



## The 21<sup>st</sup> Navajo Nation Council

Contact: Alastair L. Bitsoi, Public Information Officer

Phone: (928) 871-6384

Cell: (928) 255-2943

Fax: (928) 871-7255

[abitsoi@navajo.org](mailto:abitsoi@navajo.org)

[www.navajonationcouncil.org](http://www.navajonationcouncil.org)

September 10, 2010

**FOR IMMEDIATE RELEASE**

---

## **Chief Legislative Counsel says referendum to elect judges is valid, Council is not enacting any proposed changes**

**WINDOW ROCK, Ariz.** – Navajo Nation Chief Legislative Counsel Frank Seanez said today that the Navajo Nation Council's passage of a referendum to elect judges is not subject to concurrence or veto by the Navajo Nation President. On Sept. 8, the Navajo Office of the Attorney General issued an opinion stating otherwise.

In a three-page legal opinion, Mr. Seanez found that pursuant to 2 N.N.C. § 1005 (C)(10) and (11) the President is allowed to certify or veto proposed resolutions when such resolutions enact new laws, amend existing laws or adopt a statement of policy. The referendum, Resolution CJY-32-10, which was certified by Speaker Lawrence T. Morgan, did not enact new laws, amend existing laws or adopt a statement of policy and is valid according to 2 N.N.C. § 221 (C).

Pursuant to 2 N.N.C. § 221 (C), resolutions which do not enact new laws, amend existing laws, or adopt a statement of policy and are adopted by the Navajo Nation Council shall become effective upon the certification of the Speaker or Speaker Pro Tem of the Navajo Nation Council.

According to 2 N.N.C. § 221 (B), "all resolutions that enact new Navajo law or amend existing Navajo law are adopted by the Navajo Nation Council shall become effective on the day the President of the Navajo Nation signs it into law or the Navajo Nation Council takes action to override the President's veto."

"This clear language removes Resolution CJY-32-10 from the scope of legislation which must be submitted to the Navajo Nation President for signature into law or veto," Seanez said. "Resolution CJY-32-10 does not enact new laws or amend existing laws. Rather it refers to the Navajo people the question of whether to enact new laws or amend existing laws."

On July 21, the Council overwhelmingly voted in favor of referring a referendum, Resolution CJY-32-10, to the Navajo people by a vote of 60-15. The passage and certification of the referendum will ask Navajo voters whether to amend Titles 2, 7 and 11 of the Navajo Nation Code for the election of Navajo Nation District Court Judges and Supreme Court Justices beginning with the 2012 Chapter election during the Nov. 2 general election.

The Council passed the referendum to provide the Navajo people the fundamental right and freedom to participate in their democracy with an option to choose their leaders in the Navajo Nation courts. As a referendum, the resolution also ensures the Navajo people's trust and confidence in the Navajo Nation judiciary to decide through a referendum vote whether Navajo Nation District Court judges and Supreme Court justices should be elected positions.

“It is unquestionable that the Navajo Nation Council itself has the authority to amend Titles 2, 7 and 11 of the Navajo Nation Code,” Seanez said. “However, the Navajo Nation Council chose not to amend Titles 2, 7 and 11. Instead, it referred the matter of such amendments to the Navajo people.”

“The amendment of Titles 2, 7 and 11 is clearly within the area permitted for referenda,” he explained. “The referendum/initiative procedure which is provided for herein shall apply to matters which are strictly legislative and shall not include matters administrative or executive, 11 N.N.C. § 401(A). The amendment of Titles 2, 7 and 11 is a strictly legislative matter. Thus, the referendum procedure must be applied to this strictly legislative matter.”

Provisions under Title 11 of the Navajo Nation Code provide that referendum measures may be referred to the people by the Navajo Nation Council and once voted upon by the people has the effect of law. The referendum also meets the “timelines for the election which shall be held at the next regularly scheduled Navajo Nation election” – the Nov. 2 general election – and consists of ballot language currently being clarified by the Navajo Board of Election Supervisors.

“There is no provision of 11 N.N.C. § 403, or anywhere else within Navajo Nation Code, which requires that a Navajo Nation Council resolution referring a referendum matter be submitted to the Navajo Nation President to sign into law, or veto,” Seanez concluded. “As a resolution which did not enact new laws, or amend existing laws, Resolution CJY-32-10 was effective upon certification by the Speaker of the Navajo Nation Council. The referendum referred to the Navajo people should be placed on the ballot for consideration at the November 2, 2010 Navajo Nation General Election. For the foregoing reasons, it is the legal opinion of the Chief Legislative Counsel that Resolution CJY-32-10 is valid.”

The legal opinion issued by the Navajo Office of the Attorney General and the press release issued by the Navajo Office of the President is essentially questioning the will of the Navajo people.

“People requested this legislation and we will put it out in the general election that is coming up,” Sponsor Thomas Walker said. “Even though as a Council we are empowered to make laws, the people are empowered to as well.”

A resolution, co-sponsored by Honorable Amos Johnson and Honorable Walker, to fund the referendum is scheduled to go before the Budget and Finance Committee this week.

###