LEGISLATIVE SUMMARY SHEET

Tracking No. 0358-19

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-38-19

PURPOSE: This resolution, if approved, will override veto of CO-38-19.

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: 23:00
Website Posting Time/Date: 11/22/19 5:51PM
Posting End Date: 11/27/19
Eligible for Action: 11/28/19

Naabik'íyáti Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- First Year, 2019

INTRODUCED BY

(Sponsor)

TRACKING NO. 0358-19

AN ACTION

RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-38-19

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'íyáti' 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 ACT RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI'*

19-633-1

AND THE NAVAJO NATION COUNCIL; AMENDING, FOR PURPOSES OF CLARIFICATION, APPOINTMENT AND SPECIAL ELECTION PROVISIONS OF THE NAVAJO ELECTION CODE AT 11 N.N.C. §§ 143, 161 AND 326."

B. The changes enacted by the Navajo Nation Council through *CO-38-19* merely clarify when appointments are made for purposes of filling vacant positions under the Navajo Election Code. The President vetoed the legislation, stating that voting rights are affected. See attached Exhibit "A," veto letter and resolution *CO-38-19*.

C. However, the intent and purposes of the original provisions of the Code remain the same - special elections are conducted to fill vacancies occurring in the first half of an elected term, and vacancies occurring in the second half are filled by appointment. The amendments of *CO-38-19* provide that any vacancy continuing into the second half of a term is filled by appointment. As the intent and purposes of the law essentially remains the same, an override is necessary.

C. The Navajo Nation President's veto is "subject to an override…by two-thirds (⅔) vote of the membership of the Navajo Nation Council." 2 N.N.C. § 164 (A)(17).

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

SECTION THREE. OVERRIDING VETO

The Navajo Nation Council hereby overrides the Navajo Nation President's veto of Resolution CO-38-19.

THE NAVAJO NATION

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-38-19, *Amending, For Purposes of Clarification, Appointment and Special Election Provisions of the Navajo Election Code at 11 N.N.C. §§ 143, 161 and 326*

Dear Speaker Damon,

Pursuant to the authority vested in the Navajo Nation President, I am vetoing CO-38-19.

The resolution appears to be based on good intentions but in a closer look it takes away the right of the People to choose their leaders. The absence of legislative intent language in the resolution and based on an unsigned Navajo Board of Election Supervisors resolution with minimal reasoning is cause for concern as to the purpose of the amending language. The Election Code, as currently enacted prior to the amendments, allows for vacancies in the first half of a term of office to be filled by a special election. This special election process allows the People to make their choice of leader, a choice we should not take from them.

Absent specific clarification as to the purpose of CO-38-19 and guarding the right of the People to choose their leaders I am vetoing CO-38-19.

Sincerely,

Jonathan Nez, President
THE NAVAJO NATION

CO-38-19

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL -- First Year, 2019

AN ACT
RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; AMENDING, FOR PURPOSES OF CLARIFICATION, APPOINTMENT AND SPECIAL ELECTION PROVISIONS OF THE NAVAJO ELECTION CODE AT 11 N.N.C. §§ 143, 161 AND 326

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'íyáti' 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.

SECTION TWO. FINDINGS

A. Concerning vacancies in Navajo Nation elective positions, those occurring within the first half of an elective term are filled by special election and those occurring within the second half by appointment. *See e.g.*, 11 N.N.C. §§ 143 and 161.

B. The Election Code must be amended for clarification purposes to provide that vacancies occurring in the first half of an

elective position and continuing into the second half can be filled by appointment provisions of the Code.

C. The Navajo Board of Election Supervisors recommends amending the Election Code to clarify appointments for vacancies within the second half of an elective term. See **Exhibit "A."**

SECTION THREE. AMENDING ELECTION CODE

The Navajo Nation hereby amends the Navajo Election Code as follows:

Subchapter 9. Special Elections

§ 143. Special Elections for vacancies during first half of term

Whenever a vacancy is declared for an elected office during the first half of a term of office, with the exception of a vacancy involving the Office of the Navajo Nation President or the Navajo Nation Vice President, the remaining term of the vacant office shall be filled pursuant to special election provisions of this Code. Except for vacancies for which a candidate or candidates have been deemed eligible by the Election Administration, vacancies declared in the first half but continuing into the second half of an elective term shall be filled by appointment provisions of the Election Code.

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Subchapter 10. Appointments

§ 161. Appointments

A. With the exception of a vacancy resulting from recall or involving the President or the Vice President, and subject to certification by the Navajo Election Administration, ~~when a vacancy occurs during the second half of an elective term of office, the remaining term, shall be filled by appointment as follows~~: and subject to 11 N.N.C. § 143, vacancies existing during any portion of the second half of an elective position, regardless when such vacancies are declared, shall be filled by appointment as follows:

****

Subchapter 17. Election Officials

****

§ 326. Vacancies within second half of term of office

A. Subject to 11 N.N.C. § 143, ~~A~~ a vacancy occurring on the Board of Election Supervisors within the second half of a term of office shall be filled by appointment by majority vote of the Agency Council for the agency within which the vacancy exists. The selection shall be made from recommendations by the Chapters within the agency affected, in the form of duly adopted Chapter resolutions. Each Chapter may recommend one candidate for appointment. The Agency Council shall review the candidates for appointment and shall make its determination out of those recommended. The person appointed to fill any such vacancy must be a registered voter of a Chapter from within the same agency of his or her predecessor, and shall serve until the normal expiration date of the term he or she has filled.

****

SECTION FOUR. EFFECTIVE DATE

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

SECTION FIVE. CODIFICATION

The amendments of the Navajo Nation Code enacted herein shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall include the amendment in the next recodification or supplement of the Navajo Nation Code, to the extent practicable.

SECTION SIX. SAVINGS CLAUSE

Should any portion of the amendment enacted herein 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 portions not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th 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 20 in Favor, and 00 Opposed, on this 23rd day of October 2019.

Honorable Seth Damon, Speaker
24th Navajo Nation Council

11-01-19
DATE

Motion: Honorable Thomas Walker, Jr.
Second: Honorable Edmund Yazzie

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 11th day of November, 2019 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

NAVAJO NATION

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10/23/2019

NNC 2019 FALL SESSION

03:24:59 PM

Amd# to Amd#

Legislation 0198-19: Amending for Purposes of Clarification, Appointment and Special Election Provisions of the Navajo...

PASSED

MOT Walker, T

SEC Yazzie

Yea : 20 **Nay : 0** **Excused : 3** **Not Voting : 0**

Yea : 20

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	Yazzie
Charles-Newton	James, V	Tso, C	Yellowhair

Nay : 0

Excused : 3

Tso, E	Smith	Daniels

Not Voting : 0

Presiding Speaker: Damon

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Hon. Edison Wauneka, 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-38-19

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 # 19-633-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0358-19_____ SPONSOR: Edison Wauneka

TITLE: An Action Relating to Naabik'íyáti and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-38-19

Date posted: November 22, 2019 at 5:51pm

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.: 0358-19

SPONSOR: Honorable Edison Wauneka

TITLE: An Action Relating to Naabik'íyáti and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo nation Council Resolution CO-38-19

Posted: November 22, 2019 at 5:51 PM

5 DAY Comment Period Ended: November 27, 2019

Digital Comments received:

Comments Supporting	*None*
Comments Opposing	*None*
Inconclusive Comments	*None*

Legislative Tracking Secretary
Office of Legislative Services

12/02/19 9:12PM

Date/Time

24th NAVAJO NATION COUNCIL
NAABIK'ÍYÁTI' COMMITTEE REPORT
First Year 2019

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0358-19

An Action Relating to Naabik'íyáti' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-38-19.

Sponsored by: Honorable Edison J. Wauneka
Co-Sponsored by Honorable Paul Begay

Has had it under consideration and reports the same that the legislation **WAS PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL**.

Respectfully Submitted,

Honorable Seth Damon, Chairman
NAABIK'ÍYÁTI' COMMITTEE

12 December 2019

MAIN MOTION

Motioned by: Honorable Nathaniel Brown
Seconded by: Honorable Daniel E. Tso

Vote: 11 in Favor, 03 Opposed (Chairman Damon Not Voting)

NAVAJO NATION

384

12/12/2019

Naa'bik'iyati Committee Meeting

05:58:13 PM

Amd# to Amd#

Legislation 0358-19: Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-38-19

PASSED

MOT Brown
SEC Tso, D

Yea : 11 **Nay : 3** **Excused : 0** **Not Voting : 9**

Yea : 11

Begay, E	Brown	Tso, C	Walker, T
Begay, K	Henio, J	Tso, D	Yellowhair
Begay, P	Slater, C	Tso, O	

Nay : 3

Halona, P	Tso, E	Smith

Excused : 0

Not Voting : 9

Charles-Newton	Freeland, M	Nez, R	Wauneka, E
Crotty	James, V	Stewart, W	Yazzie
Daniels			

Presiding Chair: Damon