

LEGISLATIVE SUMMARY SHEET

Tracking No. 0198-19

DATE: June 27, 2019

TITLE OF RESOLUTION: 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

PURPOSE: This resolution will amend, for purposes of clarification, amend appointment and special election provisions of the Navajo Election Code at 11 N.N.C. §§ 143, 161 and 326.

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: 2888
Website Posting Time/Date: _____
Posting End Date: 7/16/19
Eligible for Action: 7/17/19

Law & Order Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL -- First Year, 2019



(Prime Sponsor)

TRACKING NO. 0198-19

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'iyáti' 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.

1 **SECTION TWO. FINDINGS**

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

5 B. The Election Code must be amended for clarification purposes to provide that
6 vacancies occurring in the first half of an elective position and continuing into the
7 second half can be filled by appointment provisions of the Code.

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

11
12 **SECTION THREE. AMENDING ELECTION CODE**

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

14
15 **Subchapter 9. Special Elections**

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

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

25 ****

26 **Subchapter 10. Appointments**

27 **§ 161. Appointments**

28 A. With the exception of a vacancy resulting from recall or involving the President
29 or the Vice President, and subject to certification by the Navajo Election
30 Administration, ~~when a vacancy occurs during the second half of an elective term of~~

1 office, the remaining term, shall be filled by appointment as follows: and subject to
2 11 N.N.C. § 143, vacancies existing during any portion of the second half of an
3 elective position, regardless when such vacancies are declared, shall be filled by
4 appointment as follows:

5 *****

6 Subchapter 17. Election Officials

7 *****

8 § 326. Vacancies within second half of term of office

9 A. Subject to 11 N.N.C. § 143, A a vacancy occurring on the Board of Election
10 Supervisors within the second half of a term of office shall be filled by appointment
11 by majority vote of the Agency Council for the agency within which the vacancy
12 exists. The selection shall be made from recommendations by the chapters within the
13 agency affected, in the form of duly adopted chapter resolutions. Each chapter may recommend
14 one (1) candidate for appointment. The Agency Council shall review the candidates for
15 appointment and shall make its determination out of those recommended. The person appointed
16 to fill any such vacancy must be a registered voter of a chapter from within the same agency of
17 his or her predecessor, and shall serve until the normal expiration date of the term he or she has
18 filled.

19 *****

20 21 22 SECTION FOUR. EFFECTIVE DATE

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

25 26 SECTION FIVE. CODIFICATION

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

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2 **SECTION SIX. SAVINGS CLAUSE**

3 Should any portion of the amendment enacted herein be determined invalid by the
4 Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without
5 appeal to the Navajo Nation Supreme Court, those portions not determined invalid shall
6 remain the law of the Navajo Nation.
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PROPOSED RESOLUTION OF THE
NAVAJO BOARD OF ELECTION SUPERVISORS

**Recommending, for purposes of clarification, Amendments to Appointment and Special
Election Provisions of the Navajo Election Code At 11 N.N.C. §§ 143, 161 and 326**

WHEREAS:

1. The Navajo Board of Election Supervisors (hereinafter "Board") has the authority to administer, implement and enforce the Navajo Nation Election Code, 11 N.N.C. §321 (A)(1).
2. Vacancies in Navajo Nation elective positions are filled by either special election or by appointment. 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.
3. It is in the best interest of the Navajo Nation that the Navajo Election Code should 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.

NOW THEREFORE BE IT RESOLVED THAT:

The Board of Election Supervisors hereby recommends amendments to appointment and special election provisions of the Navajo Election Code at 11 N.N.C. §§ 143, 161 and 326. These provisions should 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.

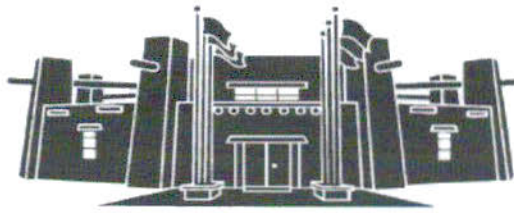
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CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Board of Election Supervisors at a duly called meeting within the Navajo Nation in Window Rock, Arizona, during which a quorum was present and that the same was passed by a vote of ____ in favor, ____ opposed, and ____ abstained, this ____ day of _____, _____.


Chairperson
Navajo Board of Election Supervisors

Motion:
Second:



MEMORANDUM

To : Hon. Edison Wauneka, Council Delegate
Navajo Nation Council

From : 
Ron Haven, Attorney
Office of Legislative Counsel

Date : June 27, 2019

Re : **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**

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. However, as with all legislation, it can be subject to review by the courts in the event of proper challenge. Also, understand that the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title. 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.

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 # 19-334-1