

LEGISLATIVE SUMMARY SHEET

Tracking No. 0224-15

DATE: July 6, 2015

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION COUNCIL AND COMMITTEE LEGISLATIVE PROCESS, 2 N.N.C. § 164, CREATING A NEW § 165, AND AMENDING CORRESPONDING DEFINITIONS AT 2 N.N.C. § 110

PURPOSE: This resolution, if approved, will amend certain sections of Title Two relative to the Navajo Nation Council and Committee legislative process at Section 164 and add a new Section 165 regarding agreements not requiring standing committee or Council action, and will amend corresponding definitions in Section 110.

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.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: 5:12pm 7/6/15
Posting End Date: 7/11/2015
Eligible for Action: 7/12/2015

Law & Order Committee

THENCE

Naa'bi'íyáti' Committee

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Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL -- First Year, 2015

INTRODUCED BY


(Prime Sponsor)


TRACKING NO. 0224-15

AN ACTION

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEES AND
NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION COUNCIL
AND COMMITTEE LEGISLATIVE PROCESS, 2 N.N.C. § 164, CREATING A NEW
§ 165, AND AMENDING CORRESPONDING DEFINITIONS AT 2 N.N.C. § 110

BE IT ENACTED:

Section One. Findings.

- A. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 601(B)(14), reviews and makes recommendations to the Navajo Nation Council on proposed amendments and enactments to the Navajo Nation Code.
- B. The Naabik'íyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164(A)(9), reviews proposed legislation which requires final action by the Navajo Nation Council.
- C. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. 2 N.N.C. § 164(A).
- D. On February 19, 2015 the Naabik'íyáti' Committee established the Naabik'íyáti' Title Two Reform Subcommittee to "review, evaluate and recommend changes to the Navajo Nation Council, if any, regarding...Title 2, Section 164 legislative process...." NABIF-9-15, Section Two, A.

1 E. The Naabik'íyáti' Title Two Reform Subcommittee met on several occasions, assisted by
2 the Office of Legislative Services, Office of the Speaker, Office of Legislative Counsel,
3 and the Office of Navajo Government Development and developed a matrix to address
4 the recommendations for the Section 164 process, standing committee structure and
5 authority, and the administrative and legislative process.

6 F. The Naabik'íyáti' Title Two Reform Subcommittee, after review and evaluation of the
7 Navajo Nation Council and Committee Legislative Process, 2 N.N.C. § 164, and
8 corresponding Definitions, 2 N.N.C. § 110, recommends changes to address the concerns
9 and issues raised by the members of the Navajo Nation Council.

10
11 **Section Two. Amending 2 N.N.C. §§ 110, 164; Enacting new § 165.**

12 The Navajo Nation hereby amends the Navajo Nation Code, Title 2, §§ 110, 164 and enacts §
13 165 as follows:

14
15 Title 2. Navajo Nation Government
16 Chapter 3. Legislative Branch
17 Subchapter 2. Navajo Nation Council Meetings

18 **§ 110. Definitions**

19
20 The following definitions apply in this Chapter:

21
22 A. "Agency" generally means a division or unit of a government or other organization.
23 When used to refer to the geographic divisions of the Navajo Nation it means the collection
24 of Chapters in each of five geographic divisions: Chinle Agency, Eastern Agency, Fort
25 Defiance Agency, Northern Agency, and Western Agency.

26
27 B. "Appropriation(s)" is the legislative act of designating Navajo Nation funds for a specific
28 purpose.

1 BC. “Associated Amendments” means amendments to alter, change, make additions to or
2 modify an existing agreement, contract, subcontract, or letter of assurance that do not require
3 the approval of the Navajo Nation Council as provided in 2 N.N.C. § ~~164(B)(1)~~ 165.

4
5 D. “Budget Reallocations” are redesignations of budgeted funds from one account to another
6 account for a different use or purpose or to a newly-created account for a different use or
7 purpose.

8
9 EE. “Budget Resolution” is a resolution passed by the Navajo Nation Council appropriating
10 funds pursuant to 12 N.N.C. § 800, et seq.

11
12 F. “Business Day(s)” shall mean a Navajo Nation government work day Monday through
13 Friday and excludes weekends and Navajo Nation government holidays.

14
15 DG. “Chapter”, as stated in 26 N.N.C. § 2(6), means units of local government which are
16 political subdivisions of the Navajo Nation.

17
18 EH. “Comment Period” means ~~calendar~~ the three (3) business days in which proposed
19 resolutions are posted on the Navajo Nation Council's website and available for submission
20 of written comments by members of the public, Chapter governments and departments or
21 divisions of the Navajo Nation government before the proposed resolution is placed on the
22 agenda of a Standing Committee. The comment period shall begin ~~to run at midnight of the~~
23 ~~day a resolution is introduced into the legislative process~~ on the hour legislation is officially
24 posted on the Navajo Nation Council’s website by the Office of Legislative Services.

25
26 FI. “Confidential Matter” means a matter which violates the Navajo Nation Privacy and
27 Access to Information Act or whose unauthorized disclosure could be prejudicial or
28 detrimental to the legal or financial interests of the Navajo Nation government or its entities.
29 The Navajo Nation Department of Justice shall determine what matters qualify as
30

1 confidential. Matters determined to be confidential shall not be released without the written
2 approval of the Attorney General or his designee.

3
4 GJ. “Coordinate” means to combine efforts on a common action to produce harmonious
5 actions and results.

6
7 HK. “Financial Impact” means ~~any agreement that obligates the Navajo Nation to expend~~
8 ~~funds no matter what the sources of the funds, or provides funds to the Navajo Nation an~~
9 assessment of or analysis of the possible consequences of any financial decision and the
10 effects of those decisions to the Navajo Nation government.

11
12 L. “Grant” means the application for and acceptance of funding. Where the application
13 document is separate from the acceptance document, each document shall be reviewed as
14 required by 2 N.N.C. § 165. Where the application document and the acceptance document
15 is the same, the document shall be reviewed only once at the application stage.

16
17 IM. “Iiná” is the part of the process of Nitsáhákees-Nahat’á-Iiná-Siihasin to collaboratively
18 make and implement a decision, which must be dynamic and vibrant to accomplish effective
19 and efficient outcomes, for sustaining life, in a constant cycle of examining and analyzing
20 issues for growth and development.

21
22 JN. “Intergovernmental aAgreements” (IGA) ~~are~~ is an agreements between the Navajo
23 Nation and another government that involves the sharing or exchange of governmental
24 powers, such as cross-commission agreements, and includes non-construction Indian Self-
25 Determination and Education Assistance Act (P.L. 638) contracts. Memoranda of
26 Agreement and Memoranda of Understanding with another government that involve the
27 sharing or exchange of governmental powers shall be considered IGAs. ~~Intergovernmental~~
28 ~~agreements do not include a~~Agreements between the Navajo Nation and another government
29 where the Nation or the other government acts in a landowner or commercial capacity, and
30 grants that do not involve the sharing of governmental powers are not IGAs.

1
2 ~~K.O.~~ “Legislation” generally means ~~the action of legislating or the enactments of a legislative~~
3 ~~body. As used in 2 N.N.C. § 164, it means the enactment of positive laws, amendments to~~
4 ~~positive laws, approval of appropriations or adoption of a Statement of Policy by the Navajo~~
5 ~~Nation Council in the Navajo Nation Code, the term “legislation” describes the status of a~~
6 ~~proposed resolution before it is formally adopted by the Navajo Nation Council or the~~
7 ~~Standing Committee having final authority over the matter.~~

8
9 ~~L.P.~~ “Letter of Assurance” means a letter sent to another party in lieu of a bond or other
10 surety assuring the receiver that the sender will perform its contract obligations.

11
12 ~~M.Q.~~ “Local Government Unit” means political subdivisions of the Navajo Nation including,
13 Chapters, Townships, or other municipal forms of government for the purpose of 2 N.N.C. §
14 500 to § 503.

15
16 ~~N.R.~~ “Memorandum of Agreement” (MOA) means a binding written agreement between two
17 or more parties to cooperatively work together to resolve an issue of mutual concern, or to
18 accomplish one or more agreed upon projects or one or more mutual purposes. An MOA
19 ~~lays out the ground rules for a positive~~ establishes procedures in an attempt to ensure a
20 successful cooperative effort. It may be used Examples of when an MOA may be used are
21 agreements between the tribal government and another government such as a state or the
22 United States, a private individual or entity, ~~or and~~ between the central government and local
23 governance certified chapter or Navajo Nation Township. ~~and~~ An MOA is a legally
24 enforceable agreement.

25
26 ~~Ø.S.~~ “Memorandum of Understanding” (MOU) means a non-binding written agreement
27 between two or more parties describing an intended ~~line~~ course of action and where the
28 parties agree to act in good faith to comply with the agreement’s terms. Examples of when
29 an MOU It may be used are agreements between the tribal government and another
30 government such as a state or the United States, a private individual or entity, or between the

1 central government and a local governance certified chapter or Navajo Nation Township.
2 An MOU and is not legally enforceable. Agreements between tribal divisions, agencies,
3 programs and non-certified chapters are not MOUs for purposes of 2 N.N.C. § ~~164(B)~~ 165
4 and may be executed by the appropriate division.

5
6 PT. “Nahat’á” is the part of the process of Nitsáhákees-Nahat’á-Iiná-Siihasin to strategically
7 plan while utilizing Dine bi beehaz’áanii Bitsé Siléí (foundation of Dine law), statutory laws,
8 informed research and public input (through use of the Naabik’íyáti’ process) in a constant
9 cycle of examining and analyzing issues for growth and development.

10
11 QU. “Nitsáhákees” is the part of the process of Nitsáhákees-Nahat’á-Iiná-Siihasin which
12 involves critical thinking, and more broadly, to give direction and guidance to the issue at
13 hand, in a constant cycle of examining and analyzing issues for growth and development.

14
15 RV. “Oversight” means to monitor and review a programs' or entities' execution of
16 legislation, regulations, and policies related to the program or entity or affected subject area.
17 In comparison, legislative oversight is more limited and means to assist programs or entities
18 to efficiently carry out their duties by ensuring adequate funding and ensuring that their
19 governing authority is effective.

20
21 ~~S. “Reallocations” are redesignations of appropriated or budgeted funds from one account to~~
22 ~~another account for a different use or purpose or to a newly created account for a different~~
23 ~~use or purpose.~~

24
25 W. “Positive law” means Navajo Nation statutory law.

26
27 ~~TX. “Resolution”, which is a form of legislation, means a formal action of the Navajo Nation~~
28 ~~Council or its Committees approving or stating its opinion on a matter~~ is the written
29 document memorializing the official approval and adoption of a matter by the Navajo Nation
30 Council or a Standing Committee.

1
2 U. ~~“Positive law” means legislation by the Navajo Nation Council that creates or amends a~~
3 ~~section or sections of the Navajo Nation statutory law.~~

4
5 VY. “Siihasin” is the part of the process of Nitsáhákees-Nahat’á-líná-Siihasin to ensure
6 resilience through evaluation of decision-making and outcomes in a constant cycle of
7 examining and analyzing issues for growth and development.

8
9 WZ. “Statement(s) of Policy” are written statements submitted to federal, state or local
10 governments, by a Navajo Nation official stating the official position of the Navajo Nation
11 on proposed legislation or other action by that government. Statement(s) of Policy, as used
12 in this chapter, does not include statements concerning the internal policies of a Navajo
13 Nation division, program or department.

14
15 XAA. “Subcontract” means a contract that delegates some or all of the responsibilities under
16 a contract to another party to perform. The original contractor retains ultimate responsibility
17 for performance of the underlying contract including any responsibilities delegated to a
18 subcontractor.

19
20 ****

21
22 **§ 164. Navajo Nation Council and Committee Legislative Process**

23
24 ~~A. Statements of policy, enactment of positive law, intergovernmental agreements, budget~~
25 ~~resolutions, and reallocations, must be reviewed and approved by resolution by the~~
26 ~~appropriate standing committee(s) and the Navajo Nation Council except as otherwise~~
27 ~~provided herein.~~

28
29 ~~1. Except for statutorily enumerated situations as set out in 2 N.N.C. § 164(A)(16), only~~
30 ~~Council Delegates or Standing Committees may introduce a proposed resolution to the~~

1 Standing Committee(s) and the Navajo Nation Council, except where Navajo government
2 employees are authorized by statute or regulation to introduce a proposed resolutions. The
3 last day for consideration of resolutions shall be December 31st of the year immediately
4 preceding the swearing in of the new Council. Council Delegates, Standing Committees, and
5 other Navajo government employees who are statutorily authorized to introduce proposed
6 resolutions, may seek the assistance of either the Office of Legislative Counsel or other legal
7 counsel employed by the Navajo Nation to draft proposed resolutions. The Office of
8 Legislative Counsel shall ensure that the proposed resolution is drafted in the proper
9 codification format before it is assigned a number and introduced into the legislative process.
10 The Office of Legislative Council shall notify the Council by memorandum of the legal
11 sufficiency of each proposed resolution.

12
13 2. Expressions of condolence, congratulations, appreciation, recognition of achievement and
14 other similar expressions of sentiment shall not be drafted or processed as resolutions of the
15 Navajo Nation Council or its standing committees but shall be issued by certificates from the
16 Speaker of the Navajo Nation Council at the written request of any Council Delegate and in
17 the manner set forth at 2 N.N.C. § 285(B)(7).

18
19 3. After the proposed resolution is deemed properly drafted, by the Office of Legislative
20 Counsel, the Council Delegate(s), Standing Committee(s) or authorized employee(s) shall
21 present it to the Director for the Office of Legislative Services, or designee, who will assign a
22 number to the proposed resolution.

23
24 4. All resolutions proposing new laws or amendments of laws shall clearly indicate new
25 language by underscoring the new language and deletion by overstrike and shall refer to
26 appropriate Navajo Nation Code chapter or subchapter and sections when applicable. All
27 proposed resolutions enacting new laws, amending existing laws, or adopting a statement of
28 policy shall include version identification and may be read in its entirety to the members of
29 the Navajo Nation Council at the request of a Delegate. The exhibits attached to the proposed
30 resolutions shall be identified by reference only.

1
2 5. ~~After the proposed resolution is assigned a number, the Speaker of the Navajo Nation~~
3 ~~Council shall introduce it into the legislative process by assigning it to the respective~~
4 ~~oversight committee(s) of the Navajo Nation Council having authority over the matters for~~
5 ~~proper consideration and distribute a digital copy, including copies of exhibits, of the~~
6 ~~proposed resolution to the Office of the President, Office of the Attorney General, Office of~~
7 ~~the Controller, Office of Management and Budget, and all Executive Branch Division~~
8 ~~Directors~~

9
10 6. ~~No later than the first calendar day after the proposed resolution is introduced into the~~
11 ~~legislative process, the Director for the Office of Legislative Services, or designee, shall~~
12 ~~cause digital copies of the resolution to be placed on the Council's website. Exhibits attached~~
13 ~~to the resolution shall not be posted on the website, but digital copies of the exhibits, where~~
14 ~~practicable, shall be provided upon request to the Office of Legislative Services. Any matters~~
15 ~~or exhibits determined by the Navajo Nation Department of Justice to be confidential shall be~~
16 ~~properly marked "confidential" and shall not be placed on the website or otherwise release.~~
17 ~~Digital copies of resolutions and exhibits shall carry a notice to the effect that the digital copy~~
18 ~~is being produced for the benefit of the Navajo Chapters and public and any political use is~~
19 ~~prohibited.~~

20
21 7. ~~A Chapter government may also provide comments to the proposed resolution through a~~
22 ~~properly delegated elected official or through a certified chapter resolution. The Executive~~
23 ~~Branch Division Directors and Chapter government, at their own option, shall have 5~~
24 ~~calendar days to submit comments on proposed resolution to the Executive Director for the~~
25 ~~Office of Legislative Services. After receiving comments, the Executive Director for the~~
26 ~~Office of Legislative Services, in consultation with Chief Legislative Counsel shall cause the~~
27 ~~analysis of the resolution, with appropriate references to comments received. The analysis~~
28 ~~may include comments to be affixed to the proposed resolution for consideration by the~~
29 ~~standing committee(s) and the Council. Such analysis shall not constitute legal advice and be~~
30 ~~used to promote a better understanding of the resolution.~~

1
2 8. Following the expiration of the public comment period, the proposed resolution shall be
3 forwarded to the Chairperson of the appropriate standing committee and the Chairperson
4 shall place the proposed resolution on the committees' agenda for consideration by the
5 standing committee at the next committee meeting. The Chairperson may also include an
6 assigned memorial on the agenda. Action by the committee shall be in a written report and
7 submitted to Council or another authorized committee.

8
9 9. A proposed resolution that requires final action by the Navajo Nation Council shall be
10 assigned to the standing committee(s) having authority over the subject matter at issue and
11 the Naabik'iyáti' Committee. The resolution or memorial shall be submitted to the
12 Naa'bik'iyáti' Committee with amendments and committee reports. The Naabik'iyáti'
13 Committee may develop proposed amendments to the Council or may refer a resolution or
14 memorial back to the appropriate standing committee(s).

15
16 10. An amendment approved by a Committee shall be included in the proposed resolution. A
17 failed amendment may not be introduced at a Council session unless a Delegate obtains a
18 written petition in support of the amendment signed by a majority of the members of the
19 Council. An amended legislation need not be re-distributed pursuant to § 164 (A)(5).

20
21 11. A legislation that was tabled by a committee with final approval authority over the matter
22 shall remain with the committee until removed from table status. A legislation that was
23 tabled by a committee without final approval authority over the matter shall move forward to
24 the subsequent assigned committee(s) or Navajo Nation Council.

25
26 12. A legislation that does not receive sufficient vote for passage by a committee with final
27 approval authority over the matter shall be deemed permanently eliminated from the agenda
28 of the Committee. A legislation that does not receive sufficient vote for passage by a
29 committee without final approval authority over the matter shall move forward to the
30 subsequent assigned committee(s) or Navajo Nation Council for action. If the voting results

1 of the committee with final approval authority over the legislation are difference from the
2 voting results of other committees to which the legislation was assigned, the legislation shall
3 be referred to the Naabik'iyáti' Committee for final action, notwithstanding any other
4 delegations to other committees of final approval authority.

5
6 13. The resolution shall be put on the proposed agenda for a session of the Navajo Nation
7 Council as recommended by an assigned committee. Resolutions submitted for the Council's
8 session agenda shall, to the extent possible, be listed in the order received, except those
9 resolutions requiring 2/3 vote or those resolutions included in a consent listing.

10
11 14. All resolutions appointing public officials and significant or controversial resolutions
12 may be referred to the Naabik'iyáti' Committee for discussion prior to being certified or
13 enacted at the discretion of the Speaker, by referral from a standing committee having final
14 legislative authority, or by the written request of a Delegate who is not a member of a
15 standing committee which considered such resolution. The Committee may refer a resolution
16 back to the appropriate standing committee(s) for further consideration.

17
18 15. After a resolution has completed the process and procedures of this section, it shall
19 automatically be placed on the next Navajo Nation Council agenda. The Speaker shall
20 publish the final proposed agenda on the Navajo Nation Council website no less than three
21 (3) calendar days prior to the start of regular sessions and no less than one (1) day prior to the
22 start of special sessions. All verbal and written reports shall be presented to the Council only
23 on the first day of the regular sessions unless otherwise directed by the Speaker or the
24 Council.

25
26 16. Matters constituting an emergency shall be limited to the cessation of law enforcement
27 services, disaster relief services, fire protection services or other direct services required as
28 an entitlement under the Navajo Nation or Federal law, or which directly threaten the
29 sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing
30 public need for such resolution(s) and must be a matter requiring final action by the Council.

1
2 ~~17. All resolutions enacting new laws or amending existing laws are subject to veto by the~~
3 ~~President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and override by~~
4 ~~the Navajo Nation Council, except financial line item vetoes are not subject to override.~~
5 ~~Vetoed resolution shall be first submitted to Naabik'íyáti' Committee before consideration~~
6 ~~by the Council. Memorials are not subject to veto but become effective upon certification by~~
7 ~~the Speaker pursuant to 2 N.N.C. § 221(C). All acts of vetoing a resolution shall occur within~~
8 ~~the territorial jurisdiction of the Navajo Nation as described in 7 N.N.C. § 254.~~
9

10 A. The Navajo Nation Council, including its Standing Committees, shall take all substantive
11 action(s) through written resolution.
12

13 1. Unless such authority has been expressly delegated to a Standing Committee,
14 enactments of positive law and appropriations of Navajo Nation funds shall be
15 reviewed and adopted by the Navajo Nation Council.
16

17 2. Unless such authority has been expressly reserved to the Navajo Nation Council or
18 delegated to a specific Standing Committee, Statements of Policy of the Navajo
19 Nation government and Intergovernmental Agreements shall be reviewed and
20 adopted by the Naabik'íyáti' Committee.
21

22 3. Substantive action on matters not delineated above, including Budget Reallocations,
23 shall be reviewed and adopted by the appropriate Standing Committee(s) pursuant to
24 their delegated authorities.
25

26 4. Substantive action on matters not delineated above or expressly delegated to a
27 Standing Committee shall be reserved to the Navajo Nation Council.
28
29
30

1 B. Except for matters qualifying as an emergency under the criteria set forth in 2 N.N.C. §
2 164 (C), all Navajo Nation Council and Standing Committee resolutions shall be subject to
3 the following requirements:

- 4
5 1. Only Council Delegates or Standing Committees may initiate and introduce a
6 proposed resolution to the Standing Committee(s) and the Navajo Nation Council,
7 except when Navajo Nation government employees are expressly authorized by
8 Navajo Nation statute to introduce a proposed resolution.
9
- 10 2. The last day for Navajo Nation Council and Standing Committee consideration of
11 proposed resolutions appropriating funds shall be December 31st of the year
12 immediately preceding the swearing in of the new Navajo Nation Council.
13
- 14 3. Expressions of condolence, congratulations, appreciation, recognition of achievement
15 and other similar expressions of sentiment shall be processed as memorials of the
16 Navajo Nation Council or its Standing Committees, and shall be issued by certificates
17 from the Speaker of the Navajo Nation Council at the written request of any Council
18 Delegate and in the manner set forth at 2 N.N.C. § 285(B) (7). A Standing
19 Committee may include an assigned memorial on its agenda.
20
- 21 4. All proposed resolutions enacting new statutory laws or amending existing statutory
22 laws shall clearly indicate new language by underscoring new language and deleting
23 existing language by overstrike and shall refer to appropriate Navajo Nation Code
24 chapter, subchapter and sections when applicable.
25
- 26 5. Before any proposed resolution is introduced into the legislative process, the Office
27 of Legislative Counsel shall ensure that the proposed resolution is legally sufficient to
28 satisfy its intended purpose and drafted in the proper format for codification,
29 assignment, implementation and/or execution and shall notify the sponsor and Navajo
30 Nation Council by memorandum of the legal sufficiency and purpose of each

1 proposed resolution, as well as the recommended assignment to the respective
2 Standing Committee(s) having authority over the matter.

3
4 6. A proposed resolution that requires final action by the Navajo Nation Council shall be
5 assigned to Standing Committee(s) having authority over the subject matter under
6 consideration and the Naabik'íyáti' Committee.

7
8 7. Once the Office of Legislative Counsel has satisfied its mandates as set forth in this
9 section, the sponsor(s) of the proposed resolution may present it to the Director of the
10 Office of Legislative Services, or their designee, who shall introduce it into the
11 legislative process pursuant to policies adopted by the Naabik'íyáti' Committee. The
12 policies shall be posted on the website of the Navajo Nation Council. The Director of
13 the Office of Legislative Services shall establish procedures to implement the policies
14 adopted by the Naabik'íyáti' Committee. The procedures shall be posted on the
15 website of the Navajo Nation Council and shall include procedures that:

16
17 a. Distribute a digital copy of the proposed resolution, including copies of exhibits,
18 to the Office of the President, Office of the Attorney General and Office of the
19 Controller no later than the first business day after the proposed resolution is assigned
20 to a Standing Committee.

21
22 b. Place or post a digital copy of the proposed resolution on the website of the
23 Navajo Nation Council's website no later than the first business day after the
24 proposed resolution is assigned to a Standing Committee.

25
26 c. Afford the public access, either digital or hard copy, to the exhibits attached to a
27 proposed resolution, except for any matters or exhibits determined by the Navajo
28 Nation Department of Justice to be confidential which shall be expressly marked
29 "confidential" and not placed or posted on the website or otherwise released.
30

1 d. Provide a process for members of the public, Chapter governments and
2 departments or divisions of the Navajo Nation government to submit comments to the
3 proposed resolution for a period of three (3) business days prior to its placement on
4 the agenda of its initial Standing Committee. Comments received within the three (3)
5 day period shall be tracked and analyzed by the Office of Legislative Services, in
6 consultation with the Office of Legislative Counsel, and such analysis shall be affixed
7 to the proposed resolution. Comments received after the three (3) day period shall be
8 affixed to the proposed resolution, but shall not be included in the analysis.

9
10 8. Action by a Standing Committee not having final authority on a proposed resolution
11 shall be memorialized through written committee report and submitted to the
12 subsequent assigned committee and Navajo Nation Council, when applicable.

13
14 9. An amendment(s) approved by an assigned Standing Committee shall be included as
15 an amendment in the proposed resolution. An amended proposed resolution need not
16 be redistributed or reposted pursuant to § 164(B)(7).

17
18 10. A proposed resolution that is tabled by a Standing Committee with final approval
19 authority over the matter shall remain with the committee until removed from table
20 status. A proposed resolution that is tabled by a Standing Committee without final
21 approval authority over the matter shall remain with the committee and not move
22 forward to the subsequent assigned Standing Committee(s) until the resolution is
23 removed from table status which shall not extend beyond thirty (30) calendar days. A
24 proposed Navajo Nation Council resolution that is tabled by the Naabik'íyáti'
25 Committee shall remain with the committee until removed from table status which
26 may include referral to the appropriate standing committee(s).

27
28 11. A proposed resolution that does not receive sufficient vote for passage by an assigned
29 Standing Committee shall be eliminated from the legislative process.
30

1 12. After a proposed Navajo Nation Council resolution has completed the process
2 prescribed in this section, it shall automatically be placed on the next Navajo Nation
3 Council agenda. When other Navajo Nation law restricts the proposed resolution's
4 consideration to regular sessions, the proposed resolution shall automatically be
5 placed on the next regular session agenda. The Speaker shall publish the proposed
6 agenda on the website for the Navajo Nation Council no less than three (3) calendar
7 days prior to the start of regular sessions and no less than one (1) calendar day prior
8 to the start of special sessions.

9
10 13. All Navajo Nation resolutions enacting new laws or amending existing laws are
11 subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. §
12 1005(C)(10) and (11) and override by the Navajo Nation Council. A proposed
13 resolution to override a vetoed resolution shall be assigned to and acted on by the
14 Navajo Nation Council.

15
16 14. Navajo Nation Council resolutions containing budget line-items in the annual
17 comprehensive operating budget or supplemental appropriations are subject to veto
18 by the President of the Navajo Nation and are not eligible for override by the Navajo
19 Nation Council.

20
21 C. Proposed resolutions addressing matters constituting an emergency may be heard by the
22 Navajo Nation Council and Standing Committee(s) having authority over the matter(s) under
23 an abbreviated legislative process and shall not be subject to 2 N.N.C. § 164 (B) (2), (6), (7),
24 and (12).

25
26 1. Matters constituting an emergency must arise due to an imminent threat to the health
27 and/or safety of the Navajo Nation populace and an urgent public need for action by a
28 Standing Committee or the Navajo Nation Council.
29
30

1 2. Matters constituting an emergency requiring Standing Committee action only shall be
2 limited to the cessation of law enforcement services, disaster relief services, fire
3 protection services or other direct governmental services and shall include matters
4 which directly threaten the Navajo Nation's ability to receive external funding to
5 provide such services.

6
7 3. Matters constituting an emergency requiring Navajo Nation Council action shall be
8 limited to:

9
10 a. Appropriations necessary to prevent an imminent threat to the health and/or safety
11 of the Navajo Nation populace; or

12
13 b. Enactments or amendments of positive law necessary to maintain the stability of
14 the Navajo Nation government or prevent the erosion of Navajo Nation regulatory
15 or adjudicatory jurisdiction.

16
17 4. The Naabik'íyáti' Committee shall adopt policies governing the abbreviated
18 legislative process for emergency resolutions. The policies shall be posted on the
19 website of the Navajo Nation Council. The Director of the Office of Legislative
20 Services shall establish procedures to implement the policies adopted by the
21 Naabik'íyáti' Committee. The procedures shall be posted on the website of the
22 Navajo Nation Council.

23
24 **§ 165. Agreements not requiring Standing Committee or Navajo Nation Council**
25 **approval**

26
27 +A. Contracts expending funds appropriated by the Navajo Nation Council, Ssubcontracts,
28 including contracts to implementing agreements approved under § 164(A) above, grants
29 providing funds to the Navajo Nation that do not involve the sharing of governmental
30 powers, contracts expending funds expending funds appropriated by the Navajo Nation

1 Council, Letters of Assurance agreements, ~~m~~Memoranda of ~~u~~Understanding and
2 ~~m~~Memoranda of aAgreement and other agreements that do not expend funds that are not
3 Intergovernmental Agreements and associated amendments to those documents, shall not
4 require approval by the Navajo Nation Council or its committees.

5
6 2B. Prior to final execution as provided in 2 N.N.C. § 222, documents not requiring
7 approval by resolution of the Navajo Nation Council or its committees shall be reviewed and
8 signed by the following:

9
10 1a. The appropriate Division Director for departments and activities under his or her
11 supervision;

12
13 2b. The Controller (or designee) for all documents having a financial impact on the
14 Navajo Nation;

15
16 3e. The Director of the Office of Management and Budget (or designee) for all
17 documents ~~having a financial impact on the Navajo Nation~~ requiring a budget impact
18 analysis under the Appropriations Act, 12 N.N.C. § 800 *et seq.*; and

19
20 4d. The Attorney General of the Navajo Nation (or designee).

21 ****

22
23 **Section Three. Approval and Effective Date**

24 The Act is approved pursuant to 2 N.N.C. §221(B) and shall take effect on October 1,
25 2015.

26
27 **Section Four. Codification**

28 The Office of Legislative Counsel shall incorporate such amended provisions in the next
29 codification of the Navajo Nation Code.
30

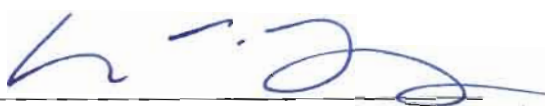
1 **Section Five. Saving Clause**

2 Should any provisions of this ordinance be determined invalid by the Navajo Nation
3 Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo
4 Nation Supreme Court, those portions of this ordinance which are not determined invalid
5 shall remain the law of the Navajo Nation.



MEMORANDUM

TO: Honorable Alton J. Shepherd
Navajo Nation Council

FROM: 
Levon B. Henry, Chief Legislative Counsel
Office of Legislative Counsel

DATE: July 6, 2015

SUBJECT: AN ACTION RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION COUNCIL AND COMMITTEE LEGISLATIVE PROCESS, 2 N.N.C. § 164, CREATING A NEW § 165, AND AMENDING CORRESPONDING DEFINITIONS AT 2 N.N.C. § 110

Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law the resolution as drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of a challenge.

Please review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Prime Sponsor", and submit it to the Office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of changes you would like made to the proposed resolution. You may contact me at (928) 871-7166. Thank you.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0226-15__

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating To Law And Order, NAABIK'IYATI' Committees And Navajo Nation Council; Amending Navajo Nation Council And Committee Legislative Process, 2 N.N.C. § 164, Creating A New § 165, And Amending Corresponding Definitions At 2 N.N.C. § 110

Date posted: July 6, 2015 at 5:12PM

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.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0226-15

SPONSOR: Honorable Alton Joe Shepherd

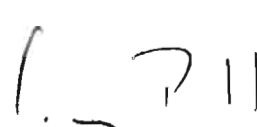
TITLE: An Action Relating To Law And Order, NAABIK'IYATI' Committees And Navajo Nation Council; Amending Navajo Nation Council And Committee Legislative Process, 2 N.N.C. § 164, Creating A New § 165, And Amending Corresponding Definitions At 2 N.N.C. § 110.

Posted: July 6, 2015 at 5:12PM

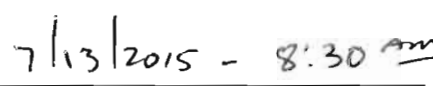
5 DAY Comment Period Ended: July 11, 2015

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments (1)	1. Ethel Branch; Acting Attorney General, Navajo Nation Department of Justice. <i>Attached are proposed amendments for legislation.</i>



**Executive Director
Office of Legislative Services**



Date/Time

Comments on Proposed Title II Amendments

Ethel Branch <ebranch@nndoj.org>

Sun 7/12/2015 3:25 PM

To: comments <comments@navajo-nsn.gov>;

1 attachment

2015.7.12 - Proposed Title II Amendments - DOJ Initial Comments.pdf;

Good afternoon,

Please find attached the Department of Justice's comments on the proposed amendments to Title II of the Navajo Nation Code.

More comments will follow.

Best regards,

Ethel Branch, Acting Attorney General

Navajo Nation Department of Justice

Office of the Attorney General

PO Box 2010

Window Rock, Arizona 86515

928 871-6345/6205

ebranch@nndoj.org

***NOTICE TO RECIPIENT:** This email message, including any attachments, is privileged and confidential information and, as such, is protected by law from unauthorized or unintended disclosure. This email message is intended only for the individual (s) named in the "TO" line above. If you have received this email by mistake, immediately delete this email and notify the sender that you received it in error.*

Department of Justice Comments on Proposed Title II Amendments

[7.12.2015]

The Department of Justice suggests the following edits to the Definitions proposed for Title 2.

Section 110. Definitions

A. “Agency” means a division, department, program, office, boards or commissions of the Navajo Nation government. (Change definition to what is shown here. Define “Use of Enterprise” and “Entity”.)

B. “Appropriation(s)” is the legislative act of designating Navajo Nation Funds for a specific purpose. (Use defined term for “Navajo Nation Funds”.)

D. “Budget Reallocations” are re-designation of appropriated or budgeted funds from one account to another account or to a newly-created account for a different use or purpose.

E. “Budget Resolution” is a resolution appropriating funds pursuant to 12 N.N.C. §§ 800 *et seq.* (Italicize *et seq.*)

F. “Calendar Days” means (add definition)

H. “Comment Period” means the five (5) business days in which proposed resolutions are posted on the Navajo Nation Council’s website and during which the resolution is available for submission of written comments by members of the public and Chapter governments before the proposed resolution is placed on the agenda of a Standing Committee. The comment period shall begin on the hour legislation is officially posted on the Navajo Nation Council’s website by the Office of Legislative Services and closes on the fifth (5th) business day after being posted. This does not apply to the Department of Justice as the Attorney General is the chief legal officer of the Navajo Nation government pursuant to 2 N.N.C. Section 1964A. (Change language to what is shown here.)

Remove K. Financial Impact

K. “Grant” means a funding agreement for a specific purpose where the funding source is not substantively involved in the implementation of the agreement. (Change definition to what is shown here.)

L. “Grant application” means the requesting document for the grant. (Add definition as shown here.)

M. “Grant award” means the acceptance document for the grant. (Add definition as shown here.)

O. “Intergovernmental Agreement” (IGA) is an agreement between the Navajo Nation and another government that involves the sharing of governmental powers and includes Indian Self-Determination and Education Assistance Act (Public Law 93-638) contracts and compacts. Agreements between the Navajo Nation and another government where the Nation or the other government acts in a landowner or commercial capacity are not IGAs. (Change definition to what is shown here.)

P. “Legislation” means a formal action amending the Navajo Nation Code. (Change definition to what is shown here.)

Q. “Legislative Oversight” means to ensure agencies act within their statutory duties and authorities. (Add definition as shown here.)

T. “Memorandum of Agreement” (MOA) means a legally binding agreement between parties to work together cooperatively to resolve an issue of mutual concern or to accomplish one or more agreed upon projects or mutual purposes. (Change definition to what is shown here.)

U. “Memorandum of Understanding” (MOU) means a non-binding agreement between parties describing an intended course of action where the parties agree to act in good faith to comply with the agreement’s terms. (Change definition to what is shown here.)

V. Oversight (Delete term and definition.)

W. Positive Law (Delete term and definition.)

X. “Resolution” is a formal action memorializing the official adoption of a matter by the Navajo Nation Council or a Standing Committee. (Change definition to what is shown here.)

Z. “Statement(s) of Policy” are written statements declaring the official position of the Navajo Nation on proposed legislation or other action by another government and submitted to federal, state or local governments by a Navajo Nation official. Statement(s) of Policy, as used in this Chapter, do not include statements concerning the internal policies of a Navajo Nation agency. (Change definition to what is shown here.)

Section 164

(Replace language with the following)

- A. The Navajo Nation Council, including its Standing Committees, shall take all formal action through a resolution.
- B. Legislation and budget resolutions shall be adopted by the Navajo Nation Council.
- C. Unless such authority has been expressly delegated to a specific Standing Committee, Statements of Policy and Intergovernmental Agreements shall be adopted by the Naabik’íyáti’ Committee.

1. Budget Reallocations shall be adopted by the appropriate Standing Committee(s) pursuant to their delegated authorities.

164(B)(10)

Comment: The tabling by a Standing Committee with final approval over the subject matter and tabling by the Naabik'iyati' Committee have no finite period for "tabling." Does this mean legislation tabled by these two types of Committees could be "tabled" indefinitely? Shouldn't there be some kind of mechanism that would enable tabled legislation to become "untabled" after a certain period of time?

165(A)

Comment: Because the proposed phrase "subcontracts, including contracts to implement agreements approved under § 164 (A) above," can be interpreted to mean contracts could be subordinate to subcontracts, we recommend the following:

A. Contracts expending funds appropriated by the Navajo Nation Council, contracts including subcontracts, to implementing agreements approved under § 164 (A), grants providing funds to the Navajo Nation that do not involve the sharing of governmental powers, contracts expending funds expending funds appropriated by the Navajo Nation Council, Letters of Assurance agreements, Memoranda of Understanding and Memoranda of Agreement and other agreements that do not expend funds and that are not ...

Other general comments

Section 164 B does not appear to have been deleted (doesn't show strikethrough).

Identifying what an entity or enterprise of the Nation is in the definitions is necessary because those terms are used in the substantive body of this Code section.

The review of '638 contracts sometimes ends up at Budget and Finance Committee for approval because of language in the Budget and Finance Committee authorities but it is not consistent with 164(B)'s current language.

More comments from DOJ will follow.

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO: 0226-15

SPONSOR: Honorable Alton Joe Shepherd

TITLE: An Action Relating To Law And Order, Naabik'iyáti' Committees And Navajo Nation Council; Amending The Navajo Nation Council And Committee Legislative Process, 2 N.N.C. § 165, And Amending Corresponding Definitions At 2 N.N.C. § 110.

Posted: July 6, 2015 at 5:12PM

5 DAY Comment Period Ended: July 11, 2015

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	1. Dominic Beyal, Executive Director Navajo Office of Management & Budget <i>Attached are propose amendments for legislation.</i>



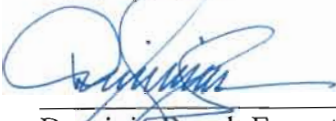
**Executive Director
Office of Legislative Services**

7/14/2015 - 8:30 PM
Date/Time



MEMORANDUM

TO : Council Delegates, Navajo Nation Council
: Office of the President/Vice-President

FROM : 
Dominic Beyal, Executive Director
Navajo Office of Management & Budget

DATE : July 14, 2015

SUBJECT : Proposed Legislation, Tracking Number 0226-15:
Amending the NN Council and Committee Legislative Process, 2 N.N.C.
§164, Creating a New §165, and Amending Corresponding Definitions at
2 N.N.C. §110

Pursuant to 2 N.N.C. §164, the Office of Management & Budget has reviewed the proposed legislation and provides the following comments:

1. Proposed Comment Period of 3 Business Days is too short. The proposal to reduce the comment period (which is essentially also the review period) from the current 5 calendar days to 3 business days is too short. The proposed change does not allow sufficient time for any interested or affected party (i.e., members of the public, Chapter governments and departments or divisions) to review, develop, prepare and submit any comments or recommendations. OMB recommends the Comment/Review Period be extended, rather than reduced, to allow for fair and timely development of comments. OMB previously recommended either 5 working/business days or 7 calendar days. This would promote the principles of open, transparent, and accountable government. In comparison, the Executive Branch by Executive Order allows seven (7) working days for the review of 164 proposals and other documents.

This a recurring recommendation OMB has made over the past four (4) years. Contact OMB at extension 6470/6570 if there are any questions.



**LAW AND ORDER COMMITTEE
23rd NAVAJO NATION COUNCIL**

FIRST YEAR 2015

COMMITTEE REPORT

Mr. Speaker,

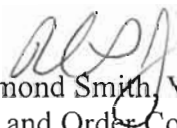
The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation # 0226-15: An Action relating to Law and Order, NAABIK'IYATI' Committees and the Navajo Nation Council; Amending the Navajo Nation Council and Committee Legislative Process, 2 N.N.C. § 164, Creating a New § 165, and Amending Correspondence Definitions at 2 N.N.C. § 110. **Sponsor: Honorable Alton Joe Shepherd.**

Has had it under consideration and reports the matter as DO PASS with no amendments

and thereafter the matter will be referred to the **NAABIK' IYTATI' Committee.**

Respectfully submitted,


Raymond Smith, Vice Chairperson.
Law and Order Committee of the
23rd Navajo Nation Council

Date: July 13th, 2015

Motion: Honorable Jonathan Perry

Second: Honorable Otto Tso

VOTE: 3 - 0

NOTE: A quorum of 4 members were present



NAABIK'ÍYÁTI' COMMITTEE REPORT

23rd NAVAJO NATION COUNCIL---FIRST YEAR 2015

LEGISLATION 0226-15

Introduced by the Honorable Alton Joe Shepherd

An Action relating to Law and Order,m Naabik'iyati' Committees and Navajo Nation Council; Amending the Navajo Nation Council and Committee Legislative Process 2 N.N.C. § 164 creating a new § 165, and amending corresponding definitions at 2 N.N.C. § 110

TO THE NAVAJO NATION COUNCIL:

The Naabik'iyati Committee, to whom has been referred Legislation 0226-15, has had it under consideration and reports a **DO PASS** recommendation with **no amendments**.

Thence **REFERRED TO THE NAVJAO NATION COUNCIL** on this 16th Day of July, 2015.

Honorable LoRenzo C. Bates, Chairperson
NAABIK'ÍYÁTI' COMMITTEE

Main Motion: Honorable Jonathan Perry
Second: Honorable Davis Filfred
Vote: 13-4-0

Attempted Amendment #1

Motion: Honorable Dwight Witherspoon
Second: Honorable Jonathan L. Hale
Vote: 5-12-0

Page 15, STRIKE lines 28 & 29, ~~11. A proposed resolution that does not receive sufficient vote for passage by an assigned Standing Committee shall be eliminated from the legislative process.~~

AND, re-number succeeding paragraphs.