LEGISLATIVE SUMMARY SHEET

Tracking No. 0174-21

DATE: August 18, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE NAVAJO NATION NIŁCH' ÉÍ BEE ÍÍŃÁ – AIR IS LIFE ACT OF 2021

PURPOSE: This resolution, if adopted, would enact the Navajo Nation Niłch' Éí Bee Ííńá – Air is Life Act of 2021.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Breakout
Website Posting Time/Date: August 19, 2021 4:58pm
Posting End Date: August 24, 2021
Eligible for Action: August 25, 2021

Health Education & Human Services Committee
Thence
Law & Order Committee
Thence
Resources & Development Committee
Thence
Budget & Finance Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – THIRD YEAR, 2021
INTRODUCED BY

Daniel E. Tso

TRACKING NO. 0174-21

AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE NAVAJO NATION NIŁCH' ÉÍ BEE ÍÍŃÁ – AIR IS LIFE ACT OF 2021

BE IT ENACTED:

SECTION ONE. AUTHORITIES

A. The Health, Education and Human Services Committee of the Navajo Nation Council is empowered to establish Navajo Nation policy, promulgate rules and regulations governing health, social services, education, human services and general government services of the Navajo Nation and its tribal organizations, entities and enterprises, among other duties and responsibilities. 2 N.N.C. §401(B)(1). The Committee further has oversight responsibilities over colleges within the Navajo Nation. 2 N.N.C. §401(C)(3).

B. The Law and Order Committee of the Navajo Nation Council reviews and makes recommendations to the Navajo Nation Council on proposed amendments to the Navajo Nation Code. 2 N.N.C. §601(B)(14).

C. The Budget and Finance Committee of the Navajo Nation Council "coordinate[s] and review[s] all fiscal, financial and investment activities of the Navajo Nation and its

enterprises, as well as other agencies, federal, state, regional and private, expending or seeking to expend funds within the Navajo Nation or for the benefit of the Navajo People." 2 N.N.C. § 301(B)(5).

D. The Naabik'íyáti' Committee of the Navajo Nation Council reviews proposed resolutions requiring final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

E. The Navajo Nation Council, as governing body of the Navajo Nation, sets policy for the Navajo Nation. 2 N.N.C. § 102(A).

SECTION TWO. FINDINGS

A. The Navajo Nation is committed to improving the health and welfare of the people living on the Navajo Nation, to promoting a healthy environment, and has an obligation to enact policies that protect people from harm.

B. The use of all commercial tobacco products (e.g., conventional cigarettes and pipes, cigars, chew, hookah, and e-cigarettes) is harmful to the natural and sacred elements of air and earth. The use of all commercial tobacco products is disrespectful to the Diné fundamental traditions and thus harms our environment resulting in disharmony with the mind, body, spirit, and earth. "Air" embodies life. 1 N.N.C, §201. The rights and freedoms of people to use the sacred elements of life will not be impeded and will be protected and preserved for they are the foundation of our spiritual ceremonies and the Diné way of life. 1 N.N.C, §205(F). It is the right and freedom of the people that every person is respected, honored, and protected with a healthy physical and mental environment, free from all abuse. 1 N.N.C, §204(E).

D. Secondhand commercial tobacco smoke has been classified by the U.S. Environmental Protection Agency as a Group A carcinogen. This classification is reserved for chemicals or compounds, such as asbestos and benzene, which have been shown to cause cancer in humans.

E. There are no safe levels of exposure to secondhand commercial tobacco smoke as reported by the U.S. Surgeon General in 2006. There is no available adequate ventilation technology based upon scientific studies that can ensure the protection and prevention of secondhand commercial tobacco smoke health-related illnesses.

F. There are many risks associated with e-cigarettes as reported by the U.S Surgeon General. The aerosol from e-cigarettes is not harmless. It can contain harmful and potentially harmful chemicals, including nicotine; ultrafine particles that can be inhaled deep into the lungs; flavoring such as diacetyl, a chemical linked to a serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead.

G. All workers should have a safe workplace so that all workers, as well as nonsmokers including children and elders, can breathe commercial tobacco smoke-free air and be free from the pollution of smokeless commercial tobacco products and dangerous exposure to commercial tobacco thirdhand smoke in public places and workplaces.

H. Children exposed to secondhand commercial tobacco smoke have an increased risk of asthma, respiratory viral/bacterial infections (e.g., COVID-19), sudden infant death syndrome, developmental abnormalities, and cancer. Secondhand commercial tobacco smoke is particularly hazardous to individuals with chronic diseases (i.e., cardiovascular disease, diabetes, asthma, and chronic obstructive pulmonary diseases (COPD).

I. Smoking is linked to an increased risk of developing symptomatic COVID-19. Additionally, current or former smokers are more likely to get severely ill from COVID-19.

J. According to the 2017 Navajo Youth Risk Behavior Survey, 41% of high school students reported having smoked cigarettes in their lifetime. In addition, 40% of high school students reported having used e-cigarette products in their lifetime. Furthermore, 11% of Navajo high school students reported using smokeless tobacco products compared to the U.S. national high school use at 3.1%.

K. The cultural, spiritual, and ceremonial use of Dził Nát'oh/ Natural Mountain Smoke is an integral part of Diné life.

L. Diné cultural teachings about Dził Nát'oh/ Natural Mountain Smoke and its use are of importance to the health, wellness, and welfare of the Diné people.

M. The ceremonial use of Dził Nát'oh/Natural Mountain Smoke shall not be restricted.

N. It is in the best interests of the Navajo Nation to amend Title 13 of the Navajo Nation Code for purposes of addressing the health needs of the Navajo people consistent with findings provided herein.

SECTION THREE. ENACTING THE NAVAJO NATION NIŁCH' ÉÍ BEE ÍÍŃÁ – AIR IS LIFE ACT OF 2021

The Navajo Nation Council hereby enacts, within Title 13 of the Navajo Nation Code, the Navajo Nation Niłch' éí Bee Ííńá - Air is Life Act of 2021 as follows:

TITLE 13. HEALTH AND WELFARE

CHAPTER 2. COMMERCIAL TOBACCO REGULATION AND LIABILITY

§ 421. Title

This Act shall be known as the "Navajo Nation Niłch' éí Bee Ííńá - Air is Life Act of 2021."

§ 422. Purpose

A. The purpose of this Act is to promote Navajo fundamental traditional views on health and wellness. Breathing secondhand commercial tobacco smoke in public places and workplaces are harmful.

B. This Act prohibits the use of commercial tobacco products (*e.g.*, conventional cigarettes and pipes, cigars, e-cigarettes, and smokeless tobacco products) in enclosed, indoor workplaces and public places and within a distance of 25 feet from any indoor area where commercial tobacco use are prohibited within the Navajo Nation. This Act does not restrict commercial tobacco use in private residences, unless such are used or otherwise operated for childcare, adult day care, health care facility, or home office. This Act does not prohibit the use of ceremonial tobacco. This Act does not prohibit the use of commercial tobacco products for ceremonial use and/or cultural settings and purposes within the Navajo Nation.

C. To ensure compliance, this Act provides penalties for violations, including civil penalties.

D. The Act applies to all facilities and activities within the interior boundary of the Navajo Nation or areas within the jurisdiction of the Navajo Nation.

§ 423. Definitions

The following definitions apply to this Act:

A. "Ceremonial tobacco" means Dził Nát'oh/Natural Mountain Smoke, other natural untreated tobacco, natural plant, and fresh plants which are used in ceremonial and/or cultural settings and purposes.

B. "Chew tobacco" or "smokeless tobacco" means any commercial tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

C. "Childcare" means caring for one or more children when the caregiver is not the parent or legal guardian of such children.

D. "Commercial tobacco" means: 1) any product containing, made of, or derived from commercial tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a conventional cigarette, a cigar, commercial pipe tobacco, smokeless tobacco, chewing tobacco, snuff, or snus; 2) any electronic smoking device as defined in this section, and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or 3) any component, part, or accessory of 1) or 2), whether or not any of these contains commercial tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes. "Commercial tobacco product" does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, nor does it mean ceremonial use.

E. "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

F. "Employee" means any person who performs any service on a full-time, part-time, or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.

G. "Employer" means a person, business, partnership, association, limited liability company, corporation, trust, non-profit entities, the Navajo Nation and its enterprises, entities, and political subdivisions that employs the services of one or more individual persons.

H. "Enclosed area" means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

I. "Navajo Fundamental tradition" means immutable laws that predate regulation of modern commercial tobacco use. Navajo fundamental tradition resonates with Diné Natural Law. It declares and teaches that the four sacred elements of life, light/fire, water and earth/pollen in all their forms must be respected, honored and protected, for they sustain life.

J. "Private Residence" means a house or other dwelling, which is under the exclusive control of one or more private individuals who own or lease the dwelling. A private residence is not a private place when an area in which work is performed in a private residence is a place of employment during hours of operation if: (1) the homeowner uses the area exclusively and regularly as a principal place of business and has one or more on-site employees; or (2) the homeowner uses the area exclusively and regularly as a place to meet or deal with patients, clients, or customers in the normal course of the homeowner's trade or business.

K. "Public place" means any enclosed area to which the public is invited or in which the general public is permitted, including, but not limited to airports; auditoriums; banks;

bars; any other food or liquor establishment; bingo halls, casinos, and other gaming facilities; common areas of rental apartment buildings or other multifamily housing; educational facilities; entertainment facilities; hospitals; hotels/motels; laundromats; meeting rooms; Navajo Nation offices, buildings, and multi-housing; Navajo Nation enterprises and entities offices and buildings; nursing homes, elderly group homes, and assisted living facilities; public transportation vehicles and facilities; reception areas; restaurants; retail stores and other commercial establishments; sports facilities; theaters; and waiting rooms. "Public place" also includes the following outdoor areas: cultural public gathering places or events such as Pow Wows; Navajo Nation parks and cemeteries; and outdoor sports facilities.

L. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, conventional cigarette or pipe, or any other lighted, heated, or activated commercial tobacco, and nicotine plants intended for inhalation whether natural or synthetic. "Smoking" also means the use of an electronic smoking device. "Smoking" does not include ceremonial use.

M. "Secondhand commercial tobacco smoke" means the particulate matter, gases, and other byproducts of combustion emitted from a lighted pipe, the lit end of a cigarette, cigar, e-cigarette, or any other form of commercial tobacco and the exhaled by-products of tobacco combustion previously inhaled during the smoking of a pipe, cigarette, cigar, e-cigarette, or any other form of commercial tobacco.

N. "Sports Facilities" means enclosed and open areas of sports pavilions, stadiums, arenas, gymnasiums, health spas, boxing arenas, rodeo arenas, golf courses, amusement parks, swimming pools, roller & ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sporting events.

O. "Workplace" means any enclosed area in its entirety under the control of a public or private employer where workers, regardless of whether they are employees, contractors, or volunteers, perform work or use incidental to their work, including office buildings, work areas, office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias,

hallways, stairs, elevators, escalators, health care facilities, private offices, break areas, if they are enclosed areas. Vehicles for work shall be considered workplaces.

§ 424. Prohibition Against the Use of Commercial Tobacco Products in Public Places and Workplaces in the Navajo Nation

The Navajo Nation hereby prohibits the use of all commercial tobacco products (e.g., conventional cigarettes and pipes, cigars, hookah, electronic-cigarettes, and smokeless tobacco) in all enclosed, indoor workplaces and public places and within a distance of 25 feet from any indoor area where commercial tobacco products are prohibited within the Navajo Nation, except as allowed in Section 425.

§ 425. Where Commercial Tobacco Use and Smoking are Not Regulated

Notwithstanding any other provision of this Act to the contrary, the following uses shall not be subject to the restrictions of this Act:

A. Private residences, unless made available to the general public for commercial uses, including but not limited to childcare, health care, or other businesses open to the general public as defined under Section 423 of this Act.

B. While the Navajo Nation recognizes the fundamental use of Dził Nát'oh / Natural Mountain Smoke and other natural plants for bona fide traditional ceremonial purposes, this Act does not prohibit the use of commercial tobacco products for ceremonial use and/or cultural settings and purposes within the Navajo Nation.

§ 426. Posting of Signs

Within the Navajo Nation, in coordination with the Navajo Department of Health, approved signs shall be conspicuously posted in every building and entrance or other area where the use of commercial tobacco products are prohibited by this Act. Any and all entities having control of such buildings or other areas shall publicly post warning signs, including decals of internationally recognized graphic displays. The signs in Diné bizaad (Navajo language) and English shall clearly state or display that commercial tobacco use

in any form are prohibited, and must designate the established phone number, e-mail address, or postal mailing address to report violations.

§ 427. Commercial Tobacco-Free and Smoke-Free Workplace

A. It shall be the responsibility of employers to provide a commercial tobacco free and smoke-free workplace for all employees in accordance with this Act. Within 90 days of the effective date of this Act each employer having a workplace located within the territorial jurisdiction of the Navajo Nation shall adopt, implement, make known, and maintain a written commercial tobacco free policy in accordance with this Act.

B. The Nitłch' éí Bee Íińá - Air Is Life Act shall be communicated to all employees within four weeks of the employer's adoption of such required policy and to all newly hired employees in accordance with this Act.

C. All employers shall provide a written copy of the Nitłch' éí Beeíińá—Air Is Life Act to all current employees and newly hired employees on the first day of employment.

D. A person or employer that has control of an area in which commercial tobacco use are prohibited by this chapter shall direct anyone who is using commercial tobacco products in violation of this chapter to extinguish the product being used. If they do not stop using the commercial tobacco product, the person or employer shall refuse any service and shall immediately ask them to leave the property. If the ejection is from a public event, it shall be for the duration of the public event.

E. There shall be no retaliation against any person exercising their rights as outlined within this Act. No employer may discharge, refuse to hire, penalize, discriminate against, or in any manner retaliate against employee, applicant for employment, or customer because the employee, applicant, or customer exercises any rights because that employee exercises any rights afforded by this law or reports or attempts to prosecute a violation of this law.

F. All proprietors, employers, or other person or entity in charge of a public place, public meeting, public transportation, or place of employment must not provide smoking equipment, including ashtrays or matches, in areas where smoking is prohibited.

G. The Navajo Department of Health shall provide cessation materials developed by the Navajo Department of Health and Indian Health Service to employers and to any citizen who requests them.

§ 428. Enforcement

A. The Navajo Department of Health and Navajo Division of Public Safety shall enforce this Act and be responsible for issuance of citations for violation of this Act.

B. The Navajo Department of Health and Navajo Division of Public Safety shall establish a designated telephone number, e-mail, and postal mailing address to report violations. Any citizen who desires to register an oral or written complaint under this Act may initiate a complaint through the designated telephone number, e-mail, or postal mailing address.

C. Notice of the provisions as set forth in this Act shall be given to business license applicants for business licenses on the Navajo Nation.

D. In addition to the remedies provided by the provisions of this Act, any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place, or workplace may apply for injunctive relief to enforce those provisions in any district court of the Navajo Nation.

E. All proprietors, business owners, managers, operators, or organizations of any establishment regulated by this Article may be held civilly liable for failure to enforce the provisions herein unless they have taken reasonable steps toward compliance. A business owner, manager, or employee of a place regulated by this Act shall inform any person who is using commercial tobacco products that is in violation of this law that use of commercial tobacco products are illegal and request that the illegal use of commercial tobacco products stop immediately, if the person does not refrain from using these products after being asked to do so, ask the person to leave. If the person refuses to leave, the proprietor, person, or entity in charge shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser, and in addition, the person using commercial tobacco products illegally may be fined a civil penalty. A proprietor, person, or entity in charge of a

public place, public meeting, place of employment, or public transportation must not retaliate or take adverse action against an employee or anyone else who, in good faith, reports a violation of this Act to the proprietor or person in charge of the public place, public meeting, place of employment, or public transportation, or to the commissioner of health or other designee responsible for enforcing.

F. If the Navajo Department of Health has reason to believe that a violation of this law exists, the Department may enter upon and into any public place or workplace for purposes of determining compliance with this law. However, the Department may inspect public places where food or alcohol is served at any time to determine compliance with this law.

G. The issuance of a citation may be appealed to the Office of Hearings and Appeals within ten calendar days of the issuance of the citation.

H Subject to the approval of the Health, Education and Human Services Committee of the Navajo Nation Council, the Navajo Department of Health shall establish an infraction/penalty schedule and shall be authorized to promulgate rules and regulations for the implementation and enforcement of this law.

§ 429. Civil Penalties

A. Any proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of an area in which commercial tobacco use is prohibited under this Act, and that knowingly fails to comply with the Act, is guilty and in violation of this Act and subject to administrative citation. Because commercial tobacco use is an addiction, the encouragement of commercial tobacco cessation services will be recommended to those who violate this Act.

B. Each violation of this Act occurs shall be considered a separate and distinct violation.

C. Repeated violation of this Act by a person who owns, manages, operates, or otherwise controls a public place or workplace may result in a suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

D. A suspension or revocation of permit or license shall not be lifted until the violation is brought into compliance in accordance with regulations established by the Navajo Department of Health.

E. The Navajo Department of Health shall have the authority to increase the initial civil penalties set forth herein after reasonable notice to the public.

F. Any violation of this chapter may be remedied by a civil action brought by the Navajo Nation Department of Justice, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.

§ 430. Public Education

The Navajo Department of Health shall provide public health information, education, and awareness regarding the purposes and requirements of this Act. The Department shall conduct any and all prevention, education, and cessation services to address this act shall including publications and disseminations in Diné bizaad (Navajo language) and English of using visual/audio, educational materials, to explaining the provisions of this Act to affected businesses, organizations, entities, and governmental agencies shall be conducted by the program listed above. The Department may establish an internet website to assist in its public education.

§ 431. Liberal Construction

This Act shall be liberally construed to further its purposes.

§ 432. Amendment

This Act shall not be repealed or amended except by the Navajo Nation Council.

SECTION FOUR. EFFECTIVE DATE

The provisions of this Act shall become effective in accord with 2 N.N.C §221(B).

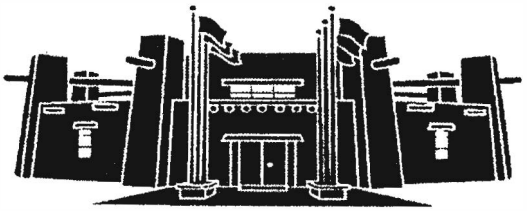
SECTION FIVE. CODIFICATION

The provisions of this Act which add or amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

SECTION SIX. 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, or any other court of competent jurisdiction, those portions of the Act which are not determined invalid shall remain the law of the Navajo Nation.

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



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Hon. Seth Damon, Speaker
Navajo nation Council

From : Ron Haven, Attorney
Office of Legislative Counsel

Date : August 20, 2021

Re : RECOMMENDATION TO INCLUDE RESOURCES AND DEVELOPMENT COMMITTEE AS ASSIGNED COMMITTIEE FOR LEGIS. NO. 0174-21, *AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE NAVAJO NATION NIŁCH' ÉÍ BEE ÍÍŃÁ – AIR IS LIFE ACT OF 2021*

I am the assigned attorney regarding the above legislation. It was just posted.

I strongly recommend that the Resources and Development Committee be added to assigned committees pursuant to 2 N.N.C. § 164(A)(5). The bill broadly defines "public place," and essentially touches upon the oversight of virtually all standing committees. See section 423(K). Resources and Development Committee oversees some of the places specified.

I apologize any inconvenience. Please call me for any questions. 1.928.871.7166.

xc : Hon. Daniel Tso, NNC, Sponsor
Hon. Rickie Nez, Chairman, RDC
Dana Bobroff, CLC, OLC
Sherylene Yazzie, COS,OOS

CONCURRED :

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



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Hon. Daniel E. Tso, Chairman
Health, Education and Human Services Committee
Navajo Nation Council

From : Ron Haven, Attorney
Office of Legislative Counsel

Date : August 18, 2021

Re : AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ENACTING THE NAVAJO NATION NIŁCH' ÉÍ BEE ÍÍŃÁ – AIR IS LIFE ACT OF 2021

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. As to format, the resolution as drafted is legally sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

OLC # 21-215-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0174-21__ **SPONSOR: Daniel E. Tso**

TITLE: An Action Relating to Health, Education and Human Services, Law and Order, Budget and Finance and Naabik'íyáti Committees and the Navajo Nation Council; Enacting the Navajo Nation Nilch' Éí Bee Líńá – Air is Life Act of 2021

***Date posted*: August 19, 2021 at 4:58PM**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0174-21

SPONSOR: Honorable Daniel E. Tso

TITLE: An Action Relating to Health, Education and Human Services, Law and Order, Budget and Finance and Naabik'íyáti Committees and the Navajo Nation Council; Enacting the Navajo Nation Nilch' Éí Bee Líńá – Air is Life Act of 2021

Posted: August 19, 2021 at 4:58 PM

5 DAY Comment Period Ended: August 24, 2021

Digital Comments received:

Comments Supporting	**1.) Becenti Chapter** **2.) Arizonans Concerned About Smoking** **3.) Patricia Nez Henderson, MD, MPH**
Comments Opposing	**1.) Julius Elwood**
Comments/Recommendations	***None***

VSRedhorse
Legislative Tracking Secretary
Office of Legislative Services

August 25, 2021 8:30 AM
Date/Time

The Navajo Nation Becenti Chapter
Tóo'di'tsin (Barren of the trees) Ádi'hadi't'iih (Antelope lookout)

Jonathan Perry, PRESIDENT | Marjorie Lantana, VICE-PRESIDENT | Arlene A. Arthur, SECRETARY/TREASURER | Mikelle Lantana, LAND BOARD | Mark Freeland, COUNCIL DELEGATE | VACANT, CHAPTER CSC | VACANT, CHAPTER AMS

P.O. Box 708, Crownpoint, NM 87313 Website: becenti.navajochapers.org Email: becenti@navajochapters.org Phone: (505) 786-2283 Fax: (505) 786-2285

RESOLUTION OF BECENTI CHAPTER
BCAUG-21-114

SUPPORTING AND APPROVING THE PROPOSED LEGISLATION ENTITLED "NAVAJO NATION NIŁCH' ÉÍ BEE ÍÍŃÁ AIR IS LIFE ACT OF 2021" LED BY THE NAVAJO NATION AIR IS LIFE COALITION.

WHEREAS:

1. Pursuant to Navajo Nation Council Resolution CJY-20-55, the Becenti Chapter is a certified chapter of the Navajo Nation Government and is vested with certain authorities to address and resolve local matters in the best interest of the community members, and coordinate with or refer appropriate subject matters to the Navajo Nation, McKinley County, State of New Mexico, and the US Federal Governments; and

2. Pursuant to Navajo Nation Council Resolution CAP-34-98 Local Governance Act (LGA) allows chapter governments to make decisions over local matters, this authority in the long run, will improve community decision making, allow communities to excel and flourish, enable Navajo leaders to lead towards a prosperous future, and improve the strength and sovereignty of the Navajo Nation; and

3. The purpose of the legislation is to prohibit the use of all commercial tobacco products (e.g., conventional cigarettes and pipes, cigars, hookah, electronic-cigarettes, and smokeless tobacco), in all enclosed, indoor workplaces and public places and within a distance of 25 feet from any indoor area where commercial tobacco products are prohibited within the Navajo Nation. This Act does not prohibit the use of commercial tobacco for ceremonial use and/or cultural settings and purposes within the Navajo Nation; and

4. The Navajo Nation hereby continues to recognize the fundamental use of Dził Nát'oh/Natural Mountain Smoke for bona fide traditional ceremonial purposes; and

5. The Navajo Nation finds there are no safe levels of exposure to secondhand commercial tobacco smoke as reported by the U.S. Surgeon General in 2006. There is no available adequate ventilation technology based upon scientific studies that can ensure the protection and prevention of secondhand commercial tobacco smoke health-related illnesses; and

6. The Navajo Nation finds that smoking is linked to an increased risk of developing symptomatic COVID-19. Additionally, current or former smokers are more likely to get severely ill from COVID-19; and

7. The Navajo Nation is committed to improving the health and welfare of the people living on the Navajo Nation, to promoting a healthy environment, and has an obligation to enact policies that protect people from harm.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Becenti Chapter officially approves and supports the intent and purpose of this resolution for the health of community members in and around Becenti Chapter area.

CERTIFICATION

WE HEREBY CERTIFY that this foregoing Resolution was duly considered by the Becenti Chapter at a duly called chapter meeting at Becenti Chapter at which a legal quorum was present and that same was passed by a vote of **11** in favor, **00** in opposition, and **00** abstaining on this **16th** day of **August 2021**.

Motion: Victoria Henry

Second: Marilyn Becenti

Jonathan Perry
Becenti Chapter President

Marjorie Lantana
Becenti Vice-President

Arlene Arviso-Arthur
Becenti Chapter Secretary/Treasurer

Mark Freeland
Navajo Nation Council Delegate

Arizonans Concerned About Smoking

525 W. Southern Ave, Suite 109, Mesa, AZ, 85210 Ph: 480-733-5864
www.acasinc.org/acasinc.net

Our Purpose Is To Save Lives

FOUNDERS

Herbert & Betty Carnes
F.V. Bud Brown

OFFICERS

President
Leland L. Fairbanks, M.D.

Executive Director
Philip J. Carpenter

Vice President
Eric M. Ossowski, M.D.

Secretary/Treasurer/Board Secretary/Recording Secretary
Kimberley Gallagher

TRUSTEES

Thomas E. Addison, PharmD
Melanie D. Cloonan-Schulte, M.D.
Velliyah E. Craig RPh, NCPS
Gregory Fairbanks
Kimberley Gallagher
Eric M. Ossowski, M.D.

ADVISORY BOARD

Dr. Heidi-Christa Adams
Brian Burt, PA-C
Geneva Carlton
Laura Carpenter
Bernice Gerig Carver
D. Gordon Draves
David R. Gallagher
Samantha Hardy
Brent Hatch
Marcia Matthies
Patricia Morris
Carl O'Kelley
Andrew F. Ortiz, J.D., M.P.A.
Rabbi Dr. Adele Plotkin
Wilfred Potter, MD
Joyce Reddicks
Joan Romero
John Spealman

MEMORIAL HALL of FAME

See our Officers page (Arizonans Concerned About Smoking, Inc. (ACAS) - ACAS Inc Officers for the highly appreciated Health Pioneers and Tobacco Control Champions who have helped and supported us for decades.

August 23, 2021

The Honorable Daniel Tso
Council Delegate and Committee Chairman
The Navajo Nation Council
Health, Education and Human Services Committee
Post Office Box 3390
Window Rock, Navajo Nation AZ 86515

Dear Chairman Tso:

Please accept this letter into the record of the Navajo Nation Council in strong support of the "Navajo Nation Legislation #0174-21, 'Niłch' éí Bee Ííńá—Air is Life Health Act of 2021", with no exemptions, led by the Air is Life Health Coalition.

At this time of a Public Health Emergency due to COVID-19, Arizonans Concerned About Smoking is in unanimous support to improve and help guarantee the health of all Navajo Nation and believe that the proposed 'Air is Life Health Act of 2021' will provide much needed support in protecting the health and wellbeing of the Navajo people and visitors in the Navajo Nation; especially the workers where smoking has been permitted before. This Act will help ensure the safety of the Navajo Nation workers, Navajo Nation people and visitors. Everyone will be protected from the known dangers of commercial tobacco secondhand smoke in all businesses without exception.

We reflect on this most noble effort and go back many years working initially with the late Honorable Fifth Navajo Nation President Begaye. Late Honorable Navajo Nation President Begaye in addition to studying chemical addictions was also a Substance Abuse Counselor by vocation and knew first-hand the dangers of nicotine and secondhand smoke. He personally advocated and was energized when focusing on protecting all workers from tobacco and secondhand smoke.

This legislation mirrors our own purpose to save lives. Smoking affects so many, not just the person smoking but those around them. This legislation, if passed would be an instant Role-Model example of Tobacco Control leadership and would warrant national recognition by Health Leaders around the world.

We further commend the Navajo Nation people's role when the World's first totally Smokefree Hospital was created in 1983 at Keams Canyon, Arizona on the Hopi Reservation. This United States Public Health Service (USPHS) Hospital at Keams Canyon served both Hopi Nation and Navajo Nation Tribal patients.

Leadership has to start somewhere by those who not only have the inspiration but the motivation and ability to make a difference. We truly hope that now, in 2021, during a Public Health Emergency the Navajo Nation Council can demonstrate Tobacco Control leadership again with effective legislation that will save lives and create a new norm here in America. We'd be most honored to educate and encourage others to follow your lead.

Please help protect all workers and visitors from commercial tobacco secondhand smoke on the Navajo Nation and join with us at Arizonans Concerned About Smoking for the goal that all workplaces in Arizona will soon also have the same protection from commercial tobacco secondhand smoke.

Arizonans Concerned About Smoking

525 W. Southern Ave, Suite 109, Mesa, AZ, 85210 Ph: 480-733-5864
www.acasinc.org/acasinc.net

Our Purpose Is To Save Lives

FOUNDERS

Herbert & Betty Carnes
F.V. Bud Brown

OFFICERS

President
Leland L. Fairbanks, M.D.

Executive Director
Philip J. Carpenter

Vice President
Eric M. Ossowski, M.D.

Secretary/Treasurer/Board Secretary/Recording Secretary
Kimberley Gallagher

TRUSTEES

Thomas E. Addison, PharmD
Melanie D. Cloonan-Schulte, M.D.
Velliyah E. Craig RPh, NCPS
Gregory Fairbanks
Kimberley Gallagher
Eric M. Ossowski, M.D.

ADVISORY BOARD

Dr. Heidi-Christa Adams
Brian Burt, PA-C
Geneva Carlton
Laura Carpenter
Bernice Gerig Carver
D. Gordon Draves
David R. Gallagher
Samantha Hardy
Brent Hatch
Marcia Matthies
Patricia Morris
Carl O'Kelley
Andrew F. Ortiz, J.D., M.P.A.
Rabbi Dr. Adele Plotkin
Wilfred Potter, MD
Joyce Reddicks
Joan Romero
John Spealman

MEMORIAL HALL of FAME

See our Officers page (Arizonans Concerned About Smoking, Inc. (ACAS) - ACAS Inc Officers for the highly appreciated Health Pioneers and Tobacco Control Champions who have helped and supported us for decades.

The Honorable Daniel Tso/Air is Life Act 2021 (page 2).

In Health,

Leland L. Fairbanks

Leland L. Fairbanks, M.D., President

Eric M Ossowski MD

Eric M. Ossowski, M.D., Vice President

Philip J. Carpenter

Philip J. Carpenter, Executive Director

Kimberley E. Gallagher

Kimberley Gallagher, Board Secretary/Trustee

In Support of Navajo Nation Nilch' Éí Bee Líńá – Air is Life Act of 2021 (Legislation #0174-21)

Patricia Henderson <pnhenderson@bhcaih.org>

Tue 8/24/2021 2:46 PM

To:comments <comments@navajo-nsn.gov>;

Cc:Hershel Clark <hclark@bhcaih.org>;

The Honorable Daniel Tso
Council Delegate and Committee Chairman
The Navajo Nation Council Health, Education and Human Services Committee
Post Office Box 3390

Window Rock, AZ 86515

Dear Chairman Tso,

As a Dine' physician and public health scientist from Teesto Chapter House, I am in support of Navajo Nation Nilch' Éí Bee Líńá – Air is Life Act of 2021 (Legislation #0174-21) with NO exemptions.

The science is clear about secondhand smoke (SHS) exposure: 1) There are no safe levels of SHS; and 2) There is no ventilation system that can clear out the cancer-causing toxins of SHS. However, commercial tobacco-free policies are the best method to get rid of SHS and to create a healthy environment. Further, research shows that through a comprehensive commercial tobacco-free policy, communities experience the health benefits through reductions of heart attacks, cancers, respiratory illnesses, and other chronic illnesses.

Honorable Daniel Tso, thank you for introducing a legislation that will create a healthy environment for all of our people, especially those who work in environments where smoking is still allowed. This legislation will promote life!! With everything our Navajo communities have experienced with the COVID pandemic over the past 1.5 years, Navajo Nation Nilch' Éí Bee Líńá – Air is Life Act of 2021 will support all the mitigation efforts that have been put in place by our leaders. Unfortunately, we still do not know the long-term health impacts of those who have developed COVID and are still recovering. Whether their lungs, heart, brain, kidneys, and other organs will be compromised for many years, we do not know. We do know any SHS exposure among these individuals is not healthy. The opportunity to protect these individuals is by passing this historic health policy with NO exemptions.

Our Navajo culture and tradition promotes life. We believe every life is sacred and every breath is sacred. However, through colonization, the tobacco industry has modified the nicotiana plant and made it both addictive and deadly. I believe we are in a period where we are reclaiming this sacred plant and restoring our communities back to health and wellness. The passage of Navajo Nation Nilch' Éí Bee Líńá – Air is Life Act of 2021 (Legislation #0174-21) with NO exemptions will promote the sacredness of every life.

Regards,

Patricia Nez Henderson, MD, MPH
From the Teesto Chapter (Ft Defiance Agency)
Senior Public Health Scientist
Black Hills Center for American Indian Health

Rapid City, SD
WARNING: External email. Please verify sender before opening attachments or clicking on links.

0174-21

Julius Elwood <jrelwood7@gmail.com>

Mon 8/23/2021 10:00 PM

To: comments <comments@navajo-nsn.gov>;

I don't support this legislation, the Navajo Nation needs all the revenue it can generate from visitors and tobacco product utilization is a huge part of the draw for non-Navajo infusion of money into the Navajo Nation! Casinos, which were designed and marketed to non-Navajo business and external infusion of capital. and tobacco use is a huge draw! We need to focus on capital infusion and not draining Navajo families of capital with a law that reduces the personal choices of people that can make personal decisions for themselves!
WARNING: External email. Please verify sender before opening attachments or clicking on links.