

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0067-22_

SPONSOR: Wilson Stewart, Jr.

TITLE: An Act Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Allocating \$4,100,000 from the Síhasin Fund for a Proposed Apartment/Multipurpose Complex in Navajo, New Mexico; Approving the Related Expenditure Plan Pursuant to 12 N.N.C. § 2501 - § 2508

Date posted: March 30, 2022 at 6:46PM

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0067-22

Date: March 29, 2022

Re: AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; ALLOCATING \$4,100,000 FROM THE SÍHASIN FUND FOR A PROPOSED APARTMENT/MULTIPURPOSE COMPLEX IN NAVAJO, NEW MEXICO; APPROVING THE RELATED EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508

Purpose of this Legislation:

to allocate \$4,100,000 from the Síhasin Fund to the Navajo Township Community Development Corporation for planning, design, and construction of a proposed 25-unit multi-family apartment/multipurpose complex to be built in Navajo, New Mexico in the Red Lake Chapter.

OLC No. 22-078-1

5-DAY BILL HOLD PERIOD: Johnson

Website Posting Time/Date: _____

Posting End Date: 04-04-22

Eligible for Action: 04-05-22

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL - Fourth Year, 2022

Introduced by:

WC Stewart Jr
(Prime Sponsor)

Tracking No. 0067-22

AN ACT

RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET
AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO
THE NAVAJO NATION COUNCIL; ALLOCATING \$4,100,000 FROM
THE SÍHASIN FUND FOR A PROPOSED APARTMENT/MULTIPURPOSE
COMPLEX IN NAVAJO, NEW MEXICO; APPROVING THE RELATED
EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee is a standing committee of the Navajo Nation Council empowered with oversight authority over all 110 Navajo Nation Chapters. 2 N.N.C. §500(C); 26 N.N.C. §102.

B. 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).

C. The Naabik'iyáti' 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).

As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.

1 E. 12 N.N.C. §2502, as amended by CJA-03-18, states the purpose of the Navajo Nation Síhasin
2 Fund (“Síhasin Fund”) as follows:

3 §2502 Purpose

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

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

11 . . .

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

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

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

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

27
28 **SECTION TWO. FINDINGS**

29 A. The Navajo Townsite Community Development Corporation (“NTC”) is a nonprofit
30 corporation duly established in 1989 under the laws of the Navajo Nation. **EXHIBIT A.**

1 NTC received a Certificate of Good Standing under the Navajo Nation Corporation Code on
2 December 7, 2021. **EXHIBIT B.** The U.S. Internal Revenue Service has verified that NTC
3 is exempt from federal income tax under 26 U.S.C. §501(c)(3). **EXHIBIT C.**

4 B. NTC holds Lease No. FD-99-702 located in Navajo, New Mexico, comprising 14.969 acres
5 in “Tract B,” approximately 3 acres of which contain existing utility infrastructure. A copy
6 of Navajo Nation Council Resolution No. CD-112-98 that approved Lease No. FD-99-702,
7 as well as a copy of the Lease, is attached hereto as **EXHIBIT D.**

8 C. NTC’s purposes, among others, is to address the problems of the Navajo and Red Lake
9 communities by seeking out and implementing housing initiatives for area families.
10 Consistent with its goals, NTC is requesting \$4,100,000 in Síhasin funds for the construction
11 of a 25-unit multi-family apartment/multipurpose complex (the “Project”) that will be built
12 on the undeveloped 3+ acres within Tract B of NTC’s Lease No. FD-99-702. **EXHIBIT E.**

13 D. NTC has prepared a Project Summary, attached hereto as **EXHIBIT F.** NTC explains that
14 its proposed Project will provide modern, safe, and affordable housing to families in the
15 Navajo and Red Lake communities.

16 E. NTC has prepared a comprehensive Project white paper, titled “Red Clay Hill Multi-Family,
17 Mixed-Income Housing Complex and the Demolition of Blighted Housing Units within the
18 Community of Navajo, New Mexico.” This paper provides detailed information regarding
19 the housing issues within the Navajo and Red Lake communities, and shows the Project’s
20 proposed budget and planned expenditures. **EXHIBIT G.**

21 F. The Red Lake Chapter, in Resolution No. RLC-01-22-01, has indicated its full support for
22 the Project and for NTC’s Síhasin funding request. **EXHIBIT H.**

23 G. Allocation of the requested \$4,100,000 from the Síhasin Fund meets the criteria for Síhasin
24 expenditures because the proposed expenditures by NTC are for “housing” and “community
25 development” as described in 12 N.N.C. §2502(A)(1).

26 H. Given the dire need for housing in the Navajo and Red Lake communities, the Navajo Nation
27 finds that providing the \$4,100,000 in Síhasin Funds for NTC’s proposed housing Project is
28 in the best interest of the Navajo Nation and the Navajo People.

29
30

1 **SECTION THREE. ALLOCATING \$4,100,000 IN SÍHASIN FUNDS FOR THE**
2 **PROPOSED APARTMENT/MULTIPURPOSE COMPLEX IN**
3 **NAVAJO, NEW MEXICO; APPROVING THE RELATED**
4 **EXPENDITURE PLAN PURSUANT TO 12 N.N.C §2501 – §2508**

5 A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby allocates \$4,100,000
6 from the Síhasin Fund to the Navajo Townsite Community Development Corporation for the
7 planning, design, and construction of its proposed 25-unit multi-family apartment/
8 multipurpose complex to be built in the Red Lake Chapter in Navajo, New Mexico on Tract
9 B of its Lease No. FD-99-702.

10 B. The \$4,100,000 approved herein may be further leveraged by bond or loan financing
11 pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*, as amended),
12 using Síhasin Fund earnings for repayment and financing costs, upon approval of the Budget
13 and Finance Committee and upon further approval by a two-thirds (2/3) vote of the full
14 membership of the Navajo Nation Council.

15 C. The Controller shall determine whether the source of the \$4,100,000 approved herein will be
16 Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

17 D. The Navajo Nation hereby approves the Expenditure Plan for NTC's proposed Project, as
18 described in the attached EXHIBITS E-G.

19 E. Starting no later than 30 business days after the effective date of this Act, the Controller shall
20 begin releasing the \$4,100,000 in Síhasin funds to NTC, provided that an appropriate grant
21 agreement, memorandum of agreement, or other legal document establishing a project
22 schedule, payment or drawdown plan, fund management plan, or other relevant procedures,
23 has been agreed to by the Controller and is executed by NTC and the Navajo Nation.

24 F. The \$4,100,000 in Síhasin funds shall be used by NTC strictly for the planning, design, and
25 construction of its proposed Project, as described in the attached EXHIBITS E-G. NTC shall
26 be responsible for complying with the Expenditure Plan detailed therein and with all
27 provisions of the agreement described in Section Three (E) above.

28 G. As a condition of receiving the Síhasin funds from the Navajo Nation, NTC shall allow the
29 Navajo Nation full access to its financial records related to the \$4,100,000 for the purpose of
30 the Navajo Nation's review and audit of NTC's expenditures of Síhasin funds on its Project.

1 H. The NTC shall submit written reports, and verbal reports if so requested, to the Resources
2 and Development Committee and the Budget and Finance Committee and to the
3 Naabik'íyáti' Committee, which reports shall explain the progression and status of NTC's
4 Project activities and its expenditures of the approved Síhasin funds. Such reports shall be
5 provided by the end of each Fiscal Year Quarter until NTC's Project is completed or the
6 entire \$4,100,000 in Síhasin funds is exhausted.

7 I. Any and all savings or unused amounts of the Síhasin funds approved herein shall be
8 immediately returned to the Síhasin Fund Principal once NTC's expenditures for the Project
9 are completed, or upon the reversion deadline in Section Three (J) below.

10 J. The \$4,100,000 shall not lapse on an annual basis, which would otherwise occur pursuant to
11 12 N.N.C. §820(N). However, any Síhasin funds not spent or encumbered within twenty-
12 four (24) months of the effective date of this Act shall then revert to the Síhasin Fund
13 Principal, unless otherwise approved by the Navajo Nation Council.

14 K. The Síhasin Fund shall be reimbursed the \$4,100,000 amount approved herein, from funds
15 available to the Navajo Nation from any and all state and federal sources, including
16 Congressional appropriations under the American Rescue Plan Act of 2021 or other COVID-
17 19-related relief, so long as NTC's expenditures described herein are deemed eligible under
18 such COVID-19-related or other funding sources.

19
20 **SECTION FOUR. EFFECTIVE DATE**

21 This Act and the Expenditure Plan approved herein shall become effective pursuant to 12
22 N.N.C. §2505.

23
24 **SECTION FIVE. SAVING CLAUSE**

25 If any portion of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any
26 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the
27 remainder of this Act shall be the law of the Navajo Nation.