

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0233-19_____

SPONSOR: Jamie Henio

TITLE: 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

Date posted: July 22, 2019 at 4:40pm

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0233-19

DATE: July 19, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' 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.

5-DAY BILL HOLD PERIOD: 2300
Website Posting Time/Date: _____
Posting End Date: 7/27/19
Eligible for Action: 7/28/19

Law & Order Committee
Thence
Naa'bik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL – First Year, 2019

3 INTRODUCED BY

4 
5
6 (Prime Sponsor)

7
8 TRACKING NO. 0233-19

9
10 AN ACTION

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

15
16 BE IT ENACTED:

17
18 **SECTION ONE. AUTHORITY**

19 A. The Law and Order Committee is a standing committee of the Navajo Nation
20 Council. 2 N.N.C. § 600(A). A general purpose of the Law and Order Committee is "to
21 improve the administration of justice on the Navajo Nation." 2 N.N.C. § 600(C)(1). It
22 "serve[s] as the oversight committee for the Judicial Branch of the Navajo Nation, all
23 administrative legal tribunals including but not limited to the Navajo Nation Labor
24 Commission and the Office of Hearings and Appeals, Office of the Public Defender,
25 Office of the Prosecutor, Division of Public Safety, and the Office of Ethics and Rules. 2
26 N.N.C. § 601(C)(1). The Committee, among other delegated duties, "review[s] and
27 make[s] recommendations to the Navajo Nation Council on proposed amendments to ... the
28 Navajo Nation Code." 2 N.N.C. § 601(B)(14).

1 B. Pursuant to 2 N.N.C. § 164(A)(9), "[a] proposed resolution that requires final action
2 by the Navajo Nation Council shall be assigned to standing committee(s) having
3 authority over the subject matter at issue and the Naabik'iyáti' Committee."

4 C. The Navajo Nation Council enacts and amends laws of the Navajo Nation. The
5 Council also sets policy for the Navajo Nation. See generally, 2 N.N.C. § 102.
6

7 **SECTION TWO. FINDINGS**

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

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

14 C. Under the Election Code, section 341 provides for procedures for election disputes
15 before the Office of Hearings and Appeals. A technical amendment is necessary for
16 purposes of clarifying requirements on procedure.
17

18 **SECTION THREE. AMENDING ELECTION CODE**

19 The Navajo Nation Council hereby amends the Navajo Nation Election Code as
20 follows:
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22 ********

23 ***Subchapter 13. Removal of Officials; Placement of Officials on Administrative*** 24 ***Leave; Recall; Filling Vacancy***

25 **§ 240. Removal and placement on administrative leave**

26 ********

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

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

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

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

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

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

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21 ***Subchapter 18. Administrative Election Code Complaints and Hearings***

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

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

28 1). Within ten days of an election, the complaining person must file with the
29 Office of Hearings and Appeals a written complaint setting forth the reasons
30 why the election was not conducted in accordance with the requirements of

1 the Election Code. If, on its face, the complaint is insufficient under the
2 Election Code, the complaint shall be dismissed by the Office of Hearings and
3 Appeals.

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7 **SECTION FOUR. EFFECTIVE DATE**

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

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10 **SECTION FIVE. CODIFICATION**

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

14
15 **SECTION SIX. SAVINGS CLAUSE**

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