

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

January 6, 2023

Hon. Otto Tso
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CD-54-22, *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.*

Dear Speaker Tso,

It is with a heavy heart that I am vetoing Resolution CD-63-22. The purpose of the resolution is to use Síhasin funds to establish an Outdoor Recreation Fund to be used by Chapters, schools, and non-governmental organizations (NGOs) to be managed by a new 8- member Outdoor Recreation Committee with administrative support from the Division of Natural Resources (DNR).


I wholeheartedly support outdoor recreation and finding ways to increase outdoor recreation on the Navajo Nation. The reason I must veto is that at this point in time, the Navajo Nation needs to re-look at several items to determine what the most appropriate source of funds is and the most efficient way to deploy those funds.

The first is Chapters can access funds from the junk food tax for outdoor recreation. There needs to be a serious look at using the junk food tax for outdoor recreation. The second is that schools and NGOs also have other funding options for outdoor recreation, including collaborating with Chapters on the use of the junk food tax. The third is that given the additional work funded with American Rescue Plan Act / Fiscal Recovery Funds, currently DNR does not have the staffing to provide the necessary support to stand up and administratively support a new appointed 8-member Outdoor Recreation Fund Committee.

I highly encourage the Delegate Slater to meet with the appropriate Divisions to determine how Chapters can access junk food tax funds for outdoor recreation.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
 NAVAJO NATION COUNCIL
 24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

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 Committee also has oversight authority over the Navajo Division of Health and the Department of Diné Education. 2 N.N.C. § 401(C)(1).
- D. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council that considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A). As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.
- F. 12 N.N.C. § 2502, as amended by CJA-03-18, states the purpose of the Navajo Nation's Síhasin Fund ("Síhasin Fund"), as follows:

§ 2502 Purpose

- A. The purposes of this Fund are to provide financial support and/or financing for:
 - 1. The planning and development of economic development and regional infrastructure supporting economic development and community development, including such infrastructure as, but not limited to, housing, commercial and government buildings, waterline, solid waste management development, powerline projects, and transportation and communication systems, within the Navajo Nation; . . .
- B. For the Purpose in § 2502(A)(1), Fund expenditures for infrastructure shall not be limited by 12 N.N.C. § 1310(F) or TCDCJY-77-99.
- C. Leveraging the Fund by way of guaranteeing loans, match funding, direct funding in part, and other weighted uses of the Fund, including loan financing from the Fund, for the purposes in § 2502(A)(1), shall be favored over direct funding in whole.
- G. The Síhasin Fund provides that "Fund Principal" shall consist of all deposits made to the Síhasin Fund and that "Fund Income" shall consist of all earnings (interest, dividends, etc.) generated and realized by the Fund Principal, and that Síhasin Fund Income shall be deposited in, and added to, the Fund Principal until such time as a Fund Expenditure Plan is duly approved. 12 N.N.C. § 2504 and § 2505(C).
- H. The Síhasin Fund provides that "Fund Principal and Income shall not be expended except pursuant to a Fund Expenditure Plan consistent with the purposes set forth in § 2502 of this Chapter and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council." 12 N.N.C. § 2505(A).

SECTION TWO. FINDINGS

- A. The Navajo Nation comprises approximately 27,000 square miles. Currently, there are 8 tribal parks open to the public, 7 that remain undeveloped, and hundreds of miles of hiking trails across the Navajo Nation. See www.NewMexico.org/native-culture/native-communities/Navajo-nation-dineh; www.discovernavajo.org; www.hikingproject.com; and www.NavajoNationParks.org.
- B. Several businesses and organizations, some of whom are related to major corporations, have expressed keen interest in

establishing and developing outdoor recreation facilities, activities, and projects across the Navajo Nation.

- C. These entities seek the Navajo Nation's support in the form of administrative and financial assistance for their proposed projects, a few of which are merely in the concept or planning stage at this time. Navajo Nation support is needed to bring these projects to fruition. Such proposals, if approved and wholly or partially funded by the Navajo Nation, will create the opportunity for the Navajo People and all Navajo Nation communities to participate in and enjoy dozens of outdoor recreational facilities, activities, and projects across the Navajo Nation.
- D. The amount of \$10,000,000 is requested to establish a new Outdoor Recreation Fund for the Navajo Nation. As explained in the Expenditure Plan attached hereto, this Fund will support the development of outdoor recreation facilities, activities, and projects for the Navajo Nation. Funding grants will be awarded to approved applicants, such as Navajo Nation government entities including Chapters and community-based organizations, as well as non-government entities, schools, businesses, and other organizations. **EXHIBIT A.**
- E. The Outdoor Recreation Fund will be administered pursuant to a Fund Management Plan approved by the Budget and Finance Committee, upon recommendation by the Health, Education, and Human Services Committee, and the Resources and Development Committee. The approval of funding applications and all disbursements from the Fund shall be in accordance with the Fund Management Plan. **EXHIBIT A.**
- F. The \$10,000,000 in Síhasin funds requested meets the criteria for Síhasin Fund expenditures because the purpose for the proposed allocation involves economic and community development, as described in 12 N.N.C. § 2502(A)(1).

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

- A. In accordance with 12 N.N.C. § 2505(A), the Navajo Nation hereby approves \$10,000,000 out of the Síhasin Fund to establish a new Outdoor Recreation Fund for the Navajo Nation, as explained in the attached **EXHIBIT A.**
- B. The \$10,000,000 in Síhasin funds approved herein may be further leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. § 1300 et seq., as amended), using Síhasin Fund earnings for repayment and

financing costs, upon approval of the Budget and Finance Committee and upon further approval by a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

- C. The Controller shall determine whether the source of the \$10,000,000 approved herein will be Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.
- D. The Navajo Nation hereby approves the Expenditure Plan attached as EXHIBIT A.
- E. The \$10,000,000 approved herein shall be disbursed to the Division of Natural Resources within twenty (20) business days after the effective date of this Act. DNR shall then arrange for use of the \$10,000,000 in accordance with the Expenditure Plan attached as EXHIBIT A.
- F. DNR shall be responsible for ensuring compliance with the Expenditure Plan, as well as all applicable Navajo Nation laws and regulations.
- G. The \$10,000,000 shall not lapse on an annual basis, which would otherwise occur pursuant to 12 N.N.C. § 820(N).

SECTION FOUR. EFFECTIVE DATE

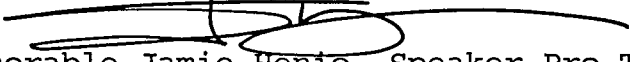
This Act and the approved Expenditure Plan for the Outdoor Recreation Fund shall become effective pursuant to 12 N.N.C. § 2505.

SECTION FIVE. SAVING CLAUSE

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

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th 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 16 in Favor, and 02 Opposed, on this 19th day of December 2022.



Honorable Jamie Henio, Speaker Pro Tem
24th Navajo Nation Council

DEC 28, 2022
DATE

Motion: Honorable Rickie Nez

Second: Honorable Elmer P. Begay

Speaker Pro Tem Jamie Henio not voting

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 _____ day of _____, 2022.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 6th day of January, 2023 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, Myra Lizer
Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this _____ day of _____, 2022.

Jonathan Nez, President
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 Sihasin 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 Sihasin 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.

NAVAJO NATION

1237

12/19/2022

Navajo Nation Council Special Session

04:47:10 PM

Amd# to Amd# Legislation0075-22: Allocating
MOT Nez, R \$10,000,000 from the Sihasin
SEC Begay, E Fund to Establish a New Outdoor
Recreation Fund for the.....

PASSED

Yeas : 16

Nays : 2

Excused : 2

Not Voting : 3

Yea : 16

Begay, E	Crotty	James, V	Tso, D
Begay, K	Daniels	Nez, R	Tso, E
Begay, P	Freeland, M	Slater, C	Wauneka, E
Charles-Newton	Halona, P	Stewart, W	Yellowhair

Nay : 2

Tso, C	Smith
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Excused : 2

Tso	Damon
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Not Voting : 3

Brown	Yazzie	Walker, T
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Presiding Speaker: Henio, J