

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0016-24_

SPONSOR: Danny Simpson

**TITLE: An Act Relating to an Emergency for the Navajo Nation Council;
Amending Campaign Expense Provisions of the Navajo Election Code at §§ 201
Through 209 and §404**

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0016-24

DATE: January 18, 2024

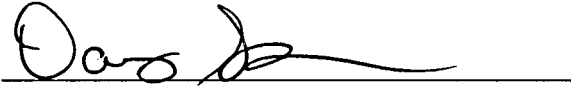
TITLE OF THE RESOLUTION: AN ACT RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; AMENDING CAMPAIGN EXPENSE PROVISIONS OF THE NAVAJO ELECTION CODE AT §§ 201 THROUGH 209 AND § 404

PURPOSE: The purpose of the resolution is to amend campaign expense provisions of the Navajo Election Code at §§ 201 through 209 and § 404.

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.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL – Second Year, 2024

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0016-24

AN ACT

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
AMENDING CAMPAIGN EXPENSE PROVISIONS OF THE NAVAJO
ELECTION CODE AT §§ 201 THROUGH 209 AND § 404

SECTION ONE. AUTHORITY

A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A). As such, the Council may consider emergency legislation. 2 N.N.C. § 164(A)(16). “[M]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.” 2 N.N.C. § 164(A)(16).

SECTION TWO. FINDINGS

A. Pursuant to 2 N.N.C. § 871(A), the Navajo Board of Election Supervisors was *“created by the Navajo Nation Council as an independent entity. The Board shall be responsible to the Navajo Nation Council only....”* Among its various tasks, the Navajo Board of Election Supervisors (“the Board”) oversees the conduct of all Navajo Nation elections - General Elections, Chapter Elections, and all special

1 elections, including referendum elections.

2 B. By resolution BOESD-59-23, the Navajo Board of Election Supervisors
3 recommends amendments to campaign expenses provisions of the Election Code.
4 See **EXHIBIT 1**, attached hereto.

5 C. In all Navajo Nation elections, campaign expense reports must be filed by all
6 candidates whose names appear on official ballots. Such reports must be filed within
7 ten (10) days of primary and general elections by candidates successful and
8 unsuccessful. 11 N.N.C. § 202. Campaign expense reports must also be filed in
9 initiative elections. 11 N.N.C. § 404.

10 D. Amendments recommended by the Navajo Board of Election Supervisors through
11 BOESD-59-23 include provisions on failure to file campaign expense reports under
12 11 N.N.C. § 203, campaign expense limits at 11 N.N.C. § 205, exceeding campaign
13 expense limits under 11 N.N.C. § 206 and the filing of fraudulent statements under
14 11 N.N.C. § 207. For failure to file expense reports under section 203, the Board is
15 recommending the disqualification of candidates in lieu of fines. Concerning
16 campaign expense limits, the Board is recommending the amount of two dollars
17 (\$2.00) per registered voter for all candidates irrespective of the office sought. For
18 exceeding campaign expense limits, the Board is recommending disqualification of
19 successful candidates in lieu of fine and/or imprisonment. And, concerning the filing
20 of fraudulent campaign expense reports, the Board is recommending an increase in
21 criminal penalties (both fine and imprisonment). For disqualifications occurring
22 after a general or special election, the board is recommending declaration of vacancy
23 for affected positions. 11 N.N.C. § 208.

24 E. The Navajo Nation Council finds it an emergency to amend the campaign expense
25 provisions of the Navajo Election Code at §§ 201 through 209 and § 404. The
26 timeline for candidacy applications for the next Navajo Nation elections is
27 approaching soon. The candidate applications need to be prepared with the
28 information about campaign expense reporting requirements before the candidates
29 begin the next election season. Navajo Nation elections are a direct service to the
30 Navajo people and are required under Navajo Nation law. There is pressing public

1 need for this resolution and this resolution is a matter requiring final action by the
2 Navajo Nation Council.

- 3 F. The Navajo Nation finds that it is in the best interest of the Navajo Nation and the
4 Navajo people that the amendments proposed by the Navajo Board of Election
5 Supervisors through BOESD-59-23 be approved.

6
7 **SECTION THREE. AMENDING CAMPAIGN EXPENSE PROVISIONS OF THE**
8 **NAVAJO ELECTION CODE**

9 The Navajo Nation Council hereby amends campaign expense provisions of the Navajo
10 Election Code at §§ 201 through 209 and § 404 as follows:

11 _____
12 ****

13 **§ 201. ~~Report of designated~~ Designating a financial agent; filing; penalty**

14 A. ~~Before~~ At the time of candidate filing for any election, each candidate, including
15 the candidate for Vice-President, shall file with the ~~Board~~ Election
16 Administration a report designating and containing the names and addresses of
17 every person authorized as his or her financial agent by or through whom such
18 candidate has expended or proposed to expend money in defraying the expenses
19 of his or her campaign, ~~or~~ Alternatively, a candidate may submit a statement
20 that he or she has not authorized and will not authorize any person to act for him
21 or her, but that he or she will in person account for all money or other things of
22 value expended in the interest of his or her candidacy.

23 B. ~~The eCandidates shall file with the Board the designation of an agent by the filing~~
24 ~~date and will be allowed to amend the designation or statement required by this~~
25 section any time prior to the opening of the polls on the day set for the election.

26 C. ~~Should he or she a candidate fail to file such report comply with filing~~
27 requirements of this section, he or she is guilty of an offense and shall be assessed
28 a fine of not less than \$25 and not more than \$500. his or her candidate
29 application shall not be accepted by the Election Administration.

1 **§ 202. Statement of receipts and expenses; time of filing; preparation and**
2 **distribution of forms**

- 3 A. Each candidate whose name appears upon the official ballot in any Navajo
4 Nation election, including a primary election, shall, not more than ten (10) days
5 after the election, file with the ~~Board~~ Election Administration a sworn and signed
6 itemized statement of receipts and expenses. The ~~Board~~ Election Administration
7 shall, but no later than the period specified by this subsection, give the candidate
8 an opportunity to correct any deficiency or error in his or her report. Thereafter
9 the report shall be filed in the Central Records Department of the Navajo Nation
10 and shall be preserved in said office for at least five (5) years during which time
11 it shall be a public record available for inspection and copying.
- 12 B. The statement of receipts and expenses shall set forth in detail a complete record
13 of the candidate's receipts and expenditures in money or other things of value
14 and cost thereof, including promises to pay, treats, presents, and favors, either
15 present or future, intended for the purpose of aiding or which could have a
16 tendency to aid his or her success in such election and shall include a like
17 statement for each of the persons named by the candidate in any report filed
18 under 11 N.N.C. § 201, and for any person not so named whom the candidate
19 knows to have made any receipt or expenditure on behalf of his or her candidacy.
20 Actual receipts for expenses shall accompany the statement.
- 21 C. A candidate shall not be required to report his or her filing fee.
- 22 D. The statement of expenses and the report shall be made upon forms approved
23 by the Board. The ~~Board~~ Election Administration shall ~~deliver in person or by~~
24 ~~certified mail~~ make available a reasonable number of such forms ~~to each~~ for
25 candidates.

26
27 **§ 203. Failure to file statement of receipts and expenses; disqualification;**
28 **penalty**

- 29 A. A candidate in a primary election receiving a sufficient number of votes to be
30 placed on the general election ballot shall be disqualified by the Election

1 Administration for his or her failure to file a campaign expense report for the
2 primary election as required by 11 N.N.C. § 202. The candidate disqualified
3 may file a grievance with the Office of Hearings and Appeals no later than ten
4 (10) days of date of written notice.

5 ~~A~~ B. A candidate in a general or special election ~~The candidate receiving the highest~~
6 ~~number of votes in any Navajo Nation election shall not receive a certification~~
7 ~~of election and shall not be eligible to take office until the statement required by~~
8 ~~11 N.N.C. § 202 is filed~~ within the time provided. If the candidate receiving the
9 highest number of votes fails to file the statement within the time prescribed, he
10 or she shall immediately be disqualified by the Election Administration. The
11 candidate disqualified may file a grievance with the Office of Hearings and
12 Appeals no later than ten (10) days of the date of written notice.

13 ~~B~~ C. A candidate, whether elected to an office or not, who refuses or fails to file the
14 statement required by 11 N.N.C. § 202 is guilty of an offense and upon
15 conviction thereof shall be punished by a fine of not less than \$300 nor more
16 than \$500. shall be barred from holding or being a candidate for elective office
17 for a period of five (5) years upon the written notice issued by the Election
18 Administration.

19
20 **§ 204. Report by persons not authorized to collect, receive or expend money**
21 **for expenses of candidate's campaign; time of filing; form; penalty for**
22 **failure or refusal to file**

23 A. If any person not named in the candidate's report required by 11 N.N.C. § 201
24 collects, receives or expends any money or things of value in connection with
25 the candidacy of such candidate in any Navajo election, such person shall within
26 ~~30~~ ten (10) days after such election file with the ~~Board~~ Election Administration
27 a full and complete report showing all money or other things of value collected,
28 received and expended by him or her such person.

29 B. The form of the report shall be approved by the Board and shall be similar in
30 form to that required of candidates.

1 C. A person who fails or refuses to sign or to file a report required by this section is
2 guilty of an offense and upon conviction thereof shall be ~~punished by fine of not~~
3 ~~less than \$300 nor more than \$500~~ subject to a fine of not more than a thousand
4 dollars (\$1,000.00). If such person is not subject to the jurisdiction of the Court
5 of the Navajo Nation, he or she may be fined or expelled from Navajo Nation
6 land (17 N.N.C. § 1901 *et seq.*)
7

8 **§ 205. Limitation on contribution, receipts and expenditure by or on behalf of**
9 **candidates; radio or television time**

10 A. The following sums shall be the maximum amounts for both the primary and
11 general elections combined which may be expended by or on behalf of any
12 candidate in a primary and general, or special, recall, initiative or referendum
13 election. When anything of value other than money is expended or used by or
14 on behalf of any candidate, it shall be considered as equivalent to money as its
15 fair cash value. Necessary personal travel or subsistence expenses of candidate
16 and provided by candidate shall not be included in the limitation and need not be
17 reported.

18 1. For the Office of the President and Vice-President (combined sum) ~~one~~
19 ~~dollar and fifty cents~~ two dollars (\$2.00) for each registered voter.

20 2. For other elective offices, ~~the offices of Delegate, Chapter Officer, Other~~
21 ~~Elected Officials and School Board members~~, ~~four dollars~~ two dollars
22 (\$2.00) for each registered voter within the election precinct.

23 B. Where radio and television time is donated or offered on an equal basis to all
24 qualified candidates for any particular office, the value of such time shall not be
25 included in the above limitation on expenditures but shall be reported by or on
26 behalf of each candidate receiving the same, without assigning any cash value
27 thereof.
28

29 **§ 206. ~~Penalty for e~~ Exceeding campaign expenditure limit; disqualification**
30 **and removal**

1 A. A candidate who expends more money or other things of value than is permitted
2 by 11 N.N.C. § 205 either in person or through agents, or who knowingly permits
3 any other person to expend a sum which when added to the sum expended by
4 such candidates and his or her agents exceeds said limits, ~~is guilty of an offense~~
5 ~~and upon conviction thereof shall be punished by a fine of not less than \$300 nor~~
6 ~~more than \$1,000, or by imprisonment for not more than six months, or by both~~
7 ~~such fine and prison term;~~ shall be disqualified by the Election Administration;
8 and in addition, he or she shall be barred for five years from holding or being a
9 candidate for any elective office of the Navajo Nation. In the event such
10 candidate has assumed office, he or she shall be immediately removed by the
11 Election Administration and shall be barred for five years from holding or being
12 a candidate for any elective office of the Navajo Nation.

13 B. Grievances concerning disqualification or removal under this section may be
14 filed with the Office of Hearings and Appeals no later than ten (10) days of
15 written notices of such actions. Standing for such grievances shall be limited to
16 candidates disqualified and officials removed.

17
18 **§ 207. Fraudulent statement or reports; penalty**

19 A candidate who makes any statement or report required by this ordinance
20 subchapter and therein knowingly misstates the amount of money given received
21 or expended, or fails knowingly to fully disclose the facts as to any gift, promise,
22 treat, reward, favor, or any valuable thing given received or expended, is guilty
23 of a misdemeanor, and upon conviction thereof shall be subject to imprisonment
24 for a term not to exceed three hundred and sixty-five (365) days, or ordered to
25 pay a fine not to exceed five thousand dollars (\$5,000.00), or both. ~~punished by~~
26 ~~a fine of not less than \$300 nor more than \$1,000 or by imprisonment for not~~
27 ~~more than six months, or by both fine and prison term; and if such person a~~
28 candidate received the highest number of votes in the election, or in the event he
29 or she has assumed office, he or she, upon conviction, shall not hold the office
30

1 be disqualified; and shall be barred for a period of ~~five~~ eight years from
2 candidacy for or holding any elective office of the Navajo Nation.

3
4 **§ 208. ~~Filling vacancy in office due to disqualification~~ Disqualification after**
5 **election; vacancy declaration**

6 A. Where any person who has received the highest number of votes for any office
7 is disqualified from holding said office by 11 N.N.C. §§ 203(B), 206 and 207,
8 ~~prior to the oath of office, the candidate who received the next highest votes shall~~
9 ~~be sworn in as the elected official for that position pursuant to 11 N.N.C. §141(E)~~
10 the position shall be declared vacant.

11 ~~B. Where any person who has received the highest number of votes for any office~~
12 ~~is disqualified from holding said office by 11 N.N.C. §§206 and 207, after the~~
13 ~~oath of office, a vacancy shall be declared by the Navajo Election~~
14 ~~Administration, and the position shall be filled by appointment pursuant to~~
15 ~~applicable provisions for the particular position~~

16
17 **§ 209. Contribution by corporations and nonmembers of Navajo Nation; penalty**

18 A. It is unlawful for any corporation or nonmember of the Navajo Nation to make
19 any contribution of money or anything of value for the purpose of campaigning
20 or influencing a Navajo election or for any member of the Navajo Nation to
21 receive such a contribution for such purposes, provided, however, that it shall
22 not be unlawful for a radio or television station to make free time available to
23 any candidate for Navajo Nation Office, provided equal time is made available
24 to all other candidates for the same office.

25 B. Any person or any non-Navajo Indian married to a Navajo who violates this
26 section shall be guilty of an offense and upon conviction shall be ~~punished by a~~
27 ~~fine of not less than \$300 nor more than \$1,000, or by imprisonment for not~~
28 ~~more than six months or by both such fine and prison term~~ subject to
29 imprisonment for a term not to exceed three hundred and sixty-five (365) days,
30 or ordered to pay a fine not to exceed five thousand dollars (\$5,000), or both.

- 1 C. Any non-Indian who violates this section, shall be fined or expelled from Navajo
2 Nation land by the ~~Government Services~~ Naabik'iyáti Committee according to
3 the procedure set out in 17 N.N.C. § 1901, as amended.
- 4 D. Any corporation or nonmember of the Navajo Nation violating this section may
5 upon application of the Attorney General be ordered to show cause before the
6 appropriate Navajo Nation Committee as to why it or he or she should not be
7 barred from receiving any lease, right-of-way, contract, franchise, concession of
8 any character whatsoever thereafter from the Navajo Nation, or excluded from
9 the Navajo Nation. If, upon hearing of such order to show cause, it appears to
10 the appropriate Navajo Nation Committee that the said corporation or person is
11 guilty of violating this section, said corporation or person shall be barred for a
12 period of not less than one year nor more than five years from receiving any
13 lease, right-of-way, contract, franchise, or concession of any character
14 whatsoever from the Navajo Nation.
- 15 E. It is the intent of this section to prohibit contribution being made for the purpose
16 of influencing a Navajo election from any source other than members of the
17 Navajo Nation. Violators shall be prosecuted.

18 ****

19 **§ 404. Initiatives by petition of registered voters**

20 A. ****

- 21 4. Each Petition Committee whose initiative appears upon the official ballot in
22 any special initiative election shall, not more than ~~thirty (30)~~ ten (10) days after
23 the initiative election, file with the Election Administration a sworn and signed
24 itemized statement of receipts in a similar manner to that set forth for candidate
25 expenses in 11 N.N.C. § 202.

26 ****

27
28
29 **SECTION FOUR. CODIFICATION**

30

1 The amendments approved herein shall be codified by the Office of Legislative
2 Counsel. The Office of Legislative Counsel shall arrange for the incorporation of all
3 such provisions in the next codification of the Navajo Nation Code.

4
5 **SECTION FIVE. SAVINGS CLAUSE**

6 If any portion of the amendments approved herein is determined invalid by the Navajo
7 Supreme Court, or by a District Court of the Navajo Nation without appeal to the
8 Navajo Supreme Court, the remainder of the amendments shall remain the law of the
9 Navajo Nation.

10
11 **SECTION SIX. EFFECTIVE DATE**

12 The provisions of the amendments approved herein shall become effective in
13 accordance with 2 N.N.C § 221(B).