



The Navajo Nation **DR. BUU NYGREN** **PRESIDENT**
Yideeskáadi Nitsáhákees **RICHELLE MONTOYA** **VICE PRESIDENT**

November 3, 2023

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

RE: CO-85-23, An Action Relating to the Law and Order Committee Resources and Development Committee, Naabik'iyati Committee, and the Navajo Nation Council; Amending Title 26 of the Navajo Nation Code to allow for Virtual Attendance at Chapter Meetings.

Dear Honorable Delegates of the 25th Navajo Nation Council:

Pursuant to the power granted by the Navajo People, I am exercising my veto authority in Navajo Nation Council Resolution No. CO-85-23. As amended, this legislation has the potential to make permanent amendments to Title 26 that would allow for chapter officials and chapter membership to attend chapter meetings by virtual appearance.

First, as elected leaders, we hold a sacred duty to serve. An important part of being a servant is allowing those who have elected us to office to voice their concerns and issues in our personal presence. This personal presence and engagement of our tribal leaders with their constituents at open meetings allows for meaningful, thoughtful and collaborative debate, which allows everyone to work toward a resolution. Virtual attendance diminishes and undermines the personal involvement that leaders have with their voters and community members.

Second, it is encouraging to hear that chapter members are becoming more involved and participating in local matters. However, if chapters allow for virtual attendance of chapter members, chapters should at a minimum operate under a basic and uniform set of procedures. These procedures should address how callers will be screened and how verification of the identity of the chapter member will take place for voting purposes. Important issues are discussed at local level that have deep daily impacts and consequences on community members. Chapter meetings allow community members to engage in these debates and discussions personally with those they have elected to office. Again, virtual attendance undermines this.



The Navajo Nation **DR. BUU NYGREN** *PRESIDENT*
Yideeskáądi Nitsáhákees **RICHELLE MONTOYA** *VICE PRESIDENT*

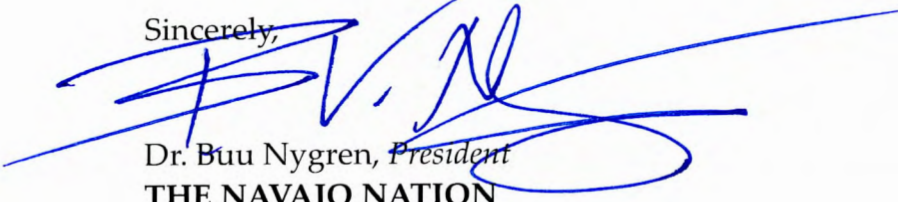
Based on the reading of the resolution and the public comments, one issue appears to be obtaining a quorum. Chapter officials are encouraged to address the quorum issue at the chapter level. Another issue appears to be community engagement. Chapter leaders are encouraged to come up with ways to encourage community members and voters to engage in government and local matters. We should be asking ourselves, "What are we doing to engage our community members in the local governance process?"

Further, if community members are not interested in participating in local matters, perhaps this opens the door to discussions on government reform at the local level. Is there a better form of government? Virtual attendance does not fix these issues.

Lastly, I recognize that streaming chapter meetings over the Internet has allowed for more transparency and participation from the community. Chapter officials are highly encouraged to continue streaming their meetings online if it is within their budgets and capacity to do so.

I look forward to having insightful discussions on how to improve local governance.

Sincerely,



Dr. Buu Nygren, *President*
THE NAVAJO NATION

RESOLUTION OF THE
 NAVAJO NATION COUNCIL
 25th NAVAJO NATION COUNCIL - FIRST YEAR, 2023

AN ACT

RELATING TO THE LAW AND ORDER COMMITTEE, RESOURCES AND DEVELOPMENT COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 26 OF THE NAVAJO NATION CODE TO ALLOW FOR VIRTUAL ATTENDANCE AT CHAPTER MEETINGS

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a Standing Committee of the Navajo Nation Council with the responsibility to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments to the Navajo Nation Code. 2 N.N.C. §§ 600(A) and 601(B) (14).
- B. The Resources and Development Committee is a Standing Committee of the Navajo Nation Council with oversight authority over Navajo Nation Chapters. 2 N.N.C. §§ 500(A) and 501(C) (1).
- C. The Naabik'íyáti' Committee is a Standing Committee of the Navajo Nation Council with the responsibility to review legislation requiring final action by the Navajo Nation Council. 2 N.N.C. §§ 164(A) (9) and 701(A) (3).
- D. The Navajo Nation Council is the governing body of the Navajo Nation with the authority to review and approve amendments to Navajo Nation laws. 2 N.N.C. §§ 102(A) and 164(A).
- E. The Local Governance Act, 26 N.N.C. §§ 1, *et seq.*, "may be amended by the Navajo Nation Council subject to approval of a majority of all chapters of the Navajo Nation; or this Act may be amended by referendum vote of a majority of all chapters as set forth in 11 N.N.C., Navajo Nation Election Code." 26 N.N.C. § 1(E).

SECTION TWO. FINDINGS

- A. "The purpose of the Local Governance Act [Act] is to recognize governance at the local level. Through adoption of this Act, the Navajo Nation Council delegates to chapters governmental authority with respect to local matters consistent with Navajo law, including custom and tradition." 26 N.N.C. § 1(B) (1).

- B. "Enactment of the Local Governance Act allows Chapters to make decisions over local matters. This authority, in the long run, will improve community decision making, allow communities to excel and flourish, enable Navajo leaders to lead towards a prosperous future, and improve the strength and sovereignty of the Navajo Nation. Through adoption of this Act, Chapters are compelled to govern with responsibility and accountability to the local citizens." 26 N.N.C. § 1(B)(2).
- C. The Local Governance Act "may be amended by the Navajo Nation Council subject to approval of a majority of all chapters of the Navajo Nation[.]" 26 N.N.C. § 1(E).
- D. In 2020, the Navajo Nation was forced to quickly enact emergency measures to mitigate the deadly spread of the Coronavirus pandemic which has caused 84,206 positive COVID-19 cases and 2,162 COVID-19 related deaths, to date, on the Navajo Nation. These emergency measures included the enactment of the March 11, 2020 Public Health State of Emergency for the Navajo Nation and underlying Public Health Orders including, but not limited to, employees working from home, the shutting down of government offices and non-essential business, public gathering limits, mask mandates, closing borders to visitors and enacting curfews.
- E. To ensure that the Navajo Nation's 110 Chapters could continue to operate and respond to the Coronavirus pandemic in their communities without violating Public Health Orders, including stay-at-home orders and public gathering limits, the Navajo Nation Council enacted numerous resolutions, including CAP-19-20, CJY-66-20, CJY-65-20, CJN-36-20, CJA-01-22, etc., which temporarily allowed Chapter members to attend and participate at Chapter meetings, including, Chapter Subcommittees and Community Land Use Plan Planning meetings, meetings using virtual telecommunication methods, such as teleconference calls and video conferencing.
- F. In 2021 and 2022, the Navajo Nation slowly began to open up government offices. Meeting and conducting the business of the Nation was done in person with certain limitations and safeguards in place, especially after the COVID-19 vaccine became available. During this time period, many Chapters moved to hybrid-style meetings, allowing virtual attendance by Chapter members, delegates, presenters, government officials and the public.

- G. Chapters and Chapter members were provided a unique opportunity to use virtual meetings, which moved to hybrid in-person and virtual meetings, to continue the necessary and important work of their chapters and communities. The use of virtual meetings was not only effective, but provided more opportunities for Chapter members to participate, as well as to provide enhanced transparency to the public.
- H. On June 15, 2023, Dr. Buu Nygren, President of the Navajo Nation and the Commission on Emergency Management issued CEM-23-06-15, deactivating the March 11, 2020 Public Health State of Emergency for the Navajo Nation and returning government operations to pre-COVID-19 status.
- I. Many Chapters and Chapter members have shown support for a permanent change to Title 26 of the Navajo Nation Code to allow chapter members to attend and participate at chapter meetings through virtual methods, including audio and/or video teleconferencing.
- J. This amendment to Title 26 will permit each Chapter to decide what type of attendance will be allowed at its Chapter meetings—in person or hybrid/virtual. The Chapters are to make the decision by Chapter resolution or referendum.

SECTION THREE. AMENDING TITLE 26 OF THE NAVAJO NATION CODE

The Navajo Nation hereby amends Title 26 of the Navajo Nation Code, as follows:

**TITLE 26. NAVAJO NATION LOCAL GOVERNANCE ACT
Chapter 1. Navajo Nation Chapters
Subchapter 1. Generally**

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§ 2. Definitions

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- 5. "Attendance" means to be present either in person or through virtual methods.

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35. "Virtual" or "virtually" means remote access through an audio or video conferencing platform. Chapter meetings may be held virtually, or a combination of virtual and in-person. Any reference to Chapter meeting throughout this Act includes the authorization to hold virtual or a combination of virtual and in-person meetings.

36. "Virtual Attendance" means that a person is not physically present at a meeting, but is still able to participate in the meeting, in a manner similar to those physically present, by means of an audio and/or video conferencing platform. Voting through Virtual Attendance shall be subject to such voter's chapter registration being verified by the Chapter Secretary, or their designee, prior to the final vote tally as set forth in virtual/hybrid attendance policies and procedures adopted by Chapter resolution or referendum.

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Chapter 2. Chapter Government
Subchapter 5. Navajo Nation Chapters, Officials and
Administration--Generally

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§ 1002. Meetings; meeting notice requirement; compensation of Chapter officials

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C. Compensation of Chapter officials.

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2. A Chapter meeting claim form signed only by the claimant shall be attached to each of the regularly scheduled Chapter meeting reports filed by the Chapter secretary/treasurer with the Chapter Government Development Department, Division of Community Development, or if applicable, by the Chapter Administration.

* * * *

c. No Chapter official shall be compensated for a Chapter meeting unless he or she was in official attendance, either in person or virtually, at that meeting; and

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§ 1003. Order of business

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- B. All Chapter meetings require a quorum of twenty-five (25) registered Chapter members to be in attendance, either in person or virtually, to conduct official Chapter business. Chapters, by Chapter resolution or referendum, are to state whether their Chapter meetings are to be conducted in person or with virtual/hybrid participation. Such Chapter resolution or referendum shall include hybrid/virtual attendance participation policies and procedures. Chapters, whether governance-certified or not, may amend the quorum requirement, based upon models and procedural regulations adopted by the Resources and Development Committee of the Navajo Nation Council. Adoption of an amended quorum requirement requires approval by Chapter ballot measure in accordance with 11 N.N.C. §§ 401-408.

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SECTION FOUR. EFFECTIVE DATE

- A. The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221(B) and 26 N.N.C. § 1(E), which establishes that Title 26 amendments passed by the Navajo Nation Council and signed by the President of the Navajo Nation shall not be effective at any Chapter until approved by a majority of all 110 Chapters of the Navajo Nation.
- B. Within one hundred eighty (180) days from the date the President signs this legislation or the Navajo Nation Council overrides a Presidential veto of this legislation, Navajo Nation Chapters shall submit a paper-copy of their Chapter resolution approving or disapproving these Title 26 amendments to the Chief Legislative Counsel, Office of Legislative Counsel, Office of Legislative Services, in Window Rock, Navajo Nation (Arizona).
- C. The end date for the submission of Chapter resolutions shall be either:
1. 180 days from the date the Navajo Nation President signs this legislation pursuant to 2 N.N.C. § 221(B);

2. If the President does not act within ten (10) days after the Speaker's certification of this legislation pursuant to 2 N.N.C. § 1005(C)(10)(12), 180 days from the date the President's ten days expire; or
3. 180 days from the date that the Navajo Nation Council overrides a Presidential Veto of this legislation pursuant to 2 N.N.C. § 1005(C)(11).

SECTION FIVE. CODIFICATION

The provisions of this resolution that 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 SIX. SUPERSEDING AND SAVING CLAUSES

If any portion of this Act is determined invalid by the Navajo Nation Supreme Court or by a District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall remain the law of the Navajo Nation.

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 15 in Favor, and 03 Opposed, on this 17th day of October 2023.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

10/24/2023

Date

Motion: Honorable Shaandiin Parrish
Second: Honorable Eugenia Charles-Newton

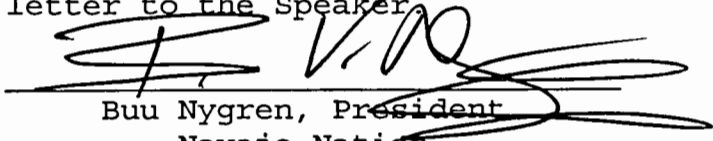
Speaker Crystalyne Curley not voting

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 _____, 2023.

Buu Nygren, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 3 day of NOVEMBER, 2023 for the reason(s) expressed in the attached letter to the Speaker.



Buu Nygren, President
Navajo Nation

NAVAJO NATION

259

10/17/2023
03:30:38 PM

Navajo Nation Council Fall Session

Amd# to Amd#
MOT Parrish, S
SEC Charles-Newton,
**Legislation 0202-23: Amending
Title 26 of the Navajo Nation
Code to Allow for Virtual
Attendance at Chapter Meetings**

PASSED

Yeas : 15

Nays : 3

Excused : 3

Not Voting : 2

Yea : 15

Arviso, S
Begay, H
Begay, N
Damon, S

Daniels, H
James, V
Johnson, C
Nez, R

Notah, N
Parrish, S
Simpson, D
Slater, C

Tolth, G
Tso, O
Yanito, C

Nay : 3

Nez, A

Jesus, B

Charles-Newton, E

Excused : 3

Claw, S

Crotty, A

Yazzie, C

Not Voting : 2

Aseret, L

Simonson, G

Presiding Speaker: Curley, C