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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,
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19 PRESIDENT BUU VAN NYGREN,

20 Counter-Petitioner,
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22 v.

23 SPEAKER CRYSTALYNE CURLEY
and THE NAVAJO NATION
COUNCIL,
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25 Counter-Respondents,
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Case No. WR-CV-112-25, CV-113-25

**COMBINED APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION REGARDING THE
SPECIAL PROSECUTOR**

-AND-

**MOTION TO STAY RELATED
INVESTIGATIVE HEARINGS
BEFORE THE BUDGET AND
FINANCE COMMITTEE
SCHEDULED TO BEGIN MONDAY,
JUNE 8, AT 10:00 A.M.**

**Expedited Oral Argument Requested
(Virtual)**

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Preliminary Statement¹

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

And now, the Special Prosecutor appointed pursuant to the Council’s request to investigate contracts involving Zenni Homes has one-sidedly shut down the Navajo Department of Justice’s own investigation and litigation-related activity concerning those contracts—while apparently allowing Council and *Presidential Candidate Crystalene Curley* to proceed with their politically driven and highly-politicized separate “investigation”—*just before to the July 21 primary election*.

¹ This request for Temporary Restraining Order and Injunction is being filed as part of a Counterclaim in the currently pending lawsuit, *Curley v. Nygren*. This is because since the lawsuit was filed, Speaker Curley has made the Special Prosecutor and Zenni Homes issues part of the *Curley v. Nygren* lawsuit. *See, e.g.*, Verified Petition for Permanent Injunction, Oct. 10, 2025, at 4 (alleging that President Nygren’s actions “jeopardize . . . the ZenniHome investigation”), 14 (alleging line-item veto “eliminates the Office of Legislative Counsel’s ability to hire outside legal counsel to fully support the legal needs of the Legislative Branch, including funding for the Special Prosecutor appointed by the Special Division of the Window Rock District Court to investigate housing contracts, including ZinniHome (sic) and Indigenous Design Studio + Architects”), 22 (alleging that “The Office of the Controller is central to ongoing investigations into ZenniHome and Native Community Capital, which involve the potential misuse of Navajo Nation and federal funds and possible involvement of the Office of the President and Vice President”).

1 The Council’s Budget and Finance Committee (BFC) is planning a two-week
2 hearing starting this Monday, June 8, at 10:00 a.m., to “investigate” the very same topics
3 that Council placed under the Special Prosecutor’s jurisdiction (the BFC hearings). The
4 BFC has already served scores of hearing subpoenas, including to President Nygren, the
5 President’s Chief Counsel, the Acting Attorney General, several Department of Justice
6 attorneys or employees, and others. At a minimum, the BFC’s hearings should be stayed
7 pending a judicial determination of whether the Special Prosecutor has been properly
8 appointed under valid law, and whether the BFC’s hearings are permissible under 2
9 N.N.C. § 2021(J). To be clear, Petitioners argue that the special prosecutor was not validly
10 appointed; however, until that matter is resolved by this Court, ***Council cannot be***
11 ***allowed to both appoint a special prosecutor under 2 N.N.C. § 2021 and simultaneously***
12 ***ignore the mandatory language in 2 N.N.C. § 2021 that their investigation “shall” be***
13 ***“suspended.”***²

14 On May 7, 2026, this Court ruled that the Navajo Nation President could challenge
15 the 2010 Act by filing a complaint or counterclaim. *Special Prosecutor v. Nygren*, WR-
16 CV-135-25, Order of Dismissal at 1, 5-6 (May 7, 2026). Accordingly, the Office of the
17 Navajo Nation President and Vice President (OPVP) and Buu Van Nygren in his capacity
18 as Navajo Nation President (collectively, Petitioners) have filed this counterclaim seeking
19 (1) a judicial declaration that the 2010 Act is invalid as a matter of law, and (2) a
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22 ² 2 N.N.C. § 2021(J) reads: “Whenever a matter is within the jurisdiction of a Special
23 Prosecutor, the Attorney General, the Chief Prosecutor, the Chief Legislative Counsel and
24 all officers and employees of the Department of Justice, shall suspend all investigations
25 and proceedings regarding such matter, except insofar as such Special Prosecutor and the
26 Attorney General or Chief Legislative Counsel agree in writing that such investigations
27 and proceedings may continue.” Under this clear mandatory language, the Chief
28 Legislative Counsel “shall suspend all investigations and proceedings regarding such
matter.” As will be discussed below, the special prosecutor has not responded to an
inquiry regarding the BFC hearings and why he appears to be allowing them to go
forward.

1 permanent injunction enjoining the 2010 Act’s enforcement or implementation and
2 invalidating any appointments made under the Act.

3 Petitioners respectfully request that the Court enter a temporary restraining order
4 and preliminary injunction, **and a stay of the BFC’s hearings**, pending determination of
5 this matter on the merits. This relief is warranted for several reasons.

6 First, Petitioners have a protectable right or interest in immediate injunctive relief
7 given the fast-approaching July 21 primary and November 3 general elections—which
8 can be shaped by invalid or politically-motivated investigations. The 2010 Act gives
9 traditional Executive Branch functions relating to the special prosecutors to the
10 Legislative Branch, violating the Title II Amendments that have stabilized the Navajo
11 Nation government since 1989—and creating a pathway for the Council to target
12 perceived rivals with special prosecutor investigations. While Petitioners do not oppose
13 use of a special prosecutor to investigate credible allegations of misconduct, such an
14 appointment must be the result of a fair, neutral, and lawful process—rather than a process
15 based on an invalid law and launched on the eve of the Nation’s elections. Furthermore,
16 all Navajos have a fundamental right to due process – which, under the facts here, is
17 blatantly being violated.

18 Second, Petitioners have a high likelihood of success on several grounds. The
19 Council passed the 2010 Act as an “emergency” law, without showing the existence of
20 an actual “emergency” as defined by then-2 N.N.C. § 164(A)(7)(a). The Supreme Court
21 held that the absence of a “bona fide emergency” renders such resolutions “invalid as a
22 matter of law.” *Office of Navajo Nation President & Vice-President, et al. v. Navajo*
23 *Nation Council, et al.*, 9 Nav. R. 325, 346 (Nav. Sup. Ct. 2010) (*Shirley v. Morgan*). No
24 emergency justified the 2010 Act, and the statute is invalid for this threshold reason.

25 The 2010 Act also violates Fundamental Law, the separation of powers, and Title
26 II. Separation of powers is a sacred concept under the *Diné Bi Beenahaz’áanii* or
27 Fundamental Law. *Shirley*, 9 Nav. R. at 332. If one branch “infringes on the role of
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1 another branch, the integrity of the government is ruined,” so no branch “can perform or
2 infringe on the essential functions of another[.]” *Tuba City Judicial Dist. v. Sloan*, 8 Nav.
3 R. 159, 167-68 (Nav. Sup. Ct. 2001). The 2010 Act fails these requirements because it
4 gives the Council free reign to decide whether to launch special prosecutor investigations;
5 eliminates the Attorney General’s independent gatekeeping role; and empowers the Chief
6 Legislative Counsel—who represents only the Council—to conduct investigations and
7 seek special prosecutor appointments. The 2010 Act changed Title II without going to the
8 People—and is invalid for that reason too. *See Shirley*, 9 Nav. R. at 334-38.

9 On top of all this, the Special Prosecutor’s appointment reflects an abuse of power
10 by the Council. Since July 2025, the Council has publicly promoted the Special
11 Prosecutor’s investigation; the Speaker has used the investigation to seek her appointment
12 as President *and* Speaker—prompting a TRO from this Court; and the Council has fired
13 or refused to confirm a stream of Attorney Generals or nominees,³ refused to fully fund
14 OPVP’s operational budget, and attempted to enact legislation handing it control over the
15 Executive Branch’s highest-level appointees—prompting another TRO.

16 Now, the Special Prosecutor has invoked 2 N.N.C. § 2021(J) to shut down the
17 Department of Justice’s investigations concerning the Zenni Homes matter, apparently
18 without also applying that subsection to the BFC’s hearings on the same subject. In this
19 context, the Speaker and Council’s use of the 2010 Act to both violate fundamental due
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21 ³ The Council has refused to confirm or has fired *five* Attorneys General over the last
22 year, creating constant turnover and disruption at the Navajo Department of Justice. *See*
23 *e.g.* Shondiin Silversmith, *Navajo Nation Council Removes AG Ethel Branch from Her*
24 *Post*, Ariz. Mirror (Dec. 16, 2024), <https://azmirror.com/briefs/navajo-nation-council-removes-ag-ethel-branch-from-her-post/>; Shondiin Silversmith, *Navajo Nation Council*
25 *Votes to Remove Attorney General, Nygren Appoints Replacement*, Ariz. Mirror (Aug. 7,
26 2025), <https://azmirror.com/briefs/navajo-nation-council-votes-to-remove-attorney-general-nygren-appoints-replacement/>; Arlyssa D. Becenti, *Navajo Nation Council ousts*
27 *another attorney general with no explanation*, Ariz. Republic (Aug. 7, 2025),
<https://www.azcentral.com/story/news/local/arizona/2025/08/07/navajo-nation-council-ousts-attorney-general-heather-clah/85553677007/>.

1 process rights and target a rival in the 2026 presidential election illustrates how the Act
2 hands too much power to the Legislative Branch and undermines government stability.

3 Third, Petitioners face imminent irreparable injury that is substantial in nature or
4 character, and there is no adequate remedy at law. The presidential primary is in just under
5 two months, leaving the Petitioners with inadequate time to fully litigate this challenge to
6 the Special Prosecutor’s authority—and the BFC’s authority to pursue overlapping
7 investigatory hearings—before the election. Furthermore, given the clearly politically
8 motivated nature of the hearings, the due process violations against Petitioners would be
9 immediate. A future holding that the 2010 Act is invalid or that the BFC’s investigations
10 were improper (after the fact) would not undo the harm caused by filing invalid claims or
11 conducting BFC hearings before the election. No monetary remedy could compensate
12 Petitioners for the irreparable damage caused by improper investigations or proceedings
13 occurring this close to an election.

14 Petitioners’ application for temporary restraining order and preliminary injunction
15 regarding the validity of the 2010 Act, and its motion for a stay of the BFC hearings,
16 should be granted.

17 **Background**

18 **A. The Title II Amendments of 1989 Were Enacted to Stabilize the Navajo**
19 **Nation Government.**

20 In 1989, the Council enacted CD-68-89, the Title II Amendments, to stabilize the
21 Navajo Nation government and provide safeguards of separation of powers and checks
22 and balances missing when the Council concentrated executive and legislative functions
23 in itself. *Shirley*, 9 Nav. R. at 334-35. The Title II Amendments implemented the
24 fundamental law command that “there should not be concentrated power” in one Branch,
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1 *id.* at 337, by “separat[ing] governmental powers into three separate and equal
2 branches[.]” *Tuba City District Court v. Sloan*, 8 Nav. R. 159, 167 (Nav. Sup. Ct. 2001).⁴

3 The Title II Amendments created a new Executive Branch, established the Office
4 of the President and Vice President (OPVP), mandated that the President “shall serve as
5 the Chief Executive Officer of the Executive Branch with full authority to conduct,
6 supervise, and coordinate personnel and programs of the Navajo Nation,” and empowered
7 the President to “[f]aithfully execute and enforce the laws of the Navajo Nation.” 2 N.N.C.
8 §§ 1001, 1002(A), 1005(A), (C)(1); *Shirley*, 9 Nav. R. at 348.

9 Title II provides that the Navajo Nation Department of Justice is part of the
10 Executive Branch. 2 N.N.C. § 1961(A). Title II commands that the Attorney General—
11 the Chief Legal Officer of the Navajo Nation— and “shall have charge of the Department
12 of Justice and of all legal matters in which the Navajo Nation government has an interest.”
13 2 N.N.C. § 1964(A). The Attorney General represents the entire Navajo Nation and must
14 serve impartially on behalf of all three branches of the Navajo Nation Government. 2
15 N.N.C. § 1964(A)-(B). Investigating and prosecuting wrongdoing is a core Department
16 of Justice function. *See* 2 N.N.C. §§ 1971-1972.

17 The Title II Amendments separately created the Office of Legislative Counsel
18 (OLC) “to provide legal advice and legislative services to the Navajo Nation Council . . .
19 independent of the Department of Justice.” CD-68-89, §§ 960-961. OLC’s duties include
20 advising on legislative matters, preparing resolutions, and codifying laws. CD-68-89, §§
21 964(A)-(B). In 2010, the Council expanded OLC’s duties to include legal representation
22 of the offices and programs of the Legislative Branch. *See* 2 N.N.C. § 961.

23 The Title II Amendments did not assign any investigative or prosecutorial powers
24 to the Office of Legislative Counsel. *See generally* CD-68-89, §§ 960-964.

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27 ⁴CD-68-89 is available at https://dinelanduse.org/wp-content/uploads/2025/09/CD-68-89_wExhibits.pdf.

1 **B. The Council Amended Title II in 2010 to Give Itself Power to Target Officials**
2 **for Special Prosecutor Investigations.**

3 1. *The Council Declared a False “Emergency.”*

4 In 2010, the Council attempted to limit the Executive Branch’s powers and roll
5 back the Title II Amendments. The Navajo Supreme Court overturned many of these
6 efforts. *See, e.g., Shirley*, 9 Nav. R. at 332-33, 347.

7 During this period, the Council passed Legislative Resolution CJA-17-10, known
8 as the Special Prosecutor Amendment Act of 2010 (the 2010 Act). **Exhibit 1.** The 2010
9 Act’s title was as follows: “An Act Relating to Intergovernmental Relations, Government
10 Services, Judiciary, and an Emergency; Enacting the Special Prosecutor Amendment Act
11 of 2010, Amendment Titles 2 and 7 of the Navajo Nation Code.” Ex. 1 at 1. The 2010
12 Act amended Title II without going to a vote of the Navajo People.

13 The 2010 Act stated—without explanation—that “this matter constitutes an
14 emergency pursuant to 2 N.N.C. § 164(A)(7)(a) as the current unamended provisions of
15 law threaten the sovereignty of the Navajo Nation.” Ex. 1, CAP-17-10 at 1. This “finding”
16 enabled the Council to bypass required procedures for considering and adopting new
17 legislation. *See Shirley*, 9 Nav. R. at 345-46 (discussing the then-current version of 2
18 N.N.C. § 164).

19 The Council failed to point to evidence, or make specific findings, showing that
20 an “emergency” existed as defined by 2 N.N.C. § 164(A)(7)(a) [now 2 N.N.C. §
21 164(A)(16)]. That statute limited “[m]atters constituting an emergency” to “[c]essation
22 of law enforcement services, disaster relief services, fire protection services or other
23 direct services required as an entitlement under Navajo Nation or Federal law, or which
24 directly threaten the sovereignty of the Navajo Nation.” *Shirley*, 9 Nav. R. at 346 (citing
25 2 N.N.C. § 164(A)(7)(a)).

26 In *Shirley*, as here, there was no evidence or public record showing that the
27 emergency resolution in that case fell into any of these categories. 9 Nav. R. at 346. The
28 Supreme Court held that the absence of a “bona fide emergency” made the resolution

1 challenged in that case “invalid as a matter of law.” *Id.* So too here: the Council’s
2 improper “emergency” enactment of CJA-17-10 likewise renders the 2010 Act “invalid
3 as a matter of law.”

4 2. *The Council Rewrote the Statute to Make Itself the Sole Arbiter of*
5 *Investigations to Pursue.*

6 The Special Prosecutor Act of 1989 required the Attorney General to conduct a
7 preliminary investigation “whenever he/she receives information sufficient to constitute
8 grounds to investigate whether [any official] has committed a violation of any federal or
9 state criminal law or any law or regulation of the Navajo Nation, or committed any act
10 upon which the Navajo Nation may have a civil cause of action.” Ex. 1, CAP-17-10, 2
11 N.N.C. § 2021(A).

12 In the 2010 Act, the Council—acting on a purportedly “emergency” basis—
13 rewrote the statutory text in a manner that appeared to make itself the sole authority for
14 referring matters for preliminary investigation. With additions underlined and deletions
15 struck-out, the Act stated:

16 2021. Application for appointment of a Special Prosecutor

17 A. The Attorney General or Chief Legislative Counsel shall conduct a
18 preliminary investigation pursuant to the provisions of this Section whenever
19 ~~he/she receives that official is referred from the Navajo Nation Council~~
20 information sufficient to constitute grounds to investigate whether any of the
21 persons listed in Subsection (B) of this Section has committed a violation of
any federal or state criminal law or any law or regulation of the Navajo
Nation, or committed any act upon which the Navajo nation may have a civil
cause of action. . . .

22 Ex. 1, CAP-17-10, 2 N.N.C. § 2021(A).

23 The plain language of the statute—as amended in 2010—identifies the Council,
24 and only the Council, as the source of such referrals. *See* Ex. 1, CAP-17-10, 2 N.N.C. §
25 2021(A). As recognized in then-President Dr. Joe Shirely, Jr.’s veto message, the wording
26 of the 2010 Act indicates that “only allegations raised and referred by the Navajo Nation
27 Council itself could be subject to a preliminary investigation to constitute grounds for the
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1 appointment of a Special Prosecutor.” **Exhibit 2**, Pres. Shirley Veto at 1. Under this
2 scheme, the Council has unchecked power “to stop the pursuit of a preliminary
3 investigation and the subsequent hiring of a Special Prosecutor,” including “when the
4 subject of the investigation is a member of the Council.” Ex. 2, Pres. Shirley Veto at 2.

5 *3. The Council Empowered Its Lawyer to Seek Special Prosecutors.*

6 The 2010 Act inserted the Office of Legislative Counsel or the Chief Legislative
7 Counsel throughout the statute. For example, § 2021(E) provides:

8 E. Upon completion of the preliminary investigation, if the Attorney General
9 or Chief Legislative Counsel finds that there are reasonable grounds to
10 believe that further investigation or prosecution is warranted, and that the
11 matter cannot be handled by the Attorney General, the Office of the
12 Prosecutor or any other official or employee of the Department of Justice or
13 Office of Legislative Counsel without resulting in personal, financial, or
14 political conflict of interest, the Attorney General or Chief Legislative
15 Counsel shall apply to the Special Division of the Window Rock District
16 Court for appointment of a Special Prosecutor.

17 Ex. 1, CAP-17-10, 2 N.N.C. § 2021(E).

18 As President Shirley recognized, the Chief Legislative Counsel “represents only
19 the Council’s interests, drafts legislation and defends political positions on its behalf.”

20 Ex. 2, Pres. Shirely Veto at 1. The 2010 Act expanded that lawyer’s role to overseeing
21 preliminary investigations of all government officials. Ex. 2, Pres. Shirley Veto at 2. The
22 Council’s lawyer can use this power “to strengthen the political interests of Council
23 members through investigations and potential prosecutions of Executive Branch
24 officials.” Ex. 2, Pres. Shirley Veto at 2.

25 *4. The Council Gave Itself Power to Confirm Special Division Judges.*

26 The 2010 Act also stated that, within 10 days of receiving an application from the
27 Attorney General or the Chief Legislative Counsel, the Special Division “shall appoint”
28 a Special Prosecutor. Ex. 1, CAP-17-10, 2 N.N.C. § 2022(A). In addition, it made the
Special Division judges “subject to confirmation by the Navajo Nation Council.” Ex. 1,
CAP-17-10, 7 N.N.C. § 292(C).

1 5. *President Shirley Vetoed the 2010 Act.*

2 President Shirley vetoed the 2010 Act, writing that it “violates the separation of
3 powers doctrine, creates obvious conflicts of interest, [and] is designed to shield and
4 insulate” Council members. Ex. 2, Pres. Shirley Veto at 1. The Council overrode his veto
5 in June 2010. **Exhibit 3.**

6 **C. The Council Launched a Highly-Publicized Special Prosecutor Campaign**
7 **Against President Nygren.**

8 Last summer the Council used the 2010 Act to launch its effort to obtain a special
9 prosecutor to investigate the Executive Branch’s involvement in certain modular home
10 contracts involving Zenni Home and Indigenous Design Studio + Architects. The Council
11 issued several press releases to promote this effort.

12 On July 12, 2025, the Council announced via press release that it had received
13 “credible” information from unnamed “Navajo Nation officials, employees, and
14 community members suggesting that the Navajo Nation’s contracts, including
15 procurement, payments, etc., with ZenniHome and Indigenous Design Studio +
16 Architects [IDSA] do not comply with Navajo Nation laws, regulations, rules, and
17 policies.” **Exhibit 4.** The next day, the Council issued a press release, “Office of
18 Legislative Counsel seeks appointment of special prosecutor in ZenniHome and IDSA
19 matter,” announcing that the Chief Legislative Counsel had found “reasonable grounds
20 to warrant further investigation, and potential prosecution.” **Exhibit 5.**

21 In an August 13, 2025 press release, the Council announced the appointment of
22 Special Prosecutor Nayback “to investigate possible unethical and illegal conduct tied to
23 the Executive Branch’s contracts with [IDSA], the reported subcontract with ZenniHome
24 and Native Community Capital.” **Exhibit 6.** The Chief Legislative Council lauded the
25 appointment. Ex. 6.

26 In a September 15, 2025 press release, the Council identified “the Nygren
27 Administration” as a target, announcing: “On Friday, a Window Rock District Court
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1 Judge issued a court order granting authority for an appointed special prosecutor to pursue
2 and advance investigations into the Nygren Administration’s handling of ARPA funds
3 related to [IDSA], ZenniHome and Native Community Capital.” **Exhibit 7.**

4 **D. The Council and Special Prosecutor Are Pursuing Parallel Efforts.**

5 On November 21, 2025, the Special Prosecutor filed an Ethics in Government
6 Complaint against President Nygren in the Special Division of the Window Rock District
7 Court. The Council heralded the filing in a press release issued the same day. **Exhibit 8.**

8 In a separate press release that day, Speaker Curley announced her introduction of
9 legislation “to initiate the removal” of President Nygren and Vice President Richelle
10 Montoya based on “extensive findings of malfeasance, misfeasance, and breaches of
11 fiduciary trust duties[.]” **Exhibit 9.** These “findings” included the Special Prosecutor’s
12 allegations and cited the Special Prosecutor’s Complaint, as shown in Legislation No.
13 0263-25. **Exhibit 10** §§ 6(B), (D), (O).

14 By seeking removal of the President *and* the Vice President, the Speaker sought to
15 install herself as President while simultaneously continuing to serve as Speaker. *See* Ex.
16 10 § 11 (“Authorizing Succession Pursuant to 2 N.N.C. § 1006”).

17 By introducing the legislation on the evening of Friday, November 21, 2025, and
18 indicating that the legislation was eligible for action within five days—during the
19 Thanksgiving week Court holiday—the Speaker allowed for only two Court business
20 days to pass before the legislation could be acted upon.

21 On November 25, 2025, the Window Rock District Court issued a temporary
22 restraining order enjoining the Speaker and the Council from enacting Legislation No.
23 0263-25 or similar legislation. **Exhibit 11.** The Court found, in part, that the legislation
24 “pose[s] the potential to obliterate the separation of powers within the Navajo Nation
25 Government, causing government instability, concentration in one branch of government,
26 and may cause irreparable harm without adequate remedies at law.” Ex. 11 at 3 (citing 2
27 N.N.C. § 1006).

1 About three weeks later, on December 15, 2025, the Special Division dismissed
2 the Special Prosecutor’s Complaint—part of the basis for the Speaker’s removal
3 legislation—for lack of jurisdiction. **Exhibit 12** (Order Dismissing Ethics Complaint, *The*
4 *Special Prosecutor v. Nygren*, No. WR-SD-02-25).

5 The next day, the Council published on *its* Facebook page a “Statement from the
6 Special Prosecutor” announcing that the Special Division’s “dismissal is based on a
7 technicality and does not exonerate President Nygren for the wrongdoing and misconduct
8 alleged in the charging document.” **Exhibit 13**.

9 On January 29, 2026, the Council passed CJA-07-26. **Exhibit 14**. According to
10 the statute, the Council's express purpose was to “amend[] Title 2 of the Navajo Nation
11 Code to amend the powers and duties of the Office of the President and Vice President.”
12 Ex. 14 , CJA-07-26 at 1. The legislation, if allowed to go into effect, would:

- 13 • Deny P-cards and thereby cut-off travel and expense funding for all Division
14 Directors, the Controller, the Attorney General, and the Deputy Attorney General,
15 unless and until these officials have been confirmed by the Council;
- 16 • Prohibit all such unconfirmed Presidential appointees from creating programs,
17 entering contracts exceeding \$50,000 without legislative approval, hiring or firing
18 managers, and reallocating more than \$10,000 without legislative approval;
- 19 • In a provision apparently aimed at Acting Attorney General Kris Beecher,
20 retroactively subject Presidential appointees to unspecified “Consequences”—
21 including a “two-year re-nomination ban”—if they receive a final vote and are not
22 confirmed within 365 days before the resolution’s enactment;
- 23 • In a provision apparently targeted at Acting Deputy Attorney General JoAnn
24 Jayne, require that the Attorney General and Deputy Attorney General be licensed
25 attorneys in the Navajo Nation and within Arizona, New Mexico, or Utah;

- 1 • Prohibit any Acting Attorney General or Acting Deputy Attorney General from
2 issuing formal opinions, initiating “major litigation” without legislative approval,
3 or entering settlements exceeding \$250,000 without legislative approval; and
- 4 • Compel the President to make quarterly in-person reports to the Council and
5 require the President or Vice President to attend all confirmation hearings.

6 Ex. 14, CJA-07-26. Under these changes to Title II, the Council could subject the
7 President’s cabinet-level appointees to Council micro-management and control regarding
8 all but their most routine duties. CJA-07-26 also threatened the current leadership of the
9 Department of Justice by targeting the current Acting Attorney General and Acting
10 Deputy Attorney General and subjecting the Department to unprecedented political
11 control by the Legislative Branch.

12 Separately, the Council passed Resolution CJA-09-26 to strip the President of the
13 power to appoint any members of the Navajo Board of Education, which was established
14 as part of the Executive Branch “for the specialized purpose of overseeing the operation
15 of all schools serving the Navajo Nation.” 10 N.N.C. § 106(A).

16 On February 13, 2026, President Nygren filed an Emergency Application for Ex
17 Parte Temporary Restraining Order and Preliminary Injunction regarding CJA-07-26 and
18 CJA-09-26. **Exhibit 15.**

19 On February 24, 2026, the Window Rock District Court entered a temporary
20 restraining order provisionally enjoining the Speaker and the Council from enacting CJA-
21 07-26 and CJA-09-26. **Exhibit 16.** The Court found that the legislation “alters the Navajo
22 Nation Executive Branch’s functions and appears to concentrate some crucial Executive
23 Branch’s functions into the Legislative Branch’s supervision such as restricting Executive
24 Branch senior personnel functions, barring them from entering settlements without
25 political approval, superseding the Navajo Nation Department of Justice’s ability to
26 respond to major litigation matters unless there is political approval, as well as many other
27 provisions that undermine any Navajo Nation President’s ability to operate the Navajo
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1 Nation Executive Branch. Furthermore, concentrated power in one branch is prohibited
2 and violates the underlying concept of k'e. *Shirley v. Morgan*, 9 Nav. R. at 337.”

3 Meanwhile, the Special Prosecutor filed several complaints against President
4 Nygren in WR-CV-135-25—including an Ethics Complaint; an Amended Ethics
5 Complaint; and a Second Amended Ethics Complaint,.

6 The initial Complaint contained four claims: Count 1, Violation of 2.N.N.C. §
7 3755, regarding the hiring of President Nygren’s father-in-law; Count 2, Violation of 2
8 N.N.C. § 3744, concerning alleged conduct involving the use of President Nygren’s “P-
9 Card” to pay food and lodging expenses for his family during official travel; Count 3,
10 Violation of 2 N.N.C § 3745(B), regarding the same conduct; and Count 4, Violation of
11 2 N.N.C. § 3752(C), concerning alleged use of staff to assist President Nygren with
12 personal tasks, including watching his children.

13 The Second Amended Complaint added two new claims: Count 5, Violation of 2
14 N.N.C. § 3744, and Count 6, Violation of 2 N.N.C. § 3745(B). These claims involved
15 political disputes between the Legislative and Executive Branches concerning the Fiscal
16 Year 2026 operating budgets for OPVP and the Council, and concerning Sean McCabe’s
17 resignation and subsequent employment at the Office of the Controller. These claims
18 largely mirror those asserted by Speaker Curley against President Nygren in litigation
19 filed October 2025. *See Verified Petition for Permanent Injunction, Curley v. Nygren, et*
20 *al.*, WR-CV-112/113-25.

21 On May 7, 2026, the Window Rock District Court dismissed the Special
22 Prosecutor’s Second Amended Ethics in Government Complaint for lack of jurisdiction.

23 **Exhibit 17.**

24 The Court also dismissed, for not being set forth in a complaint, petition, or similar
25 pleading, President Nygren’s request to invalidate the Special Prosecutor Amendment
26 Act of 2010 and related claims of the Council’s abuse and politicization of the special
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1 prosecutor process. Ex. 17 at 4-5. The Court stated that President Nygren “can refile
2 proper pleadings in this court” regarding these issues. Ex. 17 at 5.

3 2 N.N.C. § 2021(J), which is the subject of this statutory challenge, states that a
4 Special Prosecutor is statutorily empowered to call for the mandatory suspension of any
5 Navajo Nation investigations or proceedings regarding matters within his or her
6 jurisdiction.

7 In or about February 2026, the Special Prosecutor purported to invoke this power
8 to instruct the Navajo Nation Acting Attorney General and the Department of Justice to
9 suspend investigations and pre-litigation or litigation-related activities concerning
10 potential matters involving the ZenniHome matter. *See Nayback tells Beecher to step*
11 *aside in ZenniHome investigation*, Gallup Sun (4/17/26), **Exhibit 18**.

12 On May 13, 2026, the Navajo Nation Council’s Budget and Finance Committee
13 enacted legislation announcing that, in conjunction with the Chief Legislative Counsel, it
14 plans to hold investigative hearings from June 8 through approximately June 19, 2026,
15 regarding the Zenni Home matter. BMFY-14-26, **Exhibit 19**.

16 On June 2, 2026, the BFC began serving subpoenas on scores of individuals to
17 appear at the BFC hearing. Subpoena recipients include: President Nygren; OPVP’s Chief
18 Legal Counsel; the Acting Attorney General; several Department of Justice attorneys; and
19 others. **See, e.g., Exhibit 20**.

20 On June 2, 2026, counsel for President Nygren emailed the Special Prosecutor to
21 inquire about whether the Special Prosecutor intended to take any action under 2 N.N.C.
22 § 2021(J) regarding the BFC hearings. **Exhibit 21**. As of the time of this filing, no
23 response has been received from the Special Prosecutor, and the BFC hearings appear to
24 be proceeding.

25 *To be clear, the facts appear to be as follows—the Special Prosecutor shut down*
26 *DOJ’s attempt to recover money from Zenni Homes, but appears to be allowing the*
27 *politically-driven BFC hearings to proceed*. The Special Prosecutor’s one-sided use of
28

1 his authority under 2 N.N.C. §2021(J) to shut down the Executive Branch’s investigations
2 into the ZenniHome matter while allowing the Legislative Branch’s investigation further
3 shows how the 2010 Act has rendered the Special Prosecutor Act prone to politicization
4 and abuse—particularly during this Presidential election season.

5 Arguments

6 A temporary restraining order or preliminary injunction may be entered to “stop a
7 party from acting in some way.” *Navajo Hous. Auth. v. Bluffview Resident Mgmt.t Corp.*,
8 8 Nav. R. 402, 412 (Nav. Sup. Ct. 2003). The movant must show that (1) he “has or is
9 claiming a protectable right or interest and has a high likelihood of success on the merits,”
10 (2) “irreparable injury, loss, or damage to that right or interest is likely to occur unless the
11 preliminary injunction is issued,” (3) “the threatened injury, loss or damage is substantial
12 in nature or character,” and (4) no adequate remedy at law. Nav. R. Civ. P. 65.1(C).

13 A TRO may be issued to maintain the *status quo* until a hearing can be had upon
14 a motion for preliminary injunction. Nav. R. Civ. P. 65.1(a). It can be granted without
15 giving the adverse party an opportunity to be heard, if it is based on an affidavit that
16 “states specific facts which convince the Court that immediate and irreparable injury, loss,
17 or damage will result to the moving party before the adverse party or the party’s counsel
18 can be heard in opposition.” Nav. R. Civ. P. 65.1(c)(l).

19 Notice of this motion will be provided to Counter-Respondents via personal
20 service and email.

21 **I. PETITIONERS HAVE A PROTECTABLE RIGHT OR INTEREST.**

22 Petitioners OPVP and President Nygren—as the Chief Executive Officer of the
23 Executive Branch—have a protectible right or interest in immediate injunctive relief here.

24 Petitioners have a protectable right or interest in ensuring the stability of the
25 Navajo Nation by safeguarding the governmental changes made by the Title II
26 Amendments of 1989. Petitioners would not exist but for the Title II Amendments. *See*
27 *Shirley*, 9 Nav. R. at 348 (“The Office of the President . . . is an elected office serving
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1 unique public functions. In 1989, when the branches were created, we said there will now
2 be a President separate from the Council in a separate branch[.]”). Petitioners’ role in the
3 government would be compromised if the Council could impose Title II changes that
4 encroach or infringe on the functions of the Executive Branch based on made-up
5 “emergencies” that circumvent “the ability of the People as a whole to determine the laws
6 by which they will be governed.” *Shirley*, 9 Nav. R. at 340 (“Egalitarianism is the
7 fundamental principle of Navajo participatory democracy. The egalitarian principle is the
8 ability of the People as a whole to determine the laws by which they will be governed.”).
9 Indeed, if Council could amend Title II’s division of functions among the Branches
10 without a vote of the People, but instead based on fictional “emergencies,” then Title II
11 itself—and the promises that the Council made to the People when it enacted the Title II
12 Amendments—would be rendered meaningless. *See Shirley*, 9 Nav. R. at 338 (CD-68-89
13 “operate[s] . . . as a solemn promise by the Council to the People” to commit “to a
14 structure they hoped and believed would serve the People effectively until the People
15 themselves might find a path to a better way”). Stated differently, if the Council could
16 grab more power for itself—and encroach upon or diminish the power of the Executive
17 Branch—by simply enacting “emergency” laws whenever it suits them, then the
18 foundations of the Title II Amendments would collapse.

19 As discussed below, the 2010 Act violates Fundamental Law, separation of
20 powers, and Title II by duplicating core Executive Branch functions in the Legislative
21 Branch. And it destabilizes the government by allowing the Chief Legislative Counsel—
22 who represents the Council only—to sideline the Attorney General and Department of
23 Justice—who represent the Nation as a whole—throughout the special prosecutor
24 process.

25 The Navajo Nation has already seen what happens when one part of the
26 government is allowed to grab too much power for itself: “We have seen in the last few
27 decades what occurs when, instead of thinking of the best interests of the People, one of
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1 these components [of the government] tries to assume a superior position. Our experience
2 in 1989 and our present experience in 2010 shows the extremes of what may occur.”
3 *Shirley*, 9 Nav. R. at 337. The November 25, 2025 and May 7, 2026 temporary restraining
4 orders in *Curley v. Nygren* show that the Council has continued to overstep without
5 abiding by the “solemn promise” and “solemn compact” it made with the People in the
6 Title II Amendments. *Shirley*, 9 Nav. R. at 338.

7 Council’s overreach also includes its use of the 2010 Act in this election year to
8 launch a wide-ranging investigation against the Executive Branch, as described above.
9 The danger to government stability posed by these efforts is particularly acute given the
10 fast-approaching July 21 primary elections and the November 3 general elections, which
11 can be shaped by highly-publicized investigations launched under an invalid law.

12 As the leaders of the Executive Branch, Petitioners have a protectible right or
13 interest in opposing Respondents’ efforts to undermine the stabilizing safeguards
14 embodied in Fundamental law, the separation of powers, and Title II. Petitioners also
15 have a protectible right or interest in securing relief from investigations launched under
16 an invalid statute.

17 **II. PETITIONERS HAVE A HIGH LIKELIHOOD OF SUCCESS ON THE**
18 **MERITS FOR SEVERAL REASONS.**

19 **A. The 2010 Special Prosecutor Act Is Invalid “Emergency Legislation.”**

20 The Council passed the 2010 Act as “emergency” legislation under then-2 N.N.C.
21 § 164(A)(7)(a), allowing it to bypass customary procedures that apply to Council
22 resolutions. Ex. 1, CAP-17-10 §1(E); *Shirley*, 9 Nav. R. at 345-46. The 2010 Act
23 contained only a conclusory statement that an emergency existed. Ex. 1, CAP-17-10 at 1.
24 But there was no bona fide emergency; at most, the Council was facing an investigation
25 by the then-Attorney General into alleged spending improprieties. Ex. 2, Pres. Shirley
26 Veto at 3.

1 In *Shirley*, the Court held that an “emergency” resolution to place President Shirley
2 on administrative leave was invalid because the Council never substantiated its claimed
3 “emergency.” The Court wrote: “[T]he Council routinely uses the emergency legislation
4 exception for all manner of legislation that ought not to qualify as emergency legislation,
5 which enables a by-passing of the statutory committee(s) review and approval process.
6 We state unconditionally that such misuse of the emergency legislation procedural
7 exception is impermissible.” *Shirley*, 9 Nav. R. at 346.

8 Then, as now, “[m]atters constituting an emergency” were limited to “[c]essation
9 of law enforcement services, disaster relief services, fire protection services or other
10 direct services required as an entitlement under Navajo Nation or Federal law, or which
11 directly threaten the sovereignty of the Navajo Nation.” 9 Nav. R. at 346 (citing then-2
12 N.N.C. § 164(A)(7)(a)).⁵ There was no evidence or public record showing that the
13 emergency resolution in *Shirely* fell into any of these categories. *Id.* *Shirley* held that the
14 absence of a “bona fide emergency” made the resolution “invalid as a matter of law.” *Id.*

15 *Shirley* is no outlier. Before and since, the Supreme Court has not hesitated to
16 invalidate legislation passed without strict compliance with mandatory enactment
17 procedures. In *Tsosie v. Navajo Bd. of Election Supervisors*, No. SC-CV-68-14, 2015 WL
18 14112269 at *1 n.2 (Nav. Sup. Ct. Feb. 20, 2015), the Court wrote that disregarding the
19 legal requirement that Resolution CD-81-14 be considered by the Naabik’íyáti’
20 Committee before being added to Council’s agenda as an emergency action “undermines
21 the legal sufficiency of [the Resolution] from the onset.” *See also Navajo Nation v.*
22 *Redhouse*, 6 Nav. R. 305, 308 (Nav. Sup. Ct. 1990) (Resolution CO-80-90 invalidated
23 because enacted without following mandatory procedures of 2 N.T.C. § 164); *Nelson v.*
24 *Initiative Committee*, 9 Nav. R. 453, 458-59 (Nav. Sup. Ct. 2011) (invalidating an
25 appropriation passed without strict compliance with Council procedures).

26
27 ⁵ The current version of the statute contains the same language. 2 N.N.C. § 164(A)(16).
28

1 Nothing supported the Council’s invocation of an “emergency” when it passed the
2 2010 Act. There was no imminent threat to police, disaster relief, fire, other direct
3 services, or the Nation’s sovereignty. Rather, the Council just made up an “emergency.”
4 This alone requires invalidating the 2010 Act. *Shirley*, 9 Nav. R. at 346-47; *Nelson*, 9
5 Nav. R. at 458-59; *Redhouse*, 6 Nav. R. at 308; *Tsosie*, 2015 WL 14112269 at *1 n.2.

6 **B. Fundamental Law and Separation of Powers, the Title II Amendments,
7 and Binding Precedent Require Invalidating the 2010 Act.**

8 1. The 2010 Act Violates Fundamental Law and Separation of Powers.

9 The Navajo Supreme Court has held that “infringement” or “encroachment” on
10 another branch’s essential powers is the touchstone of a separation of powers violation.
11 Under separation of powers, no branch “can perform or infringe on the essential functions
12 of another branch.” *Sloan*, 8 Nav. R. at 168. If a branch “infringes on the role of another
13 branch, the integrity of the government is ruined.” *Id.* at 167-68.

14 This is because separation of powers is a sacred concept that is front and center in
15 the *Diné Bi Beenahaz’áanii* or Fundamental Law, “the very foundational laws of Navajo
16 culture.” *Shirley*, 9 Nav. R. at 332 (citing 1 N.N.C. § 203). *Diné Bi Beenahaz’áanii*
17 recognizes “[a] government structure consisting of *Hózhóójí Nahat’á* (Executive Branch),
18 *Naat’áji Nahat’á* (Legislative Branch), and *Hashkééji Nahat’á* (Judicial Branch)[.]” 1
19 N.N.C. § 202. The branches have separate functions: the Executive Branch implements
20 the Nation’s policies and laws; the Legislative Branch enacts those policies and laws; and
21 the Judicial Branch resolve disputes in the Nation’s courts and interprets the laws and
22 policies enacted by the Legislative Branch. 1 N.N.C. § 203(C)-(E).⁶

23
24 ⁶ In 2010, the Council enacted CJA-08-10, which added 1 N.N.C. § 207(C) and (D).
25 <https://courts.navajo-nsn.gov/Resolutions/CJA-08-10.pdf>. These subsections stated that
26 *Diné Bi Beenahaz’áanii* “shall not be construed to supersede or replace Navajo Nation
27 statutory laws or policies,” and deprived Navajo courts of jurisdiction to consider disputes
28 regarding *Diné Bi Beenahaz’áanii*. In *Shirley v. Morgan*, 9 Nav. R. 325, 332 (Nav. Sup.
Ct. 2010), the Supreme Court completely invalidated CJA-08-10.

1 Preserving the separation of these functions “is so deeply rooted in Navajo culture
2 that it is accepted without question. *It is essential to maintaining balance and harmony.*”
3 *Sloan*, 8 Nav. R. at 167 (emphasis added). The separate branches are like different
4 medicine men or women, and “[i]t is not acceptable for one medicine person to tell
5 another how to conduct a ceremony. Any infringement destroys the healing powers of the
6 ceremony” and “the prohibition on such intrusions is absolute.” *Id.* The Supreme Court
7 recognizes “[t]he same holds true with our three-branch government. If one branch
8 oversteps its powers, and infringes on the role of another branch, the integrity of the
9 government is ruined.” *Id.* at 167-68. Thus, “[n]o branch . . . can perform or infringe on
10 the essential functions of another branch.” *Id.* at 168.

11 For these reasons, a separation of powers argument does not require a showing that
12 a branch has been “divested of,” or has lost, a power associated with that branch. Rather,
13 a violation occurs when one branch infringes or encroaches on a core function of another
14 branch. For example, “the judiciary absolutely may not infringe upon the Council’s
15 essential function of enacting legislation. . . . Conversely, the Council absolutely may not
16 act as an appellate body over the judgments of the courts, nor can it pass legislation for
17 the specific purpose of altering a party’s court-granted right.” *Sloan*, 8 Nav. R. at 168.
18 *See id.* (the three branches “shall not interfere with or encroach on the authority or within
19 the province of the other”) (quotation and citation omitted). Similarly, if the Council
20 created its own parallel court system, but left the Judicial Branch’s court system intact,
21 separation of powers has been violated even though the Judicial Branch wasn’t “divested”
22 of its power to hear cases. More generally, Fundamental Law and the separation of powers
23 render invalid legislation—like the 2010 Act here—that authorizes one branch to
24 infringe or encroach on the core functions of another.

25 Control of litigation, including investigations and prosecutions, are core Executive
26 Branch functions. Under Title II, the Department of Justice is part of the Executive
27 Branch and is headed by the Attorney General, the Nation’s Chief Legal Officer. 2 N.N.C.

1 §§ 1961(A), 1964(A). Investigating and prosecuting wrongdoing is a quintessential
2 function of the Department of Justice, 2 N.N.C. §§ 1971-1972, and prosecutorial
3 decisions “ha[ve] long been regarded as the special province of the Executive Branch.”
4 *Heckler v. Chaney*, 470 U.S. 821, 832 (1985). *See Resp., passim.*

5 Against this backdrop, the 2010 Act cannot survive separation of powers scrutiny.
6 The Special Prosecutor Act of 1989 required the Attorney General to conduct a
7 preliminary investigation—the precursor to seeking a special prosecutor—“whenever
8 he/she receives information sufficient to constitute grounds to investigate whether [any
9 specified official] has committed a violation of any federal or state criminal law or any
10 law or regulation of the Navajo Nation, or committed any act upon which the Navajo
11 Nation may have a civil cause of action.” Ex. 1, CAP-17-10, 2 N.N.C. § 2021(A). The
12 2010 Act changed this to identify the Council as the source of such referrals. Ex. 1, CAP-
13 17-10, 2 N.N.C. § 2021(A). The 2010 Act also gives the Council’s own attorney, the
14 Chief Legislative Counsel, the traditional executive function of conducting preliminary
15 investigations and seeking special prosecutors appointments. Ex. 1, CAP-17-10, 2 N.N.C.
16 § 2021(E). It even authorizes the Chief Legislative Counsel to seek a special prosecutor
17 whenever *the Chief Legislative Counsel* determines that further investigation or
18 prosecution cannot be handled without creating a conflict for the Department of Justice
19 or the Office of Legislative Counsel (OLC). Ex. 1, 2 N.N.C. § 2021(E). By giving itself
20 the power to select matters for special prosecutor scrutiny and empowering its lawyer to
21 run that process entirely outside of the Department of Justice and the Attorney General’s
22 purview, the Council infringed and encroached on executive functions.

23 The 2010 Act deleted language stating the Attorney General could launch a
24 preliminary investigation “whenever he/she receives information sufficient to constitute
25 grounds” for investigation. Ex. 1, CAP-17-10, 2 N.N.C. § 2021(A). It struck the words
26 “he/she receives” after “whenever,” and inserted “that official is referred from the Navajo
27 Nation Council[.]” *Id.* It reads: “The Attorney General or Chief Legislative Counsel shall
28

1 conduct a preliminary investigation pursuant to the provisions of this Section whenever
2 ~~he/she receives~~ that official is referred from the Navajo Nation Council information
3 sufficient to constitute grounds to investigate[.]” *Id.*

4 Thus, the 2010 Act’s plain language authorizes preliminary investigations
5 “whenever” *the Council*—no one else—refers information sufficient to warrant an
6 investigation. When the language of a statute is clear, plain and unambiguous, it must be
7 held to mean what it says. *Barton v. Navajo Nation Ethics and Rules Office*, 8 Nav. R.
8 353, 358 (Nav. Sup. Ct. 2003). Words are sacred, and statutory amendments cannot be
9 interpreted in a manner that makes them superfluous. It is an elementary rule of
10 construction that effect must be given, if possible, to every word, clause and sentence of
11 a statute. *Nelson v. Initiative Committee*, 9 Nav. R. 453, 458 (Nav. Sup. Ct. 2011). Giving
12 effect to all the changes made by the 2010 Act, “only allegations raised and referred by
13 the Navajo Nation Council *itself*” could lead to special prosecutor scrutiny. Ex. 2, Pres.
14 Shirley Veto at 1. This gives the Council unchecked power to decide whether to greenlight
15 potential special prosecutor investigations—violating separation of powers and
16 Fundamental Law.

17 But even if the 2010 Act did not give the Council sole authority to decide which
18 officials to target, the Act’s insertion of the Council and its Counsel throughout the special
19 prosecutor process violates separation of powers by giving the Council the ability to
20 sideline the Executive Branch at every step of that process—infringing and encroaching
21 on traditional executive functions.

22 2. The 2010 Act Violates Checks and Balances.

23 Checks and balances “are equally important” to the separation of powers in
24 guarding against abuse of power. *Sloan*, 8 Nav. R. at 169. Thus, “[i]n 1989, the Tribal
25 Council recognized that checks and balances must exist between the branches of the
26 government,” so that “[w]hile the three branches remain separate, they exercise certain
27 review functions over one another.” *Id.*

1 Even if the 2010 Act could be read to make the Attorney General and the Council’s
2 gatekeeping roles co-equal, the Act still allows the Council to entirely circumvent the
3 Attorney General and the Department of Justice at all stages of the special prosecutor
4 process. Without involving the Attorney General or the Department of Justice, the
5 Legislative Branch can identify officials for investigation, perform preliminary
6 investigations, make determinations about whether the Department of Justice or OLC
7 might be conflicted from further investigation, and apply to the Special Division for
8 appointment of a special prosecutor. Ex. 1, 2 N.N.C. §§ 2021(A), (E). The Legislative
9 Branch can do this without any check by the Executive Branch, including review by
10 career prosecutors. This violates checks and balances.

11 It has been argued that the 2010 Act creates its own check on the Executive Branch
12 in circumstances where conflicts that might arise from investigations into the Attorney
13 General or others in the Attorney General’s chain of command. This ignores that the
14 Department of Justice’s attorneys are bound by Rules of Professional Conduct that
15 prohibit conflicted representations, and that the Department routinely hires outside
16 counsel when conflict issues arise. It also misapprehends the doctrine of checks and
17 balances—which requires oversight, but not duplicating or supplanting another branch’s
18 functions. *Sloan*, 8 Nav. R. at 168.

19 Part of the concept of a government involving separation of powers is accepting
20 that the role of each Branch is limited—each Branch cannot duplicate the essential
21 functions of every other Branch. But Navajo law does not leave the Council without
22 recourse if the Council believes that the Attorney General or the Department of Justice
23 are not faithfully executing their duties under the original special prosecutor statute, the
24 Special Prosecutor Act of 1989 (the 1989 Act).⁷ The Council can take any number of

25 ⁷ That Act contains detailed procedures: it commands the Attorney General to “conduct a
26 preliminary investigation . . . whenever he or she receives information sufficient to
27 constitute grounds to investigate whether [a Navajo official] has committed a violation of
28 an federal or state criminal law or any law or regulation of the Navajo Nation, or

1 steps short of *duplicating* the Attorney General’s special-prosecutor-related functions in
2 the Legislative Branch. For example:

- 3 • The Council may file a writ of mandamus action seeking a court order to compel
4 the Attorney General to comply with 2 N.N.C. § 2021’s mandatory commands, *see*
5 *Tsosie v. Navajo Bd. of Election Supervisors*, No. SC-CV-68-14, 2015 WL
6 14112269, at *1 (Navajo Feb. 20, 2015) (discussing writ of mandamus to compel
7 performance of statutory responsibilities);
- 8 • The Council may summon the Attorney General to appear at legislative hearings
9 pursuant to 2 N.N.C. § 185(C), and demand that the Attorney General explain
10 under oath why he or she hasn’t performed duties required by 2 N.N.C. § 2021;
- 11 • The Council may refer the Attorney General to the Office of Ethics and Rules for
12 investigation for not performing the duties of their office, *see Shirley*, 9 Nav. R. at
13 347 (“a mechanism exists at 2 N.N.C. § 3772 providing for an administrative
14 hearing by the Ethics and Rules Committee when there are allegations of
15 misconduct by . . . high-level Navajo Nation officials”), and 2 N.N.C. §§ 3741 *et*
16 *seq.*;
- 17 • The Council’s Budget and Finance Committee has the power to review and
18 recommend proposed budgets for all branches and entities of the Navajo Nation—
19 another powerful oversight tool, as recognized in *Sloan*, 8 Nav. R. at 168.

20 These are all tools that stop short of creating parallel Executive Branch functions in the
21 Legislative Branch.

22 _____
23 committed any act upon which the Navajo Nation may have a civil cause of action[.]” 2
24 N.N.C. § 2021(A). The statute also commands that if the Attorney General finds
25 “reasonable grounds to believe that further investigation or prosecution is warranted,” and
26 “the Attorney General, the Office of the Prosecutor or any other official or employee of
27 the Department of Justice” cannot handle the matter “without resulting in a personal,
28 financial, or political conflict of interest,” “the Attorney General shall apply to the Special
Division of the Window Rock District Court for appointment of a Special Prosecutor” (2
N.N.C. § 2021(E)).

1 3. The 2010 Act Violates Title II and *Shirley v. Morgan*

2 The Title II Amendments are “fundamental, organic laws, which are superior to
3 any conflicting law.” *Sloan*, 8 Nav. R. at 166. Given the sacred status of the separation of
4 powers and because of “the power of the people to participate in their democracy and
5 determine their form of government, the Council may not enact laws that alter the
6 separation of powers embodied in the Title II Amendments. *Shirley v. Morgan (Op. and*
7 *Order on Reconsideration)*, 9 Nav. R. 372, 375 (Nav. Sup. Ct. 2010). Such changes must
8 come from the People, not the Council. *See Shirely*, 9 Nav. R. at 338 (“the power over
9 the structure of the Navajo government ‘is ultimately in the hands of the People and [the
10 Council] will look to the People to guide it’”) (citation omitted); *Todacheene v. Shirley*,
11 9 Nav. R. 380, 384 (Nav. Sup. Ct. 2010) (“[t]he Council may not amend any portion of
12 the Navajo Nation Code in a manner that disturbs and undermines” Title II changes); *In*
13 *the Matter of Frank Seanez*, 9 Nav. R. 416, 417 (Nav. Sup. Ct. 2010) (“the People have
14 ultimate authority to . . . amend all provisions that concern doctrines of separation of
15 powers [and] checks and balances”).

16 In the Special Prosecutor Act of 1989, the Council laid out very specific
17 procedures for the Attorney General to follow. The 1989 Act and the Title II Amendments
18 gave these powers to the Attorney General, and entrusted the Attorney General to do the
19 right thing when he or she receives credible information about official misconduct. The
20 2010 Act—passed on an unsubstantiated “emergency” basis, without any vote of the
21 People—altered Title II by duplicating core Department of Justice functions within the
22 Legislative Branch, as described above.

23 But OLC isn’t a prosecutorial agency. The Title II Amendments created OLC “to
24 provide legal advice and legislative services to the Navajo Nation Council,” CD-68-89,
25 §§ 960-961, and its duties include advising on legislative matters, helping preparing
26 resolutions, and codification of tribal laws, rules, and regulations. CD-68-89, §§ 964(A)-
27 (B). The Title II Amendments did not assign any investigative or prosecutorial powers to
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1 it. *See* CD-68-89, §§ 960-964.

2 The 2010 Act nevertheless assigns significant investigative and prosecutorial
3 duties to OLC, and allows the Council to both make laws and then target officials for
4 special prosecutor scrutiny for allegedly violating them. As *Shirley* makes clear, the
5 Council cannot amend Title II’s separation of powers and checks and balances to
6 consolidate legislative and executive functions in itself—only the People can. 9 Nav. R.
7 at 375. Whether or not the 2010 Act’s changes to Title II might be desirable, if the Council
8 wants give itself such power as a “check and balance” on the Executive Branch, it has to
9 go to the People to get it. If the Council can amend Title II without going to the People,
10 then Title II is meaningless legislation.

11 Since 1989, Title II has generally operated to stabilize the Navajo Nation
12 government. The Council doesn’t have the power to amend Title II without involving the
13 will of People. Giving the Council a shadow Attorney General is a complete violation of
14 Title II without going to People, especially when the Council did so via “emergency”
15 legislation when there was no emergency.

16 4. **The Council Has Politicized the Special Prosecutor Process.**

17 The Council’s actions of obtaining a special prosecutor and then promoting the
18 Special Prosecutor’s litigation against the President—particularly as the 2026 elections
19 approach—shows that Council and Presidential Candidate Curley are using the 2010 Act
20 for partisan political ends. This shows why the 2010 Act hands too much power to the
21 Legislative Branch in violation of Fundamental Law and the Title II Amendments. The
22 Special Prosecutor’s seemingly double-standard approach to 2 N.N.C. § 2021(J) also
23 underscores the politicization of this matter: the Special Prosecutor instructed the Acting
24 Attorney General to suspend the Department of Justice’s investigations and litigation-
25 related activities regarding the Zenni Home matter, but apparently has not made the same
26 demand on the Council or the BFC.

1 **II. PETITIONERS FACE A LIKELIHOOD OF IRREPARABLE INJURY.**

2 Absent Court action, Petitioners OPVP and President Nygren face a high
3 likelihood of severe irreparable harm from the Council’s efforts to rewrite Title II and the
4 Special Prosecutor Act of 1989. As shown above, those efforts violate Fundamental Law,
5 the separation of powers, Title II, and binding precedent. They undermine fundamental
6 Navajo principles of self-governance, participatory democracy, and egalitarianism. And
7 they pose a direct threat of upending the stabilizing forces of divided government adopted
8 when the Council passed the Title II Amendments in 1989. The Navajo People saw in
9 1989 and again in 2010 what happens when one Branch declares itself superior to all
10 other Branches; the events of 2025-2026 similarly show what happens when the Council
11 oversteps and declares itself the preeminent Branch.

12 The politicization of this process poses its own unique likelihood of irreparable
13 harm—the 2026 elections are fast approaching, and Court action after the July 21
14 primaries (or even the June 8 BFC hearings) cannot undo harm to the political process
15 caused by the Special Prosecutor’s and the Council’s activities described above.

16 Temporary and preliminary injunctive relief is necessary to avert these harms and
17 restore balance.

18 **III. THE INJURY, LOSS OR DAMAGE IS SUBSTANTIAL IN NATURE OR**
19 **CHARACTER.**

20 The threatened injury is substantial in nature or character. As explained above, the
21 stakes are nothing less than ensuring that the Navajo presidential primary occurs without
22 the filing of special prosecutor complaints arising under an invalid statute. Moreover, the
23 Navajo People are inherently injured whenever the Council is permitted to amend Title II
24 and change the separation of powers without a vote of the People—particularly where
25 Council attempts to make such changes based on a fictional “emergency.”

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1 **IV. THERE IS NO ADEQUATE REMEDY AT LAW.**

2 No monetary remedy could compensate Petitioners for the irreparable damage that
3 would be caused by ongoing special prosecutor proceedings, particularly this close to
4 presidential primary and general elections. No subsequent award of money damages
5 could undo the damage caused by the filing of special prosecutor complaints—based on
6 an invalid statute—in the run-up to the Nation’s elections. Similarly, no money damages
7 can compensate Petitioners or the Navajo People for the Council’s unlawful attempts to
8 alter Title II and change the balance of power between the Branches through invalid
9 “emergency” legislation and/or through legislation that circumvents the participation and
10 will of the People.

11 **V. THE COURT SHOULD STAY THE BFC HEARINGS.**

12 For many of the same reasons, the Court should enter an order staying the BFC
13 hearings scheduled to begin this Monday, June 8, at 10:00 a.m., pending the resolution of
14 the Counterclaim challenging the 2010 Act.

15 Absent a stay, the BFC will conduct a duplicative investigation concerning the
16 Zenni Home matter, as 2 N.N.C. § 2021(J) presumptively prohibits. Many individuals
17 will be subject to two investigations, rather than one—the BFC’s legislative investigation,
18 and the Special Prosecutor’s civil or criminal investigations. Allowing the BFC hearings
19 to proceed while the validity of the 2010 Act and the Special Prosecutor’s appointment
20 remains subject to judicial determination would cause chaos and confusion, sow doubts
21 about the integrity of the Special Prosecutor investigation, and allow the unabated
22 politicization of this entire process.

23 **Conclusion**

24 For the foregoing reasons, pending an expedited hearing, the Court should issue a
25 temporary restraining order and preliminary injunction prohibiting the enforcement or
26 implementation of the Special Prosecutor Amendment Act of 2010 and invalidating any
27 appointments made under the 2010 Act.

28


1 The Court should also enter a stay of the BFC’s hearings, pending determination
2 of this matter on the merits, or, at minimum, issue an order quashing all subpoenas issued
3 by the BFC for the hearings.

4 Alternatively, because of the imminent threat of irreparable harm to the Navajo
5 Nation government, the Court should hold an expedited telephonic or virtual hearing
6 concerning why a TRO, preliminary injunction, and stay should issue.

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RESPECTFULLY SUBMITTED this 4th day of June 2026.

ZWILLINGER WULKAN PLC

By: 

Javier Torres
Peter Kozinets (Admitted *PHV*)
2020 North Central Avenue, Suite 675
Phoenix, Arizona 85004
Counsel for President Buu Nygren

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **COMBINED APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION REGARDING THE SPECIAL PROSECUTOR -AND- MOTION TO STAY RELATED INVESTIGATIVE HEARINGS BEFORE THE BUDGET AND FINANCE COMMITTEE SCHEDULED TO BEGIN MONDAY, JUNE 8, AT 10:00 A.M.** was filed in person this 4th day of June, 2026 to, 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 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
Email: espino@navajo-nsn.gov

Brian Lewis
Brandon Bitsuie
Drummond Woodsum
114 North San Francisco
Street, Suite 100, Box #24
Flagstaff, AZ 86001
Email: blewis@dwmlaw.com
Email: bbitsuie@dwmlaw.com
Counsel for Respondents OOC and OMB

By: /s/ Marlena Mendez Higgins

EXHIBIT 1

EXHIBIT 1

**RESOLUTION OF THE
NAVAJO NATION COUNCIL**

21st NAVAJO NATION COUNCIL - Fourth Year 2010

AN ACT

**RELATING TO INTERGOVERNMENTAL RELATIONS, GOVERNMENT SERVICES,
JUDICIARY, AND AN EMERGENCY; ENACTING THE SPECIAL PROSECUTOR
AMENDMENT ACT OF 2010; AMENDING TITLES 2 AND 7 OF THE NAVAJO
NATION CODE**

BE IT ENACTED:

Section One. Enactment of the Special Prosecutor Act of 2010

The Navajo Nation Council hereby enacts the Special Prosecutor Amendments Act of 2010

A. The Navajo Nation hereby finds that the status providing for the appointment and operation of a Special Prosecutor, and the Special Division of the Window Rock District Court were originally adopted in 1989.

B. The Navajo Nation further finds that the statutes providing for the appointment and operation of a Special Prosecutor, and the Special Division of the Window Rock District Court are in need of amendment in order to address changed circumstances since 1989.

C. The Navajo Nation finds that the Chief Legislative Counsel should be provided additional authority to apply for the appointment of a Special Prosecutor, and to be otherwise involved in the operation of the Special Prosecutor in a manner similar to the Attorney General of the Navajo Nation.

D. The Navajo Nation finds that the appointment of judges to the Special Division of the Window Rock District Court should require confirmation by the Navajo Nation Council.

E. The Navajo Nation finds that this matter constitutes an emergency pursuant to 2 N.N.C. §164 (A)(7)(a) as the current unamended provisions of law threaten the sovereignty of the Navajo Nation.

Section Three. Amendment of Title 2 of the Navajo Nation Code

The Navajo Nation Council hereby amends Title 1 of the Navajo Nation Code, as follows:

**NAVAJO NATION CODE ANNOTATED
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 5. EXECUTIVE BRANCH
SUBCHAPTER 39. DEPARTMENT OF JUSTICE
ARTICLE 6. SPECIAL PROSECUTOR**

§ 2021. Application for appointment of a Special Prosecutor

A. The Attorney General or Chief Legislative Counsel shall conduct a preliminary investigation pursuant to the provisions of this Section whenever he/she receives that official is referred from the Navajo Nation Council information sufficient to constitute grounds to investigate whether any of the persons listed in Subsection (B) of this Section has committed a violation of any federal or state criminal law or any law or regulation of the Navajo Nation, or committed any act upon which the Navajo nation may have a civil cause of action. The Attorney General may take no longer than 60 days to conduct such preliminary investigation.

B. The persons referred to in Subsection (A) of this Section are:

1. The President of the Navajo Nation
2. The Vice-President of the Navajo Nation
3. Any member of the Executive Staff of the Office of the President or the Vice President.
4. The Chairperson of any standing committee of the Navajo Nation Council;
5. The Attorney General, in which case the Deputy Attorney General shall perform the functions of the Attorney General pursuant to the provisions of §§ 2021- 2024 of this title;

6. The Director or Acting Director or Deputy Director of any Division, Department, Program or Office of the Executive Branch of the Navajo Nation; and

7. Any other official, employee or agent of the Navajo Nation, where the Attorney General determines that investigation or prosecution or civil litigation against such person by the Attorney General or other officer or employee of the Department of Justice may result in a personal, financial, or political conflict of interest.

C. In determining whether grounds sufficient to investigate exist, the Attorney General or Chief Legislative Counsel shall consider the degree of specificity of the information received and the credibility of the source of the information.

D. Upon completion of the preliminary investigation, if the Attorney General or Chief Legislative Counsel finds that there are no reasonable grounds to believe that further investigation or prosecution is warranted, or that the matter may be handled by the Attorney General, the Office of the Prosecutor or other officials, or employees of the Department of Justice without resulting in personal, financial or political conflict of interest, the Attorney General or Chief Legislative Counsel may take such lawful action or inaction as he/she that official deems appropriate.

E. Upon completion of the preliminary investigation, if the Attorney General or Chief Legislative Counsel finds that there are reasonable grounds to believe that further investigation or prosecution is warranted, and that the matter cannot be handled by the Attorney General, the Office of the Prosecutor or any other official or employee of the Department of Justice or Office of Legislative Counsel without resulting in personal, financial, or political conflict of interest, the Attorney General or Chief Legislative Counsel shall apply to the Special Division of the Window Rock District Court for appointment of a Special Prosecutor.

F. An application pursuant to Subsection (E) of this Section shall contain sufficient information to assist the special division to select a Special Prosecutor and to define that Special Prosecutor's jurisdiction. The Attorney General or Chief Legislative Counsel shall recommend at least three persons among whom the Special Division shall appoint such Special Prosecutor, shall recommend appropriate compensation, and shall recommend the extent of such Special Prosecutor's jurisdiction.

G. If for any reason the Special Division fails to comply with the provisions of § 2022(A) of this title, then the Attorney General or Chief Legislative Counsel shall exercise the powers of the Special Division under of § 2022 (A) and (C) of this title.

H. Whenever a Special Prosecutor is currently in office, and whenever the Attorney General or Chief Legislative Counsel receives information sufficient to cause ~~him/her~~ that official to apply for appointment of a Special Prosecutor pursuant to Subsection (E) of this Section, in lieu thereof the Attorney General or Chief Legislative Counsel may apply to the Special Division to enlarge the jurisdiction of such Special Prosecutor to include any such new matter.

I. No application or any other documents or materials supplied to the Special Division in connection with an application or appointment of a Special Prosecutor shall ~~not~~ be revealed to any person outside the Special Division or the Department of Justice without leave of the Special Division, or the written release of the Attorney General or Chief Legislative Counsel.

J. Whenever a matter is within the jurisdiction of a Special Prosecutor, the Attorney General, the Chief Prosecutor, the Chief Legislative Counsel and all officers and employees of the Department of Justice, shall suspend all investigations and proceedings regarding such matter, except insofar as such Special Prosecutor and the Attorney General or Chief Legislative Counsel agree in writing that such investigations and proceedings may continue.

K. Notwithstanding the provisions of Subsection (J) of this Section, the Attorney General or Chief Legislative Counsel may appear in any proceeding before any court or legislative or administrative body as an amicus curiae concerning any issues of law raised by any case or proceeding.

§ 2022. Duties of the Special Division

A. Within 10 days of receipt of an application pursuant to § 2021 (E) of this title, the Special Division shall appoint an appropriate Special Prosecutor from among the persons recommended by the Attorney General or Chief Legislative Counsel, and shall determine such Special Prosecutor's jurisdiction in accord with the recommendation of the Attorney General or Chief Legislative Counsel .

B. The Special Division may request, and upon request shall receive, the assistance of the Attorney General or Chief Legislative Counsel in securing the appointment of a Special Prosecutor.

C. The Special Division shall set the fees and expenses to be paid to a Special Prosecutor upon his or her appointment, in an amount agreed between the proposed Special Prosecutor and the Special Division. The Special Division may request, and upon request shall receive, assistance and cooperation from the Division of Administration and Finance Office of the Controller, Office of Management and Budget, and the Budget and Finance Committee of the Navajo Nation Council, in determining and arranging for funding such fees and expenses. The Special Division shall enter into an appropriate contract with the Special Prosecutor, in the name of the Navajo Nation, and shall comply with the requirements as may be applicable of 25 U.S.C. § 81. Notwithstanding any other provision of law, the presiding judge of the Special Division is hereby delegated the authority to execute, and shall execute the contract on behalf of the Navajo Nation. Such contract shall be a valid, binding and enforceable obligation of the Navajo Nation.

D. If a vacancy in office arises because of the death of a Special Prosecutor, the Special Division shall appoint a successor in the same manner as the initial appointment was made. The Special Division may appoint either a person recommended to the vacant office in the initial application, or one of three other persons to be recommended by the Attorney General or Chief Legislative Counsel at the Special Division's request.

E. If a vacancy in office arises because of the removal pursuant to § 2024 (B), (C) or (D) of this title, the Special Division shall appoint an acting Special Prosecutor to serve until any judicial review of such removal pursuant to § 2024 (D) of this title is either completed or barred by time, after which time the Special Division shall take appropriate action. The Special Division may appoint either a person recommended to the vacant office in the initial application, or one of three other persons to be recommended by the Attorney General or Chief Legislative Counsel.

F. Upon the request of a Special Prosecutor, the Special Division may enlarge the jurisdiction of such Special Prosecutor whenever it appears that there exist new matters related to matters within his or her original jurisdiction which, had they been known by the Special Division at the time of such Special Prosecutor's appointment, would have been included within his or her jurisdiction.

§ 2023. Authority and duties of a Special Prosecutor

A. A Special Prosecutor appointed pursuant to § 2022 of this title shall have full power and independent authority to exercise all functions and powers of the Attorney General and the Office of the Prosecutor, as defined in 2 N.N.C. §§ 1963(A), (B), (G), (I), and (K); 1972; 1974(B); 1978-1984, with respect to all matters within his or her jurisdiction.

B. A Special Prosecutor shall have full power and authority to appear before any court of the Navajo Nation, the same as if he/she were admitted to the bar of such court, with respect to any matter within his or her jurisdiction or the duties and responsibilities of his or her office.

C. A Special Prosecutor shall have full power and independent authority to initiate or participate in any proceeding pursuant to 2 N.N.C. §§ 3751-3761, or before the Board of Election Supervisors, the Tax Commission or the Labor Commission, with respect to any matter within his or her jurisdiction.

D. Upon the authorization of the Navajo Nation Council, and subject to its continuing authority and supervision, a Special Prosecutor shall have the power and authority to commence a civil or administrative action against any person or entity, before any federal or state court or administrative body, with respect to any matter within his or her jurisdiction.

E. Notwithstanding the provisions of 17 N.N.C. § 1801, a criminal complaint signed and sworn before a judge of any court of the Navajo Nation by a Special Prosecutor shall be deemed a valid complaint.

F. With the prior consent of the Special Division, a Special Prosecutor shall have the power and authority to appoint, fix the compensation of, and assign the duties to and thereafter supervise such employees, including investigators, attorneys and consultants, as such Special Prosecutor deems necessary.

G. A Special Prosecutor may request, and upon request shall receive assistance from any Branch, Division, Department, Office or Program of the Navajo Nation, which may include access to any records, files or other materials relevant to any matter within his or her jurisdiction. Upon agreement by the Attorney General or the Chief Legislative Counsel, a Special Prosecutor may utilize the resources and personnel of the Department of Justice or Office of Legislative Counsel where necessary to perform such Special Prosecutor's duties.

H. A Special Prosecutor shall have all necessary and proper power and authority incident to the exercise of his or her other powers and authority.

§ 2024. Termination and removal of a Special Prosecutor

A. The appointment of a Special Prosecutor shall terminate when:

1. The Special Prosecutor notifies the Attorney General or the Chief Legislative Counsel and the Special Division that the investigation and prosecution of all matters within such Special Prosecutor's jurisdiction have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

2. The Special Prosecutor files a report in full compliance with Subsection (F) of this Section.

B. The Special Division, either on its own motion or upon the suggestion of the Attorney General or Chief Legislative Counsel, may terminate the appointment of a Special Prosecutor, upon the grounds provided in Subsection (A) (1) of this Section.

C. A Special Prosecutor may be removed, upon the following separate and distinct bases:

I. upon the two-thirds (2/3) vote of the Navajo Nation Council, or

II. by action of the Attorney General or Chief Legislative Counsel, ~~and only for good cause, physical disability, mental incapacity, or other~~ on the basis of any condition that substantially impairs the performance of such Special Prosecutor's duties.

D. A Special Prosecutor may seek judicial review of any termination of his appointment by ~~the Navajo Nation Council~~, the Special Division, ~~or~~ the Attorney General or the Chief Legislative Counsel, by filing within five days thereof a petition of review with the Supreme Court of the Navajo Nation. Notwithstanding any other provision of law, the Supreme Court shall have and shall accept jurisdiction to hear and determine said petition and ~~to take such remedial action as it deems appropriate~~ to reinstate the Special Prosecutor.

E. Upon the termination of a Special Prosecutor's appointment pursuant to Subsections (B), (C) or (D) of this Section, such Special Prosecutor shall promptly file a report with the Special Division, the Navajo Nation Council and the Attorney General or the Chief Legislative Counsel in full compliance with Subsection (F) of this Section.

F. The report required by Subsections (A) (2) and (E) of this Section shall set forth fully and completely a description of the work of the Special Prosecutor, including the status and disposition of an cases brought, the reasons for not prosecuting any matter within such Special Prosecutor's jurisdiction which was not prosecuted, and an accounting of all funds received and expenditures made in the performance of his or her duties.

Section Four. Amendment of Title 7 of the Navajo Nation Code

The Navajo Nation Council hereby amends Title 1 of the Navajo Nation Code, as follows:

§ 292. Composition

A. The Special Division of the Window Rock District Court shall consist of three judges or retired judges or retired justices, who shall be assigned in such manner and for such terms as is provided in this Section, for the purpose of appointing special prosecutors pursuant to 2 N.N.C. §§ 2021-2024.

B. Judges of the Special Division shall be appointed for terms of two years each, which terms shall commence on the date of the enactment of this Section, and thereafter on the date of every other anniversary of the enactment of this Section.

C. The Chief Justice of the Navajo Nation shall designate and assign three judges or retired judges or retired justices to the Special Division for each successive two-year term, subject to confirmation by the Navajo Nation Council. At least two of the judges shall be active permanent judges of District Courts of the Navajo Nation. The third judge may be either an active permanent judge of the Navajo Nation or a retired judge or retired justice of the Navajo Nation. Unless there are an insufficient number of active permanent judges from at least two District Courts, not more than one judge or retired judge may be assigned to the Special Division from a particular District(or

preceding trial) Court. The Chief Justice shall designate one of the judges to be the presiding judge of the Special Division.

D. Judges of the Special Division may only be removed during their terms upon their resignation, or by a two-thirds (2/3) vote of the full membership of the Navajo Nation Council. Any vacancy in such division shall be filled only for the remainder of the two-year period for which such vacancy occurs and in the same manner as initial appointments to such division were made.

E. Except as provided under Subsection (F) of this Section, assignment to the Special Division shall not bar any other judicial assignment during the term of assignment to such division.

F. No judge of the Special Division shall be eligible to participate in any judicial proceeding concerning a matter which involves a special prosecutor appointed by the Division while such special prosecutor is serving in that office, or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office.

G. Within five calendar days of the enactment of this Section, the Special Division shall be created pursuant to Subsection (C) of this Section.

Section Five. Effective Date

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

Section Six. Codification

The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

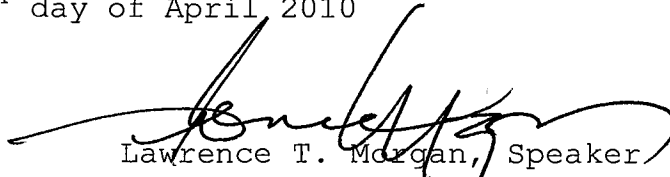
Section Seven. Savings Clause

Should any provisions of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme

Court, or any other court of competent jurisdiction, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 61 in favor and 17 opposed, this 21ST day of April 2010


Lawrence T. Morgan, Speaker
Navajo Nation Council
04/21/10
Date

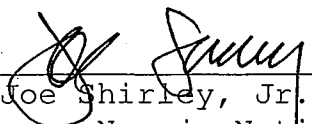
Motion: Davis Filfred
Second: Lorenzo Curley

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this _____ day of _____ 2010.

Dr. Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of **MAY 14 2010** 2010 for the reason(s) expressed in the attached letter to the Speaker.



Dr. Joe Shirley, Jr., President
Navajo Nation

EXHIBIT 2

EXHIBIT 2



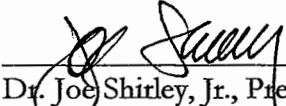
The Navajo Nation

DR. JOE SHIRLEY, JR.
President

BEN SHELLY
Vice President

MEMORANDUM

TO: Lawrence T. Morgan, Speaker
Navajo Nation Council

FROM: 
Dr. Joe Shirley, Jr., President
THE NAVAJO NATION

DATE: May 14, 2010

SUBJECT: RESOLUTION NO. CAP-17-10

First and foremost, this resolution serves to diminish the independence of the Attorney General and the Courts, violates the separation of powers doctrine, creates obvious conflicts of interest, is designed to shield and insulate members of the Navajo Nation Council from investigation of alleged misconduct, and unavoidably appears to be retaliatory in nature.

Resolution No. CAP-17-10 expands the authority of the Council's lawyer, who represents only the Council's interests, drafts legislation and defends political positions on its behalf. This expansion of authority clearly tilts the balance of power among the three branches of Navajo government to that of the Legislative Branch. Doing so would create a single superior Branch of government, and dispense with the concept of separation of powers as envisioned by the Council in 1989.

Separation of powers serves several goals. It prevents concentration of power in one branch, historically viewed as the root of tyranny, and provides each branch with means to defend against the encroachment and overreach of authority by the other two. In 1989, the Navajo Nation Council sought to prevent this with its adoption of CD-68-89, which states "...the present Navajo Nation Government structure allows too much centralized power without real checks on the exercise of power. Experience shows that this deficiency in the government structure allows for, invites and has resulted in the abuse of power."

It further states, "The lack of definition of power and separation of legislative and executive functions have also allowed the legislative body to overly involve itself in the administration of programs thereby demonstrating a need to limit the legislative function to legislation and policy decision making and further limit the executive function to implementation of laws and representation of the Navajo Nation."

Accordingly, the Council itself saw the need for a clear separation and equal distribution of powers among the three Branches in order to check "the abuse of power" by one Branch,

specifically naming the Legislative Branch. To function with full command, independence, and the respect of other jurisdictions, the Office of the Attorney General must likewise be protected from encroachments on its authority by the three Branches of government. Resolution No. CAP-17-10 brings us back to December 15, 1989, when the Council sought to prevent this distortion of government functions.

Pursuant to these amendments, only allegations raised and referred by the Navajo Nation Council *itself* could be subject to a preliminary investigation to constitute grounds for the appointment of a Special Prosecutor. This means that preliminary information obtained by the Attorney General's Office, the White Collar Crime Unit, the Prosecutor's Office, or any other authorized entity concerning possible misconduct of a government official, must be presented, reviewed and referred by the Navajo Nation Council *before* a preliminary investigation and appointment of a Special Prosecutor could be pursued. Obviously, under these amendments, the Council would have the authority to stop the pursuit of a preliminary investigation and the subsequent hiring of a Special Prosecutor when the subject of the investigation is a member of the Council.

These amendments further violate the separation of powers doctrine among the Branches by empowering the Chief Legislative Council with authority to conduct investigations and to oversee the prosecution of alleged wrongful conduct of elected and government officials except for Council delegates. Under the current law, these functions are carried out and overseen through an independent process supervised by the Judicial Branch. This resolution would give license to the Council's lawyer to use this authority to strengthen the political interests of Council members through investigations and potential prosecutions of Executive Branch officials while protecting Council members from similar investigations and prosecutions for alleged ethical and criminal infractions. Using lawmaking authority in this way is self-serving and counter to the public interest.

This resolution creates obvious conflicts of interest for the Navajo Nation Council. Not only does it empower the Council to confirm the composition of the Special Division of the Window Rock District Court, the body charged with appointing and contracting with the Special Prosecutor, but it is also the final decision-maker on whether good cause exists to remove an official or not. Under these amendments, the Council would be privy to information prior to and during the course of any given investigation. Regardless of whether the allegations are proven during the prosecution phase or not, being privy to such information would unfairly affect the Council's decision to remove an official. Pursuant to these amendments, the Navajo Nation Council is now the investigator, prosecutor, judge and jury. Because of this substantial conflict at each phase of the process, challenges under these amendments are likely.

Expanding the role of the Chief Legislative Counsel to prosecute elected or government officials is contrary to the original intent and purpose of the Office of the Legislative Counsel. The primary responsibility of the Chief Legislative Counsel and his office is to provide legislative drafting services and legal advice to the Navajo Nation Council and Legislative Branch entities. These amendments create an unnecessary duplication of services already provided for under the current law. From a fiduciary and financial perspective, especially considering the Nation's current multi-million dollar budget deficit, this resolution lacks any information about how much this duplication of services will cost.

Lastly, despite arguments to the contrary, the timing of this legislation unavoidably appears to be in reaction to the Attorney General's decision to pursue and investigate possible wrongful conduct of financial discretionary spending by Council delegates. The Attorney General reached his decision to do so independently and without consultation with me. As such, I believe we should allow the process to run its course without interference and without the enactment of what will appear to the public to be retaliatory measures. For us as leaders to expect our citizens to have respect for our governmental processes on their behalf, we cannot betray that trust with resolutions that appear to serve our interests rather than theirs as Resolution No. CAP-17-10 so clearly does.

For the reasons stated herein, I hereby veto Resolution No. CAP-17-10.

xc: Honorable Members of the Navajo Nation Council

EXHIBIT 3

EXHIBIT 3

**RESOLUTION OF THE
NAVAJO NATION COUNCIL**

21ST NAVAJO NATION COUNCIL - Fourth Year 2010

AN ACTION

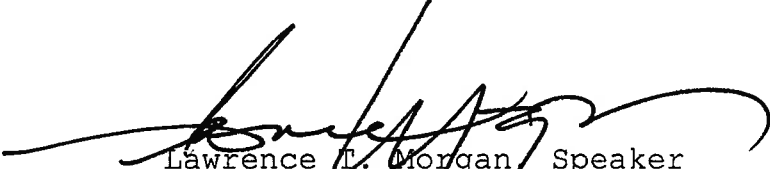
**RELATING TO GOVERNMENT SERVICES, JUDICIARY AND
INTERGOVERNMENTAL RELATIONS; OVERRIDING THE NAVAJO NATION
RESIDENT'S VETO OF NAVAJO NATION COUNCIL
RESOLUTION CAP-17-10**

BE IT ENACTED:

The Navajo Nation hereby overrides the Navajo Nation President's veto of Resolution CAP-17-10, Relating to Intergovernmental Relations, Government Services, Judiciary and an emergency; enacting the Special Prosecutor Amendment Act of 2010; Amending Title 2 and 7 of the Navajo Nation Code.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 60 in favor and 12 opposed, this 8th day of June 2010.


Lawrence T. Morgan, Speaker
Navajo Nation Council


Date

Motion: Roy Laughter
Second: Elmer Begay

EXHIBIT 4

EXHIBIT 4



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE

July 12, 2025

Legislation introduced to hold investigatory hearings to obtain information and facts related to ZenniHome funding



WINDOW ROCK, Ariz. — On Saturday, Legislation No. 0174-25 was officially introduced, calling for formal investigatory hearings into the handling of American Rescue Plan Act (ARPA) funds that were issued by the Navajo Nation Executive Branch to a Navajo-owned company which subcontracted with ZenniHome, a home manufacturing company to build homes.

The legislation comes amid growing concerns over transparency, accountability, and the use of public funds designated by the Council to provide homes for Navajo families, elders, and veterans.

The legislation was introduced in accordance with Navajo Nation law, to allow the Budget and Finance Committee to issue subpoenas and convene formal hearings to gather facts and information.

Council members cited the need to ensure that the Nation's resources and investments yield tangible benefits for the Navajo people, as intended through the allocation of the funds. The hearings will provide a review of financial transactions, contracts, and testimony related to ZenniHome.

In March 2024, the Office of the President and Vice President announced a \$24 million “grant” to ZenniHome using ARPA funds, to build homes. The President’s Office later referenced a contract with a company named Indigenous Design Studio + Architecture, LLC, which reportedly subcontracted with ZenniHome.

The legislation states that Standing Committees, including the Budget and Finance Committee, have received information, both oral and written, from Navajo Nation officials, employees, and community members suggesting that the Navajo Nation’s contracts, including procurement, payments, etc., with ZenniHome and Indigenous Design Studio + Architect do not comply with Navajo Nation laws, regulations, rules, and policies.

It further states that the Budget and Finance Committee finds that the information received about ZenniHome and Indigenous Design Studio + Architect to be credible and deserving of further investigation.

“This is about fiduciary responsibility and taking steps to restore public trust. The Navajo people deserve to know how their money is being used,” said Budget and Finance Committee Chair Shaandiin Parrish, sponsor of the legislation.

Under Title II of Navajo Nation law, the Budget and Finance Committee is responsible to exercise oversight authority over the budget, finance, investment, contracting, accounting, and audit activities of the Navajo Nation.

Standing Committees are also empowered to subpoena and acquire from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality, information, suggestions, estimates, and statistics necessary for execution of the purposes and authorities of the Committee.

###

EXHIBIT 5

EXHIBIT 5



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE

July 13, 2025

Office of Legislative Counsel seeks appointment of special prosecutor in ZenniHome and IDSA matter



WINDOW ROCK, Ariz. — The Navajo Nation Office of Chief Legislative Counsel has formally notified the leadership of the Navajo Nation Council of plans to initiate the appointment process for a special prosecutor to investigate potential unethical or illegal conduct related to the Navajo Nation Executive Branch’s contract with Indigenous Design Studio + Architects (IDSA), and reported subcontract with ZenniHome.

Following a review of documentation and information provided, the Chief Legislative Counsel determined that there are reasonable grounds to warrant further investigation, and potential prosecution, regarding the Nation Nation Executive Branch’s contracting processes involving ZenniHome and IDSA.

Under 2 N.N.C. of the Navajo Nation Code, the Chief Legislative Counsel is authorized to submit an application to the Judicial Branch requesting the appointment of a special prosecutor.

If the Judicial Branch grants the appointment, a special prosecutor would investigate and, if necessary, pursue prosecution of any individuals found to have engaged in unethical or illegal conduct during the contracting process.

In addition, Legislation No. 0174-25 was introduced on Saturday, calling for formal

investigatory hearings into the handling of American Rescue Plan Act (ARPA) funds that were issued by the Navajo Nation Executive Branch to a Navajo-owned company which subcontracted with ZenniHome, a home manufacturing company to build homes.

###

EXHIBIT 6

EXHIBIT 6



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE

August 13, 2025

Special prosecutor appointed to investigate alleged misuse of housing project and housing assistance funds related to ZenniHome

WINDOW ROCK, Ariz. — The Special Division of the Window Rock District Court has appointed Kyle Nayback, Esq., as special prosecutor to investigate possible unethical and illegal conduct tied to the Executive Branch’s contracts with Indigenous Design Studio + Architects (IDSA), the reported subcontract with ZenniHome and Native Community Capital.

“Mr. Nayback brings more than two decades of federal and tribal law experience to this role, including complex trial work and appellate advocacy in white collar crime, fraud and public corruption cases,” said G. Michelle Espino, Chief Legislative Counsel. “His background in Indian law and federal prosecution makes him uniquely qualified to handle an investigation of this magnitude.”

The appointment of the Special Prosecutor follows an application filed on August 1, 2025, by Chief Legislative Counsel Espino with the Special Division as authorized by 2 N.N.C. § 2021(E). Through a preliminary investigation, Chief Legislative Counsel Espino determined there are reasonable grounds to pursue further investigation and possible prosecution regarding the Executive Branch’s contracting activities related to housing projects and a housing assistance program funded through the federal American Rescue Plan Act (ARPA).

Special Prosecutor Nayback served as an Assistant U.S. Attorney, Tribal Liaison, and Supervisory Assistant U.S. Attorney for the District of New Mexico from 2003 to 2023. Nayback represented the United States in 34 federal trials and 11 Tenth Circuit appeals. He previously worked as deputy director of the U.S. Department of Justice Office of Tribal Justice, contributing to federal Indian law cases before the U.S. Supreme Court.

“I commend Chief Legislative Counsel Espino for acting swiftly and decisively on behalf of the Navajo people,” said Speaker Crystalyne Curley. “It is vital that we protect the integrity of our government and ensure accountability in the use of public funds.”

Nayback is the owner of a 100% Native-owned firm in New Mexico, Nayback Law, LLC, focused on serving Native American interests.

In addition, on July 12, 2025, Budget and Finance Committee Chair Shaandiin Parrish introduced Legislation No. 0174-25 calling for hearings to determine compliance with Navajo Nation laws, regulations, rules, and policies concerning the Nation’s contracts for housing and related matters funded by ARPA.

###

EXHIBIT 7

EXHIBIT 7



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE
September 15, 2025

Window Rock District Court grants authority to Special Prosecutor to advance ZenniHome and Native Community Capital investigations

WINDOW ROCK, Ariz. — On Friday, a Window Rock District Court Judge issued a court order granting authority for an appointed special prosecutor to pursue and advance investigations into the Nygren Administration’s handling of ARPA funds related to Indigenous Design Studio + Architects, Zenni-Home and Native Community Capital.

In August, the court appointed Kyle Nayback, Esq., as the special prosecutor to investigate possible unethical and illegal conduct tied to the Executive Branch’s contracting activities.

The order issued on Friday allows the court appointed special prosecutor to oversee the investigations and to prosecute individuals based on the findings of the investigations.

“The court’s ruling ensures that the special prosecutor has the legal authority it needs to fully investigate potential wrongdoing and to hold parties accountable,” said Chief Legislative Counsel Michelle Espino. “We owe it to our citizens to ensure that the Nation’s financial and community interests are protected at all times.”

According to reports from the Office of the Controller, \$24 million was drawn down to construct 80 homes for Navajo families, but only 18 homes were constructed through ZenniHome. The status of the remaining housing materials, assets, and funds are not currently accounted for based on information provided by the Office of the Controller.

In September 2023, the Office of the President and Vice President announced an agreement with a non-profit corporation known as Native Community Capital, to administer \$55 million in grant funding to provide financial assistance to Navajo homeowners to assist with mortgage payments and home repair assistance. This allocation of funding also came under question during the preliminary investigation stage.

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For the latest news from the Navajo Nation Council, please visit
<https://www.navajonationcouncil.org> or search for “Navajo Nation Council” on social media.

EXHIBIT 8

EXHIBIT 8



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE

November 21, 2025

Special Prosecutor files complaint in court against President Buu Nygren over Ethics in Government Law violations

WINDOW ROCK, Ariz. — On Friday, Special Prosecutor Kyle T. Nayback filed a formal ethics complaint in the Navajo Nation District Court, alleging multiple violations of the Navajo Nation Ethics in Government Law by Navajo Nation President Buu Nygren. The complaint outlines a series of alleged governmental misconduct between January 2023 and May 2025.

According to the filing, the Special Prosecutor asserts that President Nygren violated several provisions of Navajo Nation law related to the misuse of public office, improper use of his Navajo Nation p-card, nepotism, and wrongfully directing staff to perform non-governmental work that benefited him personally.

The complaint alleges that President Nygren used his Navajo Nation travel P-Card to pay for lodging and meals for his family members during official travel, in violation of policy that prohibits such activity. The filing states that staff were directed by President Nygren to conceal the p-card charges by falsely identifying family members as Office of the President and Vice President (OPVP) staff and falsifying travel documents.

The Special Prosecutor also alleges that President Nygren improperly hired his father-in-law, John Blackwater Jr., to a political at-will position despite Blackwater being related and lacking required qualifications. According to the complaint, President Nygren ordered subordinates to alter Blackwater's application to falsely reflect appropriate qualifications and placed him directly under the President's supervision after being advised that such action would violate law and policy.

The complaint states that the President required at least one staff member to perform domestic and personal duties including childcare, cooking, cleaning, and managing personal bills, which were outside the scope of their official job responsibilities, violating Navajo Nation law.

The Special Prosecutor cites these actions as violations of multiple sections of the Navajo Nation Ethics in Government Law.

In accordance with 2 N.N.C. § 3780, the complaint seeks remedies that includes the immediate removal of President Nygren from office, disqualification from public office for five years, forfeiture of compensation for 30 days to one year, public reprimand, and a requirement to pay restitution to the Navajo Nation.

The Special Prosecutor has requested that the Navajo Nation District Court schedule a hearing to consider the allegations of ethics violations.

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EXHIBIT 9

EXHIBIT 9



25TH NAVAJO NATION COUNCIL

25TH NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

MEDIA CONTACT:

nnlb.communications@gmail.com

FOR IMMEDIATE RELEASE

November 21, 2025

Speaker Curley introduces legislation calling for the removal of President Nygren and Vice President Montoya

WINDOW ROCK, Ariz. — On Friday, Speaker Crystalyne Curley introduced legislation to initiate the removal of Navajo Nation President Buu Nygren and Vice President Richelle Montoya, citing extensive findings of malfeasance, misfeasance, and breaches of fiduciary trust duties under Navajo Nation law.

In accordance with 11 N.N.C. § 240(A), the bill outlines substantial just cause for removal, emphasizing that elected Navajo leaders must act with honesty, balance, and unwavering loyalty to the Diné people. This section of the law also provides the authority for the Council to remove the president and vice president for various violations.

Speaker Curley stated that the legislation reflects the Council's obligation to uphold the laws of the Navajo Nation, protect the Nation's public funds, and ensure accountability at the highest levels of government.

"Many of our Navajo people and a majority of chapters have adopted resolutions calling for the removal of President Nygren and Vice President Montoya for failing to uphold their oath of office and for numerous allegations, some of which are now filed in court," said Speaker Curley.

On Friday, Special Prosecutor Kyle T. Nayback also filed a formal ethics complaint in Navajo Nation District Court, alleging multiple violations of the Navajo Nation Ethics in Government Law by President Nygren, including the misuse of government purchase cards, including directing staff to falsify documents to cover personal and family expenses.

The proposed resolution also outlines multiple violations of Navajo Nation laws and fiduciary duties by President Nygren, including the following:

- Mismanagement of Executive Branch funds, including unlawful reallocations and the use of federal funds for inappropriate sponsorships or promotional items.
- Nepotism and falsification of documents, including the hiring of his father-in-law as security personnel and a babysitter, and permitting the hiring of unqualified relatives of senior staff in violation of Navajo Nation laws.
- Misuse of executive staff for personal benefit, including housekeeping, cooking, childcare, and personal assistance for the personal benefit of President Nygren.
- Unlawful attempt to terminate and appoint a Controller, violating 12 N.N.C. § 202(B), and placing the Nation's financial resources and systems at risk.

- Failure to uphold statutory reporting obligations by repeatedly missing, abandoning, or refusing to deliver the State of the Navajo Nation address as required by 2 N.N.C. §§ 161–162
- Failure to lawfully present division director appointments for Council confirmation, as required by 2 N.N.C. §§ 102(F) and 1005(C)(3).
- Appointment of an unqualified Acting Deputy Attorney General, jeopardizing the Navajo Nation’s legal standing and ongoing litigations.
- Creation of a hostile work environment that resulted in unprecedented turnover within the Office of the President and Vice President.
- Improper use of line-item veto authority to pressure the Council regarding funding for the Office of the President and Vice President.
- Undue influence over Navajo Nation enterprises, including Navajo Engineering and Construction Authority (NECA), resulting in federal audit concerns.
- Approval of \$24.9 million in contracts to Indigenous Design Studio + Architects and its subcontractor ZenniHome without adequate due diligence, resulting in millions of dollars in unaccounted federal funds.
- Leveraging the Navajo Nation treasury for personal loans for himself, family members, and staff.

These findings represent repeated malfeasance, misfeasance, and breaches of fiduciary duty as set forth in 11 N.N.C. § 240(A)(1).

The grounds for the removal of Vice President Montoya includes the following:

- Failure to uphold her oath of office by failing to report alleged misconduct or violations of law within the Office of the President and Vice President, despite acknowledging issues publicly through social media and public statements.
- Her legal obligation, under her oath of office and Diné Fundamental Law, to report violations of Navajo, state, or federal laws through proper channels.
- Her public statement expressing willingness to step aside “to protect communities and restore accountability,” demonstrating recognition of the seriousness of the ongoing concerns.

Based on the fact that the President and Vice President are elected together on a single ballot, the resolution emphasizes that both elected leaders share responsibility for upholding the law and maintaining public trust.

In accordance with Diné Fundamental Law and Navajo Nation statutory requirements, the legislation affirms that both President Nygren and Vice President Montoya will receive full notice, opportunity to be heard, and the ability to speak before the Naabik’íyáti’ Committee and the full Navajo Nation Council when the legislation is considered. The Office of Legislative Services will ensure all notice requirements are met in accordance with Navajo Nation law.

The proposed legislation will go through the mandatory five-day public comment period to allow the Navajo people, chapters, agency councils, and others to submit written comments.

Speaker Curley emphasized that the Council has a duty, affirmed by the Navajo Supreme Court, to guard the integrity of the Navajo Nation government and protect the Navajo people from corruption, abuse of power, and breaches of trust.

“This legislation reflects the voices of chapters, agency councils, and countless Diné community members who have called for accountability,” Speaker Curley said. “Our laws are clear and mandate that leaders must uphold balance, truth, and the highest ethical standards. When they do not, it is the Council’s responsibility to act on behalf of the Navajo people,” said Speaker Curley.

The legislation is assigned to the Naabik’íyáti’ Committee and the Navajo Nation Council, which will require two-thirds approval to pass.

The public may submit written comments by email to comments@navajo-nsn.gov or by mail to Executive Director, Office of Legislative Services, PO Box 3390, Window Rock, Arizona 86515.

###

EXHIBIT 10

EXHIBIT 10

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.

27

28

29

30

EXHIBIT 11

EXHIBIT 11

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

Honorable Speaker Crystalyne Curley,
Petitioner,

v.

President Buu Van Nygren, Office of
Management and Budget, and Office of the
Controller,

Respondents.

Docket No. WR-CV-113-25
Justware Case ID No. 25-15730

**TEMPORARY RESTRAINING ORDER
ENJOINING LEGISLATION TO
REMOVE THE NAVAJO NATION
PRESIDENT AND VICE-PRESIDENT**

INTRODUCTION

This matter is before the Court for a temporary restraining order request filed by the respondent Navajo Nation President Buu Nygren. The parties involve Navajo Nation Government entities. The matter is being adjudicated under Navajo Nation laws and civil procedures. Personal and subject matter jurisdiction is proper with this court. The issue is whether the Honorable Navajo Nation President Nygren's temporary restraining order will be granted. The court grants the temporary restraining order until the these hearings are concluded.

FINDINGS OF FACTS

The respondent Navajo Nation President Buu Nygren (respondent Nygren) requests the Temporary Restraining Order to prohibit the petitioner Honorable Speaker Curley and the Navajo Nation Council from enacting Legislation No. 0263-25 or any other legislation to remove respondent Nygren from office. In the alternative, this court should hold hearings as to why respondent Nygren's TRO and/or preliminary injunction should not be granted.

Legislation 0263-25 was introduced on Friday, November 21, 2025, by Speaker Curley to remove respondent Nygren and Vice-President Richelle Montoya from office. Speaker Curley would become the Interim Navajo Nation President until a special election is conducted to determine who would replace respondent Nygren. The resolution contains unproven allegations that are already predetermined to remove them from office and is eligible for action on 11/27/25 when this court closes. This is a possible illegal power grab and violation of various Navajo Nation laws which the petitioner should be enjoined from enacting the legislation. *President Buu Nygren's Emergency Application for Ex Parte Temporary Restraining Order and Preliminary Injunction* (November 24, 2025).

LEGAL CONCLUSIONS OF LAW

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. Service by the Speaker as the President shall not create a vacancy in the Office of the Speaker. 2 N.N.C. § 1006.

At the preliminary injunction hearing, petitioner must show 1) that he has a protectable right or interest and has a high likelihood of success on the merits; 2) that irreparable injury, loss or damage to that right is likely to occur unless preliminary injunction is issued; 3) that the threatened injury, loss, or damage is substantial in nature or character; and 4) that the moving party does not have an adequate remedy at law. *Navajo Nation v. RJN Construction Mgt., Inc.*, 9 Nav. R. 556, 560 (Nav. Sup. Ct 2013); *Boyd & McWilliams Energy Group, Inc. v. Tso, Johnson, Mark, John Does 1 through 100*, 7 Nav. R. 458, 461-462 (Ship. Dist. Ct. 1994); Nav. R. Civ. P. 65(c). A Temporary Restraining Order may be issued to maintain the status quo until a hearing can be had upon the motion for Preliminary Injunction. Nav. R. Civ. P. 65.1(a).

The respondent Nygren asserts a protectable due process right as an elected official by the Navajo people, the speaker is taking drastic measures with five days' notice based on unproven allegations, and Navajo Nation President should have an opportunity to prepare a defense to the unproven allegations. He has a high likelihood of success because the removal legislation is violating binding Navajo Nation laws. The speaker's legislation is based on an invalid statute, its allegations are unproven, the vote of the Navajo People in electing the Navajo Nation President is completely removed with his legislation and places the new Navajo Nation President in the hands of sixteen Navajo Nation Council delegates (2/3rds vote of the Council). Furthermore, it is alleged the separation of the Executive and Legislative Branch powers are completely obliterated if the Speaker holds the positions of the Speaker of the Navajo Nation Council, as well as the Navajo Nation President. These are several reasons why respondent Nygren asserts he has a protectible due process right with a high likelihood of success on the merits.

His irreparable injury, loss, or damage is complete removal from office with no recourse for due process, unless the TRO is granted. This injury is substantial in nature with no adequate remedy at law. *President Buu Nygren's Emergency Application for Ex Parte Temporary Restraining Order and Preliminary Injunction* (November 24, 2025). The court held oral

arguments on November 24, 2025, at 1:30 p.m. and the petitioner rebuts that this matter is not ripe for adjudication because he has not been removed from office, the TRO cannot be granted on something that has not happened, his right to due process is respected because he has time to prepare and defend himself with this emergency legislation. Nothing is kept from him, the legislation is subject to five days' notice for public commentary, 110 chapters have enacted legislation for his removal, and the Navajo Nation Council are addressing the concerns of their constituents.

The respondent Nygren replied that the legislation is for immediate removal, which warrants the TRO, the legislation is eligible for action on November 27, 2025, when the court is closed for the holidays and no recourse for relief in this court.

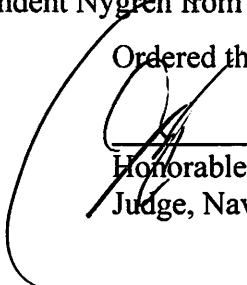
The court is authorized to keep the status quo during these proceedings that includes the respondent Honorable Navajo Nation President Nygren and Vice-President remaining in office until due process is afforded to him in this court, as well as the Navajo Nation Council when it is time to defend themselves. Legislation 0263-25 does state the Navajo Nation President and Vice-President will be provided time to speak and be heard in person; however, there is no time stated as to when that will occur, only that the public is given five days to comment. *Proposed Navajo Nation Council Resolution 0263-25*, at 6 of 12, ¶ F (November 21, 2025). Several of the stated violations in this legislation are already concluded, despite these ongoing court proceedings that have not supported these violations. *Id.* at 9 of 12, ¶¶ H-K. The stamp on the front of the legislation indicates the posting date is on November 26, 2025, and is eligible for action on November 27, 2025; however, it gives no details on what action will occur during the holidays. The succession statute also does pose the potential to obliterate the separation of powers within the Navajo Nation Government, causing government instability, concentration in one branch of government, and may cause irreparable harm without adequate remedies at law. 2 N.N.C. § 1006.

For these reasons, the respondent Nygren's request for a temporary restraining order is granted until these proceedings are concluded. *Navajo Nation v. RJN Construction Mgt., Inc.*, 9 Nav. R. at 560; *Boyd & McWilliams Energy Group, Inc. v. Tso, Johnson, Mark, John Does 1 through 100*, 7 Nav. R. at 461-462; Nav. R. Civ. P. 65(c) & 65.1(a).

IT IS THEREFORE ORDERED:

The temporary restraining order enjoining the petitioner Honorable Speaker Curley and the Navajo Nation Council from enacting Legislation No. 0263-25 or any other legislation to remove respondent Nygren from office is granted until these proceedings are concluded.

Ordered this 25th day of November 2025



Honorable Malcolm Begay
Judge, Navajo Nation District Court

* * * * *

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing was served. I certify that I have on the 25th day of November, 2025, served a copy of the **Temporary Restraining Order Enjoining Legislation to Remove the Navajo Nation President and Vice President** the following parties at the corresponding via Electronic Mail/U.S. Postal Service:

G. Michelle Espino
Kristen Lowell
Rhonda Tuni
Office of Legislative Counsel
Navajo Nation Legislative Branch
PO Box 3390
Window Rock, AZ 86515

Javier Torres
Peter S. Kozinets
Zwillinger Wulkan PLC
2020 North Central Ave, Suite 675
Phoenix, AZ 85004

Jordan Corliss
Navajo Nation Department of Justice
PO Box 2010
Window Rock, AZ 86515

Darrah Blackwater
Office of the President Vice President of the
Navajo Nation
PO Box 7740
Window Rock, AZ 86515

Lucas Frank
Moses, Farmer, Glenn, Gutierrez & Wertz, P.C.
PO Box 30087
Albuquerque, NM 87190

Date: November 25, 2025

O. Begay
Window Rock District Court Clerk

EXHIBIT 12

EXHIBIT 12



**BEFORE THE SPECIAL DIVISION OF THE WINDOW ROCK DISTRICT COURT
WINDOW ROCK, NAVAJO NATION (ARIZONA)**

The Special Prosecutor,
Complainant,
v.
Buu Nygren,
Respondent,

No. WR-SD-02-25

**ORDER DISMISSING ETHICS
COMPLAINT**

The Special Prosecutor filed an Ethics Complaint on November 21, 2025 with the Special Division. The Respondent was served. This matter stems from the Special division appointing a Special Prosecutor, pursuant to an Application by the Office of Legislative Counsel on August 8, 2025, under WR-SD-01-25.

CONCLUSIONS OF LAW

1. No Judge of the Special Division shall be eligible to participate in any judicial proceeding concerning a matter which involves a Special Prosecutor appointed by the Division while such Special Prosecutor is serving in that office, or which involves the exercise of such Special Prosecutor's official duties, regardless of whether such Special Prosecutor is still serving in that office. 7 N.N.C. §292 (F). This section of the statute prohibits the Special Division from hearing the Ethics complaint.


2. The Special Division acknowledges the prohibition from hearing the Ethics Complaint. Upon further review of the statutory the Special Division is only tasked with the following duties: 1) appoint a Special Prosecutor where a conflict of interest prohibits the Attorney General, the Office of the Prosecutor or any other official/employee of the Department of Justice from proceeding in the case; 2) recommend and contract appropriate compensation for the Special Prosecutor, and 3) recommend and modify as needed the extent of the Special Prosecutor's jurisdiction. See 2 N.N.C. § 2021(E) and (F); 2 N.N.C. § 2022.

3. Therefore, the Special Prosecutor's Complaint is dismissed for lack of jurisdiction.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

A. That Special Prosecutor's Ethics Complaint is dismissed.

SO ORDERED December 5, 2025.


Presiding Judge of the Special Division

WR-SD-02-25

* * * * *

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing was served. I certify that I have on the 5th day of December, 2025, served a copy of the **Order Dismissing Ethics Complaint** the following parties at the corresponding via U.S. Postal Service:

Kyle T. Nayback
Special Prosecutor
Nayback Law, LLC
1608 Gulfstream Dr, SE
Albuquerque, NM 87123

Buu Nygren
PO Box 7740
Window Rock, AZ 86515

Date: December 5, 2025

O. Begay
Window Rock District Court Clerk

EXHIBIT 13

EXHIBIT 13



December 16, 2025

The People of the Navajo Nation:

Yesterday, the Special Division of the Window Rock District Court dismissed a charging document against Navajo Nation President Buu Nygren *for lack of jurisdiction*. This means that the Special Division lacks authority to hear the case against President Nygren.

The Court did not consider the charges against President Nygren and did not rule on whether the President did or did not commit the violations contained within the charging document. The Order simply directs the parties that the case belongs in a different court. The dismissal is based on a technicality and *does not exonerate President Nygren for the wrongdoing and misconduct alleged in the charging document*.

As the appointed Special Prosecutor, I remain committed to seeking justice for the Navajo People and to root out corruption, wherever it lies, and no matter what position the offender holds. Issues of jurisdiction to hear the case does not affect what will be charged in any way.

Sincerely,

Kyle Nayback, Esq.

EXHIBIT 14

EXHIBIT 14



RESOLUTION No: CJA-07-26

LEGISLATION TRACKING No. 0007-26

TITLE: An Action Relating to the Law and Order Committee, the Naabik'iyáti' Committee, and the Navajo Nation Council; Amending Title 2 of the Navajo Nation Code to Amend the Powers and Duties of the Office of the President and Vice-President

DELIVERED TO PRESIDENT'S OFFICE: Monday, February 9, 2026

RECEIVED BY: Brittany Smith (OPVP Staff: Print Name)

DATE: 2/9/26

TIME: 1:58 AM/PM

VETO WAIVED AS OF 5:00 PM - Thursday, February 19, 2026

MONTH	DAY 1	DAY 2	DAY 3	DAY 4	DAY 5	DAY 6	DAY 7	DAY 8	DAY 9	DAY 10	YEAR
FEB	10	11	12	13	14	15	16	17	18	19	2026

OFFICE OF LEGISLATIVE SERVICES USE ONLY:

RECEIVED DATE STAMP:

RECEIVED FROM: _____

TIME: _____

OLS STAFF: _____
(Print Name)

RESOLUTION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
25th NAVAJO NATION COUNCIL -- Fourth Year, 2026

AN ACTION

RELATING TO THE LAW AND ORDER COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE,
AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 2 OF THE NAVAJO NATION
CODE TO AMEND THE POWERS AND DUTIES OF THE OFFICE OF THE PRESIDENT
AND VICE-PRESIDENT

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council empowered to review proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. §§ 700(A), 164(A)(9).
- C. The Law and Order Committee is a standing committee of the Navajo Nation Council with the enumerated power to review and make recommendations to the Navajo Nation Council on proposed amendments to enactments to the Navajo Nation Code. 2 N.N.C. §§ 600(A), 601(B)(14).

SECTION TWO. FINDINGS

- A. Pursuant to 2 N.N.C. § 102(E), "[t]he Navajo Nation Council shall have the authority to promulgate rules, regulations and procedures for the conduct of its meetings and that of its committees."
- B. The Naabik'íyáti' Title 2 Reform subcommittee has recommended amendments to the Navajo Nation Council Rules of Order to provide needed clarity to increase the effectiveness and efficiency of the Navajo Nation Council and Committee legislative processes.
- C. Certain sections of Title 2 also need to be amended to effectuate the amendments to Navajo Nation Council Rule Order, including 2 N.N.C. § 1005(C)(5).

SECTION THREE. AMENDING TITLE 2 OF THE NAVAJO NATION CODE

The Navajo Nation Council hereby amends the Title 2 of the Navajo Nation Code, as follows:

**TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 5. EXECUTIVE BRANCH
SUBCHAPTER 1. GENERALLY**

§ 1005. Powers, and duties, and responsibilities

C. The President shall have the following enumerate powers, duties and responsibilities:

3. Appoint supervisory executive personnel subject to applicable laws.

a. Supervisory executive personnel appointment legislation shall be considered as an executive nomination and, as such, shall not require a sponsor from the Navajo Nation Council. Throughout the entire confirmation process, the President or the Vice-President shall act as the official agent for the nominee. Their responsibilities include accompanying the nominee to all hearings, formally presenting the nominee's qualifications, and serving as the primary liaison between the nominee and the Council.

b. Until confirmed by the Navajo Nation Council, a nominee with a completed nomination packet submitted to the Speaker of the Navajo Nation Council, may serve in an "acting" capacity subject to the following limitations:

1. Permitted Actions: manage the day-to-day administrative functions of the division or organization to ensure continuity of operations; implement and enforce existing laws, regulations, and policies; authorize expenditures consistent with the already approved annual budget; ensure the continued delivery of essential services to the Navajo people; and participate in the execution of contracts valued under \$50,000 that are part of routine operations.

2. Prohibited Actions: cannot create, abolish, or reorganize any program or department within the division; cannot issue new, binding regulations or fundamentally alter existing policies, including internal and external regulations and policies; cannot enter into non-emergency contracts or intergovernmental agreements exceeding \$50,000 without the express approval of the relevant oversight committee; cannot hire or terminate without cause senior-level personnel (e.g., deputy directors, department managers, program managers, or employees with principal in their title or equivalent titles); cannot reallocate significant funds greater than \$10,000, from the division's approved budget without legislative approval.
3. Executive Branch appointee nominations not confirmed by the Navajo Nation Council shall not be issued or be authorized a P-card.

5. Report quarterly in person to the Navajo Nation Council on the Official ~~State~~ of the Navajo Nation.

**TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 3. LEGISLATIVE BRANCH
SUBCHAPTER 1. NAVAJO NATION COUNCIL**

§ 102. Powers; composition

~~F. The Navajo Nation Council shall confirm the appointments of all division directors upon recommendation from the appropriate oversight committee. The President shall present the appointments at the next Navajo Nation Council session following the date the appointments are made.~~

G.F. The Navajo Nation Council shall establish standing committees of the Council and delegate such authority to such committees as it deems necessary and proper for such committees to execute the purposes delegated.

G. The Navajo Nation Council shall confirm the appointments of all division and executive directors, the Controller, the Attorney General and the Deputy Attorney General upon recommendation from the appropriate oversight committee. Within three (3) days of an executive appointee's nomination by an appointment letter from the President, the President shall submit to the Speaker of the Navajo Nation Council, a complete nomination packet for each nominee. The President or the Vice-President shall be present in person for the appointment at the next immediate Navajo Nation Council session following the date the appointment is made.

1. Effective immediately upon the enactment of this legislation, any individual previously nominated for a position as a division or executive director or as the Controller, Attorney General or Deputy Attorney General who has received a final vote by the full Navajo Nation Council or Naabik'iyáti' and failed to be confirmed within the 365 days preceding the date of this Act's enactment shall automatically be subject to the provisions outlined in the *Consequences for Failure to Meet Confirmation Timeline for Nominees* section. The two-year re-nomination ban for that individual shall be calculated as having commenced on the date of their failed confirmation vote.

**SUBCHAPTER 39. DEPARTMENT OF JUSTICE
ARTICLE 1. GENERALLY**

§ 1962. Personnel

B. The Attorney General and Deputy Attorney General shall be licensed attorneys in good standing to practice on the Navajo Nation and within the States of Arizona, New Mexico or Utah. The Attorney General and Deputy Attorney General shall be appointed by the Navajo Nation Council, upon the recommendation of the President, to serve at a negotiated salary. The appointment shall be effective upon after the approval of ~~by~~ by the Navajo Nation Council, for a term concurrent with the term of the President. The Attorney General and Deputy Attorney General shall serve at the pleasure of the Navajo Nation Council. All other attorneys shall serve at a negotiated salary and at the pleasure of the Attorney General.

1. The Attorney General serves as the chief legal officer of the Navajo Nation, a role with unique powers and responsibilities that necessitates enhanced scrutiny and necessitates stricter limitations while the individual is in an acting capacity.
2. The Attorney General and Deputy Attorney General nominees must:
 - a. Include in their nomination packet, a conflict of interest clearance letter to ensure the nominee will not have any conflicts if approved as the Attorney General or Deputy Attorney General.
 - b. Undergo a formal review and receive a recommendation from the Navajo Nation Bar Association, to be based on the nominee's qualifications, fitness, ethical standing, and understanding of Navajo law; and
 - c. The Law and Order Committee must interview the candidate and make recommendation(s) to Naabik'iyáti' and Council.
3. An Acting Attorney General and an Acting Deputy Attorney General may provide routine legal advice and represent the Nation in ongoing litigation. However, an Acting Attorney General is expressly prohibited from:
 - a. Issuing formal Attorney General Opinions as authorized in 2 N.N.C. § 1965;
 - b. Initiating major litigation on behalf of the Navajo Nation, especially against other sovereign governments (federal, state, or tribal), without explicit legislative consent, that may be provided by the Speaker after consultation with the Council;
 - c. Waiving the Navajo Nation's sovereign immunity for any purpose.
 - d. Entering into settlement agreements for any legal dispute exceeding \$250,000 without the approval from the Naabik'iyáti' Committee or the Navajo Nation Council.

SECTION FOUR. CODIFICATION

The provision of these amendments of the Navajo Nation Code shall incorporate codified by the Office and Legislative Counsel. The Office of Legislative shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION FIVE. SAVINGS CLAUSE

Should any provisions of these amendments be determined in valid by the Navajo Nation Supreme Court, of the District Courts of the Navajo Nation, without appeal to the Navajo nation Supreme Court, those amendments that are not determined invalid shall remain the law of the Navajo nation.

SECTION SIX. EFFECTIVE DATE

The Navajo Nation Code amendment enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 18 in Favor, and 02 Opposed, on this 29th day of January 2026.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

2/9/2026

Date

Motion: Honorable Danny Simpson
Second: Honorable Casey Allen Johnson

Speaker Crystalyne Curley not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005(C)(10), on this _____ day of _____, 2026.

Buu Nygren, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005(C)(11), on this _____ day of _____, 2026 for the reason(s) expressed in the attached letter to the Speaker.

Buu Nygren, President
Navajo Nation

**ORIGINAL
LEGISLATION**

LEGISLATIVE SUMMARY SHEET

Tracking No. 0007-26

DATE: January 14, 2026

TITLE OF RESOLUTION: AN ACTION RELATING TO THE LAW AND ORDER COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 2 OF THE NAVAJO NATION CODE TO AMEND THE POWERS AND DUTIES OF THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

PURPOSE: This resolution, if approved, would amend the Powers and duties of the Office of the President and Vice President.

FINAL AUTHORITY: Navajo Nation Council

VOTE REQUIRED: Simple majority vote

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

3-DAY BILL HOLD PERIOD: YJJD
Website Posting Time/Date: 6:11pm, 01-14-26
Posting End Date: 01-19-26
Eligible for Action: 01-20-26

Law & Order Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 25th NAVAJO NATION COUNCIL – Fourth Year, 2026
3
4

5
6 Prime Sponsor 

7
8 Tracking No. 0007-26
9

10
11 AN ACTION

12 RELATING TO THE LAW AND ORDER COMMITTEE, THE NAABIK'ÍYÁTI'
13 COMMITTEE, AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 2
14 OF THE NAVAJO NATION CODE TO AMEND THE POWERS AND DUTIES OF
15 THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT
16

17 BE IT ENACTED:
18

19 SECTION ONE. AUTHORITY

- 20 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §
21 102(A).
22 B. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council
23 empowered to review proposed legislation which requires final action by the Navajo
24 Nation Council. 2 N.N.C. §§ 700(A), 164(A)(9).
25 C. The Law and Order Committee is a standing committee of the Navajo Nation Council
26 empowered to review and make recommendations to the Navajo Nation Council on
27 proposed amendments to and enactments in the Navajo Nation Code. 2 N.N.C. §§
28 600(A), 601(B)(14).
29

30 SECTION TWO. FINDINGS

1 A. Pursuant to 2 N.N.C. § 102(E), “[t]he Navajo Nation Council shall have the authority to
2 promulgate rules, regulations and procedures for the conduct of its meetings and that of its
3 committees.”

4 B. The Naabik’iyáti’ Title 2 Reform subcommittee has recommended amendments to the
5 Navajo Nation Council Rules of Order to provide needed clarity to increase the
6 effectiveness and efficiency of the Navajo Nation Council and Committee legislative
7 processes.

8 C. Certain sections of Title 2 also need to be amended to effectuate the amendments to the
9 Navajo Nation Council Rules of Order, including 2 N.N.C. § 1005(C)(5).

10
11 **SECTION THREE. AMENDING TITLE 2 OF THE NAVAJO NATION CODE**

12 The Navajo Nation Council hereby amends Title 2 of the Navajo Nation Code, as follows:

13
14 **TITLE 2. NAVAJO NATION GOVERNMENT**

15 **CHAPTER 5. EXECUTIVE BRANCH**

16 **SUBCHAPTER 1. GENERALLY**

17 * * *

18 **§1005. Powers, ~~and duties~~ and responsibilities**

19 C. The President shall have the following enumerated powers:

20 5. Report ~~quarterly~~ in person to the Navajo Nation Council on the Official sState of the
21 Navajo Nation, during the Winter and Summer Sessions.

22 * * *

23 **SECTION FOUR. CODIFICATION**

24 The provisions of these amendments of the Navajo Nation Code shall be codified by the Office
25 of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended
26 provisions in the next codification of the Navajo Nation Code.

27
28 **SECTION FIVE. SAVINGS CLAUSE**

29 Should any provisions of these amendments be determined invalid by the Navajo Nation
30 Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation

1 Supreme Court, those amendments that are not determined invalid shall remain the law of the
2 Navajo Nation.

3

4 **SECTION SIX. EFFECTIVE DATE**

5 The Navajo Nation Code amendment enacted herein shall be effective pursuant to 2 N.N.C. §
6 221(B).

7

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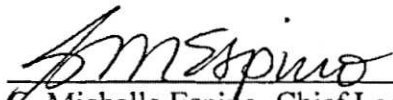
Office of Legislative Counsel
Telephone: (928) 871-7166
Fax No. (928) 871-7576



Honorable Crystalyne Curley
Speaker
25th Navajo Nation Council

MEMORANDUM

TO: Hon. George Tolth, Delegate
25th Navajo Nation Council

FROM: 
G. Michelle Espino, Chief Legislative Counsel
Office of Legislative Counsel

DATE: January 14, 2026

SUBJECT: **AN ACTION RELATING TO THE LAW AND ORDER COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 2 OF THE NAVAJO NATION CODE TO AMEND THE POWERS AND DUTIES OF THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT**

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees' powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0007-26_

SPONSOR: George H. Tolth

TITLE: An Action Relating to the Law and Order Committee, the Naabik'iyáti' Committee, and the Navajo Nation; Amending Title 2 of the Navajo Nation Code to Amend the Powers and Duties of the Office of the President and Vice-President

Date posted: January 14, 2026 at 6:11PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0007-26

SPONSOR: Honorable George H. Tolth

TITLE: An Action Relating to the Law and Order Committee, the Naabik'iyáti' Committee, and the Navajo Nation; Amending Title 2 of the Navajo Nation Code to Amend the Powers and Duties of the Office of the President and Vice-President

Posted: January 14, 2026, at 6:11 PM

5 DAY Comment Period Ended: January 19, 2026

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	1. Josephine Bitsilly
Comments/Recommendations	<i>None</i>



Legislative Secretary II
Office of Legislative Services

January 20, 2026; 8:08 AM
Date/Time

T A ' B A ' H A A

709 LA PLATA DRIVE
Farmington, NM 87401

January 18, 2026

Dear Navajo Nation Standing Committees,

Let it be known on behalf of myself, I oppose the following proposed *legislation and that a referendum be set up for Diné voters. With due respect for our government, Diné voters should have a thorough review for these legislations, however with our uncodified constitution the law makers are not listening to their voters. I do not hear of these purposed legislations at chapter community meetings and not communicated by legislatures serving their agencies. In 1990 a three-branch government signed into law and in 2008 a referendum to streamline legislators was voted by the people, to reduce legislators from 88 to 24; the people passed that referendum however it took three years to finalize and implement. Today the Dine people criticize the lack of true leadership because leadership is subjective. The Navajo Nation Codes were established to prevent a central governing power, it was established so our people have a fair say of what they own, land and a clear promising working relationships with other entities, U.S., State, and Tribal community governments, to be a resilient Navajo Nation. As a Dine voter it took time and research for me to understand the Title 2 codes which is detailed and hard to read its language. I do feel that Diné voters (elderly parents especially) do not have enough time to understand said legislations to make public comments.

Oppose *Legislation: 0005-26: 0007-26: 0004-26.

Regards,
Josephine Bitsilly
Josephine Bitsilly
Voter – District 14

**LAW AND ORDER COMMITTEE
25TH NAVAJO NATION COUNCIL**

**FOURTH YEAR 2026
COMMITTEE REPORT**

Madame Speaker,

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

Legislation No. 0007-26: An Action Relating to the Law and Order Committee, the Naabik'iyati' Committee, and the Navajo Nation Council; Amending Title 2 of the Navajo Nation Code to Amend the Powers and Duties of the Office of the President and Vice-President – Sponsor: Honorable George Tolth/Co-Sponsor Honorable Amber Kanazbah Crotty

Has had it under consideration and reports a **DO PASS** with no amendment.

And thereafter referred to Naabik'iyati' Committee.

Respectfully submitted,



Eugenia Charles-Newton, Chairperson
Law and Order Committee
25th Navajo Nation Council

Date: January 20, 2026

Main Motion:

Motion : Honorable Nathan Notah

Second : Honorable Herman M. Daniels, Jr.

Vote : 2-0-2

**LAW AND ORDER COMMITTEE
25TH NAVAJO NATION COUNCIL**

**Special Meeting
January 20, 2026**

Legislation No. 0007-26: An Action Relating to the Law and Order Committee, the Naabik'iyati' Committee, and the Navajo Nation Council; Amending Title 2 of the Navajo Nation Code to Amend the Powers and Duties of the Office of the President and Vice-President – Sponsor: Honorable George Tolth/Co-Sponsor Honorable Amber Kanazbah Crotty

CONSENT AGENDA

VOTE TALLY SHEET:

Main Motion:

Motion: Honorable Nathan Notah

Second: Honorable Herman M. Daniels, Jr.

Vote: 2-0-2

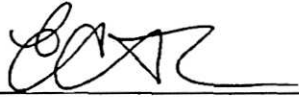
Yea: Honorable Herman M. Daniels, Jr./Honorable Nathan Notah

Nay: None

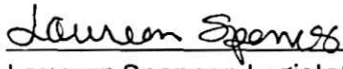
Not Voting: Honorable Eugenia Charles-Newton

Excused: Honorable Arbin Mitchell

Absent: None



Eugenia Charles-Newton, Chairperson
Law and Order Committee
25th Navajo Nation Council



Laureen Spencer, Legislative Advisor
Office of Legislative Service

NAVAJO NATION

745

1/29/2026

Navajo Nation Council 2026 Winter Session

03:21:32 PM

Amd# to Amd#

New Business: Item G. (MAIN)

PASSED

MOT Simpson, D

Legislation #0007-26: Amending

SEC Johnson, C

Title 2 of the Navajo Nation

Code to Amend the Powers...(2/3)

Yeas : 18

Nays : 2

Excused : 2

Not Voting : 0

Yea : 18

Begay, N

Johnson, C

Simonson, G

Tso, O

Charles-Newton, E

Nez, A

Simpson, D

Yanito, C

Claw, S

Nez, R

Slater, C

Yazzie, C

Crotty, A

Notah, N

Tolth, G

Yazzie, L

James, V

Parrish, S

Nay : 2

Mitchell, A

Daniels, H

Excused : 2

Jesus, B

Begay, H

Not Voting : 0

Presiding Speaker: Curley, C

NAVAJO NATION

744

1/29/2026

Navajo Nation Council 2026 Winter Session

03:08:01 PM

Amd#4 to Amd#

Amendment #4 > #0007-26

PASSED

MOT Charles-Newton,
SEC Tso, O

1. After 1005(C)(3)(b), add...

Yeas : 16

Nays : 3

Excused : 2

Not Voting : 1

Yea : 16

Begay, N

James, V

Parrish, S

Tso, O

Charles-Newton, E

Nez, A

Simpson, D

Yanito, C

Claw, S

Nez, R

Slater, C

Yazzie, C

Crotty, A

Notah, N

Tolth, G

Yazzie, L

Nay : 3

Simonson, G

Daniels, H

Mitchell, A

Excused : 2

Begay, H

Jesus, B

Not Voting : 1

Johnson, C

Presiding Speaker: Curley, C

NAVAJO NATION

743

1/29/2026

Navajo Nation Council 2026 Winter Session

03:03:07 PM

Amd#3 to Amd#

Amendment #3 > #0007-26

PASSED

MOT Charles-Newton,

1. Amend Section 1962...

SEC Notah, N

2. Renumber or re-letter...

Yeas : 19

Nays : 0

Excused : 2

Not Voting : 1

Yea : 19

Begay, N

James, V

Parrish, S

Tso, O

Charles-Newton, E

Mitchell, A

Simonson, G

Yanito, C

Claw, S

Nez, A

Simpson, D

Yazzie, C

Crotty, A

Nez, R

Slater, C

Yazzie, L

Daniels, H

Notah, N

Tolth, G

Nay : 0

Excused : 2

Begay, H

Jesus, B

Not Voting : 1

Johnson, C

Presiding Speaker: Curley, C

NAVAJO NATION

742

1/29/2026

Navajo Nation Council 2026 Winter Session

02:08:41 PM

Amd#2 to Amd#

Amendment #2 > #0007-26

PASSED

MOT Crotty, A

1. Page 2, Lines 22 insert...

SEC Slater, C

2. Renumber or re-letter...

Yeas : 15

Nays : 5

Excused : 2

Not Voting : 0

Yea : 15

Begay, N

James, V

Simonson, G

Yanito, C

Charles-Newton, E

Nez, A

Slater, C

Yazzie, C

Claw, S

Nez, R

Tolth, G

Yazzie, L

Crotty, A

Parrish, S

Tso, O

Nay : 5

Daniels, H

Mitchell, A

Notah, N

Simpson, D

Johnson, C

Excused : 2

Jesus, B

Begay, H

Not Voting : 0

Presiding Speaker: Curley, C

NAVAJO NATION

740

1/29/2026

Navajo Nation Council 2026 Winter Session

01:16:58 PM

Amd#1 to Amd#

Amendment #1 > #0007-26

PASSED

MOT Nez, A

On page 2, beginning at

SEC Daniels, H

line 18, amend §1005, as...

Yeas : 14

Nays : 6

Excused : 2

Not Voting : 0

Yea : 14

Begay, N

Daniels, H

Notah, N

Yanito, C

Charles-Newton, E

James, V

Parrish, S

Yazzie, C

Claw, S

Nez, A

Tolth, G

Yazzie, L

Crotty, A

Nez, R

Nay : 6

Johnson, C

Simonson, G

Slater, C

Tso, O

Mitchell, A

Simpson, D

Excused : 2

Jesus, B

Begay, H

Not Voting : 0

Presiding Speaker: Curley, C

VOTE

TALLY SHEET(S)

NAVAJO NATION

745

1/29/2026

Navajo Nation Council 2026 Winter Session

03:21:32 PM

Amd# to Amd#

New Business: Item G. (MAIN)

PASSED

MOT Simpson, D

Legislation #0007-26: Amending

SEC Johnson, C

Title 2 of the Navajo Nation

Code to Amend the Powers...(2/3)

Yeas : 18

Nays : 2

Excused : 2

Not Voting : 0

Yea : 18

Begay, N

Johnson, C

Simonson, G

Tso, O

Charles-Newton, E

Nez, A

Simpson, D

Yanito, C

Claw, S

Nez, R

Slater, C

Yazzie, C

Crotty, A

Notah, N

Tolth, G

Yazzie, L

James, V

Parrish, S

Nay : 2

Mitchell, A

Daniels, H

Excused : 2

Jesus, B

Begay, H

Not Voting : 0

Presiding Speaker: Curley, C

NAVAJO NATION

740

1/29/2026

Navajo Nation Council 2026 Winter Session

01:16:58 PM

Amd#1 to Amd# Amendment #1 > #0007-26

PASSED

MOT Nez, A On page 2, beginning at
SEC Daniels, H line 18, amend §1005, as...

Yeas : 14

Nays : 6

Excused : 2

Not Voting : 0

Yea : 14

Begay, N	Daniels, H	Notah, N	Yanito, C
Charles-Newton, E	James, V	Parrish, S	Yazzie, C
Claw, S	Nez, A	Tolth, G	Yazzie, L
Crotty, A	Nez, R		

Nay : 6

Johnson, C	Simonson, G	Slater, C	Tso, O
Mitchell, A	Simpson, D		

Excused : 2

Jesus, B	Begay, H
----------	----------

Not Voting : 0

Presiding Speaker: Curley, C

NAVAJO NATION

742

1/29/2026

Navajo Nation Council 2026 Winter Session

02:08:41 PM

Amd#2 to Amd#

Amendment #2 > #0007-26

PASSED

MOT Crotty, A

1. Page 2, Lines 22 insert...

SEC Slater, C

2. Renumber or re-letter...

Yeas : 15

Nays : 5

Excused : 2

Not Voting : 0

Yea : 15

Begay, N

James, V

Simonson, G

Yanito, C

Charles-Newton, E

Nez, A

Slater, C

Yazzie, C

Claw, S

Nez, R

Tolth, G

Yazzie, L

Crotty, A

Parrish, S

Tso, O

Nay : 5

Daniels, H

Mitchell, A

Notah, N

Simpson, D

Johnson, C

Excused : 2

Jesus, B

Begay, H

Not Voting : 0

Presiding Speaker: Curley, C

NAVAJO NATION

743

1/29/2026

Navajo Nation Council 2026 Winter Session

03:03:07 PM

Amd#3 to Amd#

Amendment #3 > #0007-26

PASSED

MOT Charles-Newton,

1. Amend Section 1962...

SEC Notah, N

2. Renumber or re-letter...

Yeas : 19

Nays : 0

Excused : 2

Not Voting : 1

Yea : 19

Begay, N

James, V

Parrish, S

Tso, O

Charles-Newton, E

Mitchell, A

Simonson, G

Yanito, C

Claw, S

Nez, A

Simpson, D

Yazzie, C

Crotty, A

Nez, R

Slater, C

Yazzie, L

Daniels, H

Notah, N

Tolth, G

Nay : 0

Excused : 2

Begay, H

Jesus, B

Not Voting : 1

Johnson, C

Presiding Speaker: Curley, C

NAVAJO NATION

744

1/29/2026

Navajo Nation Council 2026 Winter Session

03:08:01 PM

Amd#4 to Amd#

Amendment #4 > #0007-26

PASSED

MOT Charles-Newton,
SEC Tso, O

1. After 1005(C)(3)(b), add...

Yeas : 16

Nays : 3

Excused : 2

Not Voting : 1

Yea : 16

Begay, N

James, V

Parrish, S

Tso, O

Charles-Newton, E

Nez, A

Simpson, D

Yanito, C

Claw, S

Nez, R

Slater, C

Yazzie, C

Crotty, A

Notah, N

Tolth, G

Yazzie, L

Nay : 3

Simonson, G

Daniels, H

Mitchell, A

Excused : 2

Begay, H

Jesus, B

Not Voting : 1

Johnson, C

Presiding Speaker: Curley, C

AMENDMENTS

G. Legislation 0007-26 2/3

M: DSimpson

S: CJohnson

V: 18 in favor, 02 opposed (Speaker Curley not voting)

Amendment #1:

1. On page 2, beginning at line 18, amend §1005, as follows:

§1005. Powers, ~~and~~ duties, and responsibilities

C. The President shall have the following enumerated powers:

5. Report ~~quarterly~~ quarterly in person to the Navajo Nation Council on the Official sState of the Navajo Nation: during the Winter and Summer Sessions.

M: ANez

S: HDaniels

V: 14 in favor, 06 opposed (Speaker Curley not voting)

Amendment #2:

1. Page 2, Line 22 insert new language as follows:

Title 2. Navajo Nation Government

Chapter 3. Legislative Branch

Subchapter 1. Navajo Nation Council

§ 102. Powers; composition

~~F. The Navajo Nation Council shall confirm the appointments of all division directors upon recommendation from the appropriate oversight committee. The President shall present the appointments at the next Navajo Nation Council session following the date the appointments are made.~~

~~G.F.~~ The Navajo Nation Council shall establish standing committees of the Council and delegate such authority to such committees as it deems necessary and proper for such committees to execute the purposes delegated.

G. The Navajo Nation Council shall confirm the appointments of all division and executive directors, the Controller, the Attorney General and the Deputy Attorney General upon recommendation from the appropriate oversight committee. Within three (3) days of an executive appointee's nomination by an appointment letter from the President, the President shall submit to the Speaker of the Navajo Nation Council, a complete nomination packet for each nominee. The President or the Vice-President shall be present in person for the appointment at the next immediate Navajo Nation Council session following the date the appointment is made.

1. Effective immediately upon the enactment of this legislation, any individual previously nominated for a position as a division or executive director or as the Controller, Attorney General or Deputy Attorney General who has received a final vote by the full Navajo Nation Council or Naabik'iyáti' and failed to be confirmed within the 365 days preceding the date of this Act's enactment shall automatically be subject to the provisions outlined in the *Consequences for Failure to Meet Confirmation Timeline for Nominees* section. The two-year re-nomination ban for that individual shall be calculated as having commenced on the date of their failed confirmation vote.

Chapter 5. Executive Branch

Subchapter 1. Generally

Article 1. Office of the President and Vice-President

§ 1005. Powers, ~~and~~ duties and responsibilities

C. The President shall have the following enumerated powers, duties and responsibilities:

3. Appoint supervisory executive personnel subject to applicable laws.
 - a. Supervisory executive personnel appointment legislation shall be considered as an executive nomination and, as such, shall not require a sponsor from the Navajo Nation Council. Throughout the entire confirmation process, the President or the

Vice-President shall act as the official agent for the nominee. Their responsibilities include accompanying the nominee to all hearings, formally presenting the nominee's qualifications, and serving as the primary liaison between the nominee and the Council.

b. Until confirmed by the Navajo Nation Council, a nominee with a completed nomination packet submitted to the Speaker of the Navajo Nation Council, may serve in an "acting" capacity subject to the following limitations:

1. Permitted Actions: manage the day-to-day administrative functions of the division or organization to ensure continuity of operations; implement and enforce existing laws, regulations, and policies; authorize expenditures consistent with the already approved annual budget; ensure the continued delivery of essential services to the Navajo people; and participate in the execution of contracts valued under \$50,000 that are part of routine operations.

2. Prohibited Actions: cannot create, abolish, or reorganize any program or department within the division; cannot issue new, binding regulations or fundamentally alter existing policies, including internal and external regulations and policies; cannot enter into non-emergency contracts or intergovernmental agreements exceeding \$50,000 without the express approval of the relevant oversight committee; cannot hire or terminate without cause senior-level personnel (e.g., deputy directors, department managers, program managers, or employees with principal in their title or equivalent titles); cannot reallocate significant funds greater than \$10,000, from the division's approved budget without legislative approval.

Subchapter 39. Department of Justice

Article 1. Generally

§ 1962. Personnel

B. The Attorney General and Deputy Attorney General shall be licensed attorneys in good standing to practice on the Navajo Nation and within the States of Arizona, New Mexico or Utah. The Attorney General and Deputy Attorney General shall be appointed by the Navajo Nation Council, upon the recommendation of the President, to serve at a negotiated salary. The appointment shall be effective ~~upon~~ after the approval of ~~by~~ the Navajo Nation Council, for a term concurrent with the term of the President. The Attorney General and Deputy Attorney General shall serve at the pleasure of the Navajo Nation Council. All other attorneys shall serve at a negotiated salary and at the pleasure of the Attorney General.

1. The Attorney General serves as the chief legal officer of the Navajo Nation, a role with unique powers and responsibilities that necessitates enhanced scrutiny and necessitates stricter limitations while the individual is in an acting capacity.
2. The Attorney General and Deputy Attorney General nominees must:
 - a. Include in their nomination packet, a conflict of interest clearance letter to ensure the nominee will not have any conflicts if approved as the Attorney General or Deputy Attorney General.
 - b. Undergo a formal review and receive a recommendation from the Navajo Nation Bar Association, to be based on the nominee's qualifications, fitness, ethical standing, and understanding of Navajo law; and
 - c. Participate in a special public hearing before the Law and Order Committee focused on the nominee's legal philosophy, interpretation of Navajo Law, vision for defending and expanding the Nation's sovereignty, and to ensure the highest ethical standards of conduct over the Nation's business.
3. An Acting Attorney General and an Acting Deputy Attorney General may provide routine legal advice and represent the Nation in ongoing litigation. However, an Acting Attorney General is expressly prohibited from:
 - a. Issuing formal Attorney General Opinions as authorized in 2 N.N.C. § 1965;
 - b. Initiating major litigation on behalf of the Navajo Nation, especially against other sovereign governments (federal, state, or tribal), without explicit legislative consent, that may be provided by the Speaker after consultation with the Council;

c. Waiving the Navajo Nation's sovereign immunity for any purpose.

d. Entering into settlement agreements for any legal dispute exceeding \$250,000 without the approval from the Naabik'iyáti' Committee or the Navajo Nation Council.

2. Renumber or re-letter succeeding paragraphs, sections, and exhibits, as necessary and appropriate. The Office of Legislative Services and Office of Legislative Counsel are authorized to make technical edits, including re-calculating totals, to this legislation and its exhibits to implement the Navajo Nation Council's intent. This amendment supersedes inconsistent language in any other amendment(s), which language shall be conformed to this amendment.

M: ACrotty

S: CSLater

V: 15 in favor, 05 opposed (Speaker Curley not voting)

Amendment #3:

1. Amend Section 1962. Personnel (B)(2)(c) as follows:

~~e. Participate in a special public hearing before the Law and Order Committee focused on the nominee's legal philosophy, interpretation of Navajo Law, vision for defending and expanding the Nation's sovereignty, and to ensure the highest ethical standards of conduct over the Nation's business.~~

c. The Law and Order Committee must interview the candidate and make recommendation(s) to Naabi'kiyati and Council.

2. Renumber or re-letter succeeding paragraphs, sections, and exhibits, as necessary and appropriate. The Office of Legislative Services and Office of Legislative Counsel are authorized to make technical edits, including re-calculating totals, to this legislation and its exhibits to implement the Navajo Nation Council's intent. This amendment supersedes inconsistent language in any other amendment(s), which language shall be conformed to this amendment.

M: ECharles-Newton

S: NNotah

V: 19 in favor, 00 opposed (Speaker Curley not voting)

Amendment #4

1. After § 1005(C)(3)(b) of amendment 2, add a new subparagraph 3, as follows:

3. Executive Branch appointee nominations not confirmed by the Navajo Nation Council shall not be issued or be authorized a P-card.

M: ECharles-Newton

S: OTso

V: 16 in favor, 03 opposed (Speaker Curley not voting)

EXHIBIT 15

EXHIBIT 15

1 Javier Torres (NNBA 19-499)
Peter Kozinets (AZ No. 019856 Admitted *PHV*)
2 **ZWILLINGER WULKAN PLC**
2020 North Central Avenue, Suite 675
3 Phoenix, Arizona 85004
Tel: (602) 962.5676
4 Fax: (602) 962.5676
Email: javier.torres@zwfirm.com
5 *Counsel for Respondent/Counter-Petitioner*
Navajo Nation President Buu Van Nygren
6

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

9 HON. PETITIONER CRYSTALYNE
CURLEY,

10 Petitioner,

11 v.

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

14 Respondents,
15

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

**EMERGENCY APPLICATION
OF PRESIDENT BUU VAN NYGREN
FOR EX PARTE TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION
UNDER RULE 65 AND 65.1; AND
REQUEST FOR EXPEDITED TRO
HEARING**

**REGARDING NAVAJO NATION
COUNCIL RESOLUTIONS
CJA-07-26 and CJA-09-26**

16 PRESIDENT BUU VAN NYGREN,
17

Counter-Petitioner,
18

19 v.

20 SPEAKER CRYSTALYNE CURLEY
and THE NAVAJO NATION COUNCIL,

21 Counter-Respondents.
22

23 This emergency TRO is sought to enjoin and declare invalid two resolutions just
24 passed by the Navajo Nation Council that, if allowed to go into effect, would give
25 unprecedented power to the Legislative Branch and upend the separation of powers
26 established by the Title II Amendments.
27
28

1 The first resolution, CJA-07-26, expressly amends Title II of the Navajo Nation
2 Code by amending the powers and duties of the President. If allowed to take effect, it
3 would do the following:

- 4 • Deny P-cards and thereby cut-off travel and expense funding for all Division
5 Directors, the Controller, the Attorney General, and the Deputy Attorney General,
6 unless and until these officials have been confirmed by the Council;
- 7 • Prohibit all such unconfirmed Presidential appointees from conducting essential
8 duties, including creating programs, entering contracts exceeding \$50,000 without
9 legislative approval, hiring or firing managers, and reallocating more than \$10,000
10 without legislative approval;
- 11 • In a provision apparently targeted at Acting Attorney General Kris Beecher,
12 retroactively subject Presidential appointees to unspecified “Consequences”—
13 including a “two-year re-nomination ban”—if they receive a final vote and are not
14 confirmed within 365 days before the resolution’s enactment;
- 15 • In a provision apparently targeted at Acting Deputy Attorney General JoAnn Jayne,
16 require that the Attorney General and Deputy Attorney General be licensed
17 attorneys in the Navajo Nation and within Arizona, New Mexico, or Utah;
- 18 • Prohibit any Acting Attorney General or Acting Deputy Attorney General from
19 issuing formal opinions, initiating “major litigation” without legislative approval,
20 or entering settlements exceeding \$250,000 without legislative approval; and
- 21 • Compel the President to make quarterly in-person reports to the Council and
22 require the President or Vice President to attend all confirmation hearings.

23 Ex. A, CJA-07-26.

24 Under these changes to Title II, a Presidential appointee could potentially serve for
25 months or years without confirmation, depending on the Council’s action or inaction on
26 their nomination. CJA-07-26 empowers the Council to sit on such nominations
27 indefinitely, allowing the Council to curtail what those appointees can do in office and
28

1 subjecting them to Council control regarding all but their most routine duties. CJA-07-26
2 also threatens the current leadership of the Navajo Nation Department of Justice by
3 targeting both the current Acting Attorney General and Acting Deputy Attorney General;
4 and even if they continue to serve, the resolution’s limitations on their powers would leave
5 the Department of Justice with reduced powers and subject to unprecedented Legislative
6 Branch control.

7 Simply put, this legislation undermines the President’s ability to appoint and
8 supervise executive personnel serving in the top echelons of the Navajo Nation
9 government—including Division Directors, the Attorney General, the Deputy Attorney
10 General, and the Controller. These changes to Title II vastly enhance the powers of the
11 Council at the President’s expense.

12 Separately, Resolution CJA-09-26 strips the President of the power to appoint any
13 members of the Navajo Board of Education. Under 10 N.N.C. § 106, the President
14 currently appoints 6 of the Board’s 11 members. CJA-09-26 eliminates the six
15 Presidentially-appointed positions. *See* Ex. B. The Board was established as part of the
16 Executive Branch “for the specialized purpose of overseeing the operation of all schools
17 serving the Navajo Nation,” 10 N.N.C. § 106(A), yet the Council’s new resolution
18 removes any Executive oversight or control over the Board.

19 Resolutions CJA-07-26 and CJA-09-26 make broad changes to the Title II
20 Amendments—without putting those changes to a vote of the People as Navajo law
21 requires. They also violate the Fundamental Law command that “there should not be
22 concentrated power” in one Branch. *Shirley v. Morgan*, 9 Nav. R. 325, 337 (Nav. Sup.
23 Ct. 2010). These resolutions violate Supreme Court precedent, the separation of powers,
24 and Fundamental Law including participatory democracy.

25 Under Nav. R. Civ. P. 65.1, President Nygren respectfully moves for (1)
26 emergency issuance of an ex parte temporary restraining order to enjoin Speaker Curley
27 and the Navajo Nation Council from further considering or acting upon CJA-07-26 and
28

1 CJA-09-26, and to enjoin both Resolutions’ implementation or enforcement, and (2) an
2 expedited hearing to determine whether such a TRO may continue through and including
3 the date of a TRO and preliminary injunction hearing in this matter. This motion is
4 supported by the following Memorandum, the attached Exhibits, and the Verified First
5 Amended Counterclaim being submitted contemporaneously herewith.

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **I. BACKGROUND**

8 **A. CJA-07-26 – Illegal Attempt to “Amend” the Powers and Duties of the**
9 **President and Vice President**

10 **1. *Council’s Assumption of Power Over Unconfirmed Nominees***

11 On January 29, 2026, the Navajo Nation Council passed CJA-07-26 by a vote of
12 18 in favor and 2 opposed, and Speaker Crystalyne Curley certified the legislation on
13 February 9, 2026. *See* Ex. A, CJA-07-26 at 6. The express purpose of the statute is to
14 “amend[] Title 2 of the Navajo Nation Code to amend the powers and duties of the Office
15 of the President and Vice President.” Ex. A, CJA-07-26 at 1.

16 The Executive Branch has 20 appointees serving as Division or Executive
17 Directors and as other high-level officers, including the Attorney General, the Deputy
18 Attorney General, and the Controller.¹ At present, many of these appointees serve in an
19 “Acting” capacity, meaning they have not been confirmed by the Council. CJA-07-26
20 changes Title II to curtail the powers of these Presidential appointees or bring them under
21 the Council’s (rather than the President’s) management and control.

22 The legislation restricts the powers of a nominee who serves in an “acting”

23 ¹ The divisions and departments these executives oversee include the Navajo Department
24 of Health, Department of Diné Education, Navajo Nation Broadband Office, Division for
25 Children and Family Services, Division of Community Development, Division of
26 Economic Development, Division of Human Resources, Navajo Division of General
27 Services, Navajo Nation Division of Natural Resources, Environmental Protection
28 Agency, Division of Public Safety, Veterans Administration, Navajo Nation Gaming
Regulatory Office, the Navajo Department of Justice, the Office of the Controller, and
other critical public agencies. *See* <https://opvp.navajo-nsn.gov/administration/> (last
visited 2/12/26); Ex. C, Executive Branch Organizational Chart.

1 capacity pending confirmation. It mandates that non-confirmed “acting” Presidential
2 appointees cannot: “create, abolish, or reorganize any program or department”; enter
3 contracts exceeding \$50,000 “without the express approval of the relevant oversight
4 committee”; “hire or terminate without cause senior-level personnel (e.g., deputy
5 directors, department managers, program managers, or employees with principal in their
6 title or equivalent titles)”; or reallocate budgeted funds greater than \$10,000 “without
7 legislative approval.” Ex. A, CJA-07-26, adding 2 N.N.C. § 1005(C)(3)(b)(2).

8 Separately, the legislation provides that “Executive Branch appointee nominations
9 not confirmed by the Navajo Nation Council shall not be issued or be authorized a P-
10 card.” Ex. A, CJA-07-26, adding 2 N.N.C. § 1005(C)(3)(b)(3). P-cards, or “Purchase
11 cards,” are used by Navajo Nation officials to pay for travel and other official expenses.
12 This provision, if allowed to go into effect, would essentially eliminate travel and other
13 expense funding for nonconfirmed Presidential appointees, making it nearly impossible
14 for them to perform any official duties that require travel or incurring any expenses.

15 The legislation also confusingly includes a retroactive provision that refers to a
16 non-existent “*Consequences for Failure to Meet Confirmation Timeline for Nominees*
17 section.” Ex. A, CJA-07-26, adding 2 N.N.C. § 102(G)(1). It states that “[e]ffective
18 immediately upon the enactment of this legislation, any individual previously nominated
19 for a position as a division or executive director or as the Controller, Attorney General or
20 Deputy Attorney General who has received a final vote by the full Navajo Nation Council
21 or Naabik'iyati' and failed to be confirmed within the 365 days preceding the date of this
22 Act's enactment shall automatically be subject to the provisions outlined in the
23 *Consequences for Failure to Meet Confirmation Timeline for Nominees* section[.]” Ex.
24 A, CJA-07-26, adding 2 N.N.C. § 102(G)(1). It also includes instructions for calculating
25 the start date of a “two-year renomination ban for that individual,” but does not define or
26 explain any such ban. Ex. A, CJA-07-26, adding 2 N.N.C. § 102(G)(1).

27 A “*Consequences*” section was included an earlier version of the legislation that
28

1 failed in the Council. *See* Legislation No. 0005-26, available at
2 [http://dibb.nnols.org/api/FileInfo/GetUri/?serviceRequestFileId=5ed29019-a4ff-4397-](http://dibb.nnols.org/api/FileInfo/GetUri/?serviceRequestFileId=5ed29019-a4ff-4397-a7d4-39bef6e6c97d)
3 [a7d4-39bef6e6c97d](http://dibb.nnols.org/api/FileInfo/GetUri/?serviceRequestFileId=5ed29019-a4ff-4397-a7d4-39bef6e6c97d). The failed section would have required a nominee who received a
4 final vote and wasn't confirmed to vacate his or her office within 24 hours, and would
5 prohibit their renomination for two years (subject to certain exceptions). *See id.* To be
6 clear, CJA-07-26 does not contain these substantive provisions. But passage of CJA-07-
7 26 creates ambiguity regarding the provisions in the final bill, and it's unclear whether
8 the Council may further amend Title II to include a "Consequences" section. This
9 uncertainty further harms the President's ability to attract and retain qualified individuals
10 to serve in the senior executive ranks of the Navajo Nation government.

11 The retroactive section appears to have been drafted to threaten Kris Beecher with
12 removal from the position of Acting Attorney General of the Navajo Nation, and it is
13 problematic for multiple reasons. First, by targeting him, the Council is possibly
14 attempting to remove and punish Mr. Beecher without due process *with a two-year ban*,
15 which constitutes an improper and illegal ex post facto law *See, e.g., Tso v. NHA*, 9 Nav.
16 R. 175 (Nav. Sup. Ct. 2007); *Judy v. White*, 8 Nav. R. 510 (Nav. Sup. Ct. 2004); *Ramah*
17 *Navajo Community School v. Navajo Nation*, 8 Nav. R. 141 (Nav. Sup. Ct. 2001).

18 Second, the retroactive provision would cause immediate and irreparable harm to
19 the Navajo Nation. If construed as imposing an immediate two-year ban on renomination,
20 the Council could simply schedule another vote on Mr. Beecher, reject his renomination,
21 and thereby impose a two-year ban on the President's renomination of him to serve as
22 Attorney General. The duties of the Attorney General would then transfer to the current
23 Deputy Attorney General. 2 N.N.C. § 1962(C).

24 Third, CJA-07-26 also appears tailor-made to disqualify President Nygren's most
25 recent appointment to the position of Deputy Attorney General, former Navajo Nation
26 Chief Justice JoAnn Jayne. The resolution engrafts new requirements on the
27 qualifications of the Attorney General and Deputy Attorney General, stating for the first
28

1 time that these attorneys must not only be in good standing to practice on the Navajo
2 Nation, but that they also must be licensed to practice “within the States of Arizona, New
3 Mexico or Utah.” Ex. A, CJA-07-26, amending 2 N.N.C. § 1962(B). Former Chief Justice
4 Jayne is a member of the bars of the Navajo Nation and the State of Montana. *See* Noel
5 Lyn Smith, “Navajo Nation Council confirms chief justice nominee JoAnn Jayne,” *USA*
6 *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/)
7 [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/).
8 President Nygren appointed her as Deputy Attorney General on December 10, 2025—
9 and the Council passed this legislation—which would effectively disqualify her from that
10 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/)
11 [nygren-appoints-former-chief-justice-joann-jayne/](https://opvp.navajo-nsn.gov/251210-president-nygren-appoints-former-chief-justice-joann-jayne/) with Ex. A, CJA-07-26 at 6.

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

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

18 On top of this, CJA-07-26 prohibits non-confirmed, acting Attorney Generals and
19 Deputy Attorney Generals from engaging in a number of critical responsibilities of their
20 office, including: issuing formal Attorney General Opinions pursuant to 2 N.N.C. § 1965;
21 initiating “major litigation” (an undefined term) “without explicit legislative consent”;
22 waiving the Nation’s sovereign immunity “for any purpose”; and entering into

23 ² *See e.g.* Shondiin Silversmith, *Navajo Nation Council Removes AG Ethel Branch from*
24 *Her Post*, *Ariz. Mirror* (Dec. 16, 2024), [https://azmirror.com/briefs/navajo-nation-](https://azmirror.com/briefs/navajo-nation-council-removes-ag-ethel-branch-from-her-post/)
25 [council-removes-ag-ethel-branch-from-her-post/](https://azmirror.com/briefs/navajo-nation-council-removes-ag-ethel-branch-from-her-post/); Shondiin Silversmith, *Navajo Nation*
26 *Council Votes to Remove Attorney General, Nygren Appoints Replacement*, *Ariz. Mirror*
27 (Aug. 7, 2025), [https://azmirror.com/briefs/navajo-nation-council-votes-to-remove-](https://azmirror.com/briefs/navajo-nation-council-votes-to-remove-attorney-general-nygren-appoints-replacement/)
28 [attorney-general-nygren-appoints-replacement/](https://azmirror.com/briefs/navajo-nation-council-votes-to-remove-attorney-general-nygren-appoints-replacement/); Arlyssa D. Becenti, *Navajo Nation*
Council ousts another attorney general with no explanation, *Ariz. Republic* (Aug. 7,
2025), [https://www.azcentral.com/story/news/local/arizona/2025/08/07/navajo-nation-](https://www.azcentral.com/story/news/local/arizona/2025/08/07/navajo-nation-council-ousts-attorney-general-heather-clah/85553677007/)
[council-ousts-attorney-general-heather-clah/85553677007/](https://www.azcentral.com/story/news/local/arizona/2025/08/07/navajo-nation-council-ousts-attorney-general-heather-clah/85553677007/).

1 agreements to settle any legal dispute for more than \$250,000 without legislative
2 approval. Ex. A, CJA-07-26, adding 2 N.N.C. § 1962(B)(3).

3 In sum, the restrictions in CJA-07-26 would severely erode the separation of
4 powers within the Navajo Nation:

- 5 • The Department of Justice would be barred from “[i]nitiating major litigation on
6 behalf of the Navajo Nation” without the explicit consent of the Speaker. If this
7 were to happen, Council could pass *any* illegal or unlawful legislation stripping
8 the Executive and Judicial branches of power (or even eliminating them
9 altogether), and the Department of Justice would not be able to initiate litigation
10 to challenge Council’s actions.
- 11 • The Department of Justice would be unable to respond to legal emergencies of any
12 kind, or to file actions for emergency relief without first obtaining the consent of
13 the Speaker “after consultation with the Council.” This would severely threaten
14 the ability of the Navajo Nation to respond to emergencies of *any* kind.
- 15 • The Department of Justice (whether through the Attorney General or the Deputy
16 Attorney General) would be completely barred from issuing formal opinions
17 pursuant to 2 N.N.C. § 1965. As this litigation has shown, the various branches
18 and divisions of the Navajo Nation government regularly need immediate legal
19 opinions in order to determine which course of action to take. If the Department
20 of Justice cannot issue legal opinions, the entire Navajo Nation government would
21 be deprived of needed legal advice.

22 CJA-07-26 could also potentially leave Sean McCabe unable to serve as the
23 Controller of the Navajo Nation. As this Court has noted, Mr. McCabe’s testimony in
24 this case could support a finding that Mr. McCabe voluntarily resigned from his position
25 as the confirmed Controller of the Navajo Nation, and was subsequently re-appointed as
26 Interim Controller by President Nygren. If this Court ultimately finds that Mr. McCabe
27 did indeed resign and was re-appointed as Interim Controller, under CJA-07-26, Mr.
28

1 McCabe may face a two-year ban on renomination and wouldn't be able to lawfully serve
2 as the Interim Controller or in any Controller capacity. That's because his previous
3 confirmation as Controller took place on January 24, 2024, and more than one year has
4 passed since that date; therefore, Mr. McCabe "failed to be confirmed within 365 days
5 preceding the [enactment] date of [CJA-07-26]." In other words, if CJA-07-26 isn't
6 enjoined, Mr. McCabe could cease to serve as Interim Controller (or as Controller in any
7 capacity) and be subject to a two-year ban on re-nomination.

8 In addition to Acting Attorney General Kris Beecher, Acting Deputy Attorney
9 General JoAnn Jayne, and Controller Sean McCabe, these provisions will also have an
10 immediate impact on additional unconfirmed appointees, including Sherylene Yazzie,
11 the Acting Director of the Department of Health; Candice Yazzie, the Acting Director of
12 the Division of Community Development; Byron Shorty, the Acting Director of Navajo
13 Nation Telecommunications Regulatory; and Sharlene Begay-Platero, the Acting
14 Director of the Division of Economic Development. It may also affect other senior
15 executives, sowing additional confusion in the Nation's government. *See* Pres. Nygren's
16 Second Supplemental and First Amended Verified Counterclaim ¶ 47.

17 **2. Council's Compelled Attendance of President**

18 2 N.N.C. § 1005 (C)(5), which CJA-07-26 would amend, is part of the Title II
19 Amendments. 2 N.N.C. § 1005, "Powers and Duties," states in part:

20 A. The President of the Navajo Nation *shall serve* as the Chief Executive
21 Officer of the Executive Branch of the Navajo Nation government with full
22 authority to conduct, supervise, and coordinate personnel and programs of
the Navajo Nation. He/she shall have fiduciary responsibility for the proper
and efficient operation of all Executive Branch offices.

23 B. The President *shall represent* the Navajo Nation in relations with
24 governmental and private agencies and create favorable public opinion and
good will toward the Navajo Nation.

25 C. The President shall have the following *enumerated powers*:

26 5. Report quarterly to the Navajo Nation Council on the state of
27 the Navajo Nation.

1 2 N.N.C. § 1005(C)(5) (emphasis added). Currently, 2 N.N.C. § 1005(C)(5) gives the
2 Navajo Nation President the *power* to “report quarterly” to the Council, but nothing in 2
3 N.N.C. § 1005(C)(5) requires the President to do so. Legislation 0007-26 and 0005-26
4 would illegally amend the “powers” set forth in 2 N.N.C. § 1005(C)(5), resulting in
5 multiple and immediate harms to the Navajo Nation.

6 First, CJA-07-26 would amend the title of 2 N.N.C. § 1005 from reading “Powers”
7 to “Powers, duties and responsibilities,” and amends 2 N.N.C. § 1005(C) from reading
8 “The President shall have the following enumerated powers” to read “The President shall
9 have the following enumerated powers, duties and responsibilities.” *See* Ex. A, CJA-07-
10 26, amending 2 N.N.C. § 1005(C). Powers and duties are entirely different concepts.
11 *Compare* POWER, Black’s Law Dictionary (12th ed. 2024) (defining a “power” in part
12 as “[t]he legal right or authorization to act or not act[.]”) *with* DUTY, Black’s Law
13 Dictionary (12th ed. 2024) (defining “duty” as “[a] legal obligation that is owed or due to
14 another and that needs to be satisfied; that which one is bound to do[.]”).

15 Put simply, a “power” is thing that a person *can* do, and a “duty” is a thing that a
16 person *must* do. However, CJA07-26 would dissolve this distinction, leading to chaos.
17 As it reads currently, there is a clear distinction in 2 N.N.C. § 1005 regarding what are
18 the “Powers” of the President – these include powers such as appointments, signing
19 legislation, and vetoing legislation. *See, e.g.*, 2 N.N.C. § 1005(C)(3), (C)(10), (C)(11).
20 Because these are “Powers” of the President, there is no confusion that the President *can*
21 sign legislation, veto legislation, and make appointments, but doing so is not a duty.
22 However, by changing these powers to be “Powers, Duties, and Responsibilities”
23 (without distinguishing between them), this would instantly create chaos and confusion –
24 would the President have the “power” to sign a piece of legislation, or would the President
25 have a “duty” to sign all legislation? Similarly, would the President have the “power” to
26 veto legislation, or would the President have a “duty” to veto all legislation? CJA-07-26
27 would amend and confuse Title II.

1 In addition to compelling the President to appear in person for quarterly “State of
2 the Navajo Nation” reports, *see* Ex. A, CJA-07-26, adding 2 N.N.C. § 1005(C)(5), the
3 resolution requires the President or the Vice-President to accompany every supervisory
4 executive nominee “to all hearings” involving each nominee’s confirmation, to “formally
5 present[] the nominee’s qualifications” and “serv[e] as the primary liaison between the
6 nominee and the Council.” Ex. A, CJA-07-26, adding 2 N.N.C. § 1005(C)(3)(a). *See also*
7 Ex. A, CJA-07-26, adding 2 N.N.C. § 102(G).

8 By so amending Title II, the Council is attempting to codify its ability to compel
9 the President to attend potentially countless Council hearings occurring through the year.
10 The Executive Branch has 20 appointees serving in the positions of Division Directors
11 and similar high-level offices. *See* <https://opvp.navajo-nsn.gov/administration/> (last
12 visited 1/25/26). Yet the Council would have the President (or Vice President) shuttling
13 between their Office and the Council to shepherd nominees through a process the Council
14 controls and that often results in rejected nominations.

15 **B. CJA-09-26– Stripping the Power to Appoint Members of the Navajo**
16 **Board of Education**

17 On January 29, 2026, the Council passed CJA-09-26 by a vote of 20 in favor and
18 0 opposed, and Speaker Curley certified the legislation on February 9, 2026. *See* Ex. B,
19 CJA-09-26 at 7. CJA-09-26 alters the composition of the Board of Education, which has
20 5 elected and 6 Presidentially-appointed members, by eliminating all of the Presidentially
21 appointed positions. *See* Ex. B, CJA-09-26, amending 10 N.N.C. § 106(B).

22 **II. LEGAL STANDARD FOR A TRO OR PRELIMINARY INJUNCTION**

23 A temporary restraining order or preliminary injunction may be entered to “stop a
24 party from acting in some way.” *Navajo Hous. Auth. v. Bluffview Resident Mgmt.t Corp.*,
25 8 Nav. R. 402, 412 (Nav. Sup. Ct. 2003). To obtain such relief, the movant must show
26 that (1) he “has or is claiming a protectable right or interest and has a high likelihood of
27 success on the merits,” (2) “irreparable injury, loss, or damage to that right or interest is
28

1 likely to occur unless the preliminary injunction is issued,” (3) “the threatened injury,
2 loss or damage is substantial in nature or character,” and (4) no adequate remedy at law.
3 Nav. R. Civ. P. 65.1(C).

4 A TRO may be issued to maintain the *status quo* until a hearing can be had upon
5 a motion for preliminary injunction. Nav. R. Civ. P. 65.1(a). It can be granted without
6 giving the adverse party an opportunity to be heard, if it is based on an affidavit that
7 “states specific facts which convince the Court that immediate and irreparable injury,
8 loss, or damage will result to the moving party before the adverse party or the party’s
9 counsel can be heard in opposition.” Nav. R. Civ. P. 65.1(c)(1).

10 Notice of this motion will be provided to Counter-Respondents via personal
11 service and email.

12 **III. ARGUMENT**

13 **A. Element 1(A) - President Nygren Has a Protectable Right or Interest.**

14 President Nygren has a protectable right and interest in the effective operation of
15 the Executive Branch and OPVP that justifies seeking expedited injunctive relief here.
16 The President “serve[s] as the Chief Executive Officer of the Executive Branch of the
17 Navajo Nation government[.]” 2 N.N.C. § 1005. But the legislation described above will
18 upend this President’s ability to serve as Chief Executive Officer of the Executive
19 Branch—and threatens to undermine all future Navajo Nation Presidents.

20 In *Shirely v. Morgan*, the Navajo Supreme Court affirmed the grant of expedited
21 injunctive relief to the Navajo Nation President, and rejected as “outrageous” the Speaker
22 and Council’s assertion that “the Council is the absolute source of governance for the
23 Navajo People” and “the original governing body of the Navajo Nation.” 9 Nav. R. 325,
24 333-34 (Nav. Sup. Ct. 2010). As in *Shirley*, the present Council is attempting to assert
25 itself as the primary and dominant Branch of the Navajo Nation Government. Even before
26 passing the legislation at issue, the Council engaged in a series of actions that appeared
27
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1 calculated to grind important Executive Branch functions to a halt—for no purpose other
2 than to obstruct the present administration and expand its own powers. The Council:

- 3 • Rejected or fired every Attorney General nominated by President Nygren, resulting
4 in the turnover of *five* heads of the Department of Justice in the last year;
- 5 • Passed a FY2026 Comprehensive Budget that defunded the Office of the President
6 and Vice President’s operations;
- 7 • Filed litigation to curtail the President’s line-item veto authority—which was
8 granted by the People; and
- 9 • Tried to legislatively remove President Nygren and Vice President Montoya and
10 install Speaker Curley as President (the Court has provisionally enjoined the
11 removal legislation).

12 On top of these efforts, the Council now seeks to deprive non-confirmed
13 Presidential appointees of their travel and expenses; curtail or undermine their ability to
14 carry out essential functions of their offices without Speaker or Council approval; render
15 a former Chief Justice of the Navajo Supreme Court ineligible to hold her Presidentially-
16 appointed position as Acting Deputy Attorney General; strip the President of the power to
17 appoint Board of Education members; compel the President to appear in-person before the
18 Council for quarterly reports and all hearings regarding Presidential nominees; and rewrite
19 the powers and duties of the Office of the President in many other ways. The Council also
20 seeks to subject Presidential appointees whom the Council decides not to confirm to
21 unnamed “Consequences” that could include a two-year ban on renomination and other
22 penalties. President Nygren has a protectable right and interest in seeking expedited relief.

23 **B. Element 1(B) - President Nygren Has a High Likelihood of Success On**
24 **The Merits.**

25 President Nygren has a high likelihood of succeeding on his counterclaims for
26 declaratory and injunctive relief concerning the legislation summarized above. The
27 legislation would (1) alter the structure of the Navajo Nation government established by
28

1 the Title II Amendments without direct action by the People, in violation of the
2 Amendments and *Shirley v. Morgan*, and (2) encroach upon the Executive Branch
3 functions in violation of the separation of powers and Fundamental Law.

4 **1. The Legislation Is Barred by the Title II Amendments and**
5 ***Shirley v. Morgan*.**

6 The Title II Amendments were enacted in 1989 to provide the safeguards of
7 separation of powers and checks and balances that were missing when the Council
8 concentrated executive and legislative functions in itself. *Shirley*, 9 Nav. R. at 334-35.
9 The amendments “separated governmental powers into three separate and equal branches
10 to decentralize power, limit the functions and powers of each branch, and provide for
11 checks and balances among the branches.” *Tuba City District Court v. Sloan*, 8 Nav. R.
12 159, 167 (Nav. Sup. Ct. 2001).

13 The Council cannot amend Title II’s provisions concerning the separation of
14 powers and checks and balances—only the People can. *Shirley* held that the Title II
15 Amendments are Navajo “organic law,” and the Council made a “solemn promise” or
16 “compact” with the People that the separation of powers established by the Amendments
17 would not be altered “until the People themselves might find a path to a better way.”
18 *Shirley*, 9 Nav. R. at 337-38. The Council also repealed and declared “null and void rules,
19 regulations, and laws or parts thereof which are inconsistent with” the Title II
20 Amendments. *Id.* at 338. The Navajo Supreme Court has consistently “interpreted the
21 promises of the Council in the Title 2 Amendments of 1989 to mean that the Council has
22 binded its own hands and deferred to the People to make further changes to government,
23 particularly in regard to important doctrines of sound government—separation of powers,
24 checks and balances, accountability to the People, and service of the anti-corruption
25 principle.” *In the Matter of Frank Seanez*, 9 Nav. R. 433, 436 (Nav. Sup. Ct. 2010);
26 *Todacheene v. Shirley*, 9 Nav. R. 380, 385 (Nav. Sup. Ct. 2010) (the Title II Amendments
27 “can be amended or repealed only by the People”).

1 These cases show that when the Council enacts legislative provisions that
2 effectively amend or curtail these organic laws, Navajo Courts will scrutinize and strike
3 down those changes. These cases embody the tradition of participatory democracy, which
4 comes from “the Navajo People’s traditional communal governance, rooted in the *Diné*
5 *Life Way*” in which “the power to govern comes from the People.” *Shirley*, 9 Nav. R. at
6 334-35. In short, the Title II Amendments—the organic law of the Navajo Nation—
7 cannot be amended or encumbered by the Council; only the People may do so.

8 In violation of these precepts, CJA-07-26 and CJA-09-26 rewrite the Title II
9 Amendments in a manner that concentrates Executive Branch powers in the Legislative
10 Branch. CJA-07-26 wrests control over the President’s ability to supervise and coordinate
11 the leadership of every senior Executive Branch position by depriving unconfirmed
12 Presidential appointees of travel and other official business expenses, curtailing their
13 authorized duties, and subjecting them to Council micromanagement. The legislation
14 gives the Council enormous power to govern the Executive Branch even through simple
15 inaction: If the Council fails to hold a confirmation vote, it can require Presidential
16 nominees to serve in “acting” status indefinitely—depriving them of travel and expenses,
17 limiting their authority, and controlling their major decisions.

18 CJA 07-26 imposes additional requirements and restrictions on the President’s
19 nominating authority, and creates uncertainty concerning the status of the several
20 Presidential appointees, including the Acting Attorney General, the Acting Deputy
21 General, the Controller, and Acting Division Directors. Courts “apply the principle of
22 *iishjani adoolniil* which ‘mandates that laws must be clear so that they may be
23 understood.’” *Shirley*, 9 Nav. R. at 331 (quoting *Milligan v. Navajo Tribal Util. Auth.*, 9
24 Nav. R. 14, 16 (Nav. Sup. Ct. 2006)). CJA-07-26 fails to pass muster under this principle
25 because it purports to subject unconfirmed appointees to “Consequences” nowhere
26 defined or explained in the statute. *See* Ex. A, CJA-07-26, adding 2 N.N.C. § 102(G)(1).

27 CJA-09-26 further erodes the President’s appointment power by depriving the
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1 President of *any* power to appoint members of the Navajo Board of Education.

2 CJA-07-26 and CJA-09-26 also rewrite Title II's provisions regarding the
3 President and Vice President's powers and duties, altering the 1989 Amendments and
4 failing to clearly demarcate between "duties," "powers," and "responsibilities." CJA-07-
5 26 in particular would require the President (or in certain instances the Vice President) to
6 appear in person before the Council multiple times each year, regardless of what other
7 responsibilities, commitments, emergencies, or crises these *shi nat'ahí* may face in office,
8 *See Shirley*, 9 Nav. R. at 348 (the President is "voted in by the whole of the People" and
9 deals with other sovereigns as "the face of the Nation, the embodiment of the Nation").
10 The in-person attendance provisions of CJA 07-26 significantly encroach upon the
11 President's and Vice President's ability to fulfill these duties.

12 If the Council wishes to so radically alter the powers of the Executive Branch, it
13 must put these changes to a vote of the People. It cannot impose these changes
14 unilaterally. *Shirley*, 9 Nav. R. at 337-38; *Seanez*, 9 Nav. R. at 436; *Todacheene*, 9 Nav.
15 R. at 385. The President has a strong likelihood of success on this fundamental argument.

16 **2. The Proposed Resolutions Violate Separation of Powers.**

17 The separation of powers prohibits Council laws that encroach on the Executive
18 Branch and concentrate power in the Legislative Branch. In *Shirley*, the Supreme Court
19 invalidated a resolution that sought to limit the courts' consideration of Fundamental
20 Law. 9 Nav. R. at 332. The Court held that "**encroachment by one branch into the
21 essential powers of another for any reason is impermissible.**" *Id.* (emphasis added).
22 Under the separation of powers, "[n]o branch of the Navajo Nation government can
23 perform or infringe on the essential functions of another branch." *Sloan*, 8 Nav. at 168.

24 The legislation above, if enacted, will encroach on the Executive Branch by
25 undermining the President's ability to: (1) recruit and retain qualified Executive Branch
26 leaders; (2) impose prohibitions on "acting" officials preventing them from carrying out
27 official duties or requiring them to seek legislative approval; (3) strip such appointees P-

28

1 cards they need to conduct official travel and other official business; (4) create confusion
2 and uncertainty regarding the status of officials who have received final votes and were
3 not confirmed within the last year; (5) impose new requirements that could disqualify
4 former Chief Justice JoAnn Jayne from serving as Attorney General or Deputy Attorney
5 General; and (6) strip the President of the ability to nominate members of the Board of
6 Education, despite the President’s Title II role of “[a]ppoint[ing] members of boards,
7 commissions, and other entities subject applicable laws.” 2 N.N.C. § 1005(C)(4).

8 CJA-07-26 and CJA-09-26 should be enjoined and declared invalid for these
9 additional reasons.

10 **C. Element 2 – The Navajo Nation Presidency and the Navajo Nation Face**
11 **a Likelihood of Irreparable Injury, Loss, or Damage Unless**
12 **Emergency Temporary and Preliminary Injunctive Relief Is Granted**

13 Enactment of these laws would rewrite the Title II Amendments, encroach on the
14 Executive Branch in violation of the separation of powers, and trigger a governmental
15 crisis and plunge the Navajo Nation into chaos regarding the composition and future of
16 the President’s cabinet. Every day that passes with no temporary restraining order creates
17 its own irreparable harm by generating further uncertainty about the pending legislation
18 and its impact on the Nation’s governance, including its immediate impact on the Acting
19 Attorney General, the Acting Deputy Attorney General, the Controller, non-confirmed
20 Division Directors, and the divisions, departments, and offices that they lead.

21 President Nygren—and all future Presidents—face a high likelihood of severe
22 irreparable harm. These harms include losing senior Executive Branch leadership
23 candidates and office-holders because of the Council’s legislation stripping unconfirmed
24 leaders of the P-cards they need to conduct official business; Council micromanagement
25 of Presidential appointees whom the Council refuses to confirm; creation of tremendous
26 uncertainty regarding the ability of the current Acting Attorney General, Acting Deputy
27 Attorney General, Controller, and several Acting Division Directors to remain in office;
28 and being unable to recruit or retain qualified candidates for any Executive Branch’s

1 senior executive position because of the Council’s assumption of arbitrary, asymmetrical
2 power to delay or reject nominations, bar renominations, and control “acting” officers.
3 The resolutions will deprive this President—and all future Presidents—of their ability to
4 comply with 2 N.N.C. § 1005(A)’s command that they “shall serve as the Chief Executive
5 Officer of the Executive Branch of the Navajo Nation government with full authority to
6 conduct, supervise, and coordinate personnel and programs of the Navajo Nation.”

7 CJA07-26 would severely undermine the sovereignty of the Navajo Nation in
8 other ways. It requires licensure of any Attorney General or Deputy Attorney General
9 “within the States of Arizona, New Mexico, or Utah.” This gives those states’ bar
10 associations the ability to disqualify a current or proposed Navajo Nation Attorney
11 General or Deputy Attorney General—relinquishing the sovereignty of the Navajo
12 Nation to those outside entities.

13 CJA-07-26 and CJA-09-26 are theoretically subject to Presidential veto. However,
14 CJA-07-26 passed with 18 votes, more than the 2/3 Council vote threshold needed to
15 override a Presidential veto, and CJA-09-26 passed on a “consent agenda” vote with 20
16 votes. If these bills are vetoed the President, there is every likelihood the Council will
17 muster the same veto-proof majorities. *See* 2 N.N.C. § 1005(C)(11)-(12).

18 **D. Element 3 – The Injury, Loss or Damage Is Substantial in Nature or**
19 **Character**

20 For the same reasons, President Nygren faces injury, loss, or damage that is
21 substantial in nature and character. The Title II Amendments command that the President
22 “shall serve” as the CEO of the Executive Branch “with full authority to conduct,
23 supervise, and coordinate personnel and programs of the Navajo Nation.” 2 N.N.C. §
24 1005(A); Resolution CD 68-89. The challenged legislation undermines the President’s
25 ability to fulfill this central function, which is a cornerstone of the separation of powers
26 established by the Title II Amendments.

27 Under the legislation, the Council can force constant churn in the Executive
28

1 Branch’s leadership positions, and curtail or closely control the activities of any “acting”
2 officials. The legislation thereby gives the Council direct and substantial control over the
3 Executive Branch’s personnel and programs. This inflicts institutional and practical harm
4 on the President and the Executive Branch that is substantial in character or nature.

5 **E. Element 4 – No Adequate Remedy at Law**

6 President Nygren does not have a monetary remedy that would prevent the
7 Speaker and the Council from enacting the legislation at issue and triggering an
8 immediate government crisis. And every day that passes with no temporary restraining
9 order creates its own irreparable harm by generating further uncertainty about whether
10 the Navajo People will have a fully functioning Executive Branch, helmed by clearly-
11 identified leaders of the divisions, departments, and offices of that Branch.

12 **IV. CONCLUSION**

13 For the foregoing reasons, pending an expedited hearing, the Court should issue a
14 temporary restraining order prohibiting Speaker Curley and the Navajo Nation Council
15 from further considering or acting upon CJA-07-26 and CJA-09-26, and enjoining the
16 implementation or enforcement of CJA-07-26 and CJA-09-26.

17 Alternatively, because of the imminent threat of irreparable harm to the Navajo
18 Nation government, the Court should hold an expedited hearing concerning why a TRO
19 and/or preliminary injunction should issue.

20
21 RESPECTFULLY SUBMITTED this 13th day of February, 2026.

22 **ZWILLINGER WULKAN PLC**

23
24 By: _____

25 Javier Torres
26 Peter Kozinets (Admitted *PHV*)
27 2020 North Central Avenue, Suite 675
28 Phoenix, Arizona 85004
Counsel for President Nygren

1 **CERTIFICATE OF SERVICE**

2
3 I hereby certify that the foregoing PRESIDENT BUU VAN NYGREN'S
4 EMERGENCY APPLICATION FOR EX PARTE TEMPORARY RESTRAINING
5 ORDER AND PRELIMINARY INJUNCTION UNDER RULE 65 AND 65.1; AND
6 REQUEST FOR EXPEDITED TRO HEARING was filed by fax and U.S. mail on this
7 13th day of February 2026, with the court at:

8 Window Rock Judicial District Court
9 Post Office Box 5520
10 Window Rock, Arizona 86515
11 Fax: (928) 871-7560

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

13 Michelle Espino
14 Chief Legislative Counsel
15 Navajo Nation Council
16 P.O. Box 3390
17 Window Rock, AZ 86515
18 Email: espino@navajo-nsn.gov

19 Katherine Belzowski
20 Jordan Corliss
21 Jessie M. Mallinger
22 Navajo Nation Department of Justice
23 P.O. Box 2010
24 Window Rock, AZ 86515
25 Email: kbelzowski@navajo-nsn.gov
26 Email: jmallinger@navajo-nsn.gov
27 *Counsel for Respondents OOC and OMB*

28 Rhonda Tuni
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Navajo Nation Legislative Branch
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Window Rock, AZ 86516
Email: steve@stevebooslaw.com
Counsel for Petitioner

By: /s/ Marlena Mendez Higgins
Marlena Mendez Higgins

EXHIBIT 16

EXHIBIT 16

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

Honorable Speaker Crystalyne Curley,
Petitioner,

v.

President Buu Van Nygren, Office of
Management and Budget, and Office of the
Controller,

Respondents.

Docket No. WR-CV-113-25
Justware Case ID No. 25-15730

**TEMPORARY RESTRAINING ORDER
ENJOINING LEGISLATION NUMBERS
CJA-07-26 AND CJA-09-26**

INTRODUCTION

This matter is before the Court for a second temporary restraining order request filed by the respondent Navajo Nation President Buu Van Nygren. The parties involve Navajo Nation Government entities. The matter is being adjudicated under Navajo Nation laws and civil procedures. Personal and subject matter jurisdiction is proper with this court. The issue is whether the Honorable Navajo Nation President Nygren's second temporary restraining order will be granted. The court grants the second temporary restraining order until these hearings are concluded.

FINDINGS OF FACTS

The respondent Navajo Nation President Buu Van Nygren (respondent Nygren) requests the Temporary Restraining Order to prohibit the petitioner Honorable Speaker Curley and the Navajo Nation Council from enacting Legislation Numbers CJA-07-26 and CJA09-26 as well as enjoining the implementation or enforcement of these legislations. *Emergency Application of President Buu Van Nygren for Ex Parte Temporary Restraining Order and Preliminary Injunction Under Rule 65 and 65.1; and Request for Expedited TRO Hearing Regarding Navajo Nation Council Resolutions CJA-07-26 and CJA-09-06* (February 13, 2026). On February 19, 2026, the respondent Navajo Nation President Buu Van Nygren vetoed both legislations and renewed his request for the emergency temporary restraining order (TRO). *President Buu Van Nygren's Renewed Emergency Application for Ex Parte Temporary Restraining Order and Preliminary Injunction under Rule 65 and 65.1; and Request for Expedited TRO Hearing Regarding Navajo Nation Council Resolutions CJA-07-26 and CJA-09-26* (February 19, 2026). The Legislative Counsel has not responded to the TRO request and, due to the potential of the

Navajo Nation Council overriding the Navajo Nation President's veto, this court now addresses respondent Nygren's TRO request.

Legislation CJA-07-26 was passed on Monday, February 9, 2026, by an 18 to 2 vote from the Navajo Nation Council, which amends provisions of the Navajo Nation President's powers and duties under Title 2 for the purpose of "providing needed clarity to increase the effectiveness and efficiency of the Navajo Nation Council and Committee legislative process." *Resolution of the Navajo Nation Council CJA-07-26*, § 2(B) (February 9, 2026). The first provision is amending the Navajo Nation President's enumerated powers of appointing supervisory executive personnel subject to applicable laws. 2 N.N.C. § 1005(C)(3). Legislation CJA-07-26 amends this section by expanding the Legislative Branch's authority over any of the Navajo Nation President's nominees by restricting their duties, while they wait on confirmation by the Navajo Nation Council, by barring the nominee from reorganizing any program or department; issuing new regulations, prohibiting the nominee from entering non-emergency contracts or intergovernmental agreements exceeding \$50,000.00 without the oversight committee's approval; they would be unable to hire or terminate senior-level personnel; the Navajo Nation Council prohibits the nominee from reallocating funds greater than \$10,000.00 from the division's approved budget without legislative approval. They will also not be issued Purchase cards. *Resolution of the Navajo Nation Council CJA-07-26*, 2 N.N.C. § 1005(C)(3)(b)(2) & (3) (February 9, 2026). Another provision of legislation CJA-07-26 requires the Navajo Nation President to report quarterly in person to the Navajo Nation Council on the Official State of the Navajo Nation. *Id.* at 2 N.N.C. § 1005(C)(5).

The Navajo Nation Council amends its own powers to confirm the appointments of all division and executive directors, the Controller, the Attorney General and the Deputy Attorney General within three days of an appointee's nomination and, upon enactment of this legislation, these same positions that failed to be confirmed are subject to a two-year re-nomination ban which is calculated from the date of the failed confirmation vote. *Id.* at 2 N.N.C. § 102(G)(1). The Attorney General and Deputy Attorney General, under the Navajo Nation Executive Branch, can only be state bar members from the States of Arizona, New Mexico, or Utah Bar Associations, as well as the Navajo Nation Bar Association. *Id.* at § 2 N.N.C. 1962(B). This same section is expanded to prohibit Acting Attorney Generals and Acting Deputy Attorney Generals from issuing formal Attorney General opinions, initiating major litigation on behalf of

the Navajo Nation Government, including litigation against other sovereign governments, without the explicit legislative consent, upon the Speaker consulting with the entire Navajo Nation Council. Furthermore, the Acting Attorney General and Acting Deputy Attorney Generals are prohibited from entering any settlement agreements exceeding \$250,000.00 without approval from the Naabik'íyáti' Committee or the Navajo Nation Council. *Id.* at 2 N.N.C. § 1962(B)(3)(a), (b), & (d). Legislation CJA-09-26 was passed by 20 votes with none opposing on February 9, 2026, that eliminates all appointed positions of the Navajo Nation Board of Education, and leaves only five elected members from the Western, Chinle, Fort Defiance, Shiprock and Eastern agencies. *Resolution of the Navajo Nation Council CJA-09-26*, 10 N.N.C. § 106(B)(1) & (2) (February 9, 2026).

LEGAL CONCLUSIONS OF LAW

At the preliminary injunction hearing, petitioner must show 1) that he has a protectable right or interest and has a high likelihood of success on the merits; 2) that irreparable injury, loss or damage to that right is likely to occur unless preliminary injunction is issued; 3) that the threatened injury, loss, or damage is substantial in nature or character; and 4) that the moving party does not have an adequate remedy at law. *Navajo Nation v. RJN Construction Mgt., Inc.*, 9 Nav. R. 556, 560 (Nav. Sup. Ct 2013); *Boyd & McWilliams Energy Group, Inc. v. Tso, Johnson, Mark, John Does 1 through 100*, 7 Nav. R. 458, 461-462 (Ship. Dist. Ct. 1994); Nav. R. Civ. P. 65(c). A Temporary Restraining Order may be issued to maintain the status quo until a hearing can be had upon the motion for Preliminary Injunction. Nav. R. Civ. P. 65.1(a).

The respondent Nygren asserts a protectable right or interest in maintaining effective operation of the Executive Branch because these legislations threaten to undermine all present and future Navajo Nation Presidents as the Navajo Nation Council is attempting to assert itself as the primary, as well as the dominant, branch of the Navajo Nation Government. This court finds a possible protectable interest in Navajo Nation Presidents being able to operate the Executive Branch without interference from the Legislative Branch because concentrated power in one branch is prohibited, *k'é* is also the underlying principle that governs both branches and mandates these government branches to work together for the benefit of the Navajo People. *Shirley v. Morgan*, 9 Nav. R. 325, 337 (Nav. Sup. Ct. 2010).

Any Navajo Nation President's irreparable injury, loss, or damage is possibly established because the Navajo Nation Council has legislation to override the veto and the legislation will be

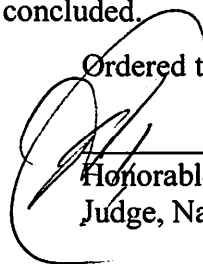
voted on February 26, 2026. *President Buu Van Nygren's Second Renewed Emergency Application for Ex Parte Temporary Restraining Order and Preliminary Injunction Under Rule 65 and 65.1; and Request for Expedited TRO Hearing Regarding Navajo Nation Council Resolutions CJA-07-26 and CJA-09-26*, Exhibits A & B (February 24, 2026). The injury is potentially substantial because it alters the Navajo Nation Executive Branch's functions and appears to concentrate some crucial Executive Branch's functions into the Legislative Branch's supervision such as restricting Executive Branch senior personnel functions, barring them from entering settlements without political approval, superseding the Navajo Nation Department of Justice's ability to respond to major litigation matters unless there is political approval, as well as many other provisions that undermine any Navajo Nation President's ability to operate the Navajo Nation Executive Branch. Furthermore, concentrated power in one branch is prohibited and violates the underlying concept of *k'é*. *Shirley v. Morgan*, 9 Nav. R. at 337. There is no adequate remedy at law once the Navajo Nation Council overrides the veto and the court is authorized to keep the status quo during these proceedings that includes temporarily prohibiting the Honorable Speaker Curley and the Navajo Nation Council from enacting Legislation Numbers CJA-07-26 and CJA09-26, as well as enjoining the implementation or enforcement of these legislations.

For these reasons, the respondent Nygren's request for a temporary restraining order is granted until these proceedings are concluded. *Navajo Nation v. RJN Construction Mgt., Inc.*, 9 Nav. R. at 560; *Boyd & McWilliams Energy Group, Inc. v. Tso, Johnson, Mark, John Does 1 through 100*, 7 Nav. R. at 461-462; Nav. R. Civ. P. 65(c) & 65.1(a).

IT IS THEREFORE ORDERED:

The temporary restraining order enjoining the petitioner Honorable Speaker Curley and the Navajo Nation Council from enacting Legislation Numbers CJA-07-26 and CJA09-26, as well as enjoining the implementation or enforcement of these legislations, is granted until these proceedings are concluded.

Ordered this 24th day of February 2026



Honorable Malcolm Begay
Judge, Navajo Nation District Court

* * * * *

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing was served. I certify that I have on the 24th day of February, 2026, served a copy of the **Temporary Restraining Order Enjoining Legislation Numbers CJA-07-26 and CJA-09-26** the following parties at the corresponding via Electronic Mail/U.S. Postal Service:

G. Michelle Espino
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PO Box 30087
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Date: February 24, 2026

O. Begay
Window Rock District Court Clerk

EXHIBIT 17

EXHIBIT 17

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

The Special Prosecutor,
Complainant,

v.

Navajo Nation President Buu Van Nygren,
Respondent.

Docket No. WR-CV-135-25
Justware Case ID No. 25-19429

ORDER OF DISMISSAL

INTRODUCTION

This matter is before the Court for Ethics in Government Law Complaints filed by the Special Prosecutor and the respondent Navajo Nation President Van Nygren's request to invalidate a statute, as well as the assertion the Navajo Nation Council is abusing its authority. The parties involve Navajo Nation Government entities. The matter is being adjudicated under Navajo Nation laws and civil procedures. Subject matter jurisdiction is improper with this court. The issue is whether the Honorable Navajo Nation President Van Nygren's motion to dismiss the second amended complaint will be granted. The court dismisses the complaints and the respondent's request to invalidate a statute, as well as the assertion that the Navajo Nation Council is abusing its authority.

FINDINGS OF FACTS

The Special Prosecutor filed the first ethics complaint in this court asserting the Office of Hearing and Appeals is conflicted from hearing the matter because it is supervised by the respondent in this matter. There is no hearing officer at the time of the filing of the ethics complaint, and the alleged violations are under the Navajo Nation Ethics in Government Law provisions, namely Title 2, Sections 3755 (the hiring of Navajo Nation President Van Nygren's father-in-law), 3744 (using the President's P Card to pay for unauthorized expenses), 3745(B) (same conduct), and 3752(C) (misuse of executive branch staff for personal needs) of the Navajo Nation Code. *Ethics In Government Law Complaint* (December 19, 2025). The complaint was amended asserting the same rationale for filing in this court that there is no forum for the Special Prosecutor to file without any hearing officers at the Office of Hearing and Appeals. This amended complaint alleges violations of Title 2, sections 3744, and 3745(B). *Amended Ethics In Government Law Complaint* (January 22, 2026). The complaint was amended again with the same allegation that the Office of Hearing and Appeals is conflicted from hearing the case and

this court should hear the matter. The second amended complaint alleges violations of Title 2, sections 3755, 3744, 3745(B), and 3752(C). *Second Amended Ethics In Government Law Complaint* (February 2, 2026).

The respondent Navajo Nation President Van Nygren moved to dismiss the second amended complaint for improper forum, resulting in lack of subject matter jurisdiction, the statute appointing the Special Prosecutor in this matter is invalid, and the Navajo Nation Council is abusing its authority. *Motion to Dismiss Second Amended Ethics in Government Complaint* (February 24, 2026).

The complainant responded that this court has general jurisdiction, there is nothing preventing this matter from being heard in this tribunal, this court is impartial as opposed to the Office of Hearing and Appeals that remains under the executive branch. It is also the appearance of impropriety if the OHA hears the case. The statute is valid that appoints him because there is an obvious conflict of interest with the Department of Justice investigating the respondent, this referral was from the Office of Hearing and Appeals that authorizes the Special Prosecutor to investigate these claims, it is impractical to conclude the Attorney General will impartially investigate its own branch, the 2010 Act is to inquire on suspected corruption in the executive branch, there is no shift in power just shared power between the branches, the Attorney General's gatekeeping role is not eliminated, there is no abuse of power by the legislative branch because the 2010 Act allows checks and balance of the executive branch by the legislative branch. All entities of the Navajo Nation must have access to the courts, the Attorney General does not have exclusive standing to initiate lawsuits, and the sovereignty of the Navajo Nation is threatened when the legislative branch is undermined by the respondent. There is no abuse of authority by the Navajo Nation Council because the Special Prosecutor is independent of the Navajo Nation Council's authority. The Attorney General is not above reproach, especially if that person remains inactive on behalf of the Navajo People or is committing crimes. *Response to Motion to Dismiss* (March 24, 2026).

The respondent replied that the Office of Hearing and Appeals has been assigned these cases since 2011, there are no fines or crimes alleged that would invoke this court's jurisdiction, the Office of Hearing and Appeals can hire independent hearing officers, Navajo case law prohibit the administrative process to be circumvented, there must be factual findings for bias and prejudice before OHA can be recused. The Special Prosecutor's Act of 2010 is an invalid

emergency legislation, and the legislative branch is infringing on the executive branch because it is the executive branch that implements law and policies, as opposed to the legislative branch that enacts the law and policy. It is imperative these branches do not infringe on the role of another branch, the control of litigation is an essential function of the executive branch, the Attorney General is who launches the investigations upon receiving sufficient information, the 2010 Act allows the Council unchecked authority to initiate prosecutions by the Special Prosecutor, the Department of Justice can hire outside counsel if any conflicts arise. Title 2 of the Navajo Nation Code is altered without the vote of the Navajo People. Legislative Council is not assigned investigatory or prosecutorial authority, and the Navajo Nation Council cannot consolidate the powers of the legislative and executive branch functions without the approval of the Navajo People. As the 2026 elections are approaching, the 2010 Act is utilized for political purposes. *Reply In Support of Motion to Dismiss Second Amended Ethics In Government Complaint* (April 8, 2026).

Nitsahakis (Thinking of the problem from all possibilities)

The Navajo Nation Supreme Court requires application of the four-direction process of nitsahakis (thinking), nahata (planning), Iina (life), and sihasin (outcome).¹ Nitsahakis is applied to the facts of the case, critical thinking is applied, there is reflection on what has happened, how is harmony disrupted, what is the cause, are there Navajo cultural guiding principles to apply?

In this matter, this court is inquiring on whether legal counsels properly brought these matters before the court? The source of the disharmony appears to be unchecked possible corruption in the executive branch that is not being acted upon by the Navajo Nation Attorney General and/or the Navajo Nation Department of Justice. The parties appear to be disinterested in any Navajo guiding principles to resolve the dispute and resort to Navajo law to assert their respective positions.

LEGAL CONCLUSIONS OF LAW

A motion to dismiss is made on the grounds that the plaintiff has failed to state a claim upon which relief can be granted. A motion to dismiss will be granted where, even assuming that the plaintiff's allegations comprise the true and total picture of the situation, the plaintiff has

¹ Navajo Nation Chief Justice Emeritus/Associate Justice by Designation Robert Yazzie, Associate Professor of Law Advocate, Navajo Technical University/Navajo Nation Supreme Court.

failed to state a claim for which the court has power to prescribe a remedy. *Secretaro v. Nav. Bd. of Elec. Sup.*, 6 Nav. R. 385, 389 (Nav. Sup. Ct. 1991); Nav. R. Civ. P. 12(b)(6).

The [Ethics and Rules] Committee shall conduct Administrative Hearings to determine violations or noncompliance with this Chapter. The director shall be charged with the responsibility of representing the Navajo Nation in bringing fourth all complaints filed under this Chapter. 2 N.N.C. § 3766(E). Any appointed Special Prosecutor has the power and authority in connection with any administrative proceeding to file a complaint with the [Ethics and Rules] Committee alleging a violation of this Chapter by any person subject thereto; to prosecute the complaint and represent the Navajo Nation's interest in any and all proceedings thereon. 2 N.N.C. § 3777(A)(1)-(2).

When jurisdiction is not yet determined, a matter is not properly before a court, therefore the court lacks authority to sit in judgment over any incompletely or in portion of the matter. *Nav. Nation Oil & Gas Co. v. W.R. Dist. Ct.*, No. SC-CV-25-14, slip op. at 8, ¶ 2 (Nav. Sup. Ct. June 20, 2014); *Begay v. Nav. Eng'g and Constr. Auth.*, No. SC-CV-44-08, slip op. at 5 (Nav. Sup. Ct. July 22, 2011). Court procedural rules mandate that the complaint set forth the court's jurisdiction. The jurisdictional statement must be complete and accurate so that the court is fully informed as to its ability to act in the matter. Failure to do so results in a facially deficient and misleading complaint. *Nav. Nation Oil & Gas Co. v. W.R. Dist. Ct.*, No. SC-CV-25-14, slip op. at 10-12 (Nav. Sup. Ct. 2014). Pleadings that set forth claims for relief include an original complaint, counterclaim, cross-claim, third party claim, petition, or application. Nav. R. Civ. P. 3 & 8(a).

Analysis

This court clearly lacks jurisdiction or authority to hear all these claims because the Complainant (Special Prosecutor) is mandated to file these ethics in government complaints with the Ethics and Rules Committee. 2 N.N.C. §§ 3766(E) & 3777(A)(1)-(2). Without legal authority from the Navajo Nation Council, these ethics in government claims are not properly before this court and remedies cannot be provided for the Complainant. *Id.*; *Nation Oil & Gas Co. v. W.R. Dist. Ct.*, No. SC-CV-25-14, slip op. at 8, ¶ 2; *Begay v. Nav. Eng'g and Constr. Auth.*, No. SC-CV-44-08, slip op. at 5. The Complainant has failed to state a claim and the complaints are dismissed for lack of subject matter jurisdiction.

The respondent Navajo Nation President Van Nygren's request to invalidate the Special Prosecutor Amendment Act of 2010, as well as the Navajo Nation Council abusing its authority

or “politicization” is also dismissed for failing to properly set forth this court’s jurisdiction with a counterclaim, cross-claim, complaint, petition, or application that now results in a facially deficient pleading. *Nav. Nation Oil & Gas Co. v. W.R. Dist. Ct.*, No. SC-CV-25-14, slip op. at 10-12; Nav. R. Civ. P. 3 & 8(a). This is because his claims are asserted through his motion to dismiss and reply to the motion to dismiss, as opposed to complying with court rules for proper pleading. *Id.* His claims are not properly before this court and this court lacks authority to sit in judgment over any incomplete portion of the matter. *Nav. Nation Oil & Gas Co. v. W.R. Dist. Ct.*, No. SC-CV-25-14, slip op. at 8, ¶ 2; *Begay v. Nav. Eng’g and Constr. Auth.*, No. SC-CV-44-08, slip op. at 5.

Nahat’a (Planning)/*Iina* (Life)

Under the four-direction process *Nahat’a* and *Iina* are applicable which are described as “talking things out,” looking at the problem from different sides and create options of how the person can be healed. The “talking things out” phase involves relatives and other interested people to assist in generating a well-thought-out practical solution. Medicine people sometimes refer to *Nahat’a* as a useful tool in diagnosing and healing. Time is not a factor. The *Iina* element is to initiate life into implementing solutions after careful thoughts and planning from all possible options working toward a practical result.²

In this case, the Complainant can file in the proper forum as mandated by the Navajo Nation Council and the respondent President Van Nygren can refile proper pleadings in this court to address invalidation of the Special Prosecutor Amendment Act of 2010. There are more practical solutions such as Navajo Peacemaking and/or ceremonies to help heal the disputing political branches; however, it appears both sides wish to resort to litigation to resolve their legal issues. There is time to file in the proper tribunal and/or refile the proper pleadings to invoke proper jurisdiction. The court welcomes any non-ethics in government complaints.

Conclusion

The complaints and the respondent’s request to invalidate the Special Prosecutor Amendment Act of 2010 are all dismissed for lack of jurisdiction.

² *Supra.*

Sihasin (Outcome)

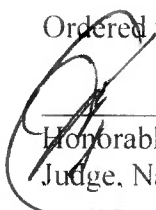
The final phase of the four-direction process is *sihasin* described as the outcome after careful review and deliberation of issues, the result may or may not be successful. Queries of whether the goal of the initial thought process was achieved are also conducted.

The general public will not be happy at the dismissal; however, the court is available to address any potential non-ethics in government and invalidation of any statute claims upon proper pleading requirements.

IT IS THEREFORE ORDERED:

The complaints and the respondent's request to invalidate the Special Prosecutor Amendment Act of 2010 are all dismissed and/or denied for lack of jurisdiction.

Ordered this 7th day of May 2026



Honorable Malcolm Begay
Judge, Navajo Nation District Court

WR-CV-135-25

* * * * *

Certificate of Service

I hereby certify that a true and accurate copy of the foregoing was served. I certify that I have on the 7th day of May, 2026, served a copy of the **Order of Dismissal** the following parties at the corresponding via U.S. Postal Service:

Kyle T. Nayback
Special Prosecutor
Nayback Law, LLC
1608 Gulfstream Dr, SE
Albuquerque, NM 87123

Javier Torres
Peter S. Kozinets, PHV
Attorneys for Respondent President Buu Nygren
Zwillinger Wulkan PLC
2020 North Central Avenue, Suite 675
Phoenix, AZ 85004

Date: May 7, 2026

O. Begay
Window Rock District Court Clerk

EXHIBIT 18

EXHIBIT 18

Home » News » Politics » Nayback tells Beecher to step aside in ZenniHome investigation

POLITICS

Nayback tells Beecher to step aside in ZenniHome investigation



BY GALLUPSUN STAFF — APRIL 17, 2026 NO COMMENTS 2 MINS READ

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Special Prosecutor Kyle T. Nayback

Staff Reports

WINDOW ROCK, Ariz. — Special Prosecutor Kyle Nayback has taken action to stop what he identifies as an unauthorized investigation into ZenniHome and Indigenous Design Studio + Architect, confirming his legal authority under Navajo Nation Code and telling the Navajo Nation acting attorney general to cease all related work immediately as of April 1.

“The Navajo Nation Department of Justice is working to aggressively pursue remedies against IDSA and ZenniHome,” Acting Attorney General Kris Beecher said in a Feb. 11 Navajo Nation Department of Justice press release. He confirmed that NNDOJ has been diligently investigating the matter.

In a letter dated Feb. 16, in a response to the acting attorney general, Nayback clarified that under 2 N.N.C. § 2021(J), he has jurisdiction over this matter, including the ZenniHome investigation and asked Beecher to step aside and turn over all investigatory findings.

In an email correspondence from Beecher on Feb. 23, he clarified that an outside law firm was investigating the matter. The law firm hired to investigate is the same law firm that represents the president of the Navajo Nation.

The Special Division of the Window Rock District Court appointed Nayback to investigate possible unethical and illegal conduct tied to the executive branch’s contracts with IDSA and ZenniHome.

“The law is clear that conflicts of interest arise when one law firm represents multiple parties in the same matters with competing interests,” Nayback said. “If that is happening here, it calls into question the integrity of the entire investigation.”

IDSA is a Navajo-owned company registered with the State of New Mexico and the Navajo Nation, while ZenniHome is registered with the Arizona Corporation Commission.

The general public with relevant information may email: 4nnjustice@naybacklaw.com and/or visit <https://www.nnjustice.org> or call 1-877-466-5878.

EXHIBIT 19

EXHIBIT 19

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
of the 25th NAVAJO NATION COUNCIL - Fourth Year, 2026

AN ACTION

RELATING TO THE BUDGET AND FINANCE COMMITTEE; ADOPTING
INVESTIGATORY HEARING RULES

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Budget and Finance Committee is a Standing Committee of the Navajo Nation Council with the responsibility to protect the interests of the Navajo people through the prudent management of the financial reserves of the Navajo Nation and the use of funds available for expenditure by the Navajo Nation. 2 N.N.C. § 300(C)(4).
- B. The Budget and Finance Committee has the responsibility to exercise oversight authority over the budget, finance, investment, contracting, accounting, and audit activities of the Navajo Nation. 2 N.N.C. § 300(C).
- C. The Budget and Finance Committee has been delegated the enumerated power, among other powers, to:
 1. Review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds. 2 N.N.C. § 301(B)(2);
 2. Review the use of Navajo Nation funds received from all sources. 2 N.N.C. § 301(B)(3);
 3. Coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private, expending or seeking to expend funds within the Navajo Nation or for the benefit of the Navajo People. 2 N.N.C. § 301(B)(5); and
 4. Require reports from and to monitor the financial performance of all offices, divisions, departments, enterprises, authorities, committees, boards, commissions, or entities having oversight or control over fiscal matters or financial obligations to the Navajo Nation. 2 N.N.C. § 301(B)(9).

- D. Standing Committees of the Navajo Nation Council "shall have the power to subpoena and acquire from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality, information, suggestions, estimates, and statistics necessary for execution of the purposes and authorities [of the Committee]. Each such department, bureau, agency, board, commission, office, establishment or instrumentality is authorized and directed to furnish to the extent permitted by law such information, suggestions, estimates and statistics directly to the committee. . . upon request by the Chairperson." 2 N.N.C. § 185(B).
- E. Standing Committees "may, for the purpose of carrying out [committee] purposes and authorities, hold such hearings and shall have the power to subpoena the attendance and testimony of such witnesses and the production of books, records, memoranda, papers and documents as deemed advisable." 2 N.N.C. § 185(C).

SECTION TWO. FINDINGS

- A. Standing Committees, including the Budget and Finance Committee, have received information, both oral and written, from Navajo Nation officials, employees, and community members suggesting that the Navajo Nation's contracts, including procurement, contract modifications, deliverables, invoicing, payments, etc., with Zenni Homes and Indigenous Design Studio + Architects do not comply with Navajo Nation laws, regulations, rules, and policies.
- B. The Budget and Finance Committee found that the information received about Zenni Homes and Indigenous Design Studio + Architects to be credible and deserving of further investigation in the form of an Investigatory Hearing.
- C. On July 18, 2025, the Budget and Finance Committee adopted Legislation No. 0174-25 authorizing an Investigatory Hearing for the purpose of determining whether contracts, including procurement, subcontracts, deliverables, payments, etc., for housing projects entered into by the Navajo Nation with Zenni Homes, Indigenous Design Studio + Architects, and other vendors between January 1, 2021, and the present complied with Navajo Nation laws, regulations, rules, and policies.

- D. Legislation No. 0174-25 requires the Budget and Finance Committee to adopt Hearing Rules at least five (5) days prior to the start of the Investigative Hearing. The purpose of the Hearing Rules is to ensure that the Investigatory Hearing is a full, fair, and transparent process.

SECTION THREE. APPROVAL


The Budget and Finance Committee hereby approves and adopts the Investigative Hearing Rules attached as **Exhibit A**.

SECTION FOUR. AMENDMENTS

These Investigatory Hearing Rules may be amended by resolution of the Budget and Finance Committee.

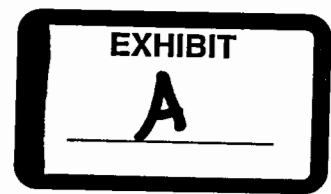
CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Budget and Finance Committee of the 25th Navajo Nation Council at a duly called meeting at Window Rock, (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of 04 in favor, 00 opposed, on this 13th day of May 2026.



Carl R. Slater, Pro Tem Chairperson
Budget and Finance Committee
Of the 25th Navajo Nation Council

Motion: Honorable Cherilyn Yazzie
Second: Honorable Lester C. Yazzie



BUDGET AND FINANCE COMMITTEE
INVESTIGATIVE HEARING RULES

- I. **AUTHORITY.** These Investigative Hearing Rules (“Rules”) are adopted pursuant to the authority of the Budget and Finance Committee (“Committee”) of the Navajo Nation Council to hold hearings for the purpose of carrying out its purposes and authorities. 2 N.N.C. § 185(C).
- II. **DECISION TO CONDUCT AN INVESTIGATIVE HEARING.** The Committee’s decision to hold an Investigative Hearing (“Hearing”) is set forth in Budget and Finance Committee Legislation No. 0174-25 adopted by the Committee on July 18, 2025.
- III. **PURPOSE.** The purpose of the Hearing is to gather facts on whether Navajo Nation government contracts for housing projects, including modular and manufactured units, fully complied with Navajo Nation laws, regulations, rules, policies, and the terms and conditions of external funding agreements.
- IV. **SCOPE.** The housing project contracts to be investigated were issued between January 1, 2021 and the present. The Hearing will examine the procurement, contract review, contract terms, deliverables, invoicing, payments, reporting, and related matters concerning the contracts between the Navajo Nation and ZenniHome and Indigenous Design Studio + Architects and other vendors as determined by the Committee.
- V. **TIME AND DATE.** The Hearing shall commence on June 8, 2026, at 10:00 a.m. and continue, if necessary, daily until June 19, 2026. The duration of the Hearing may be extended by vote of the Committee. The time, date, and location of the Hearing shall be posted on the Navajo Nation Council website.
- VI. **QUORUM.** At any scheduled Hearing, a quorum shall consist of four (4) Committee members being present. Any Committee member who arrives at a Hearing after testimony begins shall not be allowed to participate in the Hearing that day.
- VII. **RECUSAL.** Any member of the Committee who believes they have a conflict of interest in the matter before the Committee shall declare that conflict of interest for the record. If the Committee member believes they may still render an impartial decision, they shall state that fact and may participate in the hearing subject to discussion and vote on the conflict by the remaining Committee members. If the Committee member believes they cannot render an impartial decision, they shall so state and shall recuse themselves and not participate in the hearing.
- VIII. **EX PARTE COMMUNICATION.** Committee members shall report to the Committee Chairperson any *ex parte* oral or written communication from a witness made outside the confines of the Hearing. Subject to vote by the Committee, the failure of a Committee

member to report an *ex parte* communication may be grounds for disqualification of the Committee member for the duration of the Hearing.

- IX. COMMUNICATION WITH WITNESS LEGAL COUNSEL.** The Committee is represented by the Office of Legislative Counsel. Outside the confines of the Hearing, legal counsel for any witness, including Department of Justice attorneys, shall not communicate with Committee members concerning Hearing matters without Office of Legislative Counsel in attendance.
- X. SUBPOENA POWERS.** The Committee may issue subpoenas to compel testimony of witnesses or to produce documents relevant to the matter before the Committee. 2 N.N.C. § 185(C). All subpoenaed documents shall be produced in indexed format where practicable and within deadlines established by the Committee unless good cause is shown. The Office of Legislative Counsel shall enforce the subpoenas pursuant to 2 N.N.C. § 185 (F).
- XI. CONTINUANCES.** Where circumstances warrant, the Committee, on its own motion, may order a continuance or recess of the Hearing for a specified time period. Hearings shall be continued if the Committee lacks quorum.
- XII. CONDUCT OF HEARING.**
- A. ~~The Hearing shall be conducted in open session, except the Committee can vote for and convene to Executive Session when the documents or testimony touch on classified or confidential matters.~~ The Hearing shall be conducted in open session; provided, however, that the Committee may, upon majority vote, convene into Executive Session only when testimony, documents, evidence, or discussion involve matters that are confidential, legally privileged, protected by privacy interests, personnel matters, litigation strategy, or otherwise classified or restricted from public disclosure under applicable law or policy.
- Prior to convening into Executive Session, the Committee shall state on the record the general basis and necessity for closure and shall adopt a written justification identifying the specific categories of confidential or protected information requiring Executive Session consideration. The written justification shall be maintained as part of the official hearing record.
- B. The Hearing shall be audio recorded by the Office of Legislative Services.
- C. Upon notice of an investigatory hearing, all relevant entities shall preserve records relevant to the matters under investigation.
- D. All evidence received by the Committee shall be considered a matter of public information, unless such evidence is classified or confidential or protected by the Navajo Privacy and Access to Information Act.

- E. The presiding Chairperson shall call the daily Hearing to order and recap the purpose and scope of the Hearing. Committee members may make opening statements, for no longer than two (2) minutes each, outlining the Hearing's goals and political or legal perspectives.
 - F. All witnesses shall be sworn in by the Committee Advisor before testifying or presenting evidence to the Committee. 2 N.N.C. § 185(D). Witnesses may have counsel present and review exhibits referencing them. The presiding Chairperson may impose time limits on any witness' presentation.
 - G. Committee members shall take turns questioning witnesses. The questioning ~~may be supportive or adversarial~~ shall seek to clarify facts, evaluate project completion status, expenditure status, compliance status, audit exposure, and corrective action status. The Office of Legislative Counsel and Office of the Auditor General may also ask questions when necessary to clarify facts and witness statements.
 - H. The Committee is not bound by formal rules of evidence; evidence offered shall be reliable, relevant and not unduly prejudicial. All documentary evidence submitted by witnesses or by the Committee's independent investigation shall be deemed to be part of the record without further formal submission. The presiding Chairperson may rule on issues of relevancy or redundancy.
 - I. Each witness shall be afforded the opportunity to correct their testimony before being dismissed from testifying.
 - J. The Committee Chairperson and other Committee members may give closing statements that summarize findings, emphasize concerns, and ~~intimate~~ initiate next steps.
- XIII. DECISION OF THE COMMITTEE.** The Committee shall deliberate in Executive Session and shall render its final findings, identified compliance concerns, procurement findings, recommendations, and referrals, and corrective actions in writing within twenty (20) days of the Hearing's conclusion. The Committee's final findings, identified compliance concerns, procurement findings, recommendations, and referrals, and corrective actions shall be posted on the Navajo Nation Council's website.
- XIV. PROHIBITION ON POLITICAL USE OF INVESTIGATORY MATERIALS.** Materials, testimony, exhibits, recordings, correspondence, investigative reports, and other evidence associated with an investigatory hearing shall not be utilized for political campaigning, campaign advertising, election-related communications, fundraising activities, or political retaliation prior to the issuance of final findings and conclusions by the Committee.

No individual with access to investigatory materials shall publicly disseminate, selectively disclose, or otherwise use such materials in a manner intended to influence

an election, political campaign, or public perception regarding matters under investigation before the investigatory process has concluded.

This provision shall not prohibit disclosures otherwise required by law, lawful public records requirements, or official actions authorized by the Committee.

- XV. AMENDMENTS.** These Investigative Hearing Rules may be amended by resolution of the Budget and Finance Committee.

EXHIBIT 20

EXHIBIT 20

**BEFORE THE 25th NAVAJO NATION COUNCIL
BUDGET AND FINANCE COMMITTEE**

In Re:)	
)	No. _____
BUDGET & FINANCE)	
COMMITTEE INVESTIGATORY)	
HEARING CONCERNING)	
FEDERALLY FUNDED NAVAJO)	Subpoena
NAVAJO NATION CONTRACTS)	For Attendance and
FOR HOUSING AND RELATED)	Production of Records
MATTERS RE: BFJY-55-25)	
_____)	


TO: Buu Van Nygren
100 Parkway
Window Rock, AZ 86515

Pursuant to the authority of the Budget and Finance Committee to hold investigatory hearings and the authority of the Speaker of the Navajo Nation Council to issue subpoenas at 2 N.N.C. §§ 185 (B) and (C), 300 (C)(4), 301 (B)(2), (3), (5), (9) and (F) you are hereby ORDERED to appear before the Budget and Finance Committee at the Budget and Finance Committee Conference Room located at 200 Parkway, Building #4, in Window Rock, AZ, on June 8, 2026 at 10:00 a.m. (MDT). You shall be present at this investigatory hearing to testify and respond to any questions the Committee may have regarding federally funded Navajo Nation Contracts for housing and related matters, as described in Resolution BFJY-55-25.

In accordance with 2 N.N.C. § 301 (B)(3), (5) and (9), you are hereby ORDERED to provide and present all pertinent information related to American Rescue Plan Act (ARPA) funds and Fiscal Recovery Funds (FRF) received by the Navajo Nation for housing contracts and related matters, including contracts between the Navajo Nation, IDSA and ZenniHomes. Information shall include, but not be limited to, selection process materials, proposals, invoices received, verification of payments and all communication, including letters, emails, text messages and phone messages that pertain to all of the above information requested.

This subpoena may be enforced in the Courts of the Navajo Nation pursuant to 2 N.N.C. § 185 (F). Failure to obey this subpoena may subject you to sanctions as provided by law.

SO ORDERED this 30th day of MAY 2026.



 Hon. Crystalyne Curley, Speaker
 The 25th Navajo Nation Council

RETURN OF SERVICE

I do hereby certify that I received the foregoing Subpoena on the 29 day of MAY 2026.

I personally served a copy of the same upon Buu Van Nygren on
(Name)

the _____ day of _____, 2026, at _____,
(Location of Service)

at _____ a.m./p.m.

Certification given this _____ day of _____, 2026.

Dondi K Begay (Dondi K Begay) NN PROTESTS ENCI #413
(Name/Title)

Signature of Receiving Party:

(Name/Date)

EXHIBIT 21

EXHIBIT 21

From: [Javier Torres](#)
To: [Kyle Nayback](#)
Cc: [Marlena Higgins](#)
Subject: BFC Investigation re Zenni Homes etc.
Date: Monday, June 1, 2026 5:06:10 PM
Attachments: [20260601_ScanDoc001.pdf](#)
[05.13.26 BFC Special Meeting Agenda .pdf](#)
[PR_Resolution_No_BFAP-07-26_April_2026.pdf](#)
[BFAP-07-26.pdf](#)

Hi Kyle,

I hope you had a wonderful Memorial Day holiday.

I wanted to bring something to your attention. As I informed the Court during the Motion hearing on May 4, the Budget and Finance Committee, through Committee Chair Parrish, is continuing its investigation regarding Zenni Homes. The BFC's agenda on May 13 included "Legislation #0179-26: An Action Relating to the Budget and Finance Committee; Adopting Investigatory Hearing Rules."

More recently, I wanted to bring the attached to your attention, which purports to be a subpoena for June 8 "investigatory hearings" regarding, in relevant part, "IDSA and Zenni Homes."

Please let us know whether or not you plan to take any action pursuant to 2 N.N.C. Section 2021.J regarding the BFC's stated intent to proceed its own investigatory hearing regarding these topics. See 2 N.N.C. Section 2021.J ("Whenever a matter is within the jurisdiction of a Special Prosecutor, the Attorney General, the Chief Prosecutor, the Chief Legislative Counsel and all officers and employees of the Department of Justice, shall suspend all investigations and proceedings regarding such matter, except insofar as such Special Prosecutor and the Attorney General or Chief Legislative Counsel agree in writing that such investigations and proceedings may continue.").

We would appreciate a response by end of business on Tuesday, June 2, 2026. For your convenience I am attaching relevant documents, including Council's April 17, 2026 press release regarding this matter, stating "The investigatory hearing is designed to determine whether housing-related contracts with ZenniHome and Indigenous Design Studio + Architects complied with Navajo Nation laws, regulations, rules, and policies."

Thank you and have a great afternoon.

Javier Torres | Zwillingер Wulkan

Partner

Zwilling Wulkan PLC

2020 North Central Avenue, Suite 675|Phoenix, Arizona 85004

Phone 480.992.9445 | Fax 602.992.9445

javier.torres@zwfirm.com | www.zwfirm.com

NOTE: This e-mail is from a law firm, Zwilling Wulkan, PLC (“ZW”), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of ZW, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to ZW in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of ZW, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.