LEGISLATION NO: _0308-19_____ SPONSOR: Nathaniel Brown

TITLE: An Action Relating to Law and Order Committee, Resources and Development Committee, Budget and Finance Committee, Naabik’iyati Committee and Navajo Nation Council: Allocating $12,000,00.00 from the Síhasin Fund to the Kayenta Judicial Complex and approving and adopting the Kayenta Judicial Complex fund expenditure Plan pursuant to 12 N.N.C. §§ 2501-2508

Date posted: October 7, 2019 at 5:42pm

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.
DATE: October 1, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER COMMITTEE, RESOURCES AND DEVELOPMENT COMMITTEE, BUDGET AND FINANCE COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING $12,000,000.00 FROM THE SÍHASIN FUND TO THE KAYENTA JUDICIAL COMPLEX AND APPROVING AND ADOPTING THE KAYENTA JUDICIAL COMPLEX FUND EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

NOTE: The Navajo Nation Department of Justice provide a memorandum that Exhibit 2 of this legislation is confidential.

PURPOSE: The purpose of this legislation is to approve and adopt funding for the Kayenta Judicial Complex from the Sihasin Fund.

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. 0308-19

AN ACTION
RELATING TO LAW AND ORDER COMMITTEE, RESOURCES AND
DEVELOPMENT COMMITTEE, BUDGET AND FINANCE COMMITTEE,
NAABIK’IYÁTI’ COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING
$12,000,000.00 FROM THE SIHASIN FUND TO THE KAYENTA JUDICIAL
COMPLEX AND APPROVING AND ADOPTING THE KAYENTA JUDICIAL
COMPLEX FUND EXPENDITURE PLAN PURSUANT TO
12 N.N.C §§ 2501 – 2508

BE IT ENACTED:

Section One. Authority

A. 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).

B. 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).

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

E. 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.

F. 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 into 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. The Kayenta Township ("Township") was permanently made a home rule municipality of the Navajo Nation by Navajo Nation Council Resolution CAU-47-03 (August 29, 2003).

B. The Kayenta Township Commission ("KTC"), the Township’s governing body, was given broad authority to perform all functions necessary for local self-government consistent with generally applicable laws of the Navajo Nation and the federal government. 2 N.N.C. §§ 4081 and 4084.

C. The Kayenta Judicial District (the "District") covers approximately 2,439,395 acres with a population of over 19,240 residents. Growth and economic development initiatives within the Kayenta Judicial District, has created the need to enhance and expand the availability and delivery of judicial service, including the need for a new public safety and judicial facility in the District.

D. Since 2001, the KTC, Kayenta Chapter Administration, the Kayenta Judicial District, and Kayenta Public Safety personnel have been working on a four phase master plan for the construction of a new public safety and judicial complex (the "Project") for the District. These entities have obtained community support from the seven chapters in the district for the Project and secured the necessary land use clearances, including an archeological survey and an environmental assessment.

E. The first two phases of the Project were funded through the use of an appropriation from the United States Congress (ARRA or "stimulus" funds”), which were accepted by the Navajo Nation on September 23, 2009. The new Department of Corrections and Public Safety facilities had their grand opening on June 04, 2015. However, the last two phases of the Project for the Juvenile Detention and Judicial Facilities remain to be completed.

F. The Kayenta District Court provides court services, peacemaking, probation and parole services for the Kayenta, Chilchinbeto, Dennehotso, Oljato, Tsaa’ah bii Kin, Naatsis’aan, and Shonto Chapters of the Navajo Nation. The current 26-year-old court facility is cramped, aged and inadequate to provide the necessary judicial
services, which are a critical component of public safety for the Township and surrounding communities.

G. A new 17,000 square foot Kayenta Judicial Complex will provide a safe and permanent building for courts services, judicial program personnel, the prosecutor’s office, probation and parole services, the public defender’s office, the peacekeeping program, offices, meeting rooms, and hearing rooms that are culturally-based, and expand and improve the availability and delivery of judicial services.

H. The Law and Order Committee of the Navajo Nation, on the recommendation of the Judicial Branch and the Division of Public Safety, by Committee Resolution 1.OCJN-04-17 (June 2, 2017), attached as Exhibit 1, identified construction of the Kayenta Judicial Complex as the third priority for construction of judicial/public safety facilities on the Navajo Nation.

I. KTC approved an appropriation to the Navajo Nation Judicial Branch by Resolution No. KTCAU-38-18, for the Kayenta Judicial Complex in the amount of $650,000.00.

J. At the request of the various stakeholder agencies of the Navajo Nation, including the Judicial Branch, the Kayenta District Court, the Department of Corrections, and the Office of the Prosecutor, by Resolution No. KTCD-58-18 (Dec. 10, 2018), KTC authorized the Township to serve as Fiscal Agent for the Kayenta Judicial Complex, whereby the Township would hold all of the funding for the Complex from whatever source, assist in the procurement of the contractor for the Complex, and directly disburse payments for the Complex, which would be owned by the Navajo Nation under the primary custody of the Judicial Branch.

K. The land for the Kayenta Judicial Complex is located within the Township and KTC has already approved a withdrawal of the land for the exclusive use of the Kayenta Judicial Complex. The Township will not charge rent or other fees for the use of the land. The land on which the Kayenta Judicial Complex will be located is estimated to be valued at $247,771.55, which is an additional in-kind
contribution by KTC for the Complex, for a total contribution by KTC of $897,771.55.

L. An additional $12,000,000.00 in funding is needed to complete the design and construction of the Kayenta Judicial and Public Safety Complex, as set forth in the Kayenta District Conceptual Project Budget/Expenditure Plan, attached and incorporated herein as Exhibit 2.

Section Three. Approval and Adoption of the Kayenta Judicial Complex Expenditure Plan

A. The Navajo Nation hereby allocates to Kayenta Township the total amount of $12,000,000.00 to construct the Kayenta Judicial Complex as detailed in Exhibit 2.

B. The Navajo Nation hereby approves and adopts the Kayenta Judicial Complex Expenditure Plan, attached and incorporated herein as Exhibit 2.

C. The Sihasin Funds allocated for the Kayenta Judicial Complex 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 Sihasin Fund Kayenta Judicial Complex Expenditure Plan as follows:

A. The Navajo Nation Controller shall determine whether the source of the annual allocations from the total allocation of $12,000,000.00 will be Sihasin Fund Principal or Income or a combination of both:

B. The funding to the Kayenta Judicial Complex shall be distributed promptly to the Kayenta Township after the approval of this legislation. The Township shall serve as the fiscal agent and procuring party for the design and construction of the Kayenta Judicial Complex, in coordination with the Navajo Nation
stakeholders. Upon completion of the Project, the Navajo Nation shall own the
Complex, which shall be under the primary custody of the Judicial Branch;
C. The funds allocated for the Kayenta Judicial Complex shall be used solely to
design, plan, and construct the Kayenta Judicial Complex as described in
Exhibit 2. Any and all cost-savings shall be returned to the to the Sihasin Fund
once the Kayenta Judicial Complex is completed; and
D. The funds allocated for the Kayenta Judicial Complex shall not lapse on an
annual basis pursuant to 12 N.N.C. §820 (N), however, any funds not spent or
cumbered within twenty-four (24) months of the date funds are made
available to the Kayenta Judicial Complex shall revert to the Sihasin Fund
principal, unless recommended otherwise by the Law and Order Committee and
approved by the Naabik'íyáti' Committee.

Section Five. Effective Date
The Sihasin Fund Kayenta Judicial Complex Expenditure Plan, as set forth above, shall
become effective pursuant to 12 N.N.C. § 2505.

Section Six. Directives
The Township and the Kayenta Judicial District shall jointly report the status of the
Kayenta Judicial Complex project to the Naabik'íyáti Committee on a quarterly basis.
after the initial disbursement of funds, until such time as the Complex is fully
functional and all funds are expended or otherwise reverted as provided herein.