

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Third Year, 2017

AN ACTION

RELATING TO THE BUDGET AND FINANCE COMMITTEE, RECOMMENDING AND
APPROVING THE FUND MANAGEMENT PLAN FOR THE PERMANENT FUND
FIVE-YEAR CONTINGENCY FUND

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Budget and Finance Committee (BFC) is a standing committee of the Navajo Nation Council. 2 N.N.C. § 300(A).
- B. The BFC is the oversight committee for the Office of the Controller. 2 N.N.C. § 301(B)(13).
- C. The BFC is empowered to approve fund management plans upon the recommendation of the appropriate oversight committee and the affected division or branch. 2 N.N.C. § 301(B)(14).

SECTION TWO. FINDINGS

- A. The Office of the Controller prepared a fund management plan for the Permanent Fund Five-Year Contingency Fund (the Fund), attached as **Exhibit A**.
- B. The Fund was established through Navajo Nation Council Resolution, CO-54-16, "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." This Resolution is attached as **Exhibit B**.
- C. The Fund was codified at 12 N.N.C. §§ 2601-2607 and is required to be expended in accordance with a fund management plan pursuant to § 2603.

SECTION THREE. APPROVAL:

The Navajo Nation approves the Fund Management Plan for the Permanent Fund Five-Year Contingency Fund, attached as **Exhibit A**.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 4 in favor and 0 opposed, this 3rd day of October, 2017.

A handwritten signature in black ink, reading "Dwight Witherspoon". The signature is fluid and cursive, with the first name "Dwight" and last name "Witherspoon" clearly legible.

Dwight Witherspoon, Vice Chairperson
Budget and Finance Committee

Motion: Honorable Lee Jack, Sr.
Second: Honorable Leonard Tsosie

Permanent Fund Five Year Contingency Fund
Fund Management Plan



I. PURPOSE

To establish a reserve of unused Permanent Fund Trust interest to the General Fund. Included in the Five Year plan there was a provision to fund the General Fund. The Navajo Nation adopted Resolution CO-54-16 that included express provisions for the establishment of a Permanent Fund Five Year Contingency Fund. The Purpose of that fund was to maintain a reserve of monies designated from the Permanent Fund Income Five Year Expenditure Plan.

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 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. Term used herein have definitions in the Appropriations Act.

II. CRITERIA

1. The fund will exist as a contingency of the General Fund. The dollars in this fund come from any excess of unused General Fund dollars that have come from the Permanent Fund Interest for General fund. The Navajo Nation Council established the Permanent Fund Five Year Contingency upon the passage of Resolution CO-54-16 with its initial deposit. These dollars will be used expressly for the General Fund budget when needed. The Fund does not become part of the UUFB, and may be used for recurring and non-recurring expenditures.
2. The Navajo Nation Council will appropriate these funds when the need should arise to help supplement the General Fund.
3. The fund will also be invested to earn interest while these dollars are a part of the Contingency reserve.
4. There shall be no expenditures from this fund. Any amount needed for the General Fund will need to be approved by the Navajo Nation Council for the transfer to be initiated as an appropriation.

III. Amendment

This plan may be amended and approved by the Budget and Finance Committee.

LEGISLATIVE SUMMARY SHEET

Tracking No. 0365-17

DATE: September 12, 2017

TITLE OF RESOLUTION: AN ACTION RELATING TO THE BUDGET AND FINANCE COMMITTEE, RECOMMENDING AND APPROVING THE FUND MANAGEMENT PLAN FOR THE PERMANENT FUND FIVE-YEAR CONTINGENCY FUND

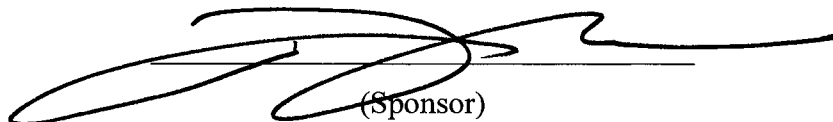
PURPOSE: The purpose of this legislation is to approve a fund management plan for the Permanent Fund Five-Year Contingency Fund.

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: None
Website Posting Time/Date: 1:00pm 9/14/17
Posting End Date: 9/19/2017
Eligible for Action: 9/20/2017

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL – Third Year, 2017

INTRODUCED BY



(Sponsor)

TRACKING NO. 0365-17

AN ACTION
RELATING TO THE BUDGET AND FINANCE COMMITTEE, RECOMMENDING
AND APPROVING THE FUND MANAGEMENT PLAN FOR THE PERMANENT
FUND FIVE-YEAR CONTINGENCY FUND

BE IT ENACTED:

Section One. Authority

- A. The Budget and Finance Committee (BFC) is a standing committee of the Navajo Nation Council. 2 N.N.C. § 300(A).
- B. The BFC is the oversight committee for the Office of the Controller. 2 N.N.C. § 301(B)(13).
- C. The BFC is empowered to approve fund management plans upon the recommendation of the appropriate oversight committee and the affected division or branch. 2 N.N.C. § 301(B)(14).

Section Two. Findings

- A. The Office of the Controller prepared a fund management plan for the Permanent Fund Five-Year Contingency Fund (the Fund), attached as **Exhibit A**.
- B. The Fund was established through Navajo Nation Council Resolution, CO-54-16, “Establishing the Navajo Nation Permanent Fund Five-Year Contingency Fund for the Purpose of Maintaining a Reserve of Monies Designated from the Permanent

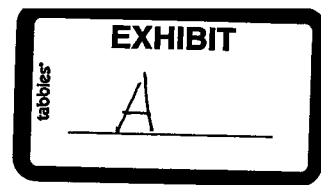
Fund Income Five-Year Expenditure Plan.” This Resolution is attached as **Exhibit B**.

C. The Fund was codified at 12 N.N.C. §§ 2601-2607 and is required to be expended in accordance with a fund management plan pursuant to § 2603.

Section Three. Approval

The Navajo Nation approves the Fund Management Plan for the Permanent Fund Five-Year Contingency Fund, attached as **Exhibit A**.

Permanent Fund Five-Year Contingency Fund
Fund Management Plan



I. PURPOSE

To establish a reserve of unused Permanent Fund Trust interest to the General Fund. Included in the Five Year plan there was a provision to fund the General Fund. The Navajo Nation adopted Resolution CO-54-16 that included express provisions for the establishment of a Permanent Fund Five Year Contingency Fund. The Purpose of that fund was to maintain a reserve of monies designated from the Permanent Fund Income Five Year Expenditure Plan.

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 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. Term used herein have definitions in the Appropriations Act.

II. CRITERIA

1. The fund will exist as a contingency of the General Fund. The dollars in this fund come from any excess of unused General Fund dollars that have come from the Permanent Fund Interest for General fund. The Navajo Nation Council established the Permanent Fund Five Year Contingency upon the passage of Resolution CO-54-16 with its initial deposit. These dollars will be used expressly for the General Fund budget when needed. The Fund does not become part of the UUFB, and may be used for recurring and non-recurring expenditures.
2. The Navajo Nation Council will appropriate these funds when the need should arise to help supplement the General Fund.
3. The fund will also be invested to earn interest while these dollars are a part of the Contingency reserve.
4. There shall be no expenditures from this fund. Any amount needed for the General Fund will need to be approved by the Navajo Nation Council for the transfer to be initiated as an appropriation.

III. Amendment

This plan may be amended upon recommendation of the Office of the Controller and approved by the Budget and Finance Committee.

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

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.

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 19th day of October 2016.

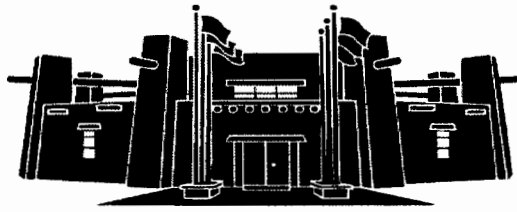


LoRenzo Bates, Speaker
Navajo Nation Council

10-27-16

Date

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



MEMORANDUM

TO: Honorable Seth Damon

FROM:

Kristen Lowell, Attorney
Office of Legislative Counsel

DATE: September 12, 2017

SUBJECT: AN ACTION RELATING TO THE BUDGET AND FINANCE COMMITTEE, RECOMMENDING AND APPROVING THE FUND MANAGEMENT PLAN FOR THE PERMANENT FUND FIVE-YEAR CONTINGENCY FUND

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 his 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 this legislation was drafted in accordance with 2 N.N.C. §164(A)(16).

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: _0365-17__

SPONSOR: Seth Damon

**TITLE: An Action Relating To Budget And Finance Committee; Recommending
And Approving The Fund Management Plan For The Permanent Fund Five-Year
Contingency Fund**

Date posted: September 14, 2017 at 1:00 PM

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.: 0365-17

SPONSOR: Honorable Seth Damon

TITLE: An Action Relating To The Budget And Finance Committee; Recommending And Approving The Fund Management Plan For The Permanent Fund Five-Year Contingency Fund

Posted: September 14, 2017 at 1:00 PM

5 DAY Comment Period Ended: September 19, 2017

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



**Policy Analyst
Office of Legislative Services**

09-20-17 @ 9:50 AM

Date/Time

BUDGET AND FINANCE COMMITTEE REPORT

23rd NAVAJO NATION COUNCIL---THIRD YEAR 2017

LEGISLATION 0365-17

Introduced by Honorable Seth Damon

An Action

Relating to the Budget and Finance Committee, Recommending and Approving the Fund Management Plan for the Permanent Fund Five Year Contingency Fund

FOR THE RECORD:

The Budget and Finance Committee has final authority on Legislation 0365-17, thereby took legislative action on this 3rd Day of October, 2017.

One amendment was approved as follows:

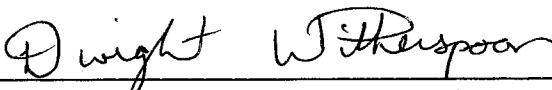
Amendment No. 1

1. Exhibit "A": Permanent Fund Five-Year Contingency Fund, Fund Management Plan.

Section III. Amendments

This plan may be amended ~~upon recommendation of the Office of the Controller~~ and approved by the Budget and Finance Committee.

Exhibit "A" will be modified as amended by the Budget and Finance Committee and attached to the resolution developed for Legislation 0365-17.


Honorable Dwight Witherspoon, Vice Chairman

Main Motion: Honorable Lee Jack, Sr.
Second: Honorable Leonard Tsosie
Vote: 4-0-0 (Vice Chairman not voting)

Amendment No. 1

Motion: Honorable Leonard Tsosie
Second: Honorable Lee Jack, Sr.
Vote: 4-0-0 (Vice Chairman not voting)