

RESOLUTION OF THE
NAABIK'IYATI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23RD Navajo Nation Council -- Second Year, 2016

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE; APPROVING AND ADOPTING THE
POSITION OF THE NAVAJO NATION RELATING TO THE STATE OF ARIZONA
FISCAL YEAR 2017 LEGISLATIVE PRIORITIES

WHEREAS:

- A. Statements of policy, enactment of positive law, intergovernmental agreements, budget resolutions, and reallocations, must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein. 2 N.N.C. § 164 (A).
- B. Statements of policy are written statements submitted to federal, state or local governments by a Navajo Nation official stating the official position of the Navajo Nation on proposed legislation or other action by that government. See 2 N.N.C. § 100 (W).
- C. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to assist and coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation. See 2 N.N.C. §§ 164 (A)(9), 701 (A)(4), 701(A)(6) (2015); CO-45-12.
- D. The Navajo Nation is significantly impacted by the State of Arizona's Fiscal Year 2017 provision of services and economic policies.
- E. The Navajo Nation's Arizona State Affairs Status Report reviews Arizona State policy, administrative issues and legislation which may affect the Navajo Nation's Arizona State priorities, attached hereto as **Exhibit A**.
- F. The Navajo Nation's State Affairs Priorities directs the Navajo Nation's efforts to preserve and promote Arizona

policies and funding for the Nation regarding: (1) Community Development; (2) Economic Development (including Tribal Gaming issues); (3) Health Care; (4) Education; (5) Public Safety; (6) Social Services; (7) General Services (including Transportation); and (8) Natural Resources.

G. The Navajo Nation further finds that the Arizona budget is growing slowly, with significant demands from many interests for expenditures from Fiscal Year 2017 which puts at risk the provision of services by the State of Arizona important to Navajo and other persons within the Navajo Nation, potentially negatively impacting the health and welfare of such persons and the Navajo economy.

H. The Navajo Nation finds that the current slow growth economy of the State of Arizona and the United States overall creates a threat of cuts to the Fiscal Year 2017 Arizona budget for the State.

I. Significant gains were made in 2016 Arizona legislative session for the Navajo Nation and its people through working in a bipartisan manner and working closely with the Republican majority in the Legislature. The Republican majority returns for 2017 through 2018 while Governor Ducey's first term continues through 2018, thus necessitating continuing to work with the Republican majority in the next two legislative sessions.

J. The Navajo Nation recommendations to the Arizona Legislative Priorities and Administrative Actions for the 2017 Legislative Session lists ten (10) priorities: (1) Economic Development; (2) Transportation; (3) Education; (4) Public Safety; (5) Health Care; (6) Social Service; (7) Water; (8) Energy; (9) Rights; and (10) Telecommunications Infrastructure 911. See **Exhibit B**.

K. The Navajo Nation finds it in the best interest of the Navajo People to approve and adopt the position of the Navajo Nation relating to the State of Arizona Fiscal Year 2017 Legislative Priorities.

NOW THEREFORE, BE IT RESOLVED:

A. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation Speaker, the Navajo Nation Chief Justice and their designees, and the Naabik'íyáti'

Committee's State Affairs Task Force, to support the approval and adoption of the position of the Navajo Nation regarding the State of Arizona's Fiscal Year 2017 Legislative Priorities.

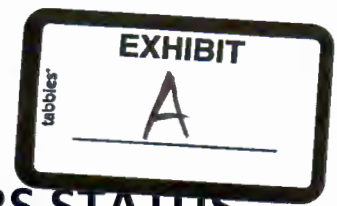
CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd 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 16 in favor and 00 oppose, this 22nd Day of December, 2016.

A handwritten signature in black ink, appearing to read 'LoRenzo Bates', with a large, stylized initial 'L' and 'B'.

Honorable LoRenzo Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Jonathan Perry
Second: Honorable Tuchoney Slim, Jr.



NAVAJO NATION, ARIZONA STATE AFFAIRS STATUS REPORT

June 16, 2016



Submitted to:

NAVAJO NATION LEADERSHIP

President Russell Begay, Speaker Lorenzo Bates, Attorney General Kathleen
Branch, Navajo State Affairs Task Force Chairman Kee Alan Begay Jr.

By

Mike Bielecki, Lewis Roca Rothgerber Christie LLP

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NAVAJO NATION ARIZONA STATE AFFAIRS STATUS REPORT

June 16, 2016

INTRODUCTION

This report is respectfully submitted to the leadership of the Navajo Nation summarizing the status of the priorities of the Navajo Council with respect to the policies, legislation and actions of the State of Arizona as of April 26, 2016.

This report will review Arizona State policy, administrative issues and legislation which may affect the Navajo Nation's Arizona State priorities. Furthermore, it will recommend, as requested, several policy and strategy approaches for the Arizona State Affairs Committee of the Navajo Nation Council to consider as they begin their work for 2017.

The 2016 Arizona legislative session went on for 117 days. Over 1300 bills, memorials and resolutions were introduced, about 400 passed and were signed into law, 14 were vetoed.

The 2016 Arizona Legislative session was one of the most productive for the Navajo Nation in years. The Navajo Nation State Affairs Task force, led by and Navajo Council Speaker Lorenzo Bates, Delegate Kee Alan Begay Jr. supported the efforts of the Navajo Arizona legislators. Senator Carlyle Begay made a definitive impact by working with the Republican legislative majority in the Arizona legislature and helped to secure significant gains for the Navajo people. Representatives Albert Hale and Jennifer Benally supported efforts in the House. It is regrettable that all three veteran Navajo legislators will not be returning to the Capitol in 2017.

Although the Navajo Nation made progress on a number of issues this year, we did not succeed on every issue. On balance the 2016 represented progress on several of Navajo's Arizona priorities. *Please note that there were several bills that we took an active role in defeating, which were also wins for Navajo priorities.* The following update will not encompass every issue dealt with this year, but will describe most of the significant Navajo issues and their status.

Note: The General Effective date for legislation is August 6th, 2016.

NAVAJO ISSUES

State Budget

The Governor and legislative leaders came to a general agreement on a proposed budget on April 26, 2016. The fight on the budget did not end there, and several weeks of debate and floor action added additional education funding and avoided any current budgets cuts. Proposition 123 passed as well getting more education funds into K-12 shortly the budget passed.

The budget used one-time funding balances for one-time expenditures, including \$86 million in one-time state and local transportation projects and re-paying \$232 million in accounting gimmicks that were used to balance the budget in the past. The major new investment this year is \$23 million for the Governor's Border Strike Task Force in the Department of Public Safety.

There are a number of issues that Navajo addressed in the State budget which will be addressed under the appropriate issue areas below. Below is a one page summary of the

budget. On the following pages there will be outcomes on many of Navajo's issues, affected by the budget or policy changes through legislation.

STATEMENT OF GENERAL FUND REVENUES AND EXPENDITURES 1/ WITH ONE-TIME FINANCING SOURCES

	FY 2016 5/4	FY 2017 5/4	FY 2018 5/4	FY 2019 5/4
REVENUES				
Ongoing Revenues	\$9,769,648,500	\$10,158,379,200	\$10,521,214,000	\$10,905,740,800
Previously Enacted Changes		(97,800,000)	(90,400,000)	(73,300,000)
Newly Enacted Changes		(26,000,000)	(26,000,000)	(26,000,000)
Reduce Ongoing Judiciary Transfers		(1,000,000)	(3,000,000)	(3,000,000)
Urban Revenue Sharing	(605,634,300)	(663,652,100)	(676,193,800)	(682,236,800)
Net On-going Revenues	\$9,164,014,200	\$9,369,927,100	\$9,725,620,200	\$10,121,204,000
One-time Financing Sources				
Balance Forward	312,276,000	224,997,200	65,712,200	166,222,000
Tax Amnesty	47,048,500			
Fund Transfers	217,017,700	79,361,600	461,600	461,600
Subtotal One-time Revenues	\$576,342,200	\$304,358,800	\$66,173,800	\$166,683,600
Total Revenues	\$9,740,356,400	\$9,674,285,900	\$9,791,794,000	\$10,287,887,600
EXPENDITURES				
Operating Budget Appropriations	\$9,230,421,600	\$9,409,928,400	\$9,645,361,700	\$9,868,250,000
Supplementals	50,607,600			
Administrative Adjustments	85,000,000	70,000,000	70,000,000	70,000,000
Reversions	(110,000,000)	(110,682,500)	(112,868,300)	(114,260,700)
Subtotal Ongoing Expenditures	\$9,256,029,200	\$9,369,245,900	\$9,602,493,400	\$9,823,989,300
One-time Expenditures				
Capital Outlay	\$6,200,000	\$18,000,000		
Eliminate DCS/DES/Univ. Rollover	\$232,000,000	0		
Transportation Funding		86,500,000		
Other One-Time Spending	\$21,130,000	134,827,800	\$23,078,600	
Subtotal One-time Expenditures	\$259,330,000	\$239,327,800	\$23,078,600	\$0
Total Expenditures	\$9,515,359,200	\$9,608,573,700	\$9,625,572,000	\$9,823,989,300
Ending Balance 2/	\$224,997,200	\$65,712,200	\$166,222,000	\$463,898,300
Structural Balance 3/	(\$92,015,000)	\$681,200	\$123,126,800	\$297,214,700

- 1/ Significant one-time revenues and expenditures are separately detailed so as to permit the calculation of ongoing revenue and expenditures.
2/ This calculation reflects the difference between total revenues and total expenditures. Excludes any Budget Stabilization Fund balance.
3/ This calculation reflects the difference between ongoing revenues and expenditures and excludes one-time adjustments.
Excludes any Budget Stabilization Fund balance.

Transportation

Highway 60 Budget Funding. After a great deal of work by Delegate Kee Allen Begay Jr., Senator Begay, County Supervisor Thompson, and Representative Hale, the draft state budget includes \$1.5 million for Highway 60. This funding will begin to address a road that can become virtually impassable in significant rains. This funding was placed into the budget as passed as a specific line item.

SB 1490 (transportation funding; task force) seeks to review, analyze and ultimately make recommendations that match the State's transportation needs and revenue resources. The Navajo nation may want to track their activities for impacts and opportunities. Overall the nation has an interest in the state fashioning a new strategy to fund transportation in Arizona. The

current system of a tax on the consumption of gasoline is beginning to fail as a reliable source for funding roads and other transportation modes.

SB 1490 passed and was signed by Governor Ducey

Education

There were significant debates in the legislature on education this session. There remains a fight over the number of dollars for ongoing education funding for K-12, but this was the best year for education overall for education since the recession began.

Below are some specific education bills and budget provisions this year:

SB 1220 the Dine College NTU Compact Extension bill passed on the last day of the legislative session, with key assistance by Senator Begay, to extend the Dine College/NTU compacts for 20 years, with a 20 term extension possible after a review. Today Dine College receives \$1.75 million a year for capital construction and building rehab, NTU receives \$875,000 a year for the same purpose. This program will produce an estimated \$52 million in the first 20 years.

It passed out of the Senate and House with large majorities as well as a joint conference committee but getting it to the House floor for a final vote was a fight. It was one of the last bills to pass in a 19 hour day session of the bill action. When this bill was in doubt on the final day of the session, a major effort was put together on the floor of the House with Republican leaders who were willing to come to aid of Navajo. Senator Begay was working the floor with Navajo's lobbyist. Representatives Bob Robson(R) of Chandler, Bob Thorpe(R) of Flagstaff led the effort, and supported by Representatives Mark Fincham(R) of Prescott, Heather Carter(R) of Phoenix and Jennifer Benally (D) of Tuba City and Albert Hale(D) of St. Michaels.

SB 1220 was passed and signed by Governor Ducey

Proposition #123, the ten year \$3.5 billion dollar increase to K-12 education was placed on the ballot for a public vote in May 17. **Voters approved by a narrow margin.** This legislation is not perfect but it is the first significant new money of magnitude for K-12 in about eight years. Below is the estimated funding increase to school districts that may be serving Navajo children as a result of Proposition 123. Navajo Council supported Proposition 123

Estimated Amount

Cedar Unified District	26,803.71
Chinle Unified District	541,303.73
Flagstaff Unified District	1,526,461.68
Ganado Unified School District	227,763.48
Heber-Overgaard Unified District	86,659.36
Holbrook Unified District	321,509.75
Joseph City Unified	73,190.85
Kayenta Unified District	279,597.44

Page Unified District	413,853.76
Pinon Unified District	195,971.54
Red Mesa Unified District	133,885.05
Sanders Unified District	134,810.66
Snowflake Unified District	359,407.89
Tuba City Unified School District	256,161.19
Window Rock Unified District	300,937.58
Winslow Unified District	329,935.87

Other K-12 Funding in 2017 State Budget

In addition to the money coming from Prop. 123, the budget includes **\$132 million** in formula funding that will support inflationary increases, new student enrollment and higher costs of educating special education students.

- Last year the Legislature adopted policy to no longer fund school districts for students they did not have and pushed to have school districts funded for students that are in classrooms that current-year. In an effort to help schools transition to the new policy, an additional **\$31 million** was added to schools that were not set to receive these funds in the coming school year.
- In an effort to maintain safe environments for students to learn in, an additional **\$30 million** was appropriated to the School Facilities Board for Building Renewal Grants to support schools in maintaining safe and adequate buildings.
- K-12 education was held harmless from other previously enacted policy changes. By using the one-time cash available to the state, the K-12 education system received an additional **\$8.7 million**, which included **\$6.5 million** for the phase-out of the multi-site charter school weight and **\$1.2 million** for the phase-out of district sponsored charter schools.
- The budget funds new school construction for Agua Fria Union High School District and Chandler Unified School District for a total of **\$46 million** over fiscal years 2017 and 2018.
- Beginning in school year 2018, students and teachers will be rewarded for achieving college credit in high school. **\$5 million** was set aside to provide teacher and school bonuses for students who achieve college credit on Advanced Placement and other college credit exams.

The **\$29 million cut to Joint Technical Districts (JTED)** in last year's budget was restored very quickly this session in order to avoid funding disruptions this year. N.A.T.I.V.E., Navajo's JTED, will continue its funding in a stable manner without the expected cut taking place that would have generated problems. Navajo lobbied this bill along with many others to pass it.

JTED funding funded was passed and signed by Governor Ducey

SB 1125, a Desegregation Phase Down Bill. Although originally targeted at school districts as additional funds for purposes of dealing with student desegregation, it is the feeling of a number

of legislators that certain urban districts have used such funds for other purposes. This bill would have cut such funds for all school districts which receive them, including districts that serve Navajo children. We worked to avoid cuts to Navajo districts and helped kill this bill.

SB 1125 was defeated and thus avoids cuts to several schools. This issue will be back next session

\$500,000 for the Code Writers Education Project, spearheaded by Senator Begay to expand further Computer Code Writing and computer science programs at Chinle High School, Monument Valley High School, and Greyhills Academy High School. This allows students on Navajo to learn how to create projects such as video games, design an interactive website or build a problem-solving robot. Computer science skills through the program will allow students to gain the tools to put them on a path toward becoming researchers, scientist, IT experts, teachers, engineers, and much more.

This appropriation was put into the final state budget.

\$250,000 expansion of the Tribal College Dual Credit Program Fund, sponsored by Senator Begay and is one strategy to improve college readiness for students. These funds will give high school students the opportunity to get a head start on their college career – ultimately increasing their chances of completing their college degrees – by allowing them to enroll in college courses at Diné College and Navajo Technical University. Students have an opportunity to earn 12 or more hours of college credit prior to graduating from high school. Tribal colleges would be reimbursed from the Tribal College Dual Enrollment Program Fund for tuition and fees that are waived for dual-enrolled students.

This appropriation was put into the final state budget

SB 1322 Community College Expenditure Limitation This bill will allow more flexibility for community colleges to obtain appropriate funding. It will be positive for community colleges in northern Arizona serving Navajo students. It has passed and been signed by the Governor.

SB 1322 was passed and signed by Governor Ducey

SB 1451 Office of Indian Education. If sufficient resources and funding are available, the technical assistance provided by the Department of Education Office of Indian Education is required to include professional development, data literacy, teacher recruitment and retention, native language development, fiscal management, family engagement, and the incorporation of Native American culture into the curricula. This bill was introduced by Senator Begay and passed the Senate but did not get a vote on the floor of the House.

SB 1451 did not get out of the Senate, it died. It should be considered for the 2017 session.

Navajo Rights, State Relations

HB 2040 country boundary changes. This bill was scheduled for an initial hearing several weeks ago but we raised questions, initially suggested by Delegate Kee Allen Begay, Leonard Gorman, Senator Begay and Albert Hale. Their concerns were questions as to what the real intent the bill was, as it relates to the counties that serve the Navajo people. We raised concerns to the Committee Chair that the bill was assigned to about the bill as well as with the bill's sponsor. It was clear that the sponsor did not intend to in any harm Navajo or their

representation on the county boards of supervisors that serve the Navajo Nation. The bill was held by the Chairman of the Counties and Municipalities Committee, Rep. Doug Coleman.

HB 2040 was held in committee and died, which was a win for Navajo.

SB 1219 Student Extracurricular Activities; Accessories. School district governing boards, charter schools, and interscholastic athletic associations with school members cannot prohibit a student from wearing a religious or cultural accessory or hair piece while participating in extracurricular or athletic activities if it does not jeopardize the health or safety of the student or any other participant, as determined by the supervisor or officiate of the activity. This bill has passed both houses, but amended. SB 1219 passed and was signed by the Governor. Senator Begay was the driving force behind this bill.

SB 1219 was passed and signed by Governor Ducey

HB 2323 Native American Veterans Tax Refund was a bill to refund taxes that were overpaid to veterans serving while enrolled members of a Tribe. The bill died in the House but the core provisions of the bill are part of the final state budget. Gila River also work for this bill's passage.

Core budget provisions of HB 2323 establishes, retroactive to July 1, 2016, the Veterans' Income Tax Settlement Fund (Fund) for the purpose of establishing a process to enable Native American veterans (veterans) to recover state income taxes that were withheld from military pay. The state budget appropriates \$2,000,000 from the state General Fund in FY 2017 to the Fund for qualified applicants for their tax refund. Qualifications, and procedures for the tax refunds will be clarified and pursued by the Navajo Nation and communicated to Navajo Veterans. The state agency to contact will be the Arizona department of Revenue.

HB 2323 failed as a bill but its core provisions were placed in the state budget.

SB1238, Tribes, Child Safety; Health Care sponsored by Senator Begay allows emergent placement with kinship or individual who isn't certified as a foster parent by allowing Tribes and Department Child Safety access to the National Crime Information Center (NCIC) database so that a name can be run through the FBI in order to immediately place while we are waiting for the fingerprints to come back. SB1238 will simply allow tribal social service agencies 24/7 access to NCIC so children are placed in a safe environment with someone the child knows instead of foster care or group home while waiting for the fingerprint clearance to come back.

SB 1238 was passed and signed by Governor Ducey.

SB 1237 changes the Arizona Commission on Indian Affairs to the Governor's Office on Tribal Relations. This bill also defines the Office's duties. It requires each state agency to develop and implement tribal consultation policies with Tribes, seek input from appropriate Tribal officials before undertaking any action or policy that will affect a Tribal community or its members, and integrate input generated from tribal consultation into the agency's decision-making processes to achieve mutually acceptable solutions. It also requires the Governor to meet annually with the Tribal Leaders of the 22 Tribal Nations and Communities in a State-Tribal Summit to address issues of mutual concern.

SB 1237 was passed and signed by Governor Ducey

Economic Development and Gaming

TPT Equity

The Navajo leadership and the Navajo Arizona State Affairs Task Force for a number of years has made it a priority to obtain an equitable share of the State's Transaction Privilege Tax, (TPT) generated on the Navajo Nation for economic development and infrastructure purposes. We have used as a general format for our TPT proposal in the Dine College-NTU Compact and the manner in which it returns some of Navajo's TPT for building and building rehab for Dine College and NTU. The opportunity to pursue a TPT share with Navajo occurred when Speaker Bates, Delegate Shepherd and Robert Joe of the President's Office met with Governor Ducey several months ago. Working with Senator Begay and Kee Allen Begay, we made progress with the Governor's staff on the principle of getting some funding back to the Nation for the TPT generated on the Nation. Senator Begay worked hard to obtain a 15% portion of the TPT for use by the Nation for economic development and infrastructure.

In the end, there was not enough political will to have this provision put into the budget.

A challenge for this idea is that as Navajo obtains more of the TPT generated on the Nation, the money is coming from some other Arizona Government that currently receives it. This creates difficulty in passing this legislation.

Gaming, Fantasy Sports

There was a variety of issues related to gaming in the legislature this year. One of concern is **SB 1515 Fantasy Sports** would allow for fantasy sports betting in Arizona. It passed the Senate Judiciary Committee. It was killed in the Rules Committee. This bill obtained more support than expected and will be back next year. There will be negative implications for Navajo's compact and gaming revenues if this bill were to pass in its original form. In that form Tribal gaming facilities could lose a portion of their gaming dollars to sports betting throughout the state. It will trigger the poison pill in the compact as well.

SB 1515 failed in the Senate Rules Committee. The issue will be back next year.

SB118 Continuation of the Office of Tourism. The department was continued. Part of its funding comes from required revenue sharing from Indian gaming compacts. Consideration should be given to interfacing with the Department to determine if Navajo related tourism promotion could be increased.

Natural Resources

Water

A Navajo-Hopi water settlement for the Little Colorado and Colorado rivers would be important in securing Navajo's water rights prospectively. The Governor and the Director of the AZ Department of Water Resources stand ready to engage with the Navajo Nation on such an effort. If Navajo can define what it seeks and come to an understanding with Hopi on mutual issues of concern, then a negotiation can begin with the support of the state. In Arizona the process will have to take into account a variety of other entities, many who have resources and political capacity to interfere with the process. Such an effort though is timely, in that Arizona is

currently working with other Colorado River states to redefine how various states would manage the shortage of water in the Colorado River expected in the next several years.

Water, Drought and Discussions of Colorado Water Reallocation As you know there are discussions of the principal states using Colorado River water going on, dealing with possible reductions in the rivers allocation given the long term drought. These discussions may affect Navajo. Tribes with water settlements are in a more defined position about rights from the main stem of the Colorado River. Who gets reduced what amounts when a shortage occurs is the issues various states are now meeting about. Obtaining a water settlement on the Colorado may be more complicated in the future. (See Attachment A)

SB 1268 Adequate Water Supply Requirements Municipalities Under this bill the Department of Water Resources is no longer required to give written notice of county adequate water supply ordinances to the mayors of all municipalities in the county, and municipalities that receive the notice are no longer required to comply with specified county adequate water supply requirements. A municipality that received a notice from the Department before the effective date of this act is required to comply with county adequate water supply requirements unless the legislative body of the municipality adopts an ordinance after the effective date of this act that provides that the municipality is not subject to the requirements. The legislative body of a municipality with a population of more than 25,000 persons is authorized to adopt a municipal adequate water supply ordinance only if a list of specified conditions applies, including that the municipality is participating in a program to augment the aquifer underlying the municipality, the municipality has adopted a plan for the reuse of reclaimed water, and the municipality has adopted a residential and nonresidential water conservation program. This bill was sent to DOJ for review. It has become controversial as weakening protections for ground water management in the state at a time when the drought is becoming worse and forcing broader discussions on how to manage.

SB 1268 passed but **was vetoed** by Governor Ducey, preserving sound water policy.

SB 1400 Adequate Water Supply Renewal Requirements County boards of supervisors are required to review adequate water supply provisions within one year after the fifth anniversary of the effective date of this legislation and within one year after every fifth anniversary thereafter. The county board of supervisors is authorized to rescind the provision by unanimous vote. If the county board of supervisors rescinds the provision, the county board of supervisors is required to give written notice of the rescission to the "Director of Water Resources," the "Director of Environmental Quality" and the State Real Estate Commissioner. Session law provides that for a county that enacted an adequate water supply requirement provision before the effective date of this legislation, the provision must be reviewed within one year after the fifth anniversary of the effective date.

SB 1400 Passed but **was vetoed** by Governor Ducey preserving sound policy.

HB 2331 Small Water Systems Appropriation Appropriates \$500,000 from the general fund in FY2016-17 to the Small Water Systems Fund for emergency grants to interim operators of small water systems. HB 2331 died in the Senate.

Energy

The most significant body dealing with Navajo's energy future is the federal government. With respect to Arizona the most significant government body is the Arizona Corporation Commission

who has direct regulatory authority over APS. That being said the legislature weighs into this issue legislatively with some regularity.

Solar Energy Dispute One of the issues that has been significant and high profile was the fight in the legislature over the regulatory structure for solar generation, particularly with respect to solar units on individual homes. The core of the debate goes to the power of the Corporation Commission over solar providers. This issue related to Navajo interests in the market share for APS vs. solar providers may have an impact on demand at the Four Corners Power Plant's energy. On April 15, the rooftop solar industry announced it would spend \$3 million on a ballot initiative asking voters to enshrine lucrative rate subsidies for out-of-state solar leasing companies in the Arizona Constitution. The proposed constitutional amendment would have also removed authority for regulating those energy policies from the elected members of the Arizona Corporation Commission. This initiative proposed that the Arizona Constitution should require Arizonans without solar panels to pay for those who do have them, which would have resulted in significantly higher energy costs for Arizona working families.

The Legislature swiftly countered by proposing **HCR 2041 (NOW: corporation commission; distributed energy resources)** and **HCR 2039 (NOW: public service corporations; furnishing electricity)**, which would have asked voters to preserve the authority of the Arizona Corporation Commission to regulate energy policies and costs without giving special incentives to out-of-state rooftop solar companies. Fortunately, a truce was called between the California companies and Arizona utilities, allowing both sides to work on a solution without having to resort to ballot initiatives.

In general there is support in the Arizona Legislature for the retention of Arizona's and Navajo's coal operations see the Senate Concurrent Memorial (or formal position of the legislature) below:

SCM 1016 Rule Making Electric Generation Unity The Legislature urges the U.S. Congress to oppose the implementation of rules for existing electric generating units that exceed the legal authority of the U.S. Environmental Protection Agency (EPA), and to exercise oversight over the EPA to ensure that the primary role of states in establishing rules under the Clean Air Act (CAA) is respected. The Legislature urges the Governor and the Attorney General to take appropriate actions to uphold the state's responsibilities under the CAA and defend the state against overreaching regulations. The Secretary of State is directed to transmit copies of this memorial to the President of the U.S., the President of the U.S. Senate, the Speaker of the U.S. House, each member of Congress from Arizona, the EPA Administrator, the Governor and the Attorney General.

Clean Power Plan

I asked Pilar Thomas in our office an update on coal issues and the EPA for your information. Anthony Peterman may very well know more. Below are Pilar's comments:

June Update

EPA Clean Power Plan – Status of Implementation

- a. 26 states, including Arizona, sued the EPA over the final Carbon Emission Reduction Rule (aka Clean Power Plan) in the D.C. Circuit Court of Appeals. The U.S. Supreme Court issued a stay of the enforcement of the CPP, so the EPA has officially ceased activities under the CPP. The DC Circuit COA has referred this to an en banc (whole) panel, and delayed oral arguments until September. The timing of the decision is

unknown, and any petitions to the Supreme Court (which will happen regardless) won't be likely until next year (and next term).

- b. However, the EPA has developed the Clean Energy Incentive Plan – a voluntary feature of any potential state implementation plan and a mandatory feature in the proposed federal plan that gives early emission reduction credits for renewable energy and energy efficiency projects – and has submitted this proposed CEIP to OMB for review and publication in the federal register. The EPA originally sought comments on the CEIP in December, and to my knowledge Navajo did not submit any comments. However, once OMB publishes the proposed plan, then the Navajo Nation will be able to comment on the CEIP.
- c. The EPA is also continuing to meet with interested Tribes on the Federal Implementation Plan.
- d.. While the State of Arizona has joined the lawsuit against the EPA, ADEQ continues to work – albeit very slowly – on its state implementation plan. ADEQ continues to host regular stakeholder meetings, the last one of which was just held on June 14. Meeting summary information is not yet available, so we can't report on the status of the efforts. It is also still unclear whether ADEQ will continue its outreach efforts, especially to vulnerable and indigenous communities.

Health

Kids Care expansion amendment was added to the budget on the final day of the legislative session. The Kids Care amendment will lift the temporary freeze on Kids Care enrollment, with the federal tax dollars. It will expand the program by 30,000 children statewide to affordable health coverage.

SB 1535 Health Welfare Reconciliation Budget Bill. It contains numerous changes to the AHCCCS budget and processes. (See the Attachment B for a summary)

1238 Advisory Council Indian Health Care Membership of the Arizona Advisory Council on Indian Health Care is expanded to 28 members by adding two additional tribal representatives and modifying requirements for tribal representatives, and adding one representative from the Inter Tribal Council of Arizona, one representative from an urban Indian health organization, and one representative from the Arizona Early Childhood Development and Health Board. The duties of the Council are also modified. Session law provides for retention of current members of the Council. First sponsor: Sen. Begay

SB 1238 was passed and signed by Governor Ducey

SB 1507- ALTCS Dental Services, sponsored by Senator Begay restores \$3.1 million in funding for dental services for the elderly and physically disabled members of the Arizona Long Term Care System (ALTCS) and for the Developmentally Disabled (DD). Such funding is needed to provide emergency and preventative dental care for some of the most vulnerable adults in Arizona to maintain life reasonably free from dangerous and painful dental problems and to protect them from devastating and life threatening conditions that are exacerbated by periodontal disease and infection.

SB 1507 was passed and signed by Governor Ducey

Social Services

Although there was some positive movement on the Arizona budget on social services there continues to be a tightening of eligibility for social services. It is as much driven by trying to eliminate dependency on government programs and enforcing the intent of the programs than by budget considerations. Particular attention should be paid to restrictions which seek to limit program use narrowly to their intended purposes.

Budget Increase for the Department of Child Safety (DCS)

The Legislature increased DCS funding by an additional **\$60 million** for FY 2017. While the agency requested far more funding for administrative positions and to meet operational needs, the budget placed emphasis and priority on the following policy areas:

- Backlog Privatization \$2.7 m
- Support Services \$19.5 m
- Preventive Services \$5 m
- Out of Home Support Services \$12.5 m
- Child Care \$2 m
- Permanency \$6.4 m
- Attorney General Representation \$3.1 m
- Court Dependency Caseload \$3 m

This year's DCS budget also incorporated numerous accountability measures, performance benchmarks and additional reporting requirements as part of the infusion of new monies.

Budget Increase for the Department of Economic Security

The Legislature increased DES funding by an additional **\$34 million** for FY 2017. Savings from Temporary Assistance for Needy Families (TANF) were used to offset costs within the agency as well as DCS. Key funding initiatives for vulnerable populations served include:

- Domestic Violence Services \$1.5m
- DD Provider Increase (1%) \$3m
- ALTCS Adult Dental \$1.2m
- Adult Protective Services \$2m
- Vocational Rehabilitation \$2m
- Area Agencies on Aging \$700k

HB 2261 Electronic Benefit Transfers, Prohibitions, Violations provides that a person who conducts an electronic benefit transfer card transaction at a liquor store, commercial horse or

dog racing facility, casino or gaming establishment, adult oriented entertainment establishment or a medical marijuana dispensary is guilty of a class 1 (highest) misdemeanor. A person who violates the prohibition on operating an automatic teller machine or a point-of-sale terminal that accepts electronic benefit transfer cards at a liquor store, commercial horse or dog racing facility or adult oriented entertainment establishment is guilty of a class 1 (highest) misdemeanor, instead of being subject to licensing or permit action.

HB 2261 was passed and signed by Governor Ducey

HB 2262 Child Care Assistance provides that child care assistance must cease after a time period specified in rule by the Department of Economic Security once the family income exceeds 165 percent of the federal poverty level but remains below 85 percent of the state median income. If the family income exceeds 85 percent of the state median income, child care assistance must cease on notification by the Dept. The list of reasons the Dept may pay different levels of child care assistance rates is expanded to include the level of a state-approved quality indicator. Effective September 1, 2016. This bill looks to be passing.

NB 2262 was passed and signed by Governor Ducey

HB 2452 Cash Assistance, Eligibility, Children The Department of Economic Security is required to allow cash assistance for an otherwise eligible dependent child during the period in which the child is in the legal custody of the Department of Child Safety, a tribal court or a tribal child welfare agency located in Arizona and is placed in unlicensed kinship foster care with a nonparent relative. The Department of Economic Security is required to allow cash assistance for an otherwise eligible child who the court has placed with a nonparent relative, the child's parents are deceased and the child is living with a nonparent relative, or a nonparent relative has custody of the child because the child is abandoned.

HB 2452 was passed and signed by Governor Ducey

HB 2088 (schools; assessments; surveys; informed consent) reasserts parental rights by requiring that a parent opt-in to any surveying of their child. It outlines specific criteria and informed consent before any student is surveyed. HB 2088 puts Arizona parents back in the driver's seat of their children's education.

Public Safety

PSPRS

In addition to the legislation below, if Navajo sees an advantage to enroll members of its public safety forces in the Arizona Public Safety Personnel Retirement System, enrollment by Tribal public personnel is allowed under state law. There are several tribes that enroll their police and fire personnel to encourage retention of such personnel.

Liquor Amendment

Also, we are still looking to find a liquor industry related bill to put on an amendment to allow the Navajo Nation to protest at the State Liquor Board the license for a new liquor store within three miles from the Nation, not in an Arizona city or town.

Initial Recommendations for Future Activities

- The State Affairs Task Force may want to review the Navajo Nation's Priorities to confirm the Nation's legislative agenda. The State Affairs Task Force may also consider passing legislation soon to outline what the goals of the Nation are for 2017. There will be much work ahead with new legislative leadership and new Navajo state elected officials. The One Nation One Voice policy is very helpful in getting legislation passed in Arizona.
- The Navajo Nation will have a new Senator and two new Representatives representing the Nation going into the legislature next session. Navajo will benefit educating the new Navajo state elected official about the Nations priorities. Consideration should be given to meeting with Navajo's new representatives when it becomes clear whose Navajo's legislators will be and to reach out to others who are supportive. (See Attachment C)
- SB 1220, the Dine College/NTU extension legislation passed, and the Nation should coordinate with the DOJ, Navajo Colleges, and the Executive Branch to begin a revision process for a new compact, with a goal to be completed this year.
- Navajo should determine if the pursuit of a Little Colorado water settlement and a settlement of the main stem of the Colorado River should be sought. The politics of state leaders has been positive thus far but politics seldom remain static and the drought continues adding complexity to the water situation.
- Determine if enrolling Navajo Public Safety Personnel in the Arizona Public Safety Personnel Retirement System is the direction of the Nation should pursue, and if so, develop a Joinder Agreement with the Arizona Public Safety Person system.
- Review the status of Navajo's goals with AHCCCS. Have a meeting with the AHCCCS Director Tom Betlach to clarify any Navajo concerns.
- Determine Navajo's goals for Arizona Public Schools that serve the Nation and state policy affecting those goals.
- Reach out to the Arizona Commerce Authority and the Departments of Housing and Tourism to determine if there can be greater benefit to the Navajo Nation from them.
- Plan a renewed and strategic effort to obtain a fair share of the TPT earned on the Nation for economic development and infrastructure. We made progress this year. The Nation may need to clarify this priority for state funding if it is to be achieved.
- Navajo should consider pursuing again, restrictions on liquor stores near Navajo's borders.
- The Navajo Nation should the Corporation Commission and their policies as they affect Navajo's coal economy. There will be significant turn over on the Commission in the next election and the Commission's policies can affect the Four Corners plant's future.
- The bi-partisan approach Navajo took in Arizona in 2013-2016 has served the Nation well. Consideration needs to be made of continuing working with the Republican majority that will very likely maintain its majority in the foreseeable future.

ATTACHMENT A

Article published in the Arizona Republic on April 23, 2016

Last week's announcement by the Bureau of Reclamation that Lake Mead is projected at years end to be three feet above the level that would trigger reductions in water deliveries to Arizona, Nevada and Mexico was welcome news.

But we are not out of the woods.

Arizona has built a tradition of acting on its water issues well before the crisis hits. The people of Arizona have come to expect that level of preparation. We are not about to let them down.

Lake Mead's water level continues to decline and longer term projections show that it could fall to critically low elevations in the face of continued epochal drought. We have not been idle. Arizona and its partners are taking action to lessen the likelihood of that outcome.

The Central Arizona Project, supported by the Arizona Department of Water Resources, created financial incentives and other programs for agricultural, municipal and tribal water users to conserve water in Lake Mead. About three feet have been saved as a result. Mexico, California and Nevada are taking similar steps to keep water in the lake.

Those landmark actions are not enough, however.

If Lake Mead declines further, planned reductions in deliveries to Arizona agreed to in 2007 will kick in. While Arizona has prepared for those reductions by storing water underground, conserving water and carefully managing its groundwater and other supplies, even more must be done.

Simply put, no one knows when this drought might end. Responsible, prudent water management demands that we assume it will end no time soon.

Arizona has been negotiating with Nevada and California to put together a suite of actions, the next incremental step in protecting the lake. Those actions include Arizona and Nevada taking additional reductions and at higher elevations than those agreed to in 2007. California would take reductions as well but not before the lake has fallen to still lower levels. Current law states that California does not take reductions in deliveries until the Central Arizona Project completely dries up. Equity and fairness demand a different outcome.

Actions contemplated by all three states are groundbreaking, unprecedented and the negotiations are sensitive and difficult. Those discussions continue to evolve.

If the states can reach a new agreement - no sure thing, at this stage - the impact will be more significant than the cutbacks agreed to in 2007. Within Arizona impacts will vary between agriculture, municipalities and tribes. They will even vary between individual tribes, municipalities and agricultural water users.

There are opportunities to partially mitigate those impacts and, more importantly, to spread the impacts more equitably among agriculture, municipalities and tribes. To that end, I have begun to reach out to water managers in Arizona to explore a collective and voluntarily sharing of the impacts and benefits attendant to this potential new agreement.

No agreements have been reached. No decisions have been made. Water users, their principals and their governing bodies need room to discuss, debate and deliberate.

Our discussions will be complex, collegial, at times contentious and always passionate. They will take time to play out but they must continue. That is the history and the nature of managing our most precious resource.

The actions we are contemplating can only be finalized with support of the water community and the decision makers at the state, local and tribal level in Arizona. The challenges are significant. There is no avoiding that.

But with a firm commitment to sound water management from Gov. Ducey, we've been making hard choices when it matters most.

That has been the hallmark of Arizona water management for many decades. That ethic is in play once again.

Basic Information from the Arizona Department of Water Resources on the Current Drought

Persistent drought and chronic over-allocation of the river's water is causing water levels at Lake Mead to drop. Hydrologists have identified specific levels beyond which the lake's health as a functioning reservoir may destabilize. Arizona's water-resources manager, the Department of Water Resources, and the manager of the state's Colorado River delivery system, the Central Arizona Project, are taking steps to help assure the lake's long-term viability.

What is Lake Mead and what purpose does it serve? Along with its up-river complement, Lake Powell, Mead is key to distributing the vast majority of Colorado River water allocated to Arizona, California and Nevada, as well as to Mexico. In order to do its job as a reservoir, Mead needs water to distribute. As a result of drought and over-allocation, it has less of it. In recent years, a lot less of it.

What does the term "allocation shortfall" mean? The formula for distributing water among the three "Lower Basin" states of Arizona, California and Nevada, as well as to two states in northern Mexico, is complex. Not all rights to Colorado River water are equal. The system has priorities, many of them anchored in decades-old legal agreements. As written, the agreements place most of the responsibility for allocation shortfalls on Arizona's shoulders. Arizona's water managers are seeking more equity – more burden-sharing – among the system's many users.

What has Arizona done to prepare for potential allocation shortfalls? A top priority of Arizona water management for the last 36 years can be viewed as preparation for this here and now. Legally codified groundwater/aquifer protections, "water banking," and mandatory municipal drought-response plans have been tools in Arizona's drought-preparedness toolkit for decades. All of which helps explain why Arizona may face substantial water-distribution challenges, but not a water-supply "crisis" such as what other states now face.

How has the Central Arizona Project prepared for having less water to deliver to its customers? The 336-mile diversion system delivers up to 1.6 million acre feet of Colorado River water from Lake Mead to customers as diverse as Pinal County farmers and urbanites in southern Arizona. As early as 2018, it may not have sufficient water to fulfill those obligations.

What is Arizona and its Lower Basin partners doing cooperatively to prepare for potential shortfalls? The goal of the Colorado River-users partnership is a familiar one for states: Come up with an equitable resolution among yourselves before the feds do it for you. Ultimately, the Secretary of the Interior is the arbiter of how best to protect Lake Mead. A cooperative resolution among user-states and their respective stakeholders will be far more preferable than awaiting an edict from on high.

ADWR Fact Sheet

Lower Basin Drought Contingency Proposal

The Colorado River system has experienced extensive drought conditions for more than 16 years. As a result, water levels in Lake Mead, the primary storage reservoir for the Lower Basin states, and the entire Colorado River System have been rapidly declining and projections indicate that this will continue into the foreseeable future.

Lake Mead water levels are important because they determine whether a shortage is declared on the Colorado River. All the states that share the river, the federal government and Mexico previously agreed to shortage "trigger levels" and resulting reduced delivery amounts in the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead. These were developed based on data that was available at that time, very early in the Colorado River drought. Now, nearly 10 years later it is apparent that those guidelines are not enough. New river flow projections indicate that Lake Mead levels could drop to the point of seriously impacting power generation and water availability, despite the Shortage Sharing Guidelines. So, the Lower Basin Drought Contingency Proposal (DC Proposal) has been drafted to protect Lake Mead in a way that improves the health of the river system and shares the burden of reductions among Arizona, California, Nevada and the United States while still honoring the previous agreements.

What is the Drought Contingency Proposal?

The DC Proposal is still a work in progress. The goal is to protect Lake Mead's elevation from dropping to critical levels by sharing responsibility for protecting the system among all Lower Basin Colorado River users, including California. It specifies voluntary reductions for each of the Lower Basin states--Arizona, California and Nevada-- in order to protect the water elevation in Lake Mead. **Why is it important to protect the water elevation in Lake Mead?**

A Colorado River shortage declaration is based on the water levels in Lake Mead. By preventing the water elevation in Lake Mead from dropping to levels that would trigger worsening shortages, the entire river system and all its users benefit. If, however, the water levels dip too low, and there is not a plan in place to protect Lake Mead, the ability to resolve the issues become much more difficult. Moreover, if the local water users cannot agree to a plan to protect Lake Mead, it is unknown what measures the US Secretary of the Interior will take.

Why do we need the Drought Contingency Proposal now?

While Arizona is not currently facing a water crisis, falling water levels in Lake Mead mean all Colorado River users are facing an uncertain future without additional proactive efforts. At the lower lake levels there is uncertainty regarding what actions the federal government may take

and how even Arizona's higher priority users may be affected. Taking additional actions now will help ensure that Lake Mead will continue to serve the needs of Lower Basin water users.

What are the benefits of the Drought Contingency Proposal?

Declining water and power supplies will have far reaching impacts. By working together and voluntarily agreeing to the DC Proposal, all Lower Basin states will enact temporary reductions to protect Lake Mead's elevation from dropping to critical levels. This is not a permanent loss of water entitlement, so when the system recovers we could choose to restore our uses.

How do the water reductions impact Arizonans?

Under the DC Proposal, Arizona agrees to take earlier reductions in its share of the Colorado River than those outlined in the 2007 Shortage Sharing Guidelines to stabilize the level of Lake Mead. This strategy allows the lake level to better withstand long-term shortages without falling as quickly. The State of Arizona is working with all Colorado River water users in Arizona to determine how water reductions will be shared.

Has Arizona already agreed to the Drought Contingency Proposal?

No. While Arizona representatives have participated in the development of DC Proposal, Arizona will not commit to the proposal without consensus among Arizona water users is reached and firm commitments are received from California, Nevada and the United States. Additionally, any agreement will require approval from the Arizona State Legislature. Discussions among Arizona water users to consider the risks and benefits of the DC Proposal and how it could be implemented within Arizona are currently underway. Success will require participation of all those who depend on Colorado River water.

May 20

FACT SHEET FOR S.B. 1535

health; welfare; budget reconciliation 2016-2017

Purpose Makes statutory and session law changes relating to health and welfare to reconcile the FY 2017 budget.

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

Provisions

Arizona Health Care Cost Containment System (AHCCCS)

Substance Abuse Services

1. Requires AHCCCS, instead of the Department of Health Services (DHS), to establish services for addictive behavior, including drug and alcohol abuse, and transfers all powers and duties associated with administering substance abuse services to AHCCCS.
2. Designates AHCCCS, instead of DHS, as the single state agency to develop and administer the state plans for alcohol and drug abuse and for alcoholism as provided in federal law.
3. Authorizes AHCCCS, instead of DHS, to administer the Substance Abuse Services Fund.

Required Reports

4. Continues to require AHCCCS to report by December 1, 2016, to the Directors of the Joint Legislative Budget Committee (JLBC) and the Governor's Office of Strategic Planning and Budgeting (OSPB) on the use of emergency departments for nonemergency purposes by AHCCCS enrollees.
5. Continues to require the Directors of AHCCCS and DHS, by January 1, 2017, to submit a joint report on hospital charge master transparency as outlined to the Governor, Legislature and Secretary of State, and requires the report to provide the following information:
 - a) a summary of the current charge master reporting process;

- b) a summary of hospital billed charges compared to costs;
- c) examples of how charge master or hospital prices are reported and used in other states; and
- d) recommendations to improve the state's use of hospital charge master information, including reporting oversight changes.

6. Requires AHCCCS to report by January 2, 2017, to the Director of JLBC on the availability of inpatient psychiatric treatment for children and adolescents who receive services from the regional behavioral health authorities (RBHAs). The report shall include all of the following information on treatment for individuals who are 21 years of age or younger:

- a) the total number of inpatient psychiatric treatment beds available and the occupancy rate for those beds;
- b) expenditures on inpatient psychiatric treatment;
- c) the total number of individuals in this state who are sent out of state for inpatient psychiatric care; and
- d) the prevalence of psychiatric boarding or the holding of psychiatric patients in emergency rooms for at least 24 hours before transferring the patient to a psychiatric facility.

7. Requires AHCCCS to submit a report by December 1, 2016, for review by JLBC on Medicaid payments for health care services for the Native American population in this state. The report shall include:

- a) an estimate of AHCCCS's annual total fund expenditures on acute care, long-term care and behavioral health services for Native Americans, including an estimate of total state expenditures on such services. AHCCCS is required to provide separate estimates of total Medicaid fee-for-service expenditures and total Medicaid capitation expenditures for services furnished to Native Americans;
- b) an assessment of the state fiscal implications associated with federal policy guidance issued by the Centers for Medicare and Medicaid Services (CMS) in the state health official letter #16-002 dated February 26, 2016. The assessment is required to include an estimate of the state fiscal impact of the following policies addressed in the letter:
 - i. the 100 percent federal matching assistance percentage for services furnished by non-Indian health service providers to Native Americans through a written care coordination agreement; and
 - ii. the 100 percent federal matching assistance percentage for services furnished by an Indian health service facility or tribal facility that did not previously qualify for a 100 percent federal matching assistance percentage, including home and community-based services, transportation services and other nonfacility-based services;

- c) a report on AHCCCS's strategies to encourage written care coordination agreements, as prescribed in the state health official letter #16-002 dated February 26, 2016, between Indian health services providers and non-Indian health service providers; and
- d) an analysis of the impact of the federal policy guidance issued by CMS in the state health official letter #16-002 dated February 26, 2016, on access to care, continuity of care and population health for Native Americans.

Rates and Services

- 8. Continues, for contract year beginning October 1, 2016, and ending September 30, 2017, the risk contingency rate setting for all managed care organizations and the funding for all managed care organizations administrative funding levels that was imposed for the contract year beginning October 1, 2010, and ending September 30, 2011.

Counties

- 9. Continues to exclude county contributions for Proposition 204 administrative costs from county expenditure limitations.
- 10. Continues to require AHCCCS for FY 2017 to transfer to the counties by December 31, 2017, any portion necessary to comply with the Patient Protection and Affordable Care Act regarding the counties' proportional share of the state's contribution.
- 11. Outlines the following FY 2017 county contributions for the Arizona Long Term Care System (ALTCS), totaling \$249,980,000:

Apache	\$625,200
Cochise	\$4,995,000
Coconino	\$1,877,300
Gila	\$2,112,600
Graham	\$1,303,500
Greenlee	\$33,500
La Paz	\$595,600
Maricopa	\$155,173,500
Mohave	\$7,948,800
Navajo	\$2,588,200
Pima	\$39,243,800
Pinal	\$14,899,800
Santa Cruz	\$1,930,900
Yavapai	\$8,391,300
Yuma	\$8,261,000

12. Requires the State Treasurer (Treasurer) to collect from the counties the difference between the aforementioned amount and the counties' share of the state's actual contribution if the overall cost for ALTCS exceeds the amount specified in the General Appropriation Act for FY 2017.
13. Requires the counties' share of the state's contribution be in compliance with any federal maintenance of effort requirements.
14. Requires the Director of AHCCCS to notify the Treasurer of the counties' share of the state's contribution and report the amount to the Director of JLBC.
15. Requires the Treasurer to:
 - a) withhold from any other monies payable to a county from whatever state funding source is available, except the Arizona Highway User Revenue Fund, an amount necessary to fulfill that county's requirement; and
 - b) deposit the amounts withheld and amounts paid by counties in the ALTCS Fund.
16. Outlines the following FY 2017 County Acute Care contributions, totaling \$47,041,500:

Apache	\$268,800
Cochise	\$2,214,800
Coconino	\$742,900
Gila	\$1,413,200
Graham	\$536,200
Greenlee	\$190,700
La Paz	\$212,100
Maricopa	\$19,011,200
Mohave	\$1,237,700
Navajo	\$310,800
Pima	\$14,951,800
Pinal	\$2,715,600
Santa Cruz	\$482,800
Yavapai	\$1,427,800
Yuma	\$1,325,100

17. Requires the Treasurer, if a county fails to make Acute Care contributions, to:
 - a) subtract the amount owed by the county from any payments required to be made by the Treasurer to the county plus interest on that amount, retroactive to the first ay the funding was due; and

- b) if the aforementioned amount withheld is insufficient to meet that county's funding requirement, withhold from any other monies payable to that county from whatever state funding source is available, except the Arizona Highway User Revenue Fund, an amount necessary to fulfill that county's requirement.

18. Requires payment equal to one-twelfth of the total amount for Acute Care contributions to be made to the Treasurer by the fifth day of each month, and requires the Treasurer, on request from the Director of AHCCCS, to require that up to three months' payment be made in advance, if necessary.

19. Requires the Treasurer to deposit the amounts paid or withheld into the AHCCCS Fund and the ALTCS Fund.

20. Allows the Director of AHCCCS, if payments made exceed the amount required to meet the costs incurred by AHCCCS for the hospitalization and medical care of eligible persons, to instruct the Treasurer to either:

- a) reduce remaining payments to be paid by a specified amount; or
- b) provide to the counties specified amounts from the AHCCCS Fund and the ALTCS Fund.

21. States that it is the intent of the Legislature that the Maricopa County Acute Care contribution be reduced in each subsequent year according to the changes in the GDP price deflator.

22. Requires the Treasurer to withhold one-eleventh of the following amounts from state transaction privilege tax revenues otherwise distributable, after any amounts withheld for the county ALTCS contribution or the county administration contribution, for deposit into the AHCCCS Fund for the provision of hospitalization and medical care:

Apache	\$87,300
Cochise	\$162,700
Coconino	\$160,500
Gila	\$65,900
Graham	\$46,800
Greenlee	\$12,000
La Paz	\$24,900
Mohave	\$187,400
Navajo	\$122,800
Pima	\$1,115,900
Pinal	\$218,300
Santa Cruz	\$51,600
Yavapai	\$206,200

Yuma	\$183,900
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23. Requires the Treasurer, if the monies withheld by the Treasurer are insufficient to meet a county's funding requirement, to withhold from any other monies payable to a county from whatever state funding source is available, except monies from the Highway User Revenue Fund, an amount necessary to fulfill that county's requirement.
24. Requires the Treasurer, on request from the Director of AHCCCS, to require that up to three months' payments be made in advance.
25. Allocates in FY 2017 the sum of \$2,646,200 withheld for the county Acute Care Contribution for the provision of hospitalization and medical care services administered by AHCCCS.
26. Excludes county contributions made from the county expenditure limitations.

Disproportionate Share Hospital (DSH) Payments

27. Requires the Maricopa County Special Health Care District (MIHS) and the State Hospital to each provide a Certified Public Expense (CPE) form for the amount of qualifying DSH expenditures to AHCCCS by May 1, 2017, for MIHS and March 31, 2017, for the State Hospital.
28. Establishes the FY 2017 DSH payments as follows:
 - a) \$113,818,500 for a qualifying non-state operated public hospital, of which \$4,202,300 is distributed to MIHS, and the remaining federal portion is distributed to the state General Fund (GF);
 - b) \$28,474,900 for the State Hospital, of which the federal portion is distributed into the GF; and
 - c) \$884,800 for private qualifying DSH hospitals, which are those hospitals that meet the mandatory definition of *disproportionate share qualifying hospitals* as defined by the Social Security Act or those hospitals that are located in Yuma County containing at least 300 beds.
29. Continues to require AHCCCS to assist MIHS and the State Hospital in determining the amount of qualifying expenditures and maintains reporting requirements and distribution procedures of received federal matching funds in FY 2017.
30. Specifies that if the certification is provided for an amount greater than \$113,818,500, AHCCCS is required to distribute \$4,202,300 to MIHS and \$74,605,600 of the federal funds participation to the GF. Allows AHCCCS to make additional DSH payments to MIHS.

31. Stipulates after DSH payment distributions are made, the allocation of DSH payments designated by a political subdivision, tribal governments and universities must be made available first to qualifying private hospitals located outside the Phoenix metropolitan statistical area and the Tucson metropolitan statistical area before being made available to qualifying hospitals within the Phoenix Metropolitan Statistical Area and the Tucson Metropolitan Statistical Area.

Delivery System Reform Incentive Payment Fund

32. Establishes the Delivery System Reform Incentive Payment (DSRIP) Fund, and requires the DSRIP Fund be used to pay all costs incurred pursuant to the section 1115 waiver authority associated with DSRIP payments and designated state health programs.
33. Requires AHCCS to administer the DSRIP Fund, and states it is continuously appropriated.
34. Requires the State Treasurer, on notice from AHCCCS, to invest and divest monies in the DSRIP Fund. Monies earned from investment shall be credited to the fund.
35. Allows separate accounts to be established within the DSRIP Fund for each designated state health program.
36. States the DSRIP Fund consists of:
- a) all monies deposited in the DSRIP Fund pursuant to the section 1115 waiver authority associated with DSRIP payments and designated state health programs;
 - b) gifts, donations and grants from any source;
 - c) federal monies available to this state; and
 - d) interest on monies deposited in the DSRIP Fund.
37. Exempts monies in the DSRIP Fund from provisions relating to lapsing of appropriations.
38. Requires AHCCCS, before the initial deposit of any monies in the DSRIP Fund, to submit an expenditure plan for review by JLBC.

340B Drug Pricing Program

39. Requires, beginning the later of January 1, 2017, or on approval by CMS, 340B covered entities to submit point-of-sale prescription and physician-administered drug claims for members for drugs that are identified in the 340B pricing file, whether or not the drugs are purchased under the 340B Pricing Program. The claims shall include a professional fee and the less of either:
- a) the actual acquisition cost; or

- b) the 340B ceiling price.
40. Requires, beginning the later of January 1, 2017, or on approval by CMS, AHCCCS or a contractor to reimburse claims for drugs that are identified in the 340B pricing file and that are dispensed by 340B covered entities or administered by 340B covered entity providers, whether or not the drugs are purchased under the 340B Drug Pricing Program, at the amount submitted plus a professional fee as determined by AHCCCS unless a contract between the 340B covered entity and AHCCCS or a contractor specifies a different professional fee.
41. Prohibits, beginning the later of January 1, 2017, or on approval by CMS, AHCCCS and its contractors from reimbursing any contracted pharmacy for drugs dispensed as part of the 340B Drug Pricing Program, and requires AHCCCS and its contractors to reimburse contracted pharmacies for drugs that are not purchased, dispensed or administered as part of or subject to the 340B Drug Pricing Program. A contracted pharmacy shall be reimbursed at the price and professional fee set forth in the contract between the contracted pharmacy and AHCCCS or its contractors.
42. States this section does not require AHCCCS or its contractors to reimburse a pharmacy that does not have a contract with AHCCCS or its contractors.
43. Exempts AHCCCS from rulemaking requirements for one year for the purpose of implementing this act.
44. Defines, for the purposes of this section:
- a) *340B ceiling price* as the maximum price that drug manufacturers may charge covered entities participating in the 340B Drug Pricing Program as reported by the drug manufacturer to the U.S. Department of Health and Human Services. The 340B ceiling price per unit is defined as the average manufacturer price minus the federal unit rebate amount;
 - b) *340B covered entity* as a covered entity as defined by federal law that participates in the 340B Drug Pricing Program;
 - c) *340B Drug Pricing Program* as the discount drug purchasing program described in 42 U.S. Code section 256b;
 - d) *actual acquisition cost* as the purchase price of a drug paid by a pharmacy net of all discounts, rebates, chargebacks and other adjustments to the price of the drug, not including professional fees;
 - e) *Administration* as AHCCCS and includes AHCCCS's contracted pharmacy benefits manager;
 - f) *contracted pharmacy* as a separate pharmacy with which a 340B covered entity contracts to provide comprehensive pharmacy services using medications that are subject to 340B drug pricing;

- g) *contractor* as a person or entity that has a prepaid capitated contract with AHCCCS to provide health care to members either directly or through subcontracts with providers and includes a contractor's pharmacy benefits manager; and
- h) *professional fee* as the amount paid for the professional services provided by the pharmacist for dispensing a prescription. *Professional fee* does not include any payment for the drug being dispensed.

Miscellaneous

- 45. Continues to allow AHCCCS to participate in any special disability workload 1115 Demonstration Waiver offered by CMS, and stipulates the following:
 - a) any credits provided by the 1115 Demonstration Waiver process are to be used in the fiscal year when those credits are made available to fund the state share of any medical assistance expenditures that qualify for federal financial participation under the Medicaid program; and
 - b) AHCCCS is required to report the receipt of any credits to JLBC by December 31, 2016, and June 30, 2017.
- 46. States it is the intent of the Legislature for FY 2017 that AHCCCS implement a program within the available appropriation.
- 47. Stipulates any monies received for critical access hospital payments from political subdivisions, tribal governments and any state university under the jurisdiction of the Arizona Board of Regents, and any federal monies used to match those payments, that are received in FY 2017 by AHCCCS are appropriated to AHCCCS in FY 2017. AHCCCS is required to notify JLBC and OSPB of the amount of monies that will be expended prior to expenditure of these monies.

Department of Health Services (DHS)

Behavioral Health Services Funds

- 48. Allows DHS to use monies in the Behavioral Health Services Fund (Fund) only to pay for Title XIX behavioral health services claims for services provided on or before June 30, 2016, until September 1, 2020, when the Fund is repealed. All unexpended and unencumbered monies remaining in the Fund on July 1 of FYs 2018, 2019 and 2020 are transferred to the GF, and the transfer amount may be adjusted for reported but unpaid claims and estimated incurred but unreported claims, subject to the approval of AHCCCS and JLBC.
- 49. Transfers the *County* Behavioral Health Services Fund from DHS to AHCCCS and requires AHCCCS to administer the Fund.
- 50. Allows money in the Medically Needy Account to be used to provide behavioral health care services, in addition to health care services, to eligible persons.

Counties to Reimburse for State Hospital Services

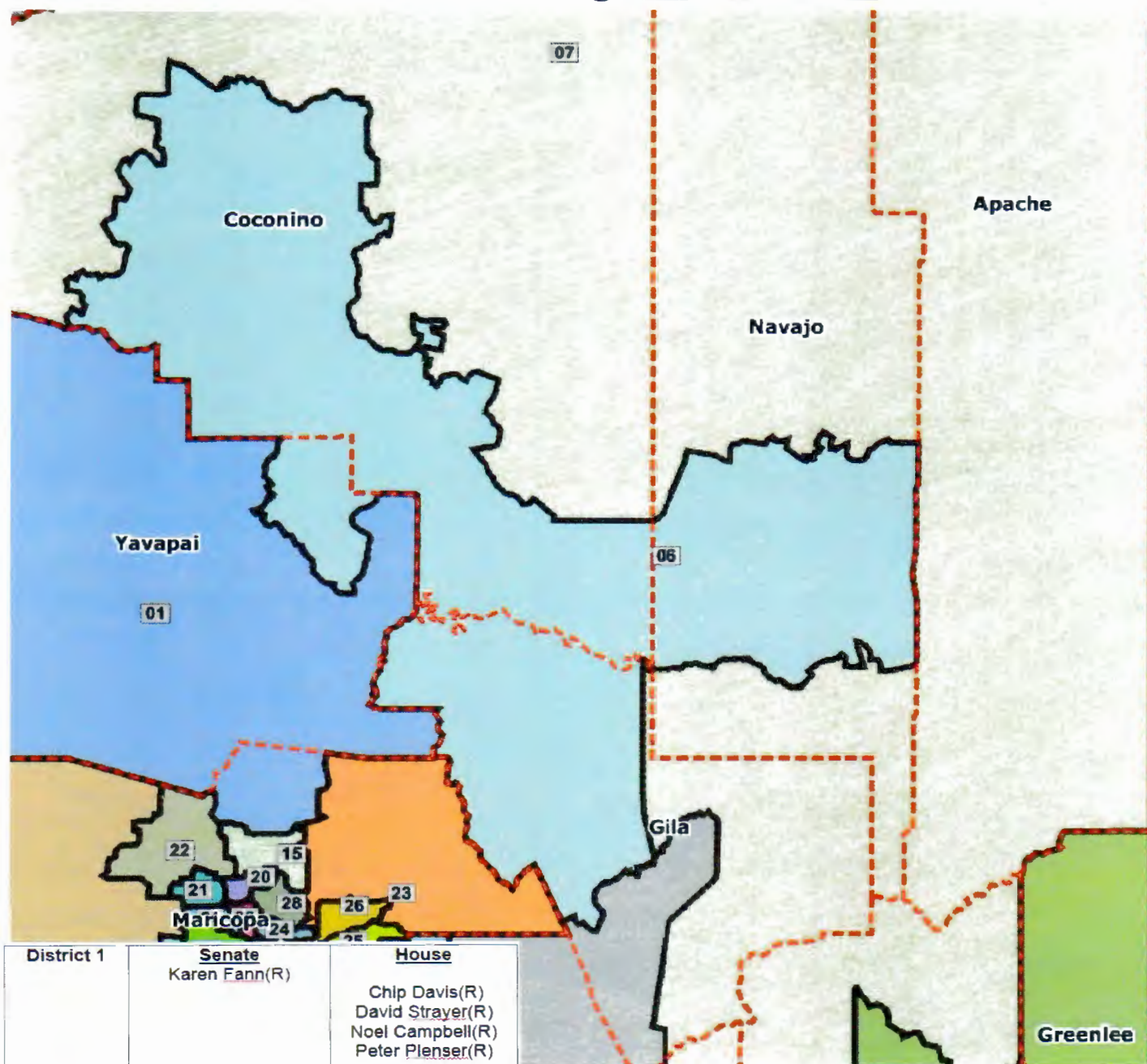
51. Requires the county, if the state pays the costs of a commitment of a sexually violent individual, to reimburse DHS for 31 percent of the total costs for FY 2017, and requires DHS to deposit the reimbursements in the Arizona State Hospital Fund, and includes the following provisions:
- a) Requires the Superintendent of the State Hospital (Superintendent), if the county does not make the payments within 30 days after a request is made by DHS, to notify the Treasurer of the amount owed, and requires the Treasurer to withhold the amount, including interest, from any transaction privilege tax distributions to the county. Requires the Treasurer to deposit these withholdings into the Arizona State Hospital Fund;
 - b) allows a county to meet the funding requirements using any source of county revenue designated by the county, including funds of any countywide special taxing districts in which the board of supervisors serves as the board of directors;
 - c) Excludes county contributions regarding the commitment of sexually violent persons from the county expenditure limitation; and
 - d) Requires counties to pay the costs associated with the commitment of the sexually violent individual through the entire commitment process, including pre-adjudication proceedings.
52. Requires the city or county, if the state pays the cost of a defendant's inpatient, in custody competency restoration treatment, to reimburse DHS for 100 percent of the costs, and requires DHS to deposit the reimbursements into the Arizona State Hospital Fund, and includes the following provisions:
- a) Requires the Superintendent, if the city or county does not make the reimbursements within 30 days after a request is made by DHS, to notify the Treasurer of the amount owed, and requires the Treasurer to withhold the amount, including interest, from any transaction privilege tax distributions to the city or county. Requires the Treasurer to deposit the withholdings into the Arizona State Hospital Fund;
 - b) allows a county to meet the funding requirements using any source of county revenue designated by the county, including funds of any countywide special taxing districts in which the board of supervisors serves as the board of directors; and
 - c) Excludes those county contributions regarding the reimbursement for competency restoration treatments from the county expenditure limitation.

Miscellaneous

53. Requires ALTCS program contractors to provide dental services in an annual amount of not more than \$1,000 per member.

54. Allows monies in the Health Services Lottery Monies Fund to be used for purposes specified in the FY 2017 General Appropriations Act.
55. Continues to allow DHS to use monies in the Health Research Account as specified in the General Appropriations Act for Alzheimer's disease research.
56. Continues to require AHCCCS to report to JLBC and OSPB on the efforts to increase third-party liability payments for behavioral health services by December 31, 2016.
57. Makes technical and conforming changes.
58. Becomes effective on the general effective date, with a delayed effective date as noted.

Prepared by Senate Research
April 26, 2016



District 1	Senate Karen Fann(R)	House Chip Davis(R) David Strayer(R) Noel Campbell(R) Peter Plenser(R)
District 6	Sylvia Allen(R) Nikki Bagley(D)	Bob Thorpe(R) Bhenda Barton(R) Alex Martinez(R)
District 7	Candice Begody-Begay(R) Jamescita Peshlakal(D) Steven Begay(D)	Eric Descheenie(D) Wenona Benally(D)
District 8	Frank Pratt(R) Barbara McGuire(D)	T.J. Shope(R) David Cook(R)



**Navajo Nation Arizona Legislative Priorities and Administrative Actions for the
2017 Legislative Session
Recommendations, 12-1-16**

A. Economic Development:

Legislation

1. TPT Equity; obtain a fair share of TPT generated on the Navajo Nation for economic development and infrastructure.
2. Pass necessary legislation for Arizona Gaming Compact.
3. Protect gaming exclusivity, including Daily Fantasy Sports outside compacts.
4. End Dual Taxation; establish a tax credit for Navajo business tax against sales or TPT liability for businesses doing business on Navajo.
5. Fund individual capital projects.

Administrative Action

1. Develop information on Arizona tax incentives for economic development on the Navajo Nation.
2. Meet with the Arizona Department of Tourism and Arizona Commerce Authority to Programs that may assist in Navajo Economic Development efforts.
3. Develop modernized Arizona Gaming Compact and regulatory structure with Arizona.

B. Transportation:

Legislation

1. Support additional funding for ADOT through the state study committee, for projects and work through the ADOT planning process for funding for Navajo priorities.
2. Obtain larger share of Arizona Gas Tax generated on the Navajo Nation.

Administrative Action

1. Identify qualified Navajo applicants for the Arizona Department of Transportation Board.

C. Education:

Legislation

1. Fight cuts to desegregation funds which will cut funding to School Districts serving many Navajo children.
2. Support additional funding for K-12

3. Create a Graduation Seal for bi-lingual proficiency
4. Additional fund for dual enrollment students
5. Funding for code writer program

Administrative Action

1. Complete negotiations and obtain a signed a compact extension for Dine College and NTU capital program.
2. Improve Arizona Department of Education consultation process for the *State Accountability Plan* under the *Every New Student Succeeds Act*, and the current MOU for student data exchange, and other pressing issues for the Navajo Department of Dene Education with the Arizona Department of Education.
3. Develop a State position of flexibility on the use of Navajo physiological teachings in an effort to support students in dealing with social ills.
4. Assist Arizona public schools serving Navajo children with E-rate applications to ensure that broadband is available for rural students, including Navajo students.
5. Encourage policies that promote dual credit programs and Career Technical Education programs.

D. Public Safety:

Legislation

1. Introduce an amendment to restrict liquor sales in county jurisdictions to three miles from the Nation.
2. Responder legislation for Navajo Nation Emergency Management
3. Examine legislation on misconduct involving weapons

Administrative Action

E. Health Care:

Legislation

1. Oppose cuts to Arizona AHCCCS program.
2. Increase funding for state efforts for the aging populations.

Administrative Actions

1. Monitor and work with AHCCCS on possible federal cuts and Arizona's 1115 Waiver to CMS.

F. Social Service

1. Oppose social service program cuts that harm the Navajo people in need.

G. Water

Legislation

1. Prepare to oppose actively legislation such as 2016's, S1265 and S1400 which may have had negative consequences on Navajo aquifers if Governor would have signed these bills.

Administrative Action

1. Determine Governor, State legislative and ADWR role and participation in the Little Colorado Water Settlement if that process begins to move forward.
2. Monitor Arizona Department of Water Resources activities and positions on the Colorado River Reduction Plan negotiation among the Colorado River states.

H. Energy

Administrative Action

1. Monitor for, and oppose Corporation Commission actions and state legislation, compromising the market for energy produced for the Arizona market by the Four Corners Power Plant.

I. Rights

Legislation

1. Oppose the original version of H2040 to allow the movement of county boundaries, if such legislation impaired Navajo voting rights in County elections.
2. Monitor legislation making it more difficult Navajo's to access state programs or inhibiting Tribal rights.

Administrative Action

1. Support a qualified for the Director of the Governor's Office on Indian Affairs.