

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

22<sup>nd</sup> NAVAJO NATION COUNCIL - Third Year, 2013

AN ACTION

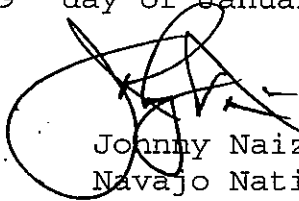
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO  
NATION COUNCIL RESOLUTION CO-45-12

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 29<sup>th</sup> 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 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 any 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 ~~30~~ 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. Temporary travel advances not cleared, either partially or completely, within 30 days from the date of advance shall be deducted from the next bi weekly Council Delegate's pay.~~
- C.D-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 his or her designee).
- D.E. 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.F 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 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.E Coordinate means to combine efforts on a common action to produce harmonious actions and results.

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

J.H 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.I-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.F 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.K 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.L 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 or 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. MNahat'á is the part of the process of Nitsáhákees-Nahat'á-Iiná-Siihasin to strategically plan while utilizing Diné bi beehaz'áanii Bitsé Siléí (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.

QN. 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.

~~O. Memorandum of Understanding (MOU) means a non-binding written agreement between two or more parties indicating a line of action where the parties agree to act in good faith to comply with the terms. I 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 or program director or non certified chapter president.~~

R.P 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.Q 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.R 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.S Positive law means legislation by the Navajo Nation Council that creates or amends a section or sections of the Navajo Nation Code.

V.ṼSiihasin 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.

WU. 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.

XV. 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

CO-45-12

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-

~~1. 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.

CB. 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 31<sup>st</sup> 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. Prior to introducing the proposed resolution, ~~the~~ The Office of Legislative Counsel shall ensure that the proposed resolution review and draft the proposed resolution for the council delegate(s) or standing committee(s) to ensure that the proposed resolution is drafted in a proper codified format before it is assigned a number and introduced into the legislative process. Where Navajo government employees are authorized to introduce proposed resolutions, they

~~may seek the assistance of either the Office of Legislative Counsel or the Navajo Department of Justice. 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 when applicable. All proposed resolutions enacting new laws, amending existing laws, or adopting a statement of policy shall include version identification and may be read in its entirety to the members of the Navajo Nation Council at the request of a Delegate. The exhibits attached to the proposed resolutions shall be identified by reference only.
5. After the proposed resolution is assigned a number, the Speaker of the Navajo Nation Council shall introduce it into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration and distribute a digital photo 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. ~~the affected division, department and/or program.~~

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 an assigned Council's website as seen as practicable and shall be accessible through the Council's web site in a manner befitting the Council and to all or for transparency, including an appropriate use interface. 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. Any such dDigital 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. ~~Director for the Office of Legislative Services, or designee, shall cause digital copies of the proposed resolution to be distributed to Executive Branch Division Directors for comments. A Chapter government may also provide comments to the proposed resolution through an properly delegated authorized elected official or through a supported by a certified chapter resolution. The Executive Branch Division Directors and Chapter government, at their its own option, shall have 5 calendar days to submit comments on proposed resolution to the Executive Director for the Office of Legislative Services. After receiving comments, the Executive Director for the Office of Legislative Services, in consultation with Chief Legislative Counsel, shall cause the analysis of the resolution, with appropriate references to comments received. The analysis may include comments to be affixed to the proposed resolution for consideration by the standing committee(s) and the Council. Such analysis shall not constitute legal advice and be used to promote a better understanding of the resolution.~~

8. Following the expiration of the public comment period, the proposed resolution shall be forwarded to the Chairperson of the appropriate standing committee and the Chairperson shall place the proposed resolution on the committees' agenda for consideration by the standing committee at the next committee meeting. The Chairperson may also include an assigned memorial on the agenda. Action by the committee shall be in a written report and submitted to Council or another authorized committee.
9. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to standing committee(s) having authority over the subject matter at issue and the ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee. The resolution or memorial shall be submitted to the ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee with amendments and committee reports. The ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee may develop proposed amendments to the Council or may refer a resolution or memorial back to the appropriate standing committee(s).
10. An approved amendment approved by a Committee shall be included as ~~an amendment to~~ in the proposed resolution. ~~Specific action(s) of a Committee with respect to an amendment, including failed amendments, shall be described in an endnote to the proposed legislation, but not in the final certified copy of the resolution. The same~~ A failed amendment may not be introduced at a Council session unless the sponsor of the amendment a Delegate obtains a written petition in support of the amendment signed by a majority of the members of the Council. The sponsor of legislation shall also be allowed to obtain written petition from a majority members of the Council to remove an amendment. An amended legislation need not be re-distributed pursuant to § 164 (A) (5).
11. A legislation that was tabled by a committee with final approval authority over the matter shall remain with the committee until removed from table status. A legislation that was tabled by a committee without final approval authority over the matter shall move forward to the subsequent assigned committee(s) or Navajo Nation Council.

12. A legislation that does not receive sufficient vote for passage by a committee with final approval authority over the matter shall be deemed permanently eliminated from the agenda of the Committee. A legislation that does not receive sufficient vote for passage by a committee without final approval authority over the matter shall move forward to the subsequent assigned committee(s) or Navajo Nation Council for action. If the voting results of the committee with final approval authority over the legislation are different from the voting results of the other committee to which legislation was assigned, the legislation shall be referred to the Naabik'iyáti' Committee for final action, notwithstanding any other delegations to other committees of final approval authority.
13. The resolution shall be put on the proposed agenda for a session of the Navajo Nation Council as recommended by an assigned committee. Resolutions Legislations submitted for the Council's session agenda shall, to the extent possible, be listed in the order received, except those resolutions legislations requiring 2/3 vote or those resolutions included in a consent listing.
14. All resolutions legislation appointing public officials and significant or controversial resolutions legislation may be referred to the ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee for discussion prior to being certified or enacted at the discretion of the Speaker, by referral from a standing committee having final legislative authority, or by the written request of a Delegate who is not a member of a standing committee which considered such resolution legislation. The Committee may refer a resolution back to the appropriate standing committee(s) for further consideration.
15. After a resolution has completed the process and procedures of this section, it shall automatically be placed on the next Navajo Nation Council agenda. ~~The Naa'bik'iyáti' Committee of the Navajo Nation Council~~ The Speaker shall publish ~~develop~~ the final proposed agenda on ~~for~~ the Navajo Nation Council website no less than three (3) 5 calendar days prior to the start of regular sessions and no

~~less than one (1) calendar day prior to the start of special sessions. The agenda shall be put on the web site. All verbal and written reports shall be presented to the Council only on the first day of the regular sessions, unless otherwise directed by the Speaker or the Council. All proposed legislation to be placed on the proposed Navajo Nation Council agenda shall have completed the procedures pursuant to this section prior to placement on the agenda.~~

16. Matters constituting an emergency shall be limited to the cessation of law enforcement services, disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) legislation and must be a matter requiring final action by the Council.
17. All resolutions enacting new laws or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and override by the Navajo Nation Council, except financial line-item vetoes are not subject to override. A vetoed resolution shall be first submitted to Naa'biik'iyáti' Naabik'iyáti' Committee before consideration by the Council. Memorials are not subject to veto but become effective upon certification by the Speaker pursuant to 2 N.N.C. § 221(C). All acts of vetoing a resolution shall occur within the territorial jurisdiction of the Navajo Nation as described in 7 N.N.C. § 254.

B. Agreements not requiring Committee or Council approval.

1. Subcontracts implementing agreements approved under § 164(A) above, grants providing funds to the Navajo Nation, contracts expending funds appropriated by the Navajo Nation Council, Letter of Assurance agreements, memoranda of understanding, memoranda of agreement and other agreements that do not expend funds, associated amendments shall not require approval by the Navajo Nation Council or its committees.

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

- a. The appropriate Division Director for departments and activities under his or her supervision;
- b. The Controller (or designee) for all documents having a financial impact on the Navajo Nation;
- c. The Director of the Office of Management and Budget (or designee) for all documents having a financial impact on the Navajo Nation; and
- de. The Attorney General of the Navajo Nation (or designee).

**§ 166. Record of proceedings; interpreters; access to records**

A. Proper records of the proceedings of the Navajo Nation Council and all standing committees, boards and commissions shall be kept and the necessary interpreting services shall be provided by the Office of Legislative Services.

B. Access to records of the proceedings of the Navajo Nation Council, standing committees, boards and commissions shall be provided to the public through the Office of Legislative Services and the Central Records Department.

**§ 167. Failure to attend**

All delegates to the Navajo Nation Council shall attend all regular and special meetings of the Navajo Nation Council or Committees. If any delegate is absent from sixty percent (60%) of the meeting days within a one year period, the Navajo Nation Council may consider a motion to censure said delegate. If his/her absence continues, the Navajo Nation Council shall have the authority to declare the delegate's seat forfeited and vacant.

**§ 168. Sergeant at Arms; appointment; duties**

A. The Director of the Division of Public Safety shall designate a member of the Navajo Nation police force to fill the post of Sergeant at Arms.

B. The Sergeant at Arms shall maintain order under the direction of the Speaker or Presiding Chairperson of the Navajo Nation Council or Committees and shall make appropriate arrangements for maintenance of law and order during Council and Committee sessions.

#### § 169. Quorum

- A. A quorum shall consist of a simple majority of all voting members of the Navajo Nation Council.
- B. No Resolution, memorial or motion of the Navajo Nation Council or its Standing Committees shall be voted on ~~passed~~ ~~or otherwise acted upon~~ unless a quorum is present. When a quorum is present, any motion or resolution shall be passed if it receives a majority of all votes cast in favor or opposed, unless a larger proportion than a simple majority is required by law. Abstention vote may be cast only when a delegate has a personal interest conflict in the motion of the Council or Standing Committee upon a prior request of the Delegate with the conflict. Only a vote in favor and opposed shall be accepted. ~~A delegate who fails to cast a vote shall be declared absent from the whole meeting.~~ Any delegate who intentionally fails or refuses to cast a vote shall be declared absent from the entire meeting, unless otherwise excused by the Speaker of the Navajo Nation Council.

#### § 180. Appointment

Each delegate to the Navajo Nation Council shall be appointed to no more than one standing committee as a regular voting member. This shall not apply to the ~~Naa'biik'iyáti'~~ Naabik'iyáti' Committee.

#### § 181. Membership

~~A~~ A Committee shall have at least one member from each of the Agencies of the Navajo Nation as defined in 2 N.N.C. §110 (A). The Speaker shall select Committee membership subject to confirmation by the Navajo Nation Council. Vacancies shall be filled by the Speaker.

**§ 182. Term of office**

Committee members shall serve a term of office coinciding with their term of office as delegates of the Navajo Nation Council.

**§ 183. Meetings; quorum**

A. All meetings of the Navajo Nation Council committees or commissions shall be held in Window Rock, Navajo Nation, (Arizona). For a meeting to be deemed to have been held, each of the following acts shall occur: a quorum is present, an agenda is adopted, substantive actions (approval, disapproval or table) are taken, and per diem and round trip mileage are paid to committee members or commissioners. Meetings shall not mean work sessions, workshops, orientations, training and business meetings with Navajo or non-Navajo entities, therefore, no meeting per diem payment for work sessions, workshops, etc. shall be paid. See 2 N.N.C. § 106. Meetings held elsewhere within the Navajo Nation shall be by written permission of the Speaker of the Navajo Nation Council, provided that funds are available. No meetings shall be held outside the Navajo Nation unless by written permission of the Speaker of the Navajo Nation Council, provided that funds are available; and further provided that the meeting is with a legislative body of another sovereign.

B. Committee and commission meetings shall be for a minimum of three hours for each meeting day and such meetings shall be for at least two days each month. No compensation, per diem and mileage shall be paid unless these requirements are met. Special meetings may be held only if the following conditions are met:

1. Funds are available within the approved annual budget for additional meetings; and
2. The Speaker of the Navajo Nation Council approves such meetings; and
3. Notice of the meeting is posted on the Navajo Nation Council website at ~~Window Rock Navajo Nation offices,~~ ~~published in a daily newspaper and announced on local radio,~~ at least one (1) calendar day before the meeting.

C. When a Committee is authorized by law to hold hearings as a quasi-judicial body, the restrictions on meeting days per month and minimum hours for meetings shall not apply to said hearings.

D. Until the Navajo Nation Council adopts uniform rules for conduct of Committee meetings, the Committees may adopt their own rules for conduct of meetings.

E. Quorums for committees, boards and commissions shall be a simple majority of the membership of the committees, boards, and commissions. A quorum shall be required to commence a standing committee meeting and for any vote affecting a resolution. Quorums shall not be required for the hearing of reports by standing committees. Reports may be accepted by a simple majority of the membership of the standing committee present.

F. No committee or commission meeting shall be held while the Navajo Nation Council is in special or regular session except to consider a matter which is already a part of the agenda for the Council session then in progress and for which committee or commission action is a legal condition precedent to action by the Council. Nor shall the Speaker approve travel for any member of the Council which is to take place during a special or regular session of the Council except when such travel is to conduct a meeting with, or to give official testimony to, the government of another sovereign.

**§ 184. Chairperson; Vice-Chairperson; Chairperson Pro Tem**

A. The Chairperson and Vice-Chairperson of committees shall be selected by vote of the committee.

B. At any committee meeting where the duly appointed Committee Chairperson and Vice-Chairperson are absent, the majority of those committee members present may select a Pro Tem Chairperson to conduct the committee meeting; the Pro Tem Chairperson shall retain the power to vote.

C. The Chairperson of a committee or in his or her absence the Vice-Chairperson shall vote only in the event of a tie vote by the regular voting members except when the resolution requires a two-thirds (2/3) majority vote, then the presiding Chairperson may vote on the matter regardless of a tie vote.

**§ 185. Powers**

A. Subject to existing funding or contract requirements, the committees, Chapters, boards or commissions may reallocate funds appropriated by the Navajo Nation Council to the committees, boards and commissions and to divisions, departments and programs over which the committees have oversight authority, provided that funds are determined available by the Controller; further provided that such reallocation is upon the request of the affected division, department or program and further provided that reallocation of funds is by two-thirds (2/3) vote of the full membership of the committee, board or commission.

B. The committees, boards and commissions shall have the power to subpoena and acquire from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality, information, suggestions, estimates, and statistics necessary for execution of the purposes and authorities. Each such department, bureau, agency, board, commission, office, establishment or instrumentality is authorized and directed to furnish to the extent permitted by law such information, suggestions, estimates and statistics directly to the committee, board or commission upon request by the chairperson.

C. The committees, boards and commissions may, for the purpose of carrying out purposes and authorities, hold such hearings and shall have the power to subpoena the attendance and testimony of such witnesses and the production of books, records, memoranda, papers and documents as deemed advisable.

D. Any member of a committee, board or commission may administer oaths or affirmations to witnesses appearing before the Committee, board or commission.

E. Committees shall coordinate with one another where areas of authority and responsibility overlap.

F. Subpoenas and orders may be enforced by the courts of the Navajo Nation by means of civil enforcement of committee action. A committee, by the Attorney General, may apply to the District Court of the Window Rock Judicial District for an order to enforce any committee subpoena.

### § 186. Subcommittees

Each committee may establish subcommittees consisting of committee members selected by the committee. The subcommittee shall exist until its assigned tasks are completed and report and recommendation is made to the committee. The same provisions which apply to committee meetings shall also apply to subcommittee meetings.

### § 187. Joint Committee meetings

A. Standing committees of the Navajo Nation Council may convene joint meetings to address issues where their authority and responsibility overlap. The same provisions that apply to committee meetings including, but not limited to, committee uniform rules of order shall also apply to the joint committee meetings.

B. Joint committee meetings shall be held when:

1. Funds are available within the approved annual budget for each standing committee account wanting to participate in the joint meeting;
2. The chairpersons of the standing committees wanting to participate in the joint meeting shall request the joint meeting.
3. Each standing committee participating in the joint meeting shall have a quorum of its members present at the joint meeting; and
4. The meeting is approved by the Speaker of the Navajo Nation Council and notice of the joint meeting posted on the Council's website ~~a Navajo government building and published in a daily newspaper or announced on the local radio~~ twenty-four (24) hours in advance of the joint meeting.

C. ~~No substantive action shall~~ may be taken in joint committee meetings. ~~Each committee shall make substantive decisions individually as provided in § 189 of this Title and as agreed to by the joint committees as follows:~~

1. Each committee may make substantive decisions individually; or

2. The committees may make substantive decisions by joint action provided that such action is by two-thirds majority vote of the combined membership present at the joint meeting.

D. The presiding Chairperson for the joint committee meeting shall be selected by the committee members present from among the chairpersons of the standing committees participating in the joint meeting; if only one Chairperson of the standing committees participating in the joint meeting is available, said Chairperson shall automatically preside over the joint meeting. If a Chairperson of any standing committee is not present, the Vice-Chairperson of such standing committee can be selected to preside over the joint committee meeting. If all the Chairpersons and Vice Chairpersons of all the standing committees that are participating in the joint meetings are absent, the committee members of the joint meeting shall select any one of the committee members present to preside over the entire joint meeting.

#### § 188. Reports

All committees, boards and commissions of the Navajo Nation Council shall report quarterly and in writing to the Navajo Nation Council concerning their areas of oversight.

#### § 189. Committee actions

A. All substantive actions shall be by written resolution duly certified by the presiding officer, setting forth the action taken and signed by the presiding officer. Resolution and memoranda shall be identified by a number and filed with the Records Management Department of the Navajo Nation.

B. Committee directives shall be limited to matters under such Committee's direct oversight and shall be approved by a simple majority vote of all Committee members. All approved directives shall be memorialized in writing and signed by the presiding officer and provided to the Office of the President and the affected Division Director within three (3) calendar days of Committee approval.

**§ 190. Staff**

Staff from divisions over which the committees have oversight authority shall assist the committees in execution of their authority and shall provide necessary advice and clerical services.

**§ 191. Conflict of interest**

Committee members who have personal, family or business interests in matters before the Committee or joint committee meeting shall not participate in the committee or joint committee proceeding or vote on the matter.

**§ 192. Legislative oversight**

Committee oversight shall be limited to resolution consideration ~~legislation~~ and policy decisions and shall not involve program administration.

**§ 221. Resolutions; Certification; Filing; Codification**

A. The Speaker of the Navajo Nation Council or Speaker Pro Tem shall certify the adoption of any resolution of the Navajo Nation Council by signing the same after it is engrossed by the Director of the Office of Legislative Services or his or her designee. Adopted resolutions shall be filed with the Central Records Department of the Navajo Nation and the Legislative Counsel shall immediately arrange for codification thereof.

B. All resolutions that enact new Navajo law or amend existing Navajo law and are adopted by the Navajo Nation Council shall become effective on the day the President of the Navajo Nation signs it into law or the Navajo Nation Council takes action to override the President's veto, unless the Navajo Nation Council specifically authorizes and directs a different effective date.

C. All resolutions that do not enact new Navajo law, amend existing Navajo law or make a policy statement and are adopted by the Navajo Nation Council shall become effective upon the certification by the Speaker or Speaker Pro Tem of the Navajo Nation Council. Resolutions that adopt internal policies and procedures of the Navajo Nation Council shall become effective upon certification by the Speaker or Speaker Pro Tem.

**§ 222. Contracts or other papers generally**

All contracts or agreements entered into pursuant to the Navajo Nation Procurement Code, to the extent applicable, or approved by the Navajo Nation Council, or its Committees shall be executed in the following manner:

A. The President or the Vice-President of the Navajo Nation or their designee shall execute contracts or agreements pertaining to the Executive Branch;

B. The Chief Justice of the Navajo Nation or their designee shall execute contracts or agreements pertaining to the Judicial Branch; and

C. The Speaker of the Navajo Nation Council or their designee shall execute contracts or agreements pertaining to the Legislative Branch.

D. The Chapter President of the Navajo Nation Chapter shall execute contracts or agreements pertaining to the Chapter.

**§ 223. Contracts**

Except as otherwise provided, any contract authorized to be executed on behalf of the Navajo Nation shall meet the following conditions:

A. All contracts involving the expenditure of funds shall expressly state that the liability of the Navajo Nation under such contract is contingent upon the availability of appropriations by the Navajo Nation Council to carry out the same.

B. All contracts shall have sufficient funds appropriated and available.

C. Contracts shall not waive the sovereign immunity of the Navajo Nation or its entities unless approved by two-thirds (2/3) vote of the full membership of the Navajo Nation Council. This provision shall not apply to authority to waive immunity properly delegated.

D. All contracts, including those entered into pursuant to the Navajo Nation Procurement Code, shall comply with the Navajo Business Procurement Act, 12 N.N.C. § 1501, et seq., the Navajo Preference in Employment Act, 15 N.N.C. § 601, et seq., Navajo Business Opportunity Act, 5 N.N.C. § 201, et seq., and rules and regulations promulgated thereto.

E. All contracts shall be awarded only after public advertisement and bidding unless otherwise authorized as small purchases, emergency purchases or sole source purchases under the Navajo Nation Procurement Code, or are Intergovernmental Agreements approved by the Navajo Nation Council or its standing committees.

F. All change orders, modifications or amendments of contracts utilizing Navajo Nation funds shall not exceed twenty percent (20%) of the accepted bid. If the twenty percent (20%) cap is exceeded by any change orders, modifications or amendments, such change orders, modification or amendment shall be subject to the provisions of § 223(E) above.

#### § 224. Filing

All executed contracts or papers, and any modifications thereof, shall be filed with Central Records Department of the Navajo Nation. Executed contracts shall also be filed with the Office of Contracts and Grants.

#### § 225. Public access

Access to contracts or papers shall be provided to the public by the Central Records Department as provided in the Navajo Privacy and Access to Information Act.

#### § 281. Office of Speaker of the Navajo Nation Council

A. There is hereby established the Office of the Speaker of the Navajo Nation Council.

B. The Speaker of the Navajo Nation Council shall be a member of the Navajo Nation Council, in good standing.

C. The Office of the Speaker shall have such support personnel as may be budgeted for.

**§ 282. Selection of the Speaker, term of office**

A. The Speaker of the Navajo Nation Council shall serve in such office at the pleasure of the Navajo Nation Council.

B. The term of office of the Speaker shall be two (2) years.

C. The Speaker shall be selected and confirmed by the Navajo Nation Council as the first order of business at the Council session scheduled for the fourth Monday in January of any odd numbered year.

**§ 283. Residence**

A residence may be furnished at Window Rock, Navajo Nation (Arizona), together with the cost of water, sewer, refuse disposal, electricity and natural gas without charge to the Speaker. If the Speaker declines to reside in such residence, the Navajo Nation shall not be responsible or liable for costs and expenses of living elsewhere.

**§ 284. Salary**

The salary of the Speaker shall be thirty thousand dollars (\$30,000) per annum above the salary as a Navajo Nation Council Delegate.

**§ 285. Powers and duties**

A. The Speaker of the Navajo Nation Council shall exercise all powers and authorities which are delegated to the Office by law or may from time to time be delegated to such Office by the Navajo Nation Council.

B. The Speaker's powers and duties shall include the following:

1. Preside at all Navajo Nation Council and Naa-bik'iyáti' Naabik'iyáti' Committee meetings;

2. Direct and supervise the personnel and programs under the Legislative Branch as provided by law;
3. Appoint a Speaker Pro Tem to allow the Speaker to participate in debate and sponsor resolution(s) ~~legislation~~ before the Navajo Nation Council and, in the sole discretion of the Speaker, to carry out the administrative duties of the Office of Speaker when the Speaker is unavailable and absent due to travel, illness, or for any other reason deemed sufficient by the Speaker;
4. Vote only in the event of a tie vote;
5. Call a special session of the Navajo Nation Council pursuant to 2 N.N.C. § 162;
6. Recommend to the Budget and Finance Committee an annual operating budget or amendments thereof for the Legislative Branch and advise the Navajo Nation Council on the annual budget recommended by the Budget and Finance Committee; and
7. Issue official Certificates of Condolence, Congratulations, Appreciation, Recognition or Achievement and other similar expressions of sentiment signed by the Speaker on behalf of the Navajo Nation Council at the written request of any Council Delegate as provided herein:
  - a. Certificates of Condolence shall be reserved exclusively for former members of the Navajo Nation Council, Chairmen, Vice Chairmen, Presidents and Vice Presidents of the Navajo Nation.
  - b. Uniform Procedures for the Issuance of Certificates shall be developed by the Office of the Speaker subject to final approval by resolution of the Intergovernmental Relations Committee of the Navajo Nation Council.

**§ 286. Removal; vacancy**

A. The Speaker may be removed by two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

B. If a vacancy should occur in the Office of the Speaker of the Navajo Nation Council; the Navajo Nation Council shall select and confirm from among its members a successor to serve the remainder of the term.

#### § 287. Speaker Pro Tem

A. When a quorum of the Navajo Nation Council is present at any duly called regular or special meeting, the members present, in absence of the Speaker, may select from among the Chairpersons of the standing committees to serve as the Speaker Pro Tem until the Speaker arrives.

B. The Speaker, in his or her sole discretion, may appoint a Speaker Pro Tem to carry out the administrative duties of the Office of Speaker whenever the Speaker is both absent and unavailable due to travel, illness, or any other reason deemed sufficient grounds by the Speaker. The appointment shall be made in writing and shall expire at a time designated by the Speaker or whenever withdrawn in a separate writing by the Speaker, and shall, in any event, automatically expire in five working days after the date of the appointment unless renewed in writing by the Speaker. Only current members of the Council may be appointed as Speaker Pro Tem pursuant to this provision and shall serve without additional salary compensation.

C. If the Speaker is unable to perform his or her duties for any reason and is unable to appoint a Speaker Pro Tem pursuant to § 287(B), the Chairperson of the Government Services Committee shall serve as the Speaker Pro Tem until the Speaker's inability to perform his or her duties is removed.

D. A Speaker Pro Tem appointed pursuant to §§ 287(B) or (C) shall, in addition to his or her salary as a delegate pursuant to 2 N.N.C. § 106(A), receive mileage compensation in accordance with 2 N.N.C. § 106(A) and per diem for each day of service as Speaker Pro Tem in an amount equivalent to the daily rate of the salary established in 2 N.N.C. § 284.

TITLE 2. NAVAJO NATION GOVERNMENT  
CHAPTER 3. LEGISLATIVE BRANCH  
SUBCHAPTER 9. STANDING COMMITTEES

Article 1. Budget and Finance Committee

§ 300. Establishment; membership; purposes

A. Budget and Finance Committee is hereby established as a standing committee of the Navajo Nation Council.

B. The Committee shall consist of six members.

C. The Committee shall exercise oversight authority including but not limited to budget, finance, investment, bonds, contracting, insurance, audits, accounting; taxes, loans, Chapter budget and finance for the following purposes:

1. To coordinate, oversee and regulate the fiscal, financial, investment, contracting and audit policies of the Navajo Nation;
2. To report to the Navajo Nation Council on the fiscal and financial state of the Navajo Nation;
3. To recommend to the Navajo Nation Council the adoption of resolutions ~~legislation~~ designed to strengthen the fiscal and financial position of the Navajo Nation and to promote the efficient use of the fiscal and financial resources of the Navajo Nation;
4. To protect the interests of the Navajo People through the prudent management of the financial reserves of the Navajo Nation and the use of funds available for expenditure by the Navajo Nation;
5. To oversee and provide direction for lending programs within the Committee's authority.
6. To act as an Audit Committee of the Navajo Nation government.

§ 301. Powers

A. The Committee shall have authority and such powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the following enumerated powers:

1. To promulgate rules and regulations relative to contracting, investments and financial matters.
2. To review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds.
3. To the extent permitted by federal or Navajo Nation laws and regulations, the Committee shall appropriate, allocate, cancel, re-appropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources.
4. With prior approval of the President, Speaker and/or Chief Justice to recommend to the Navajo Nation Council amendment of the approved annual budgets by reallocating funds between branches.
5. To coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private, expending or seeking to expend funds within the Navajo Nation or for the benefit of the Navajo People.
6. To require the presentation and submission of financial reports by any enterprise, authority, or entity chartered or approved by the Navajo Nation Council or its committees.
7. To return unexpended funds to the appropriate funding source in accordance with the Appropriation Act.
8. To promulgate policies and regulations concerning wages, expenditure reimbursement, and fringe benefits for Navajo Nation officials and employees.
9. To require reports from and to monitor the financial performance of all offices, divisions, departments, enterprises, authorities, committees, boards, commissions, or entities having oversight or control over fiscal matters or financial obligations to the Navajo Nation.
10. To receive an annual audit of the accounts of the Navajo Nation by certified public accountants and to present such audit to the Navajo Nation Council.

11. To review the annual budgets of the Bureau of Indian Affairs, the Indian Health Services and other departments and agencies of the United States government and to recommend the approval or disapproval of such budgets.
12. To provide legislative oversight over lending programs, including the promulgation of rules and regulations for lending money to members of the Navajo Nation.
13. To conduct oversight of the functions of the Office of the Controller, the Office of Management and Budget, the Office of the Auditor General, the Office of the Navajo Tax Commission, the Navajo Tax Commission, the Insurance Services Department, the Insurance Services Department, the Insurance Commission and Retirement Services Department and to review, recommend or propose the adoption, amendment or rescission of its Plan of Operation.
14. To approve Fund Management Plans pursuant to the recommendations of the appropriate oversight committee and affected Division or Branch.
15. Authorize, review, approve and accept agreements, including contracts and grants, between the Navajo Nation and any federal, state or regional authority upon the recommendation of the standing committee which has oversight of the division, department or program which has applied for the agreement, or upon recommendation of the Chapter.
16. To continually monitor contracts with state, federal, and regional entities to ensure compliance with applicable laws, regulations and contract terms.
17. To prepare and recommend approval of a committee budget each fiscal year.
18. To approve lease purchase agreements concerning all tribal programs, departments and divisions within all branches of the Navajo Nation government upon recommendation of the Office of the Controller.

19. The Committee shall have the authority to delegate responsibilities and authorities as appropriate for efficiency and streamlining of government processes to the Divisions, Chapters and appropriate entities provided that the Committee first approves rules and regulations governing such delegations and to rescind delegations.
20. To recommend to the Navajo Nation Council the creation of any Division or Department intended to be under the Committee's oversight by adoption of its Plan of Operation; and to rescind that Plan of Operation or an existing Plan of Operation for any Division or Department under the Committee's oversight.

**§ 302. Advisors**

- A. The Department of Justice, Controller, Office of Management and Budget, Auditor General, Legislative Counsel, Director of Legislative Services and External Auditor shall serve as official advisors to the Committee and shall provide appropriate support, advice and counsel on all matters.

**§ 302. Meetings**

All regular meetings of the Committee shall be held on the first and third Tuesday of each month.

**Article 2. Health, Education and Human Services Committee**

**§ 400. Establishment; Membership; Purposes**

- A. The Health, Education and Human Services Committee is hereby established as a standing Committee of the Navajo Nation Council.
- B. The Committee shall consist of six members.
- C. The purposes of the Committee are:
  1. To promulgate regulations, promote accountability to policies, and provide legislative oversight on matters involving health, social service, education, general governmental services and human services.

2. To oversee the education initiatives of the Navajo Nation by promoting academic excellence and culturally relevant education.
3. To oversee Navajo Nation efforts in implementing and ensuring compliance with employment and labor laws and policies of the Navajo Nation and laws relating to veteran services.
4. To oversee Navajo Nation policies and priorities to optimize the delivery of social services and health services to the Navajo people consistent with the traditional practices and customs of the Navajo People.

#### § 401. Powers

A. The Committee shall have authority and such powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the following enumerated powers:

1. To establish Navajo Nation policy, promulgate rules and regulations governing health, social services, education, human services and general government services of the Navajo Nation and its tribal organizations, entities, and enterprises.
2. To ensure compliance and implementation of laws and policies of the Navajo Nation relating to health, social services, education, general government services and human services.
3. To recommend to the Navajo Nation Council resolution(s) ~~legislation~~ for the creation of colleges, or other entities of the Navajo Nation and to recommend the amendment or rescission of such resolution(s) ~~legislation~~.
4. To grant final approval for:
  - a. Any programs offered on the Navajo Nation by off-Navajo Nation post-secondary institutions or any "nonresident" or home study post-

secondary programs for which student recruitment activities are conducted on the Navajo Nation.

- b. Approve, sanction and authorize application, reapplications, reauthorization and amendments for Indian Self-Determination and Education Assistance Act contracts and grants under the Tribally Controlled Schools Act for the operation of education programs, approval or denial of authorizations and reauthorizations shall constitute approval or denial by the Navajo Nation the Tribal Governing Body.
5. To delegate responsibilities and authorities as appropriate to the Divisions, Chapters and appropriate entities for efficiency and streamlining of government processes provided that the Committee first approves rules and regulations governing such delegations and rescission of such delegations.
  6. To review and recommend:
    - a. Resolutions ~~Legislation~~ relating to social services, health, environmental health, education, veterans and veterans services, employment and labor.
    - b. Navajo Nation agreements and contracts negotiated with federal, state, regional, and tribal governments, private and Navajo Nation health and social service authorities, including environmental health, veterans services or education services subject to applicable laws of the Navajo Nation.
    - c. A Committee budget each fiscal year.
    - d. Applications and reauthorizations by Divisions and Programs under its legislative oversight for Indian Self-Determination and Education Assistance Act contracts and grants, except for those contracts under the Tribally Controlled Schools Act identified in Section 4(b) above.

- e. The authorization and designation of a for-profit or non-profit health or social services organization as a tribal organization for purpose of contracting or compacting under the Indian Self-Determination and Education Assistance Act.
7. To represent the Navajo Nation:
    - a. At local, state and federal levels, in coordination with the President of the Navajo Nation and the ~~Naa-bik'iyáti'~~ Naabik'iyáti' Committee on proposed legislation, funding and other actions affecting health, environmental health, social services, education, veteran services, employment, training and labor.
    - b. In consultation with federal, state and local officials regarding any proposed changes in federal education legislation or educational programs, including but not limited to new schools (including charter schools), school closures, consolidation, and education budget initiatives. The Committee shall, where appropriate, seek concurrence of the ~~Naa-bik'iyáti'~~ Naabik'iyáti' Committee of the Navajo Nation Council or the Navajo Nation Council in framing official responses for the Navajo Nation to proposals for major changes in education programs, such as proposals regarding majority school closures or transfer of jurisdiction.
  8. To recommend to the Navajo Nation Council the creation of any Division or Department intended to be under the Committee's oversight by adoption of its Plan of Operation; and to rescind that Plan of Operation or an existing Plan of Operation for any Division or Department under the Committee's oversight.

**C. Oversight.**

1. To serve as the oversight committee for the Division of Health, Division of Social Services, Division of Human Resources Department of Diné Education, Division of General Services and to review, recommend or propose the adoption, amendment or rescission of its Plan of Operation.
2. To oversee all health and social service related activities of the Navajo Nation and its tribal organizations, enterprises, relating to the delivery of health, environmental health and social services including research, planning and prevention.
3. To serve as the oversight Committee of the Navajo Nation Board of Education, and colleges within the Navajo Nation.
4. To assist, support and coordinate with local communities, parent organizations and schools boards and school board organizations.
5. To oversee and to propose the establishment of any employment training center or institution under the jurisdiction of the Navajo Nation and to review, recommend or propose the adoption, amendment or rescission of its Plan of Operation.
6. To serve as the oversight authority for employment, labor, veteran services, training and vital statistics.

**§ 402. Advisors**

- A. The Department of Justice, Director of the Health and Social Services, Director of Human Resources, the Superintendent of Department of Diné Education, Navajo Area Director of Indian Health Services, Navajo Area Regional Director of Bureau of Indian Affairs, Bureau of Indian Education, and Auditor General shall serve as official advisors to the Committee and shall provide appropriate advice and counsel on all matters.

**§ 403. Meetings**

Except when the Navajo Nation Council is in session, all regular meetings of the Committee shall be held on Wednesday of each week.

**Article 3. Resources and Development Committee****§ 500. Establishment; membership; purposes:**

A. Resources and Development Committee is hereby established as a standing committee of the Navajo Nation Council.

B. The Committee shall consist of six members.

C. The Committee shall exercise oversight authority over water, land, grazing, environment, environmental protection, cultural resources, agriculture, livestock, wildlife, roads and transportation, air transportation, communications and utilities, information technology, chapter activities, economic and community development, commerce and trade, gaming, rights-of-way, minerals, public utilities, telecommunication, housing for the following purposes:

1. To establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources and to protect the rights, interests, sacred sites and freedoms of the Navajo Nation and People to such resources, now and for future generations.
2. To oversee regulation of activities on Navajo Nation lands for disposition or acquisition of resources, surface disturbance, or alteration of the natural state of the resource, including the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines, and administrative procedures in the development and use of resources as a good steward.
3. To establish policies and legislation appropriate to the housing needs of the Navajo Nation and its People.
4. To promote local community land use plans which support community infrastructural development and development of Local Government Units which enhances local self-government.

5. To promote, review, coordinates and approves projects to be financed by funds designated for capital improvement.
6. To oversee planning and coordinating of all roads and transportation activities of the Navajo Nation.
7. To establish rules, regulations and policies to streamline procedures for approval, management, and enforcement to enhance the development of the economy and increase development on the Navajo Nation.
8. To oversee planning and coordinating of all rural addressing activities of the Navajo Nation.

#### § 501. Powers

A. The Committee shall have all powers necessary and proper to exercise its purposes set forth at §500(C).

B. The Committee shall have the following enumerated powers:

1. To promulgate rules and regulations governing transportation, community development, local government units, land acquisitions for the Navajo Nation, environmental protection, and the use, sale, exchange, and development of Navajo Nation lands and/or resources, whether held in fee or trust status.
2. To grant final approval for:
  - a. All land withdrawals, non-mineral leases, permits, licenses, rights of way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.
  - b. Overall Resources Management Plan; Overall Economic Development Plan for prioritizing list for projects funded by Navajo Nation and federal funds, but development plans for individual business site leases shall not be subject to such approval; Road

- and Transportation Plan for prioritizing list for road and transportation projects; priority list for capital improvement and housing development projects funded by all funding sources; NAHASDA Indian Housing Plan; including any amendments.
- c. Resolutions Legislation to develop and improve Local Government Units.
  - d. Local ordinances enacted by Local Government Units unless otherwise provided in Title 26 of the Navajo Nation Code, other Navajo Nation law; and community based land use plans and amendments thereof.
  - e. Alternative and appropriate technological projects related to housing, community development and capital improvement projects to better serve the public and communities.
  - f. Administrative and Business Site Leasing Management Plan for the Division of Economic Development, governance certified Chapters, Townships, or an appropriate entity, including any proposed amendments, such plan must be in accordance with the Navajo Nation Business Leasing Regulations of 2005.
  - g. Plan of Operations for Division of Transportation; Division of Community Development; Division of Economic Development; Division of Natural Resources; Environmental Protection Agency; and Gaming Regulatory Office, including any amendments.
3. To delegate its final approval authority for those transactions listed in §501(B)(2)(a) to appropriate Divisions, governance certified Chapters, Townships or appropriate entity and §501(B)(2)(d) to Division of Community Development for efficiency and streamlining of government processes provided the Committee first grants final approval of rules and regulations governing such delegations and rescission of such delegations. Such rules and regulations shall include provisions for periodic review of performance for those delegated entities.

4. To review and make recommendations to the Navajo Nation Council for final approval:
  - a. Mineral agreements, land acquisitions, and energy development agreements.
  - b. Laws related to housing development, private and public facilities, including but not limited to building, construction, and utility codes.
  - c. Annual budget for capital improvement projects utilizing all sources of funds, through the budget process and supplemental appropriations to the capital improvement annual budget to fund necessary additional capital improvement projects.
  - d. Taxation proposals affecting business or commercial activities, after consultation with the Navajo Tax Commission.
  - e. Creation, reorganization, termination or "privatization" of any enterprise, as such, the Committee shall periodically receive reports and review the operations of the Navajo Nation enterprises, authorities, and industries.
  - f. All other resolutions ~~legislation~~ requiring Navajo Nation Council approval to accomplish or impact the Committee purposes.
5. To represent the Navajo Nation at local, state, and federal levels, in cooperation and coordination with the President of the Navajo Nation and the appropriate committee of the Navajo Nation Council on proposed resolutions ~~legislation~~ or actions affecting natural resources; energy resources; economic and community development; road and transportation matters; capital improvement projects, including recommending approval of the annual capital improvement projects budget of the Bureau of Indian Affairs, Indian Health Services and other departments or agencies of the United States; and housing development.

6. To coordinate with:
  - a. The President of the Navajo Nation and appropriate Division or program, to lobby the state, federal, and other agencies relating to this Committee's purposes.
  - b. The Budget and Finance Committee and lending institutions on matters relative to housing loans for enrolled members of the Navajo Nation residing within the Navajo Nation.
  - c. Appropriate committees of the Navajo Nation Council to do all things necessary and proper to create an independent financial institution designed to provide credit and financing to the Navajo Nation business community.
7. To report to the Navajo Nation Council, studies of natural resources for the protection and efficient, utilization, management, administration, and enhancement of such resources and to approve consultants for such studies.
8. To review and require reports from appropriate officials on progress of capital improvement projects, including periodic reports from the Controller of the Navajo Nation concerning the fund status of capital improvement projects.
9. To grant final confirmation of appointments to enterprise boards; Navajo Nation Water Rights Commission; and entities under the authority of the Committee requiring appointments.
10. To recommend to the Navajo Nation Council the creation of any Division or Department intended to be under the Committee's oversight by adoption of its Plan of Operation; and to rescind the Plan of Operation or an existing Plan of Operation for any Division or Department under the Committee's oversight.

11. The Committee shall have the authority to delegate its responsibilities and authorities as appropriate for efficiency and streamlining of government process to the Standing Committee, Divisions, Chapters, and appropriate entities provided that the Committee first approves rules and regulations governing such delegations and to rescind delegations.
12. To review and recommend to the Naabik'itati Naabik'iyáti' Committee Intergovernmental Agreements and Agreements between the Navajo Nation and any governmental entity relating to economic development, community development, natural resources, roads and transportations, environmental protection and gaming for efficiency and timely comparison of those projects.
13. To prepare and recommend approval of a Committee budget each fiscal year.

### C. Oversight

1. The Committee shall serve as oversight committee of the Division of Natural Resources, including, District Grazing Officers, Eastern Navajo Land Board, Farm Boards, Soil and Water Conservation Districts, including grazing issues to accomplish duties set forth in 3 N.N.C. §§ 832 and 852; Division of Community Development; Chapters; Division of Economic Development; Division of Transportation; Environmental Protection Agency; except as otherwise delegated by Navajo Nation law; and legislative oversight to the Gaming Regulatory Office.
2. The Committee shall periodically review the overall function of those listed in 501(C)(1) to ensure that the purpose and objectives are properly and timely achieved.

### § 502. Advisors

A. Advisors to the Committee shall include the Executive Directors of the Division of Natural Resources, Division of Community Development, Division of Transportation, and Division of Economic

Development, Environmental Protection Agency; the Department of Justice; the Controller of the Navajo Nation; the Office of Auditor General; the Eastern Navajo Land Board, the General Manager of the Navajo Tribal Utility Authority; the Navajo Area Director of Indian Health Service and Navajo Regional Director of Bureau of Indian Affairs; and other personnel from appropriate agencies.

### § 503. Meetings

A. Meetings shall be held on Tuesday of each week.

## Article 4. Law and Order Committee

### § 600. Establishment; membership; purposes

A. The Law and Order Committee is hereby established as a standing committee of the Navajo Nation Council.

B. The Committee shall consist of five members.

C. The Committee shall use Nitsáhákees, Nahat'á, Iiná and Siihásin in exercising legislative oversight over courts, administrative legal tribunals, criminal defense, legal defense of the indigent, juvenile justice, corrections, law enforcement, emergency management, for the following purposes:

1. To improve the administration of justice on the Navajo Nation by ensuring a justice system that is independent from political influence and that is accountable and responsible to the Navajo Nation in its administration and operations. Justice system includes the Judiciary Branch and all administrative legal tribunals.
2. To protect the rights and interests of the Navajo People by improving the quality and effectiveness of the justice system within the Navajo Nation.
3. To establish and develop the Navajo Nation justice system infrastructure including justice system facilities and to promote institutional planning and coordination among and between justice-system-related entities.

4. To enhance cooperation and coordination between Navajo Nation courts and courts of the various states and the federal government including their administrative legal tribunals.
5. To enhance the operations and coordination of all departments within the Navajo Division of Public Safety in order to increase the availability, quality, and effectiveness of public safety services on the Navajo Nation.
6. To enable the Navajo Nation to more effectively provide efficient public safety services on the Navajo Nation.
7. To support effective cooperation and coordination between Navajo Nation law enforcement agencies and that of the various states and federal government law enforcement agencies.
8. To enhance juvenile justice programs through coordination with appropriate Committees, the Judicial Branch, Executive Branch programs, and federal, state, tribal and local governmental agencies.

#### § 601 Powers

- A. The Committee shall have all prudent powers necessary and proper to exercise its purposes set forth above.
- B. The Committee shall have the following enumerated powers:
  1. To grant final approval for:
    - a. Agreements negotiated by justice systems entities, administrative legal tribunals and public safety programs with other federal, state, international, tribal, regional, and local governmental agencies, subject to ~~Naa-bik'iyáti~~ Naabik'iyáti' Committee approval when required by law.
    - b. Qualification standards for judges and justices of all courts and administrative tribunals of the Navajo Nation and the application process to determine the most qualified candidate.

2. To delegate responsibilities and authorities as appropriate for efficiency and streamlining of government processes to the Division, local government units, and appropriate entities provided that the Committee first approves rules and regulations governing such delegations and to rescind such delegations.
3. To review and evaluate the performance of probationary and permanent judges and justices.
4. To review and approve plans of operation for all divisions, departments and programs under the Committee's oversight authority and to amend or rescind such plans of operation.
5. To review and make recommendations to the Navajo Nation Council for final approval:
  - a. Removal of a permanent judge or justice.
  - b. Resolutions ~~Legislation~~ requiring Council approval to accomplish or impact the Committee purposes.
6. To determine, with the approval of the Navajo Nation Council, qualifications to be required of judges and justices of the Navajo Nation.
7. To provide a process for accepting applications for judicial positions and for determining the most qualified candidates.
  - a. Upon screening all eligible applicants; the Committee shall recommend to the President of the Navajo Nation a panel of qualified candidates for appointment as Probationary Chief Justice, Associate Justices of the Supreme Court and Probationary Judges of the lower courts, and all other judicial positions within the Navajo Nation may create.

- b. The President shall appoint probationary Justices and Judges only from among those named in the panel submitted by the Committee. Probationary Justices or Judges shall be confirmed by the Navajo Nation Council.
8. To review and evaluate the performance of probationary and permanent Justices and judges.
9. To recommend to the President of the Navajo Nation the removal of Probationary Justices and Judges prior to their permanent appointment.
10. To recommend to the President the permanent appointment of Probationary Justices and Judges.
  - a. The President shall not appoint to a permanent position any Justice or Judge not recommended by the Judiciary Committee.
  - b. The appointment of permanent Justices and Judges shall be confirmed by the Navajo Nation Council.
11. To present directly to the Navajo Nation Council the issue of permanent appointment of any Probationary Justice or Judge whom the committee and the Chief Justice have recommended for permanent appointment and which recommendation the President of the Navajo Nation has failed to convey to the Navajo Nation Council within sixty (60) days of receiving the recommendation.
12. To recommend to the Navajo Nation Council the removal of permanent Justices or Judges.
13. To represent the Navajo Nation, at local, state, and federal levels, in coordination with the President of the Navajo Nation, appropriate committee of the Navajo Nation Council and the Chief Justice in advocating for legislation, funding or actions relating to the justice systems, administrative legal tribunals and public safety activities.

14. To review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code.
15. To review, amend, recommend and submit the annual budget for programs under the oversight of the Committee to the Budget and Finance Committee and to the Navajo Nation Council.
16. To prepare and recommend approval of a committee budget each fiscal year.
17. To recommend to the Navajo Nation Council the creation of any Division or Department intended to be under the Committee's oversight by adoption of its Plan of Operation; and to rescind that Plan of Operation or an existing Plan of Operation for any Division or Department under the Committee's oversight.

#### C. Oversight.

1. To serve as the oversight committee for the Judicial Branch of the Navajo Nation, all administrative legal tribunals including but not limited to the Navajo Nation Labor Commission and the Office of Hearings and Appeals, Office of the Public Defender, Office of the Prosecutor, Division of Public Safety, and Office of Ethics and Rules.
2. To serve as the oversight committee for the Department of Justice, unless otherwise designated by Navajo Nation law, and to approve and amend Plans of Operation thereto.
3. The Committee shall periodically review the overall function of the programs over which it has oversight.

#### § 602. Advisors

Advisors to the Committee shall include Executive Director for Division of Public Safety, Department of Justice, Legislative Counsel, Auditor General, Chief Prosecutor and Chief Public Defender.

## § 603. Meetings

Meetings shall be held on Monday of each week.

Article 5. ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee

## § 700. Establishment; purposes

A. ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee is hereby established as a standing committee and it shall use Nitsáhákees, Nahat'á, Iiná and Siihasin in exercising oversight authority (including the authority to promulgate rules and regulations): to confirm all appointments to boards and commissions, ~~to recommend an agenda for Navajo Nation Council sessions,~~ to approve the plan of operation for the legislative branch, to coordinate with all committees the appearance and testimony before non-Navajo government federal, state or other entities, to provide for the compilation and publication of all Navajo Nation laws, rules and regulations, to appoint directors of legislative offices not otherwise provided for by law, and other related matter.

B. The Chairperson of the committee shall be the Speaker of the Navajo Nation Council. In the absence of the Speaker, the members shall nominate and vote on a chairperson pro tem to conduct the meeting and to sign only the documents or legislation approved by the committee while presiding.

C. The Naabik'iyáti' Committee shall meet at least once per month at the call of the Chairperson on the second and fourth Thursday of each month until such time as the Committee adopts an annual meeting schedule and posts such schedule on the Council's website.

D. A quorum of the committee shall be satisfied by the presence of two (2) members of each Standing Committee or a majority of delegates of the Navajo Nation Council. The physical presence of a quorum is only required to call the meeting to order and for any vote affecting resolution. A quorum is not required for committee vote on acceptance of a report(s).

E. All vetoed resolutions ~~legislation~~, upon the request of a sponsor for an override vote, shall be referred to ~~Naa'bik'iyáti'~~ Naabik'iyáti' Committee, and the committee may invite the President to discuss his reasons for the veto. Upon consensus with the President, a new resolution ~~legislation~~ may be ordered.

F. Proposed amendments may be developed in the committee to reach consensus before a formal Council action.

G. A recorded vote may be taken to determine if a resolution ~~legislation~~ shall proceed to the Council or be referred back to a standing committee.

#### § 701. Powers

A. The Committee shall have the following enumerated powers:

1. To give final confirmation of appointments to boards, commissions, and colleges, unless otherwise provided by law.
2. To oversee the conduct and operations of entities of the Navajo Nation not otherwise under the oversight authority of other standing committees, except that such oversight shall not interfere with the prerogative or business decisions of management and governing boards.
3. To recommend resolutions ~~legislation~~ to Navajo Nation Council on matters within the Committee's jurisdiction.
4. To coordinate all federal, county and state programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation.
5. To serve as the oversight committee for the Office of Legislative Services and other offices, programs, commissions, boards or task forces under the Legislative Branch of the Navajo Nation government, unless otherwise designated by Navajo Nation law, and to approve and amend plans of operation thereto.
6. To assist and coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation.

7. To review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments.
8. To coordinate with all committees, Chapters, branches and entities concerned with all Navajo appearances and testimony before Congressional committees, departments of the United States government, state legislatures and departments and county and local governments.
9. To recommend to United States departments and agencies, the states and various regional agencies the appointment of individuals who, in the judgment of the Committee, will fulfill the requirements of their office and serve the interests of the Navajo Nation.
10. To review and approve the negotiation and setting of the Navajo Nation's indirect cost or administrative cost rate agreements with the cognizant federal agent. When in the best interest of the Nation, the Committee may waive the indirect cost or administrative cost rate when:
  - a. The division, department or program requesting the waiver demonstrates a statutory and/or regulatory requirement that limits the indirect cost or administrative cost rate available for a particular grant or contract, or
  - b. There is a showing of necessity and a commitment of available general funds by the division, department or program requesting the waiver which is available to offset the loss in indirect costs or administrative costs.
  - c. Chapters meeting these requirements will not be subject to any administrative costs assessed by the central government.
11. To review and approve the distribution of funds appropriated or allocated to assist enrolled Navajos residing outside the Navajo Nation.

12. To authorize, review, approve and accept any and all contracts, grants and associated budgets with the United States, its departments and agencies for the implementation of the Indian Self-Determination and Education Assistance Act, as amended, upon the recommendation of the standing committee which has oversight of the division, department or program applying for the contract and/or grant.

13. To prepare and recommend approval of a Committee budget each fiscal year.

B. The Committee shall have the authority to delegate its responsibilities and authorities as appropriate for efficiency and streamlining of government processes to the Standing Committees, Divisions, Chapters and appropriate entities provided that the Committee first approves rules and regulations governing such delegations and to rescind delegations.

#### Section 5. References to previous Standing Committees

A. References in the Navajo Nation Code and other official documents to the Government Services and Intergovernmental Relations Committees shall mean the Naa'biik'iyati Naabik'iyáti' Committee, unless the amendments enacted herein or the context of previous law indicates otherwise.

B. References in the Navajo Nation Code and other official documents to the Resources, Transportation and Community Development and Economic Development Committees shall mean the Resources and Development Committee, unless the amendments enacted herein or the context of previous law indicates otherwise.

C. References in the Navajo Nation Code and other official documents to the Public Safety and Judiciary Committees shall mean the Law and Order Committee, unless the amendments enacted herein or the context of previous law indicates otherwise.

D. References in the Navajo Nation Code and other official documents to the Human Services, Health and Social Services and Education Committees shall mean the Human Development Committee, unless the context indicates otherwise.

E. As provided by the amendments enacted herein, previous agenda functions of the Ethics and Rules Committee shall be transferred to the ~~Naabik'iyati~~ Naabik'iyáti' Committee; previous hearing functions of the Ethics and Rules Committee under the Navajo Ethics in Government Law, 2 N.N.C. §§ 3741 et. seq. shall be delegated to the Office of Hearings and Appeals. All references to the Ethics and Rules Committee in the Navajo Ethics in Government Law shall accordingly mean the Office of Hearings and Appeals.

#### Section 6. Review

The Navajo Nation Council shall review the powers and operation of each standing committee by the end of the second year of the 22<sup>nd</sup> Council and make recommendations for improvements.

#### Section 7. Effective Date

The amendments made to 2 N.N.C. § 106 (B) may be subject to the requirements of 2 N.N.C. § 106 (A). Other amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

#### Section 8. Codification

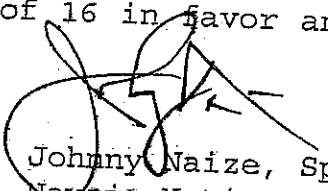
The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

#### Section 9. Saving Clause

Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those provisions of the Act which are not determined invalid shall remain the law of the Navajo Nation.

## CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 16 in favor and 0 opposed, this 16<sup>th</sup> day of October, 2012.

  
Johnny Naize, Speaker  
Navajo Nation Council

Nov. 02, 12

Date

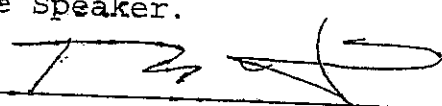
Motion: Honorable Walter Phelps  
Second: Honorable Kenneth Maryboy

## ACTION BY THE NAVAJO NATION PRESIDENT:

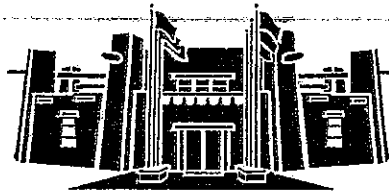
1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
Ben Shelly, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this 15<sup>th</sup> day of November 2012 for the reason(s) expressed in the attached letter to the Speaker.

  
\_\_\_\_\_  
Ben Shelly, President  
Navajo Nation


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



Johnny Naize  
Speaker of the Navajo Nation Council

## MEMORANDUM

TO: Johnny Naize, Speaker  
22<sup>nd</sup> Navajo Nation Council

FROM:   
Edward A. McCool,  
Acting Chief Legislative Counsel  
Office of Legislative Counsel

DATE: October 31, 2012

SUBJECT: Review of Legislation CO-45-12

I have reviewed the above listed legislation as adopted by Council and based on the accompanying Committee Reports it is in order and warrants your certification as Speaker of the Navajo Nation Council and forwarding to the President for signature.

If you have any questions regarding this matter, please let me know.

Thank you.

22<sup>nd</sup> NAVAJO NATION COUNCIL

Second Year 2012

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

**NAVAJO LEGISLATIVE BILL # 0126-12:**

An Action Relating to the Budget and Finance, Health, Education and Human Services, Resources and Development, Law and Order and the Naabikiyati Committee; Adopting the "Navajo Nation Title 2 Reform Act of 2012" Amending Certain Sections of the Navajo Nation Code at Title 2, Sections 104,106, 107, 110, 162, 163, 164, 181, 183, 184, 187, 192, 285, 300, 301, 201, 401, 403, 501, 503, 601, 603, 700, 700 *Sponsored by the Honorable Leonard Tsosie, Council Delegate with Honorable Jonathan Nez, Jonathan Hale, and Dwight Witherspoon, Council Delegates*

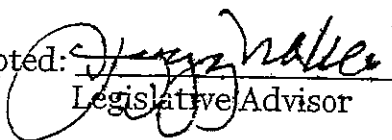
has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And therefore, referred to the **HEALTH, EDUCATION AND HUMAN SERVICES** Committee

Respectfully submitted,



LoRenzo Bates, Chairman

Adopted:   
Legislative Advisor

Not Adopted: \_\_\_\_\_  
Legislative Advisor

Date: **6 April 2012**

The vote was **5** in favor **0** opposed

Excused:

Absent:

LAW AND ORDER COMMITTEE  
22<sup>nd</sup> NAVAJO NATION COUNCIL

SECOND YEAR 2012

COMMITTEE REPORT

Mr. Speaker,

The LAW AND ORDER COMMITTEE to whom has been assigned:

NAVAJO LEGISLATION NO. 0126-12

An Action Relating to Budget and Finance, Health Education and Human Services, Resources Development, Law and Order and the Naabik'Iyati; Adopting the "Navajo Nation Title 2 Reform Act of 2012" Amending Certain Sections of the Navajo Nation Code at Title 2, Sections 104, 106, 107, 110, 162, 163, 164, 169, 181, 183, 184, 187, 189, 192, 285, 300, 301, 201, 401, 403, 501, 503, 601, 603, 700, 700. (Sponsor: Honorable Leonard Tsosie and Co-Sponsors: Dwight Witherspoon, Jonathan Nez and Jonathan L. Hale)

Has had it under consideration and reports the matter was **TABLED** without amendments.

and therefore referred to **RESOURCES & DEVELOPMENT COMMITTEE.**

Respectfully submitted,



Alton Joe Shepherd, Vice- Chairperson  
Law and Order Committee of the  
22<sup>nd</sup> Navajo Nation Council

Date: April 9, 2012

The vote was 3 in favor and 0 opposed.

Motion: Elmer P. Begay

Second: Russell Begaye

NAA'BIK'IYATI' COMMITTEE REPORT  
22<sup>ND</sup> NAVAJO NATION COUNCIL - SECOND YEAR 2012

Mr. Speaker:

The NAA'BIK'IYATI' COMMITTEE to whom has been assigned:

LEGISLATIVE NO. 0126-12  
Introduced by Honorable Leonard Tsosie

AN ACTION

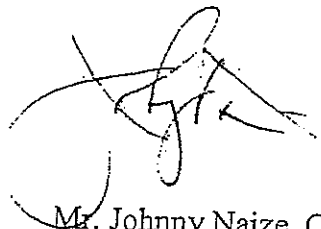
Relating to the Budget and Finance, Health, Education and Human Services, Resources and Development, Law and Order and the Naabik'iyati' Committee: Adopting the "Navajo Nation Title 2 Reform Act of 2012" Amending Certain Sections of the Navajo Nation Code at Title 2, Sections 104, 106, 107, 110, 162, 163, 164, 169, 181, 183, 184, 187, 189, 192, 285, 300, 301, 201, 401, 403, 501, 503, 601, 603, 700, 700

Has had it under consideration and reports the same with a Tabling Motion for Work Session in a couple of weeks.

And thence referred to the Navajo Nation Council.

CERTIFICATION

I, hereby certify that the foregoing legislation was duly considered by the Naa'bik'iyati' Committee of 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 *Tabled for a Work Session* with a vote of 12 in favor and 2 opposed this 15<sup>th</sup> day of June 2012.



Mr. Johnny Naize, Chairperson  
Naa'bik'iyati' Committee

MOTION: Danny Simpson  
SECOND: Joshua Butler

22<sup>nd</sup> NAVAJO NATION COUNCIL

Third Year 2013

Mr. Speaker:

The **NABIKIYATI COMMITTEE** to whom has been assigned

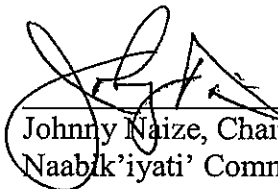
**NAVAJO LEGISLATIVE BILL # 0497-12**

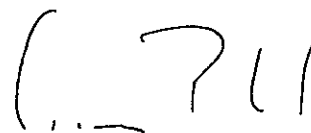
An Action Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-45-12 *Sponsor: Honorable Leonard Tsosie*

has had it under consideration and reports the same with the recommendation that it **Do Pass** without amendment.

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

Respectfully submitted,

  
\_\_\_\_\_  
Johnry Naize, Chairman  
Naabik'iyati' Committee

Adopted:   
\_\_\_\_\_  
Tom Platero, Executive Director  
Office of Legislative Services

Not Adopted: \_\_\_\_\_

17 January 2013

The vote was 12 in favor 0 opposed  
Motion: Lorenzo Curley  
Second: Leonard Pete

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

22<sup>nd</sup> NAVAJO NATION COUNCIL - Third Year, 2013

AN ACTION

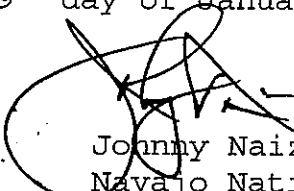
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO  
NATION COUNCIL RESOLUTION CO-45-12

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 29<sup>th</sup> day of January, 2013.

  
Joanny Naize, Speaker  
Navajo Nation Council

Jan 30, '13

Date

Motion: Honorable Walter Phelps  
Second: Honorable Jonathan Hale

A. No claims for injury or death shall be allowed unless filed with the Workers' Compensation Program within one year from the date of occurrence.

B. Claims for occupational disease shall be made within one year from date of diagnosis by a physician accepted by the Workers' Compensation Program; but in no event, longer than five (5) years from the date of last injurious exposure related to the occupational disease.

### § 1023. Burden of proof

The burden of proof, except as set forth in 15 N.N.C. § 1024, shall rest upon the covered claimant to prove that:

A. The injury complained of or death was a result of an accident or occupational disease; and

B. It arose in the course and scope of his or her employment.

### § 1024. Presumptions

When a covered worker is found dead by accident under circumstances indicating that the accident took place within time and place limits of employment and no clear and convincing evidence is present to exclude coverage as provided herein, it shall be presumed that his or her death occurred in the course and scope of employment and compensation shall be paid pursuant to this Act.

### § 1025. Acting under employer's directions

Any covered person who is injured or killed while following the directions of his or her employer shall be considered to have been in the course and scope of his or her employment in furtherance of the employer's interest and shall be entitled to compensation.

### § 1026. Going to and returning from work

A. An accident occurring to a covered worker while on the way to or from work is not within the course and scope of his or her employment unless such traveling is in connection with his or her work from the time his or her travel starts or ends either at his or her place of work or his or her home. An accident will not be considered to be in the course and scope of employment if the worker deviates from a reasonably direct route of travel, not in the interest of the employer, or during other activities within the travel, not necessitated by the employment activity and not in the interest of the employer. Travel shall be considered to be in connection with his or her work if the travel is undertaken to advance the business purposes of the employer or is specifically ordered by the covered worker's supervisor.

B. A covered worker shall be considered to be on the employer's premises, and at work, when he or she enters the employer's property at the covered worker's duty station, or when he or she has parked in a customary parking area for employees, if any.

### § 1027. Aggravation of preexisting condition

A. If a covered worker is suffering from a preexisting condition at the time an accident occurs and the preexisting condition is aggravated thereby, the worker is eligible for compensation.

B. The amount of the award for that disability as set forth in 15 N.N.C. § 1052 may be reduced or denied in its entirety by the Workers' Compensation Program in consideration of the difference between the degree of disability of the claimant before the accident or occupational disease and the claimant's present degree of disability.

#### **§ 1028. Occupational disease**

A. An occupational disease, as defined in 15 N.N.C. § 1002(A) (22), shall be eligible for compensation if:

1. There is a direct causal connection between the conditions under which the work is performed and the occupational disease, and;
2. The occupational disease can be seen to have followed as a natural consequence of the work and as a result of the exposure occasioned by the nature or circumstances of the employment.

B. Disability caused by repetitive motion or exposure shall be treated as an occupational disease and shall be deemed to have occurred on the date when a health care provider first determines that a work injury or occupational disease has occurred.

#### **§ 1029. Unsanitary or injurious practices**

The Workers' Compensation Program may suspend the compensation of a claimant who knowingly persists in unsanitary or injurious practices tending to imperil or retard his or her recovery and no compensation shall be payable during or for such period.

#### **§ 1030. Substance abuse related injury or death**

No compensation of any kind shall be paid for any injury or death substantially related, as defined in 15 N.N.C. § 1031, to the intentional use or abuse, by the covered worker, of alcohol, controlled substances or chemicals.

#### **§ 1031. Determination of substance abuse**

The use or abuse of alcohol, controlled substances or chemicals shall be deemed substantially related to an injury or death if:

A. Objective testing of the breath, blood or urine of the covered worker demonstrates the use or abuse of alcohol, controlled substances or chemicals and any competent evidence establishes that it is more probable than not that the use or abuse of alcohol, controlled substances or chemicals contributed to the occurrence of the accident that caused the injury or death to the covered worker; or

B. Subjective observations of the covered worker by co-workers, supervisors, medical or emergency personnel or other witnesses, the statements, behavior or actions of the covered worker or other direct or circumstantial evidence establishes by clear and convincing evidence that the covered worker's use or abuse of alcohol, controlled substances or chemicals contributed to the occurrence of the accident that caused the injury or death to the covered worker; or

C. Such use or abuse of alcohol, controlled substances or chemicals, by the covered worker resulted in a criminal conviction by any lawful jurisdiction.

**§ 1032. Injury or death by act of God or natural causes**

A. Injury or death deemed an "Act of God" which arises within the course and scope of employment shall be considered compensable.

B. Except for circumstances covered by 15 N.N.C. § 1024, injury or death which results from natural causes, i.e., heart attack, stroke, or other natural body function failures, is compensable only if:

1. The body function failure was occasioned by a sudden and discernable event;
2. The sudden and discernable event occurred in the course and scope of work; and
3. There is credible medical evidence that the sudden and discernable event caused the body function failure.

C. Accidental injuries resulting from an un-compensable body function failure may be compensable if there is credible medical evidence that the body function failure caused the accidental injury.

D. For purposes of this Section, "sudden and discernable event" means a shocking, or physically or emotionally demanding occurrence that causes an identifiable action or reaction by a covered worker.

**§ 1033. Periodic medical examination of claimant; effect of refusal or obstruction of examination or treatment**

A. A claimant entitled to compensation shall submit himself or herself for medical examination or treatment selected and paid for by the Workers' Compensation Program from time to time if and when requested by the Workers' Compensation Program.

B. The request for the medical examination or treatment shall fix a time and place having regard to the convenience of the claimant, his or her physical condition and ability to attend.

C. If the claimant refuses to submit to the medical examination or treatment or obstructs the examination or treatment, his or her right to compensation shall be suspended until the claimant submits to the examination or treatment, and no compensation shall be payable during or for such period.

D. Any health care provider who conducts or is present at the medical examination or treatment may be requested by the Workers' Compensation Program to provide evidence as to the result thereof; and the reasonable cost of this activity shall be at the expense of the Workers' Compensation Program.

**§ 1034. Liability of third person to claimant; subrogation powers**

A. Subject to 15 N.N.C. § 1015, a claimant receiving compensation under this Act may pursue his or her remedy for injury or death caused by the negligence or wrong doing of a person or business entity other than the Navajo Nation, its enterprises, political subdivisions, officials, or employees.

B. The Navajo Nation shall have the right of subrogation for the amount of compensation and administrative costs paid or incurred under this Act.

C. If the claimant entitled to compensation under this Act does not pursue a remedy against such person or business by instituting an action within the applicable statute of limitations for the cause of action, the claim against such person or business may be brought by the Navajo Nation. Such a claim shall be controlled by the Navajo Nation and shall be limited to the compensation and administrative costs paid or incurred.

D. If a claimant proceeds against such other person or business, compensation shall be paid as provided in this Act and the Navajo Nation shall have a lien on the amount actually collectable from such other person or business to the extent of such compensation and administrative costs paid or incurred.

E. Compromise of any claim by the claimant at an amount less than the compensation paid shall be made only with written approval by the supervisor of the Workers' Compensation Program.

#### **§ 1035. Waiting period**

Indemnity benefits shall be paid under the provisions of this Act only for an injury which results in the claimant's disability for more than three (3) working days. If the period of the claimant's disability lasts for more than fourteen (14) days from the date of his or her injury, indemnity benefits shall be paid from the date of disability.

#### **§ 1036. Limitation on indemnity benefits**

A claimant may not recover indemnity benefits for the period of time that he or she is compensated by paid leave. No indemnity benefits shall be paid that result in a claimant receiving more than one hundred (100%) percent of his or her regular earnings. Paid leave time taken shall apply against the waiting period for indemnity payments.

#### **§ 1037. Temporary total disability**

A. Temporary total disability shall be paid at sixty-six and two-thirds (66-2/3%) percent of the "average weekly wage" to a maximum of six hundred fifty (\$650.00) dollars per week.

B. Persons defined in 15 N.N.C. §1002(A) (12), without other regular employment covered by this Act, shall be deemed to be compensated at the prevailing Navajo Nation minimum wage, subject to the formula established in 15 N.N.C. §1002(A) (5).

C. When considering the average weekly wage, as defined in 15 N.N.C. § 1002(A) (5), where, for exceptional reasons, the method would be unfair, either to the claimant or the employer, such other method of computing average weekly wage may be utilized as will most nearly approximate the amount which the claimant would be earning were it not for the disability.

D. Notwithstanding any other provisions, the minimum temporary total disability payment for all claimants eligible for temporary total disability benefits shall be sixty-six and two-thirds (66-2/3%) percent of the applicable Navajo Nation minimum wage multiplied by forty (40) hours.

### § 1038. Condition stable and rateable; termination of benefits

When a claimant's injury reaches maximum medical improvement as defined in 15 N.N.C. §1002(A) (19):

- A. The claimant's injury shall be considered stable and rateable;
- B. The Workers' Compensation Program shall solicit a medical rating of permanent impairment, if any, with respect to the claimant.
- C. Upon receipt of the impairment rating, or determination that there is no permanent impairment, the Workers' Compensation Program shall issue written notification of:
  - 1. The permanent impairment, if any;
  - 2. The amount payable to the claimant pursuant to 15 N.N.C. § 1052; and
  - 3. A notice that temporary total disability, pursuant to 15 N.N.C. § 1037, or temporary partial disability, pursuant to 15 N.N.C. § 1005 (B), shall terminate thirty-five (35) calendar days after the date the notice is mailed to the claimant.
- D. In the event the claimant contests the accuracy or appropriateness of the impairment rating utilized by the Workers' Compensation Program, the claimant may obtain an alternate impairment rating from a physician at his or her own expense and have the alternate impairment rating considered by the Workers' Compensation Program. Any additional costs associated with the alternate impairment rating shall be paid by the claimant.
- E. The Workers' Compensation Program shall tender the payment to the claimant and provide written notice at the end of the thirty-five (35) calendar day termination period.
- F. Nothing in this section shall affect the continued receipt of medical care and examinations, prescriptions or maintenance of artificial members that have been approved by the Program.

### § 1039. Notice by claimant of relocation

A claimant shall give notice to the Workers' Compensation Program of any relocation that affects the delivery of compensation. The Workers' Compensation Program shall make reasonable accommodations to ensure that compensation is not compromised and that costs to the Workers' Compensation Program are not unduly increased. Claimant's failure to give notice as required by this Section, or to maintain contact with the Workers' Compensation Program during any period of relocation, may result in the suspension or forfeiture of benefits during such period.

### § 1040. Benefits payable upon death

If an injury or occupational disease sustained by a covered worker proximately results in his or her death within two (2) years following his or her injury or diagnosis of occupational disease, compensation shall be paid to the persons entitled thereto, as follows:

- A. If there are eligible dependents at the time of the covered worker's death, payment shall consist of a lump sum, or at the claimant's election a structured settlement, as set forth in 15 N.N.C. § 1052 (C)(5) and (D)(2), and the direct payment of funeral expenses not to exceed seven thousand (\$7,000) dollars; or

B. If there are no eligible dependents, compensation shall be limited to direct payment of funeral expenses, not to exceed seven thousand (\$7,000) dollars, and the compensation benefits due up to the time of his or her death, payable to the estate of the deceased.

#### § 1041. Line of dependency; payment of benefits

A. The line of dependency for benefits payable upon death shall be in the order set out below, provided each qualifies as a dependent as defined in 15 N.N.C. § 1002(A) (13):

1. First to the surviving widow or widower, if there are no children. If dependent children exist at time of covered worker's death, payment is to widow or widower, subject to the provisions of 15 N.N.C. § 1042;
2. If no surviving widow or widower, to a dependent child, one hundred (100%) percent of benefits payable upon death; or if more than one (1) dependent child, to be equally distributed among such dependent children;
3. To a parent or parents, if no surviving widow or widower or eligible children, if dependent upon the deceased covered worker, one hundred (100%) percent of benefits payable upon death if only one (1) parent; to be divided equally between both parents if both are dependent upon the deceased covered worker; or
4. If there are no eligible dependent widow or widower, children or parents, the benefits payable upon death shall be equally distributed among all other eligible dependents.

B. If a minor covered worker has no other dependents, his or her parent(s), guardian(s), or adoptive parent(s) are entitled to benefits payable upon death as defined in 15 N.N.C. § 1040 (A).

#### § 1042. Apportionment of compensation

Compensation to a dependent widow or widower shall be for the use and benefit of the widow or widower and the dependent children; and the Workers' Compensation Program may, at the time of award, apportion the compensation between them in such a way as it deems best for the interest of all dependents.

#### § 1043. Artificial members

In all cases where the injury is such as to permit the use of artificial members, including teeth and eyes, the Workers' Compensation Program shall pay all reasonable expenses connected with the artificial member.

#### § 1044. Replacement of artificial members

The Workers' Compensation Program shall, during the life of a claimant, replace or repair any artificial member or members, including dentures and artificial eyes that were originally provided to the claimant by the Workers' Compensation Program. Replacement or repair shall not be made if the claimant fails to use reasonable care in the maintenance of his or her artificial member(s).

#### § 1045. Hernia; operations

A. A claimant, in order to be entitled to compensation for a hernia, must prove that:

1. The hernia is of recent origin;
2. This appearance was accompanied by pain;

3. This was immediately preceded by some accidental strain suffered in the course and scope of employment; and
4. It did not exist prior to the date of the alleged injury.

B. If the claimant, after establishing his or her right to compensation for a hernia, as provided above, elects to be operated upon, the operating fee and reasonable hospital expenses shall be paid by the Workers' Compensation Program. If the claimant elects not to be operated upon and the hernia becomes strangulated, the results of the strangulation shall not be compensated.

#### § 1046. Disfigurement benefits

A. An additional sum not to exceed two thousand five hundred (\$2,500) dollars may be paid to a claimant for serious permanent disfigurement resulting from an injury. An award will be made as the Workers' Compensation Program deems just. Disfigurement benefits shall not be paid in the event of the claimant's death.

B. For the purpose of this Section, "disfigurement" shall mean limping, scarring, abnormality or other sign of injury that is clearly visible, after all reasonable medical steps and corrections accepted by the claimant have been completed. The degree of disfigurement shall be determined by the degree of public visibility, the degree of marring of the body and the degree of other visible effects of the injury.

#### § 1047. Vocational rehabilitation services

A. In addition to the compensation provided, a claimant who is unable to resume his or her former job because of his or her injury may receive reasonable vocational rehabilitation services, including counseling and training, as the Workers' Compensation Program deems necessary to restore him or her to suitable employment. This additional benefit shall not exceed five thousand (\$5,000) dollars and direct payments to service providers shall be made wherever possible.

B. The Workers' Compensation Program may impose additional requirements for initial and continued receipt of vocational rehabilitation benefits in compliance with the Workers' Compensation Program rules and regulations governing vocational rehabilitation.

C. The Workers' Compensation Program, the employer and the claimant may enter into an agreement for the utilization of vocational rehabilitation for which the claimant is qualified, pursuant to this Section, for the following purposes:

1. Partial payment of wages during a period of on-the-job training necessary to return a claimant to work in a job different from that in which he or she was injured, provided that:
  - a. The period of on-the-job training may not exceed ninety (90) calendar days; and
  - b. The employer must act in good faith with regard to the permanent retention of the worker after the on-the-job training period has ended.
2. Purchase of equipment, tools or modifications to the work place to provide a claimant with necessary accommodations for return to work in his or her prior position or a new position.

#### § 1048. Eyewear

The Workers' Compensation Program shall pay for frames and/or lenses of a like kind and quality which were damaged as a result of a compensable injury to the claimant during the course and scope of his or her employment, but shall not pay for eye examinations unless there is a potential injury to the claimant's eye(s) from the accident.

**§ 1049. Clothing**

A claimant who incurs damages to an article of clothing worn during an accident which results in a compensable injury shall be paid for replacement clothing of a like kind and quality.

**§ 1050. Travel for treatment**

A. A claimant shall be compensated for travel, meals and lodging to receive authorized treatment at the prevailing rate for travel reimbursement paid by the Navajo Nation at the time of the travel.

B. Actual mileage shall be paid based upon written statements of odometer readings submitted by the claimant, or by mileage shown on mileage charts recognized by rules adopted by the Workers' Compensation Program, from the actual place of departure to the location of the medical appointment, and return.

C. Meals and lodging shall be paid or reimbursed for claimant only, unless his or her condition warrants a relative or other person to assist; payment or reimbursement for this additional person shall be at the discretion of the Workers' Compensation Program.

D. Reasonable land or air ambulance charges for claimant shall be recognized and payable under this Act only if approved by the Workers' Compensation Program.

E. All claims for travel reimbursement must be supported by detailed receipts showing specific charges. All requests for travel advances shall be submitted in writing on a form approved by the Workers' Compensation Program and shall be paid only if approved by the Workers' Compensation Program.

**§ 1051. Indemnity benefits exempt from creditors and writs**

A. Except for amounts due, pursuant to a Navajo Nation court order for child support, indemnity benefits shall be exempt from claims of creditors and from any writs of attachment, garnishment or execution.

B. Indemnity benefits shall be paid only to a claimant or his or her personal representative or such other person(s) as the Workers' Compensation Program may, under the terms of this Act, appoint to receive or collect the same, or an individual designated by a Navajo Nation court for collection of child support.

C. Indemnity benefits shall be diverted for payment of child support only to a maximum of fifty (50%) percent of the claimant's weekly indemnity benefit, or twenty-five (25%) percent of the claimant's weekly indemnity benefit if the claimant is legally required to support minor dependents other than those for whom child support is sought.

**§ 1052. Benefits for permanent disability and death**

A. Permanent partial disability exists when a claimant, by reason of occupational disease or injury arising out of and in the course and scope of employment, is unable to some extent, to do work for which he or she is reasonably suited.

B. Permanent total disability exists whenever a claimant, by reason of occupational disease or injury, suffers the complete and irrecoverable loss of sight of both eyes, the complete and irrecoverable loss of hearing in both ears as a result of a single and traumatic incident, irreversible brain injury amounting to a thirty (30%) percent or greater loss of pre-injury brain function, or the loss by actual severance of both hands or feet. The claimant who qualifies as permanently totally disabled shall still be entitled to permanent total disability benefits even if he or she can engage in an occupation.

### C. Scheduled Benefits

1. A total loss of use of a scheduled body part exists whenever, by reason of occupational disease or injury, such body part no longer substantially fulfills one or more of its functions.

2. Permanent partial disability benefits are calculated by multiplying the gross average weekly wage times the number of weeks reflected in the Benefits for Total Loss of Use, where applicable.

#### 3. Benefits for Total Loss of Use:

##### a. ARM

###### (1) Dextrous

(a) At or near shoulder .....	225 weeks
(b) At elbow .....	214 weeks
(c) Between elbow and wrist .....	208 weeks

###### (2) Nondextrous

(a) At or near shoulder .....	188 weeks
(b) At elbow .....	178 weeks
(c) Between elbow and wrist .....	173 weeks

##### b. HAND

(1) Dextrous .....	203 weeks
--------------------	-----------

(2) Nondextrous .....	169 weeks
-----------------------	-----------

##### c. THUMB

(1) Total .....	85 weeks
-----------------	----------

(2) At proximal joint .....	81 weeks
-----------------------------	----------

(3) At distal joint .....	41 weeks
---------------------------	----------

##### d. FIRST FINGER

(1) Including metacarpal .....	45 weeks
--------------------------------	----------

(2) At proximal joint .....	41 weeks
-----------------------------	----------

(3) At second joint .....	32 weeks
---------------------------	----------

(4) At distal joint .....	18 weeks
---------------------------	----------

##### e. SECOND FINGER

(1) Including metacarpal .....	45 weeks
--------------------------------	----------

(2) At proximal joint .....	41 weeks
-----------------------------	----------

(3) At second joint .....	32 weeks
---------------------------	----------

(4) At distal joint .....	18 weeks
---------------------------	----------

##### f. THIRD FINGER

(1) Including metacarpal .....	26 weeks
--------------------------------	----------

	(2) At proximal joint .....	20 weeks
	(3) At second joint .....	16 weeks
	(4) At distal joint .....	9 weeks
g.	FOURTH FINGER	
	(1) Including metacarpal .....	26 weeks
	(2) At proximal joint .....	20 weeks
	(3) At second joint .....	16 weeks
	(4) At distal joint .....	9 weeks
h.	ALL FINGERS-pertaining to one hand, except thumb .....	122 weeks
i.	LEG	
	(1) At or near hip joint .....	150 weeks
	(2) At or above knee .....	135 weeks
	(3) Between knee and ankle .....	120 weeks
j.	FOOT	
	(1) At ankle .....	105 weeks
k.	GREAT TOE	
	(1) Including metatarsal .....	20 weeks
	(2) At proximal joint .....	18 weeks
	(3) At second joint .....	8 weeks
l.	ONE TOE	
	(1) Including metatarsal .....	3 weeks
	(2) At proximal joint .....	3 weeks
	(3) At second joint .....	1 weeks
m.	ALL TOES, same foot .....	33 weeks
n.	EYE-ONE	
	(1) Total Blindness .....	75 weeks
o.	EYE-BOTH	
	See permanent total disability	
p.	EAR-ONE	
	(1) Total deafness, one ear .....	23 weeks
q.	EAR-BOTH	
	(1) Total deafness, both ears, other than single traumatic incident ...	131 weeks
	(2) Total deafness, both ears, single traumatic incident	
	See permanent total disability	
4.	Permanent Total Disability .....	375 weeks
5.	Loss of Life .....	375 weeks

#### D. Calculation of benefits for Non-Scheduled Permanent Impairment

1. For nonscheduled permanent impairments, a calculation of percentage of permanent partial disability is made.
2. If an injury has left a claimant with a nonscheduled permanent bodily impairment, indemnity benefits for a specified number of weeks shall be paid, without regard to presence or absence of wage loss in the future, and such benefits may be paid as a lump sum or periodically, at the election of the claimant.
3. Permanent partial disability benefits for an injury to a non-scheduled body part are calculated by multiplying the gross average weekly wage times the number of weeks

provided for in the Benefits for Permanent Total Disability times the percentage of whole person impairment.

4. For all non-scheduled injuries the health care provider shall provide a whole person impairment for the claimant pursuant to the most current version of American Medical Association *Guides to the Evaluation of Physical Impairment*. The health care provider shall use the protocol under the current version of American Medical Association *Guides to the Evaluation of Physical Impairment* for calculating the whole person impairment.

E. No claimant may receive more than three hundred seventy-five (375) weeks of indemnity benefits for any single accident or occupational disease exposure.

**LAW AND ORDER COMMITTEE  
22<sup>nd</sup> NAVAJO NATION COUNCIL**

**SECOND YEAR 2012**

**COMMITTEE REPORT**

Mr. Speaker,

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

**Legislation # 0423-12:**

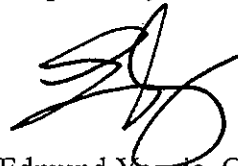
An Act Relating to Budget and Finance and Naabik'Iyati: Amending Chapter 11 of Title 15 of the Navajo Nation Code, Workers' Compensation..  
*(Sponsor: Honorable Walter Phelps)*

Has had it under consideration and report the same with a **DO PASS**, with no recommendation:

The attached original language of "§1035 – Waiting Period" be incorporated as an exhibit to the legislation packet for future reference.

and therefore referred to **BUDGET AND FINANCE COMMITTEE**.

Respectfully submitted,



Edmund Yazzle, Chairperson  
Law and Order Committee of the  
22<sup>nd</sup> Navajo Nation Council

Date: October 22, 2012

The vote was 3 in favor and 0 opposed

Motion: Duane S. Tsinigine

Second: Elmer P. Begay

**Recommended Changes**

**Description**

**§ 1032 1035. Waiting period**

Indemnity benefits shall be paid under the provisions of this Act only for an injury which results in the claimant's disability for more than seven consecutive three (3) working days. If the period of the claimant's disability lasts for more than 28 fourteen (14) consecutive days from the date of his or her injury, indemnity benefits shall be paid from the date of disability. A claimant may not recover indemnity benefits for the period of time that he or she is compensated by paid leave. No employer shall allow a claimant to collect more than one hundred percent (100%) of his or her regular earnings. Paid leave time taken shall apply against the waiting period for indemnity payments.

**Recommended Changes**

**Description**

**§ 1036. Limitation on indemnity benefits**

A claimant may not recover indemnity benefits for the period of time that he or she is compensated by paid leave. No indemnity benefits shall be paid that result in a claimant receiving more than one hundred (100%) percent of his or her regular earnings. Paid leave time taken shall apply against the waiting period for indemnity payments.

**Recommended Changes**

**Description**

**§ 1033 1037. Temporary total disability**

- A. Temporary total disability shall be paid at sixty-six and two-thirds percent (66-2/3%) percent of the "average weekly wage" to a maximum of four hundred dollars (\$400.00) six hundred fifty (\$650.00) dollars per week.
- B. Persons defined in 15 N.N.C. §1002(A)(43) (12), without other regular employment covered by this Act, shall be deemed to be compensated at the prevailing Navajo Nation minimum wage, subject to the formula established in 15 N.N.C. §1002(A)(6) (5).
- C. When considering the average weekly wage, as defined in 15 N.N.C. § 1002(A)(6)(5), where, for exceptional reasons, the method would be unfair, either to the claimant or the employer, such other

certain procedural requirements set out in N.N.C. § 1032 [now 15 N.N.C. § 1031]. Therefore, an injured party could seek *nalyeeh* from a third-party, and receipt of workers' compensation would not be a bar." *Benally v. Oil Corporation, nka ExxonMobil Corporation*, No. SC-CV-05-01, slip op. at 9 (Nav. Sup. Ct. November 24, 2003).

Section 1032(D) [now Section 1031(C)] was amended in 1997. Navajo Nation Council Res. 10-83-97 (October 22, 1997). The amendments do not affect the ruling in this case because the injury here happened in 1996. The substantive change made to Section 1032(D) [now Section 1031(C)] is that the statute expressly states that a claim is in the "control" of the Navajo Nation once it has been assigned the claim. . . . [T]he Navajo Nation retains control of the claim, but even such an assignment would not limit or terminate an injured worker's interest in the claim." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 11-12 (Nav. Sup. Ct. April 11, 2001).

The stated policy is in accord with Navajo common law principles. . . . "If a Navajo was injured by the act of another, the victim could seek *nalyeeh*, which is a form of compensation for reparation.' . . . This means the injured party has a personal right to seek *nalyeeh* for injuries contracted." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 5 (Nav. Sup. Ct. April 11, 2001).

While Section 1032(B) [now Section 1031(C)] does not expressly permit the Navajo Nation to reassign a claim to the injured worker, we believe that sound public policy demands that personal injury suits be brought by the injured parties themselves." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 5 (Nav. Sup. Ct. April 11, 2001).

The Navajo Nation Workers' Compensation Act provides a procedure for the fair and timely resolution of injury claims. A worker may bring an action in court against a third-party for a covered injury without compromising receipt of workers' compensation benefits. N.N.C. § 1032(A) (1978)." Note: Section 1032(A) is now Section 1031(C). *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 2-3 (Nav. Sup. Ct. April 11, 2001).

See generally, *George v. Tsosie and the Navajo Nation*, No. SC-CV-30-98, (Nav. Sup. Ct. March 15, 2001).

## § 1032. Waiting period

Annuitment benefits shall be paid under the provisions of this Act only for an injury which results in the claimant's disability for more than seven consecutive

## 2. Limitations

"Section 1032(B) [now Section 1031(C)] is an assignment statute. Its function is to assign an individual's claim to the Navajo Nation, while [7 N.N.C.] Section 602(a)(1) controls the time period for bringing a personal injury action. Thus, Section 1032(B) [now Section 1031(C)] is not a statute of limitations and our courts cannot use it to bar an injured worker's suit." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 4 (Nav. Sup. Ct. April 11, 2001).

## 3. Assignment, generally

"We hold that an injured worker may initiate a lawsuit against a third-party tortfeasor after the claim has been assigned, as long as the worker files the lawsuit and joins the Navajo Nation, as the real party in interest, before the statute of limitations expire. Such a procedure is allowed by Rule 17(a), Navajo Rules of Civil Procedure. . . ." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 10 (Nav. Sup. Ct. April 11, 2001).

"While Section 1032(B) [now Section 1031(C)] does not expressly state that the Navajo Nation may reassign a claim to an injured worker, we find that Navajo Nation public policy and Navajo common principles require reassignment of a claim. . . . Accordingly, we hold that Section 1032(B) permits the Navajo Nation to reassign a claim to an injured worker." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 6 (Nav. Sup. Ct. April 11, 2001).

"After one year, Section 1032(B) [now Section 1031(C)] assigns the worker's right to sue to the Navajo Nation, but the tortfeasor's liability to the injured party is not extinguished by the statutory assignment. Thus, the Navajo Nation can sue the tortfeasor, recover damages, deduct its lien, and release the remainder to the injured worker." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 4 (Nav. Sup. Ct. April 11, 2001).

## 4. Remedies

"We realize that Section 1032(B) [now Section 1031(C)] does not expressly state what happens to the worker's interest in recovery beyond the amount of benefits paid, such as claims for pain and suffering and emotional distress. We again tap into the Navajo common law principle of *nalyeeh* to conclude that the injured worker keeps an interest in such claims for the duration of the statute of limitations." *Largo v. Eaton Corporation and Cutler-Hammer, Inc.*, No. SC-CV-09-99, slip op. at 9 (Nav. Sup. Ct. April 11, 2001).

## 15 N.N.C. § 1032

days. If the period of the claimant's disability lasts for more than 28 consecutive days from the date of his or her injury, indemnity benefits shall be paid from the date of disability. A claimant may not recover indemnity benefits for the period of time that he or she is compensated by paid leave. No employer shall allow a claimant to collect more than one hundred percent (100%) of his or her regular earnings. Paid leave time taken shall apply against the total period for indemnity payments.

### History

CO-83-97, October 22, 1997.

ACAU-94-78, § 129, August 22, 1978.

Note. Previously numbered § 1033.

Note. Slightly reworded for purpose of statutory form.

## § 1033. Temporary total disability

A. Temporary total disability shall be paid at sixty-six and two-thirds percent (66 2/3%) of the "average weekly wage" to a maximum of four hundred dollars (\$400.00) per week.

B. Persons defined in 15 N.N.C. § 1002(A)(13), without other regular employment covered by this Act, shall be deemed to be compensated at the prevailing Navajo Nation minimum wage, subject to the formula established in 15 N.N.C. § 1002(A)(6).

C. When considering the average weekly wage, as defined in 15 N.N.C. § 1002(A)(6), where for exceptional reasons the method would be unfair to the claimant or the employer, such other method of computing average weekly wage may be resorted to as will most nearly approximate the amount which the claimant would be earning were it not for the disability.

### History

CO-83-97, October 22, 1997.

ACAU-94-78, § 146, August 22, 1978.

Note. All new language replaces previous § 1034.

Note. Slightly reworded for purpose of statutory form.

## § 1034. Condition permanent, stationary and rateable; termination of benefits

When a claimant's injury reaches maximum medical improvement as defined in 15 N.N.C. § 1002(A)(22):

A. The claimant's injury shall be considered permanent, stationary and rateable;

B. The claimant shall be notified in writing that his or her injury is permanent, stationary and rateable and that all benefits, if being claimed, shall cease 30 days from date of notice;

C. The claimant shall be advised of the amount payable to him or her in accordance with the terms, conditions, provisions and Benefits for Total Permanent Use of this Act;

D. The Workers' Compensation Program shall tender the payment to the claimant at the end of the 30 day termination period.

**22<sup>nd</sup> NAVAJO NATION COUNCIL**

Second Year 2012

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

**NAVAJO LEGISLATIVE BILL #0423-12:**

An Act Relating to Budget and Finance and Naabikiyati; Amending Chapter 11 of Title 15 of the Navajo Nation Code, Workers Compensation *Sponsor: Walter Phelps*

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And therefore, referred to the **NABIKIYATI** Committee

Respectfully submitted,



LoRenzo Bates, Chairman

Adopted: \_\_\_\_\_

Legislative Advisor

Not Adopted: \_\_\_\_\_

Legislative Advisor

Date: **22 October 2012**

The vote was **3** in favor **0** opposed

Excused:

Absent: Jonathan Nez, Nelson S. BeGaye

**NAA'BIK'IYATI' COMMITTEE REPORT**  
**22<sup>ND</sup> NAVAJO NATION COUNCIL – SECOND YEAR 2012**

Mr. Speaker:

The NAA'BIK'IYATI' COMMITTEE to whom has been assigned:

**LEGISLATIVE NO. 0423-12**  
Introduced by Honorable Walter Phelps

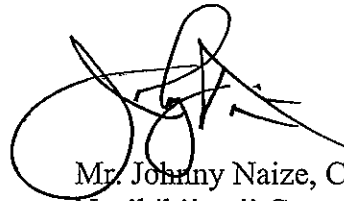
AN ACTION

Relating to Budget and Finance and Naabik'iyati'; Amending Chapter 11 of Title 15 of the Navajo Nation Code, Workers' Compensation

Has had it under consideration and reports the same with a DO PASS with No AMENDMENTS and thence referred to the Navajo Nation Council.

**CERTIFICATION**

I, hereby certify that the foregoing legislation was duly considered by the Naa'bik'iyati' Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed with a vote of 13 in favor and 0 opposed this 29<sup>th</sup> day of October 2012.



Mr. Johnny Naize, Chairperson  
Naa'bik'iyati' Committee

MOTION: Duane Tsinigine  
SECOND: Jonathan L. Hale