

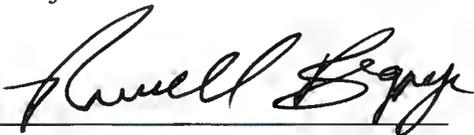


THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

TO: Honorable LoRenzo Bates, Speaker
Navajo Nation Council

FROM: 
Russell Begaye, *President*
THE NAVAJO NATION

DATE: November 6, 2017

SUBJECT: Resolution No. CO-63-17: Relating to Law and Order, Health, Education and Human Services, Budget and Finance, Naabik'iyáti' Committees and the Navajo Nation Council; Approving the "Navajo Nation Veterans Trust Fund Income Act" to amend the Navajo Nation Code, Title 12, Chapter 10, Subchapter 8, Navajo Nation Veterans Trust Fund, Section 1171 Establishment (A) and Section 1175 Definition of Principal and Income (A) (B)

Pursuant to 2 N.N.C. 1005 (C)(10), action for Resolution No. CO-63-17 is being submitted to the Navajo Nation Council, through the Office of the Speaker within the ten (10) day requirement. Furthermore, the Navajo Nation President has veto authority pursuant to 2 N.N.C. 221 (B) for resolutions that enact new Navajo law or amend existing Navajo law and are adopted by the Navajo Nation Council shall become effective on the day the President of the Navajo Nation signs it into law or the Navajo Nation Council takes action to override the President's veto, unless the Navajo Nation Council specifically authorizes and directs a different effective date.

After consultations with the Divisions, I must veto Resolution No. CO-63-17. The justification for use of the President's veto authority is set forth below.

The primary reason for the veto of this Resolution is the new language is unclear and can be interpreted to de-fund the Housing Program for Veterans. The amendment states the following:

“The Trust Fund shall consist of.....as well as annual set-asides by the Navajo Nation Council as noted in Section 1171 of this subchapter” (italized for emphasis)

The annual set asides in Section 1171 is 4%, in which 2% to be reinvested into the Veteran’s Trust Fund and 2% to the Veteran’s Housing Program. This amendment directs the entire 4% to now be appropriated into the Trust Fund Income, taking the 2% away from the Veteran’s Housing Program. Housing for Veterans is very important to the Begaye-Nez Administration; I cannot support de-funding this program.

The second reason is by diverting the set aside to Veteran’s Trust “Income” instead of “Principal” will immediately halt the growth of the Veteran’s Trust Fund. The current legislation language causes the set aside to no longer be invested into the Veteran’s Trust Fund principal but becomes available for program administration. As the set asides now become a part of “Income”, will be a disaster as the earnings, interest and other earnings of the trust fund may not reach the 4% and without the growth of the fund, may eventually reduce the appropriation to the program. Therefore, it is not advisable not to divert set asides historically intended to increase the Veteran’s Trust Fund “Principal” into fund “Income”. This is a dangerous precedent.

Furthermore, to access “Principal” for the Veteran’s Trust Fund takes a 2/3 affirmative vote of ALL registered voters. This requirement is very restricted. As mentioned above, the required 4% appropriation may never be realized, and because of this restriction, will not be able to access the principal. However, it is unclear, whether this amendment is attempting to access the principal.

On October 24, 2017, the Navajo Nation People voted with overwhelming support to preserve and protect the Permanent Trust Fund, by voting down the Transportation Stimulus Plan. It is clear our people support the continued growth of “Principal” of the Fund, including the Veteran’s Trust Fund. As the President of the Navajo Nation, I must listen to the voice of the Navajo People, as such, it is my duty to protect the Permanent Trust Fund. I ask our Navajo Nation Council to not challenge the vote of our Navajo people. For it is the Navajo People who have elected and entrusted us to be their voice, to represent them and to advocate on their behalf. We should never challenge the voice of our Navajo people.

Therefore, I have no other choice, but to exercise my veto authority, pursuant to 2 N.N.C. 221(B).

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL -- Third Year, 2017

AN ACT

RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE, NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING THE "NAVAJO NATION VETERANS TRUST FUND INCOME ACT" TO AMEND THE NAVAJO NATION CODE, TITLE 12, CHAPTER 10, SUBCHAPTER 8, NAVAJO NATION VETERANS TRUST FUND, SECTION 1171 ESTABLISHMENT (A) AND SECTION 1175 DEFINITION OF PRINCIPAL AND INCOME (A) (B)

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. 601(B)(14), reviews and makes recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code.
- B. The Health, Education and Human Services Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 400(C)(3) oversees matters relating to veteran services.
- C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council. Pursuant to 2 N.N.C. § 164(A) (9), the committee reviews proposed legislation which requires final action by the Navajo Nation Council.
- D. The Budget and Finance Committee is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds. 2 N.N.C. § 301 (B) (2)
- E. The Navajo Nation Council enacts laws and sets policy for the Navajo Nation. 2 N.N.C. § 102.

SECTION TWO. FINDINGS

- A. The Navajo Nation Veterans Trust Fund was established by the Navajo Nation Council through Resolution CJY-46-98, approved in 1998.

- B. The Navajo Nation Veterans Trust Fund, specifically 12 N.N.C. § 1171 was then amended, by Resolution CS-48-13, to provide for equal distribution of the annual comprehensive budgeted amount between the Veterans Trust Fund and the Department of Navajo Veterans Affairs to construct up to 15 homes and to provide major renovation and repairs for Navajo Veterans in each of the five Navajo Agencies. See Exhibit "A".
- C. The Navajo Nation finds it to be in the best interest of the Navajo Nation veterans to approve the Navajo Nation Veterans Trust Fund Income Act to provide for the availability of additional funds for veterans services by amending Section 1171 Establishment and Section 1175 Definition of Principal and Income, of the Navajo Nation Veterans Trust Fund.

SECTION THREE. Amending Title 12

The Navajo Nation Council hereby approves the "Navajo Nation Veterans Trust Fund Income Act" and amends the Navajo Nation Code, 12 N.N.C. § 1171 (A) and § 1175 (A)(B) as follows:

**THE NAVAJO NATION CODE
TITLE 12 FISCAL MATTERS
Chapter 10 Navajo Nation Trust Funds
Subchapter 8. Navajo Nation Veterans Trust Fund**

§ 1171. Establishment

- A. The "Navajo Nation Veterans Trust Fund" hereafter the "Trust Fund" is established with an initial appropriation of six million dollars (\$6,000,000) from revenues from the Undesignated Tribal Reserves. Each year, during the appropriation of the Navajo Nation Comprehensive Budget, the Navajo Nation Council shall budget a sum equal to at least 4% of any and all projected revenues of the Navajo Nation, including, but not limited to revenues received from taxes, oil and gas mining and minerals, timber, land rentals interest and dividends, gains on sale of securities and other revenue producing activities. One-half of that 4% shall be transferred to the Navajo Nation Veterans Trust Fund to be used as set forth herein. The remaining one-half of that 4% shall be administered by the Department of Navajo Veterans Affairs (DNVA). Each of the five (5) DNVA Agency Offices shall be allocated an equal share of that

amount to provide construction of up to 15 homes equitably in each of their respective agencies using all possible assistance program funds that such veterans may qualify for to construct as many homes as possible and provide minor home renovations and repairs for Navajo Veterans.

- B. The annual appropriation authorized above shall continue and for the purposes of this resolution, all unexpended funds shall not lapse back into the Veterans Trust Fund through Fiscal Year 2017, and shall expire thereafter, unless specifically reauthorized.

* * * *

§ 1175. Definition of principal and income

- A. Trust Fund principal shall consist of all Navajo Nation Council appropriations made pursuant to the tribal appropriation processes and procedures; and any contributions made by any parties or entities.
- B. Trust Fund income shall consist of all earnings (interest, dividends, ~~etc.~~, and other such related earnings) generated by the principal and interests of the Fund, as well as annual set-asides by the Navajo Nation Council as noted in Section 1171 of this subchapter.

* * * *

SECTION FOUR. CODIFICATION

The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION FIVE. SAVING CLAUSE

Should any provision 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, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 13 in favor and 00 opposed, on this 17TH day of October 2017.



LoRenzo C. Bates, Speaker
Navajo Nation Council

10-27-17

Date

Motion: Honorable Kee Allen Begay, Jr.
Second: Honorable Steven Begay

Speaker Bates not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(10), on this _____ day of _____ 2017.

Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this ~~10th~~ day of November 2017 for reason(s) expressed in the attached letter to the Speaker



Russell Begaye, President
Navajo Nation

NAVAJO NATION

RCS# 852

NNC Fall Session

10/17/2017

08:21:42 PM

Amd# to Amd#

legislation No. 0343-17

PASSED

MOT Begay, K

Approving Amendments to 12

SEC Begay, S

N.N.C. section 1176 of the NN
veterans Trust Fund

Yea : 13

Nay : 0

Not Voting : 10

Yea : 13

Begay, K

Chee

Phelps

Smith

Begay, S

Damon

Shepherd

Tso

BeGaye, N

Perry

Slim

Witherspoon

Brown

Nay : 0

Not Voting : 10

Bates

Crotty

Hale

Tsosie

Begay, NM

Daniels

Jack

Yazzie

Bennett

Filfred

Pete