

RESOLUTION OF THE
NAVAJO NATION COUNCIL

22nd NAVAJO NATION COUNCIL -- Third Year, 2013

RELATING TO LAW AND ORDER AND NAABIK'ÍYÁTI AMENDING 11
N.N.C. §121 THROUGH 128, TO AUTHORIZE THE NAVAJO NATION
BOARD OF ELECTION SUPERVISORS TO IMPLEMENT ABSENTEE
VOTING BY RULES AND REGULATIONS

BE IT ENACTED:

Section 1. Findings and Purpose

1. The right to vote is protected by Navajo Nation law. Every Navajo Nation voter is encouraged to register and to vote in every election conducted.
2. Absentee voting is permitted in Navajo Nation elections. 11 N.N.C. § 121 *et seq.* This is "to encourage every eligible voter to exercise his or her voting right." 11 N.N.C. §121(B).
3. Absentee voting generally involves the mailing of an absentee ballot to the Navajo Election Administration. 11 N.N.C. §§ 124(D) and 125. Aside the use of the postal service, it is also possible for voters to deliver absentee ballots in person to the Election Administration. 11 N.N.C. §124(E).
4. Under current Navajo Nation law, mailed absentee ballots can be accepted and counted so long as they are received prior to the closing of the polls on election day. 11 N.N.C. §125(B). For early "walk-in" voting (where absentee ballots are not mailed but delivered in person to the Navajo Election Administration), absentee ballots must be submitted the Friday immediately preceding the election day. 11 N.N.C. §124(D); see also, §§124(E).
5. Voters seeking to vote by absentee ballot are those unable to be physically present on an election day. These voters include Navajo military service personnel, many of whom are stationed overseas.
6. The process for absentee voting is set forth by statute. Any amendments to such provisions must be approved by the Navajo Nation Council. Under current provisions of the Navajo Nation Election Code, the Navajo Board of Election Supervisors is authorized to

implement election provisions through rules and regulations. See for example, 11 N.N.C. §12. It is necessary and proper to permit the Navajo Board of Election Supervisors to oversee the matter of absentee voting through rules and regulations. The same statutory requirements now existing in the Election Code can be more efficiently implemented through rules and regulations of the Navajo Board of Election Supervisors. Amendments to these rules and regulations would not require Navajo Nation Council approval.

7. It is in the best interests of the Navajo Nation that the Election Code be amended by permitting the Navajo Board of Election Supervisors to implement absentee voting through rules and regulations duly adopted.

Section 2. Amending Absentee Voting Provisions of Title 11, the Navajo Nation Election Code

The Navajo Nation hereby approves the following amendments to absentee voting provisions of Title 11, the Navajo Nation Election Code:

**Title 11. Elections
Chapter 1. Navajo Election Code of 1990
Subchapter 7. Absentee Voting**

§ 121. ~~Request for application for absentee ballot~~ Purpose; rules and regulations

~~A. Requests for applications for absentee ballots may be made with the Navajo Election Administration.~~

B A. The purpose of absentee voting is to encourage every eligible voter to exercise his or her voting right.

B. Consistent with general provisions provided in this subchapter, and to the extent practicable, absentee voting shall be allowed in Navajo Nation elections pursuant to duly-adopted rules and regulations of the Navajo Board of Election Supervisors.

~~§ 122. Application; time of filing~~ Absentee Ballot Application

A. ~~The form of application for an absentee ballot shall be approved by the Navajo Board of Election Supervisors. The absentee ballot application form shall contain and require the name as registered and signature of the applicant, his or her chapter registration, census or social security number and any other information deemed necessary. by the Board.~~

B. ~~Pursuant to rules and regulations of the Board, t~~The application for an absentee ballot shall be witnessed.

C. Applications for absentee ballots made by mail must be physically delivered to the Election Administration not less than fifteen (15) days before the election.

D. Where mailed applications are accepted, absentee ballots shall be mailed by Election Administration staff no less than ten (10) days before the election.

E. Where an applicant delivers an application in person and the application is accepted, delivery of the absentee ballot may be immediate and cast in person up to the Friday before the election.

F. Except as otherwise provided herein, the review and processing of mailed applications for absentee ballot shall be done in accordance with rules and regulations of the Navajo Board of Election Supervisors.

~~§ 123. Delivery in person or mailing of ballot~~

A. ~~Unless it is evident that applicant is not registered, the Election Administration shall immediately cause the following papers to be delivered in person or mailed to such applicant:~~

- ~~1. A ballot for the proposed absentee voter's chapter;~~
- ~~2. An envelope labeled "Official Ballot Envelope" for the ballot to be put into after the voter has marked it.~~
- ~~3. An envelope with the address of the Board printed on its front, and the envelope containing the ballot shall be placed and mailed or delivered in person to the Office of the Election Administration.~~

~~B. No absentee ballot shall be delivered or mailed to any person other than the applicant who is an eligible qualified voter. Each qualified applicant is allowed a ballot. Once an absentee ballot is sent out to an applicant, the applicant shall not be allowed to vote at his or her polling place unless the original absentee ballot is surrendered to poll officials. All absentee ballots shall be returned to the Election Administration.~~

~~§ 124. Marking ballot; envelope~~

~~A voter voting by absentee ballot in person shall mark the absentee ballot in a special voting area designated by the Election Administration, and shall fold and seal it in the "Official Ballot Envelope." No person shall watch how the voter marks his or her ballot, unless the voter is marking his or her ballot pursuant to §128. No person shall attempt to influence the voter in favor of any candidate. The voter shall then place the sealed envelope containing the ballot into the ballot box.~~

~~A. Where a voter has received a ballot by mail, a witness shall assure that the person marking the ballot is the eligible qualified voter to whom the absentee ballot is addressed. The witness shall further assure that the voter marked his or her ballot, folded it up and sealed it in the "Official Ballot Envelope." The witness shall not watch how the voter marked his or her ballot, unless the voter requests assistance pursuant to §128. The witness and/or assistant shall not attempt to influence the voter in favor of any candidate. The voter shall hand the sealed "Official Ballot Envelope" containing the ballot to the witness along with the large envelope.~~

~~B. The "Official Ballot Envelope" shall state on its outer side the chapter of the voter, the Agency, and a statement of the witness that the envelope contains an absentee ballot for a certain polling place and that the vote was cast before such witness on a specified day by the voter requesting and receiving the absentee ballot.~~

~~C. The witness before whom the absentee voter voted shall sign his or her name on the envelope. He or she shall then place the envelope in the large envelope and shall seal the same and hand it back to the voter to deliver to the Election Administration. Absentee ballots mailed to the Election Administration Office shall be counted if received by the Election Administration prior to the time polls are closed on an election day.~~

~~D. Absentee ballots may be cast in person beginning thirty (30) days before election up to the Friday before election date during regular hours at 8 a.m. to 5 p.m. of each business day at any Election Administration Office, or during other hours and days designated by the Board.~~

~~E. Subject to approval by the Board, the Election Administration Office may, as a convenience to voters, designate polling places, within or outside the Navajo Nation, for submission of absentee ballots.~~

~~F. During absentee ballot voting, it shall be unlawful for candidates or anyone to solicit votes, display or otherwise make accessible any posters, signs, literature, or other forms of campaign whatsoever.~~

~~§ 125. Duty of Election Administration on receipt of Official mailing envelopes~~

~~A. Upon receiving an official mailing envelope containing a sealed absentee ballot, the Election Administration shall ensure that the name of the voter, as provided on the outer envelope, is logged as accepted in the absentee ballot registry. If the voter's name appears in the absentee ballot registry as accepted, the Election Administration staff shall immediately deposit the sealed envelope in the designated ballot box. If the registry shows that the application was rejected, the ballot shall be invalidated.~~

~~B. The Election Administration shall accept completed official mailing envelopes, provided such envelopes are received by the Election Administration prior to the closing of the polls on an election day. Any completed official mailing envelope received after that time shall not be honored and shall be invalidated by the Navajo Election Administration.~~

~~§ 126. Absentee voter may not vote in person~~

~~Any person who has voted by an absentee ballot shall not be permitted to vote in person in the election for which he or she has cast an absentee ballot.~~

§ 127 123. Counting absentee ballots

Except as provided herein, on Election Day, pPoll officials shall open absentee ballot envelopes received on or before the Friday before an Election and tabulate the absentee ballots with the rest of the ballots cast. For Mailed ballots received by the Election Administration after the Friday before the election and prior to the closing of polls on Election Day, shall be accepted and counted.

~~§ 128. Assistance to voter~~

~~A. A voter may choose another to assist him or her in marking the ballot upon execution of an affidavit for assistance.~~

~~B. The affidavit shall state that the voter seeking assistance is:~~

- ~~1. Blind; or~~
- ~~2. Physically disabled; or~~
- ~~3. Unable to read or write.~~

§124 -139 129 -140 [Reserved]

Section 3. Effective date

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

Section 4. Codification

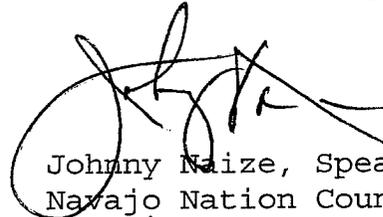
The provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section 5. Savings Clause

Should any provision of this Act 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, those provisions of the Act which are not determined invalid shall remain the law of the 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 same was passed by vote of 13 in favor and 7 opposed, this 22nd day of October 2013.

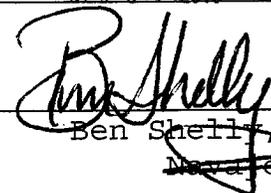

Johnny Naize, Speaker
Navajo Nation Council

Nov. 26, 13
Date

Motion: Honorable Jonathan Nez
Second: Honorable David L. Tom

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 _____ day of DEC 04 2013 2013.



Ben Shelly, President
Navajo Nation

- 2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (11), this _____ day of _____ 2013, for the reason(s) expressed in the attached letter to the Speaker.

Ben Shelly, President
Navajo Nation

RESOLUTION OF THE
NAVAJO BOARD OF ELECTION SUPERVISORS

Supporting Proposed Navajo Nation Council resolution no. 0166-13, "An Action Relating to Law and Order and Naabik'íyáti"; Amending 11 N.N.C. §121 Through 128, to Authorize the Navajo Board of Election Supervisors to Implement Absentee Voting By Rules and Regulations"

WHEREAS:

1. The Navajo Board of Election Supervisors implements and enforces the Navajo Nation Election Code; 11 N.N.C. §321 (A); pursuant to this responsibility, the Board has the authority to adopt rules and regulations; 11 N.N.C. §321(A)(6).
2. On June 14, 2013, the Honorable Jonathan Hale introduced legislation no. 0166-13, "*An Action Relating to Law and Order and Naabik'iyáti'; Amending 11 N.N.C. §121 Through 128, to Authorize the Navajo Board of Election Supervisors to Implement Absentee Voting By Rules and Regulations.*" See attached Exhibit "A," copy of legislation. This proposed legislation, if enacted, will allow the Navajo Board of Election Supervisors to conduct absentee voting through rules and regulations. This process would expedite any immediate amendments that become necessary for absentee voting within the Navajo Nation, without the need to amend the Election Code through the Council each time.
3. Absentee voting is essential to all Navajo Nation elections. 11 N.N.C. §121 *et seq.* There are many Navajos outside the Navajo Nation who are unable to vote on election day at the polls within the Navajo Nation. It becomes necessary that these voters are allowed voting through absentee voting as the law permits.
4. From time to time, prior to an election, it becomes necessary to immediately accommodate Navajo voters outside the Navajo Nation, such as those in the military services. Questions can arise as to interpretations of absentee voting provisions of the Election Code. These situations can all be addressed immediately without seeking clarifying amendments to the Code through the Navajo Nation Council. The Navajo Board of Election Supervisors currently implements absentee provisions of the Election Code through duly-adopted rules and regulations. See attached *Exhibit "B."*
5. A purpose of absentee voting is to encourage Navajo participation in the election process. 11 N.N.C. §121 (B). It is in the best interests of the Navajo Nation to permit the Navajo Board of Election Supervisors to conduct all absentee voting through properly enacted rules and regulations. All statutory Election Code provisions on absentee voting should be amended and simplified to indicate that such elections shall continue, but through properly enacted rules and regulations of the election Board.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Board of Election Supervisors hereby supports proposed legislation no. 0166-13, a proposed bill entitled "*An Action Relating to Law and Order and Naabik'iyáti; Amending 11 N.N.C. §121 Through 128, to Authorize the Navajo Board of Election Supervisors to Implement Absentee Voting By Rules and Regulations,*" as reflected in Exhibit "A," attached hereto.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Board of Election Supervisors at a duly called meeting within the Navajo Nation in Window Rock, Arizona during which a quorum was present and that the same was passed by a vote of 9 in favor, 0 opposed, and 0 abstained, this 11th day of July, 2013.



Wallace Charley, Chairperson
Navajo Board of Election Supervisors

Motion: Vee F. Browne
Second: LeNora Y. Fulton

**LAW AND ORDER COMMITTEE
22nd NAVAJO NATION COUNCIL**

THIRD YEAR 2013

COMMITTEE REPORT

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation # 0166-13:

An Act Relating to Law and Order and Naabik'Iyati; Amending 11 N.N.C. Sections 121 through 128, to Authorize the Navajo Board of Election Supervisors to Implement Absentee Voting by Rules and Regulations.
(*Prime Sponsor: Honorable Jonathan Hale*)

Has had it under consideration and report the same with a **DO PASS**, with no amendment:

and therefore referred to **Naa'bik'Iyati Committee**.

Respectfully submitted,



Alton Joe Shepherd, Vice-Chairperson
Law and Order Committee of the
22nd Navajo Nation Council

Date: July 29, 2013

The vote was 3 in favor and 0 opposed

Motion: Duane S. Tsinigine

Second: Elmer P. Begay

22nd NAVAJO NATION COUNCIL

Third Year 2013

The NAABIK'ÍYÁTI' COMMITTEE to whom has been assigned

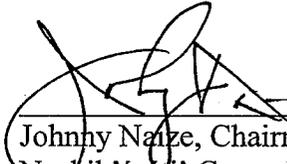
LEGISLATION NO. 0166-13

An Act Relating to Law and Order and Naabik'iyati'; Amending 11 N.N.C. §121 through 128, to Authorize the Navajo Board of Election Supervisors to Implement Absentee Voting by Rules and Regulations – Sponsor: Honorable Jonathan L. Hale

Has had it under consideration and reports the same with the recommendation that it **DO PASS** with no amendment;

and therefore referred to the NAVAJO NATION COUNCIL.

Respectfully submitted,



Johnny Naize, Chairman
Naabik'iyati' Committee

Adopted: 12/11

Not Adopted: _____

08 August 2013

The vote was 12 in favor and 0 opposed, (Under 2 N.N.C. §700(D) "Two Members of each Standing Committee")

Motion: Honorable Charles Damon II

Second: Honorable David L. Tom