

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

January 9, 2023

Hon. Otto Tso
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CD-72-22, *An Act Relating to Law and Order, Budget and Finance, and Naabik'iyáti' Committees, and Navajo Nation Council; Amending 12 N.N.C. § 820 (N) to Change the Lapse of Certain Appropriations*

Dear Speaker Tso,

Pursuant to the authority vested in the Navajo Nation President, I am signing Resolution CD-72-22 into law. Thank you to the Navajo Nation Council and Committees for taking a proactive approach in anticipation of the Nation's imminent declining revenue due to the closure of power plants, mines, and the inflation we are currently facing due to supply chain shortages and other issues.

This amendment to the Appropriations Act will provide more efficient fiscal management by requiring Navajo Nation programs to utilize their budgets throughout the fiscal year and not rely on carryovers to provide additional funds. Improved fiscal management will also improve program performance; the Conditions of Appropriation that are placed on programs are not consistently enforced in a timely manner and are not followed up on until the next budget season.

With this in mind, the Navajo Nation Council, when proposing waivers of this section, and other areas of Navajo law, should use their approval authority sparingly with deference to the fiduciary duty they have been entrusted with by the People.

Sincerely,

Handwritten signature of Jonathan Nez in black ink.

Jonathan Nez, *President*
THE NAVAJO NATION

Handwritten signature of Myron Lizer in black ink.

Myron Lizer, *Vice President*
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

AN ACT

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

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council with the authority to review and make recommendations to the Navajo Nation Council regarding proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B) (14).
- B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the responsibility to "review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds." 2 N.N.C. § 301(B) (2).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council that considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. § 164(A) (9).
- D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A). As such, the Council approves amendments of Navajo Nation law. 2 N.N.C. § 164(A).

SECTION TWO. FINDINGS

- A. The Navajo Nation anticipates declining revenues from the closure of nearby power plants and coal mines, as well as a decline in other revenues due to inflation and current post-COVID-19 market factors. In short, the Navajo Nation government is facing the prospect of significant funding shortfalls. This, in turn, will likely result in a reduction of services the Navajo Nation government provides to the Navajo people and their communities.
- B. To mitigate the expected shortfalls, the Navajo Nation recognizes that more efficient fiscal management is necessary

for the Navajo Nation to continue providing government services at current funding levels.

- C. Except for appropriations to Chapters, all funding appropriations approved by the Council shall lapse at the end of each fiscal year, pursuant to 12 N.N.C. § 820(N) as currently written.
- D. Because of the automatic lapsing under 12 N.N.C. § 820(N), every year the Council is urged to approve appropriations carryovers in the Comprehensive Budget, so budgeted funds will remain available to Navajo Nation divisions, departments, and programs. Nevertheless, prudent and efficient fiscal management means that carryovers should not be routinely approved.
- E. The Navajo Nation finds it in the best interest of the Navajo Nation to amend 12 N.N.C. § 820(N) to limit carryovers and ensure that appropriated funds are used for their intended purpose(s) during the fiscal year for which they were originally approved.

SECTION THREE. AMENDING 12 N.N.C. § 820(N)

The Navajo Nation hereby amends Title 12 of the Navajo Nation Code, as follows (clean version attached hereto as **EXHIBIT A**):

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

* * * *

§ 820. Overall budget policies.

* * * *

N. Certain Appropriations Shall Lapse and Revert.
~~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.~~

1. Regardless of purpose, except for that portion of

funds expended or encumbered by the end of the fiscal year for which such funds are appropriated, the following funds shall lapse at the end of the fiscal year and revert to their original source:

- a. all funds from the General Fund that are appropriated in the Comprehensive Budget Resolution approved by the Council for each fiscal year; and
 - b. all funds from the Unreserved, Undesignated Fund Balance ("UUFB") that are appropriated by the Council in a Supplemental Appropriation.
2. Notwithstanding § 820(N)(1), all funds from the General Fund appropriated to any Chapter in the Comprehensive Budget, and all UUFB funds appropriated to a Chapter in a Supplemental Appropriation, shall never lapse or revert, so long as such funds are properly budgeted each fiscal year and the Chapter continues to use such funds for the purpose(s) described in the original appropriation.
 3. The lapse and reversion of all funds appropriated outside of the Comprehensive Budget Resolution, and all non-UUFB funds appropriated in a Supplemental Appropriation, shall be governed by the particular statute governing such funds or by the Council Resolution approving such funds.
 4. No part of this 12 N.N.C. § 820(N) shall be amended or waived except by a 7/8 approval vote among all Council delegates.

* * * *

SECTION FOUR. EFFECTIVE DATE

This Act shall become effective pursuant to 2 N.N.C. § 221(B).

SECTION FIVE. CODIFICATION

The parts of this Act that amend existing provisions, or adopt new provisions, in the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate the changes set forth herein into the next codification of the Navajo Nation Code.

SECTION SIX. SAVING CLAUSE

If any provision of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall be 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 21 in Favor, and 00 Opposed, on this 29th day of December 2022.



Honorable Otto Tso, Speaker
24th Navajo Nation Council

12.30.2022

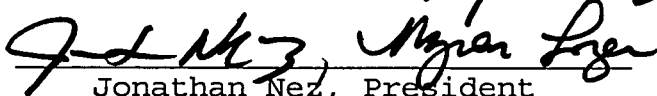
DATE

Motion: Honorable Jamie Henio
Second: Honorable Eugene Tso

Speaker Otto Tso 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 9th day of January, 2023.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (11), on this _____ day of _____, 2022 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

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

* * * *

§ 820. Overall budget policies.

* * * *

(N) Certain Appropriations Shall Lapse and Revert.

1. Regardless of purpose, except for that portion of funds expended or encumbered by the end of the fiscal year for which such funds are appropriated, the following funds shall lapse at the end of the fiscal year and revert to their original source:
 - (a) all funds from the General Fund that are appropriated in the Comprehensive Budget Resolution approved by the Council for each fiscal year; and
 - (b) all funds from the Unreserved, Undesignated Fund Balance (“UUFb”) that are appropriated by the Council in a Supplemental Appropriation.
2. Notwithstanding §820(N)(1), all funds from the General Fund appropriated to any Chapter in the Comprehensive Budget, and all UUFb funds appropriated to a Chapter in a Supplemental Appropriation, shall never lapse or revert, so long as such funds are properly budgeted each fiscal year and the Chapter continues to use such funds for the purpose(s) described in the original appropriation.
3. The lapse and reversion of all funds appropriated outside of the Comprehensive Budget Resolution, and all non-UUFb funds appropriated in a Supplemental Appropriation, shall be governed by the particular statute governing such funds or by the Council Resolution approving such funds.
4. No part of this 12 N.N.C. §820(N) shall be amended or waived except by a 7/8 approval vote among all Council delegates.

NAVAJO NATION

1271

12/29/2022

Navajo Nation Council Special Session

05:09:11 PM

Amd# to Amd#

New Business: (Item L.)

PASSED

MOT Henio, J

CONSENT AGENDA-(12)Legislations:

SEC Tso, E

0221-22,0234-22,0239-22,0262-22,

0263-22,0265-22,0268-22,...

Yeas : 21

Nays : 0

Excused : 2

Not Voting : 0

Yea : 21

Begay, E

Damon

James, V

Tso, E

Begay, K

Daniels

Nez, R

Walker, T

Begay, P

Freeland, M

Smith

Wauneka, E

Brown

Halona, P

Stewart, W

Yazzie

Charles-Newton

Henio, J

Tso, D

Yellowhair

Crotty

Nay : 0

Excused : 2

Tso, C

Slater, C

Not Voting : 0

Presiding Speaker: Tso