# SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0051-23

Date: April 4, 2023

Re: **AN ACT RELATING TO THE LAW & ORDER, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; RESCINDING CJA-01-18 RELATING TO AGREEMENTS NOT REQUIRING NAVAJO NATION COUNCIL OR COMMITTEE APPROVAL, TO PROVIDE FOR TRANSPARENCY AND ACCOUNTABILITY**

**Purpose of this Legislation:**

to rescind CJA-01-18 to reinstate reviews and signatures of Division Directors, Controller, OMB, and Attorney General, for agreements not requiring Council or committee approval.

OLC No. 23-072-1

5-DAY BILL HOLD PERIOD: A Johnson
Website Posting Time/Date: 7:53pm; 04-04-23
Posting End Date: 04-09-23
Eligible for Action: 04-10-23

Law & Order Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:

(Prime Sponsor)

Tracking No. 0051-23

**AN ACT**

**RELATING TO THE LAW & ORDER, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; RESCINDING CJA-01-18 RELATING TO AGREEMENTS NOT REQUIRING NAVAJO NATION COUNCIL OR COMMITTEE APPROVAL, TO PROVIDE FOR TRANSPARENCY AND ACCOUNTABILITY**

**BE IT ENACTED:**

**SECTION ONE. AUTHORITY**

A. The Law & Order Committee of the Navajo Nation Council reviews and recommends proposed amendments to the Navajo Nation Code. 2 N.N.C. §600(B)(14).

B. The Naabik'íyáti' Committee of the Navajo Nation Council reviews all proposed legislation that requires final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

C. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A). As such, the Council may rescind its approved resolutions.

**SECTION TWO. FINDINGS**

A. The Navajo Nation Council approved Resolution No. CJA-01-18. **EXHIBIT A.** In this Resolution the Council amended 2 N.N.C. §164(B) to remove the review and signature of certain documents by Division Directors, the Controller, the Director of the Office of Management and Budget, and the Attorney General. Said documents are those that do not

require approval by the Navajo Nation Council or any of its committees. See SECTION THREE of CJA-01-18.

B. In lieu of the reviews and signatures of the persons listed above, CJA-01-18 inserted a requirement for review and signature of the Navajo Nation President, for documents that do not require approval by the Navajo Nation Council or any of its committees. See SECTION THREE of CJA-01-18.

C. Since the adoption of CJA-01-18, the Navajo Nation Council has observed a lack of transparency and accountability with respect to subcontracts implementing agreements approved under 2 N.N.C. §164(A), grants providing funds to the Navajo Nation, contracts expending funds appropriated by the Council, letters of assurance, memoranda of understanding, memoranda of agreement, and other agreements that do not expend funds, or amendments related to such documents.

D. The Navajo Nation has a fiduciary duty to ensure that all legal agreements, even those that do not go before the Navajo Nation Council or its committees, are duly reviewed by all persons with expertise to ensure transparency and accountability regarding the subject matter of such agreements and the Navajo Nation's obligations. The Navajo Nation Council therefore finds it in the best interest of the Navajo Nation to rescind CJA-01-18 in its entirety.

**SECTION THREE. RESCINDING CJA-01-18**

A. The Navajo Nation hereby rescinds CJA-01-18 in its entirety.

B. With such rescission, the provisions of 2 N.N.C. §164(B) shall read as follows:

* * * *

B. Agreements not requiring Committee or Council approval.

1. Subcontracts implementing agreements approved under 2 N.N.C. § 164(A), grants providing funds to the Navajo Nation, contracts expending funds appropriated by the Navajo Nation Council, Letter of Assurance agreements, Memoranda of Understanding, Memoranda of Agreement and other agreements that do not expend funds, associated amendments shall not require approval by resolution by the Navajo Nation Council or its committees.
2. Prior to final execution as provided in 2 N.N.C. § 222, documents not

requiring approval by resolution of the Navajo Nation Council or its committees shall be reviewed and signed by the ~~President of the Navajo Nation within ten (10) calendar days after the document(s) is logged in at the Office of the President; and, upon notice to the Speaker and Chairperson of the oversight committee for an extension, an additional ten (10) days shall be allowed.~~ following:

a. The appropriate Division Director for departments and activities under his or her supervision;

b. The Controller (or designee) for all documents having a financial impact on the Navajo Nation;

c. The Director of the Office of Management and Budget (or designee) for all documents having a financial impact on the Navajo Nation; and

d. The Attorney General of the Navajo Nation (or designee).

* * * *

**SECTION FOUR. CODIFICATION**

The provisions of this Act that 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. EFFECTIVE DATE**

This Act shall become effective in accordance with 2 N.N.C. §221(B).

**SECTION SIX. SAVING CLAUSE**

If any part of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall be the law of the Navajo Nation.

**EXHIBIT A**

**CJA-01-18**

**RESOLUTION OF THE**
**NAVAJO NATION COUNCIL**

**23RD NAVAJO NATION COUNCIL -- Fourth Year, 2018**

**AN ACTION**

**RELATING TO THE LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES; AND THE NAVAJO NATION COUNCIL: AMENDING 2 N.N.C. § 164(B), AGREEMENTS NOT REQUIRING COMMITTEE OR COUNCIL APPROVAL**

**BE IT ENACTED:**

**SECTION ONE. AUTHORITY**

A. The Navajo Nation established the Law and Order Committee (LOC) as a standing committee and as such empowered LOC to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 164(A)(9), 600(A), 601(B)(14); CO-45-12.

B. The Navajo Nation Council established the Naabik'íyáti' Committee as a standing committee and as such, proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. §§ 164(A)(9), 700(A); CO-45-12.

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

**SECTION TWO. FINDINGS**

A. The amendment is to Title 2 of the Navajo Nation Code at 2 N.N.C. § 164(B), proposes subcontracts, implementing agreements in accordance with 2 N.N.C. § 164(A), grants providing funds to the Navajo Nation, contracts expending funds appropriated by the Navajo Nation Council, Letter of Assurance agreements, memoranda of understanding, memoranda of agreement and other agreements that do not expend funds shall be reviewed and signed by the President of the Navajo Nation and striking sections 2 N.N.C. § 164(B)(a)-(d).

B. The Navajo Nation finds the following Navajo Nation Code amendment to Title 2 at 2 N.N.C. § 164(B) is in the best interest of the Navajo Nation.

**SECTION THREE. AMENDING NAVAJO NATION CODE TITLE 2**

The Navajo Nation amends Title 2 of the Navajo Nation Code at 2 N.N.C. § 164(B) as follows:

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**NAVAJO NATION CODE**
**TITLE 2. NAVAJO NATION GOVERNMENT**
**CHAPTER 3. LEGISLATIVE BRANCH**
**SUBCHAPTER 2. NAVAJO NATION COUNCIL MEETINGS**

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**§ 164. Navajo Nation Council and Committee Legislative Process**

A. Statements of policy, enactment of positive law, intergovernmental agreements, budget resolutions, and reallocations, must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein.

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B. Agreements not requiring Committee or Council approval:

1. Subcontracts implementing agreements approved under § 164(A) above, grants providing funds to the Navajo Nation, contracts expending funds appropriated by the Navajo Nation Council, Letter of Assurance agreements, memoranda of understanding, memoranda of agreement and other agreements that do not expend funds, associated amendments shall not require approval by the Navajo Nation Council or its committees.

2. Prior to final execution as provided in 2 N.N.C. § 222, documents not requiring approval by resolution of the Navajo Nation Council or its committees shall be reviewed and signed by the ~~following:~~ President of the Navajo Nation within

ten (10) calendar days after the document(s) is logged in at the Office of the President; and, upon notice to the Speaker and Chairperson of the oversight committee for an extension, an additional ten (10) days shall be allowed.

~~a. The appropriate Division Director for departments and activities under his or her supervision;~~

~~b. The Controller (or designee) for all documents having a financial impact on the Navajo Nation;~~

~~c. The Director of the Office of Management and Budget (or designees) for all documents having a financial impact on the Navajo Nation; and~~

~~d. The Attorney General of the Navajo Nation (or designee).~~

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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**

The Navajo Nation Code amendment 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 21 in favor and 00 opposed, on this 23rd day of January 2018.

LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

1-31-18
Date

Motion: Honorable Alton Joe Shepherd
Second: Honorable Jonathan Perry

Speaker 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 9th day of February 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

# NAVAJO NATION

RCS# 922

1/23/2018
04:47:20 PM

Winter Session

Amd# to Amd#

Legislation No. 0401-17

PASSED

MOT Shepherd

SEC Perry

Amending N.N.C. section 164(B)
Agreements not requiring
Committee or Council Approval

**Yea : 21** **Nay : 0** **Excused : 0** **Not Voting : 3**

**Yea : 21**

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|---|---|---|---|
| Begay, K | Chee | Hale | Smith |
| Begay, NM | Crotty | Jack | Tso |
| Begay, S | Damon | Perry | Tsosie |
| BeGaye, N | Daniels | Pete | Witherspoon |
| Bennett | Filfred | Slim | Yazzie |
| Brown | | | |

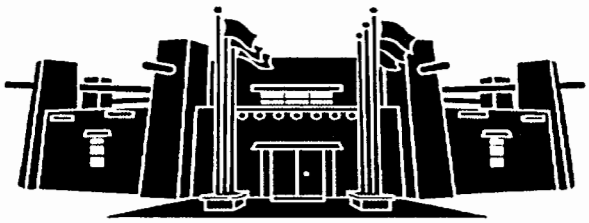
**Nay : 0**

**Excused : 0**

**Not Voting : 3**

| | | |
|---|---|---|
| Bates | Phelps | Shepherd |

*Office of Legislative Counsel*
*Phone: (928) 871-7166*
*Fax: (928) 871-7576*



*Hon. Crystalyne Curley, Speaker*
*25th Navajo Nation Council*
*2023 - 2027*

# MEMORANDUM

To: Hon. Amber Kanazbah Crotty, Member
Budget & Finance Committee
25th Navajo Nation Council

From: Luralene D. Tapahe
Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

Date: April 4, 2023

Subject: **AN ACT RELATING TO THE LAW & ORDER, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; RESCINDING CJA-01-18 RELATING TO AGREEMENTS NOT REQUIRING NAVAJO NATION COUNCIL OR COMMITTEE APPROVAL, TO PROVIDE FOR TRANSPARENCY AND ACCOUNTABILITY**

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The Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents regarding your request that were submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

**Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.**

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-**7166** or by email at: LuraleneTapahe@navajo-nsn.gov

Thank you for your cooperation.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

**LEGISLATION NO:** _0051-23__ **SPONSOR:** Amber Kanazbah Crotty

**TITLE:** An Act Relating to the Law and Order, and Naabik'íyáti' Committees, and the Navajo Nation Council; Rescinding CJA-01-18 Relating to Agreements Not Requiring Navajo Nation Council or Committee Approval, to Provide for Transparency and Accountability

*Date posted*: April 04, 2023 7:53 PM

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

**Written comments may be mailed to:**

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

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

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

**THE NAVAJO NATION**
**LEGISLATIVE BRANCH**
**INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.:** 0051-23

**SPONSOR:** Honorable Amber Kanazbah Crotty

**TITLE:** An Act Relating to the Law and Order, and Naabik'íyáti' Committees, and the Navajo Nation Council; Rescinding CJA-01-18 Relating to Agreements Not Requiring Navajo Nation Council or Committee Approval, to Provide for Transparency and Accountability

**Posted:** April 04, 2023 at 7:53 PM

**5 DAY Comment Period Ended:** April 09, 2022

**Digital Comments received:**

| | |
|---|---|
| **Comments Supporting** | *None* |
| **Comments Opposing** | *None* |
| **Comments/Recommendations** | *None* |

**Policy Analyst**
**Office of Legislative Services**

**April 10, 2023; 8:15 AM**
**Date/Time**