

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0065-21_

SPONSOR: Paul Begay

TITLE: An Action Relating to Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and the Navajo Nation Council; Allocating \$58,225,000 in Síhasin Funds to the Navajo Nation Water Management Branch for the Western Navajo Pipeline Phase I project; Approving and Adopting the Western Navajo Pipeline Phase I Project Expenditure Plan Pursuant to 12 N.N.C §§ 2501 – 2508

Date posted: April 6, 2021 at 2:32PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0065-21

DATE: April 6, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING \$58,225,000 IN SÍHASIN FUNDS TO THE NAVAJO NATION WATER MANAGEMENT BRANCH FOR THE WESTERN NAVAJO PIPELINE PHASE 1 PROJECT; APPROVING AND ADOPTING THE WESTERN NAVAJO PIPELINE PHASE 1 PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

PURPOSE: The purpose of this resolution is for the Navajo Nation to allocate \$58,225,000 in Sihasin Funds to the Navajo Nation Water Management Branch for the Western Navajo Pipeline Phase 1 Project (in the Antelope Canyon Development Area), and to approve the Project Expenditure Plan.

5-DAY BILL HOLD PERIOD: Variances
Website Posting Time/Date: _____
Posting End Date: April 11, 2021
Eligible for Action: April 12, 2021

Resources & Development Committee
Thence
Budget & Finance Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL – Third Year, 2021

3 INTRODUCED BY

4 
5 _____
6 (Prime Sponsor)

7
8 TRACKING NO. 0005-21

9
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE,
12 AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL;
13 ALLOCATING \$58,225,000 IN SÍHASIN FUNDS TO THE NAVAJO NATION WATER
14 MANAGEMENT BRANCH FOR THE WESTERN NAVAJO PIPELINE PHASE 1
15 PROJECT; APPROVING AND ADOPTING THE WESTERN NAVAJO PIPELINE
16 PHASE 1 PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

17
18 BE IT ENACTED:

19
20 SECTION ONE. AUTHORITY

- 21 A. The Resources and Development Committee is empowered to exercise oversight of
22 matters involving water, land, environment, economic and community development, and
23 public utilities, among others. 2 N.N.C. §500(C).
- 24 B. The Budget and Finance Committee is empowered to “appropriate, allocate, cancel, re-
25 appropriate and review the use of Navajo Nation funds received including but not limited
26 to all grants, contracts, gifts and other funds from all sources.” 2 N.N.C. § 301(B)(3).
- 27 C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council with
28 the responsibility to hear proposed resolution(s) that require final action by the Navajo
29 Nation Council. 2 N.N.C. § 164(A)(9).
- 30

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

3 E. The Navajo Nation Code (at 12 N.N.C. § 2502, as amended by CJA-03-18) provides that
4 the purpose of the Navajo Nation Síhasin Fund (“Síhasin Fund”) is as follows:

5 § 2502 Purpose

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

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

- 13 2. Education opportunities for members of the Navajo Nation.

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

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

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

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

1 **SECTION TWO. FINDINGS**

2 A. The Western Navajo Pipeline Phase 1 Project (“Project”) is a \$84,265,000 project planned
3 for the Antelope Canyon Development Area, as detailed in the ten separate Project
4 Descriptions attached as **Exhibit A**.

5 B. As shown in **Exhibit A**, a portion of the funds necessary for the Project, the total amount
6 of \$26,040,000, has been approved as follows:

7 \$3,000,000 in prior Sihasin funding;

8 \$21,309,000 from the Permanent Trust Fund;

9 \$1,500,000 from the Navajo Nation Parks and Recreation Department;

10 \$150,000 from the Bureau of Indian Affairs (documents attached as **Exhibit B**).

11 C. Because the Project is estimated to cost \$84,265,000 in total, the amount of \$58,225,000
12 is needed to complete the Project, as shown in **Exhibit A**.

13 D. The Navajo Nation Water Management Branch (“NNWMB”) will perform or provide
14 planning and design, engineering and technical services, construction work, and overall
15 project management for the Project. The Navajo Tribal Utility Authority (“NTUA”) will
16 perform operation and maintenance for the Project. The cooperation on this Project
17 between NNWMB and NTUA will be governed by a Memorandum of Agreement, to be
18 approved by both entities. A draft of the MOA between NNWMB and NTUA is attached
19 as **Exhibit C**.

20 E. The allocation of the \$58,225,000 for this Project meets the statutory criteria for Sihasin
21 expenditures because this Project involves “infrastructure supporting economic
22 development and community development” and “waterline” projects, as mentioned in 12
23 N.N.C. § 2502(A)(1).

24 F. The allocation of the \$58,225,000 for this Project meets the statutory preference for
25 leveraging Sihasin funds, as mentioned in 12 N.N.C. § 2502(C), because \$26,040,000
26 from other funding sources has been approved or designated for this Project.

1 **SECTION THREE. APPROVAL OF SÍHASIN FUNDING AND ADOPTION OF**
2 **EXPENDITURE PLAN**

3 A. The Navajo Nation hereby approves and adopts funding for the Western Navajo Pipeline
4 Phase 1 Project Expenditure Plan in the amount of \$58,225,000 from the Navajo Nation
5 Síhasin Fund, in accordance with 12 N.N.C. § 2505(A).

6 B. The Navajo Nation hereby approves and adopts the Western Navajo Pipeline Phase 1
7 Project Expenditure Plan, attached as **Exhibit A**.

8 C. The Síhasin Funds allocated for the Western Navajo Pipeline Phase 1 Project Expenditure
9 Plan may be further leveraged by bond or loan financing pursuant to the Navajo Nation
10 Bond Financing Act, 12 N.N.C. § 1300 *et seq.*, as amended, using Síhasin Fund earnings
11 for repayment and financing costs upon the recommendation of the Budget and Finance
12 Committee and approval by a two-thirds (2/3) vote of all members of the Navajo Nation
13 Council.

14
15 **SECTION FOUR. APPROVAL AND ADOPTION OF EXPENDITURE PLAN**
16 **ADMINISTRATION**

17 The Navajo Nation Council hereby approves administration of the Western Navajo Pipeline
18 Phase 1 Project Expenditure Plan as follows:

19 A. The Navajo Nation Controller shall determine whether the source of the annual allocations
20 from the total allocation of \$58,225,000 will be Síhasin Fund Principal or Income or a
21 combination of both.

22 B. The Síhasin funding for the Western Navajo Pipeline Phase 1 Project will be distributed
23 to the Navajo Nation Water Management Branch within ten (10) days after the effective
24 date of this legislation. The NNWMB shall be responsible for carrying out the Project, in
25 accordance with the Western Navajo Pipeline Phase 1 Project described in **Exhibit A**.

26 C. The Síhasin funds allocated for the Western Navajo Pipeline Phase 1 Project shall be used
27 solely to design, plan, and/or construct the Western Navajo Pipeline Phase 1 Project
28 described in **Exhibit A**. Any and all cost-savings shall be returned to the Síhasin Fund
29 once the project is completed.

1 D. The funds allocated for the Western Navajo Pipeline Phase 1 Project shall not lapse on an
2 annual basis pursuant to 12 N.N.C. §820(N), however, any funds not spent or encumbered
3 within thirty-six (36) months of the date funds are made available to the NNWMB shall
4 revert to the Síhasin Fund principal, unless otherwise recommended by the Resources and
5 Development Committee of the Navajo Nation Council and approved by the Naabik'íyáti'
6 Committee.

7 E. The Western Navajo Pipeline Phase 1 Project shall be constructed by the NNWMB, and
8 operation, maintenance and repairs for the Project shall be performed by the NTUA.

9
10 **SECTION FIVE. DIRECTIVES**

11 The Navajo Nation Water Management Branch shall report the status of the Western Navajo
12 Pipeline Phase 1 Project to the Resources and Development Committee, and to the
13 Naabik'íyáti' Committee, on a quarterly basis.

14
15 **SECTION SIX. EFFECTIVE DATE**

16 This legislation and the Western Navajo Pipeline Phase 1 Project Expenditure Plan, as set
17 forth above, shall become effective pursuant to 12 N.N.C. § 2505.

18
19 **SECTION SEVEN. SAVING CLAUSE**

20 Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme
21 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation
22 Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.