

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0026-23\_

SPONSOR: Danny Simpson

**TITLE: An Act Relating to the Law and Order, Health, Education and Human Services, Resources and Development, Budget and Finance and Naabik'iváti' Committees, and the Navajo Nation Council; Amending CAP-35-18, as Amended by CJA-03-21, to Extend Sihasin Funds Reversion Deadlines for all Projects to 72 Months**

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## SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0026-23

Date: February 13, 2023

Subject: **AN ACT RELATING TO THE LAW & ORDER, HEALTH, EDUCATION & HUMAN SERVICES, RESOURCES & DEVELOPMENT, BUDGET & FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; AMENDING CAP-35-18, AS AMENDED BY CJA-03-21, TO EXTEND SÍHASIN FUNDS REVERSION DEADLINES FOR ALL PROJECTS TO 72 MONTHS**

### **Purpose of this Legislation:**

to amend CAP-35-18 (as amended by CJA-03-21) to extend the funds reversion deadline to 72 months for all Síhasin-funded projects approved in CAP-35-18.

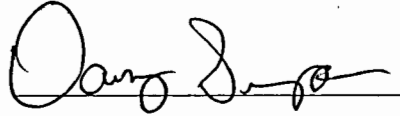
OLC No. 23-030-1

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 02-27-23  
Eligible for Action: 02-28-23

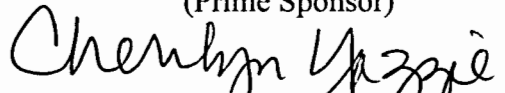
Law & Order Committee  
Thence  
Health Education & Human Services Committee  
Thence  
Resources & Development Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOURCES & DEVELOPMENT COMMITTEE  
2 25<sup>th</sup> NAVAJO NATION COUNCIL - First Year, 2023

3 Introduced by:

4 

5 (Prime Sponsor)

6   
7  
8 Tracking No. 0026-23

9  
10 AN ACT

11 RELATING TO THE LAW & ORDER, HEALTH, EDUCATION & HUMAN  
12 SERVICES, RESOURCES & DEVELOPMENT, BUDGET & FINANCE, AND  
13 NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL;  
14 AMENDING CAP-35-18, AS AMENDED BY CJA-03-21, TO EXTEND SÍHASIN  
15 FUNDS REVERSION DEADLINES FOR ALL PROJECTS TO 72 MONTHS

16  
17 **BE IT ENACTED:**

18  
19 **SECTION ONE. AUTHORITY**

- 20 A. The Law & Order Committee of the Navajo Nation Council reviews and recommends  
21 proposed amendments to the Navajo Nation Code. 2 N.N.C. §600(B)(14).  
22 B. The Health, Education & Human Services Committee of the Navajo Nation Council provides  
23 legislative oversight regarding health and education matters, social services, human services,  
24 and general governmental services on the Navajo Nation. 2 N.N.C. §400(C)(1).  
25 C. The Resource & Development Committee of the Navajo Nation Council provides legislative  
26 oversight regarding roads and transportation, communications and utilities, information  
27 technology, Chapter activities, economic and community development, rights-of-way, public  
28 utilities, and housing matters on the Navajo Nation. 2 N.N.C. §500(C).  
29 D. The Budget & Finance Committee of the Navajo Nation Council recommends to the Navajo  
30 Nation Council the budgeting, appropriation, investment, and management of all funds, and

- 1 reviews all financial activities of the Navajo Nation. 2 N.N.C. §301(B)(2) and §301(B)(5).
- 2 E. The Naabik'íyáti' Committee of the Navajo Nation Council reviews all proposed legislation  
3 that requires final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).
- 4 F. In Resolution No. CD-68-14 the Navajo Nation established the Síhasin Fund, codified at 12  
5 N.N.C. §2501-§2508. In Resolutions Nos. CAP-35-18 and CJA-03-21 the Navajo Nation  
6 Council approved Síhasin funding for numerous powerline projects and Chapter projects,  
7 and extended the original deadline for reversion of allocated project funds back to the Síhasin  
8 Fund account.
- 9 G. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).  
10 As such, the Council may amend Síhasin Fund provisions by approving amendments to CAP-  
11 35-18 and CJA-03-21.

12  
13 **SECTION TWO. FINDINGS**

- 14 A. In Resolution No. CAP-35-18 the Navajo Nation Council approved the Síhasin Fund  
15 Powerline and Chapter Projects Expenditure Plan to fund over 200 powerline, waterline, and  
16 other capital projects throughout the Navajo Nation. CAP-35-18 is attached hereto (without  
17 exhibits) as **EXHIBIT 1**.
- 18 B. The total cost of all projects funded by the Council's appropriation of Síhasin funds in CAP-  
19 35-18 was \$100,000,000 (Navajo Nation President Jonathan Nez line-item vetoed four  
20 projects listed in CAP-35-18 that amounted to \$889,350). *See* CAP-35-18.
- 21 C. The CAP-35-18 projects, depending on their readiness, were grouped into three funding  
22 cycles: (1) Year One projects were to receive funding by the end of Fiscal Year 2018 (NTUA  
23 powerline projects), or by the end of the third quarter of Fiscal Year 2018 (Non-NTUA  
24 powerline projects); (2) Year Two projects were to receive funding by the end of the first  
25 quarter of Fiscal Year 2019; and (3) Year Three projects were to receive funding by the end  
26 of the first quarter of Fiscal Year 2020. *See* CAP-35-18.
- 27 D. Regardless of the designated funding cycle, all CAP-35-18 project funds were to be spent or  
28 encumbered within 24 months of distribution to the recipient; and project funds not spent or  
29 encumbered by that deadline would revert to the Síhasin Fund account. *See* CAP-35-18.
- 30 E. In Resolution No. CJA-03-21 the Navajo Nation Council amended CAP-35-18 to extend the

1        Síhasin funds reversion deadline for all projects to 48 months. CJA-03-21 is attached hereto  
2        (without exhibits) as **EXHIBIT 2**.

3        F. In January 2020 the World Health Organization (“WHO”) declared a Public Health  
4        Emergency of International Concern related to the outbreak of coronavirus (“COVID”) and  
5        the U.S. Department of Health and Human Services declared a COVID Public Health  
6        Emergency; the WHO declared a global COVID pandemic on March 11, 2020.

7        G. Because of the COVID pandemic, the Navajo Nation Commission on Emergency  
8        Management, with the concurrence of Navajo Nation President Jonathan Nez, declared a  
9        Navajo Nation Public Health State of Emergency on the Navajo Nation on March 11, 2020.  
10       Resolution No. CEM 20-03-11. The Navajo Nation Department of Health subsequently  
11       issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through  
12       2022-008 are incorporated herein by reference.

13       H. The various Public Health Emergency Orders and related Executive Orders resulted in the  
14       closure of many Navajo Nation government programs and Chapters, and non-essential  
15       businesses on the Navajo Nation, for prolonged periods of time. The shutdown of  
16       government programs, especially the Division of Community Development/Capital Projects  
17       Management Department (“CPMD”), created significant obstacles to the implementation  
18       and completion of CAP-35-18 projects within the required 48-month timeframe.

19       I. Chapters certified under the Local Governance Act at 26 N.N.C. §102(B) (“LGA Chapters”),  
20       and the Navajo Tribal Utility Authority (“NTUA”) have also been hampered in their  
21       completion efforts regarding the projects under their responsibility.

22       J. The Executive Director of the Division of Community Development (“DCD”) has provided  
23       a memorandum, dated January 30, 2023, explaining the delays in project implementation and  
24       the need for a further deadline extension. **EXHIBIT 3**.

25       K. The previous DCD Director and the Executive Director of the Navajo Division of  
26       Transportation (“NDOT”) have also provided memoranda requesting an extension of the  
27       Síhasin funds reversion deadline. **EXHIBIT 4**.

28       L. In light of the above, the Navajo Nation finds it to be in the best interest of the Navajo Nation  
29       and the Navajo People to amend CAP-35-18, as amended by CJA-03-21, to further extend  
30       the Síhasin funds reversion deadline for projects and funds approved under CAP-35-18.

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

2 A. The Navajo Nation hereby amends the Síhasin funds reversion deadlines for all projects, as  
3 originally set forth in CAP-35-18 (as amended by CJA-03-21), to allow a total of 72 months  
4 for the reversion of all Síhasin funds and the completion of all projects approved and funded  
5 in CAP-35-18.

6 B. The Navajo Nation hereby amends CAP-35-18, Section Two, Paragraph S(4), as amended  
7 by CJA-03-21, as follows:

8 4. All of the proposed projects were vetted by CPMD and NTUA,  
9 respectively, for project readiness before being apportioned into the three-  
10 year plans based on project readiness status; therefore, if the funding for  
11 a project is not spent or encumbered within ~~forty-eight (48)~~ seventy-two  
12 (72) months of distribution to the designated recipient, the ~~project~~ funds  
13 ~~should~~ for that project shall revert to the Síhasin Fund account; and

14 C. The Navajo Nation hereby amends CAP-35-18, Section Four, Paragraph A(2)(d), as  
15 amended by CJA-03-21, as follows:

16 d. Any individual Powerline or Waterline project funds that are not spent  
17 or encumbered within ~~forty-eight (48)~~ seventy-two (72) months of  
18 distribution to NTUA shall be returned to the Síhasin Funds account; and

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

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

25 \* \* \* \*

26  
27 **SECTION FOUR. DIRECTIVES**

28 A. CPMD, DCD, the Office of the Controller (“OOC”), the Office of Management & Budget  
29 (“OMB”), affected LGA Chapters, NDOT, and NTUA, shall promptly take all steps  
30 necessary to revise, if necessary, applicable Memoranda of Agreement or other legal

1 agreements to reflect the amendments approved herein.

2 B. All Síhasin funds recipients affected by the amendments approved herein shall be held  
3 accountable for the continued progress of all activities and tasks under their responsibility  
4 and control, and shall participate in work group meetings as necessary to promptly implement  
5 and complete their approved projects by the new 72-month Síhasin funds reversion deadline.

6 C. All applicable Rules and Regulations affected by the amendments approved herein shall be  
7 promptly revised, if necessary, to conform to said amendments, and the revised Rules and  
8 Regulations shall be presented to the Resources and Development Committee and Budget  
9 and Finance Committee within sixty (60) calendar days after the effective date of this Act.

10  
11 **SECTION FIVE. EFFECTIVE DATE**

12 This Act shall become effective pursuant to 12 N.N.C. §2505 and 2 N.N.C. §221(B), and shall  
13 apply retroactively and prospectively to all projects approved and funded under CAP-35-18.

14  
15 **SECTION SIX. SAVING CLAUSE**

16 If any part of this Act is invalidated by the Supreme Court of the Navajo Nation, or by any  
17 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the  
18 remainder of this Act shall be the law of the Navajo Nation.