

**LEGISLATIVE SUMMARY SHEET**

Tracking No. **0045-21**

**DATE:** March 15, 2021

**TITLE OF RESOLUTION: AN ACTION RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING THE NAVAJO NATION PERMANENT FUND INCOME FIVE-YEAR EXPENDITURE PLAN FOR FISCAL YEARS 2022-2026; WAIVING 12 N.N.C. § 1162(B) FOR A LIMITED TIME PERIOD**

**PURPOSE:** The purpose of this resolution is to approve a five-year expenditure plan from the Navajo Nation Permanent Fund for the years 2022-2026.

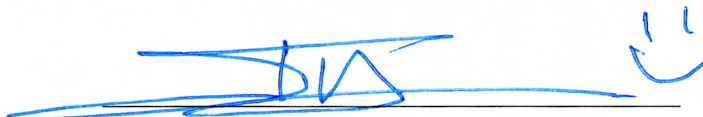
This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: 1/Speednase  
Website Posting Time/Date: 03-17-21 2:42 PM  
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Eligible for Action: 03-23-2021

Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24<sup>TH</sup> NAVAJO NATION COUNCIL -- Third Year, 2021

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. **0045-21**

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABIK'YÁTI' COMMITTEES,  
AND NAVAJO NATION COUNCIL; APPROVING THE NAVAJO NATION  
PERMANENT FUND INCOME FIVE-YEAR EXPENDITURE PLAN FOR FISCAL  
YEARS 2022-2026; WAIVING 12 N.N.C. § 1162(B) FOR A LIMITED TIME PERIOD

BE IT ENACTED.

**SECTION ONE. AUTHORITY**

- A. The Navajo Nation Council is the governing body of the Navajo Nation, pursuant to 2 N.N.C. § 102 (A).
- B. The Naabik'iyáti' Committee of the Navajo Nation Council reviews proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).
- C. 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. §300(B)(2).
- D. The Budget and Finance Committee of the Navajo Nation Council is empowered to exercise oversight authority, including but not limited to, budget, finance, investment, bonds, contracting, insurance, audits, accounting, taxes, loans, chapter budget and finance for the purpose of recommending to the Navajo Nation Council the adoption of resolutions designed to strengthen the fiscal and financial position of the Navajo

1 Nation and to promote the efficient use of the fiscal and financial resources of the  
2 Navajo Nation. 2 N.N.C. §300(C)(3).

3  
4 **SECTION TWO. FINDINGS**

5 A. The Navajo Nation Permanent Fund (the "Permanent Fund"), established in 1985 and  
6 codified at 12 N.N.C. §§ 901 *et seq.*, made available certain funds after a 20-year period  
7 as a source of future revenue to replace the declining revenues from the Nation's oil  
8 and gas and other depletable natural resources, through Council Resolution CJY-53-  
9 85.

10 B. The Permanent Fund was established to create a reserve of funds for future generations  
11 due to the decline in the Navajo Nation's General Reserve Fund. CJY-53-85, Whereas  
12 Clauses Two and Six.

13 C. Permanent Fund income consists of all earnings generated by the principal of the Fund.  
14 12 N.N.C. §903(B).

15 D. The Permanent Fund provides, "[n]o Fund income shall be expended, except as set  
16 forth in §§ 903 and 909 of this Chapter, for a period of 20 years from date of the first  
17 Navajo Nation contribution to the Fund. Thereafter, ninety-five percent (95%) of the  
18 Fund income may be expended in accordance with a plan for its use covering at least a  
19 five-year period adopted by resolution of the Navajo Nation Council provided that the  
20 expenditure of income in any fiscal year shall not exceed the income earned during that  
21 year. The remaining five percent (5%) of the Fund income shall be reinvested in the  
22 Permanent Fund." 12 N.N.C. §905.

23 E. Permanent Fund income has been available for use since 2005, and through Council  
24 Resolution CAP-19-16, the Navajo Nation approved a plan for the use of the Permanent  
25 Fund income for major waterline projects and economic development across the  
26 Navajo Nation. CAP-19-16, amended by CD-85-18 and CD-88-18.

27 F. The Navajo Nation relies on projected revenue from a variety of sources to provide  
28 services through the Navajo Nation government and associated entities. Declining  
29 revenues from the closure of the nearby Navajo Generation Station power plant and  
30 coal mine, and other revenue sources, subjects the Navajo Nation to a significant

1 revenue shortfall for the future, and unless mitigated, may lead to a reduction in  
2 services to the Navajo Nation.

3 G. The proposed five-year plan allows the Navajo Nation to address its declining revenues  
4 and contribute to the projected revenue of the Navajo Nation for use in the future fiscal  
5 years, thereby creating financial stability for Navajo Nation government operations.

6 H. The Permanent Fund Income Five-Year Expenditure Plan for Fiscal Years 2022-2026,  
7 attached as **Exhibit A**, will address the projected revenue deficit for the immediate  
8 future.

9 I. The Navajo Nation Local Governance Trust Fund, codified at 12 NNC. §§ 1161, *et*  
10 *seq.*, was established to provide an incentive for chapter to attain governance  
11 certification. 12 N.N.C. § 1161. The relevant section provides, “[b]eginning in Fiscal  
12 Year 2007, the Fund shall annually receive fifty percent (50%) of the income available  
13 from the Navajo Nation Permanent Fund pursuant to 12 N.N.C. § 905.” 12 N.N.C. §  
14 1162(B). However, to give full effect to the intent of this Resolution and to provide for  
15 continuing governmental operations, a waiver of 12 N.N.C. § 1162 is included in this  
16 Resolution.

### 17 18 **SECTION THREE. EXPENDITURE PLAN**

19 A. The Navajo Nation Council approves the Permanent Fund Income Five-Year  
20 Expenditure Plan for Fiscal Years 2022-2026, as indicated in **Exhibit A**.

21 B. The Navajo Nation Controller shall include \$40,000,000 for each Fiscal Year from  
22 2022-2026 in the annual revenue projections required in 12 N.N.C. § 830(C).

23 C. In the event the available income from the Permanent Fund is not at least \$40,000,000,  
24 the Controller shall include all of the available Permanent Fund income in the revenue  
25 projections for the upcoming fiscal year.

26 D. The Permanent Fund income over \$40 million shall be designated as excess income for  
27 the purpose of this expenditure plan, and the Controller shall include the excess income  
28 in the calculation of available funds for the Unreserved, Undesignated Fund Balance in  
29 accordance with 12 N.N.C. § 820(K). This excess income shall be available for  
30 additional needs as determined by Navajo Nation leadership in accordance with 12

1 N.N.C. §820 (L) of the Appropriations Act, which governs supplemental  
2 appropriations.  
3

#### 4 **SECTION FOUR. EXPENDITURE PLAN ADMINISTRATION**

5 Funds shall be administered in accordance with the Navajo Nation Appropriations Act, 12  
6 N.N.C. §§ 800, *et seq.*, the Budget Instruction Manual for the appropriate fiscal year, and  
7 related budgetary process policies, rules, and regulations  
8

#### 9 **SECTION FIVE. WAIVING 12 N.N.C. § 1162(B)**

10 The Navajo Nation waives 12 N.N.C. § 1162(B) for the period of the Permanent Fund  
11 Income Five-Year Expenditure Plan for Fiscal Years 2022-2026 and approves the waiver  
12 of the annual appropriation to the Navajo Nation Local Governance Trust Fund to conform  
13 with the Permanent Fund Income Five-Year Expenditure Plan for Fiscal Years 2022-2026.  
14

#### 15 **SECTION SIX. APPROVING THE PERMANENT FUND INCOME FIVE-YEAR** 16 **EXPENDITURE PLAN FOR FISCAL YEARS 2022-2026**

- 17 A. The Navajo Nation Council hereby recommends and approves the expenditure of the  
18 permanent fund income pursuant to the Permanent Fund Income Five-Year  
19 Expenditure Plan for Fiscal Years 2022-2026 described in **Exhibit A**, for the continual  
20 operation of the Navajo Nation government and essential services to the Navajo People.  
21 B. The Navajo Nation hereby approves the expenditure plan administration as described  
22 in Section Three, above.  
23

#### 24 **SECTION SEVEN. SAVING CLAUSE**

25 Should any provision of this Act be determined invalid by the Navajo Nation Supreme  
26 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation  
27 Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.  
28

#### 29 **SECTION EIGHT. EFFECTIVE DATE**

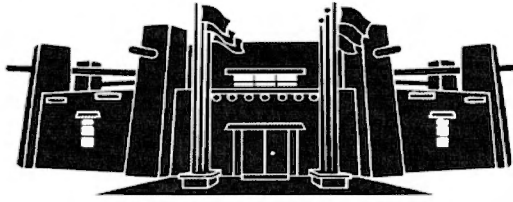
30 The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221(B).

**Permanent Trust Fund Interest 5 Year Plan  
Fiscal Years 2022- 2026**

<b>Year 1 FY 2022</b>	<b>Year 2 FY2023</b>	<b>Year 3 FY 2024</b>	<b>Year 4 FY 2025</b>	<b>Year 5 FY 2026</b>
Annual General Fund Revenue Projection \$40 Million from PF income	Annual General Fund Revenue Projection \$40 Million from PF income	Annual General Fund Revenue Projection \$40 Million from PF income	Annual General Fund Revenue Projection \$40 Million from PF income	Annual General Fund Revenue Projection \$40 Million from PF income
Excess for Additional Needs	Excess for Additional Needs	Excess for Additional Needs	Excess for Additional Needs	Excess for Additional Needs

- 
1. Each year \$40 million will be added to the General Fund Revenue Projection for overall budget needs.
  2. Each year the amount of interest income beyond the \$40 million (the "excess") will be used for purposes as determined by Navajo Nation Leadership.
  3. In the event the amount of income available from the Permanent Trust Fund is less than \$40 million, the total amount of income available shall be designated for inclusion in the annual General Fund revenue projection, with no PTF income designated as excess for additional needs.





**MEMORANDUM**

TO: Honorable Jamie Henio  
24<sup>th</sup> Navajo Nation Council

FROM: Ka Lowell  
Kristen Lowell, Principal Attorney  
Office of Legislative Counsel

DATE: March 15, 2021

**SUBJECT: AN ACTION RELATING TO BUDGET AND FINANCE AND  
NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL;  
APPROVING THE NAVAJO NATION PERMANENT FUND INCOME  
FIVE-YEAR EXPENDITURE PLAN FOR FISCAL YEARS 2022-2026;  
WAIVING 12 N.N.C. § 1162(B) FOR A LIMITED TIME PERIOD**

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: \_0045-21\_

SPONSOR: Jamie Henio

**TITLE: An Action Relating to Budget and Finance and Naabik'íyáti' Committees, and Navajo Nation Council; Approving the Navajo Nation Permanent Fund Income Five-Year Expenditure Plan for Fiscal Years 2022-2026; Waiving 12 N.N.C. § 1162 (B) for a Limited Time Period**

***Date posted:*** March 17, 2021 at 2:42PM

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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.**

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