

LEGISLATIVE SUMMARY SHEET

Tracking No. 0330-19

DATE: October 30, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE, BUDGET AND FINANCE COMMITTEE, NAABIK'IYATI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ALLOCATING ONE MILLION DOLLARS (\$1,000,000) TO THE NAVAJO TRIBAL UTILITY AUTHORITY FROM THE SIHASIN FUND FOR TO ASSIST IN FUNDING RIGHTS OF WAY AND SERVICE LINES TO CONNECT NAVAJO HOMES TO THE ELECTRIC GRID UNDER INITIATIVES SUCH AS LIGHT UP NAVAJO AND APPROVING AND ADOPTING THE RIGHT OF WAY AND SERVICE LINE EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §§ 2501 – 2508

PURPOSE: The purpose of this resolution is to approve allocation from the Sihasin Fund to NTUA to connect Navajo homes to the electric grid.

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 to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: 2880
Website Posting Time/Date: _____
Posting End Date: 11/12/19
Eligible for Action: 11/13/19

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL -- First Year, 2019

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0330-19

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE, BUDGET
AND FINANCE COMMITTEE, NAABIK'IYATI' COMMITTEE AND THE NAVAJO
NATION COUNCIL; ALLOCATING ONE MILLION DOLLARS (\$1,000,000) TO THE
NAVAJO TRIBAL UTILITY AUTHORITY FROM THE SÍHASIN FUND FOR TO
ASSIST IN FUNDING RIGHTS OF WAY AND SERVICE LINES TO CONNECT
NAVAJO HOMES TO THE ELECTRIC GRID UNDER INITIATIVES SUCH AS LIGHT
UP NAVAJO AND APPROVING AND ADOPTING THE RIGHT OF WAY AND
SERVICE LINE EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §§ 2501 – 2508

BE IT ENACTED:

Section One. Authority

- A. The Resources and Development Committee of the Navajo Nation Council is empowered to exercise oversight authority over matters involving communication and utilities, chapter activities, economic and community development, public utilities, telecommunication and housing. 2 N.N.C. §§500 (A) and (C).
- B. The Budget and Finance Committee of the Navajo Nation Council is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds and to coordinate and review all fiscal, financial and investment activities of the Navajo Nation. 2 N.N.C. §301(B)(2) and (5).

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

3 D. The Naabik'iyati' Committee of the Navajo Nation Council is empowered to review all
4 proposed legislation which requires final action by the Navajo Nation Council. 2
5 N.N.C. §164(A)(9)
6

7 **Section Two. The Navajo Nation Síhasin Fund**

8 A. The Naabik'iyati' Committee established the Naabik'iyati Síhasin Fund Subcommittee
9 to recommend to the Naabik'iyati' Committee and the Navajo Nation Council financial
10 support and/or financial plan(s) for the purpose designated in the Síhasin Fund.
11 Approval by the Naabik'iyati Síhasin Fund Committee is not required for this
12 legislation. NABIAP-20-15.

13 B. The Navajo Nation Code provides the purpose of the Síhasin Fund is as follows:
14 §2502 Purpose

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

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

23 2. Education opportunities for members of the Navajo Nation.

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

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

30 12 N.N.C. §2502, as amended by CJA-03-18

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

7 **Section Three. Findings**

8 A. Under Phase I of the Light Up Navajo Project, the Navajo Tribal Utility Authority
9 (NTUA) partnered with the American Public Power Association with a shared goal of
10 connecting Navajo homes on the Navajo Nation to the electric grid for the first time.
11 Between April and May 2019 over 28 utility companies and their communities from
12 across 13 states and over 138 external non-NTUA volunteers and 349 NTUA volunteers
13 came to the Navajo Nation and fulfilled their goal by connecting 233 Navajo homes to
14 the electric grid. The Navajo families that benefited from the Light Up Navajo project are
15 located throughout the Navajo Nation within the states of Arizona, New Mexico and
16 Utah.

17 B. In August 2019 NTUA decided to initiate Phase II of the Light Up Navajo Project with
18 the goal of connecting 300 Navajo homes to the electric grid for the first time. NTUA
19 kicked off the project with a plan for a recruitment campaign in late August 2019 to
20 enroll eligible Navajo families for Light Up Navajo II. Complete LUN Applications are
21 due no later than October 31, 2019 with preference given to the disabled, elderly and
22 veterans. From November 1, 2019 to March 2020 NTUA will assist Navajo families with
23 obtaining the proper field surveys, easements, permits and clearances. The anticipated
24 construction of powerlines and installation of meters will begin by LUN volunteers from
25 April to June 2020. It is important to understand that NTUA is working diligently to
26 make Phase II of Light Up Navajo happen, but there is no absolute guarantee that Phase
27 II will occur.

28 C. Obtaining the proper surveys, easements, permits and clearances to connect a Navajo
29 home to the electric grid is time consuming and costly. The average cost of simply
30 obtaining a service line or right of way to connect a Navajo homes to the electric grid is

1 \$10,500. The fees for obtaining surveys, easements, permits and clearances is
2 substantial. Therefore, the Nation finds that the allocation of one million dollars
3 (\$1,000,000) from the Sihasin Fund to the Navajo Tribal Utility Authority to assist
4 Navajo families in paying for costs associated with surveys, easements, permits and
5 clearances is within the best interest of the Navajo Nation.

6 D. The electric power lines and infrastructure that will be built within these rights of way
7 and service lines by NTUA will serve future generations. In addition, NTUA will be able
8 to extend power lines to serve additional Navajo homes off of the power lines and
9 infrastructure that will be built within the rights of way and service lines.

10 E. Due to their experience and expertise, NTUA will have the discretion over the
11 expenditure of the funding with the ultimate goal of connecting as many Navajo families
12 to the electric grid as possible.

13 F. The Navajo Nation finds that the allocation of one million dollars (\$1,000,000) to the
14 Navajo Tribal Utility Authority to address the need for electrical powerline extensions is
15 regional infrastructure and therefore meets the requirements for “planning and
16 development of regional infrastructure supporting economic and community
17 development, including housing, within the Navajo Nation,” as required by 12 N.N.C.
18 2502(A).

19 **Section Four. Approval and Adoption of Expenditure Plan**

20 A. The Navajo Nation hereby approves and adopts funding to the Navajo Tribal Utility
21 Authority in the amount of one million dollars (\$1,000,000) to assist in funding Rights of
22 Way and Service Lines to connect Navajo homes to the electric grid.

23 B. The Navajo Nation hereby approves and adopts the NTUA Right of Way and Service
24 Line Expenditure Plan to support projects and initiatives such as Light Up Navajo.
25 The Sihasin Funds allocated for the NTUA Right of Way and Service Line Expenditure
26 Plan may be further leveraged by bond or loan financing pursuant to the Navajo Nation
27 Bond Financing Act, 12 N.N.C. §§ 1300 et seq., as amended, using Sihasin Fund
28 earnings for repayment and financing costs upon the recommendation of the Budget and
29 Finance Committee and approval by a two-thirds (2/3) vote of all members of the Navajo
30 Nation Council.

1 **Section Five. Approval and Adoption of Expenditure Plan Administration**

2 A. The Navajo Nation hereby approves administration of the NTUA Right of Way and
3 Service Line Expenditure Plan as follows:

- 4 1. The Navajo Nation Controller shall determine whether the source the one
5 million dollars (\$1,000,000.00) will be Síhasin Fund Principal or Income or a
6 combination of both.
- 7 2. The funds allocated to NTUA shall be used to pay the fees, charges,
8 assessments and other costs associated with the acquisition of Right of Ways
9 and Service Lines to connect Navajo homes to the electric grid, and NTUA shall
10 utilize all cost-savings for additional projects to connect Navajo families to the
11 electric grid.
- 12 3. The funding for the NTUA Right of Way and Service Line Project shall be
13 distributed to NTUA during the Navajo Nation Fiscal Year 2020, or earlier,
14 pursuant to a project budget plan or other such schedule agreed to by the Office
15 of the Controller and NTUA within fifteen (15) days of the formal adoption of
16 this legislation.
- 17 4. The funds allocated for the NTUA Right of Way and Service Line Project shall
18 not lapse on an annual basis pursuant to 12 N.N.C. § 820 (N) or otherwise be
19 returned or deposited in the Síhasin Fund Principal or Navajo Nation General
20 Fund, however, any funds not spent or encumbered within five (5) years of the
21 date funds are made available to NTUA shall revert back to the Síhasin Fund
22 principal, unless approved by the Naabik'iyati Committee.
- 23

24 **Section Six. Effective Date**

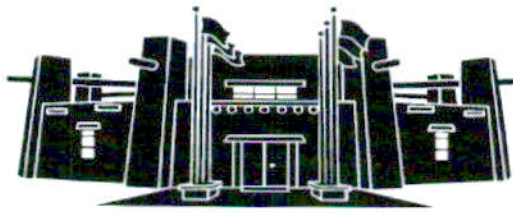
25 The NTUA Right of Way and Service Line Expenditure Plan, as set forth above, shall become
26 effective pursuant to 12 N.N.C. §2505.

27

28 **Section Seven. Directives**

29 The NTUA General Manager and Management Board, as well as Navajo Nation Programs
30 named in this legislation, shall be held accountable for the progress of tasks under their

responsibility and control and shall report on quarterly to the Naabik'iyati' Committee and the Office of the President and Vice President on the progress of their respective tasks.



MEMORANDUM

TO: Honorable Otto Tso
24th Navajo Nation Council

FROM: 
Kristen Lowell, Principal Attorney
Office of Legislative Counsel

DATE: October 30, 2019

SUBJECT: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE, BUDGET AND FINANCE COMMITTEE, NAABIK'YATI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ALLOCATING ONE MILLION DOLLARS (\$1,000,000) TO THE NAVAJO TRIBAL UTILITY AUTHORITY FROM THE SIHASIN FUND FOR TO ASSIST IN FUNDING RIGHTS OF WAY AND SERVICE LINES TO CONNECT NAVAJO HOMES TO THE ELECTRIC GRID UNDER INITIATIVES SUCH AS LIGHT UP NAVAJO AND APPROVING AND ADOPTING THE RIGHT OF WAY AND SERVICE LINE EXPENDITURE PLAN PURSUANT TO 12 N.N.C. §§ 2501 – 2508

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees' powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.