

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

February 13, 2022

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CJA-13-22, *An Action Relating to Budget and Finance and Naabik'iyati' Committees, and the Navajo Nation Council; Establishing the Diné Relocatee Fund*

Dear Speaker Damon,

Pursuant to the authority vested in the Navajo Nation President, I am signing CJA-13-22 into law.

For years Navajo members have been living with the impact of relocation and restrictions of living on non-Navajo land. Only recently has this tragic era begun to thaw and allow for planning and development to address the generations of trauma. Our Office of the Navajo Hopi Land Commission and the Commission worked diligently to address many of the concerns of our affected Navajo members. The Diné Relocatee Fund will now be part of our Navajo law.

With the Diné Relocatee Fund there will be support for Navajo families who live on the Hopi-partitioned lands as of December 22, 1974. This support will include housing assistance, infrastructure assistance, and education assistance. This assistance has been needed for years and we thank the Navajo Nation Council, the Navajo-Hopi Land Commission, and the Office of the Navajo-Hopi Land Commission for their work in creating this new law.

We know there is a lot more work to be done to help Relocates and to address the many needs for the affected communities in Western Agency. We have been making progress in bringing help to Navajo relocatees. Working together with the Commission and the Navajo Nation Council, we can continue to move forward. This Diné Relocatee Fund is an example of our cooperation to help.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Nez".

Jonathan Nez, President
THE NAVAJO NATION

A handwritten signature in black ink that reads "Myron Lizer".

Myron Lizer, Vice President
THE NAVAJO NATION

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

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND
THE NAVAJO NATION COUNCIL; ESTABLISHING THE DINÉ RELOCATEE FUND

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation and is empowered to enact positive law of the Navajo Nation. 2 N.N.C. §§ 102(A) and 164(A).
- B. The Naabik'íyáti' Committee is a Standing Committee of the Navajo Nation Council with the responsibility to hear proposed resolutions that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9). The Naabik'íyáti' Committee has authority to "review and make recommendations to the Navajo Nation Council on proposed amendments and enactments to the Navajo Nation Code." 2 N.N.C. § 601(B)(14). The Naabik'íyáti' Committee is specifically empowered as the oversight committee for commissions under the Legislative Branch of the Navajo Nation, including the Navajo-Hopi Land Commission. 2 N.N.C. § 701(5).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated powers to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds and to promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C. § 300(B)(1) and (2). The Budget and Finance Committee is empowered to approve a fund management plan upon the recommendation of the appropriate oversight committee and the affected division or branch. 2 N.N.C. § 301(B)(14).
- D. The Navajo Hopi Land Commission ("NHLCO") is empowered to speak and act on behalf of the Navajo Nation with respect to the land selection provisions of the 1980 Amendments to the Navajo-Hopi Settlement Act, Pub. L. 96-305, 94 Stat 929 (July 8, 1980). 2 N.N.C. § 853(B)(2).
- E. The Navajo Hopi Land Commission shall utilize the Navajo-Hopi Land Commission Office ("NHLCO"), which is under the direction of the President of the Navajo Nation, to perform its assigned

functions regarding management, administration and expenditure of funds in the Fund Management Plan established for the Diné Relocatee Fund. 2 N.N.C. § 856.

SECTION TWO. FINDINGS

A. Section 11(a) of the 1974 Navajo-Hopi Settlement Act, as amended by the 1980 Navajo and Hopi Indian Relocation Amendments Act and the 1988 Navajo and Hopi Indian Relocation Amendments (collectively, the "Relocation Act"), previously codified at 25 U.S.C. § 640d-10(a), provides that the Secretary of Interior "is authorized and directed to -

1. transfer not to exceed two hundred fifty thousand acres of lands under the jurisdiction of the Bureau of Land Management within the State of Arizona and New Mexico to the Navajo Tribe . . .
2. on behalf of the United States, accept title to not to exceed one hundred fifty thousand acres of private lands acquired by the Navajo Tribe. Title thereto shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo reservation."

All such lands transferred to or acquired in trust for the Navajo Nation are commonly known and hereinafter referred to as the "New Lands".

B. Section 11(h) of the Relocation Act, previously codified at 25 U.S.C. § 640d-10(h), provides:

(h) Administration of lands transferred and acquired

The lands transferred or acquired pursuant to this section shall be administered by the Commissioner [of the U.S. Office of Navajo and Hopi Indian Relocation ("ONHIR")] until relocation under the [Navajo and Hopi Indian Relocation] Commission's plan is complete and such lands shall be used solely for the benefit of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974: *Provided*, That the sole authority for the final planning decisions regarding the development of lands acquired pursuant to this subchapter shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this subchapter.

C. Section 32(a) of the Relocation Act, enacted in 1988, previously codified at 25 U.S.C. § 640d-30(a), established the Navajo Rehabilitation Trust Fund ("NRTF"), which consists of

funds transferred under subsection (b), funds appropriated pursuant to subsection (f), and any interest or investment income accrued on such funds. Also, Section 32(b) of the Relocation Act, previously codified at 25 U.S.C. § 640d-30(b), provides that "[a]ll of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are acquired for the benefit of the Navajo Tribe under section 640d-10 of this title shall be deposited into the Navajo Rehabilitation Trust Fund." Subsection (c) provides that "the Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund."

- D. Under Section 32(d) of the Relocation Act, previously codified at 25 U.S.C. § 640d-30(d),

Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

- (1) The decision in the Healing case, or related proceedings,
- (2) The provision[s] of this subchapter, or
- (3) The establishment by the Secretary of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

- E. In 1991, the Navajo Nation enacted legislation, BFMA-17-91, to accept funds appropriated by Congress for the NRTF and to direct the Navajo Division of Finance, now Office of the Controller, to receive those monies and develop management procedures to receive, withdraw, and expend those monies. BFMA-17-91 is incorporated herein by reference.
- F. In 2004, the Navajo Nation enacted legislation, BFAU-45-04, approving the Statement of Investment Objectives, Guidelines, and Procedures of the NRTF. BFAU-45-04 is incorporated herein by reference.
- G. Unlike net income generated by the New Mexico New Lands, which must be deposited in the NRTF and used to benefit all Navajo families and communities affected by the Relocation Act, the establishment of the Hopi Reservation, and related litigation, revenue from the Arizona New Lands must be used to benefit

"Navajo families residing on the Hopi-partitioned lands as of December 22, 1974."

- H. Because the beneficiaries of the Arizona New Lands are restricted to Navajo families residing on the Hopi-partitioned lands as of December 22, 1974, a separate fund needs to be established to hold any and all revenue, income, and/or payments from the Arizona New Lands received by the Navajo Nation to be used solely for the benefit of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974.
- I. On January 10, 2019, the NHLC enacted NHLCJA-2-19 adopting the Diné Relocatee Fund Policy, attached herein as **Exhibit A**, and directed the NHLCO and the Navajo Nation departments and offices to implement and carry out the terms of the Diné Relocatee Fund Policy.
- J. Any and all revenues generated and payments made by lessees and other land users of the Arizona New Lands, including without limitation, Navajo Nation government entities or enterprises, must be deposited into the Diné Relocatee Fund or a federally held trust fund specific to Arizona New Lands revenue, and such monies shall be used solely for the benefit of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974.

SECTION THREE. ESTABLISHING THE DINÉ RELOCATEE FUND

The Navajo Nation hereby approves and establishes the Diné Relocatee Fund within the Navajo Nation Code as follows:

TITLE 12. FISCAL MATTERS CHAPTER 28. DINÉ RELOCATEE FUND

§ 2801. Establishment

There is established the "Navajo Nation Diné Relocatee Fund," hereinafter referred to as "Fund."

- A. The Navajo Nation Council hereby designates that the revenue, income, payments, and proceeds generated from the Arizona New Lands acquired pursuant to the Navajo-Hopi Settlement Act, as amended, shall be deposited into the Fund.
- B. The net proceeds of all settlement or judgment awards stemming from litigation brought by the Navajo Nation on

behalf of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974 (hereinafter referred to as the "Relocation Beneficiaries") against the United States in the United States Court of Federal Claims shall be deposited into the Fund.

- C. The Navajo Nation Council may make additional appropriations to the Fund from any other sources of revenue generated from the Arizona New Lands by either the Office of Navajo and Hopi Indian Relocation or Navajo Nation government entities or enterprises which are legally obligated to make payments for their uses of the Arizona New Lands selected pursuant to the Navajo-Hopi Settlement Act, as amended.
- D. Any money deposited in or appropriated to the Fund, regardless of source, including earnings thereon, shall be used only as provided in this Chapter.
- E. The Fund shall be a continuing account and shall not lapse on an annual basis pursuant to 12 N.N.C. § 820(N).

§ 2802. Purpose

- A. The purposes of this Fund are to provide financial support to Navajo families who resided on the Hopi-partitioned lands as of December 22, 1974 through housing assistance, infrastructure assistance, and education assistance, including:
1. Housing repair and rehabilitation, renovation; weatherization, roofing, and emergencies such as burnouts; shelter assistance, and any matching fund program that provides funds for such activities;
 2. Infrastructure, including but not limited to water lines, telecommunications, powerlines, septic system, solar system, and roads;
 3. Education assistance, including scholarships;
 4. Navajo Hopi Land Commission Office administration of the Fund; and
 5. Investment, to be allocated to the Investments Committee of the Navajo Nation under the investment policies of the Nation, and which may include, but are not limited to, economic development, real estate, or other leverage/collateral programs.

B. Expenditures from the Fund shall not be subject to or limited by 12 N.N.C. § 810(F) of the Appropriations Act, 12 N.N.C. § 1310(F) of the Bond Financing Act, or the Capital Improvement Project Guidelines, Policies and Procedures approved through TCDCJY-77-89, incorporated herein by reference.

§ 2803. Investment of the Fund

Monies deposited in the Fund for the purpose of Investment as identified in § 2802(A)(5) shall be subject to the investment policies of the Nation and shall be invested as soon as practical in accordance with the degree of care exercised by reasonable and prudent managers of investments with a high degree of safety necessary to fulfill the purposes and objectives of the Fund.

§ 2804. Definition of Fund Principal and Income

A. "Fund Principal" shall consist of all deposits made to the Fund pursuant to § 2801 of this Chapter.

B. "Fund Income" shall consist of all earnings (interest, dividends, etc.) generated and realized through the investment of the Fund Principal. Realized Fund Income shall be added to the Fund Principal after Fund management and administration expenses, as set forth in this Chapter, have been deducted.

§ 2805. Expenditure of the Fund

A. Expenditure of Fund Income

1. Ninety percent (90%) of the Fund Income may be used for the Fund's intended purposes; provided that the expenditure is in accordance with the duly approved Fund Management Plan and the Diné Relocatee Fund Policy; and provided that the expenditure is pursuant to an annual budget approved by the Navajo Nation Council.
2. Ten percent (10%) of the Fund Income shall be reinvested in the Fund to cover the rate of inflation and to provide for reasonable Fund growth.

B. Expenditure of Fund Principal

- Fund Principal shall not be expended except pursuant to a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.
- C. The Fund Principal and Income shall be expended in a manner consistent with a Fund Management Plan, subject to approval of the Budget and Finance Committee of the Navajo Nation Council, which shall incorporate the priorities identified by the Navajo-Hopi Land Commission in the Diné Relocatee Fund Policy, as may be amended by the Commission consistent with governing federal and Navajo laws. The Fund shall be used solely for the benefit of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974.
- D. Any Fund amounts, whether Fund Principal or Fund Income, not included in an annual budget, shall remain invested as set forth in this Chapter. Expenditures from the Fund shall be budgeted for annually as part of the Navajo Nation comprehensive budget process and in accordance with established Navajo Nation budget policies and procedures.

§ 2806. Annual Audit

The Fund shall be audited annually by the Navajo Nation's independent external auditor. The auditor shall produce within 120 days of the end of each fiscal year an audit report which shall be written in easily understandable language.

§ 2807. Expenses

All expenses directly associated with the administration and management of the Fund shall be paid from the Fund Income. Such expenses shall include investment advisory and management fees, audit costs, and other related expenses, all pursuant to duly approved contracts for such services.

§ 2808. Amendments

Any section(s) of this Chapter may be amended by a two-thirds (2/3) majority vote of the full membership of the Navajo Nation Council and subject to final action by the President of the Navajo Nation.

SECTION FOUR. REQUIRED ACTIONS FOLLOWING ESTABLISHMENT OF THE FUND

- A. Within thirty (30) days following enactment of the Diné Relocatee Fund, the Navajo Hopi Land Commission Office shall

finalize a proposed Fund Management Plan ("FMP") for consideration by the Navajo Hopi Land Commission, which by resolution shall make a recommendation to the Budget and Finance Committee for enactment pursuant to 2 N.N.C. § 301(B)(14).

- B. A draft proposed Diné Relocatee Fund FMP is attached here as **Exhibit B** for informational purposes only.
- C. Following enactment of the FMP by the Budget and Finance Committee, the Office of the Controller shall establish an account for the Fund in the Nation's Financial Management Information System (FMIS).
- D. The Navajo Hopi Land Commission and the Navajo Hopi Land Commission Office shall develop and adopt a Diné Relocatee Fund Administrative Policies and Procedures Manual, subject to the concurrence of the ONHIR, to guide the expenditure of funds consistent with the approved FMP.

SECTION FIVE. APPROVING REIMBURSEMENT OF LITIGATION COSTS

- A. The Navajo Nation Department of Justice expended Fixed Cost Litigation Account funds to litigate *Navajo Nation v. United States* in the United States Court of Federal Claims, CV-21-01746-ZNS. See **Exhibit C** [Marked as "confidential" by the Navajo Nation Attorney General pursuant to 2 N.N.C. § 164 (A)(6)].
- B. The Fixed Cost Litigation Account is to be reimbursed for the actual litigation costs and expenses, as calculated and attested to by the Attorney General of the Navajo Nation, expended on *Navajo Nation v. United States* in the United States Court of Federal Claims, prior to any settlement or judgment awards being deposited into the Diné Relocatee Fund. See **Exhibit C** [Marked as "confidential" by the Navajo Nation Attorney General pursuant to 2 N.N.C. § 164 (A)(6)].
- C. The Fixed Cost Litigation Fund is to be reimbursed for actual litigation costs and expenses out of all future awards and settlements stemming from litigation on behalf of the Navajo families residing on the Hopi-partitioned lands as of December 22, 1974.

SECTION SIX. EFFECTIVE DATE

This Action is effective upon its approval pursuant to 2 N.N.C. § 221(B).

SECTION SEVEN. CODIFICATION

The provisions of this Action which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION EIGHT. SAVINGS CLAUSE

Should any provision(s) of this Action be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain 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 21 in Favor, and 00 Opposed, on this 27th day of January 2022.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

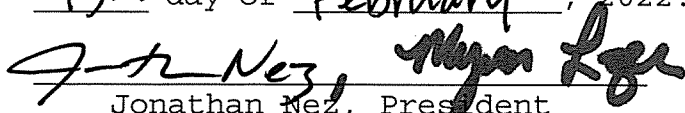
Feb 4, 2022
DATE

Motion: Honorable Daniel E. Tso
Second: Honorable Thomas Walker, Jr.

Speaker Seth Damon not voting

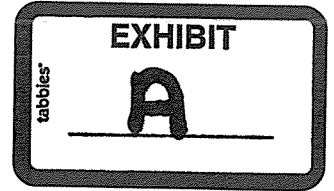
ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 13th day of February, 2022.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2022 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation



RESOLUTION OF THE
NAVAJO-HOPI LAND COMMISSION

23RD NAVAJO NATION COUNCIL - - Fourth Year 2018

The Navajo-Hopi Land Commission Hereby Adopts the Dine' Relocatee Fund
Policy

WHEREAS:

1. Pursuant to 2 N.N.C. §851(A), the Navajo-Hopi Land Commission (NHLC) is established within the Legislative Branch of the Navajo Nation Government; and
2. Pursuant to 2 N.N.C. §851(B)(2), the Navajo-Hopi Land Commission ("NHLC") shall speak and act for the Navajo Nation with respect to the land selections and land exchange provisions of P.L. 96-305; and
3. On December 22, 1974, the United State Congress passed the Navajo and Hopi Indian Land Settlement Act of 1974, P.L. 93-531, as amended; and
4. The Navajo-Hopi Indian Relocation Amendment Act of 1980, Public Law 96-305, 25 U.S.C. § 640d-10 (hereinafter referred to as the "Act"), mandated the transfer of certain federal land to the Navajo Nation; and
5. The Act further granted administrative responsibilities to the Office of Navajo and Hopi Indian Relocation (ONHIR) to select lands for the resettlement of Navajo families and to provide a revenue stream through economic development for use by relocatees; and
6. The Navajo Nation has developed a policy to administer and implement the use of funds received from lands selected through the Act for economic development; and
7. The Dine' Relocatee Fund Policy has been finalized by the Navajo Nation Department of Justice and the ONHIR and is ready for adoption.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo-Hopi Land Commission hereby adopts the Dine' Relocatee Fund Policy attached as "Exhibit A".

2. The Navajo-Hopi Land Commission further directs the Navajo-Hopi Land Commission Office and the Navajo Nation departments and offices to implement and carry out the terms outlined in the Dine' Relocatee Fund Policy.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Navajo-Hopi Land Commission at a duly called meeting at Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained on this 10th day of January, 2019.



Honorable Walter Phelps, Chairperson

Motion: Honorable Otto Tso
Second: Honorable Lee Jack, Sr.

DINÉ RELOCATEE FUND POLICY

I. HISTORY

The Navajo and Hopi Settlement Act of 1974, 25 U.S.C. §§ 640d *et seq.* ("Act") created the Navajo and Hopi Indian Relocation Commission, the predecessor to the Office of Navajo and Hopi Indian Relocation ("ONHIR"). The Act provided for a resolution to a number of matters involving the Navajo Nation ("Nation") and the Hopi Tribe.

In 1980, pursuant to P.L. 96-305, Congress amended the Act. These amendments, known as the Navajo and Hopi Indian Relocation Amendments Act of 1980, authorized the United States to transfer 250,000 acres of public lands and accept title to 150,000 acres of private lands acquired by the Nation to be held in trust for the Nation. 25 U.S.C. §640d-10(a). Through these Amendments Congress placed a number of conditions on the lands acquired pursuant to Section 640d-10:

"(h) Administration of lands transferred or acquired.

The lands transferred or acquired pursuant to this section shall be administered by the Commissioner until relocation under the Commission's plan is complete and such lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of December 22, 1974: Provided, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this subchapter shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this subchapter."

ONHIR, the successor of the Navajo and Hopi Indian Relocation Commission, is responsible for the Administration of lands transferred and acquired under 25 U.S.C. § 640d-10. Those Navajo residents who were living on the Hopi-Partitioned Lands on December 22, 1974, are known as "HPL Relocates" and are the beneficiaries. The Navajo Nation Council established the Navajo Hopi Land Commission ("NHLC") pursuant to 2 N.N.C. §§ 851 *et seq.* and authorized the NHLC to "[s]peak and act for the Navajo Nation with respect to the land selection and land exchange provisions of the P.L. 96-305."

Pursuant to Resolution No. NHLCJ-17-2000 the NHLC, selected lands for the purpose of economic development. The Nation and ONHIR have made selections of land for conveyance into trust pursuant to the Act. These selections include the Twin Arrows tract, Tse Bonito tract, Turquoise Ranch, Paragon, New Lands, and other lands to be acquired in the future.

In 2010, the Navajo Nation entered into a Memorandum of Agreement (MOA) in regards to the then proposed Twin Arrows Navajo Casino Resort ("TANCR"). The MOA included a provision that rental revenues from TANCR would be used to benefit HPL

Relocates. *Memorandum of Agreement between the Navajo Nation and the Office of Navajo and Hopi Indian Relocation for the Proposed Twin Arrows Development*. May, 2010 as modified August 11, 2010. This MOA authorized the Nation to administer and manage rental revenues upon the creation of a "Relocatee Benefit Entity" approved by the Nation and ONHIR. This Policy effectuates the intent of the MOA.

II. PURPOSE

1. The purpose of this Policy is to set forth the use of revenue generated from those lands taken into trust pursuant to the 25 USC §640d-10 and subsequent agreements. The Fund shall be used to benefit Navajo families residing on Hopi-Partitioned Lands (HPL) as of December 22, 1974.

2. Eligibility to receive monies from this Fund shall not affect any other benefits or funding an individual may be eligible to receive from other programs. This Fund shall supplement other benefits and shall not replace such benefits in any way.

III. ADMINISTRATION

1. The NHLCO shall administer the Fund in accordance with Navajo Nation and applicable Federal laws.

2. The NHLCO shall have staff and resources provided to it through the Navajo Nation budget process. The NHLCO shall monitor the expenditures of this Fund.

3. The Procedure Manual, and all subsequent amendments, will be developed by the NHLCO and approved by the NHLCO with the concurrence of ONHIR. All amendments to the Manual will be approved by the NHLCO with the concurrence of ONHIR. The Procedure Manual will include accountability procedures to ensure projects are inspected for quality and safety and financial accountability.

4. The NHLCO shall manage the Fund in the following manner:

a. Rental revenues, other payments and interest payments for these lands and interest earned on Fund balances and Fund investments shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of December 22, 1974.

b. Revenue generated shall be allocated as follows:

i. Fifty-Five percent (55%) of the Fund shall be allocated to housing.

ii. Twenty percent (20%) of the Fund shall be allocated for infrastructure

iii. Ten percent (10%) of the Fund shall be allocated to education.

iv. Ten percent (10%) of the Fund shall be allocated to NHLCO for administering the fund.

v. Five percent (5%) of the Fund shall be allocated to the Investments Committee of the Navajo Nation under the investment policies of the Nation.

c. Eligibility. A person or family eligible for assistance under this Fund as a Relocatee ("Beneficiary") must demonstrate their family resided on Hopi-Partitioned Land as of December 22, 1974.

d. Distribution. Eligible applicants may apply for funds for the following categories of activities.

i. Housing, which may include but is not limited to rehabilitation, repairs, renovation, roofing, weatherization, emergencies (burnouts), shelter assistance and any matching fund program that provides funds for such activities. Sweat equity, cash and other matching contributions will be encouraged. (Not more than one housing assistance grant shall be made to a family within ten years);

ii. Infrastructure, which may include but is not limited to water lines, telecommunications, powerline, septic system, solar system and roads.

iii. Education, which may include but is not limited to scholarships, immersion programs, and learning/educational materials.

iv. Investments, which may include, but are not limited to economic development, real estate, or other leverage/collateral programs.

5. Per Capita Payments - The Fund shall not distribute per capita payments.

IV. ACCOUNTING

1. The Office of the Controller shall deposit the rental or revenue payments into an account identified as the Diné Relocatee Fund. The Office of the Controller shall provide a balance sheet and income statement that accounts for the Fund revenues and expenditures to NHLC, NHLCO and ONHIR.

2. The day-to-day accounting shall be the responsibility of the NHLCO, in accordance with Generally Accepted Accounting Principles.

3. A financial report specific to the Fund will be provided to the NHLC and ONHIR on an annual basis, or as deemed necessary by either the NHLC or ONHIR.

4. The Auditor General of the Nation and/or an independent auditor shall ensure that appropriate monitoring and compliance controls are in place.

5. Audit requirements include:

a. The Office of the Controller shall include NHLCO and this Fund as part of its overall annual audit of the Navajo Nation Departments. An independent auditor may also audit NHLCO and this Fund.

b. Financial statements and statements of financial condition/position of the Fund will be provided by the Plan Administrator upon request by NHLC, with a copy to ONHIR.

6. Other Duties and Responsibilities of the NHLCO include:

a. Develop internal procedures and forms to implement this Policy.

b. Coordinate and direct all financial transactions regarding the Fund and ensure compliance with all applicable laws and regulations.

V. EFFECTIVE DATE

The Policy approved herein shall be effective upon final approval by the NHLC.

VI. GOVERNING LAW

This Fund is governed by Navajo Nation and applicable federal laws. In the event of any conflict between any Federal or Navajo Nation law and the provisions of 25 U.S.C. § 640d-10(h), the provisions of 25 U.S.C. § 640d-10(h) shall govern.

VII. AMENDMENTS

NHLC may amend this Policy as needed after ONHIR or other relevant federal oversight authority provides concurrence of the amendments.

FUND MANAGEMENT PLAN FOR THE DINÉ RELOCATEE FUND

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- 1008. Restrictions
- 1009. Compliance

DRAFT

1001. Establishment

There is hereby established a Fund Management Plan (“FMP”) for the Diné Relocatee Fund (“Fund”), for use by the Navajo-Hopi Land Commission (“NHLC”) and Navajo-Hopi Land Commission Office (“NHLCO”) in the management of the Fund. NHLC and NHLCO shall administer and manage the Fund pursuant to this FMP in keeping with all applicable federal and Navajo laws, and following recommendation of the FMP by the Naabik’iya’ti’ Committee, the NHLC, and the Budget and Finance Committee, which are standing committees and/or commissions of the Navajo Nation Council.

1002. Purpose

A. The Fund is established for the purpose of:

1. Receiving, depositing, collecting, holding, investing, and using any and all revenues, payments, or income collected or generated from land transferred to or acquired in trust for the Navajo Nation pursuant to the Navajo-Hopi Settlement Act, as amended, and located within the State of Arizona (“Arizona New Lands”).
2. Receiving, depositing, collecting, holding, investing, and using any monetary damages recovered from the United States, plus any interest on any judgment or settlement entered into with the United States to settle litigation in the United States Court of Federal Claims on behalf of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974 (collectively, the “Relocation Beneficiaries”).

B. The FMP is established for the purpose of ensuring that the funds collected from revenue or income from the Arizona New Lands are:

1. Expended only for the benefit of the Relocation Beneficiaries;
2. Promptly expended; and
3. Expended as provided by the NHLC in its Resolution NHLCJA-2-19 adopting the Diné Relocatee Fund Policy on January 10, 2019 and subsequently developed Administrative Policies and Procedures Manual approved by the NHLC and concurred to by the U.S. Office of Navajo and Hopi Indian Relocation (“ONHIR”);
4. Subject to monitoring and accounting, including auditing.

1003. Administration

A. Funding sources

1. Revenues and income generated from leases and other land uses of the Arizona New Lands, including but not limited to gaming and hospitality enterprises developed at Twin Arrows.
2. Any and all monetary damages recovered from the United States, plus any interest on any judgment or settlement entered into with the United States to settle the litigation pending in the United States Court of Federal Claims on behalf of the Relocation Beneficiaries.

B. Legislative Oversight

1. Revenues, income, or payments from leases or other land uses, or monetary damages recovered or settlement funds from the pending litigation which are received and deposited into the Fund shall be reported to the Naabik'iya'ti' Committee of the Navajo Nation Council, at the end of each fiscal quarter, by the Office of the Controller.
2. The Budget and Finance Committee of the Navajo Nation Council shall approve the budget for the Funds, and the approved budget shall be overseen by the NHLCO and managed and administered by the NHLCO.
3. All Fund expenditures shall be reported to the Naabik'ya'ti' Committee at the end of each fiscal quarter, by the NHLCO and the Office of the Controller.

C. Program Management

The NHLCO shall manage and administer the Fund pursuant to this FMP, the Resolution of the Navajo-Hopi Land Commission, NHLCO-2-19 adopted on January 10, 2019, and pursuant to the Administrative Policies and Procedures Manual to be developed by the NHLCO and approved by the NHLCO, with the concurrence of ONHIR and to govern the eligibility for disbursement from the Fund pursuant to this FMP. The NHLCO shall follow a budgeting process executed by Executive Branch internal review and approval processes to ensure expeditious and appropriate expenditure of the Fund for its intended purpose. This budgeting process is to be established by the Office of Management and Budget, in consultation with the Navajo Nation Department of Justice. Budget forms created following the budgeting process shall be presented to the Budget and Finance Committee for approval prior to the NHLCO expending funds.

1004. Fund Management

A. Fund Accounting

1. The Office of the Controller shall follow established policies and procedures for recording and depositing all monies into the Fund and accounting for the Fund in accordance with generally accepted accounting principles;

2. All records and accounts for the Fund shall be separately kept, including a separate Balance sheet(s) and Expenditure Statement(s);
3. The NHLCO shall account for all monies disbursed from the Fund, and such accounting shall be included in the NHLCO's fiscal quarterly report to the Naabik'iya'ti' Committee.

B. Eligible Expenditures

These funds shall be used solely for the benefit of Navajo families residing on the Hopi-partitioned lands as of December 22, 1974 and for the purposes described in the Resolution of the Navajo-Hopi Land Commission, NHLCJA-2-19 adopted on January 10, 2019, and pursuant to the Administrative Policies and Procedures Manual to be developed by the NHLCO, approved by the NHLC, and with the concurrence of ONHIR, for the following purposes:

1. Fifty-five percent (55%) to Housing repair and rehabilitation, renovation; weatherization, roofing, and emergencies such as burnouts; shelter assistance, and any matching fund program that provides funds for such activities.
2. Twenty percent (20%) to Infrastructure, including but not limited to water lines, telecommunications, powerlines, septic system, solar system, and roads;
3. Ten percent (10%) to Education;
4. Ten percent (10%) to NHLCO for administration of the Fund;
5. Five percent (5%) to Investment, to be allocated to the Investments Committee of the Navajo Nation under the investment policies of the Nation, and which may include, but are not limited to, economic development, real estate, or other leverage/collateral programs.

C. Funding Allocation Process

1. The NHLCO shall allocate monies from the Fund consistent with the general purposes for the Fund as provided by Section 11(h) of the Navajo-Hopi Settlement Act, as amended, and previously codified at 25 U.S.C. § 640d-10(h).
2. The NHLCO shall adhere to the NHLC's priorities for eligible expenditures as set forth in subsection B of this section.
3. The Fund shall not be used to fund meeting stipends, the NHLCO's payroll expenses, or other costs budgeted for in the Nation's annual comprehensive budget.
4. The Fund shall not distribute per capita payments.

1005. Governing Dates

A. Effective Date

This FMP for the Fund shall become effective upon establishment of the Fund by law and following recommendation of this FMP by the NHLCO and the Budget and Finance Committee.

B. Terminating Date

This FMP shall cease to have effect once the Fund has been fully expended, including full closeout of any agreements obligating funds from the Fund, and the Fund has been subject to a final annual audit.

1006. Audit Requirements

The Fund, until fully expended, shall be audited as part of an overall annual audit of the Navajo Nation government, by the Office of the Controller, and by any contracted independent auditor.

1007. Amendments

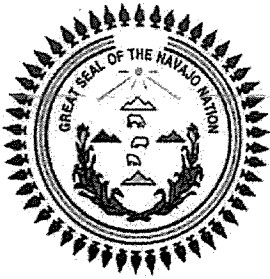
This FMP may be amended, as necessary, upon proposal by the NHLCO, and following recommendation of the NHLCO and approval by the Budget and Finance Committee.

1008. Restrictions

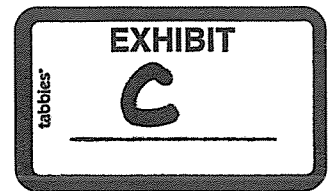
The Fund shall not be expended or allocated to uses other than those as provided by as provided by 11(h) of the Navajo-Hopi Settlement Act, as amended, and previously codified at 25 U.S.C. § 640d-10(h), and by Resolution of the Navajo-Hopi Land Commission, NHLCO-2-19 adopted on January 10, 2019, and pursuant to the Administrative Policies and Procedures Manual to be developed by the NHLCO, approved by the NHLCO, and with the concurrence of ONHIR.

1009. Compliance

Use and management of the Fund shall comply with applicable federal law and with all Navajo Nation laws, including but not limited to the Navajo Nation Procurement Act, Navajo Business Opportunity Act, and the Navajo Nation Ethics in Government Law.



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL



DOREEN N. MCPAUL
Attorney General

KIMBERLY A. DUTCHER
Deputy Attorney General

MEMORANDUM

TO: Dana L. Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

FROM: *Doreen N. McPaul*
Doreen N. McPaul, Attorney General
Navajo Nation Department of Justice

DATE: January 11, 2022

SUBJECT: **Exhibit C for Doc. OLC No. 21-533-1 Proposed Legislation to establish Dine' Relocatee Fund**

Generally, exhibits to legislation are posted online for public view. However, pursuant to 2 N.N.C. §164(A)(6), "[a]ny matters or exhibits determined by the Navajo Nation Department of Justice to be confidential shall be properly marked as 'confidential' and shall not be placed on the website or otherwise released." Exhibit C to the above-referenced legislation is attorney-client privileged information which DOJ deems confidential. As such, Exhibit C should be kept from public view. Under 2 N.N.C. §164 (G), only the Attorney General is authorized to waive the confidential and attorney-client privileged communication. Since these exhibits contain such sensitive information, the Attorney General maintains the confidentiality of these documents.

If you have any questions concerning this memorandum, please contact the Office of the Attorney General office at (928) 871-6345. Thank you.

NAVAJO NATION

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Navajo Nation Council 2022 Winter Session

1/27/2022
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	Amd# to Amd#	Legislation 0006-22:Establishing	
MOT Tso, D		the Dine Relocatee Fund	PASSED
SEC Walker, T			

Yeas : 21

Nays : 0

Excused : 1

Not Voting : 1

Yea : 21

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

Nay : 0

Excused : 1

Slater, C

Not Voting : 1

Henio, J

Presiding Speaker: Damon