

RESOLUTION OF THE
NAVAJO NATION COUNCIL
25th NAVAJO NATION COUNCIL - THIRD YEAR, 2025

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL;
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION
COUNCIL RESOLUTION CJY-24-25 (AN ACT RELATING TO HEALTH, EDUCATION
AND HUMAN SERVICES, LAW AND ORDER, AND NAABIK'ÍYÁTI' COMMITTEES
AND THE NAVAJO NATION COUNCIL; AMENDING 15 N.N.C. §§ 303, 305, AND
308, THE PLAN OF OPERATION OF THE NAVAJO NATION LABOR COMMISSION)

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation and enacts the statutory laws of the Navajo Nation. 2 N.N.C. §§ 102 and 164(A).
- B. Resolutions enacting new law, or amending existing laws, are subject to veto by the President of the Navajo Nation. 2 N.N.C. § 1005(C)(10) and (11).
- C. The Navajo Nation Council has the authority to override a resolution vetoed by the Navajo Nation President through introduction of "veto legislation" requiring a two-thirds (2/3) vote of the membership of the Navajo Nation Council. 2 N.N.C. § 1005(C)(11).
- D. Veto legislation shall be submitted to the Naabik'íyáti' Committee before consideration by the Navajo Nation Council. 2 N.N.C. § 164(A)(17).

SECTION TWO. FINDINGS

- A. Council Resolution CJY-24-25 was passed by the Navajo Nation Council and certified on August 1, 2025. The resolution, attached as **EXHIBIT A**, is titled, "AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING 15 N.N.C. §§ 303, 305 AND 308, THE PLAN OF OPERATION OF THE NAVAJO NATION LABOR COMMISSION[.]"
- B. The Navajo Nation President vetoed Resolution CJY-24-25 on August 11, 2025, and provided a memorandum, attached as **EXHIBIT B**, explaining his veto decision.

- C. The Navajo Nation Council disagrees with the President's reasons for his veto decision.
- D. Contrary to what is stated in the President's veto memorandum, passage of Resolution CJY-24-25, it is necessary to amend the qualifications for Commissioners because the 2016 qualifications for Commissioners are unworkable. Since 2016, only two attorneys have been appointed and confirmed, and they resigned after a few months. The work of the Commission is demanding: evidentiary hearings can last for 8 hours and may take two days or more; Commissioners must know the Navajo Preference in Employment Act, human resources, employment practices and law, and applicable Navajo Nation Supreme Court opinions/memorandum decisions/orders, Commissioners must rule on motions and procedural matters; receive, rule on, exclude, and limit evidence, lines of questioning and testimony; determine relevancy, materiality, and repetitious nature of evidence; examine witnesses; issue findings of fact and conclusions of law; and impose damages, sanctions, fines and other remedies. They are called upon to decide matters of federal Indian law, Navajo Nation caselaw, Navajo due process and *k'e, Diné bi beenahaz'aani*, traditional law, customary law, and natural law. Various *pro se* parties, tribal court advocates, attorneys, and law firms litigate before the Commission. The stipend of \$250.00 per hearing day is insufficient to attract and retain new Commissioners; specifically tribal court advocates, and to adequately compensate Commissioners.
- E. In addition, Resolution CJY-24-25 provides for the Health, Education, and Human Services Committee of the Navajo Nation Council to appoint and confirm a majority of Commissioners because the Office of the President has not appointed a single Commissioner since 2019, almost 6 years ago.
- F. The Navajo Nation Council believes in the need for Resolution CJY-24-25 for the Navajo Nation Labor Commission to perform its purposes and operate as it was intended.

SECTION THREE. OVERRIDING VETO

The Navajo Nation Council hereby overrides the Navajo Nation President's veto of Resolution CJY-24-25, attached as EXHIBIT A.

SECTION FOUR. EFFECTIVE DATE

The effective date of this veto override shall be as provided for in 2 N.N.C. § 221(A).

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th 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 16 in Favor, and 01 Opposed, on this 3rd day of September 2025.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

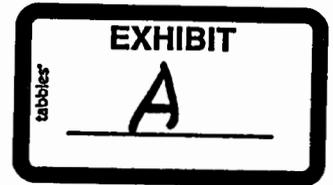
9/8/2025

Date

Motion: Honorable Rickie Nez
Second: Honorable Brenda Jesus

Speaker Crystalyne Curley not voting

RESOLUTION OF THE
 NAVAJO NATION COUNCIL
 25th NAVAJO NATION COUNCIL - THIRD YEAR, 2025



AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER,
 AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL;
 AMENDING 15 N.N.C. §§ 303, 305 AND 308, THE PLAN OF OPERATION OF
 THE NAVAJO NATION LABOR COMMISSION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council and has the power to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code; and the Committee is the legislative oversight committee for the Navajo Nation Labor Commission. 2 N.N.C. §§ 164(A), 600(A), 601(B) (14) and 601(C) (1).
- B. The Health, Education, and Human Services Committee is a standing committee of the Navajo Nation Council and has the power to review and recommend resolutions relating to employment and labor. 2 N.N.C. §§ 400(A) and 401(B) (6) (a).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council and has the power to review proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. §§ 164(A) (9) and 700(A).
- D. The Navajo Nation Council is the governing body of the Navajo Nation and must review and approve enactments or amendments of positive law. 2 N.N.C. §§ 102(A) and 164(A).

SECTION TWO. FINDINGS

- A. The Navajo Nation Labor Commission ("Commission" or "NNLC") is a quasi-judicial body of the Navajo Nation Government established to hear, adjudicate and decide all complaints filed under the Navajo Preference in Employment ("NPEA") pursuant to 15 N.N.C. §§ 301-308.
- B. The NNLC is established and has powers prescribed in its Plan of Operation as well as such additional powers as may be conferred to the Commission by law pursuant to 15 N.N.C. § 301.

- C. In July 2016, the Navajo Nation Council by Resolution CJY-42-16 (effective date October 1, 2017) changed the qualification of the five-member Commission to require all Commissioners to be members of the Navajo Nation Bar Association, Inc. ("NNBA") and two Commissioners to be attorneys licensed in New Mexico, Arizona, or Utah. The Commission office normally advertises for applicants, however, in late 2016 and 2017, the Commission, the Speaker's Office, and the Office of the President/Vice-President vigorously advertised for applicants using the amended qualifications. The vacancies were also announced to the NNBA membership, on the NNBA website, and at NNBA events, including the annual NNBA Bar Conference; and
- D. On September 31, 2017, the terms of the then-Commissioners expired. At that time, the Commission had no confirmed commissioners; and
- E. On February 22, 2018, the Naabik'íyáti' Committee by Resolution NABIF-11-18 confirmed Loretta Danzuka (tribal court advocate), who was appointed by President Russell Begay, for a four-year term. Ms. Danzuka's term subsequently expired in 2022; and
- F. On March 8, 2018, the Naabik'íyáti' Committee by Resolution NABIMA-22-18 confirmed Edward Dobson (an attorney licensed with the Navajo Nation and Arizona), who was appointed by President Russell Begaye, for a four-year term; and
- G. From October 1, 2017 (which is the effective date of new qualifications) to around May 2018, the Commission was comprised of two-members and was unable to hold hearings for lack of a quorum; and
- H. Around May 2018, the attorney for Petitioner Austin Bahe filed a Writ (*Bahe v NNLC and Concerning NECA*) to the Navajo Nation Supreme Court requesting the Court to direct the Commission to hold hearings; and
- I. On May 23, 2018, the Navajo Nation Supreme Court issued a PERMANENT WRIT OF MANDAMUS that ordered the Commission to conduct and hold hearings and ordered the Commission to be comprised of previously appointed Commissioners and newly appointed Commissioner to hear and adjudicate cases without further delay, a copy of the WRIT is attached hereto as EXHIBIT "A"; and
- J. On June 6, 2018, the Health, Education, and Human Services Committee by Resolution HEHSCJN-08-18 appointed and confirmed

Nona L. Etsitty (tribal court advocate) for four-year term. Ms. Etsitty's term subsequently expired in 2022; and

- K. On June 6, 2018, the Health, Education, and Human Services Committee by Resolution HEHSCJN-09-18 confirmed Marvin Beauvais (an attorney licensed with the Navajo Nation and Washington), who was appointed by President Russell Begaye, for a four-year term. At that time, the Commission had four newly appointed Commissioners; and
- L. On June 29, 2018, the Navajo Nation Supreme Court issued an *Opinion* that previously appointed Commissioners may continue service on the Commission until such time a successor is appointed and confirmed. See *Bahe v. NNLC*, No. SC-CV-15-18, *Writ of Mandamus* dated May 23, 2018 and *Opinion* dated June 29, 2018. The Court stated the NPEA has statutory deadlines and time requirements. In *Bahe*, the Court reviewed past Navajo Nation resolutions that amended the Commission's plan of operation. Specifically, the Court examined Resolution LOCMY-01-14 and concluded the resolution did not underline nor strike out statutory changes in Title 15. The Court also stated the Commissioners must serve until successors are appointed and confirmed, and that previously appointed Commissioners and newly appointed Commissioners must hear and adjudicate cases without delay. As a result of the *Writ* and *Opinion*, the Commission and Commission office contacted former Commissioners to serve on the Commission until their successors are appointed and confirmed, a copy of the *Opinion* is attached hereto as EXHIBIT "B"; and
- M. Around mid-to-late 2018, Mr. Dobson and Beauvais resigned. Upon the resignation of the attorneys, the Commission only had two newly confirmed Commissioners (Loretta Danzuka and Nona L. Etsitty). Since the resignation of the two attorneys, there have been no attorneys appointed; and
- N. From late 2018 to present, the Commission has been holding hearings with former Commissioners (Marie Etsitty received an October 31, 2014 appointment letter from the former Speaker LoRenzo C. Bates. Under the Plan of Operation, at the time, the Speaker was authorized to appoint a Commissioner and there was no need for a standing committee resolution. Ben C. Smith was appointed by President Joe Shirley, Jr. in 2009 and confirmed by Government Services Committee Resolution GSCAP-11-09 on April 16, 2009. Jerry Bodie, then-Navajo Nation Council Delegate in 1996, was appointed by Human Services Committee Resolution HSCJN-30-96 and confirmed by Government Services Committee Resolution GSCJN-36-96 on June 11, 1996.

Under the Plan of Operation, at the time, a Council Delegate on the Human Services Committee could be appointed to the Commission); and

- O. On October 10, 2019, the Naabik'íyáti' Committee by Resolution NABIO-58-19 confirmed Casey Watchman (tribal court advocate), who was appointed by President Jonathan Nez, for a four-year term. Mr. Watchman's term expired in 2023; and
- P. In 2020 to 2022, the Commission worked with the Navajo Nation Council, Speaker, and oversight committee to amend the Plan of Operation; and
- Q. On July 26, 2022, the Navajo Nation Council by Resolution CJY-40-22 approved amendments to the Plan of Operation. On August 14, 2022, President Jonathan Nez vetoed the Resolution; and
- R. On August 15, 2023, the Health, Education, and Human Services Committee by Resolution HEHSCAU-15-23 reappointed and reconfirmed Nona L. Etsitty (tribal court advocate) for a four-year term; and
- S. On May 28, 2024, the Health, Education, and Human Services Committee appointed and confirmed Richie Nez, Sr. for a four-year term; and
- T. Presently, the Commission has two Commissioners (Nona Etsitty and Richie Nez, Sr.) with unexpired terms. The remaining Commissioners (Loretta Danzuka, Casey Watchman, Marie Nez, Ben Smith and Jerry Bodie) have expired terms and serve as Commissioners per the *Bahe Opinion* and *Writ*; and
- U. It is necessary to amend the qualifications for Commissioners because the 2016 qualifications for Commissioners are unworkable. Since 2016, only two attorneys have been appointed and confirmed, and they resigned after a few months. The work of the Commission is demanding: evidentiary hearings can last for 8 hours and may take two days or more; Commissioners must know the Navajo Preference in Employment Act, human resources, employment practices and law, and applicable Navajo Nation Supreme Court opinions/memorandum decisions/orders, Commissioners must rule on motions and procedural matters; receive, rule on, exclude, and limit evidence, lines of questioning and testimony; determine relevancy, materiality, and repetitious nature of evidence; examine witnesses; issue findings of fact and conclusions of law; and impose damages, sanctions, fines and other remedies. They are called upon to decide matters of federal Indian law, Navajo Nation caselaw,

Navajo due process and k'é, Diné bi beenahaz'áanii, traditional law, customary law, and natural law. Various *pro se* parties, tribal court advocates, attorneys, and law firms litigate before the Commission. The stipend of \$250.00 per hearing day is insufficient to attract and retain new Commissioners, specifically tribal court advocates, and to adequately compensate Commissioners; and

- V. There is a need for the Health, Education, and Human Services Committee of the Navajo Nation Council to appoint and confirm a majority of Commissioners because the Office of the President has not appointed a single Commissioner since 2019, almost 6 years ago; and
- W. The Commission by Resolution NNLCMAY-21-2025 has approved and recommended amendments to their plan of operation, attached hereto as **EXHIBIT C**.
- X. It is in the best interest of the Navajo Nation to amend 15 N.N.C. §§ 303, 305 and 308, the Plan of Operation of the Navajo Nation Labor Commission.

SECTION THREE. AMENDMENTS TO 15 N.N.C. §§ 303, 305, 308

The Navajo Nation hereby amends the Navajo Nation Code, Title 15 as follows:

Title 15. Labor
Chapter 4. Navajo Nation Labor Commission

* * *

§ 303. Organization

The Commission shall consist of five members.

- A. **Membership.** The Commission shall consist of: (~~23~~) two three members appointed by the Health, Education, and Human Services Committee of the Navajo Nation Council; and (~~32~~) threetwo members appointed by the President of the Navajo Nation with the concurrence of the Naabik'iyáti' Committee of the Navajo Nation Council.
- B. **Commission Members Qualifications.**

The five Commission members shall be 1) familiar with the Navajo Nation's labor practices, human resources and employment; and 2) member of the Navajo Nation Bar in good

~~standing, and; 3) two Commission members shall be licensed to practice law in either Arizona, New Mexico or Utah.~~

* * *

4. The Commission may recall former members to complete pending cases or to establish a quorum when necessary.

* * *

D. Term of Office. Each member of the Commission shall serve for a term of four (4) years and until his or her successor is appointed and confirmed.

* * *

§ 305. Meetings/hearings/deliberative sessions; procedure

* * *

D. Members of the Commission shall receive a ~~two hundred fifty dollar (\$250.00)~~ five hundred dollar (\$500.00) stipend and shall be reimbursed for lodging, meals, expenses and mileage (at the Navajo Nation rate) incurred in connection with the performance of their duties. Commission members shall be eligible for any insurance provided by the Navajo Nation to its employees, other boards, commissions, elected officials and other tribal entities. All Commission expenses shall be paid from the budget of the Commission.

* * *

§ 308. Amendment

This Plan of Operation may be amended from time to time by ~~the Intergovernmental Relations Committee~~ of the Navajo Nation Council. Prior to any such amendment, the Health, Education, and Human Services Committee shall review and recommend any change or proposed amendment to this Plan of Operation.

SECTION FOUR. CODIFICATION

The provisions of these amendments 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 FIVE. SAVINGS CLAUSE

Should any provisions of these amendments 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 amendments that are not determined invalid shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

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

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th 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 20 in Favor, and 00 Opposed, on this 22nd day of July 2025.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

8/11/2025

Date

Motion: Honorable Steven R. Arviso

Second: Honorable Cherilyn Yazzie

Speaker Crystalyne Curley not voting

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 _____ day of _____, 2025.

Buu Nygren, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005(C)(11), on this 11 day of AUGUST, 2025 for the reason(s) expressed in the attached letter to the Speaker.

Buu Nygren, President
Navajo Nation



No. SC-CV-15-18
NAVAJO NATION SUPREME COURT

Austin C. Bahe,
Petitioner,

v.

Navajo Nation Labor Commission
Respondent,

And Concerning
Navajo Engineering and Construction Authority
Real Party In Interest.

PERMANENT WRIT OF MANDAMUS

Before JAYNE, J., Chief Justice, SHIRLEY, E., Associate Justice, and THOMPSON, C., Associate Justice by designation.

Original action against the Navajo Nation Labor Commission concerning Cause No. NNLC-2017-034.

David R. Jordan, Gallup, New Mexico, for Petitioner; Chief Legislative Counsel Levon Henry and Jennifer Skeet, Window Rock, Navajo Nation, for Respondent; Albert Hale, Window Rock, Navajo Nation, for Real Party In Interest.

This matter comes before the Court on Petitioner Austin C. Bahe's Petition for Writ of Mandamus. Based on the Court's consideration of the Petition and oral arguments, the Court finds good cause to GRANT a permanent writ of prohibition pursuant to 7 N.N.C. § 303(C).

The Court concludes that the Commission is established to hear and adjudicate cases as the quasi-judicial hearing body under the Navajo Preference in Employment Act. 15 N.N.C. § 302(A). Due process is denied when the Commission fails to carry out its statutory duty. Here, the Commission failed to show that its scheduling and re-scheduling of hearings until a quorum of Commissioners are appointed respects Petitioner's right to due process. Though the Commission attributes its postponements to the delayed appointments, the Commission failed to show that it

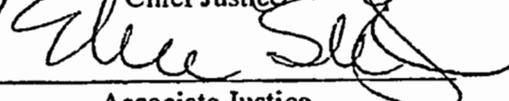
cannot proceed with previously appointed Commissioners as authorized by 15 N.N.C. § 303(D). Furthermore, the Commission failed to show that a previous action by the Law and Order Committee in LOCMY-01-14 amended 15 N.N.C. § 303(D). The enactment of CJY-42-16 by the Navajo Nation Council amended the membership and qualifications of Commissioners but it did not repeal 15 N.N.C. § 303(D) or cause it to be inoperative.

A memorandum decision setting out in further detail the Court's reasons will be issued at a later date. However, with this permanent writ of mandamus, the Court ORDERS the Commission to immediately conduct and hold hearings as authorized by 15 N.N.C. § 302(B). Recognizing previously seated Commissioners must serve until his or her successor is appointed, 15 N.N.C. § 303(D), the Court also ORDERS the Commission of previously appointed Commissioners and newly appointed Commissioners to hear and adjudicate cases without further delay. Furthermore, the Court ORDERS the Commission to re-schedule and conduct Petitioner Bahe's hearing at date earlier than scheduled.

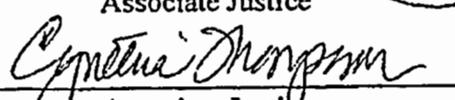
Dated this 23 day of May, 2018.



Chief Justice



Associate Justice



Associate Justice



No. SC-CV-15-18

SUPREME COURT OF THE NAVAJO NATION

Austin C. Bahe,
Petitioner,

v.

Navajo Nation Labor Commission,
Respondent,

And Concerning,
Navajo Engineering and Construction Authority,
Real Party in Interest.

OPINION

Before, JAYNE, J., Chief Justice, SHIRLEY, E., Associate Justice and THOMPSON, C., Associate Justice by Designation.

Original action against the Navajo Nation Labor Commission concerning Cause No. NNLC-2017-034.

David R. Jordan, Gallup, New Mexico, for Petitioner; Jennifer Skeets, Office of the Legislative Counsel, Window Rock, Navajo Nation, for Respondent; and Albert Hale, Phoenix, Arizona, for Real Party in Interest.

Opinion issued by SHIRLEY, Associate Justice.

I

A Petition for Writ of Mandamus was filed on March 22, 2018 and this Court issued an alternative writ setting the matter for a hearing on May 23, 2018. This Court entered a ruling by granting the petition and issuing a Permanent Writ of Mandamus against the Navajo Nation Labor Commission (NNLC) pursuant to 7 N.N.C § 303(C) and, further, stated that a written memorandum decision would follow. This decision follows.

In reviewing the pleadings and after hearing oral arguments, the Court finds that the Real Party in Interest, Navajo Engineering and Construction Authority, had terminated Austin C. Bahe

(Petitioner), who then filed a formal charge with the Office of Navajo Labor Relations. On August 25, 2017, the Office of Navajo Labor Relations issued a Notice of Right to Sue to the Petitioner permitting the filing of a formal complaint. On October 18, 2017, the Petitioner filed a formal complaint with the NNLC and a first Notice of Hearing, dated October 26, 2017, set the matter for hearing on February 08, 2018. A second Notice of Hearing was then issued on February 02, 2018 rescheduling the hearing to August 22, 2018. The rescheduling was done pursuant to the Chief Legislative Counsel's memorandum, dated September 30, 2017. The memorandum advised that, in view of the effective date of October 01, 2017 in CJY-42-16, no hearing would occur until the five (5) Navajo Nation Labor Commissioners were all appointed. To date, only two appointments have been made and three positions continue to remain unfilled. As a result, complaints filed with NNLC have not been adjudicated by the NNLC because of the delayed appointments by the Health, Education and Human Services Committee and the Navajo Nation President.

By law, appointments to the NNLC are made pursuant to 15 N.N.C § 303 of the Navajo Preference in Employment Act (NPEA). The most recent amendments to 15 N.N.C. § 303 under Resolution CJY-42-16 and Law and Order's Resolution LOCMY-01-14 caused confusion about the term of service for the previously appointed NNLC members and the new members. Because of the different interpretations made to 15 N.N.C. § 303, the NNLC has not held any hearings. Thus, the Petitioner filed a Petition for Writ of Mandamus for this Court to mandate the NNLC to adjudicate his complaint pursuant to 15 N.N.C. § 611(A) by deciding the status of 15 N.N.C § 303(D) of the NPEA.

II

The Court concludes that the Petitioner has no plain, speedy and adequate remedy at law. "The Supreme Court shall have the power to issue any writs or orders: . . . C. To cause a Court to

act where such Court fails or refuses to act within its jurisdiction.” 7 N.N.C. § 303(C). “A writ of mandamus will be issued to compel a [respondent tribunal] to perform a judicial duty required by law, only if there is no plain, speedy and adequate remedy at law. *Yellowhorse, Inc. v. Window Rock District Court*, 5 Nav. R. 85, 87 (Nav. Sup. Ct. 1986). The NNLC has scheduled and re-scheduled a hearing on the merits of Petitioner’s complaint with no certainty that a hearing under 15 N.N.C. § 611(A) will be held because of the delayed appointments of commission members. Respondent asserts it has met its obligation under § 611(A), which states “the Commission shall schedule a hearing within 60 days of the filing of a written complaint by a petitioner with the Commission.” Respondent cites this Court’s previous holding that § 611(A) requires only that a hearing be scheduled and not be held. *E.g., Dilcon Navajo Westerner/True Value Store v. Jensen*, 8 Nav. R. 28, 36 (Nav. Sup. Ct. 2000). Though the NNLC’s duty under § 611(A) is argued, it is the NNLC’s purpose under § 302 and its duties and responsibilities under § 304 that are decisive when considering the larger obligations to the Navajo people. Further, the Respondent relied on cases, which were decided under entirely different facts during a time when there was a full panel of the NNLC. Under the facts of this case, there is no fully appointed body of the NNLC, or quorum, due to the delayed appointments of its members causing a complete failure of the NNLC to act as authorized and directed to under § 304.

III

The Court concludes that the Petitioner has met the requirements for a permanent writ of mandamus. “A writ of mandamus, pursuant to 7 N.T.C. § 303 [now at 7 N.N.C. § 303], is used to compel a lower court to perform existing duties within its jurisdiction. It is imperative to show that the petition initially show that 1) he/she has a legal right to have the particular act performed; 2) the respondent [decision maker] has a legal duty to perform the act; and 3) the respondent [decision

maker] failed or neglected to perform the act.” *Yellowhorse, Inc. v. Window Rock District Court*, 5 Nav. R. 85, 87 (Nav. Sup. Ct. 1986); *In the Matter of A.P.*, 8 Nav. R. 671, 678 (Nav. Sup. Ct. 2005). The Commission is established to hear and adjudicate cases as the quasi-judicial hearing body under the Navajo Preference in Employment Act. 15 N.N.C. § 302(A). Due process is denied when the Commission fails to carry out its statutory duties under § 304. Here, when the Commission scheduled and rescheduled Petitioner’s hearings under 15 N.N.C. § 611(A), it failed to show that it performed its existing duties as specified in § 304 and its actions respected Petitioner’s right to due process.

The Navajo Nation Council established the NNLC to process and decide all formal complaints under the statutory structure of the NPEA. 15 N.N.C. § 302(C). Because of the authorization given to NNLC as a quasi-judicial body to hear and adjudicate employment cases, the NNLC must carry out these statutory duties. The NNLC has a fiduciary duty to the Navajo people to execute the trust the people have placed with them. See *Thinn v. Navajo Generating Station, Salt River Project*, 9 Nav. R. 140 (Nav. Sup. Ct. 2010). The NNLC is part of the Navajo Nation Government and we must not lose sight of the fact that the NNLC also works for and on behalf of the collective Navajo people in their role as *naat’aanii*. *Meadows v. Navajo Nation Labor Commission*, 9 Nav. R. 597, 601, (Nav. Sup. Ct. 2012). As a *naat’aanii*, it is a duty and an obligation to always work and seek a solution for the people, especially when the *ana’ hoot’i* concerns one’s daily livelihood and requires an harmonious resolution. “Managing its administrative law system in a manner that ensure both access and due process is the sacred duty placed by the Council upon the Commission.” *Id.* Processing and deciding all complaints filed pursuant to fiduciary standards. *Id.* Therefore, it is the NNLC’s duty to have a system that ensures access by holding hearings for all litigants. The NNLC has a duty to adjudicate cases in the interest

of due process and must carry out its sacred duties to the people. Strict adherence to the NPEA and the due process protections of the Navajo Bill of Rights are demanded. *Id.* Here, the Court finds that the Petitioner has a legal right to have his complaint heard by the NNLC and the NNLC is legally bound by law to hear his complaint. Petitioner's filing of the complaint was done on October 18, 2017 and the first notice of hearing, dated October 26, 2017, set the matter for a hearing on February 8, 2018 pursuant to § 611(A). On February 02, 2018, a second Notice of Hearing was then issued rescheduling the hearing to August 22, 2018. Despite the statutory authorization and a mandatory duty to adjudicate cases, the NNLC failed to conduct the set hearing. As of October 01, 2017, the NNLC has not convened to hear any formal complaint that has been filed with the administrative hearing body.

IV

The Court concludes 15 N.N.C § 303(D) of the NPEA with its hold-over provision is in effect. Petitioner asserts that pursuant to the hold-over provision of 15 N.N.C § 303(D), the previously appointed Commission members continue to serve in their positions until his or her successor is appointed and that the amended provisions of 15 N.N.C § 303(A) and (B) as contained in CJY-42-16 did not change or rescind § 303(D). By taking this position, Petitioner believes that NNLC has the necessary commission members to convene and conduct a hearing to hear his complaint.

The NNLC was created by the Navajo Nation Council for the purpose of hearing and adjudicating cases as the quasi-judicial hearing body under the NPEA. 15 N.N.C § 302 (2008). The Navajo Nation Council established the composition and qualifications of the Commission at 15 N.N.C. § 303(A) and (B). These two provisions are the subject of contention by the parties.

In 2016, the Navajo Nation Council amended these two provisions which now read:

A. Membership. The Commission shall consist of: (2) two members of appointed by Health, Education, and Human Services Committee of the Navajo Nation Council to be designated by that committee; and (3) three members appointed by the President of the Navajo Nation with the concurrence of the ~~Government Service~~ Naabik'iyati' Committee of the Navajo Nation Council.

B. Commission Members Qualification: ~~The two members of the Human Services Committee and the three members of the Commission appointed by the President of the Navajo Nation shall be familiar with labor practices, Human resources and employment of the Navajo Nation. One appointed Member shall be a Navajo worker familiar with human resources and Employment practices. Neither the Executive Director of the Division Of Human Resources ("DHR"), the Director of the Division of Human Resources ("DHR"), the Directors of any department within DHR, nor any Person employed by DHR or its departments shall be eligible to serve as a Member of the Commission.~~

The five Commission members shall be 1) familiar with the Navajo Nation labor practices, human resources and employment; 2) member of the Navajo Nation Bar in good standing, and; 3) two Commission members shall be licensed to practice law in either Arizona, New Mexico, or Utah.

Resolution CJY-42-16 (July 21, 2016).

Respondent claims that prior to the passage of CJY-42-16, in 2014, the Law and Order Committee of the Navajo Nation Council amended 15 N.N.C § 303(D) and repealed the hold-over provision therein. However, in the passage of CJY-42-16 there is no inclusion of the purported language of LOCMY-01-14 when the Navajo Nation Council later amended the qualifications of members in CJY-42-16. Further, there was no underscore or overstrikes in LOCMY-01-14 as required by 2 N.N.C. § 164(D). Rather than recognize conflicting provisions of LOCMY-01-14 by a standing committee of the Navajo Nation Council, this Court recognizes the action of the full Council in the passage of CJY-42-16.

This Court notes that 15 N.N.C § 303(A) and (B) were the only changes in CJY-42-16. The provision of 15 N.N.C § 303(D) as it pertains to the Term of Office remained un-touched. The Court notes that when a legislator introduces a legislation, it must follow a certain format as

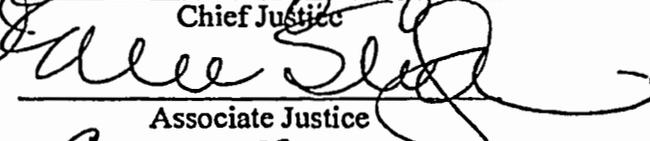
outlined in 2 N.N.C. § 164 (as amended by Resolution CAP-10-11, May 11, 2011) before the legislature can take the matter under consideration. The Court takes judicial notice that it has been the practice of the legislature to underscore new proposed language and overstrike language proposed for deletion as required by 2 N.N.C. § 164(D). Thus, an action by the legislature is presumed to be a valid enactment. *Navajo Nation v. MacDonald*, 6 Nav. R. 463, 467 (W.R. Dist. Ct. May 17, 1989). The rationale given to the legislative body is that when they are carrying out their legislative act, it is done with much discussion and deliberation under the guiding principle of the best interest of the Navajo people. Despite the Respondent's argument that CJY-42-16 repealed the hold-over provision of § 303(D), Respondent failed to show the language was overstricken. This Court recognizes the validity of CJY-42-16 and, absence of any overstricken language of 15 N.N.C. § 303(D), it is still an operative provision. We hold that CJY-42-16 did not repeal the hold-over provision of 15 N.N.C. § 303(D). More specifically, the hold-over provision at 15 N.N.C. § 303(D) provides that "[E]ach member of the Commission shall serve a term of four years *and until his or her successor is appointed.*" (Emphasis added.) This provision permits previously appointed members to continue serving on the NNLC until such time a successor is appointed and confirmed. With two appointments made thus far and, in conjunction, with previously appointed members who continue to serve, the NNLC has a fully seated panel to meet and adjudicate employments cases. We, therefore, reject Respondent's argument that previously appointed members on the NNLC are no longer serving and that the Commission lacks a panel as a result of the effective date as contained in CJY-42-16. This Court opines that the NPEA amendments concerning qualifications and the hold-over provision under § 303(D) must be read together.

The Petition for Writ of Mandamus is hereby GRANTED. Recognizing previously seated Commissioners must serve until his or her successor is appointed, 15 N.N.C. § 303(D), the Court also ORDERS the Commission of previously appointed Commissioners and newly appointed Commissioners to hear and adjudicate cases without further delay. Furthermore, the Court ORDERS the Commission to re-schedule and conduct Petitioner Bahe's hearing before August 22, 2018.

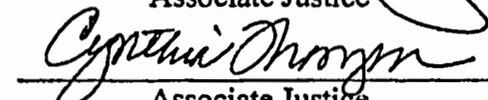
Dated this 29 day of June, 2018.



Chief Justice



Associate Justice



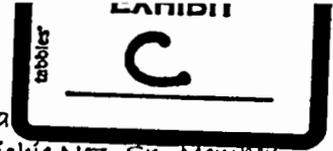
Associate Justice

THE NAVAJO NATION

Navajo Nation Labor Commission
The Legislative Branch
Leffew R. Denny, Office Specialist
(Acting Executive Director)
Victoria A. Dixon, Legislative Reporter II



Nona



Richie Nez, Sr., Member
Loretta Danzuka, Member
Casey Watchman, Member
Marie R. Nez, Member
Ben C. Smith, Member
Jerry Bodie, Member

NNLCMAY-21-2025

Approving And Recommending Amendments To Plan Of Operation Of The Navajo Nation Labor Commission, 15 N.N.C. §§ 303, 305 and 308

WHEREAS:

1. The Navajo Nation Labor Commission, ("Commission") shall have the powers prescribed in its Plan of Operation, 15 N.N.C. §§ 301 - 308, as well as such additional powers as may be conferred to the Commission by law; and
2. The Commission is established to conduct quasi-judicial administrative hearings in accordance with the Navajo Preference in Employment Act, 15 N. N. C. §§ 301-308; 15 N.N.C. §§ 601-620; and
3. In July 2016, the Navajo Nation Council by Resolution CJY-42-16 (effective date October 1, 2017) changed the qualification of the five-member Commission to require all Commissioners to be members of the Navajo Nation Bar Association, Inc. ("NNBA") and two Commissioners to be attorneys licensed in New Mexico, Arizona or Utah. The Commission office normally advertises for applicants.. However, in late 2016 and 2017, the Commission office with the Speaker's Office and the Office of the President/Vice-President vigorously advertised for applicants using the amended qualifications. The vacancies were also announced to the NNBA membership, on the NNBA website and at NNBA events, including the annual NNBA Bar Conference; and
4. On September 31, 2017, the terms of the then-Commissioners expired. At that time, the Commission had no confirmed commissioners; and
5. On February 22, 2018, the Naabik'iyáti' Committee by Resolution NABIF-11-18 confirmed Loretta Danzuka (tribal court advocate), who was appointed by President Russell Begay, for a four-year term. Ms. Danzuka's term subsequently expired in 2022; and
6. On March 8, 2018, the Naabik'iyáti' Committee by Resolution NABIMA-22-18 confirmed Edward Dobson (an attorney licensed with the Navajo Nation and Arizona), who was appointed by President Russell Begaye, for a four-year term; and
7. From October 1, 2017 (which is the effective date of new qualifications) to around May 2018, the Commission was comprised of two-members and was unable to hold hearings for lack of a quorum; and

8. Around May 2018, the attorney for Petitioner Austin Bahe filed a Writ (*Bahe v NNLC and Concerning NECA*) to the Navajo Nation Supreme Court requesting the Court to direct the Commission to hold hearings; and

9. On May 23, 2018, the Navajo Nation Supreme Court issued a PERMANENT WRIT OF MANDAMUS that ordered the Commission to conduct and hold hearings and ordered the Commission to be comprised of previously appointed Commissioners and newly appointed Commissioner to hear and adjudicate cases without further delay; and

10. On June 6, 2018, the Health, Education and Human Services Committee by Resolution HEHSCJN-08-18 appointed and confirmed Nona L. Etsitty (tribal court advocate) for four-year term. Ms. Etsitty's term subsequently expired in 2022; and

11. On June 6, 2018, the Health, Education and Human Services Committee by Resolution HEHSCJN-09-18 confirmed Marvin Beauvais (an attorney licensed with the Navajo Nation and Washington), who was appointed by President Russell Begaye, for a four-year term. At that time, the Commission had four newly appointed Commissioners; and

12. On June 29, 2018, the Navajo Nation Supreme Court issued an *Opinion* that previously appointed Commissioners may continue service on the Commission until such time a successor is appointed and confirmed. See *Bahe v. NNLC*, No. SC-CV-15-18, *Writ of Mandamus* dated May 23, 2018 and *Opinion* dated June 29, 2018. The Court stated the NPEA has statutory deadlines and time requirements. In *Bahe*, the Court reviewed past Navajo Nation resolutions that amended the Commission plan of operation. Specifically, the Court examined Resolution LOCMY-01-14 and concluded the resolution did not underline nor strike out statutory changes in Title 15. The Court also stated the Commissioners must serve until successors are appointed and confirmed, and that previously appointed Commissioners and newly appointed Commissioners must hear and adjudicate cases without delay. As a result of the *Writ* and *Opinion*, the Commission and Commission office contacted former Commissioners to serve on the Commission until their successors are appointed and confirmed; and

13. Around mid-to-late 2018, Mr. Dobson and Beauvais resigned. Upon the resignation of the attorneys, the Commission only had two newly confirmed Commissioners (Loretta Danzuka and Nona L. Etcitty). Since the resignation of the two attorneys, there have been no attorneys appointed; and

14. From late 2018 to present, the Commission has been holding hearings with former Commissioners (Marie Etsitty received an October 31, 2014 appointment letter from the former Speaker LoRenzo C. Bates. Under the Plan of Operation, at the time, the Speaker was authorized to appoint a Commissioner; there was no need for a standing committee resolution. Ben C. Smith was appointed by President Joe Shirley, Jr. in 2009 and confirmed by Government Services Committee Resolution GSCAP-11-09 on April 16, 2009. Jerry Bodie, then-Navajo Nation Council Delegate in 1996, was appointed by Human Services Committee Resolution HSCJN-30-96 and confirmed by Government Services Committee Resolution GSCJN-36-96 on June 11, 1996. Under the Plan of Operation, at the time, a Council Delegate on the Human Services Committee could be appointed to the Commission); and

15. On October 10, 2019, the Naabik'iyáti' Committee by Resolution NABIO-58-19 confirmed Casey Watchman (tribal court advocate), who was appointed by President Jonathan Nez, for a four-year term.. Mr. Watchman's term expired in 2023; and

16. In 2020 to 2022, the Commission worked with the Navajo Nation Council, Speaker, and oversight committee to amend the Plan of Operation; and

17. On July 26, 2022, the Navajo Nation Council by Resolution CJY-40-22 approved amendments to the Plan of Operation. On August 14, 2022, President Jonathan Nez vetoed the Resolution; and

18. On August 15, 2023, the Health, Education and Human Services Committee by Resolution HEHSCAU-15-23 reappointed and reconfirmed Nona L. Etsitty (tribal court advocate) for a four-year term; and

19. On May 28, 2024, the Health, Education and Human Services Committee appointed and confirmed Richie Nez, Sr. for a 4-year term; and

20. Presently, the Commission has two Commissioners (Nona Etsitty and Richie Nez, Sr.) with unexpired terms. The remaining Commissioners (Loretta Danzuka, Casey Watchman, Marie Nez, Ben Smith and Jerry Bodie) have expired terms and serve as Commissioners per the *Bahe Opinion and Writ*; and

21. It is necessary to amend the qualification for Commissioners because the 2016 qualifications for Commissioners is unworkable. Since 2016, only two attorneys have appointed and confirmed and they resigned after a few months. The work of the Commission is demanding: evidentiary hearings can last for 8 hours and can be completed in two days or more; Commissioners must know Navajo Preference in Employment Act, human resources and employment and applicable Navajo Nation Supreme Court opinions/memorandum decisions/orders., Commissioners must rule on motions and procedural matters; receive, rule on, exclude, and limit evidence, lines of questioning and testimony; determine relevancy, materiality, and repetitious nature of evidence; examine witnesses; issue findings of fact and conclusions of law; and impose damages, sanctions, fines and other remedies. They are called upon to decide matters of federal Indian law, Navajo Nation caselaw, Navajo due process and k'é, Diné bi beenahaz'áanii, traditional law, customary law, and natural law. Various *pro se* parties, tribal court advocates, attorneys, and law firms litigate before the Commission. The stipend of \$250.00 per hearing day is insufficient to attract and retain new Commissioners; and

22. There is a need for the Health, Education, and Human Services Committee of the Navajo Nation Council to appoint and confirm a majority of the commissioners because the Office of the President has not appointed a commissioner since 2019, almost 6 years ago; and

23. It is in the best interest of the Navajo Nation to amend 15 N.N.C. §§ 303, 305 and 308, the Plan of Operation of the Navajo Nation Labor Commission.

24. The Commission desires to raise Commissioners stipends from \$250 to \$500 in order to attract and retain qualified commissioners, specifically tribal court advocates, and to adequately compensate commissioners because hearings may last at least 8 hours long.

NOW THEREFORE BE IT RESOLVED THAT:

The Commission hereby approves and recommends amendments to the Plan of Operation herein, attached as **Exhibit A**.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Commission at a duly called meeting at Navajo Nation Labor Commission Conference Room at Window Rock, Navajo Nation, Arizona at which a quorum was present and the same was passed by a vote of 07 in favor, 00 opposed and 00 abstained on this 21st day of May 2025.


Nona L. Etsitty, Chairperson
Navajo Nation Labor Commission

Motion: Richie Nez, Sr.
Second: Loretta Danzuka

Title 15. Labor

Chapter 4. Navajo Nation Labor Commission

§ 303. Organization

The Commission shall consist of five members.

A. Membership. The Commission shall consist of: ~~(23) two~~ three members appointed by the Health, Education, and Human Services Committee of the Navajo Nation Council; and ~~(32) threetwo~~ members appointed by the President of the Navajo Nation with the concurrence of the Naabik'iyati' Committee of the Navajo Nation Council.

B. Commission Members Qualifications.

The five Commission members shall be 1) familiar with the Navajo Nation's labor practices, human resources and employment; and 2) member of the Navajo Nation Bar in good standing; ~~and; 3) two Commission members shall be licensed to practice law in either Arizona, New Mexico or Utah.~~

* * *

4. The Commission may recall former members to complete pending cases- or to establish a quorum when necessary.

* * *

D. Term of Office. Each member of the Commission shall serve for a term of four (4) years and until his or her successor is appointed and confirmed.

* * *

§ 305. Meetings/hearings/deliberative sessions; procedure

* * *

D. Members of the Commission shall receive a ~~two hundred fifty dollar (\$250.00)~~ five hundred dollar (\$500.00) stipend and shall be reimbursed for lodging, meals, expenses and mileage (at the Navajo Nation rate) incurred in connection with the performance of their duties. Commission members shall be eligible for any insurance provided by the Navajo Nation to its employees, other boards, commissions, elected officials and other tribal entities. All Commission expenses shall be paid from the budget of the Commission.

§ 308. Amendment

This Plan of Operation may be amended from time to time by ~~the Intergovernmental Relations Committee of the~~ Navajo Nation Council. Prior to any such amendment, the Health, Education and Human Services Committee shall review and recommend any change or proposed amendment to this Plan of Operation.

NAVAJO NATION

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Navajo Nation Council 2025 Summer Session

7/22/2025
01:51:41 PM

	Amd# to Amd#	New Business: Item A. (CONSENT)	
MOT Arviso, S		#0066-25; #0044-25; #0050-25;	PASSED
SEC Yazzie, C		#0068-25; #0100-25; #0167-25	

Yeas : 20

Nays : 0

Excused : 2

Not Voting : 1

Yea : 20

Arviso, S	Crotty, A	Nez, A	Slater, C
Begay, H	James, V	Nez, R	Tolth, G
Begay, N	Jesus, B	Parrish, S	Yanito, C
Charles-Newton, E	Johnson, C	Simonson, G	Yazzie, C
Claw, S	Mitchell, A	Simpson, D	Yazzie, L

Nay : 0

Excused : 2

Notah, N	Daniels, H
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Not Voting : 1

Tso, O

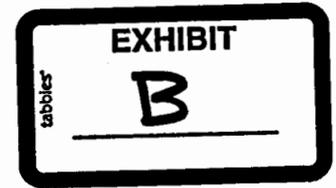
Presiding Speaker: Curley, C



The Navajo Nation **DR. BUU NYGREN** *PRESIDENT*

Yideeskáądi Nitsáhákees | *Think for the Future*

August 11, 2025



Honorable Crystalyne Curley, Speaker
Office of the Speaker
Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

RE: CJY-24-25 An Act Relating to Health, Education and Human Services, Law and Order, and Naabik'iyáti' Committees and the Navajo Nation Council; Amending 15 N.N.C. §§ 303, 305 and 308, the Plan of Operation of the Navajo Nation Labor Commission

Dear Honorable Members of the 25th Navajo Nation Council:

I am vetoing Resolution No. CJY-24-25, An Act Relating to Health, Education, and Human Services, Law and Order, and Naabik'iyáti' Committees and the Navajo Nation Council; Amending 15 N.N.C. § 303(A), the Plan of Operation of the Navajo Nation Labor Commission.

This resolution would abolish the requirement that two members of the five-member Commission be state bar licensed. The Council states that it is challenging to find two state bar licensed members to serve on the Commission. I understand that it can be challenging to find state licensed bar members, but I do not agree that the response to the challenge is to abolish the requirement for state bar licensure. We cannot give up on having two Commission members be state licensed. This Commission hears and adjudicates employment and labor matters.

Importantly, the Council noted in its Resolution, the Commission is "called upon to decide matters of federal Indian law, Navajo Nation caselaw, Navajo due process and k'é, Diné bi beenahaz'áanii, traditional law, customary law, and natural law." Given this emphasis on how critical understanding federal law is to being on the Commission, we should continue to hold ourselves accountable to finding two state bar licensed Commissioners. We should be working together to attract these individuals to serve. We should not give up. For instance, there may be retired state licensed bar members who may be willing to serve if the stipend is set at a fair amount. For this reason, I must veto Resolution No. CJY-24-25.

Please know that I do support increasing the stipend for the Commissioners. We must increase the stipend so that we can attract state bar licensed individuals. It is necessary that the public has confidence in this Commission and having two of the five members be state licensed helps to ensure that this Commission is applying the law in a fair and just manner.

In addition, the proposed amendments to 15 N.N.C. § 303 of the Plan of Operation for the Labor Commission would alter the appointment authority of the five Commissioners so that the Council will be able to appoint the majority of the five-member Commission. This shift in appointment authority is unexplained and is another grab by the 25th Navajo Nation Council for more power. It is another move away from the balance of power the Navajo Nation currently enjoys. The President of the Navajo Nation is elected by the entire Navajo Nation and the President's number of appointments must remain at three Commissioners.

I support continued dialogue regarding necessary updates to the Labor Commission's Plan of Operation. My veto reinforces my responsibility to ensure the Nation is striving to improve and grow. My veto also reinforces my responsibility to preserve a governance structure that serves the interests of the Navajo people with integrity and balance and that we are thinking for the future.

Sincerely,

A handwritten signature in black ink, appearing to read "B. V. Nygren", with a long horizontal flourish extending to the right.

Dr. Buu Nygren, *President*
THE NAVAJO NATION

NAVAJO NATION

631

9/3/2025

Navajo Nation Council Special Session

09:53:35 AM

Amd# to Amd#

New Business: Item B. (MAIN)

PASSED

MOT Nez, R

Legislation #0201-25: Amending

SEC Jesus, B

15 N.N.C. §§ 303, 305, and 308,
The Plan of Operation...(2/3)

Yeas : 16

Nays : 1

Excused : 2

Not Voting : 4

Yea : 16

Begay, H

James, V

Nez, A

Simpson, D

Begay, N

Jesus, B

Nez, R

Tso, O

Charles-Newton, E

Johnson, C

Notah, N

Yanito, C

Crotty, A

Mitchell, A

Parrish, S

Yazzie, L

Nay : 1

Tolth, G

Excused : 2

Daniels, H

Claw, S

Not Voting : 4

Arviso, S

Yazzie, C

Slater, C

Simonson, G

Presiding Speaker: Curley, C