

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0232-22_

SPONSOR: Elmer P. Begay

TITLE: An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$17,513,187 from the Síhasin Fund for the Navajo Nation Shopping Centers, Inc. for NNSCI's Proposed Expansion of the Dilkon Shopping Center; Approving the Related Expenditure Plan

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0232-22

Date: December 1, 2022

Re: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$17,513,187 FROM THE SÍHASIN FUND FOR THE NAVAJO NATION SHOPPING CENTERS, INC. FOR NNSCI'S PROPOSED EXPANSION OF THE DILKON SHOPPING CENTER; APPROVING THE RELATED EXPENDITURE PLAN

Purpose of this Legislation:

to approve \$17,513,187 from the Sihasin Fund for the Navajo Nation Shopping Centers, Inc. to implement and complete its proposed expansion project for the Dilkon Shopping Center; approving the Expenditure Plan for the project.

5-DAY BILL HOLD PERIOD: Aduna
Website Posting Time/Date: _____
Posting End Date: 12-07-22
Eligible for Action: 12-08-22

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:



(Prime Sponsor)

Tracking No. 0232-22

AN ACTION
RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET
AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO
THE NAVAJO NATION COUNCIL; APPROVING \$17,513,187 FROM THE
SÍHASIN FUND FOR THE NAVAJO NATION SHOPPING CENTERS, INC.
FOR NNSCI'S PROPOSED EXPANSION OF THE DILKON SHOPPING
CENTER; APPROVING THE RELATED EXPENDITURE PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee was established as a standing committee of the Navajo Nation Council, and given oversight authority over business site leasing, economic and community development matters, and the Navajo Nation Shopping Centers, Inc. ("NNSCI"). 2 N.N.C. §500(B) and §500(C); see also, Navajo Nation Council Resolution No. CO-63-02 (attached as **EXHIBIT A**) with NNSCI's Articles of Incorporation and NNSCI's original Bylaws, and the current NNSCI Bylaws (attached as **EXHIBIT A-1**).
- 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" which includes money from the Navajo Nation's Síhasin Fund. 2 N.N.C. §301(B)(2).

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

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

9 §2502 Purpose

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

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

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

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

22 F. 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 G. 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. NNSCI was established in 2002 as an independent corporate entity under the Navajo Nation
3 Corporation Code. A copy of NNSCI's Articles of Incorporation and current Bylaws are
4 included under **EXHIBITS A** and **A-1**. NNSCI manages 9 shopping centers across the
5 Navajo Nation, including the Dilkon Shopping Center located in the Dilkon Chapter of the
6 Navajo Nation. See NNSCI's website: *nns cinc.com*.

7 B. NNSCI is requesting \$17,513,187 from the Navajo Nation's Síhasin Fund for its proposed
8 expansion of the Dilkon Shopping Center ("Expansion Project"). The letter requesting the
9 Síhasin money, from NNSCI's Chief Executive Officer, is attached as **EXHIBIT B**.

10 C. NNSCI has provided a 21-page proposal for the Expansion Project explaining the estimated
11 costs of the Project, anticipated economic benefits to the area, potential tax revenues, and
12 other matters regarding the Expansion Project. **EXHIBIT C**. NNSCI's proposal includes an
13 Executive Summary and detailed Cost Estimate for the Expansion Project. **EXHIBIT D**.

14 E. In Resolution No. DIL-2022-11-001 the Dilkon Chapter expresses its full support for
15 NNSCI's Expansion Project. Resolution No. DIL-2022-001 is attached as **EXHIBIT E**.

16 F. Allocation of the Síhasin funds as requested by NNSCI meets the criteria for Síhasin
17 expenditures because the proposed expenditure involves regional infrastructure supporting
18 economic development and community development in the area, as described in 12 N.N.C.
19 §2502(A)(1).

20 G. Allocation of the requested Síhasin funds also meets the criteria for the leveraging of funds,
21 as described in 12 N.N.C. §2502(C), because the Expansion Project is expected to generate
22 significant tax revenues for the Navajo Nation.

23
24 **SECTION THREE. APPROVING \$17,513,187 FROM THE SÍHASIN FUND FOR THE**
25 **NAVAJO NATION SHOPPING CENTERS, INC. FOR NNSCI'S**
26 **PROPOSED EXPANSION OF THE DILKON SHOPPING**
27 **CENTER; APPROVING THE RELATED EXPENDITURE PLAN**

28 A. Pursuant to 12 N.N.C. §2505(A), the Navajo Nation hereby approves the allocation of
29 \$17,513,187 from the Síhasin Fund for the Navajo Nation Shopping Centers, Inc. to
30 implement and complete its proposed Expansion Project for the Dilkon Shopping Center.

1 B. The Navajo Nation hereby approves the related Expenditure Plan for the Expansion Project,
2 as set forth in the **EXHIBIT C** attached hereto.

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

5 D. The total amount of Síhasin funds approved herein may be further leveraged by bond or loan
6 financing pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*, as
7 amended), using Síhasin Fund earnings for repayment and financing costs, upon approval of
8 the Budget and Finance Committee and upon a 2/3 approval vote of the full membership of
9 the Navajo Nation Council.

10 E. No later than 30 business days after the effective date of this Action, the Controller shall
11 begin transferring to NNSCI the Síhasin funds approved herein. All such transfers shall be
12 in accordance with an appropriate grant agreement, memorandum of agreement, or other
13 legal document executed by NNSCI and the Navajo Nation. Such agreement shall be binding
14 upon the parties, shall be approved by the Controller, and shall establish a Project schedule,
15 a payment or drawdown plan, a funds management plan, or other relevant procedures that
16 will govern NNSCI's access to, and expenditures of, the Síhasin funds approved herein.

17 F. Síhasin funds shall not be comingled with any other funds. The approved Síhasin funds shall
18 be used by NNSCI strictly for the implementation and completion of the Expansion Project
19 as described in **EXHIBIT C**. Furthermore, NNSCI shall be responsible for complying with
20 the Expenditure Plan (**EXHIBIT C**) approved herein, and with all terms and conditions of
21 the legal agreement described in Section Three (E) above.

22 G. As a condition of receiving the approved Síhasin funds, NNSCI shall allow the Navajo
23 Nation full access to its financial and other records related to the Síhasin funds it has received
24 and to the Expansion Project. Such access shall be for the purpose of the Navajo Nation's
25 review and audit of NNSCI's expenditures of Síhasin funds, and the progress of the
26 Expansion Project.

27 H. NNSCI shall submit a written report, and a verbal report if so requested, explaining the
28 ongoing status of the Expansion Project and its expenditures of the Síhasin funds, to the
29 Resources and Development Committee, the Budget and Finance Committee, and the
30 Naabik'íyáti' Committee. Such reports shall be provided by the end of each Fiscal Year

Quarter until the Expansion Project is completed, or until all approved Síhasin funds are exhausted, or upon the reversion deadline in Section Three (J) below.

I. The approved Síhasin funds for the Expansion Project shall not lapse at the end of any fiscal year, as might otherwise occur under 12 N.N.C. §820(N), so long as: (1) all Síhasin funds in the Expansion Project account are accounted for as of September 30 of each fiscal year; and (2) any/all remaining Síhasin funds are budgeted in the next upcoming fiscal year for use on the Expansion Project.

J. Notwithstanding Section Three (I) above, any remaining amount of Síhasin funds not expended or encumbered within 36 months of NNSCI's first receipt of such funds shall revert to the Síhasin Fund, unless otherwise approved prior to such reversion by both the Resources and Development Committee and the Naabik'íyáti' Committee.

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

SECTION FOUR. EFFECTIVE DATE

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

SECTION FIVE. SAVING CLAUSE

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