TITLE: An Act Relating To Law And Order, Health, Education And Human Services Committee, Budget And Finance, And Naabik’íyáti’ Committees, And Navajo Nation Council; Approving Funding Of Fifty Million Dollars ($50,000,000) From The Sihasin Fund To Establish The Navajo Nation Scholarship Endowment Expenditure Plan Pursuant To 12 N.N.C §§ 2501 – 2508; Complying With 12 N.N.C § 2502 (A)(2); Enacting The Navajo Nation Scholarship Endowment

Date posted: August 3, 2019 at 2:13pm

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DATE: July 26, 2019

TITLE OF RESOLUTION: AN ACT RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING FUNDING OF FIFTY MILLION DOLLARS ($50,000,000) FROM THE SIHASIN FUND TO ESTABLISH THE NAVAJO NATION SCHOLARSHIP ENDOWMENT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508; COMPLYING WITH 12 N.N.C. § 2502 (A)(2); ENACTING THE NAVAJO NATION SCHOLARSHIP ENDOWMENTS

PURPOSE: The purpose of this legislation is to approve funding of fifty million dollars ($50,000,000) from the Sihasin Fund to establish the Navajo Nation Scholarship Endowment Expenditure Plan pursuant to 12 N.N.C §§ 2501 – 2508. In complying with 12 N.N.C. § 2502 (A)(2), the legislation enacts the Navajo Nation Scholarship Endowments.

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.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0230-19

AN ACT

RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE, BUDGET AND FINANCE, AND NAABIK’IYÁTI’ COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING FUNDING OF FIFTY MILLION DOLLARS ($50,000,000) FROM THE SÍÍHASIN FUND TO ESTABLISH THE NAVAJO NATION SCHOLARSHIP ENDOWMENT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508; COMPLYING WITH 12 N.N.C. § 2502 (A)(2); ENACTING THE NAVAJO NATION SCHOLARSHIP ENDOWMENT

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Law and Order Committee of the Navajo Nation Council is empowered to review and make recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code. 2 N.N.C. § 601 (B) (14).

B. The Health, Education and Human Services Committee of the Navajo Nation Council is empowered to exercise oversight authority to review and recommend resolutions relating to social services and education. 2 N.N.C. § 401(B)(6)(a).

C. 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).
D. 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 and shall recommend to [the] Navajo Nation Council financial support and/or financing plan(s) for the purposes set out in 12 N.N.C. § 2502 (the Navajo Nation Sihasin Fund). 2 N.N.C. §164(A)(9) and NABIY-38-19.

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

SECTION TWO. THE NAVAJO NATION SIHASIN FUND

A. The Navajo Nation Code at 12 N.N.C. § 2502, as amended by CJA-03-18, provides the purpose of the Navajo Nation Sihasin Fund (“Sihasin Fund”) 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.

B. The Sihasin Fund provides that Fund Principal shall consist of all deposits made to the Sihasin 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).

C. Amendments to the Síhasin Fund require “a ninety percent (90%) vote of the full
membership of the Navajo Nation Council and signature of the President of the Navajo
Nation.” 12 N.N.C. § 2508.

SECTION THREE. FINDINGS

A. The purpose of the Scholarship Endowment is to provide full funding for Navajo students
pursuing a college degree with the condition of returning to the Navajo Nation to complete
a minimum of four years of government service to the Navajo Nation.

B. The Office of Navajo Nation Scholarship and Financial Assistance 2017 Annual Report
highlights that $20,434,982 was disbursed in Calendar Year 2016 to 6,486 students and
$24,127,385 was disbursed in Calendar Year to 6,755 students. See Exhibit "A," the
2017 Annual Report.

C. The Office of Navajo Nation Scholarship and Financial Assistance 2017 Annual Report
indicates only 51% of Navajo students were awarded financial aid in 2016 and only 53%
of Navajo students were awarded financial aid in 2017.

D. The Office of Navajo Nation Scholarship and Financial Assistance 2017 Annual Report
shows that in 2017 a total of 1,594 award recipients earned a degree or certification from
one of 20 educational institutions within or surrounding the Navajo Nation with the top
two (5) areas of study being Nursing, General Studies, Business Administration,
Psychology, and Biology and graduate degree areas of study include Social Work,
Business Administration, Education, Educational Leadership, and Law.

E. The Office of Navajo Nation Scholarship and Financial Assistance 2017 Annual Report
explains the funding sources for student scholarships and financial assistance comes from
Navajo Nation general funds, federal funds, corporate funds, and trust funds for a total of
$24,127,385.
F. Even with the funds available for scholarships and financial aid many Navajo students do not have the opportunity to begin, or complete, a college degree program; as outlined in the 2017 Annual Report, 51% in 2016 and 53% in 2017 were denied awards.

G. Diné Customary Law declares and teaches that it is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge to empower them to make a living and participate in the growth of the Navajo Nation. 1 N.N.C. § 204(F).

SECTION FOUR. APPROVAL AND ADOPTION OF EXPENDITURE PLAN FROM SÍHASIN FUNDS

A. The Navajo Nation hereby approves and adopts the Navajo Nation Scholarship Endowment.

B. The Navajo Nation hereby approves funding to establish a Navajo Nation Scholarship Endowment in the amount of fifty million dollars ($50,000,000).

C. The Sihasin Funds allocated to establish the Navajo Nation Scholarship Endowment 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 Sihasin Fund Earnings for repayment and financing costs upon the recommendation of the Budget and 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

The Navajo Nation hereby approves administration of the Navajo Nation Scholarship Endowment Expenditure Plan as follows:

A. The Navajo Nation Controller shall determine whether the source of the fifty million dollars ($50,000,000) will be Sihasin Fund Principal or Income or a combination of both;

B. The funds allocated for the Navajo Nation Scholarship Endowment shall be for the purposes specified in the Navajo Nation Scholarship Endowment, at 12 N.N.C. § 1192, in Section Six of this Resolution.
C. The Navajo Nation Controller shall establish the Navajo Nation Scholarship Endowment during Navajo Nation Fiscal Year 2019 or Fiscal Year 2020, provided that the Navajo Nation Scholarship Endowment is established within thirty (30) days of the formal adoption of this legislation.

SECTION SIX. ENACTING THE NAVAJO NATION SCHOLARSHIP ENDOWMENT

The Navajo Nation enacts the Navajo Nation Scholarship Endowment, as follows:

Title 12. Fiscal Matters
Chapter 10. Navajo Nation Trust Funds
Subchapter 10. Navajo Nation Scholarship Endowment

§1191. Establishment

The "Navajo Nation Scholarship Endowment" hereinafter "Scholarship Endowment" is established with an initial allocation of fifty million dollars ($50,000,000) from the Navajo Nation Síhasin Fund. Any funds deposited into the Scholarship Endowment, plus accrued interest, shall be used only as provided hereinafter in this subchapter.

§ 1192. Purpose

The purpose of the Scholarship Endowment is to provide full funding for Navajo students pursing a college degree with the condition of returning to the Navajo Nation immediately upon graduation to complete a minimum of four (4) years of government service to the Navajo Nation or reimbursed loan repayment for three (3) of government service to the Navajo Nation immediately upon graduation, but not both.

§1193. Definition of Principal and Income
A. Scholarship Endowment Principal shall consist of the initial funding that established the fund, all Navajo Nation appropriations made pursuant to the Navajo Nation appropriation processes and procedures, and any contributions made by any parties or entities.

B. Scholarship Endowment income shall consist of all earnings, such as interest and dividends generated by the principal and interests of the Scholarship Endowment.

§ 1194. Expenditure of Scholarship Endowment Income

The Scholarship Endowment income shall be expended as follows:

A. Ninety-five percent of the Scholarship Endowment income shall be used as provided in § 1192 of this subchapter. Five percent (5%) of the Scholarship Endowment shall be reinvested to cover the rate of inflation.

B. Any awards made from Scholarship Endowment income to Navajo Nation college students, shall be awarded in accordance with rules and regulations developed by the Office of Navajo Nation Scholarship and Financial Assistance, as approved by the Health, Education and Human Services Committee of the Navajo Nation Council.

§ 1195. Expenditure of Fund Principal

Fund principal shall not be expended except pursuant to a referendum adopted by a two-thirds majority of those voting in an election open to all registered Navajo voters. The Navajo Nation Council may place a “Referendum to Expending Scholarship Endowment Principal” on the ballot of any primary or general election by a two-thirds (2/3) vote of the full Navajo Nation Council.

§ 1196. Expenses

All expenses directly associated with the administration and management of the Scholarship Endowment shall be paid from the Scholarship Endowment income as approved by the Budget and Finance Committee of the Navajo Nation Council, prior
to any income distributions made in accordance with §§ 1194 and 1195 of this subchapter. Such expenses shall include investment advisory and management fees, audit costs, and other related expenses, pursuant to duly approved contracts for such services.

§1197. Fund Investment

All monies deposited into the Navajo Nation Scholar Endowment shall be invested in accordance with the Navajo Nation Master Investment Policies as adopted by the Budget and Finance Committee of the Navajo Nation Council.

§1198. Amendments

Any section or sections in this subchapter may be amended upon the recommendation of the Health, Education and Human Service Committee and the Budget and Finance Committee of the Navajo Nation Council and by a majority vote of the full membership of the Navajo Nation Council and in accordance with 2 N.N.C. § 221(B).

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SECTION SEVEN. COMPLIANCE WITH 12 N.N.C. § 2502 (A)(1)

The Navajo Nation Council approves the purpose of the Sihasin Fund appropriation as enumerated in 12 N.N.C. § 2502 (A)(2) to provide the initial funds to establish the Navajo Nation Scholarship Endowment.

SECTION EIGHT. DIRECTIVE

All Navajo Nation programs, specifically including, but not limited to, the Office of Controller and the Office of Management and Budget, shall take all steps necessary to expeditiously implement the Navajo Nation Scholarship Endowment Expenditure Plan consistent with the provisions set forth above.
SECTION NINE. SAVING CLAUSE

The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION TEN. CODIFICATION

Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION ELEVEN. EFFECTIVE DATE

The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221(B) and 2 N.N.C. §§1005 (C) (10-12).