



The Navajo Nation **DR. BUU NYGREN** *PRESIDENT*
Yideeskáądi Nitsáhákees **RICHELLE MONTOYA** *VICE PRESIDENT*

February 2, 2024

Honorable Crystalyne Curley, Speaker
Office of the Speaker
Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

RE: CJA-09-24, 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.

Dear Honorable Members of the 25th Navajo Nation Council:

By signing this resolution into law, I am in support of the recommended amendments to the Navajo Nation Election Code, at 11 N.N.C. § 25(A) and (B) and § 145(I), made by the Navajo Board of Election Supervisors ("Board").

Through Resolution BOESD-55-23, the Board recommends amendments at 11 N.N.C. § 25(A) and (B) to authorize appointment by the Board for one candidate vacancy filing in special elections due to lack of funds for special elections. In addition, the amendments to 11 N.N.C. § 145 specify voting hours in special elections from 8 a.m. to 6 p.m.

Sincerely,

A handwritten signature in blue ink, appearing to be "B. Nygren", written over a blue horizontal line.

Dr. Buu Nygren, *President*
THE NAVAJO NATION

**RESOLUTION OF THE
NAVAJO NATION COUNCIL
25th NAVAJO NATION COUNCIL - SECOND YEAR, 2024**

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

BE IT ENACTED:

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 elections, including referendum elections.
- B. The Navajo Election Code, at 11 N.N.C. § 143, provides, "[w]henever 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." Vacancies occurring in the second half of a term of office are filled by appointment, and there is no election. 11 N.N.C. § 161.

- C. In a special election, during the first half of a term, it is possible that only one candidate applies to fill a vacancy. Such candidate is placed on the ballot, unopposed. 11 N.N.C. § 25(A). A special election is then held, with the one unopposed candidate. Upon the special election, the sole candidate is declared the winner. Under these circumstances, an appointment, rather than an election, would expedite the filling of the vacant position, as well as save costs for conducting an election, such as one on an agency-wide basis.
- D. By resolution BOESD-55-23, the Navajo Board of Election Supervisors recommends amendments to the Navajo Election Code at 11 N.N.C. § 25(A) and (B) and § 145(I) by authorizing appointment by the Board for one candidate vacancy filing in special elections. The Board's resolution is attached hereto as **EXHIBIT 1**.
- E. The Board further recommends an amendment at 11 N.N.C. § 145 by specifying voting hours in special elections, beginning at 8:00 a.m. and ending at 6:00 p.m. See **EXHIBIT 1**.
- F. The Navajo Nation Council finds it an emergency to amend the provisions of the Navajo Election Code at § 25(A) and (B) and § 145(I) by authorizing appointment by the Board for one candidate vacancy filing in special elections. The Navajo Election Administration does not have the funds to conduct special elections at all the requisite number of Navajo Nation Chapters to fill one candidate, unchallenged vacancies. The cost of employing poll workers at each election site is very costly especially considering that the election has only one candidate. Navajo Nation elections are a direct service to the Navajo people and are required under Navajo Nation law. There is pressing public need for this resolution and this resolution is a matter requiring final action by the Navajo Nation Council.
- G. It is in the best interests of the Navajo Nation that the Navajo Election Code be amended as recommended by the Navajo Board of Election Supervisors through BOESD-55-23.

SECTION THREE. AMENDING THE NAVAJO ELECTION CODE

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

§ 25. Unopposed candidates; candidate withdrawal

- A. In the event only one candidate files for a Navajo Nation elective office, he or she shall be placed on the ballot as an unopposed candidate—, except as otherwise provided herein.
- B. For vacancies declared in the first half of an elective term of office, the Navajo Board of Election Supervisors shall appoint unopposed candidates, provided such candidates are deemed qualified by the Election Administration.
- B C. A candidate who withdraws from the election at any time prior to the printing of the ballots shall have his or her name removed from the ballot. Any votes cast for the candidate who has withdrawn shall not be tallied.
- € D. A candidate who withdraws from the election after the ballots have already been printed, but before the election occurs, shall have his or her name remain on the ballot, but the Navajo Election Administration shall inform voters at the polling site that the candidate has withdrawn. Any votes cast for the candidate who has withdrawn shall not be tallied.

§ 145. Conduct of Special Elections

- F. If there is no challenge or grievance, a special election, upon public notice, shall be conducted within sixty (60) days of the conclusion of the challenge or grievance period.
- G. Voting hours in special elections shall begin at 8:00 a.m. and end at 6:00 p.m. All voters present and in line at the polling place at 6:00 p.m. will be allowed to vote.
- € H. The Navajo Board of Election Supervisors shall adopt rules and regulations on the selection of poll clerks and poll judges for the conduct of special elections.
- I. Notwithstanding special election provisions of this section, unopposed candidates shall be appointed pursuant to provisions of 11 N.N.C. § 25.

SECTION FOUR. CODIFICATION

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

SECTION FIVE. SAVINGS CLAUSE

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

SECTION SIX. EFFECTIVE DATE

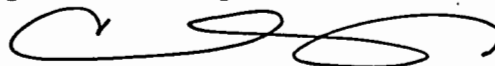
The provisions of the amendments approved herein shall become effective in accordance with 2 N.N.C § 221(B). The amendments, upon approval, shall be deemed immediately applicable as to vacancies currently existing with single-unopposed candidates for special elections.

SECTION SEVEN. DIRECTIVE

The Navajo Nation Council hereby directs the Elections Administration to work with the Office of the Speaker to develop a plan of action to create educational material on the election process and to develop a budget to distribute this information across all 110 chapters.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th 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 13 in Favor, and 01 Opposed, on this 24th day of January 2024.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

1/29/2024

Date

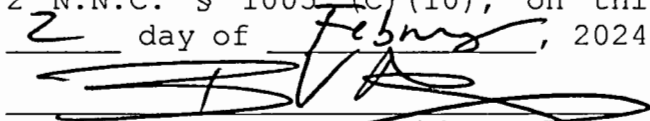
Motion: Honorable Amber Kanazbah Crotty

Second: Honorable Vince R. James

Speaker Crystalyne Curley 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 2 day of February, 2024.



Buu Nygren, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (11), on this _____ day of _____, 2024 for the reason(s) expressed in the attached letter to the Speaker.

Buu Nygren, President
Navajo Nation



**RESOLUTION OF THE
NAVAJO BOARD OF ELECTION SUPERVISORS**

Recommending and Supporting 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 Filing in Special Elections; and further Recommending and Supporting an Amendment designating Voting Hours in Special Elections

WHEREAS:

1. The Navajo Board of Election Supervisors was “created by the Navajo Nation Council as an independent entity.” 2 N.N.C. § 871(A). Under the Navajo Election Code, the Board, among other duties and responsibilities, generally oversees the Navajo Election Administration in the implementation of the Code. *See e.g.*, 2 N.N.C. § 321.
2. Pursuant to 11 N.N.C. § 143, “[w]henever 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.” Vacancies occurring in the second half of a term of office are filled by appointment. 11 N.N.C. § 161.
3. For positions declared vacant in the first half of an elective term of office, special elections are held to fill the vacancy. Although only one candidate may apply for such position, such candidate is placed on the ballot and a special election is conducted under 11 N.N.C § 25. Upon special election, the sole candidate is declared the winner.
4. It is in the best interests of the Navajo Nation that the Navajo Election Code be amended to permit appointment by the Navajo Board of Election Supervisors when there is only one candidate filing for a vacant position under special election provisions of the Navajo Election Code.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Board of Election Supervisors recommends that the Navajo Election Code at 11 N.N.C. §§25 and 145 be amended to permit appointment by the Navajo Board of Election Supervisors when there is only one candidate filing for a vacant position under special election provisions of the Navajo Election Code. Attached as **EXHIBIT A** is the recommended amendments to the Navajo Election Code.

EXHIBIT A**§ 25. Unopposed candidates; candidate withdrawal**

- A. In the event only one candidate files for a Navajo Nation elective office, he or she shall be placed on the ballot as an unopposed candidate, except as otherwise provided herein.
- B. For vacancies declared in the first half of an elective term of office, the Navajo Board of Election Supervisors shall appoint unopposed candidates, provided such candidates are deemed qualified by the Election Administration.
- B C. A candidate who withdraws from the election at any time prior to the printing of the ballots shall have his or her name removed from the ballot. Any votes cast for the candidate who has withdrawn shall not be tallied.
- € D. A candidate who withdraws from the election after the ballots have already been printed, but before the election occurs, shall have his or her name remain on the ballot, but the Navajo Election Administration shall inform voters at the polling site that the candidate has withdrawn. Any votes cast for the candidate who has withdrawn shall not be tallied.

§145. Conduct of Special Elections

Special elections shall be conducted in the same manner as other elections except as follows:

- A. There shall be a 14-day filing period upon a declaration of vacancy.
- B. Candidate applications for the Offices of the Navajo Nation President and Vice President shall be filed at the same time.
- C. Upon the expiration of a filing period, the Navajo Election Administration shall, within five days, review applications filed and determine whether applicants should be certified as eligible for candidacy. An applicant disqualified or otherwise deemed ineligible for office may file a grievance pursuant to 11 N.N.C. §341.
- D. Challenge provisions of 11 N.N.C. §24 shall apply, except that such challenges, if any, shall be filed within five days of certification of a candidate.
- E. In the event of a challenge or a grievance, a special election date shall not be set until after the challenge or grievance is addressed and resolved in accordance with applicable provisions of the Election Code. Once applicable administrative and judicial remedies of the Election Code have been exhausted, the special election, upon public notice, shall be conducted within 60 days thereafter.

- F. If there is no challenge or grievance, a special election, upon public notice, shall be conducted within 60 days of the conclusion of the challenge or grievance period.
- G. Voting hours in special elections shall begin at 8:00 a.m. and end at 6:00 p.m. All voters present and in line at the polling place at 6:00 p.m. will be allowed to vote.
- G H. The Navajo Board of Election Supervisors shall adopt rules and regulations on the selection of poll clerks and poll judges for the conduct of special elections.
- I. Notwithstanding special election provisions of this section, unopposed candidates shall be appointed pursuant to provisions of 11 N.N.C. §25.

NAVAJO NATION

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Navajo Nation Council 2024 Winter Session

1/24/2024
04:48:00 PM

	Amd# to Amd#	New Business: Item N. (MAIN)	PASSED
MOT Crotty, A		Legislation 0017-24	
SEC James, V		[Modified]	

Yeas : 13

Nays : 1

Excused : 6

Not Voting : 2

Yea : 13

Arviso, S
Begay, H
Begay, N
Crotty, A

James, V
Johnson, C
Nez, R

Notah, N
Parrish, S
Simonson, G

Simpson, D
Slater, C
Tolth, G

Nay : 1

Yazzie, C

Excused : 6

Charles-Newton, E
Claw, S

Daniels, H
Nez, A

Tso, O

Yanito, C

Not Voting : 2

Jesus, B

Aseret, L

Presiding Speaker: Curley, C