

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0248-22_

SPONSOR: Raymond Smith, Jr.

TITLE: An Action Relating to the Budget and Finance Committee; Amending the Navajo Nation's Retirement Plan to Revise the Definition of Earnings for Navajo Nation Council Delegates, Effective as of January 1, 2023

Date posted: December 13, 2022 at 7:16PM

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. **0248-22**

Date: December 13, 2022

Re: AN ACTION RELATING TO THE BUDGET AND FINANCE COMMITTEE; AMENDING THE NAVAJO NATION'S RETIREMENT PLAN TO REVISE THE DEFINITION OF EARNINGS FOR NAVAJO NATION COUNCIL DELEGATES, EFFECTIVE AS OF JANUARY 1, 2023

Purpose of this Legislation:

to approve amendments to the Navajo Nation's Retirement Plan that change the definition of "Earnings" for Navajo Nation Council Delegates.

OLC No. 22-380-1

1 PROPOSED STANDING COMMITTEE RESOLUTION
2 24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

3 Introduced by:

4
5
6 Primary Sponsor

7
8 Tracking No. 0248-22
9

10 AN ACTION
11 RELATING TO THE BUDGET AND FINANCE COMMITTEE;
12 AMENDING THE NAVAJO NATION'S RETIREMENT PLAN TO
13 REVISE THE DEFINITION OF EARNINGS FOR NAVAJO NATION
14 COUNCIL DELEGATES, EFFECTIVE AS OF JANUARY 1, 2023
15

16 SECTION ONE. AUTHORITY

- 17 A. In 1973, in Resolution No. CF-21-73, the Navajo Nation Council established a retirement
18 plan scheme for the benefit of Navajo Nation employees and officials.
19 B. Under its authority delegated by the Council in CF-21-73, the Budget and Finance
20 Committee originally adopted the "Retirement Plan for Employees of the Navajo Tribe and
21 Certain Tribal Affiliates" ("Retirement Plan") effective July 1, 1973. BFMV-41-73.
22 C. The Budget and Finance Committee is authorized to promulgate policies and regulations
23 concerning fringe benefits for Navajo Nation employees and officials, and to conduct
24 oversight of the functions of the Department of Retirement Services. 2 N.N.C. §301(B)(8)
25 and §301(B)(13).
26 D. As the "Employer" under the Retirement Plan, the Navajo Nation has the right to amend the
27 Retirement Plan from time to time, as provided in Section 13.01 of the Retirement Plan.
28

29 SECTION TWO. FINDINGS

- 30 A. Since the original version of the Retirement Plan was adopted in 1973, the Navajo Nation

1 Council, the Budget and Finance Committee, and the Human Services Committee have
2 approved several amendments to the Retirement Plan. Resolution Nos. BFMA-56-74,
3 BFMY-198-77, CMY-26-79, BFJY-101-85, BFJN-71-86, BFS-56-90, BFMY-25-91, BFS-
4 98-02, BFMA-34-03, BFMA-05-08, BFCO-16-09, HSCD-13-10, BFJY-16-19, BFO-34-19,
5 and BFMY-13-21.

6 B. In RPAC-03-22, the Retirement Plan Administration Committee approved, and recommends
7 to the Budget and Finance Committee the approval of, the “RETIREMENT PLAN FOR
8 EMPLOYEES OF THE NAVAJO NATION AND PARTICIPATING AFFILIATES -
9 Amended and Restated - Effective January 1, 2023” (“Amended Plan”). **EXHIBIT 1.**

10 C. If approved, the Amended Plan will change the definition of “earnings” for Navajo Nation
11 Council Delegates, as shown in **EXHIBIT 2**, page 5, as follows:

12 Section 1.20 “Earnings” shall mean, for any period, base salary or base wages
13 received from the Employer for that period. Earnings shall exclude
14 overtime, bonuses, etc. Earnings shall include contributions made
15 by an Employer pursuant to salary reduction elections of an
16 Employee that are not includible in gross income of the Employee
17 under Code Sections 125 or 402(a)(8) (i.e., cafeteria plan or 401(k)
18 contributions). For Benefit Commencement Dates after October 1,
19 2000, hourly pay rates used to determine any Accrued Benefit shall
20 not be less than \$2.01. Solely with respect to Delegates of the
21 Navajo Nation Council serving in such role on or after January 1,
22 2023, “Earnings” shall mean Compensation up to \$55,000 for any
23 12-month period in which such individual served as a Delegate.

24 D. The Department of Retirement Services recommends that the Amended Plan become
25 effective as of January 1, 2023 to give the Department time to implement the proposed
26 changes.

27 E. The Budget and Finance Committee, pursuant to its authorities under 2 N.N.C. §301(B)(8)
28 and §301(B)(13), its delegated authority under CF-21-73, and the authority of the Navajo
29 Nation under Section 13.01 of the Retirement Plan, finds it is in the best interest of the Navajo
30 Nation to approve the proposed Amended Plan, with an effective date of January 1, 2023.

1 **SECTION THREE. APPROVAL**

2 The Budget and Finance Committee hereby approves and adopts the “RETIREMENT PLAN
3 FOR EMPLOYEES OF THE NAVAJO NATION AND PARTICIPATING AFFILIATES -
4 Amended and Restated - Effective January 1, 2023” attached hereto as **EXHIBIT 2**.

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6 **SECTION FOUR. EFFECTIVE DATE**

7 This Action, and the “RETIREMENT PLAN FOR EMPLOYEES OF THE NAVAJO NATION
8 AND PARTICIPATING AFFILIATES - Amended and Restated - Effective January 1, 2023”
9 attached hereto as **EXHIBIT 2**, shall become effective as of January 1, 2023.

10
11 **SECTION FIVE. SAVING CLAUSE**

12 If any portion of this Action is determined in valid by the Navajo Nation Supreme Court, or by
13 a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the
14 remainder of this Action shall be the law of the Navajo Nation.