

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0139-19

**DATE:** May 30, 2019

**TITLE OF RESOLUTION:** AN ACT RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; AMENDING 2 N.N.C § 104 AND 11 N.N.C. § 8 TO PROHIBIT COUNCIL DELEGATES SERVING IN OTHER ELECTIVE POSITIONS


**PURPOSE:** This resolution will amend 2 N.N.C § 104 and 11 N.N.C. § 8 to prohibit Council Delegates serving in other elective positions.

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: None  
Website Posting Time/Date: 7:59pm 5/30/19  
Posting End Date: 5/4/19  
Eligible for Action: 5/5/19

Law & Order Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24th NAVAJO NATION COUNCIL -- First Year, 2019

  
(Prime Sponsor) K. Allen Begay Jr.

TRACKING NO. 0139-19

AN ACT

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO  
NATION COUNCIL; AMENDING 2 N.N.C § 104 AND 11 N.N.C. § 8 TO PROHIBIT  
COUNCIL DELEGATES SERVING IN OTHER ELECTIVE POSITIONS

BE IT ENACTED:

Section One. Authority

A. The Law and Order Committee is a standing committee of the Navajo Nation Council with authority to "review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code." 2 N.N.C. §601(B)(14).

B. The Naabik'iyáti' Committee of the Navajo Nation Council is a standing committee of the Navajo Nation Council. All proposed resolutions requiring final action by the Navajo Nation Council must be "assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'iyáti' Committee." 2 N.N.C. § 164(A)(9).

C. The Navajo Nation Council is the lawmaking body of the Navajo Nation. 2 N.N.C. § 102.

1     **Section Two. Findings**

2     A. Navajo Nation Council Delegates are elected by voters of the Navajo Nation.

3     B. Under Navajo Nation law, a delegate is not allowed to be employed by or serve as an  
4     elected official of federal or state government. A delegate also cannot be employed by the  
5     Navajo Nation or serve as an elected official in another elective position thereof. 2 N.N.C.  
6     § 104(A) and (B) and 11 N.N.C. §§ 8(B)(7), (9) and (11).

7     C. Under the Navajo Election Code, loyalty to the Navajo Nation is a requirement for  
8     Navajo Nation Council Delegates. See also, *In Re Wagner*, 6 Nav. R. 114 (2007).

9     D. Concerning elective offices, it is in the best interest of the Navajo Nation that delegates  
10    serve in no other elective position in any government.

11  
12    **Section Three. Amending Title 2**

13       Title 2 of the Navajo Nation Code is amended as follows:

14       \_\_\_\_\_

15

16                   **Title 2. Navajo Nation Government**

17                   **Chapter 3. Legislative Branch**

18                   **Subchapter 1. Navajo Nation Council**

19       \*\*\*\*\*

20       **§ 104. Incompatible Service**

21       A. No person shall serve as a delegate if he or she is in the permanent  
22       employment or is serving in any elective position of the United States or any state  
23       ~~or subdivisions thereof~~ any government, including the United States, tribal, state,  
24       county or city government. ; ~~nor shall an elected official of the United States or~~  
25       ~~the several states thereof serve as a delegate. This Section shall not apply to~~  
26       ~~service on a school board or elective county office.~~

27       ~~B. No person shall be eligible for election to the Navajo Nation Council if that~~  
28       ~~person is permanently employed or an elected official as described in §104(A).~~

29       C B. If any delegate, after his/her election, enters such service, the delegate  
30       shall immediately forfeit his/her office as a Council Delegate.



1 D. C. No Council Delegate shall engage in the private practice of law while  
2 serving as a Navajo Nation Council Delegate.

3 \*\*\*\*

#### 4 5 **Section Four. Amending Title 11**

6 Title 11 of the Navajo Nation Code is amended as follows:

### 7 8 **Title 11. Elections**

#### 9 **Chapter 1. Navajo Nation Election Code of 1990**

#### 10 **Subchapter 1. General Provisions**

11 \*\*\*\*

12 B. Qualifications for Delegate to the Navajo Nation Council:

13 \*\*\*

14 ~~7. Candidates elected, who are employed by the Navajo Nation, must resign~~  
15 ~~from such employment before taking the oath of office and shall not be~~  
16 ~~employed by the Navajo Nation during their term of office;~~

17 \*\*\*\*

18 ~~9. Must not, if elected, serve in any other elected Navajo Nation Office with~~  
19 ~~the exception of the office(s) of the school board(s).~~

20 \*\*\*\*

21 ~~11 9. Must not be in the permanent employment or serve in any elective~~  
22 ~~position of the United States or any state or subdivisions thereof any~~  
23 ~~government, including the United States, tribal, state, county or city~~  
24 ~~government, ; nor shall an elected official of the United States or the several~~  
25 ~~states thereof serve as a delegate. This Section shall not apply to service on a~~  
26 ~~school board or elective county office. Candidates employed in or holding~~  
27 ~~such positions shall resign prior to taking oaths of office for delegate positions~~  
28 ~~if elected.~~

29 \*\*\*\*

1  
2 **Section Five. Vote required**

3 As amendments hereof include portions of Title 2, a two-thirds (2/3rd) vote of the full  
4 membership of the Navajo Nation Council is required for this action. CD-68-89 (resolved  
5 6).

6  
7 **Section Six. Effective date**

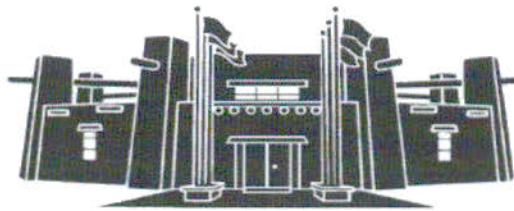
8 The amendment enacted herein shall be effective upon its approval pursuant to 2  
9 N.N.C §221.  
10

11 **Section Seven. Codification**

12 The amendments of the Navajo Nation Code enacted herein shall be codified by the  
13 Office of Legislative Counsel. The Office of Legislative Counsel shall include the  
14 amendments in the next recodification or supplement of the Navajo Nation Code, to the  
15 extent practicable. All affected sections shall be properly redesignated where appropriate.  
16

17 **Section Eight. Savings Clause**

18 Should any portion of the amendments enacted herein be determined invalid by the  
19 Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal  
20 to the Navajo Nation Supreme Court, those portions not determined invalid shall remain  
21 the law of the Navajo Nation.  
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## MEMORANDUM

To : Hon. Kee Allen Begay, Jr, Council Delegate  
Navajo Nation Council

From :   
Ron Haven, Attorney  
Office of Legislative Counsel

Date : May 30, 2019

Re : **AN ACT RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE  
NAVAJO NATION COUNCIL; AMENDING 2 N.N.C § 104 AND 11 N.N.C.  
§ 8 TO PROHIBIT COUNCIL DELEGATES SERVING IN OTHER  
ELECTIVE POSITIONS**

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient. However, as with all legislation, it can be subject to review by the courts in the event of proper challenge. Also, understand that the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

**OLC # 19-136-1**



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0139-19\_

SPONSOR: Kee Allen Begay, Jr.

TITLE: An Act Relating To Law And Order, Naabik'íyáti' And The Navajo Nation Council; Amending 2 N.N.C. § 104 And 11 N.N.C. § 8 To Prohibit Council Delegates Serving In Other Elective Position

*Date posted:* May 30, 2019 7:59PM

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Written comments may be mailed to:

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7590

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.

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