

LEGISLATIVE SUMMARY SHEET

Tracking No. 0402-15

DATE: December 8, 2015

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, THE NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; REAFFIRMING CM-9-50 WHICH ESTABLISHED A CONTROL ZONE OF 750 FEET ON EITHER SIDE OF A ROADWAY; DIRECTING THE RESOURCES AND DEVELOPMENT COMMITTEE TO DIRECT DIVISIONS WITHIN ITS OVERSIGHT INCLUDING THE NAVAJO DIVISION OF NATURAL RESOURCES, THE NAVAJO DIVISION OF ECONOMIC DEVELOPMENT AND THE NAVAJO DIVISION OF COMMUNITY DEVELOPMENT TO SUBMIT PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS FOR HOMESITE LEASES, BUSINESS SITE LEASES, RIGHTS-OF-WAY AND OTHER LAND USE AUTHORIZATIONS THAT COMPLY WITH NAVAJO NATION COUNCIL RESOLUTION CM-9-50; AND, DIRECTING THE RESOURCES AND DEVELOPMENT COMMITTEE TO DIRECT THE NAVAJO DIVISION OF TRANSPORTATION TO REPORT ANNUALLY TO THE RESOURCES AND DEVELOPMENT COMMITTEE THE NAVAJO NATION DIVISION OF NATURAL RESOURCES', THE DIVISION OF ECONOMIC DEVELOPMENT'S AND THE DIVISION OF COMMUNITY DEVELOPMENT'S COMPLIANCE OR NON-COMPLIANCE WITH CM-9-50

PURPOSE: The purpose of this proposed resolution is reaffirm Navajo Nation Council Resolution CM-9-50; to direct the Resources and Development Committee to direct the divisions and departments under its oversight to comply with CM-9-50; and to direct the Navajo Nation Division of Transportation to report annually the compliance with CM-9-50.

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

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: _____
Posting End Date: 12/16/2015
Eligible for Action: 12/17/2015

Resources & Development Committee

THENCE

Naa'bik'íyáti' Committee

THENCE

Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL—First Year, 2015

INTRODUCED BY

ACTON JOE SHEPHERD

Primary Sponsor

TRACKING NO. 0402-15

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, THE NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; REAFFIRMING CM-9-50 WHICH ESTABLISHED A CONTROL ZONE OF 750 FEET ON EITHER SIDE OF A ROADWAY; DIRECTING THE RESOURCES AND DEVELOPMENT COMMITTEE TO DIRECT DIVISIONS WITHIN ITS OVERSIGHT INCLUDING THE NAVAJO DIVISION OF NATURAL RESOURCES, THE NAVAJO DIVISION OF ECONOMIC DEVELOPMENT AND THE NAVAJO DIVISION OF COMMUNITY DEVELOPMENT TO SUBMIT PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS FOR HOMESITE LEASES, BUSINESS SITE LEASES, RIGHTS-OF-WAY AND OTHER LAND USE AUTHORIZATIONS THAT COMPLY WITH NAVAJO NATION COUNCIL RESOLUTION CM-9-50; AND, DIRECTING THE RESOURCES AND DEVELOPMENT COMMITTEE TO DIRECT THE NAVAJO DIVISION OF TRANSPORTATION TO REPORT ANNUALLY TO THE RESOURCES AND DEVELOPMENT COMMITTEE THE NAVAJO NATION DIVISION OF NATURAL RESOURCES', THE DIVISION OF ECONOMIC DEVELOPMENT'S AND THE DIVISION OF COMMUNITY DEVELOPMENT'S COMPLIANCE OR NON-COMPLIANCE WITH CM-9-50

BE IT ENACTED:

Section One. Findings

- 1 A. In 1989 the Navajo Nation Council through Resolution CD-68-89 established
2 a three branch government with the Navajo Nation Council as the legislative
3 body of the Navajo Nation government. Prior to the enactment of CD-68-89
4 the Advisory Committee was one of the committees Navajo Nation Council.
5 When the Navajo Nation Council passed Resolution CD-68-89, it stated that
6 references to the Advisory Committee would refer to the Government
7 Services Committee.
- 8 B. By Initiative of the Navajo People, the Navajo Nation Council was reduced in
9 number of delegates from 88 to 24. The reduction of the number of delegates
10 initiated the change in the number of the Navajo Nation Council's standing
11 committees from twelve to five and provided for the committee's authorities.
12 See, CAP-10-11 and CO-45-12.
- 13 C. The Government Services Committee, the Resources Committee and the
14 Transportation and Community Development Committees ceased to exist and
15 their functions were divided among the newly established five standing
16 committees. One of the five standing committees is the Resources and
17 Development Committee. 2 N.N.C. § 500.
- 18 D. The Navajo Nation Council has delegated to the Resources and Development
19 Committee oversight authority over land, rights-of-way and surface
20 disturbances, roads, economic and community development, commerce, and
21 housing. 2 N.N.C. § 500(C).
- 22 E. In 1950 the Navajo Nation Council passed Resolution CM-9-50, attached as
23 Exhibit "A." (Exhibit "A" contains the signed version of CM-9-50 and a
24 "PERMANENT FILE-NAVAJO TRIBE ARCHIVE COPY" which is easier
25 typed in larger print.) In the Whereas section of Resolution CM-9-50, it states
26 that "*the Navajo Tribe deems it advisable to control all business enterprises,*
27 *structures, installations, and any other developments for a distance of seven*
28 *hundred fifty (750) feet on both sides of the right-of-way of all constructed*
29 *and maintained roads on tribal lands[.]*"
30

1 F. Navajo Nation Council Resolution CM-9-50 stated *"that controlled zones of*
2 *seven hundred fifty (750) feet on both sides of the rights-of-way of any*
3 *constructed, maintained, or proposed new roads are hereby established. The*
4 *Advisory Committee of the Navajo Tribal Council shall have full authority,*
5 *acting for the Navajo Tribal Council, to make and regulate any installations*
6 *and specify conditions which must be met to receive a permit or lease in said*
7 *zones, subject to the approval of the General Superintendent of the Navajo*
8 *Agency. This authority shall not be construed to regulate the control of*
9 *engineering structures required in the construction of roads, water*
10 *development, soil and moisture conservation structures, or any other land*
11 *improvements to be made by the government for the benefit of the Navajo*
12 *Tribe of Indians, nor shall this authority be construed to restrict the use of*
13 *land within such zones for grazing and farming by individuals Navajo Indians*
14 *who may have recognized use rights of tribal lands within such zones."*

15 G. The Resources and Development Committee has oversight authority over the
16 Navajo Division of Natural Resources, the Navajo Division of Economic
17 Development, the Navajo Division of Community Development and the
18 Navajo Division of Transportation. 2 N.N.C. § 501(C).

19 H. A proposed resolution that requires final action by the Navajo Nation Council
20 shall be assigned to the Naabik'iyáti' Committee before it is heard by the
21 Navajo Nation Council. 2 N.N.C. § 164 (A)(9).

22 I. The Navajo Nation Council believes it is in the best interest of the Navajo
23 Nation to reaffirm Navajo Nation Council Resolution CM-9-50 and to direct
24 the Resources and Development Committee to direct the divisions and
25 departments under its oversight to develop procedures to ensure compliance
26 with CM-9-50.

27 28 **Section Two. Reaffirming Navajo Nation Council Resolution CM-9-50**

29 The Navajo Nation Council hereby reaffirms CM-9-50, attached hereto as Exhibit
30 "A."

1
2 **Section Three. Directing the Resources and Development Committee**

3 A. Directing the Resources and Development Committee to direct the Navajo
4 Division of Natural Resources, the Navajo Division of Economic Development
5 and the Navajo Division of Community Development to submit proposed
6 amendments to the rules and regulations for homesite leases, business site leases,
7 rights-of-way and other land use authorizations demonstrating compliance with
8 Navajo Nation Council Resolution CM-9-50.

9 B. Directing the Resources and Development Committee to direct the Navajo
10 Division of Transportation to report annually, during the second week of May, to
11 the Resources and Development Committee the Navajo Nation Division of
12 Natural Resources', the Navajo Nation Division of Economic Development's and
13 the Navajo Nation Division of Community Development's compliance or non-
14 compliance with CM-9-50.

RESOLUTION
OF THE
NAVAJO TRIBAL COUNCIL

NO. CV-9-50

WHEREAS, the government has constructed and plans to construct and maintain additional roads on the Navajo Reservation, and

WHEREAS, the Navajo Tribe deems it advisable to control all business enterprises, structures, installations and any other developments for a distance of seven hundred fifty (750) feet on both sides of the right-of-way of all constructed and maintained roads on tribal lands;

THEREFORE, BE IT RESOLVED, that controlled zones of seven hundred fifty (750) feet on both sides of the right-of-way of any constructed, maintained, or proposed new roads are hereby established. The Advisory Committee of the Navajo Tribal Council shall have full authority, acting for the Navajo Tribal Council, to make and regulate any installations, to receive applications, grant permits or leases, establish rental rates, require submission of plans for proposed installations and specify conditions which must be met to receive a permit or lease in said zones, subject to the approval of the General Superintendent of the Navajo Agency. This authority shall not be construed to regulate the control of engineering structures required in the construction of roads, water development, soil and moisture conservation structures, or any other land improvements to be made by the government for the benefit of the Navajo Tribe of Indians, nor shall this authority be construed to restrict the use of land within such zones for grazing and farming by individuals Navajo Indians who may have recognized use rights of tribal lands within such zones.

CERTIFICATION

We hereby certify that the foregoing resolution was considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Arizona, at which a quorum was present, and that the same was approved by a vote of 53 in favor and 0 opposed on this 18th day of March, 1950.

APPROVED:

Sam Ahkeah
Sam Ahkeah, Chairman
Navajo Tribal Council

Allan G. Harper
Allan G. Harper
General Superintendent

Thomas Lee
Thomas Lee, Vice-Chairman
Navajo Tribal Council

PERMANENT FILE

RESOLUTION
OF THE
NAVAJO TRIBAL COUNCIL

PROPERTY OF
THE NAVAJO TRIBE

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WHEREAS, the Navajo Tribe deems it advisable to control all business enterprises, structures, installations, and any other developments for a distance of seven hundred fifty (750) feet on both sides of the right-of-way of all constructed and maintained roads on tribal lands;

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C E R T I F I C A T I O N

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/s/ Sam Ahkeah

Sam Ahkeah, Chairman
Navajo Tribal Council

APPROVED:

/s/ Zhealy Tso

Zhealy Tso, Vice-Chairman
Navajo Tribal Council

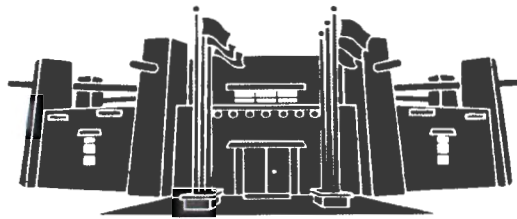
/s/ Allan G. Harper

Allan G. Harper
General Superintendent

PERMANENT FILE - NAVAJO TRIBE

ARCHIVE COPY

U.S. GOVERNMENT PRINTING OFFICE



MEMORANDUM

TO: Honorable Alton Shepherd
Jeddito, Cornfields, Ganado, Kinlichee, Steamboat Chapters

FROM: Mariana Kahn
Mariana Kahn, Attorney
Office of Legislative Counsel

DATE: December 8, 2015

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, THE NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; REAFFIRMING CM-9-50 WHICH ESTABLISHED A CONTROL ZONE OF 750 FEET ON EITHER SIDE OF A ROADWAY; DIRECTING THE RESOURCES AND DEVELOPMENT COMMITTEE TO DIRECT DIVISIONS WITHIN ITS OVERSIGHT INCLUDING THE NAVAJO DIVISION OF NATURAL RESOURCES, THE NAVAJO DIVISION OF ECONOMIC DEVELOPMENT AND THE NAVAJO DIVISION OF COMMUNITY DEVELOPMENT TO SUBMIT PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS FOR HOMESITE LEASES, BUSINESS SITE LEASES, RIGHTS-OF-WAY AND OTHER LAND USE AUTHORIZATIONS THAT COMPLY WITH NAVAJO NATION COUNCIL RESOLUTION CM-9-50; AND, DIRECTING THE RESOURCES AND DEVELOPMENT COMMITTEE TO DIRECT THE NAVAJO DIVISION OF TRANSPORTATION TO REPORT ANNUALLY TO THE RESOURCES AND DEVELOPMENT COMMITTEE THE NAVAJO NATION DIVISION OF NATURAL RESOURCES', THE DIVISION OF ECONOMIC DEVELOPMENT'S AND THE DIVISION OF COMMUNITY DEVELOPMENT'S COMPLIANCE OR NON-COMPLIANCE WITH CM-9-50

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, “the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration.” 2 N.N.C. §164(A)(5).

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.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0402-15_

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating To Resources And Development, The NAABIK'IYATI' Committee And The Navajo Nation Council; Reaffirming CM-9-50 Which Established A Control Zone Of 750 Feet On Either Side Of A Roadway; Directing The Resources And Development Committee To Direct Divisions Within Its Oversight Including The Navajo Division Of Natural Resources, The Navajo Division Of Economic Development And The Navajo Division Of Community Development To Submit Proposed Amendments To The Rules And Regulations For Homesite Leases, Business Site Leases, Right-Of-Way And Other Land Use Authorizations That Comply With Navajo Nation Council Resolution CM-9-50; And, Directing The Resources And Development Committee To Direct The Navajo Division Of Transportation To Report Annually To The Resources And Development Committee The Navajo Nation Division Of Natural Resources', The Division Of Economic Development's And The Division Of Community Developments' Compliance Or Non-Compliance With CM-9-50

Date posted: December 11, 2015 at 5:08PM

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.*