

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0153-20__

SPONSOR: Daniel E. Tso

TITLE: An Action Relating To Budget And Finance, Law And Order And NAABIK'IYATI' Committees And Navajo Nation Council; Amending 2 N.N.C. §164 (A) (17) To Include The Budget Line-Item Veto Authority Language Approved by Navajo Voters Through Initiative Election In 2009

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0153-20

DATE: July 8, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO BUDGET AND FINANCE, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING 2 N.N.C. § 164 (A) (17) TO INCLUDE THE BUDGET LINE-ITEM VETO AUTHORITY LANGUAGE APPROVED BY NAVAJO VOTERS THROUGH INITIATIVE ELECTION IN 2009

PURPOSE: This resolution, if approved, will delegate amend 2 N.N.C. § 164 (A)(17)'s line-item veto language to match the ballot language approved by Navajo voters in the 2009 initiative.

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

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 07-13-20
Eligible for Action: 07-14-20

Budget & Finance Committee
Thence
Law & Order Committee
Thence
Naabik'iyati' 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. 0153-20
9
10

11 AN ACTION
12 RELATING TO BUDGET AND FINANCE, LAW AND ORDER AND
13 NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL;
14 AMENDING 2 N.N.C. § 164 (A) (17) TO INCLUDE THE BUDGET LINE-ITEM
15 VETO AUTHORITY LANGUAGE APPROVED BY NAVAJO VOTERS
16 THROUGH INITIATIVE ELECTION IN 2009
17

18 BE IT ENACTED:

19
20 SECTION ONE. AUTHORITY

- 21 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §
22 102 (A).
23 B. The Naabik'iyati' Committee is a standing committee of the Navajo Nation Council
24 empowered to review all proposed legislation which requires final action by the
25 Navajo Nation Council. 2 N.N.C. §164(A)(9).
26 C. The Law and Order Committee is a standing committee of the Navajo Nation Council
27 empowered to review and make recommendations to the Navajo Nation Council on
28 proposed amendments to and enactments to the Navajo Nation Code. 2 N.N.C. § 601
29 (B) (14).
30

1 D. The Budget and Finance Committee is a standing committee of the Navajo Nation
2 Council empowered to review and make recommendations to the Navajo Nation
3 Council on the budgeting, appropriation, investment, and management of all funds. 2
4 N.N.C. § 301 (B)(2).
5

6 SECTION TWO. FINDINGS

7 A. Title One, Subchapter 2, of the Navajo Nation Code, titled Diné Bi Beehaz'áanii Bitsé
8 Siléí--Declaration of the Foundation of Diné Law, affirms the traditional Diné
9 teachings concerning the appropriate roles of each of the three branches of the Navajo
10 Nation:

- 11 1. The leader(s) of the Executive Branch (Ałáají' Hózhjí Naat'ááh) shall
12 represent the Navajo Nation to other peoples and nations and implement
13 the policies and laws (Diné bibeehaz'áanii) enacted by the legislative
14 branch;
- 15 2. The leader(s) of the Legislative Branch (Ałáají' Naat'ájí Naat'ááh and
16 Ałáají' Naat'ájí Ndaanit'áii or Naat'aanii) shall enact policies and laws
17 (Diné bibeehaz'áanii) in harmony with Diné bi beenahaz'áanii to address
18 the immediate and future needs;
- 19 3. The leader(s) of the Judicial Branch (Ałáají' Hashkééjí Naat'ááh) shall
20 resolve disputes in the courts of the Navajo Nation and adopt rules of
21 pleading, practice, procedure, and evidence by applying and interpreting
22 Navajo Nation statutory laws and policies (Diné bibeehaz'áanii) enacted
23 by the leaders of the Legislative Branch. The Peacemakers within the
24 Peacemaking Program shall uphold the values and principles embodied in
25 Diné bi beenahaz'áanii in the consensual practice of resolving disputes by
26 peacemaking.

27 B. In 1989, the Navajo Tribal Council enacted Resolution No. CD-68-89 to reorganize
28 the Navajo Nation government from a Chairmanship to a three Branch government;
29 CD-68-89 recognized that the “[r]ecent controversy involving the leadership of the
30 Navajo Nation has demonstrated that the present Navajo Nation Government

1 structure allows too much centralized power without real checks on the exercise of
2 power. Experience shows that this deficiency in the government structure allows for,
3 invites and has resulted in the abuse of power.” CD-68-89, Whereas Clause No. 2.

4 C. CD-68-89 also specifically recognized that “it is in the best interest of the Navajo
5 Nation that the Navajo Nation Government be reorganized to provide for separation
6 of functions into three branches and provide for checks and balances between the
7 three branches . . .” CD-68-89, Whereas Clause No. 8.

8 D. In 2009, in response to the 21st Navajo Nation Council’s “over-appropriation” of
9 Undesignated Unreserved General Funds (aka UUF), the Navajo People, through an
10 initiative vote action, delegated the President the authority to line-item veto budget
11 items contained in the annual Navajo Nation Comprehensive Budget or supplemental
12 appropriations approved by the Navajo Nation Council.

13 E. The ballot language, attached as **Exhibit A**, approved by the Navajo People on
14 December 15, 2009 through an initiative election, became the law of the Navajo
15 Nation; the 2009 ballot language specifically stated that

16 “The President of the Navajo Nation will be authorized to exercise line
17 item veto authority over budget items contained in the annual Navajo
18 Nation Comprehensive Budget or supplemental appropriations approved
19 by the Navajo Nation Council. Budget line items vetoed by the President
20 of the Navajo Nation will not be subject to Navajo Nation Council
21 override. Upon approval of this initiative, the authority of the President of
22 the Navajo Nation to exercise line item veto authority will become
23 effective immediately.” **Exhibit A**.

24 F. The 2009 ballot language further stated that “[i]f approved, this initiative may be
25 repealed or amended by the initiative process only.” **Exhibit A**.

26 G. The 22nd Navajo Nation Council recognized the line-item veto law approved by
27 the Navajo People by amending its own Title Two authorities to state that “[a]ll
28 resolutions enacting new laws or amending existing laws are subject to veto by
29 the President of the Navajo Nation pursuant to 2 N.N.C § 1005(C)(10) and (11)

1 and override by the Navajo Nation Council, *except financial line-item vetoes are*
2 *not subject to override.*” 2 N.N.C. § 164 (A) (17) [emphasis added].

3 H. The 22nd Navajo Nation Council’s amendment did not match the ballot language
4 approved by the Navajo voters in 2009; this discrepancy has contributed to confusion
5 and discord between the Executive and Legislative Branches related to the extent of
6 the President’s line-item veto authority, as well as the appropriate roles of each of the
7 branches.

8 I. The Navajo Nation Council finds it in the best interest of the Navajo Nation
9 government to fully recognize what was approved by the Navajo voters in the 2009
10 initiative by amending 2 N.N.C. § 164 (A) (17) to reflect the actual initiative ballot
11 language, i.e., “[t]he President of the Navajo Nation will be authorized to exercise
12 line item veto authority over budget items contained in the annual Navajo Nation
13 Comprehensive Budget or supplemental appropriations approved by the Navajo
14 Nation Council. Budget line items vetoed by the President of the Navajo Nation will
15 not be subject to Navajo Nation Council override.” **Exhibit A.**

16
17 **SECTION THREE. AMENDING 2 N.N.C. § 164 (A)(17)**

18 The Navajo Nation Council hereby amends 2 N.N.C. § 164 (A) (17) as follows:

19
20 **§ 164. Navajo Nation Council and Committee Legislative Process**

21 A. Statements of policy, enactment of positive law, intergovernmental agreements,
22 budget resolutions and reallocations, must be reviewed and approved by resolution by the
23 appropriate standing committee(s) and the Navajo Nation Council except as otherwise
24 provided herein.

25 ****

26 17. All resolutions enacting new laws or amending existing laws are
27 subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C §
28 1005(C)(10) and (11) and override by the Navajo Nation Council, except
29 financial line-item vetoes are not subject to override the President is
30 authorized to exercise line item veto authority over budget items contained in

1 the annual Navajo Nation Comprehensive Budget or supplemental
2 appropriations approved by the Navajo Nation Council; budget line items
3 vetoed by the President will not be subject to Navajo Nation Council override.

4 A vetoed resolution shall first be submitted to Naabik'iyáti' Committee before
5 consideration by the Council. Memorials are not subject to veto but become
6 effective upon certification by the Speaker pursuant to 2 N.N.C. § 221(C). All
7 acts of the vetoing of the resolution shall occur within the territorial
8 jurisdiction of the Navajo Nation as described in 7 N.N.C. § 254.

9 ****

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12 **SECTION FOUR. EFFECTIVE DATE**

13 This action shall become effective upon its approval pursuant to 2 N.N.C. §§ 164 (A)(17)
14 and 221 (B).

15
16 **SECTION FIVE. SAVING CLAUSE**

17 Should any provision of this legislation be determined invalid by the Navajo Nation
18 Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo
19 Nation Supreme Court, those portions of the legislation which are not determined invalid
20 shall remain the law of the Navajo Nation.