

LEGISLATIVE SUMMARY SHEET

Tracking No. 0398-15

DATE: November 18, 2015

TITLE OF RESOLUTION: AN ACT RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL: OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO RESOLUTION CO-46-15

PURPOSE: The resolution's purpose is to override the Navajo Nation President's veto of Resolution CO-46-15.

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: Katanyibu
Website Posting Time/Date: 12/13/2015
Posting End Date: 12/13/2015
Eligible for Action: 12/14/2015

Naa'biik'iyáti' Committee

THENCE

Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
23rd NAVAJO NATION COUNCIL—FIRST YEAR, 2015

INTRODUCED BY

ALTON JOE SHEPHERD
Prime Sponsor

TRACKING NO. 0398-15

AN ACT

RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL;
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF
RESOLUTION CO-46-15

BE IT ENACTED:

SECTION ONE. Findings

- A. Diné Traditional Law declares and teaches “that [t]he leaders of the Legislative Branch shall enact policies and laws to address the immediate and future needs.” 1 N.N.C. §203(D).
- B. The Navajo Nation Council is the Navajo Nation’s governing body and, as such, authorized “to promulgate, rules, regulations and procedures for the conduct of its meetings and that of its committees.” 2 N.N.C. §§102 (A) and (E).
- C. On October 21, 2015, the Navajo Nation Council passed legislation amending Navajo Nation Code, Title 2, §§110, 164 and enacted §165 regarding the legislative process to address the immediate needs of the Legislative Branch. CO-46-15, 23rd Navajo Nation Council (Oct. 21, 2015), EXHIBIT A.
- D. The Naabik'iyáti' Committee established the Naabik'iyáti' Title Two Reform Subcommittee to “review, evaluate and recommend changes to the Navajo Nation

Council, if any, regarding...Title 2, Section 164 legislative process..." NABIF-09-15, 23rd Naabik'íyáti' Committee, sec. 2(A) (Feb. 19, 2015).

- E. "The Naabik'íyáti' Title Two Reform Subcommittee, after review and evaluation of the Navajo Nation Council and Committee Legislative Process, 2 N.N.C. §164, and corresponding Definitions, 2 N.N.C. §110, recommend[ed] changes to address the concerns and issues raised by the members of the Navajo Nation Council." CO-46-15, 23rd Navajo Nation Council, sec. 1(F) (Oct. 21, 2015).
- F. Diné Traditional Law declares and teaches that the leaders of the Executive Branch shall "implement the policies and laws enacted by the legislative branch." 1 N.N.C. §203(C).
- G. Relying on the 2008 Navajo Nation Initiative, the Navajo Nation President vetoed CO-46-15 on November 12, 2015 because of a Navajo Nation Council amendment regarding the Navajo Nation President's budget line-item veto authority. Memorandum from the Navajo Nation President to the Navajo Nation Speaker 2 (Nov. 12, 2015), EXHIBIT B.
- H. As the Navajo Nation President's veto memorandum states, the Navajo People only gave the Navajo Nation President "line item veto authority over **budget items** contained in the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council. Budget line item vetoed by the President of the Navajo Nation will not be subject to Navajo Nation Council override." *Citing to 2008 Navajo Nation Initiative.*
- I. Further the Navajo Nation President's memorandum states that the "intent of the line-item veto initiative was to protect the government from wasteful spending and ensure government fiscal efficiency and responsibility." EXHIBIT B.
- J. The memorandum goes on to speculate that since the 2008 line-item veto's intent was to protect from wasteful spending and to ensure fiscal efficiency and responsibility then "this **must include** all aspects of the budget and not just the immediate appropriations, but also those budget items with a future impact, such as conditions of appropriations." EXHIBIT B.
- K. The Navajo Nation President fails to take his own advice, by not adhering to the "plain language of the initiative passed by the Navajo people." The Navajo Nation President cannot assume that the 2008 Initiative "**must include** all aspects of the budget and not

1 just the immediate appropriations, but also those budget items with a future impact, such
2 as conditions of appropriations.” EXHIBIT B.

3 L. A condition of appropriation is an action the program must take in order to obtain the
4 funding not a budget line item. The Navajo People only authorized the Navajo Nation
5 President budget line item veto power, not veto authority over conditions of
6 appropriation.

7 M. The Navajo Nation President’s veto centers on the Navajo Nation Council’s amendment
8 in CO-46-15, 2 N.N.C. §164(B)(14)(proposed amendment), which reads: “The veto of a
9 budget line item shall only be to the numeric appropriated dollar amount.” The Navajo
10 Nation President claims the additional language violates the 2008 Initiative because the
11 language amends the President’s line-item veto authority. The amending language
12 clarifies the 2008 Initiative language and makes no substantive change or revision to the
13 President’s line-item veto authority. The Navajo Nation President retains line-item veto
14 authority over dollar amounts written into the supplemental appropriation and
15 comprehensive budget resolutions.

16 N. Neither the Navajo Nation Code nor the 2008 Initiative defines “line item”, “veto”, or
17 “line item veto”. Therefore, one must look to other sources and common usage for a
18 definition:

- 19 • Line-item is defined as “A unit of measurement in a document, record, or
20 statement, *shown on a separate line of its own*. Line-items often refers to a
21 budget element that is separately identified.” BUSINESS DICTIONARY.
- 22 • Veto is defined as a statutory right to reject a decision or proposal made by a law
23 making body. OXFORD DICTIONARY.
- 24 • Line-item veto is defined as “the power of a government executive to veto
25 specific items in an appropriation bill without vetoing the bill altogether”.
26 MERRIAM-WEBSTER DICTIONARY.

27 O. Further, the Navajo Nation President’s memorandum states he exercises his veto
28 authority pursuant to 2 N.N.C. §221(B); however, this Navajo Nation Code provision
29 does not give the Navajo Nation President veto authority. 2 N.N.C. §221(B) speaks to a
30

1 resolution's effective date. The Navajo Nation President finds his proper veto authority
2 at 2 N.N.C. §1005(C)(11).

3 P. "A vetoed resolution shall first be submitted to Naabik'íyáti' Committee before
4 consideration by the Council." 2 N.N.C. § 164 (A)(17) (2012) *see also* CJA-13-13.

5 Q. The Navajo Nation Council may override the veto by two-thirds ($\frac{2}{3}$) vote of the
6 membership of the Navajo Nation Council. 2 N.N.C. §§164(A)(17) and 1005(C)(11).

7 R. The Navajo Nation Council shall override the President's veto before the next Navajo
8 Nation Council regular session (Winter 2015 Session) following the session in which the
9 legislation first passed Council. 2 N.N.C. § 1005 (C)(11).

10 S. The Navajo Nation finds the override in the Navajo Nation's best interest.
11

12 **SECTION TWO. Resolution Number CO-46-15 Override**

13

14 The Navajo Nation overrides the Navajo Nation President's veto of Resolution CO-46-
15 15. 2 N.N.C. §§ 1005(C)(11) and 221(B).
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30



CO-46-15

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL -- First Year, 2015

AN ACTION

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION COUNCIL AND COMMITTEE LEGISLATIVE PROCESS, 2 N.N.C. § 164, CREATING A NEW § 165, AND AMENDING CORRESPONDING DEFINITIONS AT 2 N.N.C. § 110

BE IT ENACTED:

Section One. Findings.

- A. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 601(B)(14), reviews and makes recommendations to the Navajo Nation Council concerning proposed amendments and enactments to the Navajo Nation Code.
- B. The Naabik'íyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164(A)(9), reviews proposed legislation which requires final action by the Navajo Nation Council.
- C. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. 2 N.N.C. § 164(A).
- D. On February 19, 2015 the Naabik'íyáti' Committee established the Naabik'íyáti' Title Two Reform Subcommittee to "review, evaluate and recommend changes to the Navajo Nation council, if any, regarding...Title 2, Section 164 legislative process..." NABIF-9-15, Section Two, A.
- E. The Naabik'íyáti' Title Two Reform Subcommittee meet on several occasions, assisted by the Office of Legislative Services, Office of the Speaker, Office of Legislative Counsel, and the Office of Navajo Government Development and developed a matrix to address the recommendations for the Section 164 process, standing committee structure and authority, and the administrative and legislative process.

F. The Naabik'iyáti' Title Two Reform Subcommittee, after review and evaluation of the Navajo Nation Council and Committee Legislative Process, 2 N.N.C. § 164, and corresponding Definitions, 2 N.N.C. § 110, recommends changes to address the concerns and issues raised by the members of the Navajo Nation Council.

Section Two. Amending 2 N.N.C. §§ 110, 164; Enacting new § 165.

The Navajo Nation hereby amends the Navajo Nation Code, Title 2, §§ 110, 164 and enacts § 165 as follows:

Title 2. Navajo Nation Government

Chapter 3. Legislative Branch

Subchapter 2. Navajo Nation Council Meetings

§ 110. Definitions

The following definitions apply in this Chapter:

A. "Agency" generally means a division or unit of a government or other organization. When used to refer to the geographic divisions of the Navajo Nation it means the collection of Chapters in each of five geographic divisions: Chinle Agency, Eastern Agency, Fort Defiance Agency, Northern Agency, Western Agency.

B. "Appropriation(s)" is the legislative act of designating Navajo Nation funds for a specific purpose.

BC. "Associated Amendments" means amendments to alter, change, make additions to or modify an existing agreement, contract, subcontract, or letter of assurance that do not require the approval of the Navajo Nation Council as provided in 2 N.N.C. § ~~164(B)(1)~~ 165.

D. "Budget Reallocation" is a re-designation of appropriated or budgeted funds from one account to another account for a different use or purpose or to a newly-created account for a different use or purpose.

EE. "Budget Resolution" is a Navajo Nation Council resolution ~~passed by the Navajo Nation Council~~ appropriating funds pursuant to 12 N.N.C. § 800, et seq.

F. "Business Day(s)" shall mean a Navajo Nation government work day Monday through Friday and excludes weekends and Navajo Nation government holidays.

FG. "Chapter", as stated in 26 N.N.C. § 2(6), means units of local government which are political subdivisions of the Navajo Nation.

EH. "Comment Period" refers to the opportunity for ~~means calendar days in which proposed resolutions are posted on the Navajo Nation Council's website and available for submission of written comments by members of the public, Chapter governments, Navajo Nation entities and departments or divisions of the Navajo Nation government to submit written recommendations and comments on a proposed resolution.~~ The comment period shall begin ~~to run at midnight of the day a resolution is introduced into the legislative process when a proposed resolution is~~ officially posted on the Navajo Nation Council's website by the Office of Legislative Services and shall end when the resolution is heard by the Navajo Nation Council or Standing Committee with final approval authority.

FI. "Confidential Matter" means a matter which violates the Navajo Nation Privacy and Access to Information Act or whose unauthorized disclosure could be prejudicial or detrimental to the legal or financial interests of the Navajo Nation government or its entities. The Navajo Nation Department of Justice shall determine what matters qualify as confidential. Matters determined to be confidential shall not be released without the written approval of the Attorney General or his designee.

GJ. "Coordinate" means to combine efforts on a common action to produce harmonious actions and results.

HK. "Financial Impact" means ~~any agreement that obligates the Navajo Nation to expend funds no matter what the sources of the funds, or provides funds to the Navajo Nation an assessment of or analysis of the possible consequences of any financial decision and the effects of those decisions to the Navajo Nation government.~~

L. "Grant" means a funding agreement that is not an Intergovernmental Agreement. "Grant Application" means the documents, either digital or hard copy, requesting the Grant. "Grant Award" means the acceptance documents for the Grant. Where the Grant Application document is separate from the Grant Award document, each document shall be reviewed as required by 2 N.N.C. § 165. Where the Grant Application document and the Grant Award document is the same, the document shall be reviewed only once at the application stage.

IM. "Iiná" is the part of the process of Nitsáhákees-Nahat'á-Iiná-Siihasin to collaboratively make and implement a decision, which must be dynamic and vibrant to accomplish effective and efficient outcomes, for sustaining life, in a constant cycle of examining and analyzing issues for growth and development.

JN. "Intergovernmental aAgreements" (IGA) are is an agreement between the Navajo Nation and another government that involves the sharing of governmental powers, such as cross-commission agreements, and includes Indian Self-Determination and Education Assistance Act (P.L. 638) contracts and compacts. Memoranda of Agreement and Memoranda of Understanding with another government that involve the sharing or exchange of governmental powers shall be considered IGAs. Intergovernmental agreements do not include aAgreements between the Navajo Nation and another government where the Nation or the other government acts in a landowner or commercial capacity and Grants that do not involve the sharing of governmental powers are not IGAs.

KO. "Legislation" generally means the action of legislating or the enactments of a legislative body. As used in 2 N.N.C. § 164, it means the enactment of positive laws, amendments to positive laws, approval of appropriations or adoption of a Statement of Policy by the Navajo Nation Council in the Navajo Nation Code, the term "legislation" describes the status of a proposed resolution before it is formally adopted by the Navajo Nation Council or the Standing Committee having final authority over the matter.

LP. "Letter of Assurance" means a letter sent to another party in lieu of a bond or other surety assuring the receiver that the sender will perform its contract obligations.

MQ. "Local Government Unit" means political subdivisions of the Navajo Nation including, Chapters, Townships, or other municipal forms of government ~~for the purpose of 2 N.N.C. § 500 to § 503.~~

NR. "Memorandum of Agreement" (MOA) means a binding written agreement between two or more parties to cooperatively work together to resolve an issue of mutual concern, or to accomplish one or more agreed upon projects or one or more mutual purposes. ~~An MOA lays out the ground rules for a positive~~ establishes procedures in an attempt to ensure a successful cooperative effort. It may be used Examples of when an MOA may be used are agreements between the tribal government and another government such as a state or the United States, a private individual or entity, or and between the central government and local governance certified chapter or Navajo Nation Township. ~~and An~~ MOA is a legally enforceable agreement.

OS. "Memorandum of Understanding" (MOU) means a non-binding written agreement between two or more parties describing an intended ~~line~~ course of action and where the parties agree to act in good faith to comply with the agreement's terms. Examples of when an MOU ~~It~~ may be used are agreements between the tribal government and another government such as a state or the United States, a private individual or entity, or between the central government and a local governance certified chapter or Navajo Nation Township. An MOU ~~and~~ is not legally enforceable. Agreements between tribal divisions, agencies, programs and non-certified chapters are not MOUs for purposes of 2 N.N.C. § ~~164(B)~~ 165 and may be executed by the appropriate division.

PT. "Nahat'á" is the part of the process of Nitsáhákees-Nahat'á-Iiná-Siihasin to strategically plan while utilizing Dine bi beehaz'áanii Bitsé Siléí (foundation of Dine law), statutory laws, informed research and public input (through use of the Naabik'iyáti' process) in a constant cycle of examining and analyzing issues for growth and development.

QU. "Nitsáhákees" is the part of the process of Nitsáhákees-Nahat'á-Iiná-Siihasin which involves critical thinking, and more broadly, to give direction and guidance to the issue at hand, in a constant cycle of examining and analyzing issues for growth and development.

RV. "Oversight" means to monitor and review a programs' or entities' execution of legislation, regulations, and policies related to the program or entity or affected subject area. In comparison, legislative oversight is more limited and means to assist programs or entities to efficiently carry out their duties by ensuring adequate funding and ensuring that their governing authority is effective.

~~S. "Reallocations" are redesignations of appropriated or budgeted funds from one account to another account for a different use or purpose or to a newly created account for a different use or purpose.~~

W. "Positive law" means Navajo Nation statutory law.

~~TX. "Resolution", which is a form of legislation, means a formal action of the Navajo Nation Council or its Committees approving or stating its opinion on a matter is the written document memorializing the official approval and adoption of a matter by the Navajo Nation Council or a Standing Committee.~~

~~U. "Positive law" means legislation by the Navajo Nation Council that creates or amends a section or sections of the Navajo Nation statutory law.~~

VY. "Siihasin" is the part of the process of Nitsáhákees-Nahat'á-Iiná-Siihasin to ensure resilience through evaluation of decision-making and outcomes in a constant cycle of examining and analyzing issues for growth and development.

WZ. "Statement(s) of Policy" are written statements submitted to federal, state or local governments, by a Navajo Nation official stating the official position of the Navajo Nation on proposed legislation or other action by that government. Statement(s) of Policy, as used in this chapter, does not include statements concerning the internal policies of a Navajo Nation division, program or department.

XAA. "Subcontract" means a contract that delegates some or all of the responsibilities under a contract to another party to perform. The original contractor retains ultimate responsibility for performance of the underlying contract including any responsibilities delegated to a subcontractor.

§ 164. Navajo Nation Council and Committee Legislative Process

~~A. Statements of policy, enactment of positive law, intergovernmental agreements, budget resolutions, and reallocations, must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein.~~

~~1. Except for statutorily enumerated situations as set out in 2 N.N.C. § 164(A)(16), only Council Delegates or Standing Committees may introduce a proposed resolution to the Standing Committee(s) and the Navajo Nation Council, except where Navajo government employees are authorized by statute or regulation to introduce a proposed resolutions. The last day for consideration of resolutions shall be December 31st of the year immediately preceding the swearing in of the new Council. Council Delegates, Standing Committees, and other Navajo government employees who are statutorily authorized to introduce proposed resolutions, may seek the assistance of either the Office of Legislative Counsel or other legal counsel employed by the Navajo Nation to draft proposed resolutions. The Office of Legislative Counsel shall ensure that the proposed resolution is drafted in the proper codification format before it is assigned a number and introduced into the legislative process. The Office of Legislative Counsel shall notify the Council by memorandum of the legal sufficiency of each proposed resolution.~~

~~2. Expressions of condolence, congratulations, appreciation, recognition of achievement and other similar expressions of sentiment shall not be drafted or processed as resolutions of the Navajo Nation Council or its standing committees but shall be issued by certificates from the Speaker of the Navajo Nation Council at the written request of any Council Delegate and in the manner set forth at 2 N.N.C. § 285(B)(7).~~

~~3. After the proposed resolution is deemed properly drafted, by the Office of Legislative Counsel, the Council Delegate(s), Standing Committee(s) or authorized employee(s) shall present it to the Director for the Office of Legislative Services, or designee, who will assign a number to the proposed resolution.~~

~~4. All resolutions proposing new laws or amendments of laws shall clearly indicate new language by underlining the new language and deletion by overstrike and shall refer to appropriate Navajo Nation Code chapter or subchapter and~~

~~sections when applicable. All proposed resolutions enacting new laws, amending existing laws, or adopting a statement of policy shall include version identification and may be read in its entirety to the members of the Navajo Nation Council at the request of a Delegate. The exhibits attached to the proposed resolutions shall be identified by reference only.~~

~~5. After the proposed resolution is assigned a number, the Speaker of the Navajo Nation Council shall introduce it 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 and distribute a digital copy, including copies of exhibits, of the proposed resolution to the Office of the President, Office of the Attorney General, Office of the Controller, Office of Management and Budget, and all Executive Branch Division Directors~~

~~6. No later than the first calendar day after the proposed resolution is introduced into the legislative process, the Director for the Office of Legislative Services, or designee, shall cause digital copies of the resolution to be placed on the Council's website. Exhibits attached to the resolution shall not be posted on the website, but digital copies of the exhibits, where practicable, shall be provided upon request to the Office of Legislative Services. Any matters or exhibits determined by the Navajo Nation Department of Justice to be confidential shall be properly marked "confidential" and shall not be placed on the website or otherwise release. Digital copies of resolutions and exhibits shall carry a notice to the effect that the digital copy is being produced for the benefit of the Navajo Chapters and public and any political use is prohibited.~~

~~7. A Chapter government may also provide comments to the proposed resolution through a properly delegated elected official or through a certified chapter resolution. The Executive Branch Division Directors and Chapter government, at their own option, shall have 5 calendar days to submit comments on proposed resolution to the Executive Director for the Office of Legislative Services. After receiving comments, the Executive Director for the Office of Legislative Services, in consultation with Chief Legislative Counsel shall cause the analysis of the resolution, with appropriate references to comments received. The analysis may include comments to be affixed to the proposed resolution for consideration by the standing committee(s) and~~

~~the Council. Such analysis shall not constitute legal advice and be used to promote a better understanding of the resolution.~~

~~8. Following the expiration of the public comment period, the proposed resolution shall be forwarded to the Chairperson of the appropriate standing committee and the Chairperson shall place the proposed resolution on the committees' agenda for consideration by the standing committee at the next committee meeting. The Chairperson may also include an assigned memorial on the agenda. Action by the committee shall be in a written report and submitted to Council or another authorized committee.~~

~~9. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to the standing committee(s) having authority over the subject matter at issue and the Naabik'iyáti' Committee. The resolution or memorial shall be submitted to the Naa'bik'iyáti' Committee with amendments and committee reports. The Naabik'iyáti' Committee may develop proposed amendments to the Council or may refer a resolution or memorial back to the appropriate standing committee(s).~~

~~10. An amendment approved by a Committee shall be included in the proposed resolution. A failed amendment may not be introduced at a Council session unless a Delegate obtains a written petition in support of the amendment signed by a majority of the members of the Council. An amended legislation need not be re-distributed pursuant to § 164 (A) (5).~~

~~11. A legislation that was tabled by a committee with final approval authority over the matter shall remain with the committee until removed from table status. A legislation that was tabled by a committee without final approval authority over the matter shall move forward to the subsequent assigned committee(s) or Navajo Nation Council.~~

~~12. A legislation that does not receive sufficient vote for passage by a committee with final approval authority over the matter shall be deemed permanently eliminated from the agenda of the Committee. A legislation that does not receive sufficient vote for passage by a committee without final approval authority over the matter shall move forward to the subsequent assigned committee(s) or Navajo Nation Council for action. If the voting results of the committee with final approval authority over the legislation are difference from the voting results of other~~

~~committees to which the legislation was assigned, the legislation shall be referred to the Naabik'iyáti' Committee for final action, notwithstanding any other delegations to other committees of final approval authority.~~

~~13. The resolution shall be put on the proposed agenda for a session of the Navajo Nation Council as recommended by an assigned committee. Resolutions submitted for the Council's session agenda shall, to the extent possible, be listed in the order received, except those resolutions requiring 2/3 vote or those resolutions included in a consent listing.~~

~~14. All resolutions appointing public officials and significant or controversial resolutions may be referred to the Naabik'iyáti' Committee for discussion prior to being certified or enacted at the discretion of the Speaker, by referral from a standing committee having final legislative authority, or by the written request of a Delegate who is not a member of a standing committee which considered such resolution. The Committee may refer a resolution back to the appropriate standing committee(s) for further consideration.~~

~~15. After a resolution has completed the process and procedures of this section, it shall automatically be placed on the next Navajo Nation Council agenda. The Speaker shall publish the final proposed agenda on the Navajo Nation Council website no less than three (3) calendar days prior to the start of regular sessions and no less than one (1) day prior to the start of special sessions. All verbal and written reports shall be presented to the Council only on the first day of the regular sessions unless otherwise directed by the Speaker or the Council.~~

~~16. Matters constituting an emergency shall be limited to the cessation of law enforcement services, disaster relief services, fire protection services or other direct services required as an entitlement under the Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.~~

~~17. All resolutions enacting new laws 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, except financial line item vetoes are not subject to override. Vetoes shall be first submitted to Naabik'iyáti' Committee before consideration by the Council. Memorials are not subject to veto but become effective upon certification by the Speaker pursuant to 2 N.N.C. § 221(C). All acts of vetoing a resolution shall occur within the territorial jurisdiction of the Navajo Nation as described in 7 N.N.C. § 254.~~

A. The Navajo Nation Council, including its Standing Committees, shall take all substantive action(s) through written resolution.

1. Unless such authority has been expressly delegated to a Standing Committee, enactments of positive law and appropriations of Navajo Nation funds shall be reviewed and adopted by the Navajo Nation Council.
2. Unless such authority has been expressly reserved to the Navajo Nation Council or delegated to a specific Standing Committee, Statements of Policy of the Navajo Nation government and Intergovernmental Agreements shall be reviewed and adopted by the Naabik'iyáti' Committee.
3. Substantive action on matters not delineated above, including Budget Reallocations, shall be reviewed and adopted by the appropriate Standing Committee(s) pursuant to their delegated authorities.
4. Substantive action on matters not delineated above or expressly delegated to a Standing Committee shall be reserved to the Navajo Nation Council.

B. Except for matters qualifying as an emergency under the criteria set forth in 2 N.N.C. § 164 (C), all Navajo Nation Council and Standing Committee resolutions shall be subject to the following requirements:

1. Only Council Delegates or Standing Committees may initiate and introduce a proposed resolution to the Standing Committee(s) and the Navajo Nation Council.

2. The last day for Navajo Nation Council and Standing Committee consideration of proposed resolutions appropriating funds shall be December 31st of the year immediately preceding the swearing in of the new Navajo Nation Council.
3. Expressions of condolence, congratulations, appreciation, recognition of achievement and other similar expressions of sentiment shall be processed as memorials of the Navajo Nation Council or its Standing Committees, and shall be issued by certificates from the Speaker of the Navajo Nation Council at the written request of any Council Delegate and in the manner set forth at 2 N.N.C. § 285(B) (7). A Standing Committee may include an assigned memorial on its agenda.
4. All proposed resolutions enacting new statutory laws or amending existing statutory laws shall clearly indicate new language by underscoring new language and deleting existing language by overstrike and shall refer to appropriate Navajo Nation Code chapter, subchapter and sections when applicable.
5. Before any proposed resolution is introduced into the legislative process, the Office of Legislative Counsel shall ensure that the proposed resolution is legally sufficient to satisfy its intended purpose and drafted in the proper format for codification, assignment, implementation and execution and shall notify the sponsor and Navajo Nation Council by memorandum of the legal sufficiency and purpose of each proposed resolution, as well as the recommended assignment to the respective Standing Committee(s) having authority over the matter.
6. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to Standing Committee(s) having authority over the subject matter under consideration and the Naabik'Iyáti' Committee.

7. Once the Office of Legislative Counsel has satisfied its mandates as set forth in this section, the sponsor(s) of the proposed resolution may present it to the Director of the Office of Legislative Services, or their designee, who shall introduce it into the legislative process pursuant to policies adopted by the Naabik'iyáti' Committee. The policies shall be posted on the website of the Navajo Nation Council. The Director of the Office of Legislative Services shall establish procedures to implement the policies adopted by the Naabik'iyáti' Committee. The procedures shall be posted on the website of the Navajo Nation Council and shall include procedures that:
- a. Provide a process for a proposed resolution to be placed on a Standing Committee agenda no sooner than three (3) business days after the proposed resolution has been assigned to a Standing Committee(s).
 - b. Post a digital copy of the proposed resolution on the website of the Navajo Nation Council no later than the first business day after the proposed resolution is assigned to a Standing Committee. The posting shall include notice of the earliest date on which the proposed resolution is eligible to be placed on the first assigned Standing Committee's agenda.
 - c. Distribute a digital copy of the proposed resolution, including copies of exhibits, to the Office of the President, Office of the Attorney General and Office of the Controller no later than the first business day after the proposed resolution is assigned to a Standing Committee(s).
 - d. Afford the public access, either digital or hard copy, to the exhibits attached to a proposed resolution, except for any matters or exhibits determined by the Navajo Nation Department of

Justice to be confidential. Such matters or exhibits shall be expressly marked "confidential" and not posted on the website or otherwise released.

- e. Provide an opportunity for members of the public, Chapter governments, Navajo Nation entities and departments or divisions of the Navajo Nation government to submit written recommendations and comments on a proposed resolution. The time period to submit written recommendations and comments shall end when the proposed resolution heard by the Navajo Nation Council or Standing Committee with final approval authority.

1. Recommendations and comments shall be tracked and analyzed by the Office of Legislative Services, in consultation with the Office of Legislative Counsel, in the order they are received. The Office of Legislative Services' analysis shall be affixed to the proposed resolution.

2. The opportunity to submit written recommendations and comments does not create an obligation for the assigned Standing Committee(s) or Navajo Nation Council to take action in conformance with the recommendations or comments received.

8. Action by a Standing Committee not having final authority on a proposed resolution shall be memorialized through written committee report and submitted to the subsequent assigned Standing Committee and Navajo Nation Council, when applicable.
9. An amendment(s) approved by an assigned Standing Committee shall be included as an amendment in the proposed resolution. An amended proposed resolution need not be redistributed or reposted pursuant to § 164(B) (7) .
10. A proposed resolution that is tabled by a Standing Committee with final approval authority over the matter shall remain with the committee until removed

from table status. A proposed resolution that is tabled by a Standing Committee without final approval authority over the matter shall remain with the committee and not move forward to the subsequent assigned Standing Committee(s) until the resolution is removed from table status which shall not extend beyond thirty (30) calendar days. A proposed Navajo Nation Council resolution that is tabled by the Naabik'iyáti' Committee shall remain with the committee until removed from table status which may include referral back to the appropriate standing committee(s).

11. A proposed resolution that receives one or more votes in support at an assigned Standing Committee without final approval authority shall move forward to the subsequent assigned Standing Committee(s) and Navajo Nation Council, when applicable, for action. A proposed resolution that does not receive at least one vote in support at an assigned Standing Committee shall be eliminated from the legislative process. A proposed resolution that does not receive sufficient votes for passage at the Standing Committee with final approval authority shall be eliminated from the legislative process.
12. After a proposed Navajo Nation Council resolution has completed the process prescribed in this section, it shall automatically be placed on the next Navajo Nation Council agenda. When other Navajo Nation law restricts the proposed resolution's consideration to regular sessions, the proposed resolution shall automatically be placed on the next regular session agenda. The Speaker shall publish the proposed Navajo Nation Council agenda on the website for the Navajo Nation Council no less than three (3) calendar days prior to the start of regular sessions and no less than one (1) calendar day prior to the start of special sessions.
13. All Navajo Nation resolutions enacting new laws 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. A proposed resolution to override a vetoed

resolution shall only be assigned to the Naabik'iyáti' Committee before consideration by the Navajo Nation Council.

14. Navajo Nation Council resolutions containing budget line-items in the annual comprehensive operating budget or supplemental appropriations are subject to line-item veto by the President of the Navajo Nation. Vetoes of budget line-items are not eligible for override by the Navajo Nation Council. The veto of a budget line item shall only be to the numeric appropriated dollar amount.

C. Proposed resolutions addressing matters constituting an emergency may be heard by the Navajo Nation Council and Standing Committee(s) having authority over the matter(s) under an abbreviated legislative process and shall not be subject to 2 N.N.C. § 164 (B) (2), (6), (7), and (12).

1. Matters constituting an emergency must arise due to an impending threat to the health or safety of the Navajo Nation populace or an urgent public need for action by a Standing Committee or the Navajo Nation Council.
2. Matters constituting an emergency requiring Standing Committee action only shall be limited to the cessation of law enforcement services, disaster relief services, fire protection services or other direct governmental services and shall include matters which directly threaten the Navajo Nation's ability to receive external funding to provide such services.
3. Matters constituting an emergency requiring Navajo Nation Council action shall be limited to:
 - a. Appropriations necessary to prevent an impending threat to the health or safety of the Navajo Nation populace; or
 - b. Enactments or amendments of positive law necessary to maintain the stability of the Navajo Nation government or prevent the erosion of Navajo Nation regulatory or adjudicatory jurisdiction.

4. The Naabik'iyáti' Committee shall adopt policies governing the abbreviated legislative process for emergency resolutions. The policies shall be posted on the website of the Navajo Nation Council. The Director of the Office of Legislative Services shall establish procedures to implement the policies adopted by the Naabik'iyáti' Committee. The procedures shall be posted on the website of the Navajo Nation Council.

§ 165. Agreements not requiring Standing Committee or Navajo Nation Council approval

1A. Contracts expending funds appropriated by the Navajo Nation Council, contracts including ssubcontracts to implementing agreements approved under § 164(A) above, grants providing funds to the Navajo Nation that do not involve the sharing of governmental powers, contracts expending funds appropriated by the Navajo Nation Council, Letters of Assurance agreements, mMemoranda of uUnderstanding and mMemoranda of aAgreement and other agreements that do not expend funds that are not Intergovernmental Agreements and associated amendments to those documents, shall not require approval by the Navajo Nation Council or its committees.

2B. Prior to final execution as provided in 2 N.N.C. § 222, documents not requiring approval by resolution of the Navajo Nation Council or its committees shall be reviewed and signed by the following:

- 1a. The appropriate Division Director for departments and activities under his or her supervision;
- 2b. The Controller (or designee) for all documents having a financial impact on the Navajo Nation;
- 3e. The Director of the Office of Management and Budget (or designee) for all documents ~~having a financial impact on the Navajo Nation~~ requiring a budget impact analysis under the Appropriations Act, 12 N.N.C. § 800 et seq.; and
- 4d. The Attorney General of the Navajo Nation (or designee).

Section Three. Approval and Effective Date

The Act is approved pursuant to 2 N.N.C. §221(B) and shall take effect on January 1, 2016.

Section Four. Codification

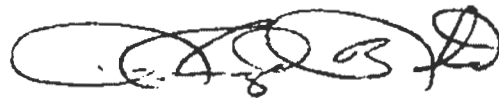
The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section Five. Saving Clause

Should any provisions of this ordinance 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 portions of this ordinance which 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 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 22 in favor and 0 opposed, this 21st day of October 2015.



LoRenzo Bates, Speaker
Navajo Nation Council

Nov. 2, 2015

Date

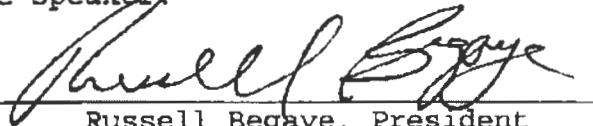
Motion: Honorable Seth Damon
Second: Honorable Mel R. Begay

ACTION BY THE NAVAJO NATION PRESIDENT:

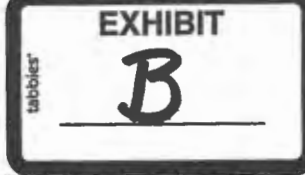
1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this _____ day of _____ 2015.

Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this 12th day of November 2015 for the reason(s) expressed in the attached letter to the Speaker.



Russell Begaye, President
Navajo Nation

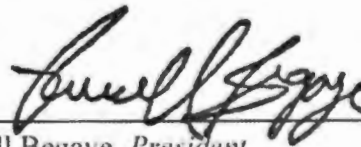


THE NAVAJO NATION
RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

TO: Honorable LoRenzo Bates, Speaker
Navajo Nation Council

FROM:


Russell Begaye, President
THE NAVAJO NATION

DATE: November 12, 2015

SUBJECT: Resolution No. CO-46-15: RELATING TO LAW AND ORDER, AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION COUNCIL AND COMMITTEE LEGISLATIVE PROCESS, 2 N.N.C. 164, CREATING A NEW 165, AND AMENDING CORRESPONDING DEFINITIONS AT 2 N.N.C. 110

Pursuant to 2 N.N.C. 1005 (C)(10), action for Legislation CO-46-15 is being submitted to the Navajo Nation Council, through the Office of the Speaker within the ten (10) day requirement. Furthermore, the Navajo Nation President has veto authority pursuant to 2 N.N.C. 221 (B) for resolutions that enact new Navajo law or amend existing Navajo law and are adopted by the Navajo Nation Council shall become effective on the day the President of the Navajo Nation signs it into law or the Navajo Nation Council takes action to override the President's veto, unless the Navajo Nation Council specifically authorizes and directs a different effective date.

After review of Resolution No. CO-46-15, I hereby veto Resolution No. CO-46-15: Relating to Law and Order, and Naabik'iyáti' Committees and Navajo Nation Council; Amending the Navajo Nation Council and Committee Legislative Process, 2 N.N.C. 164, creating a new 165, and amending corresponding definitions at 2 N.N.C. 110.

The justification for use of the President's veto authority is set forth below.

On December 15, 2009, the Navajo People voted on an initiative that would empower the Navajo Nation President with line-item veto authority. The text of the initiative is as follows:

“The President of the Navajo Nation will be authorized to exercise line item veto authority over budget items contained in the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council. Budget line items vetoed by the President of the Navajo Nation will not be subject to Navajo Nation Council override....If approved, this initiative may be repealed or *amended by the initiative process only*. (italized for emphasis)

On June 25, 2010, former President Joe Shirley, Jr. made history and exercised the President’s first line-item veto for a supplemental appropriation, Resolution No. CJN-25-10. Since that time, this authority has been exercised many times over by President Shirley and former President Ben Shelly. Beginning in 2011, 2012, 2013, 2014, and 2015, the Navajo Nation Presidents have vetoed set aside percentages, conditions of appropriations, and waivers of budget requirements as these are apart of the Navajo Nation budget. Although these do not hold a specific dollar amount, as the government moves into each new budget cycle these dollar amounts become known and the impacts could be trivial or substantial.

Here, Resolution No. CO-46-15 amends the President’s line-item veto authority by limiting the President’s authority to only the “numeric appropriated dollar amount”. On the Council floor, Delegate Leonard Tsosie proposed this amendment with the following language:

“The veto of a budget line item shall only be to the numeric appropriated dollar amount.”

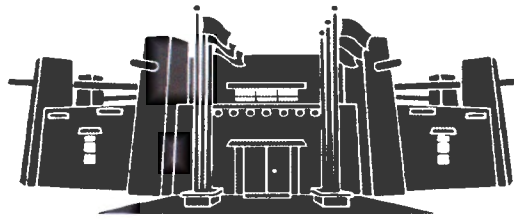
During the debate by the Navajo Nation Council on this amendment the Council’s intent is to remove the ability of the President to line-item veto conditions of appropriation.

This is completely contrary to the plain language of the initiative passed by the Navajo people. The initiative clearly states “budget items” in the “Navajo Nation Comprehensive Budget and supplemental appropriations” are subject to “line item vetoes”. It does not say “numeric dollar amounts”. In 2009, the intent of the line-item veto initiative was to protect the government from wasteful spending and ensure government fiscal efficiency and responsibility. As such, this must include all aspects of the budget and not just the immediate appropriations, but also those budget items with a future impact, such as conditions of appropriations.

Therefore, it is the position of this Administration that the Navajo Nation Council has overstepped its authority to amend and limit the Presidential line-item veto authority pursuant to the initiative passed by the Navajo people in 2009. The initiative clearly states, amendments to the initiative can only be through the “initiative process”. In other words, only the Navajo people can amend this authority, not the Navajo Nation Council.

As the President of the Navajo Nation, it is my duty to not only listen, but protect the voice of the Navajo people. I respectfully ask our Navajo Nation Council to not challenge the initiative passed by our Navajo people. For it is the Navajo People who have elected and entrusted us to be their voice, to represent them and to advocate on their behalf. We should never challenge the voice of our Navajo people.

Therefore, I have no other choice, but to exercise my veto authority, pursuant to 2 N.N.C. 221(B).



MEMORANDUM

TO: Chairman Alton Joe Shepherd
Navajo Nation Council Delegate

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

DATE: November 18, 2015

SUBJECT: OLC Service Request Number 16-083-1: An Act Relating to Naabik'íyáti' and Navajo Nation Council: Overriding the Navajo Nation President's Veto Resolution CO-46-15

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: _0398-15_____

SPONSOR: Alton Shepherd

TITLE: An Action Relating To Naa'bik'iyati' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Resolution CO-46-15

Date posted: December 8, 2015 at 10:55am

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.: 0398-15

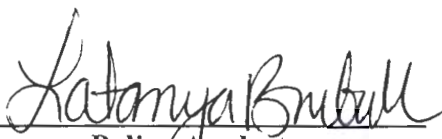
SPONSOR: Honorable Alton Joe Shepherd

TITLE: An Action Relating To Naa'bik'iyati' and Navajo Nation Council;
Overriding the Navajo Nation President's Veto of Resolution CO-46-15.

Posted: December 8, 2015 at 10:55 am

5 DAY Comment Period Ended: December 13, 2015

Digital Comments received: *No comments received.*



Policy Analyst
Office of Legislative Services

12/14/15 8 33 am
Date/Time

23rd NAVAJO NATION COUNCIL
Naabik'íyáti' Committee
First Year 2015

Mr. Speaker:

The **Naabik'íyáti' Committee** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0398-15

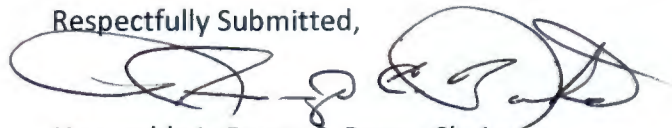
An Action Relating to Naabik'íyáti' and Navajo Nation Council; Overriding the Navajo Nation President's Veto Resolution CO-46-15

Sponsored by: Honorable Alton Joe Shepherd

Has had it under consideration and reports the same with the recommendation that it **DO PASS WITHOUT AMENDMENT**

And therefore, referred to the **NAVAJO NATION COUNCIL**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'LoRenzo C. Bates', written over a horizontal line.

*Honorable LoRenzo C. Bates, Chairman
Naabik'íyáti' Committee*

17 DECEMBER 2015

Motioned: Honorable Seth Damon

Seconded: Honorable Otto Tso

VOTE: 10 in Favor and 08 Opposed (Chairman Bates not voting)

NAVAJO NATION

RCS# 212

Naa'bik'iyati Committee

12/17/2015

03:43:45 PM

Amd# to Amd#

Legislation No. 0398-15

PASSED

MOT Damon

SEC Tso

Yea : 10

Nay : 8

Not Voting : 6

Yea : 10

BeGaye, N
Bennett
Damon

Filfred
Jack
Phelps

Shepherd
Tso

Tsosie
Witherspoon

Nay : 8

Begay, K
Begay, M

Chee
Crotty

Hale
Perry

Pete
Smith

Not Voting : 6

Bates
Begay, NM

Brown
Daniels

Slim

Yazzie

23rd NAVAJO NATION COUNCIL
First Year 2015

The **NAVAJO NATION COUNCIL** to whom has been assigned:


NAVAJO LEGISLATIVE BILL #0398-15

An Act Relating to Naabik'iyáti' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Resolution CO-46-15

Sponsored by: Honorable Alton Joe Shepherd

Has had it under consideration and reports the same **FAILED**

Respectfully Submitted,



Honorable Jonathan Hale, Pro Tem Speaker
NAVAJO NATION COUNCIL

30 DECEMBER 2015

Motion: *Honorable Seth Damon*

Second: *Honorable Davis Filfred*

Vote : *10 in Favor and 12 Opposed (Pro Tem Speaker Hale not voting)*

LEGISLATION REQUIRED 16 IN FAVOR VOTES

NAVAJO NATION

RCS# 327

Fall Session

12/30/2015

12:37:51 PM

Amd# to Amd#

Legislation No. 0398-15

FAILED

MOT Damon

Overriding the Navajo Nation

SEC Filfred

President's Vete of Resolution

CO-46-15

Yea : 10

Nay : 12

Not Voting : 2

Yea : 10

Bates

Damon

Shepherd

Tso

BeGaye, N

Filfred

Slim

Tsosie

Bennett

Jack

Nay : 12

Begay, M

Chee

Perry

Smith

Begay, NM

Crotty

Pete

Witherspoon

Brown

Daniels

Phelps

Yazzie

Not Voting : 2

Begay, K

Hale