23rd Navajo Nation Council
Office of the Speaker

FOR IMMEDIATE RELEASE
June 27, 2017

MEDIA CONTACTS
Jared Touchin (928) 221-9253
Jolene Holgate (928) 380-4174
Crystalyne Curley (928) 286-7918
nnlb.communications@gmail.com

NGS owners to sign lease agreement after approval by the Navajo Nation Council

WINDOW ROCK – During a special session held on June 26, the Navajo Nation Council voted in support of Legislation No. 0194-17, approving a lease between the Navajo Nation and the owners of the Navajo Generating Station to allow the operations of the power plant to continue until December 2019. The NGS owners informed Navajo Nation officials on Tuesday that they will sign the lease agreement this week, which will also require the signature of President Russell Begaye to become final.

Council members debated the issue for over eight hours on Monday, before approving the final legislation along with a total of nine amendments.

Legislation sponsor Speaker LoRenzo Bates thanked his Council colleagues and the negotiating team for supporting the jobs of over 800 Navajo workers at NGS and Kayenta Mine and for securing significant revenue for the Nation through 2019. In addition, it allows time to continue pursuing other energy sources including renewable energy and other economic opportunities.

"To this point, it has been a very challenging process in terms of finding some middle ground especially when you consider all of the issues that were brought forth from delegates, grassroots groups, the workers, and many others," said Speaker Bates. "At the end of the day, this Council voted in support of the legislation and we look forward to finalizing the agreement."

Speaker Bates has previously explained that lease would be for a term of 35-years to include the operation of the power plant through 2019, the retirement of the power plant site, and long-term environmental monitoring required by federal environmental laws. The 35-year lease would provide up to $110 million in lease payments to the Navajo Nation.

In addition, the agreement identifies certain assets at the NGS site that the Nation would retain to promote economic development projects, including the railroad track and related facilities, a lake pump facility, two electrical distribution lines, and fencing and equipment.

The Nation would also receive $18 million from the owners for the cost savings of not having to decommission the assets, and $39 million in minimum coal royalties for 2018 and 2019 combined. Additionally, the Nation would have the ability to utilize the two transmission lines to sell electricity on the open market to generate additional revenue for the Nation.

Council Delegate Edmund Yazzie was the first Council member to offer comments on the legislation on Monday. He along with several other delegates requested the Council members to approve the legislation to preserve jobs and revenue for the Navajo Nation.

"I am for jobs. I am for revenue that goes back to the Nation. I am going to vote in favor of the legislation because when an individual gets laid off it hits the family, it hits the children – I say this from personal experience," stated Delegate Yazzie. "If this doesn't pass, it's going to hit the families hard and the revenue that comes in."

Council Delegate Seth Damon recalled Speaker Bates' statement indicating that the legislation could be the most significant decision that the current Council would have to make during its current four-year term, which would have long-standing impacts for the Navajo Nation in terms of providing revenue to the central government, the Nation's 110 chapters, and many other programs and direct services.

"It will help the families in the coming years and I ask you to support this legislation," said Delegate Damon.

Although the majority of the delegates spoke in support of the bill, several were very vocal in their opposition to the waivers contained in the legislation and the agreement, particularly the request for the Nation to waive Navajo laws in any potential litigation.

Council Delegate Leonard Tsosie was very adamant in his opposition to the waivers requested of the Navajo Nation and strongly urged his colleagues to vote down the legislation as a means of protecting the Nation's sovereignty and to uphold Navajo laws.

"They've been on our land for over 50 years – they should know us by now. Do they regard our laws of being from the cave man years or think theirs are superior? They've never given me a clear answer," stated Delegate Tsosie, in regards to the waiver of Navajo laws.

Following the eight-hour debate, the Council with a vote of 18-4 approved Legislation No. 0194-17. Council Delegates Leonard Tsosie, Amber Kanazbah Crotty, Nelson S. BeGaye, and Jonathan Perry issued the four opposing votes. The bill required two-thirds approval, or 16 supporting votes to pass.

The resolution does not require the consideration of the president, however, the president's signature is required in order to finalize the final lease document.

Please see the attached Council committee reports for a listing of the nine amendments that were approved with the legislation.

# # #

For news on the latest legislative branch activities, please visit www.navajonationcouncil.org or find us on Facebook and Twitter, keywords: Navajo Nation Council

23rd NAVAJO NATION COUNCIL
COUNCIL ACTION REPORT
Third Year 2017

The **NAVAJO NATION COUNCIL** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0194-17

An Action Relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Naabik'íyáti' Committees and the Navajo Nation Council; Approving the Replacement Lease Between the Navajo Nation and Salt River Project Agricultural Improvement and Power District, Arizona Public Service Company, Tucson Electric Power Company, Nevada Power Company D/B/A NV Energy and Department of Water and Power of City of Los Angeles; Lease Amendment No. 1 to Existing Lease; Approval of Restrictive Covenants Related to Ash Disposal Area and Solid Waste Landfill and Pond Solids; Waiver of Sovereign Immunity

Sponsored by: Honorable LoRenzo C. Bates
Co-Sponsored by: Honorable Nathaniel Brown
Co-Sponsored by: Honorable Herman M. Daniels
Co-Sponsored by: Honorable Davis Filfred

Has had it under consideration and reports the same **WAS TABLED AND REMAINS WITH THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

Honorable Alton Joe Shepherd, Pro Tem Speaker
NAVAJO NATION COUNCIL

19 JUNE 2017

AMENDMENT #1 [AMENDMENTS TO NAABIK'ÍYÁTI' COMMITTEE AMENDMENTS]:

14. WATER USE:

(A) The Nation agrees that during the Lease Term, water out of the 50,000 acre-feet annually allocated to the State of Arizona pursuant to Article III(a)(1) of the Upper Colorado River Basin Compact (63 Stat. 31), in an amount not greater than 1,500 acre-feet of water per year, shall be available for consumptive uses by Lessees for the tasks under this Lease during the NGS Retirement Period. The Nation agrees the use of water on Reservation Lands within the Upper Colorado River Basin of Arizona (as said Upper Colorado River Basin is defined in the Upper Colorado River Basin Compact) shall not reduce or diminish the availability of water required by

the Lessees for such purposes. During the Lease Term, the Lessees will not object to Navajo uses of water in the Upper Colorado River Basin in Arizona from the 50,000 acre-feet available to the State of Arizona pursuant to Article III(a)(1) of the Upper Colorado River Basin Compact in excess of (1) Lessees' use of the 1,500 acre-feet during the NGS Retirement Period, and (2) other contractors with existing contractual entitlements to such water. The United States approval of this Lease does not constitute and should not be construed as a position regarding the use of water out of the 50,000 acre-feet annually allocated to the State of Arizona pursuant to Article III(a)(1) of the Upper Colorado River Basin Compact (63 Stat. 31).

(B) Salt River Project holds certificates of water right from the State of Arizona (Certificate Nos. 4050.0001 and 4050.0003), on behalf of itself and the Navajo Generating Station Participants, for the use of a portion of the 50,000 acre-feet annually allocated to the State of Arizona pursuant to Article III(a)(1) of the Upper Colorado River Basin compact (63 Stat. 31) for power purposes, including NGS Retirement ("NGS Water Allotment"). During each year of the NGS Retirement Period, Salt River Project will notify the USBR ~~U.S. Bureau of Reclamation ("Reclamation")~~ by December 31~~st~~ of the estimated water usage at NGS for the upcoming year shall be 1,500 acre-feet. All water usage will be metered and reported to Reclamation. Once the NGS Water Allotment is no longer necessary for the NGS Retirement or at the termination of the NGS Retirement Period, whichever occurs first, Salt River Project will request on behalf of the Navajo Generating Station Participants that the Arizona Department of Water Resources terminate the certificates of water rights (Certificate Nos. 4050.0001 and 4050.003). Upon the cessation of coal combustion at ~~commercial operations at~~ NGS~~,~~ Salt River Project will support the Nation's efforts to acquire the use of a portion of the 50,000 acre-feet annually allocated to the State of Arizona pursuant to Article III(a)(1) of the Upper Colorado River Basin Compact (63 Stat. 31).

(C) Salt River Project will provide technical assistance to the Nation to assist the Nation with the diversion of up to 950 acre-feet per year from Lake Powell for the benefit of LeChee and other Navajo communities in the vicinity of NGS that the Nation has the right to use under an existing contract (Contract No. 09-WC-40-318);, provided, however, ~~that~~ such technical assistance shall be at no cost to Salt River Project or the Lessees and such offer of assistance shall terminate five (5) years after the date the certificates are terminated under Section 14(B).

(D) Nothing in this Lease shall be interpreted as the Navajo Nation waiving its water rights or claims to water in the Upper Colorado River Basin.

Motioned by: Honorable Dwight Witherspoon
Seconded *by: Honorable Tom Chee*

Vote: 23 in Favor, 00 Opposed (Pro Tem Speaker Shepherd Not Voting)

AMENDMENT #2 [AMENDMENTS TO PROPOSED RESOLUTION]:

Page 7, Line 4; No. 10, add the following language:

The Navajo Nation waives any right to a trial by jury in litigation directly or indirectly arising out of, under or in connection to the Replacement Lease. *See* Section 4~~6~~5. Non-monetary disputes will be

resolved by a three-step process: (1) Informal Consultation; (2) Mediation; and then (3) Litigation. *See* Section 18. If a monetary dispute arises, the Parties will take several steps to resolve the issue and if it is not resolved, a lawsuit may be filed. *See* Section 17. Any lawsuit filed under or in connection with the Replacement Lease will be decided by a judge, as opposed to a jury.

Page 7, Line 7; No. 11

~~The Navajo Nation agrees to waive and release each of the NGS Partners of any claim or claims the Navajo Nation has, or may have under the Existing Lease for damage resulting from the NGS Partner's operation or ownership of the Navajo Generating Station;~~ The ~~however, the~~ Navajo Nation maintains ~~reserves and retains~~ the right to sue under ~~bring certain claims under~~ the Comprehensive Environmental Response. Compensation, and Liability Act, also known as "CERCLA" or Superfund, and the Resources Conservation and Recovery Act, in federal court for response cost or equitable relief related to the NGS Partners' operation of NGS under the Existing Lease. The only exception is that ~~but not for~~ natural resource damages, cannot be recovered related to the closures in place (Ash Landfill, Solid Waste Landfill and certain evaporation ponds and stormwater ponds). *See* Section 36

Page 10, Line 29; NEW SECTION NO. H

H. The Navajo Nation President shall be authorized to sign the transmission agreement with the U.S. Bureau of Reclamation associated with the Navajo Nation's right to use at lease 500MW on the Southern and Western Transmission Systems and is also authorized to enter into any and all agreements necessary for the management of this access to transmission.

Motioned by: Honorable Dwight Witherspoon
Seconded by: Honorable Seth Damon

Vote: 16 in Favor, 07 Opposed (Pro Tem Speaker Shepherd Not Voting)

AMENDMENT # 3 [AMENDMENT TO EXHIBIT A AND AMENDMENT 1]:

1. Amend as follows:

   a. Delete Schedule 7 in Exhibit List;
   b. Amend Exhibit A, Replacement Lease, Section 7(B), delete (ii) add new language "Whereas the payments described therein, a total of no less than $167,186,051, shall be due and paid by the Owners, within thirty days upon the full execution of the Replacement Lease by all applicable parties, but by no later than February 1, 2018.";
   c. Amend Exhibit D to the Replacement Lease, entitled Amendment No. 1, Section 5, deleting (B)(v) and adding new language, "Whereas the payments described therein, a total of no less than $167,186,051, shall be due and paid by the Owners, within thirty days upon the full execution of the Replacement Lease by all applicable parties, but by no later than February 1, 2018.";
   d. Add new language to Exhibit A, Replacement Lease, Section 7(B), new (iii) and add new language to Exhibit D, Amendment 1, Section 5(B)(v), "Further, the Owners agree to provide immediately, but no later than August 1, 2017, all amounts due on behalf of the Bureau of Reclamation to complete the compensation of the Navajo Nation for its $1,000,000 signing

bonus related to the Navajo Nation and the Owners prior lease negotiations, referenced herein as the 2012 Lease Amendment."

2. Renumber or reletter succeeding paragraphs or sections accordingly, if necessary; and this amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. Office fo Legislative Services is hereby authorized to make grammatical changes or correct typographical errors with notice to the sponsor of the Legislation.

Motioned by: Honorable Leonard Tsosie
Seconded by: Honorable Nelson S. BeGaye

Vote: 21 in Favor, 02 Opposed (Pro Team Speaker Shepherd Not Voting)

AMENDMENT #4 [AMENDMENTS TO PROPOSED RESOLUTION]:

1. On page 1, line 13-14, strike the words: "THE REPLACEMENT" and insert, in lieu thereof, the words: "AN EXTENSION";

2. On page 3, line 11, insert the word "proposed" before the word "Replacement";

3. One page 3, line 11, strike the word "Nation" and insert, in lieu thereof, "Navajo Joint Task Force";

4. On page 3, line 11, add a paragraph as follows:

   "D. The Navajo Nation Council hereby states that the 1969 Lease, with its amendments, should remain; and that only an Extension Lease be approved."

5. All words referencing "Replacement Lease" should be appropriately replaced with the "Extension Lease" in Legislation and the Exhibits;

6. Renumber or reletter succeeding paragraphs or sections accordingly, if necessary; and this amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. Office fo Legislative Services is hereby authorized to make grammatical changes or correct typographical errors with notice to the sponsor of the Legislation.

Motioned by: Honorable Leonard Tsosie
Seconded by: Honorable Nelson S. Begaye

Vote: 13 in Favor, 10 Opposed (Pro Tem Speaker Shepherd Not Voting)

AMENDMENT #5 [AMENDMENT TO PROPOSED RESOLUTION]:

Page 10,, Line 23, insert new language after word "programs," and Lechee Chapter including…

Motioned by: *Honorable Tuchoney Slim, Jr.*
Seconded by: *Honorable Jonathan L. Hale*

Vote: *23 in Favor, 00 Opposed (Pro Tem Speaker Shepherd Not Voting)*

TABLING MOTION:

Motion to Table to Council Special Session on June 26, 2017

Motioned by: *Honorable Seth Damon*
Seconded by: *Honorable Edmund Yazzie*

Vote: *17 in Favor, 06 Opposed (Pro Tem Speaker Shepherd Not Voting)*

MAIN MOTION:

Motioned by: *Honorable Davis Filfred*
Seconded by: *Honorable Otto Tso*

Vote:

FAILED MOTIONS:

SUSPENSION OF RULE #24 (FAILED):

Using Rule 24 to Suspend Rule 9 to Waive the reading of the legislation to be read electronically at a later time.

Motioned by: *Honorable Dwight Witherspoon*
Seconded by: *Honorable Benjamin L. Bennett*

Vote: *05 In Favor, 10 Opposed (Pro Tem Speaker Shepherd Not Voting) SUSPENSION OF RULES FAILED*

AMENDMENT #3 (FAILED):

Amendments to Replacement Lease

Page No. 8
Add the underlined word to §1 (DD) (Definitions): "NGS Site Remediation" means the <u>investigation,</u> remediation, closure,…"

Page No. 13
Add the underlined language to §4(A) (Purpose): "Lessees shall use the NGS Site for the primary purpose of NGS Retirement, NGS Site Remediation, and post-closure activities in accordance with this Lease, and these activities shall be performed by Lessees at Lessees' expense."

Page No. 31
Revise the language in Section 17(B)(ii) (Default for Nonpayment) as follows: "Collect, by suit in ~~any~~ a federal court of competent jurisdiction or in ~~any~~ an Arizona court if federal laws do not apply or federal courts lack ~~of competent~~ jurisdiction, ~~and in no other courts,~~ all amounts due under Section 17(A)."

Page No. 32
Revise the language in Section 17(F) as follows: "Collect, by suit in ~~any~~ a federal court of competent jurisdiction or in ~~any~~ an Arizona court if federal laws do not apply or federal courts lack ~~of competent~~ jurisdiction, ~~and in no other courts,~~ all amounts due under Section 17(E)."

Page No. 34
Revise the language in Section 18(E)(ii) as follows: "After the 30-day notice period described in Section 18(E)(i) has expired, the Party who provided the notice may bring suit in a federal court of competent jurisdiction or in an Arizona court in federal laws do not apply or federal courts lack jurisdiction, ~~and in no other courts,~~ seeking only declaratory or injunctive relief, recovery of monies due, or enforcement of compliance with the Lease as the exclusive remedies from the court."

Page No. 37
Section 23(B)(i) should reference Section 36(C) in addition to 36(B). "…reserved by the Nation under Section 36(B) and 36(C)."

Page No. 38
Section 23(B)(ii) should reference Section 36(C) in addition to 36(B). "…costs or liabilities reserved by the Nation under Section 36(B) and 36(C)."

Motioned by: Honorable Dwight Witherspoon
Seconded by: Honorable Seth Damon

Vote: 11 in Favor, 12 Opposed (Pro Tem Speaker Shepherd Not Voting) – AMENDMENT MOTION FAILED

2nd AMENDMENT #3 (FAILED):

Amendment to Exhibit A (Page 43 of 70)

Strike all of 36. WAIVER AND RELEASE OF CLAIMS: COVENANT NOT TO SUE.

Motioned by: Honorable Leonard Tsosie
Seconded by: Honorable Nelson S. BeGaye

Vote: 11 In Favor, 12 Opposed (Pro Tem Speaker Shepherd Not Voting) – AMENDMENT MOTION FAILED

AMENDMENT #5 (FAILED):

1. On page 11, strike lines 13-16, and, in lieu therefore, the following paragraph

   "The Navajo Nation does not waive the application of the laws of the Navajo Nation, and agrees to the application of Navajo Nation laws in conjunction with federal or Arizona state law."

2. All words referencing the waive or waiving the laws of the Navajo Nation should be appropriately replaced or stricken in the Legislation and the Exhibit(s), as shown in Paragraph 1 above.

3. Renumber or reletter succeeding paragraphs or sections accordingly, if necessary; and this amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. Office fo Legislative Services is hereby authorized to make grammatical changes or correct typographical errors with notice to the sponsor of the Legislation.

Motioned by: Honorable Leonard Tsosie
Seconded by: Honorable Nelson S. BeGaye

Vote: 11 in Favor, 12 Opposed (Pro Tem Speaker Shepherd Not Voting) – AMENDMENT MOTION FAILED

23rd NAVAJO NATION COUNCIL
COUNCIL ACTION REPORT
Third Year 2017

The **NAVAJO NATION COUNCIL** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0194-17

An Action Relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Naabik'íyáti' Committees and the Navajo Nation Council; Approving the Replacement Lease Between the Navajo Nation and Salt River Project Agricultural Improvement and Power District, Arizona Public Service Company, Tucson Electric Power Company, Nevada Power Company D/B/A NV Energy and Department of Water and Power of City of Los Angeles; Lease Amendment No. 1 to Existing Lease; Approval of Restrictive Covenants Related to Ash Disposal Area and Solid Waste Landfill and Pond Solids; Waiver of Sovereign Immunity

Sponsored by: Honorable LoRenzo C. Bates
Co-Sponsored by: Honorable Nathaniel Brown
Co-Sponsored by: Honorable Herman M. Daniels
Co-Sponsored by: Honorable Davis Filfred

Has had it under consideration and reports the same **WAS PASSED BY THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

Honorable Jonathan L. Hale, Speaker Pro Tem
NAVAJO NATION COUNCIL

26 JUNE 2017

AMENDMENT #6:

Mr. Speaker Pro Tem, I make a motion to offer the following amendments:

Amendment #2 proposed and passed on June 19, 2017 is hereby rescinded, in part, and is replaced with the following:

1. Page 7, Line 7; paragraph (M)(11), strike previously amended language and insert new language:

~~The Navajo Nation maintains the right to sue under the Comprehensive Environmental Response Compensation, and Liability Act, also known as "CERCLA" or Superfund, and the Resources Conservation and Recovery Act, in federal court for response cost or equitable relief related to the NGS Partners' operation of NGS under the Existing Lease. The only exception is that natural resource damages, cannot be recovered related to the closures in place (Ash Landfill, Sold Waste Landfill and certain evaporation ponds and stormwater ponds).~~ The Nation expressly retains its right to sue the NGS Partners under CERCLA or RCRA, but only for hazardous materials left by NGS and discovered on the Leased Premises after Surrender. In that circumstance, the Nation may sue the NGS Partners to require cleanup, may conduct cleanup itself and sue the NGS Partners to recover the cleanup costs, or may sue the NGS Partners for Natural Resource Damages. The agreement provides for ash, pond solids, and solid waste to be remediated through closure in place in compliance with federal laws. The Nation expressly retains its right to sue the NGS Partners under CERCLA or RCRA related to that closure in place only if the closure does not comply with Retirement Guidelines or federal law, or the closure poses a threat to groundwater outside the leased premises. Under those circumstances, the Nation may sue to force NGS to conduct further cleanup or may conduct cleanup itself and sue to recover the cleanup costs. See Section 36.

2. Page 10, Line 29; insert new language, paragraph (H):

   H. The Replacement Lease provides the Navajo Nation with transmission access on the Southern and Western Transmission Systems, shown as Tract B on Exhibit A to the Replacement Lease. This transmission access will enable the Navajo Nation to develop renewable energy projects on the NGS Site, because it provides access to markets for the electricity generated from those projects. The Navajo Nation President shall be authorized to sign the transmission agreement with the U.S. Bureau of Reclamation implementing the Navajo Nation's right to transmission access on the Southern and Western Transmission Systems, as set forth in the Replacement Lease, and is also authorized to enter into any and all agreements necessary for the management of this access to transmission.

3. Re-letter paragraph (H) to paragraph (I)

4. Renumber or re-letter succeeding paragraphs or sections accordingly, if necessary. This amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. The Office of Legislative Services, with notice to the sponsor(s) of the Legislation, is hereby authorized to make necessary grammatical changes.

Motioned by: *Honorable Dwight Witherspoon*
Seconded *by:* *Honorable Jonathan Perry*

Vote: *20 in Favor, 02 Opposed (Speaker Pro Tem Hale Not Voting)*

AMENDMENT #7:

Mr. Speaker Pro Tem, I make a motion to offer the following amendments:

Inserting amendments to Exhibit A, Replacement Lease; the listed Sections to be amended as follows:

1. Page 8, Section 1, Definitions, (DD)

   Add the underlined word to § 1(DD) (Definitions): "'NGS Site Remediation' means the investigation, remediation, closure ...."

2. Page 13, Section 4(A):

   Add the underlined language to § 4(A) (Purpose): "Lessees shall use the NGS Site for the primary purpose of NGS Retirement, NGS Site Remediation, and post-closure activities in accordance with this Lease, and these activities shall be performed by Lessees at Lessees' expense."

3. Page 31, Section 17(B)(ii):

   Revise the language in Section 17(F)(B)(ii) (Default for Nonpayment) as follows: "Collect, by suit in ~~any~~ a federal court of competent jurisdiction or in ~~any~~ an Arizona court if federal laws do not apply or federal courts lack ~~of competent~~ jurisdiction, ~~and in no other courts,~~ all amounts due under Section 17(A)."

4. Page 31, Section 17(F):

   Revise the language in Section 17(F) (Default for Nonpayment) as follows: "Collect, by suit in ~~any~~ a federal court of competent jurisdiction or in ~~any~~ an Arizona court if federal laws do not apply or federal courts lack ~~of competent~~ jurisdiction, ~~and in no other courts,~~ all amounts due under Section 17(E)."

5. Page 33, Section 18(E)(ii):

   Revise the language in Section 18(E)(ii) (Other Breaches and Defaults) as follows: "After the 30-day notice period described in Section 18(E)(ii) has expired, the Party who provided the notice may bring suit in a federal court of competent jurisdiction, or in an Arizona court if federal laws do not apply or federal courts lack jurisdiction, ~~and in no other courts,~~ seeking only declaratory or injunctive relief, recovery of monies due, or enforcement of compliance with the Lease as the exclusive remedies from the court."

6. Page 37, Section 23(B)(i):

   Add the underlined language to Section 23(B)(i) (Indemnification; Non-Liability): " ... except for damages, costs or liabilities reserved by the Nation under Section 36(B) and 36(C) (Waiver and Release of Claims; Covenant Not to Sue)."

7. Page 37, Section 23(B)(ii):

   Add the underlined language to Section 23(B)(ii) (Indemnification; Non-Liability): " ... except for damages, costs or liabilities reserved by the Nation under Section 36(B) and 36(C) (Waiver and Release of Claims; Covenant Not to Sue)."

8. Page 46, Section 36(G):

   Add the underlined language to the end of Section 36(G) (Waiver and Release of Claims; Covenant Not to Sue):

   "The Nation expressly reserves and retains its legal and equitable rights in responding to or defending itself from claims brought by Lessees or third parties, including but not limited to the right to bring claims, counterclaims, crossclaims, or defenses under federal environmental law in response to claims brought against the Nation. As against Lessees, the Nation's reservation and retention of rights in this Section 36(G) does not include claims under tribal law nor claims brought in tribal court."

Motioned by: Honorable Dwight Witherspoon
Seconded by: Honorable Seth Damon

Vote: 20 in Favor, 03 Opposed (Speaker Pro Tem Hale Not Voting)

AMENDMENT #8:

Mr. Speaker Pro Tem, I make a motion to offer the following amendments:

1. Amendment #3 to Exhibit A (Replacement Lease) and Amendment 1 proposed and passed on June 19, 2017 is hereby rescinded and is replaced with the following:

2. Exhibit A, Page 20, strike existing Section 7(B) and insert the following language:

   (B) Payments.

   ~~(i) Lessees shall pay to the Nation the annual rent for the Leased Premises set forth on Schedule 7 hereto. The annual rent shall be paid in advance commencing on December 23, 2019 and on December 23rd of each year thereafter of the Lease Term through and including December 23, 2053. No late payment interest shall accrue on any payments unless delinquent past the respective due date.~~

   ~~(ii) Lessees shall also pay to the Nation the NGS Retirement savings payment set forth on Schedule 7 hereto. The Retirement Savings payment shall be due and paid in three (3) equal installments on January 1, 2020, January 1, 2021, and January 1, 2022. No late payment interest shall accrue on any payment unless delinquent past the respective due date.~~

   The Navajo Nation Council in consultation with the Navajo Nation President shall select, by December 31, 2018, from one of the five following options for payment set forth in the attached schedules:

Schedule 7A – Lessees shall pay to the Nation the annual rent for the Leased Premises for the period 2019 – 2054, as set forth in this schedule. The annual rent shall be paid in advance commencing on December 23, 2019 and on December 23rd of each year thereafter of the Lease Term through and including December 23, 2053. In addition, Lessees shall pay to the Nation the NGS Retirement Savings set forth in this schedule. The Retirement Savings payment shall be due and paid in three (3) equal installments on January 1, 2020, January 1, 2021, and January 1, 2022. The total payment under this option is $128,173,489.

Schedule 7B – Lessees shall pay to the Nation on December 23, 2019 the 2019 value of all rental payments due under Schedule 7A, advanced to the Commencement Date. In addition, Lessees shall pay to the Nation the Actual NGS Retirement Savings in three (3) equal installments on December 23, 2019 (the Commencement Date), December 23, 2020, and December 23, 2021. The total payment under this option is $53,986,343.

Schedule 7C – Lessees shall pay to the Nation on December 23, 2019 the 2019 value of 50% of all rental payments due under Schedule 7A, advanced to the Commencement Date, and shall pay the remaining 50% of all Rental Payments annually on December 23, 2020 through December 23, 2053. In addition, Lessees shall pay to the Nation the NGS Retirement Savings in three (3) equal installments on December 23, 2019 (the Commencement Date), December 23, 2020, and December 23, 2021. The total payment under this option is $91,079,916.

Schedule 7D – Lessees shall pay to the Nation on December 23, 2019 the 2019 value of 50% of all rental payments due under Schedule 7A, advanced to the Commencement Date, and shall pay the 2024 value of the remaining 50% of Rental Payments in one payment on December 23, 2024. In addition, Lessees shall pay to the Nation the NGS Retirement Savings in one installment on December 23, 2019. The total payment under this option is $61,202,856.

Schedule 7E – Lessees shall pay to the Nation the annual rent for the Leased Premises for the period 2019 – 2054, as set forth in Schedule A. The annual rent shall be paid in advance commencing on December 23, 2019 and on December 23rd of each year thereafter of the Lease Term through and including December 23, 2053. In addition, Lessees shall pay to the Nation the NGS Retirement Savings in one payment on December 23, 2019. The total payment under this option is $128,173,489.

No late payment interest shall accrue on any payment under any of the above options unless the payment is delinquent past the applicable due date.

Motioned by: Honorable Seth Damon
Seconded by: Honorable Alton Joe Shepherd

Vote: 19 in Favor, 03 Opposed (Speaker Pro Tem Hale Not Voting)

AMENDMENT #9:

Mr. Speaker Pro Tem, I make a motion to offer the following amendments:

1. Page 7, Line 23, add new paragraph P:

   P. Several Navajo Nation chapters and two agency councils have passed resolutions in support of this legislation. These resolutions are attached as **Exhibit D.**

2. Renumber or re-letter succeeding paragraphs or sections accordingly, if necessary. This amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. The Office of Legislative Services, with notice to the sponsor(s) of the Legislation, is hereby authorized to make necessary grammatical changes.

Motioned by: Honorable Tuchoney Slim, Jr.
Seconded by: Honorable Kee Allen Begay, Jr.

Vote: 22 in Favor, 00 Opposed (Speaker Pro Tem Hale Not Voting)

MAIN MOTION:

Motioned by: Honorable Davis Filfred
Seconded by: Honorable Otto Tso

Vote: 18 in Favor, 04 Opposed (Speaker Pro Tem Hale Not Voting)

FAILED MOTIONS:

PROPOSED AMENDMENT #10 (FAILED):

Mr. Speaker Pro Tem, I make a motion to offer the following amendments:

1. Page 11, strike lines 13-14, and add the following:

   The Navajo Nation does not waive the application of the laws of the Navajo Nation.

2. All words throughout the legislation, referencing waiving Navajo Nation laws are to be stricken and replaced with the language in paragraph 1 above.

3. Renumber or re-letter succeeding paragraphs or sections accordingly, if necessary. This amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. The Office of Legislative Services, with notice to the sponsor(s) of the Legislation, is hereby authorized to make necessary grammatical changes.

Motioned by: Honorable Amber Kanazbah Crotty
Seconded by: Honorable Jonathan Perry

Vote: 06 in Favor, 16 Opposed (Speaker Pro Tem Hale Not Voting) – AMENDMENT MOTION FAILED