

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACT

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION ELECTION CODE AT 11 N.N.C. § 241(A) TO LOWER PERCENTAGE OF SIGNATURE REQUIREMENT ON RECALL PETITIONS FROM 60 TO 45% OF VOTERS VOTING IN LAST ELECTION FOR POSITION IN QUESTION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 601. Among its statutory duties and responsibilities are 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. Pursuant to 2 N.N.C. § 164 (A)(9), a proposed resolution that requires final action by the Navajo Nation Council must be assigned to the Naabik'íyáti' Committee before it is considered by the Navajo Nation Council.
- C. The Navajo Nation Council is the governing body of the Navajo Nation, pursuant to 2 N.N.C. § 102 (A). It enacts laws and sets policy for the Navajo Nation.

SECTION TWO. FINDINGS

- A. Within the Navajo Nation, Diné voters, as in any democratic society, freely elect their leaders. 11 N.N.C. § 1 *et seq.* Those elected serve a representative role.
- B. Elected officials of the Navajo Nation are subject to recall by voters. 11 N.N.C. § 241 *et seq.* A petition for recalling an elected official must be signed by at least 60% of voters participating in the last election of such official (*i.e.*, voting in the election putting the official in office). 11 N.N.C. § 240(A). If the 60% signature requirement is met, ballots are prepared and a special recall election is conducted. 11 N.N.C. § 244.

- C. Generally, the 60% signature requirement of the Navajo Nation is higher than other jurisdictions where recall elections are permitted. For example, regarding elected officials in Arizona, the number of petition signatures (before a recall election is held) must equal to at least 25% of votes cast in the last general election for the position held by the official sought to be recalled. Const. Art. 8, § 1-6; Ariz. Rev. Stat. § 19-201 - 19-234. In New Mexico, for county officials, the signature requirement is set at 33 1/3% (of voters voting in the last election for the office involved). Const. Art. 10, § 9.
- D. It is in the best interests of the Navajo Nation that recall petition signature requirements be lowered.

SECTION THREE. AMENDING ELECTION CODE

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

*Title 11. Elections
Chapter 1. Navajo Election Code of 1990
Subchapter 12. Removal of Officials; Placement of
Officials on Administrative Leave; Recall; Filling
Vacancy*

§ 241. Officials subject to recall; recall affidavit; recall petition

- A. All elected officials may be removed from office if ~~sixty~~ forty-five percent of the registered voters who voted in the last election for the office in question file a petition seeking the official's removal.

SECTION FOUR. EFFECTIVE DATE; APPLICABILITY

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

SECTION FIVE. CODIFICATION

These amendments shall be codified by the Office of Legislative Counsel in the next recodification or supplement of the Navajo Nation Code to the extent practicable.

SECTION SIX. SAVINGS CLAUSE

Should any provision of this enactment 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, 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 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 14 in favor and 03 opposed, on this 20th day of November 2018.



LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

11-21-18
Date

Motion: Honorable Davis Filfred
Second: Honorable Edmund Yazzie

Speaker LoRenzo C. Bates 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 28th day of November 2018.



Russell Begaye, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this _____ day of _____ 2018 for reason(s) expressed in the attached letter to the Speaker

Russell Begaye, President
Navajo Nation

NAVAJO NATION

RCS# 1336

11/20/2018

Special Session

04:08:48 PM

Amd# to Amd#

Legislation 0239-18: Amending
the Navajo Nation Election Code
at 11 NNC S 241(A) to Lower
Percentage of Signatures...

PASSED

MOT Filfred

SEC Yazzie

Yea : 14

Nay : 3

Excused : 0

Not Voting : 6

Yea : 14

Begay, K
BeGaye, N
Bennett
Brown

Chee
Damon
Daniels
Filfred

Hale
Kieyoomia
Perry

Shepherd
Slim
Yazzie

Nay : 3

Phelps

Smith

Tso

Excused : 0

Not Voting : 6

Bates
Begay, NM

Crotty
Jack

Pete

Tsosie