TITLE: An Action Relating to Health, Education and Human Services, Resources and Development, Naabik’íyáti’ Committees, and the Navajo Nation Council; Approving the Reopening of the Lake Powell Navajo Tribal Park, Monument Valley Navajo Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument and Tsévi’ Diné Heritage Area at Orange Status Notwithstanding Public Health Emergency Order No. 2021-005; and Supporting Implementation of the Division of Economic Development’s Business Reopening Plan for Businesses Operating Within the Above-Mentioned Navajo Nation Parks and Recreation Sites at Orange Status Notwithstanding Public Health Emergency Order No. 2021-005

Date posted: __April 20, 2021 at 11:40AM

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

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DATE: April 19, 2021

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, NAABIK’ÍYÁTI’ COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING THE REOPENING OF THE LAKE POWELL NAVAJO TRIBAL PARK, MONUMENT VALLEY NAVAJO TRIBAL PARK, MONUMENT VALLEY WELCOME CENTER, LITTLE COLORADO RIVER NAVAJO TRIBAL PARK, FOUR CORNERS MONUMENT AND TSÉYI’ DINÉ HERITAGE AREA AT ORANGE STATUS NOTWITHSTANDING PUBLIC HEALTH EMERGENCY ORDER NO. 2021-005; AND SUPPORTING IMPLEMENTATION OF THE DIVISION OF ECONOMIC DEVELOPMENT’S BUSINESS REOPENING PLAN FOR BUSINESSES OPERATING WITHIN THE ABOVE-MENTIONED NAVAJO NATION PARKS AND RECREATION SITES AT ORANGE STATUS NOTWITHSTANDING PUBLIC HEALTH EMERGENCY ORDER NO. 2021-005

PURPOSE: If approved by the Navajo Nation Council, this legislation would approve the reopening of the Lake Powell Navajo Tribal Park, Monument Valley Navajo Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument, Tséyi’ Diné Heritage Area at the Orange Status notwithstanding Public Health Emergency Order 20-21-005. It would also support and approve implementation of the Division of Economic Development’s Business Reopening Plans at Orange Status for businesses operating within the Lake Powell Navajo Tribal Park, Monument Valley Navajo Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument, Tséyi’ Diné Heritage Area notwithstanding Health Emergency Order 2021-005.

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.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0076-21

AN ACTION
RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING THE REOPENING OF THE LAKE Powell NAVAJO TRIBAL PARK, MONUMENT VALLEY NAVAJO TRIBAL PARK, MONUMENT VALLEY WELCOME CENTER, LITTLE COLORADO RIVER NAVAJO TRIBAL PARK, FOUR CORNERS MONUMENT AND TSÉYI' DINÉ HERITAGE AREA AT ORANGE STATUS NOTWITHSTANDING PUBLIC HEALTH EMERGENCY ORDER NO. 2021-005; AND SUPPORTING THE CONTINUED IMPLEMENTATION OF THE DIVISION OF ECONOMIC DEVELOPMENT'S BUSINESS REOPENING PLAN FOR BUSINESSES OPERATING WITHIN THE ABOVE-MENTIONED NAVAJO NATION PARKS AND RECREATION SITES AT ORANGE STATUS NOTWITHSTANDING PUBLIC HEALTH EMERGENCY ORDER NO. 2021-005

BE IT ENACTED:

SECTION ONE. AUTHORITY
A. The Health, Education and Human Services committee is a standing committee of the Navajo Nation Council. 2 N.N.C. §400(A). The committee provides “legislative oversight on matters involving health,” and oversees “Navajo Nation efforts in...
implementing and ensuring compliance with employment and labor laws and policies of the Navajo Nation.” 2 N.N.C. § 400 (C)(1) and § 400 (C)(3). Also, the committee has authority to review and recommend “[r]esolutions relating to ... health, environmental health, ... employment and labor.” 2 N.N.C. § 401(B)(6)(a).

B. The Resources and Development Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 500(A). The committee has oversight authority over matters such as water, land, economic and community development, commerce and trade. See, 2 N.N.C. § 500 (C). The committee also has oversight authority over the Division of Natural Resources, Parks and Recreation Department. 2 N.N.C. § 501(C)(1).

C. The Naabik’iyáti’ Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. §700(A). The committee, among other responsibilities, has authority over proposed resolutions requiring “final action by the Navajo Nation Council.” 2 N.N.C. § 164(A)(9).

D. Pursuant to 2 N.N.C. §102(A), the Navajo Nation Council is the “governing body of the Navajo Nation.”

SECTION TWO. FINDINGS

A. “The Navajo Parks and Recreation Department is responsible for the management and operation of established tribal parks, monuments, recreation areas, the planning and development of visitor services, facilities and accommodations therein, and recommends the establishment of new parks.” See RDCJY-031-19, Exhibit 1.


C. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency

D. Public Health Emergency Order No. 2021-005, attached as Exhibit A, at page 1 paragraph III, states that “The Navajo Nation is experiencing a gradual downward trajectory of new cases, with a slowed infection rate and no sustained rebound.”

E. Public Health Emergency Order No. 2021-005, at page 2 paragraph B, states that “Per the Plan’s ‘reopening status schedule,’ the Navajo Health Command and Operations Center (‘NHCOC’), having evaluated the current state of the Navajo Nation per the gating criteria and public health considerations provided in the Plan, declares the Nation to be in Orange status. All businesses shall be bound to the conditions and requirements of Orange status. The NHCOC will announce any future status changes by Public Health Emergency Order.”

F. Public Health Emergency Order No. 2021-005, at page 3 paragraph C, states “Orange status is defined as: 25% of maximum occupancy allowed for most businesses. Restaurants and Dining facilities: drive-thru and curb-side permissible. Restaurants with permanent outdoor dining may provide outdoor dining at 25% of maximum capacity, as long as social distancing between tables is enforced; Restaurants without permanent outdoor dining are allowed up to 10 outdoor tables (max 4 persons per table), as long as social distancing between tables is enforced. Personal Care and Services: service by appointment only and allow time for cleaning between appointments. Marinas and parks: appointment only. Casinos and video poker: Navajo casinos are allowed to open to Navajo Nation residents and employees only. Not Allowed in Orange Phase: youth programs, museums, flea markets, roadside markets, gyms, recreation facilities, movie theaters.”

G. The opening of the Navajo Nation at Orange status through Public Health Emergency Order does not apply to all businesses. On page 1 paragraph VI, the Order states that “Tribal parks will not be accessible to Visitors and Tourists during this time.” In addition on page 2 paragraph C states “Marinas and parks: appointment only.”

H. Nation parks including Lake Powell Navajo Tribal Park, Monument Valley Navajo
Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument, Tséyi’ Diné Heritage Area are not included in the Orange status 25% of maximum occupancy as defined in Public Health Emergency Order No. 2021-005 and otherwise may open by “appointment only.”

I. Navajo Nation residents who derive their income from selling their arts and crafts and services at the Lake Powell Navajo Tribal Park, Monument Valley Navajo Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument, Tséyi’ Diné Heritage Area have felt the adverse economic effects of the closure of these Navajo Nation parks. Given that the “Navajo Nation is experiencing a gradual downward trajectory of new cases, with a slowed infection rate and no sustained rebound,” these vendors should be allowed to resume their livelihood generated from sales at the Navajo parks.

J. Public Health Emergency Order 2021-05 states: “All businesses will be required to submit a COVID-19 Reopening Plan to the Navajo Nation Division of Economic Development before reopening in Orange Status. Reopening plans can be emailed to: navajoeconomy@navajo-nsn.gov”

K. The Navajo Nation Reopening website <navajoreopening.navajo-nsn.gov> states that such policies and procedures must:

1. Ensure physical distance between personnel, customers, and any member of the public at the place of business is maximized, and that keeping six-feet between persons is possible at all times.
2. Address requests of personnel who are members of a vulnerable population for special accommodations.
3. Provide that the entity or organization will carry sufficient and appropriate PPE based on industry best practices.
4. Provide that the entity or organization will carry sufficient disinfectant products.
5. Require hygiene practices such as cleaning frequently-touched surfaces and handwashing.
6. Provide for conducting regular employee COVID-19 screenings, such as temperature checks, checklist or diagnostic testing.

7. Provide for on-going safety training and education on COVID-19.

8. Provide standards for how to respond to suspected and confirmed cases of COVID-19 among employees. The policies and procedures shall further provide contact information for the nearest healthcare facility, and such information posted conspicuously at the place of business (e.g., informational poster). The place of business shall contact the healthcare facility immediately in the event of a suspected or confirmed case of COVID-19 to consult about next steps. Places of business shall report suspected or confirmed cases to NHCOC by calling (928) 871-7014.

SECTION THREE. APPROVING THE REOPENING OF THE LAKE POWELL NAVAJO TRIBAL PARK, MONUMENT VALLEY NAVAJO TRIBAL PARK, MONUMENT VALLEY WELCOME CENTER, LITTLE COLORADO RIVER NAVAJO TRIBAL PARK, FOUR CORNERS MONUMENT AND TSÉYI’ DINÉ HERITAGE AREA AT ORANGE STATUS NOTWITHSTANDING PUBLIC HEALTH EMERGENCY ORDER NO. 2021-005

The Navajo Nation Council hereby approves the reopening of the Lake Powell Navajo Tribal Park, Monument Valley Navajo Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument, Tséyi’ Diné Heritage Area at the Orange Status notwithstanding Public Health Emergency Order 20-21-005.

SECTION FOUR. SUPPORTING AND APPROVING THE CONTINUED IMPLEMENTATION OF THE DIVISION OF ECONOMIC DEVELOPMENT'S BUSINESS REOPENING PLANS AT ORANGE STATUS FOR BUSINESSES OPERATING WITHIN THE LAKE POWELL NAVAJO TRIBAL PARK, MONUMENT VALLEY NAVAJO TRIBAL PARK, MONUMENT VALLEY WELCOME CENTER, LITTLE COLORADO RIVER NAVAJO TRIBAL PARK,
FOUR CORNERS MONUMENT, TSÉYI' DINÉ HERITAGE AREA
NOTWITHSTANDING PUBLIC HEALTH EMERGENCY ORDER 2021-005

The Navajo Nation Council hereby supports and approves the continued implementation of the Division of Economic Development’s Business Reopening Plans at Orange Status for businesses operating within the Lake Powell Navajo Tribal Park, Monument Valley Navajo Tribal Park, Monument Valley Welcome Center, Little Colorado River Navajo Tribal Park, Four Corners Monument, Tséyi’ Diné Heritage Area notwithstanding Public Health Emergency Order 2021-005.

SECTION FIVE. EFFECTIVE DATE

This action of the Navajo Nation Council herein shall be effective pursuant to 2 N.N.C. § 221(B). Further, the "President's authority to sign into law or veto legislation shall be deemed waived if not exercised within ten calendar days after certification of the legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. §221." 2 N.N.C. § 1005(C)(12).

SECTION SIX. SAVINGS CLAUSE

Should any provision of this action 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 not determined invalid shall remain the law of the Nation.