

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0017-24_

SPONSOR: Danny Simpson

TITLE: An Act Relating to an Emergency for the Navajo Nation Council; Approving Amendments to the Navajo Election Code at 11 N.N.C. §§ 25 and 145 by Authorizing Appointment by the Navajo Board of Election Supervisors for One Candidate Vacancy Filings in Special Elections and Designating Voting Hours in Special Elections

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0017-24

DATE: January 18, 2024


TITLE OF THE RESOLUTION: AN ACT RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; APPROVING AMENDMENTS TO THE NAVAJO ELECTION CODE AT 11 N.N.C. §§ 25 AND 145 BY AUTHORIZING APPOINTMENT BY THE NAVAJO BOARD OF ELECTION SUPERVISORS FOR ONE CANDIDATE VACANCY FILINGS IN SPECIAL ELECTIONS AND DESIGNATING VOTING HOURS IN SPECIAL ELECTIONS

PURPOSE: The purpose of the resolution is to amend the Navajo Election Code at 11 N.N.C. §§ 25 and 145 by authorizing appointment by the Navajo Board of Election Supervisors for one candidate vacancy filings in special elections and designating voting hours in Special Elections.

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. 0017-24

AN ACT

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
APPROVING AMENDMENTS TO THE NAVAJO ELECTION CODE AT 11 N.N.C. §§
25 AND 145 BY AUTHORIZING APPOINTMENT BY THE NAVAJO BOARD OF
ELECTION SUPERVISORS FOR ONE CANDIDATE VACANCY FILINGS IN
SPECIAL ELECTIONS AND DESIGNATING VOTING HOURS IN SPECIAL
ELECTIONS

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*

1 *to the Navajo Nation Council only...."* Among its various tasks, the Navajo Board of
2 Election Supervisors ("the Board") oversees the conduct of all Navajo Nation elections
3 - General Elections, Chapter Elections, and all special elections, including referendum
4 elections.

5 B. The Navajo Election Code, at 11 N.N.C. § 143, provides, "[w]henever a vacancy is
6 declared for an elected office during the first half of a term of office, with the exception
7 of a vacancy involving the Office of the Navajo Nation President or the Navajo Nation
8 Vice President, the remaining term of the vacant office shall be filled pursuant to
9 special election provisions of this Code." Vacancies occurring in the second half of a
10 term of office are filled by appointment, and there is no election. 11 N.N.C. § 161.

11 C. In a special election, during the first half of a term, it is possible that only one candidate
12 applies to fill a vacancy. Such candidate is placed on the ballot, unopposed. 11 N.N.C.
13 §25(A). A special election is then held, with the one unopposed candidate. Upon the
14 special election, the sole candidate is declared the winner. Under these circumstances,
15 an appointment, rather than an election, would expedite the filling of the vacant
16 position, as well as save costs for conducting an election, such as one on an agency-
17 wide basis.

18 D. By resolution BOESD-55-23, the Navajo Board of Election Supervisors recommends
19 amendments to the Navajo Election Code at 11 N.N.C. § 25(A) and (B) and § 145(I)
20 by authorizing appointment by the Board for one candidate vacancy filing in special
21 elections. The Board's resolution is attached hereto as **EXHIBIT 1**.

22 E. The Board further recommends an amendment at 11 N.N.C. § 145 by specifying voting
23 hours in special elections, beginning at 8:00 a.m. and ending at 6:00 p.m. See
24 **EXHIBIT 1**.

25 F. The Navajo Nation Council finds it an emergency to amend the provisions of the Navajo
26 Election Code at § 25(A) and (B) and § 145(I) by authorizing appointment by the Board
27 for one candidate vacancy filing in special elections. The Navajo Election
28 Administration does not have the funds to conduct special elections at all the requisite
29 number of Navajo Nation Chapters to fill one candidate, unchallenged vacancies. The
30 cost of employing poll workers at each election site is very costly especially

1 considering that the election has only one candidate. Navajo Nation elections are a
2 direct service to the Navajo people and are required under Navajo Nation law. There
3 is pressing public need for this resolution and this resolution is a matter requiring final
4 action by the Navajo Nation Council.

5 G. It is in the best interests of the Navajo Nation that the Navajo Election Code be amended
6 as recommended by the Navajo Board of Election Supervisors through BOESD-55-23.
7

8 **SECTION THREE. AMENDING THE NAVAJO ELECTION CODE**

9 The Navajo Nation Council hereby amends the Navajo Election Code at 11 N.N.C. §§ 25
10 and 145 as follows:
11

12 ****

13 **§ 25. Unopposed candidates; candidate withdrawal**

14 A. In the event only one candidate files for a Navajo Nation elective office, he or she shall
15 be placed on the ballot as an unopposed candidate— , except as otherwise provided
16 herein.

17 B. For vacancies declared in the first half of an elective term of office, the Navajo Board
18 of Election Supervisors shall appoint unopposed candidates, provided such candidates
19 are deemed qualified by the Election Administration.

20 ~~B~~ C. A candidate who withdraws from the election at any time prior to the printing of
21 the ballots shall have his or her name removed from the ballot. Any votes cast for
22 the candidate who has withdrawn shall not be tallied.

23 ~~C~~ D. A candidate who withdraws from the election after the ballots have already been
24 printed, but before the election occurs, shall have his or her name remain on the ballot,
25 but the Navajo Election Administration shall inform voters at the polling site that the
26 candidate has withdrawn. Any votes cast for the candidate who has withdrawn shall
27 not be tallied.

28 ****

29 **§ 145. Conduct of Special Elections**

30 ****

1 F. If there is no challenge or grievance, a special election, upon public notice, shall be
2 conducted within sixty (60) days of the conclusion of the challenge or grievance
3 period.

4 G. Voting hours in special elections shall begin at 8:00 a.m. and end at 6:00 p.m. All
5 voters present and in line at the polling place at 6:00 p.m. will be allowed to vote.

6 G H. The Navajo Board of Election Supervisors shall adopt rules and regulations on the
7 selection of poll clerks and poll judges for the conduct of special elections.

8 I. Notwithstanding special election provisions of this section, unopposed candidates
9 shall be appointed pursuant to provisions of 11 N.N.C. § 25.

10
11 **SECTION FOUR. CODIFICATION**

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

15
16 **SECTION FIVE. SAVINGS CLAUSE**

17 If any portion of the amendments approved herein is determined invalid by the Navajo
18 Supreme Court, or by a District Court of the Navajo Nation without appeal to the Navajo
19 Supreme Court, the remainder of the amendments shall remain the law of the Navajo
20 Nation.

21
22 **SECTION SIX. EFFECTIVE DATE**

23 The provisions of the amendments approved herein shall become effective in accordance
24 with 2 N.N.C §221(B). The amendments, upon approval, shall be deemed immediately
25 applicable as to vacancies currently existing with single-unopposed candidates for special
26 elections.