

SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0075-22

Date: March 29, 2022

Re: AN ACT RELATING TO THE BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION, AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; ALLOCATING \$10,000,000 FROM THE SÍHASIN FUND TO ESTABLISH A NEW OUTDOOR RECREATION FUND FOR THE NAVAJO NATION

Purpose of this Legislation:

to approve \$10,000,000 from the Sihasin Fund to establish a new Outdoor Recreation Fund for the Navajo Nation, and to approve the related Expenditure Plan for the Outdoor Recreation Fund.

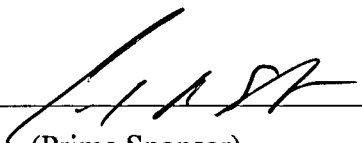
OLC No. 21-255-1

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: 5:03pm; 04-06-22
Posting End Date: 04-11-22
Eligible for Action: 04-12-22

Budget & Finance Committee
Thence
Resources & Development Committee
Thence
Health Education & Human Services Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL - Fourth Year, 2022

Introduced by:


(Prime Sponsor)

Tracking No. 0075-22

AN ACT

RELATING TO THE BUDGET AND FINANCE, RESOURCES AND
DEVELOPMENT, HEALTH, EDUCATION, AND HUMAN SERVICES, AND
NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL;
ALLOCATING \$10,000,000 FROM THE SÍHASIN FUND TO ESTABLISH
A NEW OUTDOOR RECREATION FUND FOR THE NAVAJO NATION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Budget and Finance Committee is a standing committee of the Navajo Nation Council, with legislative authority 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 Resources and Development Committee was established as a standing committee of the Navajo Nation Council. 2 N.N.C. §500(A). As such, the Committee has legislative authority over the Navajo Nation's environment and natural resources and the protection thereof, as well as activities on Navajo Nation lands involving surface disturbances or alterations of the natural state of such lands. 2 N.N.C. §500(C)(1); 2 N.N.C. §500(C)(2).
- C. The Navajo Nation established the Health, Education, and Human Services Committee as a standing committee of the Navajo Nation Council, with legislative authority over health-related activities of the Navajo Nation. 2 N.N.C. §400(A); 2 N.N.C. §400(C)(2). The

1 Committee also has oversight authority over the Navajo Division of Health and the
2 Department of Dine Education. 2 N.N.C. §401(C)(1).

3 D. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that
4 considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

5 E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).

6 As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.

7 F. 12 N.N.C. §2502, as amended by CJA-03-18, states the purpose of the Navajo Nation's
8 Síhasin Fund ("Síhasin Fund") as follows:

9 §2502 Purpose

10 A. The purposes of this Fund are to provide financial support and/or financing for:

11 1. The planning and development of economic development and regional
12 infrastructure supporting economic development and community development,
13 including such infrastructure as, but not limited to, housing, commercial and
14 government buildings, waterline, solid waste management development,
15 powerline projects, and transportation and communication systems, within the
16 Navajo Nation; . . .

17 B. For the Purpose in §2502(A)(1), Fund expenditures for infrastructure shall not be
18 limited by 12 N.N.C. §1310(F) or TCDCJY-77-99.

19 C. Leveraging the Fund by way of guaranteeing loans, match funding, direct funding
20 in part, and other weighted uses of the Fund, including loan financing from the Fund,
21 for the purposes in §2502(A)(1), shall be favored over direct funding in whole.

22 G. The Síhasin Fund provides that "Fund Principal" shall consist of all deposits made to the
23 Síhasin Fund and that "Fund Income" shall consist of all earnings (interest, dividends, etc.)
24 generated and realized by the Fund Principal, and that Síhasin Fund Income shall be
25 deposited in, and added to, the Fund Principal until such time as a Fund Expenditure Plan is
26 duly approved. 12 N.N.C. §2504 and §2505(C).

27 H. The Síhasin Fund provides that "Fund Principal and Income shall not be expended except
28 pursuant to a Fund Expenditure Plan consistent with the purposes set forth in §2502 of this
29 Chapter and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation
30 Council." 12 N.N.C. §2505(A).

1 **SECTION TWO. FINDINGS**

2 A. The Navajo Nation comprises approximately 27,000 square miles. Currently, there are 8
3 tribal parks open to the public, 7 that remain undeveloped, and hundreds of miles of hiking
4 trails across the Navajo Nation. See *www.NewMexico.org/native-culture/native-communities/*
5 *Navajo-nation-dineh*; *www.discovernavajo.org*; *www.hikingproject.com*; and *www.NavajoNation*
6 *Parks.org*.

7 B. Several businesses and organizations, some of whom are related to major corporations, have
8 expressed keen interest in establishing and developing outdoor recreation facilities,
9 activities, and projects across the Navajo Nation.

10 C. These entities seek the Navajo Nation's support in the form of administrative and financial
11 assistance for their proposed projects, a few of which are merely in the concept or planning
12 stage at this time. Navajo Nation support is needed to bring these projects to fruition. Such
13 proposals, if approved and wholly or partially funded by the Navajo Nation, will create the
14 opportunity for the Navajo People and all Navajo Nation communities to participate in and
15 enjoy dozens of outdoor recreational facilities, activities, and projects across the Navajo
16 Nation.

17 D. The amount of \$10,000,000 is requested to establish a new Outdoor Recreation Fund for the
18 Navajo Nation. As explained in the Expenditure Plan attached hereto, this Fund will support
19 the development of outdoor recreation facilities, activities, and projects for the Navajo
20 Nation. Funding grants will be awarded to approved applicants, such as Navajo Nation
21 government entities including Chapters and community-based organizations, as well as non-
22 government entities, schools, businesses, and other organizations. **EXHIBIT A.**

23 E. The Outdoor Recreation Fund will be administered pursuant to a Fund Management Plan
24 approved by the Budget and Finance Committee, upon recommendation by the Health,
25 Education, and Human Services Committee, and the Resources and Development
26 Committee. The approval of funding applications and all disbursements from the Fund shall
27 be in accordance with the Fund Management Plan. **EXHIBIT A.**

28 F. The \$10,000,000 in Sihasin funds requested meets the criteria for Sihasin Fund expenditures
29 because the purpose for the proposed allocation involves economic and community
30 development, as described in 12 N.N.C. §2502(A)(1).

1 **SECTION THREE. ALLOCATING \$10,000,000 FROM THE SÍHASIN FUND TO**
2 **ESTABLISH AN OUTDOOR RECREATION FUND AND**
3 **APPROVAL OF RELATED EXPENDITURE PLAN**

4 A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$10,000,000
5 out of the Síhasin Fund to establish a new Outdoor Recreation Fund for the Navajo Nation,
6 as explained in the attached EXHIBIT A.

7 B. The \$10,000,000 in Síhasin funds approved herein may be further leveraged by bond or loan
8 financing pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*, as
9 amended), using Síhasin Fund earnings for repayment and financing costs, upon approval
10 of the Budget and Finance Committee and upon further approval by a two-thirds (2/3) vote
11 of the full membership of the Navajo Nation Council.

12 C. The Controller shall determine whether the source of the \$10,000,000 approved herein will
13 be Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

14 D. The Navajo Nation hereby approves the Expenditure Plan attached as EXHIBIT A.

15 E. The \$10,000,000 approved herein shall be disbursed to the Division of Natural Resources
16 within twenty (20) business days after the effective date of this Act. DNR shall then arrange
17 for use of the \$10,000,000 in accordance with the Expenditure Plan attached as EXHIBIT A.

18 F. DNR shall be responsible for ensuring compliance with the Expenditure Plan, as well as all
19 applicable Navajo Nation laws and regulations.

20 G. The \$10,000,000 shall not lapse on an annual basis, which would otherwise occur pursuant
21 to 12 N.N.C. §820(N).

22
23 **SECTION FOUR. EFFECTIVE DATE**

24 This Act and the approved Expenditure Plan for the Outdoor Recreation Fund shall become
25 effective pursuant to 12 N.N.C. §2505.

26
27 **SECTION FIVE. SAVING CLAUSE**

28 If any portion of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any
29 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the
30 remainder of this Act shall be the law of the Navajo Nation.

EXPENDITURE PLAN
for Outdoor Recreation Fund

Purpose of the Fund

The Outdoor Recreation ORF ("ORF") will support the development of outdoor recreation facilities and opportunities on the Navajo Nation.

The ORF will provide funding to appropriate non-government organizations ("NGOs"), schools and institutions of higher education ("schools"), LGA-certified chapters, and units of the Navajo Nation government, including non-LGA-certified chapters. The funding to NGOs, schools, and LGA-certified chapters shall be provided via grants awarded by the Navajo Nation Division of Natural Resources Executive Office ("DNR") upon approval by the Outdoor Recreation Committee described below.

Several external foundations, companies, and organizations have expressed keen interest in investing in outdoor recreation facilities and activities across the Navajo Nation. Therefore, applications including financial or in-kind contributions, matching funds, or other leveraging, will receive priority consideration for funding.

Oversight and Administration

The ORF will be administered by DNR pursuant to a Fund Management Plan. The ORF will be under the direction and oversight of an 8-member Outdoor Recreation Fund Committee ("Committee").

Committee:

The Committee's primary functions shall be:

- (1) developing a strategic plan to establish and expand outdoor recreation facilities and activities throughout the Navajo Nation; and
- (2) selecting outdoor recreation projects for funding. Further duties of the Committee may be set forth in the FMP.

All Committee members shall be enrolled members of the Navajo Nation, and shall serve two-year terms from their date of appointment. The Committee shall select a Chairperson and other Officers as deemed necessary by the Committee.

The President of the Navajo Nation shall appoint two members from the outdoor recreation community; the Speaker of the Navajo Nation Council shall appoint two members from the outdoor recreation community. The Navajo Area Indian Health Service Director, the Director of the Navajo Division of Natural Resources, the Director of the Navajo Department of Health, and the Navajo Superintendent of Schools shall each appoint one member.

Although each member serves a two-year term, members shall serve in their positions until a successor is appointed. Elected officials of the Navajo Nation shall not be appointed to the Committee.

The Committee shall receive administrative support from DNR. Committee members shall receive per diem and mileage reimbursement for their official activities, but shall not be paid for attending meetings, workshops, or other events.

At the discretion of the Committee, appearances, reports, recommendations, and guidance from persons other than Committee members, regarding the planning and funding of outdoor recreation projects, may be obtained from time to time. However, non-Committee members will not have voting rights or any authority regarding the ORF, the funding application process, or the approval or disbursement of funding.

Administration:

The ORF shall be administered pursuant to a Fund Management Plan ("FMP"). The approval of all funding applications and all disbursements from the ORF shall be in accordance with the Plan.

The Committee shall work with DNR in developing the FMP. At the discretion of the Committee, NGOs and other entities with relevant expertise and experience may advise the Committee and DNR in the drafting of the FMP.

The Plan shall be approved by the Budget and Finance Committee, upon recommendation of the Health Education Human Services Committee, and the Resources and Development Committee.

DNR shall be the Navajo Nation's fiscal office for the ORF, and shall have administrative oversight. Legislative oversight will be exercised jointly by the Health, Education, and Human Services and Resources and Development Committees.

Establishment and Funding

The ORF shall be established by the initial allocation by the Navajo Nation Council of ten million dollars (\$10,000,000) from the Navajo Nation's Síhasin Fund. The amount of the ORF that may be used for DNR and Committee administrative expenses shall be set forth in the FMP.

The ORF shall only be used for projects involving outdoor recreation facilities and activities. A limited percentage of funds may be used for administrative expenses for such projects, as set forth in the FMP.

The ORF shall be invested pursuant to the guidelines and policies established by the Office of the Controller and the Navajo Nation Investment Committee.

After all members of the Committee are appointed, \$1,000,000 of the initial Síhasin allocation shall be made available for the initial work of DNR and the Committee, including the preparation of the FMP, as well as the following:

- conducting surveys and studies;
- environmental, species, and archeological impact statements;
- developing strategic plans and trails planning documents;
- developing trails best practices policies and regulations;
- studying the feasibility of implementing a permitting system, with appropriate procedures, regulations, and enforcement
- facilitating funding applications and funding awards.

During FY2023 and each fiscal year thereafter, the Committee shall use the total amount of earned interest income from the ORF as follows:

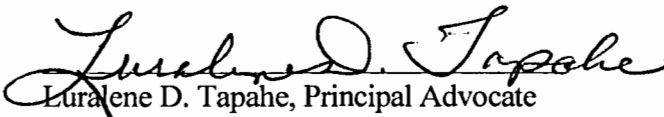
80% shall be used for funding awards, and a percentage shall be used for DNR and Committee's administrative expenses as set forth in the FMP.

The remaining 20% shall be reinvested.



MEMORANDUM

To: Hon. Carl Slater, Vice-Chairman
Health, Education, and Human Services Committee
24th Navajo Nation Council

From: 
Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

Date: April 5, 2022

Subject: **AN ACT RELATING TO THE BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION, AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; ALLOCATING \$10,000,000 FROM THE SÍHASIN FUND TO ESTABLISH A NEW OUTDOOR RECREATION FUND FOR THE NAVAJO NATION**

Per your request, the Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents regarding your request that were submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-7166 or by email at: LuraleneTapahe@navajo-nsn.gov

Thank you for your cooperation.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0075-22_

SPONSOR: Carl R. Slater

TITLE: An Act Relating to the Budget and Finance, Resources and Development, Health, Education and Human Services, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Allocating \$10,000,000 from the Síhasin Fund to Establish a New Outdoor Recreation Fund for the Navajo Nation

Date posted: April 06, 2022 at 5:03PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*