

# THE NAVAJO NATION

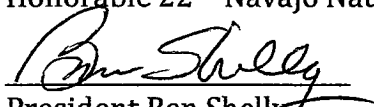


BEN SHELLY PRESIDENT  
REX LEE JIM VICE PRESIDENT

TO : Honorable Johnny Naize, Speaker  
The 22<sup>nd</sup> Navajo Nation Council

: Honorable 22<sup>nd</sup> Navajo Nation Council

FROM :

  
President Ben Shelly  
THE NAVAJO NATION

DATE : November 04, 2011

RE: Amending Navajo Nation Appropriation Act, Title 12 Chapter 7,  
Appropriation section 820(L) Supplemental Appropriations;  
Legislation No. CO-44-11

Pursuant to 2 N.N.C. § 1005 (C) (10), legislation CO-44-11, Amending Navajo Nation Code Title 12, Chapter 7, Appropriations Section 820(L) Supplemental appropriations, is being submitted to the Navajo Nation Council, through the Office of the Speaker, within the ten (10) days requirement. 2 N.N.C. § 1005 (C) (11) establishes the Navajo Nation President's authority to veto legislation passed by the Navajo Nation Council. I will not exercise my veto authority with this Legislation.

Currently N.N.C. 12 section 820 (L) allows for supplemental appropriations from the Undesignated Unreserved Fund Balance (UUFb) when two criteria are met: (1) when the projected revenue is met, and (2) the 10% UUFb amount is realized. With this proposed Legislation CO-44-11, it will allow supplemental appropriation from the excess funds above the 10% UUFb, even before its reported that the projected revenue is met.

Below I have provided my recommendations and concerns in regards to Legislation CO-44-11:

1. Non-emergency Supplemental Appropriations should not be considered for several months, or until the Nation budget is finalized. The Federal budget is uncertain. Currently, the United States is operating on a continuing resolution. If the Federal government cannot come to an agreement in regards to the FY 2012 U.S. budget by November 23, 2011 there may be a government shut down. The Nation needs to be prepared to finance not only government functions, but also its programs until the Federal government comes to an agreement on the National budget. Additionally, the Federal government has formed a Superfund Committee,

which is tasked to search out a cost savings of an estimated \$1.5 Trillion over a fourteen months time frame (last reported). Ultimately the Nation will be affected by the budget cuts.

2. 12 N.N.C. section 820 (I) should be amended requiring the UUFB to maintain an amount that will allow the Nation to sustain government and program services for at least three (3) months, which is approximately twenty-five percent (25%) of the Nation's Operation Budget for the prior year. Currently section 820(J) requires the UUFB maintain a balance not less than ten percent (10%) of the Nation's General Fund Operation Budget for the prior fiscal year. The question is, is this enough? Before the CJA-07-06, January 27, 2006, amendment to section 820(J), the UUFB was required to maintain a balance equal to the amount required to operate the Navajo Nation government for six (6) months based upon Operation Budget for the prior fiscal year.
  
3. Budget and Finance Committee is expected to enforce the supplemental appropriation procedures established in Fiscal Year 2012 Budget Instructions and Policies Manual section VIII, and possibly set parameters on supplemental appropriation requests. Budget and Finance Committee is charged with protecting the interests of the Navajo People through prudent management of the financial reserves of the Navajo Nation, and regulating its efficient use of funds. The Executive Branch is doing its part in supporting fiscal accountability. An Executive Order (02-2011) was signed October 27, 2011, to set responsible parameters on Executive programs who may request supplemental appropriation. Please see Executive Order attached.

It is important as leaders that we plan appropriately and responsibly for the Navajo Nation and its People. Legislation CO-44-11 Section One, professes this Legislation amending 12 N.N.C. section 820(L) is found to be in the best interest of the Navajo People. I will give the Council deference that this amendment will be used in the best interest of the Navajo People. I will also utilize my line-item veto in concert with the Council's responsibility.

I appreciate the Council's work and dedication, and willingness to work cooperatively to achieve balance harmony within the Nation's internal government relations for the benefit of the Navajo People.

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

22<sup>nd</sup> NAVAJO NATION COUNCIL -- First Year, 2011

AN ACTION

RELATING TO BUDGET AD FINANCE; LAW AND ORDER; NÁBIK' IYÁTI; AMENDING  
NAVAJO NATION CODE TITLE 12, CHAPTER 7, APPROPRIATIONS, SECTION 820(L)  
SUPPLEMENTAL APPROPRIATIONS

BE IT ENACTED:

**Section One. Findings and Purpose.**

The Navajo Nation hereby finds it to be in the best interest of the Navajo Nation and the Navajo People to amend the Navajo Nation Appropriations Act of Navajo Nation Code Title 12, Chapter 7 Appropriations, Section 820(L).

**Section Two. Amendment of Navajo Nation Code Title 12, Chapter 7, Appropriation, Section 820**

The Navajo Nation Council hereby amends Navajo Nation Code Title 12, Chapter 7, appropriations, Section 820(L), Supplemental Appropriations, as follows:

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

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**§ 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 may 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 revenue are subsidizing an imbalance between recurring revenues and expenditures, and expenditure 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-third (2/3) 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 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 request for capital improvement 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 of Unreserved, Undesignated Fund balance shall be maintained at not less than ten percent (10%) of the Navajo Nation's General Fund 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 two-thirds (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 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 designed 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, (1) 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 forth at § 820(J) or (2) when the Unreserved, Undesignated Fund balance is in excess of the reserve amount set forth at § 820(J). Upon notification from the Controller of additional projected funds or when the Unreserved, undesignated Fund balance is in excess of the reserve amount set forth at § 820(J), 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 budget must be supported by additional recurring revenues for the same fiscal year. The Budget and Finance Committee, at the recommendation of the respective oversight 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 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. 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 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 votes in each chapter bears to the whole of registered Navajo Nation voters as determined by the most current voter registration figure available as of the date of the appropriation.

P. The 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.

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 (25%) of that year's capital improvement appropriation will be appropriated into the Local Government funds for these projects. Additional amounts may be appropriated from time to time or may be obtained from other sources.

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**Section Three. Effective Date**

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

**Section Four. Codification**

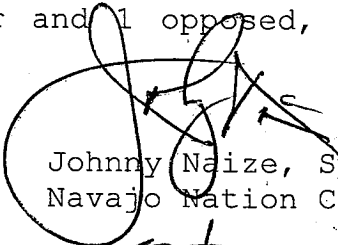
The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

**Section Five. 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 provisions of the Act which are not determined invalid shall remain the law of the Navajo Nation.

**CERTIFICATION**

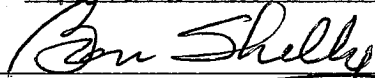
I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 13 in favor and 1 opposed, this 19<sup>th</sup> day of October 2011.

  
Johnny Naize, Speaker  
Navajo Nation Council  
Oct 26, 11  
Date

Motion: Edmund Yazzie  
Second: Jonathan Nez

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to <sup>2</sup> N.N.C. §1005 (C) (10), on this 4<sup>th</sup> day of November 2011.



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Ben Shelly, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this \_\_\_\_\_ day of \_\_\_\_\_ 2011 for the reason(s) expressed in the attached letter to the Speaker.

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Ben Shelly, President  
Navajo Nation



**BUDGET AND FINANCE COMMITTEE  
22<sup>nd</sup> NAVAJO NATION COUNCIL**

**FIRST YEAR 2011**

**COMMITTEE REPORT**

Mr. Speaker,

The Budget and Finance Committee to whom has been assigned:

**LEGISLATION NO: 0413-11**

An Act Relating to Budget and Finance, Law and Order; Naa'bik'iyati'; Amending Navajo Nation Code Title 12, Chapter 7, Appropriations, Section 820 (L), Supplemental Appropriations

*(Sponsored by Lorenzo Curley)*

Has had it under consideration and report the same with a recommendation that it **DO PASS**, with no amendments

and therefore referred to LAW AND ORDER COMMITTEE.

Respectfully submitted,



LoRenzo Bates, Chairman  
Budget & Finance Committee

Date: October 5, 2011

The vote was 4 in favor and 0 opposed

Motion: Mel R. Begay

Second: Danny Simpson

22<sup>nd</sup> NAVAJO NATION COUNCIL

First Year 2011

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned


**NAVAJO LEGISLATIVE BILL # 0413-11:**

An Act Relating to Budget and Finance; Law and Order; Naa'Bikiyati'; Amending Navajo Nation Code Title 12, Chapter 7, Appropriations, Section 820(L), Supplemental Appropriations *Sponsored by Lorenzo Curley, Council Delegates*

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And therefore, referred to the **LAW AND ORDER** Committee

Respectfully submitted,



LoRenzo Bates, Chairman

Adopted:  Legislative Advisor

Not Adopted: \_\_\_\_\_  
Legislative Advisor

Date: **11 October 2011.**

The vote was **3** in favor **0** opposed  
Excused: Jonathan Nez, Mel R. Begay  
Absent:

**LAW AND ORDER COMMITTEE  
22<sup>nd</sup> NAVAJO NATION COUNCIL**

**FIRST YEAR 2011**

**COMMITTEE REPORT**

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

**NAVAJO LEGISLATION NO. 0413-11**

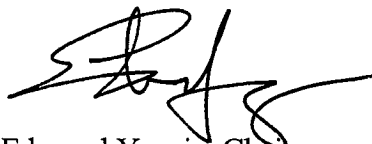
AN ACT BUDGET AND FINANCE; LAW AND ORDER; NAA'BIKIYATI;  
AMENDING NAVAJO NATION CODE TITLE 12, CHAPTER 7,  
APPROPRIATIONS, SECTIONS 820(1), SUPPLEMENTAL APPROPRIATIONS.  
*(Sponsored by Lorenzo Curley)*

Has had it under consideration and report the same with a recommendation that it **DO PASS**, with one amendment:

Page 3, Line 6, delete "~~Budget and Finance Committee~~" and insert as new language "Nabik'Iyati' Committee".

and therefore referred to **NABIK'IYATI' COMMITTEE**.

Respectfully submitted,



Edmund Yazzie, Chairperson  
Law and Order Committee of the  
22<sup>nd</sup> Navajo Nation Council

Date: October 11, 2011

The vote was in 4 favor and 0 opposed

Motion: Duane S. Tsinigine

Second: Elmer Begay

**NAA'BIK'IYATI' COMMITTEE REPORT**  
**22<sup>ND</sup> NAVAJO NATION COUNCIL – First Year 2011**

Mr. Speaker:

The NAA'BIK'IYATI' COMMITTEE, to whom has been assigned:

**LEGISLATION NO. 0413-11**  
Introduced by Hon. Lorenzo Curley

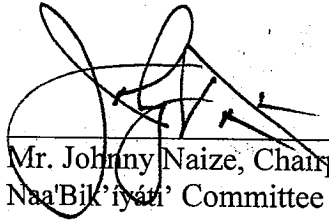
AN ACTION

Relating to Budget & Finance; Law & Order; Naa'Bik'iyati' Committee; Amending Navajo Nation Code Title 12 Chapter 7, Appropriations; Section 820 (J), Supplemental Appropriations

has had it under consideration and reports the same with a **DO PASS** with NO AMENDMENTS; and thence referred to the Navajo Nation Council.

**CERTIFICATION**

I, hereby certify that the foregoing legislation was duly considered by the Naa'Bik'iyati' Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed with a vote of **12 in favor and 0 opposed** this 11<sup>th</sup> day of October 2011.

  
Mr. Johnny Naize, Chairperson  
Naa'Bik'iyati' Committee

MOTION: Nelson Begaye  
SECOND: Leonard Tsosie