

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0237-26

SPONSOR: Amber Kanazbah Crotty

TITLE: An Act Relating to Law and Order, Health, Education and Human Services, Budget and Finance and Naabik'íyáti' Committees and the Navajo Nation Council; Enacting the Diné Government Accountability Restoration Act; Establishing the Office of the Attorney General As an Independent Elected Office and Providing for the Election of the Attorney General Counsel for Executive Branch Legal Services; and Amending and Repealing Certain Sections of Title 2, and Title 11 of the Navajo Nation Code

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Office of Legislative Services
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LEGISLATIVE SUMMARY SHEET

Tracking No. 02317-26

DATE: October 6, 2026

TITLE OF RESOLUTION: AN ACT RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ENACTING THE DINÉ GOVERNMENT ACCOUNTABILITY RESTORATION ACT; ESTABLISHING THE OFFICE OF THE ATTORNEY GENERAL AS AN INDEPENDENT ELECTED OFFICE AND PROVIDING FOR THE ELECTION OF THE ATTORNEY GENERAL BY THE NAVAJO PEOPLE; ESTABLISHING A DIVISION GENERAL COUNSEL FOR EXECUTIVE BRANCH LEGAL SERVICES; AND AMENDING AND REPEALING CERTAIN SECTIONS OF TITLE 2, AND TITLE 11 OF THE NAVAJO NATION CODE

PURPOSE: This legislation, if approved, would repeal the Department of Justice and establish the Office of the Attorney General as an independent office elected by the Navajo People, with a Division General Counsel model for Executive Branch legal services, amending Titles 2 and 11 of the Navajo Nation Code.

FINAL AUTHORITY: Navajo Nation Council

VOTE REQUIRED: Simple Majority

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.

5-DAY BILL HOLD PERIOD:
Website Posting Time/Date:
Posting End Date: 10/11/26
Eligible for Action: 10/12/26

Law & Order Committee
Thence
Health Education & Human Services Committee
Thence
Budget & Finance Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL—Fourth Year, 2026

Introduced By:

Primary Sponsor

Tracking No. 0237-26

AN ACT

RELATING TO LAW AND ORDER, HEALTH, EDUCATION, AND
HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI'
COMMITTEES, AND THE NAVAJO NATION COUNCIL; ENACTING
THE DINÉ GOVERNMENT ACCOUNTABILITY RESTORATION ACT;
ESTABLISHING THE OFFICE OF THE ATTORNEY GENERAL AS AN
INDEPENDENT ELECTED OFFICE AND PROVIDING FOR THE
ELECTION OF THE ATTORNEY GENERAL BY THE NAVAJO
PEOPLE; ESTABLISHING A DIVISION GENERAL COUNSEL FOR
EXECUTIVE BRANCH LEGAL SERVICES; AND AMENDING AND
REPEALING CERTAIN SECTIONS OF TITLE 2, AND TITLE 11 OF
THE NAVAJO NATION CODE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. 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 and enactments in the Navajo Nation Code. 2 N.N.C. §§ 600(A) and 601(B)(14).

- 1 B. The Health, Education, and Human Services Committee is a standing committee of the
2 Navajo Nation Council and has the power to review and recommend resolutions
3 relating to employment and labor. 2 N.N.C. §§ 400(A) and 401(B)(6)(a).
- 4 C. The Budget and Finance Committee is a standing committee of the Navajo Nation
5 Council with the power to review and recommend to the Navajo Nation Council the
6 budgeting, appropriation, investment and management of all funds and to strengthen
7 the fiscal and financial position of the Navajo Nation and to promote the efficient use
8 of the financial resources of the Navajo Nation. 2 N.N.C. §§ 300(A), (B)(2), (C)(3),
9 and 301(B)(2)
- 10 D. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council
11 with the authority to hear proposed resolutions requiring final action by the Navajo
12 Nation Council. 2. N.N.C. §§ 164 (A)(9), 700 (A) and 701 (A)(3).
- 13 E. The Navajo Nation Council is the governing body of the Navajo Nation and enacts and
14 approves amendments to Navajo Nation law. 2 N.N.C. §§ 102 (A)(B) & (C) and
15 164(A).

16 17 **SECTION TWO. FINDINGS**

- 18 A. The Diné governed themselves according to *Diné Bi Beenahaz'áanii*, the Fundamental
19 Laws of the Diné, codified at 1 N.N.C. § 202, which teach that those who hold authority
20 hold it in trust for the people, and that, as declared in 1 N.N.C. § 203(B), the people's
21 trust and confidence in their leaders and the continued status of those leaders depend
22 upon adherence to the values and principles of *Diné Bi Beenahaz'áanii*. The Diné
23 Traditional Law further declares, at 1 N.N.C. § 203(A), the right and freedom of the
24 Diné to choose leaders who will use their experience and wisdom to always act in the
25 best interest of the people and who will ensure the rights and freedoms of the
26 generations yet to come. The principle of accountability is not foreign to Diné
27 governance as it is foundational to it.
- 28 B. The legal services of the Navajo Nation are provided by the Department of Justice,
29 within the Executive Branch at 2 N.N.C. §§ 1961 through 1965 and Title 2, Chapter 5
30 Subchapter 39. The Attorney General is appointed by, and serves at the pleasure of, the

1 Navajo Nation Council upon the recommendation of the President, and is the Chief
2 Legal Officer of the Navajo Nation charged with the protection of the sovereignty of
3 the Navajo Nation, prosecution and public-defense functions, and administration of the
4 Department of Justice.

5 C. The diffusion of the Nation's legal, oversight, and accountability functions across the
6 branches, and the placement of the Nation's chief legal officer within and subordinate
7 to the branch that officer is charged with advising and representing, has weakened the
8 independence, transparency, and accountability of the Navajo Nation government.
9 When the Attorney General must answer to a Branch Chief whose actions he or she is
10 ethically obligated to evaluate, advise, or challenge, the Attorney General's ability to
11 provide candid, conflict-free legal advice is compromised. Subordination to the
12 political leadership being advised creates inherent pressure, invites political
13 interference, and undermines the ethical duty of independent judgment required of the
14 Nation's chief legal officer. This structure has left the Nation's sovereignty protection,
15 integrity safeguards, and accountability functions without a single, independent
16 institutional home capable of operating free from political influence. The protection of
17 the sovereignty of the Navajo Nation from external and internal threats, and the
18 safeguarding of the integrity and accountability of the Navajo Nation government,
19 warrant the establishment of an independent Office of the Attorney General of the
20 Navajo Nation government as the chief legal officer whose accountability runs directly
21 to the Navajo people through election.

22 D. The position of Attorney General has experienced repeated political turnover, acting
23 appointments, and periods of vacancy, resulting in uncertainty and inconsistency in the
24 delivery of legal services to the Navajo Nation government. This instability detracts
25 from the Attorney General's obligation to oversee legal services for the Nation and to
26 safeguard the Navajo Nation's sovereignty, integrity, and accountability.

27 E. Establishing the Attorney General as an elected official will strengthen independence,
28 continuity, and accountability in the administration of legal services.
29
30

- 1 F. It is necessary and appropriate to repeal the Department of Justice as presently
2 constituted; to establish the Office of the Attorney General, headed by an Attorney
3 General elected by the qualified voters of the Navajo Nation.
- 4 G. The day-to-day legal needs of Divisions requires timely, specialized, and Division-
5 specific legal support. When all attorneys are within a centralized office, Divisions
6 experience delays, competing priorities, and limited access to counsel familiar with
7 operational needs.
- 8 H. Creating Division General Counsel positions provide dedicated legal services within
9 each Executive Branch Division will ensure that each Division receives timely,
10 dedicated, specialized legal support.
- 11 I. The day-to-day legal needs of the divisions, programs, and offices of the Executive
12 Branch are best assessed, determined, and provided at their discretion within each
13 division by a Division General Counsel, who shall have the authority to employ and to
14 terminate the attorneys of the division and to address the legal needs of the division
15 through in-house attorneys or contract counsel, without the supervision or approval of
16 the Attorney General, while the representation of the Navajo Nation itself in litigation
17 and legal proceedings implicating the sovereignty, treaty rights, jurisdiction, or
18 governmental authority of the Navajo Nation remains the responsibility of the Attorney
19 General.
- 20 J. The Navajo Nation Council finds that the proposed amendments are consistent with
21 *Diné Bi Beenahaz'áanii* and with the foregoing findings, and that their enactment will
22 restore accountability, independence, and integrity to the government of the Navajo
23 Nation and is of great benefit to the Navajo Nation and the Navajo people.
- 24 K. The accountability of the elected Attorney General is secured through the removal and
25 recall provisions of the Navajo Nation Election Code applicable to elected officials,
26 including the removal offenses and procedures of 11 N.N.C. § 240 and the recall
27 petition provisions of 11 N.N.C. § 241, so that the officer charged with holding the
28 government accountable is himself or herself accountable to the Navajo people.
- 29 L. The reorganization effected by this Act requires an orderly transition, so that the
30 Attorney General may be elected by the Navajo people before assuming office, so that

1 the legal services of the Navajo Nation continue without interruption, and so that the
2 positions, funds, and programs transferred by this Act are accounted for in the Navajo
3 Nation Comprehensive Budget for the fiscal year in which the transfer takes effect.

4 M. On June 6, 2026, the Eastern Navajo Agency Council adopted Resolution No. ENAC-
5 06-2026-033, attached hereto as **Exhibit A**, requesting that the Attorney General be
6 made an elected position chosen by the Navajo people rather than appointed through
7 the existing political appointment process, reflecting local support for direct
8 accountability of the Attorney General to the Navajo people.

9 N. The reforms set forth in this Act require conforming amendments to Title 2 (Navajo
10 Nation Government), and Title 11 (Elections).

11 O. This Act does not alter the three-branch structure of the Navajo Nation government
12 established by CD-68-89 and codified in 1 N.N.C. §202(E), and therefore does not
13 require a referendum of the Navajo People.

14
15 **SECTION THREE. ESTABLISHING THE OFFICE OF THE ATTORNEY**
16 **GENERAL AS AN INDEPENDENT ELECTED OFFICE, AND ESTABLISHING**
17 **DIVISION GENERAL COUNSELS FOR EXECUTIVE BRANCH LEGAL**
18 **SERVICES; REPEALING THE NAVAJO NATION DEPARTMENT OF JUSTICE**

19 A. This Act shall be known and may be cited as the Diné Government Accountability
20 Restoration Act.

21 B. The Navajo Nation Council hereby repeals Title 2 Chapter 5 Subchapter 39 of the
22 Navajo Nation Code, comprising 2 N.N.C. §§ 1961 through 1965, 1971 through 1999B,
23 and 2021 through 2024, and all articles therein relating to the Department of Justice, in
24 their entirety.

25 C. The Navajo Nation Council hereby enacts Title 2 Chapter 10 of the Navajo Nation
26 Code establishing the Office of Attorney General of the Navajo Nation government as
27 an independent entity within the Executive branch as follows:

28
29

30 **TITLE 2. NAVAJO NATION GOVERNMENT**

1 * * *

2 **CHAPTER 10. THE OFFICE OF ATTORNEY GENERAL**

3
4 **SUBCHAPTER 1. OFFICE OF THE ATTORNEY GENERAL**

5 **§ 5001. Office of the Attorney General; establishment; composition; Attorney**
6 **General as Elected Official; program independence; limitations on supervision;**
7 **purpose**

- 8 A. There is established the Office of the Attorney General within the executive branch.
9 The Office of the Attorney General shall be led by the Attorney General, who shall be
10 the Chief Legal Officer of the Navajo Nation and shall not be subject to supervision by
11 the President of the Navajo Nation, or by any Division Director.
- 12 B. The Office of the Attorney General shall consist of the Attorney General, the Deputy
13 Attorney General, and such attorneys and staff as may be authorized through
14 appropriations by the Navajo Nation Council.
- 15 C. The Attorney General shall exercise supervisory control and direction over the Office
16 of the Attorney General and its personnel. The Attorney General shall not supervise the
17 Division General Counsels.
- 18 D. The authority of the Attorney General extends only to the Office of the Attorney
19 General. That authority does not extend to a Division General Counsel established
20 under 2 N.N.C. § 3601 of this Title, or to any attorney or legal staff employed or
21 retained by a Division of the Executive Branch.
- 22 E. The Attorney General is authorized to:
- 23 1. consolidate the budget requests of the programs of the Office of Attorney
24 General and submit the consolidated budget request as provided in 2 N.N.C. §
25 5005(D);
- 26 2. adopt administrative policies of general application that do not govern the
27 substantive work, the professional judgment, or the internal personnel decisions
28 of a program;
- 29 3. transmit to the Navajo Nation Council and to the legislative oversight
30 committees the reports and Plans of Operation of the Office of Attorney

1 General, together with the report of the Attorney General, without alteration;
2 and

- 3 4. request and receive from a program such information as is reasonably necessary
4 to perform the functions enumerated in this Subsection.

5 F. The Attorney General, the Deputy Attorney General, and the Office of the Attorney
6 General shall not:

- 7 1. supervise, direct, evaluate, discipline, remove, or otherwise control the director
8 or any employee of an office, except as expressly provided in the subchapter
9 governing that program;
- 10 2. direct, review, revise, overrule, countermand, or delay any case, opinion, audit,
11 investigation, complaint, adjudication, determination, recommendation, report,
12 or legal position of a program;
- 13 3. exercise supervisory control or direction over the day-to-day operations of a
14 program;
- 15 4. reassign or withhold the personnel, funds, equipment, files, or records of a
16 program, or require a program to relocate a place of office, without the written
17 concurrence of that program;
- 18 5. require a program to obtain the approval of the Attorney General before
19 communicating with the Navajo Nation Council, a standing committee, the
20 President of the Navajo Nation, the Judicial Branch, a Chapter, or the public in
21 the ordinary course of the duties of the program; or
- 22 6. represent a program in a matter in which the program is a party, or in which the
23 interests of the program and of the Office of the Attorney General conflict,
24 where the program is authorized by law to employ or retain its own counsel.

25 G. Nothing in this Section limits the authority and responsibility of the Attorney General
26 under 2 N.N.C. §§ 5007 through 5010 for the representation of the Navajo Nation and
27 the protection and advancement of the sovereignty, treaty rights, jurisdiction, and
28 governmental authority of the Navajo Nation. Programs shall cooperate with the
29 Attorney General in any matter implicating the sovereignty, treaty rights, jurisdiction,
30

1 or governmental authority of the Navajo Nation, and such cooperation shall not be
2 construed as supervision or direction by the Attorney General.

3
4 **§ 5002. Attorney General; Chief Legal Officer; Deputy Attorney General; personnel**

5 A. There is established the position of Attorney General of the Navajo Nation. The
6 Attorney General shall be the Chief Legal Officer of the Navajo Nation. The Attorney
7 General shall be elected by the qualified voters of the Navajo Nation at a Navajo Nation
8 general election conducted pursuant to Navajo Nation election laws found in Title 11,
9 held in the even-numbered year midway between the general elections at which the
10 President of the Navajo Nation is elected. The Attorney General shall serve a four (4)
11 year term at a negotiated salary beginning upon certification of election and the taking
12 of the oath of office. The Attorney General shall serve until his or her replacement is
13 duly certified and sworn in. The Attorney General may be removed from office as
14 provided in § 5006 of this Chapter.

15 B. There is established the position of Deputy Attorney General of the Navajo Nation. The
16 Deputy Attorney General shall be appointed by the Navajo Nation Council, upon the
17 recommendation of the Attorney General, to serve at a negotiated salary. The
18 appointment shall be effective upon approval of the Navajo Nation Council for a term
19 concurrent with the term of the Attorney General. The Deputy Attorney General shall
20 serve at the pleasure of the Attorney General.

21 C. The Deputy Attorney General shall serve in the stead of the Attorney General, with the
22 full authority of the Attorney General, in the event of the death, disability, recusal, or
23 removal of the Attorney General, until a new Attorney General is elected and qualified.

24 D. All other attorneys with the Office of the Attorney General shall serve at a negotiated
25 salary and at the pleasure of the Attorney General. All other personnel shall be hired
26 and compensated in accordance with applicable Navajo Nation personnel policies,
27 procedures, and approved budgets.

1 **§5003. Qualifications**

2 **A. A candidate for Attorney General shall:**

- 3 1. Be an enrolled member of the Navajo Nation;
4 2. Be at least thirty-five (35) years of age;
5 3. Be a licensed attorney in good standing, admitted to practice before the courts
6 of the Navajo Nation, and licensed to practice law before the highest court of a
7 State, and be in good standing under the rules of that State;
8 4. Have at least ten (10) years of professional experience in the practice of law,
9 four (4) years of which shall have been in a supervisory capacity; and
10 5. Not have been convicted of a crime involving dishonesty, violence or moral
11 turpitude.

12
13 **§ 5004. Term of office; re-election; vacancy**

- 14 **A. The Attorney General shall serve a term of four (4) years and shall serve until a**
15 successor is duly elected and certified. The Attorney General may seek re-election in
16 accordance with Navajo Nation election laws.
17 **B. A vacancy in the office of the Attorney General occurs upon death, resignation,**
18 removal from office, permanent incapacity, or failure to maintain the qualifications of
19 office.
20 **C. Upon a vacancy, the Deputy Attorney General shall serve as Acting Attorney General**
21 until a successor is elected or installed according to Navajo Nation law.

22
23 **§ 5005. Salary; oath of office; prohibition on outside practice; budget authority**

- 24 **A. The salary of the Attorney General shall be established by the Naabik'íyáti' Committee**
25 of the Navajo Nation Council in consultation with the Navajo Nation Department of
26 Personnel Management, and shall be funded through the annual budgeting process. The
27 salary of the Attorney General may be increased by the Naabik'íyáti' Committee to
28 account for inflation. The salary shall not be reduced during the elected term of office,
29 and no reduction to the salary established under this section shall take effect except
30 when approved by the Navajo People through an initiative or referendum conducted

1 pursuant to the Navajo Nation Election Code. The Attorney General shall receive the
2 benefits provided to Navajo Nation officials.

3 B. Before entering upon the duties of office, the Attorney General shall take an oath to
4 uphold the Navajo Treaty of 1868, *Naaltsoos Sání*, laws of the Navajo Nation and to
5 protect and defend the sovereignty, treaty rights, and governmental authority of the
6 Navajo Nation.

7 C. The Attorney General shall not engage in the private practice of law or accept outside
8 legal employment while serving in office; the Navajo Nation Bar Association shall not
9 subject the Attorney General and Deputy Attorney General to *pro bono* appointment
10 requirements.

11 D. The Office of Attorney General shall submit its annual budget request, directly to the
12 Navajo Nation Council for consideration in the Navajo Nation Comprehensive Budget.

13
14 **§ 5006. Removal and recall**

15 A. The Attorney General may be removed from office for the offenses and upon the
16 grounds set forth in 11 N.N.C. § 240, in accordance with the procedures established
17 thereunder, including the notice and due-process requirements applicable to the
18 removal of elected officials.

19 B. The Attorney General is subject to recall by the qualified voters of the Navajo Nation
20 pursuant to the recall provisions of the Navajo Nation Election Code, including the
21 recall petition requirements of 11 N.N.C. § 241.

22 C. The Attorney General may also be removed by judicial determination of misconduct or
23 incapacity as provided by Navajo Nation law.

24
25 **§ 5007. Authority, responsibilities, and duties**

26
27 The Attorney General is authorized and directed to:

28 A. Represent the Navajo Nation in major litigation involving claims in excess of one-
29 million dollars (\$1,000,000.00), and legal matters affecting the sovereignty, territorial
30

1 integrity, or national interests of the Navajo Nation, and the performance of functions
2 set forth in 2 N.N.C. § 5008.

3 B. On behalf of the Navajo Nation and without prior approval of the Navajo Nation
4 Council, or any Committee thereof, the President, or any other official of the Navajo
5 Nation, negotiate and execute attorney contracts for positions within the Office of the
6 Attorney General, within the approved Navajo Nation budget for attorneys and
7 expenses, to provide for legal counsel to Navajo Nation as is necessary to protect the
8 sovereignty, treaty rights, jurisdiction, and governmental authority of the Navajo
9 Nation. This Subsection does not authorize the Attorney General to negotiate or execute
10 attorney contracts on behalf of a Division General Counsel of the Executive Branch.

11 C. Monitor the work of the attorneys, contracted legal consultants, and law firms engaged
12 by the Office of Attorney General. This Subsection does not extend to any attorney,
13 legal consultant, or law firm employed or retained by a Division General Counsel of
14 the Executive Branch.

15 D. Formulate the overall administrative and operating policies for the Office of the
16 Attorney General, and the general application described in 2 N.N.C. § 5001(E)(2), and
17 take such action as the Attorney General shall deem necessary for the accomplishment
18 and enforcement thereof.

19 E. Exercise supervisory control and direction over all personnel within the Office of the
20 Attorney General.

21 F. Provide legal services to the Navajo Nation government regarding its legal interests in
22 the Nation's dealings and relations with all persons and organizations outside the
23 Navajo Nation government.

24 G. Delegate authority to members of his or her staff.

25 H. In consultation with the Navajo Nation Council and Budget and Finance Committee,
26 develop the budget of the Office of the Attorney General, and consolidate the budget
27 requests of the programs of the Office of Attorney General as provided in 2 N.N.C. §
28 5001(E)(1).

1 I. Establish and periodically update the Plan of Operation for the Office of the Attorney
2 General, and transmit to the appropriate legislative oversight committee for review and
3 approval.

4 J. Perform all duties and responsibilities of the office in accordance with the highest
5 standards of legal ethics as required of members of the Navajo Nation Bar Association,
6 the American Bar Association Model Rules of Professional Conduct, as amended from
7 time to time, and the state in which he or she maintains his or her license.

8
9 **§ 5008. Chief Legal Officer; litigation authority; retention of counsel**

10 A. The Attorney General is the Chief Legal Officer of the Navajo Nation and, unless
11 otherwise provided by Navajo Nation law, shall be responsible for litigation, legal
12 defense, and the protection and advancement of the sovereignty, treaty rights,
13 jurisdiction, and legal interest of the Navajo Nation in all forums.

14 B. The Attorney General shall provide legal representation in litigation and legal
15 proceedings involving the Navajo Nation government, including its Chapters,
16 branches, and entities, only when the legal interest, jurisdiction, or sovereignty of the
17 Navajo Nation is implicated, subject to available resources.

18 C. Except as otherwise provided by Navajo Nation law:

19 1. the Attorney General, or designee, shall serve as counsel of record for
20 the Navajo Nation in litigation and legal proceedings in which the Navajo Nation is a
21 named party and in which the sovereignty, treaty rights, jurisdiction, or governmental
22 authority of the Navajo Nation is implicated;

23 2. Each Division of the Executive Branch may employ or retain legal
24 counsel through its Division General Counsel, as provided in 2 N.N.C. § 3601 of this
25 Title, and no approval of the Attorney General is required for a Division to do so;

26 3. The Office of Legislative Counsel may retain or employ legal counsel
27 for the provision of legal services to the Navajo Nation Council, the standing
28 committees, commissions, and boards of the Navajo Nation Council, and the offices
29 and programs of the Legislative Branch, to represent the interests of the Legislative
30 Branch independent of the Office of the Attorney General;

1 4. The Judicial Branch may retain or employ legal counsel for the
2 provision of legal services to the Judicial Branch, independent of the Office of the
3 Attorney General; and

4 5. Navajo Nation Chapters may employ their own counsel, subject to
5 available funds, under the terms and conditions approved by the Chapter membership.

6 D. Notwithstanding the Navajo Nation Procurement rules and regulations, the Attorney
7 General shall adopt reasonable rules and regulations to allow for the hiring of
8 independent and additional outside counsel for the Office of Attorney General as
9 needed, including counsel with specialized expertise in federal Indian law, treaty rights,
10 jurisdictional matters, and the protection of Navajo Nation sovereignty, as provided in
11 this Chapter.

12 E. Notwithstanding the Navajo Nation Procurement rules and regulations, the Attorney
13 General may retain counsel to handle any particular matter or types of matters as the
14 Attorney General deems appropriate, subject to the availability of funds appropriated
15 for such purposes. Such counsel may be retained to represent the Navajo Nation
16 government in distant forums, to provide specialized legal expertise not available from
17 within the Office of the Attorney General, and to respond to exceptional demand for
18 legal services.

19 F. Except as otherwise provided by Navajo Nation law, the Attorney General, or designee,
20 shall defend and initiate all actions, including appeals, in which the Navajo Nation is a
21 party, including any action brought in the name of Navajo Nation government officials
22 for conduct arising out of their official duties, and may compromise or settle any action
23 or claim by or against the Navajo Nation government. In carrying out these
24 responsibilities, the Attorney General shall give priority to litigation that protects the
25 sovereignty, jurisdiction, lands, natural resources, treaty rights, and governmental
26 authority of the Navajo Nation. Before concluding any such compromise or settlement
27 which involves a particular Executive or Judicial Branch, division, department, or
28 program, the Attorney General shall consult with such branch, division, department,
29 and/or program. The Attorney General shall not compromise or settle any matter to
30 which the Navajo Nation Council, the standing committees, commissions, and boards

1 of the Navajo Nation Council, and/or the offices and programs of the Legislative
2 Branch are parties unless the compromise or settlement is duly approved by the
3 particular Legislative Branch parties. Where no branch or division is named, or
4 otherwise particularly involved, the Attorney General shall consult with the President
5 and the Speaker of the Navajo Nation Council prior to concluding any such
6 compromise or settlement.

7 G. All communications between elected tribal officials, officers, employees, or agents of
8 the Navajo Nation government and its attorneys shall be protected by the attorney-
9 client privilege and shall not be admissible or discoverable in any judicial or
10 administrative proceeding. No waiver of the attorney-client privilege shall be effective
11 against the Navajo Nation government without the express approval of the Attorney
12 General, of the Chief Legislative Counsel in matters affecting Legislative Branch
13 parties, or of the Division General Counsel in matters affecting that Division. The
14 Attorney General, the Chief Legislative Counsel in matters affecting Legislative
15 Branch parties, or the Division General Counsel in matters affecting that Division, is
16 authorized to waive the attorney-client privilege when such waiver will advance the
17 overall legal interests of the Navajo Nation government, or by order of a court of
18 competent jurisdiction.

19 H. If the Attorney General determines that he or she is disqualified from providing legal
20 representation or legal services on behalf of any entity of the Navajo Nation
21 government in relation to any matter, the Attorney General shall give written
22 notification to the entity affected. If the entity has received such notification, the entity
23 is authorized to make expenditures within its budget, subject to available
24 appropriations, to employ attorneys to provide the representation or services.

25 I. The Attorney General shall, to the greatest extent possible, cooperate with the Chief
26 Legislative Counsel with respect to issues falling under the jurisdiction of the
27 Legislative Branch.

28 J. The Attorney General, or the Chief Legislative Counsel in matters involving
29 Legislative Branch parties or interests, in his or her discretion is authorized to represent
30 an officer or employee of the Navajo Nation against whom a civil action is brought in

1 his or her individual capacity until such time as it is established as a matter of law that
2 the alleged activity or events which form the basis of the complaint were not performed,
3 or not directed to be performed, within the scope or course of the officer's or employee's
4 duty or employment.

5
6 **§ 5009. Opinions of the Attorney General**

7 A. Any branch, division, department, enterprise, Chapter, or other entity of the Navajo
8 Nation government, or any elected official of the Navajo Nation government, may
9 request the Attorney General to issue an opinion concerning a question of law limited
10 to the protection of the sovereignty, treaty rights, jurisdiction, lands, natural resources,
11 or governmental authority of the Navajo Nation. The Attorney General shall not issue
12 an opinion on a question of law outside the subjects enumerated in this Subsection.

13 B. A question of law concerning the operations, programs, contracts, or personnel of a
14 Division of the Executive Branch is the responsibility of the Division General Counsel
15 of that Division, and a question of law concerning the Navajo Nation Council, its
16 standing committees, commissions, and boards, or the offices and programs of the
17 Legislative Branch is the responsibility of the Office of Legislative Counsel. A writing
18 of the Attorney General issued outside the subjects enumerated in Subsection (A) of
19 this Section is not an official opinion of the Attorney General and is of no force or
20 effect.

21 C. No adverse action may be taken by the Navajo Nation government against any official
22 or employee for conduct taken in reasonable reliance upon the advice given in an
23 opinion issued under Subsection (A) of this Section.

24 D. The Attorney General shall, at least annually, publish the official opinions of the
25 Attorney General, and shall provide copies to the President, the Vice-President, the
26 Speaker, the Chief Justice, and each delegate of the Navajo Nation Council.

27
28 **§ 5010. Litigation Program**

29 There is established the Litigation Program within the Office of the Attorney General. The
30 Litigation Program shall conduct and manage litigation in which the Navajo Nation is a

1 party or in which the legal interest, jurisdiction, or sovereignty of the Navajo Nation is
2 implicated, under the direction of the Attorney General and consistent with the litigation-
3 priority mandate of 2 N.N.C. § 5008(F).
4

5 **§ 5011. Legislative Oversight**

6 A. Except as otherwise provided in this Chapter, the Naabik'íyáti' Committee of the
7 Navajo Nation Council shall serve as the legislative oversight committee for the Office
8 of the Attorney General.

9 B. The Attorney General shall provide a written and verbal quarterly report in person to
10 the Navajo Nation Council during its regularly scheduled session.

11 C. The Office of the Attorney General shall report to the Naabik'íyáti' Committee not less
12 than annually on the operations, activities, and expenditures of the Office of Attorney
13 General, and shall provide such additional reports as the Naabik'íyáti' Committee, the
14 Law and Order Committee, or the Budget and Finance Committee may reasonably
15 request.

16 D. Nothing in this Section shall be construed to authorize the Naabik'íyáti' Committee, the
17 Law and Order Committee, the Budget and Finance Committee, the Navajo Nation
18 Council, or any other entity of the Navajo Nation government to direct the outcome of
19 any particular case, opinion, audit, investigation, adjudication, or legal position of the
20 Office of the Attorney General.
21

22 **§ 5012. Amendments**

23 A. This Chapter may be amended only by the Navajo Nation Council, upon the
24 recommendation of the Naabik'íyáti' Committee, in accordance with applicable Navajo
25 Nation law.

26 B. Amendments to this Chapter that do not alter the fundamental structure, or
27 independence of the Office of Attorney General, may be enacted by the Navajo Nation
28 Council in the ordinary course.
29
30

1 §§ 5013-5099. Reserved

2
3
4 CHAPTER 10. OFFICE OF ATTORNEY GENERAL

5 SUBCHAPTER 2. SPECIAL PROSECUTOR

6
7 § 5101. Application for appointment of a Special Prosecutor

8 A. The Attorney General or Chief Legislative Counsel shall conduct a preliminary
9 investigation pursuant to the provisions of this Section whenever that official is referred
10 from the Navajo Nation Council information sufficient to constitute grounds to
11 investigate whether any of the persons listed in Subsection (B) of this Section has
12 committed a violation of any law or regulation of the Navajo Nation, or committed any
13 act upon which the Navajo Nation may have a civil cause of action. The Attorney
14 General may take no longer than sixty (60) days to conduct such preliminary
15 investigation.

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

- 17 1. The President of the Navajo Nation;
18 2. The Vice-President of the Navajo Nation;
19 3. Any member of the Executive Staff of the Office of the President or the Vice-
20 President;
21 4. The Chairperson of any standing committee of the Navajo Nation Council;
22 5. The Attorney General, in which case the Deputy Attorney General shall
23 perform the functions of the Attorney General pursuant to the provisions of 2
24 N.N.C. §§ 5002(C) and 5004(C);
25 6. The Director or Acting Director or Deputy Director of any Division,
26 Department, Program or Office of the President and Vice-President of the
27 Navajo Nation; and
28 7. Any other official, employee or agent of the Navajo Nation, where the Attorney
29 General or Chief Legislative Counsel determines that investigation or
30

1 prosecution or civil litigation against such person by the Attorney General may
2 result in a personal, financial, or political conflict of interest.

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

6 D. Upon completion of the preliminary investigation, if the Attorney General or Chief
7 Legislative Counsel finds that there are no reasonable grounds to believe that further
8 investigation or prosecution is warranted, or that the matter may be handled by the
9 Attorney General, the Office of the Prosecutor without resulting in personal, financial
10 or political conflict of interest, the Attorney General or Chief Legislative Counsel may
11 take such lawful action or inaction as that official deems appropriate.

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

19 F. The Attorney General and the Chief Legislative Counsel shall have no civil, criminal,
20 or professional liability for any act or omission undertaken in the course of a
21 preliminary investigation conducted solely to determine whether a request for
22 appointment of a Special Prosecutor is warranted.

23 1. The conduct of a preliminary investigation under this section shall not be
24 construed as: creating a duty to any individual or entity; establishing reliance
25 by any party; or constituting an adverse action, disciplinary action, or actionable
26 governmental decision.

27 2. No cause of action may be brought against the Attorney General or the Chief
28 Legislative Counsel arising from: the decision to initiate or decline a
29 preliminary investigation; the scope, method, or duration of such investigation;
30

1 or any recommendation or non-recommendation regarding the appointment of
2 a Special Prosecutor.

3 3. This provision shall not limit liability for acts outside the scope of official duties
4 or for conduct involving fraud, corruption, or intentional violation of Navajo
5 Nation law.

6 G. An application pursuant to Subsection (E) of this Section shall contain sufficient
7 information to assist the Special Division to select a Special Prosecutor and to define
8 that Special Prosecutor's jurisdiction. The Attorney General or Chief Legislative
9 Counsel shall recommend at least three (3) persons, without regard to Navajo
10 procurement requirements, among whom the Special Division shall appoint such
11 Special Prosecutor, shall recommend appropriate compensation, and shall recommend
12 the extent of such Special Prosecutor's jurisdiction.

13 H. If for any reason the Special Division fails to comply with the provisions of 2 N.N.C.
14 § 5102(A), then the Attorney General or Chief Legislative Counsel shall exercise the
15 powers of the Special Division under 2 N.N.C. § 5102 (A) and (C).

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

22 J. No application or any other documents or materials supplied to the Special Division in
23 connection with an application or appointment of a Special Prosecutor shall be revealed
24 to any person outside the Special Division without leave of the Special Division.

25 K. Whenever a matter is within the jurisdiction of a Special Prosecutor, the Attorney
26 General, the Chief Prosecutor, and the Chief Legislative Counsel, shall suspend all
27 investigations and proceedings regarding such matter, except insofar as such Special
28 Prosecutor and the Attorney General or Chief Legislative Counsel agree in writing that
29 such investigations and proceedings may continue.
30

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

5
6 **§ 5102. Duties of the Special Division**

7 A. Within ten (10) days of receipt of an application pursuant to 2 N.N.C. § 5101(E), the
8 Special Division shall appoint an appropriate Special Prosecutor from among the
9 persons recommended by the Attorney General or Chief Legislative Counsel, and shall
10 determine such Special Prosecutor's jurisdiction in accord with the recommendation of
11 the Attorney General or Chief Legislative Counsel.

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

15 C. The Special Division shall set the fees and expenses to be paid to a Special Prosecutor
16 upon appointment, in an amount agreed upon between the proposed Special Prosecutor
17 and the Special Division. The Special Division may request, and upon request shall
18 receive, assistance, payment processing and cooperation from the Office of the
19 Controller, Office of Management and Budget, and the Budget and Finance Committee
20 of the Navajo Nation Council, in determining and arranging for funding such fees and
21 expenses. The Special Division shall enter into an appropriate contract, without regard
22 to Navajo procurement requirements with the Special Prosecutor, in the name of the
23 Navajo Nation, and shall comply with the requirements of 25 U.S.C. § 81 as may be
24 applicable. Notwithstanding any other provision of law, the presiding judge of the
25 Special Division is hereby delegated the authority to execute, and shall execute the
26 contract on behalf of the Navajo Nation. Such contract shall be a valid, binding and
27 enforceable obligation of the Navajo Nation.

28 D. If a vacancy in office arises because of the death or disability of a Special Prosecutor,
29 the Special Division shall appoint a successor in the same manner as the initial
30 appointment was made. The Special Division may appoint either a person

1 recommended to the vacant office in the initial application, or one of three other persons
2 to be recommended by the Attorney General or Chief Legislative Counsel at the Special
3 Division's request.

4 E. If a vacancy in office arises because of the removal pursuant to 2 N.N.C. § 5104(B) or
5 (C), the Special Division shall appoint an acting Special Prosecutor to serve until any
6 judicial review of such removal pursuant to 2 N.N.C. § 5104(D) is either completed or
7 barred by time, after which time the Special Division shall take appropriate action. The
8 Special Division may appoint either a person recommended to the vacant office in the
9 initial application, or one of three other persons to be recommended by the Attorney
10 General or Chief Legislative Counsel.

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

17
18 **§ 5103. Authority, qualifications and duties of a Special Prosecutor**

19 A. A Special Prosecutor appointed pursuant to 2 N.N.C. § 5102 shall have full power and
20 independent authority to exercise all functions and powers of the Attorney General and
21 the Office of the Prosecutor, as defined in 2 N.N.C. §§ 5008(A), (B), (F), (G), and (J);
22 5202; 5204(B); 5205 to 5211, with respect to all matters within his or her jurisdiction.

23 B. A Special Prosecutor appointed under Navajo Nation law shall meet the following
24 minimum qualifications: 1) shall be a member in good standing of the Navajo Nation
25 Bar Association, with no pending disciplinary actions, suspensions, or sanctions; 2)
26 shall hold a valid license to practice law in at least one state, and shall be in good
27 standing in all jurisdictions where licensed; 3) shall have not less than seven (7) years
28 of legal experience, including substantial experience in criminal prosecution,
29 governmental investigations, or complex litigation involving public entities.
30

- 1 1. The Special Prosecutor shall have no current employment, contractual
2 relationship, or financial interest with the Office of the President, the Office of
3 the Attorney General, the Navajo Nation Council, or any entity or individual
4 subject to investigation, and shall disclose any potential conflicts prior to
5 appointment.
- 6 2. The Special Prosecutor shall demonstrate adherence to the ethical rules of the
7 Navajo Nation Bar Association and all applicable professional conduct
8 standards, and shall not have been found to have committed professional
9 misconduct.
- 10 3. The Special Prosecutor shall possess familiarity with Navajo Nation
11 governmental structure, Diné cultural principles, and the Navajo Nation Bill of
12 Rights sufficient to ensure culturally informed and legally sound investigative
13 practice.

14 C. A Special Prosecutor shall have full power and authority to appear before any Court of
15 the Navajo Nation with respect to any matter within his or her jurisdiction or the duties
16 and responsibilities of his or her office.

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

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

26 F. Notwithstanding the provisions of 17 N.N.C. § 1801, a criminal complaint signed and
27 sworn before a Judge of any Court of the Navajo Nation by a Special Prosecutor shall
28 be deemed a valid complaint.

29 G. With the prior consent of the Special Division, a Special Prosecutor shall have the
30 power and authority to appoint, fix the compensation of, and assign the duties to and

1 thereafter supervise such employees, including investigators, attorneys and consultants,
2 as such Special Prosecutor deems necessary.

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

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

12
13 **§ 5104. Termination and removal of a Special Prosecutor**

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

- 15 1. The Special Prosecutor notifies the Attorney General or the Chief Legislative
16 Counsel and the Special Division that the investigation and prosecution of all
17 matters within such Special Prosecutor's jurisdiction have been completed or
18 so substantially completed that it would be appropriate for the Office of
19 Attorney General to complete such investigations and prosecutions; and
20 2. The Special Prosecutor files a report in full compliance with Subsection (F) of
21 this Section.

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

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

- 26 1. Upon the two-thirds (2/3) vote of the Navajo Nation Council, or
27 2. By motion to Special Division by the Attorney General or Chief Legislative
28 Counsel, on the grounds of any condition that substantially impairs the
29 performance of such Special Prosecutor's duties.

1 D. A Special Prosecutor may seek judicial review of any termination of his appointment
2 by the Special Division, the Attorney General or the Chief Legislative Counsel, by
3 filing within five (5) days thereof a petition of review with the Supreme Court of the
4 Navajo Nation. Notwithstanding any other provision of law, the Supreme Court shall
5 have and shall accept jurisdiction to hear and determine said petition and to reinstate
6 the Special Prosecutor if the Supreme Court finds grounds for reinstatement.

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

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

16
17 §§ 5105-5199. Reserved

18
19 **CHAPTER 10. THE OFFICE OF THE ATTORNEY GENERAL**

20 **SUBCHAPTER 3. OFFICE OF THE PROSECUTOR**

21
22 **§ 5201. Generally**

23 The Office of the Prosecutor is a separate and independent program within the Office of
24 Attorney General of the Navajo Nation government as provided in 2 N.N.C. § 5001, and is
25 under the legislative oversight of the Law and Order Committee.

26
27 **§ 5202. Purpose**

28 The purpose of the Office of the Prosecutor is to, in its discretion, prosecute to completion
29 all cases involving alleged violations of the Navajo Nation Code by persons subject to the
30 jurisdiction of the Navajo Nation, to conduct investigations and other activities necessary

1 for the conduct of its affairs, and to assume certain responsibilities with respect to civil
2 matters, including extradition and exclusion proceedings.

3
4 **§ 5203. Chief Prosecutor**

5 A. The Office of the Prosecutor, as established by this Subchapter, shall be under the
6 direction of the Chief Prosecutor, who shall be a member of the Navajo Nation and
7 shall be domiciled upon the Navajo Reservation, or land under the jurisdiction of the
8 Navajo Nation for a term of six months immediately preceding his or her appointment
9 as Chief Prosecutor.

10 B. The Chief Prosecutor shall be hired by the Attorney General and he or she shall serve
11 at his or her pleasure.

12 C. The Chief Prosecutor shall serve until his or her successor is appointed.

13 D. Any attorney/advocate positions within the Office of the Prosecutor, other than the
14 Chief Prosecutor's position, shall be hired by the Chief Prosecutor, at a negotiated
15 salary, and shall serve at the pleasure of the Chief Prosecutor. All personnel shall be
16 hired and compensated pursuant to the Navajo Nation Personnel Policies and
17 Procedures.

18 E. Attorneys and Advocates within the Office of the Prosecutor are not subject to *pro bono*
19 service requirements of the Navajo Nation Bar Association.

20
21 **§ 5204. Duties, responsibilities and authority**

22 The Chief Prosecutor shall:

23 A. Report to the Attorney General with respect to all administrative activities of the Office
24 of the Prosecutor. Reporting under this Subsection is for the purposes of coordination,
25 budgeting, and reporting, and does not place the Office of the Prosecutor, its personnel,
26 or its administrative and operational matters under the supervision or direction of the
27 Attorney General.

28 B. Investigate, prosecute and dispose of all cases within his or her jurisdiction and
29 discretion, acting independently and upon his or her own authority within the guidance
30 of law and professional ethics in the performance of his or her duties.

- 1 C. Formulate overall administrative and operating policies of the Office of the Prosecutor
2 and take action as he or she shall deems necessary for the accomplishment and
3 enforcement thereof.
- 4 D. Exercise supervisory control and direction of all sections under the Office of the
5 Prosecutor.
- 6 E. Represent the Office of the Prosecutor in executive level planning.
- 7 F. Represent the Navajo Nation government, within the areas of the Prosecutor's
8 responsibility.
- 9 G. Plan and participate with law enforcement to request or apply for federal and/or state
10 programs for technical and financial assistance.
- 11 H. Develop programs and budgets for the Office of the Prosecutor, conduct periodic
12 reviews of program and budget executions of the Office of the Prosecutor, and
13 participate in overall program and budget review.
- 14 I. Delegate authority to members of the staff.
- 15 J. Conduct special programs or projects as may be assigned by the Attorney General not
16 inconsistent with the duties and responsibilities contained herein.

17

18 **§ 5205. Assistance of, and coordination with, other agencies**

- 19 A. The Office of the Prosecutor shall have the authority to call upon the Navajo Division
20 of Public Safety or any of its personnel for information, records, reports, etc., and to
21 conduct investigations for the Office of the Prosecutor.
- 22 B. The Office of the Prosecutor shall have the authority to call upon all Navajo Divisions,
23 enterprises, departments and commissions for assistance in carrying out its work. Such
24 Divisions, enterprises, departments and commissions shall provide the Office of the
25 Prosecutor such information and assistance as is necessary to permit the Office of the
26 Prosecutor to carry out its responsibilities and duties under law.
- 27 C. The Office of the Prosecutor shall have the authority to request the United States
28 Government Offices for assistance, on behalf of and in the name of the Navajo Nation,
29 in carrying out its work.
- 30

1 D. The Office of the Prosecutor shall have the authority to request state governments for
2 assistance, on behalf of and in the name of the Navajo Nation. Requesting assistance
3 from a state government is does not confer actual or implied jurisdiction to the state.
4

5 **§ 5206. Investigations**

6 The Office of the Prosecutor shall have complete authority to initiate and conduct
7 investigations into any alleged violations of the Navajo Nation Code and for the security
8 of the Navajo Nation government, the Navajo Nation Chapter Houses and Officers, the
9 Navajo Nation Courts including the Supreme Court of the Navajo Nation, and any other
10 department, enterprise and entity of the Navajo Nation government.
11

12 **§ 5207. Civil case intervention**

13 The Office of the Prosecutor shall have the authority to intervene in civil matters involving
14 the interests of the Navajo Nation government, and shall further have the authority to
15 initiate civil actions on behalf of the Navajo Nation government in the Courts of the Navajo
16 Nation, against individuals who violate the laws of the Navajo Nation. The Office of the
17 Prosecutor shall have the authority to initiate civil actions seeking restitution on behalf of
18 the Navajo Nation government against individuals who have caused damage to Navajo
19 Nation property or who have deprived the Navajo Nation government of any property
20 belonging to said government.
21

22 **§ 5208. Extradition and civil exclusion proceedings**

23 A. The Office of the Prosecutor shall have the authority to execute and initiate extradition
24 proceedings against Indian residents of Navajo Indian Country.

25 B. The Office of the Prosecutor shall have the authority to initiate and pursue extradition
26 requests to federal, state, tribal and local jurisdictions outside the Navajo Nation, as
27 applicable and when necessary to secure the return of individuals, within Navajo
28 jurisdiction, charged with criminal offenses under Navajo Nation law.

29 C. Nothing in this section shall limit the ability of the Navajo Nation to enter into
30 extradition agreements or cooperative law enforcement arrangements with other

1 jurisdictions, nor shall it diminish the authority of the Office of the Prosecutor to seek
2 temporary detention, transport, or transfer of individuals subject to Navajo Nation
3 criminal charges.

- 4 D. The Office of the Prosecutor, on behalf of the Navajo Nation, shall have the authority
5 to enforce and initiate civil exclusion proceedings to exclude nonmembers from tribal
6 land and individual allotments, pursuant to 17 N.N.C. §§ 1901 and 1902.

7
8 **§ 5209. Authority to subpoena witnesses, documents, and evidence.**

9 The Office of the Prosecutor shall have the authority to require the production of records,
10 books, papers, documents, and any evidence and to issue subpoenas to compel the
11 attendance and testimony of witnesses. If any person shall refuse to obey any subpoena as
12 issued or shall refuse to testify or produce any record, books, papers, documents or any
13 evidence required by the subpoena, the Office of the Prosecutor may petition any court of
14 the Navajo Nation to issue any appropriate order to enforce the subpoena.

15
16 **§ 5210. Limitations on Equipment and Apparent Law Enforcement Authority**

- 17 A. Staff of the Office of the Prosecutor, unless an individual holds and maintains the
18 credentials of a police officer, shall not possess, carry, display, or be issued any
19 equipment, apparel, insignia, or devices that may create an appearance, implication,
20 or confusion that such staff have the authority, duties, or powers of law enforcement
21 personnel. This prohibition includes, but is not limited to, the carrying of firearms, the
22 use of law enforcement-style uniforms, badges, tactical gear, or marked vehicles that
23 resemble police or criminal-investigative units.

- 24 B. The purpose of this limitation is to ensure that prosecutorial staff remain clearly
25 identifiable as legal professionals and not as law enforcement officers, and to avoid
26 circumstances in which prosecutorial personnel may become witnesses in criminal
27 investigations or subsequent prosecutions. Maintaining a clear separation between
28 investigative and prosecutorial functions protects the integrity of criminal
29 proceedings, preserves the independence of prosecutorial judgment, and prevents
30

1 conflicts that may arise when staff appear to exercise or possess law enforcement
2 authority.

- 3 C. Nothing in this section shall prevent the Office of the Prosecutor from accessing secure
4 facilities, evidence storage, or court-related environments, nor shall it limit the ability
5 of prosecutorial staff to request law enforcement assistance or accompany law
6 enforcement personnel when necessary for prosecutorial duties. However,
7 prosecutorial staff shall not engage in law enforcement activities, nor shall they
8 possess equipment that could reasonably be interpreted as enabling or authorizing such
9 activities.

10
11 **§ 5211. Prohibiting interference**

12 The Office of the Prosecutor has an independent responsibility to enforce appropriate
13 provisions of the Navajo Nation Code. No employees, including Executive Branch,
14 Judicial Branch, or Legislative Branch personnel, shall intercede, influence, or interfere,
15 attempt to intercede influence, or interfere in the legal functions of the Office of the
16 Prosecutor. All inquiries concerning the status of a particular case or policy shall be in
17 writing; additionally, all responses shall be in writing.

18
19 **§ 5212. White-Collar Crime Program**

20 Consistent with recommendations of the Bureau of Indian Affairs and the Navajo Nation
21 Special Counsel, a White-Collar Crime Program shall be established. The White-Collar
22 Crime Program shall specialize in the areas of white-collar or public integrity criminal
23 violations. The White-Collar Crime Program shall seek Navajo Nation-level prosecutions
24 and recovery of misused Navajo Nation funds, equipment and property. Violations of 18
25 U.S.C. § 1153 or 18 U.S.C. § 1152 shall be referred to federal authorities in accordance
26 with the United States Attorney's guidelines, after Navajo Nation investigators have
27 concluded their reports.

28
29 **§ 5213. Central records system**
30

1 The Office of the Prosecutor shall establish an Electronic Central Records Keeping System.
2 The system shall include the date and agency to whom a referral is made, the prosecutor to
3 whom a case is assigned, case status, presiding judge, previous criminal history, title of
4 investigation and case disposition.

5
6 **§ 5214. Case dismissal log and reporting**

7 Each district Office of the Prosecutor shall maintain a log of all cases dismissed. Each log
8 shall contain the case number or docket number, case title, individual's name, date
9 dismissed, and explanation of dismissal. Copies of each district case dismissal log shall be
10 submitted to the Office of the Prosecutor's Central Office monthly.

11
12 **§ 5215. Juvenile Justice Program**

- 13 A. There is established the Juvenile Justice Program within the Office of the Prosecutor
14 of the Office of Attorney General that will specialize in the presentation of juvenile
15 offenses to Navajo Courts with appropriate jurisdiction.
- 16 B. The Juvenile Justice Program shall be headed by the Juvenile Justice Administrator.
17 The Juvenile Justice Administrator shall be a member of the Navajo Nation Bar
18 Association.
- 19 C. Duties of the Juvenile Justice Administrator shall be to supervise District Juvenile
20 Representatives, coordinate case load monitoring, give legal advice for the handling of
21 juvenile cases, evaluate staff and program, and coordinate with federal, state, and Tribal
22 agencies.
- 23 D. Each district shall have a Juvenile Representative. The responsibilities of the Juvenile
24 Representative include juvenile delinquency proceedings both civil and criminal, case
25 disposition recommendations, case management and other duties as assigned by the
26 Juvenile Justice Administrator.
- 27 E. Each district shall have one Assistant Juvenile Representative under the direct
28 supervision of the District Juvenile Representative. The Assistant Juvenile
29 Representative will have duties as assigned by the District Juvenile Representative.
30

1 F. For administrative purposes, the District Prosecutors will handle leave requests, time
2 and attendance records for the Juvenile Representatives. Should administrative
3 problems arise, the District Prosecutor shall bring them to the attention of the Juvenile
4 Justice Administrator. All other supervision and substantive case supervision will be
5 conducted by the Juvenile Justice Administrator.

6 G. Authority for hiring and dismissal shall remain with the Chief Prosecutor thus bringing
7 the Juvenile Justice Administrator and Juvenile Representatives under the codified
8 exclusive authority of the Chief Prosecutor.

9
10 **§§ 5216-5299. Reserved**

11
12 D. The Navajo Nation Council hereby enacts a new Subchapter 45 within Chapter 5 of
13 Title 2 of the Navajo Nation Code establishing the Division General Counsel for the
14 legal services of the Executive Branch as follows:

15
16
17 **TITLE 2. NAVAJO NATION GOVERNMENT**
18 **CHAPTER 5. EXECUTIVE BRANCH**

19 * * *

20 **SUBCHAPTER 45. DIVISION GENERAL COUNSEL**

21
22 **§ 3601. Division General Counsel; Executive Branch legal services**

23 A. There is created within each Division of the Executive Branch the position of Division
24 General Counsel, that shall serve as the lead General Counsel for the Division.

25 B. The Division General Counsel shall be a regular status employee position of the
26 Division. The Division General Counsel shall be hired by and report to the Division
27 Director in accordance with the Navajo Nation Personnel Policies Manual, and shall be
28 subject to the personnel policies and procedures applicable to regular status employees
29 of the Navajo Nation.

- 1 C. Upon the dissolution of the Department of Justice, the attorneys providing legal
2 services to the Divisions, programs, and offices of the Executive Branch shall be
3 assigned within each Division under the guidance and supervision of a Division
4 General Counsel.
- 5 D. Each Division General Counsel shall have the sole authority to assess and determine
6 the legal needs of the entire Division, and shall provide legal services through in-house
7 attorneys or contract counsel selected by the Division General Counsel, subject to
8 available appropriations.
- 9 E. Each Division General Counsel shall employ, assign, supervise, evaluate, discipline,
10 and terminate the attorneys and legal staff of the Division, and to retain contract counsel
11 for the Division, in accordance with applicable Navajo Nation personnel and
12 procurement policies and procedures and within the approved budget of the Division.
13 The Attorney General shall have no authority over the employment, retention,
14 assignment, supervision, evaluation, discipline, or termination of any attorney or legal
15 staff of a Division, and no approval of the Attorney General is required for a Division
16 to employ or retain legal counsel.
- 17 F. Each Division General Counsel shall be a licensed attorney in good standing admitted
18 to practice before the courts of the Navajo Nation and a State, and shall report solely to
19 the Division Director. The Division General Counsel shall coordinate with the Attorney
20 General on matters implicating the sovereignty, treaty rights, jurisdiction, or
21 governmental authority of the Navajo Nation, and such coordination shall not be
22 construed as supervision or direction by the Attorney General.
- 23 G. For purposes of providing legal services within the Executive Branch, each Executive
24 Branch Division shall be deemed the client of its Division General Counsel. The
25 Division Director shall serve as the client representative for the Division and shall have
26 authority to request legal services, provide direction regarding Division priorities, and
27 communicate the Division's position in matters requiring legal advice or
28 representation.
- 29 H. The Division General Counsel shall provide legal services exclusively to the Division
30 and shall act in the best interests of the Division as defined by the Division Director,

1 consistent with Navajo Nation law, applicable professional responsibilities, and in the
2 best interest of the Navajo Nation as a whole. The Division General Counsel shall not
3 represent individual employees in their personal capacities and shall not undertake legal
4 work outside the scope of Division operations unless otherwise authorized by law.

5 I. Division legal staff shall provide subject-matter expertise, legal analysis, and technical
6 guidance, in coordination with the Chief Legislative Counsel, to the Council and its
7 Committees on matters within the Division's jurisdiction, including program
8 operations and compliance, regulatory interpretation, and review, oversight
9 responsibilities, and any hearings, investigations, or inquiries conducted by the Council
10 or its Committees.

11 J. Legislative oversight by a Navajo Nation Council Committee, requires the Division
12 General Counsel, designee, or in-house attorney to attend Committee meetings; prepare
13 and deliver legal memoranda, briefings, and recommendations relevant to Committee
14 oversight; assist in evaluating Division performance, compliance, and operational
15 risks; and support Committee hearings, including hearings related to oversight of local
16 school boards and potential assumption of operations pursuant to Navajo Nation law.

17 K. Division General Counsel shall notify the Office of the Attorney General of matters of
18 significant legal, financial, or operational consequence to the Navajo Nation, and the
19 Office of the Attorney General shall promote coordination, consistency, and alignment
20 of legal positions across the Divisions of the Navajo Nation government. Coordination
21 under this Section is for the purpose of information sharing and consistency of legal
22 positions, and shall not be construed to authorize the Attorney General or the Deputy
23 Attorney General to supervise, direct, overrule, or countermand the legal advice or the
24 work of a Division General Counsel or of any attorney or legal staff of a Division.

25 L. The Division General Counsel of the Division of Community Development shall
26 provide legal services to the Chapters and the Agency Councils of the Navajo Nation,
27 and shall conduct and manage litigation in which a Chapter or an Agency Council is a
28 party, or in which the legal interest, jurisdiction, or sovereignty of a Chapter or an
29 Agency Council is implicated. Where a Chapter and an Agency Council are named as
30 co-parties, or where their interests otherwise conflict, the Division General Counsel

1 shall obtain conflict counsel under Subsection (E) of this Section or request conflict
2 counsel from the Attorney General. Nothing in this Subsection limits the authority of a
3 Chapter to employ its own counsel under 2 N.N.C. § 5008(C)(5), or the authority of
4 the Attorney General to represent the Navajo Nation in a matter implicating the
5 sovereignty, treaty rights, jurisdiction, or governmental authority of the Navajo Nation.

6
7 **§ 3602. Coordination Of Legal Services; Avoidance Of Duplication**

8 A. The Division General Counsels, the Office of the Attorney General, and the Office of
9 Legislative Counsel shall conduct their work in a manner that avoids unnecessary
10 duplication of legal services across the Executive and Legislative Branches of the
11 Navajo Nation. Each office shall make reasonable and timely efforts to coordinate on
12 legal matters that involve more than one Division, that require cross-Division
13 subject-matter expertise, or that implicate both the Executive and Legislative Branches.

14 B. When a legal matter, project, or legislative initiative involves multiple Divisions or
15 requires participation from both the Office of the Attorney General and the Office of
16 Legislative Counsel, the involved offices shall confer, share relevant information, and
17 determine an appropriate division of responsibilities to ensure efficiency, consistency,
18 and alignment of legal positions. Coordination shall include, as appropriate, joint
19 development of legal memoranda, shared review of draft legislation or regulatory
20 materials, and collaborative support for Navajo Nation Council Committees.

21 C. Nothing in this section shall diminish the independent duties of the Office of the
22 Attorney General or the Office of Legislative Counsel, nor shall it limit the authority
23 of Division General Counsels to provide legal services within their respective
24 jurisdictions. Rather, this section is intended to promote effective communication,
25 reduce duplicative efforts, and strengthen the quality and consistency of legal services
26 provided to the Navajo Nation government.

1 **SECTION FOUR. AMENDING TITLE 11 OF THE NAVAJO NATION CODE TO**
2 **PROVIDE FOR THE ELECTION OF THE ATTORNEY GENERAL, AND**
3 **AMENDING TITLE 2 OF THE NAVAJO NATION CODE**

4 The Navajo Nation Council hereby amends certain sections of Title 2 as follows:

5 A. _____

6
7 **TITLE 2. NAVAJO NATION GOVERNMENT**

8 * * *

9 **CHAPTER 1. ESTABLISHMENT**

10 **SUBCHAPTER 1. GENERALLY**

11 **§ 3. Oath of office**

12 The President, Vice-President, and all Delegates, and Attorney General, before assuming
13 their official duties, shall take an oath of office.

14
15 * * *

16 _____
17 B. The Navajo Nation Council hereby amends certain sections of Title 11 as follows:
18 _____

19
20 **TITLE 11. ELECTIONS**

21 **SUBCHAPTER 1. GENERAL PROVISIONS**

22 * * *

23 **§ 2. N. "Elected Officials"**

24 Those officials holding offices of the President of the Navajo Nation, Vice-President of the
25 Navajo Nation, Delegate to the Navajo Nation Council, the Attorney General of the Navajo
26 Nation, Chapter officers, other elected officials, the elected members of the Navajo Nation
27 Board of Education and school board members that have been elected or appointed
28 pursuant to this Election Code.

29
30 **§ 2. Z. "Navajo Nation Officials"**

1 The President of the Navajo Nation, Vice-President of the Navajo Nation, ~~and Delegates~~
2 to the Navajo Nation Council, and the Attorney General of the Navajo Nation.

3
4 § 2. BB. "Officials"

5 As used in subchapter 13 hereof, this term is used to designate those holding the Offices of
6 President of the Navajo Nation, Vice-President of the Navajo Nation, Delegate of the
7 Navajo Nation Council, the Attorney General, Chapter officers, other elected officials, and
8 school board members.

9
10 § 6. B.

11 At each general election all persons elected to the offices of President of the Navajo Nation,
12 Vice-President of the Navajo Nation, Delegate of the Navajo Nation Council, and the
13 Attorney General of the Navajo Nation shall be installed in office at noon on the second
14 Tuesday after the first Monday of January following their election and their predecessors'
15 term of office shall expire upon such installation.

16 § 6. G.

17 The Attorney General of the Navajo Nation shall be elected at a Navajo Nation general
18 election held in the even-numbered years midway between the general elections at which
19 the President of the Navajo Nation and the Delegates to the Navajo Nation Council are
20 elected. A primary election for the Office of the Attorney General shall be held in that same
21 year in accordance with Subchapter 3 of this Chapter. The Attorney General shall be
22 installed as provided in Subsection (B) of this Section.

23
24 § 8. E. Qualifications for Attorney General

- 25 1. Be an enrolled member of the Navajo Nation;
26 2. Be at least thirty-five (35) years of age;
27 3. Be a licensed attorney in good standing, admitted to practice before the courts
28 of the Navajo Nation, and licensed to practice law before the highest court of a
29 State, and be in good standing under the rules of that State;
30

1 3. "Transition Date" means the first day of the fiscal year of the Navajo Nation
2 that begins in the First Election Year; and

3 4. "Transition Period" means the period beginning on the Enactment Date and
4 ending on the Transition Date.

5 B. Staggered effect. The provisions of Sections Three and Four of this Act governing the
6 establishment of the Office of Attorney General, the qualifications and election of the
7 Attorney General, and the planning and budgeting obligations of this Section take effect
8 on the Enactment Date. The repeal of Title 2 Chapter 5 Subchapter 39, and the transfer
9 of the offices, units, and programs to the oversight of the Office of the Attorney General
10 take effect on the Transition Date.

11 C. Continuity of legal services during the Transition Period. During the Transition Period
12 the Department of Justice shall continue to operate under Title 2 Chapter 5 Subchapter
13 39 of the Navajo Nation Code as in effect immediately before the Enactment Date, and
14 the Attorney General serving on the Enactment Date shall continue in office and shall
15 serve as Acting Attorney General until the Attorney General elected under Subsection
16 (D) of this Section is installed. The Acting Attorney General shall not be a candidate
17 for the Office of the Attorney General unless he or she resigns as Acting Attorney
18 General before the close of the candidate filing period.

19 D. Election of the first Attorney General; staggered election cycle.

20 1. The first election for the Office of the Attorney General shall be held at a Navajo
21 Nation general election conducted by the Navajo Board of Election Supervisors
22 in the First Election Year, so that the Office of the Attorney General stands for
23 election in the even-numbered years midway between the general elections at
24 which the President of the Navajo Nation and the Delegates to the Navajo
25 Nation Council are elected. A primary election for the Office of the Attorney
26 General shall be held in the First Election Year in accordance with Subchapter
27 3 of Chapter 1 of Title 11.

28 2. Candidate filing shall be conducted in accordance with Title 11 of the Navajo
29 Nation Code. A candidate shall meet the qualifications of 2 N.N.C. § 5003 and
30 11 N.N.C. § 8(E) and shall remit the filing fee set forth in 11 N.N.C. § 26.

3. The Attorney General elected at that general election shall take the oath of office and be installed in accordance with 11 N.N.C. § 6(B), at noon on the second Tuesday after the first Monday of January following the election, and shall serve a term of four (4) years as provided in 2 N.N.C. § 5004. No shortened or extended initial term is required.
4. From the Transition Date until the installation of the elected Attorney General, the Acting Attorney General shall head the Office of Attorney General with the full authority of the Attorney General under 2 N.N.C. §§ 5007 through 5010.
5. If the results of the general election are not certified before the installation date, or if the office becomes vacant before installation, the Acting Attorney General shall continue to serve with the full authority of the Attorney General until an Attorney General is elected, certified, and installed.
6. The Navajo Nation Council shall identify and make available funding to conduct the primary and general elections for the Office of the Attorney General.

E. Budget and appropriations.

1. The Office of Attorney General shall submit its first budget request for inclusion in the Navajo Nation Comprehensive Budget for the fiscal year that begins on the Transition Date.
2. The Office of Management and Budget and the Office of the Controller shall reflect in the budget instructions and budget forms for that fiscal year the positions, funds, and programs transferring under Section Three, and shall carry forward to the Office of Attorney General any unexpended and unobligated funds of the Department of Justice as of the Transition Date, subject to the terms of the source of those funds.
3. Each Division of the Executive Branch shall include the Division General Counsel position and the attorneys and legal staff of the Division in its budget request for that fiscal year.

1 4. The Navajo Nation Council may appropriate funds during the Transition Period
2 for the election of the Attorney General, for the development of Plans of
3 Operation, and for the other costs of implementation.

4 F. Transfer of personnel, funds, property, and records. On the Transition Date, the
5 positions, employees, funds, contracts, obligations, equipment, files, and records of the
6 Department of Justice and of each program transferred under Section Three shall
7 transfer to the Office of Attorney General or, in the case of attorneys and legal staff
8 providing legal services to a Division of the Executive Branch, to that Division. An
9 employee who transfers shall do so without loss of pay, benefits, accrued leave, or
10 length of service, and without a break in service. Nothing in this Section creates a right
11 to continued employment beyond that provided by the Navajo Nation Personnel
12 Policies Manual. No program transferred under this Act shall be required to relocate its
13 place of office, personnel, files, or records by reason of the transfer, except as provided
14 in 2 N.N.C. § 5001(F)(4).

15 G. Pending matters preserved. No action, case, investigation, prosecution, appeal, claim,
16 grievance, audit, contract, or administrative proceeding pending on the Transition Date
17 shall abate, and no deadline, right, or defense shall be lost, by reason of the
18 reorganization effected by this Act. The Attorney General, the Chief Prosecutor, or the
19 Division General Counsel, as appropriate, shall be substituted as counsel of record
20 without further order. The transfer of a file or matter under this Section does not waive
21 the attorney-client privilege or the work-product protection.

22 H. Division General Counsel. Each Division Director shall establish and fill the position
23 of Division General Counsel before the Transition Date, and shall offer assignment
24 within the Division to the attorneys who provided legal services to that Division
25 through the Department of Justice immediately before the Transition Date.

26 I. Plans of Operation. Not later than one hundred eighty (180) days after the Transition
27 Date, the Attorney General or Acting Attorney General shall submit the Plan of
28 Operation for the Office of the Attorney General, and each program shall submit its
29 own Plan of Operation, to the Naabik'íyáti' Committee under 2 N.N.C. § 5007(I).

1 J. Implementation reporting. The Acting Attorney General shall report to the
2 Naabik'iyáti' Committee not less than quarterly during the Transition Period on the
3 status of implementation, including the election of the Attorney General, budget
4 preparation, personnel transfers, and any legal or operational obstacle identified.

5 K. Notice to other governments. During the Transition Period the Speaker of the Navajo
6 Nation Council, the President of the Navajo Nation, and the Acting Attorney General
7 shall notify the appropriate agencies of the United States, the States of Arizona, New
8 Mexico, and Utah, and the courts in which the Navajo Nation appears, of the
9 reorganization and of the successor office responsible for the legal representation of
10 the Navajo Nation.

11 12 **SECTION SIX. CODIFICATION**

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

17 B. The Navajo Nation Council hereby directs that all references throughout the Navajo
18 Nation Code to the Department of Justice be construed and amended to refer to the
19 Office of Attorney General.

20 21 **SECTION SEVEN. SAVING CLAUSE**

22 If any provision of this Act is determined invalid by the Supreme Court of the Navajo
23 Nation, or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme
24 Court, the remainder of this Act shall remain the law of the Navajo Nation.

25 26 **SECTION EIGHT. EFFECTIVE DATE**

27 This Act shall become effective in accordance with 2 N.N.C. §§ 164(A)(17), 221(A), (B),
28 and 1005(C)(10)-(11). The provisions of this Act take effect as provided in the staged effect
29 and transition provisions of Section Five of this Act.