THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: 0280-26 **SPONSOR: Shawna Ann Claw**

TITLE: **An Action Relating to the Naabik'íyáti' Committee; Opposing the Federal Communications Commission's Proposals to Narrow Historic Preservation Review and Tribal Consultation for Communications Facilities; And Approving the Navajo Nation's Comments on the Commissions' Further Notice of Proposed Rulemaking**

Date posted: **November 13, 2026 at 8:20 PM**

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0280-26

DATE: November 13, 2026

TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE; OPPOSING THE FEDERAL COMMUNICATIONS COMMISSION'S PROPOSALS TO NARROW HISTORIC PRESERVATION REVIEW AND TRIBAL CONSULTATION FOR COMMUNICATIONS FACILITIES; AND APPROVING THE NAVAJO NATION'S COMMENTS ON THE COMMISSION'S FURTHER NOTICE OF PROPOSED RULEMAKING

PURPOSE: This legislation, if approved, would oppose the Federal Communications Commission's proposals to narrow historic preservation review and tribal consultation for communications facilities, approve the Navajo Nation's comments on the Commission's Further Notice of Proposed Rulemaking, and authorize their submission to the Commission.

FINAL AUTHORITY: Naabik'íyáti' Committee

VOTE REQUIRED: Simple Majority Vote

This written summary does not address amendments as may be proposed before the Budget and Finance Committee. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: 11/18/26
Website Posting Time/Date: _____
Posting End Date: 11-18-26
Eligible for Action: 11-19-26

PROPOSED STANDING COMMITTEE RESOLUTION

25th NAVAJO NATION COUNCIL—Fourth Year, 2026

Introduced by:

Shawna Ann Claw

Primary Sponsor

Tracking No. 0280-26

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE; OPPOSING THE FEDERAL COMMUNICATIONS COMMISSION'S PROPOSALS TO NARROW HISTORIC PRESERVATION REVIEW AND TRIBAL CONSULTATION FOR COMMUNICATIONS FACILITIES; AND APPROVING THE NAVAJO NATION'S COMMENTS ON THE COMMISSION'S FURTHER NOTICE OF PROPOSED RULEMAKING

WHEREAS:

A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council empowered to coordinate with all committees the appearance and testimony of the Navajo Nation before federal, state and other non-Navajo government entities, and to review and continually monitor the programs and activities of federal departments through the intergovernmental relationships between the Navajo Nation and those departments. 2 N.N.C. §§ 700(A), 701(A)(7) and 701(A)(8).

B. On September 30, 2026, the Federal Communications Commission adopted a Report and Order and Further Notice of Proposed Rulemaking titled Modernizing the Commission's National Environmental Policy Act Rules, FCC 26-64, WT Docket No. 25-217 ("Further Notice") located at https://docs.fcc.gov/public/attachments/FCC-26-64A1.pdf, a summary of which was published in the Federal Register on October 19, 2026. The Commission will accept

comments through November 18, 2026 and reply comments through December 3, 2026. The Federal Register Vol. 91, No. 200 notice is attached as **Exhibit A**.

C. The United States has a trust responsibility to the Navajo Nation and obligations under the Treaty of 1868, and it must honor those obligations, including through meaningful government-to-government consultation, whenever it acts in ways that affect the Navajo Nation and its people.

D. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, 54 U.S.C. § 306108, and to consult with any Indian tribe that attaches religious and cultural significance to an affected property, 54 U.S.C. § 302706(b), regardless of where the property is located, 36 C.F.R. § 800.2(c)(2)(ii).

E. Through its Heritage and Historic Preservation Department, the Navajo Nation reviews proposed communications facilities submitted through the Commission's Tower Construction Notification System. Many places of religious and cultural significance to the Diné lie outside the Navajo Nation's present boundaries, including the sacred mountains that Diné Natural Law directs must be respected, honored and protected, 1 N.N.C. § 205, and the Commission's Section 106 process is often the only way the Navajo Nation learns of a proposed tower near one of these places in time to protect it.

F. The Further Notice asks whether construction under a Commission license should continue to be treated as an undertaking subject to Section 106, now that the Report and Order has removed the limited approval authority in former 47 C.F.R. § 1.1312 on which the Commission relied in reaching that determination. The United States Court of Appeals for the District of Columbia Circuit has upheld the Commission's treatment of tower construction as an undertaking, *CTIA-The Wireless Ass'n v. FCC*, 466 F.3d 105 (D.C. Cir. 2006), and vacated the Commission's last decision removing a class of facilities from that review, *United Keetoowah Band of Cherokee Indians v. FCC*, 933 F.3d 728 (D.C. Cir. 2019).

G. The Further Notice also seeks comment on narrowing tribal consultation, based in part on Verizon's assertion, described in the Further Notice, that consultation extends

a Tribe's response time to an average of 110 days; on replacing with recorded messages the telephone calls that Commission staff make to Tribes before a Tribe's review closes, which the Further Notice reports numbered approximately 20,539 between July 2, 2018 and January 8, 2026; on batching tower submissions; on exempting the replacement of facilities after disasters; and on trends in the Geographic Areas of Interest that Tribes designate.

H. These proposals would weaken the ability of the Navajo Nation to protect burial sites, ceremonial places and other properties of religious and cultural importance to the Diné, which cannot be replaced once they are damaged.

I. The Commission's Office of Native Affairs and Policy announced tribal consultation on the Commission's review of its National Environmental Policy Act rules in WT Docket No. 25-217 through a Dear Tribal Leader Letter issued on September 5, 2025, attached as **Exhibit C**. The questions in the Further Notice concern how the Commission meets its consultation obligations to Tribes and should be resolved with Tribes through government-to-government consultation, consistent with the Commission's Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, 16 FCC Rcd 4078 (2000).

J. The Navajo Nation is not opposed to the faster deployment of wireless and broadband service, which Navajo families need, and it supports efficient review that preserves Section 106 and tribal consultation.

K. The Navajo Nation has developed written comments on the Further Notice, which (i) support the Commission's stated objective of faster deployment; (ii) object to the proposals that would remove construction under a Commission license from Section 106 review, narrow tribal consultation, replace personal contact by Commission staff with recorded messages, and allow batching, disaster exemptions and limits on Geographic Areas of Interest without protections for tribal sites; (iii) request government-to-government consultation; and (iv) recommend specific actions to the Commission, attached as **Exhibit B**.

L. It is in the best interest of the Navajo Nation to oppose the proposals in the Further Notice that would narrow Section 106 review and tribal consultation, to approve and

adopt the comments within **Exhibit B**, and to authorize their submission to the Commission for inclusion in the record of WT Docket No. 25-217.

NOW THEREFORE, BE IT RESOLVED:

A. The Navajo Nation hereby opposes the proposals in the Further Notice that would narrow review under Section 106 of the National Historic Preservation Act and tribal consultation, approves and adopts the comments of the Navajo Nation on the Further Notice, attached as **Exhibit B**, and authorizes the submission of those comments to the Federal Communications Commission for inclusion in the record of WT Docket No. 25-217.

B. The Navajo Nation calls on the Commission to confirm that construction of facilities authorized by a Commission license remains an undertaking subject to Section 106, to keep direct contact by Commission staff as the final step before a Tribe's review is treated as complete, to keep site-by-site review for any facility that involves new ground disturbance near tribal lands or within a Tribe's Geographic Area of Interest unless that Tribe agrees otherwise, and to place no limits on the Geographic Areas of Interest that Tribes designate.

C. The Navajo Nation requests government-to-government consultation with the Commission before it adopts any rule arising from the Further Notice.

D. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation Vice-President, the Speaker of the Navajo Nation Council, and their designees to take all steps necessary to advocate for the Navajo Nation's position with respect to this resolution.

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