

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0083-23_

SPONSOR: Vince R. James

TITLE: An Action Relating to The Naabik'iyáti' Committee and Navajo Nation Council; An Action Relating to Health, Education and Human Services Committee; Amending the Navajo Nation Personnel Polices Manual Section IV.K.5; Approving the Navajo Nation to Hire Employees on a Provisional Basis While Background Checks are Pending

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0083-23

DATE: April 20, 2023

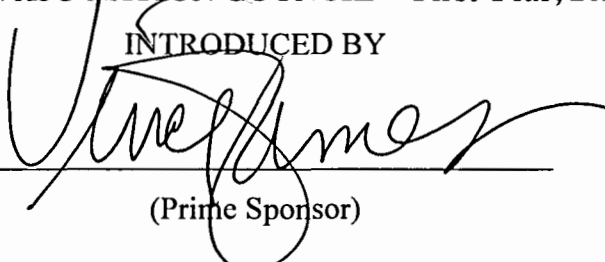
TITLE OF RESOLUTION: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE; AMENDING THE NAVAJO NATION PERSONNEL POLICIES MANUAL SECTION IV.K.5; APPROVING THE NAVAJO NATION TO HIRE EMPLOYEES ON A PROVISIONAL BASIS WHILE BACKGROUND CHECKS ARE PENDING

PURPOSE: The purpose of this proposed resolution is to approve amendments to the Navajo Nation Personnel Manual, Section IV. K., Background Checks.

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.

1 PROPOSED STANDING COMMITTEE RESOLUTION
2 25th NAVAJO NATION COUNCIL -- First Year, 2023

3 INTRODUCED BY

4 
5 _____
6 (Prime Sponsor)

7 TRACKING NO. 0083-23

8 AN ACTION

9
10 RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE;
11 AMENDING THE NAVAJO NATION PERSONNEL POLICIES MANUAL SECTION
12 IV.K.5; APPROVING THE NAVAJO NATION TO HIRE EMPLOYEES ON A
13 PROVISIONAL BASIS WHILE BACKGROUND CHECKS ARE PENDING
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16 **BE IT ENACTED:**

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19 **SECTION ONE. AUTHORITY**

- 20 A. The Health, Education and Human Services Committee (HEHSC) is a standing
21 committee of the Navajo Nation Council. 2 N.N.C. § 400 (A).
22 B. The HEHSC is charged with promulgating policies and regulations governing human
23 services and general government services. 2 N.N.C. §§ 400 (C)(1).
24 C. The HEHSC oversees the Navajo Nation Division of Human Resources, as well as
25 employment and labor matters. 2 N.N.C. § 401(C)(1) and 401 (C)(6).
26

27 **SECTION TWO. FINDINGS**

- 28 A. The Office of Background Investigations conducts background checks for employees
29 in the executive and legislative branches of the Navajo Nation government in accordance
30 with Section IV.K. of the Navajo Nation Personnel Policies Manual.

1 B. The Navajo Nation's executive and legislative branches have experienced significant
2 delays in hiring qualified candidates due to the length of time background checks have
3 taken to complete. Oftentimes while the background checks are pending applicants have
4 accepted other employment, which has caused the Navajo Nation to lose qualified
5 applicants.

6 C. Due to the high number of vacancies within the Navajo Nation, allowing employees
7 to begin working while their background checks are pending will enable the Navajo
8 Nation to fill positions of critical importance.

9 D. Due to the need to fill positions throughout the Navajo Nation, the Executive
10 Directors of the Division of Human Resources and the Division of Social Services
11 proposed language to allow the Navajo Nation to provide a means hire employees on a
12 provisional basis.

13 E. The Navajo Nation Department of Justice has reviewed the proposed amendments to
14 the Navajo Nation Personnel Policies Manual and determined the inclusion of a policy
15 allowing for provisional hiring while background checks are pending to be legally
16 sufficient. The Department of Justice's Request for Services documentation is attached as
17 **Exhibit A.**

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19 **SECTION THREE. AMENDING NAVAJO NATION PERSONNEL POLICIES**
20 **MANUAL**

21 The Navajo Nation amends the Navajo Nation Personnel Policies Manual as
22 follows:

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25 **IV. RECRUITMENT AND SELECTION**

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27 **K. Background Check and Adjudication for Sensitive Positions**

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29 **5. Designation of Sensitive Positions**

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1 a. In consultation with the hiring department and subject to final approval by the
2 Human Resources Director or designee, the Department of Personnel
3 Management shall designate sensitive positions pursuant to 5.b. Upon
4 designation the Department of Personnel Management shall inform the Office of
5 Background investigations.

6 b. Sensitive positions are those positions with the following job responsibilities:

- 7 1. providing child care in a child care facility, or providing for the health,
8 safety and welfare of a child, particularly where responsibility involves
9 direct repetitive contact with a child or unsupervised access to children;
- 10 2. providing patient care or providing for the health, safety and welfare of
11 adults and elders;
- 12 3. having responsibility for money, receipts and/or disbursement of
13 negotiable instruments, e.g., money, checks and property disbursements;
- 14 4. having responsibility for credit data, credit account records or credit
15 transactions;
- 16 5. carrying and using firearms;
- 17 6. having responsibility for the safety and security of Navajo Nation
18 property;
- 19 7. having routine access to security control and key systems;
- 20 8. having responsibility for controlled substances or toxic, radioactive or
21 other hazardous materials;
- 22 9. having responsibility for confidential information or sensitive data
23 protected by federal, state or Navajo Nation law.

24 c. All job vacancy announcements for sensitive positions shall include notice that a
25 favorable background investigation is required.

26 d. ~~The Navajo Nation shall not hire any applicant for a sensitive position until a~~
27 ~~background check and suitability assessment have been completed. Provisional~~
28 ~~hire is permitted for an applicant whose position requires a background check if~~
29 ~~their position falls under or includes criteria number 2,3,4,5,6,7, 8, and 9.~~

- 1 e. Provisional hire shall not be permitted for an applicant whose position require a
2 background check and their position falls under or includes criteria number 1.
- 3 f. e. Upon designation by the Department of Personnel Management, supervisors
4 shall provide written notice to current employees that their positions require a
5 favorable background investigation.
- 6 1. A current employee shall submit a completed security application packet
7 to the Office of Background Investigations within 30 calendar days of
8 receiving notice from his/her supervisor that a background check is
9 required for his/her position.
- 10 2. An employee who fails to comply with the background check
11 requirement shall be deemed ineligible for continued employment
12 pursuant to the Table of Penalties.
- 13 3. A supervisor who fails to notify their employee, in writing, that a
14 background check is required shall be disciplined pursuant to the Table
15 of Penalties.
- 16 4. An extension may be granted to an employee who has demonstrated
17 good cause for exceeding 30 calendar days. All extensions must be in
18 writing and approved by the Office of Background Investigations
19 Manager. The Office of Background Investigations shall provide written
20 notice of all approved extensions to the Department of Personnel
21 Management.

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25 **SECTION FOUR. DIRECTIVE TO THE DIVISION OF HUMAN RESOURCES**

26 The Executive Director of the Navajo Nation Department of Human Resources shall
27 ensure the Department of Personnel Management makes the changes, consistent with this
28 Resolution, to the Navajo Nation Personnel Policies Manual as soon as soon as practical,
29 but no later than 30 day from the effective date of this Resolution.
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1 **SECTION FIVE. EFFECTIVE DATE**

2 The amendments contained in this Resolution shall be effective upon the signature
3 of the Presiding Chair in accordance with 2 N.N.C. § 189(A).

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5 **SECTION SIX. SAVING CLAUSE**

6 Should any provision in this Resolution be determined invalid by the Navajo
7 Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the
8 Navajo Nation Supreme Court, the remainder of provisions in the Navajo Nation
9 Personnel Policies Manual shall remain effective.

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