# LEGISLATIVE SUMMARY SHEET Tracking No. 0297-15

**DATE:** August 21, 2015

TITLE OF RESOLUTION: AN ACT RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; NAVAJO NATION CODE AMENDMENT; AMENDING 12 N.N.C. § 905 THE NAVAJO NATION PERMANENT FUND, EXPENDITURE OF FUND INCOME

**PURPOSE:** This resolution if approved, will amend section 905 of the Navajo Nation Permanent Fund, 15 N.N.C. § 901 et seq..

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed legislation in detail.

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Eligible for Act	PROPOSED NAVAJO NATION COUNCIL RESOLUTION	THENCE
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5	to wight Witterspoon Navajo Na	ion Council
6	(Prime Sponsor)	
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8	TRACKING NO. 0297-15	
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10	AN ACT	
11	RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND	
12	NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL;	
13	NAVAJO NATION CODE AMENDMENT;	
14	AMENDING 12 N.N.C. § 905 THE NAVAJO NATION PERMANENT FUND,	
15	EXPENDITURE OF FUND INCOME	
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17	BE IT ENACTED:	
18	Section One. Findings and Purposes	
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20	A. The Navajo Nation Council is the governing body of the Navajo Nation, pursuant to 2	
21	N.N.C. § 102 (A).	
22	B. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. §	
23	601(B)(14), reviews and makes recommendations to the Navajo Nation Council	
24	proposed amendments to the Navajo Nation Code.	
25	C. Pursuant to 2 N.N.C. § 300(C) the Budget and Finance Committee of the Navajo	
26	Nation Council shall exercise oversight authority, including but not limited to,	
27	budget, finance, investment, bonds, contracting, insurance, audits, accounting, taxes,	
28	loans, Chapter budget and finance for the following purposes: 3) To recommend t the	
29	Navajo Nation Council the adoption of resolutions designed to strengthen the fiscal	
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	Page 1 of 4 15-523-1	

- and financial position of the Navajo Nation and to promote the efficient use of the fiscal and financial resources of the Navajo Nation.
- D. The Naabik'íyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164(A)(9), reviews proposed legislation which requires final action by the Navajo Nation Council.
- E. The Navajo Nation Permanent Fund, established in 1985, made available certain funds after a 20 year period and such funds have been available for use since 2005; however, the fund income of the Navajo Nation Permanent Fund continues to be reinvested in the Permanent Fund.
- F. The Navajo Nation Permanent Fund was established for the purpose of creating reserves for future generations after finding that the Navajo Nation's General Reserve Fund had been declining. See CJY-53-85, Whereas Clause Two and Six.
- G. In 2014 the Navajo Nation approved the Five Year Capital Improvement Plan for certain capital projects on the Navajo Nation and funding for such projects is estimated at Two hundred ninety-five million, six hundred sixty-nine thousand, six hundred seventy-six dollars and thirty five cents, \$295,669,676.35. Navajo Nation Capital Improvement Plan 2013-2018 attached as Exhibit A.
- H. For the past year the Navajo Nation collected information on the need for funding to improve the infrastructure of the Nation and recent information for Navajo Nation Divisions and Departments shows the need at Seven hundred and seven million five hundred thousand dollars, \$707,500,000. Summary of Navajo Nation Division and Department's Unmet Need attached as Exhibit B.
- I. 12 N.N.C. § 903(B), the Navajo Nation Permanent Fund, defines fund income as consisting of all earnings generated by the principal of the Fund.
- J. The Navajo Nation is at a crossroad of continuing with deteriorating infrastructure or accessing a fund for the purpose of improving the lives of the Nation's future generation and finds it in the best interest of the Nation to amend the Navajo Nation Permanent Fund.

# Section Two. Amendments to 12 N.N.C. § 905

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The Navajo Nation hereby amends Title 12, Chapter 8, Navajo Nation Permanent Fund, 12 N.N.C. § 905 as follows:

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# NAVAJO NATION CODE ANNOTATED TITLE 12.

# CHAPTER 8. NAVAJO NATION PERMANENT FUND

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§ 905. Expenditure of Fund Income

No fund income shall be expended, except as set forth in 908 and 909 of this Chapter, for a period of 20 years from date of the first Navajo Nation contribution to the Fund. Thereafter, ninety-five (95%) one hundred percent (100%) of the fund income may be expended in accordance with a plan for its use covering at least a five year one year period adopted by resolution of the Navajo Nation Council provided that the expenditure of income in any fiscal year shall not exceed the income earned during that year. The remaining five percent (5%) of the Fund income shall be reinvested in the Permanent Fund.

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# Section Three. Effective Date

The Act enacted herein shall be effective upon its approval pursuant to 2 N.N.C. §221(B).

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# Section Four. Codification

The provisions of this ordinance which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of

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Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

# Section Five. Saving Clause

Should any provisions of this ordinance 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, those portions of this ordinance which are not determined invalid shall remain the law of the Navajo Nation.

CN-97-98, November 24, 1998.

CO-89-98, October 20, 1998.

# Chapter 8. Navajo Nation Permanent Fund

# § 901. Establishment

There is established the "Navajo Nation Permanent Fund" (hereinafter the "Fund"). Each year the Navajo Nation Council shall budget a sum equal to at least twelve percent (12%) of any and all projected revenue of the Navajo Nation including, but not limited to, revenues received from taxes, oil and gas mining/minerals, timber, land rentals, interest/dividends, gain on sale of securities and other revenue producing activities for transfer to the Fund. Additional money may be added to the Fund at any time. Any money deposited into the Fund, plus accrued interest, shall thereafter be used only as provided in this Chapter. In the event actual revenue fails to meet projected revenue, or excess projected revenue, the amount appropriated and transferred shall be adjusted to equal twelve percent (12%) of actual revenue. Transfers may be made in one or more installments.

# History

CJY-53-85, July 25, 1985.

# § 902. Investment of the Fund

- All amounts deposited in the Fund shall be invested as soon as is reasonably practical in accordance with the following limitations:
- A. The funds shall be invested in accordance with the degree of care exercised by reasonable and prudent managers of large investments intended to produce maximum growth of the investments with a high degree of safety. In addition, the Fund may be invested in any other investments approved by the Budget and Finance Committee of the Navajo Nation Council and the Navajo Nation Council.
- B. Management of the investments may be delegated to third parties by written contract recommended by the Navajo Bond Financing and Investment Committee and approved by the Budget and Finance Committee of the Navajo Nation Council.

# History

CJY-53-85, July 25, 1985.

Note. The Budget and Finance Committee is authorized to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds. See 2 N.N.C. \$ 374(B)(1).

# § 903. Definition of principal and income

A. "Fund principal" shall consist of all Navajo Nation Council

the period covered by the report, a statement of the Fund performance and other information relevant to the management of the Fund.

### History

CJY-53-85, July 25, 1985.

Note. Slightly reworded for purposes of statutory form.

# § 907. Amendments

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This Chapter may be amended by a majority vote of the Navajo Nation Council except as follows:

- A. Sections 903 and 904 may only be amended by referendum adopted in the manner prescribed for the expenditure of Fund principal in § 904.
- B. Section 905 may be amended only by ninety percent (90%) vote of all of the members of the Navajo Nation Council.
- C. Section 907 may not be amended or repealed until after 40 years from the date of enactment of this Chapter.

# History

CJY-53-85, July 25, 1985.

Note. Slightly reworded for purposes of statutory form.

# § 908. Expenses

All expenses directly associated with the administration and management of the Navajo Nation Permanent Fund shall be paid from the Fund income as approved by the Budget and Finance Committee of the Navajo Nation Council and the Navajo Nation Council. Such expenses shall include an investment advisor and management fees, pursuant to a duly approved contract, audit costs, and other related expenses.

# History

CJY-53-85, July 25, 1985.

# § 909. Payment of bond obligation

In the event of an imminent default of any Navajo Nation bond obligation, the Navajo Nation Permanent Fund income and principal in that order may be used as a source of payment by two-thirds (2/3) vote of the Navajo Nation Council.

# History

CJY-53-85, July 25, 1985.

# Chapter 9. Navajo Nation Road Fund Management Plan

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\*= Project Sponser Requesting Funds X = On file N/A = Not Applicable None = Not on file NA = Not Available

L = Local Govt. Impvt. Project C = Capital

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\* = Project Sponser Requesting Funds X = On file N/A = Not Applicable
None = Not on file NA = Not Available

L = Local Govt. Impvt. Project C = Capital

Appropriation

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# **NAVAJO NATION CAPITAL IMPROVEMENT PLAN 2013 - 2018**

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	42	4	W/40	W/39	S/35	\$/34	\$/33	S/32	S/31	S/30	S/29	S/28	F/27	F/26	F/25	F/24	F/23	F/21	F/20	E/19	E/18	E/17		F/16		Agency/Proposal Number
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# Navajo Nation Divisions and Department's Unmet Needs

Navajo Department of Transportation							
Activity:							
Navajo Nation Tribal Transportation Improvement Program (TTIP)	\$6.5 Billion						
Maintenance/ Safety Road Activities	\$1.4 Billion						
Navajo Nation Airports	\$50 Million						
Road Maintenance yards	\$50 Million						
Equipment	\$50 Million						
Total Cost of Actual Needs:	\$8 Billion						

Former Bennett Freeze Area- Priority Projects	
Activity:	
Housing	\$2.9 Billion
Infrastructure & Utilities	\$561 Million
Transportation	\$109 Million
Health & Public Safety	\$640 Million
Community Facilities, Parks, & Recreation	\$266 Million
Economic Development	\$7 Million
Natural & Cultural Resources	\$2.2 Million
Education	\$436 Million
Total Cost of Actual Needs:	\$4.9 Billion

Department of Natural Resources							
Activity:							
Water Department Projects (includes Irrigation and Livestock)	\$126 Million						
Mineral Department	\$120 Million						
Historic Preservation	\$440 Thousand						
Forestry Department	\$3.6 Million						
Parks and Recreation	\$150 Million						
Department of Agriculture	\$101 Million						
Total Cost of Actual Needs:	\$501 Million						

Department of Community Development	
Activity:	
Capital Improvement Projects	\$295 Million
Community Development Projects- Immediate needs	\$873 Million
Total Cost of Actual Needs:	\$1.1 Billion

Depa	Department of Navajo Veterans Affairs									
Activity:										
Chinle Agency		\$2.6 Million								
	Total Cost of Actual Needs:	\$2.6 Million								

# Navajo Nation Divisions and Department's Unmet Needs

Division of E	conomic Development	
Activity:		
Ganado Shopping Center	-	\$2 Million
Nahatadzil Shopping Center		\$2 Million
Dennehotso Retail Center		\$2.8 Million
	<b>Total Cost of Actual Needs:</b>	\$ 6.8 Million

H	lealthcare	
Activity:		
NavajoLand Nursing Home, INC	<del></del>	\$28 Million
Department of Health		\$14 Million
TseHootsooi Medical Center		\$37 Million
	<b>Total Cost of Actual Needs:</b>	\$79 Million

Education	
Activity:	
St. Michaels Special Education	\$3 Million
Rehoboth Christian High School	\$2.2 Million
Navajo Prep School, INC.	\$9.5 Million
Ramah School	\$4.4 Million
Dine College and Navajo Technical University	\$60 Million
Office of Navajo Nation Student Financial Aid	\$25 Million
Total Cost of Actual Needs:	\$104.1 Million

# Amendment to Chapter 8. Navajo Nation Permanent Fund

# 905. Expenditure of Fund income

No fund income shall be expended, except as set forth in 908 and 909 of this Chapter, for a period of 20 years from date of the first Navajo Nation contribution to the Fund. Thereafter, ninety five percent (95%) one hundred percent (100%) of the fund income may be expended in accordance with a plan for its use covering at least a five year one year period adopted by resolution of the Navajo Nation Council provided that the expenditure of income in any fiscal year shall not exceed the income earned during that year. The remaining five percent (5%) of the Fund income shall be reinvested in the Permanent Fund.



**MEMORANDUM** 

**TO**: Honorable Dwight Witherspoon

Navajo Nation Council Delegate

FROM:

Levon Henry, Attorney

**DATE:** August 21, 2015

SUBJECT: AN ACT RELATING TO LAW AND ORDER, BUDGET AND

FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; NAVAJO NATION CODE

AMENDMENT; AMENDING 12 N.N.C. § 905 THE NAVAJO NATION

PERMANENT FUND, EXPENDITURE OF FUND INCOME

Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law and review of the documents submitted, the resolution as drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of a challenge.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews 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).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Sponsor", and submit it to the office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution. You may contact me at (928) 871-7166. Thank you.

# THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0297-15\_ SPONSOR: <u>Dwight Witherspoon</u>

TITLE: An Action Relating To Law And Order, Budget And Finance, And NAABIK'IYATI' Committees And The Navajo Nation Council; Navajo Nation Code Amendment; Amending 12 N.N.C. § 905 The Navajo Nation Permanent Fund, Expenditure Of Fund Income

Date posted: August 24, 2015 at 4:35PM

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) 871-7586

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.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.

# THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW SUMMARY

**LEGISLATION NO.: 0297-15** 

SPONSOR: Honorable Dwight Witherspoon

TITLE An Action Relating To Law And Order, Budget And Finance, And Naabik'iyati' Committees And The Navajo Nation Council; Navajo Nation Code Amendment; Amending 12 N.N.C. § 905 The Navajo Nation Permanent Fund, Expenditure Of Fund Income.

Posted: August 24, 2015 at 4:35 PM

5 DAY Comment Period Ended: August 29, 2015

Digital Comments received: No comments received.

Policy/Analyst
Office of Legislative Services

Date/Time

# LAW AND ORDER COMMITTEE 23<sup>rd</sup> NAVAJO NATION COUNCIL

# **FIRST YEAR 2015**

# **COMMITTEE REPORT**

Mr. Speaker,

# The LAW AND ORDER COMMITTEE to whom has been assigned:

Legislation # 0297-15: An Act Relating to Law and Order, Budget and Finance, and Naabik'íyáti' Committees and the Navajo Nation Council; Navajo Nation Code Amendment; Amending 12 N.N.C. § 905 The Navajo Nation Permanent Fund, Expenditure of Fund Income.

Has had it under consideration and reports the matter **Passed** with no Amendment and thereafter the matter will be referred to the Budget and Finance Committee.

Respectfully submitted,

Raymond Smith, Jr., Vice-Chairperson

Law and Order Committee 23<sup>rd</sup> Navajo Nation Council

Date: September 21, 2015 Motion: K. A. Begay, Jr.

Second: J Perry Vote: 2-0

# 23<sup>nd</sup> NAVAJO NATION COUNCIL

First Year 2015

Mr. Speaker:

The BUDGET & FINANCE COMMITTEE to whom has been assigned

NAVAJO LEGISLATIVE BILL # 0297-15:

An Act Relating to Law and Order, Budget and Finance, and Naabikiyati Committees and the Navajo Nation Council; Navajo Nation Code Amendment; Amending 12 N.N.C. § 905 the Navajo Nation Permanent Fund, Expenditure of Fund Income Sponsored by Dwight Witherspoon, Council Delegate

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And therefore, referred to the NAABIKIYATI Committee

Respectfully submitted,

Seth Damon, Chairman

Adopted: Koguy Ollar Jogisla ve Advisor

Not Adopted:

Legislative Advisor

13 October 2015

The vote was  ${\bf 4}$  in favor  ${\bf 0}$  opposed

Absent: Mel R. Begay

# NAABIK'ÍYÁTI' COMMITTEE REPORT

23<sup>rd</sup> NAVAJO NATION COUNCIL---FIRST YEAR 2015

# **LEGISLATION 0297-15**

Introduced by the Honorable Dwight Witherspoon

An Act Relating to Law and Order, Budget and Finance, and Naabikiyati Committees and the Navajo Nation Council; Navajo Nation Code Amendment; Amending 12 N.N.C. § 905 the Navajo Nation Permanent Fund, Expenditure of Fund Income

# TO THE NAABIK'IYATI' COMMITTEE:

The Naabik'íyáti Committee, to whom has been referred Legislation 0297-15, reports a **DELETION** off the agenda by the sponsor on this 14<sup>th</sup> Day of October, 2015.

THENCE THE LEGISLATION REMAINS WITH THE NAABIK'IYATI' COMMITTEE

Honorable LoRenzo C. Bates, Chairman NAABIK'ÍYÁTI' COMMITTEE

# **DELETION MOTION:**

Motion:

Honorable Dwight Witherspoon

Second:

Honorable Seth Damon

Vote:

12 in favor, 1 opposed, 0 abstention

# 23rd NAVAJO NATION COUNCIL Naabik'íyáti' Committee First Year 2015

Mr. Speaker:

The Naabik'íyáti' Committee to whom has been assigned:

# **NAVAJO LEGISLATIVE BILL #0297-15**

An Action Relating to Law and Order, Budget and Finance, and Naabik'íyáti' Committees and the Navajo Nation Council; Navajo Nation Code Amendment; Amending 12 N.N.C. § 895 The Navajo Nation Permanent Fund, Expenditure of Fund Income

Sponsored by: Honorable Dwight Witherspoon

Has had it under consideration and reports the same with the recommendation that it DO PASS WITHOUT AMENDMENT

And therefore, referred to the NAVAJO NATION COUNCIL

Respectfully Submitted

Honorable LoRenzo C. Bates, Chairman

Naabik'íyáti' Committee

# **17 DECEMBER 2015**

Motioned:

Honorable Seth Damon

Seconded:

Honorable Jonathan Hale

VOTE: 17 in Favor and 02 Opposed (Chairman Bates not voting)

# **NAVAJO NATION**

**RCS#213** 

Naa'bik'iyati Committee

12/17/2015 03:50:19 PM

Amd# to Amd#

Legislation No. 0297-15

**PASSED** 

**MOT Damon** 

SEC Hale

Navajo Nation Code Amendment; Amending 12 N.N.C. Section 905

the NN Permanent Fund,

Yea: 17

Nay: 2

Not Voting: 5

Yea: 17

Begay, K Begay, M Brown Chee Hale Jack Phelps Smith Tso

Begay, NM BeGaye, N

Damon Filfred

Phelps Shepherd Tsosie Witherspoon

Bennett

Nay: 2

Pete

Not Voting: 5

Bates

Perry

Crotty

Slim

Yazzie

Daniels