

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,

A handwritten signature in black ink, appearing to read "Jonathan Nez".

Jonathan Nez, President
THE NAVAJO NATION

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'íyáti' 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.

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 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



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.

:

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:

NAVAJO NATION

187

10/23/2019

NNC 2019 FALL SESSION

03:24:59 PM

Amd# to Amd#	Legislation 0198-19: Amending	PASSED
MOT Walker, T	for Purposes of Clarification,	
SEC Yazzie	Appointment and Special Election	
	Provisions of the Navajo...	

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
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Not Voting : 0

Presiding Speaker: Damon