LEGISLATIVE SUMMARY SHEET
Tracking No. 0261-18

DATE: July 19, 2018

SUBJECT: **AN ACTION RELATING TO BUDGET AND FINANCE COMMITTEE; AMENDING BFJN-22-18, "APPROVING THE RECOMMENDATION OF THE NAVAJO NATION RETIREMENT PLAN ADMINISTRATION COMMITTEE TO AMEND THE RETIREMENT PLAN FOR NAVAJO NATION EMPLOYEES AND PARTICIPATING AFFILIATES"; INSERTING NEW "EXHIBIT A" TO REFLECT AMENDMENTS TO SECTIONS 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, AND APPENDIX B OF THE RETIREMENT PLAN**

PURPOSE: The purpose of this legislation is to amend BFJN-22-18, which amended the Navajo Nation Retirement Plan.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD:
Website Posting Time/Date: 4:29pm 7/19/18
Posting End Date: 7/24/2018
Eligible for Action: 7/25/2018

. PROPOSED STANDING COMMITTEE RESOLUTION

23rd NAVAJO NATION COUNCIL – Fourth Year, 2018

INTRODUCED BY

(Primary Sponsor)

TRACKING NO. 0261-18

AN ACTION

RELATING TO BUDGET AND FINANCE COMMITTEE; AMENDING BFJN-22-18, "APPROVING THE RECOMMENDATION OF THE NAVAJO NATION RETIREMENT PLAN ADMINISTRATION COMMITTEE TO AMEND THE RETIREMENT PLAN FOR NAVAJO NATION EMPLOYEES AND PARTICIPATING AFFILIATES"; INSERTING NEW "EXHIBIT A" TO REFLECT AMENDMENTS TO SECTIONS 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, AND APPENDIX B OF THE RETIREMENT PLAN

Section One. Authority

A. The Budget and Finance Committee of the Navajo Nation Council approved the Retirement Plan for Employees of the Navajo Tribe and certain Tribal Affiliates (the "Retirement Plan") through Resolution BFMY-41-73.

B. The Budget and Finance Committee is empowered to promulgate policies and regulations concerning the fringe benefits for Navajo nation officials and employees. 2 NNC § 301(B)(8).

C. The Navajo Nation reserves the right to amend the Retirement Plan, pursuant to Section 13.01, to any extent that it deems advisable.

Section Two. Findings

A. The Budget and Finance Committee approved Resolution BFJN-22-18, "Approving the Recommendation of the Navajo Nation Retirement Plan Administration Committee to Amend the Retirement Plan for Navajo Nation Employees and Participating Affiliates" on June 19, 2018, which is attached as **Exhibit B**.

B. The Retirement Plan Administration Committee (RPAC) determined that amending the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates is in the best interest of the Navajo Nation and the Plan Participants.

C. The RPAC Resolution, RPAC-02-18, "Approving and Recommending to the Budget and Finance Committee of the Navajo Nation Council the Adoption and Approval of the Restated Plan Document for the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates, which Changes the Ages of Normal and Early Retirement and Amends Sections 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B," consisting of 11 pages, is attached as **Exhibit A**.

Section Three. Approval

The Budget and Finance Committee hereby amends Resolution BFJN-22-18 to include 11 pages in **Exhibit A**.

Section Four. Effective Date

The amendments indicated in **Exhibit A** become effective on October 1, 2018.

EXHIBIT

tabbies

A

RESOLUTION OF THE
RETIREMENT PLAN ADMINISTRATION COMMITTEE OF THE NAVAJO NATION

Approving, and Recommending to the Budget and Finance Committee of the Navajo Nation Council the Adoption and Approval of, the Restated Plan Document for the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates, which Changes the Ages of Normal and Early Retirement and Amends Sections 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B.

WHEREAS:

1. Pursuant to Resolution BFMY-41-73, the Budget and Finance Committee of the Navajo Nation Council under the auspices of 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), the Budget and Finance Committee of the Navajo Nation Council is empowered to promulgate policies and regulations concerning the fringe benefits for Navajo Nation officials and employees; and

3. Pursuant to Resolution 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 Section 13.01 on the right to amend the Plan, the employer reserves the right to modify, alter or amend this Plan from time to time to any extent that it may deem advisable; and

5. The Navajo Nation Retirement Plan Administration Committee has determined that it is in the best interest of the Nation and Plan Participants to amend the Plan definitions of "Normal Retirement Age," "Early Retirement Date," "Early Retirement Age," "Normal Retirement Benefit," "Early Retirement Benefit," "Judge's Final Pay," and "Vested Portion;" and to amend Appendix B "Historical Plan Provisions."

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Retirement Plan Administration Committee hereby approves amending Sections 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B of the Plan document.

The Navajo Nation Retirement Plan Administration Committee hereby recommends to the Budget and Finance Committee of the Navajo Nation Council the adoption and approval of a restated Plan, which includes the amendments in "Exhibit A" attached hereto. For budgeting purposes, the Committee further recommends that these amendments become effective on October 1, 2018.

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 Nation) Arizona at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed and 1 abstained, this 30th day of April, 2018.

Dwight Witherspoon

Dwight Witherspoon, Vice Chairperson
Retirement Plan Administration Committee
THE NAVAJO NATION

Motion: Pearline Kirk, RPAC Member
Second: JoAnn Jayne, RPAC Member

xc: RPAC file
NN Dept. of Retirement Services: Resolution file
Budget and Finance Committee

EXHIBIT "A"

Retirement Plan for Employees of the Navajo Nation and Participating Affiliates

Article 1

Definitions

1.19 "Early Retirement Date" shall mean the first day of the calendar month coincident with or next following the Participant's Termination Date, if such date is earlier than the Participant's Normal Retirement Date, provided that the Participant has completed four years of Vesting Service by his Termination Date, and provided that the Participant has attained the age specified below by his Termination Date.

		Age
(a)	Commissioned Law Enforcement Officers	45
(b)	Judges whose Employment Commencement Date is after January 28, 2003 (effective October 1, 2018)	55
(c)	Other Participants~~, except Judges whose Employment Commencement Date is on or before January 28, 2003~~	55

1.33 "Judge's Final Pay" shall apply only to Judges appointed before January 29, 2003. Refer to the Historical Plan Provisions in Appendix B for provisions applicable to Judges appointed before January 29, 2003.

~~And shall mean the product of 12 times the average of a Judge's monthly Earnings for the last 12 months of Benefit Service.~~

~~In calculating the Judge's Final Pay for a Judge whose Benefit Service was separated by periods of Non-benefit Service or Period of Severance, such Judge's Benefit Service shall be considered to be consecutive.~~

1.36 "Normal Retirement Age" means:

	Age
(a) ~~—~~Commissioned Law Enforcement Officers	55
~~Judges whose Employment Commencement Date is on or before January 28, 2003~~	~~55~~
~~Other Participants~~	~~60~~
(b) For retirements prior to October 1, 2018, Other Participants	60

(c) For retirements on and after October 1, 2018, of Judges whose Employment Commencement Date is after January 28, 2003, and of Other Participants, Normal Retirement Age means the youngest of:

(1) If fewer than 10 years of Vesting Service on October 1, 2018	62
(2) If at least 10, but fewer than 25 years, of Vesting Service on October 1, 2018	61
(3) If at least 25 years of Vesting Service on October 1, 2018	60
(4) If at least age 55 and a Participant on of Vesting Service on October 1, 2018	60.

Article 5

Amount of Retirement Benefit

5.01 Normal Retirement Benefit - A Participant's Normal Retirement Benefit shall be an annual annuity for the life of the Participant, payable monthly, commencing upon the Participant's Normal Retirement Date, unless otherwise specified, in an amount equal to (a) plus (b) ~~or (c)~~, as applicable:

(a) The greater of (i) and (ii):

(i) 2.0% times the Participant's Final Average Earnings multiplied by the number of years of Benefit Service, excluding any Benefit Service earned by the Participant as a Judge, at Normal Retirement Date.

(ii) 2.0% times the Participant's Final Average Earnings as of September 30, 2018, multiplied by the number of years of Benefit Service as of September 30, 2018, excluding any Benefit Service earned by the Participant as a Judge, at age 60.

(b) For Judges ~~whose Employment Commencement Date is~~appointed on or after January 29, 2003, the greater of (i) and (ii);

(i) 2.5% times the Participant's Final Average Earnings multiplied by the number of years of Benefit Service earned by the Participant as a Judge, up to a maximum of 30 years of Benefit Service, at Normal Retirement Date.

(ii) 2.5% times the Participant's Final Average Earnings as of September 30, 2018, multiplied by the number of years of Benefit Service earned by the Participant as a Judge as of September 30, 2018, up to a maximum of 30 years of Benefit Service, at age 60.

Refer to the Historical Plan Provisions in Appendix B for provisions applicable to Judges appointed prior to January 29, 2003.

~~(c) For Judges whose Employment Commencement Date is on or before January 28, 2003, the Judge's Benefit Percentage times the Judge's Final Pay. The Judge's Benefit Percentage shall be equal to (1) plus (2) where:~~

~~(1) is the lesser of 8 and the number of years of Benefit Service as a Judge, divided by 16 years; and~~

~~(2) is the number of years of Benefit Service as a Judge in excess of 8 years, divided by 14 years.~~

~~Judges whose Employment Commencement Date is on or before January 28, 2003 with less than eight years of Vesting Service are not eligible for retirement benefits.~~

5.03 Early Retirement Benefit – A Participant who retires from Service prior to his Normal Retirement Date but on or after attaining the early retirement age as set forth below, shall be entitled to an Early Retirement Benefit, provided the Participant has completed four years of Vesting Service at that time.

	Early Retirement Age
(a) Commissioned Law Enforcement Officers	45
(b) Judges whose Employment Commencement Date is after January 28, 2003 (effective October 1, 2018)	55
(c) Other Participants~~, except Judges whose Employment Commencement Date is on or before January 28, 2003~~	55

A Participant's Early Retirement Benefit shall be an annual annuity for life, payable monthly, commencing at the Participant's Normal Retirement Date, in an amount equal to the benefit determined in accordance with Section 5.01 and based on the Participant's Final Average Earnings and the number of years of Benefit Service of the Participant at his Early Retirement Date. At the election of the Participant, the Participant may receive his Early Retirement Benefit as an annuity commencing at his Early Retirement Date, or at any date thereafter, in a reduced amount calculated ~~by reducing the Early Retirement Benefit by 5/12% for each month by which Benefit Commencement Date precedes Normal Retirement Date.~~as the greater of (i) and (ii):

(i) The Early Retirement Benefit determined under 5.01(a)(i) plus 5.01(b)(i) reduced by reducing the Early Retirement Benefit by 5/12% for each month by which Benefit Commencement Date precedes Normal Retirement Date.

(ii) The Early Retirement Benefit determined under 5.01(a)(ii) plus 5.01(b)(ii) reduced by 5/12% for each month by which Benefit Commencement Date precedes age 60.

7.03 Vested Portion - A Participant who incurs a Termination at a time when he or she is not entitled to an Early, Normal or Postponed Retirement Benefit under the provisions of Article 5 shall be entitled to a Deferred Vested Benefit, payable as provided under Article 5, which shall be a portion of his Accrued Benefit calculated in accordance with the following table:

If the Participant's Years of Vesting Service are:	The Vested Portion is:
Less than 4	0%
4 or more	100%

~~A Judge whose Employment Commencement Date is on or before January 28, 2003 who incurs a Termination when he or she is not entitled to a Normal or Postponed Retirement Benefit under the provisions of Article 5 shall be entitled to a Deferred Vested Benefit, payable as provided under Article 5, which shall be a portion of his Accrued Benefit calculated in accordance with the following table:~~

~~If the Judge's Years of Vesting Service are:~~	~~The Vested Portion is:~~
~~Less than 8~~	~~0%~~
~~8 or more~~	~~100%~~

Appendix B

Historical Plan Provisions

1.04 Actuarial Equivalent Value. The 1976 Plan document does not specifically state the interest rate and mortality table used to determine the Actuarial Equivalent Value.

1.07 Affiliate. Prior to January 1, 2007, Affiliate included organizations associated with the Navajo Nation whose management board or executive officers were answerable to the Navajo Nation Council.

1.19 Early Retirement Date was:
Commissioned Law Enforcement Officers - Age 45 with seven years of Service
Other Participants - Age 55 with seven years of Service in the 1976 Plan statement.

1.27 Final Average Earnings. Prior to October 1, 1989, the averaging period was 60 months instead of 36 months.

~~a.~~ 1.33 "Judge's Final Pay" shall apply only to Judges appointed prior to January 29, 2003 and shall mean the product of 12 times the average of a Judge's monthly Earnings for the last 12 months of Benefit Service.

In calculating the Judge's Final Pay for a Judge whose Benefit Service was separated by periods of Non-benefit Service or Period of Severance, such Judge's Benefit Service shall be considered to be consecutive

1.35 Normal Retirement Age. Prior to October 1, 1989, the Normal Retirement Age for Other Participants was 65.

1.36 "Normal Retirement Age" means 55 for Judges whose Employment Commencement Date is prior to January 29, 2003.

1.41 Plan. Prior to October 1, 1989, the Plan was entitled Retirement Plan for Employees of the Navajo Tribe and Certain of its Affiliates.

2.03 Benefit Service. Prior to October 1, 1999, unused sick leave not credited as Benefit Service.

2.04 Non-benefit Service. Prior to October 1, 1999, there was no formal Benefit Service exclusion for Elected Chapter Officials.

3.01 Eligibility to Become a Participant. Prior to October 1, 1999, there was no eligibility exclusion for Elected Chapter Officials. In the 1976 Plan statement, there was a 12-month wait to participate for those hired after June 30, 1976.

5.01 Normal Retirement Benefit. The Service multiplier has changed twice under the Plan:

Effective Date	Service Prior to 10/1/84	Service After 10/1/84
10/1/89	2%	2%
10/1/84	2%	1.25%
Prior to 10/1/84	1.25%	1.25%

For Judges whose Employment Commencement Date is prior to January 29, 2003: the Judge's Benefit Percentage times the Judge's Final Pay. The Judge's Benefit Percentage shall be equal to (1) plus (2) where:~~Normal Retirement Benefit for Judges Employment Commencement Date is on or before January 29, 2003 - Normal Retirement Benefit shall be an annual annuity for the life of the Participant, payable monthly, commencing upon the Participant's Normal Retirement Date, in an amount equal to the Judge's Benefit Percentage times the Judge's Final Pay. The Judge's Benefit Percentage shall be equal to (1) plus (2) where::~~

(1) is the lesser of 8 and the number of years of Benefit Service as a Judge, divided by 16 years; and

(2) is the number of years of Benefit Service as a Judge in excess of 8 years, divided by 14 years.

Judges whose Employment Commencement Date is prior to January 29, 2003 with less than eight years of Vesting Service are not eligible for retirement benefits.

5.02 Postponed Retirement Benefit. The 1976 Plan statement froze benefits at the Normal Retirement Age.

5.03 Prior to October 1, 1989, the early retirement reduction factors were:

Months by which Early Retirement precedes Normal Retirement Date	Percentage reduction for each month prior to Normal Retirement Date for Employees whose Normal Retirement Age is: 65	55
First 60 months	Sixty-five one-hundredths of 1% (.65%)	Fifty-five one-hundredths of 1% (.55%)
Months in excess of 60	Thirty-five one-hundredths of 1% (.35%)	Thirty-five one-hundredths of 1% (.35%)

5.04 Prior to October 1, 1984, a Participant did not vest until completing seven years of Vesting Service.

5.05 Prior to October 1, 1999, the eligibility for disability retirement was five years of Vesting Service. The benefit was the Accrued Benefit reduced actuarially for immediate payment.

7.02 The 1976 Plan statement vested Participants at age 65.

7.03 Prior to October 1, 1984, a Participant did not vest until completing seven years of vesting.

8.01(a)(2) Prior to October 1, 1984, there was no pre-retirement death benefit for a Participant who died prior to the Early, Normal or Postponed Retirement Date.

9.04(c) The 1976 Plan statement specified the limit for lump sum cashouts as $1,750. Prior to October 1, 1999, the actuarial equivalence definition was 6% and 1971 TPF&C Forecast Mortality Table.

EXHIBIT

tabbies

B

BFJN-22-18

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

23RD NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO BUDGET AND FINANCE COMMITTEE; APPROVING THE RECOMMENDATION OF THE NAVAJO NATION RETIREMENT PLAN ADMINISTRATION COMMITTEE TO AMEND THE RETIREMENT PLAN FOR NAVAJO NATION EMPLOYEES AND PARTICIPATING AFFILIATES

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Budget and Finance Committee of the Navajo Nation Council approved the Retirement Plan for Employees of the Navajo Tribe and certain Tribal Affiliates (the "Retirement Plan") through Resolution BFMY-41-73.

B. The Budget and Finance Committee is empowered to promulgate policies and regulations concerning the fringe benefits for Navajo Nation officials and employees. 2 N.N.C. § 301(B)(8).

C. The Navajo Nation reserves the right to amend the Retirement Plan, pursuant to Section 13.01, to any extent that it deems advisable.

SECTION TWO. FINDINGS

A. The Retirement Plan Administration Committee (RPAC) determined that amending the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates is in the best interest of the Navajo Nation and the Plan Participants.

B. The RPAC Resolution, RPAC-02-18, "Approving and Recommending to the Budget and Finance Committee of the Navajo Nation Council the adoption and approval of the Restated Plan Document for the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates, which Changes the Ages of Normal and Early

Retirement and Amends Section 1019, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B" is attached as **Exhibit A.**

SECTION THREE. APPROVAL

The Budget and Finance Committee herby approves the recommendation of the RPAC, as stated in RPAC Resolution No. RPAC-02-18, as shown in **Exhibit A.**

SECTION FOUR. EFFECTIVE DATE

The amendments indicated in **Exhibit A** will go into effect on October 1, 2018.

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 Tohajiilee, Navajo Nation (New Mexico), at which a quorum was present and that the same was passed by a vote of 5 in favor and 0 opposed, this 19th day of June 2018.

Seth Damon, Chairperson
Budget and Finance Committee

Motion: Honorable Lee Jack, Sr.
Second: Honorable Tom T. Chee

EXHIBIT
A
to BFJN-22-18

RESOLUTION OF THE
RETIREMENT PLAN ADMINISTRATION COMMITTEE OF THE NAVAJO NATION

Approving, and Recommending to the Budget and Finance Committee of the Navajo Nation Council the Adoption and Approval of, the Restated Plan Document for the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates, which Changes the Ages of Normal and Early Retirement and Amends Sections 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B.

WHEREAS:

1. Pursuant to Resolution BFMY-41-73, the Budget and Finance Committee of the Navajo Nation Council under the auspices of 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), the Budget and Finance Committee of the Navajo Nation Council is empowered to promulgate policies and regulations concerning the fringe benefits for Navajo Nation officials and employees; and

3. Pursuant to Resolution 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 Section 13.01 on the right to amend the Plan, the employer reserves the right to modify, alter or amend this Plan from time to time to any extent that it may deem advisable; and

5. The Navajo Nation Retirement Plan Administration Committee has determined that it is in the best interest of the Nation and Plan Participants to amend the Plan definitions of "Normal Retirement Age," "Early Retirement Date," "Early Retirement Age," "Normal Retirement Benefit," "Early Retirement Benefit," "Judge's Final Pay," and "Vested Portion;" and to amend Appendix B "Historical Plan Provisions."

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Retirement Plan Administration Committee hereby approves amending Sections 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B of the Plan document.

The Navajo Nation Retirement Plan Administration Committee hereby recommends to the Budget and Finance Committee of the Navajo Nation Council the adoption and approval of a restated Plan, which includes the amendments in "Exhibit A" attached hereto. For budgeting purposes, the Committee further recommends that these amendments become effective on October 1, 2018.

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 Nation) Arizona at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed and 1 abstained, this 30th day of April, 2018.

Dwight Witherspoon

Dwight Witherspoon, Vice Chairperson
Retirement Plan Administration Committee
THE NAVAJO NATION

Motion: Pearline Kirk, RPAC Member
Second: JoAnn Jayne, RPAC Member

xc: RPAC file
NN Dept. of Retirement Services: Resolution file
Budget and Finance Committee

Article 5

Amount of Retirement Benefit

5.01 Normal Retirement Benefit - A Participant's Normal Retirement Benefit shall be an annual annuity for the life of the Participant, payable monthly, commencing upon the Participant's Normal Retirement Date, unless otherwise specified, in an amount equal to (a) plus (b) ~~or (c)~~, as applicable:

(a) The greater of (i) and (ii):

(i) 2.0% times the Participant's Final Average Earnings multiplied by the number of years of Benefit Service, excluding any Benefit Service earned by the Participant as a Judge, at Normal Retirement Date.

(ii) 2.0% times the Participant's Final Average Earnings as of September 30, 2018, multiplied by the number of years of Benefit Service as of September 30, 2018, excluding any Benefit Service earned by the Participant as a Judge, at age 60.

(b) For Judges ~~whose Employment Commencement Date is~~appointed on or after January 29, 2003, the greater of (i) and (ii);

(i) 2.5% times the Participant's Final Average Earnings multiplied by the number of years of Benefit Service earned by the Participant as a Judge, up to a maximum of 30 years of Benefit Service, at Normal Retirement Date.

(ii) 2.5% times the Participant's Final Average Earnings as of September 30, 2018, multiplied by the number of years of Benefit Service earned by the Participant as a Judge as of September 30, 2018, up to a maximum of 30 years of Benefit Service, at age 60.

Refer to the Historical Plan Provisions in Appendix B for provisions applicable to Judges appointed prior to January 29, 2003.

~~(c) For Judges whose Employment Commencement Date is on or before January 28, 2003, the Judge's Benefit Percentage times the Judge's Final Pay. The Judge's Benefit Percentage shall be equal to (1) plus (2) where:~~

~~(1) is the lesser of 8 and the number of years of Benefit Service as a Judge, divided by 16 years; and~~

~~(2) is the number of years of Benefit Service as a Judge in excess of 8 years, divided by 14 years.~~

~~Judges whose Employment Commencement Date is on or before January 28, 2003 with less than eight years of Vesting Service are not eligible for retirement benefits.~~

5.03 Early Retirement Benefit – A Participant who retires from Service prior to his Normal Retirement Date but on or after attaining the early retirement age as set forth below, shall be entitled to an Early Retirement Benefit, provided the Participant has completed four years of Vesting Service at that time.

	Early Retirement Age
(a) Commissioned Law Enforcement Officers	45
(b) Judges whose Employment Commencement Date is after January 28, 2003 (effective October 1, 2018)	55
(c) Other Participants~~, except Judges whose Employment Commencement Date is on or before January 28, 2003~~	55

A Participant's Early Retirement Benefit shall be an annual annuity for life, payable monthly, commencing at the Participant's Normal Retirement Date, in an amount equal to the benefit determined in accordance with Section 5.01 and based on the Participant's Final Average Earnings and the number of years of Benefit Service of the Participant at his Early Retirement Date. At the election of the Participant, the Participant may receive his Early Retirement Benefit as an annuity commencing at his Early Retirement Date, or at any date thereafter, in a reduced amount calculated ~~by reducing the Early Retirement Benefit by 5/12% for each month by which Benefit Commencement Date precedes Normal Retirement Date.~~ as the greater of (i) and (ii):

(i) The Early Retirement Benefit determined under 5.01(a)(i) plus 5.01(b)(i) reduced by reducing the Early Retirement Benefit by 5/12% for each month by which Benefit Commencement Date precedes Normal Retirement Date.

(ii) The Early Retirement Benefit determined under 5.01(a)(ii) plus 5.01(b)(ii) reduced by 5/12% for each month by which Benefit Commencement Date precedes age 60.

7.03 Vested Portion - A Participant who incurs a Termination at a time when he or she is not entitled to an Early, Normal or Postponed Retirement Benefit under the provisions of Article 5 shall be entitled to a Deferred Vested Benefit, payable as provided under Article 5, which shall be a portion of his Accrued Benefit calculated in accordance with the following table:

If the Participant's Years of Vesting Service are:	The Vested Portion is:
Less than 4	0%
4 or more	100%

~~A Judge whose Employment Commencement Date is on or before January 28, 2003 who incurs a Termination when he or she is not entitled to a Normal or Postponed Retirement Benefit under the provisions of Article 5 shall be entitled to a Deferred Vested Benefit, payable as provided under Article 5, which shall be a portion of his Accrued Benefit calculated in accordance with the following table:~~

~~If the Judge's Years of Vesting Service are:~~	~~The Vested Portion is:~~
~~Less than 8~~	~~0%~~
~~8 or more~~	~~100%~~

Appendix B

Historical Plan Provisions

1.04 Actuarial Equivalent Value. The 1976 Plan document does not specifically state the interest rate and mortality table used to determine the Actuarial Equivalent Value.

1.07 Affiliate. Prior to January 1, 2007, Affiliate included organizations associated with the Navajo Nation whose management board or executive officers were answerable to the Navajo Nation Council.

1.19 Early Retirement Date was:
Commissioned Law Enforcement Officers - Age 45 with seven years of Service
Other Participants - Age 55 with seven years of Service in the 1976 Plan statement.

1.27 Final Average Earnings. Prior to October 1, 1989, the averaging period was 60 months instead of 36 months.

~~a.~~1.33 "Judge's Final Pay" shall apply only to Judges appointed prior to January 29, 2003 and shall mean the product of 12 times the average of a Judge's monthly Earnings for the last 12 months of Benefit Service.

In calculating the Judge's Final Pay for a Judge whose Benefit Service was separated by periods of Non-benefit Service or Period of Severance, such Judge's Benefit Service shall be considered to be consecutive

1.35 Normal Retirement Age. Prior to October 1, 1989, the Normal Retirement Age for Other Participants was 65.

1.36 "Normal Retirement Age" means 55 for Judges whose Employment Commencement Date is prior to January 29, 2003.

1.41 Plan. Prior to October 1, 1989, the Plan was entitled Retirement Plan for Employees of the Navajo Tribe and Certain of its Affiliates.

2.03 Benefit Service. Prior to October 1, 1999, unused sick leave not credited as Benefit Service.

2.04 Non-benefit Service. Prior to October 1, 1999, there was no formal Benefit Service exclusion for Elected Chapter Officials.

3.01 Eligibility to Become a Participant. Prior to October 1, 1999, there was no eligibility exclusion for Elected Chapter Officials. In the 1976 Plan statement, there was a 12-month wait to participate for those hired after June 30, 1976.

5.01 Normal Retirement Benefit. The Service multiplier has changed twice under the Plan:

Effective Date	Service Prior to 10/1/84	Service After 10/1/84
10/1/89	2%	2%
10/1/84	2%	1.25%
Prior to 10/1/84	1.25%	1.25%

For Judges whose Employment Commencement Date is prior to January 29, 2003: the Judge's Benefit Percentage times the Judge's Final Pay. The Judge's Benefit Percentage shall be equal to (1) plus (2) where:~~Normal Retirement Benefit for Judges Employment Commencement Date is on or before January 29, 2003. Normal Retirement Benefit shall be an annual annuity for the life of the Participant, payable monthly, commencing upon the Participant's Normal Retirement Date, in an amount equal to the Judge's Benefit Percentage times the Judge's Final Pay. The Judge's Benefit Percentage shall be equal to (1) plus (2) where::~~

(1) is the lesser of 8 and the number of years of Benefit Service as a Judge, divided by 16 years; and

(2) is the number of years of Benefit Service as a Judge in excess of 8 years, divided by 14 years.

Judges whose Employment Commencement Date is prior to January 29, 2003 with less than eight years of Vesting Service are not eligible for retirement benefits.

5.02 Postponed Retirement Benefit. The 1976 Plan statement froze benefits at the Normal Retirement Age.

5.03 Prior to October 1, 1989, the early retirement reduction factors were:

Months by which Early Retirement precedes Normal Retirement Date	Percentage reduction for each month prior to Normal Retirement Date for Employees whose Normal Retirement Age is:	
	65	55
First 60 months	Sixty-five one-hundredths of 1% (.65%)	Fifty-five one-hundredths of 1% (.55%)
Months in excess of 60	Thirty-five one-hundredths of 1% (.35%)	Thirty-five one-hundredths of 1% (.35%)

5.04 Prior to October 1, 1984, a Participant did not vest until completing seven years of Vesting Service.

5.05 Prior to October 1, 1999, the eligibility for disability retirement was five years of Vesting Service. The benefit was the Accrued Benefit reduced actuarially for immediate payment.

7.02 The 1976 Plan statement vested Participants at age 65.

7.03 Prior to October 1, 1984, a Participant did not vest until completing seven years of vesting.

8.01(a)(2) Prior to October 1, 1984, there was no pre-retirement death benefit for a Participant who died prior to the Early, Normal or Postponed Retirement Date.

9.04(c) The 1976 Plan statement specified the limit for lump sum cashouts as $1,750. Prior to October 1, 1999, the actuarial equivalence definition was 6% and 1971 TPF&C Forecast Mortality Table.

Office of Legislative Counsel
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Honorable LoRenzo Bates
Speaker
23rd Navajo Nation Council

MEMORANDUM

TO: Dwight Witherspoon
23rd Navajo Nation Council

FROM: K A Lowell
Kristen Lowell, Principal Attorney
Office of Legislative Counsel

DATE: July 19, 2018

SUBJECT: **AN ACTION RELATING TO BUDGET AND FINANCE COMMITTEE; AMENDING BFJN-22-18, "APPROVING THE RECOMMENDATION OF THE NAVAJO NATION RETIREMENT PLAN ADMINISTRATION COMMITTEE TO AMEND THE RETIREMENT PLAN FOR NAVAJO NATION EMPLOYEES AND PARTICIPATING AFFILIATES"; INSERTING NEW "EXHIBIT A" TO REFLECT AMENDMENTS TO SECTIONS 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, AND APPENDIX B OF THE RETIREMENT PLAN**

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0261-18_____ SPONSOR: Dwight Witherspoon

TITLE: An Action Relating to Budget and Finance Committee; Amending BFJN-22-18, "Approving the Recommendation of the Navajo Nation Retirement Plan Administration Committee to amend the Retirement Plan for Navajo Nation Employees and Participating Affiliates"; inserting new "Exhibit A" to reflect amendments to sections 1.19, 1.33, 1.36, 5.01, 5.03, 7.03, and Appendix B of the Retirement Plan

***Date posted*: July 19, 2018 at 4:29pm**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.