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

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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.
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 Nation.
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 seg., 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).