# 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.

Dwight Witherspoon

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.

EXHIBIT

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B

CO-54-16

# 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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<u>CHAPTER 26 NAVAJO NATION PERMANENT FUND FIVE-YEAR</u>

<u>CONTINGENCY FUND</u>

## § 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 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