

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: 9:40AM; 09-15-22
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'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Fourth Year, 2022

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0157-22

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

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee of the Navajo Nation Council is empowered to provide legislative oversight on matters involving public safety programs and to enable the Navajo Nation to more effectively provide efficient public safety services on the Navajo Nation. 2 N.N.C. § 600 (C) (6).
- B. The Health Education and Human Services Committee of the Navajo Nation Council is empowered to provide legislative oversight on matters involving health, social services, education, general governmental services and human services. 2 N.N.C. §400 (C) (1).
- C. The Resource Development Committee of the Navajo Nation Council is empowered to exercise oversight authority on matters involving roads and transportation, 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 23rd 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 23rd 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 Sihasin 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:

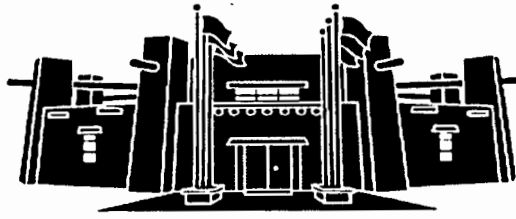
- 3 g. Any individual Chapter or non-NTUA Powerline Project funds that are
4 not spent or encumbered within ~~forty-eight (48)~~ seventy-two (72)
5 months of distribution to CPMD or transfer to a LGA Certified Chapter
6 shall be returned to the Síhasin Fund;

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

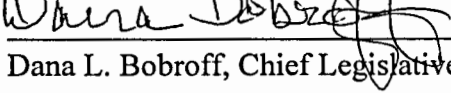
12 **SECTION FIVE. DIRECTIVES**

- 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.
29
30



MEMORANDUM

TO: Honorable Raymond Smith (Sponsor)
Honorable Carl Slater (Co-Sponsor)
24th Navajo Nation Council

FROM: 
Dana L. Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

DATE: September 14, 2022

SUBJECT: **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**

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.

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).

Please ensure that his 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 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'íyáti' 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

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

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