



FOR IMMEDIATE RELEASE
October 28, 2014

President Shelly makes a stand for Navajo language, vetoes council resolution



Navajo Nation President Ben Shelly vetoed Resolution No. CO-47-14 and said the decision to amend the language requirements of the Navajo Nation Election Code must be done through a referendum vote brought before the Navajo people. Their voices must be heard, he said. (Photo by Rick Abasta)

WINDOW ROCK, Ariz.—In an independent action to preserve the laws, President Ben Shelly vetoed Navajo Nation Council Resolution No. CO-47-14 this afternoon.

“The decision to amend the language requirements in Title 11, the Navajo Nation Election Code, must be brought before the Navajo people through a referendum vote,” President Shelly said. “This decision is far too important and it is one the people need to decide on.

“We are a nation of laws. I took an oath to uphold the law,” he added.

The Office of the President and Vice President received the

legislation on Oct. 24, 2014 at 10:56 p.m. By a vote of 11-10, the 22nd Navajo Nation Council passed the resolution after midnight the same day to amend the language requirements of the

“Diné bizaad is sacred. Navajo leaders should have both language and cultural fluency in order to qualified.”

Navajo Nation Election Code.

The vote was knotted at 10-10 before Speaker Pro Tem LoRenzo Bates cast the deciding vote to approve the amendments. The amendments by council are

the first major overhaul to the election code since 1990.

The amended language to Navajo Nation Code, Title 11, Subsection 8 regarding qualifications to hold office as President and Vice President states, “Must fluently speak and understand Navajo and read and write English, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders.”

Other similar language amendments were made to the qualification requirements for candidates running for council delegate, chapter official, land board, farm board, district grazing committee, school board and Navajo Nation Board of Education.

President Shelly said while the language amendments are a step in the right direction, other considerations must be taken into account, such as the possibility of a woman president and the language requirement for other offices, such as council delegate.

He said rather than a piecemeal approach to amending concerns with the Navajo Nation Election Code that instead, tribal leaders

mired in debate and controversy over issues regarding the fluency qualifications of candidates for elected office,” President Shelly said.

The Sept. 26, 2014 decision by the Navajo Nation Supreme Court provided an interpretation of the meaning of and standard for fluency. He said this should be the standard until the people have been consulted.

“Diné bizaad is sacred. Navajo leaders should have both language and cultural fluency in order to qualified. Every society has an obligation to hold onto their traditions,” President Shelly said.

Despite the divisive nature of the requirements, he said it is essential that this fundamental issue be addressed through a referendum vote brought before the Navajo people to decide on.

He said the Navajo Nation must commit resources to ensure that Navajo children know and understand their language and culture. This could be achieved by the next administration through employee programs, school programs, technology and interaction between Navajo elders and youth.

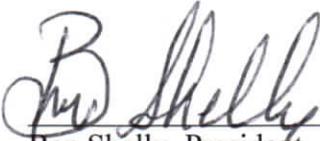
“The Navajo Nation Supreme Court ordered the 2014 ballots to be reprinted and the election unavoidably rescheduled to ensure a valid election. I therefore exercise my veto authority,” President Shelly said.





MEMORANDUM

TO: Honorable Lorenzo Bates, Speaker Pro Tem
The 22nd Navajo Nation Council

FROM: 
Ben Shelly, President
THE NAVAJO NATION

DATE: October 28, 2014

SUBJECT: **Legislation CO-47-14: Relating To An Emergency; To Address A Matter Which Directly Threatens the Sovereignty of the Navajo Nation; Amending Language Requirements of the Navajo Nation Election Code.**

Pursuant to 2 N.N.C. §1005(c)(10), the above titled Legislation CO-47-14 is being submitted to the Navajo Nation Council, through the Office of the Speaker, within the ten (10) day requirement. 2 N.N.C. §1005(c)(10) establishes the Navajo Nation President's authority to veto legislation passed by the Navajo Nation Council. I will exercise my veto authority with this legislation.

We are a nation of laws, and I took an oath to uphold those laws. The Navajo Nation Supreme Court has said that "Navajo culture is forward looking and it is never preferable to unwind events that have already occurred". *Sandoval v. Navajo Election Administration*, No. SC-CV-62-12 at 4 (February 26, 2013). The Navajo Nation Supreme Court recently ordered that the ballots for the 2014 election be reprinted, and the election unavoidably rescheduled to ensure a valid election. The Court has ruled on this matter and its decision should not be so easily or hastily disregarded. This legislation is only intended to help one candidate who has been disqualified.

This election cycle has been mired in debate and controversy over issues regarding the fluency qualifications of candidates for elected office. The Navajo Nation Supreme Court has weighed in on the meaning and interpretation of fluency in *Tsosie v. Descheene*, No. SC-CV-57,58-14 (September 26, 2014), and has provided an interpretation of the meaning of and standard for fluency. This should be the standard until the People have been consulted.

The Diné language is sacred. Navajo leaders should have both language and cultural fluency in order to be qualified. Every society has an obligation to hold onto their traditions. If we lose our language and culture, who are we?

As hard and divisive as this subject has become, it is essential that this fundamental issue be addressed. The People should be consulted on this matter, and a referendum held to ascertain what the People truly want.

A thoughtful, deliberative conversation should occur, not a hasty action a week before the scheduled election date. In *Sandoval*, the Navajo Nation Supreme Court found that a change to election qualifications enacted "well prior to election" was a reasonable and valid law. *Sandoval*, at 12. In that case, the change to election qualifications that disqualified a candidate who had been elected was enacted four months prior to the election.

We, as a Nation, have not committed enough attention to the potential loss of our Navajo language and culture. Nor have we committed enough resources to ensure that our children know their language and culture. As hard and divisive as this subject as become, it is essential for the Navajo People and its government to address this fundamental matter.

The Nation should expect that the next administration will take up the initiative on this critical issue and implement measures to increase language access and fluency, such as through employee programs, school programs, technology, and opportunities for elders and youth to interact and share knowledge.

I understand that some people will be upset by my decision today, but it is important that we avoid civil unrest such as occurred in 1989. We have a responsibility to ensure each other's safety and well-being.

I took an oath to uphold the law. The Navajo Nation Supreme Court ordered the 2014 ballots to be reprinted and the election unavoidably rescheduled to ensure a valid election. I therefore exercise my veto authority.

cc: Executive file

**RESOLUTION OF THE
NAVAJO NATION COUNCIL**

NAVAJO NATION COUNCIL – Fourth Year, 2014

AN ACTION

**RELATING TO AN EMERGENCY; TO ADDRESS A MATTER WHICH DIRECTLY
THREATENS THE SOVEREIGNTY OF THE NAVAJO NATION; AMENDING
LANGUAGE REQUIREMENTS OF THE NAVAJO NATION ELECTION CODE**

BE IT ENACTED:

Section One. Findings

A. 2 N.N.C. § 164(16) provides, in part, that an emergency is limited to matters which directly threaten the sovereignty of the Navajo Nation and that such emergency matter must arise due to the pressing public need for such resolution and must be a matter requiring final action by the Council.

B. 1 N.N.C. § 203(A), Diyin Bits' 'áá'déé' Beehaz'áanii declares and teaches it is the right and freedom of the Diné to choose leaders of their choice; leaders who will communicate with the people for guidance; leaders who will use their experience and wisdom to always act in the best interest of the people; and leaders who will also ensure the rights and freedoms of the generations yet to come.

C. 1 N.N.C. § 203(B), Diyin Bits' 'áá'déé' Beehaz'áanii declares and teaches that all leaders chosen by the Diné are to carry out their duties and responsibilities in a moral and legal manner in representing the people and the government; the people's trust and confidence in the leaders and the continued status as a leader are dependent upon adherence to the values and principles of Diné bi beenahazáanii.

D. 1 N.N.C. § 203(C), Diyin Bits' 'áá'déé' Beehaz'áanii declares and teaches that the leaders of the Executive Branch (Alqají Hózhóójí Naat'áah) shall represent the Navajo Nation to other peoples and nations and implement the policies and laws enacted by the legislative branch.

E. 1 N.N.C. § 204(A), Diyin Dine'é Bits' 'áá'déé' Beehaz'áanii declares and teaches that it is the right and freedom of the people that there always be holistic education of the values and principles underlying the purpose of living in balance with all creation, walking in beauty and making a living.

F. 1 N.N.C. § 204(C), Diyin Dine'é Bits' ǎǎdǎǎ' Beehaz'áanii declares and teaches that it is the right and freedom of the people that the sacred Diné language (nihiinéí) be taught and preserved.

G. 1 N.N.C. § 204(F), Diyin Dine'é Bits' ǎǎdǎǎ' Beehaz'áanii declares and teaches that it is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and participate in the growth of the Navajo Nation.

H. 1 N.N.C. § 206(A), Diyin Nohookáá Diné Bi Beehaz'áanii declares and teaches that the knowledge, wisdom, and practices of the people must be developed and exercised in harmony with the values and principles of the Diné Bi Beenahaz'áanii; and in turn, the written laws of the Navajo Nation must be developed and interpreted in harmony with Diné Common Law.

I. 1 N.N.C. § 206(B), Diyin Nohookáá Diné Bi Beehaz'áanii declares and teaches that the values and principles of Diné Common Law must be recognized, respected, honored and trusted as the motivational guidance for the people and their leaders in order to cope with the complexities of the changing world, the need to compete in business to make a living and the establishment and maintenance of decent standards of living.

J. 1 N.N.C. § 206(C), Diyin Nohookáá Diné Bi Beehaz'áanii declares and teaches that the values and principles of Diné Common Law must be used to harness and utilize the unlimited interwoven Diné knowledge, with our absorbed knowledge from other peoples. This knowledge is our tool in exercising and exhibiting self-assurance and self-reliance and in enjoying the beauty of happiness and harmony.

K. 2 N.N.C. § 1004(A) states, no person shall serve as President or as Vice-President of the Navajo Nation unless he/she is an enrolled member of the Navajo Nation, 30 years old or older.

L. 2 N.N.C. § 1004(B) states, no person shall serve as President or Vice-President of the Navajo Nation unless he/she has continually, during the last three years before the time of election been physically present within the Navajo Nation. The "Navajo Nation" is defined at 7 N.N.C. § 254.

M. 11 N.N.C. § 8 provides qualifications for President and Vice-President to include an age requirement at 11 N.N.C. § 8(A)(3), similar to 2 N.N.C. § 1004(A), a membership requirement at 11 N.N.C. § 8(A)(2), similar to 2 N.N.C. § 1004(A) and a residency requirement at 11 N.N.C. § 8(A)(1), similar to 2 N.N.C. § 1004(B); along with other requirements such as being a registered voter, be on the agency census roll of the Bureau of Indian Affairs, fluently speak and understand Navajo and read and write English, not have been convicted of a felony with the last five years, must have unswerving loyalty to

the Navajo Nation and must be competent and capable of upholding the oath of office, among other qualifications.

N. The qualifications for President and Vice-President at 2 N.N.C. § 1004 and 11 N.N.C. § 8 are not in harmony.

O. The Navajo People have continually encouraged young Navajos to “climb the ladder” of education and to return to help the People after getting their education; however, the young Navajos are often turned away leaving them with no alternative but to leave their homeland to support themselves and their families.

P. Navajo history is filled with prominent leaders who have taken a major role in the development of the Navajo Nation and overcame a language barrier in the process, including Navajo Chairman Chee Dodge and Navajo Interpreter Jesus Arviso.

Q. In the past, during the time of Chairman Dodge and Interpreter Arviso, the Navajo language was the primary language; however as time progressed and the Navajo Nation has more interaction outside its boundaries the communication is now in the English language, including our laws, regulations and rules.

R. As recent events have developed it is obvious there is much confusion and misinformation among the Navajo people about the value of their participation in the primary election; about whether their voice through their vote has been heard. At present there is no finality in the electoral process as a result of the dispute over the voice of the People.

S. The Navajo Nation has been at this precipice 25 years prior at which time the Navajo Nation was deeply divided, causing great disharmony to Navajo families and the government; currently there is the potential to completely destabilize the electoral process at various levels which will lead to instability in government, threatening the functions of the executive agencies, law enforcement, fire protection, emergency medical services and other vital services to public safety. There is a pressing public need for the Navajo Nation Council to address this matter.

T. The issue of the ability to speak the Navajo language is an issue that is present not just in the presidential election but also the other elections for public office. It is time to address this issue.

U. The Navajo Nation Election Code lists numerous qualifications for elective office. Included in these requirements are the ability to speak Navajo and English. The Election Code, however, is not consistent as to these requirements. For example, some positions merely require the ability to speak Navajo, while others require speaking Navajo “fluently.” Some positions do not require any Navajo language requirements at all, such as for Chapter Officers and school board members. And, all positions, except for school boards and the Board of Education, require the ability to speak English.

V. These inconsistencies in the Election Code may potentially violate due process rights of candidates, deny the right to the equal protection of the law and infringe upon the fundamental right of voters to select their own leaders. It is necessary that all provisions on any language requirements, Navajo or English, whether speaking or writing it, be amended to permit voters to determine on their own who may be the best qualified candidate.

W. The disharmony created by the current legal action for the Office of President may lead to other legal disputes based on the qualifications for elected office and it is incumbent on the leaders of the Navajo Nation to address the confusion created by the legal dispute.

X. It is permissible to amend qualifications provisions of the Election Code after filing periods are opened and prior to an election. This law may be applied retroactively in the interest of justice and fairness to all candidates meeting the 2014 candidacy filing deadline for the Navajo Nation general elections. *Sandoval v. NEA*, SC-CV-62-12 (Nav. Sup. Ct., decided Feb. 26, 2013).

Y. We are all Navajo people. In abiding by Diné Bi Beenahaz'áanii and our Navajo Bill of Rights we do not want to provide impediments that prevent the Navajo people, both young and old, from exercising their political leadership qualities and other beneficial qualities for the betterment of the Navajo Nation.

Z. The Navajo Nation Council passed legislation in 1990 with regard to language requirements, among other qualifications, for elected office. The Navajo Nation Council now, for the reasons discussed above, determine that it is in the best interest of the Navajo Nation that 11 N.N.C. §8 be amended in the manner described below.

Section Two. Amendments to Title 11 of the Navajo Nation Code

The Navajo Nation hereby amends the Navajo Nation Code, Title 11, §§ 8 et seq., as follows:

**TITLE 11. ELECTIONS
CHAPTER 1. NAVAJO ELECTION CODE OF 1990
SUBCHAPTER 1. GENERAL PROVISIONS**

§8. Qualifications for office

A. Qualifications for President and Vice-President are:

4. Must fluently speak and understand Navajo and read and write English, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders;

B. Qualifications for Delegate to the Navajo Nation Council:

8. Must be able to speak and understand Navajo and/or English, which language proficiency shall be determined by the votes cast by the People in favor of the person upon the right and freedom of the Diné to choose their leaders;

C. Qualifications for Chapter Officers

12. Must be able to speak and understand Navajo and/or English, which language proficiency shall be determined by the votes cast by the People in favor of the person upon the right and freedom of the Diné to choose their leaders;

D. Qualifications for Other Elected Officials:

1. Qualifications for the Land Board Candidates:

f. Must be able to speak the Navajo Language fluently, and to read and write the English language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders.

2. Qualifications for Farm Board Candidates:

c. Must be fluent in the Navajo and English language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders.

3. Qualifications for District Grazing Committee Candidates:

(d). Should be able to read, write, and speak the English language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders;

(e). Must be able to converse fluently in the Navajo language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders;

4. Qualifications for Candidates for School Board:

1. Must be fluent in the Navajo and English language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders;

5. Navajo Nation Board of Education:

f. Must be fluent in the Navajo and English language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders

**TITLE 11. ELECTIONS
CHAPTER 1. NAVAJO ELECTION CODE OF 1990
SUBCHAPTER 17. ELECTION OFFICIALS**

§ 324. Qualifications

E. Must be able to understand and speak Navajo and English and write the English language, which language proficiency shall be determined by the People voting in favor of the person upon the right and freedom of the Diné to choose their leaders.

Section Three. Approval of the Amendments to the Navajo Nation Election Code Act of 2014

The Navajo Nation hereby approves the Amendments to the Navajo Nation Election Code, Title 11, Section 8, Act of 2014.

Section Four. Effective Date

The Act is effective upon its approval pursuant to 2 N.N.C. §221 and shall be in effect for the 2014 Navajo Nation Election and subsequent Navajo Nation elections. This law shall be applied retroactively in the interest of justice and fairness to all candidates meeting the 2014 candidacy filing deadline for the Navajo Nation general elections. *Sandoval v. NEA*, SC-CV-62-12 (Nav. Sup. Ct., decided Feb. 26, 2013).

Section Five. Codification

The Office of Legislative Counsel shall redesignate all subsequent sections of 11 N.N.C. §8 affected by these amendments. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section Six. Saving Clause

Should any provisions of this ordinance 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 portions of this ordinance which are 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 11 in favor and 10 opposed, this 23rd day of October 2014.



LoRenzo Bates, Pro Tem Speaker
Navajo Nation Council

10-24-14

Date

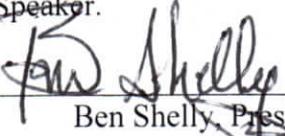
Motion: Honorable Charles Damon, II
Second: Honorable Roscoe Smith

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 _____ 2014.

Ben Shelly, President
Navajo Nation

- 2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of OCT 28 2014 2014, for the reason(s) expressed in the attached letter to the Speaker.



 Ben Shelly, President
Navajo Nation