TITLE: An Action Relating to Resources and Development and Budget and Finance Committees: Accepting the Auditor General's Follow-Up Review of the Oljato Chapter's Corrective Action Plan Implementation, and Imposing Sanctions Upon the Oljato Chapter for Failure to Implement the Corrective Action Plan

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DATE: July 27, 2021

TITLE OF LEGISLATION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; ACCEPTING THE AUDITOR GENERAL’S FOLLOW-UP REVIEW OF THE OLIJATO CHAPTER’S CORRECTIVE ACTION PLAN IMPLEMENTATION, AND IMPOSING SANCTIONS UPON THE OLIJATO CHAPTER FOR FAILURE TO IMPLEMENT THE CORRECTIVE ACTION PLAN

PURPOSE OF THIS LEGISLATION: to accept the Auditor General’s follow-up review of the Oljato Chapter’s implementation of its Corrective Action Plan, and to impose sanctions upon the Oljato Chapter for failure to implement its CAP.
PROPOSED STANDING COMMITTEE RESOLUTION

24TH NAVAJO NATION COUNCIL - Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0161-21

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; ACCEPTING THE AUDITOR GENERAL’S FOLLOW-UP REVIEW OF THE OLJATO CHAPTER’S CORRECTIVE ACTION PLAN IMPLEMENTATION, AND IMPOSING SANCTIONS UPON THE OLJATO CHAPTER FOR FAILURE TO IMPLEMENT THE CORRECTIVE ACTION PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee of the Navajo Nation Council serves as the oversight committee for all Chapters of the Navajo Nation. 2 N.N.C §501(C)(1).

B. The Budget and Finance Committee of the Navajo Nation Council gives final approval of the Auditor General’s audit reports and corrective action plans for audited Chapters. 12 N.N.C §7(D). The Budget and Finance Committee also receives post-audit follow-up reports from the Auditor General. 12 N.N.C §6(B) and §7(H).

C. The Budget and Finance Committee is authorized to make a final determination on what sanctions, if any, should be imposed upon a Chapter for the failure to implement an approved corrective action plan. 12 N.N.C. §9(B)-(C).

D. The Navajo Nation Auditor General is charged with the responsibility to conduct financial audits and reviews of the financial records of the Chapters. 12 N.N.C. §2(A)(1).
E. 12 N.N.C. §1-§10, provides: “12 months after the release of the audit report, the Auditor General will conduct a follow-up to document the status of implementation [of the corrective action plan].” 12 N.N.C. §7(G).

F. Regarding the audited Chapter’s response to the audit report and implementation of the corrective action plan approved by the Budget and Finance Committee, Title 12 continues: “[a]s part of the follow-up report, the Auditor General shall recommend action to be taken by the Budget and Finance Committee and present the report to the standing committee or committees having oversight responsibility for the audited program.” 12 N.N.C. §7(G).

G. “Based on the follow-up review and any recommendations made by the standing committee having oversight responsibility for the audited program, the Budget and Finance Committee will determine what actions should be taken.” 12 N.N.C. §7(I).

H. If a Chapter fails to comply with the measures set forth in the approved corrective action plan, sanctions may be imposed upon the Chapter pursuant to 12 N.N.C. §9(B)-(C), upon the recommendation of the Auditor General, in accordance with 12 N.N.C. §7(G).

I. Title 12 provides that “[a]ny director or chapter official whose salary or other payments are withheld pursuant to §9(C) shall have the right to have the withholding reviewed by the Navajo Nation Office of Hearings and Appeals.” 12 N.N.C. §9(D).

SECTION TWO. FINDINGS

A. In July of 2019, the Auditor General conducted a comprehensive financial audit of the Oljato Chapter and prepared “A Special Review of Oljato Chapter - Report No. 19-23” which report is incorporated herein by reference.

B. The Budget and Finance Committee accepted the Auditor General’s July 2019 audit report, along with the Corrective Action Plan proposed by the Chapter and accepted by the Auditor General. BFD-56-19, dated December 3, 2019, attached hereto as Exhibit 1.

C. The Auditor General has engaged in a follow-up review to determine if the approved Corrective Action Plan has been satisfactorily implemented by the Oljato Chapter. The Auditor General has reported on the accomplishments of the Oljato Chapter in “A Follow-up Review of the Oljato Chapter Corrective Action Plan Implementation.” Report No. 21-14, dated June 2021, attached hereto as Exhibit 2.
D. The Auditor General has found that, of the sixteen (16) corrective measures to be
undertaken by the Chapter, only two (2) of the concerns were implemented. Thus, the
Chapter has failed to adequately implement the Corrective Action Plan. Exhibit 2.
E. As a result, the Auditor General recommends that sanctions be imposed upon the Oljato
Chapter in accordance with 12 N.N.C. §9(B)-(C). Exhibit 2.
F. As provided for in 12 N.N.C. §9(B)-(C), the Budget and Finance Committee is the final
authority that makes the determination regarding sanctions to be imposed upon the Chapter.

SECTION THREE. ACCEPTANCE OF AUDITOR GENERAL’S REPORT AND
IMPOSITION OF SANCTIONS

A. The Navajo Nation hereby accepts the Auditor General’s Report: “A Follow-up Review of
the Oljato Chapter Corrective Action Plan Implementation” (Report No. 21-14, dated June
2021), attached as Exhibit 2.
B. As authorized by 12 N.N.C. §9(B), the Controller shall immediately withhold ten percent
(10%) of all monies payable to the Oljato Chapter from any governmental fund of the
Navajo Nation, as defined at 12 N.N.C. §810(S). As provided for in 12 N.N.C. §9(B), this
withholding of funds shall continue unless and until the Oljato Chapter demonstrates to the
Auditor General that all corrective measures included in the approved Corrective Action
Plan for the Oljato Chapter have been satisfactorily implemented.
C. In addition, as authorized by 12 N.N.C. §9(C), the Controller shall immediately withhold
twenty percent (20%) of all stipend payments for Oljato Chapter Officials.
D. Oljato Chapter Officials may appeal this withholding of their stipend payments, in
accordance with the procedures detailed in 12 N.N.C. §9(D).
E. When the Oljato Chapter demonstrates proof of adequate compliance with the provisions
of the Corrective Action Plan, the Auditor General shall immediately report such
compliance to the Controller who shall then release all withheld funds back to the Chapter
and to Chapter Officials, in accordance with 12 N.N.C. §9(B)-(C).

SECTION FOUR. SAVINGS CLAUSE

If any provision of this Act is determined invalid by the Supreme Court of the Navajo Nation,
or by any District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall remain as the law of the Navajo Nation.

SECTION FIVE. EFFECTIVE DATE

This legislation and the sanctions provided for herein shall become effective pursuant to 12 N.N.C. §9(B).