

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0065-22\_

SPONSOR: Nathaniel Brown

**TITLE: An Act Relating to the Law and Order, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$13,215,000 from the Síhasin Fund for the Completion of the Kayenta Judicial Complex; Approving the Related Expenditure Plan Pursuant to 12 N.N.C. § 2501 - § 2508**

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## SUMMARY OF PROPOSED LEGISLATION

TrackingNo. 0065-22

Date: March 29, 2022

**Re: AN ACT RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$13,215,000 FROM THE SÍHASIN FUND FOR THE COMPLETION OF THE KAYENTA JUDICIAL COMPLEX; APPROVING THE RELATED EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508**

### Purpose of this Legislation:

to allocate \$13,215,000 from the Síhasin Fund for the completion (construction activities) of the Kayenta Judicial Complex.

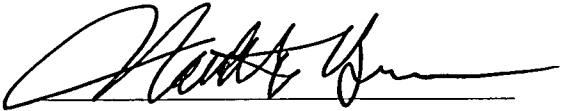
OLC No. 22-063-1

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 04-04-22  
Eligible for Action: 04-05-22

Law & Order Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 24<sup>th</sup> NAVAJO NATION COUNCIL - Fourth Year, 2022

3 Introduced by:

4   
5

6 (Prime Sponsor)

7  
8 Tracking No. 0065-22

9  
10 AN ACT  
11 RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE,  
12 AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION  
13 COUNCIL; APPROVING \$13,215,000 FROM THE SÍHASIN FUND FOR THE  
14 COMPLETION OF THE KAYENTA JUDICIAL COMPLEX; APPROVING  
15 THE RELATED EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §2501 – §2508  
16

17 BE IT ENACTED:

18  
19 SECTION ONE. AUTHORITY

- 20 A. The Law and Order Committee is a standing committee of the Navajo Nation Council with  
21 oversight authority for the Division of Public Safety and the Judicial Branch. 2 N.N.C.  
22 §600(C)(6).  
23 B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council  
24 with the responsibility to “review and recommend to the Navajo Nation Council the  
25 budgeting, appropriation, investment and management of all funds.” 2 N.N.C. §301(B)(2).  
26 C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that  
27 considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. §164(A)(9).  
28 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).  
29 As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.  
30 E. 12 N.N.C. §2502, as amended by CJA-03-18, states the purpose of the Navajo Nation Síhasin

1 Fund (“Sihasin Fund”) as follows:

2 §2502 Purpose

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

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

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

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

16 F. The Sihasin Fund provides that “Fund Principal” shall consist of all deposits made to the  
17 Sihasin Fund and that “Fund Income” shall consist of all earnings (interest, dividends, etc.)  
18 generated and realized by the Fund Principal, and that Sihasin Fund Income shall be  
19 deposited in, and added to, the Fund Principal until such time as a Fund Expenditure Plan is  
20 duly approved. 12 N.N.C. §2504 and §2505(C).

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

25  
26 **SECTION TWO. FINDINGS**

27 A. The Kayenta Township (“Township”) was permanently made a home rule municipality of  
28 the Navajo Nation by Navajo Nation Council Resolution CAU-47-03 (August 29, 2003).

29 B. The Kayenta Township Commission (“Commission”), the Township’s governing body, was  
30 given broad authority to perform all functions necessary for Kayenta local self-government,

1 consistent with generally applicable laws of the Navajo Nation and the federal government.  
2 2 N.N.C. §4081 and §4084.

3 C. The Kayenta Judicial District (the “District”) covers approximately 2,439,395 acres with a  
4 population of over 19,240 residents. Economic development and overall growth in the  
5 Kayenta community and surrounding areas within the District have created the need for  
6 adequate and expanded judicial services, including a new public safety and judicial facility.

7 D. Since 2001, the Township, the Commission, the District, the Kayenta Chapter, and Kayenta  
8 public safety personnel, have been working on a four-phase master plan for the construction  
9 of a new public safety and judicial complex (the “Project”) in Kayenta. The Commission and  
10 several Chapters have indicated their full support for the Project. **EXHIBIT A.**

11 E. The Director of the Office of the Navajo Public Defender and the Navajo Nation’s Acting  
12 Chief Prosecutor have both prepared memoranda explaining the need for the new Kayenta  
13 Judicial Complex. **EXHIBIT B.** According to them, the current buildings and facilities at  
14 Kayenta are inadequate to house sufficient prosecutor staff and public defender staff, or to  
15 provide adequate judicial and public safety services for the Kayenta Chapter and surrounding  
16 communities. **EXHIBIT B.**

17 F. The Kayenta District Court Judge and the Kayenta Court Administrator have also prepared  
18 a Proposal, dated June 24, 2021, discussing the need for the new Kayenta Judicial Complex  
19 and the \$13,215,000 in requested funds. **EXHIBIT C.** They explain that the first two phases  
20 of the Project were partially funded through an appropriation from the American Recovery  
21 and Reinvestment Act of 2009 which funds were accepted by the Navajo Nation on  
22 September 23, 2009. However, the last phases of the Project, which involve construction of  
23 the planned Juvenile Detention and Judicial Facilities remain to be completed. **EXHIBIT C.**

24 G. The Project’s architects have provided a set of Construction Documents for the Project,  
25 consisting of drawings and Project specifications. **EXHIBIT D.** The architects explain that,  
26 once adequate funding is secured for the Project, they will stamp and date the Construction  
27 Documents and the Project will be ready for bidding out to general contractors. **EXHIBIT D.**

28 H. The Kayenta District Court provides court services, peacemaking, probation and parole  
29 services for the Kayenta, Chilchinbeto, Dennehotso, Oljato, Tsa’ah bii Kin, Naatsis’aan, and  
30 Shonto Chapters of the Navajo Nation. Existing facilities are woefully inadequate to provide

1 necessary judicial services which are a critical component of public safety for Kayenta and  
2 surrounding communities. EXHIBIT C.

3 I. The proposed new 17,000 square foot Kayenta Judicial Complex will provide a permanent  
4 building for court services, judicial program personnel, the Prosecutor's Office, Probation  
5 and Parole Services, the Public Defender's office, the Peacekeeping Program, offices,  
6 meeting rooms, and hearing rooms, and will greatly expand and improve the availability and  
7 delivery of judicial and law enforcement services. EXHIBIT C.

8 J. In Resolution No. LOCJN-04-17 (dated June 2, 2017), the Law and Order Committee, upon  
9 the recommendation of the Judicial Branch and the Division of Public Safety, identified the  
10 Kayenta Judicial Complex as priority number 3 for the urgently needed judicial/public safety  
11 facilities on the Navajo Nation.

12 K. The Navajo Nation finds that providing the requested \$13,215,000 in Síhasin Funds is in the  
13 best interest of the Navajo Nation and the Navajo People.

14  
15 **SECTION THREE. APPROVING \$13,215,000 FROM THE SÍHASIN FUND FOR THE**  
16 **COMPLETION OF THE KAYENTA JUDICIAL COMPLEX;**  
17 **APPROVING THE RELATED EXPENDITURE PLAN**  
18 **PURSUANT TO 12 N.N.C §2501 – §2508**

19 A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$13,215,000  
20 out of the Síhasin Fund for the completion of the Kayenta Judicial Complex.

21 B. The Navajo Nation hereby approves the Expenditure Plan for the Kayenta Judicial Complex  
22 Project, consisting of construction activities as described in the attached EXHIBITS A- D.

23 C. The total amount of \$13,215,000 in Síhasin funds approved in this Act may be further  
24 leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing Act (12  
25 N.N.C. §1300 *et seq.*, as amended), using Síhasin Fund earnings for repayment and financing  
26 costs, upon approval of the Budget and Finance Committee and upon further approval by a  
27 two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

28 D. The Controller shall determine whether the source of the \$13,215,000 approved herein will  
29 be Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

30 E. Within thirty (30) business days after the effective date of this Act, the Controller shall begin

1 releasing the Síhasin funds approved herein to the Kayenta Township, provided that an  
2 appropriate grant agreement, memorandum of agreement, or other legal document  
3 establishing a project schedule, payment or drawdown plan, fund management plan, or other  
4 relevant procedures, has been agreed to by the Controller and is executed by the Kayenta  
5 Township and the Navajo Nation.

6 F. The \$13,215,000 in Síhasin funds shall be used by the Township strictly for the completion  
7 of the Kayenta Judicial Complex (construction activities), as described in EXHIBITS A-D  
8 attached hereto. The Township shall be responsible for complying with the Expenditure Plan  
9 approved herein, and with all provisions of the agreement described in Section Three (E)  
10 above.

11 G. As a condition of receiving the approved Síhasin funds, the Township shall allow the Navajo  
12 Nation full access to its financial records related to the Síhasin funds the Township has  
13 received, for the purpose of the Navajo Nation's review and audit of the Township's  
14 expenditures of the Síhasin funds.

15 H. The Township shall submit a written report, and a verbal report if so requested, explaining  
16 the ongoing status of the Kayenta Judicial Complex Project and its expenditures of the  
17 approved Síhasin funds, to the Resources and Development Committee, the Budget and  
18 Finance Committee, and the Naabik'íyáti' Committee. Said reports shall be provided by the  
19 end of each Fiscal Year Quarter until the Kayenta Judicial Complex Project is completed or  
20 the entire \$13,215,000 in Síhasin funds is exhausted.

21 I. Any and all savings or unused amounts of the Síhasin funds approved herein shall be  
22 immediately returned to the Síhasin Fund Principal once the Kayenta Judicial Complex is  
23 completed, or upon the reversion deadline in Section Three (J) below.

24 J. The approved Síhasin funds shall not lapse on an annual basis, which would otherwise occur  
25 pursuant to 12 N.N.C. §820(N). However, any Síhasin funds not spent or encumbered within  
26 thirty-six (36) months of the date the Kayenta Township receives the first disbursement of the  
27 approved \$13,215,000 shall then immediately revert to the Síhasin Fund Principal, unless  
28 otherwise approved by both the Law and Order Committee and the Naabik'íyáti' Committee  
29 of the Navajo Nation Council.

30 K. The Síhasin Fund shall be reimbursed the \$13,215,000 amount approved herein, from funds

1 available to the Navajo Nation from any and all state and federal sources, including  
2 Congressional appropriations under the American Rescue Plan Act of 2021 or other COVID-  
3 19-related relief, so long as the Project expenditures described herein are deemed eligible  
4 under such COVID-19-related or other funding sources.

5  
6 **SECTION FOUR. EFFECTIVE DATE**

7 This Act and the Expenditure Plan for the Kayenta Judicial Complex Project approved herein  
8 shall be effective pursuant to 12 N.N.C. §2505.

9  
10 **SECTION FIVE. SAVING CLAUSE**

11 If any portion of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any  
12 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the  
13 remainder of this Act shall be the law of the Navajo Nation.