

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0253-22\_

SPONSOR: Carl R. Slater

**TITLE   An Action Relating to the Health, Education and Human Services and Naabik'iyáti' Committees; Approving and Supporting the Utah State Indian Child Welfare Act**

***Date posted:*** December 15, 2022 at 9:22 PM

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)

Written comments may be mailed to:

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

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

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

**LEGISLATIVE SUMMARY SHEET**  
**Tracking No. 02S3-22**

**DATE:** December 15, 2022

**TITLE OF RESOLUTION: AN ACTION RELATING TO THE HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'IYATI' COMMITTEES; APPROVING AND SUPPORTING THE UTAH STATE INDIAN CHILD WELFARE ACT**

**PURPOSE:** This resolution, if approved, will approve and support the Utah State Indian Child Welfare Act.

**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.**

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 12-20-22  
Eligible for Action: 12-21-22

Health Education & Human Services Committee  
Thence  
Naabik'iyati' Committee

PROPOSED STANDING COMMITTEE RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL – Second Year, 2022  
INTRODUCED BY

\_\_\_\_\_  
(Prime Sponsor)

TRACKING NO. 0253-22



AN ACTION  
RELATING TO THE HEALTH, EDUCATION AND HUMAN SERVICES AND  
NAABIK'IYATI' COMMITTEES; APPROVING AND SUPPORTING THE UTAH  
STATE INDIAN CHILD WELFARE ACT

**BE IT ENACTED:**

WHEREAS,

- A. The Health, Education and Human Services Committee is a standing committee of the Navajo Nation Council empowered to represent the Navajo Nation at local, state and federal levels on proposed legislation, funding and other actions affecting health, environmental health, social services, education, veteran's services, employment, training and labor. 2 N.N.C. § 401 (B) (7).
- B. The Navajo Nation established the Naabik'iyati' Committee as a Navajo Nation Council standing committee and as such empowered the Naabik'iyati' Committee to coordinate all request for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 700(A), 701(A) (6).
- C. There is no resource that is more vital to the continued existence and integrity of the Navajo Nation than its own children; and

- 1 D. American Indian tribes have existed since time immemorial and pre-date the United  
2 States Constitution. Since the founding of the United States, there is a well-  
3 documented history of genocide, diminishment, and attempted assimilation of Indians  
4 by the United States, both on a federal and state level, which includes, but not limited  
5 to the removal of Navajo children from their homes and placed into foster care and  
6 adoption; and
- 7 E. The United States Congress enacted the Indian Child Welfare Act (ICWA), in 1978, to  
8 combat the excess removal of Navajo children from their homes. ICWA, itself,  
9 acknowledged, “an alarmingly high percentage of Indian [and Navajo] families are  
10 broken up by removal” and children were taken, “from [homes] by nontribal public  
11 and private agencies.” “This separation of Indian [and Navajo] children from their  
12 families, is perhaps the most tragic and destructive aspect of American Indian [and  
13 Navajo] life today.”; and
- 14 F. ICWA improved child welfare systems all over the United States for American Indian  
15 [and Navajo] children and became the “gold standard” in child welfare policy and  
16 practice. ICWA creates procedural and substantive protections to help the Navajo  
17 Nation and Navajo families combat the loss of identity that was occurring because of  
18 governmental policies which facilitated the removal of Navajo children from their  
19 homes; and
- 20 G. On November 9, 2022, the United States Supreme Court held oral arguments in  
21 *Brackeen v. Haaland*. The case was brought by individual non-Indian families and the  
22 States of Texas challenging the validity of ICWA and its regulations. One of the issues  
23 brought by plaintiffs is of ICWA violating the anti-commandeering doctrine in the  
24 Tenth Amendment of the U.S. Constitution, where the federal government is  
25 prohibited from requiring states to use their personnel or resources to enforce federal  
26 law or implement federal programs. To get around the anti-commandeering issue,  
27 States have begun to enact their own state ICWA laws. As of today, ten (10) States  
28 have enacted their own ICWA laws; and
- 29 H. The Navajo Nation and the State of Utah have worked together in combating the legal  
30 challenge to ICWA. Navajo Nation leaders and Utah State leaders have worked

1 together to strengthen and improve the child welfare system for Navajo children and  
2 families in the State of Utah; and

3 I. The Navajo Nation worked with the State of Utah working group to draft, review, and  
4 discuss the Utah ICWA to ensure the best interest of the Navajo Nation, Navajo  
5 children, and Navajo families; and

6 J. The proposal for Utah ICWA, as attached as **Exhibit A**, has been unanimously  
7 reviewed and approved by the Utah State Native American Legislative Liaison  
8 Committee (NALLC) and backed by the Utah State Executive Branch, Lieutenant  
9 Governor's Office, Utah Division of Indian Affairs (UDIA), Utah Attorney General's  
10 Office, DHHS Executive Director's Office (EDO), Office of American Indian &  
11 Family Services, Utah Division of Child & Family Services (DCFS), Utah Division of  
12 Juvenile Justice & Youth Services (JJYS), Utah Foster Care (UFC), and other groups.  
13 The State of Utah Governor's Office and the Navajo Nation are acting together to  
14 protect ICWA, improve the State of Utah's child welfare system, and protect Navajo  
15 Children; and

16 K. The Utah ICWA, attached as **Exhibit A**, that has a header that notes "11-10-22  
17 DRAFT", will change to a bill number. The Utah Legislature does not number bills  
18 until January 2023. The language of the Utah ICWA, as noted in **Exhibit A**, will not  
19 change.

20 L. The State of Utah is planning to enact and pass the Utah State Indian Child Welfare  
21 Act (Utah ICWA). The Utah ICWA law is scheduled to go through the Utah State  
22 legislative system in January 2023. Creating a Utah ICWA law will preserve ICWA's  
23 procedural and substantive requirements that apply to child custody proceedings and  
24 will protect the best interest of Navajo children and to promote the stability and  
25 security of the Navajo Nation and Navajo families. The intent is to preserve the federal  
26 ICWA provisions, with as few changes as possible, with the possibility of making  
27 improvements in the future. The Utah ICWA law will protect the well-being of Navajo  
28 children by upholding family integrity and stability within their community.

1 **NOW, THEREFORE, BE IT RESOLVED,**

2 A. The Navajo Nation hereby support the Utah State Indian Child Welfare Act attached  
3 hereto as **Exhibit A.**

4 B. The Navajo Nation hereby authorizes the Speaker of the Navajo Nation Council,  
5 President of the Navajo Nation, and their designees, to advocate the Navajo Nation's  
6 support of the Utah State Indian Child Welfare Act legislation.