LEGISLATIVE SUMMARY SHEET
Tracking No. 0138-19

DATE: May 24, 2019

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; ACCEPTING THE FOLLOW-UP REVIEW OF KAIBETO CHAPTER CORRECTIVE ACTION PLAN IMPLEMENTATION; IMPOSING SANCTIONS FOR NOT IMPLEMENTING THE CORRECTIVE ACTION PLAN

PURPOSE: The purpose of the resolution is to accepts the Auditor General's Report," A Follow-up Review of the Kaibeto Chapter Corrective Action Plan Implementation" (Report No. 19-13, March, 2019). If approved, it will cause ten percent (10%) of monies payable from any governmental fund of the Navajo Nation as defined at 12 N.N.C. § 810 (S) to be withheld after the recommended sanction is approved by the Budget and Finance Committee and issued to Kaibeto Chapter until such time as the Kaibeto Chapter demonstrates to the Auditor General that the corrective action plan has been implemented per 12 N.N.C. § 9(B). If approved, the Navajo Nation Controller shall cause twenty percent (20 %) of the chapter officials stipend payments to be withheld per 12 N.N.C. § 9 (C).

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: 28 88
Website Posting Time/Date:
Posting End Date: 6.4.19
Eligible for Action: 6.5.19

Resources & Development Committee
Thence
Budget & Finance Committee

PROPOSED STANDING COMMITTEE RESOLUTION

24TH NAVAJO NATION COUNCIL -- First Year, 2019

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0138-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; ACCEPTING THE FOLLOW-UP REVIEW OF KAIBETO CHAPTER CORRECTIVE ACTION PLAN IMPLEMENTATION; IMPOSING SANCTIONS FOR NOT IMPLEMENTING THE CORRECTIVE ACTION PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee serves as the oversight committee for Chapter of the Navajo Nation. 2 N.N.C § 501(C)(1).

B. The Auditor General's Plan of Operation, codified in 12 NNC §§ 1-10, provides that "12 months after the release of the audit report, the Auditor General conduct a follow-up to determine the status of implementation [of the corrective action plan.]" 12 N.N.C. § 7(G).

C. The Budget and Finance Committee is charged with receiving post-audit follow-up reports from the Auditor General. 12 N.N.C §§ 6(B) and 7(H).

D. As part of the follow-up report, the Auditor General shall recommend action to be taken by the Budget and Finance Committee and present the report to the standing committee or committees having oversight responsibility for the audited program. 12 N.N.C. § 7 (G).

E. Based on the follow-up review and any recommendations made by the standing committee having oversight responsibility for the audited program, the Budget and Finance Committee will determine what actions should be taken. 12 N.N.C. § 7(I).

F. The Auditor General Plan of Operation provides for the imposition of sanctions under 12 N.N.C. §§ 9(B) and (C), upon the recommendation of the Auditor General in accordance with 12 N.N.C. § 7(G).

G. The Auditor General Plan of Operation provides that "[a]ny director or chapter official whose salary or other payments are withheld pursuant to § 9(C) shall have the right to have the withholding reviewed by the Navajo Nation Office of Hearing and Appeals." 12 N.N.C. § 9(D).

SECTION TWO. FINDINGS

A. The Auditor General previously conducted an audit of Kaibeto Chapter. The Budget and Finance Committee approved the audit report and the corrective action plan on March 6, 2018 in resolution BFMA-09-18, which is attached as **Exhibit B**.

B. The Auditor General conducted a follow-up review to determine if the corrective action plan had been implemented. The Auditor General's report titled, "A Follow-up Review of the Kaibeto Chapter Corrective Action Plan Implementation" (Report No. 19-13, March, 2019) is attached as **Exhibit A**.

C. The corrective action plan listed eight (8) corrective measures. The Kaibeto Chapter implemented 3 (or 38%) of the corrective measures in the corrective action plan. As a result, the Chapter's corrective action plan has not been implemented.

D. The Auditor General recommended sanctions be imposed upon Kaibeto Chapter and its officials in accordance with 12 N.N.C. §§ 9(B) and 9(C). The Budget and Finance Committee is authorized to make the final determination on what actions should be taken.

SECTION THREE. ACCEPTANCE AND APPROVAL

A. The Navajo Nation hereby accepts **Exhibit A**, Auditor General's Report,"A Follow-up Review of the Kaibeto Chapter Corrective Action Plan Implementation" (Report No. 19-13, March, 2019).

B. The Navajo Nation Controller shall cause ten percent (10%) of monies payable from any governmental fund of the Navajo Nation as defined at 12 N.N.C. § 810 (S) to be withheld after the recommended sanction is approved by the Budget and Finance Committee and issued to Kaibeto Chapter until such time as the Kaibeto Chapter demonstrates to the Auditor General that the corrective action plan has been implemented per 12 N.N.C. § 9(B).

C. The Navajo Nation Controller shall cause twenty percent (20 %) of the chapter officials stipend payments to be withheld per 12 N.N.C. § 9 (C).

D. The chapter officials may appeal the imposition of sanctions immediately in accordance with 12 N.N.C. § 9(D).

E. The Kaibeto Chapter shall provide proof of implementation of the corrective action plan at which time the Auditor General shall immediately report the compliance to the Controller who shall then release all withheld funds in accordance with 12 N.N.C. §§ 9(B) and (C).

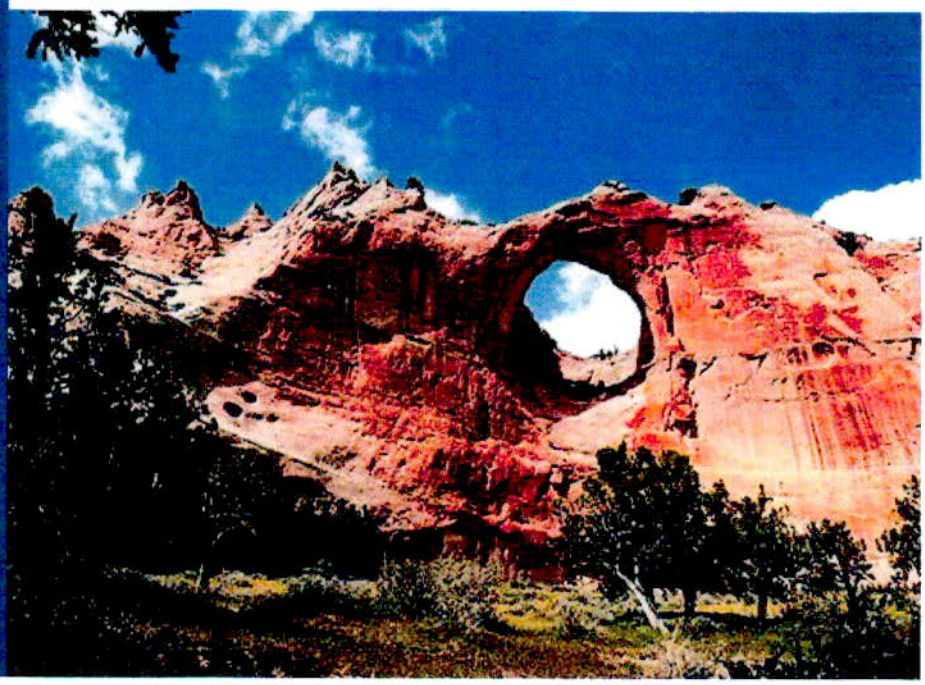
EXHIBIT "A"

EXHIBIT
A

OFFICE OF THE AUDITOR GENERAL

The Navajo Nation

A Follow-Up Review of the Kaibeto Chapter Corrective Action Plan Implementation



Report No. 19-13
March 2019

Performed by:
Karen Briscoe, Principal Auditor
Marcale Kaskalla, Associate Auditor

Office of the Auditor General
The Navajo Nation

Helen Brown, Principal Auditor
Delegated Auditor General

March 29, 2019

Franklin Fowler, President
KAIBETO CHAPTER
P.O. Box 1761
Kaibeto, AZ 86053

Dear Mr. Fowler:

The Office of the Auditor General herewith transmits Audit Report No. 19-13, a Follow-up Review of the Kaibeto Chapter Corrective Action Plan Implementation.

BACKGROUND

In 2017, the Office of the Auditor General performed a Special Review of Checks Disbursed to the Kaibeto Chapter Accounts Maintenance Specialist and issued audit report no. 17-41. A corrective action plan was developed by the Kaibeto Chapter in response to the special review. The audit report and corrective action plan were approved by the Budget and Finance Committee on March 6, 2018, per resolution no. BFMA-09-18.

OBJECTIVE AND SCOPE

The objective of the follow-up review is to determine whether the Kaibeto Chapter fully implemented its corrective action plan based on a five-month review period of October 1, 2018 to February 28, 2019. Our review was based on inquiries, review of records and audit test work.

SUMMARY

The Kaibeto Chapter did not resolve the prior audit finding. Of 8 corrective measures, the Kaibeto Chapter implemented 3 (38%) corrective measures, leaving 5 (62%) not implemented. See attached Exhibit A for the detailed explanation of the follow-up results.

CONCLUSION

The Kaibeto Chapter has not reasonably addressed the audit findings from the 2017 audit of the Chapter. Therefore, the Office of the Auditor General recommends sanctions on the Kaibeto Chapter and officials in accordance with 12 N.N.C. Section 9 (B) and (C).

We wish to thank the Kaibeto Chapter staff and officials for assisting in this follow-up review.

Sincerely,

Helen Brown, Principal Auditor
Delegated Auditor General

xc: Tom Franklin, Vice President
Yolanda Ellis-Bileen, Secretary/Treasurer
Ella Dodson-Slick, Accounts Maintenance Specialist
Vacant, Community Services Coordinator
Paul Begay, Council Delegate
KAIBETO CHAPTER
Johnny Johnson, Department Manager II
ADMINISTRATIVE SERVICES CENTER/DCD
Chrono

Exhibit A

REVIEW RESULTS
Kaibeto Corrective Action Plan Implementation
Review Period: October 1, 2018 to February 28, 2019

Audit Issues	**Total # of Corrective Measures**	**# of Corrective Measures Implemented**	**# of Corrective Measures Not Implemented**	***Audit Issue Resolved?***	**Review Details**
1. Chapter Community Services Coordinator and officials pre-signed blank checks.	1	1	0	**Yes**	See Attachment A
2. Weak controls in the Chapter cash disbursement process.	5	1	4	**No**	
3. The Community Services Coordinator and Secretary Treasurer were not consistently monitoring the Accounts Maintenance Specialist's activities.	2	1	1	**No**	
TOTAL:	**8**	**3**	**5**	**1- Yes** **2- No**	

WE DEEM CORRECTIVE MEASURES: **Implemented** where the Chapter provided sufficient and appropriate evidence to support all elements of the implementation; and **Not Implemented** where evidence did not support meaningful movement towards implementation, and/or where no evidence was provided.

2019 STATUS	**Issue #1: The Chapter Community Services Coordinator and officials pre-signed blank checks.** **RESOLVED**
The Chapter is no longer pre-signing checks.	

2019 STATUS	**Issue #2: Weak controls in the Chapter cash disbursement process.** **NOT RESOLVED**

During the five month review period, the Administrative Services Center (ASC) was managing the accounting system from mid-October 2018 to mid-February 2019 because the Chapter did not have a Community Services Coordinator (CSC) and Accounts Maintenance Specialist (AMS). As such, ASC required the Chapter to have all documents in place prior to issuing checks. Therefore, the review of 40 disbursement files totaling $25,710 were approved and supported with documentation before checks were signed. Nonetheless, the continued implementation of the process is contingent upon the new AMS, hired in mid-January 2019, and officials to maintain this process.

The accounting system was returned to the Chapter in February 2019 but our comparison of chapter records, bank records, and the accounting system revealed the following:

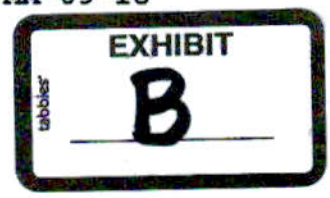
1. Missing original voided checks.
2. Unposted voided checks.
3. Unposted disbursements.
4. A manual check totaling $250 was issued by a Chapter official without documentation and approval.
5. A check amount of $1,148.16 was altered to $1,094.08 and never adjusted in the accounting system.
6. Not all bank reconciliations are completed and reviewed for accuracy.
7. An unauthorized individual from the ASC was signing Chapter checks.

These issues indicate a lack of improvement in the disbursement process. The Chapter officials relied on ASC in managing the system. Although the Chapter receives monthly bank statements and has access to accounting system reports, the officials did not monitor the maintenance of an adequate accounting system to detect discrepancies. Lastly, although there was no CSC or AMS, the Chapter continued to expend chapter funds. Overall, the risks for misappropriation of funds to occur still exist.

2019 STATUS	**Issue #3: The Community Services Coordinator and Secretary/Treasurer were not consistently monitoring the Accounts Maintenance Specialist's activities.** **NOT RESOLVED**

In the initial audit, the former AMS was able to misappropriate Chapter funds because no one reviewed her work. This risk still exist. Since the Chapter does not have a CSC, the work of the current AMS should be reviewed by the Chapter officials but this was not done. Therefore, discrepancies with the accounting system went undetected. This creates an opportunity for unauthorized transactions and misuse of Chapter funds.

BFMA-09-18



RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE; ACCEPTING THE SPECIAL REVIEW OF CHECKS DISPERSED TO THE KAIBETO CHAPTER ACCOUNTS MAINTENANCE SPECIALIST SUBMITTED BY THE OFFICE OF THE AUDITOR GENERAL AND APPROVING THE CORRECTIVE ACTION PLAN SUBMITTED BY THE KAIBETO CHAPTER

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation Council established the Resources and Development Committee ("RDC") as a Navajo Nation standing committee and as such gave RDC oversight authority over the Chapters. 2 N.N.C. §§ 164 (A)(9), 500 (A) and 501 (C)(1)(2012) *see also* CO-45-12.

B. The Navajo Nation Council established the Budget and Finance Committee ("B&F") as a Navajo Nation standing committee and as such empowered B&F to review and approve audit reports and corrective action plans by resolutions. 2 N.N.C. §§ 164(A)(9), 300(A)(2013) *see also* CO-45-12 and 12 N.N.C. § 7(D)(2009).

SECTION TWO. FINDINGS

A. There is established the Office of the Auditor General under the Navajo Nation Council. *See* 12 N.N.C. § 1.

B. The purpose of the Office of the Auditor General shall be to provide continuing professional audit and management services to the Navajo Nation government with regard to the adequacy of management and accounting systems, procedures, practices and internal controls, including but not limited to … [c]onducting financial audits and reviews of financial records of chapters, related Navajo Nation entities and contractors. See 12 N.N.C. § 2(A)(1).

C. In June, 2017, the Auditor General conducted a Special Review of the Kaibeto Chapter, Report No. 17-41 and attached hereto as **Exhibit A**.

D. A corrective action plan was developed by the Kaibeto Chapter in August, 2017 and is attached hereto as **Exhibit B**.

SECTION THREE. ACCEPTING REPORT NO. 17-41 AND APPROVING THE CORRECTIVE ACTION PLAN

A. The Navajo Nation accepts Audit Report No. 17-41, a Special Review of the Checks Disbursed to the Kaibeto Chapter Accounts Maintenance Specialist as found in attached **Exhibit A**, and approves the Kaibeto Chapter Corrective Action Plan as found in attached **Exhibit B**.

B. The Navajo Nation directs the Office of the Auditor General to provide copies of the Kaibeto Chapter Corrective Action Plan to the Resources and Development Committee, as part of their oversight responsibility for the Chapters. 12 N.N.C. § 7(F)(2009).

C. The Navajo Nation directs the Kaibeto Chapter to submit a written status report on its progress in implementing the Corrective Action Plan to the Office of the Auditor General six months after the approval of this resolution. 12 N.N.C. § 7(F)(2009).

D. The Navajo Nation directs the Office of the Auditor General to review Kaibeto Chapter's written status report and report to the Resources and Development Committee, as well as the Budget and Finance Committee. 12 N.N.C. § 7(F)(2)(2009).

E. The Navajo Nation hereby directs the Office of the Auditor General to conduct a follow-up review twelve (12) months after the approval of this resolution to verify actions claimed to the have been taken by the Kaibeto Chapter, to issue a written follow-up report indicating the Kaibeto Chapter's progress in implementing the Corrective Action Plan, and to make recommendations to the Resources and Development Committee, as well as the Budget and Finance Committee.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor and 0 opposed, this 6th day of March, 2018.

Seth Damon, Chairperson
Budget and Finance Committee

Motion: Honorable Dwight Witherspoon
Second: Honorable Leonard Tsosie

Office of the Auditor General
The Navajo Nation

Helen Brown, Principal Auditor
Delegated Auditor General

M-E-M-O-R-A-N-D-U-M

TO : Ed McCool, Acting Chief Legal Counsel
OFFICE OF LEGISLATIVE COUNSEL

FROM : Karen Gracie for
Helen Brown, Principal Auditor
Delegated Auditor General
OFFICE OF THE AUDITOR GENERAL

DATE : April 30, 2019

SUBJECT : Request for Legislation –Kaibeto Chapter

We request your office to prepare the legislation "An Action Relating to Resources and Development and Finance; Accepting the Follow-Up Review of the Kaibeto Chapter Corrective Action Plan Implementation, and Imposing Sanctions against the Kaibeto Chapter and officials for failure to implement the corrective action plan. The legislation sponsor will be Council Delegate Paul Begay.

Attached as Exhibit "A" is Audit Report No. 19-13 "A Follow-Up Review of the Kaibeto Chapter Corrective Action Plan Implementation" and Exhibit "B" Resolution BFMA-09-18.

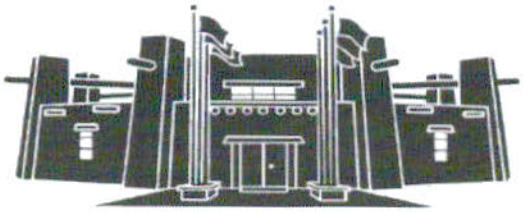
If you have any questions, please contact our office at extension 6303. Thank you.

Attachment

xc: Paul Begay, Council Delegate
KAIBETO CHAPTER
Chrono

P.O. Box 708 / Window Rock, AZ 86515 / Ph. (928) 871-6303, 6304 / Fax (928) 871-6054 / E-mail: auditorgeneral@navajo.org

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

TO: Honorable Paul Begay
Coppermine, K'aii'to, LeChee, Tonalea/Red Lake, Bodaway/Gap) Chapters

FROM: Mariana Kahn
Mariana Kahn, Attorney
Office of Legislative Counsel

DATE: May 24, 2019

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; ACCEPTING THE FOLLOW-UP REVIEW OF KAIBETO CHAPTER CORRECTIVE ACTION PLAN IMPLEMENTATION; IMPOSING SANCTIONS FOR NOT IMPLEMENTING THE CORRECTIVE ACTION PLAN

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting.

Please ensure that his 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.

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. 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).