "G", approved and recommended that the Public Safety Committee of the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395; and

11. The Economic Development Committee of the Navajo Nation Council by Resolution EDCMY-39-00, attached hereto as Exhibit "H", approved and recommended that the Public Safety Committee of the Navajo Nation Council, and the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395; and



12. The Public Safety Committee of the Navajo Nation Council by Resolution PSCAP-08-00, attached hereto as Exhibit "I", approved and recommended that the Navajo Nation Council approve amendments to 17 N.N.C. §§ 390-395, to distinguish between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant; and

13. The Navajo Nation Council finds that it is in the best interest of economic development within the Navajo Nation that these amendments be adopted and the health, welfare and safety of the Navajo people will not be endangered thereby.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby approves amendments to 17 N.N.C. §§ 390-395, attached hereto as Exhibit "F", which distinguishes between industrial hemp and marijuana based on the percentage of T.H.C. contained within the cannabis plant.

2. The enactment of this resolution does not authorize the cultivation, growth, possession, development or propagation of industrial hemp until the Navajo Nation creates a regulatory system for industrial hemp and obtains necessary and applicable permits for industrial hemp.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 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 58 in favor, 11 opposed and 1 abstained, this 20th day of July 2000.

*Edward T. Begay*

Edward T. Begay, Speaker  
Navajo Nation Council

*July 24, 2000*

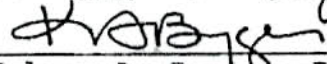
Date

Motion: Jones Begay  
Second: Peter Watchman



ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 (10), on this 1st day of August 2000.

  
\_\_\_\_\_  
Kelsey A. Begaye, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 (10) this \_\_\_\_ day of \_\_\_\_\_ 2000 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Kelsey A. Begaye, President  
Navajo Nation

## EXHIBIT "F"

### Proposed Amendments

#### 17 N.N.C. Chapter 3 Subchapter 10. Controlled Substance, §§ 390 et seq.

#### Subchapter 10. Controlled Substances

##### § 390. Definitions

The following definitions apply in this subchapter:

A. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

B. "Marijuana" means those Cannabis plants that contain an amount equal to or more than 1.4% tetrahydrocannabinol.

B-C. "Opium" includes morphine, codeine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts.

##### § 391. Possession of Marijuana

A. Offense. A person commits an offense pursuant to this section if he or she possesses marijuana and such marijuana is intended for his or her personal use.

B. Sentence. Any person found guilty of violating this section with respect to:

1. One avoirdupois ounce or less of marijuana shall, for the first offense, be ordered to pay a fine not to exceed \$50 and, for subsequent convictions of possession of marijuana within a period of 180 days of any previous conviction based upon violation of this section, he or she shall be ordered to pay a fine not to exceed \$100;

2. More than one avoirdupois ounce and less than eight avoirdupois ounces of marijuana shall be sentenced to imprisonment for a term not to exceed 90 days, or be ordered to pay a fine not to exceed \$250, or both;

3. Eight avoirdupois ounces or more of marijuana shall be sentenced to imprisonment for a term not to exceed 180 days, ~~or~~ be ordered to pay a fine not to exceed \$500, or both.

**§ 392. Production or Delivery of Marijuana**

A. Offense. A person commits an offense pursuant to this section if he or she intentionally or knowingly produces, delivers, or possesses marijuana with intent to deliver such marijuana to another.

B. "Deliver" or "delivery" means the actual or constructive transfer of possession of marijuana to another with or without consideration, whether or not there is an agency relationship.

C. Sentence. Any person found guilty of producing or selling marijuana shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

**§ 393. Delivery of Marijuana to Minors**

A. Offense. A person commits an offense pursuant to this section if he or she is at least 18 years of age, and violates 17 N.N.C. §391 by delivering marijuana to a person under 18 years of age.

B. Deliver or delivery means the actual or constructive transfer of possession of marijuana, with or without consideration, whether or not there is any agency relations.

C. Sentence. Any person found guilty of delivering marijuana to minors shall be sentenced to imprisonment for a term not to exceed 180 days and to pay a fine not to exceed \$500.

**§ 394. Possession or Sale of Controlled Substances**

A. Offense. A person commits an offense pursuant to this section if he or she possesses, manufactures, transports, sells, uses, trades or delivers:

1. Opium or coca leaves, or any compound, manufacture, salt, derivative, mixture or preparation thereof, unless specifically excepted;

2. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers:

- a. Lysergic acid diethylamide;
- b. Mescaline;
- c. Psilocybin;
- d. Psilocin;
- e. Hashish;
- ~~f. Tetrahydrocannabinol (T.H.C.)~~
- ~~g. Peyote.~~



3. Any material, compound, mixture or preparation which contains an amount equal to or more than 1.4% quantity of tetrahydrocannabinol (T.H.C.).

B. Defense. It is a defense to a prosecution under this section that the controlled substance or narcotic was obtained directly from or pursuant to a valid prescription or order issued by a practitioner acting in the course of his or her professional practice.

C. Peyote. It shall not be unlawful for any members of the Native American Church to transport, buy, sell, possess or use peyote in any form in connection with recognized religious practices, sacraments or services of the Native American Church.

D. Sentence. Any person found guilty of possession or sale of controlled substances shall be sentenced to imprisonment for a term not to exceed 180 days, or be ordered to pay a fine not to exceed \$500, or both.

E. Rehabilitation. At the discretion of the court, any person found guilty of violating this section, and found to be addicted to a narcotic, maybe ordered to receive rehabilitative treatment pursuant to 17 N.N.C. §220.

#### § 395. Forfeiture and Destruction of Controlled Substances

A. Upon the conviction of any person based upon violation of this subchapter, the court shall order the marijuana, controlled substance or narcotic forfeited to the Navajo Nation and destroyed or otherwise disposed of.

B. A record of the place where such controlled substance or narcotic was seized, the kinds and quantities of the substance or narcotic so destroyed, and the time, place and manner of destruction shall be kept, and a return under oath reporting such destruction shall be made to the court by the officer who destroys such controlled substance or narcotic.

Cornell Law School



U.S. Code › Title 7 › Chapter 88 › Subchapter VII › § 5940

## 7 U.S. Code § 5940 - Legitimacy of industrial hemp research

(a) **IN GENERAL** Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), chapter 81 of title 41, or any other Federal law, an institution of higher education (as defined in section 1001 of title 20) or a State department of agriculture may grow or cultivate industrial hemp if—

(1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and

(2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS** In this section:

(1) **AGRICULTURAL PILOT PROGRAM** The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

(A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and

(B) in a manner that—

(i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

(ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

(iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP**

The term "industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(3) **STATE DEPARTMENT OF AGRICULTURE**

The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

(Pub. L. 113–79, title VII, § 7606, Feb. 7, 2014, 128 Stat. 912; Pub. L. 114–95, title IX, § 9215(f), Dec. 10, 2015, 129 Stat. 2166.)

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H. R. 2642

# One Hundred Thirteenth Congress of the United States of America

AT THE SECOND SESSION

*Began and held at the City of Washington on Friday,  
the third day of January, two thousand and fourteen*

## An Act

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2018, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Act of 2014".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definition of Secretary of Agriculture.

#### TITLE I—COMMODITIES

##### Subtitle A—Repeals and Reforms

###### PART I—REPEALS

Sec. 1101. Repeal of direct payments.  
Sec. 1102. Repeal of counter-cyclical payments.  
Sec. 1103. Repeal of average crop revenue election program.

###### PART II—COMMODITY POLICY

Sec. 1111. Definitions.  
Sec. 1112. Base acres.  
Sec. 1113. Payment yields.  
Sec. 1114. Payment acres.  
Sec. 1115. Producer election.  
Sec. 1116. Price loss coverage.  
Sec. 1117. Agriculture risk coverage.  
Sec. 1118. Producer agreements.  
Sec. 1119. Transition assistance for producers of upland cotton.

###### Subtitle B—Marketing Loans

Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.  
Sec. 1202. Loan rates for nonrecourse marketing assistance loans.  
Sec. 1203. Term of loans.  
Sec. 1204. Repayment of loans.  
Sec. 1205. Loan deficiency payments.  
Sec. 1206. Payments in lieu of loan deficiency payments for grassed acreage.  
Sec. 1207. Special marketing loan provisions for upland cotton.  
Sec. 1208. Special competitive provisions for extra long staple cotton.  
Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.  
Sec. 1210. Adjustments of loans.

###### Subtitle C—Sugar

Sec. 1301. Sugar policy.

###### Subtitle D—Dairy

###### PART I—MARGIN PROTECTION PROGRAM FOR DAIRY PRODUCERS

Sec. 1401. Definitions.



# H. R. 2642—8

- Sec. 7602. Concessions and agreements with nonprofit organizations for National Arboretum.
- Sec. 7603. Agricultural and food law research: legal tools, and information.
- Sec. 7604. Cotton Disease Research Report.
- Sec. 7605. Miscellaneous technical corrections.
- Sec. 7606. Legitimacy of industrial hemp research.

## TITLE VIII—FORESTRY

### Subtitle A—Repeal of Certain Forestry Programs

- Sec. 8001. Forest land enhancement program.
- Sec. 8002. Watershed forestry assistance program.
- Sec. 8003. Expired cooperative national forest products marketing program.
- Sec. 8004. Hispanic-serving institution agricultural land national resources leadership program.
- Sec. 8005. Tribal watershed forestry assistance program.
- Sec. 8006. Separate Forest Service decisionmaking and appeals process.

### Subtitle B—Reauthorization of Cooperative Forestry Assistance Act of 1978 Programs

- Sec. 8101. State-wide assessment and strategies for forest resources.

### Subtitle C—Reauthorization of Other Forestry-Related Laws

- Sec. 8201. Rural revitalization technologies.
- Sec. 8202. Office of International Forestry.
- Sec. 8203. Healthy forests reserve program.
- Sec. 8204. Insect and disease infestation.
- Sec. 8205. Stewardship and result contracting projects.
- Sec. 8206. Good neighbor authority.

### Subtitle D—Miscellaneous Provisions

- Sec. 8301. Revision of strategic plan for forest inventory and analysis.
- Sec. 8302. Forest service participation in ACPN program.
- Sec. 8303. Extension of stewardship contracts: authority regarding use of designation by prescription to all thinning sales under National Forest Management Act of 1976.
- Sec. 8304. Reimbursement of fire funds.
- Sec. 8305. Forest Service large outlander and aerial asset firefighting recapitalization pilot program.
- Sec. 8306. Land conveyance, Jefferson National Forest in Wise County, Virginia.

## TITLE IX—ENERGY

- Sec. 9001. Definitions.
- Sec. 9002. Bio-based markets program.
- Sec. 9003. Bioefficiency assistance.
- Sec. 9004. Repowering assistance program.
- Sec. 9005. Bioenergy program for advanced biofuels.
- Sec. 9006. Biolevel fuel education program.
- Sec. 9007. Rural Energy for America Program.
- Sec. 9008. Biomass research and development.
- Sec. 9009. Feedstock Flexibility Program for Bioenergy Producers.
- Sec. 9010. Biomass Crop Assistance Program.
- Sec. 9011. Repeal of forest biomass for energy.
- Sec. 9012. Community wood energy program.
- Sec. 9013. Repeal of biofuels infrastructure study.
- Sec. 9014. Repeal of renewable fertilizer study.
- Sec. 9015. Energy efficiency report for USDA facilities.

## TITLE X—HORTICULTURE

- Sec. 10001. Specialty crops market news allocation.
- Sec. 10002. Repeal of grant program to improve movement of specialty crops.
- Sec. 10003. Farmers' market and local food promotion program.
- Sec. 10004. Organic agriculture.
- Sec. 10005. Investigations and enforcement of the Organic Foods Production Act of 1990.
- Sec. 10006. Food safety education initiatives.
- Sec. 10007. Consolidation of plant pest and disease management and disaster prevention programs.
- Sec. 10008. Importation of seed.
- Sec. 10009. Bulk shipments of apples to Canada.

- (1) an overview of the threat FOV Race 4 poses to the cotton industry in the United States;
- (2) the status and progress of Federal research initiatives to detect, contain, or eradicate FOV Race 4, including current FOV Race 4-specific research projects; and
- (3) a comprehensive strategy to combat FOV Race 4 that establishes—

- (A) detection and identification goals;
- (B) containment goals;
- (C) eradication goals; and
- (D) a plan to partner with the cotton industry in the United States to maximize resources, information sharing, and research responsiveness and effectiveness.

**SEC. 1605. MISCELLANEOUS TECHNICAL CORRECTIONS.**

Sections 7408 and 7409 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2013) are both amended by striking "Title III of the Department of Agriculture Reorganization Act of 1994" and inserting "Title III of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994".

**SEC. 1606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.**

(a) **IN GENERAL.**—Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.), chapter 81 of title 41, United States Code, or any other Federal law, an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a State department of agriculture may grow or cultivate industrial hemp if—

- (1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- (2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL PILOT PROGRAM.**—The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp—

- (A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and
- (B) in a manner that—

(i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

(ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

(iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) **INDUSTRIAL HEMP.**—The term "industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol

concentration of not more than 0.3 percent on a dry weight basis.

(3) STATE DEPARTMENT OF AGRICULTURE.—The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

## TITLE VIII—FORESTRY

### Subtitle A—Repeal of Certain Forestry Programs

#### SEC. 8001. FOREST LAND ENHANCEMENT PROGRAM.

(a) REPEAL.—Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is repealed.

(b) CONFORMING AMENDMENT.—Section 8002 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 16 U.S.C. 2103 note) is amended by striking subsection (a).

#### SEC. 8002. WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b) is repealed.

#### SEC. 8003. EXPIRED COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

Section 18 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2112) is repealed.

#### SEC. 8004. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.

Section 8402 of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 1649a) is repealed.

#### SEC. 8005. TRIBAL WATERSHED FORESTRY ASSISTANCE PROGRAM.

Section 303 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542) is repealed.

#### SEC. 8006. SEPARATE FOREST SERVICE DECISIONMAKING AND APPEALS PROCESS.

(a) REPEAL.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note; Public Law 102-381) is repealed.

(b) FOREST SERVICE PRE-DECISIONAL OBJECTION PROCESS.—Section 428 of division E of the Consolidated Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112-74) shall not apply to any project or activity implementing a land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) that is categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).



1 SEC. 7606. LEGITIMACY OF INDUSTRIAL HEMP RESEARCH.

2 (a) IN GENERAL.—Notwithstanding the Controlled  
3 Substances Act (21 U.S.C. 801 et seq.), the Safe and  
4 Drug-Free Schools and Communities Act (20 U.S.C. 7101  
5 et seq.), chapter 81 of title 41, United States Code, or  
6 any other Federal law, an institution of higher education  
7 (as defined in section 101 of the Higher Education Act  
8 of 1965 (20 U.S.C. 1001)) or a State department of agri-  
9 culture may grow or cultivate industrial hemp if—

10 (1) the industrial hemp is grown or cultivated  
11 for purposes of research conducted under an agricul-  
12 tural pilot program or other agricultural or academic  
13 research; and

14 (2) the growing or cultivating of industrial  
15 hemp is allowed under the laws of the State in which  
16 such institution of higher education or State depart-  
17 ment of agriculture is located and such research oc-  
18 curs.

19 (b) DEFINITIONS.—In this section:

20 (1) AGRICULTURAL PILOT PROGRAM.—The  
21 term “agricultural pilot program” means a pilot pro-  
22 gram to study the growth, cultivation, or marketing  
23 of industrial hemp—

24 (A) in States that permit the growth or  
25 cultivation of industrial hemp under the laws of  
26 the State; and

1 (B) in a manner that—

2 (i) ensures that only institutions of  
3 higher education and State departments of  
4 agriculture are used to grow or cultivate  
5 industrial hemp;

6 (ii) requires that sites used for grow-  
7 ing or cultivating industrial hemp in a  
8 State be certified by, and registered with,  
9 the State department of agriculture; and

10 (iii) authorizes State departments of  
11 agriculture to promulgate regulations to  
12 carry out the pilot program in the States  
13 in accordance with the purposes of this  
14 section.

15 (2) INDUSTRIAL HEMP.—The term “industrial  
16 hemp” means the plant *Cannabis sativa* L. and any  
17 part of such plant, whether growing or not, with a  
18 delta-9 tetrahydrocannabinol concentration of not  
19 more than 0.3 percent on a dry weight basis.

20 (3) STATE DEPARTMENT OF AGRICULTURE.—  
21 The term “State department of agriculture” means  
22 the agency, commission, or department of a State  
23 government responsible for agriculture within the  
24 State.

# NAVAJO NATION

RCS# 1307

2018 Fall Session

10/18/2018

06:13:27 PM

Amd# to Amd#

Legislation 0268-18: Enacting

PASSED

MOT Perry

the "Controlled Substance

SEC Brown

Definition Act of 2018";

Amending Title 17 Chapter 3...

Yea : 15

Nay : 2

Excused : 0

Not Voting : 6

Yea : 15

Begay, K  
BeGaye, N  
Bennett  
Brown

Chee  
Damon  
Daniels  
Filfred

Jack  
Perry  
Phelps  
Shepherd

Slim  
Smith  
Witherspoon

Nay : 2

Tsosie

Pete

Excused : 0

Not Voting : 6

Bates  
Begay, NM

Crotty  
Hale

Tso

Yazzie



THE NAVAJO TRIBE  
WINDOW ROCK, ARIZONA

EXHIBIT

C

Jan 23 Jan 82  
PI 3 Apr 92



RAYMOND NAKAI  
CHAIRMAN, Navajo Tribal Council  
NELSON DAMON  
VICE-CHAIRMAN, Navajo Tribal Council

31 October 1966

Q 13 - Certificate To Stephens 12-8  
Q 12 - Certificate To Stephens 2-6

Dr. W. P. Stephens  
Assistant Director  
Agricultural Experimental Station  
New Mexico State University  
Post Office Box 130  
Las Cruces, New Mexico

Dear Dr. Stephens:

Enclosed herewith is the executed lease for the experimental farm at Fruitland. It gives me a great pleasure to forward this lease to you as I know that the Navajo people can look forward to years of progress through the cooperation and assistance which will be rendered to them through the facilities of this experimental farm.

Very truly yours,

ACTING

*Nelson Damon*  
Chairman  
Navajo Tribal Council

Enclosure

LEASE NO. SR-66-40

L E A S E

THIS CONTRACT, is made and entered into this 31 day of October, 19 66, by and between THE NAVAJO TRIBE OF INDIANS, hereinafter called the Lessor, whose address is Window Rock, Arizona, and NEW MEXICO STATE UNIVERSITY, hereinafter called the Lessee, whose address is Las Cruces, New Mexico 88001, under the provisions of the Act of August 9, 1955, as implemented by Part 131-Leasing and Permitting, of the Code of Federal Regulations, Title 25-Indians, and any amendments thereto relative to certain leases on restricted lands which by this reference are made a part hereto.

1. AUTHORITY

This lease is entered into by the Navajo Tribe under the authority granted in Advisory Committee Resolution ACAU-180-66.

2. DEFINITIONS

A. "Secretary" means the Secretary of the Interior or his authorized representative, delegate, or successor.

B. "Chairman" means the Chairman of the Navajo Tribal Council or his authorized representative, delegate, or successor.

3. LAND DESCRIPTION

For and in consideration of the rents, covenants, and agreements hereinafter set out, the Lessor hereby leases to the Lessee the following described premises:

A. Farm Unit:

A parcel of land in Section 33, Township 29 North, Range 14 West, NMPM, San Juan County, New Mexico, situated within the exterior boundaries of the Navajo Indian Reservation, more particularly described as follows:

Beginning at a point whence the northeast corner of Section 33 bears South  $89^{\circ} 44'$  East, a distance of 239.2';

THENCE South  $00^{\circ} 16'$  West, a distance of 3,698.7';

THENCE North  $89^{\circ} 44'$  West, a distance of 3,028.9';

THENCE North  $00^{\circ} 16'$  East, a distance of 1,750.6';

THENCE North  $89^{\circ} 44'$  West, a distance of 491.3';

THENCE North  $00^{\circ} 16'$  East, a distance of 1,048.1';

THENCE South  $89^{\circ} 44'$  East, a distance of 1,230.0';

THENCE North  $00^{\circ} 16'$  East, a distance of 900.0';

THENCE South  $89^{\circ} 44'$  East, a distance of 2,290.2' to the point of beginning.

All of the above land being located in the Fruitland area, County of San Juan, State of New Mexico, and located within the exterior boundaries of the Navajo Reservation and containing an aggregate of 253.75 acres, more or less, and subject to any prior, valid, existing rights-of-way.

B. Water Pipe line Easement:

All that tract or parcel of land lying and situated in the E $\frac{1}{2}$  of Section 21 and 28, Township 29 North, Range 14 West, NMPM, San Juan County, New Mexico, and within the exterior boundary of the Navajo Indian Reservation, more particularly described as follows:

Being that tract of land 22.00' in width and included between two parallel lines everywhere 11.00' right and 11.00' left and measured at right angles to a center line whose previous course bears South  $12^{\circ} 44'$  East; and; Beginning at Engineer's Station 0+00, which is a point on center line of the Fruitland Canal whence the southeast corner of the said Section 21 bears



South  $13^{\circ} 27'$  East, a distance of 4,979.1';

THENCE South  $12^{\circ} 44'$  East, a distance of 1,589.9';

THENCE South  $03^{\circ} 24'$  West, a distance of 5,570.3';

THENCE South  $05^{\circ} 25'$  East, a distance of 3,024.2' to the point of ending at the north boundary of the Branch Agricultural Experiment Station, New Mexico State University at Engineer's Station 101+84.4 whence the southeast corner of said Section 28 bears South  $89^{\circ} 44'$  East, a distance of 826.2', containing 5.14 acres, more or less, and 1.923 miles in length.

#### 4. PURPOSE

This lease shall be for the purpose of the operation of a Branch Agricultural Experiment Station by the Lessee. In the event that Lessee should fail or refuse to operate said Branch Agricultural Experiment Station for a period of twelve (12) consecutive months during the term of this lease then, and in that event, this lease shall terminate at the end of the said twelve (12) month-period upon written notification of said termination being sent to Lessee by Lessor.

#### 5. TERM

The term of this lease shall be 65 years, beginning on the date this lease is approved by the Secretary. Lessee may make application for renewal or extension of its lease at any time.

#### 6. RENTAL

The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Treasurer of the Navajo Tribe, for the use and benefit of the Navajo Tribe of Indians, the following rental: The sum of ten dollars (\$10.00), receipt of which is hereby acknowledged.

It is agreed between the parties and the Secretary rental is nominal and that the purpose of this lease is the partial subsidization of the Branch Agricultural Experiment Station for the benefit of the Lessor. As a part of the consideration for this lease it is understood and agreed between the parties that, in the operation of the Branch Agricultural Experiment Station, Lessee will give consideration to requests for experimental work submitted by the Director of the Resources Division of the Navajo Tribe. It is further agreed between the parties that the research results from the Branch Agricultural Experiment Station will be of vital importance to the Navajo Tribe and the United States Government Agencies in preparing for the farming of the 110,000 acres to be opened to farming by the Navajo Irrigation Project.

7. IMPROVEMENTS

As a material part of the consideration for this lease, the Lessee covenants and agrees to establish within 36 months from the beginning date of the term of this lease, facilities on the land that are required in conducting certain agricultural experiments, subject to the availability of State appropriated funds. The Lessee further agrees to construct facilities similar to those on the Middle Rio Grande Branch Experiment Station, Los Lunas, New Mexico, and said facilities shall present a pleasing appearance to the area.

During the period of this lease, the Lessee shall retain ownership and shall have control over the disposition and operation of all facilities developed by the Lessee. All buildings and improvements, including removable personal property and trade fixtures, on the leased property, at the termination of this lease shall remain the property of the Lessee.

The Lessee shall have a period of sixty (60) days to remove all buildings, improvements and personal property, after which time it shall become the property of the Lessor.

8. CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATION

All improvements placed on the leased premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws. The Lessee shall, at all times during the term of this lease and at Lessee's sole cost and expense, maintain the premises and all improvements thereon in good order and repair and in a neat, sanitary, and attractive condition. Lessee shall construct, maintain and repair, as required by applicable law, all improvements on the leased premises, and any alterations, additions or appurtenances thereto, and shall otherwise comply with all public laws and ordinances and regulations applicable to said premises. Lessee shall indemnify and hold harmless the Lessor and the United States Government against liability for all claims arising from Lessee's failure to maintain said premises and the improvements thereon as hereinabove provided, or from Lessee's non-observance of any law, ordinance or regulations applicable thereto.

9. SUBLEASE, ASSIGNMENT, TRANSFER

The Lessee shall not sublease, assign or transfer this lease or any right to or interest therein without the written approval of the Lessor and the Secretary, and no such sublease, assignment, or transfer shall be valid or binding without said approval, and then only upon condition that the sublessee, assignee, or other successor in interest, shall agree in writing to be bound by each and all of the covenants and conditions of this lease.



Should the Lessee attempt to make any such sublease, assignment or transfer, except as aforesaid, such action shall be deemed a breach of this lease. Such approval of one sublease, assignment or transfer shall not validate a subsequent sublease, assignment or transfer, and of the restrictions of this article, shall apply to each successive sublease, assignment or transfer hereunder and shall be severally binding upon each and every sublessee, assignee, transferee, and other successor in interest of the Lessee.

The Lessor or Secretary shall not unreasonably withhold approval of any sublease, assignment or transfer, and shall each either approve or state his reasons for disapproval within thirty (30) days after the sublease, assignment or transfer is submitted for approval.

10. LESSOR'S PAYING CLAIMS

Lessor shall have the option to pay any lien or charge payable by Lessee under this lease, or settle any action therefor, if the Lessee after written notice from the Lessor or Secretary fails to pay or to post bond against enforcement. All costs and other expenses incurred by Lessor in so doing shall be paid to Lessor by Lessee on demand, with interest at the rate of eight (8) per cent per annum from the date of payment until repaid. Default in such repayment shall constitute a breach of the covenants of this lease.

11. SANITATION

Lessee hereby agrees to comply with all applicable sanitation codes, requirements, or laws which may be related to the purpose of this document as set forth in Article 4 hereinabove. Such compliance shall specifically include, but not be limited to: Requirements of the U. S. Public Health Service.

Lessee further agrees to at all times maintain the entire premises in

a safe, sanitary condition, presenting a good appearance both inside and out in all buildings operated on the leased premises.

12. PUBLIC LIABILITY INSURANCE

At all times during the time of this lease, Lessee shall carry public liability insurance in the amount of \$200,000 and \$500,000 personal injury, and \$25,000 for property damage. Lessee's master policy will be endorsed to protect the Lessor and Lessee jointly and a certificate of insurance shall be furnished the Lessor.

13. FIRE AND DAMAGE INSURANCE

Lessee shall, from the date of approval of this lease, carry fire insurance with extended coverage endorsements and vandalism. Lessee's master policies will be endorsed to cover this property and a certificate of insurance shall be furnished to the Lessor.

14. UNLAWFUL USES

Lessee agrees that it will not use or cause to be used any part of the leased premises for any unlawful conduct or purposes.

15. COMPLETION OF DEVELOPMENT

The Lessee shall develop the leased premises in accordance with the general plan outlined in Article 7.

16. EMINENT DOMAIN

If, at any time during the term of the lease, the leased premises or any part thereof is taken or condemned under the laws of EMINENT DOMAIN, then and in every such case, the leasehold estate and interest of the Lessee in said premises or part thereof taken shall forthwith cease and terminate. All compensation awarded by reason of the takings of the leased land and any taking of or injury to the buildings or improvements located thereon shall be awarded to the Lessee and the Lessor as their interest appear at the time of such taking.

17. ARBITRATION

Whenever during the term of this lease the Lessee, the Lessor and the Secretary are unable to reach an agreement as required by this lease, and it becomes necessary to submit a matter to arbitration for settlement, an Arbitration Board shall be established as follows: The Lessor shall appoint one member of the Board and the Lessee shall appoint one member of the Board, and the two arbitrators so selected shall appoint a third member. The decision of a majority of the members of the Arbitration Board so constituted shall be binding on the parties, subject to the approval of the Secretary and the



Board of Regents, New Mexico State University. It is understood and agreed that the Secretary and the Board of Regents, New Mexico State University may be expected to accept any reasonable decisions reached by said Arbitration Board, but he cannot be legally bound by any decision which might be in conflict with the interests of the Navajo Tribe, the United States Government or the State of New Mexico. The costs and expenses of the Arbitration Board shall be shared equally by and between the Lessor and the Lessee.

18. DEFAULT

Should Lessee breach any covenant of this lease, and if such breach shall continue uncured for a period of sixty (60) days after written notice thereof by Lessor or the Secretary to Lessee, during which 60 days period Lessee shall have the privilege of curing such breach, then Lessor and the Secretary may thereafter terminate this lease.

No waiver of a breach of any of the covenants of this lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

19. ATTORNEY'S FEES

If action be brought by either party in unlawful detainer for rent or any other sums of money due under this lease, or to enforce performance of any of the covenants and conditions of this lease, the losing party shall pay reasonable attorney's fees of the prevailing party, to be fixed by the Court as a part of the costs in any such action.

20. NO PARTNERSHIP; OPERATION OF BUSINESS

Regardless of the fact that terms of rental are in part on a nominal basis, Lessee and Lessor are not in partnership.

21. TERMINATION OF FEDERAL TRUST

Nothing contained in this lease shall operate to delay or prevent a termination of Federal Trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of this lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the Lessee and their surety or sureties shall be notified of any such change in the status of the land.

22. OBLIGATIONS OF LESSEE

While the leased premises are in trust or restricted status, all of Lessee's obligations under this lease, and the obligations of their sureties, are to the United States as well as to the Lessor.

23. STATUS OF SUBLEASES

Termination of this lease, by cancellation or otherwise, shall not serve to cancel approved subleases and/or subtenancies, but shall operate as an assignment to Lessor of any and all such subleases and/or subtenancies.

24. PAYMENT AND NOTICES

All notices, payments, and demands, shall be sent to the parties hereto at the addresses herein recited or to such addresses as the parties may hereafter designate in writing. Notices and demands shall be sent by registered mail. Service of any notice or demand shall be deemed complete ten (10) days after mailing or on the date actually received, whichever occurs first. Copies of all notices and demands shall be sent to the Secretary in care of the Area Director, Navajo Area Office, Window Rock, Arizona.

25. INSPECTION

The Secretary and the Lessor and their authorized representatives shall have the right, at any reasonable time during the term of this lease at the invitation of the Lessee, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

26. HOLDING OVER

Holding over by the Lessee after the termination of this lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in or to the leased premises. Lessee agrees to remove all property removable under the terms of this lease within sixty (60) days after termination of the lease.

27. DELIVERY OF PREMISES

At the termination of this lease, Lessee will peaceably and without legal process deliver up the possession of the leased premises, in good condition, usual wear and tear and acts of God excepted.

28. EMPLOYMENT OF NAVAJOS

Lessee shall give preference to qualified members of the Navajo Tribe for employment during the operation of his business on the leased premises and for the term of this lease, and in the construction of any facilities thereon, to the extent authorized by law.

29. FENCING OF PREMISES -- USE OF WATER

Lessee shall have the right to fence all or any portion of the demised premises if the same shall be necessary or desirable to the proper and efficient conduct and operation of Lessee's business.

Upon approval of the Lessor, the Lessee may drill for water on the leased premises.



Lessee shall be entitled to receive a pro rata share of the water to be delivered in the Navajo Irrigation Project prorated on the number of acres to be used in farming for each year of the lease. Assessments shall be charged for all water delivered. Due to the value of the research work on the Branch Agricultural Experiment Station to the Lessor, favorable treatment will be given when possible to supplying water to the Lessee. Lessee shall be granted permission to use four hundred (400) acre-feet of water annually from the Fruitland Canal at the rate of one (1) cubic foot per second until adequate Navajo Irrigation Project water is available.

In order to facilitate use of the water from the Fruitland Canal, Lessee is hereby granted the right to install a pipe with a minimum diameter of 12 inches with a gated turnout through the bank of the Fruitland Canal for diverting water. Said pipe and pump structures are to be installed at a location to be agreed upon by the Lessor and Lessee.

### 30. MINERALS

All minerals contained in the tract leased, in whatever, concentration are hereby reserved for the use of the Lessor together with the right of the Lessor or its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove same, paying just compensation for any damage or injury caused thereby. Just compensation for any damage or injury caused shall be construed and defined to include, but not limited to, the total accrued cost of the research in progress. In case of disagreement as to the just compensation of any item or items, the just compensation shall be determined by a Board of Arbitration to be selected as hereinabove described.

31. LEASE BINDING

This lease and the covenants, conditions, and restrictions hereto shall extend to and be binding upon the successors, heirs, assigns, executors, and administrators of the parties hereto.

32. INTEREST OF MEMBER OF CONGRESS

No member of, or delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

33. LIENS, TAXES ASSESSMENTS, UTILITY CHARGES

Lessee shall not permit to be enforced against the leased premises or any part thereof any liens arising from any work performed, materials furnished, or obligations incurred by Lessee, but Lessee shall discharge all such liens before any action is brought to enforce same; further, Lessee shall pay when and as the same become due and payable, all taxes, assessments, licenses, fees, and other like charges levied during the term of this lease upon or against the leased land and all interest therein and property thereon, for which the Lessee may become liable. Upon written application the Lessee shall furnish to the Secretary written evidence duly certified, that any and all taxes required to be paid by Lessee have been paid, satisfied, or otherwise discharged. Lessee shall have the right to contest any claim, assessed tax, or assessment against the property, by posting bond to prevent enforcement of any lien resulting therefrom, and Lessee agrees to protect and hold harmless the Lessor, the Secretary, and the leased premises and all interest

therein and improvements thereon from any and all claims, taxes, assessments, and like charges from any lien therefor, or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Lessor shall execute and file any appropriate documents with reference to real estate tax exemption of the land when requested by Lessee. In addition to the rents, taxes, and other charges herein described, Lessee shall pay all charges for water, sewage, gas, electricity, telephone, and other utility services supplied to said premises.

34. VALIDITY

This lease, and any modification of or amendment to this lease, shall not be valid or binding upon either party hereto until approved by the Secretary and the Board of Regents, New Mexico State University

IN WITNESS WHEREOF, the parties hereto have set their hands.

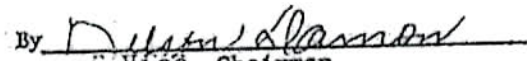
NEW MEXICO STATE UNIVERSITY

Lessee

  
President

THE NAVAJO TRIBE OF INDIANS,

Lessor

By   
Vice Chairman  
Navajo Tribal Council



State of New Mexico )  
County of Bona Vista ) ss:

On this 24 day of October 1966, before me, the undersigned officer, personally appeared R.B. Enbitt, known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing instrument.

In witness whereof I hereunto set my hand and official seal.

My Commission expires:

January 23, 1969

Florence J. Martin  
Notary Public

State of Arizona )  
County of Apache ) ss:

On this 31 day of October 1966, before me the undersigned officer, personally appeared Raymond Nakai, Nelson Damon, Vice Chairman of the Navajo Tribal Council, known to me to be the person whose name is subscribed to the foregoing instrument.

In witness whereof I have hereunto set my hand and seal.

My Commission expires:

March 14, 1969

Florence J. Martin  
Notary Public

APPROVED under Authority  
of Bureau Order 551,  
Amendment 88, Section 12:

ACTED

R.B. Kilgore  
Area Director  
Navajo Area

OCT-31-1966

Date



BDAP-14-19

RESOLUTION OF THE  
NAVAJO AGRICULTURAL PRODUCTS INDUSTRY  
BOARD OF DIRECTORS

Respectfully Requesting that the Resources and Development Committee of the Navajo Nation Council Prepare and Approve a Resolution to Authorize the Navajo Agricultural Products Industry to Enter into an Agreement with New Mexico State University to Conduct Research and Development at the New Mexico State University – Agricultural Science Center – Farmington Under the Hemp Pilot Project Research Provisions of the 2014 Farm Bill and Enter into Any Other Agreements Necessary to Proceed with the Pilot Project.

**WHEREAS:**

1. The Navajo Agricultural Products Industry ("NAPI") is an enterprise of the Navajo Nation charged with operating and managing a commercial farm on lands held in trust for the Navajo Nation under legislation authorizing the Navajo Indian Irrigation Project; and
2. NAPI's enabling legislation provides that NAPI's purposes include the promotion of the use of agricultural and related resources and of agribusiness development and the multiplier effect, 5 N.N.C. § 1603(A),(C) (2005); and
3. Pursuant to the Plan of Operation, the NAPI Board of Directors is delegated authority and responsibility for the management, direction and operation of NAPI; to direct officers of NAPI in the execution of their duties; and to perform such acts as are necessary, proper and lawful to accomplish the purposes of NAPI; and
4. Hemp is a derivative of the Cannabis plant with a lower amount of tetrahydrocannabinol ("THC") and higher concentration of cannabidiol ("CBD"); and
5. The hemp plant and products produced from it have many applications in industrial settings, fiber, seeds, food, oil, fuel, among many others; and
6. The cultivation and production of hemp was made illegal under the Controlled Substances Act of 1970 ("CSA"), 21 U.S.C. 801, et seq., as it was included in the definition of "marijuana"; and
7. The Agriculture Act of 2014, 7 U.S.C. § 5940, most commonly known as the "2014 Farm Bill," partially lifted the CSA prohibition on hemp production by authorizing pilot programs for hemp research by higher educational institutions, or state department of agriculture; and
8. On December 20, 2018, the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, commonly known as the "2018 Farm Bill", became law; and
9. The 2018 Farm Bill removed hemp – defined as the plant Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% – from the CSA, and amended the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 et. seq, to legalize the cultivation of hemp and allow for Indian tribes to assume primary regulatory authority over the production of hemp in the territory of the Indian tribe through the submission of a Tribal Plan to the Secretary of Agriculture; and



10. The 2018 Farm Bill also extended the hemp research provisions under the 2014 Farm Bill, Agricultural Improvement Act of 2018, Pub. L. No. 115-334, at Section 7605 for one (1) year from the date on which the Secretary establishes a plan; and

11. The Navajo Tribe established a long term lease agreement with New Mexico State University ("NMSU") for the Agricultural Science Center, whereby such agreement was signed by President, R. B. Corbett, on October 24, 1966 and by Acting Area Director, R.E. Kilgore, on October 31, 1966; and

12. The NMSU Agricultural Science Center provides technical assistance at the request of NAPI and other San Juan County farmers, and such technical information is used on NAPI and San Juan County farmlands; and

13. In light of the changes in federal and New Mexico laws regarding hemp, the NAPI Board of Directors directed NAPI Management to exercise due diligence and work with NMSU to develop a proposal to conduct research and development on 200 square feet of land under the hemp research provisions of the 2014 Farm Bill at the Agricultural Science Center; and

14. NMSU Agricultural Science Center developed a proposal, attached hereto as Exhibit "A", with NAPI to conduct research and development under the hemp research provisions of the 2014 Farm Bill; and

15. Notably, New Mexico State Representative Ray Begaye, provided guidance and support at the state level in 2012 by serving on the Industrial Hemp Task Force referenced in the proposal regarding the potential utility and economic practicality of legalizing the use of industrial hemp in New Mexico and the consequences of doing so; and

16. NMSU Agricultural Science Center developed a faculty position title, Assistant Professor, Alternative Crop and Industrial Hemp, attached hereto as Exhibit "B" to serve small to medium scale Navajo and non-Navajo irrigated agricultural producers located on the San Juan, Animas and La Plata Rivers; and

17. Given the importance of this issue to the Navajo Nation, the Navajo Nation Office of the President and Vice President and Office of the Speaker of the Navajo Nation Council developed letters of support, attached hereto as Exhibits "C" and "D", respectively, for NMSU and NAPI to conduct research and development in an effort to assist the Navajo Nation in developing a regulatory system for industrial hemp; and

18. NAPI Management has engaged in discussions with attorneys from the Navajo Nation Office of the President and Vice President, Office of the Speaker, Department of Attorney General, Department of Justice and Department of Agriculture to determine the how best to proceed with this project and the consensus is to request that the Navajo Nation Council authorize NAPI by resolution to enter into an agreement with NMSU to conduct research and development at the NMSU Agricultural Science Center under the hemp pilot project research provisions of the 2014 Farm Bill and enter into any other agreements necessary to proceed with the pilot project; and



19. The NAPI Board of Directors finds that it is in the best interest of NAPI to respectfully request that the Resources and Development Committee of the Navajo Nation Council prepare and approve a resolution to authorize NAPI to enter into an agreement with NMSU to conduct research and development at the NMSU – Agricultural Science Center – Farmington under the hemp pilot project research provisions of the 2014 Farm Bill and enter into any other agreements necessary to proceed with the pilot project.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The NAPI Board of Directors hereby respectfully requests that the Resources and Development Committee of the Navajo Nation Council prepare and approve a resolution to authorize NAPI to enter into an agreement with NMSU to conduct research and development at the NMSU – Agricultural Science Center – Farmington under the hemp pilot project research provisions of the 2014 Farm Bill and enter into any other agreements necessary to proceed with the pilot project.

2. The NAPI Board of Directors hereby directs NAPI Management to deliver this resolution with letters of support from the Navajo Nation Office of the President and Vice President and the Office of the Speaker of the Navajo Nation Council attached to the resolution to the Resources and Development Committee of the Navajo Nation Council.

3. The NAPI Board of Directors hereby authorizes the Chief Executive Officer to take any and all actions necessary to carry out the purpose and intent of this Resolution.

**CERTIFICATION**

I hereby certify that the foregoing resolution was considered by the Navajo Agricultural Products Industry Board of Directors at its special meeting at which a quorum was present at the NAPI Headquarters located near Farmington, New Mexico, and that the same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained, this 20th day of April, 2019.

Motion: Lawrence R. Platero

Second: Lorenzo J. Begay, PhD



Peter Deswood III., Chairperson  
NAPI Board of Directors

## Proposed Projects for 2019

Like any beginning research and development project, we expect to start with a small cultivar trial to assess hemp performance under NAPI growing conditions.

### Hemp cultivar establishment trial

**Objectives:** Determine adaptability of hemp genetics under NAPI growing conditions

Since hemp cultivation is just now being commercialized in New Mexico, there is a lack of data as to which varieties are best adapted for drought tolerance, heat tolerance, and pathogen resistance/tolerance. This proposal addresses by testing four varieties/lines for these factors.

**Methods:**

Four hemp varieties will be selected for testing based on New Mexico Hemp Association preferences, plant availability, and adaptation for growing in New Mexico. Permits for annual hemp cultivation will be obtained from the New Mexico Department of Agriculture for Kevin Lombard for hemp cultivation in Farmington. Hemp transplants will be used, since the growing season will have already begun by the beginning of the project.

Kevin Lombard will manage all aspects of hemp cultivation in Farmington. He will coordinate the harvest of the hemp varieties. He will work with NMDA for sampling for THC testing. He will transport the samples from Farmington to Las Cruces.

Rio Grande Analytics, a New Mexico Department of Health-approved medical cannabis testing laboratory in Las Cruces, has agreed to test subsamples from each variety from both locations for the NMDA-mandated THC analysis. The company has also agreed to provide information on the dry weight, CBD content, and terpenes. Terpene composition varies among hemp strain, and that information might be useful in associating with other qualities such as pathogen or pest resistance.

### Hemp as a barrier crop to reduce disease pressure on chili pepper

**Objectives:** The overall objective is to assess the use of hemp as a barrier crop for chile for management of beet leafhoppers and curly top disease.

The specific objectives are to:

1. Assess hemp varieties for growth and compatibility with chile
2. Assess hemp for susceptibility/resistance to common pathogens/pests associated with chile
3. Assess hemp barrier for ability to decrease leafhopper populations in chile
4. Assess hemp varieties for CBD levels
5. Assess hemp residue for aftermarket use

Chili pepper is a significant cash crop. Northwest NM growers including the Navajo Agricultural Products Industry are trialing chili both under center pivot irrigation and drip irrigation under several acres of hoop houses. Chile in New Mexico is infected with beet curly top geminivirus (BCTV) every year, although the severity of disease differs from year to year and location to location. The disease is transmitted by the beet leafhopper *Circulifer tenellus*. Sustainability of New Mexico chile cultivation relies on a number of factors. Cultural management of the chile



pathogens and pests often includes the use of crop rotation, and sometimes cover crops and trap crops. A similar cultural management tool is barrier cropping. All of these changes in cropping require careful selection of a crop that is compatible with chili and does not introduce pathogens to the chili or harbor the same pathogens as chili. Those crops should at least not cost the grower much to implement or optimally would provide income.

This proposal addresses the use of hemp as that alternative/barrier crop interplanted with chili. Hemp was chosen for several reasons. The leaves contain many trichomes and the flower buds are resinous. Hemp plants grow relatively quickly and will be substantially taller than chili. All of these qualities suggest that leafhoppers would be more likely to encounter hemp than chili and the leafhoppers that land on hemp leaves would not likely leave the plants nor likely attempt to transfer virus to the plants. Beet leafhoppers are known to be less attracted to tomato plants with lots of trichomes and "sticky" leaves. Hemp plants are also generally a deep green that will likely be attractive to insects. If dual cropping chili with hemp is deemed feasible as a means to reduce disease pressure of chili while diversifying farm income, emerging chili growers in northwest New Mexico, including the Navajo Nation are expected to benefit from the results.

#### ***Methods:***

The same four varieties of hemp in the cultivar establishment trial will be planted from transplants soon after chili planting, in a block design utilizing the ends of rows and the margin rows, with three replications of each variety. Hemp will be planted by the farm crews at the respective stations, with Kevin Lombard managing all aspects of cultivation in Farmington.

Rebecca Creamer will determine leafhopper populations using yellow sticky traps placed within the chili, and within each hemp variety, and within chili grown elsewhere on the farm (Leyendecker) or a distant plot (Farmington). Sticky traps will be changed every two weeks and assessed for beet leafhopper presence and numbers. She will also assess chili for curly top and alfalfa mosaic in both locations early, middle, and late season. She will also collect hemp leaves that show symptoms of virus and those that do not to assess for viruses using ELISA (mosaic viruses) and curly top (PCR). Rebecca will also work with the NMDA for sampling hemp for THC testing. She will transport the samples from Leyendecker to the testing laboratory.

Rio Grande Analytics, a New Mexico Department of Health-approved medical cannabis testing laboratory in Las Cruces, has agreed to test subsamples from each variety from both locations for the NMDA-mandated THC analysis. The company has also agreed to provide information on the dry weight, CBD content, and terpenes. Terpene composition varies among hemp strain, and that information might be useful in associating with other qualities such as pathogen or pest resistance.

Other possible projects for 2019/2020: Phytoremediation of uranium contaminated soil using hemp

Hemp has been proposed as a phytoremediation plant for soils contaminated with toxic metals, including uranium. Hemp will be planted into large plastic nursery containers filled with contaminated soil and irrigated with drip irrigation. At harvest, hemp would be assessed for metal uptake, if any. If deemed feasible, hemp could be a viable plant for the phytoremediation of abandoned mine sites.



### Location of Hemp Trial:

The proposed ASC-Farmington experimental hemp research area is located at an elevation of 1720 m (lat. 36°40'53.49 N; long: 108°18'42.45 W). Soil is classified as a Doak sandy loam (fine-loamy, mixed, mesic Typic Haplargid), having a pH above 8 and containing less than 1% organic matter (Keetch, 1980). Navajo Lake (63.1 km<sup>2</sup> and fed by the upper San Juan River) provides irrigation water to the greater than 80,000 acre Navajo Agricultural Products Industry farm, a Navajo Nation commercial farm entity located on a mesa top south of Farmington, NM. Regional climate is high desert, semiarid (due to nearby mountainous rain shadow effect) with a mean annual precipitation of 8.16 inches (207 mm) (Smeal, 2006).



Figure 1. Location of test site. The NMSU-ASC Farmington is located on land leased from the sovereign Navajo Nation and is surrounded by the Navajo Agricultural Products Industry Farm. Test site will be approximately 5,000 ft<sup>2</sup> at 36°40'53.49 N; 108°18'42.45 W.

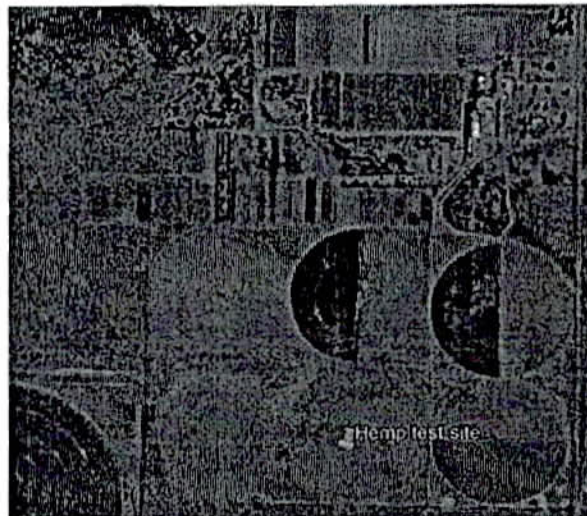


Figure 2. Zoomed in view of test site located at the NMSU-ASC Farmington. Test site will be approximately 5,000 ft<sup>2</sup> at 36°40'53.49 N; 108°18'42.45 W

## Security Protocol

While hemp under 0.3% should pose no risk for illicit use, a review of security protocols will assist the ASC Farmington to minimize risk which will include:

- Existing use of security cameras on main road and around buildings.
- Requirement that the south gate (for large equipment) be locked at all times.
- Vehicular traffic (other than large tractors) will be required exclusively at the north gate.
- All non NMSU employees will be required to stop at front office and sign time in and time out. A stop sign will be placed at the front office.

**Stakeholders:** The Navajo Agricultural Products Industry (NAPI) are requesting technical assistance and knowledge gain on hemp cultivation. Navajo and non-Navajo independent small/medium scale agricultural operations located in the Four Corners Region are expected to gain from the research.

## Team:

### NMSU:

- Kevin A. Lombard (NMSU-ASC Farmington lead)
- Franklin Jason Thomas (Research Technician)
- Rebecca Craemer (NMSU Entomology Plant Pathology and Weed Sciences, Las Cruces, NM)

### NAPI:

- Vincent Cowboy
- Renae Pablo
- Dineh John

## Estimated Budget:

Farmington Agricultural Science Center (Lombard)	
Personnel (Funding only allowed for temporary non-faculty personnel (ie graduate assistants, post-docs, techs))	
A. <u>Temporary technician with field preparation and cultivation.</u>	\$5,000
Non-Regular Employee Fringe Rate of 20.33%	\$1,017
Total temporary employee costs	\$6,017
<b>Total Personnel Costs</b>	<b>\$6,017</b>
C. <u>Vehicle: maintenance, gas, etc - tractor</u>	\$1,000
D. <u>Travel:</u>	\$0
E. <u>Permits: NMDA permit for annual hemp cultivation in Farmington</u>	\$800
F. <u>Supplies: transplants 200 plants \$8/plant</u>	\$1,600
G. <u>Software &amp; Data: (Name and purpose)</u>	\$0
H. <u>Printing and shipping (short statement of purpose)</u>	\$0
<b>Total Budget for Farmington</b>	<b>\$9,417</b>

## Genetics/Seed Sources:

- Boulder Botanicals
- Summit Plant Labs
- Others sourced from NM

## EXHIBIT A

Harvest Plan and Laboratory Services: Rio Grande Analytics, a New Mexico Department of Health-approved medical cannabis testing laboratory in Las Cruces will be used post harvest. If THC tests above 0.3%, the crop must be destroyed by plowing into the field.



**Title:** Assistant Professor, Alternative Crops and Industrial Hemp

**Appointment:** 12-month, tenure track (Appointment 70% Research; 30% Extension)

**Salary:** Commensurate with Education and Experience

**Locale:** Agricultural Science Center at Farmington, New Mexico, USA

**Problem and Need:** New Mexicans recognize that agriculture underpins the state's economy and we must continually investigate crops/products that diversify farming practices and provide alternative income streams for agricultural producers and processors. Approval of the New Mexico Department of Agriculture Rule followed by the 2018 Farm Bill provides opportunity for permitted production of industrial hemp in New Mexico. Potential NM hemp producers, including the sovereign Pueblos, Apache Tribes, and the Navajo Nation, are seeking technical assistance on best management practices for hemp production targeting a variety of markets. Science-based research originating from the NMSU AES system at the request of its stakeholders has historically had broad reaching socio-economic impacts state-wide including establishment of a world-renowned chili pepper, onion, and pecan industries. The need for research and outreach for new and emerging alternative crops in Northwest NM is no exception. Although industrial hemp grows well across several regions, New Mexico's semi-arid climate, broad range of elevations and agricultural growing zones and generally speaking alkaline soils offer many challenges that have not been addressed previously. The successful cultivation of hemp requires very site specific cultural practices. Therefore, research and extension activities are needed to develop best management practices at different locations in New Mexico. In Northwest New Mexico, there is additional need for research and outreach in high value row cropping systems for both large-scale and small-scale agricultural producers to include vegetables that could aid producers to diversify their farm landscapes and penetrate new markets, especially on the heels of the local/regional food movement and the development of food aggregation hubs.

**Essential Duties and Responsibilities:** The successful candidate will provide applied research and extension expertise in building a research and development program in new and emerging crops to include industrial hemp. She/he will have faculty appointments with the Plant and Environmental Sciences Department (70%) and Extension Plant Sciences (30%) and have opportunities to collaborate with state-wide researchers and producers. She/ he will be expected to develop and maintain collaborative relationships within the College of Agricultural, Consumer and Environmental Sciences and University as a whole with, for instance, researchers in crop science, plant breeding, plant pathology, soil science, economics and marketing, and chemical and industrial engineering. Examples of relevant research themes include optimizing industrial hemp cultivation for differing markets, differing soil fertility and soil health management, exploring water thrifty hemp genetics, hemp and phytoremediation of abandoned uranium mines, integrated crop-livestock systems, dual cropping with vegetable row crops for insect trapping, and cropping systems and practices that enhance sustainability and/or manage risks due to climate change and extreme weather events. Research will explore innovative practices related to hemp agronomics as well as new crops, with environmental, social, and economic sustainability as important measures of success.



The successful candidate should qualify for graduate faculty status and will be expected to mentor graduate students. Additionally, the successful candidate will be expected to secure extramural funding for research and to publish research results in peer-reviewed scientific literature. The successful candidate will be expected to interpret and disseminate current and relevant research findings for practical use by producers and other interested parties through mass media, Extension publications, producer meetings, and other venues. While the position is based in Farmington, NM, the candidate will be expected to travel state-wide, primarily for extension related activities.

**About New Mexico State University Agricultural Experiment Station and College of Agricultural, Consumer, and Environmental Sciences:** New Mexico State University is the state's land-grant university, serving the educational needs of New Mexico's diverse population through comprehensive programs of education, research, extension, and public service. The Agricultural Science Center (ASC) at Farmington is one of 12 off-campus sites of the New Mexico Agricultural Experiment Station (AES) System supporting fundamental and applied science and technology research to benefit New Mexico's citizens in the economic, social, and cultural aspects of agriculture, natural resource management, and family issues.

The ASC Farmington is unique in that it resides on sovereign First Nations Land, the Navajo Nation located six miles south of Farmington, New Mexico in the intermountain western area known as the Four Corners Region. Located at 1,700 m elevation, the region is semi-arid, receiving about 200 mm of precipitation annually. As such, the ASC Farmington farm is comprised of 100 ha of irrigated land and native vegetation using a mixture of solid-set, center pivot, and drip irrigation. The ASC Farmington is surrounded by the Navajo Agricultural Products Industry, one of the largest continuous center-pivot irrigated farms in the U.S. and an economic generator for the Navajo Nation and San Juan County. The ASC-Farmington also serves small to medium scale Navajo and non-Navajo irrigated agricultural produces located on the San Juan, Animas, and LaPlata Rivers who's main crops currently consist of forage crops but with a growing interest in high value alternatives. As such, its mission is to conduct research, demonstration, and educational programs that will best meet the needs of the agricultural community of San Juan County and the Navajo Nation in particular, as well as the state of New Mexico, the Four Corners Region, and the U.S. in general. The ASC Farmington consists of two faculty and several staff with core competencies in horticulture, soil quality monitoring, irrigation management, and cropping systems. Research and outreach are related to regional agricultural production, particularly toward reduced irrigation, water conservation, high value specialty crops, integrated cropping systems, environmental stewardship, and the intersections of public health and agriculture. Undergraduate and graduate students are integral to the research process. With collaborators, ASC Farmington faculty conduct integrated research in support of the four pillars supporting the College of Agricultural, Consumer and Environmental Sciences: 1) Food and fiber production and marketing, 2) Water use and Conservation, 3) Health of New Mexicans, and 4) Environmental stewardship.

**About Farmington, NM:** Farmington, New Mexico is at the gateway of the San Juan and LaPlata Mountains. It is nearby to a variety of outdoor recreational opportunities and offers

## EXHIBIT B

amenities found in most U.S. cities. The region is culturally diverse and adjacent to the Navajo Nation. Several important historical sites including the UNESCO World Heritage designated Aztec National Monument and Chaco Culture National Historic Park are easily accessible. It is nearby to the tourist destination of Durango, CO, which also has a full-service airport. Albuquerque, the largest city in New Mexico, is three hours' drive. Las Cruces, NM, home of the NMSU main campus, is about a 6-hour drive.

**Qualifications and Experience:** Research and outreach experience in industrial hemp desired in addition to production and marketing of alternative crops, particularly horticultural row crops and other alternative/emerging crops within sustainable production systems, working with a diversity of both small-scale and large-scale producers. Ph.D. in Horticulture, Agronomy or related discipline is required by the date of appointment. Evidence of potential to generate quality research publications and procurement of extramural funds to conduct research. Ability to conduct research and supervise assigned support staff or graduate students. Communicate and interact effectively with producers, colleagues, and clientele groups. Because of the unique location of the ASC Farmington, cultural sensitivity is a must; Native American applicants are particularly encouraged to apply.

**Benefits:** Social Security, Unemployment and Worker's Compensation, New Mexico Educational Retirement or alternative retirement, Annual and Sick Leave, Group Medical, Dental, and Vision Insurance, and Life Insurance.

**Conditions:** All offers of employment, oral and written, are contingent on the university's verification of credentials, individual's eligibility for employment in the United States, and other information required by federal law, state law, and NMSU policies/procedures, and may include the completion of a criminal history check.

**Application Deadline:** Submit application electronically, including cover letter, detailed curriculum vitae, unofficial transcripts, names and contact information of at least three references, and a statement regarding research goals and philosophy. Screening of applications will begin on (??/??/??) and will continue until the position is filled. Applications lacking required components may not be reviewed.

For more information, contact:

**Dr. Steven J. Loring, Search Committee Chair**  
Agricultural Experiment Station System  
New Mexico State University  
PO Box 30003, MSC 3BF  
Las Cruces, NM 88003  
575-646-3125  
sloring@nmsu.edu

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# THE NAVAJO NATION

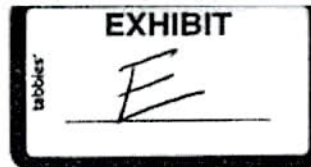


EXHIBIT C



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

May 3, 2019

Dave Zeller, Chief Executive Officer  
Navajo Agricultural Products Industry  
P.O. Drawer 1318  
Farmington, NM 87499

Re: Hemp Cultivation Research and Development Pilot Project

Dear Mr. Zeller:

Navajo People want change. In our travels across the Navajo Nation we heard that message of change from the People and the Nez-Lizer Administration is working to create that change. A change in the Navajo economy is here with the effects on our natural resources. As a nation we need to look at other opportunities to support our economy and we must ensure that those opportunities will benefit the Navajo Nation. Working together with Navajo enterprises helps our economy, provides jobs to Navajo People, and will make the Navajo Nation an economic leader.

In November 2018 the Navajo Nation President signed into law the amendment to the Navajo Nation Criminal Code that revised the definition of marijuana and created a path for future hemp production on the Navajo Nation. As we know, hemp production is rapidly expanding in the United States and the Navajo Nation should be looking to its benefits as an added crop for our farmers. The Navajo Nation took the first step in changing the criminal laws and previously recommended a regulatory system for industrial hemp.

I support the Navajo Agricultural Products Industry's due diligence on research and development for the viability of growing hemp through the partnership with New Mexico State University. I understand that Navajo Agricultural Products Industry has a long relationship with New Mexico State University and the Agricultural Science Center. The Navajo Agricultural Products Industry, as the Navajo Nation's farming enterprise, is in the position to be the lead in determining the viability of growing hemp on the Navajo Nation and I look forward to the findings of the partnership. On a parallel track the Navajo Nation will work to create the regulatory system and coordinate that effort with the research and development track. The Division of Natural Resources Executive Director will be the lead for the Navajo Nation during the development of this strategy.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jonathan Nez".

Jonathan Nez, President  
THE NAVAJO NATION



## 24<sup>TH</sup> NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

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HONORABLE SETH DAMON

*Speaker, 24<sup>th</sup> Navajo Nation Council*

May 13, 2019

Navajo Agricultural Products Industry  
Attn: Dave Zeller, Chief Executive Officer  
P.O. Drawer 1318  
Farmington, NM 87499

**Re: Hemp Cultivation Research and Development Pilot Project**

Dear Mr. Zeller:

The Navajo Agricultural Products Industry ("NAPI"), as a wholly owned enterprise of the Navajo Nation is vested with the authority "to operate a profitable commercial farm in accordance with its plan of operation and applicable laws and regulations, separate and distinct from the Navajo Indian Irrigation Project." 5 N.N.C. § 1602. As the farming enterprise of the Navajo Nation, it is NAPI's responsibility to promote viable agri-business development projects and related businesses and industries within the Navajo Nation and to support the vertical and horizontal integration within the Navajo Nation.

The Navajo Nation established a long term lease agreement with New Mexico State University ("NMSU") for the Agricultural Science Center, whereby such agreement was signed by President, R. B. Corbett, on October 24, 1966 and by Acting Area Director, R.E. Kilgore, on October 31, 1966. The NMSU Agricultural Science Center provides technical assistance at the request of NAPI, and such technical information is used on NAPI farmland. We understand that NMSU wishes to develop a pilot project to conduct research and development under the hemp research provisions of the Agriculture Act of 2014, 7 U.S.C. § 5940, most commonly known as the "2014 Farm Bill," at NMSU Agricultural Science Center.

The 2014 Farm Bill, partially lifted the CSA prohibition on hemp production by authorizing pilot programs for hemp research by higher educational institutions, or state department of agriculture. On December 20, 2018 the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, commonly known, as the "2018 Farm Bill" became law.

The 2018 Farm Bill removed hemp – defined as the plant *Cannabis sativa* L. with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% – from the CSA, and amended the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 et. seq, to legalize the cultivation of hemp and allow for Indian tribes to assume primary regulatory authority over the production of hemp

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in the territory of the Indian tribe through the submission of a Tribal Plan to the Secretary of Agriculture. The 2018 Farm Bill also extended the hemp research provisions under the 2014 Farm Bill, Agricultural Improvement Act of 2018, Pub. L. No. 115-334, at Section 7605 for one (1) year from the date on which the Secretary establishes a plan.

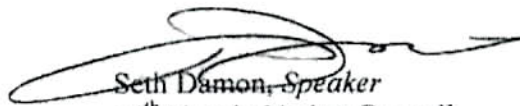
Pursuant to Navajo Nation Resolution Nos. CJY-54-00 (July 24, 2000) and CO-75-18 (Oct. 26, 2018), the "cultivation, growth, possession, development or propagation of industrial hemp" is not authorized "until the Navajo Nation creates a regulatory system for industrial hemp and obtains the necessary and applicable permits for industrial hemp."

In order to develop the components necessary to have a viable industrial hemp industry on the Navajo Nation including an effective regulatory system, the Office of the Speaker of the Navajo Nation Council requests that NMSU and NAPI begin by determining the viability of growing hemp on the Navajo Reservation. This is best accomplished through a working agreement with the New Mexico Department of Agriculture and the Navajo Nation Department of Agriculture to develop a pilot project to conduct research and development under the hemp research provisions of the 2014 Farm Bill at the NMSU Agricultural Science Center. The NAPI proposed project and accompanying working agreement with NMSU and the state of New Mexico will be attached to a Council resolution which will create a narrow, exclusive exception to the prohibition on hemp cultivation and production pending adoption of a regulatory structure, such exemption applicable only to this research project.

It is my understanding that the Navajo Nation Department of Agriculture would be provided with the necessary training and assistance to then develop hemp regulations for the Navajo Nation under this proposed arrangement.

Exercising the necessary due diligence to assess the viability of growing hemp on the Navajo Reservation through this research and development project with NMSU is the first step to determining whether this is the direction that the Navajo Nation should take for the benefit of the Navajo Nation and Navajo membership. Thank you.

Sincerely,



Seth Damon, *Speaker*  
24<sup>th</sup> Navajo Nation Council

cc: NAPI Board of Directors

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# NAVAJO NATION

118

NNC 2019 Session

6/5/2019

06:23:02 PM

Amd# to Amd#	Legislation 0125-19: Approving	PASSED
MOT Halona, P	and Authorizing NAPI to	
SEC Henio, J	Conduct a Hemp Pilot Research	
	Project with NM State University	

Yea : 16

Nay : 5

Excused : 1

Not Voting : 1

## Yea : 16

Begay, E	Brown	Henio, J	Tso
Begay, K	Crotty	James, V	Tso, D
Begay, P	Freeland, M	Nez, R	Walker, T
BeGaye, N	Halona, P	Stewart, W	Wauneka, E

## Nay : 5

Charles-Newton	Smith	Tso, E	Yellowhair
Daniels			

## Excused : 1

Tso, C

## Not Voting : 1

Yazzie

Presiding Speaker: Damon



College of Agricultural, Consumer  
and Environmental Sciences

Agricultural Experiment Station  
Agricultural Science Center at Farmington  
P.O. Box 1018  
Farmington, NM 87499-1018  
505-960-7757, fax: 505-960-5246  
farmingt@nmsu.edu

EXHIBIT

3

January 24, 2020

Dave Zeller  
Navajo Agricultural Products Industry  
P.O. Drawer 1318  
Farmington, NM 87499

**RE: Request to Extend Memorandum of Understanding between New Mexico State University, Navajo Agricultural Products Industry, and New Mexico Department of Agriculture**

Dear Mr. Zeller,

I hope your new year is starting out well. In advance of filling a new assistant professor position at the NMSU Agricultural Science Center in hemp and alternative crops, I am requesting that the 2019 MOU establishing a hemp research and development program be extended. The extension will enable further data collection on this little studied, new and emerging crop. New Mexico State University College of Agricultural, Consumer, and Environmental Sciences has made a commitment to putting further research behind hemp as more farmers are seeking technical assistance. A new position will be filled in 2020 based at the NMSU-ASC Farmington. This individual will have a 70% Research and 30% Extension split. We are requesting that 5 acres be set aside at the NMSU-ASC Farmington for further opportunities related to hemp research and development.

During the 24<sup>th</sup> Navajo Nation Council Resources and Development Committee Leadership meeting held on January 3, 2020, tribal leadership expressed support for the continuation of the hemp research and development program with the goal of informing Navajo landowners of our findings. I will be informing NMSU and NMDA of this goal for their concurrence.

On behalf of our team, thank you and the NAPI Board of Directors for your continued support to this and our other active projects.

Sincerely,

A handwritten signature in black ink, appearing to read "K. A. Lombard". The signature is fluid and cursive, with a large, stylized "K" and "L".

Kevin A. Lombard, PhD  
Associate Professor, Horticulture and Superintendent  
New Mexico State University Agricultural Science Center at Farmington

**24th Navajo Nation Council  
Special Session  
Teleconference**

ACTION: Legislation 0109-20

MOTION: Wilson C. Stewart, Jr.

SECOND: Daniel E. Tso

	<u>Yea</u>	<u>Nay</u>
1. Elmer P. Begay	<u>✓</u>	<u>      </u>
2. Kee Allen Begay, Jr.	<u>✓</u>	<u>      </u>
3. Paul Begay	<u>✓</u>	<u>      </u>
4. Nathaniel Brown	<u>✓</u>	<u>      </u>
5. Eugenia Charles-Newton	<u>      </u>	<u>✓</u>
6. Amber Kanazbah Crotty	<u>✓</u>	<u>      </u>
7. Herman M. Daniels	<u>✓</u>	<u>      </u>
8. Seth Damon	<u>      </u>	<u>      </u>
9. Mark A. Freeland	<u>      </u>	<u>      </u>
10. Pernell Halona	<u>✓</u>	<u>      </u>
11. Jamie Henio	<u>✓</u>	<u>      </u>
12. Vince R. James	<u>      </u>	<u>✓</u>
13. Rickie Nez	<u>✓</u>	<u>      </u>
14. Carl R. Slater	<u>✓</u>	<u>      </u>
15. Raymond Smith, Jr.	<u>✓</u>	<u>      </u>
16. Wilson C. Stewart, Jr.	<u>✓</u>	<u>      </u>
17. Daniel E. Tso	<u>✓</u>	<u>      </u>
18. Charlaine Tso	<u>✓</u>	<u>      </u>
19. Eugene Tso	<u>      </u>	<u>      </u>
20. Otto Tso	<u>✓</u>	<u>      </u>
21. Thomas Walker, Jr.	<u>      </u>	<u>      </u>
22. Edison J. Wauneka	<u>✓</u>	<u>      </u>
23. Edmund Yazzie	<u>✓</u>	<u>      </u>
24. Jimmy Yellowhair	<u>✓</u>	<u>      </u>
TOTAL:	<u>18</u>	<u>2</u>

CERTIFICATION:

  
Honorable Speaker Seth Damon

5/15/2020  
Date