

LEGISLATIVE SUMMARY SHEET

Tracking No. 0362-19

DATE: November 14, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-37-19

PURPOSE: The purpose of this resolution is override the President's veto of Council Resolution CO-37-19.

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 to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: 10:41AM 11-27-19
Posting End Date: 12-02-19
Eligible for Action: 12-03-19

Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL—FIRST YEAR, 2019

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0362-19

AN ACTION

RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL;
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION
COUNCIL RESOLUTION CO-37-19

BE IT ENACTED:

Section One. Authority

- A. All resolutions enacting new law or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10) and (11) and override by the Navajo Nation Council. 2 N.N.C. § 164(A)(17).
- B. A vetoed resolution shall first be submitted to Naabik'iyáti' Committee before consideration by the Council. 2 N.N.C. § 164 (A)(17).
- C. Veto legislation passed by the Navajo Nation Council [is] subject to an override of the veto by two-thirds (2/3) vote of the membership of the Navajo Nation Council. 2 N.N.C. § 1005(C)(11).

Section Two. Findings

- A. The Navajo Nation approved an amendment to increase the Navajo Tribal Utility Authority's debt limit from five hundred million dollars (\$500,000,000) to one billion five

1 hundred million dollars (\$1,500,000,000) in Council Resolution CO-37-19, attached as
2 **Exhibit A.**

3 B. The Navajo Nation President vetoed CO-37-19 on November 11, 2019 and provided a
4 memorandum, attached as **Exhibit B**, to support his decision to veto Council Resolution
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6 **Section Three. Override**

7 The Navajo Nation Council hereby overrides the Navajo Nation President's veto of
8 Resolution CO-37-19.
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RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL -- First Year, 2019

AN ACT
RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT, BUDGET AND
FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION
COUNCIL, APPROVING AMENDMENTS TO 21 N.N.C. §7 (b) (12) INCREASING
THE NAVAJO TRIBAL UTILITY AUTHORITY'S DEBT LIMIT

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee empowered to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. § 601 (B) (14).
- B. The Resources and Development Committee has oversight authority over public utilities. 2 N.N.C. § 500.
- C. The Budget and Finance Committee has oversight authority over finance matters of the Nation. 2 N.N.C. § 300.
- D. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee. 2 N.N.C. § 700 (A).
- E. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164 (A).

SECTION TWO. FINDINGS

- A. The Navajo Tribal Utility Authority plans to make significant investments intended to improve and expand NTUA's utility

facilities as well as acquire new facilities to serve customers within the Navajo Nation.

- B. The Navajo Tribal Utility Authority's current Ten Year Plan exceeds the current debt limit of \$500 million.
- C. The Navajo Tribal Utility Authority requests to increase its borrowing capacity to \$1.5 billion.

SECTION THREE. AMENDMENTS TO 21 N.N.C. § 7 (b) (12)

The Navajo Nation hereby amends Title 21, Navajo Nation Code as follows:

SECTION FOUR. APPROVAL

The Navajo Nation approves the amendment as indicated in Section Three above.

NAVAJO NATION CODE ANNOTATED
TITLE 21. PUBLIC UTILITIES AND COMMUNICATIONS
CHAPTER 1. NAVAJO TRIBAL UTILITY AUTHORITY
SUBCHAPTER 1. GENERALLY

§ 7. Management Board; purpose; duties and powers

B. Enumerated powers. Subject to Navajo Nation Council approval where required, and applicable Navajo Nation and federal laws and regulations, and solely in furtherance of the limited purposes set forth in 21 N.N.C. § 5, the management board shall have the following powers:

12. To borrow funds. To borrow money, make and issue notes, obligations and bonds of the authority for any of its purposes and to secure payment thereof by pledge of, or lien on, all or any of its fixtures, personality, revenues, income or contracts. The total outstanding long-term debt of the authority at any one

time shall not exceed ~~five hundred million dollars (\$500,000,000)~~
one billion five hundred million dollars (\$1,500,000,000).

Section FIVE. EFFECTIVE DATE

The Act enacted herein shall be effective upon its approval pursuant to 2 N.N.C. §221.

Section SIX. CODIFICATION

The provisions of this ordinance which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section SEVEN. SAVING CLAUSE

Should any provisions of this ordinance be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this ordinance which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in Favor, and 04 Opposed, on this 23rd day of October 2019.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

11-01-19

DATE

Motion: Honorable Edmund Yawie
Second: Honorable Pernell Halona

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2019.

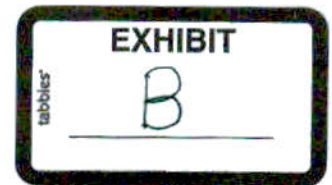
Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 11th day of November, 2019 for the reason(s) expressed in the attached letter to the Speaker.


Jonathan Nez, President
Navajo Nation

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



November 11, 2019

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CO-37-19, *Approving Amendments to 21 N.N.C. § 7(b)(12) Increasing the Navajo Tribal Utility Authority's Debt Limit*

Dear Speaker Damon,

Pursuant to the authority vested in the Navajo Nation President, I am vetoing CO-37-19.

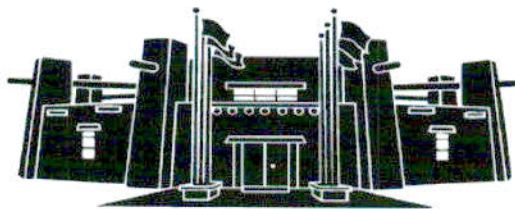
This resolution suffers from the lack of information. A request as large as this should come with proper justification, sufficient background information to explain the need, and reference to authority to approve the request. The atmosphere created by Navajo Nation enterprises in recent weeks brings national attention to the Nation, we must take care in acting on a request from any enterprise. The Legislative and Executive Branches should come together to review our enterprise's financials and require that our enterprise's be transparent to the sole owner. Additionally, the Navajo Nation's Controller gathered information pertinent to the enterprise's debt limit but was not allowed to present that information. The lack of proper information and the unanswered questions from the Office of the Controller lead me to veto CO-37-19.

We are the guardians of the public treasury and as elected officials we must ensure our decisions are based on valid information. The option of raising the debt limit in increments and after sufficient information is given may be considered in this situation should it return to Navajo leadership; but at this time I am vetoing CO-37-19.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Nez".

Jonathan Nez, President
THE NAVAJO NATION



MEMORANDUM

TO: Honorable Nathaniel Brown
24th Navajo Nation Council

FROM: Kristen Lowell
Kristen Lowell, Principal Attorney
Office of Legislative Counsel

DATE: November 14, 2019

SUBJECT: AN ACTION RELATING TO NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION COUNCIL RESOLUTION CO-37-19

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. §§301, 401, 501, 601 and 701. 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.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0362-19_____

SPONSOR: Nathaniel Brown

TITLE: An Action Relating to Naabik'iyáti and Navajo Nation Council; overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-37-19

Date posted: November 27, 2019 at 10:41am

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0362-19

SPONSOR: Honorable Nathaniel Brown


TITLE: An Action Relating to Naabik'iyáti and Navajo Nation Council; overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-37-19

Posted: November 27, 2019 at 10:41 AM

5 DAY Comment Period Ended: December 02, 2019

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comments	<i>None</i>



Legislative Tracking Secretary
Office of Legislative Services

12/03/19 8:40AM

Date/Time

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0362-19

SPONSOR: Honorable Nathaniel Brown


TITLE: An Action Relating to Naabik'iyáti and Navajo Nation Council; overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-37-19

Posted: November 27, 2019 at 10:41 AM

5 DAY Comment Period Ended: December 02, 2019

Digital Comments received:

Comments Supporting	1) Heather Clah, NTUA
Comments Opposing	<i>None</i>
Inconclusive Comments	<i>None</i>



Legislative Tracking Secretary
Office of Legislative Services

12/03/19 4:37PM

Date/Time

Heather Clah

From: Heather Clah
Sent: Sunday, December 1, 2019 4:45 PM
To: 'comments@navajo-nsn.gov'
Cc: Deenise Becenti; Heather Clah
Subject: Comments for Legis 0362-019; In favor of Override of President's veto of 0196-019
Attachments: NTUA GM Comments In Favor for Override-Memo to 24th NN Council 11-30-19.pdf; NTUA Revised PPT Debt Ceiling Increase 11-30-19.pdf; NTUA GM Revised Response to Controller Kirk Memo 11-30-19.pdf; When NTUA has the Ability to Borrow from Financial Lending Insitutions 11-30-19.pdf; NTUA Ownership of Power Generation Facilities 11-30-19.pdf; NTUA Request Supports Navajo Energy Policies - 11-30-19.docx.pdf; NTUA-Mgmt Board Approving amendment to Plan of Operation change Debt Limit Increase.pdf

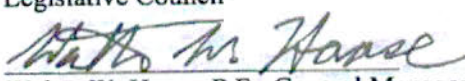


NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

MEMORANDUM

TO: Honorable 24th Navajo Nation Council
Legislative Council

FROM: 
Walter W. Haase, P.E., General Manager
Navajo Tribal Utility Authority

DATE: November 30, 2019

SUBJECT: NTUA's Comments In Favor of Legislation 0362-019; Overriding the President's Veto of Legislation 0196-019

On behalf of the Navajo Tribal Utility Authority (NTUA), I am submitting comments regarding Legislation 0362-019, Overriding the President's veto of Legislation 0196-019, NTUA's Debt Limit Increase. NTUA respectfully requests that the Navajo Nation council vote in favor of Legislation 0362-019 and override the President's veto of Legislation 0196-19, NTUA's Debt Ceiling Limit Increase.

I have developed the comments in the form of the following documents; they are attached in the following order:

1. Revised Power Point Presentation, NTUA Request for Debt Limitation Increase from the 24th Navajo Nation Council
2. Revised NTUA Memorandum response to Controller's Memorandum
3. When NTUA has the Ability to Borrow From Financial Lending Institutions, All of Navajo Benefits
4. NTUA Ownership of Power Generation Facilities and Providing Energy for Export Fundamentally Changes the Navajo Nation's Energy Future for the Better
5. NTUA's Request for Debt Limit Increase Supports President's Hayookkál Proclamation and the Navajo Nation Energy Policy of 2013
6. NTUA-22-18 Approving amendment to Plan of Operation change Debt Limit increase

The proposed override legislation is **NOT** asking the Nation for financial assistance, is **NOT** asking for a loan from the Nation to NTUA, is **NOT** asking the Nation to co-sign on any loan, and is **NOT** asking the Nation to put in place a surety bond. Further, NTUA is **NOT** asking the Nation to waive its sovereign immunity. NTUA is simply requesting to increase our ability to borrow money from financial lending institutions.

Raising NTUA's Debt Ceiling Limit does open the doors to new development, new jobs, and new business. This is the goal of NTUA. NTUA takes deep pride in developing new projects here on Navajo especially because it is a Navajo operated enterprise owned by the Navajo people.

Home Office:
P.O. BOX 170
FT. DEFIANCE, AZ 86504

KAYENTA
P.O. BOX 37
KAYENTA, AZ 86033

TUBA CITY
P.O. BOX 398
TUBA CITY, AZ 86045

SHIPROCK
P.O. BOX 1749
SHIPROCK, NM 87420

CHINLE
P.O. BOX 549
CHINLE, AZ 86503

FORT DEFIANCE
P.O. BOX 587
FT. DEFIANCE, AZ 86504

DILCON
HC 63 BOX D
WINSLOW, AZ 86047

CROWNPOINT
P.O. BOX 1825
CROWNPOINT, NM 87313

CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.

*This institution is an equal opportunity provider and employer.



Navajo Tribal Utility Authority

NTUA REQUEST FOR DEBT LIMITATION INCREASE FROM THE 24th NAVAJO NATION COUNCIL

DECEMBER 2019

Historical Debt Limit Changes are of Same Magnitude as the Current Request

1994: \$30 million to \$75 million

2002: \$75 million to \$200 million

2010: \$200 million to \$500 million

- Window Rock Wastewater Treatment Plant
- Chinle, Crownpoint District Office & HQ Buildings
- Kayenta II Solar Project
- Creation of and build out of NTUA Wireless & Broadband
- Over \$150 Million in Communications, Electric, Water, WWater, Natural Gas, and Solar infrastructure expansion & improvements

NTUA Requests a Debt Limit Increase from \$500 Million to \$1.5 Billion

NEEDED TO:

- Improve / Strengthen Existing Utility Infrastructure
- Expand Utility Businesses
- Continue Developing Major Projects
 - Current Capital Project Work Plan
- Continue Bringing Benefits to Navajo People
 - Increased Economic Opportunity
 - Tax Revenue
 - Job Creation

NTUA is simply requesting to increase NTUA's ability to borrow money from financial lending institutions

- NTUA is **NOT** asking the Navajo Nation for financial assistance
- NTUA is **NOT** asking for a loan from the Nation
- NTUA is **NOT** asking the Nation to co-sign on any loan
- NTUA is **NOT** asking the Nation to put in place a surety bond
- NTUA is **NOT** asking the Nation to waive sovereign immunity

NTUA's Financial Health is strong

Over a 60-year history:

- NTUA has **NEVER** asked Navajo Nation to help pay back loans
- NTUA has **NEVER** missed a loan payment
- NTUA has **NEVER** filed bankruptcy
- NTUA has **NEVER** missed a payroll

Financial Institutions will only lend NTUA money after a strict financial analysis

Rigorous Financial review includes:

- NTUA's historical payment history
- NTUA's future revenue stream
- NTUA's current & future assets
- NTUA will be measured against specific industry benchmarks
- NTUA will be measured against specific industry indicators

Benefits to Navajo People

All NTUA Development

- Keeps utility rates lower over longer period of time
 - Provide fund to connect more residential customers
 - Long term financing means long term repayment
 - Long term repayment means lower rates over time
- Increases Revenue help to extend electricity and water to more Navajo homes
- Creates new jobs, including specialized training
- Expands Broadband services/improves communications
 - Increased/Improved mobile phone services
 - Increased/Improved and expanded internet capabilities
 - Business growth through improved communications
- Delivers Multi-Utility System Improvement & Reliability
- Provides Navajo Nation taxes on construction
- Helps Navajo Businesses and local Chapters prosper
- Gives Scholarship and Internship Opportunities for Navajos



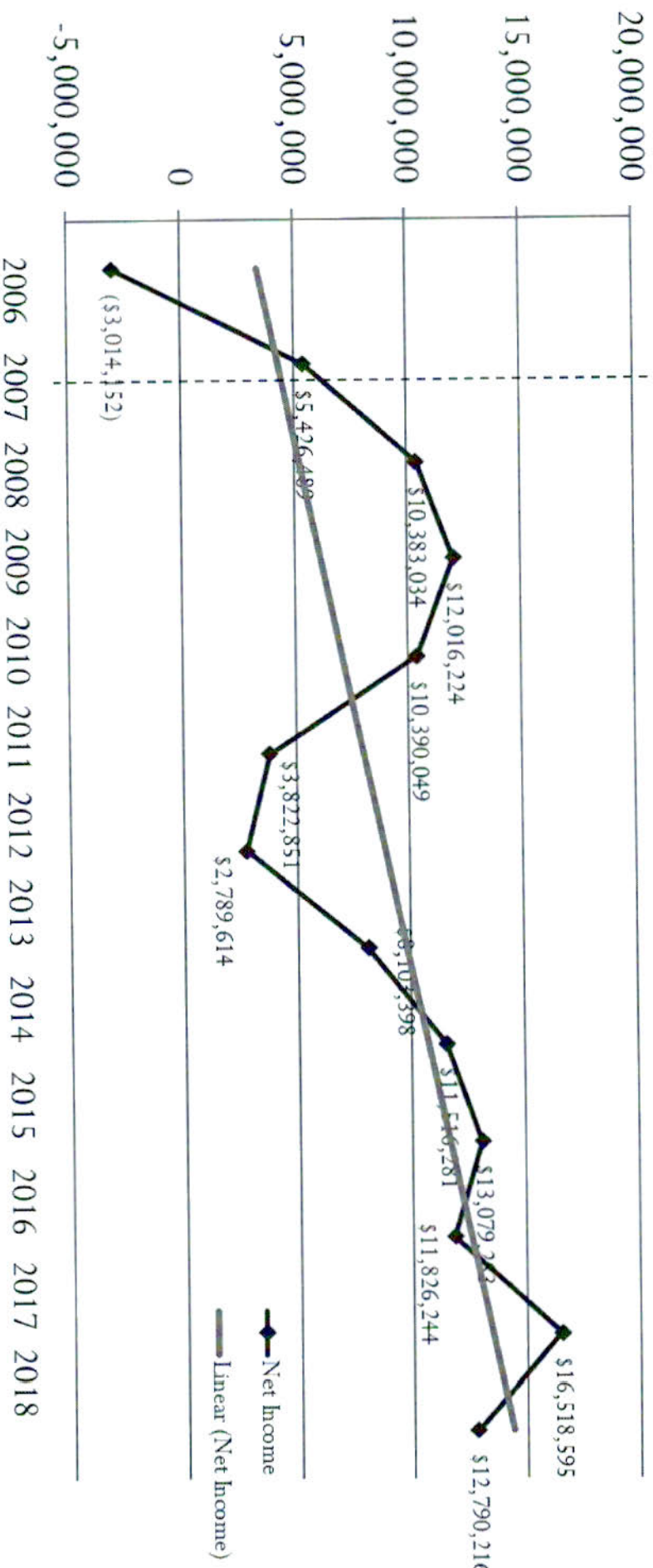
**Kayenta I – 284 employees
85 percent Navajo**



**Kayenta II
130 employees – 91% Navajo
More than 50% worked on
Kayenta I**

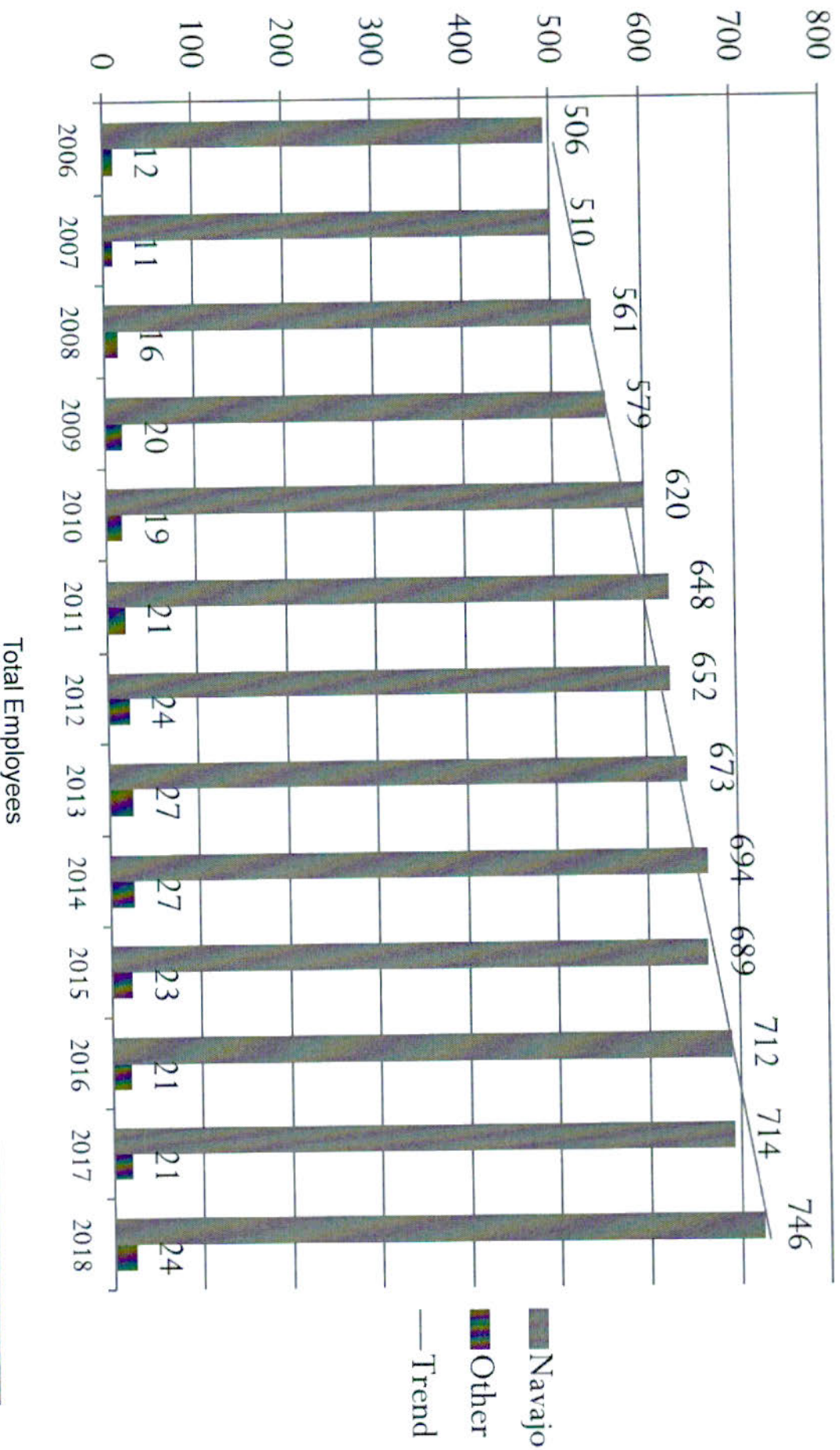
NTUA Financial Summary

NTUA 12 Year Audited Financial Statements: Net Position



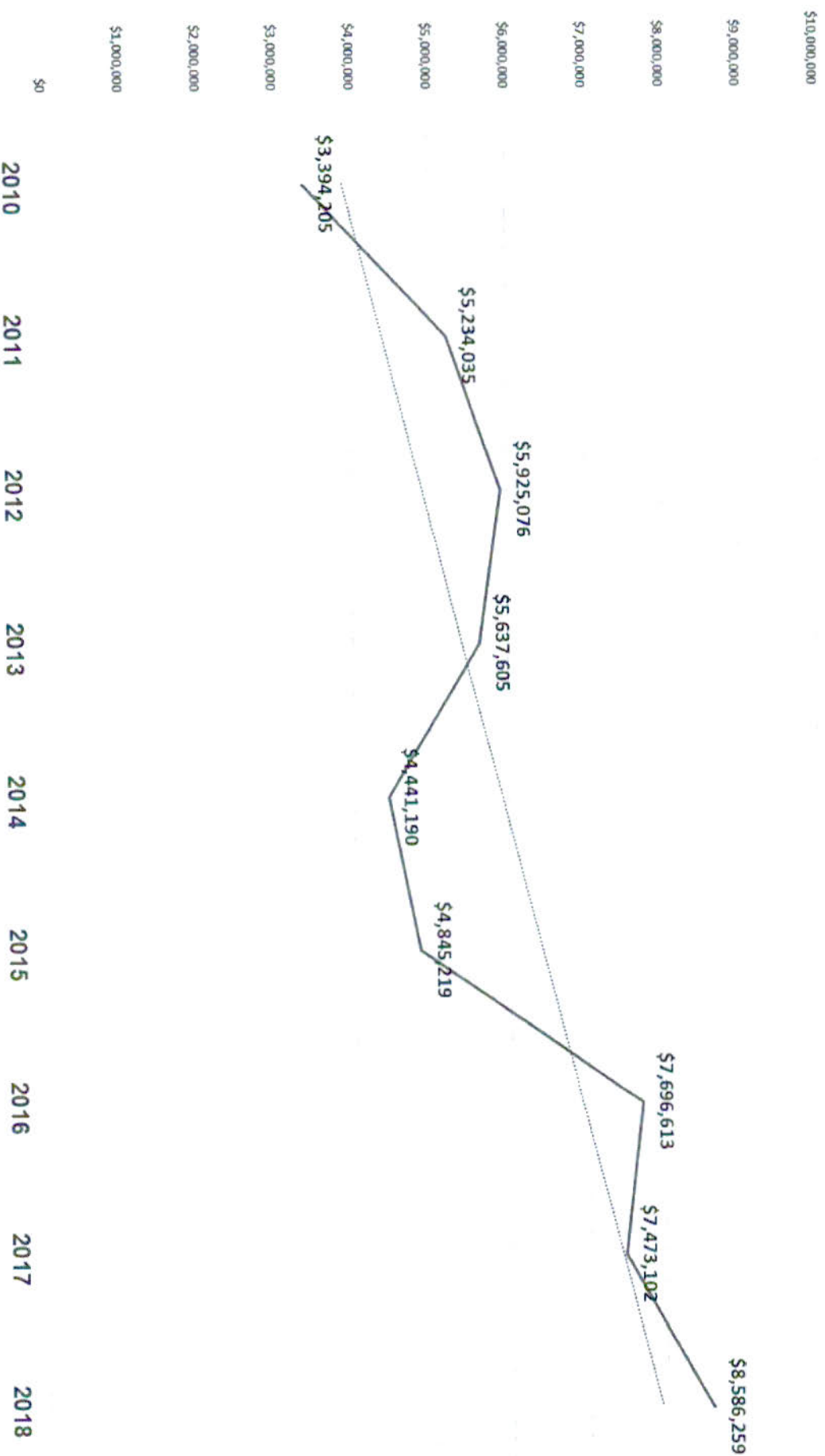
Workforce Growth & Stability Employment

13 Year Trend (2006 – 2018)



746 Employees of which 97% are of Navajo (722 employees)
24 employees – other Native or Non-Native

NTUA Does Pay Navajo Nation Taxes (NOT INCLUDING TAXES PAID BY NTUA CONTRACTORS)



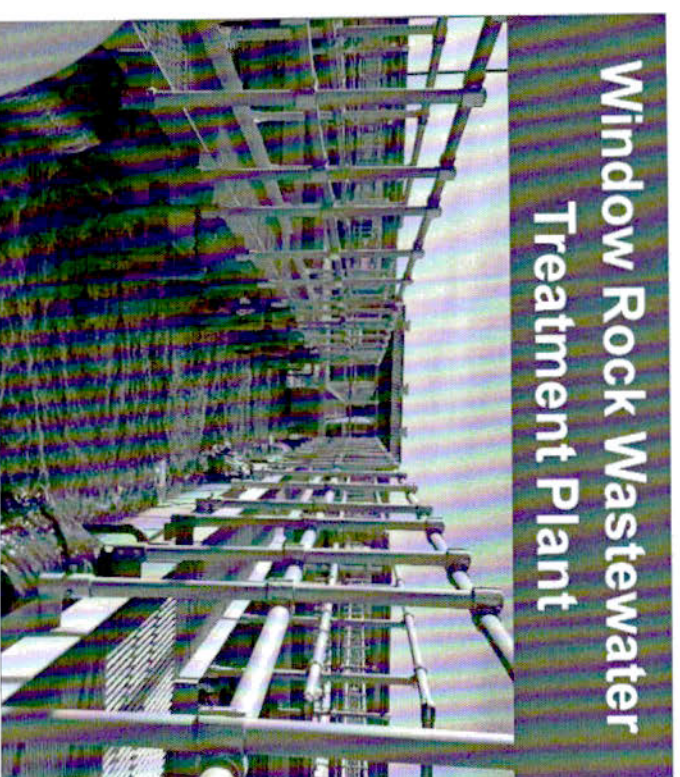
NTUA's 5-YEAR CAPITAL PROJECT SUMMARY

5-Year Construction Work Plan

Project Type	# of Major Projects	Amount
Electric & Communications Projects	80 projects 464.4 miles of powerlines	\$443,969,127
Natural Gas Projects	21	\$48,381,999
Water Projects	12	\$41,705,500
Wastewater Projects	12	\$107,913,287
Grand Total		\$641,969,913

Planned Major Projects 2020 – 2030

- 10 Year Electric/RUS Work Plans
- Renewable Energy Projects
 - Red Mesa Solar Farms – 70MW
 - Up to 10 Large Solar Farms
- Water Plants: Aneth, Kayenta, Montezuma Creek, Lower Greasewood
- Wastewater Treatment plants:
 - Kayenta, Shiprock, Tuba City, and Navajo, NM
- Natural Gas infrastructure expansion:
 - Dominion Questar Energy Southern Trails Natural Gas Pipeline acquisition -- means natural gas expansion to more communities



Planned Major Projects 2020 – 2030 (continued)

- **Acquisitions:**
 - Electric Service territories of outside Utilities operating on the Navajo Nation
 - Western Navajo: Tuba City region
 - Eastern Navajo Chapters
- **Wireless & Broadband service expansion**
 - Reaching more communities
- **Replace and upgrade infrastructure to maintain NTUA reliability and resiliency**

Estimated Navajo Nation Income Over 10 year period 2020 - 2030

NTUA Estimated Taxes to be Paid to Navajo Nation

over a 10 Year Period

- | | |
|---------------------------------------|---------------------|
| • Utilities Sales @ 6% | \$ 94,085,000 |
| • NTUA Construction Taxed @ 6% | \$ 57,100,000 |
| • Interest paid to NN on Sihasin Loan | \$ <u>8,186,000</u> |

Total estimated over next 10 years \$159,371,000

Request Justification

Looking Ahead for Opportunities:

- Projected to create at 2,500 construction jobs over 10 years
- Projected to create 500 permanent jobs over 10 year period
- Water and Wastewater Development and Expansion
- Communication & Broadband expansion
 - Mobile phones and Internet accessibility for more communities: e-rate, schools, hospitals, businesses, and government offices
- More Solar projects
 - Help keep NTUA electric rates low
 - Proceeds help to extend electricity to families without electric power
 - Bring new jobs, including on-the-job training in solar construction

More Justification

- Utility Infrastructure improvements benefits future generations
NTUA has never been in a better position to take on additional borrowing
 - Demonstrated Growth:
 - Rocky Mountain Power Acquisition
 - Wireless and Broadband Development
 - Renewable Energy Generation
 - Rebuilding of Aging Utility Infrastructure
 - No Electric Rate increase for over 12 years
 - Strong, dedicated workforce
 - 746 employees, 97% Navajo

**RESOLUTION
OF THE MANAGEMENT BOARD
OF THE NAVAJO TRIBAL UTILITY AUTHORITY**

NTUA-22-18

Approving an Amendment to the Plan of Operation
For the Navajo Tribal Utility Authority to Change Debt Limit Authorization and
Requesting Approval by the Navajo Nation Council

WHEREAS:

1. The Management Board of the Navajo Tribal Utility Authority (NTUA or Authority) is delegated authority and responsibility for the management and operation of NTUA pursuant to 21 N.N.C. § 7(A)(1); and
2. NTUA Management has recommended that NTUA's Plan of Operation, codified at 21 N.N.C. § 7(B)(12) which provides authorization for NTUA to borrow funds, be revised and updated to increase the authorized long-term debt at any one time to \$1,500,000,000; and
3. NTUA has undertaken a number of ongoing projects which are providing economic development opportunities and employment potential for the Nation, and these projects, which are economically separated from the Nation's responsibility, require the ability to be financed through NTUA's operation and system; and
4. NTUA Management recommends approval of the revision to the authorized long-term debt to borrow funds and requests authorization to proceed with a recommendation to the Navajo Nation Council for approval of the recommended increase.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Management Board hereby approves an amendment to the Plan of Operation for NTUA to increase its authorized long-term debt at any one time to \$1,500,000,000, as set forth in the proposed amendment attached hereto as exhibit 1.
2. The Management Board further requests approval by the Navajo Nation Council of the proposed amendment to the Plan of Operation, as set forth in exhibit 1.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered at a meeting of the Management Board of the Navajo Tribal Utility Authority conducted by conference call at which a quorum was present and the same was duly approved by a vote of 5 in favor, opposing, and 0 abstaining this 18th day of May, 2018.


Arash N. Moallemi, Secretary

ADDITIONAL FINANCIAL HISTORY SLIDES

Net Capital Assets

December 31, 2018, 2017, 2016

	2018	2017	2016
Capital assets:			
Electric	\$ 566,826,310	542,329,380	451,790,033
Natural gas	41,187,290	39,737,739	38,223,823
Water	407,790,329	402,303,736	385,743,197
Wastewater	193,890,078	193,997,613	189,350,402
Photovoltaic	8,980,522	8,098,895	8,322,215
Other	80,063,620	72,935,762	66,883,543
Common	103,661,943	70,815,096	65,779,982
Construction in progress	<u>35,229,105</u>	<u>24,750,141</u>	<u>63,889,140</u>
Total capital assets, gross	1,437,629,197	1,354,968,362	1,269,982,335

Debt Activity - year ending Dec. 31, 2018

	Balance at January 1, 2018	Increases	Decreases	Balance at December 31, 2018	Due within one year
Long-term debt					
Federal Financing Bank	\$ 176,163,352	15,000,000	(5,093,145)	186,070,207	5,080,926
Navajo Nation	23,437,949	16,225,972	(317,949)	39,345,972	—
Great Western Bank					
DOI Guarantee	14,138,153	—	(458,603)	13,679,550	490,289
Non-DOI Guarantee	19,183,952	—	(3,014,760)	16,169,192	1,141,020
Wells Capital Management, Inc.	16,151,000	—	(4,537,000)	11,614,000	4,709,000
National Rural Utilities					
Cooperative Finance					
Corporation	13,755,794	—	(1,916,694)	11,839,100	1,986,636
Brownfield Revitalization XIX, LLC	7,840,000	—	—	7,840,000	—
Rural Utilities Service	5,408,415	—	(290,075)	5,118,340	294,655
Clearinghouse NTMC	4,704,000	—	—	4,704,000	—
Ecotrust NTMC	—	4,534,750	—	4,534,750	—
Rural Economic and					
Community Development	3,310,345	—	(57,789)	3,252,556	59,528
Economic Development					
Administration	130,910	—	(3,583)	127,327	3,755
Total long-term debt	\$ 284,223,870	35,760,722	(15,689,598)	304,294,994	13,765,809

NAVAJO TRIBAL UTILITY AUTHORITY
(A Navajo Nation Enterprise)

Statements of Revenues, Expenses, and Changes in Net Position
Years ended December 31, 2018 and 2017

	2018	2017
Operating revenues:		
Electric	\$ 101,251,601	85,367,876
Gas	10,094,416	13,219,893
Water	20,643,460	19,930,652
Other	9,973,406	7,843,657
Wastewater	4,677,675	4,591,861
Photovoltaic	193,956	193,161
Gross operating revenues	147,734,604	131,147,106
Less (recovery of) provision for bad debts	(118,021)	121,746
Total operating revenues, net	147,852,625	131,025,360
Operating expenses:		
Electricity, gas, and water purchased for resale	53,567,644	45,309,108
Operation and maintenance	25,757,509	24,379,751
Administrative and general	24,733,692	22,284,190
Customer accounts and sales	3,471,628	3,046,952
Provision for depreciation and amortization	26,230,170	23,444,888
Total operating expenses	133,760,643	118,464,889
Operating income	14,091,982	12,560,471
Nonoperating revenues (expenses):		
Interest expense	(9,270,133)	(6,784,360)
Decrease in fair value of investments	(14,437)	(57,179)
Merchandising, jobbing, and contract work, net	292,164	75,704
Allowance for funds used during construction	53,032	253,850
Other, net	884,540	344,122
Investment and interest income	4,309,411	4,184,737
Income from investment in joint venture	2,443,657	5,940,951
Total nonoperating revenues (expenses)	(1,301,766)	3,958,125
Change in net position	12,790,216	16,510,596
Net position at beginning of year	180,079,100	163,560,504
Net position at end of year	\$ 192,069,316	180,079,100

NAVAJO TRIBAL UTILITY AUTHORITY
(A Navajo Nation Enterprise)

Revenues, Expenses, and Changes in Net Position Data by Type of Service

Year ended December 31, 2018

	Electric	Gas	Water	Wastewater	PV	Total
Gross operating revenues	\$ 111,225,097	10,994,416	20,643,460	4,677,675	193,956	147,734,604
Recovery of bad debt	65,502	9,442	32,361	9,465	1,251	118,021
Total operating revenues, net	111,290,599	11,003,858	20,675,821	4,687,140	195,207	147,852,625
Operating expenses:						
Electricity, gas, and water purchased for resale	48,509,649	3,928,901	1,129,094	—	—	53,567,644
Operation and maintenance	12,432,772	2,658,616	8,574,549	1,714,649	376,923	25,757,509
Administrative and general	13,551,074	2,014,879	6,888,830	2,012,474	266,435	24,733,692
Customer accounts and sales	1,711,916	271,012	1,127,523	334,577	26,600	3,471,628
Provision for depreciation and amortization	18,213,455	1,228,976	4,630,334	1,633,976	523,429	26,230,170
Total operating expenses	94,418,866	10,102,384	22,350,330	5,695,676	1,193,387	133,760,643
Operating income (loss)	16,871,733	901,474	(1,674,509)	(1,008,536)	(998,180)	14,091,982
Nonoperating revenues (expenses):						
Interest expense	(7,633,558)	(100,678)	(785,858)	(740,850)	(9,189)	(9,270,133)
Decrease in fair value of investments	94,224	(102,675)	(6,030)	78	(34)	(14,437)
Merchandising, jobbing, and contract work, net	119,094	(20,598)	93,529	104,076	(3,937)	292,164
Allowance for funds used during construction	44,437	4,031	3,975	520	69	53,032
Other, net	1,522,503	(353,670)	(44,361)	(155,063)	(84,869)	884,540
Investment and interest income	2,471,572	62,459	921,987	853,084	309	4,309,411
Income from investment in joint venture	2,443,657	—	—	—	—	2,443,657
Total nonoperating revenues (expenses)	(938,071)	(511,131)	183,242	61,845	(97,651)	(1,301,766)
Change in net position	15,933,662	390,343	(1,491,267)	(946,691)	(1,095,831)	12,790,216
Net position at beginning of year	69,346,094	16,732,749	69,754,288	23,901,993	343,976	180,079,100
Change in working capital provided by (to) other services	(2,602,641)	(2,170,227)	(2,356,519)	4,961,915	2,167,472	—
Net position at end of year	\$ 82,677,115	14,952,865	65,906,502	27,917,217	1,415,617	192,869,316

ADDITIONAL UTILITY RATE AND INFRASTRUCTURE SLIDES

Regional Utility Rates Comparison – as of January 31, 2019

Average NTUA Usage

NTUA

Page

Farmington

Gallup

Flagstaff

Winslow (Tuba City)

Blanding, UT

Jemez Mountain (Torreon)

Cont Divide (Crownpoint)

RMP - Utah (Aneth-subject

to RMP Rates until 2021)

Average Rates

Residential							Tax Rates
Electric Summer	Electric Winter	Gas Summer	Gas Winter	Water	Waste Wtr		
390	580	20	65	4,400	4,400		
kWh	kWh	Therms	Therms	Gallons	Gallons		
				5/8" Meter	5/8" Meter		
\$ 34.61	\$ 48.67	\$ 16.63	\$ 37.72	\$ 31.75	\$ 17.06	6.0%	
33.24	46.39	16.87	32.32	17.42	28.58	7.3%	
45.79	64.81	23.65	50.18	18.00	17.17	8.3%	
46.92	69.21	23.65	50.18	29.89	20.38	6.7%	
42.90	58.00	16.87	32.32	34.10	20.55	9.4%	
42.90	58.00	16.87	32.32	27.76	34.17	7.3%	
46.07	65.48	17.80	57.85	27.00	22.50	3.6%	
53.55	72.81					6.0%	
60.55	78.60					6.0%	
40.51	60.77					6.0%	

\$ 44.70 \$ 62.27 \$ 18.90 \$ 41.84 \$ 26.56 \$ 22.92

NTUA 11-year Residential Electric Connections

Year	Families	NN Tax from Construction	NN Tax from Consumption
2018	335	\$859,275	\$108,983
2017	409	\$874,238	\$84,123
2016	322	\$688,275	\$77,544
2015	256	\$547,200	\$72,342
2014	308	\$658,350	\$67,266
2013	407	\$869,963	\$60,831
2012	509	\$1,087,988	\$52,587
2011	782	\$1,671,525	\$40,968
2010	748	\$1,598,850	\$27,198
2009	677	\$1,447,088	\$14,373
2008	460	\$983,250	\$4,140

5,213 families connected
Average 474 homes per year

**Total NN Taxes for
Connections \$11,896,357**

**Future NN Annual
Consumption Tax \$112,601**

**On average, NTUA employs
91 staff members for
construction & construction
support activities**

**Since 2008, NTUA has
contributed \$7,819,500 to
electric connections
@ \$1,500 per home**

Real Cost of NTUA Electric Service

Per Residential Customers

Average Yearly Revenue - 2017	\$ 629.94
Average Monthly Revenue - 2017	52.49
Average Yearly kWh - 2017	5,576
Average Monthly kWh - 2017	465
Cost per Kwh	0.113

NTUA net margin on this sale is 5% or \$31.50

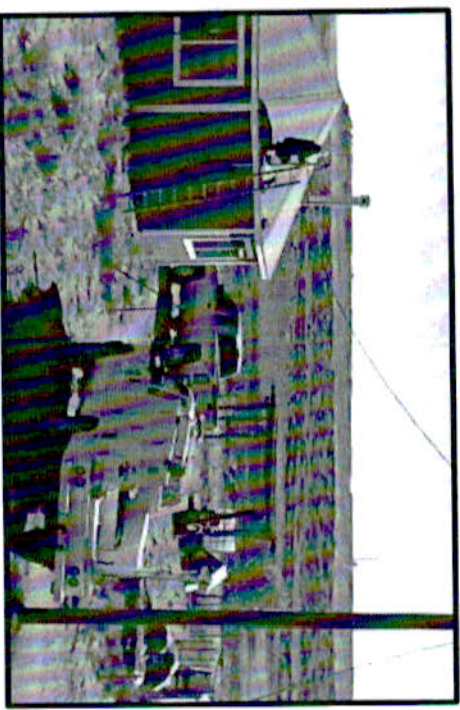


Each family receives a \$1,500 credit on the cost of connecting their home to the electric grid

Cost to pay off the \$1,500 is over 40 years which is longer than depreciated life of equipment

In the last three years - the average cost to connect one family - \$40,000

- 15,000 families without electricity @ \$40k = \$600 million
- \$350 million for transmission lines and electric substations



➤ **\$950 million to \$1.0 Billion to connect all 15,000 families**

To connect all families in 10 years with borrowed money from RUS over 40 years – @ zero interest rate

The average annual NTUA residential bill – will go from \$630 per year to over \$6,000 per year

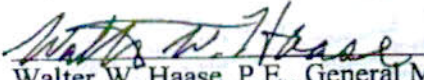


NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

MEMORANDUM

TO: Honorable 24th Navajo Nation Council
Legislative Council

FROM: 
Walter W. Haase, P.E., General Manager
Navajo Tribal Utility Authority

DATE: November 30, 2019

SUBJECT: NTUA's response to Controller Kirk's Memorandum dated October 21, 2019 regarding Legislation 0196-19: Proposed NTUA Debt Ceiling Increase

On behalf of the Navajo Tribal Utility Authority (NTUA), I am responding to the memorandum dated October 21, 2019, from the Office of the Controller concerning Legislation 0196-019, the proposed NTUA Debt Ceiling Increase. I had provided a memo to you in October. I have updated that memo and am providing this memo as the Council considers Legislation 0362-019, overriding the President's veto.

Navajo leaders created NTUA in 1959 with the vision that the enterprise would grow to serve the utility needs of the Navajo people and at the same time become a successful business of the Navajo Nation. Since my tenure began in 2008, we have been working to achieve what the Nation's leaders envisioned and the debt ceiling increase is another step to reach the vision.

I would like to clarify that the proposed legislation is **NOT** asking the Nation for financial assistance, is **NOT** asking for a loan from the Nation to NTUA, is **NOT** asking the Nation to co-sign on any loan, and is **NOT** asking the Nation to put in place a surety bond. Further, NTUA is **NOT** asking the Nation to waive its sovereign immunity. NTUA is simply requesting to increase our ability to borrow money from financial lending institutions.

Under my leadership, NTUA will only request a debt ceiling increase when it is in the best interest of the Nation and its people. Even if NTUA's debt ceiling is increased, financial institutions will only lend NTUA money when we meet their strict financial analysis and review. This review includes NTUA's historical payment history, future revenue stream and current assets. *Our financial health is strong.* Over our 60-year history, NTUA has **NEVER** asked the Nation to assist in paying back our loans, **NEVER** missed a loan payment, **NEVER** filed bankruptcy, and **NEVER** missed a payroll.

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P.O. BOX 170
FT. DEFANCE, AZ 86504

KAYENTA
P.O. BOX 37
KAYENTA, AZ 86033

TUBA CITY
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TUBA CITY, AZ 86045

SHIPROCK
P.O. BOX 1749
SHIPROCK, NM 87420

CHINLE
P.O. BOX 549
CHINLE, AZ 86503

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FT. DEFANCE, AZ 86504

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WINSLOW, AZ 86047

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CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.

*This institution is an equal opportunity provider and employer.

In her memo, Controller Kirk does not accurately portray the complete financial picture of NTUA, as I explain: Controller's Office comments are italicized and underlined and my responses follow.

According to the Controller's Office, they reviewed 2015, 2016, 2017, and 2018 audited NTUA financials and raised the following four (4) issues:

1. *"NTUA has five revenue generating lines of operation Electric, Gas, PV, Wastewater, and Water. According to their 2018 audited financial statements only two of the operations lines, Electric and Gas operations, are returning profit. This is very concerning trend regarding the non-operations and requires insight on ongoing operations and future endeavors."*

I am very proud to report that NTUA as a total business has been profitable. Our Net Income has been increasing year over year since 2006 showing a strong increasing trend. NTUA's natural gas and electric components of the business (which includes Electric, Residential Solar, and Communication) are returning a profit. In an effort to keep NTUA's Water and Wastewater rates as affordable as possible for our customers NTUA charges our residential customers less than what it costs to provide these services. Water is essential for life and must remain affordable. Therefore, the NTUA Management Board has determined it is necessary that Water and Wastewater be subsidized by our other lines of business.

2. *"As of December 31, 2018 NTUA had an outstanding debt balance of approximately \$304 million. In addition to their long-term debt, there is a line of credit with a balance of \$79 million. For a cost of \$383 million."*

"If Council decides to increase NTUA's debt ceiling we recommend a consolidated, inclusive of all lines of operations, Debt to Equity Ratio (D/E) of 2.5. This measure will be based on Debt only (i.e. Loans, Lines of Credits, 'IOUS') This relative measure will reduce the chances of default and financial support. Generally, a D/E ratio of 1 or lower is a safe outlook and a 2 or higher signals potential default."

NTUA would like to impress upon the Honorable delegates that certain ratios relied upon by the Controller's office are not the only ratios used by banking facilities to determine creditworthiness. Nor can a few ratios be used as the sole basis for a decision that could possibly stifle growth, jobs and business opportunities made available to NTUA.

The Controller did not consider the cash and cash equivalents earmarked for debt service by NTUA when deciding to recommend or not to recommend the increase in the debt ceiling. Without having a full knowledge of NTUA's business and 10 – 30-year forecast in hand, a thorough analysis of NTUA business cannot be performed adequately. The Controller does not have a background in the utility business and therefore cannot begin to understand the amount of funds needed to continue to grow in the utility industry. Her calculations were incorrect and therefore should not be relied upon. Using only a few ratios to determine the future of a billion-dollar organization is not prudent and appears to have the effect of misleading the Nation's decision-makers.

NTUA is in the utility business and borrows from reputable lenders that are in the business of lending funds to utility businesses. These lenders perform a rigorous financial analysis of NTUA's current and future business health, have benchmarks and use indicators that allow them to decide if NTUA and similar utilities are overleveraged. Although NTUA is seeking an increase to the debt ceiling, NTUA will still need to meet the lending requirements of reputable lenders. Banks will **NOT** lend funds to NTUA if the balance sheet and income statement are not solid and/or are perceived to be risky.

NTUA has a strong credit history that includes issuing over \$700 million in long & short term debt and retiring more than \$300 million in principal. Therefore, NTUA has always taken a conservative approach to indebtedness and the requested debt increase maintains a conservative outlook. NTUA will continue to protect the interests of the Navajo people for years to come.

All of that being recognized, I want to explain that NTUA's debt to equity ratio is 0.65. This is because NTUA's total debt of \$304 million (page 36 – NTUA 2018 Audited financials) and including the line of credit \$79 million (page 13 – NTUA 2018 Audited financials) results in a balance of \$383 million outstanding debt. However, on a cash basis, the \$383 million needs to be reduced by \$17 million (page 36 – NTUA 2018 Audited financials) of New Market transactions (which are not subject to debt service) leaving a balance of \$366 million outstanding debt.

Additionally, net position (owner's equity) would need to be increased by \$371 million (page 13 – NTUA Audited financials). Contribution in aid of construction is a component of NTUA's net position and would function as "paid in capital." This would result in an equity balance of \$564 million.

Therefore, NTUA's debt to equity ratio is 0.65 (\$366 million/\$564 million), which is consistent with Controller Kirk's advice that "a D/E ratio of 1 or lower is a safe outlook."

3. "Organic growth is a concept that a company can finance internal growth with the profits it generates. When a company cannot finance internal growth with earnings, the risk is higher. Typically, company borrows money to expand, the increased borrowing should generate a significant/higher return on asset (ROA). In the case of NTUA, their current borrowing does not significantly increase their ROA. Therefore, increasing debt ceiling is concerning."

It is unclear why Controller Kirk states that NTUA's current borrowing does not significantly increase our ROA. Please be assured that NTUA evaluates all projects to make sure that any assets purchased will have a positive return. Furthermore, NTUA's operating revenue has increased significantly from \$113 million to \$148 million (page 5 – NTUA Audited financials) from 2016-2018. Along with this trend in revenue increase, NTUA is expecting 2019 total revenue to increase to \$153 million, from 2018's revenue total of \$148 million.

In recent years, NTUA has made use of debt to establish two communication companies, to construct the Kayenta I solar farm, to construct the Kayenta II solar farm, to acquire an electric utility system (the former Rocky Mountain Power service territory serving electricity to the Nation) and to refinance electric system debt. Each of these endeavors have and will significantly enhance our return on assets. Kayenta II went on-line on August 2, 2019, therefore did not impact NTUA's 2018 Net Income or Revenue.

These endeavors have significantly raised our ability to generate revenues, Net Income and the proceeds have been used to keep NTUA's utility rates low. Specifically, NTUA has not increased electric rates in the past 12 years. This is a very rare accomplishment and would not have been possible without these types of endeavors. NTUA's financial growth means that the average Navajo family's electric rates have not increased.

4. "The Financial health of NTUA is concerning. NTUA is a utility company that should operate for the long run. The Nation should be cautious of a \$1 billion increase to NTUA's debt ceiling."

I agree that NTUA should operate for the long run. NTUA's strength is the reliability of the customer base. With the increase in the debt ceiling NTUA is focused on diversifying our revenue streams and this ensures continued operations in the long run.

Lastly, it is my hope that our message is understood – that we have set a path to move forward on the vision set in 1959. We are striving to become stronger and an entity that exemplifies the pride of the Navajo Nation. Our success is your success. Thank you.



November 30, 2019

WHEN NTUA HAS THE ABILITY TO BORROW FROM FINANCIAL LENDING INSTITUTIONS, ALL OF NAVAJO BENEFITS

The Navajo Tribal Utility Authority (NTUA) has continuously served the Navajo people for more than 60 years. NTUA was established on January 22, 1959, to address the absence of utilities on the Navajo Nation, and NTUA has grown into a thriving creditworthy, financially strong, tribally-owned enterprise of the Navajo Nation that delivers a portfolio of services to the Navajo people. During its 60 years of operation, NTUA has operated in a financially prudent manner that has never required a financial bailout by the Navajo Nation. NTUA is organized for the operation, maintenance and expansion of (1) electric distribution and transmission, (2) communications, (3) natural gas, (4) water, (5) wastewater and (6) power generation. NTUA's objectives include promoting employment opportunities on the Navajo Nation, while improving the health and welfare of the residents of the Navajo Nation.

The legislation currently before the Navajo Nation Council is to obtain an increase in NTUA's ability to borrow funds from \$500M to \$1.5B as described in NTUA's Plan of Operation, under Section 7(B) (12). NTUA herein provides some clarification related to the importance of the legislation in order to maintain NTUA's mission, as well as to continue to promote the overall growth and development of the Navajo Nation.

NTUA has developed a long-range plan, which includes developing and maintaining infrastructure assets that promote the six utilities listed above, while maintaining Navajo majority ownership of such assets, which promotes Navajo Nation sovereignty and independence. NTUA has determined that the ability to have access to the commercial financial markets ensures its ability to complete the development of its long range plan, while ensuring our Navajo customers are not burdened with unreasonable rate increases. With the debt ceiling increase, NTUA can continue its successful efforts to grow the Navajo Nation economy, as well as to bring much needed jobs and business opportunities to the Navajo Nation.

NTUA projects like the Kayenta Solar I & II, the Window Rock Wastewater Treatment Plant, new NTUA office buildings, the creation of Choice NTUA Wireless/Broadband, and distributed solar facilities, are just a small sample of our major projects that have benefited from access to commercial financing. Importantly, NTUA projects are owned by Navajo people and result in economic development and job creation on the Nation. NTUA's efforts under Light Up Navajo!, which has brought much needed electrification services to Navajo homes that had never had service, benefitted from NTUA's relationship with commercial financing institutions because NTUA was able to encourage donations to Light Up Navajo! for the purchase of materials and other project costs.

Historically, NTUA's ability to secure commercial financing has been done without the need to obtain any financial security from the Navajo Nation. NTUA is not seeking to modify this approach, but rather is seeking to increase its ability to engage in such transactions, while not jeopardizing any financial resources of the Navajo Nation. NTUA's financial transactions are backed by NTUA's historical ability to repay, NTUA's assets and NTUA's projected revenue streams.

I would like to clarify that this request to increase NTUA's debt ceiling is **NOT** asking the Nation for financial assistance, is **NOT** asking for a loan from the Nation to NTUA, is **NOT** asking the Nation to co-sign on any loan, and is **NOT** asking the Nation to put in place a surety bond. Further, NTUA is **NOT** asking the Nation to waive its sovereign immunity. NTUA is simply requesting to increase our ability to borrow money from financial lending institutions.

If the Council does not override the veto, then NTUA efforts over the past 60+ years to increase electrification, water, waste water and other basic utility access for all the Navajo people **at costs lower** than the surrounding utility service providers will be significantly hindered. While NTUA can complete certain projects that are under construction and are on a short-term scope, NTUA fears that long-range projects that are designed to assist in ensuring that funds are available to maintain development may be jeopardized, which may negatively impact NTUA's ability to sustain low utility rates.

NTUA's efforts over the past 60+ years has promoted Navajo Nation sovereignty, Navajo Nation ownership and independence. By raising NTUA's debt ceiling limit to \$1.5B, the Navajo Nation can assure that NTUA has all the financial tools at its disposal to continue to promote new infrastructure development, which will improve the lives of Navajo people, create new jobs, bring revenue to the Navajo Nation government, as well as afford opportunities for existing and new Navajo owned business.

The Navajo Nation can be proud of its support of NTUA, which is the largest tribal utilities enterprise in the United States and stands on a solid, reliable, creditworthy, financially strong foundation, which is independent of the revenues or assets of the Navajo Nation central government. NTUA is a revenue provider, job creator, economic stimulus agent for the Navajo Nation. NTUA requests the debt ceiling increase to maintain and expand upon the growth that has been provided for the Navajo people.

Achieving this status has taken NTUA 60+ years to establish on Navajo and in the financial markets. NTUA has achieved this status with a sense of deep pride, because NTUA is a Navajo Nation enterprise owned and operated by the Navajo people.



November 30, 2019

**NTUA OWNERSHIP OF POWER GENERATION FACILITIES
AND PROVIDING ENERGY FOR EXPORT FUNDAMENTALLY CHANGES
THE NAVAJO NATION'S ENERGY FUTURE FOR THE BETTER**

On January 22, 2019, the Navajo Tribal Utility Authority (NTUA) celebrated its 60th anniversary. NTUA is an enterprise of the Navajo Nation and is 100% owned by the Navajo Nation and its people – just as it was established by Navajo leaders in 1959

As part of the Navajo Nation, NTUA was organized through its plan of operation to not only build multi-utility infrastructure but to evolve the Navajo Nation economy by elevating the Navajo peoples' workforce capabilities and by creating new job opportunities for the Navajo people. NTUA has grown from 500 permanent employees to 746 in twelve (12) years. Approximately 97% of NTUA's workforce are Navajo people and the majority of its employees live on the Nation.

NTUA's revenue has grown from \$76.1 Million in 2006 to over \$147 Million in 2018. NTUA's Net Income has grown from a deficit of negative \$3 Million in 2006 to a surplus of over \$12 Million in 2018. NTUA's capital assets has also grown substantially during that time and now is greater than \$1.4 Billion. NTUA has NOT raised the rates of its largest business unit (electric rates) in this same 12-year period. NTUA's new Headquarters and all of its districts are located within the Navajo Nation. Delivery of all goods are delivered to the Navajo Nation. This means NTUA ensures the Navajo Nation is able to collect as much Navajo Nation taxes as possible. Additionally, almost all of NTUA's construction occurs on the Navajo Nation, which ensures that the Nation collects the taxes associated with the construction cost. In 2018 NTUA paid over \$8.5 Million in taxes to the Navajo Nation.

As NTUA grows, the Navajo Nation's economy and its people prosper.

NTUA has developed two utility solar scale power generation facilities: Kayenta I & II Solar farms. The Navajo Nation was NEVER the owner and operator of the coal-fired power generation plants on the Navajo Nation: the Navajo Generating Station (NGS) and the Four Corners Power Plant (FCPP). As such, the Navajo Nation's benefits were limited to lease payments, coal royalties and possible job opportunities. All the profits generated for the owners of and power generated by NGS was used to power and build up communities and cities off the Navajo Nation. None of the power generated was provided to the Navajo Nation to power our economy, homes and businesses. Now that the owners of NGS have made the decision to shut down, the lease payments, coal royalties and more importantly the jobs have or will disappear. Now is the time for the Navajo Nation and its enterprises to take the lead and establish solutions that will provide long-term benefits for the Navajo Nation and its people. Now is the time for the Navajo people to become the owners and long-term decision makers of power generation!

NTUA, through the development of generation facilities on the Navajo Nation such as the Kayenta I & II Solar farms, continues to make sure that the Navajo people benefit directly from the projects it develops, owns, operates and manages. For example, the Kayenta Solar farms not only provide electricity to 36,000 homes across the Navajo Nation, they have increased the revenue to NTUA, which helped stabilize electric rates and provide seed funding to Light Up Navajo!. In 2019, Light Up Navajo! connected 233 Navajo homes with electricity for the first time. In 2020, Light Up Navajo! Is expected to connect over 300 Navajo homes with electricity for the very first time.

With NTUA's next large scale renewable energy project Red Mesa Tapaha Solar Project, NTUA will further change the Navajo Nation's energy future. Through self-determination, the Nation, through NTUA, will become power generation owners and energy exporters, and no longer be merely landlords. The Red Mesa Tapaha Solar Project will generate approximately 70 MW. The majority (66 MWs) of the energy will be sold to 16 communities located in Utah and the remaining portion of the energy being used by NTUA to support Navajo communities in Utah. Through NTUA as an energy exporter and generation owner, the Navajo Nation will receive 100% of the benefits, including, but not limited to, facility ownership, increased jobs, local revenue, taxes for both the local and Navajo governments, as well as small business opportunities.

Most importantly, the Navajo people through NTUA, will be majority owners of the Red Mesa Tapaha Solar Project. This, however, can only occur if the veto is overturned and NTUA's debt ceiling is increased. No other entity, but NTUA, is positioned, structured and has historically demonstrated an ability to ensure that energy production on the Nation will 100% benefit the Navajo Nation and its people.



November 30, 2019

**NTUA’S REQUEST TO HAVE ITS DEBT CEILING RAISED SUPPORTS THE
NAVAJO HÁYOOKKÁÁL PROCLAMATION AND FOLLOWS
THE NAVAJO NATION ENERGY POLICY OF 2013**

On April 2, 2019 President Jonathan Nez and Vice-President Myron Lizer signed the Navajo Háyookkáál (Sunrise) Proclamation (“Proclamation”). The Proclamation states that the Navajo Nation will pursue and prioritize clean renewable energy development for the long-term benefit of the Navajo People. The Proclamation is based on four principals:

1. Cultivating a diverse energy portfolio;
2. Restoring the land and water;
3. Rural Electrification of homes; and
4. Development of utility-scale renewable energy projects.

The Proclamation aligns with the Navajo Nation Energy Policy of 2013 (“Policy”). The Policy acknowledges that energy forms a cornerstone of the Navajo economy by providing jobs, electrifying homes and generating revenue. The Policy has a preference for Navajo majority-owned entities and promotes majority ownership of projects by Navajo Enterprises. It also speaks to a balanced energy portfolio, environmental stewardship, electrification of homes and supporting community scale electricity generation for use on the Navajo Nation.

The Navajo Tribal Utility Authority (“NTUA”) is strategically positioned to meet the goals of both the Proclamation and the Policy for the benefit of the Navajo Nation and its people.

NTUA has built and owns the first two utility scale solar generating farms on the Navajo Nation known as Kayenta Solar I & II. Combined these two plants produce over 55 megawatts of emission free energy which generate enough electricity to serve approximately 36,000 homes on the Navajo Nation. These projects further alleviate the Navajo Nation’s reliance on dirty fossil fuels by diversifying the energy portfolio and promoting additional sustainable energy generation. In 2020, NTUA’s renewable energy portion of its total electrical energy supply is projected to be more than 43%.

By NTUA becoming an electric generating utility and having majority ownership in generation plants located on the Navajo Nation, the Navajo people’s money stays here on the Navajo Nation to help support the Navajo economy instead of some outside community’s economy. Furthermore, NTUA has increased its ability to become a power exporter by selling thermal energy to third parties.

NTUA is now supplying Salt River Project with thermal energy and “Renewable Energy Credit” (RECs) to further increase revenues for NTUA. Increased revenues directly go to increasing the infrastructure development for the Navajo people, with the proceeds from these sales used to keep the lowest possible electric rates and to help connect Navajo homes to the electric grid. A prime example is Light Up Navajo!.

The success of Kayenta Solar I & II and in becoming an energy exporter, NTUA has:

1. Increased utility infrastructure development;
2. Brought significant tax dollars to the Navajo Nation;
3. Created significant economic activity to the local chapter and Navajo Nation during construction;
4. Created significant short-term jobs over two years that were filled predominantly by Navajo;
5. Provided specialized solar facility construction training for the Navajo workforce; and
6. Secured ownership for the Navajo people in large scale renewable generation assets.

As a result, NTUA continues to prioritize clean renewable energy generation project development. Next NTUA plans to develop the Red Mesa Tapaha Solar Project on the Utah portion of the Navajo Nation for sales to 16 communities throughout the State of Utah. The Red Mesa Tapaha Solar Project is expected to generate over 70 megawatts of energy. NTUA has demonstrated that as a Navajo Nation enterprise it is capable of constructing, operating and maintaining large scale renewable energy projects that are revenue generating and financeable.

In the Nation’s Energy Policy of 2013, Navajo leaders foresaw the substantial economic value of exporting energy to communities surrounding the Navajo Nation and in metropolitan areas. Further, Navajo leadership viewed ownership of energy projects as critical in optimizing profits, maximizing control, balancing risks and protecting the interests of the Navajo People. Finally, Navajo leaders recognized that revenues generated from exports could be used to subsidize the cost of utilities for Navajo residents.

In the spirit of the Navajo Háyoolkáál Proclamation and the Navajo Energy Policy of 2013, NTUA is requesting an increase in the debt limit from \$500 million to \$1.5 billion dollars. Failure to secure a debt limit increase will jeopardize the success of projects like the Red Mesa Tapaha Solar Project. Without the approval of the debt limit increase, NTUA may not be able to secure ownership of the project which will substantially impact what control the Navajo Nation will have over the Project. In short, the Navajo people would be forced to relinquish ownership in the Red Mesa Tapaha Solar Project.

Unlike the Navajo Generating Station, the Navajo Nation should not merely take a role of landlord and be reduced to receiving nominal lease payments, coal royalty payment and have limited oversight and economic benefit for the Navajo Nation and its people. Owning generation facilities will continue to empower the NTUA to optimize revenue, maximize control, balance risks and ultimately protect the interests of the Navajo People as envisioned by all Navajo leaders. The revenues generated from such NTUA-owned generation projects will be reinvested back into the Navajo Nation through expansion of infrastructure and subsidizing the cost of utilities for thousands of Navajo families. Increasing the debt ceiling limit ensures that NTUA can continue to uphold its promise of acquiring, developing, constructing, operating and maintaining utility systems throughout the Navajo Nation.

**RESOLUTION
OF THE MANAGEMENT BOARD
OF THE NAVAJO TRIBAL UTILITY AUTHORITY**

NTUA-22-18

**Approving an Amendment to the Plan of Operation
For the Navajo Tribal Utility Authority to Change Debt Limit Authorization and
Requesting Approval by the Navajo Nation Council**

WHEREAS:

1. The Management Board of the Navajo Tribal Utility Authority (NTUA or Authority) is delegated authority and responsibility for the management and operation of NTUA pursuant to 21 N.N.C. § 7(A)(1); and

2. NTUA Management has recommended that NTUA's Plan of Operation, codified at 21 N.N.C. §7(B)(12) which provides authorization for NTUA to borrow funds, be revised and updated to increase the authorized long-term debt at any one time to \$1,500,000,000; and

3. NTUA has undertaken a number of ongoing projects which are providing economic development opportunities and employment potential for the Nation, and these projects, which are economically separated from the Nation's responsibility, require the ability to be financed through NTUA's operation and system; and

4. NTUA Management recommends approval of the revision to the authorized long-term debt to borrow funds and requests authorization to proceed with a recommendation to the Navajo Nation Council for approval of the recommended increase.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Management Board hereby approves an amendment to the Plan of Operation for NTUA to increase its authorized long-term debt at any one time to \$1,500,000,000, as set forth in the proposed amendment attached hereto as exhibit 1.

2. The Management Board further requests approval by the Navajo Nation Council of the proposed amendment to the Plan of Operation, as set forth in exhibit 1.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered at a meeting of the Management Board of the Navajo Tribal Utility Authority conducted by conference call at which a quorum was present and the same was duly approved by a vote of 5 in favor, opposing, and 0 abstaining this 18th day of May, 2018.


Arash N. Moalemi, Secretary

EXHIBIT 1

CO-37-19

NAVAJO NATION CODE ANNOTATED
TITLE 21. PUBLIC UTILITIES AND COMMUNICATIONS
CHAPTER 1. NAVAJO TRIBAL UTILITY AUTHORITY
SUBCHAPTER 1. GENERALLY

§ 7. Management Board; purpose; duties and powers

B. Enumerated powers. Subject to Navajo Nation Council approval where required, and applicable Navajo Nation and federal laws and regulations, and solely in furtherance of the limited purposes set forth in 21 N.N.C. § 5, the management board shall have the following powers:

12. To borrow funds. To borrow money, make and issue notes, obligations and bonds of the authority for any of its purposes and to secure payment thereof by pledge of, or lien on, all or any of its fixtures, personality, revenues, income or contracts. The total outstanding long-term debt of the authority at any one time shall not exceed ~~five hundred million dollars (\$500,000,000)~~ one billion five hundred million dollars (\$1,500,000,000).

24th NAVAJO NATION COUNCIL NAABIK'ÍYÁTI' COMMITTEE REPORT First Year 2019

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0362-19

An Action Relating to Naabik'íyáti' and Navajo Nation Council; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CO-37-19.

Sponsored by: Honorable Nathaniel Brown

Has had it under consideration and reports the same that the legislation **WAS PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL.**

Respectfully Submitted,



Honorable Seth Damon, Chairman
NAABIK'ÍYÁTI' COMMITTEE

12 December 2019

MAIN MOTION

Motioned by: Honorable Pernell Halona

Seconded by: Honorable Jimmy Yellowhair

Vote: 11 in Favor, 02 Opposed (Chairman Damon Not Voting)

NAVAJO NATION

12/12/2019

Naa'bik'iyati Committee Meeting

08:57:48 PM

Amd# to Amd#	Legislation 0362-19: Overriding	PASSED
MOT Halona, P	the Navajo Nation President's	
SEC Yellowhair	Veto of Navajo Nation Council	
	Resolution CO-37-19	

Yea : 11

Nay : 2

Excused : 0

Not Voting : 10

Yea : 11

Begay, E
Begay, K
Begay, P

Brown
Slater, C
Smith

Tso, C
Tso, E
Tso, O

Walker, T
Yellowhair

Nay : 2

Tso, D

Halona, P

Excused : 0

Not Voting : 10

Charles-Newton
Crotty
Daniels

Freeland, M
Henio, J
James, V

Nez, R
Stewart, W

Wauneka, E
Yazzie

Presiding Chair: Damon