

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0131-24_

SPONSOR: George Tolth

TITLE: An Action Relating to Naabik'iyáti' Committee; Opposing the Decriminalization of the Use of Peyote and Mescaline in the States, Local Governments, and the United States Territories; and Urging Adherence to the American Indian Religious Freedom Act

Date posted: June 24, 2024 at 3:46PM

Digital comments may be e-mailed to 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. 0131-24

DATE: June 21, 2024

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE; OPPOSING THE DECRIMINALIZATION OF THE USE OF PEYOTE AND MESCALINE IN THE STATES, LOCAL GOVERNMENTS, AND THE UNITED STATES TERRITORIES; AND URGING ADHERENCE TO THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT

PURPOSE: The purpose of this legislation is to oppose the decriminalization of peyote and mescaline in the peyote in the states, local governments, and territories in the United States and to urge adherence to the American Indian Religious Freedom Act.

Final Authority: Naabik'íyáti' Committee


Vote Required: Simple Majority

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

PROPOSED STANDING COMMITTEE RESOLUTION

25th NAVAJO NATION COUNCIL – Second Year, 2024

INTRODUCED BY



(Prime Sponsor)



TRACKING NO. 0131-24

AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE; OPPOSING THE
DECRIMINALIZATION OF THE USE OF PEYOTE AND MESCALINE IN THE
STATES, LOCAL GOVERNMENTS, AND THE UNITED STATES TERRITORIES;
AND URGING ADHERENCE TO THE AMERICAN INDIAN RELIGIOUS
FREEDOM ACT

WHEREAS,

- A. The Navajo Nation Council established the Naabik'iyáti' Committee as a standing committee to assist and coordinate all requests 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).
- B. The Navajo Nation has a government-to-government relationship with the United States of America. Treaty of 1868, signed June 1, 1868, proclaimed August 12, 1868, 15 Stat. 667. The Navajo Nation is a federally recognized tribe.
- C. The use of peyote for ceremonial and cultural purposes by Navajo people, and other federally recognized tribes, is one of the oldest religious traditions in the Western Hemisphere.
- D. The Navajo people, and other federally recognized tribes, who are bona fide members of Azee' Bee Nahaghá and the Native American Church, consume the sacred cactus plant known as peyote (*Lophophora williamsii*), which contains mescaline, for ceremonial and cultural purposes.

- 1 E. Peyote is only grown naturally in the southwestern part of Texas and parts of Mexico
2 and is drastically declining due to climate change, land conversion, land development,
3 ranching, agriculture, poaching, non-Indian psychedelic tourism, incorrect harvesting,
4 and other alarming factors.
- 5 F. Peyote is a slow-growing cactus plant that takes approximately ten or more years to
6 grow from a seed to a mature plant to be consumed, which impacts the premature
7 harvesting of peyote in its natural habitat.
- 8 G. The drastic decline in naturally occurring peyote will severely impact the cultural and
9 ceremonial use of peyote for the Navajo people and other federally recognized tribes.
- 10 H. The Navajo Nation recognizes the psychedelic movement by pharmaceutical, private
11 interests, and non-Indians who are heavily interested in peyote and its property of
12 mescaline which has caused serious concerns regarding the violation of federal laws—
13 American Indian Religious Freedom Act Amendments of 1994, 42 U.S.C. § 1996a
14 (“American Indian Religious Freedom Act”) and the Comprehensive Drug Abuse
15 Prevention and Controlled Act of 1970, P.L. 91-513, 84 Stat. 1236 (“Controlled
16 Substances Act”) that protect the ceremonial and cultural practices of peyote, and
17 mescaline in peyote, for the Navajo people, and other federally recognized tribes.
- 18 I. The Navajo Nation recognizes the American Indian Religious Freedom Act protects
19 the rights of Native Americans to exercise their traditional religions by ensuring access
20 to sites, use, and possession of sacred objects, and the freedom to worship through
21 ceremonies and traditional rites.
- 22 J. The Navajo Nation further recognizes the American Indians Religious Freedom Act
23 Amendments of 1994, 42 U.S.C. § 1996a, P.L. 103-344 provided that “*the use,*
24 *possession, or transportation of peyote by an Indian for bona fide traditional*
25 *ceremonial purposes in connection with the practice of a traditional Indian religion*
26 *is lawful and shall not be prohibited by the United States or any State.*”
- 27 K. The Navajo Nation recognizes that peyote and mescaline in the peyote cannot be
28 separate and are classified as Schedule I controlled substances under Controlled
29 Substances Act.
- 30 L. The Navajo Nation recognizes that the Congressional intent of the American Indians
Religious Freedom Act Amendments is to protect all properties of peyote, including

1 protection from non-bona fide ceremonial use by non-Indians. Currently, there are no
2 legal regulations to regulate or enforce the protection of mescaline that is extracted
3 from peyote and/or any other cactus plants (e.g., San Pedro, Peruvian Torch,
4 Echinopsis Zamnesiae, Bolivian Torch, etc.). Therefore, peyote and its properties of
5 mescaline will be jeopardized.

6 M. The Navajo Nation recognizes that synthetic mescaline is unnatural and human-made
7 (laboratory-made) and may cause adverse health impacts on human consumption. In
8 addition, non-Indians who develop therapeutic models associated with synthetic
9 mescaline and/or mescaline may misappropriate our Navajo cultural practices and
10 ceremonies, and other federally recognized tribes' customs.

11 N. The Navajo Nation strongly opposes any attempt to erode the purpose and intent of
12 the American Indian Religious Freedom Act and the Controlled Substances Act,
13 including the decriminalization of peyote and mescaline for non-Indian use by private,
14 corporate, tribal, state, or federal entities or organizations.

15 O. The Navajo Nation recognizes that the Navajo people, and other federally recognized
16 tribes, were historically persecuted and prosecuted for their ceremonial and cultural
17 use of peyote for more than a century and had to fight numerous legal and political
18 battles at the tribal, state, and federal levels to achieve the right to use peyote within
19 their respected traditional ceremonial and cultural practices.

20 P. The Navajo Nation seeks to ensure full protection of the rights and well-being of the
21 Navajo People, including their fundamental rights to the free exercise of religious,
22 ceremonial, and cultural beliefs and their related use of peyote pursuant to the First
23 Amendment of the Navajo Bill of Rights, titled, "*Declaring the Freedom of Religion*
24 *as a Basic Human Right*," which made an exception to the Navajo criminal code to
25 allow Azee' (Peyote) to be used for religious, ceremonial, and cultural purposes in the
26 Navajo Nation. Navajo Nation Council Resolution No. CO-65-67.

27 Q. The Navajo Nation further recognizes that in 2005, the Navajo Nation amended the
28 Navajo Nation Criminal Code, 17 N.N.C. § 394 (C), Possession or Sale of Controlled
29 Substances stating, "*The listing of peyote (more commonly known as Azee') in*
30 *Subsection A does not apply to the use of Azee' by an enrolled member of an Indian*
tribe for bona fide ceremonial purposes in connection with Nahaghá. Individuals who

1 *use, possess, or transport Azee' for use in Nahaghá are exempt from this prohibition.*
2 *Azee' is lawful on the Navajo Nation."*

- 3 R. The Navajo Nation recognizes the use of Azee' (peyote) to be strictly used in a bona
4 fide traditional ceremonial purpose or connection with the practice of a traditional
5 Indian religion within the jurisdiction of the Navajo Nation, as in accordance with the
6 American Indian Religious Freedom Act and the Controlled Substances Act.
- 7 S. The Navajo Nation has serious concerns regarding the proposed use of peyote and
8 mescaline by non-Indians who are currently in violation of federal laws – including
9 the American Indian Religious Freedom Act and the Controlled Substances Act.
- 10 T. It is in the best interest of the Navajo Nation to oppose the decriminalization of peyote
11 and mescaline in the peyote as it is a cactus that could be excessively harvested and
12 will endanger the plant (peyote) and will also substantially affect the religious,
13 ceremonial, and cultural practices of the Navajo Nation, and other federally
14 recognized tribes who have a sincere sacred belief and a strong connection to the use
15 of peyote for ceremonial and cultural purposes only.

16
17 **NOW THEREFORE IT BE RESOLVED:**

- 18
19 A. The Navajo Nation hereby affirms its position to protect, preserve, and conserve the
20 sacred use of Azee' (peyote) by strongly opposing the decriminalization of peyote and
21 mescaline in the peyote in the states, local governments, and territories in the United
22 States of America.
- 23 B. The Navajo Nation hereby affirms its position to protect, preserve, and conserve the
24 sacred use of Azee' (peyote) by strongly opposing the decriminalization of 'synthetic
25 mescaline' and any development of therapeutic models that misappropriate or exploit
26 our Navajo culture and ceremonial practices, and other federally recognized tribal
27 customs in the states, local governments, and territories in the United States of
28 America.
- 29 C. The Navajo Nation hereby urges all states, local governments, and territories in the
30 United States to respectfully adhere to the Controlled Substances Act, where peyote
 and mescaline are classified as Schedule I Controlled Substances.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

- D. The Navajo Nation hereby urges all states, local governments, and territories in the United States to respectfully adhere to the American Indian Religious Freedom Act.
- E. The Navajo Nation hereby urges the federal government to uphold its government-to-government trust responsibility and tribal consultation with the Food and Drug Administration, the Department of Justice, the Department of Commerce, and the United States Department of Agriculture to ensure the full protection of peyote and its property of mescaline are protected and preserved for the Navajo people, and other federally recognized tribes in the United States.
- F. The Navajo Nation hereby urges the federal government through the United States Department of Justice to uphold its trust responsibility of the doctrine of federal preemption.
- G. The Navajo Nation urges the federal government to engage in private and public conservation programs to address peyote habitat preservation.