

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0146-23_

SPONSOR: Herman M. Daniels, Jr.

TITLE: An Action Relating to the Budget and Finance Committee, the Health, Education, and Human Services Committee, the Naabik'iyáti' Committee, and the Navajo Nation Council; Approving \$2,500,000 from the Síhasin Fund to Utah State University for a New Education Building in Monument Valley; Approving the Related Expenditure Plan

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0146-23

DATE: July 6, 2023

RE: AN ACTION RELATING TO THE BUDGET AND FINANCE COMMITTEE, THE HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE, THE NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; APPROVING \$2,500,000 FROM THE SÍHASIN FUND TO UTAH STATE UNIVERSITY FOR A NEW EDUCATION BUILDING IN MONUMENT VALLEY; APPROVING THE RELATED EXPENDITURE PLAN

Purpose of this Legislation:

to approve \$2.5 million from the Sihasin Fund for a portion of Utah State University's costs for constructing a new \$14 million-dollar education building in Monument Valley.

OLC No. 23-224-1

5-DAY BILL HOLD PERIOD
Website Posting Time/Date
Posting End Date: 07-11-23
Eligible for Action: 07-12-23

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

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 25th NAVAJO NATION COUNCIL - First Year, 2023

3 Introduced by:

4
5 _____
6 (Prime Sponsor)

*Ride Alex
ca sponsor*

7
8 Tracking No. 0146-23
9

10 AN ACTION

11 RELATING TO THE BUDGET AND FINANCE COMMITTEE, THE
12 HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE, THE
13 NAABIK'ÍYÁTI' COMMITTEE, AND THE NAVAJO NATION COUNCIL;
14 APPROVING \$2,500,000 FROM THE SÍHASIN FUND TO UTAH STATE
15 UNIVERSITY FOR A NEW EDUCATION BUILDING IN MONUMENT
16 VALLEY; APPROVING THE RELATED EXPENDITURE PLAN
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 the responsibility to "review and recommend to the Navajo Nation Council the
23 budgeting, appropriation, investment and management of all funds." 2 N.N.C. §301(B)(2).
24 B. The Health, Education, and Human Services Committee is a standing committee of the
25 Navajo Nation Council with authority over education matters, including colleges and
26 universities within the Navajo Nation. 2 N.N.C. §400(C)(1), 2 N.N.C. §401(C)(3).
27 C. The Health, Education, and Human Services Committee also has authority to recommend to
28 the Navajo Nation Council resolutions related to education. 2 N.N.C. §401(B)(6)(a).
29 D. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that
30 considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

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

3 F. 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
7 financing for:

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

- 15 2. Education opportunities for members of the Navajo Nation.

16 B. For the Purpose in §2502(A)(1), Fund expenditures for infrastructure
17 shall 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,
19 direct funding in part, and other weighted uses of the Fund, including
20 loan financing from the Fund, for the purposes in §2502(A)(1), shall
21 be favored over direct 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 also provides that "Fund Principal and Income shall not be expended
28 except pursuant to a Fund Expenditure Plan consistent with the purposes set forth in §2502
29 of this 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. Utah State University is requesting \$2,500,500 from the Síhasin Fund as a contribution from
3 the Navajo Nation to construct a new education building at Monument Valley (the “Project”).

4 **EXHIBIT A.**

5 B. Utah State University has provided a description and feasibility study for this Project.

6 **EXHIBIT B.**

7 C. Utah State University has also provided a detailed Cost Estimate for the entire Project.

8 **EXHIBIT C.**

9 D. Utah State University has also provided a letter from the University Vice-President explain
10 the University’s commitment to spend the requested \$2,500,00 in Síhasin funds on
11 construction costs for the Project. **EXHIBIT D.**

12 E. Approving the \$2,500,000 for this Project satisfies the preference for leveraging of funds in
13 12 N.N.C. §2502(C), because the State of Utah has pledged \$5,000,000 for the Project and
14 the University itself has also pledged \$5,000,000. See EXHIBIT A.

15 F. Providing the \$2,500,000 in Síhasin funds will enable Utah State University to serve more
16 Navajo students and bring more higher education, training, and other learning opportunities
17 to the community and the Navajo People.

18 G. The Navajo Nation therefore finds the approval of the requested Síhasin funds to be in the
19 best interests of the Navajo Nation and the Navajo People.

20
21 **SECTION THREE. APPROVING \$2,500,000 FROM THE SÍHASIN FUND TO UTAH**
22 **STATE UNIVERSITY FOR A NEW EDUCATION BUILDING IN**
23 **MONUMENT VALLEY; APPROVING THE RELATED**
24 **EXPENDITURE PLAN**

25 A. Pursuant to 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$2,500,000 from the
26 Síhasin Fund to Utah State University for partial costs to build a new education building in
27 Monument Valley, as explained in the attached **EXHIBITS A-D**. The Navajo Nation hereby
28 approves the related Expenditure Plan as set forth in **EXHIBITS A-D**.

29 B. The Navajo Nation Controller shall determine whether the source of the \$2,500,000 amount
30 from the Síhasin Fund will be from Fund Principal or Fund Income or a combination of both.

1 C. The Síhasin funds allocated for the Expenditure Plan approved herein may be further
2 leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing Act, at
3 12 N.N.C. §1300 *et seq.*, as amended, using Síhasin Fund earnings for repayment and
4 financing costs upon the recommendation of the Budget and Finance Committee and
5 approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

6 D. The Síhasin funds approved herein shall be made available to the Office of Navajo Nation
7 Scholarship and Financial Assistance (“ONNSFA”), within 30 business days of the
8 University’s written notification to the Office of the Controller and ONNSFA that the
9 construction phase of the Project has commenced. The funds will thereafter be made
10 available for the University’s use on a drawdown basis. Upon first receipt of any amount of
11 the funds approved herein, Utah State University shall promptly implement the Expenditure
12 Plan approved herein.

13 E. Drawdown of the approved Síhasin funds shall be governed by an appropriate grant
14 agreement, memorandum of agreement, or other legal document executed by Utah State
15 University and the Navajo Nation. Said agreement shall be binding upon the parties, shall be
16 approved by the Controller and the Department of Justice, and shall establish a project
17 schedule, payment or drawdown plan, fund management plan, or other relevant procedures
18 governing the Project.

19 F. ONNSFA shall have administrative oversight authority over the expenditure of the Síhasin
20 funds approved herein, and shall monitor the University’s implementation of the approved
21 Expenditure Plan.

22 G. The approved Síhasin funds shall not be comingled with any other funds, and shall be used
23 by strictly for the Expenditure Plan approved herein. Utah State University shall be
24 responsible for ensuring that all expenditures comply with the approved Expenditure Plan,
25 and with all provisions of the legal agreement described in Section Three (E) above.

26 H. As a condition of receiving the approved Síhasin funds, Utah State University shall allow the
27 Navajo Nation full access to its financial records related to the Síhasin funds it has received,
28 for the purpose of the Navajo Nation’s review and audit of the University’s expenditures of
29 the Síhasin funds.

30 I. Unspent and unencumbered Síhasin funds shall not lapse at the end of any Navajo Nation

1 Fiscal Year, as might otherwise occur under 12 N.N.C. §820(N), so long as all Síhasin funds
2 are accounted for as of September 30th of every year, starting with September 30, 2023.

3
4 **SECTION FOUR. DIRECTIVE**

5 As a condition of receiving the Síhasin funds approved herein, Utah State University shall
6 submit written reports, and verbal reports if so requested, explaining the ongoing status of the
7 Expenditure Plan approved herein and its expenditures of the \$2,500,000. Said reports shall be
8 provided to the Health, Education, and Human Services Committee, the Budget and Finance
9 Committee, and the Naabik'íyáti' Committee by the end of each Fiscal Year Quarter until all
10 approved Síhasin funds are exhausted.

11
12 **SECTION FIVE. EFFECTIVE DATE**

13 This Action and the related Expenditure Plan shall become effective pursuant to 12 N.N.C.
14 §2505(A) and 2 N.N.C. §221(B).

15
16 **SECTION SIX. SAVING CLAUSE**

17 If any part of this Action 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 Action shall be the law of the Navajo Nation.