

Navajo Nation
Title II Reform Act of 2012

RESOLUTION OF THE
NAVAJO NATION COUNCIL

22nd NAVAJO NATION COUNCIL - Third Year, 2013

AN ACTION

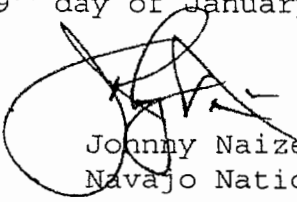
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO
NATION COUNCIL RESOLUTION CO-45-12

BE IT ENACTED:

The Navajo Nation hereby overrides the Navajo Nation President's veto of Resolution CO-45-12. President's memorandum on the veto and CO-45-12 attached hereto as Exhibit "A."

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 20 in favor and 0 opposed, this 29th day of January, 2013.


Jonny Naize, Speaker
Navajo Nation Council

Jan 30, 13

Date

Motion: Honorable Walter Phelps
Second: Honorable Jonathan Hale

**TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 3. LEGISLATIVE BRANCH**

SUBCHAPTER 2. NAVAJO NATION COUNCIL MEETINGS

§ 101. Establishment

A. There is hereby established the Legislative Branch of the Navajo Nation government. The Legislative Branch shall consist of the Navajo Nation Council and any entity established under the Navajo Nation Council.

B. This §101(A) shall not be amended unless approved by a majority of all registered Navajo voters through a referendum.

§ 102. Powers; Composition

A. The Navajo Nation Council shall be the governing body of the Navajo Nation and shall consist of 24 delegates. This §102(A) shall not be amended unless approved by majority vote of all registered voters in all precincts.

B. All powers not delegated are reserved to the Navajo Nation Council.

C. The Navajo Nation Council shall supervise all powers delegated.

D. The Navajo Nation Council shall have all powers to discipline and/or regulate the conduct of its members, until provided otherwise.

E. The Navajo Nation Council shall have the authority to promulgate rules, regulations and procedures for the conduct of its meetings and that of its committees.

F. The Navajo Nation Council shall confirm the appointments of all division directors upon recommendation from the appropriate oversight committee. The President shall present the appointments at the next Navajo Nation Council session following the date the appointments are made.

G. The Navajo Nation Council shall establish standing committees of the Council and delegate such authority to such committees as it deems necessary and proper for such committees to execute the purposes or powers delegated.

§ 103. Qualifications

No person shall serve as a delegate to the Navajo Nation Council unless he or she is an enrolled member of the Navajo Nation above the age of 25.

§ 104. Incompatible Service

A. No person shall serve as a delegate if he or she is in the permanent employment of the United States or any state or subdivisions thereof; nor shall an elected official of the United States or the several states thereof serve as a delegate. This Section shall not apply to service on a school board or elective county office.

B. No person shall be eligible for election to the Navajo Nation Council if that person is permanently employed or an elected official as described in §104(A).

C. If any delegate, after his/her election, enters such service, the delegate shall immediately forfeit his/her office as a Council Delegate.

D. No Council Delegate shall engage in the private practice of law while serving as a Navajo Nation Council Delegate.

§ 105. Term of Office

A. Each delegate to the Navajo Nation Council shall serve for a term of four years.

B. A delegate shall not be limited in the number of terms he or she may serve.

§ 106. Compensation of Council Delegates

A. Delegates shall be compensated by an annual salary of twenty-five thousand dollars (\$25,000) per year. All Council delegates shall be paid bi-weekly. A salary increase may be approved by the Navajo Nation Council but shall not become effective unless ratified by two-thirds (2/3) of all Navajo Nation Chapters within 120 days of approval by the Navajo Nation Council. The provisions of this Section shall not apply to mileage payments, per diem payments, deferred compensation benefits or any other payments or benefits which are separate from the bi-weekly base salary established in this Section.

B. Delegates attending a Navajo Nation Council meeting or their respective committee meetings may receive sixty dollars (\$60.00) per diem for each day official business is conducted and mileage reimbursement for use of a private vehicle at the rate established in the Navajo Nation Travel Policy and Procedures Handbook, and amendments thereto. Chairpersons of Committees may receive as compensation for extra time spent by the Chairperson beyond meetings to execute committee business eighty dollars (\$80.00) per diem for each committee meeting day.

C. For every week of a session of the Navajo Nation Council, delegates shall be paid mileage equal to one round trip to Window Rock from their residence and return, according to the official mileage chart of the Controller.

D. For each complete committee meeting delegates to the Navajo Nation Council shall be paid mileage equal to one round trip to Window Rock, from their residence and return, according to the official mileage chart of the Controller.

E. Full per diem shall be paid only for attendance of at least three hours of meeting or until all agenda items are concluded.

F. Delegates, or their beneficiary in the event of death, are paid a deferred compensation benefit when they leave office.

§ 107. Advances to Council Delegates

A. Temporary travel advances to a Council Delegate, not to exceed the reasonable expected cost and expenses of authorized travel, may be made by the Controller upon written authorization of the Speaker of the Navajo Nation Council.

B. Claims for reimbursement of travel expenses shall be submitted to the Controller promptly upon completion of travel. Travel advances outstanding at the time reimbursement claims are submitted shall be deducted from the amount being claimed.

C. Salary advances to a Council Delegate, not to exceed fifteen thousand dollars (\$15,000) during any bi-weekly pay period, may be made by the Controller (or designee).

D. Salary advances made to a Council Delegate during any bi-weekly pay period shall be deducted in amounts not less than fifty dollars (\$50.00) from his or her bi-weekly pay, unless larger deductions are authorized in writing by the individual Council Delegate.

E. The Navajo Nation shall have the right to deduct from any and all moneys or other credits which the Navajo Nation owes to any Council Delegate receiving an advance under this Section, an amount equal to the total funds advanced at any time within 30 days prior to the expiration of the Council Delegate's term of office, or at any other time after the Council Delegate leaves his or her office for any reason whatsoever, whether voluntary or involuntary.

F. The balance of any travel or salary advance not cleared within 30 days from the date of issue shall, at the Council Delegate's election, either be deducted from the Council Delegate's next bi-weekly pay or be assessed interest at a rate of 1.2% per annum. The balance of any travel or salary advance outstanding at year end shall be deducted from any and all moneys which the Navajo Nation owes to the Council Delegate. These deductions shall not be made from Deferred Compensation balances or payments.

§ 108. Group Insurance

A. Navajo Nation group insurance shall be provided for Navajo Nation Council Delegates and their dependents.

B. The Navajo Nation shall pay a percent of the insurance premium as its contribution.

§ 109. Tax Declarations and Returns; Deductions

A. Each delegate to the Navajo Nation Council is a common law employee of the Navajo Nation for federal employment tax purposes.

B. The Controller of the Navajo Nation shall make deductions in the proper amounts from the salaries of the delegates to the Navajo Nation Council for federal income tax and social security income withholding.

C. Excluded from participating in the Navajo Nation Personnel Policy are the elected officials, public boards, volunteer, and any other contractual services agreements to provide services to the Navajo Nation Government.

§ 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 the five geographic divisions: Chinle Agency, Eastern Agency, Fort Defiance Agency Northern Agency, Western Agency.

B. **Associated Amendments** means to alter, change, add or modify an existing agreement, subcontract, or Letter of Assurance Agreement listed in 2 N.N.C. §164(B)(1).

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

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

E. **Comment period** means calendar days in which proposed resolutions are posted on the Navajo Nation Council's website and available for submission of written comments by Chapter

governments and departments or divisions of the Navajo Nation government. The comment period shall begin to run at midnight of the day a resolution is introduced into the legislative process.

F. **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.

G. **Coordinate** means to combine efforts on a common action to produce harmonious actions and results.

H. **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.

I. **Iná** is the part of the process of Nitsáhákees-Nahat'á-Iná-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.

J. **Intergovernmental agreements** are agreements between the Navajo Nation and another government that involve the sharing of governmental powers, and includes Indian Self-Determination and Education Assistance Act (P. L. 638) contracts. Intergovernmental agreements do not include agreements between the Navajo Nation and another government where the Nation or the other government acts in a landowner or commercial capacity.

K. **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 laws or amendments to laws by the Navajo Nation Council.

L. **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.

M. **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.

N. **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 cooperative effort. It may be used between the tribal government and a private individual or entity, or between the central government and local governance certified chapter of Navajo Nation Township, and is legally enforceable.

O. **Memorandum of Understanding (MOU)** means a non-binding written agreement between two or more parties indicating an intended line of action where the parties agree to act in good faith to comply with the terms. It may be used between the tribal government and a private individual or entity, or between the central government and a local governance certified chapter or Navajo Nation Township, 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) and may be executed by the appropriate division.

P. **Nahat'á** is a part of the process of Nitsáhákees-Nahat'á-Iiná-Siihasin to strategically plan while utilizing Diné bibeehaz'áanii Bitsé Siléi (foundation of Diné law), statutory laws, informed research and public input (through use of the Naabik'íyáti' process) in a constant cycle of examining and analyzing issues for growth and development.

Q. **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.

R. **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 or to a newly-created account for a different use or purpose.

T. **Resolution**, which is a form of legislation, means a formal action of the Navajo Nation Council or its Committees adopting its approval of or stating its opinion on a matter.

U. **Positive law** means legislation by the Navajo Nation Council that creates or amends a section or sections of the Navajo Nation Code.

V. **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.

W. **Statements 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.

X. **Subcontract** means a contract that delegates some or all of the responsibilities of an existing 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.

§ 161. Place

A. All regularly scheduled or special sessions of the Navajo Nation Council shall be held at the Navajo Nation Council Chambers located at Window Rock, Navajo Nation (Arizona) with the following exceptions:

1. If the Chambers in Window Rock are unsuitable for meeting, because of fire, physical damage, remodeling or other cause the Speaker may designate an alternate meeting place in Window Rock, and give reasonable notice to all Council Delegates.
2. A majority of all Council Delegates may agree to hold a meeting in some location in Window Rock other than the Chambers. Such agreement may be by written petition or by motion at any regular or special session of the Navajo Nation Council.

§ 162. Number; Time; Duration

A. There shall be four regular sessions of the Navajo Nation Council each year. Such sessions shall commence at 10 a.m. on the fourth Monday of January, and the third Monday of April, July and October of each year.

B. Special meetings of the Navajo Nation Council may be called upon reasonable and timely notice to all Council Delegates, by the Speaker of the Navajo Nation Council acting on written petition of a majority of all Council Delegates or request by written message from the President.

C. The duration of each session shall be no more than five working days. Each meeting day of the Navajo Nation Council shall be for a minimum of six hours each day of the session or upon completion of the agenda items.

§ 163. Agenda

A. The Navajo Nation Council shall adopt an agenda in accordance with written rules and procedures established by the Navajo Nation Council. In the absence of the adoption of new rules and procedures by an elected Council, the rules and procedures of the last Council shall be used until amended or rescinded.

B. The agenda shall allow for inclusion of a consent schedule which is a listing of resolutions which will likely be approved by unanimous consent of the Delegates in attendance. The consent schedule shall be developed by the Speaker. Upon request by any Delegate, an item on the consent schedule shall be moved to the regular schedule on the agenda. The Speaker shall move any item on the consent schedule which receives more than five (5) minutes of debate or questioning to the regular schedule on the agenda.

C. Once an agenda is adopted, it shall be amended only by two thirds (2/3) vote of the Council.

§ 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 resolution. 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 a proper codified 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 be processed as memorials 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 underscoring the new language and deletion by overstrike and shall refer to appropriate Navajo Nation Code chapter or subchapter and sections with 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 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 released. 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 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 standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti' Committee. The resolution or memorial shall be submitted to the Naabik'íyáti' Committee with amendments and committee reports. The Naabik'íyáti' Committee may

