

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION

RELATING TO BUDGET AND FINANCE COMMITTEE; ENDING NAVAJO ARTS AND
CRAFTS ENTERPRISE'S PARTICIPATION IN THE NAVAJO NATION RETIREMENT
PLAN FOR EMPLOYEES OF THE NAVAJO NATION AND PARTICIPATING AFFILIATES

SECTION ONE. AUTHORITY

A. Pursuant to 5 N.N.C. § 1501, there is established an enterprise of the Navajo Nation known as the Navajo Arts and Crafts whose general purpose, in accordance with 5 N.N.C. § 1502(B)(1)(5), is to showcase the artistry and crafts of the Navajo Nation and to be represented in the market place and to promote Navajo arts and crafts in any and all other ways deemed by NACE to be in the best interests of the Navajo Nation.

B. Pursuant to 2 N.N.C. § 301(B)(13), the Budget and Finance Committee has the power to conduct oversight of the functions of the Retirement Services Department.

SECTION TWO. FINDINGS

A. Navajo Arts and Crafts Enterprise (Enterprise) received a tentative and preliminary draft audit for 2013 and 2014 that noted that the NACE employees are covered under the *Retirement Plan for Employees of the Navajo Nation and Participating Affiliates*; however, the Enterprise has not estimated its portion of the net pension liability, pension expense, and deferred inflows/outflows of resources as of December 2015.

B. In accordance with the *Retirement Plan for Employees of the Navajo Nation and Participating Affiliates*, Article 11.02, Powers and Duties, (a) the [Retirement Plan Administration] Committee shall have full power to administer the Plan, to construe and apply all of its provisions on behalf of the Employer in adherence to Navajo Nation laws. The Committee's powers and duties, unless properly delegated, shall include but shall not be limited to: (8) Adopting rules and regulations for the administration of the Plan that are not inconsistent with the Plan. The Committee may, in a nondiscriminatory manner, waive the timing requirements of any notice or other requirements described in the Plan; and, (10) Making non-substantive amendment for the purpose of maintaining the qualified status of the Plan only. See Resolution of the Retirement Plan Administration Committee of the Navajo Nation, Whereas Clause 4. RPAC-07-16 attached as **Exhibit A**.

C. Pursuant to RPAC-07-16 the Retirement Plan Administration Committee approved ceasing the Enterprise's participation in the *Retirement Plan for Employees of the Navajo Nation and Certain Tribal Affiliates* as of September 30, 2007 with the condition its actuarial accrued liability is current and the Navajo Nation will vest their participants in accordance with the vesting rule as of September 30, 2007 and the Navajo Nation will provide funding for all its future actuarial accrued liability.


D. The Retirement Plan Administration Committee recommends the Budget and Finance Committee approve the RPAC's position to cease Navajo Arts and Crafts Enterprise's participation in the *Retirement Plan for Employees of the Navajo Nation and Participating Affiliates*.

SECTION THREE. APPROVAL

- A. The Budget and Finance Committee hereby approves the recommendation of the Retirement Plan Administration Committee to terminate the participation of the Navajo Arts and Crafts Enterprise in the Navajo Nation's *Retirement Plan for Employees of the Navajo Nation and Participating Affiliates*.
- B. The Budget and Finance Committee approves the recommendation of the Retirement Plan Administration Committee to vest the Navajo Arts and Crafts Enterprise's employees/participants with the vesting rule as of September 30, 2007 and approves the recommendation that the Navajo Nation will provide funding for all of the Navajo Arts and Crafts Enterprise's future actuarial accrued liability.

CERTIFICATION

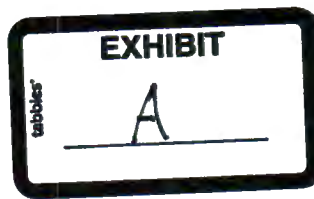
I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Leupp, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor, 0 opposed, this 22nd day of September 22, 2016.



Honorable Seth Damon, Chairperson
Budget and Finance Committee

Motion: Honorable Tuchoney Slim, Jr.

Second: Honorable Leonard Tsosie



RPAC-07-16

RESOLUTION OF THE RETIREMENT PLAN ADMINISTRATION COMMITTEE OF THE NAVAJO NATION

Approving the Ceasing Navajo Arts and Crafts Enterprise's (NACE) Participation in the Retirement Plan for Employees of the Navajo Nation and Certain Tribal Affiliates as of September 30, 2007, With the Condition NACE's actuarial accrued liability is Current, the Navajo Nation Will Vest their Participates in Accordance With the Vesting Rule As of September 30, 2007 and the Navajo Nation will Provide Funding For All Future Actuarial Accrued Liability.

WHEREAS:

1. Pursuant to Resolution BFMY-41-73, the Budget and Finance Committee of the Navajo Tribal Council under the auspices of the Navajo Tribal Council Resolution CF-21-73, initially adopted the Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates; and
2. Pursuant to 2 N.N.C. § 301 (B) (8), as amended by Resolution No. CAP-10-11, the Budget and Finance Committee of the Navajo Nation Council is empowered to promulgate policies and regulation concerning the fringe benefits for Navajo Nation officials and employees; and
3. Pursuant to Resolution No. HSCD-13-10 The Human Services Committee of the Navajo Nation Council approved and adopted the restated Retirement Plan for the Employees of the Navajo Nation and Participating Affiliates (hereinafter the "Plan"); and
4. Pursuant to Article 11.02, Powers and Duties, (a) The Committee shall have full power to administer the Plan, to construe and apply all of its provisions on behalf of the Employer in adherence to Navajo Nation laws. The Committee's powers and duties, unless properly delegated, shall include but shall not be limited to: (8) Adopting rules and regulations for the administration of the Plan that are not inconsistent with the Plan. The Committee may, in a nondiscriminatory manner, waive the timing requirements of any notice or other requirements described in the Plan, and (10) Making non-substantive amendment for the purposes of maintaining the qualified status of the Plan only; and
5. The Navajo Nation Retirement Services adhered to changes to the Treasury Department and Internal Revenue Service Ruling on the Pension Protection Act of 2006, stipulating guidance of eligibility to participate in governmental retirement plans. Under Internal Revenue Code Section 414(d), a governmental plan is an IRC Section 401(a) retirement plan established and maintained for the employees of the Indian tribal government or its subdivision, or its agency or instrumentality (participants must substantially perform services essential to governmental

function rather than commercial) Therefore, this prevent NACE employees to continue to participate in a qualified governmental retirement plan.

6. The Navajo Nation Retirement Plan Administration Committee and Navajo Nation Department of Retirement Services, in consultation with its actuarial consultant Willis Towers Watson and the Navajo Arts and Crafts Enterprise staff and board member have made their review and agree with the foregoing agreement and resolution.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Retirement Plan Administration Committee hereby approves ceasing Navajo Arts and Crafts Enterprise's (NACE) participation in the Retirement Plan for Employees of the Navajo Nation and Certain Tribal Affiliates as of September 30, 2007 with the condition its actuarial accrued liability is current and the Navajo Nation will vest their participants in accordance with the vesting rule as of September 30, 2007 and the Navajo Nation will provide funding for all its future actuarial accrued liability.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Retirement Plan Administration Committee of the Navajo Nation at a duly called meeting in Window Rock, (Navajo) Arizona at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed and 0 abstained this 15th day of September 2016.


Seth Damon, Chairperson
Retirement Plan Administration Committee
THE NAVAJO NATION

Motion: Dwight Witherspoon

Second: Reycita Toddy