

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0187-22_

SPONSOR: Amber Kanazbah Crotty

TITLE An Act Relating to the Resources and Development, Budget and Finance, and Naabik'iváti' Committees, and the Navajo Nation Council; Approving \$783,500 from the Síhasin Fund for the San Juan River Dineh Water Users, Inc. to Complete the Shiprock Lateral Water Conversion – Phase I Salinity Control – Project; Approving the Related Expenditure Plan

Date posted: October 5, 2022 at 1:00 PM

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SUMMARY OF PROPOSED LEGISLATION

TrackingNo. 0187-22

Date: October 3, 2022

Re: AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING \$783,500 FROM THE SÍHASIN FUND FOR THE SAN JUAN RIVER DINEH WATER USERS, INC. TO COMPLETE THE SHIPROCK LATERAL WATER CONVERSION - PHASE 1 SALINITY CONTROL - PROJECT; APPROVING THE RELATED EXPENDITURE PLAN

Purpose of this Legislation:

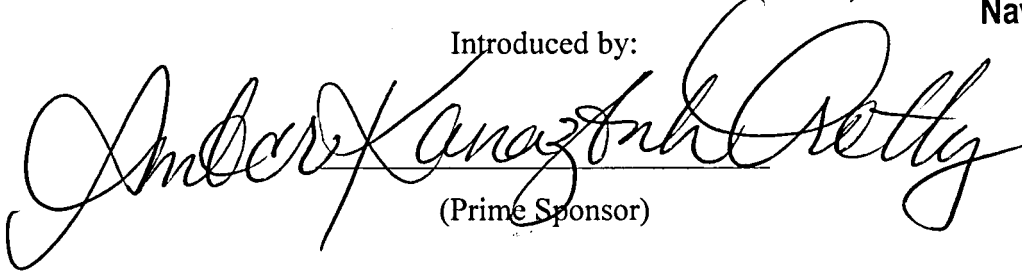
to approve \$783,500 from the Síhasin Fund for the San Juan River Dineh Water Users, Inc. to complete the Shiprock Lateral Water Conversion - Phase I Salinity Control - Project (with the Navajo Nation Department of Water Resources receiving the Síhasin funds and serving as the contract administrator); approving the related Expenditure Plan for the Phase I Project.

5-DAY BILL HOLD PERIOD:
Website Posting Time/Date:
Posting End Date: 10-10-22
Eligible for Action: 10-11-22

Resources & Development Committee
Thence
Budget & Finance 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. 0187-22

9
10 AN ACT

11 RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET
12 AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO
13 NATION COUNCIL; APPROVING \$783,500 FROM THE SÍHASIN FUND
14 FOR THE SAN JUAN RIVER DINEH WATER USERS, INC. TO COMPLETE
15 THE SHIPROCK LATERAL WATER CONVERSION - PHASE 1 SALINITY
16 CONTROL - PROJECT; APPROVING THE RELATED EXPENDITURE PLAN

17
18 BE IT ENACTED:

19
20 SECTION ONE. AUTHORITY

- 21 A. The Resources and Development Committee is a standing committee of the Navajo Nation
22 Council with oversight authority over all 110 Navajo Nation Chapters, as well as community
23 development matters. 2 N.N.C. §500(C) and 26 N.N.C. §102.
- 24 B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council
25 with the responsibility to “review and recommend to the Navajo Nation Council the
26 budgeting, appropriation, investment and management of all funds.” 2 N.N.C. §301(B)(2).
- 27 C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that
28 considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. §164(A)(9).
- 29 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
30 As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.

1 Specifically, 12 N.N.C. §2505(A) permits expenditures from the Síhasin Fund upon a 2/3
2 approval vote of all members of the Navajo Nation Council.

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

5 §2502 Purpose

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

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

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

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

18 F. The Síhasin Fund provides that “Fund Principal” shall consist of all deposits made to the
19 Síhasin Fund and 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 San Juan River Dineh Water Users, Inc. (“Dineh Water Users”) out of Shiprock, Navajo
30 Nation (New Mexico) is requesting Síhasin funds to complete the Shiprock Lateral Water

1 Conversion - Phase I Salinity Control - Project (“Phase I Project”). **EXHIBIT A.**

2 B. Dineh Water Users explains that it first submitted a Project Proposal to the Navajo Nation
3 Department of Water Resources in March of 2021. The U.S. Department of the Interior -
4 Bureau of Reclamation (“DOI/BOR”) has awarded \$1,200,000 for Phase II of the Shiprock
5 Lateral Water Conversion Project. However, these federal funds cannot be used because the
6 Phase I portion of the overall Project is not completed. **EXHIBIT A.**

7 C. Dineh Water Users has prepared a detailed explanation of the proposed Phase I Project, along
8 with a Scope of Work for the Phase I Project. **EXHIBIT B.**

9 D. Dineh Water Users has also submitted a line-item cost estimate for the Phase I Project.
10 **EXHIBIT C.**

11 E. Allocation of the Síhasin funds as requested by the Dineh Water Users meets the criteria for
12 Síhasin expenditures because the proposed expenditure involves regional infrastructure
13 supporting economic development and community development, as well as infrastructure,
14 and waterlines in the area, as described in 12 N.N.C. §2502(A)(1).

15 F. Allocation of the requested Síhasin funds also meets the criteria for the leveraging of funds,
16 as described in 12 N.N.C. §2502(C), because DOI/BOR has already allocated \$1,200,000 for
17 the Shiprock Lateral Water Conversion Project.

18
19 **SECTION THREE. APPROVING \$783,500 FROM THE SÍHASIN FUND FOR THE**
20 **SAN JUAN RIVER DINEH WATER USERS, INC. TO**
21 **COMPLETE THE SHIPROCK LATERAL WATER**
22 **CONVERSION - PHASE 1 SALINITY CONTROL - PROJECT;**
23 **APPROVING THE RELATED EXPENDITURE PLAN**

24 A. Pursuant to 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$783,500 from the
25 Síhasin Fund for the Dine Water Users’ implementation and completion of the Shiprock
26 Lateral Water Conversion - Phase I Salinity Control - Project, and also approves the related
27 Expenditure Plan for the Phase I Project, as set forth in the attached **EXHIBIT B** and
28 **EXHIBIT C.**

29 B. The total amount of Síhasin funds approved in this Act may be further leveraged by bond or
30 loan financing pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*,

1 as amended), using Síhasin Fund earnings for repayment and financing costs, upon approval
2 of the Budget and Finance Committee and upon a 2/3 approval vote of the full membership
3 of the Navajo Nation Council.

4 C. The Controller shall determine whether the source of the Síhasin funds approved in this Act
5 will be Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

6 D. Within thirty (30) business days after the effective date of this Act, the Controller shall
7 transfer the approved Síhasin funds to the Navajo Nation Department of Water Resources
8 (“DWR”). The approved Síhasin funds shall not be comingled with funds from any other
9 sources, for the Phase I Project or otherwise.

10 E. DWR shall administer the Síhasin funds and provide the money to the Dineh Water Users,
11 in accordance with an appropriate grant agreement, memorandum of agreement, or other
12 legal document executed by the Dineh Water Users and the Navajo Nation. Said agreement
13 shall be binding upon the parties, shall be approved by DWR and the Controller, and shall
14 establish a project schedule, payment or drawdown plan, fund management plan, or other
15 relevant procedures governing the Phase I Project.

16 F. The approved Síhasin funds shall be used by the Dineh Water Users strictly for the
17 completion of the Phase I Project as described in **EXHIBIT B** and **EXHIBIT C**. The Dineh
18 Water Users shall be responsible for complying with the Expenditure Plan approved herein,
19 and with all provisions of the legal agreement described in Section Three (E) above.

20 G. As a condition of receiving the approved Síhasin funds, the Dineh Water Users shall allow
21 the Navajo Nation full access to its financial records related to the Síhasin funds it has
22 received, for the purpose of the Navajo Nation’s review and audit of the Dineh Water User’s
23 expenditures of the Síhasin funds.

24 H. DWR and the Dineh Water Users shall submit a written report, and a verbal report if so
25 requested, explaining the ongoing status of the Phase I Project and its expenditures of the
26 approved Síhasin funds, to the Resources and Development Committee, the Budget and
27 Finance Committee, and the Naabik’íyáti’ Committee. Said reports shall be provided by the
28 end of each Fiscal Year Quarter until the Phase I Project is completed or all Síhasin funds
29 approved in this Act are exhausted.

30 I. The approved Síhasin funds for the Phase I Project shall not lapse at the end of any fiscal

1 year, as might otherwise occur under 12 N.N.C. §820(N), so long as: (1) all Síhasin funds in
2 the Phase I Project account are accounted for as of September 30 of each fiscal year; and (2)
3 any/all remaining Síhasin funds are budgeted in the next upcoming fiscal year for use on the
4 same Phase I Project.

5 J. Notwithstanding Section Three (I) above, Síhasin funds not expended or encumbered by the
6 deadline established in Resolution No. CAP-35-18, as amended by CJA-03-21 or by any
7 other Resolution approved by the Navajo Nation Council, shall lapse and revert pursuant to
8 such deadline, unless otherwise approved prior to such reversion by both the Resources and
9 Development Committee and the Naabik'íyáti' Committee.

10 K. The Síhasin Fund may be reimbursed the amount of funds approved herein, from funds
11 available to the Navajo Nation from any and all state, federal, or other sources.

12
13 **SECTION FOUR. EFFECTIVE DATE**

14 This Act shall become effective pursuant to 12 N.N.C. §2505(A) and 2 N.N.C. §221(B).

15
16 **SECTION FIVE. SAVING CLAUSE**

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