TITLE: An Action Relating To Budget And Finance, Law And Order And NAABIK’IIYATI’ Committees And Navajo Nation Council; Amending 2 N.N.C. §164 (A) (17) To Include The Budget Line-Item Veto Authority Language Approved by Navajo Voters Through Initiative Election In 2009

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DATE: July 8, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO BUDGET AND FINANCE, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING 2 N.N.C. § 164 (A) (17) TO INCLUDE THE BUDGET LINE-ITEM VETO AUTHORITY LANGUAGE APPROVED BY NAVAJO VOTERS THROUGH INITIATIVE ELECTION IN 2009

PURPOSE: This resolution, if approved, will delegate amend 2 N.N.C. § 164 (A)(17)'s line-item veto language to match the ballot language approved by Navajo voters in the 2009 initiative.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL -- Second Year, 2020
INTRODUCED BY

(Sponsor)

TRACKING NO. 0153-20

AN ACTION
RELATING TO BUDGET AND FINANCE, LAW AND ORDER AND
NAABIK’IYÁTI’ COMMITTEES AND NAVAJO NATION COUNCIL;
AMENDING 2 N.N.C. § 164 (A) (17) TO INCLUDE THE BUDGET LINE-ITEM
VETO AUTHORITY LANGUAGE APPROVED BY NAVAJO VOTERS
THROUGH INITIATIVE ELECTION IN 2009

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 Naabik’iyáti’ Committee is a standing committee of the Navajo Nation Council empowered to review all proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).
C. The Law and Order Committee is a standing committee of the Navajo Nation Council empowered to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments to the Navajo Nation Code. 2 N.N.C. § 601 (B) (14).
D. The Budget and Finance Committee is a standing committee of the Navajo Nation Council empowered to review and make recommendations to the Navajo Nation Council on the budgeting, appropriation, investment, and management of all funds. 2 N.N.C. § 301 (B)(2).

SECTION TWO. FINDINGS

A. Title One, Subchapter 2, of the Navajo Nation Code, titled Diné Bi Beezháanii Bitsé Siléí--Declaration of the Foundation of Diné Law, affirms the traditional Diné teachings concerning the appropriate roles of each of the three branches of the Navajo Nation:

1. The leader(s) of the Executive Branch (Aláají' Hózhjí Naat’áah) shall represent the Navajo Nation to other peoples and nations and implement the policies and laws (Diné bibeexháanii) enacted by the legislative branch;

2. The leader(s) of the Legislative Branch (Aláají' Naat'áji Naat'áah and Aláají' Naat'áji Ndaanit’áii or Naat'aanii) shall enact policies and laws (Diné bibeexháanii) in harmony with Diné bi beenaház’áanii to address the immediate and future needs;

3. The leader(s) of the Judicial Branch (Aláají' Hashkeéjí Naat'áah) shall resolve disputes in the courts of the Navajo Nation and adopt rules of pleading, practice, procedure, and evidence by applying and interpreting Navajo Nation statutory laws and policies (Diné bibeexháanii) enacted by the leaders of the Legislative Branch. The Peacemakers within the Peacemaking Program shall uphold the values and principles embodied in Diné bi beenaház’áanii in the consensual practice of resolving disputes by peacemaking.

B. In 1989, the Navajo Tribal Council enacted Resolution No. CD-68-89 to reorganize the Navajo Nation government from a Chairmanship to a three Branch government; CD-68-89 recognized that the “[r]ecent controversy involving the leadership of the Navajo Nation has demonstrated that the present Navajo Nation Government
structure allows too much centralized power without real checks on the exercise of power. Experience shows that this deficiency in the government structure allows for, invites and has resulted in the abuse of power.” CD-68-89, Whereas Clause No. 2.

C. CD-68-89 also specifically recognized that “it is in the best interest of the Navajo Nation that the Navajo Nation Government be reorganized to provide for separation of functions into three branches and provide for checks and balances between the three branches...” CD-68-89, Whereas Clause No. 8.

D. In 2009, in response to the 21st Navajo Nation Council’s “over-appropriation” of Undesignated Unreserved General Funds (aka UUFB), the Navajo People, through an initiative vote action, delegated the President the authority to line-item veto budget items contained in the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council.

E. The ballot language, attached as Exhibit A, approved by the Navajo People on December 15, 2009 through an initiative election, became the law of the Navajo Nation; the 2009 ballot language specifically stated that

“The President of the Navajo Nation will be authorized to exercise line item veto authority over budget items contained in the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council. Budget line items vetoed by the President of the Navajo Nation will not be subject to Navajo Nation Council override. Upon approval of this initiative, the authority of the President of the Navajo Nation to exercise line item veto authority will become effective immediately.” Exhibit A.

F. The 2009 ballot language further stated that “[i]f approved, this initiative may be repealed or amended by the initiative process only.” Exhibit A.

G. The 22nd Navajo Nation Council recognized the line-item veto law approved by the Navajo People by amending its own Title Two authorities to state that “[a]ll resolutions enacting new laws or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C § 1005(C)(10) and (11)
and override by the Navajo Nation Council, except financial line-item vetoes are not subject to override.” 2 N.N.C. § 164 (A) (17) [emphasis added].

H. The 22nd Navajo Nation Council’s amendment did not match the ballot language approved by the Navajo voters in 2009; this discrepancy has contributed to confusion and discord between the Executive and Legislative Branches related to the extent of the President’s line-item veto authority, as well as the appropriate roles of each of the branches.

I. The Navajo Nation Council finds it in the best interest of the Navajo Nation government to fully recognize what was approved by the Navajo voters in the 2009 initiative by amending 2 N.N.C. § 164 (A) (17) to reflect the actual initiative ballot language, i.e., “[t]he President of the Navajo Nation will be authorized to exercise line item veto authority over budget items contained in the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council. Budget line items vetoed by the President of the Navajo Nation will not be subject to Navajo Nation Council override.” Exhibit A.

SECTION THREE. AMENDING 2 N.N.C. § 164 (A)(17)

The Navajo Nation Council hereby amends 2 N.N.C. § 164 (A) (17) as follows:

§ 164. Navajo Nation Council and Committee Legislative Process

A. Statements of policy, enactment of positive law, intergovernmental agreements, budget resolutions and reallocations, must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein.

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17. All resolutions enacting new laws or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C § 1005(C)(10) and (11) and override by the Navajo Nation Council, except financial line-item vetoes are not subject to override the President is authorized to exercise line item veto authority over budget items contained in
the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council; budget line items vetoed by the President will not be subject to Navajo Nation Council override. A vetoed resolution shall first be submitted to Naabik’iyáti’ Committee before consideration by the Council. Memorials are not subject to veto but become effective upon certification by the Speaker pursuant to 2 N.N.C. § 221(C). All acts of the vetoing of the resolution shall occur within the territorial jurisdiction of the Navajo Nation as described in 7 N.N.C. § 254.

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SECTION FOUR. EFFECTIVE DATE
This action shall become effective upon its approval pursuant to 2 N.N.C. §§ 164 (A)(17) and 221 (B).

SECTION FIVE. SAVING CLAUSE
Should any provision of this legislation be determined invalid by the Navajo Nation Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those portions of the legislation which are not determined invalid shall remain the law of the Navajo Nation.