

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0157-22\_

SPONSOR: Raymond Smith, Jr.

**TITLE An Action Relating to Law and Order, Health Education and Human Services, Resources and Development, Budget and Finance and Naabik'iyáti' Committee and Navajo Nation Council; Amending CAP-35-18, Síhasin Fund Powerline and Chapter Projects Expenditure Plan, to Extend Project Completion Deadlines for an Additional Twenty-Four Months**

***Date posted:*** September 15, 2022 at 9:40 AM

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**LEGISLATIVE SUMMARY SHEET**  
Tracking No. 0157-22

**DATE:** September 14, 2022

**TITLE OF RESOLUTION:** AN ACTION RELATING TO LAW AND ORDER, HEALTH EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING CAP-35-18, SÍHASIN FUND POWERLINE AND CHAPTER PROJECTS EXPENDITURE PLAN, TO EXTEND PROJECT COMPLETION DEADLINES FOR AN ADDITIONAL TWENTY-FOUR MONTHS

**PURPOSE:** This resolution, if approved, will extend CAP-35-18's project completion deadlines to seventy-two (72) months.

**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.**

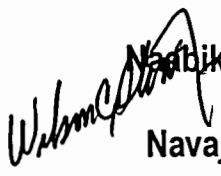
5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 09-20-22  
Eligible for Action: 09-21-22

Law & Order Committee  
Thence  
Health Education & Human Services Committee  
Thence  
Resources & Development 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. 0157-22

9  
10 AN ACTION  
11 RELATING TO LAW AND ORDER, HEALTH EDUCATION AND HUMAN  
12 SERVICES, RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE  
13 AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL;  
14 AMENDING CAP-35-18, SÍHASIN FUND POWERLINE AND CHAPTER  
15 PROJECTS EXPENDITURE PLAN, TO EXTEND PROJECT COMPLETION  
16 DEADLINES FOR AN ADDITIONAL TWENTY-FOUR MONTHS

17  
18 BE IT ENACTED:

19 SECTION ONE. AUTHORITY

- 20 A. The Law and Order Committee of the Navajo Nation Council is empowered to  
21 provide legislative oversight on matters involving public safety programs and to  
22 enable the Navajo Nation to more effectively provide efficient public safety services  
23 on the Navajo Nation. 2 N.N.C. § 600 (C) (6).
- 24 B. The Health Education and Human Services Committee of the Navajo Nation Council  
25 is empowered to provide legislative oversight on matters involving health, social  
26 services, education, general governmental services and human services. 2 N.N.C.  
27 §400 (C) (1).
- 28 C. The Resource Development Committee of the Navajo Nation Council is empowered  
29 to exercise oversight authority on matters involving roads and transportation,  
30 communications and utilities, information technology, chapter activities, economic

1 and community development, rights-of-way, public utilities and housing. 2 N.N.C. §  
2 500 (C).

3 D. The Budget and Finance Committee of the Navajo Nation Council is empowered to  
4 review and recommend to the Navajo Nation Council the budgeting, appropriation,  
5 investment, and management of all funds and to coordinate and review all fiscal,  
6 financial and investment activities of the Navajo Nation. 2 N.N.C. §§ 301 (B) (2) and  
7 (5).

8 E. The Naabik'iyáti' Committee of the Navajo Nation Council is empowered to review  
9 all proposed legislation which requires final action by the Navajo Nation Council. 2  
10 N.N.C. §164 (A) (9).

11 F. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §  
12 102 (A).

13  
14 **SECTION TWO. FINDINGS**

15 A. In May of 2018, the 23<sup>rd</sup> Navajo Nation Council enacted Resolution No. CAP-35-  
16 18, incorporated herein by reference, establishing the Síhasin Fund Powerline and  
17 Chapter Projects Expenditure Plan to fund 229 powerline, waterline and capital  
18 projects throughout the Navajo Nation.

19 B. The total cost of the 229 projects funded by the 23<sup>rd</sup> Navajo Nation Council through  
20 CAP-35-18 was one hundred million dollars (\$100,000,000); however, the  
21 President of the Navajo Nation line-item vetoed four (4) projects totaling eight  
22 hundred eighty-nine thousand three hundred fifty dollars (\$889,350). *See* CAP-35-  
23 18.

24 C. The CAP-35-18 projects, depending on their readiness, were grouped into three (3)  
25 funding cycles: (1) Year One projects were to receive funding by the end of Fiscal  
26 Year 2018 (NTUA powerline projects) or the end of the third quarter of Fiscal Year  
27 2018 (Non-NTUA powerline projects); (2) Year Two projects were to receive  
28 funding by the end of the first quarter of Fiscal Year 2019; and (3) Year Three  
29 projects were to receive funding by the end of the first quarter of Fiscal Year 2020.  
30 *See* CAP-35-18.

- 1 D. All CAP-25-18 project funds, regardless of the year funded, were required to be  
2 spent or encumbered within twenty-four months of distribution by the Office of the  
3 Controller to the Capital Projects Management Department (CPMD), LGA-  
4 certified Chapter, or Navajo Tribal Utility Authority (NTUA); any project funds  
5 not spent or encumbered within twenty-four months of distribution are to be  
6 reverted or reallocated to the Síhasin Fund. *See* CAP-35-18.
- 7 E. Navajo Nation Council Resolution No. CJA-03-21, attached as **Exhibit A**,  
8 amended CAP-35-18 to extend the time frame to spend or encumber project funds  
9 from twenty-four (24) to forty-eight (48) months.
- 10 F. The World Health Organization (WHO) declared a Public Health Emergency of  
11 International Concern related to the outbreak of coronavirus (COVID-19) on  
12 January 30, 2020, the U.S. Department of Health and Human Services declared a  
13 Public Health Emergency related to COVID-19 on January 31, 2020 and the WHO  
14 declared a global pandemic on March 11, 2020.
- 15 G. The Navajo Nation Commission on Emergency Management, with the concurrence  
16 of Navajo Nation President Jonathan Nez, declared a Navajo Nation Public Health  
17 State of Emergency on the Navajo Nation on March 11, 2020 due to COVID-19.  
18 Resolution No. CEM 20-03-11. The Navajo Nation Department of Health  
19 subsequently issued numerous Public Health Emergency Orders. Public Health  
20 Orders 2020-001 through 2022-008 are incorporated by reference into this  
21 resolution.
- 22 H. The Navajo Nation Public Health State of Emergency is still in effect as of  
23 September 15, 2022.
- 24 I. The Public Health Emergency Orders and related Executive Orders closed Navajo  
25 Nation government programs and Chapters and non-essential businesses on the  
26 Navajo Nation for prolonged periods of time on different occasions; the shutdown  
27 of government programs, like CPMD and Chapters, combined with the closure of  
28 non-essential businesses created unavoidable, but still substantial, obstacles to the  
29 timely implementation and completion of CAP-35-18 projects within the required  
30 twenty-four month timeframe.

- 1 J. The COVID-19 pandemic is not expected to completely subside in the near future  
2 and the Public Health Emergency Orders are predicted to remain in place for the  
3 foreseeable future.
- 4 K. It is highly unlikely that Navajo Nation programs, such as CPMD, and Navajo  
5 Nation Chapters, will be able to overcome the COVID-19 created obstacles in time  
6 to meet the CAP-35-18, as amended by CJA-03-21, requirement that project funds  
7 be spent or encumbered within forty-eight (48) months of distribution.
- 8 L. The Navajo Nation finds it to be in the best interests of its Chapters, as well as the  
9 Navajo people, to amend CAP-35-18, as amended by CJA-03-21, to extend the  
10 time-frame to spend or encumber CAP-35-18 project funds to seventy-two (72)  
11 months.

12  
13 **SECTION THREE. AMENDING CAP-35-18, AS AMENDED BY CJA-03-21**

- 14 A. The Navajo Nation hereby extends the project completion deadline and time frames  
15 set forth in CAP-35-18, as amended by CJA-03-21, from forty-eight (48) months to  
16 seventy-two (72) months.
- 17 B. The Navajo Nation also hereby amends CAP-35-18, Section Two, Paragraph S (4),  
18 as amended by CJA-03-21, as follows:
- 19 4. All of the proposed projects were vetted by CPMD and NTUA,  
20 respectively, for project readiness before being apportioned into the  
21 three-year plans base on project readiness status; therefore, if the  
22 funding for a project is not spent or encumbered within ~~forty-eight (48)~~  
23 seventy-two (72) months of distribution, the project funds should revert  
24 to the Sihasin Fund; and
- 25 C. The Navajo Nation also hereby amends CAP-35-18, Section Four, Paragraph A  
26 (2)(d), as amended by CJA-03-21, as follows:
- 27 d. Any individual Powerline or Waterline project funds that are not spent  
28 or encumbered within ~~forty-eight (48)~~ seventy-two (72) months of  
29 distribution to NTUA shall be returned to the Sihasin Funds; and  
30

1 D. The Navajo Nation hereby also amends CAP-35-18, Section Four, Paragraph A  
2 (3)(g), as amended by CJA-03-21, as follows:

3 g. Any individual Chapter or non-NTUA Powerline Project funds that are  
4 not spent or encumbered within ~~forty-eight (48)~~ seventy-two (72)  
5 months of distribution to CPMD or transfer to a LGA Certified Chapter  
6 shall be returned to the Síhasin Fund;

7  
8 **SECTION FOUR. EFFECTIVE DATE**

9 This Action shall become effective pursuant to 2 N.N.C. § 221 (B) and apply  
10 retroactively to all CAP-35-18 projects.

11  
12 **SECTION FIVE. DIRECTIVES**

13 A. CPMD, Office of the Controller (OOC), Office of Management & Budget (OMB),  
14 and LGA Certified Chapters, as well as NTUA, shall take all steps necessary to  
15 expeditiously revise, if necessary, applicable Memorandum of Agreements to reflect  
16 these amendments to CAP-35-18, as amended by CJA-03-21.

17 B. All Navajo Nation programs named in this legislation, as well as NTUA and LGA-  
18 certified Chapters, shall be held accountable for the implementation of these  
19 amendments to CAP-35-18 and the continued progress of tasks under their  
20 responsibility and control and shall participate in work group meetings, if any,  
21 necessary to expeditiously implement the Síhasin Fund Powerline and Chapter  
22 Projects Expenditure Plan.

23 C. CPMD, OOC and OMB shall work with the Department of Justice to develop Rules  
24 and Regulations that conform with CAP-35-18 to administratively approve project  
25 changes that are currently approved through Committee legislation. Such Rules and  
26 Regulations shall be presented to the Resources and Development Committee and  
27 Budget and Finance Committee within sixty (60) days after enactment of this  
28 legislation.