

23rd NAVAJO NATION COUNCIL LEGISLATION SPONSORSHIP WITHDRAWAL

Sponsor of proposed legislation hereby withdraw my sponsorship of the proposed legislation. The legislation tracking number is <u>0510-18</u>

If there are any co-sponsors, they may re-sponsor the same bill by beginning a new legislation.

SPONSOR SIGNATURE:

DATE:

LEGISLATIVE SUMMARY SHEET

Tracking No. 0310-18

DATE: September 18, 2018

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CS-69-18

PURPOSE: This resolution, if approved, will override veto of CS-69-18.

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.

Website Posting Time/Date: 3'45 pm 9/00/18
Posting End Date: 9/25/00/8
Eligible for Action: 9/24/2018

Naa'bik'íyáti' Committee Thence Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION 1 23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018 2 **INTRODUCED BY** 3 4 Hernium M. Daniel 5 (Sponsor) 6 7 TRACKING NO. 0310-18 8 9 AN ACTION 10 RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL: 11 OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO 12 NATION COUNCIL RESOLUTION CS-69-18 13 14 BE IT ENACTED: 15 16 SECTION ONE. AUTHORITY 17 The Navajo Nation Council enacts laws of the Navajo Nation. 2 N.N.C. § 102. 18 A. All resolutions enacting new law or amending existing laws are subject to veto by B. 19 the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and 20 override by the Navajo Nation Council. 2 N.N.C. § 164(A)(17). 21 A vetoed resolution must first be submitted to Naabik'íyáti' Committee before C. 22 consideration by the Navajo Nation Council. 2 N.N.C. § 164 (A)(17). 23 Legislation vetoed by the President of the Navajo Nation is subject to override "by D. 24 two-thirds (2/3) vote of the membership of the Navajo Nation Council." 2 N.N.C. § 25 1005 (C) (11). 26 27 SECTION TWO. FINDINGS 28 Resolution CS-69-18 was passed by the Navajo Nation Council on September 7, 2018. 29 The resolution is entitled, "An Act Relating to Law and Order, Naabik'íyáti' and the 30

Navajo Nation Council; Approving and Authorizing an Election Referendum on Whether 2 N.N.C § 1008 Should Be Amended to Increase the Salaries of the Navajo Nation President and Vice President to Amounts Determined by Navajo Nation Voters."

B. Without specifying reasons, President Russell Begaye on September 15, 2018 vetoed legislation CS-69-18. See attached Exhibit "A," resolution CS-69-18, with veto signature.

SECTION THREE. OVERRIDING VETO

The Navajo Nation Council hereby overrides the Navajo Nation President's veto of Resolution CS-69-18.

LEGISLATIVE BRANCH Navaio Nation



Honorable LoRenzo Bates Speaker, 23nd Navajo Nation Council

September 18, 2018

Herman Daniels, Council Delegate 23rd Navajo Nation Council Window Rock, Arizona 86515

Dear Honorable Delegate Daniels,

On behalf of the Commission on Navajo Government Development, I like to express my profound displeasure with Navajo Nation President Russell Begaye's veto of Legislation No. 0272-18. This legislation was an exhaustive process by both the Office and Commission on Navajo Government Development and the Legislative Counsel and, ultimately passed with a majority vote of 17-3-1 at the Navajo Nation Council Special Session on September 7, 2018.

I, respectfully, ask your assistance to introduce a bill to override the president's objections of Legislation No 0272-18 on the grounds contrary to his justification.

I kindly ask for your support to work with Speaker LoRenzo Bates and all pertinent legislative entities in an effort to override the president veto.

Thank you in advance. If you have any questions, please contact me at (928) 607-0677.

Sincerely.

JoAnn Dedman, Chairperson

Commission on Navajo Government Development

cc: Speaker LoRenzo Bates, 23rd Navajo Nation Council

Levon Henry, Chief Legislative Counsel, Office of Legislative Counsel

Leonard Tsosie, Council Delegate, Navajo Nation Council

Dwight Witherspoon, Council Delegate, Navajo Nation Council

File

RESOLUTION OF THE NAVAJO NATION COUNCIL

EXHIBIT

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACT

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; APPROVING AND AUTHORIZING AN ELECTION REFERENDUM ON WHETHER 2 N.N.C § 1008 SHOULD BE AMENDED TO INCREASE THE SALARIES OF THE NAVAJO NATION PRESIDENT AND VICE PRESIDENT TO AMOUNTS DETERMINED BY NAVAJO NATION VOTERS

BE IT ENACTED:

SECTION ONE. AUTHORITIES

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 600. The committee has the authority to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments to the Navajo Nation Code. 2 N.N.C. §601(B)(14).
- B The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700. Under Navajo Nation law, "a proposed resolution that requires final action by the Navajo Nation Council [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti' Committee." 2 N.N.C. § 164(A)(9). The committee has oversight over the Commission on Navajo Government Development. 2 N.N.C. § 970.
- C. The Navajo Nation Council is an elected body empowered, among other statutory duties and responsibilities, to state policy and enact laws of the Navajo Nation. See generally, 2 N.N.C. § 164. The Council is authorized to refer referendum measures to voters of the Navajo Nation. 11 N.N.C. § 403.
- D. The Navajo Nation Commission on Navajo Government Development was established for the purpose of instituting reforms necessary to ensure an accountable and responsible government. 2 N.N.C. § 970.
- E. The Navajo Board of Election Supervisors, pursuant to the Navajo Nation Election Code, ensures that measures referred for referendum are not exempt from the referendum process. 11 N.N.C. § 403(A). Regarding a matter referred by the Council, the board is authorized to amend the language for clarification purposes only. 11 N.N.C. § 403(A).

SECTION TWO. FINDINGS

- A. The Commission on Navajo Government Development was created in 1989 by the Navajo Nation Council. CD-68-89. The enactment provided, "[t]he Commission is special entity created by the Navajo Nation Council with quasi-independent authority to accomplish the Council's project of instituting reforms necessary to ensure an accountable and responsible government." 2 N.N.C. § 970.
- B. In 1994, an amendment provided that a purpose of the commission is "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 Navajo Nation government, which includes the central government, Chapters, townships and local communities." 2 N.N.C. § 971, CJY-65-94.
- C. Navajo Nation law at 2 N.N.C. § 1008 reads:
 - The salary of the President and Vice-President of the Navajo Nation shall be fifty-five thousand dollars (\$55,000) and forty-five thousand dollars (\$45,000) per annum, respectively. Salary adjustments may be approved by the Navajo Nation Council but shall not become effective until and unless approved by a referendum. 2 N.N.C. § 1008.
- D. The Navajo Nation Council, by resolution CD-68-89, "authorize[d], declare[d] and direct[ed] "that Sections 101(b), 102(a), 1008 and 106(a) of the Title Two (2) amendments, shall not apply to amendments duly proposed by the Navajo Nation Commission on Navajo Government Development." Resolved clause 7, CD-68-89. This clause permits the Council to approve amendments at the cited sections without further referendum, so long as the amendments are recommended by the Commission on Navajo Government Development.
- E. In spite of resolved clause 7, CD-68-89, the Commission on Navajo Government Development is seeking a referendum election on whether 2 N.N.C. § 1008 should be amended to increase the salaries of the Navajo Nation President and Vice President. See Exhibit "A", Commission resolution CNGD-0702-18. The Commission, in its resolution, delegated to the Office of Navajo Government Development the task of determining the amounts of the increases.

F. The Office of Navajo Government Development, pursuant to its delegated function, is recommending that voters be presented with options on the amounts of the increases. See Exhibit "B." For the President position, the Office of Navajo Government Development is recommending the options of either \$85,000 or \$102,000. For the Navajo Nation Office of Vice President, the Office of Navajo Government Development recommends the options of \$70,000 or \$87,000.

SECTION THREE. REFERRAL OF REFERENDUM MEASURE

- A. The Navajo Nation Council hereby refers for referendum vote the question of whether the salaries for the positions of Navajo Nation President and Vice President should be increased as recommended by the Commission of Navajo Government Development through resolution CNGD-0702-18. The Council further approves on the same ballot options on the amount of the increases as recommended by the Office of Navajo Government Development.
- B. The ballot language proposed by the Office of Navajo Government Development is attached as Exhibit "B." Subject to the authority of the Navajo Board of Election Supervisors to amend the language, the Council approves the recommended language.

SECTION FOUR. REFERENDUM VOTE REQUIRED

The vote required for increasing the salaries for the positions of Navajo Nation President and Vice President shall be a majority of votes cast. If this vote on the increase fails, the votes on the options (on the amounts of the increases) shall not be counted. If a majority vote is obtained, the votes on the options shall be tallied. The option receiving the highest number of votes shall be deemed approved by voters.

SECTION FIVE. TEXT OF PROPOSED LEGISLATION REFERRED BY REFERENDUM MEASURE

Due to the nature of the options presented in the referendum measure authorized herein, providing the text of proposed amendments in the Code will not be practicable. For this reason, the Council directs the Office of Navajo Government Development, at the direction of the Navajo Election Administration, to make available for review by voters at the polls the entirety of the resolution approved herein.

SECTION SIX. NOTICE AND VOTER EDUCATION

Regarding the referendum approved herein, the Office of Navajo Government Development and the Commission on Navajo Government Development shall ensure that proper notice and education is provided Navajo voters prior to the referendum election. The office and commission shall ensure objectivity in providing notice and education on the measures referred.

SECTION SEVEN. REFERENDUM ELECTION DATE; COSTS

- A. Subject to the authority of the Navajo Board of Election Supervisors, the election for this referendum measure "shall be at the next regularly scheduled Navajo Nation election (primary, general or Navajo Nation-wide chapter election) if such election is scheduled to be held no sooner than 60 days following the adoption of the resolution " 11 N.N.C. § 403(A).
- B. In the event the referendum election authorized herein cannot be conducted at the next regularly-scheduled election due to required time frames, the Office of Navajo Government Development and the Commission on Navajo Government Development shall identify funds to pay costs for conducting a special referendum election.

SECTION EIGHT. EFFECTIVE DATE

The amendments enacted herein shall be effective pursuant to $2\ N.N.C.\ \S\ 221(B)$ and, if approved by voters, upon certification of referendum election by the Navajo Nation Board of Election Supervisors.

SECTION NINE. CODIFICATION

The provisions of these amendments of the Navajo Nation Code shall be codified by the Office of Legislative Counsel, if approved by referendum. The Office of Legislative Counsel shall incorporate such amendments in the next codification of the Navajo Nation Code.

SECTION TEN. SAVINGS CLAUSE

Should any provision of these amendments, if approved by referendum, be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those amendments that are not determined invalid shall remain the law of the Nation.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 17 in favor and 03 opposed, on this 07th day of September 2018.

> LoRenzo C. Bates, Speaker 23rd Navajo Nation Council

5-101. 7. 2018

Motion: Honorable Alton Joe Shepherd

Second: Honorable Leonard Pete

Speaker LoRenzo C. Bates not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. \$1005 (c)(10), on this ____ day of _____ 2018.

> Russell Begaye, President Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. \$1005 (c) (11), on this 15th day of September 2018 for reason(s) expressed in the attached letter to the Speaker

Russell Begaye, President

Navajo Nation



RESOLUTION OF THE COMMISSION ON NAVAJO GOVERNMENT DEVELOPMENT

AN ACTION TO RECOMMEND TO THE 23RD NAVAJO NATION COUNCIL TO INTRODUCE A REFERENDUM BALLOT MEASURE TO THE NAVAJO PEOPLE TO APPROVE A SALARY ADJUSTMENT FOR THE NAVAJO NATION PRESIDENT AND VICE-PRESIDENT DURING THE 2018 NAVAJO NATION GENERAL ELECTION,

WHEREAS:

- 1. Pursuant to CD-68-89, the Navajo Nation Council established the Commission on Navajo Government Development (Commission) 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 to the central government, and;
- 3. Pursuant to 2 N.N.C. § 1008, the salary of the President and Vice-President of the Navajo Nation shall be fifty-five thousand dollars (\$55,000) and forty-five thousand dollars (\$45,000) per annum, respectively. Salary adjustments may be approved by the Navajo Nation Council but shall not become effective until and unless approved by a referendum; and.
- 4. There has never been a cost of living adjustment (COLA) for the Navajo Nation President and Vice President since the positions were first established in 1989 (CD-68-89, 16th Navajo Nation Council (1989)); and,
- 5. The positions of Navajo Nation President and Vice-President were created on December 15, 1989, through Council Resolution CD-68-89. Peterson Zah and Marshall Plummer were then inaugurated as the first elected Navajo Nation President and Vice-President on January 15, 1991 and according to 2 N.N.C. §1008 of the original resolution in 1989, it set the salaries at \$55,000 for the president \$45,000 for the vice-president and these amounts have not been changed since that time; and,
- 6. The duties and responsibilities for a state governor and the Navajo Nation president are similar. The Navajo Nation President is responsible for 24 divisions, offices, boards, and commissions (NAVAJO NATION ANN. tit. 2, §§ 1001-3554). The governors in neighboring

states have a similar structure with the governor of New Mexico overseeing 29 departments M. STAT. ANN. §§ 9-1-1-9-38-7) and the governor of Arizona overseeing 36 departments (ARIZ. REV. STAT. ANN. §41), while New Mexico and Arizona have larger governments and populations than the Navajo Nation, their governors serve in a similar capacity as the head of the executive branch. They both carry out the traditional duties of the executive branch in a three-branch government system; and,

- 7. The governor of Arizona currently earns \$95,000 a year and the governor of New Mexico earns \$110,000 (BUSINESS INSIDER, Jun. 22, 2018) and their salaries are approximately double what the Navajo Nation president currently earns; and,
- 8. The Commission on Navajo Government Development determines that given the Cost of Living Adjustment and the rising cost of inflation of 85% increase from 1991 to 2018. The Navajo Nation President and Vice-President salaries must to be adjusted to be comparable to elected leaders of States in which the Navajo Nation is in and need to reflect the COLA and rise in cost of inflation.

NOW THEREFORE IT BE RESOLVED THAT:

- The Commission on Navajo Government Development hereby supports and recommends a referendum ballot measure to the Navajo People to decide on a salary adjustment for the Navajo Nation President and Vice President during the 2018 Navajo Nation General Election.
- The Commission directs the Office of Navajo Government Development to begin compiling relevant data to determine an amount to be used for the Navajo Nation President and Vice-President's salary adjustment sum amount, including referendum language and all other necessary requirements associated with this initiative.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Commission on Navajo Government Development at a duly called meeting at Twin Arrows Navajo Casino Resort, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 8 in favor, 0 opposed and 1 abstained, this 28th day of July 2018.

JoAnn Dedman, Chair Commission on Navajo Government Development

Motion: Crystal J. Cree

Second: Kenneth Maryboy



REFERENDUM BALLOT LANGUAGE

Official Title: Referendum Vote to Approve a Salary Increase for the Navajo Nation President and Vice-President.

Descriptive Summary of Referendum Question: There has never been a cost of living adjustment (COLA) for the Navajo Nation President and Vice President since the positions were first established in 1989 (CD-68-89, 16th Navajo Nation Council (1989)). Pursuant to 2 N.N.C. § 1008, the salary of the President and Vice-President of the Navajo Nation shall be fifty-five thousand dollars (\$55,000) and forty-five thousand dollars (\$45,000) per annum, respectively. Salary adjustments may be approved by the Navajo Nation Council but shall not become effective until and unless approved by a referendum of the Navajo People.

Legal Effect:

A "YES" vote means that the Navajo Nation President and Vice-President shall get a salary increase.

A "NO" vote means that the salary for the Navajo Nation President and Vice-President remains the same under the current law.

<u>Referendum Question</u> : Shall the Navajo Nation President and Vice-President get a salar increase?
YES NO
If YES, please select Option 1, Option 2 or Option 3:
Option 1 YES
Navajo Nation President Salary at Eighty-Five Thousand Dollars (\$85,000) Navajo Nation Vice-President Salary at Seventy Thousand Dollars (\$70,000)
Option 2 YES
Navajo Nation President Salary at Ninety-Five Thousand Dollars (\$95,000) Navajo Nation Vice-President Salary at Eighty Thousand Dollars (\$80,000)
Option 3 YES
Navajo Nation President Salary at One-Hundred and Two Thousand Dollars (\$102,000) Navajo Nation Vice-President Salary at Eighty-Seven Thousand Dollars (\$87,000)



MEMORANDUM

To Hon. Herman Daniels, Council Delegate

Navajo Nation Council

From:

Ron Haven, Attorney

Office of Legislative Counsel

Date

September 18, 2018

Re

AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL;

OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO

NATION COUNCIL RESOLUTION CS-69-18

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, although, as with all legislation, challenges are possible in the courts. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

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. Ahéhee'.

OLC # 18-565-1

THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0310-18 SPONSOR: Herman Daniels

TITLE: An Action Relating to Naabik'iyati' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CS-69-18

Date posted: September 20, 2018 at 3:45pm

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) 871-7590

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.: 0310-18

SPONSOR: Honorable Herman Daniels

TITLE: An Action Relating to Naabik'iyati' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CS-69-18

Posted: September 20, 2018 at 3:45pm

5 DAY Comment Period Ended: September 25, 2018

Digital Comments received:

Comments Supporting (1)	1. JoAnn Dedman
Comments Opposing	None
Inconclusive Comments	None

Legislative Secretary II
Office of Legislative Services

Date/Time

Legislation #0310-18

JoAnn Dedman <asdzaaltsui@hotmail.com>

Fri 9/21/2018 12:48 PM

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

Please accept this comment in favor of Legislation 0310-18 being sponsored by Honorable Herman Daniels to over-ride President Russell Begaye's veto of legislation 0272-18. I believe this decision should be left up to the Navajo Nation voters whether the salary of the Navajo Nation President and Vice President should be increased. In his veto message, President Begaye mentions that the salary of Council Delegates should have also been considered as well. The President is mistaken to assume that Council Delegates salary increase requires an initiative vote to accomplish this. In fact, the process for Council Delegates salary increase is cited in 2 NNC, subsection 106; "A salary increase may be approved by the Navajo Nation Council but shall not become effective unless ratified by two-thirds (2/3) of all Navajo Nation Chapters within 120 days of approval by the Navajo Nation Council". The salaries of the Navajo Nation President and Vice President have not increased for almost 30 years. I urge the Navajo Nation Council to support this proposed over-ride. Thank you. JoAnn Dedman, Chairperson, Commission on Navajo Government Development

23rd NAVAJO NATION COUNCIL NAABIK'ÍYÁTI' COMMITTEE REPORT Fourth Year 2018

The NAABIK'ÍYÁTI' COMMITTEE to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0310-18

An Action Relating to Naabik'íyáti' Committee and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CS-69-18

Sponsored by: Honorable Herman M. Daniels

Has had it under consideration and reports the same **FAILED AND REFERRED TO THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

Honorable Otto Tso, Chairman Pro Tem

NAABIK'ÍYÁTI' COMMITTEE

27 SEPTEMBER 2018

MAIN MOTION:

Motioned by: Honorable Seth Damon Seconded by: Honorable Walter Phelps

Vote: 06 in Favor, 09 Opposed (Chairman Pro Tem Tso Not Voting)

Page 1 of 1

NAVAJO NATION

RCS# 1040 9/27/2018

Naa'bik'iyati Committee 05:25:25 PM

Amd# to Amd# Legislation 0310-18: Overriding FAILED

MOT Damon the Navajo Nation President's SEC Phelps Veto of Navajo Nation Council

Resolution CS-69-18

Yea: 6 Nay: 9 Excused: 0 Not Voting: 9

Yea: 6

Bates Hale Phelps Smith

Daniels Pete

Nay: 9

Begay, NM Chee Filfred Tsosie

BeGaye, N Damon Perry Witherspoon

Bennett

Excused: 0

Not Voting: 9

Begay, K Crotty Shepherd Tso
Begay, S Jack Slim Yazzie

Brown