

LEGISLATIVE SUMMARY SHEET

Tracking No. 0334-17

DATE: August 25, 2017

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING CD-68-14, THE NAVAJO NATION SÍHASIN FUND

PURPOSE: The legislation amends CD-68-14, the Navajo Nation Síhasin Fund, Section 2502, regarding the purpose of the Fund.

NOTE: This amendment requires a 90% majority vote of the full membership of the Navajo Nation Council (22 votes in favor). 12 N.N.C. § 2508

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.

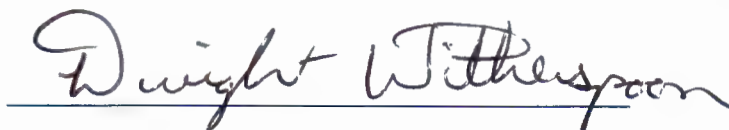
5-DAY BILL HOLD PERIOD: SNOTAH
Website Posting Time/Date: 3:03PM 8/28/17
Posting End Date: 9/2/2017
Eligible for Action: 9/3/2017

Law & Order Committee
THENCE
Budget & Finance Committee
THENCE
Naa'bi'iyati' Committee
THENCE
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL – Third Year, 2017

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0334-17

AN ACTION

RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND
NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING
CD-68-14, THE NAVAJO NATION SÍHASIN FUND

BE IT ENACTED:

Section One. Authority

- A. The Law and Order Committee is empowered to review and recommend proposed Navajo Nation Code enactments and amendments. 2 N.N.C. § 601(B)(14).
- 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. 2 N.N.C. § 300(8)(2).
- C. The Naabik'iyati' Committee of the Navajo Nation Council is empowered to review all proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).

Section Two. Findings

1 A. On November 1, 2006, the 20th Navajo Nation Council unanimously passed
2 Legislation No. CN-57-06 authorizing the Navajo Nation Attorney General to file
3 a lawsuit against the United States for the alleged breach of its fiduciary duties to
4 the Nation arising under treaties, executive orders, public laws, statutes,
5 regulations and contracts due to its mismanagement of the Nation's tribal trust
6 assets, including tribal trust funds and select tribal resources, specifically
7 excluding water and assets held in trust for individual Navajo members. Navajo
8 Nation President, Joe Shirley, Jr., signed Legislation No. CN-57-06 into law on
9 November 13, 2006.

10
11 B. On September 26, 2013, the Naabik'iyáti' Committee of the Navajo Nation
12 Council passed NABIS-42-13 creating a Trust Mismanagement Litigation Task
13 Force ("Task Force"), composed of Council Delegates, from each agency and each
14 standing committee, as well as Presidential appointees, to assist and consult with
15 the Navajo Nation Office of the Attorney General, Department of Justice, outside
16 legal counsel and the Office of the Navajo Nation President & Vice-President in
17 evaluating whether any proposals put forth by the United States to settle *Navajo*
18 *Nation v. United States*, No. 06-945L, were in the best interests of the Nation.

19
20 C. On May 16, 2014, the United States made a settlement offer to the Nation that the
21 Nation's Attorney General, outside legal counsel, the Task Force and the Office of
22 the President & Vice-President determined to be in the best interests of the Navajo
23 Nation. On May 30, 2014, the settlement was adopted by the Navajo Nation
24 Council through Resolution No. CMY-28-14 and signed into law by the President
25 of the Navajo Nation on June 4, 2014.

26
27 D. During the many decades that the United States was in breach of its fiduciary
28 duties to the Nation and engaged in the mismanagement of the Nation's tribal trust
29 assets and resources, the tribal government was without sufficient funds to provide
30 basic services and amenities to the Dine' of past generations. The tribal

1 government was also without funds to develop an infrastructure within the four
2 sacred mountains that would support the growth and development of opportunities
3 crucial for the prosperity of future generations of Diné.
4

5 E. The Navajo Nation established the Síhasin Fund, 12 N.N.C. §§ 2501 et seq., in the
6 best interest of the Nation and consistent with the collective wishes expressed by
7 its members. The Síhasin Fund is intended to ensure that the net proceeds from the
8 redress of the United States breach of its fiduciary duties and mismanagement of
9 the Nation's tribal trust assets and resources buttress the planning and development
10 of regional infrastructure supporting economic and community development as
11 well as support education opportunities for Navajo members, essential to prevent
12 sacrifices endured by past generations of the Dine' from being revisited on future
13 generations. *See* CD-68-14
14

15 F. It is in the best interest of the Navajo Nation to amend the Navajo Nation Síhasin
16 Fund, 12 N.N.C. §§ 2501 et seq., as approved in CD-68-14, to continue to meet the
17 Navajo Nation's economic development and community development needs.
18

19 **Section Three. Amending the Navajo Nation Síhasin Fund**

20 The Navajo Nation hereby amends the Navajo Nation Síhasin Fund as follows:
21

22 **TITLE 12. FISCAL MATTERS**

23 **CHAPTER 25. NAVAJO NATION SÍHASIN FUND**

24
25
26 **§ 2501. Establishment**

27 There is established the "Navajo Nation Síhasin Fund (hereinafter "Fund").

28 A. The Navajo Nation Council hereby designates that the net proceeds and
29 earnings thereon received by the Navajo Nation through settlement of the
30 litigation captioned *Navajo Nation v. United States*, No. 06-945L, shall be

1 deposited into the Fund. Additional deposits, when duly designated, may be
2 made to the Fund from the net proceeds of settlement or judgment awards of
3 other litigation brought against the United States concerning its failure to
4 ensure that the Navajo Nation received all funds due and owing under the
5 United States' trust obligations and fiduciary duties.

6 B. The Navajo Nation Council may make additional appropriations to the Fund
7 from any other sources of revenue that become available to the Navajo
8 Nation.

9 C. Any money deposited in or appropriated to the Fund, regardless of source,
10 including earnings thereon, shall be used only as provided in this Chapter.

11 D. The Fund shall be a continuing account and shall not lapse on an annual basis
12 pursuant to 12 N.N.C. § 820(N).

13
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 regional infrastructure supporting
18 economic development and community development, including such
19 infrastructure as, but not limited to, housing, commercial buildings,
20 waterline and powerline projects, and transportation and
21 communication systems, within the Navajo Nation; and

22 2. education opportunities for members of the Navajo Nation.

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

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

29
30 § 2503. Investment of the Fund

1 All monies deposited in the Fund shall be invested as soon as practical in accordance
2 with:

- 3 A. The degree of care exercised by reasonable and prudent managers of
4 investments intended to produce maximum growth of the investments with a
5 high degree of safety; and
6 B. Specific investment objectives and policies as formally adopted by the
7 Naabik'íyáti' Committee of the Navajo Nation Council.
8

9 § 2504. Definition of Fund Principal and Income

- 10 A. "Fund Principal" shall consist of all deposits made to the Fund pursuant to §
11 2501 of this Chapter.
12 B. "Fund Income" shall consist of all earnings (interest, dividends, etc.)
13 generated and realized by the principal of the Fund.
14

15 § 2505. Expenditure of the Fund

- 16 A. With the exception of outstanding and accrued litigation costs, the Fund
17 Principal and Income shall not be expended except pursuant to a Fund
18 Expenditure Plan consistent with the purposes set forth in § 2502 of this
19 Chapter and adopted by a two-thirds (2/3) vote of all members of the Navajo
20 Nation Council.
21 B. Expenditures for outstanding and accrued litigation costs shall be approved by
22 the Law & Order and Budget & Finance Committees upon the
23 recommendations of the Attorney General and Controller of the Navajo
24 Nation.
25 C. Until such time as the Fund Expenditure Plan is duly adopted, all Fund
26 Income shall be deposited in the Fund and added to the Fund Principal.
27

28 § 2506. Annual audited report

29 The Fund shall be audited annually. Within 120 days of the end of each fiscal year,
30 an audit report shall be distributed to the members of the Navajo Nation Council. The

1 report shall be written in easily understandable language. The report shall include
2 financial statements, a statement of the amount of money received by the Fund from
3 each investment during the period, a statement of investments of the Fund including
4 an appraisal at market value, a description of Fund investment activity during the
5 period covered by the report, a statement of the Fund performance and information
6 relevant to the management of the Fund.

7
8 **§ 2507 Expenses**

9 All expenses directly associated with the administration and management of the Fund
10 shall be paid from the Fund income as approved by the Naabik'iyati' Committee of
11 the Navajo Nation Council. Such expenses shall include investment advisory and
12 management fees, audit costs and other related expenses, all pursuant to duly
13 approved contracts for such services.

14
15 **§ 2508 Amendments**

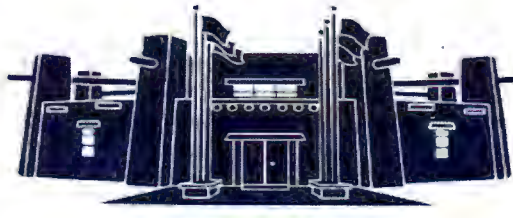
16 Any section(s) herein may be amended by a ninety percent (90%) majority vote of the
17 full membership of the Navajo Nation Council and signature of the President of the
18 Navajo Nation.

19
20
21 **Section Four. Effective Date**

22 The Act is effective upon its approval pursuant to 12 N.N.C. § 2508 and 2 N.N.C.
23 §221(B).

24
25 **Section Five. Codification**

26 The provisions of this act which amends or adopts new sections of the Navajo Nation
27 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
28 Counsel shall incorporate such amended provisions in the next codification of the Navajo
29 Nation Code.



MEMORANDUM

TO: Hon. Dwight Witherspoon
23rd Navajo Nation Council

FROM: 
Levon B. Henry, Chief Legislative Counsel
Office of Legislative Counsel

DATE: August 25, 2017

SUBJECT: AN ACTION RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING CD-68-14, THE NAVAJO NATION SÍHASIN FUND

Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law, the resolution as drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of a challenge. NOTE: This amendment requires a 90% vote of the full membership of the Navajo Nation Council.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 300, 600 and 2 N.N.C. § 164 and 102. 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 review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Prime Sponsor", and submit it to the Office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of changes you would like made to the proposed resolution. You may contact me at (928) 871-7166. Thank you.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0334-17_____

SPONSOR: Dwight Witherspoon

TITLE: An Action Relating to Law and Order, Budget and Finance, and Naabik'iyati' Committees and Navajo Nation Council; Amending CD-68-14, The Navajo Nation Sihasin Fund

Date posted: August 28, 2017 at 3:03pm

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) 871-7590

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.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0334-17

SPONSOR: Honorable Dwight Witherspoon

TITLE: An Action Relating To Law and Order, Budget and Finance, and Naabik'iyati' Committees and Navajo Nation Council; Amending CD-68-14, The Navajo Nation Sihasin Fund.

Posted: August 28, 2017 at 3:03pm

5 DAY Comment Period Ended: September 2, 2017

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



Legislative Secretary II
Office of Legislative Services

9/5/2017 8:33am

Date/Time

**LAW AND ORDER COMMITTEE
23RD NAVAJO NATION COUNCIL-**

THIRD YEAR 2017

COMMITTEE REPORT

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation No. 0334-17: An Act Relating to Law and Order, Budget and Finance, and Naabik'iyati Committees and Navajo Nation Council; Amending CD-68-14, The Navajo Nation Sihasin Fund – Sponsor: Honorable Dwight Witherspoon


Has had it under consideration and reports the same with the recommendation that it **DO PASS** with one amendment

Amendment No. 1

On page 4 of 6, line 20, insert language after the word projects, "Solid Waste Management Development"

And thereafter referred to Budget and Finance Committee

Respectfully submitted,


Edmund Yazzie, Chairperson
Law and Order Committee
23rd Navajo Nation Council

Date: September 25, 2017

Amendment No. 1:

Motion: Honorable Kee A. Begay, Jr.

Second: Honorable Otto Tso

Vote: 3-0

Main Motion: Honorable Otto Tso

Second : Honorable Kee A. Begay, Jr.

Vote : 3-0 (Chairperson not voting)

BUDGET AND FINANCE COMMITTEE REPORT

23rd NAVAJO NATION COUNCIL---THIRD YEAR 2017

LEGISLATION 0334-17

Introduced by Honorable Dwight Witherspoon

An Action

Relating to Law and Order, Budget and Finance and Naabik'iyati Committees and Navajo Nation Council; Amending CD-68-14, The Navajo Nation Síhasin Fund

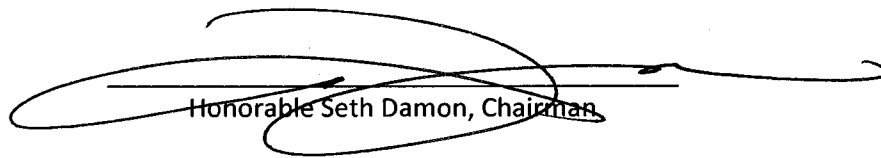
TO THE NAABIK'İYATI' COMMITTEE:

The Budget and Finance Committee to whom has been referred Legislation 0334-17, has had it under consideration and reports a DO PASS recommendation with one amendment.

Amendment No. 1

1. Page 4 of 6, Line 17, insert new language as follows: ...development of economic development and regional...
2. Further instruction was given to have staff provide copies of the Transportation and Community Development Committee Resolution TCDCJY-77-99, referenced in the legislation. (page4 of 6, Line 24)

Thence, on this 3rd Day of October, 2017, Legislation 0334-17 is referred to the Naabik'iyati' Committee.



Honorable Seth Damon, Chairman

Main Motion:	Honorable Dwight Witherspoon
Second:	Honorable Leonard Tsosie
Vote:	3-0-0 (Chairman not voting)

Amendment No. 1

Motion:	Honorable Dwight Witherspoon
Second:	Honorable Tom T. Chee
Vote:	3-0-0 (Chairman not voting)

23rd NAVAJO NATION COUNCIL
Naabik'iyáti' Committee
Third Year 2017

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL # 0334-17

An Action Relating to Law and Order, Budget and Finance, and Naabik'iyáti' Committees and Navajo Nation Council; Amending CD-68-14, The Navajo Nation Síhasin Fund

Sponsored by: Honorable Dwight Witherspoon

Has had it under consideration and reports the same was **PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'LoRenzo C. Bates', written in a cursive style.

*Honorable LoRenzo C. Bates, Chairman
Naabik'iyáti' Committee*

12 OCTOBER 2017

MAIN MOTION:

Motioned by: Honorable Tuchoney Slim, Jr.

Seconded by: Honorable Norman M. Begay

Vote: 16 in Favor, 01 Opposed (Chairman Bates not voting)

9

23rd Navajo Nation Council
Naabik'iyati' Committee

Date: October 12, 2017

Legislation No. 0334-17

Motion: Tuchoney Slim, Jr.

Second: Norman M. Begay

ALL DELEGATES:

	Yea	Nay
BATES, LoRenzo		
BEGAY, Kee Allen Jr.	✓	
BEGAY, Norman M.	✓	
BEGAY, Steven	✓	
BEGAYE, Nelson	✓	
BENNETT, Benjamin L.	✓	
BROWN, Nathaniel	✓	
CHEE, Tom T.		
CROTTY, Amber K.		
DAMON, Seth	✓	
DANIELS, Herman	✓	
FILFRED, Davis		
HALE, Jonathan L.	✓	
JACK, Lee Sr.		
PERRY, Jonathan	✓	
PETE, Leonard H.	✓	
PHELPS, Walter	✓	
SHEPHERD, Alton Joe		
SLIM, Tuchoney Jr.	✓	
SMITH, Raymond Jr.		✓
TSO, Otto		
TSOSIE, Leonard	✓	
WITHERSPOON, Dwight	✓	
YAZZIE, Edmund	✓	

BY COMMITTEE:

	Yea	Nay	TOTAL
BFC:			
CHEE, Tom T.			
DAMON, Seth			
JACK, Lee Sr.			
SLIM, Tuchoney Jr.			
WITHERSPOON, Dwight			
TSOSIE, Leonard			
HEHSC:			
BEGAY, Norman M.			
BEGAY, Steven			
BEGAYE, Nelson			
BROWN, Nathaniel			
CROTTY, Amber K.			
HALE, Jonathan L.			
LOC:			
BEGAY, Kee Allen Jr.			
DANIELS, Herman			
SMITH, Raymond Jr.			
TSO, Otto			
YAZZIE, Edmund			
RDC:			
BENNETT, Benjamin L.			
FILFRED, Davis			
PERRY, Jonathan			
PETE, Leonard H.			
PHELPS, Walter			
SHEPHERD, Alton Joe			
SPEAKER:			
BATES, LoRenzo			
(Votes only in a tie)			

GRAND TOTAL

16 1

CERTIFICATION:



Honorable LoRenzo C. Bates
 Speaker

GRAND TOTAL

23rd NAVAJO NATION COUNCIL
Action Report
Third Year 2017

The **NAVAJO NATION COUNCIL** to whom has been assigned:

NAVAJO LEGISLATIVE BILL # 0334-17

An Action Relating to Law and Order, Budget and Finance, and Naabik'iyáti' Committees and Navajo Nation Council; Amending CD-68-14, The Navajo Nation Síhasin Fund

Sponsored by: Honorable Dwight Witherspoon

Has had it under consideration and reports the same **FAILED (NEEDED 22 IN FAVOR VOTES)**

Respectfully Submitted,



Honorable LoRenzo C. Bates, Speaker
NAVAJO NATION COUNCIL

17 OCTOBER 2017

AMENDMENT #1:

1. On Page 4 of 6, Line 20, insert new language after commercial and government buildings,
2. Renumber or re-letter succeeding paragraphs or sections accordingly, if necessary. This amendment shall supersede inconsistent language contained in any other committee amendment, which shall be conformed to the intent or language of this amendment. The Office of Legislative Services, with notice to the sponsor(s) of the Legislation, is hereby authorized to make necessary grammatical changes.

Motioned by: Honorable Amber Kanazbah Crotty

Seconded by: Honorable Norman M. Begay

Vote: 19 in Favor, 03 Opposed (Speaker Bates not voting)

MAIN MOTION:

Motioned by: Honorable Steven Begay

Seconded by: Honorable Edmund Yazzie

Vote: 21 in Favor, 01 Opposed (Speaker Bates not voting) – FAILED – NEEDED 22 In Favor Votes

RCS# 844

NAVAJO NATION

NNC Fall Session

10/17/2017

04:59:01 PM

Amd# to Amd#

Legislation No. 0334-17

~~PASSED~~

MOT Begay, S

Amending CD-68-14, the Navajo

SEC Yazzie

Nation Sihasin Fund

(as amended)

needed 22
Yea : 21 *votes*

Nay : 1

Not Voting : 1

Yea : 21

Begay, K
Begay, NM
Begay, S
BeGaye, N
Bennett
Brown

Chee
Crotty
Damon
Daniels
Filfred

Jack
Perry
Phelps
Shepherd
Slim

Smith
Tso
Tsosie
Witherspoon
Yazzie

Nay : 1

Pete

Not Voting : 1

Bates

Hale