

SUMMARY OF PROPOSED LEGISLATION

TrackingNo. 0038-23

Date: March 15, 2023

Subject: **AN ACTION RELATING TO THE BUDGET & FINANCE
COMMITTEE; APPROVING THE FISCAL YEAR 2024 FRINGE
BENEFIT RATES FOR THE NAVAJO NATION RETIREMENT
PLAN**

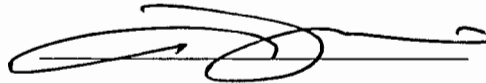
Purpose of this Legislation:

to approve the FY2024 fringe benefits rates for the Navajo Nation's Retirement Plan.

5-DAY BILL HOLD PERIOD: Applns
Website Posting Time/Date: _____
Posting End Date: 03-20-23
Eligible for Action: 03-21-23

PROPOSED STANDING COMMITTEE RESOLUTION
25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:



Primary Sponsor

Tracking No. 0038-23

AN ACTION
RELATING TO THE BUDGET & FINANCE COMMITTEE;
APPROVING THE FISCAL YEAR 2024 FRINGE BENEFIT
RATES FOR THE NAVAJO NATION RETIREMENT PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Budget & Finance Committee ("BFC") is a standing committee of the Navajo Nation Council that is authorized to approve policies and regulations regarding wages, expenditure reimbursements, and fringe benefits for Navajo Nation officials and employees. 2 N.N.C. §164(A)(9), §300(A), §301(B)(8).

B. Pursuant to its authority delegated by the Council in Resolution No. CF-21-73, BFC in Resolution No. BFMY-41-73 first approved the Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates ("Retirement Plan"). The Retirement Plan originally became effective July 1, 1973.

C. BFC, the Health, Education & Human Services Committee, and the Council have since approved various amendments and restatements of the Retirement Plan, via Resolutions Nos. BFMA-56-74, BFMY-198-77, CMY-26-79, BFJY-101-85, BFJN-71-86, BFS-56-90, BFMY-25-91, BFS-98-02, BFMA-34-03, BFMA-05-08, BFCO-16-09, HSCD-13-10, BFJY-16-19, and BFO-34-19, BFMY-13-21, and BFD-46-22.

1 **SECTION TWO. FINDINGS**

2 A. Pursuant to Article 11.02 of the Retirement Plan, the Retirement Plan Administration
3 Committee ("RPAC") manages and administers the Retirement Plan. To assist the RPAC in
4 its functions, the RPAC arranges for necessary and appropriate legal, actuarial, investment,
5 accounting, and other professionals to provide the RPAC with consultant services.

6 B. On March 10, 2023, the RPAC's actuarial consultant presented a report describing its
7 proposed Fiscal Year 2024 fringe benefit rates for the Retirement Plan, which rates would
8 apply to Regular Employees, Council Delegates, Commissioned Law Enforcement Officers,
9 and Judges, of the Navajo Nation. A copy of the consultant's report is attached hereto as
10 **EXHIBIT 1.**

11 C. In Resolution No. RPAC-01-23 the RPAC approved the use of a 20-year amortization period
12 in calculating the FY2024 retirement fringe benefit rates, based on budget concerns resulting
13 from diminishing Navajo Nation revenues, recent investment market volatility and projected
14 financial headwinds, and on the need to maintain the funded status of the Retirement Plan.
15 Based on the use of a 6.4% discount rate, the RPAC recommends that the FY2024 retirement
16 fringe benefit rates be set as follows: 15.5% for Regular Employees and Council Delegates;
17 18.2% for Commissioned Law Enforcement Officers; 41.7% for Judges. Resolution No.
18 RPAC-01-23 is attached hereto as **EXHIBIT 2.**

19 D. In a memorandum dated March 10, 2023 the Plan Administrator of the Navajo Nation
20 Department of Retirement Services is requesting BFC to approve the RPAC's
21 recommendations and the proposed FY2024 retirement fringe benefit rates. **EXHIBIT 3.**

22 E. Pursuant to its authorities under 2 N.N.C. §164(A)(9), §300(A), and §301(B)(8), BFC finds
23 it in the Navajo Nation's best interest to accept and approve the above recommendations from
24 the RPAC regarding the FY2024 retirement fringe benefit rates, as shown in RPAC-01-23.

25
26 **SECTION THREE. APPROVAL**

27 For the Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates, the
28 Budget & Finance Committee hereby approves the recommendations of the Retirement Plan
29 Administration Committee as described and set forth in Resolution No. RPAC-01-23, which
30 recommendations include the use of a 20-year amortization period, a 6.4% discount rate, and the

1 following retirement fringe benefit rates to be included in the Navajo Nation's Comprehensive
2 Budget for FY2024: 15.5% for Regular Employees and Council Delegates; 18.2% for
3 Commissioned Law Enforcement Officers; and 41.7% for Judges.

4
5 **SECTION FOUR. EFFECTIVE DATE**

6 This Action shall become effective in accordance with 2 N.N.C. §301(B)(13).
7

8 **SECTION FIVE. SAVING CLAUSE**

9 If any provision of this Action is determined invalid by the Supreme Court of the Navajo Nation,
10 or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the
11 remainder of this Action shall be the law of the Navajo Nation.
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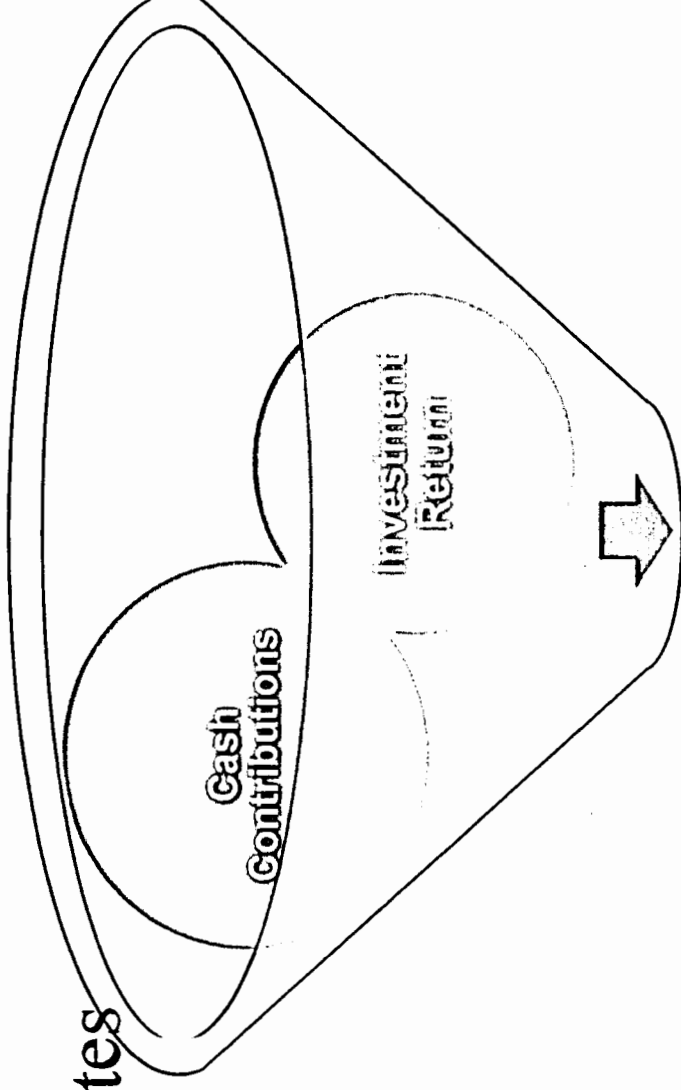
**The Navajo Nation
Defined Benefit (DB) Retirement
Plan – Fringe Rate Analysis for
FY 2024**

**Presented by:
Suzanne Wyatt & Bayan Suleman**

March 10, 2023



Navajo Nation Fringe Rates



Ultimate cost (cash) of a plan is:

- Benefits paid
- Plus administrative expenses
- **Minus** investment return

Purposes of Navajo Nation plan valuation:

- Determine funding fringe rates
- Determine plan accounting liability and cost under GASB 67/68

Guiding Principles (based on Conference of Consulting Actuaries White Paper from October 2014)

- Policy contributions plus assets sufficient to pay all future benefits for current participants
- Reasonable allocation of cost over service
- Reasonable control of volatility

Navajo Nation Fringe Rates – Funding Policy

Fringe rates for any fiscal year are determined based on the results from the beginning of the prior fiscal year

- Fiscal 2024 rates set based on the results of the most recent valuation, October 1, 2022
- Rates have been updated from the preliminary rates presented in the December 8, 2022 and December 9, 2022 RPAC meeting to reflect:
 - Payroll through February 10, 2023, as provided by the Department of Retirement Services on March 6, 2023
 - Audited asset information as of September 30, 2022, as provided by the Office of the Controller on January 19, 2023
 - Plan amendment effective January 1, 2023 to reflect all delegate pay (not just base) up to a cap of \$55,000

Fringe rates are determined as the sum of (1) and (2) below:

- Cost of benefits accruing during the fiscal year (normal cost) divided by expected payroll
 - Explicitly includes non-investment expenses paid from the trust
- An amortization payment to reduce the unfunded AAL divided by expected payroll.
Historically, the amortization period has varied from 5 to 20 years and reflects:
 - A fresh start of the 10/1/2022 unfunded AAL as a result of the Plan being fully funded at 10/1/2021
 - Amortization bases are layered (similar to pension cost amortizations under GASB 68)

Navajo Nation Fringe Rates – A Brief History of Fringe Rates

Amortization Period	FY 2014 ¹	FY 2015	FY 2016 ²	FY 2017 ³	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023 ⁴
	10 Years	10 Years	5 Years	10 Years	20 Years	20 Years	15 Years	15 Years	15 Years	15 Years
Employee Group	DR: 8.0%	DR: 8.0%	DR: 8.0%	DR: 7.0%	DR: 7.0%	DR: 6.4%	DR: 6.4%	DR: 6.4%	DR: 6.4%	DR: 6.4%
Regular employees	24.4%	23.0%	24.4%	27.1%	18.5%	19.3%	19.3%	18.1%	14.5%	14.5%
CLEO	24.9%	25.0%	21.4%	27.9%	16.9%	19.4%	19.4%	21.4%	18.5%	18.5%
Judges	32.7%	37.0%	35.2%	30.8%	32.2%	38.6%	40.9%	51.7%	44.5%	44.5%
Funded Status	10/1/2014	10/1/2015	10/1/2016	10/1/2017	10/1/2018	10/1/2019	10/1/2020	10/1/2021	10/1/2022	10/1/2023
Return on Assets	76.9%	74.6%	80.2%	82.6%	87.3%	87.0%	93.0%	104.5%	87.9%	TBD
	11.6%	-0.6%	11.4%	13.7%	9.9%	3.5%	9.6%	21.0%	-13.8%	TBD

- ¹ FY 2014 used an *alternative approach* whereby normal cost was determined separately for each group and amortization rates for each year are determined for the whole plan and applied evenly to all groups. Under usual method, rates would have been 24.0%, 25.9%, and 58.6%, respectively.
- ² FY 2016 rates reflect a fresh start to align with the GASB 68 new funding method, and a 15-year amortization of Unfunded Actuarial Accrued Liability (UAAL).
- ³ The discount rate was updated from 8.0% to 7.0% after FY 2016 fringe rates were set, reflected in FY 2017 rates. FY 2017 used an *alternative approach* whereby normal cost was determined separately for each group and amortization rates for each year are determined for the whole plan and applied evenly to all groups. Under usual method, rates would have been 27.2%, 25.8%, and 56.6%, respectively.
- ⁴ Fringe rates for FY2023 were set to be the same as FY2022 to provide some protection against potential poor asset performance. The fringe rates based on the 10/1/2021 valuation results were 7.9%, 10.8%, and 24.8%, respectively.

Fiscal Year 2024 – Preliminary Fringe Rates By Amortization Period

		20-year Amortization		15-year Amortization		10-year Amortization	
Discount Rate: 6.40%		\$ in 000's	% of Covered Payroll	\$ in 000's	% of Covered Payroll	\$ in 000's	% of Covered Payroll
Covered Payroll							
• Regular employees and Council Delegates		\$150,171		\$150,171		\$150,171	
• Commissioned Law Enforcement Officers		16,149		16,149		16,149	
• Judges		1,136		1,136		1,136	
Total Covered Payroll		\$167,456		\$167,456		\$167,456	
Normal Cost							
• Regular employees and Council Delegates		\$11,748	7.5%	\$11,748	7.5%	\$11,748	7.5%
• Commissioned Law Enforcement Officers		1,599	9.9%	1,599	9.9%	1,599	9.9%
• Judges		184	16.2%	184	16.2%	184	16.2%
Total Normal Cost (with ½ year interest)		\$13,531		\$13,531		\$13,531	
Amortization of Unfunded UAL							
• Regular employees and Council Delegates		\$11,229	7.5%	\$13,179	8.8%	\$17,267	11.5%
• Commissioned Law Enforcement Officers		1,324	8.2%	1,553	9.6%	2,035	12.6%
• Judges		290	25.5%	340	29.9%	446	39.3%
Total Amortizations of UAL		\$12,843		\$15,072		\$19,748	
Council Delegate Amendment							
• Regular employees and Council Delegates		\$257	0.2%	\$265	0.2%	\$281	0.2%
• Commissioned Law Enforcement Officers		17	0.1%	19	0.1%	24	0.1%
Total Amortization of Amendment		\$274		\$284		\$305	
Fringe Rates							
• Regular employees and Council Delegates		\$23,234	15.5%	\$25,192	16.8%	\$29,296	19.5%
• Commissioned Law Enforcement Officers		2,940	18.2%	3,171	19.6%	3,658	22.6%
• Judges		474	41.7%	524	46.1%	630	55.5%
Total Fringe Rate		\$26,648		\$28,887		\$33,584	

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Certification

Certification

Except as otherwise provided herein, the results presented are based on the data and asset information provided by The Navajo Nation as of October 1, 2022 and assumptions, methods, models, plan provisions and other information, outlined in the actuarial valuation results for the plan year beginning October 1, 2022 presented on December 8 and December 9, 2022 and in the October 1, 2022 actuarial valuation report to be delivered in the coming weeks. Therefore, such information, and the reliances and limitations of the valuation report and its use, should be considered part of this report.

In preparing the valuation contained in this presentation, Willis Towers Watson has relied upon information regarding plan provisions, participants, assets, contributions, sponsor funding and accounting policies, and methods provided to us by The Navajo Nation and other persons or organizations designated by The Navajo Nation. We have relied on all the data and information provided as complete and accurate. We have reviewed this information for overall reasonableness and consistency, but have neither audited nor independently verified this information. Based on discussions with and concurrence by the plan sponsor, assumptions or estimates may have been made if data were not available, and the data was adjusted to reflect any significant events that occurred between the date the data was collected and the measurement date.

Except as discussed above, we are not aware of any material errors, omissions or inconsistencies in the data, or adjustments in the data made by us or by others, that would have a significant effect on the results of our calculations. We have relied on all the information provided as complete and accurate. The results presented in this report are directly dependent upon the accuracy and completeness of the underlying data and information. Any material inaccuracy in the information provided to us may have produced results that are not suitable for the purposes of this presentation and such inaccuracies, as corrected by The Navajo Nation, may produce materially different results that could require that a revised presentation be issued.

The undersigned consulting actuaries are members of the Society of Actuaries and meet the "Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States" relating to pension plans. Our objectivity is not impaired by any relationship between the plan sponsor and our employer, Willis Towers Watson US LLC.

Sincerely yours,



Suzanne Wyatt, FSA, EA, FCA
Director, Retirement



Bayan Suleman, ASA, EA
Senior Associate, Retirement

Willis Towers Watson

Glossary of Terminology

Term	Meaning
Actuarial Accrued Liability (AAL)	The portion of the present value of all future benefits attributed by a cost method to employee service rendered before the valuation date. Referred to as Total Pension Liability under GASB.
Cost Method	Entry Age Normal for The Navajo Nation DB plan. Under this method, a normal cost is calculated in a manner to be a level percentage of participant payroll each year.
Discount Rate	The rate of interest used in the valuation to discount the plan's expected cash flows back to a single present value.
Funded Status	Ratio of market value of assets over actuarial accrued liability at a particular point in time.
Market Value of Assets (MVA)	The value of plan assets as reported by the trustee, including receivables and less payables. Referred to as Fiduciary Net Position under GASB.
Normal Cost	That portion of the actuarial present value of pension plan benefits and expenses which is allocated to a valuation year by the cost method.
Participant Payroll	In general, hourly rate as of valuation date multiplied by 2,080 hours. Referred to as valuation payroll or covered payroll.
Present Value of accumulated benefits	The present value of plan benefits earned as of the valuation date by current plan participants.
Present Value of all future plan benefits	The present value of all plan benefits projected to be paid to current plan participants.
Unfunded AAL	Amount of contribution to the plan trust that is required to increase the funded status to 100%.
Vested Benefits	The benefit a participant is entitled to even if employment terminates before retirement. If a participant terminates from The Navajo Nation with less than 4 years of service then they are not vested and forfeit their DB benefit.

RPAC-01-23

**RESOLUTION OF THE
RETIREMENT PLAN ADMINISTRATION COMMITTEE
OF THE NAVAJO NATION**

Approving and Recommending to the Budget and Finance Committee
the Approval and Adoption of the FY 2024 Retirement Fringe Rates for the
Retirement Plan for Employees of the Navajo Nation and Participating Affiliates

WHEREAS:

1. The Budget and Finance Committee of the Navajo Nation Council (the “Budget and Finance Committee”) is empowered to promulgate policies and regulations concerning the fringe benefits for Navajo Nation officials and employees and to conduct oversight of the functions of the Navajo Nation Department of Retirement Services (“NDRS”) pursuant to 2 N.N.C. § 301(B)(8) and (13); and
2. The Budget and Finance Committee, under the authority delegated in Resolution No. CF-21-73, initially adopted the Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates (the “Retirement Plan”) effective July 1, 1973, through Resolution No. BFMY-41-73; and
3. The Navajo Nation Council, the Budget and Finance Committee, and the Human Services Committee have since approved various amendments and restatements of the Retirement Plan through Resolution Nos. BFMA-56-74, BFMY-198-77, CMY-26-79, BFJY-101-85, BFJN-71-86, BFS-56-90, BFMY-25-91, BFS-98-02, BFMA-34-03, BFMA-05-08, BFCO-16-09, HSCD-13-10, BFJY-16-19, BFO-34-19, BFMY-13-21, and BFD-46-22; and
4. The Retirement Plan Administration Committee (“RPAC”) is delegated the full power to administer the Retirement Plan and to construe and apply all of the Retirement Plan provisions, including engaging in such legal, administrative, consulting, actuarial, investment, accounting, and other professional services as RPAC deems proper, pursuant to Article 11.02 of the Retirement Plan; and
5. RPAC has the authority and responsibility to approve Retirement Fringe Rates for the Nation’s contributions to the Retirement Fund and to make a recommendation to the Budget and Finance Committee for final approval and adoption of the Retirement Fringe Rates to be used in the Comprehensive Budget process; and
6. On March 10, 2023, RPAC’s actuarial consultant, Willis Towers Watson, presented a report to RPAC, attached hereto as **Attachment A**, which contained proposed FY 2024 Retirement Fringe Rates for Regular Employees and Council Delegates, Commissioned Law Enforcement Officers, and Judges based on 10-year, 15-year, and 20-year amortization periods; and
7. In balancing budgetary concerns in light of diminishing Navajo Nation revenues, with the

need to increase the funded status of the Plan, RPAC has determined that it is in the best interest of the Nation to use a 20-year amortization period to calculate the Retirement Fringe Rates for Regular Employees and Council Delegates, Commissioned Law Enforcement Officers, and Judges.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Retirement Plan Administration Committee hereby approves the use of a 20-year amortization period for Regular Employees and Council Delegates, Commissioned Law Enforcement Officers, and Judges. Based on use of a six-point four percent (6.40 %) discount rate and the amortization period above, the FY 2024 Retirement Fringe Rates shall be as follows: fifteen-point five percent (15.5%) for Regular Employees and Council Delegates; eighteen-point two percent (18.2%) for Commissioned Law Enforcement Officers; and forty-one-point seven percent (41.7%) for Judges.
2. The Navajo Nation Retirement Plan Administration Committee hereby authorizes the Navajo Department of Retirement Services to inform the Office of the Controller and the Office of Management and Budget of these Retirement Fringe Rates, and recommends to the Budget and Finance Committee of the Navajo Nation Council the approval and adoption of such rates for use in creating the FY 2024 Comprehensive Budget.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Retirement Plan Administration Committee of the Navajo Nation at a duly called meeting in Window Rock, (Navajo Nation) Arizona at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 10th day of March, 2023.



Shaandiin Parrish, Chairperson
Retirement Plan Administration Committee
THE NAVAJO NATION

Motion: Elizabeth Begay, RPAC Member

Second: Calvin Castillo, RPAC Member

xc: RPAC Resolution file
 NDRS Resolution file
 Navajo Nation Department of Justice
 Navajo Nation Office of Legislative Counsel
 Budget and Finance Committee of the 25th Navajo Nation Council



DR. BUU NYGREN *PR* EXHIBIT 3

RICHELLE MONTOYA *VICE PRESIDENT*

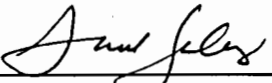
The Navajo Nation | Yideeskáądi Nitsáhákees

March 10, 2023

MEMORANDUM

TO: Shaadiin Parrish, Chairperson, Budget & Finance Committee; RPAC Chair
25th Navajo Nation Council – Retirement Plan Administration Committee
Office of Legislative Branch

Seth Damon, Budget & Finance Committee; RPAC Proxy Vice Chair
25th Navajo Nation Council – Retirement Plan Administration Committee
Office of Legislative Branch

FROM: 
Andrea Holmes, Plan Administrator
Department of Retirement Services
Division of Human Resources

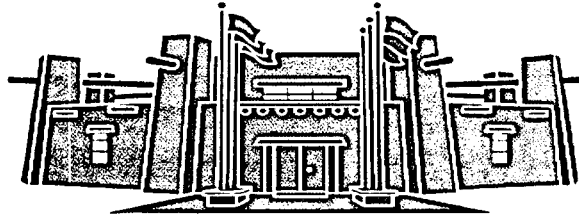
SUBJECT: **SPONSORSHIP**
Ref: Fiscal Year 2024 Fringe Rates

The Department of Retirement Services is requesting your assistance to sponsor the legislation regarding the Fiscal Year 2024 Fringe Rates for the upcoming budget season.

Attached is the resolution RPAC-01-23 and WTW presentation for submittal to go through proper protocol. I am requesting for consideration for the next Budget & Finance Committee agenda, to accept and approve the FY24 Fringe Rates.

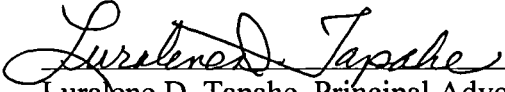
I appreciate your time and sponsorship. If you have further questions, please call me at (928) 871-6944.

xc: NN RPAC file
NNDRS file



MEMORANDUM

To: Hon. Seth Damon, Member
Budget & Finance Committee
25th Navajo Nation Council

From: 
Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

Date: March 15, 2023

Subject: **AN ACTION RELATING TO THE BUDGET & FINANCE COMMITTEE;
APPROVING THE FISCAL YEAR 2024 FRINGE BENEFIT RATES FOR THE
NAVAJO NATION RETIREMENT PLAN**

Per your request, the Office of Legislative Counsel has prepared the above-referenced proposed Legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon OLC's review of all supporting documents submitted, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-7166 or by email at: LuraleneTapahe@navajo-nsn.gov

Thank you for your cooperation.