

LEGISLATIVE SUMMARY SHEET

Tracking No. 0247-19

**DATE:** August 9, 2019

AN ACTION RELATING TO LAW AND ORDER; NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; APPOINTING MS. KIMBERLY DUTCHER AS THE NAVAJO NATION DEPUTY ATTORNEY GENERAL

**PURPOSE:** Appointing Ms. Kimberly Dutcher as Deputy Attorney General of the Navajo Nation.

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 review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: high  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 8-18-19  
Eligible for Action: 8-19-19

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24<sup>TH</sup> NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

  
OTTO TSO  
(Prime Sponsor)

TRACKING NO. 0247-19

AN ACTION

RELATING TO LAW AND ORDER; NAABIK'ÍYÁTI' COMMITTEE AND THE  
NAVAJO NATION COUNCIL; APPOINTING MS. KIMBERLY DUTCHER AS THE  
NAVAJO NATION DEPUTY ATTORNEY GENERAL

**SECTION ONE. AUTHORITY**

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Law and Order Committee has oversight over the administration of justice on the Navajo Nation. 2 N.N.C. §600 (C)(1)
- C. Any proposed resolution requiring final action by the Navajo Nation Council shall be assigned to the Naabik'iyáti Committee. 2 N.N.C. §501(C)(1).

**SECTION TWO. FINDINGS**

- A. The Navajo Nation President recommends a person as the Navajo Nation Deputy Attorney General. 2 N.N.C. §1962(B).
- B. The Navajo Nation President recommends Kimberly Dutcher as the Navajo Nation Deputy Attorney General. Ms. Dutcher's appointment letter and résumé are attached as Exhibit A.
- C. The Navajo Nation Council appoints the Navajo Nation Deputy Attorney General at the recommendation of the Navajo Nation President. 2 N.N.C. §1962(B).

1 D. The recommended Navajo Nation Deputy Attorney General serves at the pleasure of  
2 the Navajo Nation Council. 2 N.N.C. §1962(B).

3  
4 **SECTION THREE. Appointment of the Navajo Nation Deputy Attorney General**

5 A. The Navajo Nation Council hereby appoints Kimberly Dutcher as the Navajo Nation  
6 Deputy Attorney General.

7 B. Ms. Dutcher's appointment shall be effective upon the Navajo Nation Council's  
8 approval. 2 N.N.C. §1962(B).

9 C. Ms. Dutcher's term shall be concurrent with the Navajo Nation President's term. 2  
10 N.N.C. §1962(B).

# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



March 18, 2019

Kimberly A. Dutcher  
Gilbert, Arizona 85295

**RE: Appointment as Deputy Attorney General of the Navajo Nation**

Dear Ms. Dutcher,

The Nez-Lizer Administration was elected on a mandate of change for the Navajo Nation. This change involves appointing qualified, motivated and experienced individuals who will move the Navajo Nation forward by "Working Together" to serve the Navajo people. This letter shall serve as a formal notification to your appointment as Deputy Attorney General of the Navajo Nation. This appointment will take effect on April 08, 2019 at 8:00AM. Please note that this position is subject to confirmation by the Navajo Nation Council.

Your duties as Deputy Attorney General are outlined at 2NNC §1961-1965. Along with the Attorney General, you shall be responsible for the administration and management of the Navajo Nation Department of Justice and supervision of all personnel. This includes ensuring compliance with all applicable Navajo Nation laws and policies.

You will be compensated at the negotiated salary of \_\_\_\_\_, including medical benefits and deferred compensation. Following your appointment, you will report to the Navajo Nation President, Vice President, Chief of Staff and Attorney General until confirmation by the 24<sup>th</sup> Navajo Nation Council. Again, we thank you for your commitment to serve the Navajo people. Ahéhee'.

  
Jonathan Nez, President  
THE NAVAJO NATION

  
Myron Lizer, Vice President  
THE NAVAJO NATION



# Kimberly A. Dutcher

Gilbert AZ 85295

(480)

• email:

*Enrolled member of the Navajo Nation*

Licensed to practice law:

*State of Arizona since 2002*

*U.S. District Court, District of Arizona since 2002*

## LEGAL/GOVERNMENTAL/EXECUTIVE EXPERIENCE

**10/17 – present**      **Salt River Pima-Maricopa Indian Community**      Scottsdale, Arizona

### **Court Solicitor**

- Provide legal review and advice to assist the judiciary and court administration uphold their duties of protecting individuals' constitutional rights, providing procedural due process, and preserving the rule of law; research issues involved in motions, filings, procedures, orders, and judgments as they pertain to law and court rules; write amici curiae briefs and other pleadings on behalf of the judiciary and articulate its position to appellate court; draft court rules governing court procedure and facilitate rules committee; review and revise court policies, procedures, forms and operations; assess need for and conduct training for judicial and court staff; draft legal and technical correspondence for judicial officers;

**07/15 – 01/17**      **Association on American Indian Affairs**      Rockville, Maryland

### **Executive Director**

- Served as chief operating officer of national Indian advocacy nonprofit overseeing fundraising, administrative, and programmatic functions. Responsible for articulating organization's programs and advocating for priority issues both domestically and internationally. Collaborated with Board of Directors to implement broad-based fundraising program, including donor cultivation and development of private and public funding sources. Worked with tribes and tribal organizations, local/regional/national/international organizations and government entities regarding organization's priority issues. Performed as lead on juvenile justice project with objective of reducing rates of incarceration among Native American youth. Oversaw relations with organization's membership and development of electronic and print communications. Wrote, edited, researched, analyzed and supervised the publication of proposals, testimony and other communications to articulate organization's programs and positions to its membership and to the public.

**06/11 – 03/14**      **Gila River Indian Community**      Sacaton, Arizona

### **Division Manager**      **Office of the Community Manager**

- Provided visionary and innovative leadership, supervision and general guidance to elected tribal and Administrative and Public Safety division leadership. Dispensed highly responsible supervision, management, planning and administrative direction to department directors on implementation of strategic long and short term governmental goals. Consulted with and advised department directors to determine and plan for operational, including budgetary, and long term needs of 20,000+ member tribal government. Conceptualized and wrote key executive level communications, including Inaugural and State of the Community addresses. Developed and maintained relationships with various professional, business, and governmental entities to represent and safeguard the Community's concerns, resolve issues and promote the tribe's best interests. Managed special projects as assigned, including the Community's largest integrated software application, multi-million housing construction activity and development of a government employment sector.

**10/05 – 05/11**      **Gila River Indian Community**      Sacaton, Arizona

### **Sr. Asst. General Counsel**      **Community Law Office**

- As senior counsel to the Community Council, the Governor, and administrative departments, researched and provided legal counsel in the areas of constitutional reform, land use and acquisition, transportation, natural resources, and employee welfare benefits. Drafted ordinances, including the Sex

Offender Registration and Notification Ordinance, Homesite Ordinance, and amendment to the Civil Trespass Ordinance. Represented client in federal probate matters involving the disposition of trust resources. Managed land acquisition program resulting in the purchase of over 150 acres of trust land annually. Prepared fee to trust applications. Drafted land use agreements. Negotiated employee welfare benefit contracts. Oversaw comprehensive study of employee welfare benefits plans for purposes of consolidation. Routinely drafted legal opinions, resolutions and legal correspondence. Supervised two junior attorneys and support staff.

**04/05 – 09/05**

**Indian Law, P.C. (now Rosette & Associates)**

**Attorney**

Tempe, Arizona

- Represented Indian tribes, organizations and individuals in a variety of capacities. As tribal attorney, advised tribal governments on government and jurisdictional issues, including land acquisition, regulatory authority, tribal business and financial development, tribal tort claim defense, tribal enrollment and tribal sovereign immunity. Drafted Class II and Class III tribal gaming ordinances, corporate by-laws and other governing documents, and memoranda of understanding. Conducted due diligence required for secured transactions and corporate finance of \$15 million dollar casino development project. Negotiated inter-tribal gaming device transfer agreement. Conducted research and drafted pleadings for matter of first impression regarding grandfathered gaming rights. Researched and developed novel theories of recovery in emerging human subject research litigation. Developed and crafted written business proposals to garner business.

**09/04 – 03/05**

**Wilson-Goodman & Fong, P.C.**

Gilbert, Arizona

**Attorney**

- Represented individuals in juvenile, traffic, family, criminal, and bankruptcy proceedings in state and federal courts. Drafted a variety of documents including appellate responses, complaints, petitions, motions, and routine legal correspondence. Represented firm in diverse community settings to garner business.

**02/03 – 09/04**

**Gila River Indian Community  
Community Law Office**

Sacaton, Arizona

**Prosecutor**

- Represented the Community in all phases of litigation of criminal complaints, civil petitions and juvenile offender matters. Interacted with various agency representatives including federal, state and tribal law enforcement, social service agencies, probation and other community stakeholders in the resolution of criminal and civil matters. Composed a variety of legal documents, including complaints, petitions, and motions. Provided legal and programmatic guidance to tribal Department of Education. Served as advisor and mentor to tribal youth participating in tribal drug court program.

**05/02 – 01/03**

**Law Office of Daniel W. Evans**

Scottsdale, Arizona

**Law Clerk**

- Analyzed legal attributes of a variety of business clients to formulate advantageous business and market positions.

**09/01 – 12/01**

**Phoenix College**

Phoenix, Arizona

**Adjunct Professor**

- Created and taught *Conflict of Laws* for community college students enrolled in Tribal Advocacy program. Advised students on career and higher education opportunities.

**01/01 – 05/01**

**Arizona State University  
Indian Legal Program**

Tempe, Arizona

**Research Assistant**

- Researched legal issues and composed legal memoranda for tribal court judges in Arizona. Recruited first year Indian law students.

**08/00 – 12/00**

**Law School Clinic**

Tempe, Arizona

**Student Attorney**



- Certified to practice law under Rule 38. Represented clients under faculty supervision. Conducted discovery including interviewing witnesses. Wrote and argued motions in the Department of Economic Security's Court of Appeals. Mediated and negotiated settlements.

05/00 – 08/00

**Native American Rights Fund**

**Law Clerk**

Boulder, Colorado

- Researched, analyzed and drafted legal memoranda on a broad range of complex legal issues concerning Indian tribes and organizations, including tribal land claims, legal intervention under Federal Rule 24, administrative and employment law, and tribal education codes.

01/00 – 05/00

**Lewis & Roca, LLP**

**Legal Intern**

Phoenix, Arizona

- Researched and analyzed a variety of legal issues using print and electronic media. Composed legal memoranda addressing Arizona criminal law. Compiled, organized and developed compendia of state insurance statutes for publication.

**OTHER PROFESSIONAL EXPERIENCE**

09/95 – 07/98

**ORBIS Associates**

**Indian Education Specialist**

Washington, D.C.

- Assisted schools serving native students to create and implement comprehensive partnership programs involving families, community and tribal entities and various educational programs serving K-12 students. Provided joint training to schools and tribes on the development of family and community involvement plans to meet school improvement goals. Provided training for and assisted project staff conduct needs assessments to develop multi-year projects for comprehensive child development programs. Analyzed raw data and provided recommendations for the improvement of elementary, secondary and post-secondary math and science programs for High Plains Rural Systemic Initiative.

06/92 – 04/95

**Georgetown University**

**Program Officer**

**Center for Intercultural Education**

Washington, D.C.

- Conceptualized, designed and coordinated student training programs, activities and materials for program of 200 Nicaraguan scholars at four community colleges and 90 alumni participating in follow-on programs. Designed and provided training on programs and materials for use in student recruitment, orientations and follow-on activities in the U.S., Nicaragua and Guatemala.

09/91 – 05/92

**Office of the Associate Dean**

Washington, D.C.

**Office Supervisor**

- Served as primary administrative support for the offices overseeing the academic programs of 2,000 undergraduate students. Supervised five employees.

**EDUCATION**

08/98 – 05/01

**Arizona State University**

**Juris Doctor**

**Sandra Day O'Connor College of Law**

Tempe, Arizona

Certificate in Indian Law

08/93 – 05/95

**The George Washington University**

**Master of Arts in Education and Human Development**

Washington, D.C.

08/86 – 05/90

**Georgetown University**

Washington, D.C.

**Bachelor of Science in Foreign Service**

## **SELECTED PROFESSIONAL WRITINGS AND PRESENTATIONS**

Speaker, "The Indian Child Welfare Act: Preserving Indian Families for 40 Years", WellCare Health Plans, November 2018.

Keynote Speaker, "Solutions for All Seasons: Transforming How to Consider Job, Vocation, Occupation, Career and Professional and Personal Fulfillment", Nineteen Tribal Nations Workforce Investment Board Conference, Annual Conference, Prescott, Arizona, December 2017.

Author, "Mississippi Band of Choctaw Indians: Accomplishment, Challenges, and Lessons Learned Through the Juvenile Detention Alternatives Initiative (JDAI)", December 2016

Panelist, "Experienced Practitioner Panel", Reducing Racial and Ethnic Disparities Certificate Program, Center for Juvenile Justice Reform, Washington, DC, October 2016

Speaker, "AAIA Opposes Auction House Sale of Native American Sacred Objects and Cultural Patrimony", Emergency Meeting of American Indian Nations, U.S. Government, U.S. Congressman Steve Pearce, and NGO's to Contest Paris Auction of Human Remains and Sacred Objects, Smithsonian National Museum of the American Indian, Washington, DC, May 2016.

Keynote Speaker, "Addressing Native American Juvenile Rights, Issues, and Detention Reform in Indian Country through the Juvenile Detention Alternatives Initiative", Native American Fatherhood and Families Association 2015 Annual Conference, Mesa, Arizona, November 2015

Presenter, "Industry Sector Development: Career Pathways System Reservation Model", National Indian and Native American Employment & Training Conference, Acme, Michigan, May 2013

Presenter, "Sovereignty, Self Determination, and Self Governance: Establishing Meaning and Practice in Tribal Communities in the Workforce Investment Context", Nineteen Tribal Nations Workforce Investment Board Conference, Annual Conference, Prescott, Arizona, December 2012.

Speaker, "Preparing a Top Notch Workforce", Gila River Indian Community's 20<sup>th</sup> Annual Career Fair, Sacaton, Arizona, October 2012

Speaker, "Finding Peace at Work", Gila River Indian Community, Administrative Professional's Day Celebration, Chandler, Arizona, April 2012

Presenter, "Gila River Indian Community Seven Districts Master Plan Project, Arizona Planning Association Annual Conference, Phoenix, Arizona, November 2010.

Presenter, "Addressing Domestic Violence in Tribal Communities, 2<sup>nd</sup> Annual Native Women's Conference, Fountain Hills, Arizona, November 2005.

Contributor, "Seeking Attorney's Fees in Criminal Cases", *Arizona Attorney*, April 2001.

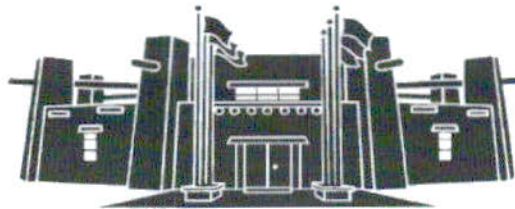
Author and contributor to various ORBIS Associates training manuals, including *Peer Mediation*, *Negotiation*, and *Community and Family Partnerships*, September 1995 - July 1998.

Presenter, "Evaluating Higher Education Programs", W.K. Kellogg Foundation's Native American Higher Education Initiative, Phoenix, Arizona, February 1998.

Presenter, "A Call to Action: Working Together for Equity and Excellence", U.S. Department of Education, Washington, D.C., December 1997.

Author, "Maternity, Means and Matriculation", *Georgetown*, Fall 1991.





## MEMORANDUM

**TO:** Honorable Otto Tso  
24<sup>th</sup> Navajo Nation Council

**FROM:**   
Edward A. McCool, Acting-Chief Legislative Counsel  
Office of Legislative Counsel

**DATE:** August 9, 2019

AN ACTION RELATING TO LAW AND ORDER; NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; APPOINTING MS. KIMBERLY DUTCHER AS THE NAVAJO NATION DEPUTY ATTORNEY GENERAL

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

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§500, 501. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

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