



February 10, 2026

The Honorable Senate President Pro Tempore Mimi Stewart  
New Mexico State Legislature  
490 Old Santa Fe Trail  
Santa Fe, NM 87501

**Re: SB 18 – Tribal Sovereignty Concerns and Indirect Impacts to Tribal Economies**

Dear President Pro Tempore Stewart:

I am writing to express serious concerns regarding SB 18, particularly its implications for tribal sovereignty, and the practical risks for tribal affiliated industries and tribal economic self-determination. This would be true even if tribal lands are purportedly excluded from direct regulation in the proposed SB 18.

One foundational concept of Federal Indian law is that absent controlling congressional statutes, jurisdiction over persons, property, and events in Indian country are retained by Indian tribes. The same is true for the Navajo Nation. Congress' plenary authority over Indian affairs and the tradition of tribal autonomy in Indian country combine to preempt the operation of state law within Indian country. This doctrine is at its zenith when the conduct regulated involves tribal members or tribal business within Indian country.

While proponents may argue that SB 18 does not apply to tribal lands, SB 18 is structured to impose statewide greenhouse-gas limits across all sectors, enforced through the New Mexico Environment Department and Environmental Improvement Board. In practice, statewide emissions caps and reporting requirements can function as a form of indirect regulation; creating economic pressure and compliance expectations that tribal enterprises – as well as non-tribal enterprises operating in Indian county – cannot realistically avoid.

This is especially concerning because tribal governments and tribal enterprises operate as major employers and economic anchors in rural New Mexico. They participate in regional power markets, transportation systems, supply chains, and industrial contracting networks that will all be reshaped by SB 18's mandates. The bill may not explicitly override tribal sovereignty, but it risks undermining tribal sovereignty by constraining the economic landscape in which tribal nations exercise their rights to govern and develop their resources to support their priorities.

A clear example is the Four Corners Power Plant ("FCPP"), located on Navajo Nation land. SB 18 regulates emissions from electricity generated within New Mexico—even if consumed out of state—within statewide totals. Absent clear amendment to SB 18, FCPP would be captured under the practical scope of statewide emissions regulations and caps.

FCPP and the associated Navajo Mine contribute approximately \$175 million annually to the Navajo Nation economy, and the two facilities employ more than 520 American Indians. SB 18 would, at the very least, create increased regulatory pressure on sources of CO<sub>2</sub> such as FCPP, which compounds the uncertainty of FCPP's long-term viability, with real consequences for tribal jobs, revenues, and community stability.

Importantly, a wholly owned Navajo Nation limited liability company, Navajo Transitional Energy Company, LLC ("NTEC"), owns and operates the Navajo Mine that feeds FCPP, as well as owning a seven percent (7%) interest in FCPP. As highlighted above, and absent clear amendment to proposed SB 18, SB 18 – contrary to well established U.S. Supreme Court precedent – would attempt to directly and indirectly regulate tribal member conduct within Indian country. Importantly, as currently drafted, SB 18 requires emissions reporting from regulated entities based on where emissions occur, not based on who owns and operates the subject facility. Thus, without amendment, SB 18 mandates that New Mexico directly regulates and requires reporting associated with a tribal member facility in Indian country, something the U.S. Supreme Court has determined is unlawful.

Beyond the Navajo Nation's direct economic interests in FCPP and the Navajo Mine, SB 18 requires greenhouse-gas reporting from regulated entities. Even if New Mexico cannot directly regulate the Navajo Nation and its conduct within Indian country, SB 18 requires New Mexico to demand emissions reporting and applies statewide emissions accounting in ways that effectively impose compliance burdens on facilities located on tribal land. This is accomplished by encouraging non-Indian regulated entities, located outside of Indian country and who rely on energy produced in Indian country, to move away from such emission sources; thereby, abandoning vital tribal economic engines. Phrased differently, even if SB 18 does not seek to directly regulate CO<sub>2</sub> sources within Indian country, it motivates and requires non-Indian energy off takers to abandon CO<sub>2</sub> energy produced in Indian country. This regulatory approach raises serious concerns about the long-term precedent being set: a policy structure where New Mexico regulates tribal activity and tribal lands through the guise of regulating entities outside of Indian country that rely on energy produced in Indian country that directly supports tribal jobs and tribal economies.

SB 18 also risks shifting emissions and production rather than reducing them, creating "leakage" and economic displacement. The demand for power and industrial products will remain; the question is whether those jobs and investments remain in New Mexico—or are driven to other states. For tribal communities, this is not theoretical. The Navajo Nation has seen this playbook before through the closing of Navajo Generating Station and the San Juan Generating Station, which resulted in devastating economic impacts to the Navajo Nation. In short, as proposed, SB 18 directly threatens the durability of existing tribal enterprises and further reduces the attractiveness of future tribal industrial development projects located within sovereign Indian country.

Finally, SB 18 increases pressure for major retrofit technologies, such as carbon capture, as a condition for continued operation of key facilities. Under SB 18, these technologies shift from optional innovation to mandatory necessity—creating significant cost exposure and operational risk that would ultimately fall on tribal communities and energy consumers across New Mexico.

For these reasons, SB 18 should be viewed not only as an environmental policy proposal, but as a policy proposal that is directly contrary to tribal sovereignty, and a policy with real-world economic consequences for tribal nations, particularly the Navajo Nation. New Mexico should not advance legislation that indirectly constrains tribal economic self-determination, destabilizes tribal employment bases, or sets a precedent for statewide regulation that effectively reaches into Indian country and seeks to regulate tribal member conduct.

We respectfully urge you to oppose SB 18 and instead pursue a more balanced, collaborative approach that protects tribal sovereignty, maintains grid reliability, and supports economic development for Indian country, rural New Mexico, and all New Mexico energy consumers.

Thank you for your consideration. I would welcome the opportunity to discuss these concerns further with you or your staff.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Dr. Buu Nygren', written over a horizontal line.

Dr. Buu Nygren, *President*  
**THE NAVAJO NATION**

Cc: Governor Michelle Lujan Grisham,  
Lt. Governor Howie Morales,  
New Mexico Senate,  
New Mexico House of Representatives