

T-12

RESOLUTION OF THE  
-BUDGET AND FINANCE COMMITTEE  
OF THE NAVAJO NATION COUNCIL

21<sup>st</sup> OF THE NAVAJO NATION COUNCIL - FOURTH YEAR, 2010

AN ACTION  
RELATING TO COMMUNITY DEVELOPMENT AND BUDGET AND FINANCE; AMENDING  
CERTAIN SECTIONS OF CHAPTR 9, NAVAJO NATION ROAD FUND MANAGEMENT  
PLAN, 12 N.N.C §§ 1003 AND 1004

BE IT ENACTED:

Section One. Findings.

A. The Navajo Nation hereby finds that the current provisions of the Navajo Nation Road Fund Management Plan do not adequately address the need for road construction and improvement on public roads which leave Navajo Nation, pass through the Hopi Reservation and reenter the Navajo Nation.

B. The Navajo Nation finds that the amendment of the Navajo Nation Road Fund Management Plan is necessary to provide for equity in the use of the Navajo Nation Fuel Excise Tax revenues to fund public road projects that benefit members of the Navajo Nation who utilize public roads which leave the Navajo Nation, pass through the Hopi Reservation and reenter the Navajo Nation at a different point.

C. The Navajo Nation further finds that the proposed Navajo Nation Road Fund Management Plan amendments in the use of the Navajo Nation Fuel Excise Tax revenues will equitably provide for the benefit of members of the Navajo Nation.

D. The Navajo Nation determines that these amendments are in the best interests of the Navajo Nation and the Navajo people.

Section Two. Amendments of Title 2 of the Navajo Nation Code

The Navajo Nation hereby amends Title 12 of the Navajo Nation Code, 12 N.N.C. §§ 1003 and 1004, as follows:

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**Title 12. Navajo Nation Government**

**Chapter 9. Navajo Nation Road Fund Management Plan**

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**§ 1003. Administration**

A. Funding source. The funding source of this Fund shall be funds generated from the Navajo Nation Fuel Excise Tax, and other funds appropriated or allocated by the Navajo Nation Council.

B. Legislative oversight. The Transportation and Community Development Committee of the Navajo Nation Council shall be the legislative oversight for funds appropriated under this Fund.

C. Program management. The Navajo ~~Department~~ Division of Transportation shall have the authority and responsibility to use the funds for eligible road projects and as matching funds in conformance with § 1004 and with concurrence by the Transportation and Community Development Committee of the Navajo Nation Council.

**§ 1004 Fund management**

A. Fund accounting.

1. The records and books of account for the fund shall be kept separate from the Navajo Nation General Fund with its own balance sheet and revenue and expenditure statement. The day-to-day Fund accounting shall be performed by the Office of the Controller, in accordance with generally accepted accounting principles.
2. The Navajo ~~Department~~ Division of Transportation, or any other designated program, shall account for the

money spent out of the Fund. Such accounting shall be included as part of the quarterly program reports submitted to the Transportation and Community Development Committee of the Navajo Nation Council and the Navajo Nation Council.

B. ~~Funding e~~Eligible projects. ~~The funds shall be used for roads and equipment within the Navajo Nation that cannot be addressed by the federal government agencies, Indian Reservation Roads, state, or county highway or road maintenance programs; and shall be used for eligible matching funds projects.~~

1. Transportation projects within the Navajo Nation. The Transportation and Community Development Committee of the Navajo Nation Council may approve Fund expenditures for the development/planning, maintenance or construction of public roads within the Navajo Nation that cannot be addressed by the federal government agencies, Indian Reservation Roads program or state or county highway or road maintenance programs. Eligible projects include the following:

1a. Eligible — road mMaintenance projects and construction:

- a-(1) Pothole repairs;
- b-(2) Blading & graveling of all dirt roads;
- c-(3) Culvert replacement;
- d-(4) Drainage replacement;
- e-(5) Traffic signal & street light maintenance and operation;
- f-(6) Chip sealing; or
- e-(7) Other maintenance required under an interagency agreement.

- ~~2b. Eligible project~~ dDevelopment/planning projects:
- ~~a~~-(1) Feasibility studies including centerline identification;
  - ~~b~~-(2) Survey;
  - ~~c~~-(3) Environmental assessments;
  - ~~d~~-(4) Archaeological assessments; or
  - ~~e~~-(5) Planning, engineering & design.
- ~~3c. Eligible~~ eCommunity/economic development access projects;
- ~~a~~-(1) Access roads;
  - ~~b~~-(2) Parking lots; or
  - ~~c~~-(3) School bus route improvements, school bus stops and shelters.

2. Transportation projects outside the Navajo Nation. The Transportation and Community Development Committee of the Navajo Nation Council may approve Fund expenditures for transportation projects outside the Navajo Nation, if the Transportation and Community Development Committee makes the following determinations:

- a. With the exception of the geographic criterion, the project meets all of the eligibility criteria in § 1004(B)(1) above;
- b. The public road is part of the Navajo Nation road system;
- c. The public road leaves the Navajo Nation and reenters the Navajo Nation at different points, and the project is on the segment of the roadway that forms a direct connection between those two points; and

d. The project benefits Navajos.

~~4. Eligible matching funds projects. The Fund shall be used to meet required matching funds for transportation projects funded by federal, state, or county transportation programs or other public entities, that have been addressed by the Navajo Nation Capital Improvement Program or other tribal budget programming.~~

53. Eligible eEquipment purchases. The Transportation and Community Development Committee of the Navajo Nation Council may approve Fund expenditures for the following equipment purchases:

- a. Motor graders;
- b. Sand and gravel crushing equipment;
- c. Heavy equipment transport truck; or
- d. Equipment to process aggregate materials;  
or
- e. Other necessary road maintenance equipment and operating supplies/materials
- f. Sand and gravel borrow pit acquisitions.

4. Matching funds projects. The Transportation and Community Development Committee of the Navajo Nation Council may approve Fund expenditures for the purpose of providing required matching funds for transportation projects funded by federal, state, or county transportation programs or other public entities, that have not been addressed by the Navajo Nation Capital Improvement Program or other tribal budget programming.

C. Funding allocation process.

1. The Navajo ~~Department~~ Division of Transportation may use the recommendations from any entity in formulating the annual Navajo Nation Road Funding Plan. The Navajo Nation Road Funding Plan shall specify the eligible matching funds projects to be funded.
2. The Navajo ~~Department~~ Division of Transportation shall submit the Navajo Nation Road Funding Plan to the Transportation and Community Development Committee for annual approval.
3. Expenditures from this Fund shall be budgeted annually in accordance with the annual established Navajo Nation budget policies and procedures.
4. ~~The Department of Transportation shall have 25% (3% will be utilized for administrative cost, 5% for preliminary studies and 17% for equipment and purchases/road maintenance) of total annual Road Fund allocation earmarked for the Navajo Department of Transportation's administration and operation of the Road Management Fund Program to support management, monitoring and evaluation operating expenses, preliminary studies and road maintenance programs. A portion of the total annual Navajo Nation Road Fund allocation is earmarked for the Navajo Division of Transportation operations listed in § 1004(C)(5) below. To fund these operations, the Navajo Division of Transportation shall receive (a) 25% of the total annual Road Fund allocation or (b) the FY 2010 allocation for these operations, whichever amount is greater.~~
5. The Navajo Nation Road Funds received by the Navajo Division of Transportation in accordance with §

1004(C)(4), shall be used for the following operations in the associated percentages: (a) administration of the Road Fund Management Program (3%), (b) preliminary studies (5%), and (c) road maintenance programs (including purchases of equipment) (17%).

56. The Navajo Nation Road Fund Management Plan shall not be deemed to waive or amend any requirements of law concerning the recovery of indirect costs, including 2 N.N.C. § 824(B)(9).

67. Equipment ownership: Navajo ~~Department~~ Division of Transportation shall at all times retain ownership of all equipment purchased under this Fund.

*Not included in amendments:*  
*\* \* \* \* \**  
Note: §1005 Rules and regulations → Change not included: Department Division.

### Section Three. Effective Date

The amendments enacted herein shall become effective upon passage by the Budget and Finance Committee of the Navajo Nation Council.

### Section Four. Codification

The provisions of this Act which amend sections of the Navajo Nation Council shall be codified by the Office Legislative Counsel.

### Section Five. Saving 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, or any

other court of competent jurisdiction, 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 Budget and Finance Committee of the 21<sup>st</sup> Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 06 in favor, 00 opposed and 00 abstained, on this 4th day of May, 2010.



LoRenzo C. Bates, Chairperson  
Budget and Finance Committee

Motion: Jonathan Nez  
Second: Hoskie Kee