

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

November 5, 2020

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

RE: CO-83-20, *An Act Relating to Law and Order, Naabik'iyati' Committees, and the Navajo Nation Council; Amending Navajo Nation Code 12 N.N.C. § 820(N) Appropriations Lapse*

Dear Speaker Damon,

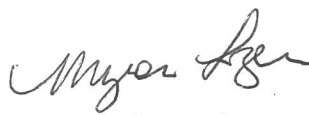
We agree with the proposition of a comprehensive overhaul of the Appropriations Act and not a piecemeal approach that has unintended consequences. Past recommendations called for one financial structure to include all financial services under one roof; however, the recommendation was shelved due to a lack of cooperation and collaboration from our financial programs. We welcome a discussion on development of a unified financial services structure.

We have two primary concerns with CO-83-20. First, the amendment takes away the Council's option to approve a carryover of appropriated funds but puts that option back but under a different criterion. If the intent is to deny Branches, Divisions, Departments, Programs, and Offices an extension of their appropriated funds due to the future decrease in future revenues then by all means make that clear. Second, the amendment creates a higher bar for an important fiscal management tool used by all branches of Navajo government. Many times, supplemental appropriations are approved late in the year for services that extend into the next fiscal year or annual appropriations for government operations that cannot be completed in the fiscal year. The current budgetary process has the measures to approve or not approve requests for carryovers and the diligence of the Committees and Council, working with Programs, will continue to address the need without reactionary measures like CO-83-20.

We are open to a review of our financial programs and a plan to improve those services. CO-83-20 takes a small step; however, we can work together to create a comprehensive change that will improve financial services for the Navajo Nation that benefit the People, our employees, businesses, and federal partners. We do not support CO-83-20; however, look forward to working together with the Navajo Council on improving our financial structure.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACT

RELATING TO LAW AND ORDER, BUDGET AND FINANCE, NAABIK'ÍYÁTI'
COMMITTEES, AND THE NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION
CODE 12 N.N.C. § 820(N) APPROPRIATIONS LAPSE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Law and Order Committee of the Navajo Nation Council reviews and makes recommendations to the Navajo Nation Council on proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14).
- C. The Budget and Finance Committee of the Navajo Nation Council shall exercise oversight authority, including but not limited to, budget, finance, investment, bonds, contracting, insurance, audits, accounting, taxes, loans, Chapter budget and finance, "[t]o coordinate, oversee, regulate the fiscal, financial, investment, contracting and audit policies of the Navajo Nation." 2 N.N.C. § 300 (C)(1).
- D. The Naabik'íyáti' Committee of the Navajo Nation Council reviews proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. § 164 (A)(9).
- E. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164 (A).

SECTION TWO. FINDINGS

- A. The Navajo Nation anticipates declining revenues from the closure of the nearby power plant and coal mine, and along with a decline in other revenue sources, the Navajo Nation faces the prospect of a significant revenue shortfall. This revenue shortfall may lead to a reduction in services to the Navajo people and their communities.

- B. As a result of decreased revenues to the Navajo Nation, more efficient fiscal management is necessary to ensure the Nation can provide services at the current funding level.
- C. The Navajo Nation Code currently provides that appropriations by the Navajo Nation Council lapse, with the exception of appropriations to chapters of the Navajo Nation. 12 N.N.C § 820(N).
- D. Although the Navajo Code provides that appropriations lapse at the end of fiscal year, fund carryovers are routinely approved as part of the Navajo Nation comprehensive budget process.
- E. Prudent and efficient fiscal management requires funds appropriated by the Navajo Nation Council to be used throughout the fiscal year and that fund carryovers not be used as part of routine fiscal practice for central Navajo Nation divisions, departments, programs, and offices.

SECTION THREE. AMENDMENTS TO 12 N.N.C. §§ 820 (N)

The Navajo Nation hereby amends Title 12 of the Navajo Nation Code, as follows:

**TITLE 12. FISCAL MATTERS
CHAPTER 7. APPROPRIATIONS**

§ 820. Overall budget policies.

§ 820(N) Appropriations Lapse.

N. Appropriations Lapse. Appropriations approved by the Navajo Nation Council in the annual comprehensive budget resolution or in supplemental appropriations from the Unreserved, Undesignated Fund Balance will lapse at the end of the fiscal year. ~~unless otherwise designated by the Navajo Nation Council.~~ Appropriations to the Chapters of the Navajo Nation shall not lapse at the end of the fiscal year provided that the Chapters shall budget those funds in the subsequent fiscal year in accordance with the purposes and conditions originally set forth by the Navajo Nation Council in its appropriations. This provision may be amended or waived only by a two-thirds (2/3) vote of the full Navajo Nation Council.

SECTION FOUR. EFFECTIVE DATE

The Act enacted herein shall be effective beginning in FY 2022.

SECTION FIVE. CODIFICATION

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

SECTION SIX. SAVING CLAUSE

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

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona); at which a quorum was present and that the same was passed by a vote of 17 in Favor, and 05 Opposed, on this 21st day of October 2020.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

10/26/2020
DATE

Motion: Honorable Mark A. Freeland

Second: Honorable Pernell Halona

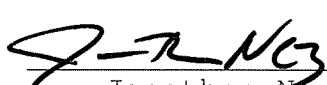

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2020.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 05th day of November, 2020 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

NAVAJO NATION

541

10/21/2020

Navajo Nation Council 2020 Fall Session

08:14:38 PM

Amd# to Amd#	Legislation 0188-20: Amending	PASSED
MOT Freeland, M	Navajo Nation Code 12 N.N.C. SS	
SEC Halona, P	820(N) Appropriations Lapse	

Yeas : 17 Nays : 5 Excused : 0 Not Voting : 1

Yea : 17

Begay, P	Halona, P	Slater, C	Tso, D
Charles-Newton	Henio, J	Stewart, W	Tso, E
Crotty	James, V	Tso	Walker, T
Daniels	Nez, R	Tso, C	Yellowhair
Freeland, M			

Nay : 5

Begay, E	Smith	Wauneka, E	Yazzie
Begay, K			

Excused : 0

Not Voting : 1

Brown

Presiding Speaker: Damon