LEGISLATIVE SUMMARY SHEET

Tracking No. 0112-21

DATE: July 8, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING THE AMENDMENTS TO THE "UNIFORM TAX ADMINISTRATION STATUTE" CODIFIED AT 24 N.N.C §§ 101 et. seq. OF THE NAVAJO NATION CODE

PURPOSE: This resolution, if adopted, will amend the "UNIFORM TAX ADMINISTRATION STATUTE" codified at 24 N.N.C §§ 101 *et. seq.* The amendments will provide clarification in 24 N.N.C §§ 101 *et. seq.* to assist the Office of the Navajo Tax Commission in the proper administration of all Navajo Nation taxes.

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 Vetoed Nurse
Website Posting Time/Date July 9, 2021 4:32pm
Posting End Date: July 14, 2021
Eligible for Action: July 15, 2021

Law & Order Committee
Thence
Budget & Finance Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL—Third Year, 2021
INTRODUCED BY

Primary Sponsor

Co-Sponsor

TRACKING NO. 0112-21

AN ACT

RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING THE AMENDMENTS TO THE "UNIFORM TAX ADMINISTRATION STATUTE" CODIFIED AT 24 N.N.C §§ 101 et. seq. OF THE NAVAJO NATION CODE

BE IT ENACTED:

SECTION ONE. AUTHORITY

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 on proposed amendments to and enactments in the Navajo Nation Code.

B. The Budget and Finance Committee of the Navajo Nation Council is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds. 2 N.N.C. § 301 (B)(2)

C. 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.

D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).

SECTION TWO. FINDINGS

A. The Office of the Navajo Tax Commission ("ONTC") is established as a part of the Executive Branch of the Navajo Nation. 2 N.N.C. § 3351. NTC is empowered to review and study all sources of wealth and income within the Navajo Nation and the possible revenues from the taxation of those sources in order to develop an appropriate, comprehensive system of taxation. 2 N.N.C. § 3353(A)(1).

B. The Navajo Tax Commission is empowered to adopt such other rules and regulations as it deems necessary for the proper functioning of the Commission, to implement the taxes enacted by the Navajo Nation Council, and to defend, enforce, and collect the taxes and accomplish their proper and efficient administration, including delegating authority and duties to appropriate offices, officers, and representatives. 2 N.N.C. § 3353(A)(3).

C. The Navajo Nation Council enacted the Uniform Tax Administration Statute ("UTAS") codified at 24 N.N.C §§ 101 *et. seq.* pursuant to Resolution No. CJY-52-95, as amended by CAP-37-99, and CD-66-06 hereby incorporated by reference.

D. The Navajo Tax Commission pursuant to TAX-20-236 proposed amendments to the Uniform Tax Administration Statute ("UTAS"). The amendments are formatted as underline-strikeout attached as **Exhibit A**.

E. On October 26, 2020, the Navajo Nation Department of Justice provided legal sufficiency to the "UTAS" amendments attached as **Exhibit B**.

F. On June 25, 2021, the Executive Director for the "ONTC" provided a memorandum expressing the proposed amendments to the "UTAS" and explained the main purpose of the amendment is to provide clarification in the Administration, Definition, and other clarification to assist the Office of the Navajo Tax Commission in the proper administration of all Navajo Nation Taxes. See **Exhibit C**.

G. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to approve the amendments to the Uniform Tax Administration Statute, 24 N.N.C. §§ 101 *et. seq.* which provides clarification in the "UTAS".

SECTION THREE. CERTIFICATION

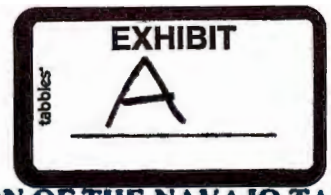
The Navajo Nation Council hereby approves the amendments and certifies the Uniform Tax Administration Statute, 24 N.N.C. §§ 101 *et. seq.* provided by the Office of the Navajo Tax Commission attached as **Exhibit A**.

SECTION FOUR. EFFECTIVE DATE

This legislation and the amendments approved herein shall become effective pursuant to 24 N.N.C. § 140.

SECTION FIVE. SAVINGS CLAUSE

If any provision of this Act is determined invalid by the Supreme Court of the Navajo Nation, or by any District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall remain as the law of the Navajo Nation.



TAX-20-236

RESOLUTION OF THE NAVAJO TAX COMMISSION

RECOMMENDING TO THE NAVAJO NATION COUNCIL. THE APPROVAL OF AMENDMENTS TO THE UNIFORM TAX ADMINISTRATION STATUTE, 24 N.N.C. §§ 101 *ET SEQ.*

WHEREAS:

1. The Navajo Tax Commission is established as a part of the Executive Branch of the Navajo Nation government, and is empowered to review and study all sources of wealth and income within the Navajo Nation and the possible revenues from the taxation of those sources, in order to develop an appropriate, comprehensive system of taxation, 2 N.N.C. §§ 3351 and 3353(A)(1); and

2. The Navajo Nation Council enacted the Uniform Tax Administration Statute ("UTAS") pursuant to Resolution No. CJY-52-95, as amended by CAP-37-99 and CD-66-06, and codified at 24 N.N.C. §§ 101 *et seq.*; and

3. The Navajo Tax Commission now proposes amendments to the UTAS, in underline-strikeout format attached as Exhibit "1", and recommends that the Navajo Nation Council approve and adopt the proposed amendments.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tax Commission hereby proposes amendments to 24 N.N.C. §§ 101 *et seq.* of the UTAS, attached as Exhibit "1".

2. The Navajo Tax Commission recommends that the Navajo Nation Council approve the amendments to the UTAS, attached as Exhibit "1".

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tax Commission at a duly called meeting held in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 4 in favor and 0 opposed, with 0 abstaining, this 31st day of March, 2020.

Mark Graham, Chairperson
Navajo Tax Commission

Motion: Loretta Largo
Second: Pearline Kirk

xc. NTC Resolution File
ONTC Resolution File
Navajo Nation Department of Justice
Navajo Nation Office of Legislative Counsel
The 24th Navajo Nation Council

UNIFORM TAX ADMINISTRATION STATUTE

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101. SHORT TITLE.

This chapter shall be known as Chapter One of the Navajo Tax Code, the Uniform Tax Administration Statute.

102. PURPOSE.

The purpose of this chapter is to provide statutory rules applicable to all of the taxes imposed by the Navajo Nation.

103. ADMINISTRATION.

(a) The Navajo Tax Commission is empowered to administer, and delegate the administration of, all Navajo taxes and, to that end, shall be empowered to adopt substantive and procedural rules and regulations, orders implementing its decisions and rulings, and instructions such as may be necessary to the proper and efficient administration of these laws.

(b) The Office of the Navajo Tax Commission shall have day-to-day responsibility for the administration of the Navajo Tax Code, and shall have all powers consistent with its plan of operation.

(c) As a fee to offset the costs of administering taxes, the Office of the Navajo Tax Commission shall retain five percent (5%) of all tax revenues, penalties, interest, and tax settlement amounts it collects on behalf of the Navajo Nation.

(d) The Office of the Navajo Tax Commission shall retain one hundred percent (100%) of all fees it collects.

(e) Such fees and funds collected for administration shall only be used for authorized purposes according to a Fund Management Plan approved by the Budget and Finance Committee. The Office of the Navajo Tax Commission shall still be eligible for appropriations pursuant to the annual Comprehensive Budget and supplemental appropriations to address unmet budgeting needs.

104. DEFINITIONS.

Subject to additional definitions (if any) contained in the subsequent sections of this chapter or in subsequent chapters:

(a) "Code" means the Navajo Tax Code, which includes this chapter and any tax statute enacted by the Navajo Nation Council.

(b) "Control" means the right or any kind of ability to direct the performance or activity of another, whether legally enforceable or not, and however such right may be exercisable or exercised.

(c) "Commission" means the Navajo Tax Commission.

(d) "Fraud" occurs when any Person:

(1) willfully makes and subscribes any return, statement or other document that contains or is verified by a written declaration that it is true and correct as to every material matter and that the Person does not believe to be true and correct as to every matter;

(2) files any return electronically, knowing that the information in the return is not true and correct as to every material matter; or

(3) with intent to evade or defeat the payment or collection of any tax, or knowing that the probable consequences of the Person's act will be to evade or defeat the payment or collection of any tax, removes, conceals, or releases any property on which levy is authorized or that is liable for payment of tax or aids in accomplishing or causes the accomplishment of any of the foregoing.

(e) "Month" means any consecutive thirty calendar day time period for purposes of this chapter.

(f) "Office of the Navajo Tax Commission" is located within the Navajo Nation Executive Branch and is responsible for the administration of the Navajo Tax Code.

(g) "Person" means an individual or group of individuals, and any organization, whether a sole

proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government (other than the government of the Navajo Nation and its political subdivisions ~~and any wholly owned subdivision or enterprise of the Navajo Nation government~~), or any part, division, or agency of any of the foregoing~~, and an individual or group of individuals~~. "Person" also means all Navajo Nation enterprises, and all other for-profit and non-profit business entities owned and operated in whole or in part by the Navajo Nation government, including Section 17 corporations.

(h) "Received" means

(1) the postmark date, if action is taken by mail;

(2) the date actually received by the Navajo Nation, when documents and/or payments are hand-delivered; or

(3) the date of receipt by the Navajo Nation, in the case of wire transfer payments.

(i) "Regulations" means the regulations adopted by the Commission.

(j) "Related Persons" means two or more Persons owned or controlled, directly or indirectly, by the same Person. As applied to natural Persons, "related Persons" means two or more natural Persons who have a legal relationship arising out of marriage, adoption, or blood, through the third degree of kinship.

(k) "Return" means any document required to be filed when paying any Navajo Nation tax, as contrasted with other documents required to be filed that are not associated with actual payment of taxes. "Return" also includes any attachments, such as schedules, reports, or forms, that are associated with any return.

(l) "Taxes" means any tax, interest, penalties, and costs, imposed or assessed individually or collectively pursuant to the Code.

(m) "Taxpayer" means the Person liable for the taxes or the Person responsible for collecting and remitting the taxes.

105. ASSESSMENT OF TAXES.

(a) The taxes imposed by the Code are assessed for a statutory period and are the liability of the Taxpayers.

(b) The Office of the Navajo Tax Commission is authorized to assess taxes against a Person and those assessments are presumed to be correct.

(1) When it appears that the return filed by a Person understates the taxes due under the Code, the Office of the Navajo Tax Commission is authorized to assess the Person for any tax deficiency, interest, penalties, and costs. The assessment is binding on the Person but may be appealed in accordance with rules and Regulations.

(2) If no return is timely filed as required, the Office of the Navajo Tax Commission is authorized to make an estimate of the tax due and to assess the Person for that tax, interest, penalties, and costs. This assessment is binding on the Person unless shown to be clearly erroneous.

(3) If a Person fails to provide information within its possession or control which is relevant to a determination of taxes due and which it is required to provide under the Code, the Office of the Navajo Tax Commission is authorized to make an estimate of the tax due and to assess the Taxpayer for that tax, interest, penalties, and costs. This assessment is binding on the Taxpayer unless it is shown that the estimate, on the basis of the best information then available to the Office of the Navajo Tax Commission, was clearly erroneous or unless the Office of the Navajo Tax Commission for other good cause shown relieves the Taxpayer from the operation of this section.

(c) Any taxes assessed shall become the liability of the Taxpayer on the date due. If the Taxpayer is a corporation or a trust or a part thereof, then the corporation or trust shall be liable for the taxes. If the Taxpayer is an association, joint venture, or partnership, or a part thereof,

then all the associates, participants, or partners both general and limited, shall be jointly and severally liable for the taxes. Companies shall be treated as corporations or partnerships consistent with their treatment by the Internal Revenue Service.

(d) The owners of the interests in a unit or lease shall be jointly and severally liable for the taxes assessed with respect to said unit or lease.

(e) Consistent with §129 of this chapter, the Office of the Navajo Tax Commission shall have the authority to re-determine incorrect or erroneous assessments, to issue amended assessments, if necessary, and to assess unassessed possessory interests as of the date on which they first became assessable.

106. WAIVER OF TAXES.

Any waiver of tax or associated interest requires a two-thirds vote of the entire Navajo Nation Council. The Office of the Navajo Tax Commission has the authority to relieve a Taxpayer of penalties and certain administrative fees, as set out in Sections 112 – 116 below.

107. NONDISCRIMINATION.

No provision of this Code shall be construed as imposing a tax which discriminates on the basis of whether a Taxpayer is owned or controlled by members of the Navajo Nation.

108. DESIGNATION OF INDIVIDUAL.

On an annual basis, each Taxpayer must designate and provide the mailing address of a natural Person for the purposes of notice, by filing a Form 100. The forms must be submitted each year to the Office of the Navajo Tax Commission by January 15, unless a different date is designated in the Regulations, even if no changes have occurred since the prior filing. In addition, an updated form must be filed within 30 days of a change in circumstances. The Commission may by Regulation impose requirements as to the individuals who shall be designated under this section, and may require information or documentation it deems necessary for the proper and efficient administration of these taxes to be provided with the designation. For purposes of this section only, the term "Taxpayers" shall not include Persons on whom the Hotel Occupancy Tax is imposed, but shall include Persons responsible for collecting and remitting the Hotel Occupancy Tax. In addition, for purposes of this section only, "Taxpayers" shall include all Persons owning an interest in a lease subject to the Navajo Possessory Interest Tax.

109. EXTENSION OF TIME.

(a) Forms 200 and 245: A Taxpayer may request an extension of time for filing. The request must be made to the Office of the Navajo Tax Commission by filing the required extension request form on or before the due date. An automatic extension of fifteen days will be granted by the Office of the Navajo Tax Commission.

(b) Forms other than Forms 200 and 245: A Taxpayer may request an extension of time for filing. The request must be made to the Office of the Navajo Tax Commission by filing the required extension request form on or before the due date, and an estimated payment of the tax due must be made at the time of the request. An automatic extension of 60 days will be granted by the Office of the Navajo Tax Commission.

110. RECORDKEEPING.

Every Taxpayer shall keep full and true records of all taxable activities for a period of ~~six~~ seven (7) years, ~~in accordance with~~ unless a different period is established in the Regulations.

111. INTEREST IMPOSED.

Rates of interest shall be established by Regulation. Interest shall be imposed on any unpaid amount of tax from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received. The Commission is authorized to set different rates of interest for underpayments and overpayments.

112. PENALTIES FOR FAILURE TO FILE.

(a) If any Taxpayer fails to timely file any tax return, a penalty shall be assessed for each month or fraction thereof that the return is not filed, in the amount of 5% of the tax due for the period; provided, however, that the minimum amount for the total penalty imposed under this section shall be ~~$50~~200.

(b) The total penalty assessed in subsection (a) shall not exceed 25% of the tax due, except where the ~~$50~~200 minimum applies.

(c) If a Person fails to timely file a Form 100, or any reports and returns ~~Fuel Excise Tax Retailer Report, Carrier Report, or Refiner Report~~, a one-time ~~$50~~ 200 penalty shall be assessed for each document that is not timely filed, except that this penalty shall not apply to returns filed late as zero (0).

(d) If a Person fails to timely file a Possessory Interest Tax Form 200 or 245, a one-time penalty of ~~$50~~ 200 shall be assessed for each form that is filed after the due date but within 30 days of that date, and the penalty shall be increased to ~~$150~~ 400 if the form is filed more than 30 days after the required date.

(e) For purposes of this section, a form filed on or before an extended due date for filing is timely filed.

(f) For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the Taxpayer from all or part of the penalties imposed under this section.

113. PENALTIES FOR FAILURE TO PAY.

(a) A Taxpayer failing to timely pay an amount of tax by the time due shall be assessed an immediate penalty of 5% of the amount of the underpayment.

(b) For each month the payment is overdue, an additional penalty shall be assessed of 0.5% of the underpayment.

(c) The total penalty imposed under this section shall not exceed 10% of the tax due.

(d) For purposes of this section, a payment received on or before an extended date for payment is timely paid.

(e) For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the Taxpayer from all or part of the penalties imposed under this section.

114. ACCURACY RELATED PENALTIES ~~FOR ATTEMPT TO EVADE OR DEFEAT TAX~~.

(a) Substantial Understatement of Tax. Any Taxpayer substantially understating the tax imposed by the Code may be assessed a penalty of $250, plus 25% of the underpayment of tax. An understatement is substantial if it exceeds the greater of $5,000 or ten percent (10%) of the tax required to be shown on the return.

(b) Understatement Due to Negligence or Disregard. Any Taxpayer understating the tax imposed by the Code through due to the Taxpayer's negligence or disregard of the Code and Regulations ~~but without the intent to defraud,~~ may be assessed a penalty of $~~250~~500, plus ~~25~~50% of the underpayment of tax. "Negligence" is defined as any failure to make a reasonable attempt to comply with the provisions of the Code and Regulations. "Disregard" includes any careless, reckless, or intentional disregard.

(c) ~~Any Taxpayer understating the tax imposed by the Code through reckless disregard of the Code and regulations, but without the intent to defraud, shall be assessed a penalty of $250, plus 25% of the underpayment of tax.~~

(d) (c) Understatement Due to Fraud or Intent to Evade Tax. If any part of an understatement of tax is shown to be due to the Taxpayer's fraud or intent to evade tax, the Taxpayer shall be assessed a penalty of $~~500~~2,000, plus ~~75~~50% of the underpayment of tax. Fraudulent intent may be proven by circumstantial evidence and reasonable inferences based on the Taxpayer's deception, misrepresentation of material facts, false or altered documents, inadequate or false records, evasion and omissions, fictitious or improper deductions,

accounting irregularities, obstructive actions, implausible or inconsistent explanations of behavior, engaging in illegal activities, failure to file returns, a pattern over multiple years of underreporting, and other factors established by the Commission in the Regulations.

(e) (d) Any Person who willfully assists a Taxpayer in the fraudulent understatement of tax due under the Code shall be subject to a penalty of $~~500~~ 2,000, plus ~~25~~75% of the underpayment of tax.

(f) Any liability arising under this section shall be assessed and collected as taxes imposed by the Code.

(g) For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the Taxpayer from all or part of the penalties imposed under this ~~sub~~section (a) and (b).

115. CHARGES FOR ADMINISTRATIVE COSTS.

(a) A Taxpayer failing to pay any taxes at the time due may be charged for ~~extraordinary~~ administrative costs incurred in collecting or attempting to collect the unpaid amount, including, but not limited to, cost of postage and photocopying, travel expenses for examinations resulting in assessments, costs resulting from extraordinary examination and collection efforts based on the Taxpayer's failure to cooperate, attorney fees, and other reasonable costs of collection.

(b) The Office of the Navajo Tax Commission shall charge an administrative fee to hold Taxpayer Conferences at rates to be determined by the Commission in the Regulations. Until another rate is established in the Regulations, the rate shall be $50.

(c) The Office of the Navajo Tax Commission may charge an administrative fee for assessments at rates to be determined by the Commission in the Regulations.

(d) The Office of the Navajo Tax Commission shall charge an administrative fee to issue refunds at rates to be determined by the Commission in the Regulations. Until another rate is established in the Regulations, the rate shall be 5% of the refunded amount but a minimum of $200.

(e) For good cause shown, the Office of the Navajo Tax Commission may relieve the Taxpayer from all or part of the charges imposed under (a) and (c) of this section.

116. RIGHT TO ENGAGE IN PRODUCTIVE ACTIVITY WITHIN THE NAVAJO NATION ~~FAILURE TO COMPLY WITH CODE~~.

(a) Suspension of Rights to Engage in Productive Activity Based on Failure to Comply with the Code and Regulations. Any Taxpayer who fails to comply with a requirement: to designate an individual, to file a return, to provide information or documents, to allow access to equipment within its possession or control, to furnish a surety bond or other security, to comply with a duly issued subpoena, ~~or~~ to comply with a lawful order or request of the Office of the Navajo Tax Commission, or to pay taxes when due, may have all or some of its rights to engage in productive activity within the Navajo Nation suspended, until compliance is made or for such shorter time as the Office of the Navajo Tax Commission may provide.

~~(b)~~(1) Upon receipt of a notice of non-compliance issued by the Office of the Navajo Tax Commission, a Taxpayer has 30 calendar days in which to come into compliance. If the Taxpayer fails to do so, the Office of the Navajo Tax Commission shall issue a notice of intent to suspend. The Taxpayer shall have 30 calendar days in which to come into compliance or to appeal only the notice of intent to suspend pursuant to §131. This right of appeal is the sole remedy. Failure on the Taxpayer's part to act within the 30 calendar days shall result in the Office of the Navajo Tax Commission issuing a final order of suspension. In addition, if an appeal is decided adverse to a Taxpayer, the Office of the Navajo Tax Commission shall issue a final order of suspension.

(2) The Navajo Nation Division of Public Safety shall enforce the final order of suspension, which shall remain in effect until the Taxpayer comes into compliance.

(b) No consent to the issuance, assignment, or transfer of any lease, license, loan, contract, or other rights to engage in productive activity within the Navajo Nation shall be granted to a Person by the Navajo Nation unless the Office of the Navajo Tax Commission first certifies, that the Person has registered with the Office of the Navajo Tax Commission, has filed required tax returns, and has paid all applicable taxes, or that payment has been adequately secured, if such requirements are applicable.

117. INTERFERENCE WITH ADMINISTRATION.

Information concerning fraud, tax evasion, criminal interference with administration of the Code, or other criminal acts by the Taxpayer shall be provided to the Office of the Prosecutor, the Department of Justice, ~~or~~and other appropriate authorities for appropriate action.

118. COLLECTION POWERS.

(a) In accordance with the provisions of the Code, the Office of the Navajo Tax Commission has the power to collect any taxes assessed, including the power to attach and seize the assets of a Taxpayer or any property subject to lien. In addition, the Office of the Navajo Tax Commission has all other powers available to the Navajo Nation for collection of debts owed it.

(b) The Office of the Navajo Tax Commission may request the Attorney General of the Navajo Nation to bring suit or enforcement proceedings in any court of competent jurisdiction. Provided, that the bringing of suit or enforcement proceedings shall not constitute a waiver of sovereign immunity and further provided that the Office of the Navajo Tax Commission shall never be compelled to assert a claim for taxes in litigation by way of counterclaim or otherwise.

119. SECURITY FOR PAYMENT.

Whenever necessary to secure the payment of any taxes due or reasonably expected to become due, the Office of the Navajo Tax Commission is authorized to require the Taxpayer to furnish an acceptable surety bond in an appropriate amount. The Commission shall prescribe by Regulation the terms and conditions for requiring such security. For purposes of §131, the requirement of security for payment shall be considered an adverse action.

120. LIEN FOR TAXES.

(a) If a Taxpayer fails to pay any taxes after demand or assessment by the Office of the Navajo Tax Commission, or fails to provide security as set out in §119, the amount shall be a lien in favor of the Navajo Nation upon all property or rights to property of those liable under §105.

(b) The lien shall arise at the time the demand or assessment is made, shall attach to all property then owned and thereafter acquired, and shall continue until the amount of the lien is satisfied or released, and shall be effective against related Persons without notice.

(c) Provided, that with respect to a required return, a lien shall arise for any unpaid taxes at the time filing is due without further demand or assessment.

(d) If a lien is required as a condition for granting an extension or stay of payment, such lien shall arise according to the terms of the extension or stay.

(e) A lien shall be effective as against other parties upon notice being recorded in the offices of the Office of the Navajo Tax Commission and the Business Regulatory Department in a form available for inspection by the public.

(f) The Commission may by Regulation exempt certain property from the operation of the lien created by this section.

121. PRIORITY OF LIEN.

A lien arising pursuant to §120 shall have priority over all other liens imposed by any government other than the Navajo Nation, regardless of the date of perfection.

122. RELEASE OF LIEN.

(a) The lien shall be released upon payment of the entire liability of the Taxpayer on account of whose liability the lien arose.

(b) The payment of any part of the liability shall operate to reduce the amount of the lien by the amount paid.

(c) Where a lien has been recorded and the Office of the Navajo Tax Commission thereafter receives all or part of the taxes giving rise to the lien, the Office of the Navajo Tax Commission will cause a notation of the complete or partial release of the lien to be made in the record.

(d) The Office of the Navajo Tax Commission may in its discretion release liens on certain property without payment of all outstanding liabilities, for good cause, and where the interests of the Navajo Nation are adequately protected by other security.

123. FORECLOSURE OF LIEN.

(a) The Office of the Navajo Tax Commission may foreclose upon any or all items of property or rights to property subject to a lien for taxes by seizure and sale, to be conducted as set forth in this section and accompanying regulations.

(b) Seizure:

(1) After seizure of property or rights to property, the Office of the Navajo Tax Commission shall notify the owner thereof of the amount and kind of property seized and of the total amount demanded in payment of tax.

(2) Any Person shall have the right to pay the amount due, together with the expenses of the proceeding, or furnish acceptable security for the payment thereof, to the Office of the Navajo Tax Commission at any time prior to the sale thereof, and upon payment or furnishing of security, the Office of the Navajo Tax Commission shall restore the property to him, and all further proceedings in connection with the seizure of the property shall cease from the time of the payment.

(3) A Taxpayer may appeal a seizure, and appeals shall be taken pursuant to §131 under the following conditions:

(A) The seized property shall not be removed from the jurisdiction of the Navajo Nation;

(B) The Taxpayer must provide an affidavit identifying all property or rights to property owned or controlled by the Taxpayer located within the jurisdiction of the Navajo Nation.

(4) The effect of a seizure upon any Person for obligations due or payable to a Taxpayer or Persons liable under §105 shall be continuous from the date the seizure is first made until the liability out of which the seizure arose is satisfied.

(5) Any Person in possession of or obligated with respect to property or rights to property which has been seized who, upon demand by the Office of the Navajo Tax Commission, surrenders such property or rights to property (or discharges said obligation) to the Office of the Navajo Tax Commission, shall be discharged from any obligation or liability to the Taxpayer or Persons liable under §105 whose property or rights to property were seized.

(c) Sale of Seized Property:

(1) The Office of the Navajo Tax Commission shall publish a notice of sale, setting forth the time and place of the sale.

(2) Proceedings for the sale of property shall be effective to transfer to the purchaser all right, title, and interest therein of the Taxpayer or Person whose property or rights to property were seized. Provided, that where required by federal law the sale of property shall not be final without the approval of the Secretary of the Interior or his

designee.

(d) The Office of the Navajo Tax Commission may delegate and empower Persons to carry out the procedures of this section, including officers of the Navajo Division of Public Safety, who shall render assistance in this regard on request by the Office of the Navajo Tax Commission.

124. APPLICATION OF PROCEEDS.

(a) Money seized by the Office of the Navajo Tax Commission, or realized from property or rights to property seized, shall be applied first to the expenses of the seizure and proceedings for the conversion of property, and then to the liability for costs, penalties, interest, and tax, in that order.

(b) The balance, if any, shall be remitted to the Person or Persons who have claimed and proved legal entitlement thereto, provided that the Office of the Navajo Tax Commission may set time limits or other reasonable conditions on the making and proving of such claims.

125. INTERFERENCE WITH FORECLOSURE.

(a) No Person shall remove from the jurisdiction of the Navajo Nation any property on which there is a lien for taxes pursuant to §120.

(b) No Person in possession of or obligated with respect to property or rights to property which have been seized, shall fail to surrender such property or rights or to discharge such obligation upon demand by the Office of the Navajo Tax Commission therefor, except as to any part of the property or rights as is, at the time of the demand, subject to an attachment or execution under any judicial process.

(c) Any Person violating the provisions of this section shall be Personally liable for the value of the property removed or not surrendered, or for the amount of the obligation not discharged, not exceeding the amount for which the seizure was made. Any liability arising under this section shall be assessed and collected as taxes imposed by the Code.

126. TRANSFER OF BUSINESS.

(a) If a Person buys substantially all of the assets of a Taxpayer within the Navajo Nation, that Person shall withhold from the purchase price and pay to the Office of the Navajo Tax Commission the amount of taxes due on account of activities of the Taxpayer prior to the purchase.

(b) Prior to transfer, a buyer may make a written request and, within 15 days after the owner's records are made available for audit, the Office of the Navajo Tax Commission shall send a notice to the buyer for the taxes due. Thereafter, the buyer shall not be Personally liable under this section for any taxes in excess of the amount stated in the notice, or for any such taxes if no notice is given within the time required.

(c) Any buyer failing to make such a request or failing to withhold taxes from the purchase price shall be Personally liable up to the value of all the property acquired. Regardless of any agreement between the buyer and seller, the buyer and seller shall be jointly and severally liable to the Nation for Navajo Nation taxes owed up to the date of sale of the business. Any liability arising under this section shall be assessed and collected as taxes imposed by the Code.

127. MUTUAL ASSISTANCE AGREEMENTS.

The Office of the Navajo Tax Commission is authorized to negotiate mutual assessment and collection assistance agreements with any other tax jurisdiction. The agreements so negotiated will come into force only upon ratification by the Navajo Tax Commission and the ~~Intergovernmental Relations~~ Naa'bik'íyáti' Committee of the Navajo Nation Council and signature by the Navajo Nation President.; ~~n~~No other committee approval is required.

128. PROHIBITION OF SUITS.

No suits for the purpose of restraining the assessment or collection of the taxes imposed under the Code shall be maintained in any court by any Person, whether or not such Person is the Person against whom such taxes were assessed. All actions concerning the application of the Code shall be brought pursuant to §131.

129. STATUTE OF LIMITATIONS.

(a) ~~Except for the Business Activity Tax and the Hotel Occupancy Tax, t~~Taxes imposed and required to be collected by the Code shall be assessed within ~~four~~ six years after the latter of the date the return is filed or the payment is made, or the Possessory Interest Tax notice of assessment is issued, except as provided in subsection (b) of this section. ~~Taxes imposed and required to be collected by the Business Activity Tax and the Hotel Occupancy Tax shall be assessed within six years after the return is filed, except as provided in subsection (b) of this section.~~

(b) Exceptions to the statute of limitations on assessment:

(1) In the case of ~~fraudulent~~ conduct involving fraud or intent to evade as defined by § 114 of this Chapter, no period of limitations shall apply.

(2) In the case of failure to file a return, declaration of interest, or other required document, no period of limitations shall apply.

(3) The running of the period of limitations on assessment is suspended during any period the Office of the Navajo Tax Commission is prohibited by any court from making an assessment.

(4) The running of the period of limitations on assessment may be suspended for any period agreed upon between the Taxpayer and the Office of the Navajo Tax Commission.

(5) The running of the period of limitations on assessment may be suspended while an examination is pending.

(6) The running of the period of limitations on assessment may be suspended for any period during which the Taxpayer failed to comply with the Office of the Navajo Tax Commission's request for information and documents.

(c) ~~Except for the Business Activity Tax and the Hotel Occupancy Tax, a~~Any action in a court, or by levy or by seizure, for collection of taxes imposed by the Code must be commenced within ~~four~~ six years of the date of assessment, except as provided in subsection (d). ~~Any action in a court or by levy for collection of taxes imposed by the Business Activity Tax and the Hotel Occupancy Tax must be commenced within six years of the date of assessment, except as provided in subsection (d).~~

(d) Exceptions to the statute of limitations on collection:

(1) The running of the period of limitations on collection is suspended during any period the Office of the Navajo Tax Commission is prohibited by any court from commencing collection proceedings and during any period of appeal under §131.

(2) The running of the period of limitations on collections may be suspended for any period agreed upon between the Taxpayer and the Office of the Navajo Tax Commission.

(3) The running of the period of limitations on collection may be suspended while an examination is pending.

(4) The running of the period of limitations on collection may be suspended for any period during which the Taxpayer failed to comply with the Office of the Navajo Tax Commission's request for information and documents.

130. PROCEDURE FOR REFUNDS.

(a) Any Taxpayer believing it has made an overpayment of taxes may file a written claim for refund with the Office of the Navajo Tax Commission. These refund claims must be filed within one year after the alleged overpayment was made.

(b) The Office of the Navajo Tax Commission may conduct an examination prior to issuance of a refund for an alleged overpayment in excess of $100,000.

(c) No refund shall be issued if a Taxpayer owes unpaid taxes, instead the determined overpayment shall be applied to offset in whole or in part the unpaid taxes. If no taxes are owed, Taxpayers shall have the option to apply the determined overpayment as a credit toward future taxes.

(d) Taxpayers shall not be entitled to a refund of an overpayment resulting from an over-collection of taxes from Taxpayers' customers.

(e) Taxpayers shall not be entitled to a refund of an overpayment resulting from failure to take a tax credit to which they were entitled to under the Code for taxes that should have been paid to a Navajo Nation chapter or township unless the Taxpayer proves it paid such taxes to the chapter or township.

(f) Taxpayers shall not have the right to receive interest on overpayments.

(g) The procedure for refund claims shall be established in regulations.

131. PROCEDURE FOR APPEAL.

(a) Appeals from assessments, denials of refund, or other adverse action shall be made first to the Office of the Navajo Tax Commission according to procedures established in Regulations; these procedures shall also apply to any challenges to the validity of the Code. The Commission may permit or require one or more levels of review by the Office of the Navajo Tax Commission or its designees and may provide for hearings before the Commission as a body. The failure to duly proceed to a next required level of review under this subsection shall constitute a waiver of any further appeal pursuant to this subsection or subsection (b).

(b) Appeals from final actions of the highest level of administrative review shall be made only to the Supreme Court of the Navajo Nation, according to procedures established in regulations, but in no case may an appeal of an assessment be taken to the Supreme Court until payment of the taxes assessed has first been made.

(c) Actions before the Supreme Court:

(1) Review of administrative actions in the Supreme Court shall be on the record and not *de novo*, and shall be limited to the determination whether the administrative action was not supported by the evidence, or was arbitrary, capricious, an abuse of discretion, beyond its authority, or otherwise contrary to applicable Navajo or federal law. However, where affirmation of an administrative action taken pursuant to §116 would suspend a right of an appellant to engage in productive activity within the Navajo Nation, the appellant shall on request be entitled to a hearing *de novo* on any material question of fact.

(2) The Supreme Court shall be empowered to affirm, reverse, or modify any administrative action, or to remand the matter for further action.

(d) Procedures for staying the payment of taxes which are being appealed under subsection (a) of this section may be established in Regulations. The Office of the Navajo Tax Commission in its discretion may condition the grant of a stay on the posting of a bond or provision of other security.

132. ABATEMENT AUTHORITY.

(a) In response to a written request for abatement, or when an assessment is found to be incorrect, the Office of the Navajo Tax Commission may abate any part of the assessment determined to have been incorrectly, erroneously, or illegally made.

(b) Upon a compromise of liability and according to the terms of the closing agreement formalizing the compromise, the Office of the Navajo Tax Commission shall abate the appropriate amount of the assessment.

133. CLOSING AGREEMENTS.

(a) If in good faith the Office of the Navajo Tax Commission at any time is in doubt of the Taxpayer's liability, or to resolve a tax dispute, it may enter into a written closing agreement with the Taxpayer that adequately protects the interests of the Navajo Nation, provided that such agreement shall be subject to approval by the Attorney General of the Navajo Nation.

(b) If entered into after an appeal has been filed pursuant to §131, a closing agreement shall be part of a stipulated order or judgment disposing of the case.

(c) As a condition for entering into a closing agreement, the Office of the Navajo Tax Commission may require the provision of security for payment of any taxes due according to the terms of the agreement.

(d) A closing agreement is conclusive as to the liability or non-liability for payment of taxes relating to the periods referred to in the agreement only, except upon a showing of fraud, malfeasance, or misrepresentation or concealment of a material fact.

134. CONFIDENTIALITY RULES.

(a) Nothing in this section is intended to prevent the publication or disclosure of the names and addresses of registered Taxpayers or general information which is otherwise in the public record or generally available to the public upon the making of reasonable inquiry.

(b) It shall be unlawful for any employee or former employee of the Office of the Navajo Tax Commission to reveal to any Person, other than another employee or legal counsel for the Office of the Navajo Tax Commission, any information contained in the return of any Taxpayer or any other information about any Taxpayer acquired as a result of his or her employment by the Office of the Navajo Tax Commission, except:

(1) Where the Taxpayer has given detailed consent in writing to the release of specific information;

(2) To an authorized representative of the Taxpayer;

(3) To an employee of the government of the Navajo Nation, including Navajo Nation chapters and townships, for use in connection with the governmental function of said employee, provided that it shall be unlawful for the Navajo Nation employee to reveal said information except as permitted in this section;

(4) To an authorized representative of another Indian nation or a state, provided that the receiving nation or state has entered into a written agreement with the Office of the Navajo Tax Commission to use the information for tax purposes only and that the receiving nation or state has enacted a confidentiality statute similar to this section;

(5) To an authorized representative of a federal agency, pursuant to the terms of a reciprocal agreement for the exchange of such information;

(6) To the Taxpayer, in any administrative or judicial proceeding in which that Taxpayer has put its own liability for compliance with the Navajo tax laws in issue, as to all information directly reflecting, referring, or relating to that Taxpayer that is not otherwise privileged;

(7) In compliance with the order of a hearing officer of competent jurisdiction or any court of competent jurisdiction in which the information sought is material to the inquiry;

(8) In recording tax liens on the property of a Taxpayer or collecting taxes by levy upon the property or rights to property of a Taxpayer;

(9) In statistical releases not identifying the information provided as applicable to any single Taxpayer;

(10) To the extent of revealing whether a Taxpayer has or has not made a designation (and, if so, the name and address of that designee), or whether a Person is or is not a designee (and, if so, by whom he has been designated); and

(11) To the extent of revealing to the purchaser or intended purchaser of a Taxpayer or

the property thereof the amount and basis of any unpaid taxes for which the seller is liable.

(c) For purposes of this section, "employee of the Office of the Navajo Tax Commission" shall include members of the Navajo Tax Commission and any Person for whose services the Office of the Navajo Tax Commission has contracted, provided that such Person shall agree in the contract for services to abide by the provisions of this section.

(d) Any Navajo Nation employee or former employee who violates any of the provisions of this section shall be subject to a civil fine not to exceed $500. The District Courts of the Navajo Nation shall have jurisdiction to hear cases arising under this section, which may only be brought by the Taxpayer harmed by the violation of this section.

(e) The Office of the Navajo Tax Commission may in its discretion further restrict the disclosure of information, and such restriction shall be considered an adverse action for purposes of §131.

135. NOTICE.

The Office of the Navajo Tax Commission may give notice to a Taxpayer by mailing the notice to the individual last designated by the Taxpayer, at the address shown on the designation. Where a Taxpayer has not designated an individual, notice may be given by mailing the notice to the last known address of the Taxpayer, or by mailing the notice to a Person who is lessee, permittee, or assignee of the affected property, or to a Person holding a permit or license for the conduct of the taxable activity. The use of other methods of providing notice, including publication, may be made so long as the method comports with due process.

136. INVESTIGATIVE AUTHORITY.

(a) For the purpose of enforcing the provisions of the Code, the Office of the Navajo Tax Commission is authorized to inspect property, to examine and require the production of any pertinent records, books, information, evidence, or financial data, and to require the presence of any Person and require testimony under oath concerning the subject matter of an inquiry, and to make a permanent record of the proceeding.

(b) As a means for accomplishing the foregoing, the Office of the Navajo Tax Commission is hereby vested with the power to issue subpoenas and summonses, pursuant to regulations.

(c) The Courts of the Navajo Nation shall have the power to enforce administrative subpoenas and summonses issued by the Office of the Navajo Tax Commission.

137. OATHS AND AFFIRMATIONS.

Any agent or employee designated by the Office of the Navajo Tax Commission for that purpose is authorized to administer such oaths or affirmations and to certify to such documents as may be necessary under the Code or the regulations.

138. RECEIPTS; DISBURSEMENTS.

(a) There is hereby created in the treasury of the government of the Navajo Nation the Tax Administration Suspense Fund.

(b) The Navajo Tax Commission shall establish the percentage of tax revenue received by the Office of the Navajo Tax Commission to be deposited into this Fund. Until the Commission establishes a different rate, two percent (2%) of all Navajo Nation tax revenue shall be deposited into the Tax Administration Suspense Fund. ~~Except as otherwise provided in the Hotel Occupancy Tax, all money received by the Office of the Navajo Tax Commission as taxes shall be deposited forthwith to the credit of said Fund.~~

(c) Payment of claims for refund shall be disbursed from this Fund, except to the extent that there is a pertinent escrow established pursuant to subsection (e) of this section.

(d) At the discretion of the Navajo Tax Commission ~~end of each month~~, the balance remaining in the Fund, after the payment of refunds under subsection (c) of this section, and retention

of sufficient funds to pay anticipated refunds for the next 12 months, shall be transferred to the Ggeneral Ffund or to such other funds or the credit of such accounts, as may be provided by Navajo Nation law.

(e) Notwithstanding the foregoing, the Commission may in its discretion hold certain contested amounts in escrow, or direct some balance or a percentage of receipts to be maintained in the Tax Administration Suspense Fund from month-to-month in anticipation of disbursements which may have to be made therefrom.

(f) Balances maintained pursuant to paragraph (e) may only be re-appropriated by a two-thirds vote of the full Navajo Nation Council.

139. SEVERABILITY.

If any provision of this Code, as amended, or its application to any Person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are severable.

140. EFFECTIVE DATE.

This chapter shall take effect upon approval by the Navajo Nation Council and in accordance with 2 N.N.C. § 221(B) and 2 N.N.C. §1005.

141. REPEALS.

All laws or parts of laws which are inconsistent with the provisions of this chapter are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.

Document No. 015138 Date Issued: 09/24/2020

EXHIBIT B

SECTION 164 REVIEW FORM

Uniform Tax Administration Statute Amend Contact Name: ASHLEY, MARTIN E

Program/Division: OFFICE OF THE NAVAJO TAX COMM.

Email: mashley@navajo-nsn.gov Phone Number: 9288716992

Division Director Approval for 164A: Mart E Ashley

Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.

Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council

				Sufficient	Insufficient
☒	**Statement of Policy or Positive Law:** 1. OAG: Rodis	Date: 10/26/2020		☒	☐
☐	**IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)**				
	1. OMB:	Date:		☐	☐
	2. OOC:	Date:		☐	☐
	3. OAG:	Date:		☐	☐

Section 164(B) Final approval rests with the President of the Navajo Nation

☐	**Grant/Funding Agreement or amendment:**				
	1. Division:	Date:		☐	☐
	2. OMB:	Date:		☐	☐
	3. OOC:	Date:		☐	☐
	4. OAG:	Date:		☐	☐
☐	**Subcontract/Contract expending or receiving funds or amendment:**				
	1. Division:	Date:		☐	☐
	2. BRD:	Date:		☐	☐
	3. OMB:	Date:		☐	☐
	4. OOC:	Date:		☐	☐
	5. OAG:	Date:		☐	☐
☐	**Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:**				
	1. Division:	Date:		☐	☐
	2. OAG:	Date:		☐	☐
☐	**M.O.A. or Letter of Assurance expending or receiving funds or amendment:**				
	1. Division:	Date:		☐	☐
	2. OMB:	Date:		☐	☐
	3. OOC:	Date:		☐	☐
	4. OAG:	Date:		☐	☐

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM

RECEIVED
SEP 24 2020
DEPARTMENT OF JUSTICE
ADMINISTRATION

DOJ
9/24/20 455p
DATE / TIME
7 Day Deadline
DOC # 015138
SAS #:
UNIT: T&FU

☐ RESUBMITTAL

*** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE

DATE OF REQUEST:	9/24/2020	DIVISION:	NAVAJO TAX COMMISSION
CONTACT NAME:	Martin E. Ashley	DEPARTMENT:	
PHONE NUMBER:	871-6992	E-MAIL:	mashley@navajo-nsn.gov

TITLE OF DOCUMENT: Review Uniform Tax Administration Statute Amend

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: SEP 25 2020 10:30 am

REVIEWING ATTORNEY/ADVOCATE: ~~Mel Rodis~~ Rudy 10/22

DATE TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS

Legally Sufficient. See memo.

REVIEWED BY: (*Print*)	Date / Time	SURNAMED BY: (*Print*)	Date / Time
Rudy A. Anaya	10/27/2020 11:04am	Mel M. Rodis	10/27/2020 10:05am

DOJ Secretary Called: Martin Ashley for Document Pick Up on 10/27/2020 at 10:59 am By: CL

PICKED UP BY: (*Print*) DATE / TIME:

NNDOJ/DRRF-July 2013

Sponsor's Copy

RECEIVED
SEP 25 2020
DEPARTMENT OF JUSTICE
TAX & FINANCE UNIT

SCANNED
& emailed 10:35 am

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

EXHIBIT C

MEMORANDUM

TO: Honorable Jaime Henio, Chairman
Budget and Finance Committee
Navajo Nation Council

FROM: Martin E. Ashley, Executive Director
Office of the Navajo Tax Commission

DATE: June 25, 2021

SUBJECT: Amendment to the Uniform Tax Administration Statue (UTAS) recommended by Navajo Tax Commission resolution TAX-20-236

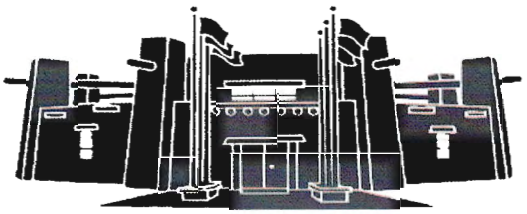
The Office of the Navajo Tax Commission (ONTC) previously met and discussed the recommendation of the Navajo Tax Commission resolution TAX-20-236 to amend the Uniform Tax Administration Statute (UTAS) and to sponsor the amendment to UTAS in Title 24.

One of the main purpose of the amendment is to provide clarification in the Administration, Definition, and other clarification to assist ONTC in the proper administration of all Navajo Nation Taxes.

Should there be any questions, please call me at tribal extension 6992 or email at mashley@navajo-nsn.gov.

Attachment: Navajo Tax Commission resolution TAX-20-236

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Honorable Jamie Henio, Chairman
Budget and Finance Committee
24th Navajo Nation Council

From : Chad Abeyta, Attorney
Office of Legislative Counsel

Date : July 8, 2021

Re : AN ACT RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING THE AMENDMENTS TO THE "UNIFORM TAX ADMINISTRATION STATUTE" CODIFIED AT 24 N.N.C §§ 101 et. seq. OF THE NAVAJO NATION CODE

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'.

OLC # 21-251-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0112-21__ **SPONSOR: Jamie Henio**

TITLE: An Act Relating to the Law and Order, Budget and Finance, and Naabik'íyáti Committees, and the Navajo Nation Council; Approving the Amendments to the "Uniform Tax Administration Statue" Codified at 24 N.N.C. §§ 101 et. seq of the Navajo Nation Code

***Date posted*: July 09, 2021 at 4:32PM**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0112-21

SPONSOR: Honorable Jamie Henio

TITLE: An Act Relating to the Law and Order, Budget and Finance, and Naabik'íyáti Committees, and the Navajo Nation Council; Approving the Amendments to the "Uniform Tax Administration Statue" Codified at 24 N.N.C. §§ 101 *et. seq.* of the Navajo Nation Code

Posted: July 09, 2021 at 4:32 PM

5 DAY Comment Period Ended: July 14, 2021

Digital Comments received:

Comments Supporting	***None***
Comments Opposing	***None***
Comments/Recommendations	***None***

Legislative Tracking Secretary
Office of Legislative Services

07/15/21; 10:00 AM
Date/Time

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0112-21

SPONSOR: Honorable Jamie Henio

TITLE: An Act Relating to the Law and Order, Budget and Finance, and Naabik'íyáti Committees, and the Navajo Nation Council; Approving the Amendments to the "Uniform Tax Administration Statue" Codified at 24 N.N.C. §§ 101 *et. seq.* of the Navajo Nation Code

Posted: July 09, 2021 at 4:32 PM

5 DAY Comment Period Ended: July 14, 2021

Digital Comments received:

Comments Supporting	***None***
Comments Opposing	**1.) Jefferson Begay, Dineh Chamber of Commerce**
Comments/Recommendations	***None***

VSRedhorse

Legislative Tracking Secretary
Office of Legislative Services

August 6, 2021 ; 9:30 AM

Date/Time

DINEH
CHAMBER OF COMMERCE

Via comments@navajo-nsn.gov

August 1, 2021

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515

Re: Comments: Legislation No. 0112-21 - NOT SUPPORTED

On behalf of the 6,000 Navajo businesses, the Dineh Chamber of Commerce and other business organizations here on the Navajo Nation, the Dineh Chamber of Commerce does NOT support proposed legislation no. 0112-21, the Navajo Nation Uniform Tax Administration Statute amendments:

Any tax legislation should have public hearings particularly if impacts are passed-on to Navajo businesses. Historically, the Office of the Navajo Tax commission holds Public Hearings to give the public and business community a chance to comment. Perhaps given Covid-19, the Tax Commission decided to forego this important process. This should not be case as this legislation appears to be rushed through the process. Public hearings are important. As such, we strongly recommend that this legislation be sent back to the Navajo Tax Commission. Our tax commission needs to hear from the business public.

Proposed legislation no. 0112-21, by section proposes to:

- Section 103 allows the Tax Commission to keep 5% of tax revenues collected and 100% of all fines collected with no intended purpose. The Tax Commission budget should be considered like other program budgets – annually and through the budget process.
- Section 104 clarifies several definitions that appear appropriate.
- Section 108 provides allowance for the Commission is amend the annual January 15th Form 100 due date.
- Section 110 adds one (1) additional year for record retainage to seven (7) years.
- **Section 112 increases the penalty for late submission of tax commission document from $50 to $200, a $150 or 300% increase. This is substantial and anti-business.**
- Section 114 proposes to add more fees and stringent requirement for "evading or defeating" Navajo taxes. The new language is too complicated.
- Section 115 adds more complications for "administrative costs." This is over regulation for our Navajo businesses.
- Section 116 amends a business ability to do business on Navajo if the "Code and Regulations" not complied with. Moreover, a business cannot sell, transfer or otherwise a business unless the Tax Commission approves. This is overreaching power for the Tax Commission.
- Section 117 details process concerning illegalities.
- Section 126 interferes with the sale of businesses. This section questions the taxpayer.

- Section 127 add the Navajo Nation President as signatory to any mutual assistance agreement.
- Section 129 extends the statute of limitation from 4 to 6 years plus it adds discretion to the powers of the Navajo Tax Commission. This discretion is too broad.
- Section 130 complicates the ability to seek refunds for legitimate over payment of taxes. Keep it simple should be the policy.
- Section 133 adds language to the closing agreement process.
- Section 134 add language to the confidentiality rules.
- Section 138 clarifies the Tax Administration Suspense Fund.
- Section 140 clarifies the effective date.

Proposed Legislation 0112-21 not include and should mandatory automation of tax payments and tax document administration/submission like other taxing authorities have in place.

We look forward to the hearings as this is important to the business community.

Sincerely,



Jefferson Begay
Chairman of the Board

LAW AND ORDER COMMITTEE
24TH NAVAJO NATION COUNCIL

THIRD YEAR 2021

COMMITTEE REPORT

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation No. 0112-21: An Act Relating to the Law and Order, Budget and Finance, and Naabik'iyati' Committees, and the Navajo Nation Council; Approving the Amendments to the "Uniform Tax Administration Statute" Codified at 24 N.N.C. §§ 101 et. seq. of the Navajo Nation Code – *Sponsors: Honorable Jamie Henio/Honorable Jimmy Yellowhair*

Has had it under consideration and reports the same with the recommendation that it DO NOT PASS with no amendment

A motion was made and lack of a second, this legislation moves forward with the guidance from Office of Legislative Counsel

And thereafter referred to Budget and Finance Committee

Respectfully submitted,

Otto Tso, Vice Chairman
Law and Order Committee
24th Navajo Nation Council

Date: August 23, 2021

Main Motion:
Motion : Honorable Vince James
Second : None
Vote : 0-0-0

LAW AND ORDER COMMITTEE
Regular Meeting
August 23, 2021

Legislation No. 0112-21: An Act Relating to the Law and Order, Budget and Finance, and Naabik'iyati' Committees, and the Navajo Nation Council; Approving the Amendments to the "Uniform Tax Administration Statute" Codified at 24 N.N.C. §§ 101 et. seq. of the Navajo Nation Code – *Sponsors: Honorable Jamie Henio/Honorable Jimmy Yellowhair*

VOTE TALLY SHEET:

Main Motion:
Motion: Honorable Vince James
Second: None
Vote: 0-0-0

Yea:
Nay:
Not Voting:
Excused:
Absent:

Otto Tso, Vice Chairman
Law and Order Committee
24th Navajo Nation Council

Laureen Spencer, Legislative Advisor
Office of Legislative Services