

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0259-22_

SPONSOR: Jimmy Yellowhair

TITLE An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees and the Navajo Nation Council; Approving \$8,000,000 from the Síhasin Fund for the Navajo Community Development Financial Institution to Provide Loans and Support for Small Businesses Across the Navajo Nation; Approving the Related Expenditure Plan

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0259-22

Date: December 14, 2022

Re: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING \$8,000,000 FROM THE SÍHASIN FUND FOR THE NAVAJO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION TO PROVIDE LOANS AND SUPPORT FOR SMALL BUSINESSES ACROSS THE NAVAJO NATION; APPROVING THE RELATED EXPENDITURE PLAN

Purpose of this Legislation:

to approve \$8,000,000 in Sihasin funds to NCDFI for it to provide loans and other support for small businesses; approving the related Expenditure Plan.

OLC No. 22-414-1

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 12-20-22
Eligible for Action: 12-21-22

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. 0259-22

Thomas Walker, Jr.

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND
FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION
COUNCIL; APPROVING \$8,000,000 FROM THE SÍHASIN FUND FOR THE
NAVAJO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION TO
PROVIDE LOANS AND SUPPORT FOR SMALL BUSINESSES ACROSS THE
NAVAJO NATION; APPROVING THE RELATED EXPENDITURE PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee ("RDC") is a standing committee of the Navajo Nation Council with authority over economic and community development matters. RDC has the responsibility to review and establish policies to streamline procedures for the development of the Navajo Nation's economy and business activity on the Navajo Nation. RDC also has the power to periodically receive reports and review the operations of Navajo Nation enterprises, authorities, and industries. 2 N.N.C. §500(C) and §500(C)(7) and §501(B)(4)(e).

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." 2 N.N.C. §301(B)(2).

1 C. 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 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 for
5 authorized purposes.

6 E. 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 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 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. Between 2004 and 2006 the Division of Economic Development conducted research and
3 feasibility studies regarding the establishment of a financial institution to facilitate economic
4 and community development on the Navajo Nation. In January of 2010 the Navajo Nation
5 established the Navajo Community Development Financial Institution (“NCDFI”), a wholly-
6 owned corporate entity of the Navajo Nation. See Navajo Nation Council Resolution No.
7 CJA-02-10.

8 B. In September of 2006 NCDFI was incorporated under the Navajo Nation Corporation Code.
9 NCDFI was created to assist individuals, businesses, and communities in obtaining financial
10 resources they can use to build a strong economy on the Navajo Nation, based on individual
11 initiatives, entrepreneurial creativity, and community values. NCDFI’s Articles of
12 Incorporation and Bylaws are attached hereto as **EXHIBIT A**.

13 C. NCDFI's mission has been to develop a comprehensive financial infrastructure and a
14 sustainable capital-based economy on the Navajo Nation that utilizes core Navajo values and
15 traditions to further economic development in Diné communities. NCDFI has been an
16 important economic and financial catalyst supporting and strengthening the private sector to
17 create a private business economy on the Navajo Nation.

18 D. NCDFI has the flexibility to partner with Navajo Nation enterprises and governmental
19 entities to create jobs, business opportunities, and to provide services necessary to improve
20 the quality of life for Navajo Nation communities.

21 E. NCDFI is certified by the U.S. Department of the Treasury as a Community Development
22 Financial Institution (“CDFI”) Fund. NCDFI is therefore eligible to apply for matching funds
23 from the Treasury’s CDFI Fund (Certification No. 181CE054359). **EXHIBIT B**.

24 F. NCDFI currently offers loan products to Navajo-owned businesses, as well Navajo Nation
25 enterprises and Chapters, ranging from \$1,000.00 up to \$5,000,000.00. These loans may be
26 secured to develop a community facility or to start a business, or to expand existing business
27 operations with equipment and inventory purchases, facility renovations, leasehold
28 improvements, and other activities. NCDFI may also partner with banks to leverage larger
29 loans or provide deposit services based on its U.S. Treasury certification. **EXHIBIT C**.

30 G. Since 2010 NCDFI has successfully disbursed \$13.6 million in loans to Navajo companies

1 and small businesses, and has developed training materials that educate Navajo entrepreneurs
2 regarding best business practices.

3 H. In September of 2022 NCDFI presented a proposal to the Síhasin Fund Subcommittee
4 requesting \$8,000,000 from the Síhasin Fund to capitalize its “5-Year Strategic Plan.”

5 **EXHIBIT D.** NCDFI expects to leverage the \$8,000,000 into nearly \$16,000,000 in
6 matching federal CDFI/SSBCI funds. A more comprehensive explanation of NCDFI’s
7 proposal is attached as **EXHIBIT E.**

8 I. NCDFI has prepared an Executive Summary of its request for the \$8,000,000 from the
9 Síhasin Fund. **EXHIBIT F.** NCDFI has also prepared a line-item list that specifies all of its
10 proposed expenditures. **EXHIBIT G.**

11 J. Allocation of the Síhasin funds as requested by NCDFI meets the criteria for Síhasin
12 expenditures, because the funds will enable NCDFI to promote economic and community
13 development across the Navajo Nation, as described in 12 N.N.C. §2502(A)(1).

14 K. Allocation of the requested Síhasin funds also meets the criteria for the leveraging of funds,
15 as described in 12 N.N.C. §2502(C), because: (1) NCDFI expects to leverage these funds to
16 obtain matching federal funds; and (2) NCDFI’s expenditures will greatly facilitate new
17 business opportunities, which will in turn generate new tax revenue for the Navajo Nation.

18 L. The Navajo Nation has determined that approving NCDFI’s proposal, and the \$800,000,000
19 from the Síhasin Fund, will greatly facilitate economic and community development, and is
20 therefore in the best interests of the Navajo Nation and the Navajo People.

21
22 **SECTION THREE. APPROVING \$8,000,000 FROM THE SÍHASIN FUND FOR THE**
23 **NAVAJO COMMUNITY DEVELOPMENT FINANCIAL**
24 **INSTITUTION TO PROVIDE LOANS AND SUPPORT FOR**
25 **SMALL BUSINESSES ACROSS THE NAVAJO NATION;**
26 **APPROVING THE RELATED EXPENDITURE PLAN**

27 A. Pursuant to 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$8,000,000 from the
28 Síhasin Fund for the Navajo Community Development Financial Institution to provide loans
29 and other support for small business development across the Navajo Nation, as explained in
30 the attached **EXHIBITS D-G.**

- 1 B. The Navajo Nation hereby approves NCDFI's proposed 5-Year Expenditure Plan, as set forth
2 in the attached **EXHIBITS D-G**.
- 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 approved Síhasin funds 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. Within thirty (30) calendar days after the effective date of this Action, the Controller shall
11 transfer the approved Síhasin funds to NCDFI in accordance with an appropriate grant
12 agreement, memorandum of agreement, or other binding legal document executed by the
13 NCDFI and the Navajo Nation.
- 14 F. The approved Síhasin funds shall not be comingled with funds from any other sources, and
15 shall be used by NCDFI strictly for its Expenditure Plan approved. NCDFI shall be
16 responsible for complying with the Expenditure Plan and with all provisions of the legal
17 agreement described in Section Three (E) above.
- 18 G. As a condition of receiving the approved Síhasin funds, NCDFI shall allow the Navajo
19 Nation full access to its financial records related to the Síhasin funds it has received, for the
20 purpose of the Navajo Nation's review and audit of NCDFI's expenditures of such funds.
- 21 H. NCDFI shall submit a written report, and a verbal report if so requested, explaining the status
22 of its Expenditure Plan and its expenditures of the approved Síhasin funds, to the Resources
23 and Development Committee, the Budget and Finance Committee, and the Naabik'íyáti'
24 Committee. Said reports shall be provided by the end of each Fiscal Year Quarter until all
25 Síhasin funds are exhausted.
- 26 I. The approved Síhasin funds shall not lapse at the end of any fiscal year, as might otherwise
27 occur under 12 N.N.C. §820(N), so long as: (1) all Síhasin funds are expended according to
28 the approved Expenditure Plan; (2) all Síhasin funds are accounted for as of September 30
29 of each fiscal year; and (3) all remaining Síhasin funds are budgeted in the next upcoming
30 fiscal year for the same purposes.

1 J. The Síhasin Fund may be reimbursed the amount of funds approved herein, from funds
2 available to the Navajo Nation from any and all state, federal, or other sources.
3

4 **SECTION FOUR. EFFECTIVE DATE**

5 This Action shall become effective pursuant to 12 N.N.C. §2505(A) and 2 N.N.C. §221(B).
6

7 **SECTION FIVE. SAVING CLAUSE**

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