DATE: June 6, 2022

TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER AND NAABIK’ÍYÁTI’ COMMITTEES; OPPOSING DECRIMINALIZING THE RECREATIONAL USE OF PEYOTE AND URGING ALL STATES TO LIMIT THE NON-CRIMINAL USE OF PEYOTE TO RELIGIOUS PURPOSES; AND OPPOSING THE INCLUSION OF PEYOTE ON THE CALIFORNIA SENATE BILL 519 LIST OF SUBSTANCES TO BE DECRIMINALIZED

PURPOSE: This resolution, if approved, will provide the Navajo Nation’s firm position of opposing the efforts or any attempt made by states in decriminalizing the recreational use of peyote (lophophora williamsii) which contains the natural hallucinogenic drug mescaline, and urging states to limit its use to the Native American Church religion, similar to federal law—42 U.S.C. § 1996a.

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.
PROPOSED STANDING COMMITTEE RESOLUTION

24th NAVAJO NATION COUNCIL – Fourth Year, 2022

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0100-22

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES; OPPOSING DECRIMINALIZING THE RECREATIONAL USE OF PEYOTE AND URGING ALL STATES TO LIMIT THE NON-CRIMINAL USE OF PEYOTE TO RELIGIOUS PURPOSES; AND OPPOSING THE INCLUSION OF PEYOTE ON THE CALIFORNIA SENATE BILL 519 LIST OF SUBSTANCES TO BE DECRIMINALIZED

WHEREAS,

A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council empowered 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 Resources and Development Committee is a standing committee of the Navajo Nation Council empowered to represent the Navajo Nation at local, state, and federal levels, in cooperation and coordination with the President of the Navajo Nation and the appropriate committee of the Navajo Nation Council on proposed resolutions or actions affecting natural resources. . . . 2 N.N.C. §§ 500(A), 501(B)(5).

C. 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, in coordination with the President of the Navajo Nation and the Naabik’iyáti’ Committee on proposed legislation, funding and other actions affecting environmental health. 2 N.N.C. §§ 400(A), 401(B)(7)(a).

D. The Law and Order Committee is a standing committee of the Navajo Nation Council with its purpose to protect the rights and interests of the Navajo People by improving the quality and effectiveness of the justice system within the Navajo Nation. 2 N.N.C. § 600(C)(2).

E. The Native American Church is one of the oldest religious traditions in the Western Hemisphere; a recent carbon dating of peyote at an archeological site in Texas revealed that the peyote dated back to 4,220 B.C. (approximately 6,000 years ago). James D. Muneta, Peyote Crisis Confronting Modern Indigenous Peoples: The Declining Peyote Population and a Demand for Conservation, Amer. Ind. Law Journal: Vol. 9 : Iss. 1, Article 6., (2020).

https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1228&context=ailj

F. Native American Church members consume the sacred cactus plant (lophophora williamsii) known as peyote which contains the hallucinogenic drug “mescaline” during ceremonies. The hallucinogenic effect of mescaline is naturally found in the peyote cactuses (lophophora williamsii).

G. In the Southwest United States and Mexico, peyote is drastically declining due to land development, ranching, agriculture, poaching, psychedelic tourism, incorrect harvesting, and other factors such as recreational use and climate change.

H. Peyote is a slow-growing cactus that takes approximately ten or more years to grow from a seed to a mature plant to be consumed.

I. In February 2020, California introduced Senate Bill 519 which would decriminalize certain hallucinogenic substances including mescaline. The California law would make it: (1) legal to possess for personal and social sharing; (2) place strict limits on who could use the drug, penalizing those who are under the age of 21 for using drugs; (3) expunge the records of those with prior criminal offenses for possession and use; (4) require the California Department of Public Health to come up with regulations and therapeutic uses of the legalized psychedelics; and (5) will no longer carry criminal penalties for
possession of drug paraphernalia associated with psychedelics as long as they are owned by adults. See, SB-519 Controlled substances: decriminalization of certain hallucinogenic substances.

J. Under Section 1(l) of Senate Bill 519: Peyote is specifically excluded from the list of substances to be decriminalized, and any cultivation, harvest, extraction, tincture or other product manufactured or derived therefrom, because of the nearly endangered status of the peyote plant and the special significance peyote holds in Native American spirituality. Section 11363 of the Health and Safety Code, which makes it a crime in California to cultivate, harvest, dry, or process any plant of the genus Lophophora, also known as Peyote, is not amended or repealed.

K. Furthermore, Section 1(m) of Senate Bill 519 provides: The State of California fully respects and supports the continued Native American possession and use of peyote under federal law, 42 U.S.C. 1996a, understanding that Native Americans in the United States were persecuted and prosecuted for their ceremonial practices and use of peyote for more than a century and had to fight numerous legal and political battles to achieve the current protected status, and the enactment of this legislation does not intend to undermine explicitly or implicitly that status.

L. The Azeé Bee Nahagha of Diné Nation, Inc., passed a resolution, attached as Exhibit A, opposing the decriminalization of peyote due to recreational use by the public which will threaten the availability and over harvesting of peyote. The Azeé Bee Nahagha of Diné Nation, Inc., further suggests that peyote be limited strictly for religious, cultural and ceremonial purposes only.

M. Azeé means medicine in Diné language. Native American Church practitioners identify Azeé to also mean peyote and is believed to spiritually heal a person through songs, prayers, and consumption of the Azeé (Peyote).

N. The Navajo Nation understands that peyote is classified as a Schedule I controlled substance under the Federal Controlled Substance Act. However, the Navajo Nation government has allowed the religious use of peyote since 1967 within Navajo Nation through Resolution No. CO-65-67.
O. The Navajo Nation further understands that federal law, the American Indian Religious Freedom Act Amendments of 1994, 42 U.S.C. § 1996a, provides authorization for Native American Church members to legally use peyote for religious purposes only.

P. It is in the best interest of the Navajo Nation to oppose decriminalizing the recreational use of peyote as it is a cacti that could be excessively harvested and will endanger the plant (peyote) and will also affect the religious practice of Indigenous people across the Western Hemisphere including members of the Navajo Nation who have a sincere religious belief in Native American Church.

NOW, THEREFORE, BE IT RESOLVED THAT

A. The Navajo Nation opposes decriminalizing the recreational use of peyote and urges all states to limit the non-criminal use of peyote for religious purposes only, similar to 42 U.S.C. § 1996a.

B. Further, the Navajo Nation strongly opposes the inclusion of peyote on the California Senate Bill 519 list of substances to be decriminalized.
RESOLUTION OF THE AZEE’ BEE NAHAGHA OF DINE NATION, Inc.

Respectfully Approving and Recommending the Navajo Nation Council to Oppose the National Peyote Decriminalization

WHEREAS:

1. Azee Bee Nahagha of Dine Nation, Inc. (ABNDN Inc.) is governed by Board of Directors as provided for in its Articles of Incorporation, Constitution and Bylaws; and

2. The Native American Church of Navajoland, Inc. (NACNI, Inc.), now known as ABNDN Inc. was established on June 11, 1966 as a non-profit organization, was incorporated within the State of New Mexico on May 15, 1972 and in December 1989, the Advisory Committee of the Navajo Tribal Council granted a Revocable Land Use Permit (Mission Site) for NACNI, comprising of ten (10) acres of Navajo Nation Trust land at Chinle, Arizona; and

3. ABNDN, Inc. is vested with the authority to review all matters affecting its membership while making appropriate delicate decisions as deemed necessary and to make recommendation to various agencies while seeking resources; and

4. ABNDN recognizes the Azeé (Peyote) plant to be sacred among the Navajo people; and

5. ABNDN recognizes Azeé (Peyote) has been consumed by Navajo people for religious, cultural, and ceremonial purposes since time in immemorial; and

6. ABNDN recognizes certain lands in the Southwest part of Texas and in Northern Mexico are cultural places of significant importance where Azeé (Peyote) plant grows in its aboriginal habitat; and

7. ABNDN recognizes the number of Azeé (Peyote) plants has decreased in recent years, threatening the long-term sustainability of the Azeé (Peyote) aboriginal habitats or populations, and depleting the number of Azeé (Peyote) that could be available for future generations; and

8. ABNDN recognizes the personal and corporate cultivation of the Azeé (Peyote) plant threatens the historical, cultural, and biological integrity of the plant by potentially exposing the population to hybridization, genetic modification, and sterilization, all of which is in violation of Public Law 103-344 American Indian Religious Freedom Act of 1994 (AIRFA of 1994); and

9. ABNDN recognizes the movement to decriminalize Azeé (Peyote) use directly threatens the availability of Azeé (Peyote) and integrity of the ceremonial use of Azeé (Peyote) for Navajo people, including other Indigenous peoples, and would be contrary to the doctrine of
federal preemption, whereby federal law supersedes state law in this area (under Public Law 103-344 AIRFA of 1994).

10. ABNDN recognizes the decriminalization of Azeé (Peyote) consumption beyond the already hundreds of thousands of federally recognized tribes and other Indigenous peoples, including Navajo people, will create a demand and market for Azeé (Peyote) that further threatens the existing aboriginal inhabitants.

NOW THEREFORE, BE IT RESOLVED THAT:

1. ABNDN opposes the decriminalization of Azeé (Peyote). Usage should be only "by a federally enrolled tribal citizen who uses Azeé (Peyote) in a bona fide traditional ceremony.

2. ABNDN opposes the extraction and synthesis of mescaline, and any cultivation, tincture, or manufacturing for scientific purposes (research), or for any reasons outside of a traditional bone-fide ceremonial setting and purposes.

3. ABNDN hereby requests to protect and preserve Azeé (Peyote) strictly used for religious, cultural, and ceremonial purposes by the Navajo people, as protected under federal law.

4. ABNDN hereby requests Navajo leadership to protect and preserve the Peyote Way of Life and the lands in which they reside within its natural aboriginal habitat.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the ABNDN, Inc. Executive Officials and Board of Directors at a duly called meeting at Chinle, Navajo Nation, Arizona, at which a quorum was present and that same was passed by a vote of _11_ in favor, _00_ opposed and _01_ abstained, this _16th_ day of _April_ , 2022.

MOTION: Justin Dale SECONED: Richard Monroe
Willie Tracey Jr., President Ahowt Johnson, Vice President
Melinda Nakai, Protemp Secretary Victoria Woody, Treasurer
MEMORANDUM

TO : Honorable Eugenia Charles-Newton, Sponsor
     Law and Order Committee
     24th Navajo Nation Council

     Honorable Thomas Walker, Jr., Co-sponsor
     Resources and Development Committee
     24th Navajo Nation Council

FROM: Chad Abeyta, Attorney
      Office of Legislative Counsel

DATE: June 6, 2022

RE : AN ACTION RELATING TO RESOURCES AND DEVELOPMENT,
     HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER
     AND NAABIK’IYÁTI’ COMMITTEES; OPPOSING
     DECRIMINALIZING THE RECREATIONAL USE OF PEYOTE AND
     URGING ALL STATES TO LIMIT THE NON-CRIMINAL USE OF
     PEYOTE TO RELIGIOUS PURPOSES; AND OPPOSING THE
     INCLUSION OF PEYOTE ON THE CALIFORNIA SENATE BILL 519
     LIST OF SUBSTANCES TO BE DECRIMINALIZED

As requested, I have prepared the above-referenced proposed resolution and associated legislative
summary sheet pursuant to your request for legislative drafting. The resolution as drafted is legally
sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts
in the event of proper challenge. Please ensure that this particular resolution request is precisely
what you want.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the
Office of Legislative Services where it will be given a tracking number and sent to the Office of
the Speaker for assignment. If the proposed resolution is unacceptable to you, please contact me
at the Office of Legislative Counsel and advise me of the changes you would like made to the
proposed resolution. Ahéhee’.
TITLE: An Action Relating to Resources and Development, Health, Education and Human Services, Law and Order and Naabik’íyáti’ Committees; Opposing Decriminalizing the Recreational Use of Peyote and Urging All States to Limit the Non-Criminal Use of Peyote to Religious Purposed; and Opposing the Inclusion of Peyote on the California Senate Bill 519 List of Substances to be Decriminalized

Date posted: June 06, 2022 at 6:16PM

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.