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: [illegible]
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'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0133-19

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

BE IT ENACTED:

Section One. Authority

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

B. 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).

C. The Resource and Development Committee of the Navajo Nation Council is empowered to exercise oversight authority over economic and community development and housing. 2 N.N.C. § 500 (C).

D. 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. § 301 (B) (2).

Section Two. The Naabik'íyáti Síhasin Fund Subcommittee and Navajo Nation Síhasin Fund

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

B. The Navajo Nation Code provides the purpose of the Navajo Nation Síhasin Fund ("Síhasin Fund") is as follows:

§2502 Purpose

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

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

2. Education opportunities for members of the Navajo Nation.

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

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

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

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

Section Three. Findings

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

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

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

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

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

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

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

Section Five. Approval and Adoption of Expenditure Plan Administration

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

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

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

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

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

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

Section Six. Effective Date

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

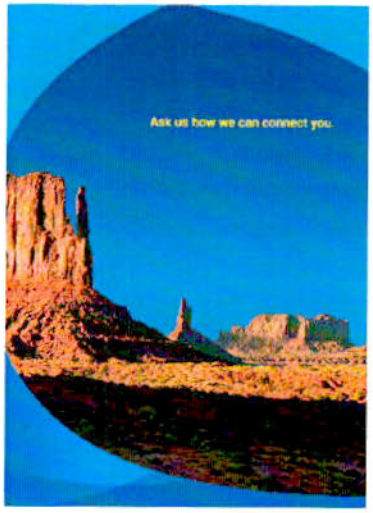
Section Seven. Directives

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

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

EXHIBIT

A



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62 Chapter House Broadband Project

"Connecting with Navajo Broadband"

2019

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Strategy

- Implement a broadband deployment to reach 62 Chapter Houses (57 + 5 pilots) where NTUA has fiber/microwave assets in the vicinity
- Two (2) years of broadband service for 62 of the 110 Navajo Chapters this includes Wi-Fi connectivity and basic Support Services
- During the two (2) year funding period NTUA/NTUAW will work on a sustainability program for 62 Chapter Houses
  - Federal programs including: education, healthcare and rural broadband
  - Various programs can potentially fund 60-90% of the ongoing costs

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Components

- NTUA to bring a physical connection into the Chapter House with basic Wi-Fi
  - NTUAW will help with the approval process for Chapter easement access
  - NTUA will provide connectivity into the Chapter House with Wi-Fi connectivity and basic set up
- NTUAW will provide 20 Mb of monthly Dedicated Internet Access (DIA) to each Chapter House with an optional price to increase bandwidth
  - 20 Mb service paid by the Shihasin Trust Fund for first two years
  - 10Mb of Bandwidth will be dedicated to the administration, the remaining 10Mb will be for public use
- NTUA/NTUAW will provide ongoing support for the bandwidth and basic connectivity to and inside the Chapter House
  - NTUAW will provide call center to determine issues and generate trouble tickets
  - NTUA will staff two additional employees with vehicles to make field calls for service issues
  - Additional support for computers can be addressed by a list of IT companies NTUA can provide or through Navajo Nation Division of Community Development (NNDCD)

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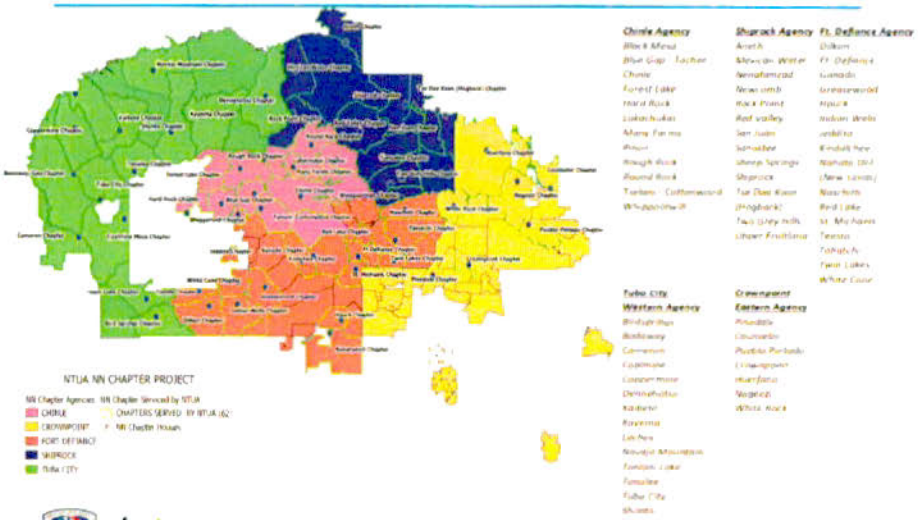
Opportunity to Connect 62 Chapters



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Connecting with Navajo Broadband

Council Delegate	Broadband to the Chapter House					Proposed # of Chapters Connected
Eugene Tso	Chinle					1
Paul Begay	Coppermine	Kaibeto	Red Lake	Lechee	Bodaway/ Gap	5
Elmer Begay	Dilkon	Indian Wells	Greasewood	Teesto	Whitecone	5
Jimmy Yellowhair	Forest Lake	Hard Rock	Pinion	Black Mesa	Whippoorwill	5
Otto Tso	Tuba City					1
Eugenia Charles-Newton	Shiprock					1
Rickie Nez	Upper Fruitland	Hogback	Nenahnezad	Newcomb	San Juan	5
Thomas Walker, Jr.	Cameron	Coalmine Canyon	Tolani Lake	Birdsprings		4
Nelson BeGaye	Lukachaukai	Rough Rock	Rock Point	Round Rock		4
Amber Crotty	Sheep Springs	Sanostee	Red Valley	Toalena	Two Grey Hills	5
Nathaniel Brown	Dennehotso	Kayenta				2
Kee Allen Begay	Many Farms	Tselani/Cottonwood	Blue Gap			3
Vince James	Ganado	Kindalichee	Jeddito			3
Pernell Halona	Naschitti	Twin Lakes	Tohatchi			3
Edison Wauneka	St. Michales					1
Mark Freeland	Crownpoint	Huerfano	Nageezi	White Rock		4
Charlaine Tso	Aneth	Mexican Water				2
Raymond Smith, Jr.	Nahatadzill	Houck				2
Wilson Stewart, Jr.	Ft. Defiance					1
Herman Daniels, Jr.	Navajo Mt.	Shonto				2
Daniel Tso	Counselor	Pueblo Pintado				2
Edmond Yazzie	Pinedale					1
Jamie Henio						0
Seth Damon						0
						62

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Estimated Construction Schedule

- Legislation approval and President's approval by July 1st, 2019
- Contractual agreement executed by September 30th, 2019

Q4 2019		Q1 2020		Q2 2020	
Chapter House	Agency	Chapter House	Agency	Chapter House	Agency
Tuba City	WESTERN	Coal Mine	WESTERN	Shonto	WESTERN
Dennehotso	WESTERN	Birdsprings	WESTERN	Pinedale	EASTERN
Kayenta	WESTERN	Bodaway/Gap	WESTERN	Counselor	EASTERN
Chinle	CHINLE	Cameron	WESTERN	Pueblo Pintado	EASTERN
Forest Lake	CHINLE	Coppermine	WESTERN	Crownpoint	EASTERN
Lukachukai	CHINLE	Kaibeto	WESTERN	Huerfano	EASTERN
Many Farms	CHINLE	Lechee	WESTERN	Nageezi	EASTERN
Round Rock	CHINLE	Navajo Mountain	WESTERN	White Rock	EASTERN
Whippoorwill	CHINLE	Tolani Lake	WESTERN	Sheep Springs	SHIPROCK
Tselani-Cottonwood	CHINLE	Tonalea	WESTERN	Ganado	FORT DEFIANCE
Tse Da Kaan (Hogback)	SHIPROCK	Black Mesa	CHINLE	Jeddito	FORT DEFIANCE
Mexican Water	SHIPROCK	Blue Gap	CHINLE	Twin Lakes	FORT DEFIANCE
Nenahnezah	SHIPROCK	Hardrock	CHINLE	White Cone	FORT DEFIANCE
Newcomb	SHIPROCK	Pinon	CHINLE		
San Juan	SHIPROCK	Rough Rock	CHINLE		
Shiprock	SHIPROCK	Rock Point	SHIPROCK		
Upper Fruitland	SHIPROCK	Aneth	SHIPROCK		
Kindalichee	FORT DEFIANCE	Red Valley	SHIPROCK		
Ft Defiance	FORT DEFIANCE	Sanostee	SHIPROCK		
Tohatchi	FORT DEFIANCE	Two Grey Hills	SHIPROCK		
St. Michaels	FORT DEFIANCE	Dilkon	FORT DEFIANCE		
		Indian Wells	FORT DEFIANCE		
		Greasewood	FORT DEFIANCE		
		Houck	FORT DEFIANCE		
		Nahata Dzil	FORT DEFIANCE		
		Naschitti	FORT DEFIANCE		
		Red Lake	FORT DEFIANCE		
		Teesto	FORT DEFIANCE		

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One Time Build Costs

- Total Chapters included – 62 (50 + 5 pilot + 7 new)
- Cost based on actuals from 5 pilots and engineering assessments

Build Cost	Cost
Average Cost to Construct Chapter near infrastructure	$27,000
Average Cost to Construct 7 new Chapter	$32,000
– Physical internet connection	
– Router demark	
– Wi-Fi equipment	
– Installation, turn-up and testing	
Total Construction Cost	**$1,811,540**

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Cost for Support Services

- Costs associated with extending facilities and two (2) years of services for 62 Chapters
- NTUA/NTUAW will provide ongoing support for the bandwidth and basic connectivity to and inside the Chapter House
  - NTUAW will provide call center to determine issues and generate trouble tickets
  - NTUA will staff two additional employees with vehicles to make field calls for service issues
  - Additional support for computers can be addressed by a list of IT companies NTUA can provide or through Navajo Nation Division of Community Development (NNDCD)

Support Services Components	Cost
Technicians (2)	$300,000
Vehicles and Expenses (2)	$150,000
Tools and Equipment	$70,000
Extended Call Center Services	$150,000
Total 2 Year Support Cost	**$670,000**

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Monthly Subscription Fee

- Five Pilots helped determine that Chapters greatly benefitted from the 10Mb of Dedicated Internet Access (DIA), but saturation levels were approached
- Based on these findings, 20 Mb of service is needed per Chapter House

Provide Dedicated Internet Access (DIA) to 62 Chapters	20 Mb DIA
Monthly Subscription Fee Per Chapter	$725/month
Two (2) Year Total:	**$1,078,800**

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Total Project Cost

Cost Components	Cost
Initial Construction Costs	**$1,811,540**
Service for two (2) years of Dedicated Internet Access (DIA)	**$1,078,800**
Cost to provide ongoing Maintenance and Support	**$670,000**
NTUA and Microsoft Contribution	**-$461, 540**
Total – 2 Year Cost	**$3.1 M**

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Remaining Chapters

- NTUA is working on developing a cost model to expand the existing network to include the remaining 48 Chapter Houses
- These locations will need to be subdivided into multiple stages based on funding availability and complexity
- As NTUA's network continues to expand/develop some of these locations will become more accessible
- NTUA will work with chapters to position themselves to be able to apply for Federal programs including: education, healthcare and rural broadband. Various programs can potentially fund 60-90% of the ongoing costs.

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Summary

- The total request is for $3.1M to provide 20 Mb of high quality broadband to 62 chapter houses including basic support services and help finding additional support when needed
  - Funding for two years with projected service scheduled within 9 months from funding award
  - 10Mb of Bandwidth will be dedicated to the administration, the remaining 10Mb will be for public use
- Potential exists to get 60% - 90% of sustainability funding through various other federal programs
- Will not leave any Chapter House behind
  - working on staged plan to include the remaining chapters based on funding and complexity
- Broadband to the Chapter House has tremendous benefits to the welfare of the Navajo Nation
  - Economic development, quality of life, education and healthcare support
  - Head Starts and Senior Centers adjacent to these facilities can be added for minimal cost

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Partners

- NTUA/NTUAW will work with third party entities to help find solutions for IT issues
  - Navajo Nation Division of Community Development (NNDCD)
    - Free IT support option for chapter houses
  - Pre-approved Navajo owned IT companies
    - Pre-negotiated rates for volume discount

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5-Chapter House Pilot Summary

Provided 10Mb (5Mb-Administrative/5Mb-Public Wi-Fi)

- 1-Year Pilot Project began October 2017
- Pilot extended into 2019

1. **Chinle Chapter**:
   - Turned Up 10/18/17 (Indoor/Outdoor)
2. **Fort Defiance Chapter:**
   - Turned Up 10/13/17 (Indoor Only)
3. **Kin Dahlichii Chapter**:
   - Turned Up 10/19/17 (Indoor Only)
4. **Mexican Water Chapter**:
   - Turned Up 11/7/17 (Indoor/Outdoor)
5. **Shiprock Chapter**:
   - Turned Up 10/17/17 (Indoor/Outdoor)

- Microsoft Donations:
  - Computers
  - Workstation servers
  - Keyboards
  - Monitors
  - Software – Windows 10 & Office
  - Deployment
  - Training

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Additional Objectives

- NTUA/NTUAW work with Microsoft to possibly implement computer labs at each of these 62 chapters
- NTUA/NTUAW will work with Chapters to define process, policies and procedures to sustain equipment and computer labs
- During the two year funding period NTUA/NTUAW will work on a sustainability program for 62 Chapter Houses
  - Federal programs including: education, healthcare, and rural broadband
  - Various programs can potentially fund 60-90% of the ongoing costs

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Ahe'hee'

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Council

Honorable Seth Damon
Speaker
24th Navajo Nation

MEMORANDUM

TO: Honorable Herman Daniels, Jr.
24th Navajo Nation Council

FROM: Kristen Lowell, Principal Attorney
Office of Legislative Counsel

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

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.