

LEGISLATIVE SUMMARY SHEET

Tracking No. 0285-20

DATE: November 9, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-80-20

PURPOSE: To override the Navajo Nation President's veto of Navajo Nation Council Resolution CO-80-20.


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

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: 7:02 pm 11/10/20
Posting End Date: 11/15/20
Eligible for Action: 11/16/20

Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL – SECOND YEAR, 2020

3 INTRODUCED BY

4 
5

6 (Sponsor)

7
8 TRACKING NO. 0285-20

9
10 AN ACTION
11 RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
12 COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF
13 NAVAJO NATION COUNCIL RESOLUTION CO-80-20
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15 BE IT ENACTED:

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17 SECTION ONE. AUTHORITY

- 18 A. The Navajo Nation Council enacts laws of the Navajo Nation. 2 N.N.C. § 102.
19 B. All resolutions enacting new law or amending existing laws are subject to veto by
20 the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and
21 override by the Navajo Nation Council. 2 N.N.C. § 164(A)(17).
22 C. Resolutions vetoed by the President of the Navajo Nation are subject to override "by
23 two-thirds (2/3) vote of the membership of the Navajo Nation Council." 2 N.N.C. §
24 1005 (C) (11).
25 D. A vetoed resolution shall first be submitted to Naabik'iyáti' Committee before
26 consideration by the Council. 2 N.N.C. § 164 (A)(17).
27

28 SECTION TWO. FINDINGS

- 29 A. Council Resolution CO-80-20 was passed by the Navajo Nation Council and certified
30 on October 21, 2020. The resolution is entitled, "An Act Relating to Law and Order,

1 Naabik'iyati' and the Navajo Nation Council; Amending Navajo Nation Code 2 N.N.C. §§
2 970 - 978, Commission on Navajo Government Development and the Office on Navajo
3 Government Development." **Exhibit 1.**

4 B. The Navajo Nation President vetoed Resolution CO-80-20 on November 5, 2020 and
5 provided a memorandum explaining his veto decision. **Exhibit 2.**

6 C. The Navajo Nation Council does not agree with the President's veto of Resolution CO-
7 80-20 and continues to believe in the need for Resolution CO-80-20.

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9 **SECTION THREE. OVERRIDING VETO**

10 The Navajo Nation Council hereby overrides the Navajo Nation President's veto of
11 Resolution CO-80-20 effective upon certification of the Speaker of the Navajo Nation
12 Council.

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14 **SECTION FOUR. EFFECTIVE DATE**

15 The effective date of this override shall be as provided for in 2 N.N.C. § 221 (A) and (C).
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RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACT

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL;
AMENDING 2 N.N.C. §§ 970 - 978, COMMISSION ON NAVAJO GOVERNMENT
DEVELOPMENT AND THE OFFICE OF NAVAJO GOVERNMENT DEVELOPMENT

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 600. The Committee has the authority to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments to the Navajo Nation Code. 2 N.N.C. § 601 (B) (14).
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700. A proposed resolution that requires final action by the Navajo Nation Council [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti' Committee. 2 N.N.C. § 164(A) (9). The Naabik'íyáti' Committee has oversight over the Commission on Navajo Government Development. 2 N.N.C. § 970.
- C. The Navajo Nation Council is the governing body of the Navajo Nation empowered to state policy and enact laws of the Navajo Nation. 2 N.N.C. §§ 102 (A) and 164 (A).

SECTION TWO. FINDINGS

- A. The Commission on Navajo Government Development was created in 1989 by the Navajo Nation Council through Navajo Nation Council Resolution No. CD-68-89, codified as 2 N.N.C. §§ 970-977, attached as **Exhibit 1**. Per CD-68-89, "[t]he Commission is a special entity created by the Navajo Nation Council with quasi-independent authority to accomplish the Council's project of instituting reforms necessary to ensure an accountable and responsible government. 2 N.N.C. § 970.
- B. In 1994, Navajo Nation Council Resolution No. CJY-65-94, attached as **Exhibit 2**, amended 2 N.N.C. § 971 to state that a purpose of the Commission is "to review and evaluate all aspects of the existing government structure of the Navajo

Nation including laws, rules and regulations, practices, functions, goals and objectives of the central government as it relates to Chapters, and local communities and the relationship of Chapters and local communities and the relation of chapters and local communities to the central government.." 2 N.N.C. § 971, CJY-65-94.

- C. In 2007, the Navajo Nation Council adopted Resolution No. CO-37-07 dissolving the Government Development Commission, among other things. The President vetoed CO-37-07 and the Council overrode the President's veto through CD-47-07. The Supreme Court of the Navajo Nation subsequently opined that "[o]f all the entities established by the Title II Amendments, the Commission on Government Development ("Commission") and the Office of Navajo Government Development ("Office") are the sole entities established according to the wishes of the People expressed through the coordinator of the Government Reform Project. The object was to facilitate a decision by the People within a reasonable time frame. Therefore, the dissolution of the Commission and changes made to the powers of the Office by enactment of CO-37-07 (Navajo Government Development Act of 2007) on October 17, 2007 cannot stand." *Office of the Navajo Nation President and Vice-President v. Navajo Nation Council*, No. SC-CV-02-10 (July 16, 2010).
- D. The Commission on Navajo Government Development is seeking to amend its and the Government Development Office's existing Plan of Operation adopted through CJY-65-94. CNGD-0605-19 attached as **Exhibit 3**.

SECTION THREE. AMENDMENTS TO TITLE 2, CHAPTER 1, SUBCHAPTER 11

The Navajo Nation hereby amends the Title 2 as follows:

NAVAJO NATION CODE
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 1
SUBCHAPTER 11. BOARDS AND COMMISSIONS

§ 970. Establishment

The Commission on Navajo Government Development is established within the Legislative Branch. The Commission is a special entity created by the Navajo Nation Council with quasi-independent authority to accomplish the Council's People's project of instituting reforms necessary to ensure an accountable, and

responsible, ethical, and equally representative government. The Commission shall be responsible directly to the Navajo Nation Council with respect to its overall activities. The ~~Intergovernmental Relations~~ Naabik'iyáti' Committee of the Navajo Nation Council shall have legislative oversight authority.

§ 971. Purposes

The purposes of the Commission on Navajo Government Development shall be as follows:

- A. To review and evaluate all aspects of the existing government structure of the Navajo Nation including laws, rules and regulations, practices, functions, goals and objectives of the central government as it relates to Chapters, and local communities ~~and the relationship of Chapters and local communities~~ and the relationship of Chapters and local communities to the central government.
- B. To develop recommendations and proposals for alternative forms of Chapter government and Chapter empowerment or local community empowerment for consideration and possible adoption by the Navajo People through a referendum vote.
- C. To promote, enhance, honor, and to comply with The Foundation of the Diné, Diné law and Diné Government (Diné Fundamental Laws - Diné Bi Beenahaz'áanii Bítsé Siléí) 1 N.N.C. § 201-206.

§ 972. Membership; officers; term; qualifications

- A. The Commission shall consist of 12 Navajo members to be confirmed by and serve at the pleasure of the Navajo Nation Council as follows:
 1. One member shall be nominated by the Executive Branch through the President of the Navajo Nation to serve a term of ~~two~~ four years from the date of confirmation by the Navajo Nation Council.
 2. One member shall be nominated by the Judicial Branch through the Chief Justice of the Navajo Nation to serve a term of ~~two~~ four years from the date of confirmation by the Navajo Nation Council; the nominee shall be a licensed attorney and a member of the Navajo Nation Bar Association.
 3. One member shall be nominated by the Legislative Branch through the ~~Intergovernmental Relations~~ Naabik'iyáti' Committee of the Navajo Nation Council to serve a term of ~~two~~ four years from the date of confirmation by the Navajo

Nation Council, the nominee shall have prior legislative experience as an official or employee of ~~a state government or any subdivision thereof~~ the Legislative Branch.

4. One member shall be nominated by the Executive Director of the Office of Navajo Government Development in consultation with the ~~Navajo Government Development Commission~~ Commission on Navajo Government Development; the nominee shall be a practitioner of the ~~Navajo~~ Diné healing arts to serve a term of four years from the date of confirmation by the Navajo Nation Council.
 5. Five members shall be nominated from the five agencies of the Navajo Nation. Each agency council shall nominate one member from recommendations to be submitted by Chapters in each agency, said nominees shall be either Chapter officers, ~~or~~ Local Government/Governance Commissioners, Grazing Committee/Land Board members, or School Board members. These members shall serve a term of four years from the date of confirmation by the Navajo Nation Council, so long as they continue as Chapter officers, Local Government/Governance Commissioners, or Grazing Committee/Land Board member, or School Board member.
 6. One member shall be nominated by the Student Body Government of ~~the Navajo Community~~ Diné College; the nominee shall be a student of at Navajo Community Diné College and serve so long as said nominee is a full-time student at ~~Navajo Community Diné~~ Diné College, but no longer than two years from the date of confirmation by the Navajo Nation Council.
 7. One member shall be nominated by the ~~Education~~ Health, Education and Human Services Committee of the Navajo Nation Council; the nominee shall be a an enrolled graduate student from any accredited college or university, located in Arizona, Colorado, New Mexico, or Utah. ~~Such~~ Such member shall serve so long as said nominee is a full-time graduate student, but no longer than ~~two~~ four years from the date of confirmation by the Navajo Nation Council.
 8. One member shall be nominated from the Commission of Navajo Women of the Navajo Nation; such member shall serve for a term of two years from the date of confirmation by the Navajo Nation Council.
- B. The Chairperson and the Vice-Chairperson of the Commission shall be selected by the members of the Commission and serve terms concurrent with their membership terms.

- C. A vacancy on the Commission shall be filled in the same manner in which the original appointment was made. A member whose term has expired may continue to serve on the Commission until such time a successor is duly confirmed so long as such commissioner remains qualified.
- D. Commission members shall be chosen from among individuals who have demonstrated scholarship, a strong sense of ~~public~~ civic interest, knowledge of ~~Navajo~~ Diné history and cultural heritage, spiritual leadership, leadership in the Navajo government and abilities likely to contribute to the fulfillment of the duties of the Commission.

§ 973. Duties and ~~Responsibilities~~

- A. The Commission shall have powers necessary and proper to carry out the purposes set forth herein or as otherwise authorized by the Navajo Nation Council.
- B. The Commission shall have the powers:
1. To develop a series of recommendations and proposals for alternative forms of Chapter government and Chapter ~~empowerment~~ self-determination or other local community ~~empowerment~~ self-sufficiency for consideration by the Navajo Nation Council and the Navajo People by examining and utilizing the concepts of the separation of powers and the delegation of authority to provide for the appropriate checks and balances in Navajo ~~Government~~; to establish the responsibility of the Navajo government to protect the rights and freedoms of the Navajo People; to establish limitations on how the Navajo government and ~~its~~ officials may use its powers and to define the powers of the Navajo People.
 2. To provide short-term and long-term strategic range comprehensive planning, evaluation and development appropriate to further enhance a Navajo Government that will perpetually accommodate the Navajo People both at the central government level and at the local level by providing for their involvement, promote their general welfare, ensure governmental accountability, integrity, justice, domestic order, and retain Diné traditional harmony, cultural respect, heritage, and the protection of ~~personal~~ civil liberties.
 3. To review, evaluate, and recommend laws, rules and regulations including those of agencies, boards and

commissions in order to develop a more comprehensive and integrated system of government structure for the Navajo People.

4. To collect, assemble, evaluate, interpret and distribute information, data statistics and evidence ~~which~~ that accurately describes the present Navajo government with emphasis on Chapter and local empowerment.
5. To encourage the public, private and public organizations, Chapters, traditional Navajo leaders, including Native ceremonial practitioners (medicinemen), to actively participate in carrying out the purposes of the Commission and to conduct public hearings. The Commission shall give due consideration to traditional values and philosophical views of the Navajo People.
6. To ~~encourage~~ assist with producing appropriate educational curriculum materials designed to educate ~~students and the general public~~ all Navajo Nation stakeholders and the public, on the ~~governmental~~ history, structure, and development of the Navajo Nation- government.
7. To serve as the oversight authority for the Office of Navajo Government Development.
8. To appoint an Executive Director of the Office of Navajo Government Development who shall serve at the pleasure of the Commission.
9. To maintain ~~such~~ an administrative staff and consultants, including legal counsel as may be provided for in the annual Navajo Nation budget of the Commission and the Office.
10. To promote Diné traditional cultural lifeways, knowledge, peace and protection.

§ 974. Meetings; procedures

- A. The Commission shall meet on a designated day of each month. Special meetings shall be held on the call of the Chairperson of the Commission.
 1. At any meeting, a quorum shall consist of a majority of duly appointed members ~~seven members~~.
 2. All meetings shall be held in ~~Window Rock, Navajo Nation (Arizona)~~ the territorial jurisdiction of the Navajo Nation

for the transaction of Commission business. ~~Meetings held elsewhere must be authorized by written permission of the Chairperson of the Intergovernmental Relations Committee.~~

- B. The Commission is empowered to develop its own rules of procedures for the conduct of meetings, which shall be approved by the ~~Ethics and Rules~~ Law and Order Committee of the Navajo Nation Council.
- C. Members shall receive ~~honorarium stipend~~ pay of ~~one hundred dollars (\$100.00)~~ two hundred fifty dollars (\$250.00) for each official meeting as required at 2 N.N.C. § 974 (A) and may be reimbursed for actual expenses incurred relative to Commission business.

§ 975. Subcommittee

The Commission may establish subcommittees consisting of Commission members selected by the Commission. The subcommittee shall exist until it has completed its assigned task, made recommendations and reported to the Commission. The same provisions which applies to Commission meetings shall also apply to the subcommittee meetings.

§ 976. Powers and ~~d~~Duties of the Executive Director

The powers and duties of the Executive Director shall be to:

- A. Develop reports to be transmitted ~~to the Intergovernmental Relations Committee and to the Navajo Nation Council by the Chairperson of the Commission~~ through the Commission, to the Navajo Nation Council, concerning activities of the Commission, including reports on the implementation of its recommendations;
- B. Develop the annual budget and formulate administrative and operating policies pertaining to the Commission of the and the Office and take action necessary for their accomplishment. and enforcement thereof;
- C. Hire and supervise support staff and consultants in accordance with Navajo law, regulations, and procedures. The Executive Director shall employ or engage those persons qualified by education and experience necessary to discharge the duties of the Commission~~r~~.
- D. Exercise supervisory ~~control~~ authority and direction over the day-to-day operation of the Office;

- E. Represent the Office in executive level planning;
- F. Delegate authority to members of the staff; and
- G. Perform other duties as directed by the Commission.

§ 977. Office; staff; duties and accountability

- A. The staff is accountable and reports to the Executive Director. The staff is hired and subject to the Navajo Nation Personnel Policies and Procedures.
- B. The duties of staff are as follows:
 1. To provide a full range of administrative and support services to the Commission- and the Executive Director.
 2. To act as resource persons for the Commission.
 3. To collect information and maintain central files of all information, data, statistics and research materials.
 4. To assist in preparing for Commission meetings by collecting and confirming information, notifying interested parties and preparation of materials necessary to conduct meetings.
 5. To assist in the coordination of scheduling of Commission and subcommittee meetings and activities.
 6. Perform other duties as directed by the Executive Director.
 7. The Office of Navajo Government Development shall be authorized to procure necessary supplies, services, equipment, furniture, and make contracts as authorized from time to time through the Navajo Nation budget process.

§ 978. Amendments

Sections 970-977 herein may be amended by the Navajo Nation Council upon recommendation of the Intergovernmental—Relations Naabik'iyáti' Committee and the Commission on Navajo Government Development.

SECTION FOUR. EFFECTIVE DATE

The amendments enacted herein shall be effective pursuant to 2 N.N.C. § 221 (B).

SECTION FIVE. CODIFICATION


The provisions of these amendments of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amendments in the next codification of the Navajo Nation Code.

SECTION SIX. SAVINGS CLAUSE

Should any provision of these amendments, 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 amendments that are not determined invalid shall remain the law of the Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th 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 21 in Favor, and 00 Opposed, on this 21st day of October 2020.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

10/26/2020
DATE

Motion: Honorable Edison J. Wauneka
Second: Honorable Eugene Tso

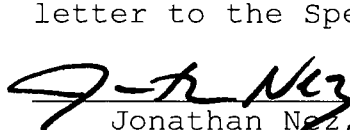
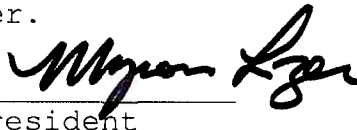
Speaker Seth Damon not voting

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 _____, 2020.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 05th day of NOVEMBER, 2020 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



November 5, 2020

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CO-80-20, *An Action Relating to Law and Order, Naabik'iyati' and Navajo Nation Council; Amending 2 N.N.C. §§ 970-978, Commission on Navajo Government Development and the Office of the Navajo Government Development*

Dear Speaker Damon,

The purpose of the Commission on Navajo Government Development and the Office of Navajo Government Development continues to be the subject of debate. The original established purpose of the Commission is "to review and evaluate all aspects of the existing government structure of the Navajo Nation including laws, rules and regulations, practices, functions, goals and objectives" and to "develop recommendations and proposals for alternative forms of government for consideration and possible adoption by the Navajo People through a referendum vote." See CD-68-89. The charge was given after the turmoil of 1989 and was meant to be a temporary authorization. Since that time the Commission and Office's direction has drastically changed and is becoming the longest temporary entity in Navajo government.

The Navajo Nation Courts have confirmed the temporary nature of the Commission in recommending alternative forms of government. The Court said in the case of Shirley v. Morgan, "the Council, through the recitals of the Resolution No. CD-68-89, made a solemn compact with the People that the structure will be temporary and left it up to the People to choose the final structure of government." In addressing the Council's dissolution of the Commission and Office the Court, in the second Shirley v. Morgan case, held that the Commission and Office "must be immediately restored according to the original terms in the Title II Amendments of 1989 in order to renew providing for adequate information and education of the public as to Navajo Nation government and alternative government structures, and to finally fulfill their purpose of enabling the People to participate in the development of our Navajo Nation government." The purpose and direction of the Commission and the Office is completely off track, and this is a complete disservice to the Navajo People.

The amendments in CO-80-20 lead the Commission and Office farther down the wrong path. The government structure is a decision for the Navajo People but the amendments pay cursory acknowledgement to the People. Additionally, the amendments create a more bureaucratic structure, a larger drain on our financial resources by increasing the Commission member's stipends and putting on more layers of bureaucracy that will frustrate the purpose of finding a new government structure.

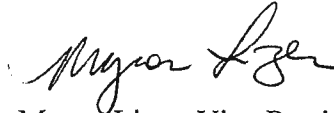
We agree with the People on the search for a permanent form of Navajo government. The People made recommendations at the 2002 Convention but since that time no effort has been made to act on the People's recommendations. The Commission and the Office have shirked their duty with respect to the People's recommendations. But as a quasi-independent authority the Commission and the Office "are part of the Navajo Nation government but shall be given considerable independence of operation, free from restrictions; and their members and staff shall be subject to removal only for good cause, such as malfeasance neglect of duties or office, or incapacity." See Shirley v. Morgan II. As a quasi-independent authority, the Commission and the Office must work with the People, respect the People's recommendations for forms of government, and stand up for the People. And changes to this principle in CO-80-20 will attract further disharmony, challenges, and delay in reaching a form of government based on the People's recommendations.

We support the Navajo People's desire for a permanent form of government for the Navajo Nation and we cannot support CO-80-20. We urge the Navajo Council to consider the People's right to establish their government; the power lives in the Navajo People.

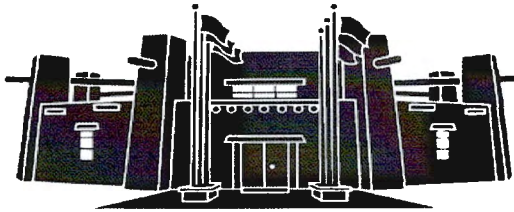
Sincerely,



Jonathan Nez, President
THE NAVAJO NATION

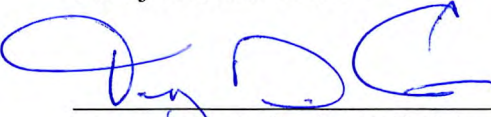


Myron Lizer, Vice President
THE NAVAJO NATION



MEMORANDUM

TO : Hon. Jamie Henio, Delegate
Navajo Nation Council

FROM : 
Troy D. Cook, Senior Tribal Court Advocate
Office of Legislative Counsel

DATE : November 9, 2020

RE : **AN ACTION RELATING TO LAW AND ORDER AND
NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL;
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF
NAVAJO NATION COUNCIL RESOLUTION CO-80-20**

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. As to format, the resolution as drafted is legally sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

20-469-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0285-20_

SPONSOR: Jamie Henio

TITLE: An Action Relating to Naabik'iyáti' Committee and the Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-80-20

Date posted: November 10, 2020 at 7:02PM

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

Written comments may be mailed to:

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

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

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