

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0054-24_

SPONSOR: Carl R. Slater

TITLE: An Action Relating to the Resources and Development Committee and the Budget and Finance Committee, Approving Amendments to the Fund Management Plan for the HOT/Tourism Fund and Waiving Other Inconsistent Committee Resolutions

Date posted: March 08, 2024 at 5:06PM

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0054-24

DATE: March 8, 2024

RE: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE AND THE BUDGET AND FINANCE COMMITTEE, APPROVING AMENDMENTS TO THE FUND MANAGEMENT PLAN FOR THE HOT/TOURISM FUND AND WAIVING OTHER INCONSISTENT COMMITTEE RESOLUTIONS

PURPOSE OF THIS LEGISLATION:

to approve amendments to the Fund Management Plan for the HOT/Tourism Fund.

FINAL AUTHORITY and VOTE REQUIREMENT:

The Budget & Finance Committee has final authority over this resolution. This resolution must be approved by a simple majority vote.

OLC No. 23-525-1

5-DAY BILL HOLD PERIOD
Website Posting Time/Date
Posting End Date: 03-13-24
Eligible for Action: 03-14-24

1 PROPOSED STANDING COMMITTEE RESOLUTION
2 25th NAVAJO NATION COUNCIL - Second Year, 2024

3 Introduced by:

4
5 _____
6 (Prime Sponsor)



7
8 Tracking No. 0054-24
9

10 AN ACTION

11 RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE AND
12 THE BUDGET AND FINANCE COMMITTEE, APPROVING AMENDMENTS
13 TO THE FUND MANAGEMENT PLAN FOR THE HOT/TOURISM FUND
14 AND WAIVING OTHER INCONSISTENT COMMITTEE RESOLUTIONS
15

16 BE IT ENACTED:

17
18 SECTION ONE. AUTHORITY

19 A. The Resources and Development Committee is a standing committee of the Navajo Nation
20 Council that oversees the Division of Economic Development, including the Division's
21 subordinate departments. 2 N.N.C. §501(C)(1). The Navajo Tourism Department is under
22 the Division of Economic Development. See Resolutions Nos. ACAU-196-87, CO-50-87,
23 GSCAP-12-07, and RDCO-055-19.

24 B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council
25 that reviews and recommends matters relating to the budgeting, appropriation, investment,
26 and management of all funds. 2 N.N.C. §301(B)(2).

27 C. The Budget and Finance Committee generally has authority for approving Fund Management
28 Plans pursuant to the recommendations of the appropriate oversight committee and the
29 affected division or branch. 2 N.N.C. §301(B)(14).

30 E. The Budget and Finance Committee has final approval authority for the Fund Management

1 Plan for the Navajo Nation Tourism Fund, which Fund consists of revenue collected from
2 the Navajo Nation's Hotel Occupancy Tax. 24 N.N.C. §741(A)-(B). This Fund is herein
3 referred to as the "HOT/Tourism Fund."
4

5 **SECTION TWO. FINDINGS**

6 A. On January 1, 1993 the Navajo Nation's Hotel Occupancy Tax ("HOT") came into effect.

7 The HOT is codified at 24 N.N.C. §700-§741 (see also, HOT statutory amendments in
8 Resolutions Nos. CJY-27-92, CJY-52-95, and CJA-06-09). Section 741 of the HOT statute
9 provides that net HOT revenues go into the HOT/Tourism Fund (after certain statutory
10 allocations under other Navajo Nation laws).

11 B. Section 741 of the HOT statute instructs that the Budget and Finance Committee is
12 responsible for the Fund Management Plan for the HOT/Tourism Fund. 24 N.N.C. §741.

13 C. On October 5, 1993 the Budget and Finance Committee approved the original Fund
14 Management Plan for the HOT/Tourism Fund, in Resolution No. BFO-56-93. A copy of
15 BFO-56-93 with the original Fund Management Plan is attached hereto as **EXHIBIT A**.

16 D. In Resolution No. CJA-06-09 the Council amended the HOT statute to mandate that HOT
17 revenues in the HOT/Tourism Fund that are collected specifically from motels and hotels
18 within Navajo tribal parks could only be used by the Navajo Parks and Recreation
19 Department for facilities within Navajo Nation parks. 24 N.N.C. §741(B). A copy of
20 Resolution No. CJA-06-09 is attached as **EXHIBIT B**.

21 E. Most recently, in Resolution No. CAP-16-23, the Council amended the HOT statute to make
22 the HOT/Tourism Fund available to all Navajo Nation programs for tourism-related
23 purposes. A copy of CAP-16-23 without its exhibits, is attached as **EXHIBIT C**.

24 F. Section THREE (B) of CAP-16-23 specifically provides that an amended version of the Fund
25 Management Plan for the HOT/Tourism Fund shall be approved by the Budget and Finance
26 Committee, to conform to the amendments to 24 N.N.C. §741(B) that were approved by the
27 Navajo Nation Council in CAP-16-23.

28 G. Section THREE (C) of CAP-16-23 requires the amended Fund Management Plan to be
29 approved by the Budget and Finance Committee before the Navajo Tourism Department can
30 access the \$1,500,000 from the HOT/Tourism Fund that was also approved in CAP-16-23.

1 H. CAP-16-23 was signed into law on May 5, 2023. Thus, it has been many months since the
2 \$1,500,000 from the HOT/Tourism Fund was approved for the Navajo Tourism Department.
3 Because the required amended Fund Management Plan has not been approved, the Tourism
4 Department has been unable to use the \$1,500,000 in approved funding.

5 I. The Navajo Tourism Department is now requesting approval of proposed amendments to the
6 Fund Management Plan, in accordance with the mandates in CAP-16-23.

7 J. The Navajo Tourism Department's first amended version of the Fund Management Plan was
8 submitted for Section 164 Executive Review pursuant to Executive Order No. 06-2023.

9 **EXHIBIT D.**

10 K. This initial version of the amended Fund Management Plan was revised in response to
11 concerns raised by the Office of Management and Budget ("OMB"). Two memoranda dated
12 September 14, 2023 from OMB are attached as **EXHIBIT E**. The response memorandum
13 from the Tourism Department, dated September 20, 2023, is attached as **EXHIBIT F**.

14 L. In response to concerns raised by the Office of the Controller ("OOC"), the Tourism
15 Department revised its proposed amendments to the Fund Management Plan. A
16 memorandum from OOC, dated September 28, 2023, is attached as **EXHIBIT G**. The
17 Tourism Department responded to OOC in a memorandum dated October 9, 2023, with its
18 revisions attached. **EXHIBIT H**.

19 M. OOC replied to the Tourism Department's October 10, 2023 memorandum. **EXHIBIT I**.
20 The Tourism Department did not provide a final clean version of its proposed amendments
21 attached to its memorandum dated October 9, 2023.

22 N. The Office of Legislative Counsel ("OLC") reviewed the version of the amended Fund
23 Management Plan attached to the Tourism Department's October 9, 2023 memorandum, and
24 checked it against the specific mandates in CAP-16-23. OLC found that certain minor
25 changes were needed and therefore it developed its own recommended Fund Management
26 Plan amendments.

27 O. The Department of Justice reviewed the OLC's version, and on February 29, 2023 a
28 strikethrough/underlined version was prepared. **EXHIBIT J**. DOJ also prepared a clean
29 version of the amended Fund Management Plan. **EXHIBIT K**. OLC has determined that the
30 versions attached hereto as EXHIBIT J and EXHIBIT K, are legally sufficient.

1 **SECTION THREE. APPROVING AMENDMENTS TO THE FUND MANAGEMENT**
2 **PLAN FOR THE HOT/TOURISM FUND AND WAIVING OTHER**
3 **INCONSISTENT COMMITTEE RESOLUTIONS**

4 A. The Committee hereby approves the amendments to the Fund Management Plan for the
5 HOT/Tourism Fund, as shown in the attached **EXHIBIT J** and **EXHIBIT K**. Approval of
6 all allocations from the HOT/Tourism Fund, and all expenditures of approved HOT/Tourism
7 Funds, shall be in strict accordance with the approved Fund Management Plan attached
8 hereto as **EXHIBIT K**.

9 B. In accordance with 2 N.N.C. §301(B)(14) and 24 N.N.C. §741(C) as amended by CAP-16-
10 23, the Budget and Finance Committee shall have final authority to amend or rescind the
11 Fund Management Plan approved in this Action.

12 C. With respect to the Fund Management Plan for the HOT/Tourism Fund, the Committee
13 hereby waives any/all Resolutions previously approved by the Budget and Finance
14 Committee to the extent that such Resolutions are inconsistent with any provision in this
15 Action and/or with any provision in the amended Fund Management Plan attached hereto
16 as **EXHIBIT K**.

17
18 **SECTION FOUR. EFFECTIVE DATE**

19 This Action and the approved Fund Management Plan (as amended) shall become effective in
20 accordance with 2 N.N.C. §301(B)(14) and 2 N.N.C. §221(C).

21
22 **SECTION FIVE. SAVING CLAUSE**

23 If any part of this Action is determined invalid by the Navajo Nation Supreme Court, or by a
24 District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the
25 remainder of this Action shall be the law of the Navajo Nation.