

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0104-22\_

SPONSOR: Otto Tso

**TITLE: An Act Relating to the Resources and Development, Health, Education, and Human Services, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Allocating \$25,000,000 from the Síhasin Fund to the Tuba City Regional Health Care Corporation for its Long-Term Care, Cancer, and Rehabilitation Facility; Approving the Related Expenditure Plan Pursuant to 12 N.N.C. § 2501 - § 2508**

*Date posted:* June 22, 2022 at 7:11PM

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**SUMMARY OF PROPOSED LEGISLATION**

TrackingNo. 0104-22

Date: June 16, 2022

**Re: AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION, AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; ALLOCATING \$25,000,000 FROM THE SÍHASIN FUND TO THE TUBA CITY REGIONAL HEALTH CARE CORPORATION FOR ITS LONG-TERM CARE, CANCER, AND REHABILITATION FACILITY; APPROVING THE RELATED EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508**

Purpose of this Legislation:

to approve \$25,000,000 from the Sihasin Fund to the Tuba City Regional Health Care Center for the planning, design, and construction of its proposed Long-Term Care, Cancer, and Rehabilitation Facility; and approving the related Expenditure Plan for the Project.

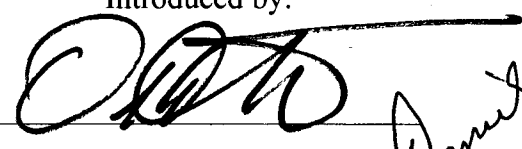
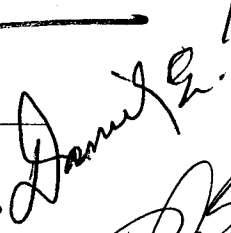

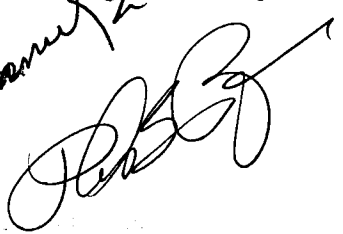
OLC No. 22-209-1

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 06-27-22  
Eligible for Action: 06-28-22

Resources & Development Committee  
Thence  
Health Education & Human Services Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL - Fourth Year, 2022

Introduced by:

  
(Prime Sponsor)   
  
Tracking No. 0104-22 

AN ACT

RELATING TO THE RESOURCES AND DEVELOPMENT, HEALTH,  
EDUCATION, AND HUMAN SERVICES, BUDGET AND FINANCE,  
AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION  
COUNCIL; ALLOCATING \$25,000,000 FROM THE SÍHASIN FUND TO THE  
TUBA CITY REGIONAL HEALTH CARE CORPORATION FOR ITS LONG-  
TERM CARE, CANCER, AND REHABILITATION FACILITY; 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 with oversight authority over all 110 Navajo Nation Chapters, as well as community development. 2 N.N.C. §500(C) and 26 N.N.C. §102.
- B. The Health, Education, and Human Services Committee is a standing committee of the Navajo Nation Council with oversight authority over matter involving health, social services, and veterans. 2 N.N.C. §400(C)(1); §400(C)(2).
- C. 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).

1 D. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that  
2 considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

3 E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).  
4 As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund for  
5 projects that have an approved expenditure plan.

6 F. 12 N.N.C. §2502, as amended by CJA-03-18, states the purpose of the Navajo Nation Síhasin  
7 Fund ("Síhasin Fund") as follows:

8 §2502 Purpose

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

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

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

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

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

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

1 **SECTION TWO. FINDINGS**

2 A. The Tuba City Regional Health Care Corporation (“TCRHCC”) is requesting the Navajo  
3 Nation to provide it with \$25,000,000 from the Síhasin Fund for its proposed Long-Term  
4 Care, Cancer, and Rehabilitation Facility (“Project”). This Project will be constructed  
5 adjacent to TCRHCC’s existing hospital in Tuba City, Navajo Nation (Arizona). TCRHCC’s  
6 request for funds, submitted by TCRHCC’s Chief Executive Officer, is attached hereto as  
7 **EXHIBIT A.**

8 B. TCRHCC is authorized by the Navajo Nation Council as a tribal healthcare organization  
9 pursuant to the Indian Self-Determination and Education Assistance Act, P.L. 93-638, as  
10 amended. EXHIBIT A.

11 C. Pursuant to its Compact with the U.S. Department of Health and Human Services (“DHHS”)  
12 under the Indian Health Service (“IHS”), TCRHCC operates the former Navajo Area Tuba  
13 City Indian Medical Center located in Tuba City, Navajo Nation (Arizona), as well as several  
14 other satellite medical facilities and clinics that provide services to IHS beneficiaries in  
15 TCRHCC’s service area within the Western Navajo Agency and Coconino County.  
16 TCRHCC’s service area includes the Cameron, Bodaway/Gap, Coalmine Canyon, Kaibeto,  
17 LeChee, Coppermine, Tonalea, and To’Naneez’Dizi Chapters of the Navajo Nation, the Hopi  
18 Village of Moenkopi, and the San Juan Southern Paiute Tribe. EXHIBIT A.

19 D. At its Tuba City hospital, TCRHCC operates a Level III Trauma Center and a Diabetes  
20 Education Program accredited by the American Association of Diabetes Educators, with a  
21 patient service population of nearly 36,000 persons. TCRHCC also serves as a Medical  
22 Referral Center for over 100,000 patients across the Navajo Nation, including IHS  
23 beneficiaries from the Hopi and San Juan Southern Paiute tribes. EXHIBIT A.

24 E. TCRHCC provides comprehensive healthcare services including inpatient/outpatient health  
25 services; emergency services; dental and ophthalmology services; orthopedics; OB/GYN  
26 services; oral surgery; limited urological procedures, pediatric, rheumatology, neurology,  
27 dermatology, podiatry, rehabilitative and mental health services, and, most recently, it  
28 provides world-class cancer treatment in its one-of-a-kind oncology center. EXHIBIT A.

29 F. TCRHCC is the regional referral center for Western Navajo Nation, which includes transfers  
30 of patients from the Kayenta Health Center and the Hopi Health Care Center. The chronic

1 underfunding of Indian health services makes it particularly challenging to combat the  
2 current health disparities for Navajo Nation Tribal members and other IHS beneficiaries  
3 served by TCRHCC. EXHIBIT A.

4 G. The COVID-19 Pandemic has highlighted the health disparities present in Native  
5 communities. It is uncertain whether the Navajo Nation will continue to live with the  
6 presence of the COVID-19 virus or if it will be eradicated. EXHIBIT A.

7 H. Navajo Nation communities have two or more generations living together, exposing elders  
8 to the youngest members of their households and dramatically increasing the risk that  
9 children may unknowingly bring COVID-19 into the home and pass it to their elders.  
10 EXHIBIT A.

11 I. Many Navajo elders are unable to live alone at home and have limited options to remain in  
12 their home without supportive assisted care. TCRHCC currently must send elders more than  
13 100 miles away for the care they need. As the Navajo Nation's elder demographic ages, this  
14 situation will only grow more serious. EXHIBIT A.

15 J. It is no longer a viable option to rely on families and extended family members to address  
16 the needs of Navajo elders, as this practice has diminished considerably due to younger  
17 family members having to relocate from remote rural communities to distant urban centers  
18 in search of employment opportunities. Thus, more nursing homes or long-term care facilities  
19 are needed within the Navajo Nation as Navajo families desire to keep their elder family  
20 members as near as possible. EXHIBIT A.

21 K. Two types of care are urgently needed. First, skilled nursing care, which requires nursing,  
22 rehabilitation, and other professionally-licensed care as part of a specified care plan  
23 prescribed by a physician. Second, intermediate level care which is assistive and does not  
24 include the use of nursing care. EXHIBIT A.

25 L. Unfortunately, many community members have forgone cancer screenings during the  
26 COVID-19 Pandemic. TCRHCC has seen an increase in cancer referrals and has begun  
27 implementing more cancer screening. EXHIBIT A.

28 M. TCRHCC's proposed Project will be constructed adjacent to its existing hospital in Tuba  
29 City, and will be comprised of an assisted living center to accommodate sixty elder residents  
30 or disabled persons and thirty additional beds for skilled nursing care. The Project will also

1 include a cancer specialty care clinic that will double TCRHCC's patient capacity by  
2 expanding its Hematology Oncology Clinic. This will allow TCRHCC to screen and care for  
3 more patients, including Navajo elders as the population ages. The details of TCRHCC's  
4 proposed Project are shown in the attached **EXHIBIT B**.

5 N. The Project is estimated to cost nearly \$55,000,000. A Project Budget and Project Schedule  
6 are attached as **EXHIBIT C**. Photos of the proposed location for the Project, and design  
7 schematics, are attached as **EXHIBIT D**.

8 O. In order to fund the entire Project, TCRHCC is leveraging several other funding sources to  
9 pay for the design, construction, and operation of the Project, including its own funds, a loan  
10 from the U.S. Department of Agriculture, an \$8,000,000 appropriation from the United States  
11 Congress distributed through a grant from DHHS, and operational funding under its Compact  
12 with IHS.

13 P. TCRHCC will own the Project and, when it is completed, TCRHCC will operate the Project  
14 just as it does the Tuba City hospital, pursuant to its Compact with IHS.

15 Q. Allocation of the \$25,000,000 as requested by TCRHCC meets the criteria for Síhasin  
16 expenditures because the proposed expenditure involves community development and  
17 government buildings, as described in 12 N.N.C. §2502(A)(1).

18 R. Allocation of the requested Síhasin funds also meets the preference for the leveraging of funds,  
19 as mentioned in 12 N.N.C. §2502(C), because TCRHCC is seeking federal funds from the U.S.  
20 Department of Agriculture and the U.S. Indian Health Service.

21 S. The Navajo Nation further finds that providing the requested Síhasin funds for the proposed  
22 Project is in the best interest of the Navajo People, Navajo elders, and their communities.

23  
24 **SECTION THREE. APPROVING \$25,000,000 FROM THE SÍHASIN FUND FOR**  
25 **TCRHCC'S PROPOSED LONG TERM CARE, CANCER, AND**  
26 **REHABILITATION FACILITY; APPROVING THE RELATED**  
27 **EXPENDITURE PLAN**

28 A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$25,000,000  
29 from the Síhasin Fund for the TCRHCC's proposed Long-Term Care, Cancer, and  
30 Rehabilitation Facility, as explained in the attached **EXHIBIT A**.

1 B. Within thirty (30) business days after the effective date of this Act, the Navajo Nation Office  
2 of the Controller shall begin releasing the Síhasin funds approved herein to TCRHCC,  
3 provided that an appropriate grant agreement, memorandum of agreement, or other legal  
4 document establishing a project schedule, payment or drawdown plan, or other relevant  
5 procedures, has been agreed to by the Office of the Controller and the Navajo Nation  
6 Department of Justice, and is executed by TCRHCC and the Navajo Nation.

7 C. In accordance with 12 N.N.C. §2501–§2508, the Navajo Nation hereby approves TCRHCC’s  
8 Project Expenditure Plan, comprised of the attached **EXHIBITS A - D**.

9 D. The \$25,000,000 in Síhasin funds shall be used by TCRHCC strictly for its proposed Project  
10 as described in **EXHIBITS A - D**. TCRHCC shall be responsible for complying with the  
11 Project Expenditure Plan approved herein, and with all provisions of the agreement described  
12 in Section Three (B) above. TCRHCC shall own, manage, and operate the Project during its  
13 preliminary planning and construction phases, and upon the Project’s completion, in  
14 accordance with TCRHCC’s Compact with IHS.

15 E. As a condition of receiving the Síhasin funds allocated herein, upon reasonable prior notice  
16 TCRHCC shall allow the Navajo Nation full access to its financial records related to all  
17 Síhasin funds TCRHCC has received, for the purpose of the Navajo Nation’s review and  
18 audit of TCRHCC’s expenditures of the Síhasin funds provided.

19 F. The Health, Education, and Human Services Committee shall have legislative oversight  
20 authority over TCRHCC’s proposed Project. TCRHCC shall submit a written report, and a  
21 verbal report if so requested, explaining the ongoing status of its Project and its expenditures  
22 of the Síhasin funds it has received. Said reports shall be provided to the Health, Education,  
23 and Human Services Committee by the end of each Fiscal Year Quarter until TCRHCC’s  
24 Project is completed or the entire \$25,000,000 in Síhasin funds is exhausted. The Committee  
25 shall have the discretion to stop prospective payouts of Síhasin funds, and to demand  
26 repayment of Síhasin funds, for any misfeasance by TCRHCC or its contractors related to  
27 the Project or the awarded Síhasin funds.

28 G. The Controller shall determine whether the source of the \$25,000,000 approved herein will  
29 consist of Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

30 H. The \$25,000,000 in Síhasin funds approved in this Act may be further leveraged by bond or



1 loan financing pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*,  
2 as amended), using Síhasin Fund earnings for repayment and financing costs, upon approval  
3 of the Budget and Finance Committee and upon further approval by a two-thirds (2/3) vote  
4 of the full membership of the Navajo Nation Council.

5 I. The \$25,000,000 in Síhasin funds shall not lapse on an annual basis. However, any Síhasin  
6 funds not spent or encumbered within thirty-six (36) months of the date TCRHCC receives  
7 its first draw-down of funds shall then immediately revert to the Síhasin Fund Principal,  
8 unless and until the Health, Education, and Human Services Committee determines  
9 otherwise.

10 J. The Síhasin Fund shall be reimbursed the amount of funds approved herein, from other funds  
11 available to the Navajo Nation from any and all state and federal sources, including  
12 Congressional appropriations under the American Rescue Plan Act of 2021 or other COVID-  
13 19-related relief, so long as the Project expenditures described herein are deemed eligible  
14 under such COVID-19-related or other funding sources.

15 K. Any and all savings or unused amounts of the Síhasin funds approved herein shall be  
16 immediately returned to the Síhasin Fund Principal once TCRHCC's Project is completed,  
17 or upon the reversion deadline in Section Three (I) above.

18  
19 **SECTION FOUR. EFFECTIVE DATE**

20 This Act shall become effective pursuant to 12 N.N.C. §2505.

21  
22 **SECTION FIVE. SAVING CLAUSE**

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