

LEGISLATIVE SUMMARY SHEET
Tracking No. 0290-16

DATE: August 26, 2016

SUBJECT: 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

PURPOSE: To create a Contingency Fund to hold monies from the Permanent Fund interest income.

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 review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Latanya Burbank
Website Posting Time/Date: 6:55pm 8/20/14
Posting End Date: 8/31/14
Eligible for Action: 9/1/14

Law & Order Committee

THENCE

Budget & Finance Committee

THENCE

Naa'bi'kyáti' Committee

THENCE

Navajo Nation Council

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PROPOSED NAVAJO NATION COUNCIL RESOLUTION
23rd NAVAJO NATION COUNCIL—SECOND YEAR, 2016

INTRODUCED BY

Dwight Witherpoon

Primary Sponsor

TRACKING NO. 0290-14

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).

1 **Section Two. Findings**

- 2 A. The Navajo Nation Permanent Fund was created in 1985 by the Navajo Nation Council.
3 12 N.N.C. §§ 905-909. See also CJY-53-85.
- 4 B. The Permanent Fund statute allows for the expenditure of interest income provided the
5 Navajo Nation Council created a plan for the use of fund income provided the plan
6 covered “at least a five-year period.” 12 N.N.C. § 905.
- 7 C. The Navajo Nation Council created a Five-Year Expenditure Plan (the Plan) through
8 Council Resolution CAP-19-16 to utilize income from the Permanent Fund. Each year
9 of the Plan includes a reference that “excess monies shall go to general funds.” Exhibit
10 A.
- 11 D. A Contingency Fund shall be created to hold money from the Permanent Fund income
12 that will not be placed directly into the General Fund. Notwithstanding the language in
13 CAP-19-16, directing “excess monies shall go to general funds,” the intent of the
14 Navajo Nation Council is to create a Contingency Fund for the purpose of holding
15 Permanent Fund income amounts over what is placed directly into the General Fund.
16 The amount to be placed directly into General Funds will vary depending on the
17 interest income earned each year and the amount needed for General Fund
18 expenditures. The mechanics of the Contingency Fund are detailed in Exhibit B.
- 19 E. The Three Branch Chief’s Agreement, dated June 21, 2016, indicates the initial amount
20 to be placed in the Contingency Fund for FY 2018 use is \$2,885,000. See Exhibit C.
21

22 **Section Three. Enactment of the Navajo Nation Fund**

23 The Navajo Nation hereby enacts the Navajo Nation Permanent Fund Five-Year Contingency
24 Fund, at 12 N.N.C. §§ 2601-2607, as follows:
25

26 TITLE 12. FISCAL MATTERS

27 ***

28 CHAPTER 26 NAVAJO NATION PERMANENT FUND FIVE-YEAR
29 CONTINGENCY FUND
30

1 § 2601. Establishment

2 There is established the “Navajo Nation Permanent Fund Five-Year Contingency Fund (the
3 Fund).”

4 A. The Navajo Nation Council hereby designates \$2,885,000 as the initial amount to be
5 placed in the Fund.

6 B. In addition to the initial deposit from the Permanent Fund Income, other deposits,
7 allocations, or appropriations may be made into the Fund.

8 C. Any monies deposited in, and otherwise allocated or appropriated to the Fund, shall be
9 used only as provided in this Chapter.

10
11 § 2602. Purpose

12 The purpose of the Fund is to maintain a reserve of monies from the Permanent Fund income
13 over what is placed directly into the general fund based on the current year’s revenue projection.

14 The amount placed directly into the general fund will vary depending on the interest earned each
15 year and the amount needed for the general fund. The intent of this Fund is that the monies held
16 in the Fund and will be available for allocation or appropriation by the Navajo Nation Council
17 into the general fund for subsequent fiscal years. The Fund shall maintain all monies deposited,
18 appropriated, or otherwise allocated into the Fund as well as all interest income.

19
20 § 2603. Fund Management Plan

21 A. The Fund shall be expended in accordance with a fund management plan adopted by the
22 Budget and Finance Committee.

23 B. The Office of the Controller shall develop proposed policies for the expenditure of the
24 fund in the form of a fund management plan. The fund management plan is subject to
25 final approval by the Budget and Finance Committee of the Navajo Nation Council.

26
27 § 2604. Fund Accounting

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

1 § 2605. Investment of Fund

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

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

8
9 § 2606. Audit requirements

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

12
13 § 2607. Amendments

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

16
17 ***

18 **Section Four. Effective Date**

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

20
21 **Section Five. Codification**

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

26
27 **Section Six. Savings Clause**

28 Should any provision of this enactment at 12 N.N.C. §§ 2601-2607 be determined invalid by the
29 Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the
30

1 Navajo Nation Supreme Court, those portions of the enactment, which are not determined
2 invalid, shall remain the law of the Navajo Nation.

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

Exhibit A \$30m

\$30.939m

\$30.5m

\$30.5m

\$30.5m

New

1st Year

2nd Year

3rd Year

4th Year

5th Year

Modification

\$150 m

\$68.25m

\$81.75m

- 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

Exhibit A of CAP-19-16

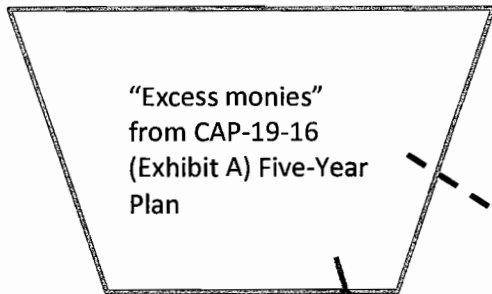


Five-Year Plan (Exhibit A): "Excess monies shall go to general funds"
Excess monies are those that are not allocated for a specific project in the five-year plan.

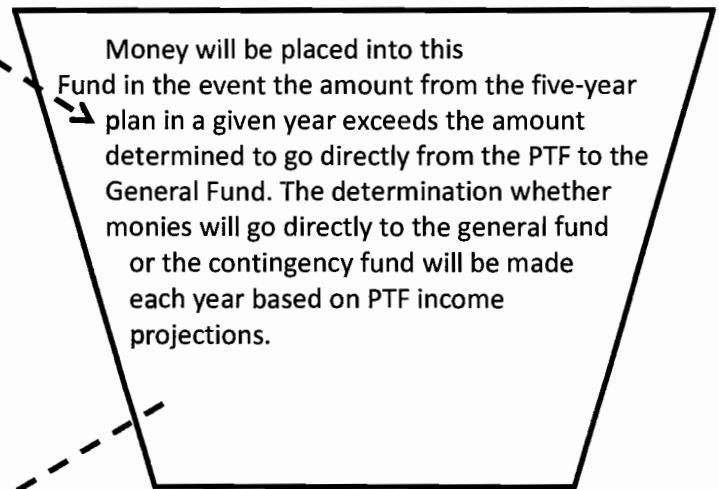
FY 2016 PF income not allocated for a specific project \$22,946,000
PTF income to be used for FY2017 General Fund (20,061,000)
(See the Three Branch Chiefs' Agreement)

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

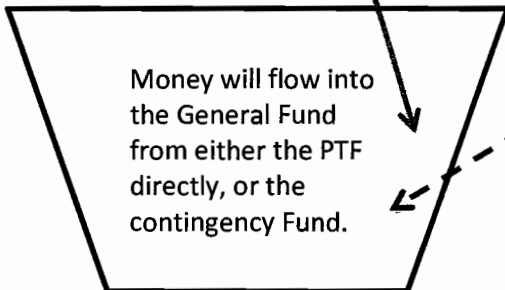
PERMANENT TRUST FUND

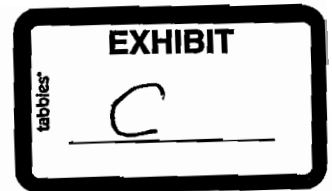


NN PERMANENT FUND FIVE-YEAR CONTINGENCY FUND



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%
Total:	\$173,494,000	100%

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 4TH 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

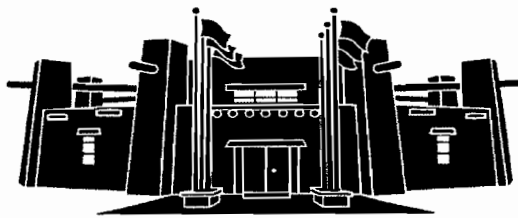
Legislative Branch

Judicial Branch

Russell Begaye, *President*


LoRenzo Bates, *Speaker*

Allen Sloan, *Acting Chief Justice*



MEMORANDUM

TO: Honorable Dwight Witherspoon
The 23rd Navajo Nation Council

FROM: 

Kristen A. Lowell, Attorney
Office of Legislative Counsel

DATE: August 26, 2016

SUBJECT: 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

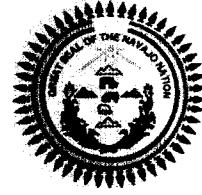
As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on a review of the existing law and the documents submitted, the legislation is legally sufficient.

The resolution as drafted is legally sufficient; however, as with any action of government it may be subject to review by the courts in the event of proper challenge. **Please ensure that this particular resolution 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 the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

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: _0290-16_

SPONSOR: Dwight Witherspoon

TITLE: An Action Relating To Law And Order Committer, Budget And Finance Committee, NAABIK'IYATI' 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

Date posted: August 26, 2016 at 6:55 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.: 0290-16

SPONSOR: Honorable Dwight Witherspoon


TITLE: An Action Relating To Law And Order Committer, Budget And Finance Committee, NAABIK'IYATI' 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.

Posted: August 26, 2016 at 6:55pm

5 DAY Comment Period Ended: August 31, 2016

Digital Comments received:

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



 Policy Analyst
 Office of Legislative Services

9/1/16 8:24am

 Date/Time

**LAW AND ORDER COMMITTEE
23RD NAVAJO NATION COUNCIL**

SECOND YEAR 2016

COMMITTEE REPORT

Mr. Speaker,

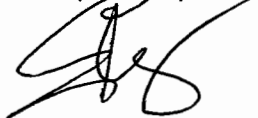
The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation No. 0290-16: An Action Relating to Law and Order Committee, Budget and Finance Committee, Naabik'iyati' 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 – Sponsor: Hon. Dwight Witherspoon

Has had it under consideration and reports the same with the recommendation that it **DO PASS** with no amendment

And thereafter referred to Budget and Finance Committee

Respectfully submitted,



Edmund Yazzie, Chairperson
Law and Order Committee
23rd Navajo Nation Council

Date: September 12, 2016

Main Motion: Honorable Kee A. Begay, Jr.
Second : Honorable Raymond Smith, Jr.
Vote : 4-0 (Chairperson not voting)

23rd NAVAJO NATION COUNCIL

Second Year 2016

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

NAVAJO LEGISLATIVE BILL # 0290-16:

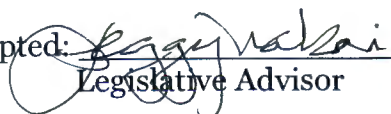
An Action Relating to Law and Order, Budget and Finance Committee, Naabikiyati Committee, and Navajo Nation Council; Establishing the Navajo Nation Permanent Fund Five-Year Contingency Fund for the Purpose of Maintaining a Reserve of Monies Designated from the Permanent Fund Income Five-Year Expenditure Plan *Sponsored by Dwight Witherspoon, Council Delegate*

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And therefore, referred to the **NAABIKIYATI** Committee

Respectfully submitted,


Seth Damon, Chairman

Adopted: 
Legislative Advisor

Not Adopted: _____
Legislative Advisor

14 September 2016

The vote was **4** in favor **0** opposed
Absent: Leonard Tsosie