



Budget & Finance Committee issues two amendments to Legislation No. 0116-20 before advancing

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WINDOW ROCK, Ariz. — The Budget and Finance Committee (BFC) of the 24th Navajo Nation Council voted June 2 to advance Legislation No. 0116-20 to the Naabik'iyáti' Committee with two significant amendments. The new language gives authority to all three Navajo Nation branch chiefs to develop Navajo Nation CARES Fund expenditure plans.

Council Delegate Edmund Yazzie (Churchrock, Iyanbito, Mariano Lake, Pinedale, Smith Lake, Thoreau) and prime sponsor of Legislation No. 0116-20 said the bill will provide an immediate \$50 million to the Health Incident Command Center within the Navajo Department of Health from the Navajo Nation CARES Fund for eight expenditure categories. The bill has also received heavy promotion from Navajo Nation President Jonathan Nez over the past few weeks.

Legislation No. 0116-20's expenditure categories include: Navajo Nation payroll expenses, reconfiguration of Navajo Nation offices, personal protective equipment (PPE) for Navajo Nation government employees and volunteers, computer equipment for Navajo Nation employees, improvements of the Navajo Nation's financial system, disinfection of Navajo Nation government buildings and public spaces, basic care packages and a maximum \$3 million for Navajo Nation P.L. 93-638 healthcare facilities.

Prior to the BFC amendments, the proposed legislation gave the president expanded powers to develop and prepare all expenditure plans for the more than \$550 million in remaining funding, authority to sponsor and introduce proposed legislation and expenditure plans, authority to form a 12-member "Dikos Ntsaaígíí-19 Relief Fund Work Group" and authority to choose infrastructure projects to incorporate.

Council Delegate Amber Kanazbah Crotty (Cove, Toadlena/Two Grey Hills, Red Valley Tse'alnaozt'í'í, Sheepsprings, Beclabito, Gadiiahi/To'Koi) began by providing an opportunity for an explanation behind Section 3(F) giving the president authority over Legislative and Judicial Branch expenditure plans. She also sought analysis on the Navajo Nation CARES Fund Act (Resolution No. CMY-44-20/Legislation No. 0115-20), which President Nez line-item vetoed.

What remained of CMY-44-20 enacted the Navajo Nation CARES Fund and included an expenditure plan process contradicted by Legislation No. 0116-20. Chief Legislative Counsel Dana Bobroff said the conflicting language must be addressed by Council before voting on Legislation No. 0116-20.

BFC Vice Chair Council Delegate Raymond Smith, Jr. (Klagetoh, Wide Ruins, Houck, Lupton, Nahata Dziil) further cautioned that the 12-member work group would take expert personnel away from their duties. The work group would have no direct authority over the final expenditure plan and may effectively create more bureaucratic red-tape without any proper oversight for accountability.

Responding to BFC questions, President Nez said CMY-44-20 included the federal CARES Act funding restrictions and the U.S. Treasury's Coronavirus Relief Fund guidelines for state, local and tribal governments that were too strict. The Council previously acknowledged that the U.S. Government can withhold any future federal funding to cover any misspent federal CARES Act funds by the Navajo Nation.

President Nez said the \$50 million for the Health Incident Command Center is what Navajo People want, which he said will justify expenditures when the U.S. Government seeks to recoup federal money.

Describing a general timeline, President Nez explained that 12 members for the work group would be identified that will then find shovel-ready projects. The work group will have 14 days to create an expenditure plan, a final version of which the president will present to the Council. No mention was made of the ongoing shovel-ready projects and immediate needs being presented by Navajo Nation programs, divisions and external agencies to the Naabik'iyáti' Committee over the past two weeks.

If the BFC approves the president's proposal, the Naabik'iyáti' Committee will still need to consider the plan pursuant to the Navajo Nation Code. Final legislative action will come from the Navajo Nation Council. If approved, the plan and amendments would be presented back to President Nez for enactment, regular veto or line-item veto.

President Nez admitted, "How many projects are ready out there? I don't know." He stressed the importance of the shovel-ready status of proposed projects.

Council Delegate Elmer P. Begay (Dilcon, Indian Wells, Teesto, Whitecone, Greasewood Springs) questioned the intent of the legislation, noting that if the president enacted the Navajo Nation CARES Fund Act without line-item veto immediately after the Council approved it on May 15, the Nation would already be spending money.

In response, Delegate Yazzie acknowledged that he voted to approve CMY-44-20 while also sponsoring Legislation No. 0116-20 out of respect. He hoped the approved legislation would better help the Navajo Nation combat COVID-19.

President Nez added that he believed Legislation No. 0116-20 was a comprehensive, unified approach. BFC members pressed him for a details on how the language of the legislation accomplished that approach.

"I asked for a direct answer," said Delegate Crotty. "What is the rationale to give the president the sole authority to develop and prepare all CARES expenditure plans for the Legislative, Executive and Judicial Branches?"

Delegate Yazzie deferred to President Nez, who expressed hope that he would be able to find good experts to produce an expenditure plan within 14 days for the BFC to consider before the Naabik'iyáti' Committee and the Navajo Nation Council.

"That's the best explanation that I can give you," said President Nez. Delegates later added that developing expenditure plans is already a collaborative process among all three branches.

Delegate Yazzie stated that Legislation No. 0116-20 was passed back-and-forth by the Office of the President and Vice President and the Office of Legislative Counsel before it was introduced. Under statute, the Office of Legislative Counsel must review and certify all Navajo Nation Council legislation for basic legality.

"I do not know why the president needs to take full charge," said Delegate Yazzie, adding that the BFC has the power to amend Legislation No. 0116-20.

Amendments

Delegate Smith offered the first amendment that changed the responsibility for developing expenditure plans from the president to all three branch chiefs jointly and provided for an expanded scope to cover the entire Navajo Nation. That change was based on the committee members' concerns that, although it was presented as a 'unified approach,' the text of the legislation did not properly reflect a three-branch approach. BFC voted to approve the first amendment to Legislation No. 0116-20.

Council Delegate Jimmy Yellowhair (Hard Rock, Forest Lake, Pinon, Black Mesa, Whippoorwill) voiced his support for the amended language, stating that the previous provision did not encourage team work nor collaboration.

Delegate Begay then offered an amendment that would mandate priority procurement using Navajo- and Native American-owned businesses in the expenditure plans presented to the Council. The amendment also included veto protections that were ultimately directed to the Office of Legislative Counsel and the Department of Justice to research. That proposed amendment was voted down over questions of covering attorneys' fees with federal CARES Act funding and to allow legislative and DOJ staff to research veto authority.

Delegate Crotty offered the final amendment approved by BFC that deleted Section 5's provisions granting authority to the president to sponsor legislation. Also deleted was Section 6(E) allowing the president power to sponsor other types of legislation.

Language exempting expenditure plans from the Navajo Nation Appropriations Act was deleted and wording was added to include the Speaker of the Navajo Nation Council and the Chief Justice of the Navajo Nation Supreme Court in other parts of the legislation as part of Delegate Crotty's amendment.

The committee voted to approve Legislation No. 0116-20 with the two amendments by 4 in favor and 1 opposed. The legislation will now be considered by the 24-member Naabik'iyáti' Committee.

More information: www.navajonationcouncil.org.

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