LEGISLATION NO: _0083-21_  SPONSOR: Pernell Halona

TITLE: An Action Relating to an Emergency and the Navajo Nation Council; Removing Pearline Kirk as Controller of the Navajo Nation

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0083-21

DATE: May 14, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; REMOVING PEARLINE KIRK AS CONTROLLER OF THE NAVAJO NATION

PURPOSE: This resolution, if approved, will remove Pearline Kirk as Controller of the Navajo Nation and request the President and Budget & Finance Committee to quickly appoint an Acting Controller

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0083-21

AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; REMOVING PEARLINE KIRK AS CONTROLLER OF THE NAVAJO NATION

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).
B. Pursuant to 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.”

SECTION TWO. FINDINGS
A. The Navajo Nation Code establishes that “the Controller shall be appointed by the President of the Navajo Nation, at a negotiated salary with the approval of the Navajo Nation Council and shall serve at the pleasure of the Navajo Nation Council.” 12 N.N.C. § 202(B).
B. The Navajo Nation Council voted to confirm Pearline Kirk as the Controller of the Navajo Nation on February 16, 2017. The legislation confirming Ms. Kirk was signed by the Speaker of the Navajo Nation on February 21, 2017. CF-17-17, attached as Exhibit 1.

C. The Navajo Nation Code provides that “the purpose of the Office of the Controller shall be the formulation, implementation, and execution of the financial plans and policies of the Navajo Nation in order that accurate and complete accounts and reports be rendered, the assets of the Navajo Nation be properly protected and modern methods of financial management be implemented.” 12 N.N.C §201(B).

D. The Navajo Nation Code further provides that the Controller is to serve as an official advisor to the Budget and Finance Committee and as such “shall provide appropriate support, advice and counsel on all matters.”  2 N.N.C. § 302.

E. The duties of the Controller include reporting to “the Navajo Nation Council and its committees concerning the financial condition of the Navajo Nation and [to] be solely responsible to the Council and the Budget and Finance Committee concerning the propriety of financial transactions, and compliance with Council or committee directives.” 12 N.N.C. § 203(B).

F. Pursuant to 12 N.N.C. § 202 (B), the Controller serves at the pleasure of the Navajo Nation Council. The Navajo Nation Council no longer desires to retain Ms. Kirk in the position of Controller of the Navajo Nation and finds it to be in the best interest of the Navajo Nation to remove Ms. Kirk from her position as the Controller of the Navajo Nation.

G. The determination by the Navajo Nation Council to immediately remove the Controller and to request the President appoint an Acting Controller constitutes an emergency situation meeting the criteria of 2 N.N.C. § 164 (A)(16) relative to the continuing provision of direct services required as an entitlement under Navajo Nation and federal law.

SECTION THREE. APPROVING THE REMOVAL OF PEARLINE KIRK AS THE CONTROLLER OF THE NAVAJO NATION
The Navajo Nation Council hereby approves the immediate removal of Pearline Kirk as the Controller of the Navajo Nation.

SECTION FOUR. EFFECTIVE DATE

This resolution shall become effective pursuant to 2 N.N.C. §§ 221 (A) and (C).

SECTION FIVE. REQUESTING THE PRESIDENT TO APPOINT AN ACTING CONTROLLER OF THE NAVAJO NATION

A. Pursuant to 12 N.N.C. § 202 (B), the President may appoint an Acting Controller, with the consent of the Budget and Finance Committee, to serve during a vacancy in the Controller position. The Navajo Nation Council hereby requests the President to work with the Budget and Finance Committee to expeditiously appoint an Acting Controller who shall serve until a permanent Controller is confirmed by the Navajo Nation Council.

B. To ensure continuity in the Navajo Nation’s financial procedures and policies, and should the Navajo Nation President delay action in the appointment of an Acting Controller, the Standing Delegation of Authority, attached as Exhibit 2, currently in place in the Office of the Controller is recognized as the authority for an Acting Controller.