

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0267-18

**DATE:** July 31, 2018

**SUBJECT: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; APPROVING AND ADOPTING THE AGRICULTURE INFRASTRUCTURE FUND FUND MANAGEMENT PLAN AS MANDATED BY THE SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN ENACTED BY CO-57-16 AND AMENDED BY CMY-54-18**

**PURPOSE:** The purpose of this legislation is to approve the Agriculture Infrastructure Fund Fund Management Plan as mandated by the Sihasin Fund Pasture Range and Forage Expenditure Plan enacted by CO-57-16 and amended by CMY-54-18.

**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: None  
Website Posting Time/Date: 4:30pm 8/2/18  
Posting End Date: 8/7/2018  
Eligible for Action: 8/8/2018

PROPOSED STANDING COMMITTEE RESOLUTION  
23rd NAVAJO NATION COUNCIL – Fourth Year, 2018

INTRODUCED BY



(Prime Sponsor)

Dwight  
Witherspoon

TRACKING NO. 0247-18

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND  
FINANCE COMMITTEES; APPROVING AND ADOPTING THE AGRICULTURE  
INFRASTRUCTURE FUND FUND MANAGEMENT PLAN AS MANDATED BY  
THE SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN  
ENACTED BY CO-57-16 AND AMENDED BY CMY-54-18

BE IT ENACTED:

**Section One. Authority**

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A). The Navajo Nation Council mandated the Budget of Finance Committee to adopt a fund management plan to administer the Agriculture Infrastructure Fund. CO-57-16, as amended, Section Four (A) (6).
- B. The Resources and Development Committee of the Navajo Nation Council is authorized has oversight of the Division of Natural Resources. The Department of Agriculture is within the Division of Natural Resources. 2 N.N.C. § 501(C)(1).
- C. The Budget and Finance Committee of the Navajo Nation Council is authorized to review the management of all funds and to approve Fund Management Plans upon the recommendation of the appropriate oversight committee. 2 N.N.C. §§ 301 (B) (2) and (14).

1       **Section Two. Findings**

- 2       A. On November 3, 2016, the Navajo Nation Council passed Council Resolution CO-57-  
3       16, attached as **Exhibit A**, adopting the Síhasin Fund Pasture Range and Forage  
4       Expenditure Plan pursuant to CD-68-14 and 12 N.N.C. §§2501-2508; the President of  
5       the Navajo Nation signed CO-57-16 on November 13, 2016.
- 6       B. Among other things, CO-57-16 reserved \$19,835,612.00 of Síhasin Funds to  
7       guarantee the insurance premiums necessary for the Nation's participation in the  
8       USDOA's Pasture, Rangeland, Forage Insurance Program for the 2017 and 2018  
9       Crop Years. CO-57-16, Section Three, (C) (1). CO-57-16 was subsequently amended  
10      by CMY-54-18, which is attached as **Exhibit B**, to extend the Síhasin Fund reserve  
11      and guarantee for an additional five years through the end of the 2023 Crop Year.
- 12      C. CO-57-16, as amended, also requires that net insurance proceeds, also referred to as  
13      indemnity payments, be deposited in an Agriculture Infrastructure Fund and used to  
14      fund agriculture infrastructure projects after certain conditions are met; *e.g.*, the  
15      Síhasin Fund is reimbursed for any expenditures and annual amounts are reserved and  
16      accumulated to replace the Síhasin Fund guarantee at the end of 2023. CO-57-16,  
17      Section Four (A) (6) (c).
- 18      D. CO-57-16 further establishes that the Division of Natural Resources and its  
19      Department of Agriculture have the authority and responsibility to manage and  
20      administer the Agriculture Infrastructure Fund and implement agriculture  
21      infrastructure projects pursuant to a fund management plan approved by the Budget  
22      and Finance Committee. CO-57-16, Section Four (A) (6).
- 23      E. The proposed Agriculture Infrastructure Fund Fund Management Plan, attached as  
24      **Exhibit C**, was vetted through the Executive Branch's Executive Review process,  
25      attached as **Exhibit D**.

26       **Section Three. Approval**

- 27      A. The Navajo Nation hereby approves the Agriculture Infrastructure Fund Fund  
28      Management Plan, attached as **Exhibit C**, as the fund management plan mandated by  
29      CO-57-16, Section Four (A) (6).  
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1 B. The Navajo Nation hereby adopts the Agriculture Infrastructure Fund Fund  
2 Management Plan attached as **Exhibit C**.  
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CO-57-16

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE AND  
NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; ADOPTING THE  
SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN PURSUANT  
TO CD-68-14 AND 12 N.N.C §§ 2501 - 2508

BE IT ENACTED:

Section One. Authority

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Naabik'iyáti' Committee of the Navajo Nation Council is empowered to review all proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. §164 (A) (9).
- C. The Naabik'iyáti' Committee additionally has the authority to delegate its authority as appropriate for efficiency and streamlining of government process to appropriate entities and to establish a subcommittee that consists of committee members which the committee selects. 2 N.N.C. §§ 186 and 701 (B).
- D. The Budget and Finance Committee of the Navajo Nation Council is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds and to coordinate and review all fiscal, financial and investment activities of the Navajo Nation. 2 N.N.C. §§ 301 (B) (2) and (5).
- E. The Resource and Development Committee of the Navajo Nation Council has been empowered to exercise oversight authority over water, land, grazing and agriculture and is further empowered to establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources, including the enumerated power to promulgate rules and regulations governing the use and development of Navajo Nation lands. 2 N.N.C. §§ 500 (C) and (C) (1) and 501 (B) (1).



## Section Two. Findings

- A. On May 30, 2014, the 22nd Navajo Nation Council adopted Resolution No. CMY-28-14 accepting a settlement of the Navajo Nation's lawsuit, *Navajo Nation v. United States*, No. 06-945L (United States Court of Federal Claims) against the United States for its historical mismanagement of the tribe's trust assets and its failure to ensure that the Navajo Nation received all funds due and owed under the United States' trust obligations and fiduciary duties. Resolution No. CMY-28-14 was signed into law by the President of the Navajo Nation on June 4, 2014.
- B. The 22nd Navajo Nation Council recognized that during the many decades that the United States was in breach of its trust obligations and fiduciary duties to the Nation, the tribal government was without funds to develop the comprehensive nation-wide infrastructures necessary to support and promote community growth and sustainability through the expansion of economic development, as well as to provide the educational opportunities, critical for the prosperity of current and future generations of Diné. See Resolution No. CMY-28-14.
- C. Between October 6, 2014 and November 8, 2014 the Office of the Speaker held seven (7) Public Hearings, as directed by the Navajo Nation Council's Naabik'iyáti' Committee on July 10, 2014, to receive input from Navajo Nation members on how the net proceeds from *Navajo Nation v. United States* should be used. During that same time period, the Office of the President & Vice-President also held five (5) town hall meetings for a similar purpose.
- D. On December 13, 2014, the 22nd Navajo Nation Council adopted Resolution No. CD-68-14 enacting the Navajo Nation Breach of Trust Settlement Act of 2014 (hereinafter "2014 Act") and establishing the Navajo Nation Síhasin Fund at 12 N.N.C. § 2501 et seq. The President of the Navajo Nation signed Resolution No. CD-68-14 into law on December 31, 2014.
- E. The 2014 Act mandated that the net proceeds and earnings thereon received by the Navajo Nation from the settlement of *Navajo Nation v. United States*, No. 06-945L, and that, when duly designated, the net proceeds of settlements or judgement awards of other litigation(s) brought against the

United States concerning its failure to ensure that the Navajo Nation received all funds due and owing under the United States' trust obligations and fiduciary duties, be deposited into the Sihasin Fund and managed and invested to provide financial support and/or financing for (1) the planning and development of regional infrastructure supporting economic and community development, including housing, within the Navajo Nation; and/or (2) education opportunities for members of the Navajo Nation. See 12 N.N.C § 2501 and § 2502 (A).

- F. The 2014 Act also established that "leveraging of the [Sihasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C § 2502 (B).
- G. The 2014 Act further established that with the exception of outstanding and accrued litigation costs, Sihasin Fund Principal and Income shall only be expended pursuant to a Fund Expenditure Plan consistent with the purposes set forth in the 2014 Act at 12 N.N.C. §2502 and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council. See 12 N.N.C. § 2505 (A).
- H. The 2014 Act states that "Fund Principal" shall consist of all deposits made to the Sihasin Fund and that "Fund Income" shall consist of all earnings (interest, dividends, etc.) generated and realized by the Fund Principal and that Fund Income shall be deposited in and added to Fund Principal until such time as a Fund Expenditure Plan is duly adopted. See 12 N.N.C. §§ 2504 and 2505 (c).
- I. The Office of the Controller reported that as of January 1, 2016, the amount of the Sihasin Fund Principal is four hundred eighty-seven million nine hundred ninety thousand eight hundred forty-one dollars and ninety-one cents (\$487,990,841.91) with interest earnings of four hundred fifty-eight thousand four hundred thirty-one dollars and seventy-five cents (\$458,431.75).
- J. On April 9, 2015, the Naabik'iyáti' Committee adopted NABIAP-20-15 establishing the Naabik'iyáti' Sihasin Fund Subcommittee to "review and evaluate the Public Hearing comments and recommendations from the Navajo People" and "recommend to the Naabik'iyáti' Committee and Navajo Nation

Council financial support and/or financing plan(s) for the purposes designated in CD-68-14 [Navajo Nation Breach of Trust Settlement Act of 2014, establishing the Sihasin Fund]".

- K. Between April 2015 and October 2016, the Sihasin Fund Subcommittee, assisted by the Office of Legislative Services, Office of the Speaker, and Office of Legislative Counsel, met on at least twenty-five (25) occasions in either work sessions or official meetings to review and evaluate the Public Hearing comments and recommendations from the Navajo People; hear proposals from Navajo Nation entities, chapters, programs and officials; and develop an expenditure plan(s) for the Sihasin Fund Principal and Income consistent with the purposes set forth in the 2014 Act.
- L. The Sihasin Fund Subcommittee determined that for an expenditure plan to fully meet the leveraging criteria of the 2014 Act, the expenditure plan shall not rely on Sihasin Funds for full direct project funding, unless such funds are to be repaid under a loan agreement, and instead must utilize the Sihasin Funds for (1) match funding, joint funding, contribution funding, cost-share funding or similar weighted uses of the funds; (2) reimbursement funding; and/or (3) loan or bond financing or guarantee.
- M. The Sihasin Fund Subcommittee also determined that the 2014 Act allowed for the adoption of multiple expenditure plans and that it would be prudent for the Navajo Nation to adopt integrated, yet distinct, expenditure plans for regional-level infrastructure planning and development in four broad infrastructure areas or categories consistent with the purposes of the 2014 Act: Water and Natural Resource Infrastructure Development; Economic Development; Community Development; and Housing Development.
- N. After reviewing the comments submitted during the Public Hearings and town hall meetings, as well as the reports and comments made during Sihasin Fund Subcommittee meetings, the Subcommittee determined that the inadequacy of agriculture infrastructure within the Navajo Nation was detrimental to the establishment of a vibrant and sustainable agriculture economy on the Navajo Nation; that full or partial funding of Navajo Nation agriculture projects throughout the reservation could benefit each



region within the Navajo Nation in providing financing and infrastructure capital to leverage funding from federal and state agencies for natural resources infrastructure development and conservation initiatives throughout the Navajo Nation; and that the implementation of sound conservation practices would allow ranchers, farmers and resource managers to adequately reduce sedimentation, reduce the threat of catastrophic fire, increase the amount of water for livestock and wildlife use, improve rangeland resources, and altogether better manage and sustain the Navajo Nation's natural resources.

- O. In September of 2016, the Navajo Nation Division of Natural Resources' ("DNR"), through its Department of Agriculture ("DOA"), provided the Sîhasin Fund Subcommittee with information, attached as Exhibit A, concerning the United States Department of Agriculture's ("USDA") Rainfall Index Pasture, Rangeland and Forage Pilot Insurance Program ("PRF Insurance Program") wherein USDA subsidizes 51% (fifty-one percent) to 59% (fifty-nine percent) of the cost of insurance coverage against lack of rainfall, based on a precipitation index, that an entity may procure to provide protection for pasture, rangeland and forage grown for the intended use of grazing by livestock or haying. See also [www.rma.usda.gov/pubs/rme/fctsht.html](http://www.rma.usda.gov/pubs/rme/fctsht.html).
- P. The PRF Insurance Program is a risk management tool designed to insure decline in an area-based precipitation index value, determined by the National Oceanic and Atmospheric Climate Prediction Center ("NOAA CPC"), that is based on the long-term, historical, average precipitation for the same area of land for the same period of time; the PRF Insurance Program does not measure, capture or use the actual crop production of any producer or any of the actual crop production within the area; PRF Insurance Program coverage is based on the entire grid and is not based on individual farms or ranches or specific weather stations in the general area. Exhibit A; see also [www.rma.usda.gov/pubs/rme/fctsht.html](http://www.rma.usda.gov/pubs/rme/fctsht.html).
- Q. The PRF Insurance Program applies NOAA CPC data to the grid area and two-month interval(s) that an entity chooses to insure; when the final grid index falls below the entities "trigger grid index", the entity may receive an indemnity. Exhibit A; see also [www.rma.usda.gov/pubs/rme/fctsht.html](http://www.rma.usda.gov/pubs/rme/fctsht.html).

- R. In September of 2015, the PRF Insurance Program was expanded by USDA to include acreage defined by grids in the states of Arizona, New Mexico, Utah and Colorado and covering the whole of Navajo Nation trust and fee lands, with the exception that, as a general rule, leased lands must be insured by the individual lessee and allotments must be insured by the allottee. Exhibit A; see also [www.rma.usda.gov/pubs/rme/fctsht.html](http://www.rma.usda.gov/pubs/rme/fctsht.html).
- S. The PRF Insurance Program benefits are paid in the form of an indemnity and based solely on the basis of lack of precipitation and indemnity options can include payouts once precipitation hits 90% of the average precipitation in the area and interval insured. Exhibit A; see also [www.rma.usda.gov/pubs/rme/fctsht.html](http://www.rma.usda.gov/pubs/rme/fctsht.html).
- T. DOA provided the Síhasin Fund Subcommittee with information, attached as Exhibit B, that, based on NOAA CPC area-specific historical average precipitation data, if the PRF Insurance Program had been available over the last two decades and the Navajo Nation had insured 6,984,343.10 acres at an annual insurance premium cost of \$19,835,612.00, the Nation would have received an indemnity payment above the premium cost in 19 (nineteen) out of the last 20 (twenty) years with an average yearly indemnity payment of \$34,315,608.76 above the cost of the insurance premium and even without the USDA's subsidizing 51% (fifty-one percent) of the insurance premium, the Nation would have received an average yearly indemnity payout of a little over \$14,000,000.00 above the cost of the insurance premium.
- U. DOA also provided the Síhasin Fund Subcommittee with information that since it had not as yet identified a source of funding to guarantee the payment of insurance premiums, DOA has not applied to participate in the PRF Insurance Program on behalf of the Navajo Nation and that the completed application to participate in the PRF Insurance Program for the 2017 Crop Year was required to be signed by the Navajo Nation President and submitted to USDA by no later than November 1, 2016. Exhibit A; see also [www.rma.usda.gov/pubs/rme/fctsht.html](http://www.rma.usda.gov/pubs/rme/fctsht.html).

- V. On September 30, 2016, the DNR-DOA presented a proposal, attached as Exhibit C, to the Sihasin Fund Subcommittee, to establish and fund the Navajo Nation Agriculture Infrastructure Fund as follows:
1. Authorize the DNR-DOA, on behalf of the Navajo Nation, to apply to USDA to participate in the PRF Insurance Program;
  2. Reserve nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) of Sihasin Funds to guarantee annual Crop Year insurance premiums for 6,984,343.10 acres which shall only be draw-down from the Sihasin Fund if the PRF Insurance Program indemnity is insufficient to cover the insurance premium;
  3. Approve the use of indemnity payments in excess of the amount necessary to guarantee the subsequent Crop Year's insurance premiums to fund agriculture infrastructure projects, including but not limited to: range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects, including administration costs.
- W. The Sihasin Fund Subcommittee has determined that the DNR-DOA proposal, dated September 30, 2016, attached as Exhibit C, addresses the lack of agricultural infrastructure and a stagnant agriculture economy on the Navajo Nation and therefore meets the 2014 Act requirement for the "planning and development of regional infrastructure supporting economic and community development, including housing, within the Navajo Nation". See 12 N.N.C. §2502 (A) (1).
- X. The Sihasin Fund Subcommittee has also determined that DNR-DOA's projection, based on NOAA CPC, historical average precipitation data, that it can turn a reserve and guarantee of nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) of Sihasin Funds into an annual net indemnity payment averaging above thirty-four million dollars



(\$34,000,000.00) satisfies the 2014 Act requirement that "leveraging of the [Sihasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C § 2502 (B).

- Y. The Sihasin Fund Subcommittee additionally determined that USDA's subsidy of fifty-one percent (51%) to fifty-nine percent (59%) of PRF Insurance Program premiums further satisfies the 2014 Act requirement that "leveraging of the [Sihasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C § 2502 (B).
- Z. The Sihasin Fund Subcommittee further determined that it was in the best long-term interest of the Navajo Nation and Navajo communities to reserve Sihasin Funds for DNR-DOA to ensure the payment of annual insurance premiums to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program and to use annual net indemnity payments to fund agriculture infrastructure projects on the Navajo Nation and recommends to the Navajo Nation Standing Committees and the Navajo Nation Council that nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) of Sihasin Funds be reserved for DNR-DOA as the Sihasin Fund Pasture Range and Forage Expenditure Plan, attached as Exhibit C, under section 2505 of the 2014 Act.
- AA. After considering the recommendations of the Sihasin Fund Subcommittee, the Navajo Nation Council hereby determines that reserving Sihasin Funds for DNR-DOA to ensure the payment of annual insurance premiums to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program and using net indemnity payments to fund agriculture infrastructure projects fits within the priorities established under the July 20, 2015 One Nation, One Voice Navajo Nation Three Branch Agreement and that it is in the best interests of the Navajo Nation, as well as in the best interests of economic and community development and the revitalization of the agricultural economy within the Navajo Nation, to adopt the Sihasin Fund Pasture Range and Forage Expenditure Plan, attached as Exhibit C.



**Section Three. Approval and Adoption of Expenditure Plan**

- A. The Navajo Nation hereby approves and adopts the Sihasin Fund Pasture Rangeland and Forage Expenditure Plan, attached and incorporated herein as Exhibit C, including the establishment of the Agriculture Infrastructure Fund.
- B. The Navajo Nation hereby authorizes the Navajo Nation Division of Natural Resources and Department of Agriculture to apply, on behalf of the Navajo Nation, to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program.
- C. The Navajo Nation hereby approves and adopts total funding, in the form of a reserve, from the Sihasin Fund in the amount of nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) to the Navajo Nation Division of Natural Resources to implement the Sihasin Fund Pasture Range and Forage Expenditure Plan and establish the Agriculture Reserve Fund as follows:
  - 1. The nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) shall be reserved and remain in the Sihasin Fund until such time as the Nation is required to make USDA's Pasture, Rangeland, Forage Pilot Insurance Program premiums for the 2017 and 2018 Crop Years;
  - 2. If the Navajo Nation's application to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program is denied, without right of appeal, the nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) shall immediately become unreserved and available to fund other Sihasin Fund expenditure plans as approved by Navajo Nation Council;
  - 3. If the Navajo Nation's application to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program is accepted for acreage at a level requiring less than a premium of nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00), the excess of reserved Sihasin Funds shall immediately become unreserved and available to fund other Sihasin Fund expenditure plans as approved by Navajo Nation Council;

4. At the end of the 2018 Crop Year, any portion of the nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) not used to pay USDA Pasture, Rangeland, Forage Pilot Insurance Program premiums shall immediately become unreserved and available to fund other Sihasin Fund expenditure plans approved by Navajo Nation Council;
  5. Any portion of the nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) of Sihasin Fund dollars used to pay USDA Pasture, Rangeland, Forage Pilot Insurance Program premiums shall be reimbursed and repaid to the Sihasin Fund from accrued insurance indemnity payments; and
  6. If there are accrued indemnity funds remaining above the amount necessary to fund the subsequent Crop Year's insurance premiums and after the Sihasin Fund has been reimbursed for any actual expenditures, the accrued indemnity funds may be used to fund agriculture infrastructure projects as set forth below.
- D. The Sihasin Funds reserved for the Sihasin Fund Pasture Range and Forage Expenditure Plan may be further leveraged by the Navajo Nation through bond or loan financing pursuant to the Navajo Nation Bond Financing Act, 12 N.N.C. § 1300 et seq., as amended, using Sihasin Fund Earnings for repayment and financing costs upon the recommendation of the Budget & Finance Committee and approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

**Section Four. Approval and Adoption of Expenditure Plan Administration**

- A. The Navajo Nation hereby approves administration of the Sihasin Fund Pasture Range and Forage Expenditure Plan and Agriculture Infrastructure Fund as follows:
1. The Navajo Nation Controller shall determine whether the source of the reserved \$19,835,612.00 will be Sihasin Fund Principal or Income or a combination of both;

2. The Síhasin Funds reserved for the Navajo Nation's participation in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program shall only be used to pay 2017 and 2018 Crop Year insurance premiums not covered by the applicable year's indemnity payment;
3. 2 N.N.C. §§ 933-936 is hereby waived and the Division of Natural Resources shall be responsible for complying with Navajo Nation procurement laws, regulations and policies in procuring the services of an insurance agent or carrier eligible to provide USDA Pasture, Rangeland, Forage Pilot Insurance in the capacity necessary to satisfy the Nation's needs, as well as the experience and expertise necessary to develop the Nation's application to the Pasture Rangeland and Forage Insurance Program for the 2017 Crop Year within the expedited time frame;
4. The Division of Natural Resources, with the assistance of the Office of the President and Vice-President, Office of the Controller and Department of Justice, shall be responsible for conducting due diligence on the insurance agent or carrier selected and reporting the results of such due diligence to the Budget and Finance Committee and Office of President & Vice-President before any insurance premiums are actually paid with the reserved Síhasin Funds;
5. The Office of the Controller and Office of Management & Budget shall work with the Division of Natural Resources and Department of Agriculture to establish a fund, herein called the Agriculture Infrastructure Fund, to:
  - a. Receive and hold any and all indemnity payments from the USDA's Pasture, Rangeland, Forage Pilot Insurance Program;
  - b. Use accrued indemnity payments to reimburse and repay Síhasin Funds actually expended; and
  - c. Use any remaining indemnity payments in excess of the amount necessary to guarantee the subsequent Crop Year's insurance premiums to fund and



implement agriculture infrastructure projects on the Navajo Nation, including but not limited to:

range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects, including administration costs.

6. The Division of Natural Resources and its Department of Agriculture shall have the authority and responsibility to manage and administer the Agriculture Infrastructure Fund and implement agriculture infrastructure projects pursuant to a fund management plan approved by the Budget & Finance Committee which shall at least include provisions that:
  - a. All interval indemnity payments received from the USDA's Pasture, Rangeland, Forage Pilot Insurance Program will be deposited into Fund when received by the Navajo Nation and invested as determined by the Office of the Controller with any realized interest earnings or investment income devoted to the implementation of agriculture infrastructure projects;
  - b. During the first month after the end of each Navajo Nation Fiscal Year, withdrawals from and/or reserves within the Fund shall be made in the following order or priority:
    1. Annual USDA Pasture, Rangeland, Forage Pilot Insurance Program premiums covering no more acreage than insured the previous year;
    2. Repayment and reimbursement of any portion of the \$19,835,612.00 of Sihasin Funds actually expended; and
    3. If there are additional funds remaining, upon the approval of the Budget & Finance Committee, those funds may either be used to



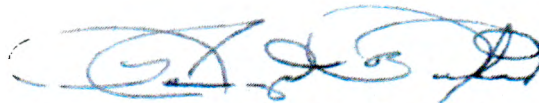
increase the acreage insured or to implement agriculture infrastructure projects on the Navajo Nation or a combination of both.

- c. The Department of Agriculture, under the legislative oversight of the Resources and Development Committee, shall have the responsibility to administer, oversee and use indemnity funds allocated for agriculture infrastructure projects, consistent with an annual plan recommended by the Division of Natural Resources and approved by the Resources and Development Committee, for range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area, including administration costs;
  - d. The Department of Agriculture shall account for the money spent and such accounting or expenditure report shall be included as part of the Executive Branch's quarterly program report submitted to the Resources and Development Committee; and
  - e. The Department of Agriculture shall have the authority to enter into match funding, partnership, cooperative and other cost saving or cost sharing arrangements or leveraging agreements with Navajo Nation entities and enterprises, Navajo Nation chapters and other political subdivisions, other Navajo Nation programs and federal and state agencies and such agreements shall not be deemed procurement contracts subject to the Navajo Nation Procurement Act, 12 N.N.C. §§301 -371 or Navajo Business Opportunity Act 5 N.N.C. §§ 201-215.
7. The Division of Natural Resources and Department of Agriculture shall have the continuing authority and responsibility to further leverage the Agriculture Infrastructure Fund and shall present an annual

- C. All Navajo Nation programs named in this legislation shall be held accountable for the progress of tasks under their responsibility and control and shall report on a semi-annual basis to the Naabik'iyáti' Committee on the progress of their respective tasks.

**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 18 in favor and 4 opposed, this 27<sup>th</sup> day of October 2016.



LoRenzo Bates, Speaker  
Navajo Nation Council

11-3-16

Date

Motion: Honorable Peterson B. Yazzie  
Second: Honorable Otto Tso

leveraging plan to the Resources and Development and Budget and Finance Committees during the first quarter of each Navajo Nation Fiscal Year.

8. The funds deposited into the Agriculture Infrastructure Fund shall not lapse on an annual basis pursuant to 12 N.N.C. §820 (N).
- B. The Navajo Nation Controller, Director of the Division of Natural Resources and Program Manager of the Department of Agriculture shall jointly account for and be held accountable for the expenditure of allocated Sihasin Fund funds and shall arrange for an annual audit of the Agriculture Infrastructure Fund with such audit report(s) submitted to the Resources and Development, Budget and Finance and Naabik'iyáti' Committees, Office of the Controller and Office of the President and Vice-President on an annual basis.
- C. The Division of Natural Resources shall report the status of the Sihasin Fund Pasture Range and Forage Expenditure Plan, specifically including the use and status of the Sihasin Funds and the status of the Agriculture Infrastructure Fund to the Resources and Development, Budget and Finance and Naabik'iyáti' Committees and Office of the President and Vice-President on a quarterly basis.

#### **Section Five. Effective Date**

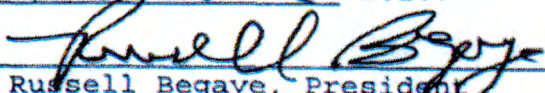
The Sihasin Fund Pasture Range and Forage Expenditure Plan, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505.

#### **Section Six. Directives**

- A. All Navajo Nation programs, specifically including, but not limited to, the Office of Controller, Office of Management & Budget, Division of Natural Resources and Department of Agriculture, shall take all steps necessary to expeditiously implement the Sihasin Fund Pasture Range and Forage Expenditure Plan.
- B. The Department of Agriculture shall develop a knowledge bank collecting and archiving information about the PRF Insurance Program and the Nation's participation.

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this 13<sup>th</sup> day of November 2016.

  
\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this \_\_\_\_\_ day of \_\_\_\_\_ 2016 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation



RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018



AN ACTION

RELATING TO BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING CO-57-16, THE SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN, TO EXTEND THE SÍHASIN FUND GUARANTEE

BE IT ENACTED:

Section One. Authority

- A. The Budget and Finance Committee of the Navajo Nation Council 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).
- B. The Resource and Development Committee of the Navajo Nation Council is empowered to exercise oversight authority over water, land, grazing and agriculture on the Navajo Nation. 2 N.N.C. § 500 (C) (1).
- C. The Naabik'iyati' Committee of the Navajo Nation Council is empowered to review all proposed legislation, which requires final action by the Navajo Nation Council. 2 N.N.C. § 164 (A) (9).
- D. The Naabik'iyáti' Committee additionally has the authority to delegate its authority as appropriate for efficiency and streamlining of government processes to appropriate entities and to establish a subcommittee that consists of committee members, which the committee selects. 2 N.N.C. §§ 186 and 701 (B). The Naabik'iyáti' Committee adopted NABIAP-20-15 establishing the Naabik'iyáti' Síhasin Fund Subcommittee to "recommend to the Naabik'iyáti' Committee and Navajo Nation Council financial support and/or financing plan(s) for the purposes designated in CD-68-14 [Navajo Nation Breach of Trust Settlement Act of 2014, establishing the Síhasin Fund]".
- E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).

**Section Two. Findings**

- A. On November 3, 2016, the Navajo Nation Council adopted Resolution No. CO-57-16, attached as **Exhibit A**, enacting the Síhasin Fund Pasture Range and Forage Expenditure Plan ("PRF Expenditure Plan") and creating the Agriculture Infrastructure Fund as a mechanism to fund agriculture infrastructure projects, including but not limited to: range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects. The President of the Navajo Nation signed CO-57-16 on November 13, 2016.
- B. CO-57-16 authorized the Navajo Nation, through its Division of Natural Resources ("DNR") and Department of Agriculture ("NND OA"), to enroll in the United States Department of Agriculture's ("USDOA") Rainfall Index Pasture, Rangeland and Forage Pilot Insurance Program ("PRF Insurance Program") wherein USDOA will pay between 51% and 59% of the Nation's annual insurance premium.
- C. USDOA pays PRF Insurance Program benefits in the form of indemnity payments. CO-57-16 reserved nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612) of Síhasin Funds to guarantee any portion of the annual insurance premiums not off-set by the indemnity payments for Crop Years 2017 and 2018.
- D. For Crop Year 2017 (January 1, 2017 through December 31, 2017), as detailed in **Exhibit B**, indemnity payments to the Nation exceeded the Nation's portion of the annual premium cost by seventeen million three hundred eighty-six four hundred fifty-five dollars (\$17,386,455) and the reserved Síhasin Funds were fully maintained.
- E. Pursuant to CO-57-16, the Síhasin Fund guarantee of the annual PRF Insurance Program premium expires at the end of 2018 Crop Year and the Agriculture Infrastructure Fund, adopted as part of the PRF Expenditure Plan, requires DNR and NND OA to set-aside or reserve enough of the 2017 and 2018 Crop Year indemnity payments to guarantee the Nation's 2019 Crop Year insurance premium before any portion of the indemnity payments can be used to fund

agriculture infrastructure projects, including but not limited to: range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects. CO-57-16, p. 10, Section Three C.6 and p. 11, Section Four A.5.c.

- F. On February 26, 2018, NNDOA presented information to the Síhasin Subcommittee that because CO-57-16 currently requires DNR and DOA to reserve or set-aside 2017 and 2018 Crop Year indemnity payments sufficient to guarantee the 2019 Crop Year PRF Insurance Program premiums, the amount of the 2017 Crop Year net identity proceeds of \$17,386,455 that can be spent on agriculture infrastructure projects in calendar years 2018 and 2019 will be minimal.
- G. Given that the Nation has pressing immediate needs to implement drought mitigation measures, feral horse reduction, and other conservation measures, the Síhasin Subcommittee recommends to the Naabik'íyáti' Committee and Navajo Nation Council that it is in the overall best long-term interests of the Navajo Nation to amend CO-57-16 to extend the Síhasin Fund guarantee of the PRF Insurance Program annual premiums for two additional years through the 2020 Crop Year, so that a large portion of the current net indemnity proceeds of \$17,386,455 can be used to implement agriculture infrastructure projects in calendar years 2018 and 2019.

### **Section Three. Amending Resolution No. CO-57-16**

The Navajo Nation hereby amends Navajo Nation Council Resolution No. CO-57-16 as follows:

#### **Section Three. Approval and Adoption of Expenditure Plan**

★ ★ ★

- C. The Navajo Nation hereby approves and adopts total funding, in the form of a reserve, from the Síhasin Fund in the amount of nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) to the Navajo Nation Division of Natural Resources to implement the Síhasin Fund

Pasture Range and Forage Expenditure Plan and establish the Agriculture Reserve Fund as follows:

1. The nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) shall be reserved and remain in the Sihasin Fund until such time as the Nation is required to make USDA's Pasture, Rangeland, Forage Pilot Insurance Program premiums for the 2017 ~~and 2018~~ through 2023 Crop Years;

\* \* \*

4. At the end of the ~~2018~~ 2023 Crop Year, any portion of the nineteen million eight hundred thirty-five thousand six hundred twelve dollars (\$19,835,612.00) not used to pay USDA Pasture, Rangeland, and Forage Pilot Insurance Program premiums shall immediately become unreserved and available to fund other Sihasin Fund expenditure plans approved by Navajo Nation Council;

\* \* \*

#### Section Four. Approval and Adoption of Expenditure Plan Administration

- A. The Navajo Nation hereby approves administration of the Sihasin Fund Pasture Range and Forage Expenditure Plan and Agriculture Infrastructure Fund as follows:
  2. The Sihasin Funds reserved for the Navajo Nation's participation in the USDA's Rangeland, and Forage Pilot Insurance Program shall only be used to pay 2017 ~~and 2018~~ through 2023 Crop Year insurance premiums not covered by the applicable year's indemnity payment;

\* \* \*

#### Section Four. Effective Date

The amendments to Navajo Nation Council Resolution No. CO-57-16, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505 (A).



**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 17 in favor and 00 opposed, on this 17<sup>th</sup> day of May 2018.



Seth Damon, Speaker Pro Tem  
23<sup>rd</sup> Navajo Nation Council

May 21, 2018  
Date

Motion: Honorable Lee Jack, Sr.  
Second: Honorable Herman M. Daniels

Speaker Pro Tem Damon not voting



## **AGRICULTURE INFRASTRUCTURE FUND FUND MANAGEMENT PLAN**

### **Section I. Establishment and Purpose**

In November of 2016, the Navajo Nation approved Resolution No. CO-57-16, *Adopting the Síhasin Fund Pasture Range and Forage Expenditure Plan*. CO-57-16 was subsequently amended by CMY-54-18. Utilizing Síhasin Funds, CO-57-16, as amended, established a seven-year guarantee, ending in 2023, for the Nation's participation in the U.S. Department of Agriculture's ("USDOA") Pasture Rangeland Forest Pilot Insurance Program. CO-57-16, as amended, also established the Agriculture Infrastructure Fund and provided that net insurance proceeds ("Indemnity Payments") are to be deposited in the Agriculture Infrastructure Fund and, after certain conditions are met, used to fund agriculture infrastructure projects on the Navajo Nation as defined in CO-57-16 and approved annually by the Resources and Development Committee.

In addition, CO-57-16, as amended, requires that the Division of Natural Resources and its Department of Agriculture manage and administer the Agriculture Infrastructure Fund pursuant to a fund management plan approved by the Budget and Finance Committee.

The purpose of this Agriculture Infrastructure Fund Fund Management Plan ("FMP") is to satisfy the fund management plan requirements of CO-57-16, as amended, and to clarify the administration and management of the Agriculture Infrastructure Fund to ensure the accountability of such funds, as well as the timely implementation of the approved agriculture infrastructure projects. To that end, this FMP is excused from the requirements of BFMY-38-02 and BFN-187-03.

### **Section II. Authority**

- A. The Navajo Nation established the Agriculture Infrastructure Fund pursuant to Resolution No. CO-57-16 to only fund and implement agriculture infrastructure projects on the Navajo Nation, including but not limited to:

range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects, including administration costs.

- B. Pursuant to 2 N.N.C. § 500 (C), the Resources Development Committee ("RDC") of the Navajo Nation Council shall exercise oversight authority over, among other things, water, land, agriculture, chapter activities, and economic and community development. Consistent with this authority, CO-57-16 sets forth that RDC shall approve an annual plan of agriculture infrastructure projects to be funded through the Agriculture Infrastructure Fund.

- C. Pursuant to 2 N.N.C. § 301 (B), the Budget and Finance Committee (“BFC”) of the Navajo Nation Council is authorized to review the management of all funds and to approve Fund Management Plans pursuant to the recommendation of the appropriate oversight committee, RDC in this instance. Consistent with this authority, CO-57-16 sets forth that BFC shall approve a fund management plan to manage and administer the Agriculture Infrastructure Fund and implement agriculture infrastructure projects.
- D. Pursuant to CO-57-16, as well as their respective plans of operation as set forth in the Navajo Nation Code and/or by Navajo Nation Council or Committee resolution and the Navajo Nation Appropriation Act, 12 N.N.C. §§ 800 *et. seq.*, as amended, the Office of the Controller (“Controller”) and the Office of Management and Budget (“OMB”) have the authority to administer the funding to implement the Agriculture Infrastructure Fund projects and other fund uses as set forth in CO-57-16, as amended.
- E. Pursuant to CO-57-16, as well as their respective plans of operation as set forth in the Navajo Nation Code and/or by Navajo Nation Council or Committee resolution, the Division of Natural Resources (“DNR”) and Department of Agriculture (“NND OA”) have the authority to recommend an annual agriculture infrastructure projects plan to RDC and to administer, manage, oversee and use Agriculture Infrastructure Funds to implement approved agriculture infrastructure projects.

### **Section III. Administration – General**

- A. This FMP is intended to supplement the operable Budget Instruction Manual (“BIM”) and unless contradicted or excepted by CO-57-16, as amended, or by provisions of this FMP, the BIM is to be followed.
- B. Although BFC approved resolutions BFMY-38-02 and BFN-38-03 in 2002 and 2003 to guide the establishment of Fund Management Plans for programs generating revenues, Section VI of the FY 2019 BIM allows for the establishment of Fund Management Plans outside of those resolutions. The Agriculture Infrastructure Fund is not funded by program generated revenues. As such, BFMY-38-02 and BFN-38-03 do not guide or apply to this FMP.
- C. Projects funded through the Agriculture Infrastructure Fund are not subject to BIM budget timelines and budget review and approval requirements. Agriculture Infrastructure Fund projects and administrative costs approved by RDC do not require subsequent committee approval of the detailed budget forms.
- D. Funds deposited in the Agriculture Infrastructure Fund shall not lapse on an annual basis and any amounts not subject to this FMP’s set-aside or reserve provisions shall be available for allocation to agriculture infrastructure projects as approved by RDC.
- E. Agriculture Infrastructure Fund project funding shall not lapse until funded projects are (1) completed and closed-out; or (2) canceled or defunded as approved by RDC. Cost savings or unspent funds attendant to completed, canceled or defunded projects shall be returned to the Agriculture Infrastructure Fund.

- F. Expenditures of Agriculture Infrastructure Funds shall comply with the laws of the Navajo Nation, including but not limited to the Navajo Business Opportunity Act and the Navajo Nation Ethics in Government Law.

#### **Section IV. Administration – Indemnity Payments**

- A. The Controller shall establish the Agriculture Infrastructure Fund, which may include a sub-fund(s) or account(s), e.g., a holding account and/or investment account, to receive, house, and disburse Indemnity Payments (insurance proceeds) received from USDOA.
- B. *Before* any Indemnity Payments can be used to fund agriculture infrastructure projects, the Controller shall first set-aside or reserve the following amounts, *in the order listed*, from the net Indemnity Payments received each farm year (calendar year):
1. Any Síhasin Funds actually remitted to the USDOA for payment of insurance premiums. This amount shall be reimbursed to the Síhasin Fund.
  2. Any prior year set-aside or reserve shortages.
  3. \$2,833,658.86 which is one seventh (1/7<sup>th</sup>) of the Síhasin Fund guarantee of \$19,835,612.00. The purpose of this reserve is to ensure that a funding source is available to support the annual insurance premiums when the Síhasin Fund guarantee expires after seven (7) years at the end of 2023.
  4. Any increase in the current year's insurance premiums above the previous year's insurance premiums. CO-57-16, as amended, requires that BFC approve any increase in insurance premiums due to an increase in the acreage insured.
- C. *After* all of the annual set-aside and reserve provisions set forth above have been satisfied, net Indemnity Payments shall be eligible to fund agriculture infrastructure projects as approved by RDC. If eligible funds are not used to fund current year agriculture infrastructure projects, such funds shall carry-over and remain eligible to fund subsequent year agriculture infrastructure projects.
- D. The Controller shall invest the Agriculture Infrastructure Fund, including the set-aside and reserve funds, with the degree of care exercised by a reasonable and prudent manager of investments intended to produce maximum growth of the investment with a high degree of safety as appropriate to support the purposes set forth in this FMP. If approved by BFC, any or all of the realized earnings from such investment(s) shall be available for expenditure on agriculture infrastructure projects beginning in 2024.

#### **Section V. Administration – Project Funds**

- A. By the end of October each year, DNR and NNDOA shall recommend an agriculture infrastructure projects plan, which may include administrative costs, to RDC for approval. The total amount of such plan shall not exceed the amount of eligible funds set forth through Section III.C. above. The agriculture infrastructure projects included on the plan must comply with Section Four (A) (5) (c) of CO-57-16, i.e.,



Range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects, including administration costs.

- B. In addition to total funding for each project, Agriculture infrastructure projects recommended by DNR and NNDOA shall identify the Department(s) or Program(s) responsible for managing and implementing the project or components thereof. If RDC approves project(s) to be managed and implemented by Departments or Programs outside of DNR, DNR and NNDOA shall retain authority and responsibility to ensure that such funding is used only for projects meeting CO-57-16's criteria.
- C. The Office of the Controller has the authority to make payments out of the Agriculture Infrastructure Fund for projects and administrative costs approved by RDC without subsequent oversight committee budget approval. The approval of Project Summary Forms and budget documents shall be through Official Executive Review.
- D. Matching and Cost-Share funds from external sources or other Navajo Nation funds shall be processed and administered in accordance with this FMP, unless specifically prohibited by the funding requirements or agreement.
- E. Allowable administrative expenditures must be directly tied to project implementation and may include, but will not be limited to, the following categories: personnel; travel expenses; supplies; lease, communications and utilities; contractual services; non-capital expenditures; and capital expenditures.
- F. Consistent with other applicable provisions of this FMP, Departments and Programs shall comply with BIM Section VII, PROJECT BUDGETING AND ACCOUNT SET-UP, as subsequently amended, and submit BIM Appendix J PROJECT FORMS, as subsequently amended, to OMB for project account and budget set-up subject to the following:
  - 1. The legislation approving the project and project funding shall be identified as CO-57-16 and proposal packets, e.g., chapter resolutions, shall not be required.
  - 2. The funding source for each project shall be identified as the Agriculture Infrastructure Fund.
  - 3. Departments and Programs shall include a project start and end date on Appendix J Project Forms. OMB shall report, in writing, any project that is not projected to be completed within 8 quarters (two years), as well as any project that is not completed by its end date, to DNR, OPVP, BFC, and RDC.
  - 4. The Department or Program shall attach a written statement to their Appendix J Project Forms defining the project and delineating the specific purposes for which the project funds can be expended and/or utilized. Example: The purpose of the project is to establish farming infrastructure and project funds will be utilized for purchase of farm equipment such as tractors, blades, etc., infrastructure, demolition and site cleanup, architectural design.

5. Projects that are to be leveraged with or match funded by other funding sources must include a commitment letter or resolution from the appropriate agency or entity verifying the amount of contribution and showing that the amount has been encumbered.

## **Section VI. Accounting**

- A. The records and books of accounts for the Agriculture Infrastructure Fund shall be kept separate and apart from other Navajo Nation funds with their own balance sheet and revenue and expenditure statement.
- B. The recipient of Infrastructure Funds shall account for the money spent and progress achieved. Departments and Programs shall include the accounting as part of their quarterly program reports submitted to RDC, BFC and the Navajo Nation Council. Non-governmental entities and LGA Certified Chapters shall submit a quarterly account report to the same entities.
- C. DNR and NNDOA shall coordinate with the Office of the Auditor General to request an annual audit of the funds provided through this FMP.

## **Section VII. Reporting and Close-out**

- A. At the end of each quarter, the responsible Department or Program shall provide written update project status reports to the DNR Director, RDC, BFC, OOC, OMB and OPVP. Such reports will include the status of the project(s), expenditures and fund balance of each project.
- B. When a project is completely implemented, the responsible Department or Program shall provide a memorandum, concurred to by DNR, to OMB and OOC stating that the project is complete with all close out tasks complete and that the project account can be closed.

## **Section VIII. – Amendments**

This FMP is intended to be amended by BFC when the Síhasin Fund guarantee expires at the end of 2023. In the interim, this FMP may be amended by BFC with the recommendation of RDC.

Document No. 010426Date Issued: 06/06/2018**EXECUTIVE OFFICIAL REVIEW****EXHIBIT**

tabbies

DTitle of Document: Fund Mngmt Plan for Agriculture Infrast.Contact Name: WATCHMANProgram/Division: DIVISION OF NATURAL RESOURCESEmail: lwatchman@navajo-nsn.govPhone Number: 928-871-6605☐ **Business Site Lease** Sufficient    Insufficient

- |   |             |                          |                          |
|---|-------------|--------------------------|--------------------------|
| 1. Division: _____  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Controller: _____  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| (only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review) |             |                          |                          |
| 3. Office of the Attorney General: _____  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**

- |  |             |                          |                          |
|--|-------------|--------------------------|--------------------------|
| 1. Division: _____                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☒ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**

- |  |                      |                                     |                                     |
|--|----------------------|-------------------------------------|-------------------------------------|
| 1. Office of Management and Budget: <u>DBayal - See Memo</u> | Date: <u>6-28-18</u> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 2. Office of the Controller: <u>U. Rendon - see memo</u>     | Date: <u>7/9/18</u>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 3. Office of the Attorney General: <u>Jane C. Werner</u>     | Date: <u>7-18-18</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

☐ **Navajo Housing Authority Request for Release of Funds**

- |  |             |                          |                          |
|--|-------------|--------------------------|--------------------------|
| 1. NNEPA: _____                          | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Lease Purchase Agreements**

- |  |             |                          |                          |
|--|-------------|--------------------------|--------------------------|
| 1. Office of the Controller: _____       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| (recommendation only)                    |             |                          |                          |
| 2. Office of the Attorney General: _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Grant Applications**

- |   |             |                          |                          |
|---|-------------|--------------------------|--------------------------|
| 1. Office of Management and Budget: _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Controller: _____        | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Office of the Attorney General: _____  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**

- |  |             |                          |                          |
|--|-------------|--------------------------|--------------------------|
| 1. Division: _____                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Relinquishment of Navajo Membership**

- |  |             |                          |                          |
|--|-------------|--------------------------|--------------------------|
| 1. Land Department: _____                | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Elections: _____                      | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Office of the Attorney General: _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

Sufficient    Insufficient

- |                                    |       |             |                          |                          |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. Division:                       | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA    | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DNR      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. DOJ      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Rights of Way**

- |                                    |       |             |                          |                          |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD                             | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W                             | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD                             | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals                        | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA                           | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. OPVP                            | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. OPVP     | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. NLD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Assignment of Mineral Lease**

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. DNR      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. DOJ      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA    | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DNR      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. DOJ      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. OPVP     | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **OTHER:**

- |          |       |             |                          |                          |
|----------|-------|-------------|--------------------------|--------------------------|
| 1. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |





**NAVAJO NATION DEPARTMENT OF JUSTICE**  
**OFFICE OF THE ATTORNEY GENERAL**

ETHEL B. BRANCH  
ATTORNEY GENERAL

CHERIE ESPINOSA  
ACTING DEPUTY ATTORNEY GENERAL

**ATTORNEY-CLIENT PRIVILEGED**

MEMORANDUM

TO: Ferdinand Notah, Project Program Specialist  
Department of Agriculture  
Division of Natural Resources

FROM: Jana C. Werner  
Jana C. Werner, Assistant Attorney General  
Tax & Finance Unit

DATE: July 18, 2018

SUBJECT: **Executive Official Review Doc. #010426: Agriculture Infrastructure Fund – Fund Management Plan**

The Navajo Nation Department of Agriculture of the Division of Natural Resources on July 10, 2018 submitted to the Navajo Nation Department of Justice (“DOJ”) Executive Official Review Document #010426 for legal review of the Fund Management Plan for the Agricultural Infrastructure Fund (“FMP”). DOJ has reviewed the FMP and finds it legally sufficient.

The Office of Management and Budget (“OMB”) and the Office of the Controller (“OOC”) each submitted memoranda dated June 23 and July 9, 2018, respectively, raising concerns. On July 18, 2018, Kristen Lowell of the Office of Legislative Counsel issued memoranda addressing the concerns of OMB and OOC.

DOJ finds the FMP to be legally sufficient.

JCW/ck-78



☐ RESUBMITTAL

# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



DOJ	
7-1078-9019	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	010426
SAS #:	
UNIT:	New

\*\*\* FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. \*\*\*

CLIENT TO COMPLETE			
DATE OF REQUEST: 7/10/18		ENTITY/DIVISION: DNR - Agriculture	
CONTACT NAME: Ferdinand Notah		DEPARTMENT: Agriculture	
PHONE NUMBER: 928-871-6605 ~ 7453		E-MAIL: ferdinandnotah@navajo-nsn.gov	
TITLE OF DOCUMENT: EOR Document # 10426			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 7/10/18 10:42		REVIEWING ATTORNEY/ADVOCATE: Robert TFW	
7/16/18 12pm		Jana	
DATE/TIME OUT OF UNIT:			
DOJ ATTORNEY / ADVOCATE COMMENTS			
Transferred to TFW as it relates to Sihasin Fund- V13			
REVIEWED BY: (PRINT)		DATE / TIME	
Jana C WERNER		7-18-18 3:35p	
SURNAMED BY: (PRINT)		DATE / TIME	
Jana C Werner		7-18-18 3:35p	
DOJ Secretary Called: Kim Johnson		for Document Pick Up on 7-19-18 at 9:17am By: CK	
PICKED UP BY: (PRINT)		DATE / TIME:	

NNDOJ/DRRF-July 2013



Sponsor's COPY

SCANNED

7/16/18 @ 12:02pm




## THE NAVAJO NATION

**RUSSELL BEGAYE PRESIDENT**  
**JONATHAN NEZ VICE-PRESIDENT**

### Memorandum:

To: 2 NNC/§ 164 Reviewers  
Delegates & 2 NNC '164 Reviewers  
Navajo Nation Government

From:   
Robert Willie, Accounting Manager  
Office of the Controller

Date: July 9, 2018

Subject: 164 Review-010426-Fund Mngmt Plan for Agriculture Infrast.

The Office of the Controller has reviewed the above referenced document.

1. There is no history of how much has been collected in prior years for this type of indemnity funds. The funding source is not a natural recurring amount as it is based upon rainfall.
2. Section V. item C. states that the do not require subsequent oversight committee budget approval. The approval of Project Summary Forms and budgets shall be through Official Executive Review. The Budget Instructions Manual requires that budgets over 50,000 be taken to the oversight for approval to be entered into the system.
3. Section III A. states that the BIM is to be followed. Item C states that it is not subject to the BIM budget and timeline and requirements.
4. These funds are only for Agriculture type activtites. The program should also provide the guidelines from the USDOA for the provision that these funds should be utilized for.
5. The new fund must be able to be responsible for expenses related to this fund. The program must be able to sustain itself from these revenues.
6. If the new fund is established the program must submit their revenue projections annually by March of each year to the Office of Controller for review and feasibility for the fiscal year following.

If you should have any questions you can contact me at tribal extension X6125.





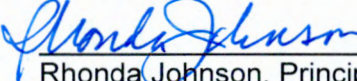
# THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT

June 28, 2018

## MEMORANDUM:

TO : Reviewers/Sponsors

FROM :   
Rhonda Johnson, Principal Program Analyst  
OMB/Management and Policy Section

SUBJECT : Document # 010426



The Office of Management and Budget reviewed above subject Section 164 Document according to 12 N.N.C. § 820 (M) and the following are noted on the Agriculture Infrastructure Fund Management Plan proposal.

1. Attached in this proposal is the Agriculture Infrastructure Fund Management Plan drafted "Exhibit C" and resolution CO-57-16 that has adopted the Si'hasin Fund Pasture Range and Forage Expenditure Plan pursuant to CD-68-14 and 12 N.N.C. §§ 2501 – 2508. CO-57-14 was subsequently amended by CMY-54-18 (Exhibit B), to extend Si'hasin Fund reserve and guarantee for an additional five years through the end of the 2023 Crop Year.
2. The Agriculture Infrastructure Fund, Fund Management Plan proposal (Exhibit C) does not explain the detailed explanation of the rate fee setting mechanism/matrix. OMB has a question on how the program is going to be generating revenue. Fund Management Plan are specifically for programs that will be generating revenues such as collection of fees, for goods and/or services provided and expend such revenue generated. The proposal should be very specific in explaining specific charges, fees, etc. Fund Management Plan is to authorize the program to receive, manage and disburse funds generated by revenue producing activities of the programs/department. This needs clarification.
3. Regarding the establishment of Revenue Generating Funds, two (2) resolutions provide guidance as follows: See attachments.
  - A. Budget & Finance Committee Resolution BFMY-38-02: Approving the Eligibility Criteria for the Establishment of a Fund Management Plan. This provides guidance on the criteria to create a revenue fund and plan, with revenues exceeding \$250,000.
  - B. Budget & Finance Committee Resolution BFN-187-03: Approving the Eligibility Criteria for the Expenditure of Revenues Generated by programs and departments. This provides guidance on the criteria and development of revenue funds where revenues are less than \$250,000.






Depending on how much revenue is expected, these guidelines would apply.

4. OMB recommends the above issues and questions be addressed. Should there be any questions, please contact OMB at (928) 871-6570.

If you have any questions, please contact our office at 928-871-6470.

CONCURRENCE:



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Dominic Beyal, Executive Director  
Office of Management and Budget

XC: OMB File

> 250,000

BFMY-38-02

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

Approving the Eligibility Criteria for the Establishment of a  
Fund and Related Fund Management Plan

WHEREAS:

1. Pursuant to 2 N.N.C. §374 (B) (2), the Budget and Finance Committee of the Navajo Nation Council is authorized to the extent permitted by federal or Navajo Nation laws and regulations, to appropriate, allocate, cancel, reappropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources; and

2. Pursuant to 2 N.N.C. §374 (B) (4), the Budget and Finance Committee of the Navajo Nation Council is authorized to coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private; and

3. The Budget and Finance Committee has received requests from programs and departments to establish a Fund Management Plan to utilize revenues generated to support the programs operations; and

4. Pursuant to directive from the Budget and Finance Committee of the Navajo Nation Council, the committee requested the development of criteria to determine what plan should be adopted. Through several drafts and work sessions between Office of the Controller, Office of the Auditor General, Office of Management and Budget and the Department of Justice, the plan has been finalized. The Eligibility Criteria for the Establishment of a Fund and Related Fund Management Plan has been prepared and is attached hereto and incorporated herein as Exhibit "A".

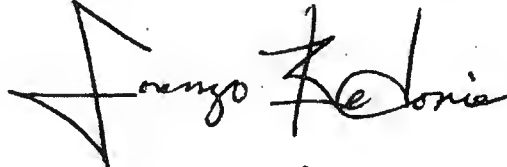
NOW THEREFORE BE IT RESOLVED THAT:

The Budget and Finance Committee of the Navajo Nation Council hereby adopts the Eligibility Criteria for the Establishment of a Fund Management Plan, attached hereto as Exhibit "A", to provide as a guide review criteria.

250,000

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 at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained this 7th day of May, 2002.

A handwritten signature in black ink, appearing to read "Lorenzo Bedonie". The signature is stylized with a large, sweeping initial "L" and a cursive "Bedonie".

Lorenzo Bedonie  
Chairperson

Motion: Bennie Shelly  
Second: Raymond Jones

**THE NAVAJO NATION  
ELIGIBILITY CRITERIA FOR THE ESTABLISHMENT OF A FUND AND RELATED  
FUND MANAGEMENT PLAN**

**I. PURPOSE**

To establish criteria for Navajo Nation Programs and Departments that propose to establish a fund and related fund management plan. The program or department shall meet all the criteria outlined below to establish a fund and related fund management plan.

**II. CRITERIA**

1. Programs and department shall have an approved Plan of Operation to establish a fund. The program or department shall provide a copy of the current approved Plan of Operation to the Office of the Controller.
2. Programs and/or departments proposing a fund management plan shall satisfy the definition of Governmental Fund, Proprietary Fund, or Fiduciary Fund under the Navajo Nation Appropriations Act and Generally Accepted Accounting Principles. The proposed fund management plan shall identify the type of fund designation being sought and the reason why that type of fund is appropriate.
3. The collections of revenues and/or fees for goods and/or services shall have oversight committee and Budget and Finance Committee approval. The program or department shall provide to the Office of the Controller copies of the appropriate legislation.
4. The collections of revenues and/or fees for goods and/or services shall comply with sound financial administration. The program or department shall provide the Office of the Controller with written policies and procedures governing the revenue and fee collections.
5. Programs and departments will explain that the revenues generated and/or fees collected cannot be allocated to other programs or uses. This will ensure the budget process maintains its primary purpose which is the rational allocation of scarce financial resources based upon identified goals and objectives.
6. The amount of revenues that the programs/departments generate must not negatively impact the amount of annual recurring revenue to the general fund such that future financial flexibility is restricted.
7. The programs and departments must demonstrate that it will recover the full cost of operations from the revenues and/or fees collected and will not require any annual appropriations from the Navajo Nation General Funds or other sources. The proposed fund management plan shall provide reasonable assurance that the program's or department's activity is financed solely through the collections of



revenues and/or fees for goods and services provided. In order to provide this assurance:

- a. The program or department will provide to the Office of the Controller a budget for the most recent completed fiscal year detailing the amount of revenue received from goods and/or services and from the Navajo Nation General Fund.
  - b. The program or department will provide to the Office of the Controller a schedule of fees and charges that will recover the program's or department's personnel and operating costs, including depreciation and loans.
8. Programs and departments must generate a minimum of \$250,000 in annual revenues and/or fees to qualify for establishment of a fund. Annual revenues and/or fees collected for goods and services provided must be at least a minimum of \$250,000 to avoid the risk of establishing unnecessary funds, which can result in the Navajo Nation financial system becoming inflexible, complex and inefficient. With the recommendation of the Navajo Nation Controller, the Budget and Finance Committee of the Navajo Nation may increase or decrease this amount to maintain the efficiency and flexibility of the financial system. For example, if the number of funds becomes substantial and causes the financial system to become too complex and inefficient, the Controller will recommend a higher minimum amount.
9. Program and departments shall establish and utilize a process that provides for recording of all revenues and/or fees received; appropriately safeguarding and depositing of all revenues and/or fees intact into an approved depository bank account, the Navajo Nation's depository account, or to the Navajo Nation Cashier's office.

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

**Approving the Eligibility Criteria for the Expenditure of  
Revenues Generated by Programs and Departments**

**WHEREAS:**

1. Pursuant to 2 N.N.C. § 374 (B) (2), the Budget and Finance Committee of the Navajo Nation Council is authorized to the extent permitted by federal or Navajo Nation laws and regulations, to appropriate, allocate, cancel, reappropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources; and
2. Pursuant to 2 N.N.C. § 374 (B) (4), the Budget and Finance Committee of the Navajo Nation Council is authorized to coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private; and
3. The Budget and Finance Committee has received requests from programs and departments to establish a Fund Management Plan to utilize revenues generated to support the program operations; and
4. Pursuant to directive from the Budget and Finance Committee of the Navajo Nation Council, the committee requested the development of criteria to determine what plan should be adopted. Through a couple of drafts and a work session between the Office of the Controller, Office of the Auditor General, Office of Management and Budget and the Department of Justice the plan has been finalized. The Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments has been prepared and is attached hereto and incorporated herein as Exhibit "A".

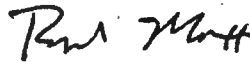
**NOW THEREFORE BE IT RESOLVED THAT:**

The Budget and Finance Committee of the Navajo Nation Council hereby adopts the Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments, attached hereto as Exhibit "A", to provide as a guide review criteria.

258 ↑

**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 in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 7 in favor, 0 opposed and 0 abstained, this 18th day of November, 2003.**

A handwritten signature in black ink, appearing to read "Ray Maxx", written in a cursive style.

**Raymond Maxx  
Chairperson**

**Motion : Ernest Hubbell  
Second : Jerry Bodle**

## **ELIGIBILITY CRITERIA FOR THE EXPENDITURE OF REVENUES GENERATED BY PROGRAMS AND DEPARTMENTS**

### **I. PURPOSE**

To establish criteria for Navajo Nation Programs and Departments, who do not meet the criteria of BFMY-38-02 (Eligibility Criteria for the Establishment of a Fund and Related Fund Management Plan), to generate revenue, including the collection of fees, for goods and/or services provided and to expend such revenue generated. This criteria is not intended to apply to chapters or fund raising activities conducted by employees.

### **II. CRITERIA**

1. Programs and departments shall have a current and approved Plan of Operation on file with the Office of the Controller.
2. A program's and/or department's generation of revenue for goods and/or services provided and expenditure of such revenues shall have Navajo Nation oversight committee and Budget and Finance Committee approval legislation. Such legislation can be part of or separate from the program or department's Plan of Operation. The program or department shall provide the Office of the Controller with copies of the legislation. At a minimum, such legislation shall include:
  - A. A detailed explanation of the specific sources from which such revenue is to be generated; and
  - B. A detailed explanation of the rate or fee setting method and process used; and
  - C. A statement defining the purposes for which the revenue generated can be expended and/or utilized. The expenditure and/or utilization of revenue shall have a correlation with the reason for the generation of revenue. For example, if a program collects fees for the use of its equipment, such revenue should only be expended for the repair, maintenance, and/or replacement of such equipment.



- D. A statement that the revenues generated cannot be expended on or allocated to uses other than those specified in the legislation.
- E. A statement that the expenditure and utilization of all revenue generated and/or fees collected will comply with Navajo Nation law, including the Navajo Business Opportunity Act.
- F. A statement that any unexpended revenue generated shall revert to the Navajo Nation General Fund at the end of the fiscal year.

### III. EXPENDITURE REQUIREMENT

The expenditure and generation of revenues and/or collection of fees shall comply with sound financial administration, including accountability principles. Programs and departments shall utilize the Office of the Controller's established internal process for recording and depositing all revenues generated and/or fees collected. The program or department shall provide the Office of the Controller with written in-house procedures governing the expenditure and generation of revenue. Such procedures shall ensure the safeguarding of revenues and/or fees and depositing of such revenues and or fees intact into the Navajo Nation's depository account or to the Navajo Nation's Cashier's Section.

### IV. BUDGET REQUIREMENT

The revenues generated will be credited to the program's or department's general fund budget upon receipt by the Office of the Controller Cashier's Section. Programs and/or departments shall develop a general fund budget using Navajo Nation Budget Form #\_\_\_ at the beginning of the fiscal year that includes a conservative projection of the revenues that will be generated. The estimated expenditures shall be consistent with Section II above. This conservative yearly projection shall meet the intent of this policy.

### V. AMENDMENTS

The Budget and Finance Committee may amend these Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments upon recommendation by the Office of the Controller.


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**MEMORANDUM**

TO: Honorable LoRenzo C. Bates, Speaker  
23<sup>rd</sup> Navajo Nation Council

FROM:

  
Kristen Lowell, Principal Attorney  
Office of Legislative Counsel

DATE: July 31, 2018

SUBJECT: **AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; APPROVING AND ADOPTING THE AGRICULTURE INFRASTRUCTURE FUND FUND MANAGEMENT PLAN AS MANDATED BY THE SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN ENACTED BY CO-57-16 AND AMENDED BY CMY-54-18**

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 this 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 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: 0267-18

SPONSOR: LoRenzo C. Bates

**TITLE: An Action Relating to the Resources and Development and Budget and Finance Committees; Approving and Adapting the Agriculture Infrastructure Fund Fund Management Plan as Mandated by the Sihasin Fund Pasture Range and Forage Expenditure Plan Enacted by CO-57-16 and Amended by CMY-54-18**

**Date posted: August 2, 2018 at 4:30pm**

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto: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) 871-7590

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.:** 0267-18

**SPONSOR:** Honorable LoRenzo C. Bates

**TITLE:** An Action Relating To the Resources and Development and Budget and Finance Committees; Approving and Adapting the Agriculture Infrastructure Fund Fund Management Plan as Mandated by the Sihasin Fund Pasture Range and Forage Expenditure Plan Enacted by CO-57-16 and Amended by CMY-54-18

**Posted:** August 2, 2018 at 4:30pm

**5 DAY Comment Period Ended:** August 7, 2018

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing</b>	<i>None</i>
<b>Inconclusive Comments</b>	<i>None</i>

  
\_\_\_\_\_  
**Legislative Secretary II  
Office of Legislative Services**

8/8/2018 8:20am  
\_\_\_\_\_  
**Date/Time**



**23<sup>rd</sup> NAVAJO NATION COUNCIL**

Fourth Year 2018

Mr. Speaker:

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

**NAVAJO LEGISLATIVE BILL # 0267-18:**

An Action Relating to the Resources and Development and Budget and Finance Committees; Approving and Adopting the Agriculture Infrastructure Fund Fund Management Plan as Mandated by the Sihasin Fund Pasture Range and Forage Expenditure Plan Enacted by CO-57-16 and Amended by CMY-54-18 *Sponsored by LoRenzo C. Bates and Dwight Witherspoon, Council Delegates*

has had it under consideration and reports the same with the recommendation that It **Do Pass** with a Directive.

**DIRECTIVE:** Any changes to the fund management plan from the Budget and Finance Committee approved plan would have to come back to the Budget and Finance Committee for consideration.

*Motion: Dwight Witherspoon Second: Tuchoney Slim, Jr. Vote: 3-0 Yeas: Lee Jack, Sr., Dwight Witherspoon, Tuchoney Slim, Jr.*

And therefore, referred to the **RESOURCES & DEVELOPMENT** Committee

Respectfully submitted,

  
Seth Damon, Chairman

Adopted:   
Legislative Advisor

Not Adopted: \_\_\_\_\_  
Legislative Advisor

**15 August 2018**

The vote was **2** in favor **1** opposed *Yeas: Lee Jack, Sr., Dwight Witherspoon Nay: Tuchoney Slim, Jr.*

*Motion: Tuchoney Slim, Jr.*

*Second: Lee Jack, Sr.*