



NOTIFICATION TO WITHDRAW SPONSORSHIP

Legislative Reporting Supervisor
Reporting Section/OLS

I, Dwight Witherspoon, Sponsor of proposed resolution hereby withdraw my sponsorship of the proposed resolution, tracking no. 0008-15. I understand that if there are co-sponsors to the resolution, they may continue as sponsor of the proposed resolution.

Dwight Witherspoon Signature
1/22/15 Date

LEGISLATIVE SUMMARY SHEET

Tracking No. 0008-15

DATE: January 16, 2015

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; SELECTING AN INTERIM PRESIDENT OF THE NAVAJO NATION PENDING THE ELECTION OF A NEW PRESIDENT

PURPOSE: The purpose of the resolution is to select an interim Navajo Nation President.

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: Mand
Website Posting Time/Date: 7:10pm 1/14/15
Posting End Date: 1/21/15
Eligible for Action: 1/22/15

Naa'bik'íyáti' Committee

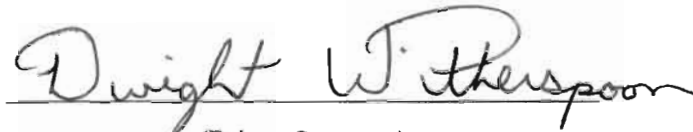
THENCE

Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL – First Year, 2015

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0008-15

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
COUNCIL; SELECTING AN INTERIM PRESIDENT OF THE NAVAJO NATION
PENDING THE ELECTION OF A NEW PRESIDENT

BE IT ENACTED:

Section One. Findings

- A. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. §§ 164 (A)(9), 700 (A) (2012) *see also* CO-45-12.
- B. The Navajo Nation Council is the governing body of the Navajo Nation and all powers not delegated are reserved with the Navajo Nation Council. 2 N.N.C. § 102 (A) and (B) (2012) *see also* CO-45-12.
- C. Due to candidacy challenges, and hearings and appeals on such complaints being filed, the election for the Office of the Navajo Nation President and Vice President was not conducted on November 4, 2014 as required by the Navajo Nation Election Code. 11 N.N.C. § 3.
- D. As a result of not having a general election for President and Vice-President there is no one to assume office, either as President or Vice President,

- beginning January 13, 2015; consequently, the Navajo Nation will not have a President or Vice President until an election is conducted.
- E. Under the existing provisions of the Election Code, a President-elect and Vice President-elect assume office after an election is conducted in November of a General Election year. 11 N.N.C. § 6.
- F. The Navajo Nation Code explicitly states “[t]he President shall be elected for a term of four years.” 2 N.N.C. § 1002 (C).
- G. While the Navajo Nation Supreme Court has not answered this specific question. The Court offered guidance. *Todacheene v. Shirley v. NEA*, No. SC-CV-37-10, slip op. (Nav. Sup. Ct. July 9, 2010). In this case the court examined Navajo Nation President’s term limits found in 2 N.N.C. § 1002(D). The court stated “[e]very word, clause, and sentence of the statute must be examined to determine if the language was clear. If not, we must find the intent of the Navajo Nation Council to interpret those sections.” *Id.* at 4. Here the court reviewed the Navajo Nation Tribal Council record and Delegate Thomas Barbone stated, “The president’s term [sic] states that he will have two terms only, which I understand is four years for one term and another four years is a second term and that is all.” *Id.*
- H. The current Navajo Nation President’s term expires on January 13, 2015 at noon. 11 N.N.C. § 6(B).
- I. Unlike the *Todacheene* case the statute is clear, four year term is a four year term as expressed in the statute and by a Navajo Nation Delegate.
- J. Additionally, the court stated that these Title II Amendments, which includes the President’s term, are the Nation’s organic laws that provide separation of powers and accountability to the People to name a few. As such, the Navajo Nation Council may not amend the Navajo Nation Code to undermine or disturb the stated principles. *Todacheene*, SC-CV-37-10, at 9-10. Further the court stated that “[u]less these principles have been contravened or disturbed, the Courts will take a cautionary approach to declaring invalid any organic provision.” *Id.* at 10.

1 K. This is a new situation within the Navajo Nation government where the term
2 of one President expires and a President-elect not been elected, thus creating a
3 vacancy in the Navajo Nation President's Office.

4 L. Pending election of a new President and Vice President, it is necessary that
5 Executive functions continue under temporary leadership.

6 M. The Navajo Nation Code has two provisions for when there is a vacancy in the
7 Navajo Nation President's and Vice President's Office simultaneously; the
8 Navajo Nation Speaker resumes the role until a new President is elected. 2
9 N.N.C. § 1006 and 11 N.N.C. § 14(C).

10 **Section Two. Appointing an Interim President**

11 The Navajo Nation hereby appoints a Navajo Nation Council Member,
12 _____, as Interim President of the Navajo Nation. The Navajo
13 Nation Council Member shall serve as Interim President of the Navajo Nation until a
14 new President is elected and officially certified in accordance with all applicable
15 Navajo Nation Code provisions.

16 **Section Three. Appointing a Navajo Nation Delegate**

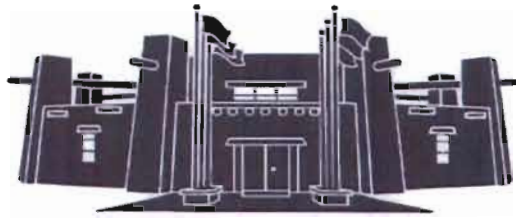
17 Should the Navajo Nation President's election not take place within forty-five
18 (45) from January 13, 2015, interim Council Delegates may be selected in accordance
19 with 11 N.N.C. § 161 (A)(1). Once the President's Office is filled the Interim
20 President and Speaker Pro Tem shall return to their original seats on Council. 2
21 N.N.C. § 1006 and 11 N.N.C. § 141(C).

22 **Section Four. Directive to amend Navajo Election Code**

23 The Navajo Nation Council directs that the Navajo Election Administration, with
24 the assistance of the Office of Legislative Counsel and Department of Justice, draft
25 proposed legislation amending the Navajo Election Code addressing issues and
26 procedures relative to postponements of General Elections which are supposed to
27 occur. These proposed amendments shall address temporary appointments or
28 assignments in the event statutory terms of office are affected by election
29 postponement.
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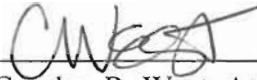
1 **Section Five. Effective Date**

2 This action of the Navajo Nation Council will be effective upon certification of the
3 resolution by the Speaker or Pro Tem Speaker of the Navajo Nation Council. 2 N.N.C.
4 § 221(C).
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MEMORANDUM

TO: Honorable Dwight Witherspoon
Navajo Nation Council Delegate

FROM: 
Carolyn R. West, Attorney
Office of Legislative Counsel

DATE: January 16, 2015

SUBJECT: OLC Service Request No. 15-147-1: An Action Relating to Naabik'íyáti' Committee and Navajo Nation Council; Selecting an Interim President of the Navajo Nation Pending the Election of a New President

As requested, I prepared the above-reference proposed resolution and associated legislative summary sheet. Based on existing law and review of documents submitted, the resolution drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of challenge. You are encouraged to review the proposed resolution to ensure this is drafted to your satisfaction.

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

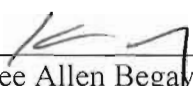
If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make.



January 16, 2015

MEMORANDUM

TO : *Honorable Members*
Naabik'iyati' Committee
Navajo Nation Council

FROM : 
Hon. Kee Allen Begay, Speaker Pro Tem
22nd Navajo Nation Council

SUBJECT : **ASSIGNMENT OF LEGISLATION**

Pursuant to 2 N.N.C § 164 (A)(4), this memorandum serves to inform and advise you that I assign the following legislation to the Naabik'iyati' Committee and the Navajo Nation Council;

Legislation No. 0008-15

RELATING TO NAA'BIK'IYATI' AND NAVAJO NATION COUNCIL; SELECTING AN INTERIM PRESIDENT OF THE NAVAJO NATION PENDING THE ELECTION OF A NEW PRESIDENT.

As the Committee assigned to consider the legislation, Legislation No. 0008-15 must be placed on the Naabik'iyati' Committee and the Navajo Nation Council's agenda at the next regular meeting for final consideration.

ATTACHMENT: Legislation No. 0008-15

xc: Hon. Ben Shelly, *President*
The Navajo Nation
Harrison Tsosie, *Attorney General*
Mark Grant, *Controller*
Dominic Beyal, *Executive Director, OMB*
Honorable Dwight Witherspoon, *Council Delegate (Prime Sponsor)*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0008-15_____

SPONSOR: Dwight Witherspoon

TITLE: An Action Relating To Naa'bik'iyati' And Navajo Nation Council; Selecting An Interim President Of The Navajo Nation Pending The Election Of A New President.

Date posted: January 16, 2015 at 7:10pm

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) 871-7590**

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.

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.: 0008-15

SPONSOR: Honorable Dwight Witherspoon

TITLE: Relating To Naa'bik'iyati' And Navajo Nation Council; Selecting An Interim President Of The Navajo Nation Pending The Election Of A New President..

Posted: January 16, 2015 at 7:10 PM

5 DAY Comment Period Ended: January 21, 2015

Digital Comments received:

Comments Supporting (1)	1. Karla Rickert
Comments Opposing	<i>None</i>
Inconclusive Comments (1)	1. Ina Noggle

1, 3 11

**Executive Director
Office of Legislative Services**

1/22/2015 - 9:40 am

Date/Time

0008-15

Ina Noggle <inanoggle@gmail.com>

Tue 1/20/2015 3:56 PM

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

Lorenzo Bates did a good job. Make him interim president.

Sent from my iPad

0008-15

Karla Rickert <karla@ahhromaspizza.com>

Wed 1/21/2015 7:50 AM

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

As an enrolled member of the Navajo Nation, I am submitting the following comment regarding Legislation 0008-15.

I believe strongly, that is it in the best interest, given all of the chaos this past election year, that the Legislation be used to appoint an interim President. Ben Shelley was not re-elected, nor was Rex Jim for that matter, therefore; it is time for both to vacate their respective offices as President and Vice-President of the Navajo Nation.

Very kindly submitted,

Karla Rickert
Head Foodie
Ahhromas....Rising Above The Rest!
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