

LEGISLATIVE SUMMARY SHEET

Tracking No. 0197-17

DATE: May 5, 2017

TITLE OF RESOLUTION: AN ACT RELATING TO LAW AND ORDER COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; AMENDING 2 N.N.C §104 AND 11 N.N.C. § 8(B), REGARDING COUNCIL DELEGATES SERVING ON BOARDS AND COMMISSIONS OR SERVING AS MEMBERS OR AS SHAREHOLDERS IN ANY ENTERPRISE OF THE NAVAJO NATION

PURPOSE: This resolution will address and restrict Council Delegates serving on boards and commissions or serving as members or as shareholders in any enterprise of the Navajo Nation.

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: Latoya Bull
Website Posting Time/Date: 4:34pm 5/24/17
Posting End Date: 5/31/17
Eligible for Action: 6/1/17

Law & Order Committee

THENCE

Naa'biik'íyáti' Committee

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PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL – Third Year, 2017

INTRODUCED BY

Navajo Nation Council


(Prime Sponsor)

TRACKING NO. 0197-17

AN ACT

RELATING TO LAW AND ORDER COMMITTEE, NAABIK'ÍYÁTI'
COMMITTEE AND THE NAVAJO NATION COUNCIL; AMENDING 2 N.N.C
§104 AND 11 N.N.C. § 8(B), REGARDING COUNCIL DELEGATES SERVING
ON BOARDS AND COMMISSIONS OR SERVING AS MEMBERS OR AS
SHAREHOLDERS IN ANY ENTERPRISE OF THE NAVAJO NATION

BE IT ENACTED:

Section One. Authority

A. The Law and Order Committee of the Navajo Nation Council has the authority to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments 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 [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti' Committee."

C. The Navajo Nation Council, pursuant to 2 N.N.C. §102(A), is the "governing body of the Navajo Nation" A primary role of Navajo Nation Council delegates is policy-making.

Section Two. Findings

A. Elected officials of the Navajo Nation must avoid conflicts of interest, including

1 personal and financial conflicts. 2 N.N.C. §3741 *et seq.* The *Navajo Ethics in*
2 *Government Law* provides that elected officials "shall not ... [h]ave direct or indirect
3 financial or other economic interests nor engage in such other employment or economic
4 activity which ... necessarily involve inherent substantial conflict, or appears to have such
5 substantial conflict, with their responsibilities and duties as public officials ... of the
6 Navajo Nation." 2 N.N.C. § 3747(A), *Restrictions Against Incompatible Interests or*
7 *Employment.*

8 B. For Council Delegates, "conflicts" provisions of law include serving as an elected
9 official of the federal or state government, being employed as an employee of the federal
10 or state government, practicing law while serving as a delegate or serving simultaneously
11 as a school board member. See 2 N.N.C. § 104.

12 C. Under current law, delegates, by virtue of serving as delegate to the Navajo Nation
13 Council, may serve as directors or commissioners of Navajo Nation boards and
14 commissions, respectively. Delegates may also serve as shareholder representatives for
15 companies owned by the Navajo Nation or as "members" of such companies, including
16 limited liability companies.

17 D. The policy of the Navajo Nation is that all elected officials of the Navajo Nation must
18 represent the interests of constituents electing them into office. All potential conflicts
19 must be avoided. Multiple duties of elected officials may cause potential conflicts in
20 decision-making. Other problems concerning multiple duties are those related to
21 conflicting meeting schedules, in particular, between delegate meetings and meetings of
22 boards, commissions and enterprises.

23 E. The duties and responsibilities of Council Delegates should be limited to setting
24 policy for the Navajo Nation and lawmaking, such as the review and consideration of
25 proposed bills. Delegates should not serve on Navajo Nation boards and commissions, or
26 serve as "members" for or shareholders to any Navajo Nation enterprise.

27 28 **Section Three. Amending 2 N.N.C. § 104**

29 The Navajo Nation Council hereby amends 2 N.N.C. §104 as follows:
30

1 **§ 104. Incompatible service**

2 A. No person shall serve as a delegate if he or she is in the permanent employment
3 of the United States or any state or any subdivisions thereof; nor shall an elected
4 official of the United States or the several states thereof serve as a delegate. This
5 Section shall not apply to service ~~on a school board or~~ in an elective county office.

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

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

10 D. No Council Delegate shall engage in the private practice of law while serving as
11 a Navajo Nation Council Delegate.

12 E. No Council Delegate shall serve as a member of a Navajo Nation board or
13 commission, or serve in any capacity as a representative of any Navajo Nation
14 enterprise, corporation or company, including member and shareholder
15 representative.

16 ****

17 _____
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19 **Section Four. Amending 11 N.N.C. §8(B)**

20 The Navajo Nation hereby amends the Election Code at 11 N.N.C. § 8(B) as follows:

21 _____
22 **§8. Qualifications for office**

23 ****

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

25 ****

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

28 ****

29 11. Must not be in the permanent employment of the United States or any
30 state or subdivision thereof, or be an elected official of the United States

1 or any state or subdivision thereof, with the exception of ~~service on a~~
2 ~~school board or~~ elective county office.

3 12. Candidates elected, who serve as members of Navajo Nation boards or
4 commissions, or serve in any capacity as representatives of any Navajo
5 Nation enterprise, corporation or company, including members and
6 shareholder representatives, shall resign from such positions before taking
7 the Council Delegate oath of office. Delegates sworn into office as
8 delegates shall not simultaneously serve as members of Navajo Nation
9 boards or commissions, or serve in any capacity as representatives of any
10 Navajo Nation enterprise, corporation or company, including members and
11 shareholder representatives.

14
15 **Section Five. Effective date; directive to amend Plans of Operation**

16 A. The amendments enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).
17 Provided, the effective date for implementation purposes shall be January 16, 2019.

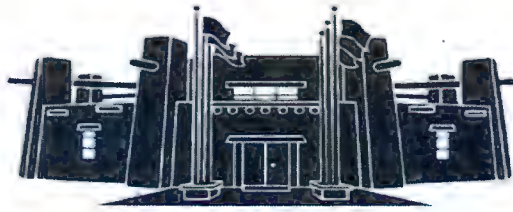
18 B. Oversight committees, with the assistance of the affected boards, commissions and
19 enterprises, and the divisions, departments and programs responsible for assisting such
20 boards, commissions and enterprises, shall within 90 days of the approval of this action
21 amend the respective Plans of Operation to ensure that delegate positions are abolished.
22 The effective dates of these new Plans of Operation, for purposes of implementing the
23 new provisions enacted herein, shall be January 16, 2019.

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25 **Section Six. Codification**

26 The provisions of these amendments of the Navajo Nation Code shall be codified by
27 the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate
28 such amendments in the next codification of the Navajo Nation Code.
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1 **Section Seven. Savings Clause**

2 Should any provision of these amendments be determined invalid by the Navajo
3 Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the
4 Navajo Nation Supreme Court, those amendments that are not determined invalid shall
5 remain the law of the Nation.
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MEMORANDUM

To : Hon. Amber Crotty, Delegate
Navajo Nation Council

From : 
Ron Haven, Attorney
Office of Legislative Counsel

Date : May 5, 2017

Re : AN ACT RELATING TO LAW AND ORDER COMMITTEE,
NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL;
AMENDING 2 N.N.C §104 AND 11 N.N.C. § 8(B), REGARDING
COUNCIL DELEGATES SERVING ON BOARDS AND COMMISSIONS
OR SERVING AS MEMBERS OR AS SHAREHOLDERS IN ANY
ENTERPRISE OF THE NAVAJO NATION

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Please note, at Section Five of the drafted bill, the effective implementation date - January 16, 2019. Note as well, in the same section, the directive to have affected Plans of Operation amended within 90 days of bill approval (with an effective/implementation date of January 16, 2019). As to format, the resolution as drafted is legally sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. Further, the Speaker may decide to assign this proposed resolution to other committees than ones suggested in the title of the resolution. **Passage and adoption of the resolution will require a 2/3 vote of the full membership of the Navajo Nation Council.** CD-68-80, clause 6.

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 # 15-411-2

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0197-17_____

SPONSOR: Amber Crotty

TITLE: An Action Relating to Law and Order Committee, Naabik'iyati' Committee and the Navajo Nation Council; Amending 2 N.N.C. 104 and 11 N.N.C. 8(B), Regarding the Council Delegates Serving on Boards and Commissions or Serving as Members or as Shareholders in any Enterprise of the Navajo Nation

Date posted: May 26, 2017 at 4:34pm

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 Nav, ajo 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.: 0197-17

SPONSOR: Honorable Amber Crotty


TITLE: An Action Relating to Law and Order Committee, Naabik'iyati' Committee and the Navajo Nation Council; Amending 2 N.N.C. 104 and 11 N.N.C. 8(B), Regarding the Council Delegates Serving on Boards and Commissions or Serving as Members or as Shareholders in any Enterprise of the Navajo Nation

Posted: May 26, 2017 at 4:34 pm

5 DAY Comment Period Ended: May 31, 2017

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



Policy Analyst
Office of Legislative Services
6/2/17 2:13pm

Date/Time