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7  
8 **IN THE DISTRICT COURT OF THE NAVAJO NATION**  
**JUDICIAL DISTRICT OF WINDOW ROCK, ARIZONA**

9 HON. PETITIONER CRYSTALYNE  
10 CURLEY,

11 Petitioner,

12 v.

13 PRESIDENT BUU VAN NYGREN,  
OFFICE OF MANAGEMENT AND  
14 BUDGET, and OFFICE OF THE  
CONTROLLER,

15 Respondents,

Case No. WR-CV-112-25, CV-113-25

**PRESIDENT BUU VAN NYGREN'S**  
**1) THIRD SUPPLEMENTAL**  
**ANSWER TO VERIFIED PETITION**  
**FOR PERMANENT INJUNCTION**  
**AND**  
**2) SECOND AMENDED VERIFIED**  
**COUNTERCLAIM FOR**  
**INJUNCTIVE AND DECLARATORY**  
**RELIEF**

16 PRESIDENT BUU VAN NYGREN,

17 Counter-Petitioner,

18 v.

19 SPEAKER CRYSTALYNE CURLEY  
20 and THE NAVAJO NATION COUNCIL,

21 Counter-Respondents,

22 President Buu Van Nygren, in his official capacity as the Chief of the Executive  
23 Branch of the Navajo Nation, 12 N.N.C. § 810(B) and in his official capacity as President  
24 of the Navajo Nation, and Counter-Petitioner Office of the President and Vice President,  
25 respectfully provide this third supplemental answer to the Hon. Petitioner Crystalyne  
26 Curley's Verified Petition for Permanent Injunction (Petition or Pet.) and Second  
27  
28

1 Amended Verified Counterclaim for Injunctive and Declaratory Relief. Any allegation or  
2 part of an allegation in the Petition not expressly admitted in this Response is denied.<sup>1</sup>

3 **I. INTRODUCTION**

4 1. This action arises from a political dispute between the Navajo Nation  
5 Council (the Council or the Legislative Branch) and President Nygren over the amount of  
6 funding provided to the Executive Branch’s business units, including the Office of the  
7 President and Vice President (OPVP), in the Comprehensive Budget for the 2026 fiscal  
8 year (FY2026).

9 2. In June and August 2025, President Nygren requested a budget of \$6.9  
10 million for the Office of President and Vice President for fiscal year 2026, consisting of  
11 \$5.3 million for personnel and \$1.6 million for operations. *See* Pet. Ex. A (Program Budget  
12 Summary, OMB Budget Form 1; Pres. Nygren’s 10/24/25 Response to Application for  
13 Temporary Restraining Order and Preliminary Injunction (TRO/PI Resp.) Ex. 1 (Program  
14 Budget Summary, June 4, 2025 OMB Budget Form 1). On September 4, 2025, the Council  
15 passed Resolution CS-44-25, which provided \$5.5 million for the Office of the President  
16 and Vice President—including, according to the Council, \$5.2 million for personnel “and  
17 nearly \$300,000 for operations.” *See* TRO/PI Resp. Ex. 2 (9/30/25 Speaker Press Release).  
18 In fact, the budget appropriated \$283,574 in operating funds for OPVP. *See* Pres. Nygren’s  
19 10/20/24 Em. Mot. to Modify TRO (Em. Mot. To Modify TRO), Ex. G (showing that for  
20 fiscal year 2026, OPVP received a \$283,574 operating allocation from Council). By  
21 comparison, in FY2025, the Council appropriated \$1,185,834 for OPVP’s operating  
22 budget, and \$3,736,429 for personnel. *Id.*, Ex. F. Council thereby underfunded OPVP’s  
23 operating expenses by over \$900,000 compared to 2025, gravely impacting the ability of  
24 OPVP to fulfill its duties and deliver services to the Navajo People. *Compare id.* Ex. F  
25 *with* Ex. G. Council’s budget also defunded five of Nation’s eleven District Courts, the

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26  
27 <sup>1</sup> Pursuant to Navajo R. Civ. Pro. 9(f), a verified answer is required only in specific  
28 enumerated circumstances, none of which apply here.

1 Office of the Public Defender, and the Office of Navajo Labor Relations, and underfunded  
2 other parts of the Nation’s government. *See* Pet. Ex. D at 1; Pet. Ex. F at 2; Council  
3 Resolution CS-44-25.<sup>2</sup> The remainder of Paragraph 2 of the Petition is denied.

4 3. President Nygren admits that on September 15, 2025, he sent Council a  
5 letter outlining several line-item vetoes to the budget. Pet. Ex. D. He noted that the Council  
6 had more than sufficient funding to fully fund all three branches, including, according to  
7 the Office Management and Budget (OMB), over \$75 million for appropriation. Pet. Ex.  
8 D. at 2. He invited Petitioner to “come together as soon as this week” for a “Leadership  
9 Meeting” to resolve the Branch’s differences and stated that he was prepared to call a  
10 Special Session if needed. Pet. Ex. D. at 2. The remainder of the President’s line-item veto  
11 letter speaks for itself. The remainder of Paragraph 3 of the Petition is denied.

12 4. Council Resolution CS-45-25 and the President’s October 5, 2025 modified  
13 line-item vetoes speak for themselves. *See* Pet. Ex. I. President Nygren admits that the  
14 modified line-item vetoes restored operational funding for the Legislative Branch for the  
15 month of October. The remainder of Paragraph 4 of the Petition is denied.

16 5. Denied.

17 6. Denied.

18 7. Paragraph 7 contains one or more legal conclusions to which no response is  
19 required. To the extent a response is deemed required, President Nygren denies.

20 8. Denied.

21 9. Admitted that President Nygren appointed Mr. McCabe as Interim  
22 Controller on April 17, 2023, and that Mr. McCabe was later confirmed by Council. The  
23 remainder of Paragraph 9 contains legal conclusions to which no response is required. To  
24 the extent a response is deemed required, President Nygren denies.

25  
26 <sup>2</sup> CS-44-25 is too large to attach; it can be found at  
27 <https://dibb.nnols.org/PublicViewBill.aspx?serviceID=64841ded-aba1-43ff-8c85-746892a107db>.  
28

1           10.    President Nygren admits that on or about October 8, 2025, he appointed  
2 Alva Tom as Interim Controller, and President Nygren affirmatively alleges that that  
3 position exists within the Navajo Nation government, as shown, for example, by Mr.  
4 McCabe’s holding that position for several months in 2023 and 2024. President Nygren  
5 admits that the appointment of an Acting Controller requires consent from the Budget and  
6 Finance Committee, and affirmatively alleges that the Committee has not adopted a  
7 resolution consenting or not-consenting to the appointment of Ms. Tom as Acting  
8 Controller. President Nygren denies the remaining allegations in Paragraph 10.

9           11.    The allegations in Paragraph 11 are directed to the actions or alleged actions  
10 of Ms. Tom and involve the Office of the Controller, a separately named Defendant.  
11 Because these allegations are not directed to the President, no response from him is  
12 required. The first sentence of Paragraph 11 contains one or more legal conclusions to  
13 which no response is required. To the extent a response from President Nygren to  
14 Paragraph 11 is deemed required, President Nygren denies.

15           12.    Paragraph 12 contains one or more legal conclusions to which no response  
16 is required. 12 N.N.C. § 202(B) speaks for itself. President Nygren otherwise denies the  
17 allegations in Paragraph 12.

18           13.    Paragraph 13 contains one more legal conclusions and arguments to which  
19 no response is required. To the extent a response is deemed required, President Nygren  
20 denies.

21 **II.    PARTIES**

22           14.    President Nygren admits the allegations in Paragraph 14, except that the  
23 powers and duties of the Speaker are outlined in the Navajo Nation Code, and to the extent  
24 the allegations of Paragraph 14 conflict with the Navajo Nation Code, President denies.  
25 Further denied that Petitioner instituted this litigation “on behalf of the Navajo Nation  
26 Council” “to serve the interests of the Navajo People.”

1           15. President Nygren admits the allegations in Paragraph 15, and affirmatively  
2 alleges that this lawsuit has been directed at him in his official capacity only.

3           16. Admitted.

4           17. Admitted.

5 **III. VENUE AND JURISDICTION**

6           18. Admitted.

7           19. Admitted, subject to the President's jurisdictional and related defenses,  
8 including lack of subject matter jurisdiction, mootness, political question, separation of  
9 powers, Fundamental Law, judicial restraint, and other related defenses described in the  
10 President's TRO/PI Response, Emergency Motion to Modify TRO, Motion to Dismiss  
11 Petitioner's Line Item Veto Claims Due to (1) Mootness, (2) Lack of Irreparable Harm,  
12 and (3) Fundamental Law and Related Doctrines, and Motion to Dismiss Verified Petition  
13 (based on Fundamental Law, Political Question, and Sovereign Immunity).

14           20. The President incorporates his response to Paragraph 19.

15 **IV. PETITIONER'S FACTUAL ALLEGATIONS**

16           21. The allegations in paragraph 21 of the Petition state legal conclusions  
17 regarding 12 N.N.C. § 800 to which no response is required. To the extent a response is  
18 deemed required, President Nygren denies.

19           22. The allegations in paragraph 22 of the Petition state legal conclusions  
20 regarding 2 N.N.C. §§ 285(B)(6) and 1005(C)(6) to which no response is required. To the  
21 extent a response is deemed required, President Nygren denies.

22           23. President Nygren admits that the Budget and Finance Committee began  
23 work on the FY2026 budget in the Spring of 2025, but denies that their work is complete.

24           24. President Nygren denies that BFC followed Navajo law (including  
25 fundamental law) in the FY2026 budget process. The President agrees with Petitioner's  
26 admission that OPVP met with the Committee on April 14, 2025. President Nygren denies  
27 the remaining allegations of Paragraph 24.

1           25.    Denied.

2           26.    Denied.

3           27.    The Fiscal Year 2025 budget for OPVP is set forth in TRO/PI Resp. Ex. F,  
4 which speaks for itself.

5           28.    The relevant budget documents speak for themselves.

6           29.    Denied.

7           30.    Denied. The FY2026 budget request for OPVP was based on personnel and  
8 operational expenses that were clearly and transparently disclosed in materials shared with  
9 the Budget and Finance Committee. *See* Pet. Ex. A. The budgeting process used by the  
10 Budget and Finance Committee heavily relied on a flawed “data-driven formula” devised  
11 by Mr. McCabe that did not differentiate between personnel and operating funds. That  
12 “formula” has resulted in no operational funding, or severe underfunding, for several  
13 Executive Branch business units for FY2026.

14           31.    The President cannot speak for the Budget and Finance Committee and the  
15 Council, and therefore denies the allegations in Paragraph 31.

16           32.    On August 25, 2025—on one day’s notice—the Budget and Finance  
17 Committee invited the Navajo Nation Branch Chiefs, including President Nygren, to  
18 attend an August 26, 2025 “special meeting” “to be present when” the FY2006  
19 Comprehensive Budget “is being acted upon.” Pet. Ex. B. President Nygren was unable  
20 to attend to due to a previously-planned meeting with Sawmill Chapter officials. Pet. Ex.  
21 C at 1. However, the President sent the Committee a written memorandum with comments  
22 and questions. Pet. Ex. C at 1-2. The President urged the Committee to provide personnel  
23 and operating funds for OPVP and Executive Branch divisions, departments, and  
24 programs “to ensure uninterrupted services for the Navajo People.” Pet. Ex. C at 2.  
25 President Nygren wrote: “Without necessary funding for the Executive Branch, our  
26 government will not be able to function properly or to effectively deliver these critical  
27 services. It is our shared obligation as náat’áanii to place the best interests of the Navajo  
28

1 People above all. When we were elected, the Navajo People placed their trust in us to  
2 work with them and for them.” Pet. Ex. C. at 2.

3 33. President Nygren admits that on September 4, 2025, the Navajo Nation  
4 Council passed Resolution CS-44-25 regarding the FY2026 Comprehensive Budget,  
5 which defunded virtually all operating budget items for OPVP, defunded nearly half of  
6 the District Courts of the Judicial Branch, defunded the Office of the Public Defender and  
7 the Office of Navajo Labor Relations, and severely underfunded several other Executive  
8 Branch business units. In contrast, no Legislative Branch business units had zero operating  
9 funds.

10 34. President Nygren admits that the FY2026 Comprehensive Budget  
11 appropriated \$5,529,245 for OPVP—including, according to the Council, \$5.2 million  
12 for personnel “and nearly \$300,000 for operations.” TRO/PI Resp. Ex. 2. Petitioner has  
13 since taken the position that the lion’s share of the amount Council allocated for OPVP  
14 operations in FY2026—\$250,000—can only be issued to a non-profit external entity  
15 named 4 Corners K-9 Search and Rescue. *See* Pet. ¶ 143. The remainder of the  
16 appropriated amount, \$33,574, falls far short of OPVP’s requested \$1.6 million in  
17 operational funding for FY2026—let alone the nearly \$1.2 million that Council  
18 appropriated for FY2025. Council’s FY2026 budget essentially zeroed-out all of the  
19 President’s requested operational funding categories, including travel expenses (3000),  
20 meeting expenses (3500), supplies (4000), lease and rental (5000), communications and  
21 utilities (5500), repairs and maintenance (6000), contractual services (6500) (except for  
22 the K-9 amount), and special transactions (7000). *Compare* Pet. Ex. A with Pres.  
23 Nygren’s Em. Mot. to Modify TRO, Exs. F and G. The Office of the President and Vice  
24 President cannot function as a governing unit of the Navajo People without adequate  
25 operating funds, which allow the President and his team to travel to meet with  
26 constituents, public officials, and others in chapters across the Nation to address vital  
27 needs; use their computers or the internet to conduct essential duties of their office; and  
28

1 even purchase office supplies. Council’s budget also defunded five of Nation’s eleven  
2 District Courts, the Office of the Public Defender, and the Office of Navajo Labor  
3 Relations, and underfunded other parts of the Nation’s government. *See* Pet. Ex. D at 1;  
4 Pet. Ex. F at 2; *see also n.1, supra*.

5 35. Denied. Council approved nearly zero operating funds for OPVP for Fiscal  
6 Year 2026, as described above.

7 36. President Nygren admits that on September 15, 2025, he issued a letter  
8 exercising line-item veto authority to veto specific amounts within the FY2026 Budget  
9 (the September Veto Letter). The letter speaks for itself. *See* Pet. Ex. D.

10 37. The September Veto Letter speaks for itself.

11 38. Admitted.

12 39. Denied.

13 40. The President does not know whether the Council’s omission of funding  
14 for nearly half of the District Courts in the Judicial Branch—or its omission of funding  
15 or underfunding of numerous other components of the Navajo Nation’s government—  
16 “was inadvertent,” and the President therefore denies the allegations in Paragraph 40.

17 41. President Nygren admits that the Council restored funding to the five  
18 District Courts by passing a budget amendment on September 26, 2025, after the  
19 President had identified this budgeting misstep and called upon the Council to correct it.  
20 The Council’s budget amendment did not, however, restore operational funding for the  
21 Office of the Public Defender, the Office of Navajo Labor Relations, and OPVP, and it  
22 left unremedied numerous other budget discrepancies or errors.

23 42. Denied.

24 43. Denied.

25 44. Denied.

26 45. Denied.

27

28

1           46. The September Veto Letter speaks for itself. The President denies the  
2 remaining allegations in Paragraph 46.

3           47. Denied. In her press release dated September 16, 2025 (Pet. Ex. E),  
4 Petitioner presented a lopsided view of the parties' budget dispute, and failed to mention  
5 that the Council's FY2026 Comprehensive Budget contained essentially zero funding for  
6 the operations of several Executive Branch business units, including OPVP.

7           48. President Nygren admits that the Council held a Special Session on  
8 September 25, 2025 and passed Resolution CS-45-25, a budget amendment that  
9 appropriated funding for the Judicial Branch that was missing in CS-44-25, restored  
10 funding for the Legislative Branch that had been vetoed in the September LIVs, continued  
11 to defund nearly all operational budget items for OPVP, the Office of the Public Defender,  
12 and the Office of Navajo Labor Relations, and continued to underfund several other  
13 Executive Branch business units.

14           49. The President visited Council Chambers on the night of September 25,  
15 2025, and stayed for nearly five hours, past midnight, in an effort to listen and respond to  
16 the Council's concerns about the Executive Branch's funding requests, but the Council  
17 refused to fund these requests.

18           50. An audio/video recording of the September 25-26, 2025 meeting discussed  
19 in Paragraph 50, which remains available on YouTube, speaks for itself.

20           51. Admitted.

21           52. Admitted.

22           53. President Nygren lacks information or knowledge sufficient to admit or  
23 deny the allegations in Paragraph 53, and on that basis denies the allegations.

24           54. Petitioner still has not honored President Nygren's requests to hold a  
25 Special Session to pass legislation to resolve the political dispute giving rise to this action,  
26 and furthermore, Petitioner has the authority to unilaterally call a special session.  
27 President Nygren denies the remaining allegations in paragraph 54.

28

1           55. President Nygren’s press release on September 30, 2025, “Budget Ball Is  
2 in Council’s Court,” speaks for itself. Pet. Ex. F.

3           56. President Nygren admits that he continued to advocate for passage of  
4 Emergency Legislation No. 0224-25 so that OPVP and other Executive Branch units  
5 could receive funding to operate in FY2026. Except as expressly admitted, President  
6 Nygren denies the allegations in Paragraph 56.

7           57. Denied.

8           58. Denied.

9           59. Admitted.

10          60. Responding to paragraphs 60-98 of the Petition, President Nygren states  
11 that the September Line Item Vetoes (LIVs) speak for themselves, that the Council had  
12 multiple tools at its disposal to ensure funding for itself during the brief period of October  
13 1 to October 6, 2025 when these LIVs took effect, and that the Council has deprived  
14 OPVP—and other Executive Branch business units—of substantially similar operational  
15 funding for FY2026. Contrary to Petitioner’s assertion that the line-item vetoes, if left in  
16 effect, will prevent the Legislature from continuing its “customary and expected  
17 operations” and “fulfilling its duties” (Pet. ¶ 4), the Legislature can at any time (1) pass  
18 legislation to fully fund all three Branches, ending the current budget dispute, (2) agree  
19 with President Nygren’s calls to hold a Special Session, (3) utilize its power to enact  
20 budget revision requests, effective on a 2/3 committee vote, to move previously allocated  
21 funds into operational funding, or (4) enact budget revision requests, effective on a 2/3  
22 vote of the full Council, to move previously allocated personnel funds into operational  
23 funding. *See, e.g.*, 2 N.N.C. § 162(B) (“Special meetings of the Navajo Nation Council  
24 may be called . . . by the Speaker of the Navajo Nation Council acting on . . . request by  
25 written message from the President.”); 2 N.N.C. § 185(A) (Council committees “may  
26 reallocate funds appropriated by the Navajo Nation Council to the committees . . . and to  
27 divisions, departments and programs over which the committees have oversight authority  
28

1 . . . by two-thirds (2/3) vote of the full membership of the committee”); CJY-66-23 § 6 (a  
2 2/3 vote of the full Council can waive the moratorium on transferring personnel funds  
3 into operational funding categories).<sup>3</sup> To the extent a further response is required, the  
4 allegations in paragraphs 60-98 are denied.

5 61. The President incorporates his above response to paragraph 60.

6 62. The President incorporates his above response to paragraph 60.

7 63. The President incorporates his above response to paragraph 60.

8 64. The President incorporates his above response to paragraph 60.

9 65. The President incorporates his above response to paragraph 60.

10 66. The President incorporates his above response to paragraph 60.

11 67. The President incorporates his above response to paragraph 60.

12 68. The President incorporates his above response to paragraph 60.

13 69. The President incorporates his above response to paragraph 60.

14 70. The President incorporates his above response to paragraph 60.

15 71. The President incorporates his above response to paragraph 60.

16 72. The President incorporates his above response to paragraph 60.

17 73. The President incorporates his above response to paragraph 60.

18 74. The President incorporates his above response to paragraph 60.

19 75. The President incorporates his above response to paragraph 60.

20 76. The President incorporates his above response to paragraph 60.

21 77. The President incorporates his above response to paragraph 60.

22 78. The President incorporates his above response to paragraph 60.

23 79. The President incorporates his above response to paragraph 60.

24 80. The President incorporates his above response to paragraph 60.

25 81. The President incorporates his above response to paragraph 60.

26 <sup>3</sup> CJY-66-23 is available at  
27 [https://dibb.nnols.org/PublicViewBill.aspx?serviceID=d13a82d2-581a-4bb5-a34a-](https://dibb.nnols.org/PublicViewBill.aspx?serviceID=d13a82d2-581a-4bb5-a34a-db4619fd9bf9)  
28 [db4619fd9bf9](https://dibb.nnols.org/PublicViewBill.aspx?serviceID=d13a82d2-581a-4bb5-a34a-db4619fd9bf9) (last visited 11/17/25).

- 1           82.    The President incorporates his above response to paragraph 60.
- 2           83.    The President incorporates his above response to paragraph 60.
- 3           84.    The President incorporates his above response to paragraph 60.
- 4           85.    The President incorporates his above response to paragraph 60.
- 5           86.    The President incorporates his above response to paragraph 60.
- 6           87.    The President incorporates his above response to paragraph 60.
- 7           88.    The President incorporates his above response to paragraph 60.
- 8           89.    The President incorporates his above response to paragraph 60.
- 9           90.    The President incorporates his above response to paragraph 60.
- 10          91.    The President incorporates his above response to paragraph 60.
- 11          92.    The President incorporates his above response to paragraph 60.
- 12          93.    The President incorporates his above response to paragraph 60.
- 13          94.    The President incorporates his above response to paragraph 60.
- 14          95.    The President incorporates his above response to paragraph 60.
- 15          96.    The President incorporates his above response to paragraph 60.
- 16          97.    The President incorporates his above response to paragraph 60.
- 17          98.    The President incorporates his above response to paragraph 60.
- 18          99.    The Council passed Resolution CS-45-25 on September 30, 2025, as  
19 discussed above. CS-45-25 speaks for itself. As before, the Council’s budget legislation  
20 contained virtually no operational funding for OPVP and other units of the Executive  
21 Branch—and therefore perpetuated the lack of balance and harmony embodied by the  
22 FY2026 Comprehensive Budget in CS-44-25.

23           100.   Paragraph 100 is a conclusion of law to which no response is required.

24           101.   President Nygren issued a second line-item veto letter on October 5, 2025  
25 (the October Veto Letter). Pet. Ex. I. The October Veto Letter speaks for itself. It restored  
26 over \$500,000 in operational funding for the Legislative Branch, and provided funds for  
27  
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1 Legislative District Assistants, and enabled the Legislative Branch to continue operating  
2 for the month of October, as Petitioner admits. Pet. ¶¶ 103-104.

3 102. The October Veto Letter speaks for itself. The President denies the  
4 remaining allegations in Paragraph 102.

5 103. President Nygren admits that the October Veto Letter resulted in the  
6 restoration of nearly \$500,000 in operation funding for the Legislative Branch.

7 104. The October Veto Letter speaks for itself. The President denies the  
8 remaining allegations in Paragraph 104.

9 105. The October Veto Letter speaks for itself. The President denies the  
10 remaining allegations in Paragraph 105.

11 106. Denied.

12 107. Paragraph 107 reflects an effort by Petitioner to evade responsibility for  
13 many budgeting errors reflected in CS-44-25, including the Council's failure to fund the  
14 operations of the Office of the Public Defender, the Office of Navajo Labor Relations,  
15 nearly half of the District Courts of the Judicial Branch, OPVP, and other units of the  
16 Navajo government. To date, while the Council has restored funding to the Judicial  
17 branch, it has failed to rectify the lion's share of its budgeting errors.

18 108. The September Veto Letter speaks for itself. President Nygren denies the  
19 remaining allegations in Paragraph 108.

20 109. Denied. CS-44-25 and CS-45-25 provide nearly zero funding for OPVP's  
21 FY2026 operational expenses.

22 110. Denied.

23 111. Denied.

24 112. President Nygren lacks sufficient information or knowledge to admit or  
25 deny the allegations in Paragraph 112, and on that basis denies the allegations.

26 113. Denied.

27 114. Denied.

28

1           115. Denied. The October Veto Letter speaks for itself.

2           116. Denied.

3           117. The allegations in Paragraph 117 are purely argumentative and do not  
4 require a response in this pleading. To the extent a response is required, the President  
5 denies those allegations.

6           118. The allegations in Paragraph 118 are purely argumentative and do not  
7 require a response in this pleading. To the extent a response is required, the President  
8 denies those allegations.

9           119. The allegations in Paragraph 119 reflect legal conclusions to which no  
10 response is required. President Nygren agrees that Fundamental Law, the Navajo Nation  
11 Code, and the Title 2 Amendments all make clear that the Navajo People are governed by  
12 separate and independent branches that are meant to operate in harmony and balance,  
13 subject to a system of checks and balances that ensures that no single branch will  
14 consolidate too much power over any other branch. President Nygren affirmatively  
15 alleges that, by essentially zeroing-out all operational funding for OPVP and other  
16 Executive Branch business units for FY2026, the Legislative Branch has upset that  
17 balance and attempted to assert itself as the preeminent branch of government. This is a  
18 violation of Fundamental Law, the separation of powers, the Navajo Code, and the Title  
19 II Amendments.

20           120. The allegations in Paragraph 120 state legal conclusions to which no  
21 response is required. These allegations also ignore the 2009 Initiative, which empowers  
22 the President to line-item specific budget items in the Comprehensive Budget determined  
23 by the Council, and provides the Counsel shall not override the President's exercise of  
24 that power.

25           121. The allegations in Paragraph 121 misstate the history and facts of the  
26 parties' dispute—and falsely portray the President's exercise of line-item veto authority  
27 as an attempt "to unilaterally determine how to appropriate funds for his office." The  
28

1 President's line item vetoes were necessitated by the Council's repeated failures to  
2 provide virtually any operational funding for OPVP for FY2026, by the Council's other  
3 budgetary errors, and by Petitioner's and the Council's failure to engage in meaningful  
4 attempts to talk things out and reach consensus and compromise. The Council, not the  
5 President, has unilaterally deprived OPVP of the operating funds it needs to function. The  
6 remainder of Paragraph 121 states legal conclusions and arguments to which no response  
7 is required. Except as expressly admitted, President Nygren denies the allegations in  
8 Paragraph 121.

9       122. The allegations in Paragraph 122 state legal conclusions and arguments to  
10 which no response is required.

11       123. Admitted.

12       124. Admitted.

13       125. Paragraph 125 contains one or more legal conclusions to which no response  
14 is required. To the extent a response is deemed required, President Nygren denies.

15       126. The referenced document speaks for itself.

16       127. Paragraph 127 contains one or more legal conclusions to which no response  
17 is required. To the extent a response is deemed required, President Nygren responds that  
18 Mr. McCabe's resignation was effective immediately. President Nygren also responds  
19 that the Council did not need to "accept" Mr. McCabe's resignation for it to be effective,  
20 and that claiming otherwise is contrary to Navajo fundamental law. President Nygren  
21 further responds Mr. McCabe's resignation was effective without acceptance because of  
22 the principle of Navajo fundamental law that words are sacred. President Nygren denies  
23 that the Council had the power to "confirm" Mr. McCabe's status after he had resigned.

24       128. Paragraph 128 contains one or more legal conclusions to which no response  
25 is required. To the extent a response is deemed required, President Nygren denies.

26       129. Denied.

27  
28

1           130. Paragraph 130 contains one or more legal conclusions to which no response  
2 is required. To the extent a response is deemed required, President Nygren responds that  
3 Mr. McCabe voluntarily resigned, and was not “converted” by President Nygren.  
4           131. The referenced document speaks for itself.  
5           132. Denied.  
6           133. Denied.  
7           134. Denied.  
8           135. The referenced document speaks for itself. Additionally, President Nygren  
9 states that Mr. McCabe resigned, and Council did not have the power to “reaffirm” the  
10 employment status of a person who had resigned.  
11           136. The referenced document speaks for itself.  
12           137. Paragraph 137 contains one or more legal conclusions and/or misstatements  
13 of the law – namely, that President Nygren is required to seek consent before appointing  
14 a Controller or Interim Controller. This is a misrepresentation of the law. To the extent a  
15 response is deemed required, President Nygren denies.  
16           138. See response to paragraph 137.  
17           139. Denied. The Navajo Nation Council has recognized the position of Interim  
18 Controller.  
19           140. Paragraph 140 contains a description of the subjective belief of Petitioner,  
20 to which no response is required. To the extent a response is deemed required, President  
21 Nygren denies.  
22           141. Admitted that President Nygren lawfully appointed Alva Tom as Interim  
23 Controller.  
24           142. Denied.  
25           143. Denied.  
26           144. Denied.  
27  
28

1           145. Paragraph 145 contains one or more unsupported anonymous hearsay  
2 statements. To the extent a response is deemed required, President Nygren lacks sufficient  
3 information to form a response.

4           146. Denied that President Nygren “falsely” appointed the Interim Controller.  
5 As to the remainder, the document speaks for itself.

6           147. Paragraph 147 consists of conclusions of law and arguments to which no  
7 response is required. To the extent a response is deemed required, President Nygren  
8 denies the allegations in Paragraph 147.

9           148. Paragraph 148 consists of conclusions of law and arguments to which no  
10 response is required. To the extent a response is deemed required, President Nygren  
11 denies the allegations in Paragraph 148.

12 **V. PETITIONER’S FIRST CAUSE OF ACTION.**

13           149. Admitted.

14           150. Paragraph 150 contains an isolated quote from a Navajo Supreme Court  
15 opinion. The entirety of that opinion, *Shirley v. Morgan*, 9 Nav. R. 325 (Nav. Sup. Ct.  
16 2010), speaks for itself.

17           151. See response to Paragraph 150.

18           152. Paragraph 152 consists of conclusions of law and arguments to which no  
19 response is required. To the extent a response is deemed required, President Nygren  
20 denies the allegations.

21           153. Paragraph 153 consists of conclusions of law and arguments to which no  
22 response is required. To the extent a response is deemed required, President Nygren  
23 denies the allegations.

24           154. Denied.

25           155. Denied.

1           156. Nav. R. Civ. P. 57 speaks for itself. President Nygren denies that Rule 57  
2 should be used to issue the declaratory relief, or any relief, that Petitioner seeks here.

3           157. President Nygren denies that Petitioner is entitled to the declaratory relief  
4 set forth in Paragraph 157, or any relief in this action.

5  
6 **VI. PETITIONER'S SECOND CAUSE OF ACTION**

7           158. Denied.

8           159. Denied.

9           160. Paragraph 160 states legal conclusions to which no response is required. To  
10 the extent a response is required, President Nygren denies that Petitioner is entitled to  
11 permanent injunctive relief, or any relief, in this action.

12           161. President Nygren denies that Petitioner is entitled to the injunctive relief set  
13 forth in Paragraph 161, or any relief in this action.

14           162. The allegations in Paragraph 162 are directed at OMB and OOC, not  
15 President Nygren; accordingly, no response from President Nygren is required. To the  
16 extent a response is required, President Nygren denies the allegations and denies that  
17 Petitioner is entitled to the injunctive relief requested in Paragraph 162, or any relief in  
18 this action.

19           163. The allegations in Paragraph 163 are directed at OMB and OOC, not  
20 President Nygren; accordingly, no response from President Nygren is required. To the  
21 extent a response is required, President Nygren denies the allegations and denies that  
22 Petitioner is entitled to the injunctive relief requested in Paragraph 163, or any relief in  
23 this action.

24 **VII. PETITIONER'S THIRD CAUSE OF ACTION.**

25           164. Admitted.

26           165. 12 N.N.C. §§ 201-203 speak for themselves.

27           166. 12 N.N.C. § 202(B) speaks for itself.  
28

1 167. 12 N.N.C. § 202(B) speaks for itself.

2 168. 12 N.N.C. §§ 202(B) and 374(B)(16) speak for themselves.

3 169. The allegations in Paragraph 169 state legal conclusions and arguments to  
4 which no response is required. To the extent a response is required, President Nygren  
5 denies the allegations.

6 170. Nav. R. Civ. P. 57 speaks for itself. President Nygren denies that Rule 57  
7 should be used to issue the declaratory relief, or any relief, that Petitioner seeks here.

8 171. President Nygren denies that Petitioner is entitled to the declaratory relief  
9 set forth in Paragraph 157, or any relief in this action.

10 **VIII. PETITIONER'S FOURTH CAUSE OF ACTION**

11 172. Denied.

12 173. Paragraph 173 states legal conclusions to which no response is required. To  
13 the extent a response is required, President Nygren denies that Petitioner is entitled to  
14 permanent injunctive relief, or any relief, in this action.

15 174. The allegations in Paragraph 174 are directed at OMB and OOC, not  
16 President Nygren; accordingly, no response from President Nygren is required. To the  
17 extent a response is required, President Nygren denies the allegations and denies that  
18 Petitioner is entitled to the injunctive relief requested in Paragraph 174, or any relief in  
19 this action.

20 **IX. GENERAL DENIAL**

21 175. President Nygren denies each and every allegation not specifically  
22 admitted.

23 **XI. AFFIRMATIVE DEFENSES**

24 1. The Petition fails to state a claim upon which relief can be granted.

25 2. Petitioner's claims for injunctive relief are barred in whole or in part by the  
26 equitable doctrine of unclean hands, because the Line Item Vetoes were necessitated by  
27

28

1 the Council’s repeated votes to defund the operations budgets for the Office of the  
2 President and Vice President, and to defund or underfund several other Executive Branch  
3 business units.

4 3. Petitioner’s claims are barred in whole or in part by the doctrine of  
5 sovereign immunity.

6 4. Petitioner’s claims are barred in whole or in part by doctrines of mootness,  
7 ripeness, judicial restraint, the political question doctrine, participatory democracy, and  
8 Fundamental Law.

9 5. Petitioner’s claims are barred in whole or in part by the separation of powers  
10 principles embodied by Navajo Fundamental Law.

11 **XII. PRAYER FOR RELIEF**

12 Wherefore, President Nygren respectfully that this Court enter judgment:

- 13 1. Denying Petitioner’s requests for relief  
14 2. Granting such other and further relief as the Court may deem just and  
15 proper.  
16

17 **COUNTERCLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF**

18 **I. INTRODUCTION**

19 1. This Counterclaim presents important questions regarding 11 N.N.C.  
20 240(A) and legislation recently introduced by Crystalyne Curley and the Navajo Nation  
21 Council (Counter-Defendants) and presents facts which are not subject to genuine  
22 dispute.  
23

24 **Legislation No. 0263-25**

25 2. On the evening of Friday, November 21, 2025, at or around 7:50p.m., the  
26 Navajo Nation Office of Legislative Services Public Reports “DIBB” website indicated  
27 the addition of Legislation No. 0263-25, titled “An Action Relating to the Naabik’iyáti’  
28

1 Committee and Navajo Nation Council; Approving the Removal of Navajo Nation  
2 President Dr. Buu Van Nygren and Vice-President Richelle Montoya; Specifying the  
3 Grounds for Removal Pursuant to the Laws of the Navajo Nation,” (the Proposed  
4 Resolution), further indicating that the sponsor of the litigation is Crystalyne Curley. *See*  
5 “Legislation Details, Legislation No. 0263-25,” available at  
6 [http://dibb.nnols.org/PublicViewBill.aspx?serviceID=da867090-1497-4fe7-b16a-](http://dibb.nnols.org/PublicViewBill.aspx?serviceID=da867090-1497-4fe7-b16a-2375fa8bca7e)  
7 [2375fa8bca7e.](http://dibb.nnols.org/PublicViewBill.aspx?serviceID=da867090-1497-4fe7-b16a-2375fa8bca7e)

8 3. The Proposed Legislation and Defendants’ attempt to use 11 N.N.C. 240(A)  
9 to remove President Nygren are legally flawed and violate Navajo Fundamental law, the  
10 Navajo Nation Code, and the Navajo Supreme Court’s ruling in *Shirley v. Morgan*.

11 **II. PARTIES**

12 4. President Buu Van Nygren is the duly-elected President of the Navajo  
13 Nation.

14 5. Crystalyne Curley is the current Speaker of the Navajo Nation Council.

15 6. The Navajo Nation Council is established by 2 N.N.C. § 101, which states  
16 “there is hereby established the Legislative Branch of the Navajo Nation government. The  
17 Legislative Branch shall consist of the Navajo Nation Council and any entity established  
18 under the Navajo Nation Council.” Pursuant to 2 N.N.C. § 161, “all regularly scheduled  
19 or special sessions of the Navajo Nation Council shall be held at the Navajo Nation  
20 Council Chambers located at Window Rock, Navajo Nation....”

21  
22 **III. VENUE AND JURISDICTION**

23 7. Venue is proper because the events giving rise to this action occurred in  
24 Window Rock, Arizona, within the territorial boundaries of the Navajo Nation.

25 8. Jurisdiction is proper because the District Courts of the Navajo Nation are  
26 courts of general jurisdiction with original jurisdiction over all civil actions arising from  
27  
28

1 actions and injuries occurring within the territorial jurisdiction of the Navajo Nation. 4  
2 N.N.C. § 253.

3 9. Jurisdiction is proper because the District Courts of the Navajo Nation have  
4 the power to issue any writs or orders necessary and proper to the complete exercise of  
5 their jurisdiction. 7 N.N.C.

6 **IV. GENERAL ALLEGATIONS**

7 **Legislation No. 0263-25**

8 10. On the evening of Friday, November 21, 2025, at or around 7:50p.m., the  
9 Navajo Nation Office of Legislative Services Public Reports “DIBB” website indicated  
10 the addition of Legislation No. 0263-25, titled “An Action Relating to the Naabik’íyáti’  
11 Committee and Navajo Nation Council; Approving the Removal of Navajo Nation  
12 President Dr. Buu Van Nygren and Vice-President Richelle Montoya; Specifying the  
13 Grounds for Removal Pursuant to the Laws of the Navajo Nation,” (the Proposed  
14 Resolution), further indicating that the sponsor of the litigation is Crystalyne Curley. *See*  
15 “Legislation Details, Legislation No. 0263-25,” *available at*  
16 [http://dibb.nnols.org/PublicViewBill.aspx?serviceID=da867090-1497-4fe7-b16a-](http://dibb.nnols.org/PublicViewBill.aspx?serviceID=da867090-1497-4fe7-b16a-2375fa8bca7e)  
17 [2375fa8bca7e](http://dibb.nnols.org/PublicViewBill.aspx?serviceID=da867090-1497-4fe7-b16a-2375fa8bca7e). The first 12 pages of the Proposed Resolution are attached hereto as  
18 Exhibit A.

19 11. The Legislative Summary Sheet for the Proposed Resolution states that  
20 “[t]he purpose of [the] [P]roposed [R]esolution is to remove the President and Vice President  
21 of the Navajo Nation, Buu Nygren and Richelle Montoya for violations of Navajo Laws.”  
22 *See* Ex. A at 1.

23 12. The Legislative Summary Sheet for the Proposed Resolution states that the  
24 “Final Authority” is the “Navajo Nation Council.” *See* Ex. A at 1.

25 13. The Legislative Summary Sheet for the Proposed Resolution states that the  
26 “Vote Requirement” is “2/3 majority vote.” *See* Ex. A at 1.

27  
28

1           14.    The Proposed Resolution states that it is “eligible for action” on “11-27-  
2 25.” *See* Ex. A at 2.

3           15.    The Proposed Resolution states that it shall “adhere to [a] five (5) day  
4 comment period....” Ex. A at 7.

5           16.    The Proposed Resolution includes a Section Eight titled “Approving the  
6 Removal of Navajo Nation President.” Ex. A at 11-12.

7           17.    Section Eight of the Proposed Resolution states:

8           A. The Navajo Nation Council finds that Dr. Buu Van Nygren failed to uphold  
the Oath of Office as the President of the Navajo Nation.

9           B. The Navajo Nation Council finds it in the best interest of the Navajo Nation to  
10 remove Dr. Buu Van Nygren as the Navajo Nation President for cause, as  
detailed above.

11          C. The Navajo Nation Council approves and authorizes the removal of the Dr.  
Buu Van Nygren as the President of the Navajo Nation.

12          D. The Navajo Nation Council hereby removes Dr. Buu Van Nygren from office  
13 as the President of the Navajo Nation.

14 Ex. A at 11-12.

15           18.    The Proposed Resolution includes a Section Nine titled “Approving the  
16 Removal of Navajo Nation Vice-President.” Ex. A at 12.

17           19.    Section Eight of the Proposed Resolution states:

18           E. The Navajo Nation Council finds that Richelle Montoya failed to uphold the  
Oath of Office as the Vice-President of the Navajo Nation.

19           F. The Navajo Nation Council finds it in the best interest of the Navajo Nation to  
20 remove Richelle Montoya as the Navajo Nation Vice-President for cause, as  
detailed above.

21           G. The Navajo Nation Council approves and authorizes the removal of the  
Richelle Montoya as the Vice-President of the Navajo Nation.

22           H. The Navajo Nation Council hereby removes Richelle Montoya from office as  
the Vice-President of the Navajo Nation.

23 Ex. A at 12.

24           20.    The Proposed Resolution includes a Section Ten titled “Effective Date.”  
25 Ex. A at 12.

1           21. Section Ten of the Proposed Resolution states: “This resolution shall  
2 become effective pursuant to 2 N.N.C. §§ 221(A) and (C).” Ex. A at 12.

3           22. 2 N.N.C. §§ 221 reads:

4                   A. The Speaker of the Navajo Nation Council or Speaker Pro Tem shall  
5 certify the adoption of any resolution of the Navajo Nation Council by  
6 signing the same after it is engrossed by the Executive Director of the  
7 Office of Legislative Services or his or her designee. Adopted resolutions  
8 shall be filed with the Central Records Department of the Navajo Nation  
9 and the Legislative Counsel shall immediately arrange for codification  
10 thereof.

11                   B. All resolutions that enact new Navajo law or amend existing Navajo law  
12 and are adopted by the Navajo Nation Council shall become effective on  
13 the day the President of the Navajo Nation signs it into law or the Navajo  
14 Nation Council takes action to override the President's veto, unless the  
15 Navajo Nation Council specifically authorizes and directs a different  
16 effective date.

17                   C. All resolutions that do not enact new Navajo law, amend existing Navajo  
18 law or make a policy statement and are adopted by the Navajo Nation  
19 Council shall become effective upon the certification by the Speaker or  
20 Speaker Pro Tem of the Navajo Nation Council. Resolutions that adopt  
21 internal policies and procedures of the Navajo Nation Council shall become  
22 effective upon certification by the Speaker or Speaker Pro Tem.

23           23. The Proposed Resolution includes a Section Eleven titled “Authorizing  
24 Succession Pursuant to 2 N.N.C. § 1006.” Ex. A at 12.

25           24. Section Eleven of the Proposed Resolution states: “Succession of the  
26 Navajo Nation Office of the President and Vice-President shall be executed in accordance  
27 with 2 N.N.C. § 1006.” Ex. A at 12.

28           25. 2 N.N.C. § 1006 states in relevant part: “If a vacancy should occur in the  
Office of the President and Vice-President of the Navajo Nation, the Speaker of the  
Navajo Nation Council shall serve as President of the Navajo Nation until a special  
election is held. Such special election shall be called by the Navajo Board of Election  
Supervisors pursuant to the provisions of the Navajo Election Code. Service by the  
Speaker as the President shall not create a vacancy in the Office of the Speaker.”

- 1           26.    The Proposed Resolution is legally flawed.
- 2           27.    The Proposed Resolution violates Navajo fundamental and organic law,  
3 including due process, participatory democracy, and separation of powers.
- 4           28.    The Proposed Resolution cites “Findings” which are legally flawed or are  
5 merely accusations which have not been proven in any forum.
- 6           29.    The Proposed Resolution violates Title 2 of the Navajo Nation Code.
- 7           30.    The Proposed Resolution is barred by the Navajo Nation Code
- 8           31.    The Proposed Resolution directly violates the principles set forth by the  
9 Navajo Supreme Court in *Shirley v. Nygren*.
- 10          32.    The Proposed Resolution purports to seek removal of President Nygren  
11 pursuant to 11 N.N.C. 240(A).
- 12          33.    11 N.N.C. 240(A) cannot be used to seek removal of the President of the  
13 Navajo Nation pursuant to *Shirley v. Morgan*.
- 14          34.    Using 11 N.N.C. 240(A) to seek removal of the President of the Navajo  
15 Nation violates Navajo law and Navajo fundamental law, including but not limited to the  
16 concepts of separation of powers, participatory democracy, and due process
- 17          35.    Using 11 N.N.C. 240(A) to seek removal of the President of the Navajo  
18 Nation violates Title 2 of the Navajo Nation Code

19

20 **Council Resolutions CJA-07-26 and CJA-09-26**

21          36.    On January 29, 2026, the Navajo Nation Council passed CJA-07-26 by a  
22 vote of 18 in favor and 2 opposed, and Speaker Crystalyne Curley certified the legislation  
23 on February 9, 2026. The express purpose of the statute is to “amend[ ] Title 2 of the  
24  
25  
26  
27  
28

1 Navajo Nation Code to amend the powers and duties of the Office of the President and  
2 Vice President.” CJA-07-26 at 1.<sup>4</sup>

3 37. On January 29, 2026, the Council passed CJA-09-26 by a vote of 20 in favor  
4 and 0 opposed, and Speaker Curley certified the legislation on February 9, 2026. CJA-  
5 09-26 at 7. CJA-09-26 alters the composition of the current Navajo Board of Education,  
6 which currently consist of 5 elected members and 6 Presidentially-appointed members,  
7 by eliminating all of the Presidentially appointed positions. CJA-09-26, amending 10  
8 N.N.C. § 106(B).<sup>5</sup>

9 38. The Executive Branch has 20 appointees serving as Division or Executive  
10 Directors and as other high-level officers, including the Attorney General, the Deputy  
11 Attorney General, and the Controller. At present, many of these appointees serve in an  
12 “Acting” capacity, meaning they have not been confirmed by the Council. CJA-07-26  
13 changes Title II to curtail the powers of these Presidential appointees or bring them under  
14 the Council’s (rather than the President’s) management and control.

15 39. The legislation restricts the powers of a nominee who serves in an “acting”  
16 capacity pending confirmation.

17  
18  
19  
20 <sup>4</sup> CJA-07-26, “An action Relating to the Law and Order Committee, the Naabik’iyáti’  
21 Committee, and the Navajo Nation Council; Amending Title 2 of the Navajo Nation Code  
22 to amend the Powers and Duties of the Office of the President and Vice President,” is  
23 available at  
[https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:a02a9b20-ae0c-4ca8-b581-  
e00d17cceacc](https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:a02a9b20-ae0c-4ca8-b581-e00d17cceacc). A copy is attached as Exhibit A to President Nygren’s Emergency Motion  
for Temporary Restraining Order, filed concurrently herewith on February 13, 2026.

24 <sup>5</sup> CJA-09-26, “An action relating to Health, Education and Human Services, Law and  
25 Order, Naabik’iyáti’ Committees and the Navajo Nation Council; Amending the Navajo  
26 Nation Code, Title 10, Chapter 1, Subchapter 2, Section 106, to reduce the number of  
27 Navajo Nation Board of Education Members,” is available at  
[https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:d4405c59-470e-4d48-970a-  
4615b33d658d](https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:d4405c59-470e-4d48-970a-4615b33d658d). A copy is attached as Exhibit B to President Nygren’s Emergency Motion  
for Temporary Restraining Order, filed concurrently herewith on February 13, 2026.

1           40. The legislation would essentially eliminate travel and other expense  
2 funding for nonconfirmed Presidential appointees, making it nearly impossible for them  
3 to perform any official duties that require travel or incurring any expenses.

4           41. The legislation appears to have been drafted to threaten Kris Beecher with  
5 removal from the position of Acting Attorney General of the Navajo Nation. This is an  
6 attempt by Council to remove and punish Mr. Beecher without due process *with a two-*  
7 *year ban*, which constitutes an improper and illegal ex post facto law *See, e.g., Tso v.*  
8 *NHA*, 9 Nav. R. 175 (Nav. Sup. Ct. 2007); *Judy v. White*, 8 Nav. R. 510 (Nav. Sup. Ct.  
9 2004); *Ramah Navajo Community School v. Navajo Nation*, 8 Nav. R. 141 (Nav. Sup. Ct.  
10 2001).

11           42. The legislation appears tailor-made to disqualify President Nygren’s most  
12 recent appointment to the position of Deputy Attorney General, former Navajo Nation  
13 Chief Justice JoAnn Jayne. The resolution engrafts new requirements on the  
14 qualifications of the Attorney General and Deputy Attorney General, stating for the first  
15 time that these attorneys must not only be in good standing to practice on the Navajo  
16 Nation, but that they also must be licensed to practice “within the States of Arizona, New  
17 Mexico or Utah.” CJA-07-26, amending 2 N.N.C. § 1962(B). Former Chief Justice Jayne  
18 is a member of the bars of the Navajo Nation and the State of Montana. *See* Noel Lyn  
19 Smith, “Navajo Nation Council confirms chief justice nominee JoAnn Jayne,” *USA*  
20 *Today*, Jan. 25, 2018, available at [https://www.usatoday.com/story/news/local/navajo-](https://www.usatoday.com/story/news/local/navajo-nation/2018/01/26/navajo-nation-council-confirms-chief-justice-nominee/1067465001/)  
21 [nation/2018/01/26/navajo-nation-council-confirms-chief-justice-nominee/1067465001/](https://www.usatoday.com/story/news/local/navajo-nation/2018/01/26/navajo-nation-council-confirms-chief-justice-nominee/1067465001/).  
22 President Nygren appointed her as Deputy Attorney General on December 10, 2025—  
23 and the Council passed this legislation—which would effectively disqualify her from that  
24 office—just over a month later. Compare [https://opvp.navajo-nsn.gov/251210-president-](https://opvp.navajo-nsn.gov/251210-president-nygren-appoints-former-chief-justice-joann-jayne/)  
25 [nygren-appoints-former-chief-justice-joann-jayne/](https://opvp.navajo-nsn.gov/251210-president-nygren-appoints-former-chief-justice-joann-jayne/) with CJA-07-26 at 6.

26           43. As with Acting Attorney General Beecher, if imposed on former Chief  
27 Justice Jayne, CJA-07-26 would constitute an improper and illegal ex post facto law.

1           44. All of this would leave the Navajo Nation without an Attorney General or  
2 a Deputy Attorney General—creating further turnover and chaos in an essential  
3 Department that has experienced (through Council obstruction and dysfunction) the loss  
4 of *five* Attorneys General within the last calendar year.

5           45. On top of this, CJA-07-26 prohibits non-confirmed, acting Attorney  
6 Generals and Deputy Attorney Generals from engaging in a number of critical  
7 responsibilities of their office, including: issuing formal Attorney General Opinions  
8 pursuant to 2 N.N.C. § 1965; initiating “major litigation” (an undefined term) “without  
9 explicit legislative consent”; waiving the Nation’s sovereign immunity “for any purpose”;  
10 and entering into agreements to settle any legal dispute for more than \$250,000 without  
11 legislative approval. CJA-07-26, adding 2 N.N.C. § 1962(B)(3).

12           46. In sum, the restrictions in CJA-07-26 would severely erode the separation  
13 of powers within the Navajo Nation.

14           47. The legislation will also have an immediate impact on additional  
15 unconfirmed appointees, including Sherylene Yazzie, the Acting Director of the  
16 Department of Health; Candice Yazzie, the Acting Director of the Division of Community  
17 Development; Byron Shorty, the Acting Director of Navajo Nation Telecommunications  
18 Regulatory; and Sharlene Begay-Platero, the Acting Director of the Division of Economic  
19 Development. It may also affect other senior executives, sowing additional confusion in  
20 the Nation’s government.

21           48. CJA-07-26 also contains provision which would amend Title II to create  
22 confusion and chaos as to the “Powers, Duties, and Responsibilities” of the President  
23 (without distinguishing between them).

24           49. In addition to compelling the President to appear in person for quarterly  
25 “State of the Navajo Nation” reports, *see* CJA-07-26, adding 2 N.N.C. § 1005(C)(5), the  
26 resolution requires the President or the Vice-President to accompany every supervisory  
27 executive nominee “to all hearings” involving each nominee’s confirmation, to “formally  
28

1 present[ ] the nominee’s qualifications” and “serv[e] as the primary liaison between the  
2 nominee and the Council.” CJA-07-26, adding 2 N.N.C. § 1005(C)(3)(a). *See also* CJA-  
3 07-26, adding 2 N.N.C. § 102(G). This is an attempt by Council to codify its ability to  
4 compel the President to attend potentially countless Council hearings occurring through  
5 the year.

6 50. Council Resolutions CJA-07-26 and CJA-09-26 are barred by the Title II  
7 amendments and *Shirley v. Morgan*.

8 51. Council Resolutions CJA-07-26 and CJA-09-26 violate separation of  
9 powers.

#### 10 **Special Prosecutor Statute and Budget and Finance Committee (BFC) Hearings**

11 52. In 2010 under the pretense of an unfounded “emergency,” the Navajo  
12 Nation Council rewrote the Special Prosecutor Act of 1989 by passing the Special  
13 Prosecutor Amendment Act of 2010. The Council empowered itself to target officials for  
14 special prosecutor scrutiny, and transformed its Chief Legislative Council into a shadow  
15 Attorney General with power to conduct investigations and seek special prosecutor  
16 appointments. The Council thus duplicated core Executive Branch powers in its own  
17 Branch—violating Title II’s hard-won separation-of-powers safeguards without a vote of  
18 the People. Worse, these changes permitted the Council to target political opponents—  
19 inviting the kind of concentration and abuse of power the Title II Amendments were  
20 designed to prevent.

21 53. Beginning in summer 2025, the Council used the 2010 Act to launch its  
22 effort to obtain a special prosecutor to investigate the Executive Branch’s involvement in  
23 certain modular home contracts involving Zenni Home and Indigenous Design Studio +  
24 Architects. The Council issued several press releases to promote this effort, which, on  
25 information and belief, has been politically motivated.

26 54. 2 N.N.C. § 2021(J), which is the subject of this statutory challenge, states  
27 that a Special Prosecutor is statutorily empowered to call for the mandatory suspension  
28

1 of any Navajo Nation investigations or proceedings regarding matters within his or her  
2 jurisdiction.

3 55. In or about February 2026, the Special Prosecutor appointed by Council  
4 purported to invoke this power to instruct the Navajo Nation Acting Attorney General  
5 and the Department of Justice to suspend investigations and pre-litigation or litigation-  
6 related activities concerning potential matters involving the ZenniHome matter.

7 56. On May 13, 2026, the Navajo Nation Council's Budget and Finance  
8 Committee (BFC) enacted legislation announcing that, in conjunction with the Chief  
9 Legislative Counsel, it plans to hold investigative hearings from June 8 through  
10 approximately June 19, 2026, regarding the Zenni Home matter.

11 57. On information and belief, to date, the Special Prosecutor has not taken any  
12 action pursuant to 2 N.N.C. § 2021(J) to suspend the BFC hearings, despite having taken  
13 action to suspend DOJ's investigation.

14 58. The 2010 Act is invalid as a matter of law.

15 **FIRST CAUSE OF ACTION: DECLARATORY RELIEF RE: LEGISLATION**  
16 **NO. 0263-25**

17 59. President Nygren incorporates the foregoing paragraphs as if set forth  
18 herein.

19 60. President Nygren seeks a declaration that 11 N.N.C. 240(A) cannot be used  
20 to remove a President of the Navajo Nation.

21 61. President Nygren seeks a declaration that using 11 N.N.C. 240(A) to  
22 remove a President of the Navajo Nation violates Navajo law, including but not limited  
23 to Navajo fundamental law, and Title 2 of the Navajo Nation Code.

24 62. President Nygren seeks a declaration that the Proposed Resolution is legally  
25 flawed and violates Navajo law, including but not limited to Navajo fundamental law,  
26 and the Navajo Nation Code.

27  
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1           63. This Court should grant declaratory judgment that 1) 11 N.N.C. 240(A)  
2 cannot be used to remove a President of the Navajo Nation, including President Nygren;  
3 2) using 11 N.N.C. 240(A) to remove a President of the Navajo Nation violates Navajo  
4 law, including but not limited to Navajo fundamental law, and Title 2 of the Navajo  
5 Nation Code; 3) President Nygren seeks a declaration that the Proposed Resolution is  
6 legally flawed and violates Navajo law, including but not limited to Navajo fundamental  
7 law, and the Navajo Nation Code.

8 **SECOND CAUSE OF ACTION: PERMANENT INJUNCTIVE RELIEF RE:**  
9 **LEGISLATION 0263-25**

10           64. President Nygren incorporates the foregoing paragraphs as if set forth  
11 herein

12           65. President Nygren seeks injunctive relief to prevent Defendants from  
13 passing, advancing, or otherwise acting on the Proposed Resolution.

14           66. President Nygren seeks injunctive relief to prevent Defendants from using  
15 11 N.N.C. 240(A) to remove a President of the Navajo Nation, including President  
16 Nygren.

17           67. President Nygren seeks injunctive relief to prevent any future Navajo  
18 Nation Council from using 11 N.N.C. 240(A) to remove a President of the Navajo Nation,  
19 including President Nygren.

20           68. This Court should enter an order which will: 1) permanently enjoin  
21 Defendants from passing, advancing, or otherwise acting on the Proposed Resolution; 2)  
22 permanently enjoin Defendants from using 11 N.N.C. 240(A) to remove a President of  
23 the Navajo Nation, including President Nygren; 3) permanently enjoin any future Navajo  
24 Nation Council from using 11 N.N.C. 240(A) to remove a President of the Navajo Nation,  
25 including President Nygren.

26 **THIRD CAUSE OF ACTION: DECLARATORY RELIEF RE: COUNCIL**  
27 **RESOLUTIONS CJA-07-26 AND CJA-09-26**

1           69.    President Nygren incorporates the foregoing paragraphs as if set forth  
2 herein.

3           70.    President Nygren seeks a declaration that Council cannot amend Title II’s  
4 provisions concerning the separation of powers and checks and balances—only the  
5 People can.

6           71.    President Nygren seeks a declaration that Council Resolutions CJA-07-26  
7 and CJA-09-26 are invalid and shall have no legal effect.

8           72.    President Nygren seeks a declaration that Council Resolutions CJA-07-26  
9 and CJA-09-26 violate Navajo law, including but not limited to Navajo fundamental law,  
10 the separation of powers, *Shirley v. Morgan*, and Title 2 of the Navajo Nation Code.

11          73.    This Court should grant declaratory judgment that 1) Council cannot amend  
12 Title II’s provisions concerning the separation of powers and checks and balances—only  
13 the People can; 2) Council Resolutions CJA-07-26 and CJA-09-26 are invalid and shall  
14 have no legal effect; 3) Council Resolutions CJA-07-26 and CJA-09-26 violate Navajo  
15 law, including but not limited to Navajo fundamental law, the separation of powers,  
16 *Shirley v. Morgan*, and Title 2 of the Navajo Nation Code.

17 **FOURTH CAUSE OF ACTION: PERMANENT INJUNCTIVE RELIEF RE:**  
18 **COUNCIL RESOLUTIONS CJA-07-26 AND CJA-09-26**

19          74.    President Nygren incorporates the foregoing paragraphs as if set forth  
20 herein.

21          75.    President Nygren seeks injunctive relief to prevent Defendants from  
22 passing, advancing, or otherwise acting on Council Resolutions CJA-07-26 and CJA-09-  
23 26, or any similar legislation.

24          76.    President Nygren seeks injunctive relief to order Defendants to withdraw  
25 or repeal Council Resolutions CJA-07-26 and CJA-09-26.

26          77.    President Nygren seeks injunctive relief to prevent the implementation or  
27 enforcement of Council Resolutions CJA-07-26 and CJA-09-26.

28

1           78. This Court should enter an order which will: 1) permanently enjoin  
2 Defendants from passing, advancing, or otherwise acting on Council Resolutions CJA-  
3 07-26 and CJA-09-26, or any similar legislation; 2) order Defendants to withdraw or  
4 repeal Council Resolutions CJA-07-26 and CJA-09-26; and 3) prevent the  
5 implementation or enforcement of Council Resolutions CJA-07-26 and CJA-09-26.

6 **FIFTH CAUSE OF ACTION: DECLARATORY RELIEF RE: SPECIAL**  
7 **PROSECUTOR AMENDMENT ACT OF 2010 AND BFC INVESTIGATION**

8           79. President Nygren and OPVP incorporate the foregoing paragraphs as if set  
9 forth herein.

10           80. President Nygren and OPVP seek a declaration that the Special Prosecutor  
11 Amendment Act of 2010 is invalid as a matter of law, including under Navajo  
12 fundamental law, *Shirley v. Morgan*, the principles of separation of powers, and under  
13 Title II, and that the Special Prosecutor Act of 1989 is the only statute under which a  
14 Special Prosecutor may be appointed under Navajo Nation law.

15           81. This Court should grant declaratory judgment that 1) the Special Prosecutor  
16 Amendment Act of 2010 is invalid and shall have no legal effect; 2) Council's 2025  
17 appointment of a Special Prosecutor violates Navajo law, including but not limited to  
18 Navajo fundamental law, the separation of powers, *Shirley v. Morgan*, and Title 2 of the  
19 Navajo Nation Code, and has no legal effect.

20 **SIXTH CAUSE OF ACTION: PERMANENT INJUNCTIVE RELIEF RE:**  
21 **SPECIAL PROSECUTOR AMENDMENT ACT OF 2010 AND BFC**  
22 **INVESTIGATION**

23           82. President Nygren and OPVP incorporate the foregoing paragraphs as if set  
24 forth herein.

25           83. President Nygren and OPVP seek injunctive relief to prevent Defendants  
26 from relying on the Special Prosecutor Amendment Act of 2010 to appoint a special  
27 prosecutor, and injunctive relief preventing any special prosecutor appointed pursuant to  
28

1 the Special Prosecutor Amendment Act of 2010 from continuing any such work  
2 undertaken unless they are re-appointed as a special prosecutor pursuant to the Special  
3 Prosecutor Act of 1989.

4 84. This Court should enter an order which will: 1) permanently enjoin  
5 Defendants from appointing or attempting to appoint a special prosecutor pursuant to  
6 Special Prosecutor Amendment Act of 2010; 2) permanently enjoin any special  
7 prosecutor appointed pursuant to the Special Prosecutor Amendment Act of 2010 from  
8 continuing any such work undertaken unless they are re-appointed as a special prosecutor  
9 pursuant to the Special Prosecutor Act of 1989.

10 **PRAYER FOR RELIEF**

11 Wherefore, President Nygren respectfully requests that the Court:

12 85. Grant declaratory judgment that 1) 11 N.N.C. 240(A) cannot be used to  
13 remove a President of the Navajo Nation, including President Nygren; 2) using 11 N.N.C.  
14 240(A) to remove a President of the Navajo Nation violates Navajo law, including but  
15 not limited to Navajo fundamental law, and Title 2 of the Navajo Nation Code; 3)  
16 President Nygren seeks a declaration that the Proposed Resolution is legally flawed and  
17 violates Navajo law, including but not limited to Navajo fundamental law, and the Navajo  
18 Nation Code.

19 86. Enter an order which will: 1) permanently enjoin Defendants from passing,  
20 advancing, or otherwise acting on the Proposed Resolution; 2) permanently enjoin  
21 Defendants from using 11 N.N.C. 240(A) to remove a President of the Navajo Nation,  
22 including President Nygren; 3) permanently enjoin any future Navajo Nation Council  
23 from using 11 N.N.C. 240(A) to remove a President of the Navajo Nation, including  
24 President Nygren

25 87. Grant declaratory judgment that 1) Council cannot amend Title II's  
26 provisions concerning the separation of powers and checks and balances—only the  
27  
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1           88.    People can; 2) Council Resolutions CJA-07-26 and CJA-09-26 are invalid  
2 and shall have no legal effect; 3) Council Resolutions CJA-07-26 and CJA-09-26 violate  
3 Navajo law, including but not limited to Navajo fundamental law, separation of powers,  
4 *Shirley v. Morgan*, and Title 2 of the Navajo Nation Code.

5           89.    Enter an order which will: 1) permanently enjoin Defendants from passing,  
6 advancing, or otherwise acting on Council Resolutions CJA-07-26 and CJA-09-26, or any  
7 similar legislation; 2) order Defendants to withdraw or repeal Council Resolutions CJA-  
8 07-26 and CJA-09-26; 3) permanently enjoin the implementation or enforcement of  
9 Council Resolutions CJA-07-26 and CJA-09-26.

10          90.    Grant declaratory judgment that 1) the Special Prosecutor Amendment Act  
11 of 2010 is invalid and shall have no legal effect; 2) Council's 2025 appointment of a Special  
12 Prosecutor violates Navajo law, including but not limited to Navajo fundamental law, the  
13 separation of powers, *Shirley v. Morgan*, and Title 2 of the Navajo Nation Code, and has  
14 no legal effect.

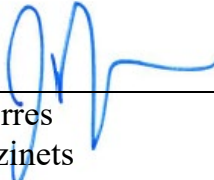
15          91.    Enter an order which will: 1) permanently enjoin Defendants from  
16 appointing or attempting to appoint a special prosecutor pursuant to Special Prosecutor  
17 Amendment Act of 2010; 2) permanently enjoin any special prosecutor appointed  
18 pursuant to the Special Prosecutor Amendment Act of 2010 from continuing any such  
19 work undertaken unless they are re-appointed as a special prosecutor pursuant to the  
20 Special Prosecutor Act of 1989.

21          92.    Grant other such relief as the Court deems fit.

22  
23                RESPECTFULLY SUBMITTED this 4th day of June, 2026.

**ZWILLINGER WULKAN PLC**

By: \_\_\_\_\_

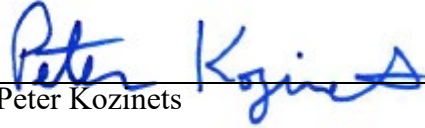


Javier Torres  
Peter Kozinets  
2020 North Central Avenue, Suite 675  
Phoenix, Arizona 85004  
*Counsel for President Nygren*

**VERIFICATION**

I, Peter S. Kozinets, under penalty of perjury, state that I have reviewed the foregoing Counterclaim for Injunctive and Declaratory Relief and that the factual information set forth therein, which are all based on matters of public record, is true to the best of my knowledge, information, and belief

Dated this 4th day of June, 2026.



\_\_\_\_\_  
Peter Kozinets

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PRESIDENT BUU VAN NYGREN'S 1) THIRD SUPPLEMENTAL ANSWER TO VERIFIED PETITION FOR PERMANENT INJUNCTION AND 2) SECOND AMENDED VERIFIED COUNTERCLAIM FOR INJUNCTIVE AND DECLARATORY RELIEF** was filed in person on this 4th day of June 2026, with the court at:

Window Rock Judicial District Court

**Physical Address:**

94 Route N-110  
Fort Defiance, AZ 86504

**Mailing Address:**

Post Office Box 5520  
Window Rock, Arizona 86515

And a COPY was sent via email and U.S. mail this same date to:

Michelle Espino  
Chief Legislative Counsel  
Navajo Nation Council  
P.O. Box 3390  
Window Rock, AZ 86515  
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*Counsel for Respondents OOC and OMB*

By: /s/ Marlena Mendez Higgins

# Exhibit A

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0263-25

**DATE:** November 21, 2025

**TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; APPROVING THE REMOVAL OF NAVAJO NATION PRESIDENT DR. BUU VAN NYGREN AND VICE-PRESIDENT RICHELLE MONTOYA; AND SPECIFYING THE GROUNDS FOR REMOVAL PURSUANT TO THE LAWS OF THE NAVAJO NATION**

**PURPOSE:** The purpose of this proposed resolution is to remove the President and Vice President of the Navajo Nation, Buu Nygren and Richelle Montoya for violations of Navajo Laws.

**FINAL AUTHORITY:** Navajo Nation Council

**VOTE REQUIREMENT:** 2/3 majority vote

**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each Council Delegate to review the proposed resolution in detail.**

5-DAY BILL HOLD PERIOD: J. Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 11-26-25  
Eligible for Action: 11-27-25

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 25th NAVAJO NATION COUNCIL – Third Year, 2025

3 Introduced By

4   
5 \_\_\_\_\_  
6 (Prime Sponsor)

7  
8 Tracking No. 0263-25

9  
10 AN ACTION

11 RELATING TO THE NAABIK'İYATI' COMMITTEE AND NAVAJO NATION  
12 COUNCIL; APPROVING THE REMOVAL OF NAVAJO NATION PRESIDENT  
13 DR. BUU VAN NYGREN AND VICE-PRESIDENT RICHELLE MONTOYA;  
14 SPECIFYING THE GROUNDS FOR REMOVAL PURSUANT TO THE LAWS  
15 OF THE NAVAJO NATION

16  
17 BE IT ENACTED:

18  
19 SECTION ONE. TITLE 2 AUTHORITY

- 20 A. Pursuant to 2 N.N.C. §§ 700 (A) and 701 (A)(2)-(3), the Naabik'iyati' Committee is  
21 established as a Standing Committee of the Navajo Nation Council with the power to  
22 oversee the conduct and operations of the Office of the President and Vice-President and  
23 other entities of the Navajo Nation not otherwise under the oversight authority of other  
24 standing committees and to recommend resolutions to the Navajo Nation Council on  
25 matters within the Committee's jurisdiction.
- 26 B. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102  
27 (A).
- 28 C. The Navajo Supreme Court has stated that "[i]t is central and foremost that the Council  
29 protects the rights of the tribe and its government. The duty to protect the government is  
30 essential, for it is through the government that the People exercise their inherent right of

1 self-government, including conducting the business of government with other governments  
2 and regulating and approving the use or disposition of the People's communal property, the  
3 land, and its resources.” *Thinn v. Navajo Generating Station*, 9 Nav. R. 140, 143 (Nav.  
4 Sup. Ct. October 19, 2007).

5  
6 **SECTION TWO. TITLE 1 FUNDAMENTAL LAW AUTHORITY**

- 7 A. The Navajo Nation Council through Resolution CN-69-02 recognized the Fundamental  
8 Laws of the Diné.
- 9 B. The *Diné bi beenahaz'áanii* (Navajo Fundamental Law) embodies *Diyin bitsqqdęę*  
10 *beenahaz'áanii* (Traditional Law), *Diyin Dine'é bitsqqdęę beenahaz'áanii* (Customary  
11 Law), *Nahasdzáán dóó Yádiłhił bitsqqdęę beenahaz'áanii* (Natural Law), and *Diyin*  
12 *Nohookáá Diné bi beenahaz'áanii* (Common Law). These laws provide the foundation  
13 of *Diné bi nahat'á* (providing leadership through developing and administering policies  
14 and plans by utilizing these laws as guiding principles) and *Diné* sovereignty. *Diné bi*  
15 *nahat'á* is the foundation of the *Diné bi naat'á* (government). 1 N.N.C. § 202.
- 16 C. The *Diné* People hold the right and freedom to have leaders of their choice; leaders who  
17 will communicate with the People for guidance; **leaders who will use their experience**  
18 **and wisdom to always act in the best interest of the People**; and leaders who will  
19 ensure the rights and freedoms of generations yet to come. (Emphasis added). 1 N.N.C.  
20 § 203(A).
- 21 D. All leaders are chosen by the *Diné* People to carry out their duties and responsibilities **in**  
22 **a moral and legal manner** in representing the people and the government; the people's  
23 trust and confidence in the leaders and the continued status as a leader are dependent  
24 upon adherence to the values and principles of *Diné bi beenahaz'áanii*. (Emphasis added).  
25 1 N.N.C. § 203(B).
- 26 E. A leader must always speak the truth and has a responsibility to communicate it to the  
27 People, *Naat 'aanii ei t 'aa'aaniigo'o' yalti' doo t'o'o' aniida ei biniinaa ei bidine 'eyil*  
28 *ahideelt 'i'go yich 'i, yalti' do'o' yil ahidiits'a'*. If words are said, they are meant. *Office*  
29 *of the Navajo Nation President v. Navajo Nation Council*, 9 Nav. R. 325, 338 (Nav. Sup.  
30 Ct. June 2, 2010).

1 F. The People place their trust and confidence in their leaders. That trust arises from *k'e*,  
2 from acknowledgement and respect for one another. Through *k'e*, the *Diné* People  
3 maintain balance in thoughts, behavior, and speech. When leaders speak without  
4 balance, they disrupt harmony and divide the thinking of the People. It is the duty of a  
5 *naat'aanii* to repair this harm and speak the healing language. *Id.*  
6

7 **SECTION THREE. OATH OF OFFICE AND TITLE 11 AUTHORITY TO REMOVE**  
8 **THE NAVAJO NATION PRESIDENT AND VICE-PRESIDENT FOR JUST CAUSE**

- 9 A. Pursuant to 11 N.N.C. § 8(A)(8), the Navajo Nation President and Vice-President must  
10 have unswerving loyalty to the Navajo Nation and must be competent and capable of  
11 upholding the oath of office.
- 12 B. Throughout Navajo history, Navajo leaders have been held accountable for their actions as  
13 *naat'aanii* and, when they have failed in their duties as *naat'aanii*, have been removed. See  
14 Resolution CJY-64-98 (Accepting and Approving Ethics Sanctions of the Ethics and Rules  
15 Committee of the Navajo Nation Council as Imposed on Thomas Atcitty, Former Vice-President  
16 of the Navajo Nation and Current President of the Navajo Nation); See also, *David E. Wilkins,*  
17 *The Navajo Political Experience*, 92-95 (1999) (Removal of Chairman Peter MacDonald and  
18 Albert Hale's resignation for ethical improprieties).
- 19 C. In recent history, the Navajo government was controlled by the Federal Government through the  
20 Bureau of Indian Affairs, which had ultimate control and authority over the Navajo Chairman  
21 and Tribal Council. See *David E. Wilkins, The Navajo Political Experience*, 82-84 (1999).
- 22 D. Eventually, the *Diné* People were able to displace the Federal Government and achieved full self-  
23 governance through their own *naat'aanii* and the establishment of a three-branch government. *Id.*  
24 at 84. The checks and balances of the three-branch government allow each branch to hold the  
25 other branches accountable in order to, among other things, stop corruption and the abuse of  
26 power. See generally, Resolution CD-68-89 (Amending Title Two (2) of the Navajo Tribal Code  
27 and Related Actions; see also, Resolution CJY-64-98 (Accepting and Approving Ethics  
28 Sanctions of the Ethics and Rules Committee of the Navajo Nation Council as Imposed on  
29 Thomas Atcitty, Former Vice President of the Navajo Nation and Current President of the Navajo  
30

1 Nation); *David E. Wilkins, The Navajo Political Experience*, 92-95 (1999)(Removal of Chairman  
2 Peter MacDonald and Albert Hale’s resignation for ethical improprieties) .

3 E. Pursuant to 2 N.N.C. § 3, on January 10, 2023, both Dr. Buu Van Nygren and Richelle  
4 Montoya took the Oath of Office for the elected positions of the President and Vice-  
5 President of the Navajo Nation and each solemnly swore that they would “uphold and  
6 abide by the laws of the Navajo Nation and Treaty of 1868 between the Navajo Nation  
7 and the United States of America and will faithfully execute the Office of President and  
8 Vice-President representing the Navajo Nation, and **will to the best of my ability**  
9 **preserve, protect and defend the laws and government of the Navajo Nation and**  
10 **advance the interests of the Navajo people, having due regard for the ethical duties**  
11 **and responsibilities of the office.** So, help me God.” (Emphasis added). See also 11  
12 N.N.C. § 8(A)(8). President Nygren and Vice-President Montoya’s Oath of Office  
13 attached hereto as **Exhibit A** and **B**, respectively.

14 F. Pursuant to the Navajo Election Code, Title 11 Section 240(A) the Navajo Nation  
15 President and Vice-President are subject to removal for just cause.

16 G. Pursuant to 11 N.N.C. § 240(A)(2), the President and Vice-President can be removed by  
17 at least two-thirds (2/3) vote of the Navajo Nation Council.

18 H. In the matter of *Shirley v. Morgan*, 9 Nav. R. 325, (Nav. Sup. Ct. June 2, 2010), while  
19 the Navajo Supreme Court invalidated the use of 11 N.N.C. § 240(C) on non-Legislative  
20 Branch elected officials, the Supreme Court did not overrule, invalidate, or supersede 11  
21 N.N.C. § 240(A), nor did it declare null or void the use of 11 N.N.C. § 240(A).  
22 Accordingly, the current state of Navajo Nation statutory law and case law allows for  
23 removal of the President and Vice-President **for just cause** pursuant to 11 N.N.C. §  
24 240(A). (Emphasis added).

25 I. 11 N.N.C. § 240(A)(1) states that just cause includes, but shall not necessarily be limited  
26 to:

- 27 1. Insanity, when judicially or medically determined;
- 28 2. President or Vice-President absent for three consecutive months without permission  
29 of the Navajo Nation Council;
- 30 3. Habitual indulgence in alcoholic beverages;

1           4. **Breach of fiduciary trust duties to the Navajo People;** and

2           5. **Malfeasance or misfeasance of office.** (emphasis added).

3           J. Elected Navajo officials hold fiduciary duties of trust to the public they serve. *See the*  
4           *Navajo Nation Ethics in Government Law* at 2 N.N.C. §§ 3742, et seq. These duties are  
5           legal and ethical obligations that require officials to act in the best interests of the People  
6           rather than for personal, political, or private gain. In short, an elected official’s fiduciary  
7           trust duties mean they are stewards of the public interest, bound to serve the People and  
8           not themselves. *See also, Restatement (Third) of Trusts* §§ 77-79 (Am. L. Inst.  
9           2003); *Restatement (Third) of Fiduciary Law* §§ 1-6 (Am. L. Inst., Tentative Draft No. 2,  
10           2022)

11          K. The Navajo Supreme Court has stated that “[g]overnmental fiduciary duties are already  
12          set forth at 12 N.N.C. § 800, the [Appropriations] Act, and its regulations.” *Nelson v.*  
13          *Initiative Committee to Reduce Navajo Nation Council*, 9 Nav. R. 453, 463 (Nav. Sup.  
14          Ct. Jan. 4, 2011). “The Navajo Nation government has a fiduciary responsibility to  
15          account for public funds, to manage finances wisely, and to plan for the adequate funding  
16          of services desired by the Navajo People, . . .” 12 N.N.C. § 800.

17          L. The Navajo Supreme Court has not specifically defined what acts constitute malfeasance  
18          or misfeasance by an elected official, but the general definitions are as follows:

19           1. “Malfeasance” is “a wrongful or unlawful act; esp., wrongdoing or misconduct by a  
20           public official.” Black’s Law Dictionary, 11th ed. (2019).

21           2. “Misfeasance” is “a lawful act performed in a wrongful manner.” Black’s Law  
22           Dictionary, 11th ed. (2019).

23  
24           **SECTION FOUR. DUE PROCESS REQUIREMENT: NOTICE AND OPPORTUNITY**  
25           **TO BE HEARD**

26          A. The concept of due process was not brought to the Navajo Nation by the Indian Civil  
27          Rights Act, 25 U.S.C. § 1302(8), or the Navajo Nation Bill of Rights, 1 N.T.C. § 3. The  
28          Navajo people have an established custom of notifying all parties involved in a  
29          controversy and allowing them, and even other interested parties, an opportunity to  
30          present and defend their positions. This custom is still followed today by the Navajo

1 people in the resolution of disputes. *Begay v. Navajo Nation*, 6 Nav. R. 20, 24 (Nav.  
2 Sup. Ct. 1988).

3 B. The foundation of Navajo due process is *k'é*, which requires that an individual is fully  
4 informed and provided an opportunity to speak. See e.g., *Atcitty v. The District Court for*  
5 *the Judicial District of Window Rock*, 7 Nav. R. 227, 230 (Nav. Sup. Ct. 1996); *Fort*  
6 *Defiance Hous. Corp. v. Lowe*, 8 Nav. R. 463, 475 (Nav. Sup. Ct. 2004). Although *k'é*,  
7 which fosters fairness through mutual respect, requires that an individual is fully  
8 informed and provided with an opportunity to speak, it is not unlimited. *Shirley v.*  
9 *Morgan*, 9 Nav. R. 325, 342 (Nav. Sup. Ct. June 2, 2010).

10 C. In accordance with Navajo fundamental law, statutory law and caselaw, as described  
11 above, *Diné* Due Process requires: (1) that notice be given to the President and Vice-  
12 President concerning the grounds for removal; and (2) that the President and Vice-  
13 President be allowed time to be heard concerning their proposed removal.

14 D. In accordance with 2 N.N.C. § 164(A)(5), the Office of Legislative Services will provide  
15 notice to the Office of the President and Vice-President of this proposed resolution,  
16 including the exhibits. The notice provided to the Office of the President and Vice-  
17 President by the Office of Legislative Services is hereby incorporated by reference.

18 E. The Office of Legislative Services will also provide notice to the Office of the President  
19 and Vice President of the day and time this proposed resolution is placed on the assigned  
20 Navajo Nation Council Committee(s) and the Navajo Nation Council's agenda. The  
21 additional notice provided to the Office of the President and Vice-President by the Office  
22 of the Legislative Services is hereby incorporated by reference.

23 F. The Navajo Nation President and Vice-President shall both be provided time to speak  
24 and be heard, in person, when this proposed resolution is placed on the assigned Navajo  
25 Nation Council Committee(s) and the Navajo Nation Council agendas.

## 26 27 **SECTION FIVE. PROCEDURAL COMPLIANCE**

28 A. The procedural requirements are: (1) the Navajo Nation Council must act in a properly  
29 convened session with a quorum; (2) the agenda must be properly adopted; (3) the  
30 resolution must pass by a majority vote of the Navajo Nation Council present; and (4)

1 the resolution must not be a bill of attainder. See generally, *In re: Certified Questions II*,  
2 6 Nav. R. 105, 119 (Nav. Sup. Ct. 1989).

3 B. Procedural requirements for the enactment of Navajo Nation legislation must be strictly  
4 observed. *Shirley v. Morgan*, 9 Nav. R. 325, 345 (Nav. Sup. Ct. June 2, 2010)(citing *Judy*  
5 *v. White*, 8 Nav. R. 510, 538 (Nav. Sup. Ct. 2004); and *Peabody W. Coal., Inc. v. Nez*, 8  
6 Nav. R. 132, 139 (Nav. Sup. Ct. 2001).

7 C. The Navajo Nation Council and Committee legislative process and procedures for the  
8 enactment of all resolutions is set forth at 2 N.N.C. § 164(A), including the requirement  
9 that the proposed resolution (legislation) be posted on the Council's website five (5) days  
10 prior to the Council or its Committees taking action on the legislation, 2 N.N.C. §  
11 164(A)(6), so that Chapter governments, chapter officials, and the Navajo People can  
12 submit written comments on the proposed resolution to the Office of Legislative  
13 Services. 2 N.N.C. § 164(A)(7). Written comments received by the Office of Legislative  
14 Services are to be affixed to the proposed resolution and posted on the Council website.  
15 Id.

16 D. The Supreme Court opined that, "the People have a right to participate in their  
17 government processes, to challenge government action, to express their views, and to  
18 have a meaningful voice in what form their government will take." *Shirley v. Morgan*, 9  
19 Nav. R. 325, 349 (Nav. Sup. Ct. June 2, 2010).

20 E. In accordance with *Shirley v. Morgan*, the Office of the Speaker has compiled the Chapter  
21 and Agency Council supporting resolutions received related to the removal,  
22 administrative leave, and no confidence of the Navajo Nation President and Vice-  
23 President and attached as **Exhibit C**. In (Nav. Sup. Ct. June 2, 2010) it states "The  
24 Council has a duty to act on the People's recommendation" Recorder pg. 339.

25 F. This proposed resolution shall adhere to the five (5) day comment period providing  
26 opportunity for the Navajo People to participate and submit their comments for or against  
27 the proposed resolution, in accordance with 2 N.N.C. § 164 (A)(6) and (A)(7).  
28  
29  
30

1 **SECTION SIX. MALFEASANCE / MISFEASANCE OF OFFICE AND BREACH OF**  
2 **FIDUCIARY TRUST DUTIES FINDINGS RELATED TO GROUNDS FOR REMOVAL**  
3 **OF PRESIDENT DR. BUU VAN NYGREN**

4 A. President Dr. Buu Van Nygren failed numerous times to present his report in-person, as  
5 a *naat'aanii*, to the Navajo People and the Navajo Nation Council on the State of the  
6 Navajo Nation during Council Sessions statutorily scheduled to commence at 10 A.M.  
7 on the fourth Monday of January, and the third Monday of April, July and October of  
8 each year and held at the Navajo Nation Council Chamber located at Window Rock,  
9 Arizona. 2 N.N.C. §§ 161(A), 162(A) and 2 N.N.C. § 1005(C)(5).

- 10 1. President Nygren failed to report to the Council on the State of the Navajo Nation on  
11 July 15, 2024, October 21, 2024, April 21, 2025, and October 20, 2025.  
12 2. In addition, President Nygren walked out in the middle of giving the State of the  
13 Nation report on January 27, 2025, and July 21, 2025.

14 B. In violation of 2 N.N.C. §§ 3744 and 3755 and 17 N.N.C. §§ 301 and 376, President  
15 Nygren committed nepotism and directed documents to be falsified to hire his father-in-  
16 law John Blackwater as security detail and a babysitter for the First Lady and himself,  
17 even though Mr. Blackwater is unqualified for the position he was hired to fill. See *Ethics*  
18 *Complaint Filed by the Special Prosecutor on November 21, 2025*, attached as **Exhibit**  
19 **D.**

20 C. Another incident of nepotism and falsifying of documents in violation of 2 N.N.C. §§  
21 3744 and 3755 and 17 N.N.C. §§ 301 and 376, occurred when President Nygren allowed  
22 his Chief of Staff, Patrick Sandoval, to hire Mr. Sandoval's daughter Sharen Sandoval as  
23 the Program Manager Director of Emergency Management. Sharen Sandoval currently  
24 serves as Deputy Chief of Staff for the Office of the President and Vice-President.

25 D. For his personal gain and in violation of 2 N.N.C. § 3752(C), President Nygren required  
26 members of his Executive Staff to perform duties that are not for official purposes,  
27 including providing housekeeping, cooking, childcare, and personal assistant duties. See  
28 *Ethics Complaint Filed by the Special Prosecutor on November 21, 2025*, attached as  
29 **Exhibit D.**

- 1 E. In violation of 2 N.N.C. §§ 102(F) and 1005(C)(3), President Nygren failed and refuses  
2 to present numerous division director appointments for confirmation, “at the next Navajo  
3 Nation Council session following the date the appointments are made.” Appointments of  
4 Division directors or supervisory personnel may be subject to recommendation from the  
5 appropriate oversight and subject to specific qualification requirements or applicable law.  
6 See Resolution CJY-30-25, attached as **Exhibit E**.
- 7 F. President Nygren put the Nation’s legal matters at risk when he appointed Kris Beecher  
8 as Acting Deputy Attorney General and then again as the Acting Attorney General. Mr.  
9 Beecher does not meet the required qualifications to hold either office. See *Memorandum*  
10 *from Acting Attorney General Heather Clah dated March 28, 2025*, attached as **Exhibit**  
11 **F**.
- 12 G. Under President Nygren’s and Vice-President Richelle Montoya’s supervision, there are  
13 reports of “hostile work environment,” due to bullying and intimidation, within the Office  
14 of the President and Vice President resulting in the highest number of turnovers in recent  
15 history within the Executive Branch. See *Holly James Resignation letter dated November*  
16 *20, 2024*, attached as **Exhibit G**.
- 17 H. In violation of 12 N.N.C. § 202(B), President Nygren attempted to unlawfully and  
18 unilaterally terminate the Navajo Nation Controller. See *Controller Termination Letter*,  
19 attached as **Exhibit H**.
- 20 I. In violation of 12 N.N.C. § 202(B), President Nygren attempted to unlawfully and  
21 unilaterally appoint an Interim/Acting Controller. See *Interim/Acting Appointment*  
22 *Letter*, attached as **Exhibit I**.
- 23 J. President Nygren breached his fiduciary trust duties to the Navajo People and the Oath  
24 of Office as detailed in the Application for Temporary Restraining Order and Preliminary  
25 Injunction and the Verified Petition for Permanent Injunction (*Curley v. Nygren*, WR-  
26 CV-112-25 and WR-CV-113-25), attached hereto as **Exhibit J**.
- 27 K. President Nygren unlawfully used the presidential line-item veto authority in an attempt  
28 to extort and appropriate funds for the Office of the President and Vice President,  
29 primarily for travel purposes. See **Exhibit J**.
- 30

- 1 L. President Nygren applied undue influence on enterprises of the Navajo Nation, such as  
2 the Navajo Engineering and Construction Authority (NECA), resulting in audit findings  
3 pertaining to the misuse of federal funds (ARPA). See *Controller's Report regarding*  
4 *NECA Audit Concerns*, attached as **Exhibit K**.
- 5 M. President Nygren approved contracts totaling over \$24.9 million dollars to Indigenous  
6 Design Studio + Architects without properly vetting the company and the subcontractor  
7 ZenniHomes, resulting in unaccounted funds of \$24.9 million dollars with little to no  
8 deliverables. See generally, *President Nygren's Press Release (July 2025)* ("the Nation  
9 hired a Navajo woman-owned firm called Indigenous Design Studio + Architecture,  
10 L.L.C. (IDSA) to build 160 homes for the Nation. In accordance with the contract, **the**  
11 **Nation paid \$24.9 million, upfront to IDSA**. The Navajo Nation Department of Justice  
12 (DOJ) and all other necessary departments and offices approved this contract in writing.  
13 IDSA then subcontracted ZenniHomes to build those homes for our people"). (emphasis  
14 added). This matter is currently under investigation and may result in additional court  
15 filings.
- 16 N. President Nygren and his staff unlawfully leveraged the Navajo Nation's treasury to  
17 obtain personal loans for their personal use and in some instances for their families. See  
18 *Innovative Electric Invoices*, attached as **Exhibit L**.
- 19 O. President Nygren violated 2 N.N.C. §§ 3744 and 3745(B), 17 N.N.C. §§ 301 and 376,  
20 and Purchase Card ("P-Card") policies through the misuse of his government credit card  
21 by covering the expenses of family members who are not eligible Navajo Nation  
22 employees at various times since being elected and by falsifying and directing executive  
23 staff to falsify documents for such expenditures. See *Ethics and Rules Complaint filed*  
24 *November 21, 2025*, attached as **Exhibit D**.
- 25 P. President Nygren's unlawful unilateral termination of Controller Sean McCabe put the  
26 Navajo Nation's treasury and investments in substantial risk. The unlawful removal of  
27 the Controller resulted in a delay in completion of the Navajo Nation's audit and the time  
28 needed to address the audit findings. Resulting in increased financial audit and fraud risks  
29 identified within the financial audit. See *Navajo Nation Office of the Controller Report*  
30 *to Navajo Nation Council, November 11, 2025*, attached as **Exhibit M**.

1 Q. During his tenure as the Navajo Nation President, funds have been misused within the  
2 Executive Branch, such as but not limited to, unlawful reallocations, promotional items  
3 for the President, allowing the use of federal funds for rodeo and event sponsorships,  
4 utilizing executive branch funding for President Nygren’s personal expenses. See  
5 **Exhibit M.**  
6

7 **SECTION SEVEN. MALFEASANCE / MISFEASANCE OF OFFICE AND BREACH OF**  
8 **FIDUCIARY TRUST DUTIES FINDINGS RELATED TO GROUNDS FOR REMOVAL**  
9 **OF VICE-PRESIDENT RICHELLE MONTOYA**

10 A. Vice-President Richelle Montoya made a statement concerning sexual harassment at the  
11 Office of President & Vice-President on social media resulting in a Special Prosecutor  
12 investigation being conducted. To date, Vice-President Montoya has not filed an Ethics  
13 in Government, Criminal or other Civil complaint regarding any kind of allegations  
14 against the President.

15 B. Vice-President Montoya took an oath to, “...faithfully execute the office of the Navajo  
16 Nation Vice-President representing the Navajo Nation and ... preserve, protect and  
17 defend the laws and government of the Navajo Nation and advance the interests to the  
18 Navajo people, having due regard for the ethical duties and responsibilities of the office.”  
19 *See Vice-President Richelle Montoya’s Oath of Office*, attached as **Exhibit B.**

20 C. Both the President and the Vice-President are elected together on one ballot and share  
21 the responsibility to uphold their oaths of office together. As a result, the Vice-President  
22 has a duty to report any known violations of Navajo Nation, state or federal laws through  
23 the appropriate channels, such as the filing of a complaint with Ethics and Rules Office.

24 D. On or about October 11, 2025, Vice-President Montoya publicly announced that she  
25 would be willing to be placed on leave or removed from office, “to protect communities  
26 and restore accountability.” See *Navajo Times Article dated October 16, 2025, “Montoya*  
27 *says she is willing to step aside as Fort Defiance advances no confidence push,”* attached  
28 as **Exhibit N.**  
29

30 **SECTION EIGHT. APPROVING THE REMOVAL OF NAVAJO NATION PRESIDENT**

- 1 A. The Navajo Nation Council finds that Dr. Buu Van Nygren failed to uphold the Oath of  
2 Office as the President of the Navajo Nation.
- 3 B. The Navajo Nation Council finds it in the best interest of the Navajo Nation to remove  
4 Dr. Buu Van Nygren as the Navajo Nation President for cause, as detailed above.
- 5 C. The Navajo Nation Council approves and authorizes the removal of the Dr. Buu Van  
6 Nygren as the President of the Navajo Nation.
- 7 D. The Navajo Nation Council hereby removes Dr. Buu Van Nygren from office as the  
8 President of the Navajo Nation.
- 9

10 **SECTION NINE. APPROVING THE REMOVAL OF NAVAJO NATION VICE-**  
11 **PRESIDENT**

- 12 A. The Navajo Nation Council finds that Richelle Montoya failed to uphold the Oath of  
13 Office as the Vice-President of the Navajo Nation.
- 14 B. The Navajo Nation Council finds it in the best interest of the Navajo Nation to remove  
15 Richelle Montoya as the Navajo Nation Vice-President for cause, as detailed above.
- 16 C. The Navajo Nation Council approves and authorizes the removal of the Richelle Montoya  
17 as the Vice-President of the Navajo Nation.
- 18 D. The Navajo Nation Council hereby removes Richelle Montoya from office as the Vice-  
19 President of the Navajo Nation.
- 20

21 **SECTION TEN. EFFECTIVE DATE**

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

23

24 **SECTION ELEVEN. AUTHORIZING SUCCESSION PURSUANT TO 2 N.N.C. § 1006**

25 Succession of the Navajo Nation Office of the President and Vice-President shall be executed in  
26 accordance with 2 N.N.C. § 1006.

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