TITLE: An Action Relating To The Resources And Development, Budget And Finance, NAABIK’IYATI’ Committees, And Navajo Nation Council; Allocating $19,297,576 From The Síhasin Fund To The Division Of Economic Development Project Development Department And Approving And Adopting The Church Rock Industrial Park Project Fund Expenditure Plan Pursuant To 12 N.N.C. §§2501-2508

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LEGISLATIVE SUMMARY SHEET

DATE: June 28, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, NAABIK'IYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; ALLOCATING $19,297,576 FROM THE SIHASIN FUND TO THE DIVISION OF ECONOMIC DEVELOPMENT PROJECT DEVELOPMENT DEPARTMENT AND APPROVING AND ADOPTING THE CHURCH ROCK INDUSTRIAL PARK PROJECT FUND EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 - 2508

PURPOSE: The purpose of this legislation is to allocate Sihasin Fund funding to the Division of Economic Development Project Development Program, in the amount of $19,297,576.00 for the Church Rock Industrial Park Project and to approve and adopt the Church Rock Industrial Park Project Expenditure Plan.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 018019

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND
FINANCE, NAABIK’IYÁTI’ COMMITTEES, AND NAVAJO NATION COUNCIL;
ALLOCATING $19,297,576 FROM THE SÍHASIN FUND TO THE DIVISION OF
ECONOMIC DEVELOPMENT PROJECT DEVELOPMENT DEPARTMENT AND
APPROVING AND ADOPTING THE CHURCH ROCK INDUSTRIAL PARK
PROJECT FUND EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

BE IT ENACTED:

Section One. Authority

A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C.
§ 102 (A).

B. The Naabik’iyati’ Committee of the Navajo Nation Council is empowered to review
all proposed legislation which requires final action by the Navajo Nation Council. 2
N.N.C. §164(A)(9).

C. The Budget and Finance Committee of the Navajo Nation Council is empowered 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).
D. The Resources and Development Committee of the Navajo Nation Council is serves as the oversight authority for the Division of Economic Development 2 N.N.C. §§ 501 (C)(1).

E. The Naabik'íyáti' Committee established the Naabik'íyáti' Sihasin Fund Subcommittee to recommend to the Naabik'íyáti' Committee and Navajo Nation Council financial support and/or financing plan(s) for the purposes designated in the Sihasin Fund. NABIAP-20-15. However, approval by the Naabik'íyáti' Sihasin Fund Subcommittee is not a requirement for legislation.

F. The Navajo Nation Code provides the purpose of the Navajo Nation Sihasin Fund ("Sihasin Fund") is as follows:

§ 2502 Purpose

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

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

2. Education opportunities for members of the Navajo Nation.

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

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

12 N.N.C. § 2502, as amended by CJA-03-18.
G. The Sihasin Fund provides that “Fund Principal” shall consist of all deposits made to the Sihasin Fund and that “Fund Income” shall consist of all earnings (interest, dividends, etc.) generated and realized by the Fund Principal, and that Fund Income shall be deposited in and added to Fund Principal until such time as a Fund Expenditure Plan is duly adopted. 12 N.N.C. §§ 2504 and 2505 (C).

Section Two. Findings

A. Rhino Health, LLC, is a subsidiary of Church Rock Development, LLC, proposes to manufacture nitrile gloves at the Church Rock Industrial Park. The Church Rock Industrial Park Project Plan is detailed in Exhibit 1.

B. As set forth in Exhibit 1, the Project Development Department within the Division of Economic Development is responsible for the operation, maintenance and management of projects within the industrial parks on the Navajo Nation, which includes construction of facilities for lease, and will be the department responsible for the Church Rock Industrial Park Project. See also division of Economic Development, master Plan of Operation, Section IV. set forth in Exhibit 1.

C. Church Rock Development, L.L.C., has provided a letter of intent, attached within Exhibit 1, to develop an income generating nitrile glove manufacturing and distribution warehouse facility in the Church Rock Industrial Park.

D. A cost estimation totaling $19,297,576.00 is provided within Exhibit 1 and will be used for construction, including infrastructure of a manufacturing and warehouse facility (124,000 square feet) in the Church Rock Industrial Park.

E. Rhino Health, LLC, has an emergency operating agreement with the Navajo Division of Economic Development entered into in April 2018, which is attached within Exhibit 1.

F. The Navajo Nation Division of Economic Development Plan of Operation, attached within Exhibit 1, provides that the purpose of the Division of Economic Development is to “creat[e] an environment that is conducive to promote and develop businesses in the commercial, tourism, industrial and other sectors of the
Navajo Nation economy, to enhance the creation of jobs and business opportunities."

G. A Letter of Support from the President and Vice President of the Navajo Nation and a physical description of the project site is attached within Exhibit 1.

H. Rhino Health, L.L.C. has applied for an Industrial Revenue Bond through McKinley County. The application is attached within Exhibit 1. A resolution by the Advisory Committee to the Navajo Nation Council, ACMY-189-71, which created Church Rock Industrial Park, is attached within Exhibit 1.

Section Three. Allocation of $19,297,576.00 to the Division of Economic Development Project Development Department and Approval and Adoption of Expenditure Plan

A. The Navajo Nation hereby approves and adopts the Church Rock Industrial Park Project Expenditure Plan, attached and incorporated herein as Exhibit 1.

B. The Navajo Nation hereby allocates funding to the Division of Economic Development Project Development Program, in the amount of $19,297,576.00 from the Sihasin Fund for the Church Rock Industrial Park Project as set forth in Exhibit 1.

C. The Sihasin Funds allocated for the Church Rock Industrial Park Project Expenditure Plan may be further leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing Act, 12 N.N.C. § 1300 et seq., as amended, using Sihasin Fund earnings for repayment and financing costs upon the recommendation of the Budget and Finance Committee and approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

Section Four. Approval and Adoption of Expenditure Plan Administration

The Navajo Nation hereby approves administration of the Church Rock Industrial Park Project Expenditure Plan as follows:
1. The Navajo Nation Controller shall determine whether the source of the allocation of $19,297,576.00 will be Sihasin Fund Principal or Income or a combination of both.

2. The funding to the Project Development Department shall be released pursuant to a drawdown schedule, approved by the Office of the Controller, reflecting the projected progress of the construction.

3. The funds allocated for the Church Rock Industrial Park Project Expenditure Plan shall be used solely to design, plan, and construct the Church Rock Industrial Park Project described in Exhibit 1. Any and all cost-savings shall be returned to the to the Sihasin Fund once the Church Rock Industrial Park Project is completed.

4. The funds allocated for the Church Rock Industrial Park Project shall not lapse on an annual basis pursuant to 12 N.N.C. §820 (N), however, any funds not spent or encumbered within twenty-four (24) months of the date funds are made available to the Project Development Department shall revert to the Sihasin Fund principal, unless recommended otherwise by the Resources and Development Committee and approved by the Naabik’íyáti’ Committee.

5. The Project Development Department shall report the status of the construction including expenditures, to the Executive Director of the Division of Economic Development and the Office of the Controller on a monthly basis.

Section Five. Effective Date
The Church Rock Industrial Park Project Expenditure Plan, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505.

Section Six. Directives
The Division of Economic Development Project Development Department and Rhino Health, L.L.C., shall report the status of the Church Rock Industrial Park Project construction progress to the Naabik’íyáti’ Committee on a quarterly basis.