

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0231-22\_

SPONSOR: Otto Tso

**TITLE: An Action Relating to the Resources and Development Committee, Budget and Finance, and Naabik'iyati' Committees and the Navajo Nation Council; Approving a Memorandum of Agreement between the Navajo Nation and the Office of Navajo and Hopi Indian Relocation ("ONHIR") for the Lower Highway 89 Development; Authorizing the President of the Navajo Nation to Accept a Gift of the Lower Highway 89 Land from the Navajo Nation Gaming Enterprise and Submit an Application to place the Lower Highway 89 Land into Trust Under Public Law 96-305**

*Date posted:* November 23, 2022 at 4:28PM

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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0231-22

**DATE:** November 22, 2022

**TITLE OF RESOLUTION:** AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE NAVAJO NATION AND THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION ("ONHIR") FOR THE LOWER HIGHWAY 89 DEVELOPMENT; AUTHORIZING THE PRESIDENT OF THE NAVAJO NATION TO ACCEPT A GIFT OF THE LOWER HIGHWAY 89 LAND FROM THE NAVAJO NATION GAMING ENTERPRISE AND SUBMIT AN APPLICATION TO PLACE THE LOWER HIGHWAY 89 LAND INTO TRUST UNDER PUBLIC LAW 96-305

**PURPOSE:** The purpose of this legislation is approve the Lower Highway 89 Memorandum of Agreement between the Navajo Nation and ONHIR; to authorize the President to accept the Lower Highway 89 Land as a gift from the Navajo Nation Gaming Enterprise; and to authorize the President to start the process to put the Lower Highway 89 Land into trust using P.L. 96-305

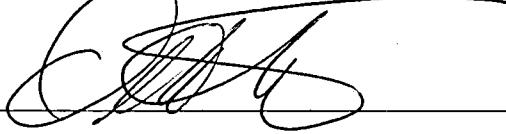
**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

5-DAY BILL HOLD PERIOD: \_\_\_\_\_  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 11-28-2022  
Eligible for Action: 11-29-2022

Resources & Development Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

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

3 INTRODUCED BY

4 

5 \_\_\_\_\_  
6 (Prime Sponsor)

7 TRACKING NO. 0231-22

8  
9 AN ACTION

10 RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND  
11 FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION  
12 COUNCIL; APPROVING A MEMORANDUM OF AGREEMENT BETWEEN  
13 THE NAVAJO NATION AND THE OFFICE OF NAVAJO AND HOPI INDIAN  
14 RELOCATION (“ONHIR”) FOR THE LOWER HIGHWAY 89  
15 DEVELOPMENT; AUTHORIZING THE PRESIDENT OF THE NAVAJO  
16 NATION TO ACCEPT A GIFT OF THE LOWER HIGHWAY 89 LAND FROM  
17 THE NAVAJO NATION GAMING ENTERPRISE AND SUBMIT AN  
18 APPLICATION TO PLACE THE LOWER HIGHWAY 89 LAND INTO TRUST  
19 UNDER PUBLIC LAW 96-305

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21 BE IT ENACTED:

22  
23 SECTION ONE. AUTHORITIES

- 24 A. Statements of Policy and intergovernmental agreements must be reviewed and  
25 approved by the appropriate standing committee(s) and the Navajo Nation Council  
26 except as otherwise provided herein. 2 N.N.C. § 164(A).
- 27 B. The Navajo-Hopi Land Commission (“NHLC”) is established within the Legislative  
28 Branch of the Navajo Nation Government to “speak and act for the Navajo Nation  
29 with respect to the land selection and land exchange provisions of P.L. 96-305,”  
30 codified at 25 U.S.C. § 640d-10 *et seq.* (the “Act”), and the NHLC has authority to

1 "act and speak on all matters and recommend legislation relating to . . . lands acquired  
2 using [the Act]". 2 N.N.C. § 851(A), 851(B)(2), and 853(B)(6), as amended by  
3 Resolution CD-91-20.

4 C. The Resources and Development Committee is a standing committee of the Navajo  
5 Nation Council and has authority to "review and recommend to the Naabik'iyáti'  
6 Committee Intergovernmental Agreements and agreements between the Navajo  
7 Nation and any governmental entity relating to economic development [] and gaming  
8 for efficiency and timely comparison of those projects." 2 N.N.C. § 501(B)(12).

9 D. The Budget and Finance Committee is a standing committee of the Navajo Nation  
10 Council and has authority to "[a]uthorize, review, approve and accept agreements,  
11 including contracts and grants, between the Navajo Nation and any federal, state or  
12 regional authority upon the recommendation of the standing committee which has  
13 oversight of the division, department or program which has applied for the  
14 agreement." 2 N.N.C. § 300(A); 2 N.N.C. § 301(B)(15).

15 E. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council  
16 and has authority to "coordinate all federal, county and state programs with other  
17 standing committees and branches of the Navajo Nation government to provide the  
18 most efficient delivery of services to the Navajo Nation." 2 N.N.C. § 700(A); 2  
19 N.N.C. § 701(A)(4).

20 F. A proposed resolution that requires final action by the Navajo Nation Council shall be  
21 assigned to standing committee(s) having authority over the subject matter at issue  
22 and the Naabik'iyáti' Committee. 2 N.N.C. § 164(A)(9).

23 G. Gifts of lands outside the exterior boundaries of the Navajo Indian Reservation of a  
24 value exceeding ten thousand dollars (\$10,000), including the value of improvements  
25 thereon, shall be accepted by the President of the Navajo Nation only pursuant to  
26 special authorization of the Navajo Nation Council. 2 N.N.C. § 452(B).

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28 **SECTION TWO. FINDINGS**  
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- 1 A. The Navajo Nation Gaming Enterprises (“NNGE”) is a wholly-owned enterprise of  
2 the Navajo Nation established pursuant to 5 N.N.C § 1701 *et seq.*, and NNGE is  
3 authorized to carry out commercial activities.
- 4 B. Pursuant to Resolution Nos. NNGEJUN-002-19 and NNGESEP-001-19, incorporated  
5 herein by reference, the Board of Directors of NNGE authorized NNGE to acquire  
6 three assembled parcels consisting of the Bellar Parcel, Horsemen Lodge Parcel, and  
7 Flying Heart Stables Parcel (collectively “Lower Highway 89 Land” more  
8 particularly described in **Exhibit 1-A** which is incorporated herein), which  
9 individually and collectively are outside the exterior boundaries of the Navajo Indian  
10 Reservation and have a value exceeding \$10,000. In accordance with these  
11 Resolutions, NNGE purchased the Lower Highway 89 Land.
- 12 C. Pursuant to Resolution No. NHLCA-3-2020, the NHLCA, on behalf of the Navajo  
13 Nation, supported the purchase and development of Horsemen Lodge and directed the  
14 NNGE and the Navajo Nation (Department of Justice, Division of Natural Resources,  
15 and Navajo-Hopi Land Commission Office) to work with the U.S. Office of the  
16 Navajo-Hopi Indian Relocation (“ONHIR”) and the U.S. Department of the Interior,  
17 Bureau of Indian Affairs (“BIA”), to do all things necessary to expedite the  
18 mandatory fee land into Navajo Nation trust land process. **Exhibit 2.**
- 19 D. Pursuant to Resolution No. NHLCA-5-2020, the NHLCA selected three assembled  
20 parcels with a total area of approximately 13.8 acres (“Lower Highway 89 Land”) to  
21 convert into trust status pursuant to the Act. **Exhibit 3.**
- 22 E. Pursuant to Section 640d-10(h) of the Act: “The lands transferred or acquired  
23 pursuant to this section shall be administered by [ONHIR] until relocation under  
24 [ONHIR’s] plan is complete and such lands shall be used solely for the benefit of  
25 Navajo families residing on Hopi-partitioned lands as of December 22, 1974:  
26 Provided, That the sole authority for final planning decisions regarding the  
27 development of lands acquired pursuant to this subchapter shall rest with the  
28 Commissioner until such time as the Commissioner has discharged his statutory  
29 responsibility under this subchapter”.
- 30

1 F. Pursuant to CJA-13-22, incorporated herein by reference, the Navajo Nation  
2 established the Diné Relocatee Fund (“Fund”) for the purpose of providing “financial  
3 support to Navajo families who resided on the Hopi-partitioned lands as of December  
4 22, 1974,” and designated that revenue generated from lands acquired pursuant to the  
5 Act shall be deposited into the Fund.

6 G. Pursuant to Resolution No. NHLCO-07-2022, attached as **Exhibit 1**, the NHLC  
7 approved, and recommended that the Naabik’iyati’ Committee approve, a  
8 Memorandum of Agreement between the Navajo Nation and ONHIR (“Lower  
9 Highway 89 MOA”) regarding the allocation of revenues arising from the Lower  
10 Highway 89 Land, deposit of revenues into the Fund, and ONHIR selection of the  
11 Lower Highway 89 Lands in accordance with the Act.

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13 **SECTION THREE. APPROVAL AND AUTHORIZATION**

14 A. The Navajo Nation Council hereby approves the Lower Highway 89 MOA in the  
15 form recommended by Resolution No. NHLCO-07-2022, attached as **Exhibit 1-A**.

16 B. The President of the Navajo Nation is hereby authorized to take all actions necessary  
17 to execute the Lower Highway 89 MOA on behalf of the Navajo Nation.

18 C. The President of the Navajo Nation is hereby authorized to accept the Lower  
19 Highway 89 Land as a gift from NNGE pursuant to 2 N.N.C. § 452(B).

20 D. The President of the Navajo Nation is hereby authorized to take all actions necessary  
21 to submit an application to the United States Department of the Interior to place the  
22 Lower Highway 89 Land into trust under P.L. 96-305, codified at 25 U.S.C. § 640d-  
23 10 *et seq.*

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25 **SECTION FOUR. EFFECTIVE DATE**

26 This Action by the Navajo Nation Council shall be effective pursuant to 2 N.N.C. §  
27 221(B).

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29 **SECTION FIVE. SAVINGS CLAUSE**

1 Should any provision of this Action by the Navajo Nation Council be determined invalid  
2 by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation without  
3 appeal to the Navajo Nation Supreme Court, those provisions that are not determined  
4 invalid shall remain the law of the Nation.  
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