

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL -- Second Year, 2016

AN ACT

RELATING TO LAW AND ORDER, BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING THE NAVAJO LAND POLICY ON ACQUISITION OF LAND, 16 N.N.C. §§ 1 - 10, AND THE LAND ACQUISITION TRUST FUND, 16 N.N.C. § 202; AND ENACTING THE NAVAJO NATION LAND ACQUISITION ACT

BE IT ENACTED:

Section One. Authorities

- A. The Law and Order Committee has the authority to review and make recommendations to the Navajo Nation Council on amendments to and enactments in the Navajo Nation Code. 2 N.N.C. § 601(B)(14).
- B. The Budget and Finance Committee has oversight of Navajo Nation fiscal policies and oversight of fund management plans. 2 N.N.C. §§ 300(C)(1) and 301(B)(13).
- C. The Resources and Development Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 500(C), exercises oversight authority over land.
- D. The Naabik'íyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164(A)(9), reviews proposed legislation which requires final action by the Navajo Nation Council.

Section Two. Findings

- A. The Navajo Nation Policy on Acquisition of Lands, 16 N.N.C. § 1, was first enacted on March 23, 1954 for the purpose of acquiring lands for grazing, consolidating checkerboard areas, and overcrowding. The Navajo Nation has since grown through self-governance, executive orders, and other Federal authorizations. The purpose for land acquisition in

1954 no longer reflects the needs of the Navajo Nation because the Navajo Nation has moved into acquiring more industrial and commercial properties.

- B. Real estate is a major investment opportunity and is very competitive, especially for commercial use. To be competitive in the real estate industry, the Navajo Nation must have the ability to negotiate and acquire property on a streamlined basis. The procedures and limitations in the current Navajo Nation Policy on Acquisition of Lands, 16 N.N.C. § 1, *et seq.*, have inhibited the Navajo Nation from acquiring property and being competitive in the real estate industry.
- C. The Navajo Nation has the ability to invest in real property. However, the laws must allow the Navajo Nation to compete, or it will continue to lose opportunities to acquire prime property that can bring more revenue to the Navajo Nation.
- D. The enactment of the Navajo Nation Land Acquisition Act provides flexibility for the Navajo Nation to acquire and dispose of real property. It also removes processes and negotiation limits that no longer make sense in the current real estate market. Additionally, it removes limitations on the types of lands that can be acquired to include any real property.
- E. Pursuant to 16 N.N.C. § 208, the Navajo Land Department recommends the amendments to the Land Acquisition Trust Fund, 16 N.N.C. § 202.
- F. Therefore, the Navajo Nation Council finds the amendments to the Navajo Nation Policy on Acquisition of Lands, 16 N.N.C. § 1 through 10, the Land Acquisition Trust Fund, 16 N.N.C. § 202, and the enactment of the Navajo Nation Land Acquisition Act to be in the best interest of the Navajo Nation.

Section Three. Amendments to the Navajo Nation Policy on the Acquisition of Lands, Title 16 Sections 1 through 10 of the Navajo Nation Code by striking Sections 1 through 10

The Navajo Nation hereby amends the Navajo Nation Code, Title 16, §§ 1 through 10 as follows:

TITLE 16. LAND

CHAPTER 1. ~~NAVAJO NATION POLICY ON ACQUISITION OF LANDS~~

~~§ 1. Major purposes~~

~~A. The Navajo Nation's major purposes in acquiring new lands shall be to:~~

~~1. Consolidate Indian holdings in "checkerboard" areas wherever the best interests of the Navajos residing in the area and the welfare of the Navajo Nation are served thereby.~~

~~2. Provide grazing lands for members of the Navajo Nation who do not have grazing permits;~~

~~3. Provide additional or substitute lands for members of the Navajo Nation who reside in overcrowded areas of the Reservation.~~

~~4. Relieve Reservation land resources from excessive use; and~~

~~5. Provide land necessary for approved Navajo Nation enterprises.~~

~~§ 2. Methods of acquisition~~

~~The Navajo Nation may acquire new lands by exchange, gift, or purchase.~~

~~§ 3. Land acquisition program; code of use; priorities~~

~~The Resources Committee of the Navajo Nation Council is authorized and directed to: (1) Formulate a land acquisition program; (2) Develop a code of use for land acquired; and (3) Establish areas to be given priority attention.~~

~~§ 4. Management of agricultural and range lands~~

~~It is the policy of the Navajo Nation to manage agricultural and range lands in accordance with principles of sound and practical use, developing such lands to their maximum and preventing practices which damage or deteriorate them.~~

~~§ 5. Unrestricted lands; taxes and fees~~

~~Except as the United States may otherwise determine, the Navajo Nation shall, in acquiring unrestricted lands, assume responsibility for the payment of taxes lawfully imposed, and of all established fees for the use of federally or state-owned lands.~~

~~§ 6. Scope of land acquisition~~

~~Land acquisition includes agricultural and range lands and land for business or industrial purposes.~~

~~§ 7. Land acquisition proposals; plans for use~~

~~The Resources Committee of the Navajo Nation Council is authorized and directed to consider and investigate land acquisition proposals and to report findings and recommendations to the Navajo Nation Council. Proposals for land acquisition shall not be considered by the Navajo Nation Council unless the lands and the possible uses thereof conform to this land acquisition policy. Following acquisition thereof, a specific plan shall be prepared showing in detail the proposed use and operation of said land, which plan shall conform to the land use code and shall be strictly complied with. No deviation therefrom shall be permitted without the consent of the Navajo Nation Council based upon the recommendation of the Resources Committee.~~

~~§ 8. Cost of purchased lands~~

~~Purchased lands shall be acquired within a total cost calculated to yield to the Navajo Nation sufficient income from such land to pay taxes, land use fees, cost of administration, and to amortize the Navajo Nation~~

~~investment over a period not to exceed 50 years. Provided, however, that the cost of range lands purchased by the Navajo Nation in New Mexico may be amortized for a period not to exceed 99 years.~~

~~§ 9. Appraisal of land~~

~~All acquisition of land shall be based on a comprehensive appraisal thereof, to be secured by the Navajo Nation and approved by the Navajo Nation Council and authorized officials of the Bureau of Indian Affairs. No Navajo Nation monies shall be expended for the purchase in excess of the appraisal value plus an amount equal to ten percent (10%) in excess of such appraised value unless fully justified. Purchases must conform to the limitations established in 16 N.N.C. § 8, as indicated by the approved appraisal report.~~

~~§ 10. Procedure for acquisition of land~~

~~A. The procedure for acquisition of land shall be as follows:~~

- ~~1. Sufficient indication to Navajo Nation representatives that a property owner would consider sale of his or her property to the Navajo Nation, an instrument granting Navajo Nation representatives access to the property for the purpose of conducting preliminary investigations of the property will be secured.~~
- ~~2. When a preliminary investigation disclosing that the property is desirable when adjudged by the standards stated in the Navajo Nation land acquisition program, an appraisal report will be secured. After review by the Resources Committee, the appraisal report will be submitted to designated Bureau of Indian Affairs officials for approval.~~
- ~~3. After approval of the appraisal report by the Bureau of Indian Affairs, authorized Navajo Nation representatives may enter into negotiations with the property owner. Negotiations will be governed by the~~

~~estimates in the approved appraisal report, and the principles of the Navajo Nation Land Purchase Program.~~

- ~~4. If negotiations are carried on longer than six months, the appraisal report will be supplemented to bring value estimates in line with current market conditions.~~

Section Four. Enacting the Navajo Nation Land Acquisition Act

The Navajo Nation hereby enacts the Navajo Nation Land Acquisition Act as follows:

TITLE 16. LAND

CHAPTER 1. NAVAJO NATION ACQUISITION OF LANDS ACT

§ 1. Establishment.

The Navajo Nation Land Acquisition Act is hereby established which governs acquisitions and disposals of Navajo Nation real property.

§ 2. Major Purpose.

A. The Navajo Nation's major purposes in acquiring new lands shall be to:

1. Consolidate Indian holdings in "checkerboard" areas wherever the best interests of the Navajos residing in the area and the welfare of the Navajo Nation are served thereby.
2. Provide grazing lands for members of the Navajo Nation who do not have grazing permits;
3. Provide additional or substitute lands for members of the Navajo Nation who reside in overcrowded areas of the Reservation.
4. Relieve Reservation land resources from excessive use; and

5. Provide land necessary for approved Navajo Nation economic development.

§ 3. Rules and Regulations.

The Navajo Nation shall acquire and dispose of real property subject to land acquisition regulations as approved by the Resources and Development Committee of the Navajo Nation Council.

§ 4. Delegation.

The Division of Natural Resources Executive Director is hereby delegated a limited grant of final approval for the acquisition or disposition of real property(ies) not to exceed an accumulated sum of \$5,000,000.00 per calendar year. The Resources and Development Committee, on the recommendation of the Budget and Finance Committee, will grant final approval for acquisition or disposition of real property(ies) between the sum of \$5,000,000.00 and up to and including \$20,000,000.00 per calendar year. The Naabik'iyáti' Committee will grant final approval for acquisition or disposition of property(ies) exceeding \$20,000,000.00 per calendar year. The Executive Director shall report to the Resources and Development Committee and the President no later than March of each year and September of each year, all acquisitions and dispositions.

§ 5. Authorities.

The Division of Natural Resources Executive Director shall have the authority to take all steps necessary to acquire or dispose of real property, which may include: due diligence studies, hiring a real estate broker, or appropriating funds for earnest money, closing costs, and title insurance. The Division of Natural Resources Executive Director shall also have the authority to administer and grant sole and final approval to the budget and expenditure of the Navajo Nation Land Acquisition Trust Fund. The Division of Natural Resources Executive Director shall perform the authorities and delegations, in compliance with §3 Rules and Regulations and §4 Delegation.

§ 6. Oversight.

The Resources and Development Committee of the Navajo Nation Council shall serve as legislative oversight.

§ 7. Amendments.

This Chapter may be amended by the Resources and Development Committee of the Navajo Nation Council.

Section Five. Amendments to the Land Acquisition Trust Fund, Title 16 Section 202 of the Navajo Nation Code

The Navajo Nation hereby amends the Navajo Nation Code, Title 16, §202 as follows:

TITLE 16. LAND

CHAPTER 3. LAND ACQUISITION TRUST FUND

§ 202. Investment of the Fund

~~A.~~ All monies deposited in the Fund shall be invested to acquire and dispose of real property ~~purchase land~~ for the Navajo Nation in accordance with the Navajo Nation Land Acquisition Act, 16 N.N.C. § 1, et seq., Policies and Procedures adopted by the Resources and Development Committee of the Navajo Nation Council.

~~B.~~ Pursuant to 16 N.N.C. §1, the major purposes of acquiring new lands are:

- ~~1. To consolidate Indian holdings in the "checkerboard" area wherever the best interest of the Navajos residing in the area and the welfare of the Navajo Nation are served thereby.~~

- ~~2. To provide grazing lands for members of the Navajo Nation who do not have grazing permits;~~
- ~~3. To provide additional or substitute lands for members of the Navajo Nation who reside in overcrowded areas of the Reservation;~~
- ~~4. To relieve Reservation land resources from excessive use; and~~
- ~~5. To provide land necessary for approved Navajo Nation enterprises.~~

~~C. Pursuant to 16 N.N.C. §6, land acquisition may include agricultural and range lands for business or industrial purposes.~~

~~D. The administration management of the Fund shall be entrusted with the Navajo Land Department. Pursuant to CN-72-92, the Resources and Development Committee of the Navajo Nation Council serves as the Legislative Oversight over the Navajo Land Department and has (certain authority and function in the land acquisition process). All investment objectives shall be approved in accordance with 16 N.N.C. §1, et. seq., and other applicable Navajo Nation laws.~~

Section Six. Effective Date

The Navajo Nation Code amendment enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

Section Seven. Codification

The provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section Eight. Saving Clause

Should any provisions of this ordinance be determined invalid by the Navajo Nation Supreme Court, or the District

Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this ordinance which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 18 in favor and 2 opposed, this 2nd day of August 2016.



LoRenzo Bates, Speaker
Navajo Nation Council

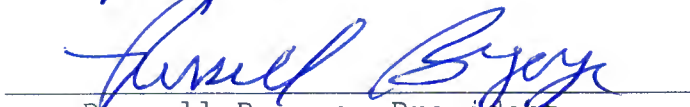
Aug. 5. 2016

Date

Motion: Honorable Jonathan L. Hale
Second: Honorable Jonathan Perry

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this 10th day of August 2016.



Russell Begaye, President
Navajo Nation



2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2016 for the reason(s) expressed in the attached letter to the Speaker.

Russell Begaye, President
Navajo Nation

NAVAJO NATION

RCS# 559

Special Session

8/2/2016
06:14:25 PM

Amd# to Amd#

Legislation No. 0101-16

PASSED

MOT Hale
SEC Perry

Amending the Navajo Land Policy
on Acquisition of Land, 16 N.N.C
Section 1-10, & the Land Acq.

Yea : 18

Nay : 2

Not Voting : 3

Yea : 18

Begay, K
Bennett
Brown
Chee
Crotty

Damon
Daniels
Filfred
Jack
Perry

Pete
Phelps
Shepherd
Slim

Smith
Tso
Witherspoon
Yazzie

Nay : 2

BeGaye, N

Tsosie

Not Voting : 3

Hale

Bates

Begay, NM