

SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0/08-23

Date: May 15, 2023

Re: **AN ACT RELATING TO THE LAW & ORDER, HEALTH, EDUCATION, AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING AMENDMENTS TO THE NAVAJO NATION VETERANS TRUST FUND AT 12 N.N.C. §1171 - §1178**

Purpose of this Legislation:

to approve amendments to the Veterans Trust Fund.

OLC No. 23-107-1

5-DAY BILL HOLD PERIOD 8/10
Website Posting Time/Date _____
Posting End Date: 05-21-23
Eligible for Action: 05-22-23

Law & Order Committee
Thence
Health Education & Human Services Committee
Thence
Budget & Finance Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

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

Introduced by:



(Prime Sponsor)

Tracking No. 0108-23

AN ACT

RELATING TO THE LAW & ORDER, HEALTH, EDUCATION, AND HUMAN
SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES,
AND THE NAVAJO NATION COUNCIL; APPROVING AMENDMENTS TO
THE NAVAJO NATION VETERANS TRUST FUND AT 12 N.N.C. §1171 - §1178

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law & Order Committee of the Navajo Nation Council reviews and recommends proposed amendments to the Navajo Nation Code. 2 N.N.C. §600(B)(14).
- B. The Health, Education, and Human Services Committee has oversight authority over veterans' services. 2 N.N.C. §400(A), §400(B)(6)(a).
- C. The Budget and Finance Committee is authorized to review and recommend to the Council resolutions that strengthen the fiscal and financial position of the Navajo Nation and promote the efficient use of the financial resources of the Navajo Nation. 2 N.N.C. §300(A), §300(C)(3).
- D. The Naabik'íyáti' Committee of the Navajo Nation Council reviews all proposed legislation that requires final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).
- E. The Navajo Nation Council is the governing body of the Navajo Nation, and approves amendments to Navajo Nation law. 2 N.N.C. §102(A), 2 N.N.C. §164(A).

1 **SECTION TWO. FINDINGS**

2 A. Due to a different statutory interpretation, the amount of available funds for veterans'
3 services was much lower during FY2022.

4 B. The needs of Navajo veterans have increased since the Navajo Nation Veterans Trust Fund
5 was first established in Resolution No. CJY-46-98.

6 C. The Department of Justice, the Navajo Nation Veterans Administration, and the Office of
7 the Controller have collaborated and prepared revised language in the Veterans Trust Fund
8 statute to address the differing statutory interpretations, and to avoid a shortfall in funding
9 for veterans' services.

10 D. The attached **EXHIBIT 1** is the version that the group prepared, and that DOJ has submitted
11 for legislative approval. This version was reviewed and deemed "legally sufficient" in
12 December of 2022.

13 E. There is a need to ensure that there are sufficient funds available to allocate for veterans'
14 services from the Veterans Trust Fund. Therefore, the Navajo Nation finds it in the best
15 interest of the Navajo Nation and Navajo veterans to approve the amendments to the Veterans
16 Trust Fund, attached hereto as **EXHIBIT 1**.

17
18 **SECTION THREE. APPROVING AMENDMENTS TO THE NAVAJO NATION**
19 **VETERANS TRUST FUND AT 12 N.N.C. §1171 - §1178**

20 The Navajo Nation hereby approves the amendments to the Veterans Trust Fund, at 12 N.N.C.
21 §1171 - §1178, as shown in the attached **EXHIBIT 1**.

22
23 **SECTION FOUR. CODIFICATION**

24 The provisions of this Act that amend or adopt new sections of the Navajo Nation Code shall
25 be codified by the office of Legislative Counsel. The Office of Legislative Counsel shall
26 incorporate such amended provisions in the next codification of the Navajo Nation Code.

27
28 **SECTION FIVE. EFFECTIVE DATE**

29 This Act shall become effective in accordance with 2 N.N.C. §221(B).

1 **SECTION SIX. SAVING CLAUSE**

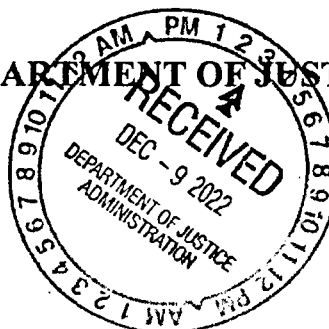
2 If any part of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any
3 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the
4 remainder of this Act shall be the law of the Navajo Nation.

EXHIBIT

1

NAVAJO NATION DEPARTMENT OF JUSTICE

**DOCUMENT
REVIEW
REQUEST
FORM**


☐ RESUBMITTAL

DOJ

12/9/22 3:00 PM

☒ DATE / TIME
☐ 7 Day Deadline

DOC #: 19902

SAS #:

UNIT: H394

*** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE

DATE OF REQUEST: 12/9/2022 DIVISION: OPVP
 CONTACT NAME: James Zwierlein DEPARTMENT: 037/NNVA
 PHONE NUMBER: 9289553947 E-MAIL: Jameszwierlein@navajo-nsn.gov

TITLE OF DOCUMENT: Doc #019902 Title 12 Amendment

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: Dec. 9, 2022 @ 4:30 PM REVIEWING ATTORNEY/ADVOCATE: CTB/CP.

DATE TIME OUT OF UNIT: 12/15/22 @ 2:00 PM

DOJ ATTORNEY / ADVOCATE COMMENTS

AMENDMENT APPEARS SUFFICIENT AFTER OUR DISCUSSION
 W/ OOL AND DOJ'S TEL. SUFFICIENT

REVIEWED BY: (Print) Date / Time SURNAMED BY: (Print) Date / Time

Chris Schwab 12 Dec 22

Why 12/5/22

DOJ Secretary Called: James Zwierlein for Document Pick Up on 12/15/22 at 2:05 By: [Signature]

PICKED UP BY: (Print)

DATE / TIME:

Document No. 019902Date Issued: 12/09/2022**SECTION 164 REVIEW FORM**Title of Document: Title 12 Amendment Contact Name: ZWIERLEIN JR, JAMES DALEProgram/Division: EXECUTIVE OFFICES (OP/NP)Email: jameszwierlein@navajo-nsn.gov Phone Number: 505.371.8467Division Director Approval for 164A:  

Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.

Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council

<input checked="" type="checkbox"/>	Statement of Policy or Positive Law:						
	1. OAG:	<u>UJ</u>	Date:	<u>12/14/22</u>	Sufficient	Insufficient	
					<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)						
	1. OMB:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	2. OOC:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	3. OAG:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	

Section 164(B) Final approval rests with the President of the Navajo Nation

<input type="checkbox"/>	Grant/Funding Agreement or amendment:						
	1. Division:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	2. OMB:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	3. OOC:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	4. OAG:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	Subcontract/Contract expending or receiving funds or amendment:						
	1. Division:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	2. BRD:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	3. OMB:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	4. OOC:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	5. OAG:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:						
	1. Division:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	2. OAG:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	M.O.A. or Letter of Assurance expending or receiving funds or amendment:						
	1. Division:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	2. OMB:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	3. OOC:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	
	4. OAG:		Date:		<input type="checkbox"/>	<input type="checkbox"/>	

TITLE 12. FISCAL MATTERS
CHAPTER 10. NAVAJO NATION TRUST FUNDS
SUBCHAPTER 8. NAVAJO NATION VETERANS TRUST FUND

§1171. Establishment

A. The "Navajo Nation Veterans Trust Fund" hereinafter the "Trust Fund" is established with an initial appropriation of six million dollars (\$6,000,000) from revenues from the Undesignated Tribal Reserves.

B. Each year, during the appropriation of the Navajo Nation Comprehensive Budget, the Navajo Nation Council shall budget a sum equal to at least 4% of any and all projected revenues of the Navajo Nation, including, but not limited to revenues received from taxes, oil and gas mining and minerals, timber, land rentals, interest and dividends, gain on sale of securities and other revenue producing activities as follows: for transfer to and use by Trust Fund funded programs and the Navajo Veterans Housing Program as set forth within this chapter. Any allocations above the mandatory minimum 4% set-aside shall be designated as additional contributions to veterans programs or the Navajo Veterans Housing Program within the annual comprehensive budget legislation as approved by the Navajo Nation Council.

~~1. One half of the 4% shall be transferred to the Navajo Veteran's Trust Fund to be used as set forth herein.~~

~~2. The remaining one half of the 4% shall be allocated to the Navajo Veterans Housing Program and administered by the Navajo Nation Veterans Administration (NNVA).~~

~~a. The Navajo Veterans Housing Program will maximize the use of the allocated funds, including through leveraging additional funding sources such as match funding when available, in order to construct as many turnkey homes as possible for veterans without permanent housing, as well as to provide major and minor home renovations and repairs to veterans with permanent housing.~~

~~b. Subparagraph (a) above shall apply to honorably discharged Navajo veterans, without regard to age, gender or geographical location, as long as such location is within the exterior boundaries of the Navajo Nation.~~

~~c. Subparagraph (a) above shall also apply to honorably discharged Navajo veterans living beyond the exterior boundaries of the Navajo Nation, without regard to age, gender or geographical location, except that assistance shall be limited to financial assistance as set forth in the Navajo Veterans Housing Program Policies.~~

~~C. Navajo veterans shall be limited to assistance from the Navajo Veterans Housing Program for the construction or purchase of one new home, not including renovations and repairs.~~

~~D. The annual appropriation authorized above shall not expire and unexpended funds shall not lapse back into the Veterans Trust Fund and shall continue to be expended for the purposes for which they were appropriated.~~

§1172. Purpose

The purpose of the Trust Fund is to provide funding for veterans programs, projects and services or activities which may include, but not be limited to program/project development, community/economic development, housing, training and employment opportunities, leveraging or matching funds for exemplary projects, protection and advocacy services, financial assistance of benefits and services, education and scholarship, and survivor's benefits for the surviving spouses of deceased veterans. The Navajo Nation has a clear understanding and responsibility to its Navajo Nation veterans based on Navajo Nation Council Resolution CJ-5-40 which pledged its people the loyalty to the system which recognized minority rights and the Navajo a way of life that has placed us among the greatest people of our race. Many more than 16,000 Navajo veterans have served their country in war or peacetime from World War I, World War II, Korean Korea, Vietnam, the Persian Gulf, Iraq, Afghanistan and many others through to today. ~~and to the present.~~

§1173. Trust Fund Investment

All monies deposited in the Trust Fund shall be invested in accordance with Investment Policies of the Navajo Nation as adopted by the Budget and Finance Committee of the Navajo Nation Council.

§1174. Expenditure of Trust Fund ~~principle~~ Principal

Fund ~~principle~~ principal shall not be expended except pursuant to a referendum adopted by a two-thirds (2/3) vote of all registered Navajo voters. The Navajo Nation Council may place a "Referendum to Expend Trust Fund Principal" on the ballot of any primary, general or special election by a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

§1175. Definition of ~~principle~~ "Principal" and ~~income~~ "Income"

- A. Trust Fund ~~principle~~ principal shall consist of all Navajo Nation Council appropriations made pursuant to the tribal appropriations processes and procedures with the intent of being as well as direct capital contributions to the Trust Fund, and any contributions made by any parties or entities; Principal shall exclude the current veterans set-aside authorized by the Navajo Nation Council under Resolution CN-55-06. This set-aside is intended to increase funding available for veterans programs without compromising Trust Fund principal. All amounts in this sub section shall be investable per section 1173.
- B. Trust Fund income shall consist of all earnings (interest, dividends, and other such related earnings) generated by the ~~principle-principal~~ and interest of the Trust Fund, less all expenses directly associated with the administration and management of the Trust Fund.

§1176. ~~Expenditure of Trust Fund~~

$$\$1050 = P7R$$

$$4\% \times P7R = 40$$

$$\hookrightarrow \$20 = \text{annual budget calculations}$$

+

$$\$500 = \text{audited income earned}$$

$$520$$

$$- 300 \text{ Admin fees}$$

$$\$220$$

$$25\% = 55 \rightarrow \text{Principal}$$

$$75 = 165 \rightarrow \text{funding}$$

pg 20
grants

$$\$20 + (500 - 300) = 220$$

$$\hookrightarrow \$20 - \text{Housing Prog}$$

$$\text{VHP} = \$20$$

$$\text{VPS} = \$165$$

$$\text{Principal} = \$55$$

$$\text{fees} = \$300$$

1. One-half of the 4% set-aside outlined in §1171 (B) shall be made available for the Trust Fund annual recommended budget calculations to be used consistent with the purposes of the Veterans Trust Fund as outlined in §1172 of this chapter.

a. This one-half of the 4% set-aside shall be added to the remaining balance of the most recently completed audited income, from which all expenses directly associated with the administration and management of the Trust Fund shall first be paid in accordance with §1176 of this chapter.

i. Twenty-five percent (25%) of the balance from paragraph 1(a) above shall be invested as Trust Fund principal to cover the rate of inflation and to provide for reasonable Trust Fund growth.

ii. The remaining 75 percent (75%) of the balance from paragraph 1(a) above shall be used to provide funding for Navajo veterans programs and services through grants and direct financial assistance and/or compensation in accordance with §1172 of this chapter.

b. Except as provided at §1176, all recommended budget calculations shall be determined pursuant to the total of all eligible recipients, registered with the Navajo Nation Veterans Administration, as defined within Navajo Nation Veterans Administration Financial Assistance Policies, consistent with §1172 of this chapter.

c. Tribal grants to non-tribal government programs and projects shall be awarded in accordance with rules and regulations developed by the Navajo Nation Veterans Administration, consistent with §1172 of this chapter.

d. The annual appropriation authorized above shall not expire and any unexpended funds shall not lapse back into the Trust Fund. Carryover balances shall be redistributed consistent with paragraph 1(b) above and shall continue to be expended for the programmatic purposes for which they were appropriated. Funds obligated for projects as described in §1172 of this chapter shall not be reallocated and shall remain available for their designated purpose.

The remaining one-half of the 4% set-aside outlined in §1171 (B) shall be allocated to the Navajo Veterans Housing Program and administered by the Navajo Nation Veterans Administration (NNVA) as set forth within this section.

a. The Navajo Veterans Housing Program will maximize the use of the allocated funds, including through leveraging additional funding sources such as match funding when available, in order to construct as many turnkey homes as possible for veterans without permanent housing, as well as to provide major and minor home renovations and repairs to veterans with permanent housing.

b. Subparagraph (a) above shall apply to honorably discharged Navajo veterans, without regard to age, gender or geographical location, as long as such location is within the exterior boundaries of the Navajo Nation.

c. Subparagraph (a) above shall also apply to honorably discharged Navajo veterans living beyond the exterior boundaries of the Navajo Nation, without regard to age, gender or geographical location, except that such assistance shall be limited to financial assistance as set forth in the Navajo Veterans Housing Program Policies.

~~The Fund income shall not be expended, except as provided in §1177, from Fiscal Year 1998 to Fiscal Year 2003. From Fiscal Year 2004, the Fund income shall be expended as follows:~~

- ~~1. 75 percent (75%) of the total income earned, plus the current projected set-aside of the Fund will be used as supplemental funding for programs and services to benefit veterans, as noted under §1172 on an annual basis, excluding two percent (2%), which shall be for the exclusive use of the Veterans Housing Program in accordance with 12 N.N.C. §1171 (A) and Navajo Nation Council Resolution CS 56-17. The Fund's income earned at the end of the previous audited fiscal year plus the current fiscal year projected set-aside will be used to determine the allowable expenditure (i.e. budget purposes). The excess of the Fund income over expenditures shall be reinvested in the Fund to cover the rate of inflation and to provide for reasonable Fund growth.~~
- ~~2. Tribal grants to non-tribal government programs and projects shall be awarded in accordance with rules and regulations developed by the Department of Navajo Veterans Affairs, in consultation with the Health, Education and Human Services Committee of the Navajo Nation Council and, if required, the Navajo Nation Council.~~
- ~~3. Of the 75 percent (75%) of the Fund, total amount as set forth in paragraph A, ninety-five percent (95%) of the proceeds will be used for Subsections (A) and (B) of this Section and five percent (5%) will be used for administrative purposes, and this will be reviewed further by the Office of Management and Budget and the Program.~~

~~Except as provided at §1177, all Trust Fund income distribution shall be determined pursuant to all eligible Navajo veterans and distributed among those applicable Navajo Nation chapters to be expended in accordance with §1172 of this Plan.~~

§1176. Expenses

All expenses directly associated with the administration and management of the Trust Fund shall be paid from the Trust Fund income based on the most recently completed fiscal year audit as approved by the Budget and Finance Committee of the Navajo Nation Council prior to the allocation of income under §1177. Such expenses shall include investment advisory and management fees, audit costs and other related expenses, all pursuant to duly approved contracts for such services and supervised by the Navajo Nation Office of the Controller.

§1177. Expenses

~~—— All expenses directly associated with administration and management of the Fund shall be paid from the Trust Fund income as approved by the Budget and Finance Committee of the Navajo Nation Council prior to the distribution of income under §1176. Such expenses shall include investment advisory and management fees, audit costs and other related expenses, all pursuant to duly approved contracts for such services.~~

§1177. Annual Calculation and Expenditure of Funds

The Trust Fund annual allocations shall be calculated and expended as follows:

- d. Navajo veterans shall be limited to assistance from the Navajo Veterans Housing Program for the construction or purchase of one new home, not including renovations and repairs.
- e. The annual appropriation authorized above shall not expire and unexpended funds shall not lapse back into the Veterans Trust Fund and shall continue to be expended for the purposes for which they were appropriated.

§1178. Amendments

Any section or sections herein may be amended upon the recommendation of the Health, Education and Human Services Committee, and the Budget and Finance Committee, and the Naabik'iyati' Committee, ~~then of the Navajo Nation Council~~ by majority vote of the full membership of the Navajo Nation Council except that §1174 may only be amended as provided herein.

Section Four. Codification

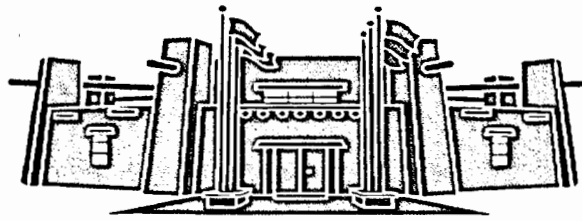
The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section Five. Savings Clause

Should any provision of this Act 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, the remainder of the Act shall remain the law of the Navajo Nation.


Section Six. Effective Date

The provisions of this Act shall become effective in accordance with 2 N.N.C. §221(B).



MEMORANDUM

To: Hon. Carl Slater, Vice-Chairperson
Budget and Finance Committee
25th Navajo Nation Council

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

Date: May 15, 2023

Subject: **AN ACT RELATING TO THE LAW & ORDER, HEALTH, EDUCATION, AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING AMENDMENTS TO THE NAVAJO NATION VETERANS TRUST FUND AT 12 N.N.C. §1171 - §1178**

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 review of all supporting documents regarding your request that were submitted to OLC, 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.