LEGISLATION NO: _0105-21_  SPONSOR: Jamie Henio

TITLE: An Action Relating to the Resources and Development, Budget and Finance, and Naabik’íyáti’ Committees, and to the Navajo Nation Council; Appropriating $529,850.00 in Síhasin Funds to the Commission on Navajo Government Development for the Nahata’ Hogan and Leadership Building; Approving the Nahata’ Hogan and Leadership Building Expenditure Plan Pursuant to 12 N.N.C. §2501 – §2508

Date posted: __June 30, 2021 at 1:33PM__

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DATE: June 30, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROPRIATING $529,850.00 IN SIHASIN FUNDS TO THE COMMISSION ON NAVAJO GOVERNMENT DEVELOPMENT FOR THE NAHATA' HOGAN AND LEADERSHIP BUILDING; APPROVING THE NAHATA' HOGAN AND LEADERSHIP BUILDING EXPENDITURE PLAN PURSUANT TO 12 N.N.C §2501 – §2508

PURPOSE: The purpose of this legislation is to appropriate $529,850.00 in Sihasin Funds to the Commission on Navajo Government Development for the construction of their planned Nahata' Hogan and Leadership Building.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0105-21

AN ACTION
RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK’IYÁTI’ COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROPRIATING $529,850.00 IN SÍHASIN FUNDS TO THE COMMISSION ON NAVAJO GOVERNMENT DEVELOPMENT FOR THE NAHATA’ HOGAN AND LEADERSHIP BUILDING;
APPROVING THE NAHATA’ HOGAN AND LEADERSHIP BUILDING EXPENDITURE PLAN PURSUANT TO 12 N.N.C §2501 – §2508

BE IT ENACTED:

SECTION 1. AUTHORITY
A. The Resources and Development Committee is a standing committee of the Navajo Nation Council and is empowered to “review the operations of the Navajo Nation enterprises” including the Navajo Engineering and Construction Authority. 2 N.N.C. §501(B)(4)(e).
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’iyáti’ 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). In addition, the Naabik’iyáti’ Committee serves as

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the oversight Committee for the Commission on Navajo Government Development, pursuant to 2 N.N.C. §970.

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

E. The Navajo Nation Code establishes the purpose of the Navajo Nation Sihasin Fund ("Sihasin 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; and

2. Education opportunities for members of the Navajo Nation.

B. For the purpose described in §2502(A)(1), Sihasin Fund expenditures for infrastructure shall not be limited by 12 N.N.C. §1310(F) or Resolution No. TCDCIJY-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.

12 N.N.C. §2502, as amended by Resolution No. CJA-03-18.

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 II. FINDINGS

A. The Commission on Navajo Government Development (hereinafter “Commission”) is a special entity created by the Navajo Nation Council, with quasi-independent authority to accomplish the Navajo People’s goals of implementing certain Navajo Nation government reforms. Resolution Nos. CD-68-89 and CO-80-20.

B. With Resolution No. CNGD-1204-17 and No. CNGD-0501-21, the Commission has formally planned its Nahata’ Hogan and Leadership Building (“Hogan Project”) and is requesting five-hundred twenty-nine-thousand eight-hundred-fifty dollars ($529,850) in Sihasin funding for construction of the Project. See Exhibits 1 and 2.

C. The Commission has prepared and submitted a detailed funding request and description of the Hogan Project, attached hereto as Sub-Exhibits A, B, and C.

D. The Commission has submitted a history of its planning activities regarding the Hogan Project, and also a Project timeline, attached as Sub-Exhibit B.

E. The Project’s floor plan, photographs, and drawings, prepared by the Navajo Engineering and Construction Authority (“NECA”), are attached as Sub-Exhibit C.

F. A detailed cost breakdown for the Hogan Project, prepared by NECA, can be found on page 11 of Sub-Exhibit C.

G. The Navajo Nation’s Heritage and Historic Preservation Department has determined that there are “no significant cultural resources in the proposed 1.0 acre” proposed site for the Hogan Project. Exhibit 3.

H. The allocation of the $529,850 for the Commission’s Hogan Project meets the criteria for Sihasin expenditures because this Project involves “infrastructure” and “community development” such as “commercial and government buildings” as mentioned in 12 N.N.C. §2502(A)(1).

SECTION III. APPROPRIATION OF SIHASIN FUNDS AND APPROVAL OF PROJECT EXPENDITURE PLAN

A. The Navajo Nation hereby appropriates funding for the Nahata’ Hogan and Leadership Building Project, as proposed and planned by the Commission on Navajo Government Development, in the amount of $529,850 from the Navajo Nation Sihasin Fund, in
accordance with 12 N.N.C. §2505(A).

B. The Navajo Nation hereby approves the Nahata’ Hogan and Leadership Building Project Expenditure Plan, attached as Sub-Exhibit C, particularly the line-item cost breakdown for the Project, as shown on page 11 of Sub-Exhibit C.

C. The Sihasin Funds allocated for the Nahata’ Hogan and Leadership Building Project may be further leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing Act, at 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 IV. APPROVAL OF EXPENDITURE PLAN ADMINISTRATION

The Navajo Nation Council hereby approves the administration of the Expenditure Plan for the Nahata’ Hogan and Leadership Building Project, as follows:

A. The Navajo Nation Controller shall determine whether the source of the annual allocations from the total allocation of $529,850 will be Sihasin Fund Principal or Income or a combination of both.

B. The $529,850 in Sihasin funds shall be distributed to the Commission on Navajo Government Development within ten (10) days after the effective date of this legislation. The Commission shall be responsible for implementing and administering the Hogan Project, in accordance with the Expenditure Plan attached as Sub-Exhibit C. The Commission shall make all reasonable efforts to adhere to the line-item cost breakdown for the Project, as shown on page 11 of Sub-Exhibit C.

C. The $529,850 in Sihasin funds shall be used solely for design, planning, construction, furniture and equipment purchases, and infrastructure facilities, for the Hogan Project, as described in Sub-Exhibits A, B, and C. Any and all cost-savings shall be returned to the Sihasin Fund once the Hogan Project is completed.

D. The $529,850 in Sihasin funds shall not lapse on an annual basis pursuant to 12 N.N.C. §820(N); however, any funds not spent or encumbered within twenty-four (24) months of the date funds are made available to the Commission shall revert to the Sihasin Fund.
principal, unless otherwise recommended by the Budget and Finance Committee and approved by the Naabik’iyáti’ Committee.

E. The Síhasin Fund shall be reimbursed, in the amount of the expenditure authorized in this legislation, from prospective funds available to the Navajo Nation from any and all appropriate state and federal sources, including Congressional appropriations under the American Rescue Plan Act of 2021 or other COVID-19 related relief.

F. The Nahata’ Hogan and Leadership Building Project shall be operated and managed by the Commission, and maintenance and repairs for the Project shall be the responsibility of the Commission.

SECTION V. DIRECTIVES
The Commission shall report the status of the Hogan Project to the Budget and Finance Committee, and to the Naabik’iyáti’ Committee, on a quarterly basis.

SECTION VI. EFFECTIVE DATE
This legislation and the Expenditure Plan approved herein shall become effective pursuant to 12 N.N.C. §2505.

SECTION VII. SAVINGS CLAUSE
If any provision of this Act is determined invalid by the Supreme Court of the Navajo Nation, or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, all provisions not determined invalid shall remain as Navajo Nation law.