

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL—SECOND YEAR, 2016

AN ACTION

RELATING TO LAW AND ORDER COMMITTEE, BUDGET AND FINANCE COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE, AND NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION PERMANENT FUND FIVE-YEAR CONTINGENCY FUND FOR THE PURPOSE OF MAINTAINING A RESERVE OF MONIES DESIGNATED FROM THE PERMANENT FUND INCOME FIVE-YEAR EXPENDITURE PLAN

BE IT ENACTED:

**Section One. Authority**

- A. The Law and Order Committee, the Budget and Finance Committee, and the Naabik'íyáti Committee are standing committees of the Navajo Nation Council. 2 N.N.C. §§ 300(A), 600(A), and 700(A).
- B. The Law and Order Committee is empowered to "review and make recommendations to the Navajo Nation Council on proposed amendments and enactment to the Navajo Nation Code. 2 N.N.C. §601(B)(14).
- 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. § 301(B)(2).
- D. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee before it is heard by the Navajo Nation Council. 2 N.N.C. § 164 (A)(9).

**Section Two. Findings**

- A. The Navajo Nation Permanent Fund was created in 1985 by the Navajo Nation Council. 12 N.N.C. §§ 905-909. See also CJY-53-85.

- B. The Permanent Fund statute allows for the expenditure of interest income provided the Navajo Nation Council created a plan for the use of fund income provided the plan covered "at least a five-year period." 12 N.N.C. § 905.
- C. The Navajo Nation Council created a Five-Year Expenditure Plan (the Plan) through Council Resolution CAP-19-16 to utilize income from the Permanent Fund. Each year of the Plan includes a reference that "excess monies shall go to general funds." Exhibit A.
- D. A Contingency Fund shall be created to hold money from the Permanent Fund income that will not be placed directly into the General Fund. Notwithstanding the language in CAP-19-16, directing "excess monies shall go to general funds," the intent of the Navajo Nation Council is to create a Contingency Fund for the purpose of holding Permanent Fund income amounts over what is placed directly into the General Fund. The amount to be placed directly into General Funds will vary depending on the interest income earned each year and the amount needed for General Fund expenditures. The mechanics of the Contingency Fund are detailed in Exhibit B.
- E. The Three Branch Chief's Agreement, dated June 21, 2016, indicates the initial amount to be placed in the Contingency Fund for FY 2018 use is \$2,885,000. See Exhibit C.

### Section Three. Enactment of the Navajo Nation Fund

The Navajo Nation hereby enacts the Navajo Nation Permanent Fund Five-Year Contingency Fund, at 12 N.N.C. §§ 2601-2607, as follows:

#### TITLE 12. FISCAL MATTERS

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#### CHAPTER 26 NAVAJO NATION PERMANENT FUND FIVE-YEAR CONTINGENCY FUND

§ 2601. Establishment

There is established the "Navajo Nation Permanent Fund Five-Year Contingency Fund (the Fund)."

- A. The Navajo Nation Council hereby designates \$2,885,000 as the initial amount to be placed in the Fund.
- B. In addition to the initial deposit from the Permanent Fund Income, other deposits, allocations, or appropriations may be made into the Fund.
- C. Any monies deposited in, and otherwise allocated or appropriated to the Fund, shall be used only as provided in this Chapter.

§ 2602. Purpose

The purpose of the Fund is to maintain a reserve of monies from the Permanent Fund income over what is placed directly into the general fund based on the current year's revenue projection. The amount placed directly into the general fund will vary depending on the interest earned each year and the amount needed for the general fund. The intent of this Fund is that the monies held in the Fund and will be available for allocation or appropriation by the Navajo Nation Council into the general fund for subsequent fiscal years. The Fund shall maintain all monies deposited, appropriated, or otherwise allocated into the Fund as well as all interest income.

§ 2603. Annual Revenue Projection

- A. The Fund shall be expended in accordance with a fund management plan adopted by the Budget and Finance Committee.
- B. The Office of the Controller shall develop proposed policies for the expenditure of the fund in the form of a fund management plan. The fund management plan is subject to final approval by the Budget and Finance Committee of the Navajo Nation Council.

§ 2604. Fund Accounting

The day-to-day accounting for the Fund shall be performed by the Office of the Controller in accordance with generally accepted accounting principles.

§ 2605. Investment of Fund

All monies deposited into the Fund shall be invested as soon as practicable in accordance with:

- A. The degree of care exercised by reasonable and prudent managers of investments intended to produce maximum growth of the investments with a high degree of security; and
- B. The Investment Objectives and Investment Policies of the Navajo Nation as adopted by the Budget and Finance Committee of the Navajo Nation Council.

§ 2606. Audit requirements

The Fund shall be audited annually by independent external auditors as part of the overall audit of the Navajo Nation government.

§ 2607. Amendments

Any section herein may be amended by a two-thirds (2/3) vote of the full membership of the Navajo Nation Council and the signature of the President of the Navajo Nation.

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**Section Four. Effective Date**

This Chapter is effective upon its approval pursuant to 2 N.N.C. § 221.

**Section Five. Codification**

The provisions of this resolution which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall include these statutory provisions in the next codification or supplement of the Navajo Nation Code that corresponds to the effective date of these provisions, to the extent practicable.

**Section Six. Savings Clause**

Should any provision of this enactment at 12 N.N.C. §§ 2601-2607 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, those portions of the enactment, which are not determined invalid, shall remain the law of the Navajo Nation.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 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 13 in favor and 2 opposed, this 19<sup>th</sup> day of October 2016.



LoRenzo Bates, Speaker  
Navajo Nation Council

10-27-16

Date

Motion: Honorable Alton Joe Shepherd  
Second: Honorable Nelson S. BeGaye

NAVAJO NATION

RCS# 673

10/19/2016  
07:29:15 PM

NNC Fall Session

Amd# to Amd#

Legislation No. 0290-16

PASSED

MOT Shepherd  
SEC BeGaye, N

Establishing the NN Permanent  
Fund Five- YEar Contingency Fund

Yea : 13

Nay : 2

Not Voting : 7

Yea : 13

Begay, K  
Begay, NM  
BeGaye, N  
Bennett

Chee  
Damon  
Daniels

Perry  
Shepherd  
Slim

Tsosie  
Witherspoon  
Yazzie

Nay : 2

Crotty

Brown

Not Voting : 7

Bates  
Filfred  
Hale

Jack  
Pete

Phelps  
Smith

Tso  
Yazzie, P

PTF - 5 Year Plan = \$150m Over 5 Years

Exhibit A \$30m

\$30.939m

\$30.5m

\$30.5m

\$30.5m

New Modification

1st Year

2nd Year

3rd Year

4th Year

5th Year

- Navajo Nation Waterline Projects: \$4.161m
- Ganado Shopping Center: \$9.2m
- Nahatadzil Shopping Center: \$2m
- Shonto C-Store: \$1m
- Excess monies shall go to general funds

- Navajo Nation Waterline Projects: \$12.639m
- NNGE Shiprock Hotel-Restaurant: \$5.5m
- Dennehotso Retail Center: \$2.8m
- Many Farms Agricultural Project: \$3m
- Shonto Retail & Hotel: \$1m
- Northern Agency Agriculture Project: \$3m
- Wheatfields Agriculture Project: \$3m
- Excess monies shall go to general funds

- Navajo Nation Waterline Projects: \$15.75m
- NNGE Shiprock Hotel-Restaurant: \$2.8m
- Eastern Agency Economic Development Projects: \$6.95m
- Shonto Retail & Hotel: \$5m
- Excess monies shall go to general funds

- Navajo Nation Waterline Projects: \$16.45m
- Office Buildings: \$5.85m
- Indian Wells Economic Development: \$3.7m
- Newcomb NINSCI: \$4.5m
- Excess monies shall go to general funds

- Navajo Nation Waterline Projects: \$19.25m
- Central Agency Economic Development Projects: \$6.25m
- Wheatfields Agriculture Project: \$2m
- Northern Agency Agricultural Project: \$1.5m
- Many Farms Agricultural Project: \$1.5m
- Excess monies shall go to general funds

\$150 m

\$68.25m

\$81.75m

Exhibit A of CAP-19-16

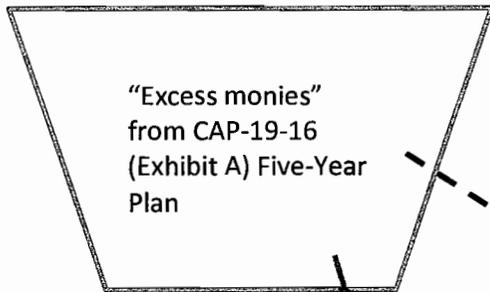


Five-Year Plan (Exhibit A): "Excess monies shall go to general funds"  
Excess monies are those that are not allocated for a specific project in the five-year plan.

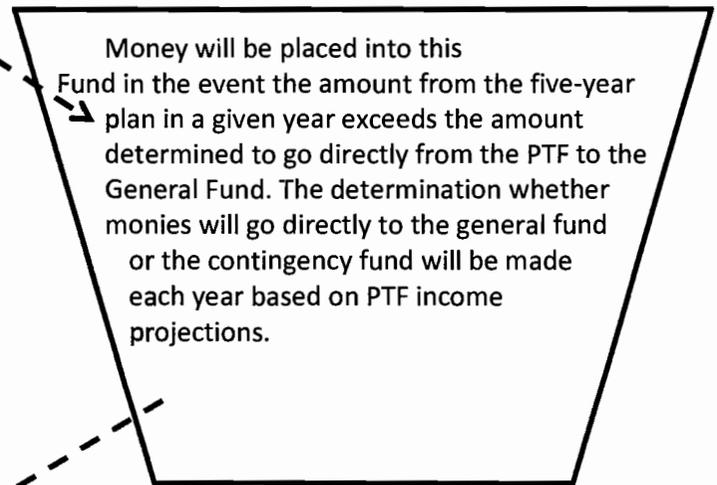
FY 2016 PF income not allocated for a specific project \$22,946,000  
PTF income to be used for FY2017 General Fund (20,061,000)  
(See the Three Branch Chiefs' Agreement)

Remainder of PF income from FY2017 that will be used for FY2018 appropriations. \$ 2,885,000

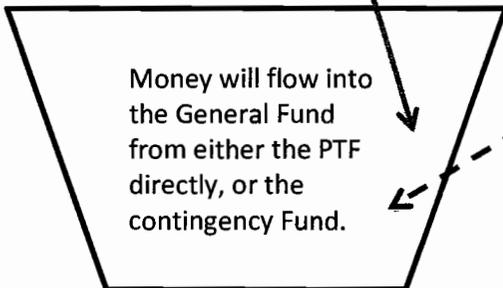
PERMANENT TRUST FUND

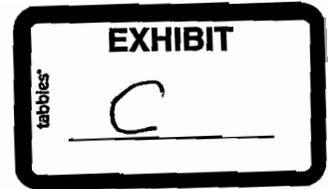


NN PERMANENT FUND FIVE-YEAR CONTINGENCY FUND



GENERAL FUND





**BRANCH CHIEFS AGREEMENT  
FY2017 Budget**

**June 21, 2016**

The Branch Chiefs of the Navajo Nation government considered the FY2017 General Fund Revenue Projection and related budget matters, and hereby provide the following recommendations to the Budget and Finance Committee:

**1. General Fund Allocations**

Fixed Costs	\$20,223,144	11.66%
Executive Branch	\$102,892,107	59.31%
Legislative Branch	\$14,120,033	8.14%
Judicial Branch	\$13,072,846	7.54%
Chapters - Infrastructure and Capital	\$3,789,918	2.17%
Chapters - Non-Administrative	\$11,843,495	6.83%
External Funds Cash Match	\$7,552,457	4.35%
<b>Total:</b>	<b>\$173,494,000</b>	<b>100%</b>

The difference between the FY2017 General Fund Revenue Projection of \$153,433,000 and the budget allocation total of \$173,494,000 will be made up from Permanent Fund interest revenues. The General Fund Revenue Projection is \$153,433,000 and \$22,946,000 from the Permanent Fund interest income totals \$176,379,000. The budget is proposed at \$173,494,000 so the remaining \$2,885,000 is to be held in a contingency account for the FY2018, due to General Fund and Permanent Fund income is projected to decrease and, therefore, additional funds will be needed.

**2. Personnel Lapse/Savings Fund**

When the projected balance for this fund becomes known in FY2016 4<sup>TH</sup> Quarter, the Branch Chiefs may make additional recommendations on a possible General Wage Adjustment and other uses of the Personnel Lapse/Savings Fund.

**Executive Branch**

**Legislative Branch**

**Judicial Branch**

Russell Begaye, *President*

LoRenzo Bates, *Speaker*

Allen Sloan, *Acting Chief Justice*