

LEGISLATIVE SUMMARY SHEET

Tracking No. 0281-20

DATE: November 9, 2020

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 CO-82-20

PURPOSE: To override the Navajo Nation President's veto of Navajo Nation Council Resolution CO-82-20.

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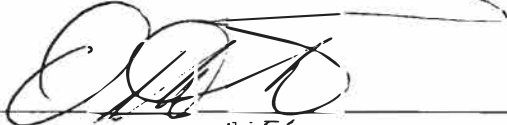
This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: 7:43 pm 11-09-20
Posting End Date: 11-14-20
Eligible for Action: 11-15-20

Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – SECOND YEAR, 2020

INTRODUCED BY


(Sponsor)

TRACKING NO. 0281-20

AN ACTION
RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF
NAVAJO NATION COUNCIL RESOLUTION CO-82-20

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'íyáti' Committee before consideration by the Council. 2 N.N.C. § 164 (A)(17).

SECTION TWO. FINDINGS

- A. Council Resolution CO-82-20 was passed by the Navajo Nation Council and certified on October 21, 2020. The resolution is entitled, "An Act Relating to Law and Order,

1 Naabik'iyati' and the Navajo Nation Council; Amending Navajo Nation Code 2 N.N.C. §§
2 851 - 858, Navajo-Hopi Land Commission." **Exhibit 1.**

3 B. The Navajo Nation President vetoed Resolution CO-82-20 on November 3, 2020 and
4 provided a memorandum explaining his veto decision. **Exhibit 2.**

5 C. The Navajo Nation Council does not agree with the President's veto of Resolution CO-
6 82-20 and continues to believe in the need for Resolution CO-82-20.

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8 **SECTION THREE. OVERRIDING VETO**

9 The Navajo Nation Council hereby overrides the Navajo Nation President's veto of
10 Resolution CO-82-20 effective upon certification of the Speaker of the Navajo Nation
11 Council.

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13 **SECTION FOUR. EFFECTIVE DATE**

14 The effective date of this override shall be as provided for in 2 N.N.C. § 221 (A) and (C).
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RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION
RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL;
AMENDING 2 N.N.C. §§ 851-858, NAVAJO-HOPI LAND COMMISSION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a Standing Committee of the Navajo Nation Council with authority to "review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments in 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 (A), and all proposed legislations requiring final action by the Navajo Nation Council are assigned to the Committee. 2 N.N.C. § 164 (A) (9).
- C. The Naabik'íyáti' Committee is specifically empowered as the oversight committee for commissions under the Legislative Branch of the Navajo Nation, including the Navajo-Hopi Land Commission. 2 N.N.C. § 701 (5).
- D. The Navajo Nation Council is the governing body of the Navajo Nation with the authority to enact positive law of the Navajo Nation. 2 N.N.C. § 102 (A) and 164 (A).

SECTION TWO. FINDINGS

- A. The Navajo Nation Council established the Navajo-Hopi Land Commission within the Legislative Branch as a commission of the Navajo Nation Council. 2 N.N.C. § 851 (A).
- B. The Navajo-Hopi Land Commission Plan of Operations has not been comprehensively updated since 1989.
- C. The Navajo-Hopi Land Commission recommends that its Plan of Operation, codified at 2 N.N.C. §§ 851-858, be amended as set forth in NHLCD-10-19, attached as **Exhibit A**.

SECTION THREE. AMENDING 2 N.N.C. §§ 851-858

The Navajo Nation hereby amends Title 2, Chapter 3, Subchapter 11, Article 1 of the Navajo Nation Code as follows:

**Title 2. Navajo Nation Government
Chapter 3. Legislative Branch
Subchapter 11. Boards and Commissions
Article 1. Navajo-Hopi Land Commission**

§ 851. Establishment; purposes

- A. The Navajo-Hopi Land Commission ("Commission") is hereby established within the Legislative Branch.
- B. It is the purpose of the Commission to:
1. Monitor, collect, and update information on any and all land use ~~conflicts~~ issues between the Navajo Nation, and the Hopi Tribe, Southern Paiute Tribe and any claimants in and to lands within the area described in the Act of June 14, 1934 (48 Stat. 960).
 2. Initiate the acquisition, and speak and act for the Navajo Nation with respect to the land selection and land exchange provisions of P.L. 96-305.
 3. Speak and act on behalf of the Navajo Nation and advocate at the local, regional, and national levels on issues related to Navajo Partitioned Lands (NPL), Hopi Partitioned Lands (HPL) (on behalf of Navajo families living on HPL), Former Bennett Freeze Area (Navajo-Hopi land issues), Nahata Dziil, lands acquired using P.L. 96-305, and the Southern Paiute Tribe.
 4. Establish Rehabilitation Trust Fund and Escrow Fund program budget policies.
 5. Speak and act for the Navajo Nation on any and all matters relating to the well-being of impacted communities.

§ 852. Membership; selection; Chairperson and Vice-Chairperson; term of office; ex-officio members

- A. The Commission shall consist of nine (9) regular voting members and two (2) ex-officio members who shall be appointed by the Speaker of the Navajo Nation Council with the approval of the Naabik'íyáti' Committee of the Navajo Nation Council. The

~~Commission shall have the authority to establish subcommittees as deemed appropriate to provide advisory input from citizens, professionals, federal and other non-elected sources.~~

B. The Commission shall consist of:

1. Nine voting members of the Navajo Nation Council representing areas affected by the Navajo-Hopi Land Dispute from each of the following areas:

- a. To' Nanees Dizi
- b. Nahata Dziil
- c. Teesto, Whitecone
- d. Coppermine, K'aibii'to, Tonalea, Bodaway/Gap
- e. Tsah Bii Kin, Shonto
- f. Jeddito
- g. Cameron, Coalmine Canyon, Leupp, Tolani Lake
- h. Hard Rock, Forest Lake, Pinon, Blck Mesa, Whippoorwill
- i. Tachee/Blue Gap, Low Mountain

2. All members of the Commission shall be appointed by the Speaker of the Navajo Nation Council and shall serve at the pleasure of the Naabik'iyáti' Committee of the Navajo Nation Council.

3. ~~The Agency Superintendent, Bureau of Indian Affairs, of Tuba City Agency and Crownpoint Agency Navajo Regional Director of the Bureau of Indian Affairs, Office of Navajo-Hopi Land Commission Office, Office of Legislative Counsel, Navajo Land Department and Navajo Nation tribal employees, when called upon, shall provide technical assistance input to the Commission.~~

C. The Chairperson and Vice-Chairperson of the Commission shall be selected by the Commission.

D. Commission members shall serve a term of office coinciding with the term of office of members of the Navajo Nation Council and until their successors are appointed.

- E. The President and Vice-President of the Navajo Nation shall serve as ex-officio members of the Commission.

§ 853. Powers

- A. General. The Commission shall have all powers necessary and proper to carry out the purposes set forth in 2 N.N.C. § 851.
- B. Enumerated Powers. The Commission is hereby authorized and directed:
1. To advise the President of the Navajo Nation concerning all matters relating to land use conflicts between the Navajo Nation and the Hopi Tribe, and any claimants in and to lands within the areas described in the Act of June 14, 1934 (48 Stat. 960).
 2. To speak and act ~~for~~ on behalf of the Navajo Nation with respect to the land selection and land exchange provisions of P.L. 96-305 by making such selections and approving or disapproving any proposed exchanges, subject to the limitations set forth in resolution CN-69-80.
 3. Shall provide direction to and appoint two members to the Joint Commission as specified in the Intergovernmental Compact between the Navajo Nation and the Hopi Tribe.
 4. Provide for the compensation of the Commission members for meeting attendance per the rate set in the meeting policies.
 5. To advise and meet with communities that are directly affected by the land dispute between the Navajo Nation and the Hopi Tribe.
 6. To act and speak on all matters and recommend legislation relating to Navajo Partitioned Lands (NPL), Hopi Partitioned Lands (HPL) (on behalf of Navajo families living on HPL), Former Bennett Freeze Area (Navajo-Hopi land issues), Nahata Dziil, lands acquired using P.L. 96-305, and the Southern Paiute Tribe.
 7. Shall initiate and recommend grazing, homesite leasing, housing development, rights-of-way and other land development policies and refer to appropriate Standing Committees for approval.

8. Approve energy development and set rental rates on lands that were converted to trust lands with respect to the land selection and land exchange provisions of P.L. 96-305.
9. Develop policies and monitor the Rehabilitation Trust Fund and Escrow funds.
10. To serve as the oversight commission for the functions of the Navajo-Hopi Land Commission Office.
11. Negotiate and meet with Hopi Tribe and Southern Paiute Tribe on matters under the Commission's authorities.
12. Navajo projects initiated by the Office of Navajo-Hopi Indian Relocation will be transferred to the Commission upon the eventual phase out, if any, of the Office.

§ 854. Meetings

Meetings shall be held on the first and third Thursday of each month or on the call of the Chairperson of the Commission, the President of the Navajo Nation, or upon written request of any five (5) members of the Commission. At any meeting, a quorum shall consist of ~~six (6)~~ five (5) members.

§ 855. Procedure

~~Until such time as the Navajo Nation Council adopts procedures and rules for the conduct of Commission business, the~~ The Commission is empowered to develop its own procedure for the conduct of meetings, provided that all formal substantive action shall be taken by written resolution duly certified by the presiding officers, or memorialized by written memorandum setting forth the action taken and signed by the presiding officer and filed with the ~~Central~~ Records Management Department of the Navajo Nation. ~~Minutes~~ Journals shall be kept of all meetings and shall be officially recorded by the Office of Legislative Services.

§ 856. Staff

- A. There shall be a Navajo-Hopi Land Commission Office under the direction of the President of the Navajo Nation. The President of the Navajo Nation shall appoint ~~a staff assistant~~ an Executive Director who shall head the Land Commission Office who shall serve at the pleasure of the President of the Navajo Nation.
- B. The Commission shall utilize the Navajo-Hopi Land Commission Office in performing its assigned functions.

§ 857. Reports

The Commission shall report quarterly and in writing to the Navajo Nation Council concerning matters relating to the land use conflict and agreements with the Hopi Tribe.

§ 858. Subcommittees

~~The Commission is authorized and directed to establish at least one Citizen's Advisory Subcommittee to provide advice and assistance to the Commission. The members of the Citizen's Advisory Committee shall be non-elected private citizens who reside in or near the lands affected by P.L. 96-305 and such other private citizens as the Commission and the President of the Navajo Nation may deem appropriate.~~ to establish subcommittees as deemed appropriate to provide advisory input from citizens, professionals, federal and other non-elected sources.

SECTION FOUR. EFFECTIVE DATE

This action of the Navajo Nation Council herein shall be effective pursuant to 2 N.N.C. § 221(B). Further, the "President's authority to sign into law or veto legislation shall be deemed waived if not exercised within ten calendar days after certification of the legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. § 221." 2 N.N.C. § 1005 (C)(12).

SECTION FIVE. CODIFICATION


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

SECTION SIX. SAVINGS CLAUSE

Should any provision of these amendments 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 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 21 in Favor, and 00 Opposed, on this 21st day of October 2020.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

Oct. 24, 2020
DATE

Motion: Honorable Elmer P. Begay
Second: Honorable Kee Allen Begay, Jr.

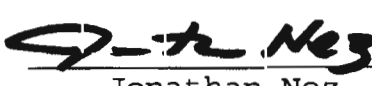
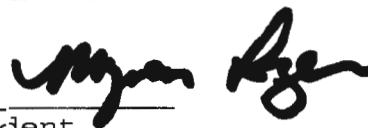
Speaker Seth Damon not voting

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 _____, 2020.

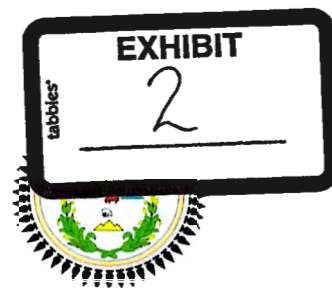
Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 03rd day of November, 2020 for the reason(s) expressed in the attached letter to the Speaker.

 
Jonathan Nez, President
Navajo Nation

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



November 3, 2020

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

RE: CO-82-20, *An Action Relating to Law and Order, Naabik'iyati' and Navajo Nation Council; Amending 2 N.N.C. §§ 851-858, Navajo-Hopi Land Commission*

Dear Speaker Damon,

The Navajo People deserve complete legislative representation from their elected officials not a rush to vote with no debate on important issues that affect their daily lives. CO-82-20 had no debate when presented to the Navajo Nation Council and did not have a debate when it was presented to the Naabik'iyati' Committee. In this case, NABI did not work.

Had Delegates taken the time to thoroughly review the legislation they may have noticed some important matters in this attempt to corral authority for the Navajo Hopi Land Commission. The Resources and Development Committee and the Budget and Finance Committee, both Standing Committees of the Navajo Nation Council, are delegated certain authority in such general matters as natural resources and finance. CO-82-20 was not presented to either Committee for evaluation of potential diminishment of their respective authority. The Resources and Development Committee may be concerned the amendments intrude on the Committee's authority in energy development and the Budget and Finance Committee may be interested in the fact that the amendments encroach on oversight authority over fiscal policies.

From a broader perspective the amendments conflict with the current Navajo Nation Council's position relative to the Office of Navajo Hopi Indian Relocation. Twice the Naabik'iyati' Committee opposed the closing of the Office of Navajo Hopi Indian Relocation. The amendments transfer projects from the Office to the Commission; essentially conceding the closure of the Office of Navajo Hopi Indian Relocation and leaving the affected relocatees vulnerable. Further, there is no inquiry on the transfer of the projects and whether or not these projects are appropriate for the Commission or appropriate for other Navajo departments. Projects, such as the Navajo Beef Program, will be taken out of local hands and turned over to a political board which is not beneficial for local residents. Additionally, careful reading of the proposed amendments would have revealed an error in tribal recognition. The references throughout the legislation to the Southern Paiute Tribe is misplaced. The Southern Paiute Tribe reference should be specifically referenced as the "San Juan Southern Paiute Tribe" as this tribe is the one Ute Tribe within the boundaries of the Navajo Nation.

Specific to the authority of the Navajo President, the President's authority includes speaking and acting on behalf of the Navajo Nation on any and all matters relating to the Navajo-Hopi land dispute. The amendments in CO-82-20 create a conflict with the presidential authority and will cause confusion in speaking with federal officials. The Office of the President and Vice President has always advocated for the Navajo Nation on issues related to the Navajo-Hopi land dispute. We will continue to work side-by-side with the Land Commission on these issues. Working together and speaking with one voice will bring a strong presence to the federal government.

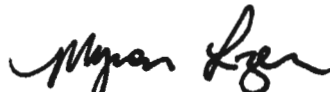
A final matter, the amendments in CO-82-20 specifically set meetings twice a month. We believe with the Commission Office taking charge of many of the needs for the Former Bennett Freeze Area and a fading need for policy direction there will be less need for Commission meetings. The original language that allowed for Commission meetings at the call of the Chairman is still appropriate. This change for two meetings a week plus the change for compensation of the Commission members for meeting attendance is curious. With no specifics on the compensation amendment we hope this is not a move for additional money to Commission members. In addition, the People need to know what their financial resources are paying for; what are the expectations for the use on Navajo money. Without a specific mention of a rate set in the meeting policies it is difficult to determine if the amendment refers to the Title Two compensation scale at \$60 per meeting or to the Naabik'íyáti' Committee Meeting Fees Policy of \$300 per meeting, which will impact the Legislative budget significantly.

We cannot support CO-82-20 due to the lack of scrutiny and the many outstanding issues as raised here. Also, we would hope the Commission members would consult the Navajo Hopi Commission Office before attempts to amendment are done since the Executive Director has information to contribute. We continue to advocate for the Navajo People affected by relocation and who continue to struggle and we trust the Council and the Commission will continue to work for the benefit of all.

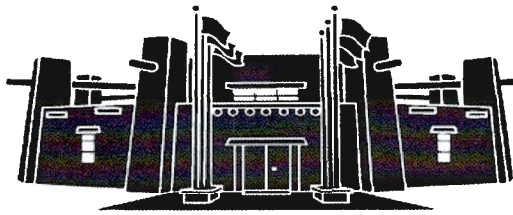
Sincerely,



Jonathan Nez, President
THE NAVAJO NATION

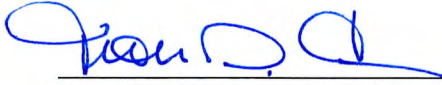


Myron Lizer, Vice President
THE NAVAJO NATION



MEMORANDUM

TO : Hon. Otto Tso, Delegate
Navajo Nation Council

FROM : 
Troy D. Cook, Senior Tribal Court Advocate
Office of Legislative Counsel

DATE : November 9, 2020

RE : **AN ACTION RELATING TO LAW AND ORDER AND
NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL;
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF
NAVAJO NATION COUNCIL RESOLUTION CO-82-20**

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. As to format, the resolution as drafted is legally sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want.

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. 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'.

20-468-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0281-20__

SPONSOR: Otto Tso

**TITLE: An Action Relating To Naabik'iyáti' Committee And Navajo Nation Council;
Overriding The Navajo Nation President's Veto Of Navajo Nation Council Resolution CO-
82-20**

Date posted: November 9, 2020 at 7:43PM

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.*