

Act 19-24

An Act of Appropriation for Governmental Operations of the Executive, Legislative, and Judicial Branches; Circle of Health; Gaming Regulatory Authority; Department of Athletic Regulation; Supplemental Income Program for Elders; Tribal Employment Rights Office; and Band Member Legal Services of the Mille Lacs Band Tribal Government for fiscal years ending September 30, 2024, and September 30, 2025. This bill has been drafted based on formal documents submitted by the Office of Management and Budget and the Commissioner of Administration.

The District II Representative introduced the following Bill on the 13th day of March, 2024.

BE IT ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE LACS BAND OF OJIBWE:

Section 1: Governmental operations. The Band Assembly hereby appropriates and authorizes expenditures for Governmental Operations for the Fiscal Years ending September 30, 2024, and September 30, 2025.

Section 1.01: Appropriation and authorizations of expenditures. The Band Assembly hereby appropriates and authorizes the expenditures detailed in “Exhibit A,” which is incorporated herein as the budget for Fiscal Years 2024 and 2025.

Section 1.02: Purposes of expenditures. All funds appropriated are maximum fund amounts and shall not be exceeded within any line item unless otherwise permitted by Band law. Funds must be utilized for the purposes for which they were requested, notwithstanding any exceptions provided in this Bill or any other active Band law. No expenditure that causes a budget line item to be exceeded may be paid without further Band Assembly action, except that the Office of Management and Budget leadership is authorized to exercise reasonable discretion regarding line item budget overages such as to avoid unintended outcomes that would result in an adverse impact to the Band. Examples include, but are not limited to: paying a utility bill to avoid discontinuance of service/utility shut-offs; paying on an invoice to prevent incurrence of late payment charges; and, authorizing expenditures for emergency situations such as a broken water main or heating unit. Salary and wages are only permitted to be expended for the Position Titles listed in the budget (Exhibit A), at the corresponding hourly rates or below, unless approved through the Payroll Budget Revision process.

Section 1.03: Certain grants and contracts excluded. Specifically excluded from this Bill are any grants or contracts not listed in the budget (Exhibit A).

Section 1.04: Supplemental appropriations. Any increase in funding to any grant or contract listed in the attached fiscal year budget, or any newly received grant or contract, shall be subject to supplemental appropriation by the Band Assembly prior to any expenditure of these funds.

Section 1.05: Decreases in funding. Any decrease in funding to any grant or contract already budgeted shall automatically result in an equal decrease in the approved appropriation and, upon

notification of the decrease by the appropriate grant agency, shall be subject to action by the Band Assembly to decrease the specific appropriation.

Section 1.06: Indirect costs. Indirect costs shall be collected for the particular programs based on the current rate approved by the United States Department of Interior and/or Office of Inspector General, unless limited to a lesser rate by applicable federal and/or state regulations.

Section 1.07: Quarterly progress reports. Quarterly progress reports shall be presented to the Band Assembly by all Commissioners and program leaders, or their designees, for their respective programs. The Band Assembly shall notify the office of the Chief Executive and the office of each Commissioner and program leader is required to appear before the Band Assembly at least five (5) full days prior to the Commissioner's or program leader's scheduled appearance.

Section 1.08: End of fiscal year. Except as otherwise exempted, all appropriations shall lapse at the end of each fiscal year.

Section 1.09: Budget revisions equal to or less than \$10,000.00 per month. The Band Assembly hereby authorizes the Chief Executive, Secretary-Treasurer, District Representatives, Commissioners, Assistant Commissioner, Solicitor General, Chief Justice, Band Member Legal Services Managing Attorney, and Directors of the Gaming Regulatory Authority, Department of Athletic Regulation, and Tribal Employment Rights Office to approve budgetary revisions within programs, exclusive of salary and wage revisions, equal to or less than \$10,000.00 per month, provided that the budget revisions are allowable under grant provisions, if applicable, and that sufficient funds are available for the budget revisions.

Section 1.10: Budget revisions greater than \$10,000.00 per month. For budget revisions greater than \$10,000.00 per month, the Band Assembly hereby authorizes the Administration Policy Board (APB) to approve Executive Branch budget revisions within programs, exclusive of salary and wage revisions, of up to 50 percent (50%) of the total program's budget if the program is less than \$100,000.00 and up to 20 percent (20%) if the program is equal to or greater than \$100,000.00. Chief Executive budget revisions do not require approval by APB and instead are routed directly from the Chief Executive to Band Assembly. Budget revisions in excess of \$10,000.00 outside of the Executive Branch, do not require approval by APB, and instead are routed directly to Band Assembly. Budgetary revisions in excess of these thresholds must be approved by Band Assembly through an appropriation bill and enacted into law by the Chief Executive.

Section 1.11: Budget revisions and transfers of Internal Service Funds.

(a) For non-grant funded programs, budget revisions from health insurance (line item 4105), dental insurance (line item 4108), and workers' compensation (line item 4109) are prohibited except as provided in subsection b. Budget transfers from health insurance (line item 4105), dental insurance (line item 4108), and workers' compensation (line item 4109) are permitted only to cover program shortages within the same line item.

(b) Budget revisions and transfers from the Band's Health, Dental, and Workers' Compensation Internal Service Funds may be approved only if they contain excess funds, after the end-of-fiscal-year reconciliation.

Section 1.12: Distribution of budget. In order to protect Band interests, the Budget (Exhibit A) shall be stored electronically and in hard copy at a location designated by the Revisor of Statutes.

Band members may view a hard copy of the budget, exclusive of government-employee pay rates, in the Legislative Office in the Government Center by presenting a valid Band ID.

Section 1.13: Grant funds. All funds appropriated for federal, state, and private grant funds shall be appropriated to align with the grant term so as to automatically carry over to the next fiscal year if appropriated funds remain and if the grant is not completed within the fiscal year. If, for any reason, the grant term runs over the original end date causing costs to exceed the original appropriated amount, the Band Assembly must be notified immediately so as to take appropriate action. In addition, Band Assembly hereby appropriates and authorizes the expenditure of all federal, state, and private grant funds only after receipt by Band Assembly of the signed award letter from the grantor agency.

Act 19-24

(Band Assembly Bill 21-01-19-24)


Introduced to the Band Assembly on this
Thirteenth day of March in the year
Two thousand twenty-four.

Passed by the Band Assembly on this
Thirteenth day of March in the year
Two thousand twenty-four.


Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: 3/19/24


Melanie Benjamin, Chief Executive

VETO

OFFICIAL SEAL OF THE BAND



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

March 19, 2024

Speaker of the Assembly Sheldon Boyd
Honorable Members of the Assembly
Mille Lacs Band Assembly
43408 Oodena Drive
Onamia, Minnesota 56359

Dear Speaker Boyd and Honorable Members of the Assembly,

I am in receipt of Band Assembly Bill 21-01-19-24, A Bill of appropriations for government operations for the Mille Lacs Band of Ojibwe for fiscal years ending September 30, 2024 and September 30, 2025.

In accordance with MLBS Title 4, § 16 (c), which provides that the Chief Executive shall have five business days from the date of receipt to either sign the bill into law, or veto the bill and return it to the Band Assembly with a written veto message containing his/her objections to the bill, I hereby veto Band Assembly Bill 21-01-19-24.

In general, this bill again includes language that was new to our budgeting process two years ago, and which is not working for the benefit of Band Members. While it is true that I approved the Band Assembly's similar language two years ago, the unanticipated impact of this new language is that Band business has been slowed down by those provisions and the Title 4 statutory authority of commissioners to run their departments has been compromised, which has caused delays in the ability of the Executive Branch to respond efficiently to urgent matters.

Specifically, the Powers and Duties of Executive Officers contained within MLSB Title 4, §7 that have been weakened by the new provisions include the following:

- (c) To authorize the expenditure of all appropriated funds within their subject matter jurisdiction.
- (d) To regulate the performance of their duties by all persons employed within their area of subject matter jurisdiction.
- (f) To recommend the reorganization of any department within their subject matter jurisdiction as they may deem advisable in the interests of economy or efficiency.
- (g) To prescribe procedures for the development of policy in the area under their respective jurisdiction.
- (k) To perform any duties as may be lawfully assigned by the Chief Executive.

DISTRICT I

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DISTRICT II

36666 State Highway 65 McGregor, MN 55760
(218) 768-3311 Fax (218) 768-3903

DISTRICT IIA

2605 Chiminising Drive Isle, MN 56342
(320) 676-1102 Fax (320) 676-3432

DISTRICT III

45749 Grace Lake Road Sandstone, MN 55072
(320) 384-6240 Fax (320) 384-6190

URBAN OFFICE

1404 East Franklin Avenue Minneapolis, MN 55404
(612) 872-1424 Fax (612) 872-1257

Sections 1.02, 1.09, and 1.10 propose an extraordinary overreach of the Band Assembly into the Executive Branch by granting the Assembly inappropriate decision-making authority over approved budgets of Executive Branch divisions, as well as power over individual salaries of Executive Branch employees. Many Band employees have had their duly earned salary increases delayed by as much as two years. Individual Band employees, including Band Members, have had their salaries challenged and qualifications questioned in public Band Assembly proceedings, which has had a chilling effect on the workforce and created a negative workforce environment. Some of our highest performing employees have left Band employment due to these issues.

Specifically, Section 1.02 requires even minor line item adjustments in a budget to be approved by Assembly; it further requires salary and wage adjustments of Executive Branch employees to be approved by the Assembly.

Sections 1.09 and 1.10 allow for some flexibility in budget revisions, but even they make exceptions for salary and wages of Executive Branch employees.

In addition to the issues described above, Section 1.07 appears to inappropriately give the Band Assembly the power to require Executive Branch employees who are not Commissioners to appear before the Assembly, which intrudes into the authority of Commissioners to regulate the duties of their employees. While the Band Assembly may request that commissioners appear before the Band Assembly, only Commissioners are statutorily authorized to represent the Executive Branch before the Band Assembly, pursuant to MLBS Title 4, §7 (k). If an employee is the best suited person to respond to certain issues before the Assembly, authority to request or require that the regular employees appear before the Assembly is authority that exclusively belongs to the supervising Commissioner.

As an example of an Appropriation Bill that includes language that I would find acceptable, I am attaching Ordinance 22-20 for your review. The requirements and language included in the 2020 Appropriations Bill is similar to the language that has been used for many years, includes no legislative overreach, does not intrude into the authority of commissioners to manage their departments, and restores a balance of power.

Finally, I also request that we include language that ensures the Band is in compliance with the federal Indian Gaming Regulatory Act (IGRA), which does not allow individual Band Members or groups of Band Members to receive special benefits of a financial value that are not equally available to all Band Members. If a District Representative is going to host community events that include benefits of a financial value such as parties, prizes, or other forms of recreation or entertainment, then net revenue should be appropriated to the District Representatives equally on a per capita basis as determined by the number of constituents in their respective districts. This should be a minimum requirement. Band Members living in one district should not be receiving more recreational benefits than other Band Members purely based on the spending discretion exercised by each District Representative.

I look forward to resolving these issues in a compromise hearing.

Sincerely,

A handwritten signature in blue ink that reads "Melanie Benjamin". The signature is fluid and cursive, with the first name "Melanie" and last name "Benjamin" clearly distinguishable.

Melanie Benjamin
Chief Executive