

LEGISLATIVE SUMMARY SHEET

Tracking No. 0017-17

DATE: December 8, 2016

TITLE OF RESOLUTION: AN ACT RELATING TO BUDGET AND FINANCE;
RECOMMENDING THE AMENDMENT TO 12 N.N.C. § 810 (I) AND 12 N.N.C. § 840 (B),
THE APPROPRIATIONS ACT

PURPOSE: This resolution if approved will approve the recommendation to amend 12 N.N.C. § 810 (I) and § 840 (B) of the Appropriations Act, pursuant to 12 N.N.C. § 880.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed legislation in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: 3:52pm 11/14/17
Posting End Date: 11/17/2017
Eligible for Action: 11/21/2017

Budget & Finance Committee

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
23rd NAVAJO NATION COUNCIL -- Second Year, 2016

INTRODUCED BY

Dwight Witherspoon

(Prime Sponsor)

TRACKING NO. 0017-17

AN ACT

RELATING TO BUDGET AND FINANCE; RECOMMENDING THE AMENDMENT TO
12 N.N.C. § 810 (I) AND 12 N.N.C. § 840 (B), THE APPROPRIATIONS ACT

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Budget and Finance Committee is a standing committee of the Navajo Nation Council and exercises oversight authority over budget and finance for the purposes of recommending to the Navajo Nation Council the adoption of resolutions designed to strengthen the fiscal and financial position of the Navajo Nation and to promote the efficient use of the fiscal and financial resources of the Navajo Nation. 2 N.N.C. §§ 300 (A) and 300 (C)(3); CO-45-12.

B. Pursuant to 12 N.N.C. § 880, the Appropriations Act may be amended from time to time by the Navajo Nation Council upon the recommendation of the Budget and Finance Committee of the Navajo Nation Council.

SECTION TWO. FINDINGS

A. Each year the Navajo Nation Council adopts the comprehensive budget for the Navajo Nation prior to the expiration of each fiscal year.

B. When the Navajo Nation Council deliberates the proposed comprehensive budget there are findings, audits and pertinent information presented, resulting in a condition of

1 appropriation or expenditure being placed on budgets for a particular governmental
2 unit.

3 C. Governmental unit means any subdivision of the Navajo Nation government, including
4 chapters or other local units of government. 12 N.N.C. § 810 (L).

5 D. Appropriation means the legislative act of designating funds, excluding externally
6 restricted funds, for a specific purpose in accordance with the applicable budgeting
7 principles, policies and procedures contained in this Chapter. 12 N.N.C. § 810 (A).

8 E. Comprehensive budget means a budget which includes a Capital and an Operating
9 Budget conserving all governmental proprietary and fiduciary funds for each annual
10 fiscal year. 12 N.N.C. § 810 (H).

11 F. The definition for “Condition of Appropriation or Expenditure” was enacted through
12 resolution CO-89-98, attached hereto as **Exhibit A**.

13 G. The Navajo Nation Council, since the enactment of resolution CO-89-98, utilized and
14 continues to utilize the Conditions of Appropriation or Expenditure to facilitate
15 improvements in the delivery of services by the Navajo Nation government to the
16 Navajo People.

17 H. The laws governing appropriations at 12 N.N.C. § 810 (I), provides a Condition of
18 Appropriation or Expenditure to be placed on an appropriation and the enactment of the
19 comprehensive budget is an appropriation and therefore, the enactment of the
20 comprehensive budget currently allows for Condition of Appropriation or
21 Expenditures.

22 I. It is in the best interest of the Navajo Nation to amend 12 N.N.C. § 810 (I) and 12
23 N.N.C. § 840 (B).

24 25 **SECTION THREE. AMENDMENT TO TITLE 12**

26 The Budget and Finance Committee recommends amending the Navajo Nation Code 12
27 N.N.C. § 810 (I) and 12 N.N.C. § 840 (B), as follows:

28 29 **NAVAJO NATION CODE ANNOTATED**

30 **TITLE 12. NAVAJO NATION GOVERNMENT**

CHAPTER 7. APPROPRIATIONS

§ 810. Definitions

(I) "Condition of Appropriation or Expenditure" means a specific contingency [is] placed on an appropriation by the Navajo Nation Council at the time the appropriation is made creating legal conditions precedent to the expenditure of funds. Appropriated funds or any other funds received by the Navajo Nation on which a condition of appropriation or expenditure is placed may not be lawfully expended until the condition of appropriation or expenditure is met. It is the responsibility of the Controller to ensure that funds are expended in accordance with the conditions placed on the appropriation or expenditure. As defined here, conditions of appropriation or expenditure shall not be subject to financial line-item vetoes.

§ 840. Budget, approval, adoption and certification

B. Navajo Nation Council Budget Deliberations and Adoption. The Speaker of the Navajo Nation Council shall convene a special budget session each year for the purpose of adopting a comprehensive budget for the next fiscal year and approving the Capital Improvement Plan. The Speaker of the Navajo Nation Council, on behalf of the Navajo Nation Council, is authorized to request the attendance of Navajo Nation government officials to provide information to assist the Navajo Nation Council in its deliberations and may exercise subpoena power in the manner prescribed in 2 N.N.C. § 185. Prior to Navajo Nation Council deliberation of the proposed comprehensive budget, the latest external audit of the combined financial statements of the Navajo Nation will be presented to the Navajo Nation Council by the external auditors. The adoption of the annual Navajo Nation comprehensive budget and any other findings, recommendations, condition of appropriation or expenditure, mandates, policies and

1 procedures of the Navajo Nation Council shall be enacted by a formal resolution of the
2 Navajo Nation Council. The Navajo Nation Council shall adopt the comprehensive
3 budget no less than 20 days prior to the expiration of each fiscal year.

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7 **SECTION FOUR. RECOMMENDING AMENDMENT**

8 The Navajo Nation Council Budget and Finance Committee hereby recommends the
9 proposed amendments to the Appropriations Act, 12 N.N.C. § 810 (I) and 12 N.N.C. § 840
10 (B).
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RESOLUTION OF THE
NAVAJO NATION COUNCIL

Amending 12 N.N.C. Chapter 7, Section 800 et seq.,
Concerning Appropriations

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and

2. Pursuant to Resolution CJY-35-92, the Navajo Nation Council created a Task Force on Proposed Appropriation Legislation for the purpose of developing amendments to Title 12, N.N.C. Chapter 7, §800 et seq., entitled "Appropriations"; and

3. The Task Force in conjunction with the Budget and Finance Committee of the Navajo Nation Council and the Transportation and Community Development Committee of the Navajo Nation Council have developed the proposed amendments and recommended the same to the Navajo Nation Council. The proposed amendments are attached as Exhibit "A"; and

4. On October 22, 1993, the Navajo Nation Council tabled the legislation to allow the Council to thoroughly review the proposed amendments; and

5. On October 27, 1993, the Navajo Nation Council tabled the proposed legislation again, to allow the Transportation and Community Development Committee and the Budget and Finance Committee of the Navajo Nation Council to further refine the legislation; and

6. The proposed Act was deleted from the Navajo Nation Council's 1993 Fall Session Agenda; and

7. On January 5, 1994, the Transportation and Community Development Committee and the Budget and Finance Committee of the Navajo Nation Council in a joint meeting recommended to the Navajo Nation Council the proposed amendments to Title 12, Chapter 7, §800 et seq., and

8. On January 21, 1994, the Navajo Nation Council considered and passed Resolution CJA-14-94 amending Title 12, Chapter 7, Navajo Nation Code, with an amendment to include an automatic 10% set-aside for the funding of Capital Improvement Projects (CIP); and

9. As a result of disagreement over the CIP set-aside, a lawsuit was filed by the Executive Branch against the Legislative Branch entitled Navajo Nation vs. One Navajo Nation Council Resolution, No. WR-CV-147-94; and

10. As a result of the above-referenced suit, on April 6, 1994, by Resolution CAP-30-94, the Council voted to rescind Resolution CJA-14-94 and there is now no appropriations legislation in effect to govern the Navajo Nation budget development process; and

11. On February 27, 1996, the Navajo Nation Council passed Resolution CF-22-96, which stated at Resolved Clause Five:

"The Navajo Nation Council further concurs with the Budget and Finance Committee's directive to the Controller, the Office of Management and Budget with the assistance of the Department of Justice and in consultation with the Legislative and Judicial Branches to prepare a revised version of the Appropriations Act before and present such Act at the Spring Session of the Navajo Nation Council to ensure that the budget for the period October 1, 1996 through September 30, 1997 is enacted pursuant to that Appropriations Act."

and

12. No Appropriations Act was presented to the Navajo Nation Council at its Spring 1996 Session; and

13. An Appropriations Act (SAS No. 1161) was presented to the Council at a November 1, 1996 Special Session of the Navajo Nation Council. This resolution was tabled and taken up again at the Spring 1997 Session of the Council; and

14. On April 22, 1997, the Council acted on SAS No. 1161 by a vote of 46 in favor, 26 opposed and 0 abstained. Because the proposed amendments impliedly altered authorities delegated pursuant to Title Two, the resolution failed for lack of a 2/3rds vote of the full Council (Resolution CD-68-89, Resolved Clause Six; and

15. There was no Appropriations Act in place to guide development of the Fiscal Years 1997 and 1998 budgets; and

16. Budget development for the 1997 and 1998 fiscal years were often characterized by confusion and disagreement over the processes required by law. This discord could have been avoided by an Appropriations Act which clearly delineated the budget development process and the authorities of all entities involved in the process; and

17. The Budget and Finance Committee, through Resolution BFAU-107-98, recommends adoption of the proposed amendments to 12 N.N.C. §800 et seq., and

18. The Navajo Nation Council believes it is in the best interest of the Navajo Nation to enact amendments to 12 N.N.C. §800 et seq., as provided in Exhibit "A". These proposed amendments include all changes made to SAS No. 1161 during its consideration by the Navajo Nation Council at its Spring 1997 Session.

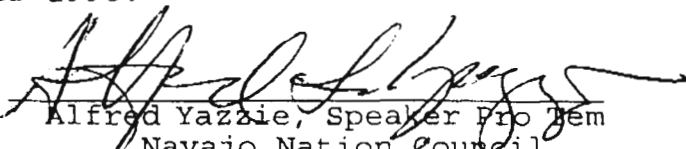
NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby amends 12 N.N.C. Chapter 7, §800 et seq., as set forth in Exhibit "A".

2. The Navajo Nation Council directs these amendments to become effective immediately and shall be used in the development of the Fiscal Year 1999 Budget.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 67 in favor, 1 opposed and 0 abstained, this 20th day of October 1998.


 Alfred Yazzie, Speaker Pro Tem
 Navajo Nation Council
10/21/98
 Date Signed

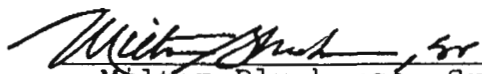
Motion: George Tolth
 Second: Wallace Charley

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this ____ day of _____ 1998.

 Milton Bluehouse, Sr., President
 Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), this 29th day of October, 1998 for the reason(s) expressed in the attached letter to the Speaker.


 Milton Bluehouse, Sr., President
 Navajo Nation



THE NAVAJO NATION

P.O. Box 9000 • Window Rock, Arizona 86515 • Tel: (520) 871-6353 • Fax: (520) 871-4025

Milton Bluehouse, Sr.
PRESIDENT

Frank Chee Willetto, Sr.
VICE-PRESIDENT

October 29, 1998

MEMORANDUM

TO : Kelsey Begaye, Speaker
NAVAJO NATION COUNCIL

Members,
NAVAJO NATION COUNCIL

FROM : 
Milton Bluehouse, Sr., President
THE NAVAJO NATION

SUBJECT : Veto of Navajo Nation Council CO-89-98, Amending 12 N.N.C. Chapter 7, Section 800 et seq., Concerning Appropriations

By the authority vested in me as President of the Navajo Nation, pursuant to 2 N.N.C. § 1005 (c) (10), I hereby veto Navajo Nation Council Resolution CO-89-98, which seeks to amend 12 N.N.C. Chapter 7, Section 800 et seq., concerning appropriations (hereinafter referred to as the "Appropriations Act"). I veto this legislation because it is not in the best interest of the Navajo Nation for the following reasons:

1. The Appropriations Act does not improve upon the old appropriations process; neither does the Act make the process more cost efficient nor does it make the appropriation process more democratic. We must always remember that the treasury belongs to the Navajo people, not government officials.

The Appropriations Act merely restates how the government has historically developed its annual budget. It does not change anything. This law was drafted and proposed long before the Local Governance Act was enacted in April by the Navajo Nation Council. The Local Governance Act, for the first time in our history, recognizes the Chapters and paves the way for local governments to exercise authority over local matters. However, there is no mechanism in the Appropriations Act that allows Chapters to be meaningfully included in the appropriations process, thus making the Local Governance Act not only an

Memorandum to Kelsey Begaye, Speaker, and Members, Navajo Nation Council
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unfunded mandate but fails to recognize the right of the Navajo people through their local Chapters to be involved in the appropriations process. The only time Chapters are mentioned in the Appropriations Act is where they are allowed to merely recommend Capital Improvement Projects. Chapters have more concerns than Capital Improvement Projects. For example, Chapters do not have a say in the development of the budget for the Community Service Coordinators in the Appropriations Act. Once again, we have left out the Chapters and the public in the appropriations process. With the eventual advent of lowered revenues that we receive from our natural resources, we must all be concerned about how we appropriate our funds, and we must include the Chapters in this process.

2. The Appropriations Act appears to enhance or boost the power of certain Standing Committees over the appropriations process at the expense of the Executive Branch. Traditionally, the Executive Branch has played a significant role in the development of the annual budget. With the exception of the Office of Management and Budget, there is no clarification concerning the role of the Executive Branch. As a three branch government, the Executive Branch plays a vital role in ensuring service delivery and as a check on the other branches of government. The Appropriations Act ignores this concept. In this instance, statutory power is given to the Budget and Finance Committee and the Transportation and Community Development Committee over our treasury and Capital Improvement Projects. Once again, the views and suggestions of the Executive Branch, Chapters and the public have not been solicited and were not given consideration.

3. It is noteworthy that the Appropriations Act was enacted after the Navajo Nation Council already approved the Fiscal Year 1999 budget. The concerns of the Council was not how to improve the system, but rather how to maintain its unilateral power over the appropriations process.

For this year, my veto will not impact the Fiscal Year 1999 budget. I say this because the Navajo Nation Council has adopted the Fiscal Year 1999 budget and has authorized appropriations for the next twelve months. Instead my veto will enable the three branches of our government and the Navajo people to be effectively involved in comprehensive legislation that will guide us in Fiscal Year 2000. I encourage the Chapters and the public to help me develop a better law.

4. I must inform the Navajo people and all the Chapters that a more comprehensive law was drafted and proposed by this office about three (3)

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years ago, but the Budget and Finance Committee and the Speaker has not allowed this law to be placed before the Navajo people for discussion. I have a proposal that I want to discuss with the Navajo people. I propose that instead of preserving the status quo, which is what the Appropriations Act does, that we roll up our sleeves and get down to business in proposing comprehensive legislation that will include the Navajo people and Chapters in the process.

5. The Navajo Nation Council should not use my veto to open the door for supplemental appropriations that are pending before it. Approximately \$10 million has been requested. The Conditions of Appropriations included in the Fiscal Year 1999 Budget, Resolution CS-79-98, Condition No. 9, must be met before the Navajo Nation Council approves supplemental appropriations. Condition No. 9 states:

"9. All requests for additional funding or supplemental funding or supplemental appropriations within the period of October 1, 1998 to September 30, 1998, shall be submitted to the appropriate Branch Chief and the Branch budget officer prior to presentation to the appropriate oversight committee and the Budget and Finance Committee. Supplemental appropriations may be considered only if revenues beyond the Controller's original estimate of \$104,400,000 are officially projected. The Controller shall inform all Branch Chief upon projection of additional revenues and each Branch Chief may seek additional appropriations from the Budget and Finance Committee. Each Branch Budget Office shall prepare a quarterly summary of supplemental request activities."

The Navajo Nation Council must exercise restraint. Moreover, I submit that we must not approve supplemental appropriations between now and the end of the first quarter of Fiscal Year 1999, absent clear and convincing reasons that an emergency exists in which to do so.

For the foregoing reasons, I hereby veto this legislation.

Attachment: Resolution CO-89-98

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c: Frank Chee Willetto, Vice President
Robert Yazzie, Chief Justice
Bobby J. White, Controller
Division Directors
Executive Staff Assistants

EXHIBIT "A"

TITLE TWELVE

Fiscal Matters
Chapter 7
Appropriations

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TITLE TWELVE

Fiscal Matters Chapter 7 Appropriations

§800. PURPOSE

The Navajo Nation Government has a fiduciary responsibility to account for public funds, to manage finances wisely and to plan for the adequate funding of services desired by the Navajo People, including the provision and maintenance of public facilities. This Act is designed to establish the policies and procedures for the preparation, adoption and implementation of the annual Navajo Nation Comprehensive Budget.

In order to achieve this purpose, this Act has the following objectives for the Comprehensive Budget's performance:

(A) To fully protect the Navajo Nation Government's policy making ability by ensuring that important policy decisions are made in a manner consistent with rational planning.

(B) To provide sound principles to guide the important fiscal decisions of the Navajo Nation, including the adoption of Generally Accepted Accounting Principles.

(C) To set forth principles to efficiently fund the cost of government within available resources, to the extent consistent with services desired by the public or mandated by Navajo law, and which minimize financial risk.

(D) To employ policies which distribute the costs of government services between the branches, divisions, departments and programs and which provide available funds to operate desired programs.

(E) To provide for essential public facilities and provide for the maintenance of the Navajo Nation's existing public facilities.

~~801. DESIGNATIONS FOR TRIBAL BUDGET~~

~~The Tribal Council, upon the recommendation of the Budget and Finance Committee, adopts the following appropriation designations for use in the Navajo Tribal Budget:~~

~~(1) Regular annual operating appropriation which lapses at the end of the~~

~~fiscal year: Any appropriation not otherwise designated as one of the other three types of appropriations defined below shall fall into this category.~~

~~(2) Continuing appropriation in certain programs which continue for a period longer than one year. These appropriations expire when the results are finally accomplished, when the funds are exhausted, or when the Tribal Council cancels them.~~

~~(3) Revolving fund appropriation (sometimes called working capital funds) for use by service and other departments which receive revenues of which charge the cost of their services and/or materials to other departments. The revenues are credited against the expenditures and each year the balance in the account carries over into the following year without further action. If these funds drop below a certain level, they may be replenished by additional appropriations made by the Tribal Council.~~

~~(4) No year appropriation (capital additions). Funds appropriated for capital additions, including construction of buildings and improvements, investments in business enterprises, land purchases and similar capital addition terms are automatically carried over into the following year. Unless otherwise specified in the resolution approving the appropriation, no year appropriations shall expire at the end of the third fiscal year (including the year of the appropriation) following the date of approval of the appropriation by the Bureau of Indian Affairs.~~

§ 810. DEFINITIONS

For the purposes of this Act and sections of this Act, the following definitions shall apply:

(A) "Appropriation" means the legislative act of designating funds, excluding externally restricted funds, for a specific purpose in accordance with the applicable budgeting principles, policies and procedures contained in this Chapter.

(B) "Branch Chief" means the President, Speaker and Chief Justice of the Navajo Nation.

(C) "Budget Impact Analysis" means an assessment by the Office of Management and Budget of the fiscal consequences of funding or failing to fund a particular Branch, Division, Department, Program, Office, entity or activity.

(D) "Budget Reallocation" means the redesignation of appropriated or budgeted funds from one account to another account or to a newly-created account for a different use or purpose.

(E) "Capital Budget" means the amounts appropriated for the current year of the Capital Improvement Plan.

(F) "Capital Improvement" means a major project undertaken by the Navajo Nation that is generally not recurring on an annual basis, which fits within one or more of the following categories:

1. All projects requiring debt obligation or borrowing.
2. Any acquisition or lease of land.
3. Purchase of major equipment or vehicles with a life expectancy of five years or more, valued in excess of an amount to be established by the Controller.
4. Major building improvements that are not routine maintenance expenses and that substantially enhance the value or extend the useful life of a structure.
5. Construction of new buildings or facilities including engineering, design, and other pre-construction costs with an estimated cost in excess of an amount to be determined by the Controller.
6. Major equipment or furnishings required to furnish new buildings or other projects, the cost of which is above a certain amount to be established by the Controller.

(G) "Capital Improvement Plan" means a recurring multi-year plan for capital improvements identifying each capital improvement project, identifying the expected beginning and ending date for each project, the amount to be expended in each year, and the method of financing those expenditures.

(H) "Comprehensive Budget" means a budget which includes a Capital and an Operating Budget covering all governmental proprietary and fiduciary funds for each annual fiscal year.

(I) "Condition of Appropriation or Expenditure" means a specific contingency placed on an appropriation by the Navajo Nation Council at the time the appropriation is made creating legal conditions precedent to the expenditure of funds. Appropriated funds or any other funds received by the Navajo Nation on which a condition of appropriation or expenditure is placed may not be lawfully expended until the condition of appropriation or expenditure is met. It is the responsibility of the Controller to ensure that funds are expended in accordance with the conditions placed on the appropriation or expenditure.

(J) "Financing" means the act of identifying and acquiring the funds necessary to accomplish the Capital Improvement Plan. It shall include, among other things, lease/purchase arrangements, multi-year purchase contracts, bond

issuance and grants.

(K) "Fiscal Year" means the fiscal year of the Navajo Nation as established by the Navajo Nation Council.

(L) "Governmental Unit" means any subdivision of The Navajo Nation Government, including Chapters or other local units of government.

(M) "Legislative Concern" means a comment, directive or recommendation made by the Navajo Nation Council, by virtue of its legislative oversight authority and pursuant to its authority as the governing body of the Navajo Nation, raising an issue of concern with respect to the internal functioning of the three Branches. Such concerns are advisory in nature, but do not create legal conditions precedent to the expenditure of appropriated funds. In order for a particular legislative concern to be appended to a budget resolution, it must be voted upon and adopted by a majority of the Navajo Nation Council. Legislative concerns which are not voted upon, will not be appended to the budget resolution, but will be referred to the appropriate Branch Chief in memorandum form by the Speaker of the Navajo Nation Council.

(N) "Object Code Transfer" means the transfer of appropriated funds from one object code to another object code within the same account while still maintaining the original intent of the appropriation account.

(O) "Operating Budget" means a plan of financial operation embodying an estimate of proposed expenditures for a fiscal year and the proposed means of financing them (i.e., revenue estimates).

(P) "Program Budget" means an account, designated by the Office of Management and Budget, or series of accounts, related to a specific function, objective, or purpose.

(Q) "Spending Authority" means the legislative act by the Navajo Nation Council of authorizing the expenditure of appropriated funds which have been accepted by the Navajo Nation through the appropriate approval process.

(R) All funds of the Navajo Nation Government shall be classified and defined as follows:

1. "Government Fund Types". Governmental Funds are those groups of Accounts which account for most governmental functions of the Navajo Nation. The acquisition, use and balances of the Navajo Nation's expendable financial resources and the related liabilities (except those accounted for in proprietary funds and the long-term obligations account group) are accounted for through

Governmental Funds. The measurement focus is based upon determination of changes in financial position, rather than upon net income determination. The following are the Navajo Nation's Governmental Fund types:

- a. "General Fund". This fund is the general operating fund of the Navajo Nation. It is used to account for all financial resources except those required to be accounted for in another fund.
- b. "Special Revenue Fund". This fund is used to account for the proceeds of specific revenue sources (other than expendable trusts or major capital projects) that are legally restricted to expenditures for specified purposes. This fund includes Externally Restricted Funds which is defined as Funds received by the Navajo Nation from sources other than the Navajo Nation for a specific purpose.
- c. "Capital Projects Fund". This fund is used to account for the financial resources and expenditure for the acquisition or construction of those capital improvements defined in F above (other than those financed by proprietary funds and fiduciary funds).

2. "Proprietary Fund Types". Proprietary Funds are used to account for the Navajo Nation's ongoing organizations and activities which are similar to business operations in the private sector. The measurement focus is upon determination of net income and capital maintenance. The following are the Navajo Nation's proprietary fund types:

- a. "Enterprise Fund". This fund is used to account for Navajo Nation operations that are financed and operated in a manner similar to private business enterprises - where the intent is that the costs of providing goods or services to the public be financed or recovered primarily through user charges; or where a periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for accountability purposes.
- b. "Internal Service Fund". This fund is used to account for the financing of goods or services provided (inter and intergovernmental) on a cost- reimbursement basis.

3. "Fiduciary Fund Types". Fiduciary Funds are used to account for assets held by the Navajo Nation in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. These funds include but are not limited to expendable and nonexpendable trust funds, and pension trust funds, etc. Expendable trust funds are accounted for in a manner similar to governmental funds. Nonexpendable trust funds and pension trust funds

are accounted for in a manner similar to proprietary funds.

The foregoing definitions concerning fund types shall not be deemed to create any exceptions to the Navajo Nation Sovereign Immunity Act.

§820. OVERALL BUDGET POLICIES

(A) Comprehensive Budget. The Navajo Nation Government shall operate Pursuant to a Comprehensive Budget.

(B) Budget Impact Analysis. All requests for appropriation of Navajo Nation Funds shall be subject to budget impact analysis, which shall include, but not be limited to, needs and costs evaluations, based on objective criteria.

(C) Long Term Fiscal Viability. The Navajo Nation shall prepare each annual budget to ensure the long-term ability to provide services at levels set by the Navajo Nation Government.

(D) Balanced Budget. The Navajo Nation Budget shall balance revenues and expenditures. Appropriations shall not exceed available revenues.

(E) Recurring Operating Costs Paid From Recurring Revenues. The Nation shall budget all recurring operating expenses, including maintenance of capital facilities, from recurring revenues. Long-term debt shall not be used to finance recurring operating expenses.

(F) Non-Recurring Revenues. The Nation shall restrict non-recurring revenues to budget non-recurring expenditures. In addition, non-recurring revenues will be budgeted only after an examination by the Controller to determine whether or not the revenues are subsidizing an imbalance between recurring revenues and expenditures, and expenditures may be authorized only if a long-term (three-to-five year) forecast shows that the operating deficit will not continue. Otherwise, non-recurring revenues will be added to the Unreserved, Undesignated Fund Balance. This provision may be amended or waived only by a two-thirds vote of the full Council.

(G) Matching Requirements. Funds appropriated to match funds from external sources shall be maintained in separate accounts administered by the Controller. If matching funds are not obtained from the external sources, the appropriated funds shall revert to the Unreserved, Undesignated Fund Balance.

(H) Long-Term Debt. Annual debt service for long-term debt shall not exceed eight per cent (8%) of annual recurring revenue and long-term debt shall not be authorized until the impact of annual debt service on the annual operating

budget, including sinking fund contributions, has been analyzed and a determination has been made that debt service payments are in compliance with this section.

(I) Capital Budget. Development of the Capital Budget shall be coordinated with development of the Operating Budget. All budget requests for capital improvements shall be in compliance with an adopted Capital Improvement Plan and shall not be considered nor approved unless in compliance with the Plan.

(J) Establishment of Reserves. For the General Fund, the Minimum Fund Balance for Unreserved, Undesignated Fund Balance shall be maintained at a level equal to the amount required to operate the Navajo Nation Government for six (6) months based upon the Operating Budget for the prior fiscal year, excluding expenditures for Capital Improvement projects as determined by the Controller. The Minimum Fund Balance may be amended only by 2/3 vote of the full membership of the Navajo Nation Council. The Controller shall keep the Office of the President, the Office of the Speaker and the Budget and Finance Committee of the Navajo Nation advised at least quarterly as to the status of the Minimum Fund Balance for Unreserved, Undesignated Fund Balance. Further, Unreserved, Undesignated Fund Balance shall not be utilized for funding recurring expenditures or operations of the Navajo Nation Government.

(K) Receipt of Additional Revenues. Funds received in excess of the initial or current revenue projection shall be deposited into the General Fund Unreserved, Undesignated Fund Balance unless otherwise designated by the Navajo Nation Council.

(L) Supplemental Appropriations. The Navajo Nation Council may adopt and approve supplemental appropriations to the Annual Comprehensive Budget during the fiscal year. Supplemental appropriations of General Funds within the current fiscal year are permitted, if and when additional sources of revenues above and beyond the initial or current revenue projections are projected and which are also in excess of the reserve amount set in subsection 820 (J). Upon notification from the Controller of additional projected funds, the Budget and Finance Committee may convene budget hearings for the purpose of hearing and considering requests for supplemental appropriations. Supplemental appropriations to programs or activities with approved fiscal year operating budgets must be supported by additional projected recurring revenues for the same fiscal year. The Budget and Finance Committee upon the recommendation of the respective oversight standing committee(s) may recommend supplemental appropriations to the Navajo Nation Council. Supplemental appropriations made from non-recurring revenues shall only be made for non-recurring operations or purposes, as set forth at section 820(F). The Controller of the Navajo Nation shall be responsible for designating recurring and non-recurring revenues and purposes.

(M) Office of Management and Budget. The Office of Management and Budget, as authorized by its Plan of Operation as amended, shall be responsible for consolidation and preparation of all phases of the Navajo Nation budget. The Office shall coordinate the overall preparation, adoption and implementation of both the annual operating and capital budgets of the Navajo Nation. All requests for annual operating funds and supplemental funds shall be submitted to the Office of Management and Budget for budget impact analysis and other appropriate action.

(N) Appropriations Lapse. Appropriations approved by the Navajo Nation Council will lapse at the end of the fiscal year unless otherwise designated by the Navajo Nation Council.

(O) Distributions to Chapter. Where not otherwise prohibited by existing law, any appropriation intended for distribution to all chapters of the Navajo Nation shall be allocated as follows: fifty percent (50%) of the appropriation shall be divided equally among all chapters and the remaining fifty percent (50%) shall be divided proportionately among the chapters using a percentage equal to that figure which the number of registered voters in each chapter bears to the whole of registered Navajo Nation voters as determined by the most current voter registration figures available as of the date of the appropriation.

(P) Navajo Nation Grants. Any entity of the Navajo Nation requesting a grant from the Navajo Nation through the submission of a budget request shall first meet the following requirements:

- 1 The program receiving the grant shall have an approved plan of operation;
- 2 The budget request shall be a part of a recommended division or branch budget;
- 3 The respective Oversight Committee for the division or branch shall have made an affirmative recommendation on the request.

§ 830. BUDGET PLANNING AND PREPARATION

(A) Budget Format. Prior to initiation of the annual Budget Process, the Office of Management and Budget shall identify a budget format (i.e., Line-item, Performance, Program, Zero-base, etc.) that will assist the Navajo Nation in correlating budget costs to alternative services levels and alternative policies that will affect those service levels. The budget format, identified shall also include quantitative performance measures (i.e. demand, workload, efficiency and effectiveness).

(B) Long Term Revenue Projections. The Controller shall prepare an annual Long Term Revenue projection for use by the Navajo Nation Government.

This Long Term Revenue Projection shall include all sources of funds and revenues available for use by the Navajo Nation Government within at least the next three fiscal years. The annual Long Term Revenue Projection shall be submitted by the Controller to and be reviewed by the Budget and Finance Committee. The Budget and Finance Committee will present the same to the Branch Chiefs by the end of the second quarter of each fiscal year. A written narrative describing the methodology utilized to estimate revenues and a discussion of key variables affecting the actual revenue, including assumptions made, shall be included in the report. If deemed necessary by the Controller, the long-term revenue projection may be changed as economic circumstances require. Changes to the long-term revenue projection shall be reported in the manner set forth in this paragraph.

(C) Annual Revenue Projection. The Controller shall review and recommend an annual Fiscal Year Revenue Projection for all revenue generating sources for all governmental, proprietary and fiduciary funds of the Navajo Nation. The Annual Fiscal Year Revenue Projection shall be submitted for review by the Budget and Finance Committee of the Navajo Nation Council, and will serve as the official revenue estimate at the beginning of the annual budget process for the next fiscal year. The Budget and Finance Committee will present the Annual Fiscal Year Revenue Projection to the Branch Chiefs by the end of the second quarter of each fiscal year. A written narrative describing the methodology utilized to estimate revenues and discussion of key variables affecting the actual revenue, including assumptions made, shall be included in the report.

(D) External Funding Projection. The Office of Management and Budget shall prepare an estimate of all external funding to be received by the Navajo Nation in the upcoming fiscal year and shall present this information to the Budget and Finance Committee and the Controller by the end of the second quarter of each fiscal year.

(E) Long Term Expense Projection. The Office of Management and Budget shall prepare an annual Long Term Expense Projection which includes all projected expenditures for at least the next three fiscal years for operations, programs, projects and transfer payment to the Navajo people or to outside Non-Navajo Nation Government entities. Such report shall be presented to the Branch Chiefs and the Budget and Finance Committee by end of the second quarter of each fiscal year. This report along with the Long Term Revenue Projection and the Annual General Fund Revenue Projections and the External Funding Projection is intended to provide guidance to the Branches of the Navajo Nation Government in preparation and adoption of the Navajo Nation budget for the next fiscal year.

(F) Approval of Revenue Projections. The Budget and Finance Committee shall review the long-term and the fiscal year revenue projections and may approve them by resolution.

(G) President's Budget Preparation Message. The President may prepare an annual Budget Preparation Message. This Budget Preparation Message may include the President's vision of expected goals and objectives and broad priorities for the fiscal year Navajo Nation Comprehensive Budget. This section does not amend, nor is it in addition to, any powers granted to the President pursuant to 2 N.N.C. section 1005.

(H) Budget Instructions and Planning Base Amounts. The Office of Management and Budget shall prepare Budget Instructions for each fiscal year which shall be approved by the Budget and Finance Committee by the end of the fourth month of the prior fiscal year. The Budget Instructions shall include fiscal, operational, policy guidelines and planning base amounts for each fiscal year for the Executive Branch divisions, the Judicial Branch and Legislative Branch.

(I) Preparation of Budget. Based upon the priorities and budget ceilings established by the method described in subsection (H), each branch, division, department, and program of the Navajo Nation government shall prepare a budget request, which shall be submitted to the Office of Management and Budget by the end of the sixth month of the prior fiscal year. Each division, department and program director shall provide training on the budget process for their program field staff and involve said staff in the development of the budget request upon actual needs and identification of unmet needs. This Proposed Budget shall state the overall goals and objectives and broad priorities for the entire Navajo Nation budget. The Proposed Budget shall be submitted to the Budget and Finance Committee and the Navajo Nation Council by the end of the seventh month of the prior fiscal year.

§840. BUDGET APPROVAL, ADOPTION AND CERTIFICATION

(A) Oversight Committee and Budget and Finance Committee Review and Approval. Each Oversight Committee shall review and make recommendations to the Budget and Finance Committee concerning the budget in accordance with the annual Budget Instructions. The Oversight Committees may hold public hearings at each agency with programs under their oversight and take testimony on the budget. The Oversight Committees shall make recommendations concerning the budget and pass resolutions recommending appropriations and conditions of appropriations for activities within their respective areas of oversight to the Budget and Finance Committee no less than three (3) months prior to the beginning of the fiscal year. Oversight Committee recommendations shall not exceed the planning base amounts set pursuant to Section 830(H). The Budget and Finance Committee shall consult and negotiate with the respective oversight committees if any changes are to be made before making final recommendations to the Navajo Nation Council. Changes made pursuant to this consultation and negotiation process shall neither increase nor decrease the planning base amount set for the Executive Branch

divisions, the Judicial Branch and Legislative Branch, but shall be limited to internal reallocations of the planning base amounts for the entities. The Budget and Finance Committee shall review and make recommendations concerning the budget according to the annual Budget Instructions. The Budget and Finance Committee shall make recommendations concerning the budget and submit it to the Navajo Nation Council no less than two weeks prior to the Budget session.

(B) Navajo Nation Council Budget Deliberations and Adoption. The Speaker of the Navajo Nation Council shall convene a special budget session each year for the purpose of adopting a Comprehensive Budget for the next fiscal year and approving the Capital Improvement Plan. The Speaker of the Navajo Nation Council, on behalf of the Navajo Nation Council, is authorized to request the attendance of Navajo Nation government officials to provide information to assist the Navajo Nation Council in its deliberations and may exercise subpoena power in the manner prescribed in 2 N.N.C. §185. Prior to Navajo Nation Council deliberation of the proposed Comprehensive Budget, the latest external audit of the Combined Financial Statements of the Navajo Nation will be presented to the Navajo Nation Council by the external auditors. The adoption of the Annual Navajo Nation Comprehensive Budget and any other findings, recommendations, mandates, policies and procedures of the Navajo Nation Council shall be enacted by a formal resolution of the Navajo Nation Council. The Navajo Nation Council shall adopt the comprehensive Budget no less than twenty days prior to the expiration of each fiscal year.

(C) Budget Certification. The Speaker of the Navajo Nation Council shall certify the Resolution of the Navajo Nation Council adopting and approving the annual Navajo Nation Comprehensive Budget, and shall forward the certified Resolution and Exhibits to the Navajo Nation President for consideration pursuant to 2 N.N.C. section 1005(C)(10).

§850. BUDGET IMPLEMENTATION, MONITORING AND CONTROL

(A) Budgetary Monitoring and Expenditure Controls. The Controller and Office of Management and Budget shall monitor actual expenditures versus budgeted expenditures and report to the Budget and Finance Committee with respect to the overall budget status of the Navajo Nation; and to the Branch Chiefs with regard to their respective branches. Such reports shall be made on a quarterly basis. The Controller, with the prior approval of the Navajo Nation Council, may restrict expenditures by selected expense codes or line items in the event that actual revenues fall significantly behind the projected revenues.

(B) Budget Performance Measures: The Office of Management and Budget shall be responsible for developing a system for evaluating whether requirements have been met for all Navajo Nation branches, divisions, departments, and

programs. Evaluation standards will be developed in consultation with the relevant branch, division, department, and program. The Office of Management and Budget shall include the projected performance measures for each branch, division, department and program in the compilation of the annual budget for submission to the Budget and Finance Committee and the Navajo Nation Council.

(C) The purpose of a program evaluation is to determine and recommend to the appropriate Branch Chief the recommendations for positive program improvement and whether a program warrants continuation at its current level of activity or modified to a new level or should be discontinued. All Navajo Nation branches, divisions, departments, and programs shall be required to develop a detailed annual plan with performance indicators for each ensuing fiscal year.

(D) The Branch Chiefs shall establish a system for periodic policy review and evaluation of program performance within their respective branches.

(E) All recipients of Navajo Nation funds shall provide, upon request, any information or data necessary to conduct program performance review and evaluation.

§860. CAPITAL IMPROVEMENT PROCESS

(A) Administrative Framework

1 The Capital Improvement Office within the Division of Community Development under the Executive Branch shall be responsible for the administration, coordination and development of the Capital Improvement Plan as defined herein. The Controller and the Office of Management and Budget shall assist the Capital Improvement Office with methods of financing the Capital Improvement Plan.

2. All Capital Improvement funding requests shall be submitted to the Capital Improvement Office, which shall evaluate all requests in accordance with objective criteria approved by the Transportation and Community Development Committee of the Navajo Nation Council.

(B) Development of Capital Improvement Plan

1. The proposed Capital Improvement Plan shall consist of a multi-year plan for capital expenditures, including a detailed one-year capital improvement budget. The proposed Capital Improvement Plan shall include a listing of projects in order of priority and proposed year of construction or acquisition. Data on each project shall include:

- a. The anticipated capital cost of each project:
- b. The anticipated source of capital funds for each project:
- c. The estimated annual operating cost or savings for each project:
- d. The estimated completion data of each project:
- e. The adopted plan or policy, if any, which each project would help to implement:
- f. The viable alternatives that were considered for each project with the reasons the proposed project is the most cost-effective and practical alternative for meeting the stated objective: and
- g. The project's ranking in whatever sequencing/priority setting system is used as a basis for evaluation of capital improvement project proposals.

2. The Capital Improvement Office shall be responsible for the development of priority ranking system which takes into consideration factors such as project cost, feasibility, project value and benefit to the community as a whole, which shall be presented to the Transportation and Community Development Committee for approval.

(C) Approval of the Capital Improvement Plan

1. The Capital Improvement Plan, as developed by the Capital Improvement Office, is subject to the approval of the Navajo Nation Council upon recommendation of the Transportation and Community Development Committee.

2. The appropriation portion of the Capital Improvement Plan is subject to approval of the Navajo Nation Council upon recommendation of the Budget and Finance Committee. Any modification or amendment affecting the approved Capital Improvement Plan is subject to review and concurrence by the Transportation and Community Development Committee prior to consideration by the Navajo Nation Council.

3. The Transportation and Community Development Committee is authorized to and may convene public hearings for the purpose of obtaining public input with respect to the proposed Capital Improvement Plan. A formal report containing all public comments shall be compiled by the appropriate legislative advisors and made available to the Budget and Finance Committee of the Navajo Nation Council during its deliberations concerning the Capital Improvement Plan.

(D) Capital Budget Preparation Calendar

The Capital Improvement Plan and Capital Budget will be developed in accordance with the following chronological sequence of activities:

1. Establish a process for gathering chapter needs to produce a needs base

budget that truly reflects the chapter needs.

2. By ten (10) months prior to the beginning of the Fiscal Year, the Capital Improvement Office shall prepare an inventory list of existing Tribally owned facilities for the purpose of determining need for renewal, replacement, expansion or retirement of the same facilities.

3. By nine (9) months prior to the beginning of the Fiscal Year, the Capital Improvement Office shall prepare a report for all affected Officials on the current status of previously approved Capital Improvement Projects. The report shall contain information on which projects are to be continued, the amount of funds required to continue or complete affected projects, determining the amount of remaining funds from projects completed or discontinued, and summaries as to the progress of previously approved Capital Improvement Projects.

4. By eight (8) months prior to the beginning of the Fiscal Year, the Capital Improvement Office, Office of Management and Budget, and the Controller shall perform financial analysis and financial programming for the purpose of determining the level of capital expenditures the Navajo Nation can safely afford over the term of the Capital Improvement Plan and to determine the selection and scheduling of funding sources to be designated for the Capital Improvement Plan.

5. By seven (7) months prior to the beginning of the Fiscal Year, the Capital Improvement Office shall compile and objectively evaluate all Capital Improvement funding requests. In addition to other eligibility requirements provided in the objective criteria, all requests for Capital Improvement funding shall include a statement of need and justification for the project, net effect on the Navajo Nation's operating budget, and its proposed scheduling during the term of the Capital Improvement Plan. The Capital Improvement Office shall place emphasis on relative need and cost in evaluating each capital improvement funding request in conjunction with the priority rating system approved by the Transportation and Community Development Committee.

6. By six (6) months prior to the beginning of the Fiscal Year the Capital Improvement Office shall have finalized a six (6) year Capital Improvement Plan for consideration and approval by the Transportation and Community Development Committee. Upon review and approval by the Transportation and Community Development Committee, the Capital Improvement Plan will be submitted to the Office of Management and Budget to be incorporated in the recommended Capital Budget which shall be made a part of the Comprehensive Budget for purposes of recommending the Capital Improvement Plan to the Navajo Nation Council.

7. By five (5) months prior to the beginning of the Fiscal Year, the Office of Management and Budget shall submit the appropriation portion of the Capital

Budget to the Budget and Finance Committee for recommendation to the Navajo Nation Council within the recommended Comprehensive Budget. Any recommended amendments affecting the Capital Improvement Plan shall be reviewed and concurred by the Transportation and Community Development Committee.

(E) Capital Budget Monitoring

1. The Capital Improvement Office shall maintain a current record on all projects within the recommended Capital Improvement Plan for information purposes.

2. The Office shall submit quarterly progress reports on the Capital Budget to the Transportation and Community Development Committee and the Budget and Finance Committee.

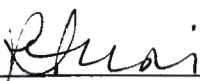
§870. AMENDMENTS

A. This Appropriations Act may be amended from time to time by the Navajo Nation Council upon the recommendation of the Budget and Finance Committee of the Navajo Nation Council.



MEMORANDUM

TO: Hon. Dwight Witherspoon
23rd Navajo Nation Council

FROM: 
Rhonda L. Tuni, Attorney
Office of Legislative Counsel

DATE: December 8, 2016

SUBJECT: AN ACT RELATING TO BUDGET AND FINANCE;
RECOMMENDING THE AMENDMENT TO 12 N.N.C. § 810 (I) AND
12 N.N.C. § 840 (B), THE APPROPRIATIONS ACT

Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law the resolution as drafted is legally sufficient. This proposed resolution is a two-step process; first the Budget and Finance Committee must recommend the amendment. Once the recommendation has been made the legislation is then presented to the Law and Order Committee, Naabik'íyáti' Committee and the Navajo Nation Council.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. § 164(A)(5).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Prime Sponsor", and submit it to the Office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of changes you would like made to the proposed resolution. You may contact me at (928) 871-7166. Thank you.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0017-17_____

SPONSOR: Dwight Witherspoon

TITLE: An Action Relating To Budget and Finance; Recommending the Amendment to 12 N.N.C. § 810 (I) and 12 N.N.C. § 840 (B), The Appropriations Act

Date posted: January 6, 2017 at 3:15pm

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

Written comments may be mailed to:

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

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

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

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0017-17

SPONSOR: Honorable Dwight Witherspoon

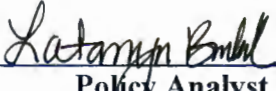
TITLE: : An Action Relating To Budget and Finance; Recommending the Amendment to 12 N.N.C. § 810 (I) and 12 N.N.C. § 840 (B), The Appropriations Act

Posted: January 6, 2017 at 3:15 PM

5 DAY Comment Period Ended: January 11, 2017

Digital Comments received:

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



Policy Analyst
Office of Legislative Services

1/12/17 8:25am

Date/Time