

LEGISLATIVE SUMMARY SHEET

Tracking No. 0078-22

DATE: April 8, 2022

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CJA-12-22

PURPOSE: This resolution, if approved, will override President's veto of CJA-12-22 (An Act Relating to Law and Order, Budget and Finance, and Naabik'íyáti' Committees, and the Navajo Nation Council; Establishing a Referendum for Diné Voters to Decide whether to Increase the Number of Navajo Nation Council Delegates from 24 to 48, beginning with the November 2026 Navajo Nation General Election)

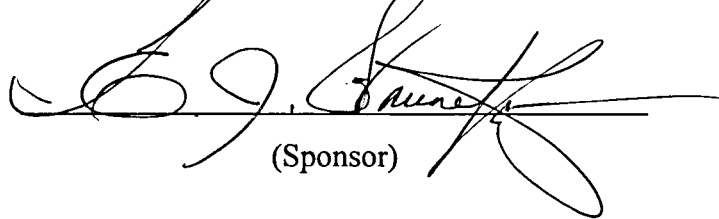
This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL/HOLD PERIOD: 4:30pm; 04-13-22
Website Posting Time/Date: 04-18-22
Posting End Date: 04-19-22
Eligible for Action: 04-19-22

Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL –FOURTH YEAR, 2022

INTRODUCED BY


(Sponsor)

TRACKING NO. 0078-22

AN ACTION
RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF
NAVAJO NATION COUNCIL RESOLUTION CJA-12-22

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council enacts laws of the Navajo Nation. 2 N.N.C. § 102.
- B. All resolutions enacting new law or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and override by the Navajo Nation Council. 2 N.N.C. § 164(A)(17).
- C. Resolutions vetoed by the President of the Navajo Nation are subject to override "by two-thirds (2/3) vote of the membership of the Navajo Nation Council." 2 N.N.C. § 1005 (C) (11).
- D. A vetoed resolution shall first be submitted to Naabik'iyáti' Committee before consideration by the Council. 2 N.N.C. § 164 (A)(17).

SECTION TWO. FINDINGS

- A. Navajo Nation Council Resolution No. CJA-12-22, attached as **Exhibit A**, was passed by the Navajo Nation Council and certified by the Speaker on February 3, 2022. The

1 resolution is entitled “AN ACT RELATING TO LAW AND ORDER, BUDGET
2 AND FINANCE, AND NAABIK’ÍYÁTT’ COMMITTEES, AND THE NAVAJO
3 NATION COUNCIL; ESTABLISHING A REFERENDUM FOR DINÉ VOTERS
4 TO DECIDE WHETHER TO INCREASE THE NUMBER OF NAVAJO NATION
5 COUNCIL DELEGATES FROM 24 TO 48, BEGINNING WITH THE NOVEMBER
6 2026 NAVAJO NATION GENERAL ELECTION”

- 7 B. The Navajo Nation President vetoed Resolution CJA-12-22 on February 13, 2022.
8 The President’s memorandum explaining his veto decision is attached as **Exhibit B**.
- 9 C. The Navajo Nation Council does not agree with the President’s veto of Resolution
10 CJA-12-22 or the President’s stated reasons for vetoing CJA-12-22.
- 11 D. The President’s memo alleges that pursuant to CJA-12-22, the Navajo Nation
12 Council is independently amending the size of the Council and 2 N.N.C. § 102 (A).
13 This is a patently inaccurate statement. The *only* action the Navajo Nation Council
14 took in CJA-12-22 was to authorize the *Navajo people* to *vote* on whether they wish
15 they to amend the size of Council.
- 16 E. As the President’s memo states, “the Navajo Supreme Court points out that the
17 Navajo Nation Council has “clearly deferred the power to approve all amendments to
18 Section 102(A) to the Navajo People.” *Nelson v. Initiative Committee to Reduce the*
19 *Navajo Nation Council*.” CJA-12-22 is in-line with the Navajo Supreme
20 Court. CJA-12-22 authorizes a referendum wherein the Navajo People
21 will decide if 2 N.N.C. § 102 (A) is amended.
- 22 F. As set forth in CJA-12-22, Section Two, Paragraph G, the Commission on Navajo
23 Government Development (“CNGD” or “Commission”) passed Resolution No.
24 CNGD-0902-19 requesting the Navajo Nation Council and the Navajo Board of
25 Election Supervisors’ to authorize a referendum that would allow Navajo voters to
26 change the size of the Navajo Nation Council from twenty-four (24) to forty-eight
27 (48) Council Delegates.
- 28 G. CNGD-0902-19 was a correct exercise of the Commission’s statutory authority. The
29 Commission was established in 1989 with quasi-independent authority
30 to implement reforms necessary to ensure an accountable and responsible

1 government. *See* Resolution No. CD-68-89; 2 N.N.C. § 970 *et seq.* The purposes of
2 the Commission were increased in 2020 to include the review and evaluation of the
3 existing governmental structure of the Navajo Nation, including central and local
4 governments. 2 N.N.C. §971.

5 H. The Navajo Nation Council has determined that CJA-12-22 is important to the
6 Navajo people and adheres to Navajo Nation law, including Navajo Supreme Court
7 opinions, and the President's veto of CJA-12-22 should be overridden.

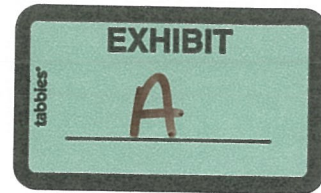
8 9 **SECTION THREE. OVERRIDING VETO**

10 The Navajo Nation Council hereby overrides the Navajo Nation President's veto of
11 Resolution CJA-12-22 effective upon certification of the Speaker of the Navajo Nation
12 Council.

13 14 **SECTION FOUR. EFFECTIVE DATE**

15 The effective date of this override shall be as provided for in 2 N.N.C. § 221 (A) and
16 (C).

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022



AN ACT

RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING A REFERENDUM FOR DINÉ VOTERS TO DECIDE WHETHER TO INCREASE THE NUMBER OF NAVAJO NATION COUNCIL DELEGATES FROM 24 TO 48, BEGINNING WITH THE NOVEMBER 2026 NAVAJO NATION GENERAL ELECTION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee of the Navajo Nation Council is authorized to review and make recommendations to the Navajo Nation Council regarding proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14).
- B. The Budget and Finance Committee of the Navajo Nation Council is authorized to "coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private, expending or seeking to expend funds within the Navajo Nation or for the benefit of the Navajo People." 2 N.N.C. § 301(B)(5).
- C. The Naabik'íyáti' Committee of the Navajo Nation Council is authorized to review proposed resolutions requiring final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- D. The Navajo Nation Council, as the elected and governing body of the Navajo Nation, sets policy for the Navajo Nation. 2 N.N.C. § 102(A). Pursuant to 11 N.N.C. § 403(A), the Navajo Nation Council may refer a referendum for public vote.

SECTION TWO. FINDINGS

- A. Currently, the Navajo Nation Council has a membership of 24 delegates. 2 N.N.C. § 102(A). The 24 number of delegates was previously established by an initiative vote of Diné voters.
- B. Pursuant to the Navajo Nation Election Code, Navajo Nation laws may be enacted through a public initiative or referendum by public vote. 11 N.N.C. §§ 401 et seq.

- C. The Navajo Nation Election Code, at 11 N.N.C. § 409(C), provides:

C. Legislation adopted by a referendum/initiative election shall be amended or repealed only:

1. By the outcome of a vote on a subsequent referendum or initiative election concerning the same subject matter as that of the referendum/initiative which originally adopted the legislation; or
2. For a Navajo Nation-wide referendum or initiative election, by three-fourths (3/4) vote of the full membership of the Navajo Nation Council at a regular session of the Navajo Nation Council.

-
- D. The Navajo Nation Supreme Court has stated:

"Under Fundamental Law, the Navajo People, as well as the Council, may make laws for the good of the community; the People's authority to make laws is not delegated to them by the Council [citing 1 N.N.C. § 201 and § 206]. The referendum and initiative processes are modern acknowledgments of this authority [citing, 11 N.N.C. §§ 401, et seq.]. Such authority is also acknowledged by the Diné leaders who approved the Treaty of 1868, who agreed that future alienation of Navajo land required a three-quarters vote of the Navajo People. *Treaty of 1868 between the United States and the Navajo Tribe of Indians*, June 1, 1868, Art. 10, 15 Stat. 667, 670. The Council may reasonably regulate the People's authority to make laws through setting qualifications for voters in such referenda and initiatives, [citation omitted] but the ultimate power to govern the Nation always remains with the People. There is no question that the People as 'Navajo voters' may amend this, or any other law through the referendum or initiative process; " *In the Matter of Two Initiative Petitions Filed by Navajo Nation President Joe Shirley, Jr.* 9 Nav. R. 200, 203 (Nav. Sup. Ct. 2008).

- E. According to the Navajo Supreme Court, "the People may reduce or increase the size [of the Council]; there is no language in Section 102(A) to suggest otherwise." *Id.*, at 204. The Supreme Court ultimately ruled: "[t]he Navajo Nation Council may not amend Section 102(A) independently; it must defer to the will of the Navajo People." *Id.* at 204.

- F. The Commission on Navajo Government Development ("CNGD") was established by the Navajo Nation Council to implement reforms necessary to ensure an accountable and responsible government. See Resolution No. CD-68-89. The CNGD was established with quasi-independent authority. 2 N.N.C. § 970. Today, the purposes of the CNGD include reviewing and evaluating aspects of the existing governmental structure of the Navajo Nation, including central and local governments. 2 N.N.C. § 971.
- G. In Resolution No. NGD-0902-19 the CNGD recommends that the Navajo Nation Council establish a referendum for Navajo voters on whether the Council should be increased from 24 to 48 delegates. **EXHIBIT A.**
- H. To ensure the protection of the fundamental rights and freedoms of the Diné to participate in their democracy, Diné voters should determine through referendum whether the size of the Navajo Nation Council should be increased from 24 to 48 members. Diné voters should be provided this opportunity at the November 8, 2022 Navajo Nation General Election.

SECTION THREE. ESTABLISHING A REFERENDUM FOR DINÉ VOTERS TO DECIDE WHETHER TO INCREASE THE NUMBER OF NAVAJO NATION COUNCIL DELEGATES FROM 24 TO 48

- A. The Navajo Nation Council hereby establishes a referendum measure for Diné voters to decide whether to increase the number of Navajo Nation Council delegates from 24 to 48. If this measure is approved by the voters and enacted, it shall be effective beginning with the Navajo Nation 2026 General Election.
- B. Subject to the authority of the Navajo Board of Election Supervisors as set forth in 11 N.N.C. § 403(A) and § 407, the measure referred herein shall be placed on the November 8, 2022 Navajo Nation General Election ballot with the language to read as follows:

Official Title: REFERENDUM INCREASING THE NAVAJO NATION COUNCIL FROM 24 TO 48 DELEGATES.

Descriptive Summary: This referendum gives Diné voters the opportunity to decide by majority vote whether the number of delegates to the Navajo Nation Council should be increased from 24 to 48, beginning with the November 2026 Navajo Nation General Election.

Brief Statement of Legal Effect:

A. "YES" vote is in favor of increasing the number of delegates to the Navajo Nation Council from 24 to 48, beginning with the November 2026 Navajo Nation General Election. A "YES" vote will have the effect of amending Title 2 of the Navajo Nation Code as set forth in the complete text of the legislation referred by this referendum measure.

B. "NO" vote is against increasing the number of delegates to the Navajo Nation Council from 24 to 48. A "NO" vote will have no effect on the current status of Navajo Nation law, thereby allowing the current number of 24 delegates to remain as is.

Referendum Ballot Question: "Shall the number of delegates to the Navajo Nation Council be increased from 24 to 48 delegates, beginning with the November 2026 Navajo Nation General Election?"

___ "YES" - the number of delegates shall be increased from 24 to 48

___ "NO" - the current number of 24 delegates shall remain as is

SECTION FOUR. COMPLETE TEXT OF PROPOSED TITLE 2 AMENDMENT FOR THE REFERENDUM

The Navajo Nation Council hereby refers the complete text of proposed legislation for the referendum to amend Title 2 of the Navajo Nation Code as follows:

Title 2. Navajo Nation Government
Chapter 3. Legislative Branch
Subchapter 1. Navajo Nation Council

* * * *

§ 102. Powers; Composition

A. The Navajo Nation Council shall be the governing body of the Navajo Nation and shall consist of ~~24~~ 48 delegates.

* * * *

SECTION FIVE. REVIEW BY NAVAJO BOARD OF ELECTION SUPERVISORS

The Navajo Board of Election Supervisors shall review the proposed referendum measure for purposes of ensuring compliance with provisions of the Navajo Nation Election Code, including 11 N.N.C. §§ 401, 402 and 407.

SECTION SIX. VOTE REQUIRED

Pursuant to 11 N.N.C. § 406(A), the measure referred herein shall pass by majority of votes cast. *See also, Nelson v. Initiative Committee to Reduce Navajo Nation Council*, 9 Nav. R. 350, 358 (Nav. Sup. Ct. 2010).

SECTION SEVEN. APPORTIONMENT PLAN

If the referendum is approved, and upon certification of the voting results:

- A. The Navajo Board of Election Supervisors shall consult with the Office of the Speaker and the Department of Justice, and other consultants as appropriate, regarding the development of a Chapter apportionment plan for the 48-member Navajo Nation Council.
- B. A proposed Chapter apportionment plan based on a 48-member Council shall be prepared and timely submitted to the 25th Navajo Nation Council for its approval. Along with the proposed apportionment plan, all amendments to the Navajo Nation Code, which may be necessary as a result of the adoption of the apportionment plan, shall also be presented to the Navajo Nation Council for its approval.

SECTION EIGHT. CODIFICATION

- A. The approved amendment shall be codified by the Office of Legislative Counsel.
- B. The Office of Legislative Counsel is authorized to make any changes in the Election Code that may be necessary as a result of the approved amendment and apportionment plan.

SECTION NINE. EFFECTIVE DATE


This Legislation of the Navajo Nation Council shall become effective pursuant to 2 N.N.C. § 221(B), subject to referendum vote as provided herein.

SECTION TEN. SAVING CLAUSE

If any portion of this Legislation, or the 2 N.N.C. amendment approved by the referendum established herein, is determined invalid by the Navajo Nation Supreme Court, or by a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those portions of this Legislation, or the referendum, that are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th 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 18 in Favor, and 05 Opposed, on this 27th day of January 2022.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

Feb 3, 2022
DATE

Motion: Honorable Daniel E. Tso
Second: Honorable Paul Begay, Jr.

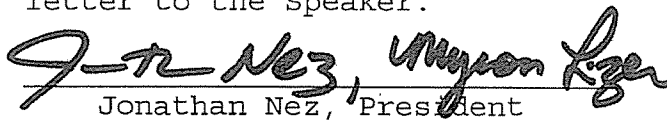
Speaker Seth Damon not voting

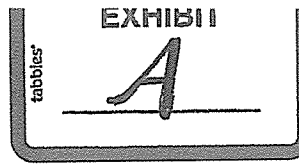
ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2022.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 13 day of February, 2022 for the reason(s) expressed in the attached letter to the Speaker.


Jonathan Nez, President
Navajo Nation



CNGD-0902-19

**RESOLUTION OF THE
COMMISSION ON NAVAJO GOVERNMENT DEVELOPMENT**

AN ACTION TO RECOMMEND TO THE NAVAJO NATION COUNCIL AND THE NAVAJO BOARD OF ELECTION SUPERVISORS TO APPROVE AND AUTHORIZE A REFERENDUM MEASURE ON WHETHER THE NAVAJO NATION COUNCIL SHOULD BE INCREASED FROM 24 TO 48 MEMBERS AS PART OF AN EFFORT TO INCREASE THE COUNCIL'S EFFICIENCY, ENHANCE DEMOCRATIC REPRESENTATION, IMPROVE PARLIAMENTARY PROCEDURES AND QUORUM, AND REDUCED THE OVER-COMMITTED SUB-COMMITTEE ASSIGNMENTS.

WHEREAS:

1. Pursuant to CD-68-89, the Navajo Nation Council established the Commission ("Commission") on Navajo Government Development including the Office of Navajo Government Development with quasi-independent authority to accomplish the Navajo Nation Council's project of instituting reforms necessary to ensure an accountable and responsible government; and
2. Pursuant to 2 N.N.C. § 971 (1994 as amended), the purpose of the Commission on Navajo Government Development shall be as follows: (A) To review and evaluate all aspects of the existing government structure of the Navajo Nation including laws, rules and regulations, practices, functions, goals and objectives of the central government as it relates to Chapters, and local communities and the relationship of Chapters and local communities and the relationship of Chapters and local communities to the central government; and
3. In 2009, the Navajo Nation Council was reduced from 88 to 24 Delegates by an initiative and as a result the Navajo Nation Council compressed the duties and responsibilities of 12 Standing Committees to five (5) Standing Committees; and
4. On January 14, 2016, the Naabik'iyáti' Committee of the 23rd Navajo Nation Council issued NABIJA-02-16: An Action Relating to Naabik'iyáti' Committee, Directing the Commission and the Office of Navajo Government Development to provide a report and recommendation on the effectiveness of the downsized Navajo Nation Council and the responsiveness of the Navajo Nation Council; and
5. The Naabik'iyáti' Committee of the Navajo Nation hereby directs the Commission on Navajo Government Development and the Office of Government Development to provide a *recommendation* on instituting reforms necessary to ensure an accountable and responsible government; and
6. The Report demonstrates that Council Delegates have limited time for constituency outreach and attending chapter meeting and thus an institutional change commands for an increase in the number of Council Delegates; and
7. The majority of respondents, both the people and officials, strongly support to increase the number of Council Delegates and when looking at the chapter officials' only survey results it shows a comparable thirty-percent favor to increase the Navajo Nation Council Delegates from 24 to 48 and, by putting the two highest percentages in combined perspective, the result of this

process show that 60 percent of respondents favor a Council Delegate increase to 48 member; and

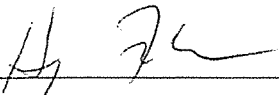
8. The Commission on Navajo Government Development as an oversight and the Office of Navajo Government Development as an administrative instrument conducted a methodical study on the downsizing of the Navajo Nation Council by examining the Navajo electorate and Chapter Officials. It provided the Commission a novel set of data with which to analyze both the *effectiveness* and the *responsiveness* of the Navajo Nation Council; and
9. Critical information has emerged from this study that will be useful for the Navajo Nation government and its citizenry across several spectrums, whether attempting to better understand Navajo Nation Council's responsibilities, their effectiveness on their job, defining if democratic representation was diminished and should the number of Council be increased is exclusively left up to the People of the great Navajo Nation.

NOW THEREFORE IT BE RESOLVED THAT:

1. The Commission on Navajo Government Development has previously accepted the *2016 Navajo People and Chapter Officials Survey, Effectiveness on the Reduced Navajo Nation Council*, also known as "Efficacy Report;" and
2. The Commission on Navajo Government Development recognizes the need to increase Council's efficiency, enhance democratic representation, improve parliamentary procedures and quorum requirements, and to reduce the over-committed sub-committee assignment; and
3. The Commission on Navajo Government Development hereby recommends to the 24th Navajo Nation Council and the Navajo Board of Election Supervisors to approve and authorize a Referendum Measure to be placed before the Navajo electorate during 2020 the Navajo Nation Primary Election on whether the Navajo Nation Council should be increased from 24 to 48 members.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Commission on Navajo Government Development at a duly called meeting in Cow Springs, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 6 in favor, 0 opposed, 2 and abstained, this 14th day of September, 2019.



 Dr. Henry Fowler, Vice-Chair
 Commission on Navajo Government Development

Motion: Emmett Kerley

Second: Philmer Bluehouse

LEGISLATIVE BRANCH
NAVAJO NATION



HONORABLE SETH DAMON
Speaker 24th Navajo Nation Council

September 4, 2019

Seth Damon, Speaker
Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

Dear Honorable Speaker Damon,

The Commission on Navajo Government Development plans to hold its next regular meeting on Saturday, September 14, 2019, at Cow Springs, AZ (Mrs. Sally Fowler residence, mother of Commissioner Dr. Henry Fowler).

Pursuant to Resolution No.: CS-54-17, Commissioner Fowler's term expires on September 15, 2019, and the Commission has agreed to hold their next meeting inside a traditional Navajo Male Hogan while honoring a traditional medicine bundle (*Jish*) as a guiding principle and away from Window Rock, AZ and, before Commissioner Fowler's term expires.

Pursuant to 2 N.N.C., § 974 (A)(2), "All meetings shall be held in Window Rock, Navajo Nation (Arizona) for the transaction of the Commission business. Meetings held elsewhere must be authorized by written permission of the Chairperson Intergovernmental Relations Committee."

The Commission intends to discuss "government reform" recommendations based on two back-to-back work sessions and there will be new business items to be considered. Therefore, please consider this letter as a formal written request to hold the Commission's next meeting away from Window Rock, Navajo Nation (Arizona).

Thank you for your consideration. If you have any questions, please contact Mr. Edward Dee, Executive Director, with the Office of Navajo Government Development at (928) 871-6378.

Sincerely,

A handwritten signature in black ink, appearing to read "JoAnn Dedman".

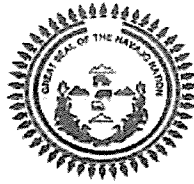
JoAnn Dedman, Chairperson
Commission on Navajo Government Development

APPROVE / DISAPPROVE:

A handwritten signature in black ink, appearing to read "Seth Damon".
9/9/19
Honorable Seth Damon, Speaker
The 24th Navajo Nation Council

cc: Edward McCool, Acting Chief Legal Counsel, Office of Legislative Counsel

**LEGISLATIVE BRANCH
NAVAJO NATION**



HONORABLE SETH DAMON
Speaker, 24th Navajo Nation Council

August 3, 2020

Edison Wauneka, Council Delegate
The 24th Navajo Nation Council
Post Office Box 3390
Window Rock, AZ 86515

Dear Honorable Delegate Wauneka,

Yá'át'tééh! On September 14, 2019, the Commission on Navajo Government Development ("Commission") passed Resolution No. CNGD-0902-19: AN ACTION TO RECOMMEND TO THE NAVAJO NATION COUNCIL AND THE NAVAJO BOARD OF ELECTION SUPERVISORS TO APPROVE AND AUTHORIZE A REFERENDUM MEASURE ON WHETHER THE NAVAJO NATION COUNCIL SHOULD BE INCREASED FROM 24 TO 48 MEMBERS AS PART OF AN EFFORT TO INCREASE THE COUNCIL'S EFFICIENCY, ENHANCE DEMOCRATIC REPRESENTATION, IMPROVE PARLIAMENTARY PROCEDURES AND QUORUM, AND REDUCED THE OVER-COMMITTED SUB-COMMITTEE ASSIGNMENTS.

In January 2016, the 23rd Navajo Nation Council Naabik'iyáti Committee passed NABIJA-02-16, to examine the reduced Navajo Nation Council's effectiveness and responsiveness, so to initiate candid discussion regarding any government reform examination, whether the reduced Council should be reconsidered from 24 to 48.

The Office of Navajo Government Development undertook a thorough research and analysis covering a period of one-year regarding the reduced Navajo Nation Council and its effectiveness and responsiveness. The Report demonstrates that the drastic reduction of Council delegates (a 72% reduction) impacts the limited time for constituency outreach, diminished democratic representation, and a decline in local governmental activities. The Report also revealed the extensive reduction of Navajo lawmakers created an influx of compounding problems, e.g., vast decrease in democratic representation, a decreased of the parliamentary procedures, and an over-contracted and over-burden of committees.

Therefore, the Commission on Navajo Government Development took action in September 2019 to recommend to the Navajo Nation Council to consider a referendum measure to be placed on the upcoming November Election for the Navajo People to decide whether to increase Navajo lawmakers from 24 to 48.

The Commission and Office of Navajo Government Development request your assistance to sponsor a legislation to advance the Commission Resolution CNGD-0902-19.

If you have any questions, please do not hesitate to contact me at (928) 871-6378.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Dee".

Edward K. Dee, Executive Director
Office of Navajo Government Development

cc: JoAnn Dedman, Chairwomen, Commission on Navajo Government Development
File

NAVAJO NATION

988

Navajo Nation Council 2022 Winter Session

1/27/2022

05:03:51 PM

Amd# to Amd#	Legislation 0251-21:Establishing	PASSED
MOT Tso, D	a Referendum for Dine Voters to	
SEC Begay, P	Decide Whether to Increase the	
	Number of Navajo Nation....	

Yeas : 18

Nays : 5

Excused : 0

Not Voting : 0

Yea : 18

Begay, K	Freeland, M	Stewart, W	Tso, E
Begay, P	Halona, P	Tso	Walker, T
Brown	Henio, J	Tso, C	Wauneka, E
Crotty	Nez, R	Tso, D	Yazzie
Daniels	Smith		

Nay : 5

Begay, E	James, V	Slater, C	Yellowhair
Charles-Newton			

Excused : 0

Not Voting : 0

Presiding Speaker: Damon

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



February 13, 2022

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CJA-12-22, *An Act Relating to Law and Order, Budget and Finance, and Naabik'iyati' Committees, and the Navajo Nation Council; Establishing a Referendum for Dine Voters to Decide Whether to Increase the Number of Navajo Nation Council Delegates from 24 to 48, Beginning with the November 2026 Navajo Nation General Election*

Dear Speaker Damon,

As President and Vice President we were elected by the Navajo People from across the Navajo Nation and those living outside of our homeland. In electing us the Navajo People trusted we would act in their best interest, making sure their rights are protected, and carrying out the responsibilities in a manner that follows the law. The Navajo People placed that trust in us and we will always act in their best interest. As the People have the inherent authority to decide the form of their government and acting on their behalf we have several concerns relative to CJA-12-22.

We are concerned that CJA-12-22 does not refer to the original resolution of the Navajo Board of Election Supervisors in the approving of the original ballot language for the Council reduction. The resolution from the Board is the result of months of litigation over the initiative presented by the People. The Board's action, in 2009, to move the Initiative Measure forward is based on the Navajo Supreme Court's ruling in which the Court said the "Council, recognizing the structure of the Navajo government is ultimately in the hands of the Navajo People, deferred to the People the sole authority to change the size of Council and therefore Council may not independently amend the Election Code to alter or abolish its deference to the People." The Court's statement on the People's authority would be the answer to a question in CJA-12-22, Findings Section, paragraph D. However, the question was left out of Paragraph D which would be the last line in the quote, "...the only question is whether the Council may also amend Title II." This question is important to the action in CJA-12-22 and leaving it out of important legislation is glaring.

The structure of Navajo government has a long history of debate and litigation. The history includes the amendments to Title Two after the conflict over leadership of the Navajo Nation. In speaking to the resolution that reorganized the Navajo government, CD-69-89, the Court said, "We have called the Title II Amendments [enacted through Resolution No. CD-68-89] our "organic" law.... We acknowledge and hold that the Whereas and Resolved Clauses of CD-68-89 operate today as a solemn promise by the Council to the People, intended to bind the hands of future

Councils.... They embody the commitment of the Council to a structure they hoped and believed would serve the People effectively until the People themselves might find a path to a better way.” *Shirley v. Morgan*. In other words, the reorganized government in CD-68-89 would be temporary until the People decided on a permanent form of government and not a decision by the Council.

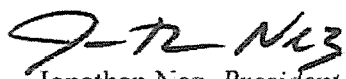
We also note in CJA-12-22, Findings Section, Paragraph C, the reference to 11 N.N.C. § 409(C)(2). This presumably relies on the section as the authority of the Council to amend or repeal a referendum/initiative “[F]or a Navajo Nation-wide referendum or initiative election, by three-fourths (3/4) vote of the full membership of the Navajo Nation Council at a regular session of the Navajo Nation Council.” Our concern is the reliance on authority that is invalid as determined by the Navajo Supreme Court in *Nelson v. Initiative Committee to Reduce the Navajo Nation Council*. As the Court ruled, the Navajo Nation Council may not interfere with the People’s choice [of government]. Reliance on an invalid section of Navajo law should be pointed out by our government attorneys before offering the legislation to the Sponsor and the Council.

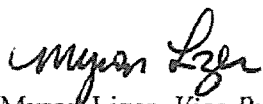
The Navajo Nation law and Court decisions point to the People making the choice on the form of Navajo government, that choice must come from the People. Our Navajo law directs any changes to an initiative must be done by the same process, an initiative must be changed by an initiative. This direction complies with the Initiative petition approved by the Navajo Board of Election Supervisors in 2009. The Navajo Supreme Court points out that the Navajo Nation Council has “clearly deferred the power to approve all amendments to Section 102(A) to the Navajo People.” *Nelson v. Initiative Committee to Reduce the Navajo Nation Council*. A Council action giving a strict choice to the People on changes to Section 102(A) does not follow Navajo law and is in conflict with the case law issued by the Navajo Supreme Court.

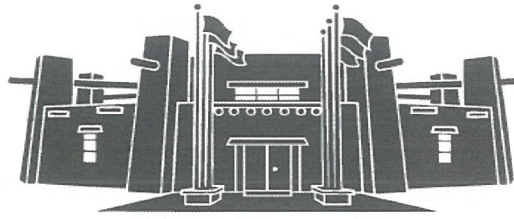
As you will recall the initiative sponsored by the People to reduce the number of Council Delegates was partly a cost savings measure. The People deserve to know if the reduction in members saved any money or has the budget remained the same over the years since 2009. This information would be important should the People decide through an initiative to increase the number of Council members and at what cost to the Tribal treasury.

In protecting the rights of the People and ensuring their right to decide the form of their Navajo government we cannot support CJA-12-22. The Navajo Nation Council may take action to reverse this decision, but we urge members to follow the law and respect the People’s right to change their government.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION



MEMORANDUM

TO: Honorable Edison Wanueka
24th Navajo Nation Council

FROM: *Mariana Kahn for*
Dana L. Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

DATE: April 8, 2022

SUBJECT: **AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CJA-12-22**

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).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0078-22_

SPONSOR: Edison J. Wauneka

TITLE: An Action Relating to Naabik'iyáti' Committee and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CJA-12-22

Date posted: April 13, 2022 at 4:36PM

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.: 0078-22

SPONSOR: Honorable Edison J. Wauneka

TITLE: An Action Relating to Naabik'íyáti' Committee and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CJA-12-22

Posted: April 13, 2022 at 4:36 PM

5 DAY Comment Period Ended: April 18, 2022

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	1) Rose Nofchissey
Comments/Recommendations	<i>None</i>


**Legislative Tracking Secretary
Office of Legislative Services**

April 19, 2022; 8:25 AM
Date/Time

LEGISLATION NO:_0078-22, Sponsor is Edison J. Wauneka

Rose Nofchissey <rose.nofchissey@gmail.com>

Thu 4/14/2022 9:01 AM

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

Please ***DO NOT*** override this legislation. There is no good reason to increase the number of council delegates from 24 to 48. Thank you.
WARNING: External email. Please verify sender before opening attachments or clicking on links.