

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0258-21_

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 NNHE'S Shiprock Hotel Restaurant Project Expenditure Plan Pursuant to 12 N.N.C. §§2501-2508

Date posted: November 30, 2021 at 5:08PM

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LEGISLATION SUMMARY SHEET

TRACKING NO. 0258-21

DATE: November 17, 2021

TITLE OF LEGISLATION: 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 NNHE'S SHIPROCK HOTEL-RESTAURANT PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§2501 – 2508

PURPOSE OF THIS LEGISLATION: to amend CAP-19-16 to transfer responsibility and allocated PTF funds for the Shiprock Hotel and Restaurant Project from NNGE to NNHE; to allocate an additional \$11,400,000 of Síhasin Funds to NNHE for the Project and approve the Project Expenditure Plan.

OLC No. 21-485-1

5-DAY BILL HOLD PERIOD: VSredhome
Website Posting Time/Date:
Posting End Date: 12-05-2021
Eligible for Action: 12-06-2021

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. 0258-21

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 HOTEL-
15 RESTAURANT PROJECT FROM THE NAVAJO NATION GAMING ENTERPRISE
16 TO THE NAVAJO NATION HOSPITALITY ENTERPRISE; ALLOCATING
17 \$11,400,000 FROM THE SÍHASIN FUND TO THE NAVAJO NATION HOSPITALITY
18 ENTERPRISE FOR THE SHIPROCK HOTEL-RESTAURANT PROJECT AND
19 APPROVING THE NNHE'S SHIPROCK HOTEL-RESTAURANT PROJECT
20 EXPENDITURE 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 pursuant to a Fund Expenditure Plan consistent with the purposes set forth in §2502 of
2 this Chapter and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation
3 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 that
7 approved two payments from the Navajo Nation’s Permanent Trust Fund income to the
8 Navajo Nation Gaming Enterprise (“NNGE”) in the amount of \$5,500,000 in the 2nd
9 Year and \$2,800,000 in the 3rd Year of the “PTF 5-Year Plan.” These two payments,
10 totaling \$8,300,000, were intended to allow the NNGE to construct a Hotel-Restaurant
11 Project in the Shiprock community (“Shiprock Project”). **Exhibit A.**
- 12 B. The NNGE prepared a status report for the Shiprock Project on February 7, 2017.
13 **Exhibit B.**
- 14 C. In Resolution No. RDCJY-79-17, dated July 25, 2017, the Resources and Development
15 Committee approved a 5-Year Plan for the Division of Economic Development, which
16 Plan included an allocation of \$2,805,000 (from the Navajo Nation’s Sales Tax Fund)
17 for the “Shiprock Hotel” project. RDCJY-79-17 did not specifically provide the
18 \$2,805,000 to any particular entity, but simply approved the funds for the project.
19 **Exhibit C.**
- 20 D. In July of 2018 the NNGE and the Division of Economic Development (“DED”) entered
21 into a Memorandum of Agreement (“MOA”) for cooperation on the Shiprock Project,
22 and for the Navajo Nation/DED to provide to NNGE the approved \$2,805,000 for the
23 design, infrastructure, and development costs for the Shiprock Project. **Exhibit D.** The
24 NNGE’s acceptance of the MOA and the \$2,805,000 for the Shiprock Project was pre-
25 approved by the NNGE Board of Directors in June of 2018. **Exhibit E.**
- 26 E. Since then, the NNGE has negotiated with the Navajo Nation Hospitality Enterprise
27 (“NNHE”) to take over construction and management of the Shiprock Project. In May
28 2021, the NNHE Management Board passed a resolution accepting the transfer of the
29 Shiprock Project. **Exhibit F.** In June 2021, the NNGE Board of Directors also passed a
30 resolution approving the transfer of the Shiprock Project to the NNHE. **Exhibit G.**

1 F. The NNHE has prepared a funding request, dated August 30, 2021, indicating that, after
2 previous allocations of funds and the transfer of the \$8,300,000 requested in this
3 Legislation, the Shiprock Project still needs \$11,400,000 for the Project to be completed.

4 **Exhibit H and Exhibit I.**

5 G. The NNHE has provided a proposed Expenditure Plan detailing how all requested funds
6 will be spent on the Shiprock Project. **Exhibit I.**

7 H. The requested allocation of the \$11,400,000 for the Shiprock Project meets the criteria
8 for Síhasin expenditures because the Project involves “infrastructure” and “community
9 development” such as “commercial buildings,” as mentioned in 12 N.N.C. §2502(A)(1).

10 I. As shown in the attached Exhibit C, the Shiprock community and the Navajo Nation as
11 a whole will greatly benefit from this major economic development project, in terms of
12 jobs creation, tourism, tax revenue, and other significant economic benefits.

13
14 **SECTION THREE. AMENDING CAP-19-16 TO TRANSFER RESPONSIBILITY**
15 **AND \$8,300,000 IN FUNDS FOR THE SHIPROCK HOTEL-RESTAURANT**
16 **PROJECT TO THE NNHE; APPROVING REALLOCATION OF \$2,805,000 IN**
17 **FUNDS UNDER RDCJY-79-17 TO THE NNHE FOR THE SHIPROCK HOTEL-**
18 **RESTAURANT PROJECT**

19 A. The Navajo Nation hereby amends Exhibit A of CAP-19-16 (attached as Exhibit A) to
20 transfer responsibility for the construction, completion, and operation of the Shiprock
21 Hotel-Restaurant Project, from the Navajo Nation Gaming Enterprise to the Navajo
22 Nation Hospitality Enterprise.

23 B. The Navajo Nation further amends CAP-19-16 to transfer the approved \$8,300,000 in
24 Permanent Trust Fund interest income from the Navajo Nation Gaming Enterprise to
25 the Navajo Nation Hospitality Enterprise for use in the planning and construction of the
26 Shiprock Project.

27 C. The Navajo Nation further approves the reallocation of the \$2,805,000 approved in
28 Resolution No. RDCJY-79-17 (Exhibit C), to the Navajo Nation Hospitality Enterprise
29 for use in the planning and construction of the Shiprock Project.

1 **SECTION FOUR. ALLOCATION OF \$11,400,000 IN SÍHASIN FUNDS TO THE**
2 **NNHE FOR THE SHIPROCK HOTEL-RESTAURANT PROJECT**

- 3 A. The Navajo Nation hereby allocates \$11,400,000 in Síhasin Funds to the Navajo Nation
4 Hospitality Enterprise for use in the planning and construction of the Shiprock Project.
5 B. The Síhasin Funds allocated for the Shiprock Project may be further leveraged by bond
6 or loan financing pursuant to the Navajo Nation Bond Financing Act, at 12 N.N.C.
7 §1300 *et seq.* as amended, using Síhasin Fund earnings for repayment and financing
8 costs, upon the recommendation of the Budget and Finance Committee and approval by
9 a two-thirds (2/3) vote of all members of the Navajo Nation Council.
10

11 **SECTION FIVE. APPROVAL OF THE NNHE'S SHIPROCK HOTEL-**
12 **RESTAURANT PROJECT EXPENDITURE PLAN AND ITS ADMINISTRATION**

- 13 A. The Navajo Nation hereby approves the NNHE's Shiprock Hotel-Restaurant Project
14 Expenditure Plan as shown in **Exhibit I**.
15 B. The Navajo Nation hereby approves the administration of the Shiprock Project
16 Expenditure Plan, as follows:
17 1. The Navajo Nation Controller shall determine whether the source of the
18 \$11,400,000 allocation from the Síhasin Fund will be from Fund Principal or Fund
19 Income or a combination of both.
20 2. The funds allocated for the Shiprock Project shall be distributed to the Navajo
21 Nation Hospitality Enterprise pursuant to a construction schedule or other payout
22 schedule agreed to by the Office of the Controller.
23 3. The NNHE shall be responsible for the planning and construction of the Shiprock
24 Project, as well as ongoing operation, maintenance, and repairs for the Project after
25 completion.
26 4. The funds allocated for the Shiprock Project shall be used solely for the planning
27 and construction of the Project, and for the purchase and installation of equipment
28 and facilities as necessary for the Project once construction is completed.
29 5. Any and all cost-savings shall be returned to the Síhasin Fund once the Shiprock
30 Project Expenditure Plan is completed.

1 6. The funds allocated for the Shiprock Project shall revert to the Síhasin Fund
2 principal if not spent or encumbered within one hundred twenty (120) days of
3 distribution to the NNHE, unless recommended otherwise by the Resources and
4 Development Committee and approved by the Naabik'iyáti' Committee.

5
6 **SECTION SIX. DIRECTIVES**

7 A. Immediately upon the effective date of this Legislation, the NNGE shall return to the
8 proper accounts all unspent funds, out of the \$8,300,000 approved in CAP-19-16 and
9 the \$2,805,000 approved in RDCJY-79-17, that NNGE has taken out of the Permanent
10 Trust Fund or the Sales Tax Fund for the Shiprock Hotel-Restaurant Project. The
11 Controller shall then promptly close out the Fund Management Plans for each of the
12 funding allocations to the NNGE for the Shiprock Project.

13 B. Within thirty (30) calendar days following the effective date of this Legislation, the
14 NNGE, the NNHE, and the DED shall terminate the June 2018 MOA (attached as
15 Exhibit C), and the NNHE and the DED shall enter into a new Memorandum of
16 Agreement that provides for the NNHE to receive the \$2,805,000 in Sales Tax Fund
17 monies for NNHE's use in the planning and construction of the Shiprock Project.

18 C. By the end of each Quarter of FY2022, the NNHE shall provide to the Naabik'iyati'
19 Committee a written and verbal report on the status of its expenditures and progress with
20 the Shiprock Project, which report shall include a copy of the new NNHE/DED
21 Memorandum of Agreement for the Shiprock Project.

22
23 **SECTION SEVEN. EFFECTIVE DATE**

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

26
27 **SECTION EIGHT. SAVING CLAUSE**

28 If any provision(s) of this Legislation is determined invalid by the Navajo Nation Supreme
29 Court or by a District Court of the Navajo Nation without appeal to the Navajo Nation
30 Supreme Court, the remainder of this Legislation shall remain the law of the Navajo Nation.