

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0110-22_

SPONSOR: Wilson C. Stewart, Jr.

TITLE: An Act Relating to the Budget and Finance, Resources and Development, and Naabik'iyáti' Committees, and the Navajo Nation Council; Allocating \$5,000,000 from the Síhasin Fund for the Assessment and Remediation of the Former Navajo Forest Products Industry Location in Navajo, NM; Approving the Related Expenditure Plan Pursuant to 12 N.N.C. § 2501 - § 2508

Date posted: June 30, 2022 at 5:39 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0110-22

Date: June 29, 2022

Re: AN ACT RELATING TO THE BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING \$5,000,000 FROM THE SÍHASIN FUND FOR THE ASSESSMENT AND REMEDIATION OF THE FORMER NAVAJO FOREST PRODUCTS INDUSTRY LOCATION IN NAVAJO, NM; APPROVING THE RELATED EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508

Purpose of this Legislation:

to allocate \$5,000,000 from the Sihasin Fund into the Hazardous Substances Fund for the Navajo EPA to use on environmental assessment and remediation activities (cleanup project) at the former NFPI location in the Red Lake Chapter.

OLC No. 21-331-1

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 07-05-22
Eligible for Action: 07-06-22

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

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL - Fourth Year, 2022

3 Introduced by:

4 
5 _____
6 (Prime Sponsor)

7
8 Tracking No. 0110-22

9
10 AN ACT
11 RELATING TO THE BUDGET AND FINANCE, RESOURCES AND
12 DEVELOPMENT, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO
13 NATION COUNCIL; ALLOCATING \$5,000,000 FROM THE SÍHASIN FUND
14 FOR THE ASSESSMENT AND REMEDIATION OF THE FORMER NAVAJO
15 FOREST PRODUCTS INDUSTRY LOCATION IN NAVAJO, NM; APPROVING
16 THE RELATED EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508

17
18 BE IT ENACTED:

19
20 SECTION ONE. AUTHORITY

- 21 A. The Budget and Finance Committee is a standing committee of the Navajo Nation Council,
22 with legislative authority to “review and recommend to the Navajo Nation Council the
23 budgeting, appropriation, investment and management of all funds” including money from
24 the Navajo Nation’s Síhasin Fund. 2 N.N.C. §301(B)(2).
25 B. The Resources and Development Committee was established as a standing committee of the
26 Navajo Nation Council, with the legislative authority over the Navajo Nation’s natural
27 resources, environment, and land matters, and the protection of these resources. 2 N.N.C.
28 §500(A); 2 N.N.C. §500(C)(1); 2 N.N.C. §500(C)(2).
29 C. The Resources and Development Committee also serves as the oversight committee for the
30 Navajo Environmental Protection Agency and the Navajo Nation’s Hazardous Substances

1 Fund. 2 N.N.C. §500(C)(1); Resolution No. BFJA-09-11.

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

4 E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
5 As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.

6 F. 12 N.N.C. §2502, as amended by CJA-03-18, states the purpose of the Navajo Nation's
7 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 not
17 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. In Resolution No. RLC-07-21-31, the Red Lake Chapter is requesting a minimum of
3 \$1,000,000 to be allocated annually from the Síhasin Fund, for the continued assessment and
4 environmental remediation of the former Navajo Forest Products Industry (“NFPI”) location
5 in the Red Lake Chapter. **EXHIBIT A.**

6 B. The Navajo Environmental Protection Agency, Superfund/Brownfields Program, has prepared
7 a 2021 Report explaining the serious problem of the extensive contamination of the former
8 NFPI area, describing the existing environmental damage, and showing the necessary scope of
9 the cleanup project and its estimated cost. Navajo EPA details the groundwater and soil
10 contamination, as well as the leftover surface debris, that has created a significant public health
11 hazard in the area that needs immediate attention. **EXHIBIT B.**

12 C. The proposed Expenditure Plan for the requested funding, describing the estimated expenses
13 for a total cleanup of the former NFPI area, is attached as **EXHIBIT C.**

14 D. The Navajo EPA Director has also prepared a request for the \$5,000,000 amount from the
15 Síhasin Fund, as an initial amount designated for the NFPI cleanup project; and the Director
16 has specifically approved the proposed Expenditure Plan attached as EXHIBIT C. The Navajo
17 EPA Director’s memorandum, with the Expenditure Plan, is attached as **EXHIBIT D.**

18 E. In Resolution No. CF-07-08 the Navajo Nation Council established the Hazardous Substances
19 Fund for the Navajo EPA. See 4 N.N.C. §2701(A). Pursuant to Budget and Finance
20 Committee Resolution No. BFJA-09-11, the Fund Management Plan for the Hazardous
21 Substances Fund was approved. **EXHIBIT E.**

22 F. Because the Hazardous Substances Fund (“HSF”) is already established and the related Fund
23 Management Plan has been approved, the Navajo EPA is requesting that the \$5,000,000 in
24 Síhasin funds be deposited directly into the Hazardous Substances Fund, to be designated
25 specifically for NFPI cleanup activities, in accordance with the Expenditure Plan attached
26 hereto as EXHIBIT C, and with the approved HSF Fund Management Plan. **EXHIBIT D.**

27 G. The requested \$5,000,000 in Síhasin funds for the NFPI cleanup project meets the criteria for
28 Síhasin funding because the project will involve extensive work on “infrastructure” and
29 “commercial and government buildings” and the project will facilitate “economic development
30 and community development” in the Red Lake Chapter area. 12 N.N.C. §2502(A)(1).

1 H. This funding request meets the preference for the leveraging of funds, as mentioned in 12
2 N.N.C. §2502(C), because the \$5,000,000 in Síhasin funds will be placed into the Hazardous
3 Substances Fund and this money shall thereafter serve as evidence of the Navajo Nation's
4 substantive commitment to environmental remediation, thereby allowing the Navajo EPA to
5 leverage these funds in seeking further federal funding for the cleanup project.

6 I. Furthermore, at Navajo EPA's urging, during the summer of 2021 the U.S. EPA Superfund
7 Emergency Response Program conducted a Time Critical Removal Action at the NFPI site.
8 U.S. EPA spent approximately \$6,000,000 on surface cleanup of asbestos contamination at
9 the site, including the demolition and removal of the lumber drying kiln. This work took 3.5
10 months of 70-hour workweeks, and accomplished the removal of over 4,000 cubic yards
11 (about 200 tractor trailer loads) of asbestos waste.

12
13 **SECTION THREE. ALLOCATING \$5,000,000 FROM THE SÍHASIN FUND FOR**
14 **THE ASSESSMENT AND REMEDIATION OF THE FORMER**
15 **NAVAJO FOREST PRODUCTS INDUSTRY LOCATION;**
16 **APPROVING THE RELATED EXPENDITURE PLAN**
17 **PURSUANT TO 12 N.N.C. §2501 – §2508**

18 A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby allocates \$5,000,000
19 from the Síhasin Fund to be placed into the Hazardous Substances Fund.

20 B. The Navajo Nation hereby approves the Expenditure Plan prepared by the Navajo EPA,
21 attached hereto as **EXHIBIT C**.

22 C. The purpose of the Síhasin funds approved herein shall be the continued assessment work
23 and environmental remediation activities at the former NFPI location in the Red Lake
24 Chapter, as described in the approved Expenditure Plan.

25 D. The Controller shall determine whether the source of the approved Síhasin funds will be
26 Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

27 E. The approved Síhasin funds may be further leveraged by bond or loan financing pursuant to
28 the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*, as amended), using Síhasin
29 Fund earnings for repayment and financing costs, upon approval of the Budget and Finance
30 Committee and upon further approval by a two-thirds (2/3) vote of the full membership of

1 the Navajo Nation Council.

2 F. Within five (5) business days of the effective date of this Act, the Office of the Controller
3 shall deposit the \$5,000,000 in Síhasin funds approved herein into the Hazardous Substances
4 Fund, and the \$5,000,000 shall thereafter be available to the Navajo EPA for use in
5 accordance with the Expenditure Plan approved herein and the intent of this Act.

6 G. The Navajo EPA Director shall be responsible for ensuring compliance with the Expenditure
7 Plan, as well as the HSF Fund Management Plan and all applicable Navajo Nation laws and
8 regulations.

9 H. On a quarterly basis, the Navajo EPA shall provide to the Navajo Nation Council a written
10 report, and also a verbal presentation if so requested, explaining the status of its ongoing
11 assessment work and environmental remediation activities at the former NFPI location. Such
12 report shall include the current status of the \$5,000,000 in Síhasin funds approved herein,
13 and shall describe any further funding requests expected to be made during the upcoming
14 fiscal year for this Project.

15 I. The approved Síhasin funds shall not lapse on an annual basis, but shall remain in the
16 Hazardous Substances Fund until fully expended by Navajo EPA.

17 J. The Síhasin Fund may be reimbursed in the amount of the allocation approved herein, from
18 funds available to the Navajo Nation from any and all state and federal sources, including
19 Congressional appropriations under the American Rescue Plan Act of 2021("ARPA") or
20 other COVID-19-related relief, if the Project expenditures described herein are deemed
21 eligible under such COVID-19-related or other funding sources.

22
23 **SECTION FOUR. EFFECTIVE DATE**

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

26
27 **SECTION FIVE. SAVING CLAUSE**

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