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: Wednesday
Website Posting Time/Date: 03-17-21 2:42 PM
Posting End Date: 03-22-2021
Eligible for Action: 03-23-2021

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24TH NAVAJO NATION COUNCIL -- Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0045-21

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

OLC # 21-055-1

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 Generation 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 NNC. §§ 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 for each Fiscal Year from 2022-2026 in the annual revenue projections required in 12 N.N.C. § 830(C).

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, and the Controller shall include the excess income in the calculation of available funds for the Unreserved, Undesignated Fund Balance in accordance with 12 N.N.C. § 820(K). This excess income shall be available for additional needs as determined by Navajo Nation leadership in accordance with 12

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

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. 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 SEVEN. 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 EIGHT. EFFECTIVE DATE

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

EXHIBIT A

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.

2/22/2021

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

TO: Honorable Jamie Henio
24th Navajo Nation Council

FROM: K A 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**

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.: 0045-21

SPONSOR: Honorable 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)

Posted: March 17, 2021 at 2:42 PM

5 DAY Comment Period Ended: March 22, 2021

Digital Comments received:

Comments Supporting	*None*
Comments Opposing	*None*
Comments/Recommendations	*None*

J Johnson
Legislative Tracking Secretary
Office of Legislative Services

03/23/21 9:56 Am
Date/Time

24th NAVAJO NATION COUNCIL

Third Year 2021

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL # 0045-21:

An Action Relating to Budget and Finance and Naabikiyati 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 *Sponsored by Jamie Henio and Edison J. Waneka, Council Delegates*

has had it under consideration and reports the same with the recommendation that It **Do Pass** with 2 amendments.

AMENDMENT 1:

Page 4, Line 15, Insert new Section Six as indicated below:

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 Plan 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.

Renumber or re-letter succeeding paragraphs, sections, and exhibits, accordingly, if necessary. This amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. The Office of Legislative Services, with notice to the sponsor(s) of the Legislation, is hereby authorized to make necessary grammatical changes.

Amendment 1 Motion: Amber K. Crotty Second: Jimmy Yellowhair Vote: 5-0 Yeas: Jimmy Yellowhair, Elmer P. Begay, Nathaniel Brown, Amber K. Crotty, Jamie Henio

AMENDMENT 2:

Page 3 line 26, amend language in Section 3(D):

D. The Permanent Fund income over $40 million shall be designated as excess income for the purpose of this Expenditure Plan, ~~and the Controller shall include the excess income in the calculation of available funds for the Unreserved, Undesignated Fund Balance in accordance with 12 N.N.C. § 820(k). The excess income~~ shall remain in the Permanent Fund, and shall be available to fund additional needs by Navajo Nation leadership ~~in accordance with 12 N.N.C. § 820(L) of the Appropriations Act, which governs supplemental appropriations~~.

Amendment 2Motion: Amber K. Crotty Second: Jamie Henio Vote: 5-0 Yeas: Amber K. Crotty Nathaniel Brown Jimmy Yellowhair Jamie Henio Elmer P. Begay

And, therefore referred to the **NAABIKIYATI** Committee

Respectfully submitted,

Raymond Smith, Jr., Vice Chairman

Adopted: _____ Not Adopted: _____
Legislative Advisor Legislative Advisor

6 APRIL 2021

The vote was **5** in favor **0** opposed *yeas: Jimmy Yellowhair, Elmer P. Begay, Amber K. Crotty, Jamie Henio, Nathaniel Brown*
Main Motion: Jimmy Yellowhair
Second: Nathaniel Brown

BUDGET AND FINANCE COMMITTEE
6 APRIL 2021
Regular Meeting

VOTE TALLY SHEET:

Legislation No. 0045-21: An Action Relating to Budget and Finance and Naabikiyati 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 *Sponsored by Jamie Henio and Edison J. Wauneka, Council Delegates*
Motion: Jimmy Yellowhair
Second: Nathaniel Brown
Vote: 5-0, Vice Chairman not voting with 2 amendments

Final Vote Tally:

Jamie Henio	**yea**	
Raymond Smith Jr.		
Elmer P. Begay	**yea**	
Nathaniel Brown	**yea**	
Amber K. Crotty	**yea**	
Jimmy Yellowhair	**yea**	

Raymond Smith, Jr., Vice Chairman
Budget & Finance Committee

Peggy Nakai, Legislative Advisor
Budget & Finance Committee

2nd Report

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0045-21

SPONSOR: Honorable 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)

Posted: March 17, 2021 at 2:42 PM

5 DAY Comment Period Ended: March 22, 2021

Digital Comments received:

Comments Supporting	*None*
Comments Opposing	**1.) Geraldine Benally**
Comments/Recommendations	**1.) Geraldine Benally**

Legislative Tracking Secretary
Office of Legislative Services

April 15, 2021 8:35 pm
Date/Time

LEGISLATION NO: _0045-21__

G Benally <gbenally2013@gmail.com>

Wed 4/14/2021 9:12 PM

To:comments <comments@navajo-nsn.gov>;

My name is Geraldine Benally and my mailing address is ..... I am a resident of Window Rock, AZ and an enrolled member of the Navajo Nation. I am writing this letter as a concerned member of the Navajo Nation.

My first concern is the deficiency in the notice provided to the public. The proposed legislation always reference exhibits, however the public are not afforded exhibits. To say that the public had all the information needed to provide comment is false and this should be corrected before action is taken on any legislation that is deficient. I have made this comment in the past and the objections were either disregarded or ignored.

I object to the legislation because I was not provided adequate notice.

Geraldine V. Benally

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LEGISLATION NO: _0045-21

G Benally <gbenally2013@gmail.com>

Wed 4/14/2021 9:14 PM

To:comments <comments@navajo-nsn.gov>;

I have mentioned this concern and opposition before, however the concerns and objections were overlooked. Perhaps this process of eliciting public comments is for appearances sake only. If that is the case, the actions taken in disregard of the legitimate concerns of the people are illegal. The concern is over the lack of the public's opportunity to review exhibits that are referenced in the legislation. Review of the proposed legislation is not complete without the Exhibits that are attached to the legislation.
As a member of the Navajo Nation I have a right to review and comment and this has been denied. Please afford the public this opportunity before acting on legislation that is deficient in this way.
If this continues to be considered, I oppose the legislation and hope the council does the same.
Geraldine V. Benally

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