LEGISLATION NO. 0347-08
Navajo Nation Healthy Start Act of 2008
(Worksite Breastfeeding Legislation)

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION, AN ACT RELATING TO HEALTH, HUMAN SERVICES, AND JUDICIARY; ENACTING THE NAVAJO NATION HEALTHY START ACT OF 2008.

Provision for Breast-feeding or Use of a Breast Pump in the Workplace.

A) All employees doing business within the territorial jurisdiction of the Navajo Nation, or engaged in any contract with the Navajo Nation, shall provide to each working mother opportunities to engage in breast-feeding of their infant-child, or use of a breast pump at the workplace.

B) The provision of an opportunity to engage in breast-feeding or use of a breast pump shall consist of the following:

1) A clean and private area or other enclosure near the employee's workspace, and not a bathroom, to allow a working mother to engage in breast-feeding or use of a breast pump.

2) A sufficient number of unpaid and flexible breaks within the course of the workday to allow a working mother to engage in breast-feeding or use of a breast pump.

C) All employers shall, within 90 days after the effective date of this §804, or the date on which an employer commences business within the territorial jurisdiction of the Navajo Nation, whichever is later, file with the ONLR a written plan that provides to working mothers opportunities for breast-feeding or use of a breast pump in the workplace.

D) The failure of an employer to comply with this section shall be deemed to be an adverse action against the employee, a failure of the employer to provide a safe and clean working environment, and a failure to provide employment conditions which are free of prejudice, intimidation and harassment, for purpose of the Navajo Preference in Employment Act, 15 N.N.C. §605 (B).

CO-40-08

RESOLUTION OF THE NAVAJO NATION COUNCIL

21ST NAVAJO NATION COUNCIL – Second Year 2008

AN ACT

RELATING TO HEALTH, HUMAN SERVICES, AND JUDICIARY; ENACTING THE NAVAJO NATION HEALTHY START ACT OF 2008

BE IT ENACTED:

Section One. Enactment of the Navajo Nation Healthy Start Act of 2008

The Navajo Nation Council hereby enacts the Navajo Nation Healthy Start Act of 2008.

Section Two. Findings.

A. The Navajo Nation hereby finds that the results of health studies indicate that breast-feeding of infants gives to these infants significant benefits in nutrition, assists in their progress through developmental stages, and strengthens their immune systems.

B. The Navajo Nation further finds that the significant benefits to breast-fed infants leads to long-term increased health of these persons.

C. The Navajo Nation finds that breast-feeding gives to mothers significant health benefits, including decreased rates of diseases, including diabetes and breast cancer.

D. The Navajo Nation further finds that provisions of breast-feeding opportunities for working mothers increases their productivity and job satisfaction, and reduces sick time taken by both moms and dads for infant children's illnesses.

E. The Navajo Nation further finds that provision for breastfeeding opportunities for working mothers lowers health care and insurance costs.

F. The Navajo Nation finds that the following amendments to Title 15 of the Navajo Nation Code will address these findings and are the most appropriate means for addressing the health needs of the Navajo people.

Section Three. Amendment of Title 15 of the Navajo Nation Code

The Navajo Nation Council hereby amends Title 15 of the Navajo Nation Code, as follows:

NAVAJO NATION CODE ANNOTATED
TITLE 15. LABOR
CHAPTER 8. NAVAJO NATION HEALTHY START ACT

§ 801. Short Title

This Act shall be known as the "Navajo Nation Healthy Start Act."

§ 802. Purpose

The purpose of this Act is to provide for opportunities for working mothers to obtain the health benefits of breast-feeding for their infant children, themselves, and the Navajo Nation, through provision for breast-feeding or use of a breast pump, or both, within workplaces on the Navajo Nation.

§ 803. Definitions

A. "Breast-feeding" means the practice of allowing a working mother, with privacy and dignity, to feed her child milk from her breasts.

B. "Breast-pump" means any electric or manual device used to mechanically remove milk from a human breast.

C. "Commission" shall mean the Navajo Nation Labor Commission.

D. "Employer" shall have the same meaning as set forth in the Navajo Preference in employment act, 15 N.N.C. § 603(C).

E. "Infant child" means a child between birth and the age of twelve (12) months, who is being breast-fed by a working mother.

F. "ONLR" means the Office of Navajo Labor Relations.

G. "Working mother" means an employee, as defined in the Navajo Preference in employment Act, at 15 N.N.C. § 603 (L), who is the natural mother engages in the provision of services to an employer for compensation, whether as an employee, agent or servant.

H. "Workplace" means the place in which a working mother engages in the provision of services to an employer for compensation, whether as an employee, agent, or servant.

§ 804. Provision for Breast-Feeding or Use of a Breast Pump in the Workplace

A. All employers doing business within the territorial jurisdiction of the Navajo Nation, or engaged in any contract with the Navajo Nation, shall provide to each working mother opportunities to engage in breast-feeding of their infant child, or use of a breast pump at the workplace.

B. The provision of an opportunity to engage in breast-feeding or use of a breast pump shall consist of the following:

1. A. clean and private area or other enclosure near the employee's workspace, and not a bathroom, to allow a working mother to engage in breast-feeding or use of a breast pump; and

2. A sufficient number of unpaid and flexible breaks within the course of the workday to allow a working mother to engage in breast-feeding or use of a breast pump.

C. All employers shall, within 90 days after the effective date of this § 804, or the date on which an employer commences business within the territorial jurisdiction of the Navajo Nation, whichever is later, file with the ONLR a written plan that provides to working mothers opportunities for breast-feeding or use of a breast pump in the workplace.

D. The failure of an employer to comply with this section shall be deemed to be an adverse action against the employee, a failure of the employer to provide a safe and clean working environment, and a failure to provide employment conditions which are free of prejudice, intimidation and harassment, for purposes of the Navajo Preferences in employment Act, 15 N.N.C. § 604 (B).

§ 805. Enforcement

Compliance with this Act shall be monitored and enforced by the ONLR in the same manner as set forth in the Navajo Preference in Employment Act, 15 N.N.C. § 610.

§ 806. Hearings

The Navajo Nation Labor Commission is authorized to conduct hearings involving allegations of violation of this Act, in the same manner as set forth in the Navajo Preference in Employment Act, 15 N.N.C. § 611.

§ 807. Remedies and Sanction

If, following notice and hearing, the Commission funds that an employer has violated this Act, the Commission is authorized to enter one or more remedial orders, in the same manner as set forth in the Navajo Preference in Employment Act, 15 N.N.C. § 612.

§ 808. Appeal and Stay of Execution

Any party may appeal a decision of the Commission to the Navajo Nation Supreme Court in the same manner as set forth in the Navajo Preference in Employment Act, 15 N.N.C. § 613.

Section Four. Effective Date

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

Section Five. Codification

The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

Section Six. Savings Clause

Should any provisions of this Act be determined invalid b the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, or any other court of competent jurisdiction, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 64 in favor, and 0 opposed, this 22nd day of October, 2008.

Lawrence T. Morgan, Speaker
Navajo Nation Council

24 Oct 08
Date

CO-40-08

Motion: Young Jeff Tom
Second: Roy Laughter

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 NOV 03 2008, 2008.

_____
Dr. Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing Legislation pursuant to 2 N.N.C. §1005(C) (11), this _____ day of _____, 2008 for the reason(s) Expressed in the attached letter to the Speaker.

_____
Dr. Joe Shirley, Jr., President
Navajo Nation