

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0015-23

**DATE:** February 8, 2023

**TITLE OF RESOLUTION:** AN ACTION RELATING TO THE NAABIK'YATI' COMMITTEE; SUPPORTING THE PROPOSAL TO AMEND THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR THE CREATION OF AN INDEPENDENT REDISTRICTING COMMISSION TO DEVELOP REDISTRICTING PLANS FOR CONGRESSIONAL DISTRICTS, STATE LEGISLATIVE DISTRICTS AND THE DISTRICTS OF OTHER DISTRICTED STATE OFFICES

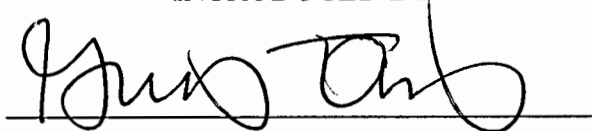
**PURPOSE:** If approved, this resolution will support the State of New Mexico House Joint Resolution 1 which proposes to amend the Constitution of New Mexico to provide for the creation of an independent redistricting commission to develop redistricting plans for congressional districts, state legislative districts and the districts of other districted state offices.

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: Johnson  
Website Posting Time/Date: 3:17pm; 02-09-23  
Posting End Date: 02-14-23  
Eligible for Action: 02-15-23

PROPOSED STANDING COMMITTEE RESOLUTION  
25<sup>TH</sup> NAVAJO NATION COUNCIL -- First Year, 2023

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0015-23

AN ACTION

RELATING TO THE NAABIK'IYATI' COMMITTEE; SUPPORTING THE  
PROPOSAL TO AMEND THE CONSTITUTION OF NEW MEXICO TO  
PROVIDE FOR THE CREATION OF AN INDEPENDENT REDISTRICTING  
COMMISSION TO DEVELOP REDISTRICTING PLANS FOR  
CONGRESSIONAL DISTRICTS, STATE LEGISLATIVE DISTRICTS AND THE  
DISTRICTS OF OTHER DISTRICTED STATE OFFICES

WHEREAS:

- A. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council with the power to review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments. 2 N.N.C. §§ 700(A), 701(A)(7). The Naabik'iyáti' Committee also has authority to assist and coordinate all requests for information, appearances and testimony to proposed, county, state and federal legislation impacting the Navajo Nation. 2 N.N.C. § 701(A)(6).
- B. In 2020, organizations in New Mexico came together with several members of the New Mexico legislature and created the New Mexico Redistricting Task Force ("Task Force"). Navajo Nation Human Rights Commission was invited to become a member of the Task Force. At the end of 2020, the Task Force issued a report on ways to

1 enhance the citizen participation in the New Mexico redistricting activities. The Task  
2 Force report is entitled "Redistricting Taskforce in New Mexico: Recommendations  
3 Developed by the New Mexico First Redistricting Taskforce 2020."

4 C. During the 2021 New Mexico legislative session, Senate Bill 304 was introduced and  
5 enacted into law in April 2021. The bill established the first New Mexico citizen  
6 redistricting commission, enacted the redistricting principles such as community of  
7 interest, contiguity, etc., and prescribed for counties to consider indigenous boundaries  
8 such as Navajo chapter boundaries when drawing new precinct boundaries.

9 D. During the 2021 redistricting activities in New Mexico, the newly established New  
10 Mexico Citizen Redistricting Commission ("Redistricting Commission") conducted  
11 public meetings throughout the state, including several meetings on and near the  
12 Navajo Nation. The Redistricting Commission recommended redistricting maps for the  
13 congressional, House of Representatives, Senate, and Board of Education to the New  
14 Mexico legislature. In December 2021, the New Mexico legislature considered and  
15 adopted the redistricting plans for the New Mexico congressional districts, House and  
16 Senate districts and Board of Education.

17 E. In 2022, the Task Force reconvened to assess the effectiveness of the newly established  
18 Redistricting Commission. University of New Mexico professor, Dr. Gabriel Sanchez,  
19 issued a report based on polls conducted that indicated a substantial proportion of the  
20 people that were surveyed indicated that the Redistricting Commission was effective,  
21 which causes more citizens to follow the 2021 redistricting activities. However, the  
22 New Mexico legislature did not substantially follow the recommendations of the  
23 Redistricting Commission, instead formulated its own redistricting plans. Professor  
24 Sanchez's report indicates that New Mexico citizens that were surveyed recommended  
25 that an entirely independent redistricting commission be instituted in New Mexico by  
26 amending the New Mexico constitution allowing for the independent redistricting  
27 commission.

28 F. Navajo Nation extends into Arizona, New Mexico and Utah. Arizona and Utah use  
29 census blocks to redistrict congressional, legislative, school boards, and county  
30 commissions. However, New Mexico does not allow the use of census blocks when

1 redistricting instead it requires the use of precincts. Precincts are designed and  
2 approved by the county commissions and are for the purpose of accommodating  
3 registered voters, not population shifts based on the latest census count.

4 G. In 2000, citizens of Arizona enacted Proposition 106 that amended the Arizona  
5 Constitution to remove the legislature from adopting redistricting plans by empowering  
6 the Arizona Independent Redistricting Commission to adopt congressional and  
7 legislative redistricting plans. Navajo Nation participated in the 2001, 2011, and 2021  
8 redistricting activities.

9 H. The House Joint Resolution 1, a joint resolution proposing to amend the Constitution  
10 of New Mexico to provide for the creation of an independent redistricting commission  
11 to develop redistricting plans for congressional districts, state legislative districts and  
12 the districts of other districted state offices is attached as Exhibit A.

13  
14 **NOW, THEREFORE, BE IT RESOLVED:**

15 A. The Navajo Nation hereby supports New Mexico House Joint Resolution 1, attached as  
16 **Exhibit A**, to amend the New Mexico Constitution to allow for the establishment of an  
17 independent redistricting commission that would have the authority to adopt  
18 congressional and statewide redistricting plans.

19 B. The Navajo Nation further recommends that the House Joint Resolution 1 be amended  
20 to allow for the use of census blocks rather than precinct boundaries when redistricting  
21 in New Mexico congressional, legislative, and other districts.

# "Exhibit A"

## HOUSE JOINT RESOLUTION 1

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Natalie Figueroa and Jason C. Harper

### A JOINT RESOLUTION

PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR THE CREATION OF AN INDEPENDENT REDISTRICTING COMMISSION TO DEVELOP REDISTRICTING PLANS FOR CONGRESSIONAL DISTRICTS, STATE LEGISLATIVE DISTRICTS AND THE DISTRICTS OF OTHER DISTRICTED STATE OFFICES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 4, Section 3 of the constitution of New Mexico to read:

"A. Senators shall not be less than twenty-five years of age and representatives not less than twenty-one years of age at the time of their election. If any senator or representative permanently removes ~~[his]~~ the senator's or representative's residence from or maintains no residence in the district from which ~~[he]~~ the senator or representative was

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underscored material = new  
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1     elected, then ~~[he]~~ the senator or representative shall be  
2     deemed to have resigned, and ~~[his]~~ a successor shall be  
3     selected as provided in Article 4, Section 4 of this ~~[article]~~  
4     constitution. No person shall be eligible to serve in the  
5     legislature who, at the time of qualifying, holds any office of  
6     trust or profit with the state, county or national governments,  
7     except notaries public and officers of the militia who receive  
8     no salary.

9             B. The senate shall be composed of no more than  
10    forty-two members elected from single-member districts.

11            C. The house of representatives shall be composed  
12    of no more than seventy members elected from single-member  
13    districts.

14            ~~[D. Once following publication of the official~~  
15    ~~report of each federal decennial census hereafter conducted,~~  
16    ~~the legislature may by statute reapportion its membership.]"~~

17            SECTION 2. It is proposed to amend Article 20 of the  
18    constitution of New Mexico by adding a new section to read:

19            "A. By August 15 of each year ending in the number  
20    zero, a redistricting commission shall be established to  
21    prepare and provide for the redistricting of congressional  
22    districts, state legislative districts and the districts of  
23    other districted state offices.

24            B. The redistricting commission shall consist of  
25    nine commissioners appointed by the state ethics commission.

1 Each commissioner shall be a registered qualified elector of  
2 New Mexico who has not changed political party registration  
3 within the two years immediately preceding appointment. A  
4 commissioner shall not be, nor have been, within the ten years  
5 immediately preceding the opening of the selection process a  
6 federal or state elected official, a gubernatorially appointed  
7 state agency head, a relative in the first degree of  
8 consanguinity of any of the preceding public officials or an  
9 officer of a political party. A commissioner shall not have  
10 been a local elected official, an employee of the United States  
11 congress or the New Mexico legislative branch, a candidate for  
12 public office, an employee or contractor for a candidate,  
13 campaign committee or political committee or a registered paid  
14 lobbyist within the five years immediately preceding the  
15 opening of the selection process.

16 C. Through a public application process, the state  
17 ethics commission shall solicit, accept and evaluate  
18 applications from qualified applicants, from which the state  
19 ethics commission shall select at least thirty-eight nominees;  
20 provided that no more than twelve of whom shall be members of  
21 the same political party. The state ethics commission shall  
22 submit the selected nominees to the president pro tempore of  
23 the senate, the minority floor leader of the senate, the  
24 speaker of the house of representatives and the minority floor  
25 leader of the house of representatives by July 1 of each year

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1 ending in the number zero. The president pro tempore of the  
2 senate, the minority floor leader of the senate, the speaker of  
3 the house of representatives and the minority floor leader of  
4 the house of representatives may each strike up to two  
5 applicants, excluding retired judges or justices.

6 D. No later than July 21 of each year ending in the  
7 number zero, the president pro tempore of the senate, the  
8 minority floor leader of the senate, the speaker of the house  
9 of representatives and the minority floor leader of the house  
10 of representatives shall submit the list of applicants they  
11 want stricken from eligibility for appointment to the state  
12 ethics commission.

13 E. The state ethics commission shall appoint nine  
14 commissioners from the remaining pool of applicants. The state  
15 ethics commission shall appoint three appointees from the two  
16 political parties with the largest number of registered voters  
17 affiliated with the party in the state and three members who  
18 are affiliated with other political parties or who are  
19 unaffiliated voters. One of the nine commissioners shall be a  
20 retired district court judge, appellate court judge or justice  
21 of the supreme court, who shall serve as chair of the  
22 redistricting commission. To the extent practicable, the state  
23 ethics commission shall strive to make appointments that are  
24 reflective of the population of the state in terms of  
25 geography, race, ethnicity and gender. The state ethics

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1 commission shall also strive to select commissioners who commit  
2 to conducting the redistricting process in an honest,  
3 independent and impartial fashion. All appointments shall be  
4 made on or before August 15 of each year ending in the number  
5 zero. All appointees shall, before entering upon their duties,  
6 take and subscribe to the oath of office provided for by this  
7 constitution.

8 F. A vacancy on the redistricting commission shall  
9 be filled by the state ethics commission from the remaining  
10 pool of qualified applicants. A commissioner shall be deemed  
11 to have resigned from the redistricting commission and a  
12 vacancy created if, after the day of appointment, the  
13 commissioner changes party registration in such a way as to  
14 cause one political party to have more than three members on  
15 the commission.

16 G. A commissioner may be removed by the supreme  
17 court for substantial neglect of duty, gross misconduct in  
18 office or inability to discharge the duties of office. The  
19 supreme court has original jurisdiction over proceedings to  
20 remove commissioners. A proceeding for the removal of a  
21 commissioner shall be commenced by the attorney general upon  
22 the request of the redistricting commission.

23 H. The redistricting commission shall develop  
24 district plans for congressional districts, state legislative  
25 districts and other districted state offices following each

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1 federal decennial census. The commission shall develop  
2 district plans in accordance with the following provisions:

3 (1) congressional districts shall be as equal  
4 in population as practicable;

5 (2) legislative districts and other state  
6 office districts shall be substantially equal in population.

7 The commission shall not consider district plans for the  
8 legislature and other state offices that have a total deviation  
9 of plus or minus five percent;

10 (3) the commission shall use the most recent  
11 federal decennial census data generated by the United States  
12 census bureau and may use other reliable sources of demographic  
13 data as determined by majority vote of the commission;

14 (4) district plans shall comport with the  
15 provisions of federal law and shall not dilute a protected  
16 minority's voting strength. Race may be considered in  
17 developing district plans but shall not be the predominant  
18 consideration, and traditional race-neutral redistricting  
19 principles shall not be subordinated to racial considerations;

20 (5) district plans shall use only single-  
21 member districts and shall not split precincts;

22 (6) districts shall be drawn consistent with  
23 traditional redistricting principles;

24 (7) districts shall be composed of contiguous  
25 precincts and shall be reasonably compact;

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1 (8) to the extent feasible, districts shall be  
2 drawn in an attempt to preserve communities of interest and  
3 shall take into consideration political and geographic  
4 boundaries, including the boundaries of Indian nations, tribes  
5 and pueblos and their political subdivisions; and

6 (9) to the extent feasible, the commission may  
7 seek to preserve the core of existing districts.

8 I. The redistricting commission may incorporate  
9 suggested changes to its proposed district plans in accordance  
10 with public comments and testimonies it receives, but shall not  
11 subordinate the requirements of Paragraphs (1) through (9) of  
12 Subsection H of this section in doing so.

13 J. When proposing or adopting district plans, the  
14 redistricting commission shall not:

15 (1) use, rely upon or reference partisan data,  
16 such as voting history or party registration data; provided  
17 that voting history in elections may be considered to ensure  
18 that the district plan complies with applicable federal law; or

19 (2) consider the voting address of incumbents.

20 K. After release of the necessary federal decennial  
21 census data to the state, the redistricting commission shall  
22 hold public hearings throughout the state to develop proposed  
23 district plans and subsequently to approve district plans. The  
24 commission shall make any adjustments to the proposed plans  
25 that it deems necessary to meet the redistricting criteria and

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1 establish the final district boundaries. The commission shall  
2 file with the secretary of state the commission's approved  
3 plans for senate, house of representatives and congressional  
4 districts and other districted state offices by October 1 of  
5 each year ending in the number one or within six months of the  
6 release of redistricting data by the United States census  
7 bureau, whichever is later.

8 L. An approved plan shall determine the districts  
9 for use in the succeeding primary and general elections for the  
10 respective body.

11 M. The legislature shall provide adequate resources  
12 for the operation of the redistricting commission in performing  
13 its duties.

14 N. The redistricting commission shall have  
15 procurement and contracting authority and may hire staff,  
16 consultants and legal counsel as necessary to carry out its  
17 duties. The commission shall have standing in legal actions  
18 challenging the redistricting plans or process, or the adequacy  
19 of resources provided for the operation of the commission. The  
20 commission shall have sole authority to determine whether the  
21 attorney general or counsel hired or selected by the commission  
22 shall represent the state in the legal defense of a  
23 redistricting plan.

24 O. Commissioners are eligible for per diem and  
25 mileage at the federal general services administration maximum  
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1 federal per diem rate for the city of Santa Fe and the internal  
2 revenue service standard mileage rate for travel on  
3 redistricting commission business.

4 P. Commissioners shall disclose communication with  
5 outside persons or organizations attempting to influence the  
6 map-drawing process outside of public meetings and public  
7 comment periods. Failure to disclose the communications shall  
8 constitute substantial neglect of duty.

9 Q. Each commissioner shall serve until the  
10 commissioner's successor is appointed and qualified in July or  
11 August of the next year ending in the number zero following the  
12 commissioner's appointment. The redistricting commission shall  
13 not meet nor incur expenses after the redistricting process is  
14 completed, except:

15 (1) when litigation related to a plan is  
16 pending;

17 (2) to revise districts if required by a court  
18 decision; or

19 (3) to maintain and provide public access to  
20 records of its proceedings.

21 R. The state ethics commission and the  
22 redistricting commission shall develop and adopt rules for each  
23 scope of their authority at the beginning of each redistricting  
24 process.

25 S. The provisions of this section are self-

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1       executing."

2               SECTION 3. The amendment proposed by this resolution  
3 shall be submitted to the people for their approval or  
4 rejection at the next general election or at any special  
5 election prior to that date that may be called for that  
6 purpose.

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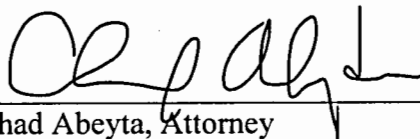
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## MEMORANDUM

TO: Honorable George Tolth  
Health, Education and Human Services Committee  
25th Navajo Nation Council

FROM:   
Chad Abeyta, Attorney  
Office of Legislative Counsel

DATE: February 8, 2023

RE: **AN ACTION RELATING TO THE NAABIK'IYATI' COMMITTEE;  
SUPPORTING THE PROPOSAL TO AMEND THE CONSTITUTION  
OF NEW MEXICO TO PROVIDE FOR THE CREATION OF AN  
INDEPENDENT REDISTRICTING COMMISSION TO DEVELOP  
REDISTRICTING PLANS FOR CONGRESSIONAL DISTRICTS,  
STATE LEGISLATIVE DISTRICTS AND THE DISTRICTS OF  
OTHER DISTRICTED STATE OFFICES**

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

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

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0015-23\_

SPONSOR: George Tolth

**TITLE: An Action Relating to the Naabik'iváti' Committee; Supporting the Proposal to Amend the Constitution of New Mexico to Provide for the Creation of an Independent Redistricting Commission to Develop Redistricting Plans for Congressional Districts, State Legislative Districts and the Districts of Other Districted State Offices**

***Date posted:*** February 09, 2023 at 3:17PM

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**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.**

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