TITLE: An Action Relating To Resources And Development, Budget And Finance And Naabik’íyáti Committee, And Navajo Nation Council; Approving A Funding Request Of Three Million Ninety-Eight Thousand Eight Hundred Dollars ($3,098,800) From The Sihasin Fund To The Navajo Tribal Utility Authority And Adopting The 62 Chapter House Broadband Project Expenditure Plan Pursuant To CD-68-14 And 12 N.N.C. §§ 2501 – 250

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0133-19

DATE: May 21, 2019

SUBJECT: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING A FUNDING REQUEST OF THREE MILLION NINETY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS ($3,098,800) FROM THE SIHASIN FUND TO THE NAVAJO TRIBAL UTILITY AUTHORITY AND ADOPTING THE 62 CHAPTER HOUSE BROADBAND PROJECT EXPENDITURE PLAN PURSUANT TO CD-68-14 AND 12 N.N.C §§ 2501 – 2508

NOTE: Expenditure from the principal and income of the Sihasin Fund requires a 2/3 vote of all members of the Navajo Nation Council in accordance with 12 N. N. C. § 2505 (A).

PURPOSE: The purpose of this legislation is to approve an expenditure from the Navajo Nation Sihasin Fund in the amount of $3,098,800 to the Navajo Tribal Utility Authority for a 62 Chapter House Broadband Project.

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 review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0133-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE
AND NAABIK’IYÁTI’ COMMITTEES, AND NAVAJO NATION COUNCIL;
APPROVING A FUNDING REQUEST OF THREE MILLION NINETY-EIGHT
THOUSAND EIGHT HUNDRED DOLLARS ($3,098,800) FROM THE SÍHASIN
FUND TO THE NAVAJO TRIBAL UTILITY AUTHORITY AND ADOPTING THE
62 CHAPTER HOUSE BROADBAND PROJECT EXPENDITURE PLAN PURSUANT
TO CD-68-14 AND 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 Resource and Development Committee of the Navajo Nation Council is
empowered to exercise oversight authority over economic and community
development and housing. 2 N.N.C. § 500 (C).
D. 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).

Section Two. The Naabik’iyáti Sihasin Fund Subcommittee and Navajo Nation
Sihasin Fund

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

B. 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 N.N.C. § 1301(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.

C. The Síhasin Fund provides that Fund Principal shall consist of all deposits made to the Síhasin 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 Three. Findings

A. The 62 Chapter House Broadband Project is attached as Exhibit A.

B. Exhibit A provides a strategy, an estimated construction schedule, and cost proposal for providing broadband services to chapter houses.

Section Four. Approval and Adoption of Expenditure Plan from Síhasin Funds

A. The Navajo Nation hereby approves and adopts the 62 Chapter House Broadband Project Expenditure Plan, attached and incorporated herein as Exhibit A.

B. The Navajo Nation hereby approves a funding request to Navajo Tribal Utility Authority (“NTUA”) for the 62 Chapter House Broadband Project Expenditure Plan in the amount of three million ninety-eight thousand eight hundred dollars ($3,098,800) during Navajo Nation Fiscal Year 2019.

C. The Síhasin Funds allocated for the 62 Chapter House Broadband 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 Síhasin Fund Earnings for repayment and financing costs upon the
recommendation of the Budget & Finance Committee and approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

Section Five. Approval and Adoption of Expenditure Plan Administration

A. The Navajo Nation hereby approves administration of the 62 Chapter House Broadband Project Expenditure Plan as follows:

1. The Navajo Nation Controller shall determine whether the source of the three million ninety-eight thousand eight hundred dollars ($3,098,800) will be Sihasin Fund Principal or Income or a combination of both;

2. The funds allocated to NTUA shall be used to design, plan, and construct the 62 Chapter House Broadband Project, as set forth in Exhibit A, and NTUA shall return any and all cost-savings to the Sihasin Fund once the 62 Chapter House Broadband Project is fully completed or with the approval of the Naabik’íyáti’ Committee, use such cost-savings for broadband access to additional chapter houses.

3. The Navajo Nation Controller shall release the funds to NTUA during Navajo Nation Fiscal Year 2019 pursuant to a project budget plan or other such schedule agreed to by the Office of the Controller and NTUA within thirty (30) days of the formal adoption of this legislation;

4. The funds allocated for the 62 Chapter House Broadband Project shall not lapse on an annual basis pursuant to 12 N.N.C. §820 (N) or otherwise be returned to or deposited in the Sihasin Fund Principal or Navajo Nation General Fund until the earlier of five (5) years from the date of adoption of this legislation or such time as the 62 Chapter House Broadband Project, as set forth in Exhibit A, is fully completed.

B. The NTUA General Manager and Management Board shall have an ongoing responsibility to make all efforts to secure additional funding from external sources to reduce the use of Sihasin Funds to complete the 62 Chapter House Broadband Project.
C. The NTUA General Manager and Management Board shall account for and be held accountable for the expenditure of Sihasin Fund funds and shall account for such funds pursuant to Generally Accepted Accounting Principles and an account or fund management plan approved by the NTUA President and reported to the Board of Directors which shall at least include provisions that:

1. The accounting and financial records for the Sihasin Fund funds shall be kept separate from other NTUA funds and accounts; and

2. The use of the Sihasin Fund funds shall be audited on an annual basis by an independent auditor with such audit report submitted to the Naabik’íyáti’ Committee, Office of the Controller, and Office of the President and Vice-President.

D. The NTUA General Manager shall report the status of the project, as well as NTUA efforts to secure funding from external sources, to the Naabik’íyáti’ Committee and Office of the President and Vice-President on a semi-annual basis.

Section Six. Effective Date

The 62 Chapter House Broadband Project Expenditure Plan, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505.

Section Seven. Directives

A. All Navajo Nation programs, specifically including, but not limited to, the Office of Controller and Office of Management & Budget, and NTUA staff and Management Board, shall take all steps necessary to expeditiously implement the 62 Chapter House Broadband Project Expenditure Plan consistent with the provisions set forth above.

B. The NTUA General Manager and Management Board, as well as Navajo Nation programs named in this legislation, shall report on a semi-annual basis to the Naabik’íyáti’ Committee and Office of the President and Vice-President on the progress of their respective tasks.