

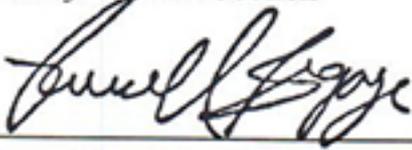


THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

TO: Honorable LoRenzo Bates, Speaker
Navajo Nation Council

FROM: 
Russell Begaye, *President*
THE NAVAJO NATION

DATE: September 27, 2016

SUBJECT: Resolution No. CS-49-16: RELATING TO BUDGET AND FINANCE COMMITTEE; NAABIK'IYATI COMMITTEE, AND NAVAJO NATION COUNCIL; FISCAL APPROPRIATION; APPROVING THE NAVAJO NATION FISCAL YEAR 2017 COMPREHENSIVE BUDGET; AND WAIVING 12 N.N.C. 820(I) AND CF-07-11

Pursuant to 2 N.N.C. 1005 (C)(10), action for Legislation CS-49-16 is being submitted to the Navajo Nation Council, through the Office of the Speaker within the ten (10) days requirement. Furthermore, the Navajo Nation President has line item veto authority for budget items within the annual Navajo Nation Comprehensive Budget or Supplemental appropriations, which are not subject to override by the Navajo Nation Council. 2 N.N.C. 164(A)(17).

After careful consideration and consultation with the Divisions, I have decided to exercise my line item veto for the following:

1. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; C(2) \$1,020,000 from the Fiscal Year 2016 Personnel Savings Fund for Navajo Nation Chapters, BU #108014 - #108123.
2. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; C(3) \$847,707 for DNR/District Grazing Officials, BU #115002.
3. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; C(4) \$752,401 from the Fiscal Year 2016 Personnel Savings Fund for Judicial Branch Budgets, BU #102008, #102002, #102004, #102005, #102006, #102017, #102001,

- #102003, #102007, #102009, #102010, #102011, #102012, #102013, #102013, #102014, #102015, #102018, and #102019.
4. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; C(6) \$337,500 to the Division of Natural Resources/Resource Enforcement, BU #115027.
 5. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; C(7) \$400,000 for Water Resources/TCOB, BU #115012 for earthen dam repairs.
 6. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; G(2) \$341,276 for the Division of Economic Development/Northern Regional Business Development Office, BU#110007.
 7. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; G(3) \$482,566 for the Election Administration Office, BU# 101021.
 8. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; H,
 - a. Paragraph 3, line 5 delete “have been allocated 90% of their Fiscal Year 2017 non-personnel operating funds. Upon completion of the Condition(s) of Appropriation, the Responsible Entity will be rewarded with the reserved 10% non-personnel operating funds to its budget. If the Division, Department or Program (“Responsible Entity”) does not improve its service to the Navajo Nation in the time period specified or in the manner specified, the reserved non-personnel operating funds will become unallocated funds. If a Responsible Entity is assigned more than one Condition of Appropriation and completes all the Conditions of Appropriation in the manner and time specified, then the reserved 10% non-personnel operating funds will be rewarded when the Responsible Entity completes the Condition of Appropriation due to be completed in the latest specified quarter. If the Responsible Entity with more than one Condition of Appropriation does not complete its Conditions of Appropriation within the stated time period or in the stated manner, then the reserved non-personnel operating funds will become unallocated funds at the quarter the last Condition of Appropriation was due to be completed ”
 - b. Paragraph 4, line 5 delete “the Controller will add the specified additional funding to the Division, Department, or Program. However, in the event the identified Division, Department or Program fails to complete the Condition of Appropriation within in the time specified, the Controller will place specified funding in unallocated funds. Should a Responsible Entity assigned more than one Condition of Appropriation, complete all the Conditions of Appropriation in the manner and time specified, then the reserved 10% non-personnel operating funds will be rewarded when the Responsible Entity completes the Condition of Appropriation due to be completed in the latest specified quarter. Should the Responsible Entity, with more than one

Condition of Appropriation, not complete its Conditions of Appropriation within the stated time period or in the state manner, then the reserved non-personnel operating funds will become unallocated funds at the quarter the last Condition of Appropriation was due to be completed”.

- c. Exhibit H, FY 2016 CONDITION OF APPROPRIATIONS, RESULT for noncompliance with the following Conditions of Appropriations (COA):
 - i. No. 1 the following language: “The Responsible Entity shall receive 90% of its Operating (non-personnel) Budget for FY 2017, as determined by the FY 2017 Comprehensive Budget, and if a Condition of Appropriation is complied with by the stated quarter, or if the Responsible Entity is named in multiple COAs the latest quarter stated, the Responsible Entity shall received the remaining 10% of the Operating (non-personnel) Budget for FY 2017”.
 - ii. No. 5 the following language, only: “and the Controller shall, without further legislative action, immediately transfer 10% of the Responsible Entity’s Operating (non-personnel) Budget to unallocated funds pursuant to Paragraph H of the Fiscal Year 2017 Comprehensive Budget resolution”.
 - iii. No. 7 the following language: “If the Responsible Entity is in compliance at the end of the stated quarter, the Controller shall, without further legislative action, release 10% of the Operating (non-personnel) Budget to the Responsible Entity’s accounts”.
9. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF ECONOMIC DEVELOPMENT:
 - a. BUSINESS REGULATORY OFFICE, Business Unit 110003.1103 in the amount of \$55,370.
 - b. REAL ESTATE DEPARTMENT: Business Unit 110015.1004 in the amount of \$28,600; Business Unit 110015.6520 in the amount of \$139,395; and Business Unit 110015.4200.4230 Non Cap Computer Equipment in the amount of \$19,550.
 - c. SBDD – CHINLE RBDO, Business Unit 110005.1104 in the amount of \$28,600.
 - d. SBDD – EASTERN RBDO, Business Unit 110006.1102 in the amount of \$30,326.
 - e. FT. DEFIANCE RBDO, Business Unit 110011.1105 in the amount of \$28,600.
10. Exhibit J, Fiscal Year 2017 Budget Detail binder. DEPARTMENT OF HEALTH:
 - a. NAAA – CHINLE AGENCY: Business Unit 113011.2001 in the amount of \$280,188; Business Unit 113011.4410 in the amount of \$1,000; Business Unit 113011.5310 in the amount of \$2,000; Business Unit 113011.6520 in the

- amount of \$3,000; Business Unit 113011.7110 in the amount of \$6,000; and Business Unit 113011.7710 in the amount of \$12,416.
- b. NAAA – FT. DEFIANCE AGENCY: Business Unit 113012.2001 in the amount of \$175,695; Business Unit 113012.4000 in the amount of \$1,000; Business Unit 113012.5000 in the amount of \$2,000; Business Unit 113012.6500 in the amount of \$3,000; Business Unit 113012.7000 in the amount of \$10,328.
 - c. NAAA – CROWNPOINT AGENCY: Business Unit 113013.2001 in the amount of \$213,590; Business Unit 113013.4000 in the amount of \$66,500; Business Unit 113013.5500 in the amount of \$81,500; Business Unit 113013.6000 in the amount of \$39,500; Business Unit 113013.7000 in the amount of \$4,500.
 - d. NAAA – TUBA CITY AGENCY: Business Unit 113014.2001 in the amount of \$164,978; Business Unit 113014.4000 in the amount of \$7,000; Business Unit 113013.5000 in the amount of \$3,000; Business Unit 113014.7000 in the amount of \$9,500.
 - e. NAAA – SHIPROCK AGENCY: Business Unit 113015.2001 in the amount of \$145,625; Business Unit 113015.4000 in the amount of \$2,000; Business Unit 113015.5000 in the amount of \$2,000; Business Unit 113015.7000 in the amount of \$8,908.
 - f. NAAA – ADMIN: Business Unit 113010.6500 in the amount of \$155,000.
11. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF NATURAL RESOURCES, Business Unit 115009 DWR– WATER RES. MGMT 6520 Consulting in the amount of \$50,000.
 12. Exhibit J, Fiscal Year 2017 Budget Detail binder. EXECUTIVE OFFICES, NNVA – EASTERN AGENCY: Business Unit NEW3.1113 in the amount of \$28,600.
 13. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF SOCIAL SERVICES – ADM Business Unit 117001.1131 in the amount of \$22,757.
 14. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF PUBLIC SAFETY, DEPARTMENT OF CRIMINAL INVESTIGATION – Business Unit 116011.6520 in the amount of \$250,000; Business Unit 116011.2510 in the amount of \$50,000; and 116011.4410 in the amount of \$50,000.
 15. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF COMMUNITY DEVELOPMENT– ADMIN Business Unit 108001.1111.1112.1113 in the amount of \$102,087; Business Unit 108001.4410 in the amount of \$61,083.
 16. Exhibit J, Fiscal Year 2017 Budget Detail binder. DEPARTMENT OF DINE EDUCATION – Business Unit 109005.6520 in the amount of \$129,028.

17. **Exhibit J, Fiscal Year 2017 Budget Detail binder. OLS/LEGISLATIVE DISTRICT ASSISTANTS, LEGISLATIVE BRANCH Business Unit 101034 in the amount of \$1,681,313.**

The justification for use of the President's line-item veto is set forth below.

As stated by this Administration, the Divisions have been working on developing a strategic plan to carry out the priorities of the Navajo Nation. As part of this strategy, each Division developed a budget that follows their strategy. We have stated since day one of our Administration that in order for our Government to be effective and be able to carry out our priorities we must develop a budget that is strategic. As such, we will maintain that position and preserve the budget that was submitted by our Executive Branch, as it is the budget needed and advocated by our Division Directors to carry out the needs and priorities of the Navajo Nation Government.

1. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; C(2) \$1,020,000 from the Fiscal Year 2016 Personnel Savings Fund for Navajo Nation Chapters, BU #108014 - #108123; C(3) \$847,707 for DNR/District Grazing Officials, BU #115002; C(4) \$752,401 from the Fiscal Year 2016 Personnel Savings Fund for Judicial Branch Budgets, BU #102008, #102002, #102004, #102005, #102006, #102017, #102001, #102003, #102007, #102009, #102010, #102011, #102012, #102013, #102013, #102014, #102015, #102018, and #102019; C(6) \$337,500 to the Division of Natural Resources/Resource Enforcement, BU #115027; C(7) \$400,000 for Water Resources/TCOB, BU #115012 for earthen dam repairs.

The Branch Chiefs Agreement dated June 21, 2016 agreed to how the Personnel Lapse/Savings Fund would be used. Pursuant to this Agreement, the Branch Chiefs agreed to use the funds for \$1,379,892 for the shortfall in the Defined Benefit Plan Retirement Plan. This was the only agreed-to use of the fund pursuant to the Agreement. Any use of this fund beyond the Agreement, the Branch Chiefs can revisit the Agreement for additional recommendations. However, we will allow the \$2,300,000 directed for Scholarship and Financial Assistance to be funded. These are directly related to future employment of our Navajo people. In addition, we continually encourage the return of our people to the Navajo Nation Government. Therefore this allocation is related to future personnel.

Aside from the Scholarships, if there are other uses for the Fund to be recommended this should be agreed to between the Branch Chiefs as referenced in the Agreement. As such, I exercise my line-item veto.

2. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; G(2) \$341,276 for the Division of Economic Development/Northern Regional Business Development Office, BU#110007.

This is amendment No. 15 that moves funds from the UUFB to the NRBDO. As stated above, the budget must be developed strategically. We cannot approve the same budget that has proven to not be effective. This is the first budget this Administration has had an opportunity to create working with our Divisions Directors utilizing the four pillars and priorities of this Administration. The budget developed by the Executive Branch was based on the Division's strategic plans, incorporating the priorities of the Administration.

Jobs and Infrastructure are two (2) pillars of this Administration and Division of Economic Development is an important role for these pillars. As such, in the implementation of the restructure of the Division of Economic Development the recommendation is place this funding in other areas that will allow this Division to be more effective and efficient.

As stated before, the budget must follow strategy. Therefore I exercise my line-item veto authority.

3. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; G(3) \$482,566 for the Election Administration Office, BU# 101021.

This is amendment No. 16 by the Navajo Nation Council that moves funding from OPVP to the Election Office. During every election season, this Office requests for supplemental funding. Permanent funding should be identified and provided for each election cycle. It is the recommendation of the Office of the President and Vice President that this should be included as a fixed cost.

Therefore I exercise my line-item veto authority.

4. Section Two. Adopting the Navajo Nation Fiscal Year 2017 Budget; H, EXHIBIT H. CONDITIONS OF APPROPRIATION

The Condition of Appropriations ("COA") are important and supported by this Administration. However, this Administration does not support the proposed withholding 10% of the program's non-personnel operating budget as a penalty for noncompliance. The reason is this would also impact the direct services provided to our Navajo people. In addition, related provisions were also line-itemed as only removing the 10% would not make sense.

While we understand the need to have enforcement for the conditions of appropriations, it should be in a form to discipline the employees not carrying out their duties, but not harm the people that are being served. By withholding 10% of the program's non-personnel operating budget, this practice can adversely impact the direct services to our People. Our people should not be penalized for managerial and/or personnel shortcomings by those employees that are not adequately carrying out their duties. As President of the Navajo Nation and Branch Chief to the Executive Branch, I will continue to work with the Division Directors to hold our employees within the executive branch accountable for their work performances.

As such, I exercise my line-item veto authority

5. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF ECONOMIC DEVELOPMENT:
 - a. BUSINESS REGULATORY OFFICE, Business Unit 110003.1103 in the amount of \$55,370.
 - b. REAL ESTATE DEPARTMENT: Business Unit 110015.1004 in the amount of \$28,600; Business Unit 110015.6520 in the amount of \$139,395; and Business Unit 110015.4200.4230 Non Cap Computer Equipment in the amount of \$19,550.
 - c. SBDD – CHINLE RBDO, Business Unit 110005.1104 in the amount of \$28,600.
 - d. SBDD – EASTERN RBDO, Business Unit 110006.1102 in the amount of \$30,326.
 - e. FT. DEFIANCE RBDO, Business Unit 110011.1105 in the amount of \$28,600.

This is amendment No. 1 from the Navajo Nation Council moving funds from the OPVP to the Division of Economic Development. As stated above, the budget must be developed strategically. We cannot approve the same budget that has proven to not be effective and if we are too see real change. This is the first budget this Administration has had an opportunity to create working with our Divisions Directors utilizing the four pillars and priorities of this Administration. Over the past year, the Division Directors have been working on their plans to restructure so as to be more efficient and accountable to our People.

Jobs and Infrastructure are two (2) pillars of this Administration and Division of Economic Development is an important role for these pillars. As such, in the implementation of the restructure of the Division of Economic Development the recommendation is place this funding in other areas that will allow this Division to be more effective and efficient.

Furthermore, amendment No. 13 from the Navajo Nation Council moved \$158,945 from the Permanent Trust Fund to the Real Estate Department, Business Unit 110015.6520 in the amount of \$139,395 and Business Unit 110015.4200.4230 Non Cap Computer Equipment in the amount of \$19,550. The Permanent Fund account within the Office of the Controller is used to account

for expenses related to administering numerous fiduciary funds including the Permanent fund and the multiple Navajo Nation Trust Funds. As fiduciary funds, the Nation holds these funds as a trustee and when expending funds from these funds must adhere to the statutory authorizations. The Navajo Nation Council's actions of shifting funds from a fiduciary account to general funds potentially violates multiple statutes.

Therefore I exercise my line-item veto authority.

6. Exhibit J, Fiscal Year 2017 Budget Detail binder. DEPARTMENT OF HEALTH:
 - a. NAAA – CHINLE AGENCY: Business Unit 113011.2110 in the amount of \$280,188; Business Unit 113011.4410 in the amount of \$1,000; Business Unit 113011.5310 in the amount of \$2,000; Business Unit 113011.6520 in the amount of \$3,000; Business Unit 113011.7110 in the amount of \$6,000; and Business Unit 113011.7710 in the amount of \$12,416.
 - b. NAAA – FT. DEFIANCE AGENCY: Business Unit 113012.2001 in the amount of \$175,695; Business Unit 113012.4000 in the amount of \$1,000; Business Unit 113012.5000 in the amount of \$2,000; Business Unit 113012.6500 in the amount of \$3,000; Business Unit 113012.7000 in the amount of \$10,328.
 - c. NAAA – CROWNPOINT AGENCY: Business Unit 113013.2001 in the amount of \$213,590; Business Unit 113013.4000 in the amount of \$66,500; Business Unit 113013.5500 in the amount of \$81,500; Business Unit 113013.6000 in the amount of \$39,500; Business Unit 113013.7000 in the amount of \$4,500.
 - d. NAAA – TUBA CITY AGENCY: Business Unit 113014.2001 in the amount of \$164,978; Business Unit 113014.4000 in the amount of \$7,000; Business Unit 113014.5000 in the amount of \$3,000; Business Unit 113014.7000 in the amount of \$9,500.
 - e. NAAA – SHIPROCK AGENCY: Business Unit 113015.2001 in the amount of \$145,625; Business Unit 113015.4000 in the amount of \$2,000; Business Unit 113015.5000 in the amount of \$2,000; Business Unit 113015.7000 in the amount of \$8,908.
 - f. NAAA – ADMIN: Business Unit 113010.6500 in the amount of \$155,000

This is amendment No. 2 from the Navajo Nation Council. These funds were moved from the Permanent Trust Fund to General Funds. The Permanent Fund account within the Office of the Controller is used to account for expenses related to administering numerous fiduciary funds including the Permanent fund and the multiple Navajo Nation Trust Funds. As fiduciary funds, the Nation holds these funds as a trustee and when expending funds from these funds must adhere to the statutory authorizations. The Navajo Nation Council's actions of shifting funds from a fiduciary account to General Funds potentially violates multiple statutes.

Therefore I exercise my line-item veto authority.

7. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF NATURAL RESOURCES, Business Unit 115009 DWR – WATER RES. MGMT 6520 Consulting in the amount of \$50,000.

This is amendment No. 7 by the Navajo Nation Council to move \$50,000 from the OPVP budget for contracting work for a Little Colorado River alluvial study. As advised by the Water Resource Management Branch, the Memorandum of Understanding was modified with the Bureau of Indian Affairs that provided an additional funding amount of \$100,000. This funding will be partly utilized for these contractual services for the study. As such, the \$50,000 is no longer needed.

Therefore, I exercise my line-item veto authority.

8. Exhibit J, Fiscal Year 2017 Budget Detail binder. EXECUTIVE OFFICES, NNVA – EASTERN AGENCY: Business Unit NEW3.1113 in the amount of \$28,600; DIVISION OF SOCIAL SERVICES – ADM Business Unit 117001.1131 in the amount of \$22,757.

This is amendment No. 10 from the Navajo Nation Council moving funds from the OPVP budget. As stated above, the budget must be developed strategically. Over the past year, the Division Directors have been working on their plans to restructure so as to be more efficient and accountable to our People. The Division of Social Services and NNVA – Eastern Agency submitted a budget that was requested and needed for them to carry out their services. This Administration stand behind the budgets as requested and advocated by the Directors.

As such, I exercise my line-item veto authority.

9. Exhibit J, Fiscal Year 2017 Budget Detail binder. DIVISION OF PUBLIC SAFETY, DEPARTMENT OF CRIMINAL INVESTIGATION – Business Unit 116011.6520 in the amount of \$250,000; Business Unit 116011.2510 in the amount of \$50,000; and 116011.4410 in the amount of \$50,000; DIVISION OF COMMUNITY DEVELOPMENT – ADMIN Business Unit 108001.1111.1112.1113 in the amount of \$102,087; Business Unit 108001.4410 in the amount of \$61,083.

This is amendment No. 17 from the Navajo Nation Council moving funds from the Department of Air Transportation to the Division of Community Development and Division of Public Safety. As stated above, the budget must be developed strategically. Over the past year, the Division Directors have been working on their plans to restructure so as to be more efficient and accountable to our People. The Department of Criminal Investigation and Division of

Community Development submitted a budget that was requested and needed for them to carry out their services. This Administration stand behind the budgets as requested and advocated by the Directors.

As we have stated, budget must follow strategy. Therefore I exercise my line-item veto authority.

10. Exhibit J, Fiscal Year 2017 Budget Detail binder. DEPARTMENT OF DINE EDUCATION – Business Unit 109005.6520 in the amount of \$129,028.

This is an amendment from the Budget and Finance Committee of the Navajo Nation Council moving funds from the Office of the Controller to the Department of Dine Education. As stated above, the budget must be developed strategically. Over the past year, the Division Directors have been working on their plans to restructure so as to be more efficient and accountable to our People. The Office of the Controller and Department of Dine Education submitted a budget that was requested and needed for them to carry out their services. This Administration stands behind the budgets as requested and advocated by the Directors.

As we have stated, budget must follow strategy. Therefore I exercise my line-item veto authority.

11. Exhibit J, Fiscal Year 2017 Budget Detail binder. OLS/LEGISLATIVE DISTRICT ASSISTANTS, LEGISLATIVE BRANCH Business Unit 101034 in the amount of \$1681,313.

The intent of the people's referendum was to cut costs. This is an unfilled mandate of the Navajo Nation Council. We recommend that the Legislative Branch revisit its own Branch and restructure and reorganize as the Executive Branch has done in reorganizing to also cut costs and become more effective.

As such, I exercise my line-item veto.

I hereby direct the Office of the Management and Budget to make the adjustments as necessary for the line-item vetoes. In addition, I request a one-on-one meeting with the Navajo Nation Council to re-visit the priorities of the Navajo Nation to effectively serve the Navajo People as memorialized in the "One Voice, One Nation" Agreement.