

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0034-23_

SPONSOR: Eugenia Charles-Newton

TITLE: An Act Relating to the Resources and Development, Law and Order, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$1,500,000 from the HOT/Tourism Fund for the Navajo Tourism Department, Amending 24 N.N.C. § 741 to Allow Revenue in the HOT/Tourism Fund to be Used by All Navajo Nation Programs for Tourism-Related Purposes, and Rescinding Resolution No. CS-45-22

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SUMMARY OF PROPOSED LEGISLATION

TrackingNo. 0034-23

Date: February 23, 2023

Subject: **AN ACT RELATING TO THE RESOURCES & DEVELOPMENT, LAW & ORDER, BUDGET & FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$1,500,000 FROM THE HOT/TOURISM FUND FOR THE NAVAJO TOURISM DEPARTMENT, AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE HOT/TOURISM FUND TO BE USED BY ALL NAVAJO NATION PROGRAMS FOR TOURISM-RELATED PURPOSES, AND RESCINDING RESOLUTION NO. CS-45-22**

Purpose of this Legislation:

to approve \$1,500,000 for the Tourism Department from the Hotel Occupancy Tax/Tourism Fund (“HOT/Tourism Fund”), to amend the HOT/Tourism Fund statute at 24 N.N.C. §741 to allow revenue to be used by all Navajo Nation programs for tourism-related purposes, and to rescind the previous resolution on the same issue, CS-45-22.


OLC No. 23-066-1

5-DAY BILL HOLD PERIOD:
Website Posting Time/Date:
Posting End Date: 03-11-23
Eligible for Action: 03-12-23

Resources & Development Committee
Thence
Law & Order Committee
Thence
Budget & Finance Committee
Thence
Naabik'iyati' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 25th NAVAJO NATION COUNCIL - First Year, 2023

3 Introduced by:

4 

5 (Prime Sponsor)

8 Tracking No. 0034-23

10 AN ACT

11 RELATING TO THE RESOURCES & DEVELOPMENT, LAW & ORDER,
12 BUDGET & FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND
13 TO THE NAVAJO NATION COUNCIL; APPROVING \$1,500,000 FROM
14 THE HOT/TOURISM FUND FOR THE NAVAJO TOURISM DEPARTMENT,
15 AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE HOT/TOURISM
16 FUND TO BE USED BY ALL NAVAJO NATION PROGRAMS FOR TOURISM-
17 RELATED PURPOSES, AND RESCINDING RESOLUTION NO. CS-45-22

19 BE IT ENACTED:

21 SECTION ONE. AUTHORITY

- 22 A. The Resources & Development Committee is a standing committee of the Navajo Nation
23 Council that oversees the Division of Economic Development. 2 N.N.C. §501(C)(1). The
24 Navajo Tourism Department is within the Division of Economic Development. ACAU-196-
25 87, CO-50-87, GSCAP-12-07, and RDCO-055-19.
- 26 B. The Law & Order Committee is a standing committee of the Navajo Nation Council that
27 reviews and makes recommendations to the Council regarding proposed amendments to the
28 Navajo Nation Code. 2 N.N.C. §601(B)(14).
- 29 C. The Budget & Finance Committee is a standing committee of the Navajo Nation Council
30 that reviews and recommends to the Council the budgeting, appropriation, investment, and

1 management of all funds. 2 N.N.C. §301(B)(2).

2 D. The Budget & Finance Committee has final approval authority for the Fund Management
3 Plan for the Navajo Nation Tourism Fund, which Fund consists of revenue collected from
4 the Navajo Nation's Hotel Occupancy Tax. 24 N.N.C. §741(A) and §741(B); Resolution No.
5 BFO-56-93. This Fund is herein referred to as the "HOT/Tourism Fund."

6 E. The Naa'bik'iyáti' Committee is responsible for reviewing proposed resolutions requiring
7 final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

8 F. The Navajo Nation Council is the governing body of the Navajo Nation, and approves
9 allocations from the HOT/Tourism Fund, in accordance with Section 6 of the Fund
10 Management Plan for the HOT/Tourism Fund. 2 N.N.C. §102(A); BFO-56-93.

11
12 **SECTION TWO. FINDINGS**

13 A. On January 1, 1993 the Navajo Nation's Hotel Occupancy Tax ("HOT") came into effect,
14 and is codified at 24 N.N.C. §700 - §741 (as amended by CJY-27-92, CJY-52-95, and CJA-
15 06-09). Section 741 of the statute provides that net HOT revenues go into the HOT/Tourism
16 Fund (after certain statutory allocations under other Navajo Nation laws).

17 B. Section 741 of the HOT statute instructs that the Budget & Finance Committee is responsible
18 for the Fund Management Plan for the HOT/Tourism Fund. 24 N.N.C. §741. On October 5,
19 1993 the Budget & Finance Committee approved the Fund Management Plan for the
20 HOT/Tourism Fund, in Resolution No. BFO-56-93. **EXHIBIT A.**

21 C. In Resolution No. CJA-06-09, effective February 9, 2009, the Navajo Nation Council
22 amended the HOT statute to mandate that HOT revenues collected specifically from motels
23 and hotels within Navajo tribal parks can only be used by the Navajo Parks and Recreation
24 Department for facilities within Navajo Nation parks. 24 N.N.C. §741(B). **EXHIBIT B.**

25 D. The Navajo Tourism Department, under the Division of Economic Development, is
26 requesting \$1,500,000 from the HOT/Tourism Fund to mitigate the negative effects of the
27 COVID-19 pandemic that, since the Spring of 2020, have resulted in the loss of an estimated
28 \$115,500,000 in tourism-related revenue. In its "Supplemental Funding Proposal Summary"
29 the Tourism Department explains that it needs \$1,500,000 to cover its operating expenses for
30 the remainder of FY2023. **EXHIBIT C.**

1 E. The Tourism Department has provided completed Budget Forms for its funding request.

2 **EXHIBIT D.**

3 F. The Controller has provided a memorandum regarding this funding request, indicating the
4 amount of funds available in the HOT/Tourism Fund. **EXHIBIT E.**

5 G. The Navajo Nation Council previously approved a funding request for the Tourism
6 Department in CS-45-22, which was signed into law on October 17, 2022. However, due to
7 a drafting oversight the funds reverted before they became available. **EXHIBIT F.**

8 H. Notably, all HOT revenues collected both from within Navajo Nation parks and from
9 locations outside the parks, have been deposited into the HOT/Tourism Fund without regard
10 to the source of such revenues - all incoming funds are simply comingled.

11 I. Because of this comingling there is no way to identify which dollars in the HOT/Tourism
12 Fund are available for programs other than the Navajo Parks and Recreation Department.
13 Therefore, approval of the Tourism Department's funding request would appear to violate
14 24 N.N.C. §741(B), which provides: "[a]ny tax imposed by this Chapter that is collected
15 within any duly established Navajo Tribal Park shall be retained within the Navajo Nation
16 Tourism Fund *for the exclusive use of the Navajo Parks and Recreation Department*"

17 J. The Navajo Nation finds that, in order to approve the Tourism Department's funding request,
18 the wording in 24 N.N.C. §741(B) must be addressed. Furthermore, the Navajo Nation finds
19 that this Section 741(B) is overly restrictive and unfairly impedes the Tourism Department
20 and other Navajo Nation programs from requesting and receiving allocations from the
21 HOT/Tourism Fund, even if such money would be used for tourism-related purposes.

22 K. The Navajo Nation finds it in the best interest of the Navajo Nation and the Navajo People
23 to approve the Tourism Department's funding request as described herein, and to amend
24 Section 741(B) of the HOT statute to allow all revenue in the HOT/Tourism Fund to be used
25 by any and all Navajo Nation programs, so long as such use is for legitimate tourism-related
26 purposes and is consistent with the provisions set forth in the approved Fund Management
27 Plan. Said amendment would not prevent the Navajo Parks and Recreation Department from
28 requesting allocations out of the HOT/Tourism Fund if needed, but would merely allow the
29 Tourism Department and other Navajo Nation programs to request this money for approved
30 tourism-related activities and goals.

1 **SECTION THREE. APPROVING \$1,500,000 FROM THE HOT/TOURISM FUND**
2 **FOR THE NAVAJO TOURISM DEPARTMENT**

3 A. The Navajo Nation hereby approves \$1,500,000 from the HOT/Tourism Fund for the
4 Division of Economic Development/Navajo Tourism Department for the Tourism
5 Department's operating expenses for the remainder of FY2023, as described in the attached
6 **EXHIBITS C and D.**

7 B. The Tourism Department shall expend the approved \$1,500,000 strictly in accordance with
8 a newly-approved Fund Management Plan for the HOT/Tourism Fund, which Plan will be
9 an amended version that conforms to the amendment of 24 N.N.C. §741(B) effected in this
10 Act. The amended version of the Fund Management Plan shall be approved by the Budget &
11 Finance Committee within 60 calendar days after the effective date of this Act. See
12 SECTION FIVE. DIRECTIVE herein.

13 C. The \$1,500,000 approved in this Act shall not be made available to, and shall not be used by,
14 the Tourism Department until the effective date of the amended Fund Management Plan for
15 the HOT/Tourism Fund, as approved by the Budget & Finance Committee.

16
17 **SECTION FOUR. AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE**
18 **HOT/TOURISM FUND TO BE USED BY ALL NAVAJO NATION**
19 **PROGRAMS FOR TOURISM-RELATED PURPOSES**

20 The Navajo Nation hereby amends 24 N.N.C. §741, as most recently amended by CJA-06-09,
21 as follows:

22 **TITLE 24. Taxation**
23 **Chapter 7. Hotel Occupancy Tax**

24 * * * *

25 **§ 741. Allocation**

26 A. ~~Except as provided in Subsection B, the~~ The tax imposed by this Chapter is
27 imposed for the purposes of generating revenue for Navajo Nation programs to
28 use in promoting tourism and tourism development. To accomplish this end,
29 after certain mandatory allocations pursuant to other Navajo Nation statutory
30 laws, the net revenue from this tax shall be deposited retained in a special fund

1 entitled the "Navajo Nation HOT/Tourism Fund" ("HOT/Tourism Fund").
2 ~~which shall be administered by the Navajo Tourism Department, and which~~
3 ~~shall,~~

4 B. On an annual basis, money from the HOT/Tourism Fund shall be appropriated
5 by the Navajo Nation Council first to cover the Navajo Tourism Department's
6 upcoming fiscal year budget that is approved annually in the Navajo Nation's
7 Comprehensive Budget. Thereafter, the Navajo Nation Council may allocate
8 funds remaining in the HOT/Tourism Fund, if any, to the Navajo Tourism
9 Department or to other Navajo Nation programs.

10 C. eConsistent with the laws of the Navajo Nation and utilizing the "prudent
11 person rule," be applied for the advancement of allocations and expenditures
12 from the HOT/Tourism Fund shall be for local tourism promotion, and to
13 develop tourism-related activities and projects throughout the Navajo Nation,
14 which activities and projects may include, but are not limited to, program
15 personnel and operating expenses.

16 D. The Division of Economic Development and the Navajo Tourism Department
17 are hereby authorized to develop and recommend to the Budget and Finance
18 Committee of the Navajo Nation Council the a Fund's mManagement pPlan for
19 the HOT/Tourism Fund, including any amendments thereto. The Budget and
20 Finance Committee shall have the final authority to approve/adopt the Fund
21 Management Plan for the HOT/Tourism Fund, and any amendments thereto.

22 ~~B. Any tax imposed by this Chapter that is collected within any duly established~~
23 ~~Navajo Tribal Park shall be retained within the Navajo Nation Tourism Fund~~
24 ~~for the exclusive use of the Navajo Parks and Recreation Department for~~
25 ~~maintenance and improvement of facilities within Navajo Tribal Parks, in~~
26 ~~accordance with the fund management plan for the Navajo Nation Tourism~~
27 ~~Fund, which shall be amended by the Budget and Finance Committee to~~
28 ~~accommodate this provision.~~

29 E. All budgeting, funding requests, appropriations, allocations, and expenditures
30 of money from the HOT/Tourism Fund, by the Navajo Tourism Department or

1 any other Navajo Nation program, shall be in accordance with the current Fund
2 Management Plan for the HOT/Tourism Fund, as approved/adopted or
3 amended by the Budget and Finance Committee.

4 * * * *

5
6 **SECTION FIVE. DIRECTIVE**

7 No later than 45 calendar days after the effective date of this Act, the Navajo Tourism
8 Department shall prepare amendments to the Fund Management Plan for the HOT/Tourism
9 Fund, as approved in BFO-56-93. Such amendments shall conform to the 24 N.N.C. §741
10 amendments approved in this Act, and shall be presented to the Budget and Finance Committee
11 for final approval within 60 calendar days after the effective date of this Act.

12
13 **SECTION SIX. RESCINDING RESOLUTION NO. CS-45-22**

14 The Navajo Nation hereby rescinds, in its entirety, Resolution No. CS-45-22 that was signed
15 into law by President Jonathan Nez on October 17, 2022. All amendments and statements set
16 forth in this Act, and in all EXHIBITS attached hereto, shall supersede all statements, exhibits,
17 and amendments in CS-45-22 in its entirety.

18
19 **SECTION SEVEN. CODIFICATION**

20 The provisions in this Act that amend or adopt new sections of Title 24 of the Navajo Nation
21 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel
22 shall incorporate such amended provisions in the next codification of the Navajo Nation Code.
23 A clean version of the Title 24 amendments as shown in SECTION FOUR herein (with no
24 strikeouts or underlining) is attached hereto as **EXHIBIT G**.

25
26 **SECTION EIGHT. EFFECTIVE DATE**

27 This Act shall become effective according to 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17),
28 except that the approved \$1,500,000 for the Navajo Tourism Department shall be effective as
29 provided in SECTION THREE (C) of this Act.

1 **SECTION NINE. SAVING CLAUSE**

2 If any part of this Act is determined invalid by the Navajo Nation Supreme Court, or by a
3 District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the
4 remainder of this Act shall be the law of the Navajo Nation.

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