

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0236-21_

SPONSOR: Eugenia Charles-Newton

TITLE: An Action Relating to Resources and Development, Budget and Finance, and Naabik'iváti' Committees, and the Navajo Nation Council; Amending CAP-19-16 to Transfer the Responsibility and Permanent Trust Fund Interest Funding for the Shiprock Hotel-Restaurant Project from the Navajo Nation Gaming Enterprise to the Navajo Nation Hospitality Enterprise; Allocating \$11,400,000 from the Síhasin Fund to the Navajo Nation Hospitality Enterprise for the Shiprock Hotel-Restaurant Project and Approving the Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0236-21

DATE: November 5, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; AMENDING CAP-19-16 TO TRANSFER THE RESPONSIBILITY AND PERMANENT TRUST FUND INTEREST FUNDING FOR THE SHIPROCK HOTEL-RESTAURANT PROJECT FROM THE NAVAJO NATION GAMING ENTERPRISE TO THE NAVAJO NATION HOSPITALITY ENTERPRISE; ALLOCATING \$11,400,000 FROM THE SÍHASIN FUND TO THE NAVAJO NATION HOSPITALITY ENTERPRISE FOR THE SHIPROCK HOTEL-RESTAURANT PROJECT AND APPROVING THE PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

PURPOSE: This resolution, if approved, will amend CAP-19-16 to transfer \$8,300,000 in Permanent Trust Fund income from the NNGE to NNHE and allocate \$11,400,000 in Síhasin Funds to NNHE to complete the Shiprock Hotel-Restaurant Project.

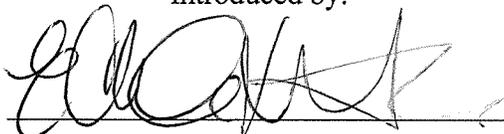
This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD:
Website Posting Time/Date:
Posting End Date: 11-15-21
Eligible for Action: 11-16-21

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

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL – Third Year, 2021

3 Introduced by:

4 
5

6 (Prime Sponsor)

7
8 Tracking No. 0236-21

9
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE,
12 AND NABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL;
13 AMENDING CAP-19-16 TO TRANSFER THE RESPONSIBILITY AND
14 PERMANENT TRUST FUND INTEREST FUNDING FOR THE SHIPROCK
15 HOTEL-RESTAURANT PROJECT FROM THE NAVAJO NATION GAMING
16 ENTERPRISE TO THE NAVAJO NATION HOSPITALITY ENTERPRISE;
17 ALLOCATING \$11,400,000 FROM THE SÍHASIN FUND TO THE NAVAJO
18 NATION HOSPITALITY ENTERPRISE FOR THE SHIPROCK HOTEL-
19 RESTAURANT PROJECT AND APPROVING THE PROJECT EXPENDITURE
20 PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

21
22 BE IT ENACTED:

23
24 SECTION ONE. AUTHORITY

- 25 A. The Resources and Development Committee is a standing committee of the Navajo
26 Nation Council empowered to exercise oversight over the operations of the Navajo
27 Nation enterprises, including the Navajo Nation Gaming Enterprise and the Navajo
28 Nation Hospitality Enterprise. 2 N.N.C. §501(B)(4)(e).
- 29 B. The Budget and Finance Committee is a standing committee of the Navajo Nation
30 Council authorized to “appropriate, allocate, cancel, re-appropriate and review the use

1 of Navajo Nation funds received including but not limited to all grants, contracts, gifts
2 and other funds from all sources.” 2 N.N.C. §301(B)(3).

3 C. The Naabik’íyáti’ Committee is a standing committee of the Navajo Nation Council
4 charged with the responsibility to hear proposed resolution(s) that require final action
5 by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

6 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C.
7 §102(A).

8 E. The Navajo Nation Code (at 12 N.N.C. §2502, as amended by CJA-03-18) provides
9 that the purpose of the Navajo Nation Síhasin Fund (“Síhasin Fund”) is as follows:

10 §2502 Purpose

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

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

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

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

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

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

30 G. The Síhasin Fund provides that “Fund Principal and Income shall not be expended

1 except pursuant to a Fund Expenditure Plan consistent with the purposes set forth in
2 §2502 of this Chapter and adopted by a two-thirds (2/3) vote of all members of the
3 Navajo Nation Council.” 12 N.N.C. §2505(A).
4

5 **SECTION TWO. FINDINGS**

- 6 A. In April of 2016, the Navajo Nation Council passed Resolution No. CAP-19-16, in
7 which the Council approved two payments from the Navajo Nation’s Permanent Trust
8 Fund income to the Navajo Nation Gaming Enterprise (“NNGE”), in the amount of
9 \$5,500,000 in the 2nd Year and \$2,800,000 in the 3rd Year of a “PTF 5-Year Plan.”
10 These payments, totaling \$8,300,000, were intended to allow the NNGE to construct a
11 Hotel and Restaurant in the Shiprock community (“Shiprock Hotel-Restaurant
12 Project”). **Exhibit A.**
- 13 B. Since then, the NNGE has negotiated with the Navajo Nation Hospitality Enterprise
14 (“NNHE”) to take over construction and management of the Shiprock Hotel-
15 Restaurant Project. In May 2021, the NNHE Board of Directors passed a resolution
16 accepting the transfer of the Shiprock Hotel-Restaurant Project. **Exhibit B.** In June
17 2021, the NNGE Board of Directors also passed a resolution approving the transfer of
18 the Shiprock Hotel-Restaurant Project to the NNHE. **Exhibit C.**
- 19 C. The NNHE has prepared a funding request, dated August 30, 2021, indicating that,
20 after previous allocations of funds and the transfer of the \$8,300,000 as proposed in
21 this Legislation, the Shiprock Hotel-Restaurant Project still needs \$11,400,000 for
22 completion. **Exhibit D.**
- 23 D. The allocation of the \$11,400,000 for the Shiprock Hotel-Restaurant Project meets
24 the criteria for Síhasin expenditures because the Project involves “infrastructure”
25 and “community development” such as “commercial buildings” as mentioned in 12
26 N.N.C. §2502(A)(1).
- 27 E. The Shiprock community and the Navajo Nation as a whole will greatly benefit from
28 this economic development project, in terms of jobs creation, tourism, tax revenue, and
29 other significant economic benefits.
30

1 **SECTION THREE. AMENDING CAP-19-16 TO TRANSFER RESPONSIBILITY**
2 **AND FUNDING FOR THE SHIPROCK HOTEL-RESTAURANT PROJECT**
3 **FROM THE NNGE TO THE NNHE**

- 4 A. The Navajo Nation hereby amends Exhibit A of CAP-19-16, attached herein as
5 **Exhibit A**, to transfer responsibility for the construction of the Shiprock Hotel-
6 Restaurant Project to the Navajo Nation Hospitality Enterprise.
- 7 B. The Navajo Nation further amends CAP-19-16 to transfer \$8,300,000 of Permanent
8 Trust Fund income from the Navajo Nation Gaming Enterprise to the Navajo Nation
9 Hospitality Enterprise, for use by the Hospitality Enterprise in the planning and
10 construction of the Shiprock Hotel-Restaurant Project.

11
12 **SECTION FOUR. ALLOCATION OF \$11,400,000 IN SÍHASIN FUNDS TO THE**
13 **NAVAJO NATION HOSPITALITY ENTERPRISE FOR THE SHIPROCK**
14 **HOTEL-RESTAURANT PROJECT**

- 15 A. The Navajo Nation hereby allocates eleven million four hundred thousand dollars
16 (\$11,400,000) in Síhasin Funds to the Navajo Nation Hospitality Enterprise for the
17 planning and construction of the Shiprock Hotel-Restaurant Project.
- 18 B. The Síhasin Funds allocated for the Shiprock Hotel-Restaurant Project may be further
19 leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing
20 Act, 12 N.N.C. §1300 *et seq.*, as amended, using Síhasin Fund earnings for repayment
21 and financing costs, upon the recommendation of the Budget and Finance Committee
22 and approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

23
24 **SECTION FIVE. APPROVAL OF THE SHIPROCK HOTEL-RESTAURANT**
25 **PROJECT EXPENDITURE PLAN AND ITS ADMINISTRATION**

- 26 A. The Navajo Nation hereby approves the Shiprock Hotel-Restaurant Project
27 Expenditure Plan as shown in **Exhibit D**.
- 28 B. The Navajo Nation hereby approves the administration of the Shiprock Hotel-
29 Restaurant Project Expenditure Plan, as follows:
- 30 1. The Navajo Nation Controller shall determine whether the source of the

1 \$11,400,000 allocation from the Síhasin Fund will be from Fund Principal or Fund
2 Income or a combination of both.

- 3 2. The funds allocated for the Shiprock Hotel-Restaurant Project shall be distributed
4 to the Navajo Nation Hospitality Enterprise pursuant to a construction or other
5 schedule agreed to by the Office of the Controller.
- 6 3. The NNHE shall be responsible for the planning and construction of the Shiprock
7 Hotel-Restaurant Project, as well as ongoing operation, maintenance, and repairs
8 for the Project after completion.
- 9 4. The funds allocated for the Shiprock Hotel-Restaurant Project shall be used solely
10 for the planning and construction of the Project, and for the purchase of equipment
11 and facilities as necessary for the Project once construction is completed.
- 12 5. Any and all cost-savings shall be returned to the Síhasin Fund once the Shiprock
13 Hotel-Restaurant Project Expenditure Plan is completed.
- 14 6. The funds allocated for the Shiprock Hotel-Restaurant Project shall revert to the
15 Síhasin Fund principal if not spent or encumbered within one hundred twenty (120)
16 days of distribution to the NNHE, unless recommended otherwise by the Resources
17 and Development Committee and approved by the Naabik'íyáti' Committee.

18
19 **SECTION SIX. DIRECTIVE**

20 The Navajo Nation Hospitality Enterprise shall provide a written and verbal report on the
21 status of its expenditures and progress with the Shiprock Hotel-Restaurant Project, to the
22 Naabik'iyati' Committee, by the end of each Quarter of FY2022.

23
24 **SECTION SEVEN. EFFECTIVE DATE**

25 This Legislation and the Shiprock Hotel-Restaurant Project Expenditure Plan shall become
26 effective pursuant to 2 N.N.C. § 164 (A) (17) and 12 N.N.C. §2505.

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28 **SECTION EIGHT. SAVING CLAUSE**

29 If any provision(s) of this Legislation is determined invalid by the Navajo Nation Supreme
30 Court or by a District Court of the Navajo Nation without appeal to the Navajo Nation

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Supreme Court, the remainder of this Legislation shall remain the law of the Navajo Nation.