

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0123-20__

SPONSOR: Edison J. Wauneka

**TITLE: An Action Relating To NAABIK'YATI' And The Navajo Nation Council;
Cancelling The Primary Election For The 2020 Chapter Election; Setting One
Chapter Election Date For November 3, 2020; Waiving 11 N.N.C. §§ 3(C) And 41**

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0123-20

DATE: May 15, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; CANCELLING THE PRIMARY ELECTION FOR THE 2020 CHAPTER ELECTION; SETTING ONE CHAPTER ELECTION DATE FOR NOVEMBER 3, 2020; WAIVING 11 N.N.C. §§ 3(C) AND 41

PURPOSE OF RESOLUTION: This resolution, if approved, will cancel the Primary Election for the 2020 Chapter Election. There will be one Chapter Election which will be conducted on November 3, 2020. The election results will be determined by plurality vote. Election Code provisions necessary to be waived are 11 N.N.C. §§ 3(C) and 41.

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: High
Website Posting Time/Date: _____
Posting End Date: 05-25-20
Eligible for Action: 05-26-20

Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL -- Second Year, 2020

3 INTRODUCED BY

4 
5
6 (Prime Sponsor) 

7
8 TRACKING NO. 0123-20

9
10 AN ACTION

11 RELATING TO NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL;
12 CANCELLING THE PRIMARY ELECTION FOR THE 2020 CHAPTER ELECTION;
13 SETTING ONE CHAPTER ELECTION DATE FOR NOVEMBER 3, 2020; WAIVING
14 11 N.N.C. §§ 3(C) AND 41

15
16 BE IT ENACTED:

17
18 SECTION ONE. AUTHORITY

19 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §
20 102(A).

21 B. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council.
22 2 N.N.C. § 700. Pursuant to 2 N.N.C. §164(A)(9), "a proposed resolution that requires
23 final action by the Navajo Nation Council [must] be assigned to standing committee(s)
24 having authority over the subject matter at issue and the Naabik'iyáti' Committee."

25 C. The Navajo Board of Election Supervisors was created by the Navajo Nation Council
26 as "*an independent entity.*" 2 N.N.C. § 871(A), Consistent with this status, the Board is
27 responsible only to the Navajo Nation Council, with the authority to enforce provisions of
28 the Navajo Election Code and to make rules and regulations furthering the intent and
29 purposes of the Election Code. 2 N.N.C. § 873(B)(6) and 11 N.N.C. §§ 321(A)(6) and
30 322.

1
2 **SECTION TWO. FINDINGS**

3 A. Under the Navajo Nation Election Code, primary election for the 2020 Chapter
4 Elections must be conducted August 4, 2020. 11 N.N.C. 3(C).

5 B. Pursuant to directive of the Navajo Nation Council for recommendations, the Navajo
6 Board of Election Supervisors, "the board," is requesting that the primary election
7 scheduled for August 4, 2020 be cancelled. Exhibit A, resolution BOESMY-024-20.
8 The board expresses health concerns over the recent outbreak of coronavirus (COVID-
9 19). The Navajo Election Administration (NEA) states similar concerns. Exhibit B, NEA
10 memorandum. Essentially, the concerns are over the safety of the voting public,
11 candidates, poll officials, and staff of the Election Administration. For purposes of
12 mitigating the spread of COVID-19, the request is made for the cancellation of the
13 primary election and that one election be held on November 3, 2020.

14 C. COVID-19 is a virus causing serious respiratory illness. It is pandemic, with many
15 cases involving death continuing to be reported across the United States. In addressing
16 the concerns, the Navajo Nation has issued a number of public health orders for all
17 residents of the Navajo Nation. These orders include mandatory curfews, restrictions on
18 public gatherings, the mandatory wearing of masks in public places and social distancing.
19 Access to government offices has also been restricted to the general public. *See,*
20 *Emergency Management Commission resolution CEM 20-03-11; Executive Orders Nos.*
21 *001-20, 002-20, 003-20, 004-20; Public Health Emergency Orders 2020-001, 2020-002,*
22 *2020-003, 2020-004, 2020-005, 2020-006, 2020-007, 2020-008* (incorporated herein by
23 this reference).

24 D. In spite of mitigation measures, COVID-19 has disproportionately affected the
25 Navajo Nation. Today, the Navajo Nation has one of the highest per capita rates of
26 positive tests for COVID-19 in the United States. *See,*
27 *[https://thehill.com/policy/healthcare/497091-navajo-nation-has-more-coronavirus-cases-](https://thehill.com/policy/healthcare/497091-navajo-nation-has-more-coronavirus-cases-per-capita-than-any-us-state)*
28 *per-capita-than-any-us-state.* The number of positive tests continues to increase at an
29 alarming rate.

1 E. Historically, elections within the Navajo Nation have been conducted in-person.
2 Although mail-in balloting is permitted, most voters choose to cast their ballots at the
3 polling sites that are established in each of the 110 chapters on election day. The
4 emergency caused by COVID-19 has impacted preparations for the 2020 Chapter
5 Elections.

6 F. All voters, candidates and poll officials must be properly protected on election day.
7 Preparations and precautionary measures must include the purchase and availability of
8 Personnel Protective Equipment (PPE). The Navajo Election Administration calculates
9 the costs for such protective equipment to range between \$57,884.68 and \$84,401.20.
10 Exhibit B. In addition to these anticipated costs, the Election Administration is also
11 reviewing the prospect of on-line voting, as well as purchasing computer software and
12 additional equipment for election purposes. For the 2020 Chapter Elections, the
13 Administration intends to continue working with Navajo Nation Health Command in
14 ensuring compliance with all guidelines for conducting a safe election.

15 G. COVID-19 will likely affect voter turn in the 2020 Chapter Elections, particularly
16 for the primary. Voter turn-out is generally lower in primary elections than in general
17 elections. In the last Chapter Election conducted in 2016, the primary election voter turn-
18 out was 29.52 %. Aside this issue, the Navajo Board of Election Supervisors expresses
19 concern regarding instances in which candidates will run unopposed in the primary
20 election. Upon election, such candidates are automatically placed on the general election
21 and certified upon such election.

22 H. COVID-19 presents a major challenge in the conduct of the 2020 Chapter Elections.
23 The pandemic facing the Navajo Nation makes it extremely difficult to proceed with
24 elections as has been done in the past. As there is no vaccine, it is crucial that the spread
25 of the virus be minimized.

26
27 **SECTION THREE. CANCELLING PRIMARY ELECTION; AUTHORIZING**
28 **CHAPTER ELECTION FOR NOVEMBER 3, 2020**

29 A. The Navajo Nation hereby cancels the primary election for the 2020 Chapter
30 Elections. For purposes of this action, 11 N.N.C. §§ 3(C) and 41 are waived.

1 B. Chapter Elections shall be conducted on November 3, 2020. There shall be one
2 election, with no primary election. All eligible candidates shall be placed on the election
3 ballot and the winning results for each position shall be determined by plurality vote.

4 C. The Navajo Board of Election Supervisors shall set the candidate filing period, and
5 shall further adopt any necessary rules and regulations for purposes of implementing and
6 furthering the intent and purposes of this resolution of the Navajo Nation Council.

7
8 **SECTION FOUR. EFFECTIVE DATE**

9 This action of the Navajo Nation Council herein shall be effective pursuant to 2
10 N.N.C. § 221(B). Further, the "President's authority to sign into law or veto legislation
11 shall be deemed waived if not exercised within ten calendar days after certification of the
12 legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed
13 enacted and become effective pursuant to 2 N.N.C. §221." 2 N.N.C. § 1005(C)(12).

14
15 **SECTION FIVE. SAVINGS CLAUSE**

16 Should any provision of these amendments be determined invalid by the Navajo
17 Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the
18 Navajo Nation Supreme Court, those amendments that are not determined invalid shall
19 remain the law of the Nation.