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**22nd Navajo Nation Council affirms sovereignty by
amending extradition and detention provisions for major crimes**

WINDOW ROCK – On day two of the Summer Session, the Navajo Nation Council passed Legislation No. 0049-13, amending extradition and detention provisions under Title 7 and Title 17 of the Navajo Nation Code.

The legislation requires that non-Navajo authorities must provide proof of criminal charges against an accused individual, the accused individual be given the opportunity for a hearing in tribal court and notified of their right to legal counsel, and that the individual is provided due process in accordance with Navajo Nation laws, prior to their extradition.

Legislation co-sponsor Council Delegate Alton Joe Shepherd (Jeddito, Cornfields, Ganado, Kin Dah Lichí, Steamboat) said the legislation was developed over the course of four years, in an effort to clarify extradition procedures and to assert Navajo sovereignty in such procedures.

Since the proposed legislation entailed amendments to the Navajo Nation Judicial Reform Act under Title 7, it required a two-thirds vote, or sixteen votes of approval, to pass the legislation.

Navajo Nation chief prosecutor Bernadine Martin, explained to members of the Council that confusion over extradition practices became apparent in 2009, when a Navajo individual suspected of murder was removed from a tribal jail and taken in to custody by federal authorities without the appropriate due process, in violation of Navajo Nation laws and the Treaty of 1868.

Council Delegate Leonard Tsosie (Baca/Prewitt, Casamero Lake, Counselor, Littlewater, Ojo Encino, Pueblo Pintado, Torreon, Whitehorse Lake) spoke in support of the legislation, asserting that it would move the Nation forward in establishing its sovereignty.

“Congress, federal courts, and others do not take our Treaty seriously,” said Delegate Tsosie. “It’s important for us as Navajo leaders to stand up for the Treaty, and have it be recognized.”

Referencing the Treaty of 1868, Delegate Tsosie argued that the Navajo Nation should uphold specific language in the Treaty, which asserts the right of the Navajo Nation to refuse the extradition of individuals if specific procedures are not followed.

Also speaking in support of Navajo sovereignty, Council Delegate Roscoe Smith (Crystal, Fort Defiance, Red Lake, Sawmill) expressed dissatisfaction with past incidences of federal authorities removing Navajo individuals suspected of major crimes, without adhering to Navajo laws.

“There’s a process, and that process was not honored in a government-to-government relationship,” said Delegate Smith. “A government actually crossed our borders, came into our land, and dictated our Nation.”

“When do we begin to stand up for the sovereignty of the Navajo Nation?” asked Delegate Smith of his Council colleagues.

Although the legislation was met with overwhelming support, several Council members questioned specific language and terminology in the legislation.

Council Delegates Walter Phelps (Cameron, Coalmine Canyon, Leupp, Tolani Lake, Tsidi To ii) and LoRenzo Bates (Nenahnezad, Newcomb, San Juan, Tiis Tsoh Sikaad, Tse’Daa’Kaan, Upper Fruitland) inquired as to what the term “Indian” is defined as, in the language of the legislation.

“The word ‘Indian’ to us, is a registered first American who has a certificate of Indian blood, but other nations do not have a clear definition or requirement for membership. How would the courts define that definition?” asked Delegate Phelps.

Navajo Nation assistant attorney general Paul Spruhan, said the legislation uses the term “Indian” in the same context as the federal government, explaining that the broad definition was intentionally utilized to provide flexibility in addressing future cases involving Navajos who may not be an enrolled member, or an individual who is part Navajo and enrolled in a different tribe.

Council Delegate Jonathan Nez (Shonto, Navajo Mountain, Oljato, Ts’ah Bii Kin) reminded Council members that the Nation has established numerous cross-commission agreements with various law enforcement agencies, and cautioned that the “hot pursuit” clause in such agreements, may allow non-Navajo authorities to take individuals into custody without following the extradition process in certain situations.

“I know there is a time frame, or some type of guidance that allows the state and the feds to come in, and due to the fresh pursuit clause, they don’t need any extradition signed if it’s in that time frame,” said Delegate Nez.

While several delegates praised the legislation, a few acknowledged that the extradition laws and procedures will need further amendments and adjustments in the future.

Council members also approved one amendment to address specific wording in the legislation, and also to allow for monetary compensation for individuals who are wrongfully detained and extradited.

At the conclusion of discussion, Council members voted 19-0 to approve Legislation No. 0049-13.

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