LEGISLATION NO: _0055-21_  

SPONSOR: Carl Slater

TITLE: An Act Relating to Resources and Development, Budget and Finance, and Naabik’íyáti’ Committees, and the Navajo Nation Council; Allocating $833,333.00 in Síhasin Funds to the Navajo Division of Transportation for the Route 8070 Road Improvement Project; Approving and Adopting the Route 8070 Road Improvement Project Expenditure Plan Pursuant to 12 N.N.C §§ 2501 - 2508

Date posted: March 25, 2021 at 7:50PM

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

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DATE: March 25, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING $833,333.00 IN SÍHASÍN FUNDS TO THE NAVAJO DIVISION OF TRANSPORATION FOR THE ROUTE 8070 ROAD IMPROVEMENT PROJECT; APPROVING AND ADOPTING THE ROUTE 8070 ROAD IMPROVEMENT PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

PURPOSE: The purpose of this resolution is for the Navajo Nation to allocate $833,333.00 in Síhasin funds to the Navajo Division of Transportation for the Route 8070 Road Improvement Project.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

[Signature]

(Prime Sponsor)

TRACKING NO. 0055-21

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK’ÍYÁTI’ COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING $833,333.00 IN SÍHASIN FUNDS TO THE NAVAJO DIVISION OF TRANSPORATION FOR THE ROUTE 8070 ROAD IMPROVEMENT PROJECT; APPROVING AND ADOPTING THE ROUTE 8070 ROAD IMPROVEMENT PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee is the oversight committee for the Navajo Nation Division of Transportation. 2 N.N.C. §501 (C)(1).

B. The Budget and Finance Committee is empowered to “appropriate, allocate, cancel, re-appropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources. 2 N.N.C. § 301(B)(3).

C. The Naabik’íyáti’ Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
E. The Navajo Nation Code, at 12 N.N.C. § 2502, as amended by CJA-03-18, provides the purpose of the Navajo Nation Sihasin Fund ("Sihasin Fund") is 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; and

2. Education opportunities for members of the Navajo Nation.

B. For the Purpose in § 2502(A)(1), Fund expenditures for infrastructure shall not be limited by 12 NNC § 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.

F. The Sihasin Fund provides 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. 12 N.N.C. §§ 2504 and 2505 (C).

G. The Sihasin 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 Route 8070 Road Improvement Project ("Project") is a $1,495,960 project, as
detailed in the Project Abstract provided by the Navajo Division of Transportation,
attached as Exhibit A.

B. The Rock Point Chapter originally applied for Sihasin funds on March 8, 2018,
requesting the total amount of $1,495,960 for the Project. The Rock Point Chapter’s
application for services and proposal for the Project are attached as Exhibit B.

C. On April 17, 2018 the Navajo Nation Council adopted Resolution No. CAP-35-18,
approving $833,333.00 in Sihasin funding for the Project. The Project was designated
Project No. D-42 in Exhibit D to Resolution No. CAP-35-18, as shown in the attached
Exhibit C. Resolution No. CAP-35-18 is incorporated herein by reference.

D. On May 7, 2018 Navajo Nation President Russell Begaye line-item vetoed Project No.
D-42, thereby negating the Council’s approval of $833,333.00 in Sihasin funds for the
Project. Exhibit D.

E. On February 9, 2021, the Rock Point Chapter adopted Resolution No. RPC-2021-09,
requesting that the Navajo Nation restore the $833,333.00 in Sihasin funding for the
Project. Exhibit E.

F. In Resolution No. RPC-2018-17, dated April 16, 2018, the Rock Point Chapter
approved an allocation of $30,000 in Chapter funds for environmental assessment work
for the Project. Exhibit F. As of March 23, 2021, the $30,000 amount remains in the
appropriate Chapter account, for expenditure on this Project. Exhibit G.

G. The Rock Point Community School, the Rock Point Senior Center, the Navajo
Lutheran Mission, and the Red Mesa Unified School District No. 27, all have indicated
their support for the Project. Exhibit H.

H. The Navajo Division of Transportation ("NDOT") will complete the design plans,
environmental clearances, permitting, and construction procurement for the Project.
NDOT will also provide construction management for the Project.

I. The allocation of the $833,333.00 for this Project meets the criteria for Sihasin
expenditures because this Project involves "infrastructure" such as "transportation" as
mentioned in 12 N.N.C. § 2502(A)(1).
J. The allocation of the $833,333.00 for this Project meets the preference for leveraging Sihasin funds, as mentioned in 12 N.N.C. § 2502(C), because $30,000 in Chapter funds have been allocated for this Project.

SECTION THREE. APPROVAL AND ADOPTION OF EXPENDITURE PLAN

A. The Navajo Nation hereby approves and adopts the Route 8070 Road Improvement Project Expenditure Plan, as shown in Exhibit A.

B. The Navajo Nation hereby approves and adopts funding for the Route 8070 Road Improvement Project Expenditure Plan in the amount of $833,333.00 from the Navajo Nation Sihasin Fund, in accordance with 12 N.N.C. § 2505(A).

C. The Sihasin Funds allocated for the Route 8070 Road Improvement Project Expenditure Plan 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 Sihasin Fund earnings for repayment and financing costs upon the recommendation of the Budget and 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

The Navajo Nation Council hereby approves administration of the Route 8070 Road Improvement Project Expenditure Plan as follows:

A. The Navajo Nation Controller shall determine whether the source of the annual allocations from the total allocation of $833,333.00 will be Sihasin Fund Principal or Income or a combination of both.

B. The Sihasin funding for the Route 8070 Road Improvement Project will be distributed to the Navajo Division of Transportation within ten (10) days after the effective date of this legislation. The Navajo Division of Transportation shall be responsible for administering the Project, in accordance with the Route 8070 Road Improvement Project Expenditure Plan described in Exhibit A.
C. The Sihasin funds allocated for the Route 8070 Road Improvement Project shall be used solely to design, plan, and/or construct the Project as described in Exhibit A. Any and all cost-savings shall be returned to the Sihasin Fund once the project is completed.

D. The funds allocated for the Project shall not lapse on an annual basis pursuant to 12 N.N.C. §820(N), however, any funds not spent or encumbered within thirty-six (36) months of the date funds are made available to the Navajo Division of Transportation shall revert to the Sihasin Fund principal, unless recommended otherwise by the Resources and Development Committee of the Navajo Nation Council and approved by the Naabik’íyáti’ Committee.

E. The Project shall be carried out by the Navajo Division of Transportation, and maintenance and repairs for the Project shall be performed by the Bureau of Indian Affairs and/or the Navajo Division of Transportation.

SECTION FIVE. DIRECTIVES
The Navajo Division of Transportation shall report the status of the Route 8070 Road Improvement Project to the Resources and Development Committee, and to the Naabik’íyáti’ Committee, on a quarterly basis.

SECTION SIX. EFFECTIVE DATE
This legislation and the Route 8070 Road Improvement Project Expenditure Plan, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505.

SECTION SEVEN. SAVING CLAUSE
Should any provision(s) of this Act 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.