

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

May 7, 2021

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CAP-30-21, *An Action Relating to Budget and Finance and Naabik'iyáti' 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*

Dear Speaker Damon,

On behalf of the Navajo Nation employees, who are the heart and soul of our government, we thank the Navajo Nation Council for approving CAP-30-21. We thank Chairman Jamie Henio and Council Delegate Edison Wauneka for their leadership in moving this legislation forward. As we have noted previously, this Five-Year Plan will ensure the Navajo Nation will have an opportunity to deliver direct services, to provide for the health and safety of our citizens, and to continue vital government operations.

With CAP-30-21 we have taken a step in addressing our declining revenue as projected for Fiscal Year 2022 and beyond. This measure, along with reserving a portion of the Unreserved, Undesignated Fund Balance, is prudent planning in keeping with the tradition of our parents and grandparents. Working together we can tackle the needs of our People and we look forward to partnering with the Legislative and Judicial Branches to solve the revenue challenges we face.

As Navajo leaders we still must remain vigilant and conservative in our financial planning until such time we are in a better economic situation. We are planning several endeavors to bring much needed revenue to the Nation, which in turn will support the services the Nation provides to our citizens. We look forward to working with the Navajo Nation Council on the future proposals. We sign CAP-30-21 into law.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - THIRD YEAR, 2021

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

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

SECTION TWO. FINDINGS

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

Nation's General Reserve Fund. CJY-53-85, Whereas Clauses Two and Six.

- C. Permanent Fund income consists of all earnings generated by the principal of the Fund. 12 N.N.C. § 903(B).
- D. The Permanent Fund provides, "[n]o Fund income shall be expended, except as set forth in §§ 903 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%) of the Fund income may be expended in accordance with a plan for its use covering at least a five-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." 12 N.N.C. § 905.
- E. Permanent Fund income has been available for use since 2005, and through Council Resolution CAP-19-16, the Navajo Nation approved a plan for the use of the Permanent Fund income for major waterline projects and economic development across the Navajo Nation. CAP-19-16, amended by CD-85-18 and CD-88-18.
- F. The Navajo Nation relies on projected revenue from a variety of sources to provide services through the Navajo Nation government and associated entities. Declining revenues from the closure of the nearby Navajo Generating Station power plant and coal mine, and other revenue sources, subjects the Navajo Nation to a significant revenue shortfall for the future, and unless mitigated, may lead to a reduction in services to the Navajo Nation.
- G. The proposed five-year plan allows the Navajo Nation to address its declining revenues and contribute to the projected revenue of the Navajo Nation for use in the future fiscal years, thereby creating financial stability for Navajo Nation government operations.
- H. The Permanent Fund Income Five-Year Expenditure Plan for Fiscal Years 2022-2026, attached as **Exhibit A**, will address the projected revenue deficit for the immediate future.
- I. The Navajo Nation Local Governance Trust Fund, codified at 12 N.N.C. §§ 1161 *et seq.*, was established to provide an incentive for chapter to attain governance certification. 12 N.N.C. § 1161. The relevant section provides, "[b]eginning in Fiscal Year 2007, the Fund shall annually receive fifty percent (50%) of the income available from the Navajo Nation Permanent Fund

pursuant to 12 N.N.C. § 905." 12 N.N.C. § 1162(B). However, to give full effect to the intent of this Resolution and to provide for continuing governmental operations, a waiver of 12 N.N.C. § 1162 is included in this Resolution.

SECTION THREE. EXPENDITURE PLAN

- A. The Navajo Nation Council approves the Permanent Fund Income Five-Year Expenditure Plan for Fiscal Years 2022-2026, as indicated in **Exhibit A**.
- B. The Navajo Nation Controller shall include \$40,000,000 in available Permanent Fund Income funds for use in the annual Comprehensive Budget for each Fiscal Year from 2022-2026, however, this amount shall not be included as part of the annual revenue projections required in 12 N.N.C. § 830(C), and therefore, shall not be subject to trust fund set asides.
- C. In the event the available income from the Permanent Fund is not at least \$40,000,000, the Controller shall include all of the available Permanent Fund income in the revenue projections for the upcoming fiscal year.
- D. The Permanent Fund income over \$40 million shall be designated as excess income for the purpose of this Expenditure Plan, shall remain in the Permanent Fund, and shall be available to fund additional needs by Navajo Nation leadership. At the beginning of the fourth quarter of each fiscal year, in the context of deliberations on the annual Comprehensive Budget, the Navajo Nation Council shall determine what portion of the excess income, if any, shall be designated for unmet budgetary needs in the Comprehensive Budget and what portion of the excess income, if any, shall be designated for capital projects, and Council may amend this Permanent Fund Income Five-Year Expenditure Plan once per year at such time. Excess income designated for unmet budgetary needs shall be released to the General Fund to be appropriated in the Comprehensive Budget resolution. Excess income designated for capital projects to be specifically described and listed in the annual amendment to the Expenditure Plan, shall remain in the Permanent Fund and shall be incrementally released by the Office of the Controller according to a disbursement schedule established for each project according to achievement of each milestone in the project's construction process.

SECTION FOUR. EXPENDITURE PLAN ADMINISTRATION

Funds shall be administered in accordance with the Navajo Nation Appropriations Act, 12 N.N.C. §§ 800 *et seq.*, the Budget

Instruction Manual for the appropriate fiscal year, and related budgetary process policies, rules, and regulations

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

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

SECTION SIX. REIMBURSEMENT TO THE NAVAJO NATION PERMANENT FUND

The Navajo Nation Council approves any future funding to the Navajo Nation from the United States Treasury, whether through congressional appropriation, or other designation, including the American Rescue Act, for the purpose of COVID-19 relief and recovery to reimburse the Navajo Nation Permanent Fund up to the full amount approved in this Resolution, to the extent allowed by federal and Navajo Nation law. The Navajo Nation Council shall authorize and approve reimbursement to the Navajo Nation Permanent Fund as the initial priority in any future Expenditure Plan Resolutions for COVID-19 relief and recovery.

SECTION SEVEN. APPROVING THE PERMANENT FUND INCOME FIVE-YEAR EXPENDITURE PLAN FOR FISCAL YEARS 2022-2026

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

SECTION EIGHT. SAVING CLAUSE

Should any provision of this Act 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, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION NINE. EFFECTIVE DATE

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

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 20 in Favor, and 02 Opposed, on this 20th day of April 2021.



Honorable Seth Damon, Speaker
24th Navajo Nation Council

4.27.2021

DATE

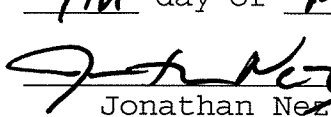
Motion: Honorable Eugenia Charles-Newton

Second: Honorable Eugene Tso

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 7th day of May, 2021.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2021 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this _____ day of _____, 2021.

Jonathan Nez, President
Navajo Nation

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

Year 1 FY 2022	Year 2 FY2023	Year 3 FY 2024	Year 4 FY 2025	Year 5 FY 2026
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.

NAVAJO NATION

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4/20/2021

Navajo Nation Council Spring Session

02:33:26 PM

Amd# to Amd#	Legislation 0045-21: Approving	PASSED
MOT Charles-Newton	the Navajo Nation Permanent	
SEC Tso, E	Fund Income Five-Year Expendi- ture Plan for Fiscal Years...	

Yeas : 20

Nays : 2

Excused : 0

Not Voting : 1

Yea : 20

Begay, E	Daniels	Smith	Tso, E
Begay, K	Halona, P	Stewart, W	Walker, T
Begay, P	Henio, J	Tso	Wauneka, E
Brown	Nez, R	Tso, C	Yazzie
Crotty	Slater, C	Tso, D	Yellowhair

Nay : 2

James, V	Charles-Newton
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Excused : 0

Not Voting : 1

Freeland, M

Presiding Speaker: Damon