

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0045-24_

SPONSOR: George Tolth

TITLE: An Action Relating to the Naabik'íyáti' Committee; Opposing States
Decriminalization of the use of Peyote

Date posted: February 16, 2024 at 10:48AM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

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

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

LEGISLATIVE SUMMARY SHEET

Tracking No. 0045-24

DATE: February 15, 2024

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEES; OPPOSING STATES DECRIMINALIZATION OF THE USE OF PEYOTE

PURPOSE: The purpose of this legislation is to affirm the Navajo Nation's position to protect, preserve, and conserve the sacred Azee' (Peyote) by opposing the decriminalization of Peyote in the United States.

Final Authority: Naabik'íyáti' Committee

Vote Required: Simple Majority

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.

Website Posting Time/Date _____

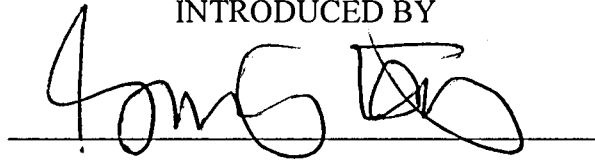
Posting End Date: 02/21/24

Eligible for Action: 02/22/24

PROPOSED STANDING COMMITTEE RESOLUTION

25th NAVAJO NATION COUNCIL – Second Year, 2024

INTRODUCED BY



(Prime Sponsor)



TRACKING NO. 0045-24

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEES; OPPOSING STATES
DECRIMINALIZATION OF THE USE OF PEYOTE

WHEREAS:

- A. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council empowered to assist and coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 700 (A), 701 (A) (6).
- B. The Navajo Nation has a government-to-government relationship with the United States of America. Treaty of 1868, signed June 1, 1868, proclaimed August 12, 1868, 15 Stat. 667. The Navajo Nation is a federally recognized tribe.
- C. The use of Peyote for ceremonial and cultural purposes by the Native American Church members is one of the oldest religious traditions in the Western Hemisphere; a recent carbon dating of Peyote at an archeological site in Texas revealed that the Peyote dated back to 4,220 B.C. (approximately 6,000 years ago). James D. Muneta, *Peyote Crisis Confronting Modern Indigenous Peoples: The Declining Peyote Population and a Demand for Conservation*, Amer. Ind. Law Journal: Vol. 9: Iss. 1, Article 6 (2020).
<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1228&context=ailj>
- D. The Navajo Nation understands Navajo people and other American Indians were historically persecuted and prosecuted for their ceremonial use of Peyote for more than a century and had to fight numerous legal and political battles at the tribal, state and

1 federal levels to achieve the right to use Peyote within their respective traditional
2 ceremonial and cultural practices.

3 E. The Navajo Nation further understands the American Indian Religious Freedom Act of
4 1978 protects the rights of Native Americans to exercise their traditional religions by
5 ensuring access to sites, use, and possession of sacred objects, and the freedom to worship
6 through ceremonies and traditional rites. P.L. 95-341, 92 Stat. 469 (Aug. 11, 1978), 42
7 U.S.C. § 1996.

8 F. The Navajo Nation further understands that the American Indian Religious Freedom Act
9 Amendments of 1994, P.L. 103-344, 108 Stat. 3125 (October 6, 1994), 42 U.S.C. § 1996,
10 provided that “the use, possession, or transportation of Peyote by an Indian for bona fide
11 traditional ceremonial purposes in connection with the practice of a traditional Indian
12 religion is lawful and shall not be prohibited by the United States or any State.”

13 G. Navajo Nation tribal members whom are bona fide members of the Azeé Bee Nahaghá
14 consume the sacred cactus plant (*lophophora williamsii*) known as Peyote.

15 H. Azeé means medicine in the Diné language. Diné Azeé yee Nahalaha (Diné Peyote
16 Practitioners) identify Azeé to also mean Peyote and it is believed to spiritually heal a
17 person through songs, prayers, offerings and consumption of the Azeé (Peyote).

18 I. In the Southwest United States, including Texas, and Mexico, Peyote is drastically
19 declining due to land development, ranching, agriculture, poaching, psychedelic tourism,
20 incorrect harvesting, and other factors such as recreational use and climate change.

21 J. Peyote is a slow-growing cactus that takes approximately ten or more years to grow from
22 a seed to a mature plant to be consumed.

23 K. The decriminalization of Peyote would affect the availability of Peyote for use for “bona
24 fide traditional ceremonial purposes” as provided in the American Indian Religious
25 Freedom Act of 1994.

26 L. The Azeé Bee Nahaghá of Diné Nation, Inc. passed a resolution, attached as **Exhibit A**,
27 requesting the Navajo Nation to oppose decriminalization of Peyote by all states across
28 the United States. The Azeé Bee Nahaghá of Diné Nation, Inc., further recognized
29 through their resolution that Peyote should only be strictly used by bona fide members
30 of the Native American Church as it is stated in the American Indian Religious Freedom
Act Amendments of 1994.

1 M. It is in the best interest of the Navajo Nation to oppose decriminalizing the use of Peyote
2 as it could result in excessively harvesting and will also substantially affect the religious,
3 ceremonial and cultural practices of Indigenous People across the Western Hemisphere
4 including members of the Navajo Nation who have sincere religious beliefs and
5 connection to Peyote for ceremonial and cultural purposes.
6

7 **THEREFORE, BE IT RESOLVED:**

- 8 A. The Navajo Nation hereby affirms its position to protect, preserve, and conserve our
9 sacred Azee' (Peyote) by strongly opposing the decriminalization of Peyote in the United
10 States.
11 B. The Navajo Nation hereby urges all United States local governments, states, and
12 territories to respectfully adhere to the American Indian Religious Freedom Act
13 Amendments of 1994.
14 C. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation
15 Speaker and their designees, to affirm the Nation's position to protect and preserve our
16 sacred Azee' (Peyote) to be used for religious, cultural, and ceremonial purposes by
17 Navajo people and other federal recognized tribes.
18
19
20
21
22
23
24
25
26
27
28
29
30



AZEE' BEE NAHAGHA OF DINE NATION, Inc.
P.O. Box 1570 Chinle, Arizona 86503



Willie Tracey Jr., President
Albert Johnson, Vice President

Victoria Woody, Treasurer
Rayanne Harvey, Secretary

RESOLUTION OF THE AZEE' BEE NAHAGHA OF DINE NATION, Inc.

**Respectfully Approving and Recommending the Navajo Nation Council to Oppose the
National Peyote Decriminalization**

WHEREAS:

1. Azee Bee Nahagha of Dine Nation, Inc. (ABNDN Inc.) is governed by Board of Directors as provided for in its Articles of Incorporation, Constitution and Bylaws; and
2. The Native American Church of Navajoland, Inc. (NACNI, Inc.), now known as ABNDN Inc. was established on June 11, 1966 as a non-profit organization, was incorporated within the State of New Mexico on May 15, 1972 and in December 1989, the Advisory Committee of the Navajo Tribal Council granted a Revocable Land Use Permit (Mission Site) for NACNI, comprising of ten (10) acres of Navajo Nation Trust land at Chinle, Arizona; and
3. ABNDN, Inc. is vested with the authority to review all matters affecting it's membership while making appropriate delicate decisions as deem necessary and to make recommendation to various agencies while seeking resources; and
4. ABNDN recognizes the Azee (Peyote) plant to be sacred among the Navajo people; and
5. ABNDN recognizes Azee (Peyote) has been consumed by Navajo people for religious, cultural, and ceremonial purposes since time in immemorial; and
6. ABNDN recognizes certain lands in the Southwest part of Texas and in Northern Mexico are cultural places of significant importance where Azee (Peyote) plant grows in its aboriginal habitat; and
7. ABNDN recognizes the number of Azee (Peyote) plants has decreased in recent years, threatening the long-term sustainability of the Azee (Peyote) aboriginal habitats or populations, and depleting the number of Azee (Peyote) that could be available for future generations; and
8. ABNDN recognizes the personal and corporate cultivation of the Azee (Peyote) plant threatens the historical, cultural, and biological integrity of the plant by potentially exposing the population to hybridization, genetic modification, and sterilization, all of which is in violation of Public Law 103-344 American Indian Religious Freedom Act of 1994 (AIRFA of 1994); and
9. ABNDN recognizes the movement to decriminalize Azee (Peyote) use directly threatens the availability of Azee (Peyote) and integrity of the ceremonial use of Azee (Peyote) for Navajo people, including other Indigenous peoples, and would be contrary to the doctrine of

federal preemption, whereby federal law supersedes state law in this area (under Public Law 103-344 AIRFA of 1994).

10. ABNDN recognizes the decriminalization of Azeé (Peyote) consumption beyond the already hundreds of thousands of federally recognized tribes and other Indigenous peoples, including Navajo people, will create a demand and market for Azeé (Peyote) that further threatens the existing aboriginal inhabitants.

NOW THEREFORE, BE IT RESOLVED THAT:

1. ABNDN opposes the decriminalization of Azeé (Peyote). Usage should be only by a federally enrolled tribal citizen who uses Azeé (Peyote) in a bona fide traditional ceremony.

2. ABNDN opposes the extraction and synthesis of mescaline, and any cultivation, tincture, or manufacturing for scientific purposes (research), or for any reasons outside of a traditional bona-fide ceremonial setting and purposes.

3. ABNDN hereby requests to protect and preserve Azeé (Peyote) strictly used for religious, cultural, and ceremonial purposes by the Navajo people, as protected under federal law.

4. ABNDN hereby requests Navajo leadership to protect and preserve the Peyote Way of Life and the lands in which they reside within its natural aboriginal habitat.

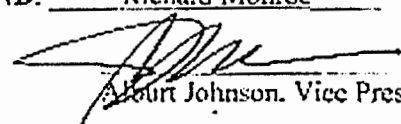
CERTIFICATION

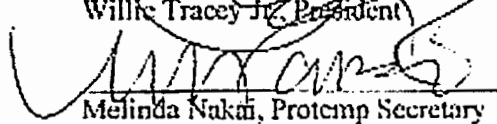
We hereby certify that the foregoing resolution was duly considered by the ABNDN, Inc. Executive Officials and Board of Directors at a duly called meeting at Chinle, Navajo Nation, Arizona, at which a quorum was present and that same was passed by a vote of 11 in favor, 00 opposed and 01 abstained, this 16th day of April, 2022.

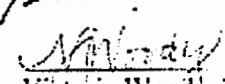
MOTION: Justin Dale

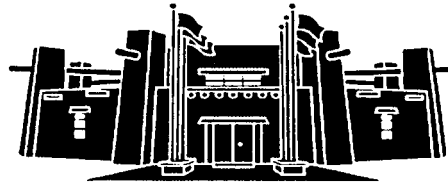
SECOND: Richard Monroe


Willie Tracey Jr., President


Albert Johnson, Vice President


Melinda Nakim, Protcmp Secretary


Victoria Woody, Treasurer



MEMORANDUM

TO: Honorable George Tolth
Littlewater, Pueblo Pintado, Torreon, Whitehorse Lake, Baca/Prewitt, Casamero Lake,
Ojo Encino, Counselor Chapters

FROM: Mariana Kahn
Mariana Kahn
Attorney, Office of Legislative Counsel

DATE: February 15, 2024

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION
RELATING TO THE NAABIK'ÍYÁTI' COMMITTEES; OPPOSING STATES
DECRIMINALIZATION OF THE USE OF PEYOTE

I prepared the above-referenced proposed resolution pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government, however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees' powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution.