

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0011-20__

SPONSOR: Carl R. Slater

TITLE: An Action Relating To Law And Order, Budget And Finance, Health, Education And Human Services, And NAABIK'YATI Committees, And Navajo Nation Council; Adopting And Approving the Navajo Nation Scholarship Endowment Fund Expenditure Plan Pursuant To 12 N.N.C. §§2501-2508; Approving funding Of Fifty Million Dollars (\$50,000,000) From The Síhasin Fund To Establish The Navajo Nation Scholarship Endowment; Enacting The Navajo Nation Scholarship Endowment Act Of 2019

Date posted: January 15, 2020 at 6:45 PM

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) 871-7586

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.*

LEGISLATIVE SUMMARY SHEET
Tracking No. 0011-20

DATE: January 13, 2020

TITLE OF RESOLUTION: RELATING TO LAW AND ORDER, BUDGET AND FINANCE, HEALTH, EDUCATION AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; ADOPTING AND APPROVING THE NAVAJO NATION SCHOLARSHIP ENDOWMENT FUND EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508; APPROVING FUNDING OF FIFTY MILLION DOLLARS (\$50,000,000) FROM THE SÍHASIN FUND TO ESTABLISH THE NAVAJO NATION SCHOLARSHIP ENDOWMENT; ENACTING THE NAVAJO NATION SCHOLARSHIP ENDOWMENT ACT OF 2019

PURPOSE: This resolution, if approved, will enact the Navajo Nation Scholarship Endowment Act of 2019 and allocate \$50 million of Sihasin Funds for the Navajo Nation Scholarship Endowment Fund Expenditure Plan.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Act
Website Posting Time/Date: _____
Posting End Date: 01-20-20
Eligible for Action: 01-21-20

Law & Order Committee
Thence
Budget & Finance Committee
Thence
Health, Education & Human Services Committee
Thence
Naabik'iyáti Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION ~~Health, Education & Human Services Committee~~
2 24th NAVAJO NATION COUNCIL – Second Year, 2020

3 INTRODUCED BY

4 
5 _____
6 (Prime Sponsor)

7
8 TRACKING NO. 0011-20

9
10 AN ACT

11 RELATING TO LAW AND ORDER, BUDGET AND FINANCE, HEALTH,
12 EDUCATION AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND
13 NAVAJO NATION COUNCIL; ADOPTING AND APPROVING THE NAVAJO NATION
14 SCHOLARSHIP ENDOWMENT FUND EXPENDITURE PLAN PURSUANT TO 12
15 N.N.C §§ 2501 – 2508; APPROVING FUNDING OF FIFTY MILLION DOLLARS
16 (\$50,000,000) FROM THE SÍHASIN FUND TO ESTABLISH THE NAVAJO NATION
17 SCHOLARSHIP ENDOWMENT; ENACTING THE NAVAJO NATION SCHOLARSHIP
18 ENDOWMENT ACT OF 2019

19
20 **BE IT ENACTED:**

21
22 **SECTION ONE. AUTHORITY**

- 23 A. The Law and Order Committee of the Navajo Nation Council is empowered to review
24 and make recommendations to the Navajo Nation Council on proposed amendments to
25 and enactments in the Navajo Nation Code. 2 N.N.C. § 601 (B) (14).
26 B. The Budget and Finance Committee of the Navajo Nation Council is empowered to
27 review and recommend to the Navajo Nation Council the budgeting, appropriation,
28 investment, and management of all funds. 2 N.N.C. § 301 (B) (2).
29
30

1 C. The Health, Education and Human Services Committee of the Navajo Nation Council
2 is empowered to exercise oversight authority to review and recommend resolutions
3 relating to social services and education. 2 N.N.C. § 401(B)(6)(a).

4 D. The Naabik'iyati' Committee of the Navajo Nation Council is empowered to review all
5 proposed legislation which requires final action by the Navajo Nation Council and shall
6 recommend financial support and/or financing plan(s) to [the] Navajo Nation Council
7 for the purposes set out in 12 N.N.C. § 2502 (the Navajo Nation Sihasin Fund). 2
8 N.N.C. §164(A)(9) and NABIJY-38-19.

9 E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §
10 102 (A).

11
12 **SECTION TWO. THE NAVAJO NATION SIHASIN FUND**

13 A. The Navajo Nation Code at 12 N.N.C. § 2502, as amended by CJA-03-18, provides the
14 purpose of the Navajo Nation Sihasin Fund ("Sihasin Fund") as follows:

15
16 §2502. Purpose

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

- 18 1. The planning and development of economic development and regional
19 infrastructure supporting economic development and community
20 development, including such infrastructure as, but not limited to, housing,
21 commercial and government buildings, waterline, solid waste management
22 development, powerline projects, and transportation and communication
23 systems, within the Navajo Nation; and
24 2. Education opportunities for members of the Navajo Nation.

25 B. For the Purpose in § 2502(A)(1), Fund expenditures for infrastructure shall not be
26 limited by 12 N.N.C. § 1301(F) or TCDCJY-77-99.

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

1 B. The Sihasin Fund provides that Fund Principal shall consist of all deposits made to the
2 Sihasin Fund and that Fund Income shall consist of all earnings (interest, dividends, *etc.*)
3 generated and realized by the Fund Principal, and that Fund Income shall be deposited in
4 and added to Fund Principal until such time as a Fund Expenditure Plan is duly adopted.
5 12 N.N.C. §§ 2504 and 2505 (C).
6

7 **SECTION THREE. FINDINGS**

8 A. Diné Customary Law declares and teaches that it is the right and freedom of the people
9 that our children are provided with education to absorb wisdom, self-knowledge to
10 empower them to make a living and participate in the growth of the Navajo Nation. 1
11 N.N.C. § 204(F).

12 B. Scholarship Endowments are a financial tool which educational institutions commonly
13 rely on for sustainability purposes and to attract funding from public and private entities.

14 C. The establishment of the Navajo Nation Scholarship Endowment will enable the Office
15 of Navajo Nation Scholarship and Financial Assistance (ONNSFA) to solicit
16 contributions from public and private entities to supplement Navajo Nation contributions.

17 D. The primary goal of the Scholarship Endowment is to provide funding for Navajo
18 students pursuing a college degree who are willing to return to the Navajo Nation or
19 Navajo Indian Country after graduation to complete a minimum of four years of service
20 to the Navajo People and/or to the Navajo Nation government, including its sub-divisions
21 and entities.

22 E. The ONNSFA 2018 Annual Report, attached as **Exhibit A**, highlights that \$24,127,385
23 was disbursed in Calendar Year 2017 to 6,755 students and \$24,397,789 was disbursed in
24 Calendar Year 2018 to 6,680 students, but that only 53% of Navajo students were
25 awarded financial aid in 2017 and only 51% of Navajo students were awarded financial
26 aid in 2018.

27 F. The ONNSFA 2018 Annual Report also shows that in 2018 a total of 1,517 award
28 recipients earned a degree or certification from one of 20 educational institutions within
29 or surrounding the Navajo Nation with the top five (5) areas of study being Nursing,
30 General Studies, Business Administration, Psychology, and Biology and graduate degree

1 areas of study include Social Work, Business Administration, Education, Educational
2 Leadership, and Law. **Exhibit A.**

3 G. The ONNSFA 2018 Annual Report further explains the funding sources for student
4 scholarships and financial assistance comes from Navajo Nation general funds, federal
5 funds, corporate funds, and trust funds for a total of \$24,397,789 in 2018. **Exhibit A.**

6 H. Even with the funds available for scholarships and financial aid many Navajo students do
7 not have the opportunity to begin, or complete, a college degree program; as outlined in
8 the 2018 Annual Report, 47% of applicants in 2017 and 49% of applicants in 2018 were
9 denied awards. **Exhibit A.**

10 I. Academic research suggests a direct correlation between education and economic growth
11 within a developing nation, but developing nations, such as the Navajo Nation, are often
12 unable to convince their college graduates to return and participate in growing their
13 communities' economic objectives. This phenomenon is called "brain drain" and occurs
14 when college graduates are recruited away from developing communities to more
15 lucrative job markets in more economically developed areas. *See* Adolpho, Quintina Ava,
16 "Navajo Nation Brain Drain: An Exploration of Returning College Graduates'
17 Perspectives" (2015), <https://scholarsarchive.byu.edu/etd/5476>.

18 J. Although the Navajo Nation currently disburses more than \$24 million a year to fund
19 Navajo members' higher education, a large percentage of tribal members do not return to
20 the Navajo Nation after receiving their education; the most commonly cited factors for
21 this Navajo brain drain are: significant increases in annual income, comfortable living
22 conditions and lifestyles, opportunities for career advancement, better working facilities,
23 education and safety for families, and opportunities to learn from skilled mentors. *Id.*

24 K. The primary goal of the Scholarship Endowment and the Navajo Nation Scholarship
25 Endowment Fund Expenditure Plan is to reduce the Navajo brain drain and bring Navajo
26 graduates home to the Navajo Nation.

27
28 **SECTION FOUR. APPROVAL OF FUNDING**

29 A. The Navajo Nation hereby approves the allocation of fifty million dollars (\$50,000,000)
30 of SÍhasin Funds to fund the Navajo Nation Scholarship Endowment Fund Expenditure

1 Plan as set forth in Section Five below and to establish the Navajo Nation Scholarship
2 Endowment as set forth in Section Six below.

- 3 B. The Sihasin Funds allocated to establish the Navajo Nation Scholarship Endowment and
4 fund the Navajo Nation Scholarship Endowment Expenditure Plan may be further
5 leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing Act,
6 12 N.N.C. § 1300 *et seq.*, as amended, using Sihasin Fund Earnings for repayment and
7 financing costs upon the recommendation of the Budget and Finance Committee and
8 approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

9
10 **SECTION FIVE. APPROVAL AND ADOPTION OF EXPENDITURE PLAN**

11 The Navajo Nation hereby approves and adopts the Navajo Nation Scholarship Endowment
12 Fund Expenditure Plan and administration thereof as set forth below:

13 A. The Navajo Nation Controller shall:

- 14 1. Develop a Fund Management Plan for the Scholarship Endowment to be approved
15 by the Budget and Finance Committee upon recommendation of the Health
16 Education and Human Services Committee; and
17 2. Determine whether the source of the fifty million dollars (\$50,000,000) allocated for
18 the Scholarship Endowment Fund Expenditure Plan will be Sihasin Fund Principal or
19 Income or a combination of both;

20 B. The funds allocated for the Scholarship Endowment Fund Expenditure Plan shall only be
21 expended for the purposes and in the manner specified in the Navajo Nation Scholarship
22 Endowment at 12 N.N.C. § 1191 *et al.*, as set forth in Section Six below.

23 C. The Navajo Nation Controller shall establish the Navajo Nation Scholarship Endowment
24 within sixty (60) days after the Health, Education and Human Services Committee's
25 adoption of the Rules and Regulations required by 12 N.N.C. §§ 1194 and 1195, as set
26 forth in Section Six below.

27
28 **SECTION SIX. ENACTING THE NAVAJO NATION SCHOLARSHIP**
29 **ENDOWMENT ACT**

30 The Navajo Nation enacts the Navajo Nation Scholarship Endowment, as follows:

1
2
3 Title 12. Fiscal Matters

4 Chapter 10. Navajo Nation Trust Funds

5 Subchapter 10. Navajo Nation Scholarship Endowment

6
7 §1191. Establishment

8 The "Navajo Nation Scholarship Endowment" hereinafter "Scholarship Endowment"
9 is established with an initial allocation of fifty million dollars (\$50,000,000) from the
10 Navajo Nation Sihasin Fund. Any funds deposited into the Scholarship Endowment,
11 plus accrued interest, shall be used only as provided hereinafter in this subchapter.

12
13 § 1192. Purpose

14 The purpose of the Scholarship Endowment is to provide funding, including housing
15 and other living expenses, books, tuition, and post-graduate licensure, for Navajo
16 students pursuing a college degree who are willing to return to the Navajo Nation or
17 Navajo Indian Country after graduation to complete a minimum of four years of
18 service to the Navajo People and/or to the Navajo Nation government, including its
19 sub-divisions and entities.

20
21 §1193. Definition of Principal and Income

22 A. Scholarship Endowment Principal shall consist of the initial funding that
23 established the fund, all Navajo Nation appropriations made pursuant to the
24 Navajo Nation appropriation processes and procedures; and any contributions
25 made by any parties or entities.

26 B. Scholarship Endowment Income shall consist of all earnings, such as interest
27 and dividends, generated by the principal and interest of the Scholarship
28 Endowment.

29
30 § 1194. Expenditure of Scholarship Endowment Principal

1 The Scholarship Endowment principal shall only be expended as follows:

2 A. For the first five (5) calendar years following establishment of the Scholarship
3 Endowment, up to five million dollars (\$5,000,000.00) per calendar year can be
4 made to Navajo college students for the purposes set forth in § 1192 of this
5 subchapter in accordance with Rules and Regulations developed by the Office of
6 Navajo Nation Scholarship and Financial Assistance and approved by the Health,
7 Education and Human Services Committee of the Navajo Nation Council.

8 B. For the first five (5) calendar years following establishment of the Scholarship
9 Endowment, up to one million dollars (\$1,000,000.00) of the annual
10 \$5,000,000.00 may be used to pay outstanding education loans for graduates in
11 Priority Professions, as determined by the Office of the President and Vice-
12 President, who are willing to return to the Navajo Nation or Navajo Indian
13 Country after graduation to complete a minimum of four years of service to the
14 Navajo People and/or to the Navajo Nation government, including its sub-
15 divisions and entities.

16 C. Starting on the sixth (6th) year calendar year following establishment of the
17 Scholarship Endowment, Fund Principal shall not be expended except pursuant
18 to a referendum adopted by a two-thirds majority of those voting in an election
19 open to all registered Navajo voters. The Navajo Nation Council may place a
20 "Referendum to Expend Scholarship Endowment Principal" on the ballot of any
21 primary or general election by a two-thirds (2/3) vote of the full Navajo Nation
22 Council.

23
24 § 1195. Expenditure of Scholarship Endowment Income

25 The Scholarship Endowment Income shall only be expended as follows:

26 A. Starting on the sixth (6th) calendar year following establishment of the
27 Scholarship Endowment, ninety-five percent (95%) of the Scholarship
28 Endowment Income shall be used as provided in § 1192 of this subchapter; the
29 remaining five percent (5%) of Income shall be reinvested in the Scholarship
30 Endowment Principal to cover the rate of inflation.

1 B. Starting on the sixth (6th) year calendar year following establishment of the
2 Scholarship Endowment, up to twenty percent (20%) of the ninety-five percent
3 (95%) of the Scholarship Endowment Income may be used to pay outstanding
4 education loans for graduates in Priority Professions, as determined by the Office
5 of the President and Vice-President, who are willing to return to the Navajo
6 Nation or Navajo Indian Country after graduation to complete a minimum of
7 four years of service to the Navajo People and/or to the Navajo Nation
8 government, including its sub-divisions and entities.

9 C. Any awards made from the Scholarship Endowment Income to Navajo college
10 students and graduates, shall only be awarded in accordance with Rules and
11 Regulations developed by the Office of Navajo Nation Scholarship and Financial
12 Assistance and approved by the Health, Education and Human Services
13 Committee of the Navajo Nation Council.

14
15 § 1196. Expenses

16 All expenses directly associated with the administration and management of the
17 Scholarship Endowment shall be paid from the Scholarship Endowment Income as
18 approved by the Budget and Finance Committee of the Navajo Nation Council, prior
19 to any Income distributions made in accordance with § 1195 of this subchapter. Such
20 expenses shall include investment advisory and management fees, audit costs, and
21 other related expenses, pursuant to duly approved contracts for such services.

22
23 §1197. Fund Investment

24 All monies deposited into the Navajo Nation Scholar Endowment shall be invested in
25 accordance with the Navajo Nation Master Investment Policies as adopted by the
26 Budget and Finance Committee of the Navajo Nation Council.

27
28 § 1198. Amendments

29 Any section or sections in this subchapter may be amended upon the recommendation
30 of the Health, Education and Human Service Committee and the Budget and Finance

1 Committee of the Navajo Nation Council and by a majority vote of the full
2 membership of the Navajo Nation Council and in accordance with 2 N.N.C. § 221(B).
3

4 *****
5
6

7 **SECTION SEVEN. DIRECTIVE**

8 A. All Navajo Nation programs, specifically including, but not limited to, the Office of
9 Controller and the Office of Management and Budget, shall take all steps necessary
10 to expeditiously implement the Navajo Nation Scholarship Endowment Expenditure
11 Plan consistent with the provisions set forth above.

12 B. The Department of Personnel shall take all steps necessary, including
13 recommendations of statutory, regulatory, policy and procedure amendments, to
14 prioritize employment opportunities for Navajo college graduates
15

16 **SECTION EIGHT. SAVING CLAUSE**

17 The provisions of the Act which amend or adopt new sections of the Navajo Nation
18 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
19 Counsel shall incorporate such amended provisions in the next codification of the Navajo
20 Nation Code.
21

22 **SECTION NINE. CODIFICATION**

23 Should any provision of this Act be determined invalid by the Navajo Nation Supreme
24 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation
25 Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.
26

27 **SECTION TEN. EFFECTIVE DATE**

28 The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221(B)
29 and 2 N.N.C. §§1005 (C) (10-12).
30