SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0080-23

Date: April 18, 2023

Re: **AN ACTION RELATING TO THE BUDGET & FINANCE COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING A MORATORIUM ON ALL FUTURE ALLOCATIONS FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUFB"), THE SÍHASIN FUND, AND PERMANENT FUND INCOME**

Purpose of this Legislation:

to approve moratoriums on allocations from the UUFB, the Sihasin Fund, and Permanent Fund Income, until the Council determines otherwise.

OLC No. 23-045-1

5-DAY BILL HOLD PERIOD: J Johnson
Website Posting Time/Date:
Posting End Date: 04-24-23
Eligible for Action: 04-25-23

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:

Primary Sponsor

Tracking No. 0080-23

AN ACTION

RELATING TO THE BUDGET & FINANCE COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING A MORATORIUM ON ALL FUTURE ALLOCATIONS FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUFB"), THE SÍHASIN FUND, AND PERMANENT FUND INCOME

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Budget & Finance Committee is a standing committee of the Navajo Nation Council that is authorized to review, and make recommendations concerning budgeting and management of all Navajo Nation funds. 2 N.N.C. §300(A), 2 N.N.C. §301(B)(2).

B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council that is authorized to review all proposed legislations that require final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

C. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A). As such, the Council has the authority to review and approve all funding allocations from the Unreserved, Undesignated Fund Balance ("UUFB") of the Navajo Nation's General Fund, the Síhasin Fund, and Permanent Fund Income. See 12 N.N.C. §820(L); 12 N.N.C. §2505(A); 12 N.N.C. §905. The Council's authority inherently includes the power to freeze funding allocations from each of these Navajo Nation Funds.

SECTION TWO. FINDINGS

A. Over the past year, the Navajo Nation Council has approved many requests for funding allocations from the UUFB, the Síhasin Fund, and Permanent Fund Income. This has resulted in the significant depletion of these Funds.

B. The Navajo Nation has received a substantial amount of federal funds from various sources, such as the American Rescue & Recovery Act/Fiscal Recovery Fund. Unlike the Navajo Nation Funds listed above, such federal funds have a deadline for the reversion of these funds, or for the payback of these funds to the federal government by the Navajo Nation.

C. In order to spend all received federal funds by the reversion deadline, a significant number of Navajo Nation employees and administrative resources are required to carry out the funded projects and expenditures. As a general rule, all Navajo Nation personnel involved with such projects and expenditures should be focused on implementing and completing the federally-funded projects, rather than those funded with Navajo Nation funds that will not revert to the federal government.

D. With such a plan, the Navajo Nation's limited available personnel will be concentrating on the numerous federally-funded projects that the Navajo Nation is currently managing, and the Navajo Nation will be more likely to meet the federal funds reversion deadlines. It is imperative that these deadlines be met, in order to avoid the loss of substantial federal funds.

E. Because of the urgent need to focus on spending federal funds and completing federally-funded projects and expenditures before the applicable reversion dates, at this time the Navajo Nation should no longer approve funding requests from the UUFB, the Síhasin Fund, and Permanent Fund Income. Therefore, the Navajo Nation has determined that placing a temporary moratorium on additional funding allocations from the UUFB, the Síhasin Fund, and Permanent Fund Income, is in the best interest of the Navajo Nation.

SECTION THREE. APPROVAL OF MORATORIUMS

A. UUFB moratorium.

The Navajo Nation Council hereby establishes a moratorium on all future funding allocations from the Unreserved, Undesignated Fund Balance [of the Navajo Nation General Fund] described in 12 N.N.C. §820.

B. Síhasin Fund moratorium.

The Navajo Nation Council hereby establishes a moratorium on all future funding allocations from the Síhasin Fund created under 12 N.N.C. §2501-§2508. Notwithstanding, this moratorium shall not apply to the following, which are not considered "allocations" of funds:

1. all Síhasin Fund investments pursuant to 12 N.N.C. §2503;
2. the payment of litigation costs, if any, and the deposits provided for in 12 N.N.C. §2505;
3. the payment of Síhasin Fund expenses, as required by 12 N.N.C. §2507.

C. Permanent Fund Income moratorium.

The Navajo Nation Council hereby establishes a moratorium on all future funding allocations from Navajo Nation Permanent Fund Income created under 12 N.N.C. §901-§909. Notwithstanding, this moratorium shall not apply to the following, which are not considered "allocations" of funds:

1. all Permanent Fund investments pursuant to 12 N.N.C. §902;
2. all Permanent Fund reinvestments provided for in 12 N.N.C. §905;
3. the payment of Permanent Fund expenses, as required by 12 N.N.C. §908;
4. appropriations from Permanent Fund Income approved by the Navajo Nation Council in accordance with the Permanent Fund 5-Year Plan for 2017-2021 adopted in Resolution No. CAP-19-16 and the Permanent Fund 5-Year Plan for 2022-2026 adopted in Resolution No. CAP-30-21.

D. Notwithstanding subsections A, B, and C above, this moratorium shall not apply to the following, which are not considered "allocations" of funds:

1. any extension of a funding reversion deadline, for UUFB, Síhasin Fund, or Permanent Fund Income monies already approved by the Council prior to the effective date of this Action;
2. any reallocation or budget transfer of UUFB, Síhasin Fund, or Permanent Fund Income monies for purposes different from the original purpose for which such monies were originally approved by the Council prior to the effective date of this Action;
3. approval of a new or revised expenditure plan for UUFB, Síhasin Fund, or Permanent Fund Income monies already approved by the Council prior to the effective date of this Action, so long as the new or revised expenditure plan does not involve any increase in

funds above the dollar amount originally approved by the Council for such plan.

E. Notwithstanding, the moratoriums approved herein shall not apply to any UUFB, Síhasin Fund, or Permanent Fund Income appropriations approved by the Council in the Navajo Nation's annual Comprehensive Budget, as defined in 12 N.N.C. §810(H), for Fiscal Year 2023 or Fiscal Year 2024.

F. The moratoriums established in this Action are not intended to prevent or delay the deposits of any Navajo Nation revenue, regardless of the source, into the UUFB (General Fund), the Síhasin Fund, or the Permanent Fund, if such deposits are mandated by any Navajo Nation laws, regulations, or policies. To this end, for the effective duration of the moratoriums established in this Action, no attempts shall be made to allocate any funds that are destined for the UUFB (General Fund), the Síhasin Fund, or the Permanent Fund.

G. Each of the moratoriums established in this Action shall continue in full force and effect unless and until the Navajo Nation Council determines to lift one or more of them, either in whole or in part, via a Resolution adopted by a 2/3 vote of all sitting delegates and signed into law pursuant to 2 N.N.C. §221(B).

SECTION FOUR. EFFECTIVE DATE

This Action shall become effective in accordance with 2 N.N.C. §221(B).

SECTION FIVE. SAVING CLAUSE

If any provision of this Action is determined invalid by the Supreme Court of the Navajo Nation, or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the remainder of this Action shall be the law of the Navajo Nation.

Office of Legislative Counsel
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Hon. Crystalyne Curley, Speaker
25th Navajo Nation Council
2023 - 2027

MEMORANDUM

To: Hon. Carl Slater, Vice-Chairman
Budget & Finance Committee
25th Navajo Nation Council

From: Luralene D. Tapahe
Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

Date: April 18, 2023

Subject: **AN ACTION RELATING TO THE BUDGET & FINANCE COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING A MORATORIUM ON ALL FUTURE ALLOCATIONS FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUFB"), THE SÍHASIN FUND, AND PERMANENT FUND INCOME**

The Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents regarding your request that were submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-**7166** or by email at: LuraleneTapahe@navajo-nsn.gov

Thank you for your cooperation.