



## 23<sup>rd</sup> Navajo Nation Council

### MEMORANDUM

To : Manuel Rico, Senior Programs and Projects Specialist  
OFFICE OF LEGISLATIVE SERVICES

From : 1-711  
Tom Platero, Executive Director  
OFFICE OF LEGISLATIVE SERVICES

Date : January 9, 2019

Subject : ***23<sup>rd</sup> Navajo Nation Council Expired Legislation***

Pursuant to 2 N.N.C. § 164 (A) (1), "The last day for consideration of resolutions shall be December 31<sup>st</sup> of the year immediately preceding the swearing in of the new Council", the following legislation need to be closed out and labeled as "expired":

#### NAVAJO NATION COUNCIL:

0399-17	0424-17	0098-18	0136-18
0183-18	0224-18	0328-18	0344-18
0356-18	0358-18	0367-18	0373-18
0385-18	0393-18	0404-18	0416-18
0422-18			

#### NAABIK'YATI' COMMITTEE:

0224-15	0361-16	0341-18	0406-18
0418-18	0427-18		

**BUDGET AND FINANCE COMMITTEE:**

0021-17	0392-17	0099-18	0261-18
0287-18	0398-18	0435-18	0436-18

**HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE:**

0414-18	0419-18	0451-18
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**LAW AND ORDER COMMITTEE:**

0114-17	0031-18	0217-18	0307-18
0353-18	0360-18	0364-18	0437-18

**RESOURCES AND DEVELOPMENT COMMITTEE:**

0402-15	0104-16	0121-16	0183-16
0282-16	0296-16	0370-16	0384-16
0135-17	0176-17	0386-17	0400-17
0076-18	0395-18	0415-18	0443-18

Legislation need to be closed out as soon as possible. If you have any questions, please let me know.

**CONCURRENCE:**



**Honorable LoRenzo C. Bates, Speaker**  
**23<sup>rd</sup> Navajo Nation Council**

COPIES: Pete K. Atcitty, Chief of Staff, Office of the Speaker  
Ed McCool, Acting Chief Legislative Counsel, Office of Legislative Counsel  
Files

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0104-16

**DATE:** April 1, 2016

**TITLE OF RESOLUTION:** AN ACTION RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT, NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION CODE, TITLE 19: NAVAJO NATION CULTURAL RESOURCES PROTECTION ACT

**PURPOSE:** The resolution's purpose is to amend Navajo Nation Code, Title 19: Navajo Nation Cultural Resources Protection Act.

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: None  
Website Posting Time/Date: 12:25pm 4/1/16  
Posting End Date: 4/16/2016  
Eligible for Action: 4/17/2016

Law & Order Committee

THENCE

Resources & Development Committee

THENCE

Naa'bik'íyáti' Committee

THENCE

Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL -- Second Year, 2016

INTRODUCED BY

  
(Prime Sponsor)



TRACKING NO. 0104-16

AN ACT

RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT,  
NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING  
NAVAJO NATION CODE, TITLE 19; NAVAJO NATION CULTURAL RESOURCES  
PROTECTION ACT

BE IT ENACTED:

**Section One. Authority.**

- A. The Law and Order Committee of the Navajo Nation Council reviews and makes recommendations to the Navajo Nation Council proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14) (2012).
- B. The Resources and Development Committee of the Navajo Nation Council exercises oversight authority over cultural resources and reviews and makes recommendations to the Navajo Nation Council for final approval of all other resolutions requiring Navajo Nation Council approval to accomplish or impact the Committees purposes. *Id.* at §§ 500(C) and 501(B)(4)(f).
- C. The Naabik'íyáti' Committee of the Navajo Nation Council reviews proposed legislation which requires final action by the Navajo Nation Council. *Id.* at § 164(A)(9)
- D. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. *Id.* at § 164(A).

1       **Section Two. Findings.**

- 2       A. Diné Traditional Law declares and teaches that the Legislative Branch leaders shall enact  
3       policies and laws to address the immediate and future needs of the Navajo Nation. 1.  
4       N.N.C. §203(D) (2009).
- 5       B. Diné Traditional Law declares and teaches that the Executive Branch leaders shall  
6       implement the policies and laws enacted by the legislative branch. *Id.* at §203(C).
- 7       C. Diné Customary Law declares and teaches that it is the right and freedom of. *Id.* at  
8       §204(E).
- 9       D. In addressing the immediate and future needs, the Navajo Nation identified nine priorities  
10       for the Nation, which is in no particular order: infrastructure development and  
11       improvement, economy, water rights, housing and public facility, education, human  
12       services, governance, public safety and judicial, and natural resources. Navajo Nation  
13       Three Branch Agreement, One Nation One Voice (July 20, 2015).
- 14       E. Specifically a goal through Education is Diné Language and Cultural Preservation. *Id.*
- 15       F. Native American tribal cultural items in the United States of American include ancestral  
16       remains, funerary objects, sacred objects, and objects of cultural patrimony (hereinafter  
17       “tribal cultural items”), these objects have ongoing historical, traditional, and/or cultural  
18       importance central to a Native American group or culture itself, and therefore, cannot be  
19       alienated, appropriated, or conveyed by any individual. PROTECT Patrimony  
20       Resolution, H. Con. Res. 122, 114<sup>th</sup> Cong. (2<sup>nd</sup> Sess. 2016).
- 21       G. Tribal cultural items are vital to tribal cultural survival and the maintenance of tribal  
22       ways of life. *Id.*
- 23       H. The nature and the description of tribal cultural items are sensitive and need to be treated  
24       with respect and confidentiality. *Id.*
- 25       I. Violators often export tribal cultural items overseas with the intent of evading Federal  
26       and tribal laws. *Id.*
- 27       J. In December 2014, the Naabik’íyáti’ Committee Sacred Sites Sub-Committee decided to  
28       send a delegation to Paris, France to retrieve seven Yei’bi’chei masks from Eve Auction  
29       House in Paris, France. Alastair L. Bitsoi, *Navajo delegation brings back Yei Bi Chei*  
30       *masks from Paris*, Navajo Times, Dec. 15, 2014, at navajotimes.

1 K. On March 22, 2016, the International Repatriation Project Director notified the Navajo  
2 Nation that Eve Auction House in Paris, France will be having an auction on May 30,  
3 2016 on American Indian, Pre-Columbian items. This is the same auction house that sold  
4 the Yei'bi'chei masks in Dec. 2014. The auction catalog is not up on their website but the  
5 Project Director suggests checking the site daily. Email from Honor Keeler, International  
6 Repatriation Project Director, to listservs (March 22, 2016).

7 L. To protect the Navajo Nation's cultural resources, amending the Navajo Nation Cultural  
8 Resources Act is in the Navajo Nation's best interest.

9  
10 **Section Three. Amending Navajo Nation Code Title 19**

11 The Navajo Nation amends the Navajo Nation Code, Title 19 as follows:

12 \_\_\_\_\_  
13  
14 Title 19. Parks and Monuments

15 Chapter 11. Navajo Nation Cultural Resources Act

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17 \*\*\*

18 **§ 1003. Definitions**

19 As used throughout this Act, the term:

20 A. "Archaeology Department" means the Navajo Nation Archaeology Department.

21 B. "Building" means any structure made by man primarily to provide shelter.

22 C. "Cultural patrimony" means an object having ongoing historical, traditional, or cultural  
23 importance central to the Navajo Nation, rather than property owned by an individual Navajo  
24 member, and which therefore, cannot be alienated, appropriated, or conveyed by any individual  
25 regardless of whether or not the individual is a member of the Navajo Nation and such object  
26 shall have been considered inalienable by the Navajo Nation at the time the object was separated  
27 from the Nation.

28 ~~ED.~~ "Cultural property" means any cultural resource deemed to be important enough  
29 to warrant listing in the Navajo Register.



1     ~~D~~E. "Cultural resource" means any product of human activity, or any object or place given  
2 significance by human action or belief.

3     ~~E~~F. "Department" means the Navajo Nation Historic Preservation Department.

4     ~~F~~G. "District" means any discrete area comprising buildings, objects, sites or structures that  
5 forms a recognizable, unified whole.

6     ~~G~~H. "Indian" or "Indian person" means any enrolled member of an Indian Tribe recognized  
7 by the Secretary of the Interior.

8     ~~H~~I. "Lands in which the Navajo People have a historical interest" means all lands historically  
9 or traditionally used by the Navajo People.

10    ~~I~~J. "Navajo Lands" means those lands held in Trust for the benefit of the Navajo Nation and  
11 those lands which the Navajo Nation holds in fee simple or in which it has a legal interest.

12    ~~J~~K. "Navajo Landmarks" means those cultural properties that are of significance to the entire  
13 Navajo Nation.

14    ~~K~~L. "Navajo Register" means the Navajo Nation Register of Cultural Properties.

15    ~~L~~M. "Object" means a product of human activity or an item given significance or meaning by  
16 human activity or belief.

17    ~~M~~N. "Place" refers to an identifiable location at which an event occurred or a location given  
18 significance by human action or belief.

19    ~~N~~O. "Preservation Officer" means the Navajo Nation Historic Preservation Officer, who is  
20 the Director of the Navajo Nation Historic Preservation Department.

21    ~~P~~. "Sacred objects" means specific ceremonial objects which are needed by traditional  
22 medicine practitioners for the practice of traditional ceremonies by their present day adherents.

23    ~~O~~Q. "Site" means the location of the physical remains of human activity.

24    ~~P~~R. "Sponsor" means the agency official or the official in a private capacity who has  
25 decision-making authority over a particular undertaking.

26    ~~Q~~S. "Structure" means construction resulting from human activity, the primary purpose of  
27 which is other than to provide shelter.

28    ~~R~~T. "Tribal Archaeologist" means the Navajo Nation Archaeologist, who is the director of  
29 the Archaeology Department.

1       §U. "Undertaking" means any project, activity or program that can result in changes in the  
2 character or use of cultural properties, if any such cultural properties are located in the area of  
3 potential effects. The project, activity or program must be under the direct or indirect jurisdiction  
4 of a Sponsor. Undertakings include new and continuing projects, activities or programs not  
5 previously considered under the authority of this Act.

6       \*\*\*

7       **§ 1031. Prohibited activities**

8       ~~No cultural property may be visited or investigated on Navajo lands, except those cultural~~  
9 ~~properties designated as open to the public within the boundaries of a Navajo Nation Park or a~~  
10 ~~National Park or Monument; nor may any person alter, damage, excavate, deface, destroy or~~  
11 ~~remove, any cultural properties on Navajo lands. No person may sell, purchase, exchange or~~  
12 ~~transport cultural resources from Navajo lands. No person may engage in ethnographic research~~  
13 ~~on Navajo lands, except that such activities may be conducted under the authority of and in~~  
14 ~~accordance with the stipulations of a valid Navajo Nation Cultural Resources Permit issued by~~  
15 ~~the Preservation Officer under the authority of § 1032.~~

16       Violations of this section may subject an individual to either criminal penalties or civil  
17 assessments in accordance with 19 N.N.C. §§1037 and 1038 respectfully.

18       A. No cultural property shall be visited or investigated on Navajo lands, except those  
19 cultural properties designated as open to the public within the boundaries of a Navajo Nation  
20 Park or a National Park or Monument.

21       B. No person shall alter, damage, excavate, deface, destroy or remove, any cultural  
22 properties, cultural resource, cultural patrimony, or sacred objects on Navajo lands.

23       C. No person shall engage in ethnographic research on Navajo lands, except that such  
24 activities may be conducted under the authority of and in accordance with the stipulations of a  
25 valid Navajo Nation Cultural Resources Permit issued by the Preservation Officer under the  
26 authority of § 1032.

27       D. No person shall sell, purchase, exchange or transport cultural property, cultural resource,  
28 cultural patrimony, or sacred objects from Navajo lands.



1 E. No person shall transport, transmit, or transfer in interstate or foreign commerce any  
2 cultural property, cultural resource, cultural patrimony, or sacred objects, knowing the same to  
3 have been stolen, converted or taken by fraud.

4 F. No person shall receive, possess, conceal, store, barter, sell or dispose of any cultural  
5 property, cultural resource, cultural patrimony, or sacred objects, or pledges to accept as security  
6 for a loan any cultural property, cultural resource, cultural patrimony, or sacred objects, which  
7 have crossed Navajo Lands boundary after being stolen, unlawfully converted, or taken, knowing  
8 the same to have been stolen unlawfully converted, or taken.

9 F. No person shall fail to obtain the necessary permits in accordance with 19 N.N.C. § 1032.

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11 **§ 1037. Criminal penalties**

12 Any Indian person violating the provisions of § 1031 of this Act shall be subject to the  
13 following criminal penalties and all provision in the Navajo Nation Code Title 17, Law and  
14 Order.

15 A. Any Indian person ~~who~~ commits:

16 (1) ~~Engages in cultural resources inventory activities except under the authority of~~  
17 ~~a Class B permit, or trespass if he or she enters upon, visits, or investigates on Navajo~~  
18 ~~lands cultural property, not open to the public and without a Class A permit as set forth~~  
19 ~~in 19 N.N.C. §1032(A)(1).~~

20 (a) Each visit to or inspection of a cultural resource on Navajo lands shall  
21 be considered a separate offense.

22 (b) Sentence. Any Indian person found guilty of trespass under this Act  
23 may be sentenced to imprisonment for a term not to exceed three hundred sixty-  
24 five (365) calendar days, and/or pay a find not to exceed five thousand dollars  
25 (\$5,000).

26 (2) ~~Who alters, collects, damages, destroys, excavates or removes cultural~~  
27 ~~resources except under the authority of a Class C permit or under the exception provided~~  
28 ~~by § 1033 of this Act, shall upon conviction, be guilty of a misdemeanor and subject to~~  
29 ~~punishment of up to one year in jail and a fine of up to one thousand dollars (\$1000).~~

30 Criminal damage if he or she intentionally or recklessly alters, damages,

1 excavates, defaces, destroys or removes, any cultural properties, cultural resource,  
2 cultural patrimony, or sacred objects on Navajo lands without a Class C permit.

3 (a) Sentence. Any Indian person found guilty of criminal damage under  
4 this Act may be sentenced to imprisonment for a term not to exceed three hundred  
5 sixty-five (365) calendar days, pay a fine not to exceed five thousand dollars  
6 (\$5,000), and/or restitution.

7 (3) Unlawful research if he or she engages in ethnographic research on Navajo  
8 lands, without a Class C permit.

9 (a) Sentence. Any Indian person found guilty of unlawful research under  
10 this Act may be sentenced to imprisonment for a term not to exceed three hundred  
11 sixty-five (365) calendar days and/or pay a fine not to exceed five thousand  
12 dollars (\$5,000).

13 (4) Selling, purchasing, exchanging or transporting cultural property, cultural  
14 resources, cultural patrimony or sacred objects if he or she intentionally sells, purchases,  
15 exchanges, or transports cultural property, cultural resources, cultural patrimony or  
16 sacred objects on Navajo lands.

17 (a) Sentence. Any Indian person found guilty of selling, purchasing,  
18 exchanging or transporting cultural property, cultural resources, cultural  
19 patrimony or sacred objects under this Act may be sentenced to imprisonment for  
20 a term not to exceed three hundred sixty-five (365) calendar days, pay a fine not  
21 to exceed five thousand dollars (\$5,000), and/or restitution.

22 (5) Transporting, transmitting, or transferring cultural property, cultural  
23 resources, cultural patrimony or sacred objects if he or she transports, transmits, or  
24 transfers in interstate or foreign commerce any cultural property, cultural resources,  
25 cultural patrimony or sacred objects knowing the same to have been stolen, converted or  
26 taken by fraud.

27 (a) Sentence. Any Indian person found guilty of transporting, transmitting,  
28 or transferring cultural property, cultural resources, cultural patrimony or sacred  
29 objects under this Act may be sentenced to imprisonment for a term not to exceed  
30

1 three hundred sixty-five (365) calendar days, pay a find not to exceed five  
2 thousand dollars (\$5,000), and/or restitution.

3 (6) Possessing, concealing, storing, bartering, selling, or disposing of any cultural  
4 property, cultural resources, cultural patrimony or sacred objects if he or she conceals,  
5 stores, barters, sells, or disposes of any cultural property, cultural resources, cultural  
6 patrimony or sacred objects, or pledges to accept as security for a loan any cultural  
7 property, cultural resources, cultural patrimony or sacred objects, which crossed Navajo  
8 lands boundary after being stolen, unlawfully converted, or taken, knowing the same to  
9 have been stolen, unlawfully converted, or taken.

10 (a) Sentence. Any Indian person found guilty of possessing, concealing,  
11 storing, bartering, selling, or disposing of any cultural property, cultural  
12 resources, cultural patrimony or sacred objects under this Act may be sentenced to  
13 imprisonment for a term not to exceed three hundred sixty-five (365) calendar  
14 days, pay a find not to exceed five thousand dollars (\$5,000), and/or restitution.

15 (7) Failure to obtain the necessary permits if he or she intentionally or recklessly  
16 fails to obtain the necessary permits in accordance with 19 N.N.C. § 1032.

17 (a) Sentence. Any Indian person found guilty of failure to obtain the  
18 necessary permits under this Act may be sentenced to imprisonment for a term not  
19 to exceed three hundred sixty-five (365) calendar days and/or pay a find not to  
20 exceed five thousand dollars (\$5,000).

21 **§ 1038. Civil assessments**

22 Individuals violating the prohibitions in § 1031 or § 1037 of this Act shall be subject to civil  
23 assessments. Civil assessments shall be imposed by the Resources and Development Committee  
24 of the Navajo Nation Council (hereafter referred to as the "Resources and Development  
25 Committee"), in accordance with procedures adopted by the Resources and Development  
26 Committee expressly for this purpose. The Resources and Development Committee shall adopt  
27 such procedures within 90 days of the adoption of this Act.

28 A. Violation of the provisions of § 1031 or § 1037 of this Act by any person who does  
29 business on the Navajo Nation shall be grounds for withdrawal of the privilege of doing business  
30 within the Navajo Nation. The Resources and Development Committee shall consider whether or



1 not to recommend to the Navajo Nation Council that any individual found to have violated §  
2 1031 or § 1037 shall lose the privilege of doing business within the Navajo Nation.

3 ~~B. Any non-Indian who visits or inspects cultural resources on Navajo lands without a valid~~  
4 ~~Class A permit shall be committing trespass. Such individuals determined to be in trespass after a~~  
5 ~~hearing before the Resources Committee of the Navajo Nation Council, shall be assessed a civil~~  
6 ~~forfeiture of not more than one hundred dollars (\$100.00) for the first offense and not more than~~  
7 ~~five hundred dollars (\$500.00) for each subsequent offense. For the purposes of this part, each~~  
8 ~~visit to or inspection of a cultural resource on Navajo lands shall be considered a separate~~  
9 ~~offense. The Resources Committee may, at its discretion, recommend to the Navajo Nation~~  
10 ~~Council that any person found to be in trespass be excluded from the Navajo Nation.~~

11 Any non-Indian alleged to have committed any offense enumerated in 19 N.N.C. §1037  
12 shall be subject to civil assessments administered by the Resources and Development  
13 Committee. In no event shall such a civil assessment permit incarceration of a non-Indian or  
14 permit the imposition of a criminal fine against a non-Indian.

15 ~~C. Any non-Indian who engages in cultural resources inventory activities on Navajo lands,~~  
16 ~~except under the authority of a valid Class B permit shall be committing trespass. Any individual~~  
17 ~~determined to be in trespass after a hearing before the Resources Committee, shall be assessed a~~  
18 ~~civil forfeiture of not more than one thousand dollars (\$1000) for each offense. For the purposes~~  
19 ~~of this part, each inventory on Navajo lands shall be considered a separate offense. The~~  
20 ~~Resources Committee shall consider whether or not to recommend to the Navajo Nation Council~~  
21 ~~that any individual found to have violated this prohibition be excluded from the Navajo Nation.~~

22 Procedure. Civil assessments under this section shall be conducted in accordance with the  
23 Resources and Development Committee's procedures for civil assessments. The non-Indian civil  
24 defendant shall be afforded all the heightened protections available to a criminal defendant under  
25 those rules including, but not limited to, the more stringent burden of proof beyond a reasonable  
26 doubt.

27 ~~D. Any individual within Navajo lands who alters, collects, damages, defaces, destroys,~~  
28 ~~excavates, removes or sells cultural resources or who collects ethnographic data without a valid~~  
29 ~~Class C permit, or as permitted under the exceptions detailed in § 1033, or who engages in~~  
30 ~~activities in violation of the terms and conditions of a valid permit shall be liable, after a hearing~~

1 ~~before the Resources Committee, to the Navajo Nation for civil damages as determined by the~~  
2 ~~Resources Committee as follows:~~

3 Nothing in this section shall be deemed to preclude exercise of criminal jurisdiction over  
4 any person who, by reason of assuming tribal relations with the Navajo people or being an "in  
5 law" or hadane or relative as defined by Navajo common law, custom, or tradition, submits  
6 himself or herself to the criminal jurisdiction of the Navajo Nation.

7 E. Civil Assessments. Upon a finding that a non-Indian committed any of the enumerated  
8 offenses in §1037, the Resources and Development Committee may impose any of the following  
9 civil assessments in any combination deemed appropriate by the committee:

10 1. Assessment of Actual Damages. The Resources and Development Committee  
11 shall impose the civil assessments based upon actual damages in accordance with  
12 "Standards for Assessing Damages to Cultural Properties" that the Resources and  
13 Development Committee shall adopt expressly for this purpose. The "Standards for  
14 Assessing Damages to Cultural Resources" shall include, but need not necessarily limit  
15 consideration to:

- 16 a. Full costs of restoration of the cultural resource;  
17 b. Enforcement and administrative costs associated with the  
18 civil action;  
19 c. Costs of disposition of cultural resources, including as appropriate, costs  
20 of curation in perpetuity;  
21 d. Costs associated with documentation, testing and evaluation of the  
22 cultural resource in order to assess the characteristics of the cultural resource and  
23 plan for its restoration; and  
24 e. Costs of any additional mitigation measures the Resources and  
25 Development Committee deems appropriate to implement.

26 2. Assessment of Treble Damages. In addition to the actual damages, the  
27 Resources and Development Committee may, at its discretion, assess damages of up to  
28 three (3) times the amount of the actual damages.

29 3. Seizure of Equipment and Cultural Resources. The ~~existing~~ resource enforcement  
30 officer shall seize all cultural resources in the possession of any individual cited under §



1 1031 of this Act, together with any other property used for or related to the violation in  
2 the possession of the individual cited, as the officer may deem necessary to obtain  
3 payment of any civil assessment.

4 4. Forfeiture of Cultural Resources and Property. After hearing before the  
5 Resources and Development Committee:

6 a. Any cultural resources obtained in violation of this Act shall be  
7 forfeited to the Navajo Nation;

8 b. Any other property seized in accordance with § 1038(D)(3), shall be  
9 released to the owner upon timely payment of any related civil assessments; and

10 c. Any seized property shall be forfeited to the Navajo Nation if the  
11 assessment has not been paid within 15 days of the hearing at which the civil  
12 assessment was levied or pursuant to this Act, whichever is later. Any such  
13 forfeiture shall be limited to the amount of the civil assessment. Any property  
14 remaining after forfeiture of property up to the value of the assessment shall be  
15 returned to the owner.

16 5. Exclusion. The Resources and Development Committee may file for an  
17 exclusion order in accordance with 17 N.N.C. § 1901(B).

18 6. A civil fine.

19 7. Civil forfeiture for specific violations:

20 a. Trespass as defined in 19 N.N.C. §1037(A)(1). Any non-Indian  
21 convicted of trespass shall be assessed the following:

22 i. First Offense. Civil forfeiture of not more than one hundred  
23 dollars (\$100).

24 ii. Second or subsequent offense. Civil forfeiture of not more  
25 than five hundred dollars (\$500).

26 iii. Exclusion. The Resources and Development Committee  
27 may file for an exclusion order in accordance with 17  
28 N.N.C. § 1901(B).

1                    b. Failure to obtain the necessary permits as defined in 19 N.N.C.  
2                    §1037(A)(7). Any non-Indian convicted of trespass shall be assessed the  
3                    following:

- 4                    i.            Civil forfeiture of not more than one thousand dollars  
5                    (\$1000) for each offense.  
6                    ii.          Exclusion. The Resources and Development Committee  
7                    may file for an exclusion order in accordance with 17  
8                    N.N.C. § 1901(B).

9            EF. Civil assessments imposed under this part shall be reserved solely for the purposes of  
10 restoring damaged cultural resources and for meeting the purposes of this Act and shall be  
11 deposited in the Historic Preservation Fund Management Plan Revolving Account for  
12 disbursement in accordance with Navajo Nation budgetary procedures.

13            FG. Any individual assessed by the Resources and Development Committee pursuant to §  
14 1038 of this Act shall have the right to appeal the decision of the Resources and Development  
15 Committee to the Navajo Nation District Court as follows:

16                    1. Any appeal must be filed in writing with the Navajo Nation District Court  
17                    within 30 days of notification of the action of the Resources and Development  
18                    Committee;

19                    2. The review by the Navajo Nation District Court shall be limited to:

- 20                    a. Ensuring that the appellant received due process of law; and  
21                    b. Ensuring that any rights the individual may have under the Navajo  
22                    Nation Bill of Rights and the Indian Civil Rights Act (25 U.S.C. §1301–  
23                    ~~1341~~ 1304) were observed; and

24                    3. Consideration by the Navajo Nation District Court shall be limited to review of  
25 the administrative record created before the Resources and Development Committee  
26 during the hearing before it.

27  
28                    [Intentionally left blank]  
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1       **Section Four. Historic Preservation Fund Management Plan**

2       The Navajo Nation Historic Preservation Department shall develop a Historic Preservation  
3 Fund Management Plan. The Navajo Nation Historical Preservation Department shall submit the  
4 Historic Preservation Fund Management Plan to the Resources and Development Committee and  
5 the Budget and Finance Committee for approval within six months of enactment.

6       **Section Five. Codification**

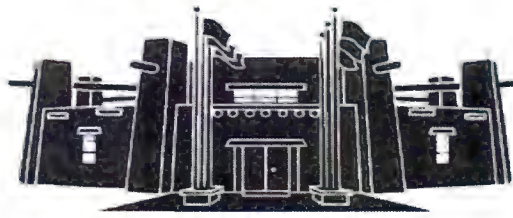
7       The provisions of the Act which amend or adopt new sections of the Navajo Nation Code  
8 shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall  
9 incorporate such amended provisions in the next codification of the Navajo Nation Code.

10       **Section Six. Savings Clause**

11       Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court  
12 or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court,  
13 the remainder of the Act shall remain the law of the Navajo Nation.

14       **Section Seven. Effective Date**

15       The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221(B).  
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## MEMORANDUM

**TO:** Chairman Jonathan Hale  
23<sup>rd</sup> Navajo Nation Council Delegate

**FROM:**   
Carolyn R. West, Attorney  
Office of Legislative Counsel

**DATE:** April 1, 2016

**SUBJECT:** OLC Service Request Number 16-061-1: An Action Relating to Law and Order, Resources and Development, Naabik'íyáti' Committees and Navajo Nation Council; Amending Navajo Nation Code, Title 19: Navajo Nation Cultural Resources Protection Act

As requested, I prepared the above-reference proposed resolution and associated legislative summary sheet. Based on existing law, the resolution 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. You are encouraged to review the proposed resolution to ensure this is drafted to your satisfaction.

The Office of Legislative Council recommends the appropriate standing committee(s) reviews 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 you are satisfied with the proposed resolution, please sign as "Primary Sponsor" and submit to the Office of Legislative Services where the proposed resolution will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0104-16\_\_

SPONSOR: Jonathan L. Hale

**TITLE: An Action Relating To Law And Order, Resources And Development,  
NAABIK'IYATI' Committees And Navajo Nation Council; Amending Navajo  
Nation Code, Title 19; Navajo Nation Cultural Resources Protection Act**

***Date posted: April 1, 2016 at 6:25 PM***

Digital comments may be e-mailed [to\\_comments@navajo-nsn.gov](mailto: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.: 0104-16

SPONSOR: Honorable Jonathan L. Hale

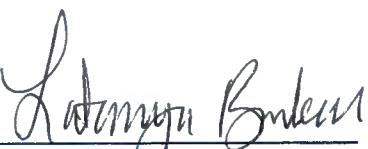
TITLE: An Action Relating To Law And Order, Resources And Development, Naabik'iyati' Committees And Navajo Nation Council; Amending Navajo Nation Code, Title 19; Navajo Nation Cultural Resources Protection Act.

Posted: April 1, 2016 at 6:25PM

5 DAY Comment Period Ended: April 6, 2016

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>

  
\_\_\_\_\_  
Policy Analyst  
Office of Legislative Services

4-7-16 8:35am  
Date/Time

**LAW AND ORDER COMMITTEE  
23<sup>RD</sup> NAVAJO NATION COUNCIL**

**SECOND YEAR 2016**

**COMMITTEE REPORT**

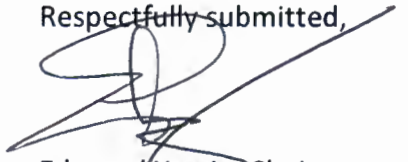
Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

**Legislation No. 0104-16:** An Act Relating to Law and Order, Resources and Development, Naabik'iyati' Committees and Navajo Nation Council; Amending Navajo Nation Code, Title 19; Navajo Nation Cultural Resources Protection Act – Sponsor: Hon. Jonathan L. Hale

Has had it under consideration and report the same with a **DO PASS** with no amendment; thereafter referred to Resources and Development Committee

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'Edmund Yazzie', written over a horizontal line.

Edmund Yazzie, Chairperson  
Law and Order Committee  
23<sup>rd</sup> Navajo Nation Council

Date: May 9, 2016

Main Motion: Honorable Jonathan Perry  
Second : Honorable Otto Tso  
Vote : 2-1 (Chairperson not voting)