LEGISLATION NO: _0233-19_____ SPONSOR: Jamie Henio


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DATE:    July 19, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER, NAABIK’ÍYÁTÍÓÁ AND NAVAJO NATION COUNCIL; AMENDING 11 N.N.C. § 240(D)(2), REMOVAL PROVISIONS OF NAVAJO ELECTION CODE, AND 11 N.N.C. § 341(A)(1), OFFICE OF HEARINGS AND APPEALS PROCEDURES

PURPOSE: The purpose of this legislation is to amend 11 N.N.C. § 240(D)(2), removal provisions of Navajo Election Code, and 11 N.N.C. § 341(A)(1), Office of Hearings and Appeals procedures.

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 NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0233-19

AN ACTION

RELATING TO LAW AND ORDER, NAABIK'IYÁTI' AND NAVAJO NATION COUNCIL; AMENDING 11 N.N.C. § 240(D)(2), REMOVAL PROVISIONS OF NAVAJO ELECTION CODE, AND 11 N.N.C. § 341(A)(1), OFFICE OF HEARINGS AND APPEALS PROCEDURES

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 600(A). A general purpose of the Law and Order Committee is "to improve the administration of justice on the Navajo Nation." 2 N.N.C. § 600(C)(1). It "serve[s] as the oversight committee for the Judicial Branch of the Navajo Nation, all administrative legal tribunals including but not limited to the Navajo Nation Labor Commission and the Office of Hearings and Appeals, Office of the Public Defender, Office of the Prosecutor, Division of Public Safety, and the Office of Ethics and Rules. 2 N.N.C. § 601(C)(1). The Committee, among other delegated duties, "review[s] and make[s] recommendations to the Navajo Nation Council on proposed amendments to ... the Navajo Nation Code." 2 N.N.C. § 601(B)(14).
B. Pursuant to 2 N.N.C. § 164(A)(9), "[a] proposed resolution that requires final action by the Navajo Nation Council shall be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik’iyáti’ Committee."

C. The Navajo Nation Council enacts and amends laws of the Navajo Nation. The Council also sets policy for the Navajo Nation. See generally, 2 N.N.C. § 102.

SECTION TWO. FINDINGS

A. Under the Navajo Nation Election Code, elected officials must maintain qualifications of office throughout their terms of office. 11 N.N.C. § 8(F).

B. Under the Election Code, elected officials can be removed from office for not maintaining qualifications provisions of the code. 11 N.N.C. §§ 8(F) and 240(D). The law however must be clarified as to the time period allowed for requesting a hearing before the Navajo Nation Office of Hearings and Appeals.

C. Under the Election Code, section 341 provides for procedures for election disputes before the Office of Hearings and Appeals. A technical amendment is necessary for purposes of clarifying requirements on procedure.

SECTION THREE. AMENDING ELECTION CODE

The Navajo Nation Council hereby amends the Navajo Nation Election Code as follows:

* * *  
Subchapter 13. Removal of Officials; Placement of Officials on Administrative Leave; Recall; Filling Vacancy

§ 240. Removal and placement on administrative leave

* * *

D. Any official holding an elective position with the Navajo Nation, failing to maintain qualifications for office, as specified by Navajo Nation law, or is convicted
while in office for any offense affecting qualifications for office, shall be removed as follows:

1). The Navajo Election Administration, upon adequate documentation, shall provide written notice to an official that he or she has failed to maintain the qualifications of office and that his or her position will be declared vacant.

2). An official receiving notice that his or her position will be declared vacant, may file a statement of grievance with the Office of Hearings and Appeals, as follows: Such grievance, in the event the official decides to submit one, shall be filed within 10 days of the Election Administration's notice. The procedures for a grievance under this section shall be as follows:

a. The Office of Hearings and Appeals shall review all grievances within 10 days of filing. The Office of Hearings and Appeals may dismiss grievances that are insufficiently stated as to law or facts. For grievances deemed sufficient, hearings shall be scheduled.

i). Hearings shall be conducted within 10 days of the determination of sufficiency.

ii). Notices of hearing shall be provided to the parties and others deemed necessary for determination of the appeal.

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Subchapter 18. Administrative Election Code Complaints and Hearings

§ 341. Office of Hearings and Appeals; election disputes; grievances

A. Except as otherwise provided for by law, the Office of Hearings and Appeals shall have the authority to implement procedures in resolving disputes pertaining to the conduct of an election. This section shall be limited to disputes arising from events occurring on an election day, including the implementation of 11 N.N.C. §§ 81 through 87 and 145.

1). Within ten days of an election, the complaining person must file with the Office of Hearings and Appeals a written complaint setting forth the reasons why the election was not conducted in accordance with the requirements of
the Election Code. If, on its face, the complaint is insufficient under the
Election Code, the complaint shall be dismissed by the Office of Hearings and
Appeals.

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SECTION FOUR. EFFECTIVE DATE

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

SECTION FIVE. CODIFICATION

The provisions of these amendments of the Navajo Nation Code shall be codified by
the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate
such amendments in the next codification of the Navajo Nation Code.

SECTION SIX. SAVINGS CLAUSE

Should any provision of these amendments be determined invalid by the Navajo
Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the
Navajo Nation Supreme Court, those amendments that are not determined invalid shall
remain the law of the Nation.