

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0360-19

**DATE:** November 19, 2019

**TITLE OF RESOLUTION:** AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-40-19

**PURPOSE:** This resolution, if approved, will override veto of CO-40-19.

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: 2:35pm 11-26-19  
Posting End Date: 12-01-19  
Eligible for Action: 12-02-19

Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- First Year, 2019

INTRODUCED BY

  
(Sponsor)

TRACKING NO. 0360-19

AN ACTION

RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL;  
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO  
NATION COUNCIL RESOLUTION CO-40-19

BE IT ENACTED:

**SECTION ONE. AUTHORITY**

- A. The Navajo Nation Council enacts laws of the Navajo Nation. 2 N.N.C. § 102.
- B. All resolutions enacting new law or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and override by the Navajo Nation Council. 2 N.N.C. § 164(A)(17).
- C. A vetoed resolution must first be submitted to Naabik'iyáti' Committee before consideration by the Navajo Nation Council. 2 N.N.C. § 164 (A)(17).
- D. Legislation vetoed by the President of the Navajo Nation is subject to override "by two-thirds (2/3) vote of the membership of the Navajo Nation Council." 2 N.N.C. § 1005 (C) (11).

**SECTION TWO. FINDINGS**

- A. Resolution CO-40-19 was passed by the Navajo Nation Council on October 23, 2019. The resolution is entitled, "*An Action Relating To Law And Order, Naabik'iyáti' And*

1 *Navajo Nation Council; Amending 11 N.N.C. § 240(D)(2), Removal Provisions Of*  
2 *Navajo Election Code, And 11 N.N.C. § 341(A)(1), Office Of Hearings And Appeals*  
3 *Procedures . "*

4 B. The changes enacted by the Navajo Nation Council through *CO-40-19* are crucial as  
5 they relate to rights and procedures in election disputes. The President's veto letter does  
6 not question these important substantive areas but instead appears to relate to the Navajo  
7 Nation Code in general. See attached Exhibit "A," veto letter and resolution *CO-40-19*.

8 C. The Navajo Nation President's veto is "subject to an override...by two-thirds ( $\frac{2}{3}$ ) vote  
9 of the membership of the Navajo Nation Council." 2 N.N.C. § 164 (A)(17).

10 D. The Navajo Nation Council finds it in the best interest of the Navajo Nation to  
11 override the Presidential veto herein.

### 12 13 **SECTION THREE. OVERRIDING VETO**

14 The Navajo Nation Council hereby overrides the Navajo Nation President's veto of  
15 Resolution *CO-40-19*.

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



November 11, 2019

Hon. Seth Damon  
Office of the Speaker  
Post Office Box 3390  
Window Rock, AZ 86515



RE: CO-40-19, *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*

Dear Speaker Damon,

Pursuant to the authority vested in the Navajo Nation President, I am vetoing CO-40-19.

Navajo Nation law is based on resolutions passed by the Legislative Branch and acted on by the Executive Branch. Those resolutions are what make up our Navajo Nation Code and we rely on the Code for guidance in the work we do as government officials and employees, as attorneys, as interested citizens. A review of our published Navajo Nation Code does not mirror the amending language of CO-40-19. Recognizing that many of the resolutions passed and enacted may not be in the public domain I believe an effort should be made to note unpublished resolutions when contemplating change so we are fully aware of what changes are being made to our laws.

Based on the question of the current language in the Election Code, and with the abundance of caution, I am vetoing CO-40-19. We must ensure that our published laws are as current as possible and available to the Nation and our citizens, as well as those outside our Nation. With an election coming soon I am positive the Navajo Nation Council believe as I do that our election laws must be clear, must be current, and must be available to ensure a true democratic process.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Nez".

Jonathan Nez, President  
THE NAVAJO NATION



RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL -- First Year, 2019

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

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:

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***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.

\*\*\*\*

#### **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.

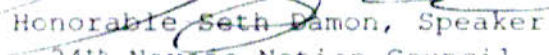
#### **SECTION SIX. SAVINGS CLAUSE**

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.



**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 19 in Favor, and 00 Opposed, on this 23<sup>rd</sup> day of October 2019.

  
Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

11-01-19

DATE

Motion: Honorable Daniel E. Tso  
Second: Honorable Paul Begay


Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 11<sup>th</sup> day of November, 2019 for the reason(s) expressed in the attached letter to the Speaker.

  
Jonathan Nez, President  
Navajo Nation

**NAVAJO NATION**

190

**NNC 2019 FALL SESSION**

10/23/2019

03:46:39 PM

**Amnd# to Amnd#**

Legislation 0233-19: Amending

**PASSED**

MOT Tso, D

11 NNC S240(D)(2), Removal

SEC Begay, P

Provisions of Navajo Election  
Code

**Yea : 19**

**Nay : 0**

**Excused : 3**

**Not Voting : 1**

**Yea : 19**

Begay, E

Crotty

Nez, R

Tso, D

Begay, K

Freeland, M

Slater, C

Walker, T

Begay, P

Halona, P

Stewart, W

Wauneka, E

Brown

Henio, J

Tso

Yellowhair

Charles-Newton

James, V

Tso, C

**Nay : 0**

**Excused : 3**

Tso, E

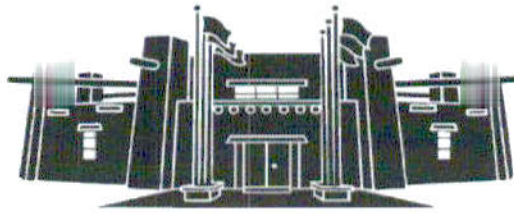
Smith

Daniels

**Not Voting : 1**


Yazzie

**Presiding Speaker: Damon**



## MEMORANDUM

To : Hon. Carl Slater, Council Delegate  
Navajo Nation Council

From :   
Ron Haven, Attorney  
Office of Legislative Counsel

Date : November 19, 2019

Re : AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION  
COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO  
OF NAVAJO NATION COUNCIL RESOLUTION CO-40-19

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, although, as with all legislation, challenges are possible in the courts. 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. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

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 # 19-623-1



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0360-19\_\_\_\_\_ SPONSOR: Carl R. Slater

TITLE: An Action Relating to Naabik'iyáti' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-40-19

*Date posted:* November 26, 2019 at 2:35pm

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto: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) 871-7590

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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THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0360-19

SPONSOR: Honorable Carl Slater


TITLE: An Action Relating to Naabik'íyáti' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-40-19

Posted: November 26, 2019 at 2:35 PM

5 DAY Comment Period Ended: December 01, 2019

Digital Comments received:

|                       |             |
|-----------------------|-------------|
| Comments Supporting   | <i>None</i> |
| Comments Opposing     | <i>None</i> |
| Inconclusive Comments | <i>None</i> |

  
\_\_\_\_\_  
Legislative Tracking Secretary  
Office of Legislative Services

12/02/19 9:24 AM

Date/Time