

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
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LEGISLATION NO: \_0204-22\_

SPONSOR: Daniel E. Tso

**TITLE: An Action Relating to Resources and Development and Naabik'iyáti' Committee; Requesting and Supporting the Introduction and Enactment by United States Congress of the "Eastern Navajo Agency Land Exchange and Archaeological Protection Act of 2022"**

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Office of Legislative Services  
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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0204-22

**DATE:** October 24, 2022

**TITLE OF RESOLUTION:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND NAABIK'IYATI' COMMITTEE; REQUESTING AND SUPPORTING THE INTRODUCTION AND ENACTMENT BY UNITED STATES CONGRESS OF THE "EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION ACT OF 2022"

**PURPOSE:** The purpose of this legislation is to persuade U.S. Congress to introduce and enact the "EASTERN NAVAJO AGENCY LAND EXCHANGE AND ARCHAEOLOGICAL PROTECTION ACT OF 2022" developed by the Eastern Land Board.

**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: \_\_\_\_\_  
Posting End Date: 10-29-22  
Eligible for Action: 10-30-22

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 24th NAVAJO NATION COUNCIL – Fourth Year, 2022

4 INTRODUCED BY

5 Daniel E. Joe  
6

7 (Prime Sponsor)

8  
9 TRACKING NO. 0204-22

11 AN ACTION

12 RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND  
13 NAABIK'IYATI' COMMITTEE; REQUESTING AND SUPPORTING THE  
14 INTRODUCTION AND ENACTMENT BY UNITED STATES CONGRESS OF  
15 THE "EASTERN NAVAJO AGENCY LAND EXCHANGE AND  
16 ARCHAEOLOGICAL PROTECTION ACT OF 2022"

17  
18 BE IT RESOLVED:

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 Resources and Development Committee is established as a standing committee of  
24 the Navajo Nation Council. 2 N.N.C. § 500(A).
- 25 C. The Resources and Development Committee exercises oversight over water, land,  
26 grazing, environment, environmental protection, cultural resources, agriculture,  
27 livestock, wildlife, roads and transportation, air transportation, communications and  
28 utilities, information technology, chapter activities, economic and community  
29 development, commerce and trade, gaming, rights-of-way, minerals, public utilities,  
30 telecommunication, and housing for the following purposes:

- 1           1. To establish Navajo Nation policy with respect to the optimum utilization of all  
2           Navajo Nation resources and to protect the rights, interests, sacred sites and  
3           freedoms of the Navajo Nation and People to such resources, now and for future  
4           generations.
- 5           2. To oversee regulation of activities on Navajo Nation lands for disposition or  
6           acquisition of resources, surface disturbance, or alteration of the natural state of  
7           the resource, including the enforcement and administration of applicable Navajo  
8           Nation and federal laws, regulations, guidelines, and (administrative procedures  
9           in the development and use of resources as a good steward.

10           2 N.N.C. § 500(C).

11       C. The Resources and Development Committee is empowered to represent the Navajo  
12       Nation at local, state, and federal levels, in cooperation and coordination with the  
13       President of the Navajo Nation and the appropriate committee of the Navajo Nation  
14       Council on proposed resolutions legislation or actions affecting natural resources;  
15       energy resources; economic and community development; road and transportation  
16       matters; capital improvement projects, including recommending approval of the annual  
17       capital improvement projects budget of the Bureau of Indian Affairs, Indian Health  
18       Services and other departments or agencies of the United States; and housing  
19       development. 2 N.N.C. § 501(B)(5).

20       D. The Naabik'iyati' Committee is established as a standing committee of the Navajo  
21       Nation Council and is empowered to:

- 22           1. Coordinate all federal, county and state programs with other standing committees  
23           and branches of the Navajo Nation government to provide the most efficient  
24           delivery of services to the Navajo Nation; and
- 25           2. Coordinate all requests for information, appearances and testimony relating to  
26           proposed county, state and federal legislation impacting the Navajo Nation; and
- 27           3. Review and continually monitor the programs and activities of federal and state  
28           departments and to assist development of such programs designed to serve the  
29           Navajo People and the Navajo Nation through intergovernmental relationships  
30           between the Navajo Nation and such departments; and

- 1           4. To coordinate with all committees, Chapters, branches and entities concerned  
2           with all Navajo appearances and testimony before Congressional committees,  
3           departments of the United States government, state legislatures and departments  
4           and county and local governments.  
5           2 N.N.C. §§ 700 (A) and 701 (A) (6) – (9).

6  
7           **SECTION TWO. FINDINGS**

- 8           A. The Eastern Navajo Land Commission is established as a Commission of the Navajo  
9           Nation within the Legislative Branch and is charged with assisting in resolving land  
10          title issues, providing assistance to Navajo residents with respect to land-related  
11          matters, and coordinating Navajo Nation efforts with respect to Eastern Navajo Agency  
12          land-related matters with other governmental authorities and private interests. 2 N.N.C.  
13          § 861; and
- 14          B. On June 21, 2022, the Commission approved Resolution ENLC-0106-22,  
15          AFFIRMING SUPPORT FOR EASTERN NAVAJO AGENCY LAND EXCHANGE  
16          AND    ARCHAEOLOGICAL    PROTECTION    LEGISLATION,    AND  
17          RESPECTFULLY REQUESTING THE NAVAJO NATION COUNCIL AND ITS  
18          APPROPRIATE COMMITTEES TO RECOMMEND AND THE UNITED STATES  
19          CONGRESS TO ENACT LEGISLATION CONSISTENT WITH THE PRINCIPLES  
20          STATED IN THE PROPOSED "EASTERN NAVAJO AGENCY LAND  
21          EXCHANGE AND ARCHAEOLOGICAL PROTECTION ACT OF 2022", attached  
22          hereto as **Exhibit A**; and
- 23          C. The Navajo People have used and occupied certain land in northwest New Mexico,  
24          northeastern Arizona, and southeast Utah to the virtual exclusion of others since time  
25          immemorial; and
- 26          D. The Treaty between the United States of America and the Navajo Tribe of Indians  
27          concluded at Fort Sumner, New Mexico on June 1, 1868 (15 Stat. 667) set aside a small  
28          portion of the land historically and presently occupied and used by the Navajo people;  
29          and
- 30

- 1 E. The United States has set aside for Navajo use and benefit much of the remainder of  
2 the land historically and presently occupied and used by the Navajo people through  
3 Executive orders, Secretarial orders, public land orders, allotments under the Act of  
4 February 8, 1887 (commonly known as the "Indian General Allotment Act") (24 Stat.  
5 388, chapter 119; 25 U.S.C. 331 et seq.), and other means; and
- 6 F. Notwithstanding such federal actions, as of this date only that part of Navajo Indian  
7 country known as the Eastern Navajo Agency remains characterized by a mixture of  
8 Navajo lands (including lands held in trust for the Navajo Nation, lands held in fee  
9 status by the Navajo Nation, and allotments held in trust for Navajo individuals), New  
10 Mexico State trust lands, and lands administered by various federal agencies (including  
11 the U.S. Bureau of Indian Affairs, the U.S. Bureau of Land Management, and the U.S.  
12 National Park Service); and
- 13 G. The "Eastern Navajo Agency" is an administrative agency of the U.S. Bureau of Indian  
14 Affairs that includes the three satellite Navajo communities of Alamo, Ramah, and To'  
15 Hajiilee and is depicted on the map entitled "Eastern Navajo Agency (Nov. 2021)"  
16 prepared by the Navajo Nation and on file with the U.S. Bureau of Indian Affairs; and
- 17 H. The Navajo Nation ceded land in the vicinity of Page, Arizona, to the United States to  
18 enable the United States to construct and operate the Glen Canyon Dam and provide  
19 water and power principally to California and the American Southwest; and
- 20 I. In exchange for the lands described in Section (H), the United States transferred certain  
21 federal lands in southeast Utah, in an area known as "McCracken Mesa," to the Navajo  
22 Nation in trust status, but the United States retained the mineral estate for the  
23 transferred land, rendering the land practically impossible to exploit commercially; and
- 24 J. The Navajo Nation holds lands and interests in lands that are uniquely valuable for their  
25 cultural and archaeological resources; and
- 26 K. The Navajo Nation is willing to convey the lands and interests land described in Section  
27 (J) to the United States in exchange for Federal land in the Eastern Navajo Agency and  
28 the Federal mineral interests in the land described in Section (I); and
- 29 L. The best interests of both the Navajo Nation and the United States would be served by:  
30

1           1. Exchanging and consolidating Navajo and federal lands and interests in land  
2           through this federal legislation; and

3           2. Taking into trust for the benefit of the Navajo Nation land purchased in fee status  
4           in Eastern Navajo Agency; and

5 M. At the request of U.S. Senator Ben Ray Lujan, the congressional Office of Legislative  
6 Counsel reformatted an earlier version of proposed legislation approved by the Navajo  
7 Nation Council to accomplish the above purposes, and counsel for this Commission  
8 has further edited such reformatted legislation to better reflect and accomplish such  
9 purposes, attached hereto as **Exhibit B**.

10  
11 **SECTION THREE. PURPOSES**

12 The principal purposes of this Resolution are to obtain federal legislation:

13 A. To provide that certain lands administered by the U.S. Bureau of Land Management in  
14 the Eastern Navajo Agency (shown as "BLM Administered Lands" on attachments to  
15 the proposed "Eastern Navajo Agency Land Exchange and Archaeological Protection  
16 Act of 2022" or "2022 Act") shall be taken into trust by the United States for the benefit  
17 of the Navajo Nation and made a part of the Navajo Reservation; and

18 B. To provide that the Navajo tribal fee lands in the Eastern Navajo Agency (shown as the  
19 "Navajo Tribal Fee Land" on attachments to the proposed 2022 Act) shall be taken into  
20 trust by the United States for the Navajo Nation and made a part of the Navajo  
21 Reservation; and

22 C. To provide that certain lands withdrawn by Executive Orders, Secretarial Orders,  
23 Departmental Orders, and Public Land Orders ("PLO") in the Eastern Navajo Agency  
24 (collectively depicted as the "Withdrawn Lands" on attachments to the proposed 2022  
25 Act) shall be taken into trust by the United States for the benefit of the Navajo Nation  
26 and made a part of the Navajo Reservation; and

27 D. To provide that mineral interests of the United States in the McCracken Mesa Lands,  
28 including those lands where the surface estate was conveyed to the Navajo Nation in  
29 the exchange authorized by the Act of September 2, 1958, Pub. L. 85-868, 72 Stat.  
30

1 1686, shall be taken into trust by the United States for the benefit of the Navajo Nation  
2 and made a part of the Navajo Reservation; and

3 E. To provide that the PLO 2198 Lands within the Eastern Navajo Agency shall be taken  
4 into trust by the United States for the benefit of the Navajo Nation and made a part of  
5 the Navajo Reservation; and

6 F. To authorize the U.S. Secretary of the Interior, on written request by the Navajo Nation,  
7 to convey certain trust land to the Navajo Nation in restricted fee status; and

8 G. To effectuate a conveyance of certain lands and interests in lands now held by the  
9 Navajo Nation in the Eastern Navajo Agency and valuable for their archaeological and  
10 other special attributes to the United States.

11  
12 **SECTION FOUR. REQUESTING AND SUPPORTING FEDERAL LEGISLATION**

13 The Navajo Nation Council is requesting and supporting the introduction and  
14 enactment by Congress of the "Eastern Navajo Agency Land Exchange and Archaeological  
15 Protection Act of 2022" and authorizes the President of the Navajo Nation to take any and  
16 all actions to effectuate the intent of this resolution.