TITLE: An Action Relating To The Law And Order, Budget And Finance, NAABIK'ÍYATI’ Committees, And Navajo Nation Council; Approving And Adopting The Shiprock Judicial And Public Safety Center Facilities Síhasin Fund Expenditure Plan Pursuant 12 N.N.C. §§ 2501-2508

Date posted: July 2, 2019 at 3:10 PM

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DATE: June 26, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE, NAABIK’ÍYÁTI’ COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING AND ADOPTING THE SHIPROCK JUDICIAL AND PUBLIC SAFETY CENTER FACILITIES SIHASIN FUND EXPENDITURE PLAN PURSUANT 12 N.N.C §§ 2501 – 2508

PURPOSE: The purpose of this legislation is to allocate Sihasin Funds for a Judicial and Public Safety Center in Shiprock, New Mexico.

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

[Signature]
(Prime Sponsor)

TRACKING NO. 0182-19

AN ACTION

RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE,
NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING
AND ADOPTING THE SHIPROCK JUDICIAL AND PUBLIC SAFETY CENTER
FACILITIES SÍHASÍN FUND EXPENDITURE PLAN PURSUANT
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 Law and Order Committee of the Navajo Nation Council is empowered to serve
as the oversight authority for the Division of Public Safety and the Judicial Branch
Navajo Nation. 2 N.N.C. § 600 (C)(6).

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 Naabik'íyati' 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).
The Naabik'íyáti Committee of the 24th Navajo Nation Council continued the Naabik'íyáti Sihasin Fund Subcommittee in Resolution NABIAP-23-19. The Naabik'íyáti Sihasin Fund Subcommittee was initially established in 2015 by Resolution NABIAP-20-15 to provide recommendations to the Naabik'íyáti Committee and Navajo Nation Council for projects to be funded using Sihasin Funds. Notwithstanding the creation and continuation of the Naabik'íyáti Sihasin Fund Subcommittee, approval from the Subcommittee is not a requirement for the Navajo Nation Council to approve Sihasin Fund expenditure plans.

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 Síhasín Fund provides that “Fund Principal” shall consist of all deposits made to the Síhasín 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).

H. The Síhasín Fund provides that “Fund Principal and Income shall not be expended except pursuant to a Fund Expenditure Plan consistent with the purposes set forth in § 2502 of this Chapter and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council.” 12 N.N.C. § 2505(A).

Section Two. Findings

A. The Shiprock Judicial Public Safety Facility Project will replace the Northern Navajo Agency Judicial and Public Safety Facility in Shiprock, New Mexico. The public safety facility has been closed due to structural and environmental concerns. These concerns include the presence of lead, asbestos, and mold. As a result, the Navajo Nation has been denied a sanitation permit since 2010.

B. The Northern Navajo Agency Judicial and Public Safety facility serves an area consisting of 2,726.438 acres of land with a population of over 29,803. Additional details on the service area are provided in the “Shiprock Judicial Public Safety Project” attached as Exhibit A.

C. Proposed budgets and a proposed construction schedule can be found at Exhibit B.

D. The proposed Shiprock Judicial Public Safety Facility will consist of the following:

2. Police Facility, (budget $14,455,819).
3. Courts Facility, (budget $10,185,069).
4. Medical Examiner Facility, (budget $1,759,692), and
5. Relocation Costs, (budget $4,094,301).

This reflects a total cost of construction and relocation for all facilities of $66,036,301.
E. The total cost to the Navajo Nation for construction of the Shiprock Judicial Public Safety Facility will be offset by $3,150,000 from Authorized New Mexico Funds Credit. This is a reimbursable credit that will result in cost savings to the Navajo Nation. Additionally, preconstruction costs have been paid for through the allocation of $3,150,000 from the Navajo Nation Judicial/Public Safety Fund.

Section Three. Approval and Adoption of Expenditure Plan

A. The Navajo Nation hereby approves and adopts the Shiprock Sihasin Public Safety Facility Expenditure Plan, attached and incorporated herein as Exhibit B.

B. The Navajo Nation hereby approves and adopts funding to the Shiprock Sihasin Public Safety Facilities Expenditure Plan for $66,036,301.

C. The Sihasin Funds allocated for the Sihasin Public Safety Facilities 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 Shiprock Sihasin Public Safety Facility Expenditure Plan follows:

1. The Navajo Nation Controller shall determine whether the source of the annual allocations from the total allocation of $66,036,301 will be Sihasin Fund Principal or Income or a combination of both;

2. The funding for the Shiprock Sihasin Public Safety Facility Expenditure Plan will be distributed to the Division of Public Safety pursuant to a construction plan or drawdown schedule agreed to by the Office of the Controller and the Department of Public Safety, within 30 days of the formal adoption of this legislation.
3. The funds allocated for the Sihasin Public Safety Facilities Expenditure Plan shall be used solely to design, plan, and construct the Sihasin Public Safety Facilities Expenditure Plan described in Exhibits A and B. Any and all cost-savings shall be returned to the to the Sihasin Fund once the safety facilities are completed; and

4. The funds allocated for the Sihasin Public Safety Facilities Expenditure Plan 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 Department of Public Safety shall revert to the Sihasin Fund principal, unless recommended otherwise by the Law and Order Committee of the Navajo Nation Council and approved by the Naabik'íyáti' Committee.

Section Five. Effective Date

The Sihasin Public Safety Facilities Expenditure Plan, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505.

Section Six. Directives

The Department of Public Safety shall report the status of the Shiprock Sihasin Public Safety Facilities Expenditure Plan to the Naabik'íyáti' Committee on a quarterly basis.