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**MEDIA CONTACTS**  
Jerome Clark | 928.637.5603  
Carmenlita Chief | 928.255.3428  
nnlb.communications@gmail.com

## **Law and Order Committee receives report from new Ethics and Rules Office executive director, proposes Navajo elections and ethics code amendments**

WINDOW ROCK – After nine months without a director, the Ethics and Rules is assessing its Plan of Operations, catching up with their workload, and moving forward, said the new executive director, Vernon Roanhorse, in his report to the Law and Order Committee on Monday.

Roanhorse, who is three weeks into the job, apprised the committee of current and forthcoming activities within the Ethics and Rules Office, including the outcome of a work session the office held on Aug. 22 to discuss the office’s state of operations.

In his report, Roanhorse, along with Ron Haven, staff attorney under the Office of Legislative Counsel, outlined a number of proposed legislations aiming to make amendments to the Navajo Nation Election Code and the Navajo Nation Ethics Code.

The first legislation deals with placing a restriction on election candidates running for office if they are found to have outstanding restitution balances they owe to the Navajo Nation.

Currently, the total amount of restitution owed to the nation equates to \$616,966.

“That is a significant amount of money that’s still owed by several people,” Roanhorse said.

It was disclosed that there were some candidates who were certified to run in recent elections that still owed restitution to the nation.

Roanhorse said his office is looking to draft legislation requiring election candidates to completely satisfy their restitution balances in full before running for new elected positions.

There are also a number of Navajo Nation employees that still have outstanding restitution balances.

Although some Navajo Nation employees have worked out voluntary agreements and plans to pay down what they owe to the nation, there are still a few that have not, said Roanhorse.

“We haven’t reached a point where we can get a consensual agreement to have their restitution converted to payroll deduction, Roanhorse said.

If we were to garnish a Navajo Nation employee’s earning, that would present a problem because of the sovereign immunity law; it’s going to involve the Navajo Nation.”

Council Delegate Russell Begaye (Shiprock) asked why the garnishment of a Navajo Nation employee’s salary was an issue of sovereign immunity.

Haven explained that when a garnishment proceeding ensues it involves the action of suing someone in court. In this case, the employer is sued for monies that the plaintiff is requesting from the employee.

Being that the Navajo Nation is the employer in these situations the Navajo Nation would be suing itself.

Currently, there is legislation (CAP22-05) establishing a wage garnishment law. The rules are now under review by the Navajo Nation Supreme Court, according to Roanhorse.

The Ethics and Rules Office is awaiting the Supreme Court's decision before they decide to take on "test cases" involving garnishment to satisfy outstanding restitution balances.

Haven said he is working with an attorney from the Navajo Nation Department of Justice to "see if it's at all possible to bring action in the courts of the Navajo Nation regarding employees that owe money."

In the second proposed legislation, the office is seeking to clarify the four-year statutes of limitations the nation has on ethics cases, and is specifically calling for the discovery rule to apply in all cases.

Haven explained that in ethics cases where particular offenses, such as fraud or concealment, are not found until years later, the discovery rule would run four years from the actual discovery of the offense, and not from the time of the incident.

The Ethics and Rules Office is also looking at pushing the discovery period from four years to five years, and would clarify that the Navajo Elections Administration would be the discovering entity.

The third proposed legislation would amend N.N.C. §3753 to clarify in the statute's body that in addition to the misuse of Navajo Nation property, elected officials and Navajo Nation employees found to be mismanaging program funds can be charged with ethics violations.

"I think it's time for these laws to be put in place. Law creates law and order. Right now, there are individuals who choose to break the law, and there are no consequences," said Council Delegate Alton Joe Shepherd (Jeddito, Cornfields, Ganado, Kin Dah Lichii', Steamboat).

Delegate Begaye was concerned with elected officials and tribal employees that resign after ethics allegations are set against them, and stated to Roanhorse that the committee would be willing to help with investigations that need to continue.

The fourth legislation came about, Haven said, as a result of the Navajo Election Administration's request to see the introduction of a bill that would make amendments to the Navajo Elections Code, requiring elected officials to maintain qualifications throughout their term that were applicable when they first filed for candidacy.

The clarification would authorize the elections administration to remove elected officials from office that are convicted after assuming office.

Haven said they were seeking a council delegate, preferably from the Law and Order Committee, to sponsor the proposed legislations. Delegate Begaye responded that he was ready to sponsor.

Being that it is an election year, Delegate Shepherd suggested that the Ethics and Rules Office continue to coordinate workshops informing candidates of applicable ethics rules and requirements.

This was a directive that had been issued to the previous executive director, Shepherd said.

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