

LEGISLATIVE SUMMARY SHEET

Tracking No. 0191-22

DATE: October 4, 2022

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION, AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE NAABIK'ITYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING THE USE OF THE EMINENT DOMAIN STATUTE, 16 N.N.C §§ 1401 *ET SEQ.*, FOR AMERICAN RESCUE PLAN ACT ("ARPA") FUNDED PROJECTS TO ADDRESS THE RIGHT-OF-WAY LAND USER CONSENT REQUIREMENT; APPROVING DECEMBER 31, 2024 AS THE EXPIRATION DATE OF FOR USE OF THE EMINENT DOMAIN STATUTE FOR THESE ARPA FUNDED PROJECTS; DIRECTING THE CONTROLLER TO REPORT THE AMOUNT OF FUNDING IN THE LAND ACQUISITION TRUST FUND AVAILABLE FOR JUST COMPENSATION AS REQUIRED BY THE EMINENT DOMAIN STATUTE; AND, DIRECTING THE DIVISION OF NATURAL RESOURCES DIVISION AND THE DEPARTMENT OF JUSTICE TO DEVELOP PROCEDURES FOR THE USE OF THE FUNDS IDENTIFIED FOR THE EMINENT DOMAIN PURPOSE

PURPOSE: The purpose of this legislation is to approve the use of the Navajo Nation Eminent Domain statute, 16 N.N.C. § 1401 *et seq.*, to address the right-of way consent requirements for Navajo Nation Fiscal Recovery Fund and ARPA funded projects to Navajo Nation residents within the ARPA established timelines in which the Navajo Nation must obligate funds, December 31, 2024. The legislation also includes directives to the Controller to report the amount of funds in the Land Acquisition Trust Fund for the use of the Eminent Domain Statute for "just compensation" purposes; and. a directive to the Division of Natural Resources Director and the Department of Justice to develop regulations to implement the purpose of the legislation.

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: 1:14pm; 10-05-22
Posting End Date: 10-10-22
Eligible for Action: 10-11-22

Resources & Development Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Fourth Year, 2022

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0191-22

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE
NAABIK'İYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL;
APPROVING THE USE OF THE EMINENT DOMAIN STATUTE, 16 N.N.C §§ 1401
ET SEQ., FOR AMERICAN RESCUE PLAN ACT (“ARPA”) FUNDED PROJECTS
TO ADDRESS THE RIGHT-OF-WAY LAND USER CONSENT REQUIREMENT;
APPROVING DECEMBER 31, 2024 AS THE EXPIRATION DATE OF FOR USE OF
THE EMINENT DOMAIN STATUTE FOR THESE ARPA FUNDED PROJECTS;
DIRECTING THE CONTROLLER TO REPORT THE AMOUNT OF FUNDING IN
THE LAND ACQUISITION TRUST FUND AVAILABLE FOR JUST
COMPENSATION AS REQUIRED BY THE EMINENT DOMAIN STATUTE; AND,
DIRECTING THE DIVISION OF NATURAL RESOURCES DIVISION AND THE
DEPARTMENT OF JUSTICE TO DEVELOP PROCEDURES FOR THE USE OF THE
FUNDS IDENTIFIED FOR THE EMINENT DOMAIN PURPOSE

BE IT ENACTED:

Section One. Authority

- 1 A. The Resources and Development Committee is a standing committee of the Navajo
2 Nation Council and is authorized to grant approval for all rights-of-way. 2 N.N.C.
3 § 501 (B) (2) (a).
- 4 B. A proposed resolution requiring final action by the Navajo Nation Council shall be
5 assigned to the Naabik'iyáti Committee. 2 N.N.C. § 164(A)(9).
- 6 C. The Navajo Nation Council is the governing body of the Navajo Nation. 2
7 N.N.C. § 102(A).

8

9 **Section Two. Findings**

- 10 A. The Navajo Nation President issued Executive Order No. 001-20 declaring a state
11 of emergency due to the COVID-19 virus on March 13, 2020.
- 12 B. On March 11, 2020, the Navajo Nation Emergency Management Commission
13 declared a state of emergency due to the COVID-19 virus. Resolution No. CEM-
14 20-03-11.
- 15 C. The coronavirus pandemic has caused large scale infections and loss of life
16 throughout the world, the United States and the Navajo Nation. As of October 3,
17 2022, the Navajo Nation Health Command Operations Center has confirmed 1,914
18 COVID-related deaths on the Navajo Nation.
- 19 D. On March 11, 2021, President Biden signed the American Rescue Plan Act
20 ("ARPA") into law. Section 9901 of ARPA established the Coronavirus State
21 Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (together
22 the "Fiscal Recovery Funds") by amending Title VI of the Social Security Act,
23 which provided \$362 billion for state, local, and tribal governments, including \$20
24 billion designated for tribal governments.
- 25 E. As of May 29, 2021, the United States Department of Treasury allocated
26 \$1,861,554,458.43 to the Navajo Nation under the Fiscal Recovery Funds
27 provisions of ARPA. The Fiscal Recovery Funds are designed to build on and
28 expand the relief provided in the Coronavirus Aid, Relief, and Economic Security
29 Act or CARES Act.
- 30

1 F. The Fiscal Recovery Funds are intended to support governmental efforts to mitigate
2 and contain the spread of COVID-19, as well as to respond to the health, social and
3 economic impacts of COVID-19 suffered by residents and businesses, including
4 making necessary investments in water, sewer, or broadband infrastructure.

5 G. The Navajo Nation Council, through Resolution CJY-41-21, established the Navajo
6 Nation Fiscal Recovery Fund and the expenditure authorization process. The
7 Budget and Finance Committee, through resolution BFS-31-21, approved the
8 Navajo Nation Fiscal Recovery Fund Application Procedures. *See*, Resolutions
9 CJY-41-21 and BFS-31-21.

10 H. Pursuant to ARPA, as stated in Navajo Nation Council Resolution CJY-41-21 (J):

- 11 1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning
12 the Navajo Nation must obligate funds by that date; and
- 13 2. The Fiscal Recovery Fund period of performance runs until December 31, 2026,
14 meaning funded projects must be completed by that date.

15 I. The purpose of this resolution is to expedite the approval of Navajo Nation Fiscal
16 Recovery Fund and American Rescue Plan Act (ARPA) expenditures for projects
17 requiring rights-of-way across Navajo lands to mitigate and contain the spread of
18 COVID-19, as well as to respond to the health, social and economic impacts of
19 COVID-19. This resolution is not intended to include commercial projects.

20 J. *Dennison v. Tucson Gas and Electric Co.*, 1 Nav. R. 95 (Nav. Sup. Ct. 1974) is a
21 Navajo Nation Supreme Court case involving a right-of-way issued for an above
22 ground electric powerline across the Navajo land. In this case, the Navajo Nation
23 Supreme Court spoke about the Navajo Nation's Eminent Domain statute, 16
24 N.N.C. § 1401 *et seq.* (Compensation for Improvements and Customary Use Rights
25 Upon Adverse Disposition of Land). The Supreme Court stated:

26 *Eminent Domain is the power of any sovereign to take or to authorize the taking*
27 *of any property within its jurisdiction for public use without the consent of the*
28 *owner. It is an inherent power and authority which is essential to the existence of*
29 *all governments.*

1 *Therefore, as in this case, the sovereign (the Navajo Tribal Government), has*
2 *the power and the authority to take or to authorize the taking of the Dennison*
3 *property, all or part of it, without their consent. Plaintiffs' consent to the granting*
4 *of the right-of-way is totally unnecessary.*

5 *But, before the government can exercise this power of taking private property*
6 *without the owner's consent, it must provide just compensation for the property*
7 *taken and provide the owner thereof with due process of law. Dennison v. Tucson*
8 *Gas and Electric Co., 1 Nav. R. 95, 98 (Nav. Sup. Ct. 1974).*

9 K. The Navajo Nation Code at 16 § 1401 (A) (Damages to improvements of individual
10 Navajo Indians) states:

11 A. Whenever the Navajo Nation disposes of land containing any improvement
12 belonging to a Navajo Indian who will not donate the same, whether the
13 disposition is made by surface lease, permit, consent to grant of right-of-way
14 or consent to commencement of construction on a proposed right of way, or in
15 any other manner that gives the grantee or proposed grantee exclusive use of
16 the surface of the land containing such improvement, or authorizes the grantee
17 or proposed grantee to use the surface of the land in such manner that said
18 improvement or improvements must be removed, damaged, or destroyed, the
19 Navajo Nation will pay damages to the rightful claimant of such improvement
20 or improvements.

21 L. If the Navajo Nation Eminent Domain statute is used for rights-of-way for Navajo
22 Nation Fiscal Recovery Fund and American Rescue Plan Act (ARPA) projects, due
23 process and just compensation pursuant to 16 N.N.C. § 1401 *et seq.* shall be
24 afforded to those individuals affected by the use of the Eminent Domain statute.

25 M. The Navajo Nation Land Acquisition Rules and Regulations were approved by the
26 Resources and Development Committee Resolution RDCO-78-16. Resolution
27 RDCO-78-16 states in Exhibit A, Navajo Land Acquisition Rules and Regulations,
28 Section VII (A): "The Land Acquisition Trust Fund shall be used to compensate
29 land users for the exercise of eminent domain by the Navajo Nation pursuant to 16
30 N.N.C. §§ 1401-1403."

1 N. The Division of Natural Resources and the Navajo Nation Department of Justice
2 shall be directed to develop ARPA Land Acquisition Trust Procedures for Eminent
3 Domain Purposes (“Procedures”). The Procedures shall specify how “just
4 compensation” will be determined. The Dennison Case, decided in 1974, includes
5 a discussion of just compensation. The Navajo Nation Department of Justice’s
6 legal guidance is needed to determine whether inflation and other such factors
7 should be considered in the determination of just compensation. The Procedures
8 should specify who will conduct the appraisals and procedure to be used to
9 determine just compensation.

10 O. The Procedures should specify which land users should be compensated; such as,
11 whether land users who do not have a current animal tally count should be
12 compensated; and, how to provide for land user permits currently in probate. The
13 Procedures should state whether a grazing permit’s sheep units should be reduced
14 to reflect the reduction in grazing area. The Procedures should include any
15 additional issues to be determined to implement the purpose of this resolution.
16 These Procedures shall be presented to the Resources and Development Committee
17 for approval.

18
19 **Section Three. Approving the use of the Navajo Nation Eminent Domain statute,**
20 **16 N.N.C. § 1401 *et seq.*, to address the right-of-way consent requirements for**
21 **Navajo Nation Fiscal Recovery Fund and American Rescue Plan Act (ARPA)**
22 **funded services within ARPA timelines**

23 The Navajo Nation approves the use of the Navajo Nation Eminent Domain statute,
24 16 N.N.C. § 1401 *et seq.*, to address the right-of way consent requirements for
25 Navajo Nation Fiscal Recovery Fund and ARPA funded services to Navajo Nation
26 residents within the ARPA established timelines in which the Navajo Nation must
27 obligate funds, December 31, 2024.

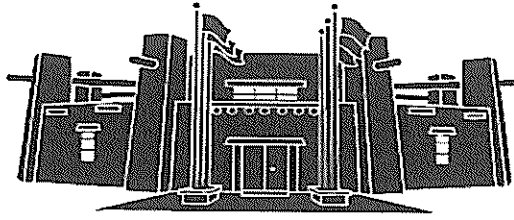
28
29 **Section Four. Directives**
30

- 1 A. The Navajo Nation Controller is hereby directed to report to the Navajo Nation
2 Resources and Development Committee the amount of funds available in the
3 Land Acquisition Trust Fund from which to compensate land users affected by
4 the use of the Navajo Nation Eminent Domain Statute to address right-of-way
5 approvals for Navajo Nation Fiscal Recovery Fund and ARPA funded projects.
- 6 B. The Executive Director of the Navajo Nation Division of Natural Resources
7 (“DNR”), the DNR Department Managers and the Navajo Department of
8 Justice Natural Resources Unit and the Tax and Finance Unit are hereby
9 directed to develop Land Acquisition Procedures for the expenditure of Land
10 Acquisition Trust Funds to be used to compensate land users affected by the
11 Navajo Nation Eminent Domain Statute pursuant to this resolution. The
12 Procedures are to be presented to the Resources and Development Committee
13 for approval.

14

15 **Section Five. Effective Date**

- 16 A. The provisions of this Action shall become effective pursuant to 2 N.N.C. § 221
17 (B).
- 18 B. The provisions of this Action shall expire on December 31, 2024, unless
19 otherwise determined by resolution of the Navajo Nation Council.
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MEMORANDUM

TO: Honorable Vince R. James
Jeddito, Cornfields, Ganado, Kinlichee, Steamboat Chapters

FROM: Mariana Kahn
Mariana Kahn, Attorney
Office of Legislative Counsel

DATE: October 4, 2022

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION, AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE NAABIK'ITYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING THE USE OF THE EMINENT DOMAIN STATUTE, 16 N.N.C §§ 1401 *ET SEQ.*, FOR AMERICAN RESCUE PLAN ACT ("ARPA") FUNDED PROJECTS TO ADDRESS THE RIGHT-OF-WAY LAND USER CONSENT REQUIREMENT; APPROVING DECEMBER 31, 2024 AS THE EXPIRATION DATE OF FOR USE OF THE EMINENT DOMAIN STATUTE FOR THESE ARPA FUNDED PROJECTS; DIRECTING THE CONTROLLER TO REPORT THE AMOUNT OF FUNDING IN THE LAND ACQUISITION TRUST FUND AVAILABLE FOR JUST COMPENSATION AS REQUIRED BY THE EMINENT DOMAIN STATUTE; AND, DIRECTING THE DIVISION OF NATURAL RESOURCES DIVISION AND THE DEPARTMENT OF JUSTICE TO DEVELOP PROCEDURES FOR THE USE OF THE FUNDS IDENTIFIED FOR THE EMINENT DOMAIN PURPOSE

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5). 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.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0191-22_

SPONSOR: Vince R. James

TITLE An Action Relating to Resources and Development Committee, the Naabik'iyáti' Committee, and The Navajo Nation Council; Approving the Use of the Eminent Domain Statute, 16 N.N.C. §§ 1401 et seq., for American Rescue Plan Act ("ARPA") Funded Projects to Address the Right-of-Way Land User Consent Requirement; Approving December 31, 2024 as the Expiration Date of for Use of the Eminent Domain Statute for These ARPA Funded Projects; Directing the Controller to Report the Amount of Funding in the Land Acquisition Trust Fund Available for Just Compensation as Required by the Eminent Domain Statute; and, Directing the Division of Natural Resources Division and the Department of Justice to Develop Procedures for the Use of the Funds Identified for the Eminent Domain Purpose

Date posted: October 5, 2022 at 1:14 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.: 0191-22

SPONSOR: Honorable Vince R. James

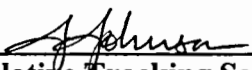
TITLE: An Action Relating to Resources and Development Committee, the Naabik'iyáti' Committee, and the Navajo Nation Council; Approving the Use of the Eminent Domain Statute, 16 N.N.C. §§ 1401 *et seq.*, for American Rescue Plan Act ("ARPA") Funded Projects to Address the Right-of-Way Land User Consent Requirement; Approving December 31, 2024 as the Expiration Date of for Use of the Eminent Domain Statute for These ARPA Funded Projects; Directing the Controller to Report the Amount of Funding in the Land Acquisition Trust Fund Available for Just Compensation as Required by the Eminent Domain Statute; and, Directing the Division of Natural Resources Division and the Department of Justice to Develop Procedures for the Use of the Funds Identified for the Eminent Domain Purpose

Posted: October 05, 2022 at 1:14 PM

5 DAY Comment Period Ended: October 10, 2022

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	1) Mae-Gilene Begay 2) Dorothy R. Yazzie 3) Eastern Agency Land Board – District 16
Comments/Recommendations	<i>None</i>


Legislative Tracking Secretary
Office of Legislative Services

October 11, 2022; 8:17 AM
Date/Time

0191-22

Gilene Begay <mgbegay@yahoo.com>

Sat 10/8/2022 5:23 PM

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

I totally disagree with use of Imminent Domain to access land for ARPA infrastructures, internal family disputes or disputes with neighbors will result creating unhealthy living situations. There should be other ways of building or transporting infrastructures through people's residence or customary use. Moreover, this method will create prolong conflicts amongst families, relatives and neighbors. It's totally not good plan! Please don't proceed with this legislation.

Mae-Gilene Begay, President
Forest Lake Chapter

WARNING: External email. Please verify sender before opening attachments or clicking on links.

Legislation No. 0191-22, Regarding Eminent domain & Use of Land Acquisition funds.

Dorothy RI Yazzie <dryazzie1@yahoo.com>

Mon 10/10/2022 8:59 AM

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

I am opposed to use of forced Eminent Domain for Right of Way on our people despite the land is federal trust land. If there is a problem at that Region, then it should be addressed there with the people rather than blanketing the rest of the Dine' Beyah! Bringing such legislation during election now is poor planning & shoving down on Council Delegates seem unjustified and unethical.

I m opposed and concerned about using the Trust Land funds to pay for right of way which sound in appropriate. The Land Trust funds were to be used for purchasing land to replace land loss to Hopi! NPL residents need outside grazing land for their livestock exceeding 10 SUYL!? It should NOT be paid for land already in trust for all Dine'.

I am stating my opposition to this legislation!! I implore all Council Delegates to Vote NO!

Sent from Yahoo Mail for iPhone

WARNING: External email. Please verify sender before opening attachments or clicking on links.

RESOLUTION
of the
Eastern Agency Land Board
District 16
Resolution No. EALBD16-2022-10-02

Mr. Anthony Begay
Chairperson
Members:
Mr. Wilbur Murphy
Mr. Roland Mexicano

Mr. Emery Chee
Vice Chairperson
Mr. Kevin Long
Mr. Rodger Martinez

Ms. Kathleen Arviso
Secretary
Ms. Evangeline Willie
Mr. Ernest Reeder

Resolution to Opposing the Proposed Legislation #0191-22, introduced by Council Delegate Vince R. James, to the Resource and Development Committee, 24th Navajo Nation Council.

Whereas:

1. On behalf of the Eastern Agency grazing permittees, the Eastern Agency Land Board – District 16 strongly oppose the Legislation 191-22 to enact eminent domain statute of 16 N.N.C. §§1401 *Et. Seq.*
2. Application of eminent domain in Eastern Agency of the Navajo Nation would only address a small portion of the rights-of-way and consents from the many different land statuses of the Checkerboard area. Tribal trust lands and fee lands are the least resistant on garnering consents unlike allotted, private, state, Bureau of Land Management, and other types of lands, and;
3. The enactment of eminent domain possible would create animosity and distain towards the Navajo Nation government and its elected officials by the Navajo people and;
4. The Eastern Agency Land Boards under the *Authority of an Amendment of Memorandum of Understanding Dated February 8, 1965 Among The Bureau of Indian Affairs, The Bureau of Land Management, and The Navajo Nation For The Grazing Administration Of The Eastern Agency Administration Area.* Section V. Paragraph B states: *As provided in Navajo Tribal Council Resolution CD-59-64, dated December 10, 1964, the Navajo Nation adopted by promulgation of Resolution No. CMY-33-69, dated May 19, 1969, the Off-Reservation Grazing Code that set forth the authority of the District Land Boards in 3 N.N.C. §§231-242 and 931-950 (1995), which now governs sound management principles and proper administration of grazing land in the Eastern Navajo Agency administrative area, and;*
5. Any Navajo Nation project that requires approval by the 164 Review process of the Navajo Nation is delayed by the many extensive reviews of tribal divisions and departments, departmental back log, requests for additional supporting documents, antiquated document management systems, lack of personnel to review/process the documents, lack of complete project funding and closure of federal, state, local, and tribal offices due to the recent global pandemic. Thus,

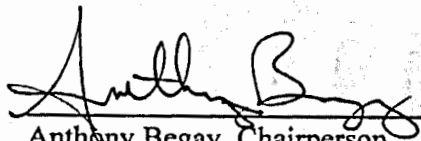
- creating the time-consuming approval of projects as a whole, rights-of-ways and consents for usage is at the beginning of the projects and done locally, and;
6. Recently the Resources and Development Committee has approved Legislation #0170-22 approving the Plan of Operation of the Navajo Nation General Land Development Department One Stop Shop, comprising of the General Land Development Department, Navajo Nation Environmental Protection Administration, Department of Fish & Wildlife, Navajo Land Department, Navajo Nation Heritage & Historic Preservation Department, Navajo Nation Mineral Department, and the Navajo Forestry Department. This greatly enhances the efficiency of project review process with the Division of Natural Resources, and;
 7. To further expedite approvals of rights-of-way, the Resource and Development Committee has approved by Legislation #0169-22 recently giving "additional" authority to the Department Manager of the Navajo Land Department on granting rights-of-way on Navajo Nation trust lands and fee lands, and;
 8. Eastern Agency Chapters, Navajo Nation divisions, departments and other tribal entities who garner rights-of-way and/or land use consents of the Eastern Agency of the Navajo Nation are unaware of the correct process to appeal the grazing permittees who do not consent before the Eastern Agency Land Board, and;
 9. With the much-needed recent adjustments initiated by the Resource and Development Committee to the 164 Review process, the opportunity must be made to ascertain the changes for future projects of the Navajo Nation, and;

NOW, THEREFORE IT BE RESOLVED THAT:

The Eastern Agency Land Board – District 16, convened at their duly called meeting on October 7, 2022, passed a resolution to the proposed Legislation #0169-22 introduced by Council Delegate Vince R. James, to the Resource and Development Committee, 24th Navajo Nation Council.

CERTIFICATION

I hereby certify that the foregoing resolution was considered by the Eastern Agency Land Board – District 16, at a duly called meeting at which a quorum was present and that the same was passed by a **vote of 5 in favor and 0 opposed and 0 abstained.**



Anthony Begay, Chairperson
District 16 Land Board

Motioned by: Mr. Emery Chee

Seconded by: Ms. Kathleen Arviso

**RESOURCES AND DEVELOPMENT COMMITTEE
24th NAVAJO NATION COUNCIL**

FOURTH YEAR 2022

COMMITTEE REPORT

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

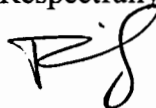
LEGISLATION #0191-22: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING THE USE OF THE EMINENT DOMAIN STATUTE, 16 N.N.C. §§ 1401 ET SEQ., FOR AMERICAN RESCUE PLAN ACT ("ARPA") FUNDED PROJECTS TO ADDRESS THE RIGHT-OF-WAY LAND USER CONSENT REQUIREMENT; APPROVING DECEMBER 31, 2024 AS THE EXPIRATION DATE OF FOR USE OF THE EMINENT DOMAIN STATUTE FOR THESE ARPA FUNDED PROJECTS; DIRECTING THE CONTROLLER TO REPORT THE AMOUNT OF FUNDING IN THE LAND ACQUISITION TRUST FUND AVAILABLE FOR JUST COMPENSATION AS REQUIRED BY THE EMINENT DOMAIN STATUTE; AND, DIRECTING THE DIVISION OF NATURAL RESOURCES DIVISION AND THE DEPARTMENT OF JUSTICE TO DEVELOP PROCEDURES FOR THE USE OF THE FUNDS IDENTIFIED FOR THE EMINENT DOMAIN PURPOSE. *Sponsor: Honorable Vince R. James*

Has had it under consideration and reports a **DO NOT PASS** with no amendments, and **ONE (1) RECOMMENDATION**.

RECOMMENATION: The Resources and Development Committee recommends to the Naabik'íyáti' Committee a Work Session should be held on Legislation #0191-22 to further understand the impact of the legislation. The Work Session should include, (1) Land Board Officials, Grazing Committee Members, Farm Boards Officials as their comments would be helpful; (2) Information about the eminent domain process, such as who will be involved in the eminent domain process and what jobs will they do; (3) Information about the process for the use of the Land Acquisition Trust Fund for eminent domain purposes; and (4) the Timelines for the American Rescues Plan Act (ARPA).

And thereafter the legislation was referred to the Naabik'íyáti' Committee.

Respectfully submitted,



Rickie Nez, *Chairperson*

Resources and Development Committee of
the 24th Navajo Nation Council

Date: October 26, 2022 – Regular Meeting (Teleconference)
Location: Resources and Development Committee also called in via teleconference
from their location within the boundary of the Navajo Nation.

Main Motion:

M: Herman M. Daniels

S: Thomas Walker, Jr.

V: 0-5-1 (CNV)

In Favor: None

Opposition: Thomas Walker, Jr.; Kee Allen Begay, Jr.; Herman M. Daniels; Mark A. Freeland;
Wilson C. Stewart, Jr.

Excused: None

Not Voting: Rickie Nez, *Chairperson*

(NOTE: VOTE TALLY attached hereto)

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

LEGISLATION NO.: 0191-22

SPONSOR: Honorable Vince R. James

TITLE: An Action Relating to Resources and Development Committee, the Naabik'iyáti' Committee, and the Navajo Nation Council; Approving the Use of the Eminent Domain Statute, 16 N.N.C. §§ 1401 et seq., for American Rescue Plan Act ("ARPA") Funded Projects to Address the Right-of-Way Land User Consent Requirement; Approving December 31, 2024 as the Expiration Date of for Use of the Eminent Domain Statute for These ARPA Funded Projects; Directing the Controller to Report the Amount of Funding in the Land Acquisition Trust Fund Available for Just Compensation as Required by the Eminent Domain Statute; and, Directing the Division of Natural Resources Division and the Department of Justice to Develop Procedures for the Use of the Funds Identified for the Eminent Domain Purpose

Posted: October 05, 2022 at 1:14 PM

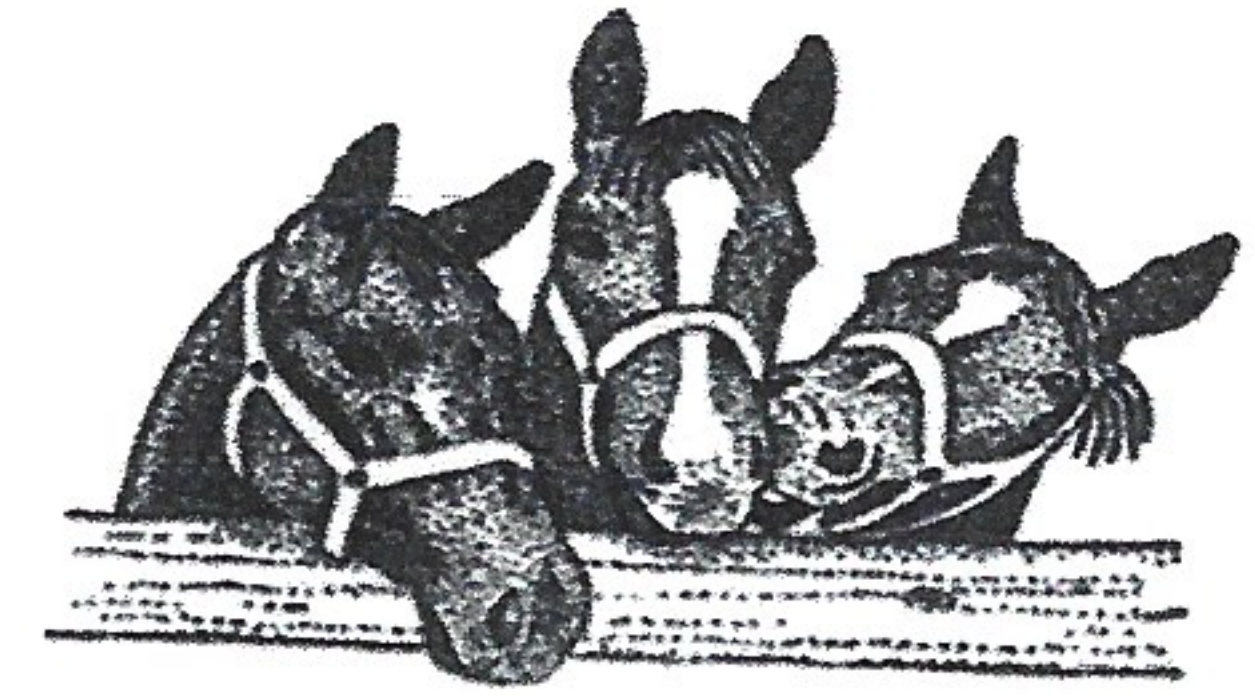
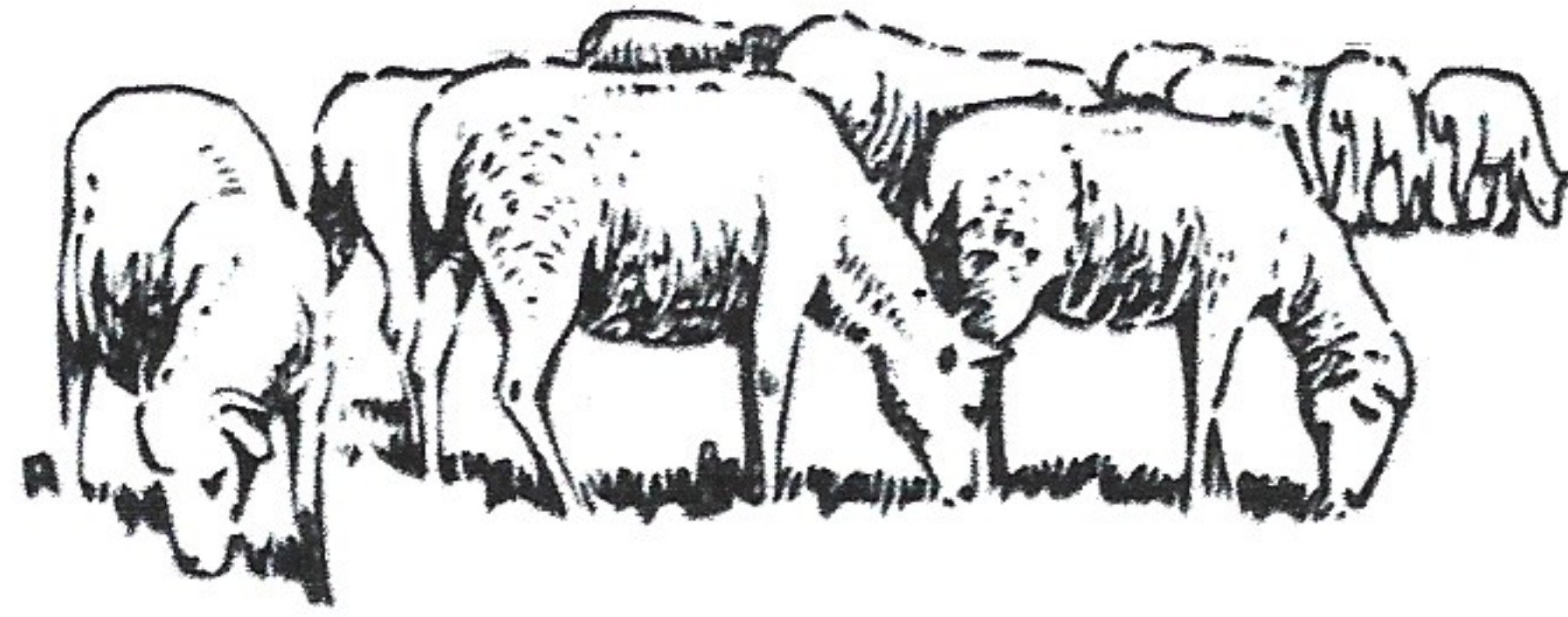
5 DAY Comment Period Ended: October 10, 2022

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	1) District 18 Grazing Committee
Comments/Recommendations	<i>None</i>


Legislative Tracking Secretary
Office of Legislative Services

November 10, 2022; 4:47 PM
Date/Time



Jonathan Nez, Navajo Nation President	Chairman Patrick Martinez	Myron Lizer, Navajo Nation Vice President
Vice-Chairman Herman Billie		Secretary Florina Howard

RESOLUTION DGC #18:22-11 (B) OF THE DISTRICT 18 GRAZING COMMITTEE

Resolution of District 18 DGC #18:22-11(B) NON-SUPPORT of Legislation # 01191 - 22

WHEREAS:

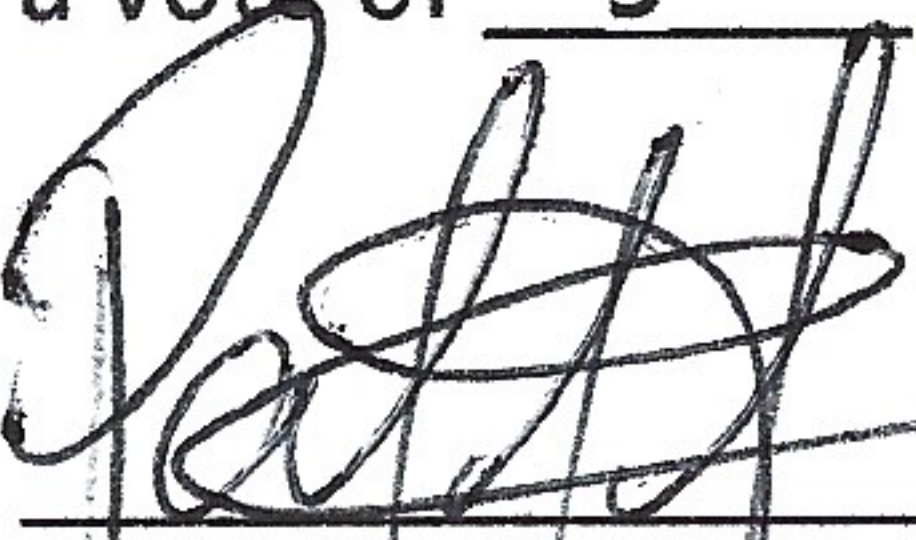
- 1. Pursuant to 3 N.N.C. §871-884, the District Grazing Committee have authority to oversee grazing activities on the Navajo Nation; and
- 2. District 18 Grazing Committee is in non-support of Legislation # 01191-22 of Eminent Domain Statutes, For American Rescue Plan Act (ARPA) funded projects as
- 3. Title 13 16 N.N.C chapter 13 sec. Annotation #1 Eminent Domain, #2 Legislative Approval, #3 Just Compensation and sec. 1401 Damage to improvements of individual Navajo Indians, 1402 Economic damage to intangible interest of Navajo Indian, 1403 Adverse disposition of Navajo Nation land not to be made until individual damages are estimated
- 4. At a dually called meeting with a quorum of (5) District 18 members in attendance for resolution DGC # 18:22-11(B) of non-support of legislation 01191-22
- 5. Whereas District 18 supports and acknowledges Resolution DGC #18:22 -11(B)

NOW THEREFORE BE IT RESOLVED THAT:

- 1. The District 18 Grazing Committee approves and supports Resolution DGC #18:22-11(B) non-support of legislation # 01191-22

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the District 18 Grazing Committee at a duly called meeting at 9:00 am, Navajo Nation Window Rock AZ, at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 -abstained, this 1st day of November 2022.



Chairperson District 18 Grazing Committee

Motion by: Florina Howard
Second by: Ernest Nez