



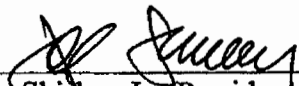
**THE  
NAVAJO  
NATION**

P.O. Box 9000 • WINDOW ROCK, ARIZONA • 86515 • (928) 871-6352 • (928) 871-4025 FAX

**JOE SHIRLEY, JR.**  
PRESIDENT  
**FRANK J. DAYISH, JR.**  
VICE PRESIDENT

**MEMORANDUM**

**TO:** Lawrence T. Morgan, Speaker  
**THE NAVAJO NATION COUNCIL**

**FROM:**   
Joe Shirley, Jr., President  
**THE NAVAJO NATION**

**DATE:** February 13, 2006

**SUBJECT: CJA-06-06 RELATING TO FINANCE; ENACTING THE APPROPRIATIONS ACT AMENDMENTS OF 2005, AMENDING TITLE TWELVE OF THE NAVAJO NATION CODE, 12 N.N.C. §§ 800 ET SEQ.**

Although I agree that clarifying and streamlining the budget and appropriations processes within the Navajo Nation is essential for effective governmental operations, I disagree with several floor amendments that will have a major impact on the Executive Branch and possibly on the authority of the Office of the President. Section 830 establishes branch allocations and states, in part that:

*the planning base amount for the three branches after fixed cost set asides [are] as follows: 1. Executive Branch at 78%; 2. Legislative Branch at 14%; 3. Judicial Branch at 8%. These amounts shall be reviewed for possible amendments by the Budget and Finance Committee of the Navajo Nation Council with approval of all standing committees of the Navajo Nation Council every two years.*

This amendment establishes branch allocations by statute without providing a rational justification for the planning base amounts. According to the Office of Management and Budget (OMB) this amendment will decrease the Executive Branch allocation by 4.3%, increase the Legislative Branch allocation by 3.01% and increase the Judicial Branch allocation by 1.28%. The 4.3% Executive Branch decrease in funding will result in a \$5,129,035 reduction in direct services to the Navajo people. This will impact chapters, senior citizens, police services, education, and other Executive Branch functions.

Without reliable information that supports the rational, need and purpose for statutorily establishing branch allocations at the percentage set forth in Section 830, this amendment is arbitrary and lacks justification.

Additionally, this amendment is inconsistent with Title 2 and the power of the Navajo Nation President to sign into law or veto legislation. The amendment to Section 830 empowers the Budget and Finance Committee and the standing committees to approve amendments to the established branch allocations. It appears that, based upon the language contain in Section 830, future amendments may be approved without Council action and Executive review and approval. If this is so, this amendment diminishes the power of the President to sign into law or veto future amendments to this specific section.

Other impacts on the Executive Branch include new responsibilities of the Office of Management and Budget to perform a number of tasks. These tasks include developing a budget format that will incorporate features of performance budgeting, performance monitoring and compliance, strategic planning, performance sanctions, and cost control measures. The OMB is also responsible for providing written narratives on performance monitoring, compliance, corrective action plans and performance sanction recommendations on all external funds received by the Navajo Nation.

While it is a good idea to implement these types of fiscal control and performance measures, the question is whether the OMB can adequately meet the new requirements without severely impacting its current responsibilities. Without a budget impact analysis, these amendments could have an unintended detrimental affect on the OMB.

By the authority vested in me as President of the Navajo Nation, I hereby veto Resolution No. CJA-06-06.

RESOLUTION OF THE NAVAJO NATION COUNCIL

20<sup>TH</sup> NAVAJO NATION COUNCIL - Fourth Year, 2006

AN ACT

RELATING TO FINANCE; ENACTING THE APPROPRIATIONS ACT AMENDMENTS OF 2005, AMENDING TITLE TWELVE OF THE NAVAJO NATION CODE, 12 N.N.C. §§800 ET SEQ.

BE IT ENACTED:

Section 1. Enactment of the Appropriations Act Amendments of 2005

The Navajo Nation Council hereby adopts the Appropriations Act Amendments of 2005.

Section 2. Purpose

The purpose of the Appropriations Act Amendments of 2005 is to clarify and streamline the budgeting and appropriations processes of the Navajo Nation.

Section 3. Amendments to Title 12 Navajo Nation Code

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

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§ 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 public services desired by the Navajo People, including the provision and maintenance of public facilities. This Act ~~is designed to~~ establishes the policies and procedures for the preparation, adoption and implementation of the annual Navajo Nation Comprehensive Budget, and other appropriations. ~~In order to achieve this purpose, this~~ This Act has the following

objectives for the Comprehensive Budget's and other appropriation'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 (GAAP).

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 that distribute the costs of governmental services among the appropriate Governmental Units ~~between the branches, divisions, departments, and programs and which~~ and 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.

#### § 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 or Chief Justice of the Navajo Nation. When used in the plural term, it means the President, Speaker and Chief Justice.

C. "Budget Growth Formula" means the mathematical formula applied to revenue to calculate the balance available for budgeting purposes by the three Branch Chiefs. It is calculated as follows: the moving average of revenue for the last three years reduced, in the order specified, by:

1. The lesser of \$5 million or the amount of the deficit of the Unreserved, Undesignated Fund Balance, as of the prior year end; and

2. All fixed costs; and

3. All personnel costs from the prior year.

D. "Budget Impact Analysis" means an assessment by the Office of Management and Budget of the ~~fiscal~~ consequences of the funding level for ~~or failing to fund~~ a particular ~~branch, division, department, program, office, entity~~ governmental unit or activity.

~~D.~~ E. "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.~~ F. "Capital Budget" means the amounts appropriated for the current year of the Capital Improvement Plan.

~~F.~~ G. "Capital Improvement" means a major project undertaken by the Navajo Nation or other governmental unit that is generally not recurring on an annual basis and 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 (5) 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 or acquisition 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; and/or

6. ~~Major~~ Acquisition or rehabilitation of equipment with a reasonably expected economic life of five years or more or furnishings required to furnish new buildings, improvements or other projects, the cost of which is in excess of \$50,000 above a certain amount to be established by the Controller.

7. Construction of infrastructure assets.

G. H. "Capital Improvement Plan" means a recurring multi-year plan for capital improvements identifying each capital improvement project, 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. I. "Comprehensive Budget" means a budget ~~which that~~ includes a Capital Budget and an Operating Budget covering all governmental proprietary and fiduciary funds for each annual fiscal year.

I. J. "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 prohibitions on 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.~~

K. "External Funds" means funds appropriated or received by the Navajo Nation from external sources.

~~J.~~ L. "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.~~ M. "Fiscal Year" means the fiscal budgeting, accounting and operating year of the Navajo Nation as established by the Navajo Nation Council.

N. "Fixed Cost" means all costs not allocable to any one department, program or office. These costs are incurred for the continued operation of the Navajo Nation governmental unit and exclude capital fixed costs. Fixed costs generally include cash outlays for insurance, utilities, rent, debt service and other commitments.

O. "Generally Accepted Accounting Principles" (GAAP) refer to uniform minimum standards and guidelines for financial accounting and reporting. The principles govern the form and content of the financial statements of an entity. These principles encompass the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. The principles include not only broad guidelines of general application, but also detailed practices and procedures. The principles provide a standard by which to measure financial presentations. The primary authoritative body on the application of GAAP to State and local governments is the Government Accounting Standards Board (GASB).

L. P. "Governmental Unit" means the Navajo Nation central government, including its branches, divisions, departments and programs; Navajo Nation political subdivisions, including chapters, and any other local units of government created pursuant to Navajo Nation law; as well as, enterprises, authorities or commissions, but excluding entities chartered or established as private corporations or companies. any subdivision of the Navajo Nation government, including chapters or other local units of government.

Q. "Infrastructure" means long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. Examples include roads, bridges, tunnels, drainage systems, water and sewer systems, dams, and lighting systems. Buildings should not be considered infrastructure assets.

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. R. "Local Government Projects" means governmental improvement projects that include, but are not limited to, house wiring, bathroom additions and projects that address individual or community needs but which may not meet the requirements for, or definition of, capital improvement projects.

O. S. "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.

P. T. "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).

Q. ~~"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.~~

U. "Revenues" means all taxes, royalties, oil and gas, mining/minerals, land rentals, interest/dividends, gain on sale of securities, and other revenue-producing activities and all other income and receipts of whatever kind or character, including external funding, derived by or to which a governmental unit is entitled from the operation, sale or use of facilities, projects, utilities or systems owned or operated by the governmental unit.

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

~~S.~~ §815. Fund Types

All funds of the Navajo Nation government shall be classified and defined as follows:

1. "Governmental Funds Types." Governmental funds are those groups of accounts ~~which~~ that 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 funds 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~~ that are 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 ~~Subsection (F)~~ Section 810(G) above (other than those financed by proprietary funds and fiduciary funds).

2. "Proprietary Funds ~~Types~~." Proprietary funds are used to account for the Navajo Nation's ongoing organizations and activities ~~which is~~ that 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 funds 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 ~~inter~~ intragovernmental) on a cost-reimbursement basis.

3. "Fiduciary Funds ~~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.

4. The foregoing definitions concerning funds 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 a budget impact analysis, ~~which~~ that shall include, but not be limited to, needs and ~~costs~~ cost-benefit analysis and 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, in accordance with the established Navajo Nation budget growth formula.

D. Balanced Budget. The Navajo ~~Nation~~ comprehensive budget shall balance revenues and expenditures. Navajo Nation Appropriations may not exceed available revenues as adjusted pursuant to Section 830.

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~~ evaluation 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-fivefour 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 appropriated matching funds are not obtained from the external sourcesno longer required, 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 percent (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 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 Council advised at least quarterly as to the status of the Minimum Fund balance for Unreserved, Undesignated Fund balance. Further, Unreserved, Undesignated Fund balance is non-recurring and shall not be utilized for funding recurring expenditures or operations of the Navajo Nation government.

K. Receipt of Additional Revenues. Funds Revenue, with the exception of externally restricted 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 only during the regular Navajo Nation Council Spring Session. The Spring Session limitation does not apply to legislation that constitutes an 'emergency' situation as defined in 2 N.N.C. §164(A) (7) (a) fiscal year. Supplemental appropriations of General Funds within the current fiscal year are permitted, if and only 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 forth at § 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 recurring revenues for the same fiscal year. The Budget and Finance Committee, at 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 § 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 Comprehensive Budget and supplemental appropriations Navajo Nation budget. The Office of Management and Budget 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. The Office of Legislative Counsel shall not finalize budget or appropriation legislation until a budget impact analysis has been provided by the Office of Management and Budget.

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. 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.

O. ~~Distributions~~ Allocation 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 governmental unit or Navajo Nation-owned entity or company ~~of the Navajo Nation~~ requesting a grant from the Navajo Nation through the submission of a budget an appropriation request shall first meet the following requirements:

1. The ~~program receiving~~ governmental unit, entity or company requesting the grant shall have an approved plan of operation or enabling legislation in which the Navajo Nation establishes or authorizes the governmental unit or Navajo Nation-owned entity or company;

2. The budget request shall be a part of a recommended ~~division or~~ branch budget or appropriation;

3. The respective oversight committee for the ~~division or~~ branch shall have made an affirmative recommendation on the request.

Q. Local Government Funds are used to address the improvement needs of the local governments that may consist of, but are not limited to, house wiring and bathroom additions. An amount equal to the actual cost of proposed projects but not to exceed twenty-five percent (25%) of that year's capital improvement appropriation will be appropriated into the Local Government Improvement Funds for these



projects. Additional amounts may be appropriated from time-to-time or may be obtained from other sources.

§ 830. Budget planning and preparation

A. Budget ~~Format~~ Methodology. Prior to initiation of the annual budget process, the Office of Management and Budget shall identify a budget format that will incorporate features of performance budgeting, performance monitoring and compliance, strategic planning, performance sanctions, and cost control measures and shall include the planning base amount for the three branches after fixed cost set asides as follows: 1. Executive Branch at 78%; 2. Legislative Branch at 14%; 3. Judicial Branch at 8%. These amounts shall be reviewed for possible amendments by the Budget and Finance Committee of the Navajo Nation Council with the approval of all standing committees of the Navajo Nation Council every two years. (~~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. By the beginning of the annual budget process of the next fiscal year, the ~~The~~ Controller shall prepare ~~an annual~~ a long term revenue projection for use by the Navajo Nation government. This ~~long term revenue~~ projection shall include all sources of ~~fund~~ and revenues available for use by the Navajo Nation government within ~~at least the next three (3)~~ a period of four fiscal years.

1. ~~The annual long term revenue projections shall be submitted by the Controller to and be reviewed by~~ in a written narrative to the Budget and Finance Committee by the Controller and the Office of Management and Budget.

2. The Budget and Finance Committee will present the same 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 a discussion of key variables affecting the actual revenue, including assumptions made, shall be included in the report.~~

3. ~~If deemed necessary by the Controller, the~~ The long-term revenue projection may be changed and updated as economic circumstances require and shall be reported as identified above. ~~Changes to the long term revenue projection shall be reported in the manner set forth in this paragraph.~~

4. The Budget and Finance Committee shall approve the long term revenue projection(s) by legislation with consultation of all standing committees.

C. Annual Fiscal Year Revenue Projection. The Controller and the Office of Management and Budget shall review develop and recommend an annual fiscal year revenue projection ~~for~~ from all revenue generating sources for all governmental, proprietary and fiduciary funds of the Navajo Nation.

1. The recommended annual fiscal year revenue projection shall be submitted ~~for review by~~ in written form to 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.~~

2. The Budget and Finance Committee will present the ~~annual fiscal year revenue projection~~ to the Branch Chiefs by the end of the ~~second~~ third 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.~~

3. The Budget and Finance Committee shall approve the annual revenue projection by legislation with consultation of all standing committees.

D. External Funding Projection. The Office of Management and Budget shall prepare ~~an estimate~~ a written projection of all external funding funds existing and/or funds to be received by the Navajo Nation in the upcoming fiscal year.

1. and The Office of Management and Budget shall present this information to the Budget and Finance Committee and the Controller by the end of the second third quarter of each fiscal year.

2. The Office of Management and Budget shall present a written narrative on performance monitoring, compliance, corrective action plans and performance sanction recommendations on all external funds received by the Navajo Nation by the end of the third quarter of the fiscal year to all standing committees.

E. Fixed Cost Projection. The Office of Management and Budget shall prepare an annual fiscal year fixed cost projection for all funds of Navajo Nation central government governmental units. The fixed cost projection shall include projected expenditures for insurance, utilities, rent, debt service, and all other costs not assignable to any governmental unit which shall be submitted to all standing committees.

1. The fixed cost projection shall be submitted in written form to all standing committees at the beginning of

the annual budget process for the next fiscal year and identified as a set-aside allocation prior to Branch planning allocations.

2. The Budget and Finance Committee shall approve the annual fixed cost projections by legislation with consultation of all standing committees.

~~E.~~ F. Long Term Expense Projection. The Office of Management and Budget shall prepare ~~an~~ the annual long term expense projection which will includes all projected expenditures and transfer payments for ~~at least~~ the next three ~~(3)~~ four fiscal years for operations, of programs, and projects and ~~transfer payment~~ to the Navajo people or to outside non-Navajo Nation government entities.

1. Such report The annual long term expense projection shall be presented submitted in written form to the Branch Chiefs and the Budget and Finance Committee at the beginning of the annual budget process for the next fiscal year and shall be submitted to all standing committees. by the 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.

2. The Office of Management and Budget shall include in the annual long term expense projection anticipated shortfalls and/or over funding projections for the impacted programs and projects.

~~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.

§1005.

H. Budget Instructions and Planning Base Amounts. The Office of Management and Budget shall prepare specific user-friendly budget instructions for each fiscal year ~~which shall be approved by the Budget and Finance Committee no later than thirty (30) days after the Controller releases the annual revenue projection as delineated at § 830(C).~~ The budget instructions shall include ~~fiscal, operational, policy guidelines, budget development timelines and planning base amounts~~ in accordance with the established Navajo Nation budget growth formula for operations, performance based budgeting requirements, budget timelines, and compliance requirements for each fiscal year for the ~~Executive Branch, the Judicial Branch and the~~ Legislative, and Judicial Branches. The Budget Instructions shall be approved by the Budget and Finance Committee through legislation with consultation of all standing committees.

I. Preparation of the 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~~ The Navajo Nation central government governmental units shall prepare submit a performance based budget request, which shall be submitted based upon the priorities, budget ceilings, performance

criteria, and timelines to the Office of Management and Budget pursuant to the time lines established in the annual Budget Instructions Manual. Each division, department and program director The Office of Management and Budget shall provide training on the budget process, budget preparation, and the budget instructions to governmental unit supervisors or their designees, who in turn shall provide training to their staff. ~~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.~~

§840. Comprehensive Budget approval, adoption and certification review

~~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 pursuant to the time-lines established in the Budget Instructions Manual. Oversight committee recommendations shall not exceed the planning base amounts set pursuant to § 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 pursuant to the time lines established in the Budget Instructions Manual.~~

~~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 (20) days prior to the expiration of each fiscal year.~~

A. Oversight Committee Review and Approval. Oversight committees shall review each governmental unit budget request under their respective oversight and approve legislation for Navajo Nation Council consideration.

B. Budget and Finance Committee Review and Approval. The Budget and Finance Committee will review and consider budget recommendations from the Branch Chiefs and make recommendations by legislation concerning the comprehensive budget to the Navajo Nation Council in accordance with the annual budget instructions.

C. Navajo Nation Council Review and Adoption. Prior to the special budget session, the Navajo Nation Council shall meet in a special session to accept or decline the latest external audit of the Navajo Nation. The Navajo Nation Council shall meet in a special budget session to adopt the comprehensive budget to later than twenty days prior to the expiration of each fiscal year.

~~C.~~ D. Budget Certification. The Speaker of the Navajo Nation Council shall certify the ~~resolution~~ legislation of the Navajo Nation Council adopting and approving the annual Navajo Nation comprehensive budget, and shall forward the certified ~~resolution~~ legislation and exhibits to the Navajo Nation President for consideration, pursuant to 2 N.N.C. §1005(C) (10).

§845. Budget veto override, conference and continuing operations

A. Continuing operations. If the Navajo Nation comprehensive budget is not adopted into law prior to the



start of the fiscal year, a continuing budget shall become effective. The budget level for all governmental units shall be one-twelfth (1/12) of the current annual operating budget, until a comprehensive budget is adopted into law.

§850. Budget implementation, monitoring and control administration and performance management.

~~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 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 of 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.~~

A. Budget administration and management. The Controller and the Office of Management and Budget, in consultation with

Navajo Nation central government governmental units, shall develop policies and procedures to provide guidance to management and oversight committees on budget monitoring, performance, expenditures, and related matters. Any such policies and procedures shall be approved by legislation adopted by the Budget and Finance Committee with consultation of all standing committees.

B. Performance management. The Office of Management and Budget, in consultation with Navajo Nation central government governmental units, shall develop policies and procedures to provide for the regular review, monitoring, and reporting of budget and program performance. These policies and procedures shall include the duties of management and Branch Chiefs with the approval of oversight committees.

C. Program Evaluation. 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~~ central government governmental units 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 a 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 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 that 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.

#### §880. Amendments

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; provided that amendments to ~~these sections~~ Sections 860 and 870 ~~of this Act related to either Capital Improvement Process or the Local Government Improvement Fund~~ shall be upon the recommendation of the Transportation and Community Development Committee of the Navajo Nation Council.

#### Section 4. Codification

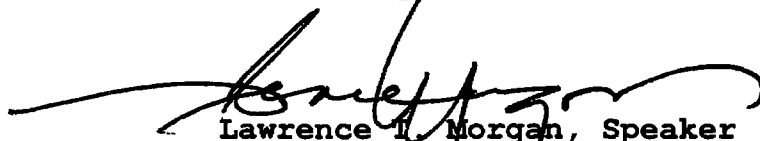
The provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code, to the extent practicable.

#### Section 5. Savings Clause

Should any provisions 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 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 56 in favor and 10 opposed, this 27<sup>th</sup> day of January 2006.

  
Lawrence T. Morgan, Speaker  
Navajo Nation Council  
01 Feb 06  
Date

Motion: Peterson Yazzie

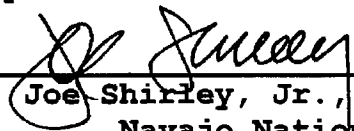
Second: Ernest Hubbell

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 \_\_\_\_\_ 2006.

\_\_\_\_\_  
Joe Shirley, Jr., President  
Navajo Nation

- 2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this \_\_\_\_\_ day of ~~FEB 13 2006~~ 2006 for the reason(s) expressed in the attached letter to the Speaker.

  
\_\_\_\_\_  
Joe Shirley, Jr., President  
Navajo Nation