

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0133-19_____

SPONSOR: Herman Daniels

TITLE: An Action Relating To Resources And Development, Budget And Finance And Naabik'iyáti Committee, And Navajo Nation Council; Approving A Funding Request Of Three Million Ninety-Eight Thousand Eight Hundred Dollars (\$3,098,800) From The Síhasin Fund To The Navajo Tribal Utility Authority And Adopting The 62 Chapter House Broadband Project Expenditure Plan Pursuant To CD-68-14 And 12 N.N.C. §§ 2501 – 250

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0133-19

DATE: May 21, 2019

SUBJECT: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING A FUNDING REQUEST OF THREE MILLION NINETY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS (\$3,098,800) FROM THE SÍHASIN FUND TO THE NAVAJO TRIBAL UTILITY AUTHORITY AND ADOPTING THE 62 CHAPTER HOUSE BROADBAND PROJECT EXPENDITURE PLAN PURSUANT TO CD-68-14 AND 12 N.N.C §§ 2501 – 2508

NOTE: Expenditure from the principal and income of the Síhasin Fund requires a 2/3 vote of all members of the Navajo Nation Council in accordance with 12 N. N. C. § 2505 (A).

PURPOSE: The purpose of this legislation is to approve an expenditure from the Navajo Nation Síhasin Fund in the amount of \$3,098,800 to the Navajo Tribal Utility Authority for a 62 Chapter House Broadband Project.

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 review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: _____
Posting End Date: 5-29-19
Eligible for Action: 5-30-19

Resources & Development Committee
Thence
Budget & Finance Committee
Thence
Naa'bik'iyati' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL – First Year, 2019

3 INTRODUCED BY

4
5 

Herman M. Daniels

6 (Prime Sponsor)

7
8 TRACKING NO. 0133-19

9
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE
12 AND NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL;
13 APPROVING A FUNDING REQUEST OF THREE MILLION NINETY-EIGHT
14 THOUSAND EIGHT HUNDRED DOLLARS (\$3,098,800) FROM THE SÍHASIN
15 FUND TO THE NAVAJO TRIBAL UTILITY AUTHORITY AND ADOPTING THE
16 62 CHAPTER HOUSE BROADBAND PROJECT EXPENDITURE PLAN PURSUANT
17 TO CD-68-14 AND 12 N.N.C §§ 2501 – 2508

18
19 **BE IT ENACTED:**

20 **Section One. Authority**

- 21 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C.
22 § 102 (A).
23 B. The Naabik'iyati' Committee of the Navajo Nation Council is empowered to review
24 all proposed legislation which requires final action by the Navajo Nation Council. 2
25 N.N.C. §164(A)(9).
26 C. The Resource and Development Committee of the Navajo Nation Council is
27 empowered to exercise oversight authority over economic and community
28 development and housing. 2 N.N.C. § 500 (C).
29
30

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

5 **Section Two. The Naabik'iyáti Síhasin Fund Subcommittee and Navajo Nation**
6 **Síhasin Fund**

7 A. The Naabik'iyáti Committee of the 24th Navajo Nation Council continued the
8 Naabik'iyáti Síhasin Fund Subcommittee in Resolution NABIAP-23-19. The
9 Naabik'iyáti Síhasin Fund Subcommittee was initially established in 2015 by
10 Resolution NABIAP-20-15 to provide recommendations to the Naabik'iyáti
11 Committee and Navajo Nation Council for projects to be funded using Síhasin
12 Funds. Notwithstanding the creation and continuation of the Naabik'iyáti Síhasin
13 Fund Subcommittee, approval from the Subcommittee is not a requirement for the
14 Navajo Nation Council to approve Síhasin Fund expenditure plans.

15 B. The Navajo Nation Code provides the purpose of the Navajo Nation Síhasin Fund
16 (“Síhasin Fund”) is as follows:

17 §2502 Purpose

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

- 20 1. The planning and development of economic development
21 and regional infrastructure supporting economic development
22 and community development, including such infrastructure
23 as, but not limited to, housing, commercial and government
24 buildings, waterline, solid waste management development,
25 powerline projects, and transportation and communication
26 systems, within the Navajo Nation; and
27 2. Education opportunities for members of the Navajo
28 Nation.
29
30

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

4 C. Leveraging the Fund by way of guaranteeing loans, match funding,
5 direct funding in part, and other weighted uses of the Fund,
6 including loan financing from the Fund, for the purposes in
7 § 2502(A)(1), shall be favored over direct funding in whole.

8 12 N.N.C. § 2502, as amended by CJA-03-18.

9 C. The Síhasin Fund provides that Fund Principal shall consist of all deposits made to
10 the Síhasin Fund and that Fund Income shall consist of all earnings (interest,
11 dividends, etc.) generated and realized by the Fund Principal, and that Fund Income
12 shall be deposited in and added to Fund Principal until such time as a Fund
13 Expenditure Plan is duly adopted. 12 N.N.C. §§ 2504 and 2505 (C).

14
15 **Section Three. Findings**

16 A. The 62 Chapter House Broadband Project is attached as **Exhibit A**.

17 B. **Exhibit A** provides a strategy, an estimated construction schedule, and cost
18 proposal for providing broad band services to chapter houses.

19
20 **Section Four. Approval and Adoption of Expenditure Plan from Síhasin Funds**

21 A. The Navajo Nation hereby approves and adopts the 62 Chapter House Broadband
22 Project Expenditure Plan, attached and incorporated herein as **Exhibit A**.

23 B. The Navajo Nation hereby approves a funding request to Navajo Tribal Utility
24 Authority (“NTUA”) for the 62 Chapter House Broadband Project Expenditure Plan
25 in the amount of three million ninety-eight thousand eight hundred dollars
26 (\$3,098,800) during Navajo Nation Fiscal Year 2019.

27 C. The Síhasin Funds allocated for the 62 Chapter House Broadband Project
28 Expenditure Plan may be further leveraged by bond or loan financing pursuant to
29 the Navajo Nation Bond Financing Act, 12 N.N.C. § 1300 et seq., as amended,
30 using Síhasin Fund Earnings for repayment and financing costs upon the

1 recommendation of the Budget & Finance Committee and approval by a two-thirds
2 (2/3) vote of all members of the Navajo Nation Council.

3
4 **Section Five. Approval and Adoption of Expenditure Plan Administration**

5 A. The Navajo Nation hereby approves administration of the 62 Chapter House
6 Broadband Project Expenditure Plan as follows:

- 7 1. The Navajo Nation Controller shall determine whether the source of the three
8 million ninety-eight thousand eight hundred dollars (\$3,098,800) will be Síhasin
9 Fund Principal or Income or a combination of both;
- 10 2. The funds allocated to NTUA shall be used to design, plan, and construct the 62
11 Chapter House Broadband Project, as set forth in **Exhibit A**, and NTUA shall
12 return any and all cost-savings to the Síhasin Fund once the 62 Chapter House
13 Broadband Project is fully completed or with the approval of the Naabik'íyáti'
14 Committee, use such cost-savings for broadband access to additional chapter
15 houses.
- 16 3. The Navajo Nation Controller shall release the funds to NTUA during Navajo
17 Nation Fiscal Year 2019 pursuant to a project budget plan or other such
18 schedule agreed to by the Office of the Controller and NTUA within thirty (30)
19 days of the formal adoption of this legislation;
- 20 4. The funds allocated for the 62 Chapter House Broadband Project shall not lapse
21 on an annual basis pursuant to 12 N.N.C. §820 (N) or otherwise be returned to
22 or deposited in the Síhasin Fund Principal or Navajo Nation General Fund until
23 the earlier of five (5) years from the date of adoption of this legislation or such
24 time as the 62 Chapter House Broadband Project, as set forth in **Exhibit A**, is
25 fully completed.

26 B. The NTUA General Manager and Management Board shall have an ongoing
27 responsibility to make all efforts to secure additional funding from external sources
28 to reduce the use of Síhasin Funds to complete the 62 Chapter House Broadband
29 Project.

1 C. The NTUA General Manager and Management Board shall account for and be held
2 accountable for the expenditure of Síhasin Fund funds and shall account for such
3 funds pursuant to Generally Accepted Accounting Principles and an account or
4 fund management plan approved by the NTUA President and reported to the Board
5 of Directors which shall at least include provisions that:

- 6 1. The accounting and financial records for the Síhasin Fund funds shall be kept
7 separate from other NTUA funds and accounts; and
- 8 2. The use of the Síhasin Fund funds shall be audited on an annual basis by an
9 independent auditor with such audit report submitted to the Naabik'íyáti'
10 Committee, Office of the Controller, and Office of the President and Vice-
11 President.

12 D. The NTUA General Manager shall report the status of the project, as well as NTUA
13 efforts to secure funding from external sources, to the Naabik'íyáti' Committee and
14 Office of the President and Vice-President on a semi-annual basis.

15
16 **Section Six. Effective Date**

17 The 62 Chapter House Broadband Project Expenditure Plan, as set forth above, shall
18 become effective pursuant to 12 N.N.C. § 2505.

19
20 **Section Seven. Directives**

21 A. All Navajo Nation programs, specifically including, but not limited to, the Office of
22 Controller and Office of Management & Budget, and NTUA staff and Management
23 Board , shall take all steps necessary to expeditiously implement the 62 Chapter
24 House Broadband Project Expenditure Plan consistent with the provisions set forth
25 above.

26 B. The NTUA General Manager and Management Board, as well as Navajo Nation
27 programs named in this legislation, shall report on a semi-annual basis to the
28 Naabik'íyáti' Committee and Office of the President and Vice-President on the
29 progress of their respective tasks.