LEGISLATION NO: _0209-21_  SPONSOR: Amber Kanazbah Crotty

TITLE: An Action Relating to the Budget and Finance, Resources and Development, and Naabik’íyáti’ Committees, and the Navajo Nation Council; Allocating $68,025,000 in Síhasin Funds for the Navajo Nation Department of Water Resources to Complete Twelve (12) Water Connection Projects Across the Navajo Nation; and Approving the “2021 Water Connection Projects Expenditure Plan” Pursuant to 12 N.N.C §§2501-2508

Date posted: October 06, 2021 at 5:05 PM

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DATE: October 5, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO THE BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING $68,025,000 IN SÍHASÍN FUNDS FOR THE NAVAJO NATION DEPARTMENT OF WATER RESOURCES TO COMPLETE TWELVE (12) WATER CONNECTION PROJECTS ACROSS THE NAVAJO NATION; AND APPROVING THE “2021 WATER CONNECTION PROJECTS EXPENDITURE PLAN” PURSUANT TO 12 N.N.C §§2501 – 2508

PURPOSE: This resolution, if approved, will allocate $68,025,000 in Sihasín Funds to the Department of Water Resources to complete 12 water connection projects.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021
INTRODUCED BY

(Prime Sponsor)

AN ACTION
RELATING TO THE BUDGET AND FINANCE, RESOURCES AND
DEVELOPMENT, AND NAABIK’IYÁTI’ COMMITTEES, AND THE NAVAJO
NATION COUNCIL; ALLOCATING $68,025,000 IN SÍHASIN FUNDS FOR THE
NAVAJO NATION DEPARTMENT OF WATER RESOURCES TO COMPLETE
TWELVE (12) WATER CONNECTION PROJECTS ACROSS THE NAVAJO
NATION; AND APPROVING THE “2021 WATER CONNECTION PROJECTS
EXPENDITURE PLAN” PURSUANT TO 12 N.N.C §§2501 – 2508
BE IT ENACTED:

SECTION ONE. AUTHORITY
A. The Budget and Finance Committee is a standing committee of the Navajo Nation Council
with the responsibility 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 is a standing committee of the Navajo Nation
Council with the authority to oversee all matters involving water, land, the environment,
community development, and public utilities. 2 N.N.C. §500(C).
C. The Naabik’iýáti’ 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).
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 Resolution No. CJA-03-18) provides that 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; . . .
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.
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 Sihasin 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).
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 Navajo Nation Department of Water Resources is requesting funding assistance of sixty-eight million, and twenty-five thousand dollars ($68,025,000) from the Sihasin Fund
for twelve (12) water connection projects throughout the Navajo Nation. Summary project information is provided in the project list attached as Exhibit A. The list of water connection projects are as follows:

1. Sanostee Connection Phase 1
2. Rock Ridge/Mitten Rock (Sanostee) Connection Phase 2
3. Newcomb Connection Phase 1
4. Two Grey Hills Connection Phase 2
5. Sheep Springs Connection Phase 1
6. Narbona Pass (Sheep Springs) Connection Phase 2
7. Naschitti Connection
8. Tohatchi Connection Phase 1
9. Mexican Springs Connection 2
10. Rock Springs/Tsayatoh Connection
11. Standing Rock Connection
12. Tohajiilee – Albuquerque Project and 10-year Assistance

B. The water connection projects will provide much needed water to the Navajo Chapters and communities and are in the best interest of the Navajo Nation.

SECTION THREE. ALLOCATION OF SÍHASIN FUNDING AND APPROVAL OF EXPENDITURE PLAN

A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby allocates $68,025,000 in Síhasin funds for the twelve (12) water connection projects as explained and proposed herein.

B. The Navajo Nation hereby approves the “2021 Water Connection Expenditure Plan” attached hereto as Exhibit B.

C. The Síhasin Funds allocated for the “2021 Water Connection 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 Síhasin Fund earnings for repayment and financing costs, upon approval of the Budget and Finance Committee and further approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.
SECTION FOUR. APPROVAL OF EXPENDITURE PLAN ADMINISTRATION

The Navajo Nation hereby approves the implementation and administration of the "2021 Water Connection Projects Expenditure Plan" with certain provisos and restrictions, as follows:

A. The Navajo Nation Controller shall determine whether the source of the annual allocations for the total amount of $68,025,000 approved herein will be Sihasin Fund Principal or Sihasin Fund Income, or a combination of both.

B. The Sihasin funding for the "2021 Water Connection Projects Expenditure Plan" shall be disbursed to the Navajo Nation Division of Natural Resources, Department of Water Resources ("DWR") within thirty (30) days after the effective date of this legislation. The DWR shall then disburse the Sihasin Funds according to specific drawdown requests and instructions submitted to DWR.

C. DWR shall be responsible for carrying out and implementing its proposed twelve (12) water connection projects, in accordance with its Expenditure Plan approved herein. The Sihasin funding shall be used solely to design, plan, construct, install, or purchase equipment for the twelve (12) water connections projects, as described in Exhibit B, attached hereto.

D. Any and all savings of funds shall be returned to the Sihasin Fund Principal once all twelve (12) water connection projects have been completed or upon the reversion deadline in Section 4(E) below.

E. The Sihasin funding allocated for the twelve (12) water connection projects shall not lapse on an annual basis pursuant to 12 N.N.C. §820(N); however, any Sihasin funds not spent or encumbered within thirty-six (36) months of the date that funds are provided to DWR shall revert to the Sihasin Fund Principal, unless otherwise approved by both the Resources and Development and the Naabik'iyáti' Committees of the Navajo Nation Council.

F. The twelve (12) water connection projects shall be designed, planned, constructed, installed, or purchased by DWR, and continuously thereafter the operation, maintenance, and repairs for the twelve (12) water connection projects shall be performed by DWR, except for certain equipment that will become the property and responsibility of the homeowner once construction or installation is completed.

G. A utility right-of-way may be necessary for some of the twelve (12) water connection
In such cases, the applicable responsible party will apply for and hold the right-of-way, which will be granted by the Navajo Nation in accordance with all applicable laws and regulations pertaining thereto.

SECTION FIVE. DIRECTIVES

A. At least once per Navajo Nation Fiscal Year quarter, DWR in cooperation with the Navajo Nation Division of Natural Resources (DNR) shall provide a written report (with an oral presentation, if requested) to both the Resources and Development and Naabik’íyáti’ Committees, explaining the current status of all activities pursuant to the “2021 Water Connection Projects Expenditure Plan” and the responsibilities of DWR and DNR as authorized and directed in this legislation.

B. The Sihasin Fund shall be reimbursed, in the $68,025,000 amount allocated in this legislation, from prospective funds available to the Navajo Nation from any and all state and federal sources, including Congressional appropriations under the American Rescue Plan Act of 2021, other COVID-19 related relief and other applicable federal laws or appropriations.

SECTION SIX. EFFECTIVE DATE

This legislation and the “2021 Water Connection Projects Expenditure Plan” approved herein shall become effective pursuant to 12 N.N.C. §2505.

SECTION SEVEN. SAVINGS CLAUSE

If any provision of this legislation is determined invalid 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 legislation shall remain valid as the law of the Navajo Nation.