SUMMARY OF PROPOSED LEGISLATION

Tracking No. 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: [illegible]
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'íyáti' Committee
Thence
Navajo Nation Council

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

Introduced by:

(Prime Sponsor)

Tracking No. 0034-23

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

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources & Development Committee is a standing committee of the Navajo Nation Council that oversees the Division of Economic Development. 2 N.N.C. §501(C)(1). The Navajo Tourism Department is within the Division of Economic Development. ACAU-196-87, CO-50-87, GSCAP-12-07, and RDCO-055-19.

B. The Law & Order Committee is a standing committee of the Navajo Nation Council that reviews and makes recommendations to the Council regarding proposed amendments to the Navajo Nation Code. 2 N.N.C. §601(B)(14).

C. The Budget & Finance Committee is a standing committee of the Navajo Nation Council that reviews and recommends to the Council the budgeting, appropriation, investment, and

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

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

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

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

SECTION TWO. FINDINGS

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

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

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

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

E. The Tourism Department has provided completed Budget Forms for its funding request. **EXHIBIT D.**

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

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

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

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

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

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

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

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

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

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

SECTION FOUR. 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

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

TITLE 24. Taxation

Chapter 7. Hotel Occupancy Tax

* * * *

§ 741. Allocation

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

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

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

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

D. The Division of Economic Development and the Navajo Tourism Department are hereby authorized to develop and recommend to the Budget and Finance Committee ~~of the Navajo Nation Council the~~ a Fund's ~~m~~Management ~~p~~Plan for the HOT/Tourism Fund, including any amendments thereto. The Budget and Finance Committee shall have the final authority to approve/adopt the Fund Management Plan for the HOT/Tourism Fund, and any amendments thereto.

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

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

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

* * * *

SECTION FIVE. DIRECTIVE

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

SECTION SIX. RESCINDING RESOLUTION NO. CS-45-22

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

SECTION SEVEN. CODIFICATION

The provisions in this Act that amend or adopt new sections of Title 24 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. A clean version of the Title 24 amendments as shown in SECTION FOUR herein (with no strikeouts or underlining) is attached hereto as **EXHIBIT G**.

SECTION EIGHT. EFFECTIVE DATE

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

SECTION NINE. SAVING CLAUSE

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

EXHIBIT A

BFO-56-93

Class "C" Resolution
No BIA Action Required.

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

Approving the Navajo Nation Tourism Fund Management Plan to be Administered by the Navajo Tourism Department, Division of Economic Development

WHEREAS:

1. Pursuant to 2 N.T.C., Section 372 (1), the purpose of the Budget and Finance Committee of the Navajo Nation Council is to coordinate, oversee and regulate the fiscal, financial, investment, contracting and audit policies of the Navajo Nation; and

2. Pursuant to 2 N.T.C., Subsection 372 (4), the Budget and Finance Committee of the Navajo Nation Council was established to protect the interests of the Navajo people through the prudent management of the financial reserves of the Navajo Nation and the efficient use of funds available for expenditure by the Navajo Nation; and

3. Pursuant to CMA-28-93, Exhibit "E", B. Conditions of Appropriations and Expenditures, paragraph 4, the Budget and Finance Committee is authorized to review and approve revolving accounts for approved Navajo Nation Branches, Divisions, Departments and Programs upon recommendation of the appropriate oversight committee; and

4. On July 30, 1992, the President of the Navajo Nation signed into law the Hotel Occupancy Tax, 24 N.T.C. Section 700 et. seq., (Exhibit "C"), which became effective on January 1, 1993. The resolution of the Navajo Nation Council is attached hereto as Exhibit "C"; and

5. 24 N.T.C. Subsection 741 provides that the tax imposed shall be retained in a special fund entitled the "Navajo Nation Tourism Fund" which shall be administered by the Navajo Tourism Department and applied for the advancement of local tourism promotion, tourism department operational funds, and to develop projects throughout the Navajo Nation; and

6. The Navajoland Tourism Department has developed the Navajo Nation Tourism Fund Management Plan; and

7. The Economic Development Committee has reviewed the Navajo Nation Tourism Fund Management Plan favorably as reflecting the intent of the Hotel Occupancy Tax 24 N.T.C. Sebsection 700 et seq. (Exhibit "B"); and

8. Pursuant to Resolution EDCAU-72-93 as attached hereto as Exhibit "E", the Economic Development Committee recommended to the Budget and Finance Committee, the approval of the Navajo Nation Tourism Fund Management Plan; and

NOW THEREFORE BE IT RESOLVED THAT:

The Budget and Finance Committee of the Navajo Nation Council hereby approves the Navajo Nation Tourism Fund Management Plan to be administered by the Navajo Tourism Department within the Division of Economic Development.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation, (Arizona), at which a quorum was present and that same was passed by a vote of 7 in favor, 0 opposed, and 0 abstained, this 5th day of October, 1993.

Chairman
Budget and Finance Committee

Motioned by: Edward T. Begay
Seconded by: Eula Yazzie

Navajo Nation Tourism Fund Management Plan

Section 1 - Authority

The President of the Navajo Nation signed into law the Hotel Occupancy Tax, 24 N.T.C. 700-Resolution CJY-27-92 et.seq., which became effective January 1, 1993.

These revenues will be retained in a special fund entitled "Navajo Nation Tourism Fund" which will be administered by the Navajo Tourism Department.

This tax shall be administered by the Navajo Tourism Department, and which shall, consistent with the laws of the Navajo Nation and utilizing the prudent person rule, be applied for the advancement of local promotion, and to develop projects throughout the Navajo Nation. The Division of Economic Development and the Navajo Tourism Department are hereby authorized to develop and recommend to the Budget and Finance Committee of the Navajo Nation Council the fund's management plan.

Section 2 - Purpose

The purpose of the Navajo Nation Tourism Fund is to provide funds for tourism promotion, tourism department operational funds; and for project development which includes the following, but is not limited to: the advertisement of Navajo people, scenery and facilities and for acquisition, construction, renovation and maintenance of tourism-related attractions and recreational facilities.

Section 3 - Objective

To promote a positive image and develop infrastructure that will make the Navajo Nation more accommodating. This will increase visitation on the Navajo Nation and maintain tourism dollars to create job opportunities for the Navajo people and escalate the Navajo Nation economy.

Section 4 - Program Administration

The Navajo Tourism Department shall propose, develop, and administer all tourism-related projects which require the use of this fund.

Section 5 - Use of Tax Proceeds

The tax proceeds will be utilized for local tourism promotion and project development, which will include, but not be limited to: multi-media advertising and for the development of tourism-related facilities and projects.

Section 6- Annual Budget/Expenditure Plan

A. An annual budget and expenditure plan for the Navajo Nation Tourism Fund shall be prepared for review and recommended for approval by the Economic Development Committee and Budget and Finance Committee of the Navajo Nation Council through the annual budget process.

B. The plan shall include detailed projections of revenues for the coming fiscal year and detailed line item expenditures shall be processed as a budget justification and processed through normal tribal policy and procedures for review and approval.

C. Carry-over funds shall remain in the Navajo Nation Tourism Fund Account to be used for the following year pursuant to an approved budget by the Navajo Nation Council. The revenues are credited against the expenditures and each year the balance in the account carries over into the following year without further action.

Section 7 - Accounting, Expenditure Control and Responsibility

A. All funds received from the Navajo Nation Tourism Fund will be deposited through the Financial Services Department to the Cashiers Section within the Division of Finance.

B. Expenditures within the Navajo Nation Tourism Fund will utilize the prudent person rule and will be in accordance with all normal tribal policies and procedures.

C. Disbursement authorizations shall be signed by the Navajo Tourism Department director or delegated authority and the executive or deputy director of the Division of Economic Development.

D. No expenditure shall be used for any illegal purpose or for the purpose of making political contributions to any candidate or for the purpose of making contributions to any individual, group, or organizations, whether for profit or on a non-profit basis.

Section 8 - Audits and Reports

A. Accounting books for the Navajo Nation Tourism Fund shall be subject to periodic audits in conjunction with the regular tribal audit performed on all of the financial records of the Navajo Nation.

B. The Navajo Tourism Department and Support Services directors within the Division of Economic Development shall make periodic written reports to the Economic Development and Budget and Finance Committees of the Navajo Nation Council on the status of the Navajo Nation Tourism Fund.

Section 9 - Legislative Oversight

A. Pursuant to 2 N.T.C., Section 724 (g), the Economic Development Committee of the Navajo Nation Council shall serve as the oversight committee of the Division of Economic Development including those activities which deal with the planning, development, promotion and oversight of economic development activities.

B. Also, pursuant to 2 N.T.C., Section 374 (b) (1), and (b) (8), the Budget and Finance Committee shall review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds, including requiring reports from and to monitor the financial performance of all offices, divisions, departments, enterprises, authorities, committees, boards, commissions, or entities having oversight or control over fiscal matters or financial obligations to the Navajo Nation.

Section 10 - Amendments

The Division of Economic Development and the Navajo Tourism Department are authorized to develop and make recommendations to amend the Navajo Na. 'n Tourism Fund's management plan to the Budget and Finance Committee of the Navajo Nation Council.

EXHIBIT B

CJA-06-09

RESOLUTION OF THE
NAVAJO NATION COUNCIL

21st NAVAJO NATION COUNCIL - Third Year, 2009

AN ACT

RELATING TO GOVERNMENT SERVICES, RESOURCES, ECONOMIC DEVELOPMENT; ENACTING THE NAVAJO TOURISM FUND AMENDMENT ACT OF 2008; AMENDING TITLE 24 OF THE NAVAJO NATION CODE, 24 N.N.C. §741

BE IT ENACTED:

Section One. Enacting of the Navajo Tourism Fund Amendment Act of 2008.

The Navajo Nation Council hereby enacts the Navajo Tourism Fund Amendment Act of 2008.

Section Two. Findings.

A. The Navajo Nation hereby finds that currently the Navajo Hotel Occupancy Tax is administered by the Navajo Tourism Department without regards to the location from which tax is collected.

B. The Navajo Nation further finds that the Navajo Hotel Occupancy Tax generated from within duly established Navajo Tribal Parks does not necessarily go towards the maintenance and improvement of such Navajo Tribal Parks.

C. The Navajo Nation finds that the Navajo Hotel Occupancy Tax collected from within duly established Navajo Tribal Parks should be dedicated to the maintenance and improvement of such Navajo Tribal Parks, in order to allow for the attraction of tourists to the Navajo Nation.

Section Three. Amendment of Title 24 of the Navajo Nation Code

The Navajo Nation Council hereby amends Title 24 of the Navajo Nation Code, 24 N.N.C. §741, as follows:

NAVAJO NATION CODE ANNOTATED

TITLE 24. TAXATION

CHAPTER 7. HOTEL OCCUPANCY TAX

§ 741. Allocation

A. Except as provided in subsection B, the ~~The~~ tax imposed by this Chapter is imposed for the purposes of promoting tourism and tourism development. To accomplish this end, this tax shall be retained in a special fund entitled the "Navajo Nation Tourism Fund" which shall be administered by the Navajo Tourism Department, and which shall, consistent with the laws of the Navajo Nation and utilizing the prudent person rule, be applied for the advancement of local tourism promotion, and to develop projects throughout the Navajo Nation. The Division of Economic Development and the Navajo Tourism Department are hereby authorized to develop and recommend to the Budget and Finance Committee of the Navajo Nation Council the Fund's management plan.

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

Section Six. Effective Date

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

Section Seven. Codification

The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

Section Eight. Savings Clause

Should any provisions 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, or any other court of competent jurisdiction, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 37 in favor and 29 opposed, this 28th day of January 2009.

Lawrence T. Morgan, Speaker
Navajo Nation Council

02 Feb 09
Date

Motion: Peterson B. Yazzie
Second: Leonard Chee

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this 9 day of Feb 2009.

Dr. Joe Shirley, Jr., President
Navajo Nation

Appendix K

EXHIBIT C

THE NAVAJO NATION
SUPPLEMENTAL FUNDING PROPOSAL SUMMARY

PART I. Business Unit No.: 510003 Program Title: Tourism Department

Division/Branch: Economic Development Amount Requested: $1,500,000.00 Prepared By: Arval T. McCabe

Phone No.: 928-810-8501 Email Address: arvaltmccabe@discovernavajo.com

PART II. REASON FOR REQUEST AND STATEMENT OF NEED:

The Navajo Tourism Department continues to work closely with chapters that request our assistance on projects and/or by promoting their destination through collaboration with Utah, Arizona and New Mexico State Tourism Offices. This collaboration is possible thru state-funded Co-Op Marketing that uses a 50/50 payment formula. This year due to the budget shortfall, my department had to opted out of (2) Marketing Co-Op's with New Mexico and Utah Tourism Offices in the amount of $50,000. This funding is needed to promote Navajo Nation in those states. My staff continues to work with the state offices on other benefits that do not require a buy in. This helps with promoting the destinations that otherwise would not be highlight in publications or advertisement spots. Funding is also needed for department operations. Amount Needed: $350,000

Projects that my department is working on with chapter communities include: (1) Shiprock Former Bond & Bond Business Project site is designed to be the Park Entrance 38.17-acre. Project requires additional funds to complete the cleanup of the full site and conduct a backfill. (2) Shiprock Visitor Complex, 7-acre site, has legal survey, environmental assessment, building design. (3) Shiprock Pinnacle Peak Park, 7,713-acre legal survey completed. Chapters, Cudiiahi/Tokoi, Red Valley, Shiprock passed Support Resolutions (4) Coalmine Canyon Dinosaur Tracks Development Project, 4.0-acre development track designated need additional funding. (5) Coalmine Canyon Chapter: Coalmine Canyon Destination to re-open the hiking trails at the Canyon. (6) Nazlini Chapter Four (4) Turkey Ruins Project, at request of Chapter / County Officials, explored area destination development. (7) Kayenta Chapter Township request to assist & partner to review and market destinations. (8) Shonto Chapter requesting to partner this year on the Rock the Canyon annual event and additional development. (9) Tuba City Hotel Project infrastructure for development. (10) Outdoor Trails for visitors and community members Amount $1,100,000

TOTAL REQUEST: $1,500,000

PART III. LIST ALTERNATIVE FUNDING SOURCES BEING PURSUED AND CONTINGENCY PLAN IF REQUEST IS NOT FUNDED:

We continue to work with our partners on grant applications for the many requests that we have from chapters. The following are grants we have been working on or are ongoing for additional funding for projects:

a. The I-40 Corridor Study Application $400K On Going
b. The Dinosaur Track extension Project $5 Million On Going
c. Chuskai Mountain Recreation Corridor
d. Master Plan $180,000, Match $20,000 Submitted Grant 1/31/20233
e. Way Finding for all of Navajo Nation $1,000,000

The following are grants that were awarded and are ongoing till the end of 2023.

f. Dinosaur Tracks Project
i. Awarded $250K from Arizona Office of Tourism with $50K match
g. Explore Navajo Interactive Museum, Tuba City, AZ
i. Awarded $40K Marketing Grant from Arizona Office of Tourism with $8K match
h. Shiprock Pinnacle Project
i. Awarded $90K from USDA Rural Development Grant

The Tourism Department continues to work at meeting our goals and objective by applying for grants and making cuts where needed since to Covid 19 Pandemic. Due to the Pandemic we have been underfunded for the last 3 years but continue to work at helping communities improve or advance the tourism industry.

PART IV. AFFIRMATION IS PROVIDED THAT THE BUDGET AND PROPOSAL INFORMATION IS COMPLETE AND ACCURATE AND THE APPROPRIATE BRANCH CHIEF RECOMMENDS APPROVAL AS A PRIORITY.

2/9/23

REVIEWED BY: Division Director's Signature / Date

2/13/23

RECOMMEND SUPLEMENTAL: Branch Chief's Signature / Date

file:///C:/Users/Sherlinda%20Slinkey/Downloads/NN%20Summary.pdf

FY 2023

THE NAVAJO NATION
PROGRAM BUDGET SUMMARY

BUDGET FORM 1

PART I. Business Unit No.: New Program Title: Tourism Department Division/Branch: Economic Development

Prepared By: Arval T McCabe Phone No.: 928-810-8501 Email Address: arvaltmccabe@discovernavajo.com

PART II. FUNDING SOURCE(S)	Fiscal Year /Term	Amount	% of Total
HOT/Tourism Fund	10/01/2022-09/30/2023	1,500,000.00	100%
	TOTAL:	$1,500,000.00	100%

PART III. BUDGET SUMMARY	Fund Type Code	(A) NNC Approved Original Budget	(B) Proposed Budget	(C) Difference or Total
2001 Personnel Expenses	5	128,097	0	(128,097)
3000 Travel Expenses	5	11,426	26,999	15,573
3500 Meeting Expenses	5	0	0	0
4000 Supplies	5	33,542	44,692	11,150
5000 Lease and Rental	5	10,000	9,328	(672)
5500 Communications and Utilities	5	8,711	0	(8,711)
6000 Repairs and Maintenance	5	5,500	14,000	8,500
6500 Contractual Services	5	86,822	457,500	370,678
7000 Special Transactions	5	115,902	213,981	98,079
8000 Public Assistance				0
9000 Capital Outlay	5	0	733,500	733,500
9500 Matching Funds		0		0
9500 Indirect Cost		0		0
TOTAL		$400,000	$1,500,000	$ 1,100,000

PART IV. POSITIONS AND VEHICLES	(D)	(E)
Total # of Positions Budgeted:	1.5	
Total # of Vehicles Budgeted:	1	

PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.

SUBMITTED BY: Arval T. McCabe, Department Manager
Program Manager's Printed Name

Arval T McCabe 2/9/2023
Program Manager's Signature and Date

APPROVED BY: Tony Skrelunas, Division Director
Division Director / Branch Chief's Printed Name

2/9/23
Division Director / Branch Chief's Signature and Date

EXHIBIT D

NN Summary.pdf

file:///C:/Users/Sherlinda%20Slinkey/Downloads/NN%20Summary.pdf

THE NAVAJO NATION
PROGRAM PERFORMANCE CRITERIA

PART I. PROGRAM INFORMATION:

Business Unit No.: New **Program Name/Title:** Tourism Department

PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:

RDCO-055-19: The Department is established to promote and develop tourism related business thereby creating jobs and business opportunities.

PART III. PROGRAM PERFORMANCE CRITERIA:	1st QTR		2nd QTR		3rd QTR		4th QTR	
	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual
1. Goal Statement: Develop tourism related projects, prerequisite planning and development activities.								
Program Performance Measure/Objective: Complete development requirement per project i.e., feasibility studies, surveys, EA archeological clearances.	3		3		3		3	
2. Goal Statement: Complete funding applications for tourism related development projects.								
Program Performance Measure/Objective: Prepare and submit two funding applications per quarter to secure project funds.	2		2		2		2	
3. Goal Statement: Conduct community based tourism development planning.								
Program Performance Measure/Objective: Complete 8 tourism development presentations and/or workshops (2) per quarter.	2		2		2		2	
4. Goal Statement: Develop partnership for sustainable tourism.								
Program Performance Measure/Objective: Complete four communication and educational tools that will help tourism industry improve performance.	1		1		1		1	
5. Goal Statement: Promote and market Navajo Nation in tourism industry, locally and worldwide.								
Program Performance Measure/Objective: Per quarter: (2) Trade Shows; (3) Magazine Advertisement; (4) Maintain Website; (20) Social Media Posts	30		30		30		30	

PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.

Arval T MCCabe, Department Manager
Program Manager's Printed Name

Arval T McCabe 2/9/2023
Program Manager's Signature and Date

Tony Skrelunas, Division Director
Division Director/Branch Chief's Printed Name

Division Director/Branch Chief's Signature and Date

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: New

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)				(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	3000 TRAVEL EXPENSES					26,999
	Monthly mileage and fleet rental. Meals, lodging and air fare directly related to program business and other miscellaneous travel expenses.					
3110	FLEET		6% Sales Tax	Total	11,333	
	.3111 - Monthly/Perm: (Group A, Class XIII Sedan) $431/month x 12 months = $5,172		$310	$5,482		
	.3113 - Mileage: (Group A) 2,000 miles x 0.23 mi. x 12 months = $5,520		$331	$5,851		
3210	VEHICLE RENTAL (OFF RESERVATION)				400	
	3220 - Vehicle Rental (off reservation)	$400				
3230	PERSONAL TRAVEL				11,265	
	.3240 $55/Daily Per Diem x 12 days for 3 staff	$1,980				
	.3240 $76/Daily Per Diem x 3 days for 3 staff	$684				
	.3250 $94/Night Per Diem x 8 nights for 3 staff	$2,256				
	.3250 $166/Night Per Diem x 8 nights for 3 staff	$3,984				
	.3260 POV @ 250 mi. x .575 x 12 mo	$1,725				
	.3290 Other Incidental Travel Expense	$636				
3810	AIR				4,001	
	.3320 - Commercial Air	$4,001				
				TOTAL	26,999	26,999

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: New

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)		(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	4000 SUPPLIES			44,692
	Stationary, envelopes, binders, labels, folders, pens and pencils, staplers/staples. Computer/Xerox toner cartridges, photocopying, publication, subscription. Non-Capital items that have a value of less than $5,000 and other supplies that are necessary for the day operation of the program.			
4120	OFFICE SUPPLIES		5,000	
	.4130 General Office Supplies	$5,000		
4200	NON CAPITAL ASSETS		20,000	
	.4210 Non Cap Furniture and Equipment	$5,000		
	.4230 Non Cap Computer Equipment	$15,000		
4410	OPERATING SUPPLIES		19,692	
	.4420 General Operating Supplies	$5,021		
	.4440 Non Cap Computer Software	$1,000		
	.4450 Postage, Courier, Shipping	$3,000		
	.4490 Custodial Supplies	$715		
	.4500 Medical Supplies	$3,429		
	.4520 Bulk Paper - Xerox paper	$1,500		
	.4530 Printing/Binding/Photocopying	$4,527		
	.4450 Media Supplies	$500		
		TOTAL	44,692	44,692

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: New

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)		(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	5000 LEASE AND RENTAL			9,328
	Office space lease for 12 months. Rental of meeting room and media equipment for committee, work sessions and special meetings. Trade			
5110	BUILDING (Lease)			
	.5120 Office Space:			
5360	EQUIPMENT			
	.5170 Office Equipment	$1,000	1,000	
5160	BUILDING SPACE		8,328	
	.5320 Meeting Space: Staff meetings $150/8 mos	$1,200		
	.5330 Storage Space: $83.50 mo x 12 mo	$1,002		
	.5340 Booth/Trade Show Rental	$6,000		
	.5350 Other Space Rental	$126		
	5500 COMMUNICATIONS AND UTILITIES			-
	Basic telephone services and line charges, install telephone hardware, installation and service changes for DSL line. Internet service/connectivity			
5520	TELEPHONE		-	
	.5530 Basic Services: $35/mo x 12 mos			
	.5540 Long Distance Service: $63/mo x 12 mos			
	.5550 Optional Charges: $26.67 x 12 mo			
	.5560 Hardware Install			
			-	
5570	INTERNET		-	
	.5600 Internet Services:			
		TOTAL	9,328	9,328

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: New

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)		(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	6000 REPAIRS AND MAINTENANCE			14,000
	Furniture/Equipment repairs and maintenance for supplies and services; and computer services maintenance.			
6300	TECHNOLOGY		19,000	
	.6310 Computer Hardware R&M	$11,000		
	.6320 Software Support	$6,000		
	.6330 Communication R&M	$2,000		
		TOTAL	19,000	14,000

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: New

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)		(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	6500 CONTRACTUAL SERVICES			457,500
	Professional and consultant services of particular profession to determine project viability on commercial, industrial, tourism development projects; Non-capital archaeological and design services; Archaeological, assessments, legal surveys, appraisals, feasibility studies, testing, inspection, clearance of business sites or leases.			
6520	CONSULTING		200,000	
	.6530 Fees	$150,000		
	.6540 Expenses	$50,000		
6810	ARCHITECTURE/DESIGN (NON CAP)		120,000	
	.6813 Fees	$100,000		
	.6814 Expenses	$20,000		
6820	GEO TECH SERVICES (NON CAP)		7,500	
	.6823 Fees	$5,000		
	.6824 Expenses	$2,500		
6830	OTHER TECHNICAL SERVICES		130,000	
	.6840 Feasibility Studies	$80,000		
	.6845 Environmental Assessment/Survey	$50,000		
		TOTAL	457,500	457,500

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: New

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)		(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	7000 SPECIAL TRANSACTIONS			213,981.00
	Program initiatives; staff development career enhancements; insurance premiums. Promotional iems, appreciation gifts, contribution, catering,			
7110	PROGRAMS		150,688	
	.7130 Promotional Items	$22,501		
	.7140 Gifts and Awards	$5,182		
	.7150 Charitable Contributions	$33,000		
	.7180 Catering	$60,000		
	.7190 Refreshments	$30,005		
7410	MEDIA		56,703	
	.7440 Print Advertisting	$40,269		
	NTD partners with the Arizona Office of Tourism, Utah Tourism Department, & NM Tourism Department in			
	.7450 Radio Advertising	$16,434		
	NTD utilizeds radio stations to publish tourist related events with KYAT from Gallup, NM, KNDN from Farmington,			
7510	TRAINING & PROFESSIONAL DUES		6,590	
	.7520 Training and Registration Fees	$5,090		
	.7550 Mandatory Professional Dues	$1,500		
7710	INSURANCE PREMIUMS		-	
	.7720 Property: Contents 50,000/1,000x0.71 = $35.50			
	.7740 Vehicle - Auto Liability			
	.7750 Vehicle - Auto Physical Damage (vehicle under 1 ton)			
	.7765 Policy Payment (General Liability) $302,043/100x0.25 =			
	.7767 - Workers Comp (less fringe) $210,659/100x0.72 =			
		TOTAL	213,981	213,981

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PART I. PROGRAM INFORMATION:

Program Name/Title: Tourism Department Business Unit No.: 510003

PART II. DETAILED BUDGET:

(A) Object Code (LOD 6)	(B) Object Code Description and Justification (LOD 7)		(C) Total by DETAILED Object Code (LOD 6)	(D) Total by MAJOR Object Code (LOD 4)
	9000 CAPITAL OUTLAY			733,500
	Construction of infrastructure (water, sewer, power, gas, phone, data lines, roads) to serve commercial, industrial and other economic development projects to create employment and business opportunities, goods and services, generate revenue and create multiplier effects of Navajo spending dollars. Infrastructure development is a critical stage to overall development of business projects to leverage tourist spending on the Navajo Nation.			
9020	INFRASTRUCTURE		383,500	
	.9036 Communications	$53,500		
	.9038 Waterlines	$50,000		
	.9040 Power lines	$30,000		
	.9042 Water/Wastewater	$250,000		
9050	BUILDING		350,000	
	.9060 Construction in Progress	$350,000		
		TOTAL	733,500	733,500

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EXHIBIT E

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Memorandum:

To: Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel, Legislative Branch

From: Robert Willie, Accounting Manager
Office of the Controller

Date: December 6, 2022

Subject: Tourism Fund Balance –November 30, 2022

The Office of the Controller has calculated the un-audited balance of the Tourism Fund as of November 30, 2022.

The un-appropriated unaudited balance of the Tourism Fund as of November 30, 2022. is $5,451,667 see footnote 1 in **Exhibit A**.

The fund has total revenue of $314,398 collected as of November 30, 2022. The fund has expended $67,157. The net total results in revenues exceeding expenditures of $247,242 up to November 30, 2022.

If there are any other legislations which appropriate funds from this fund the unreserved balance of the Tourism Fund will be reduced.

If you should have any questions, you can contact me at tribal extension X6070.

Exhibit A

THE NAVAJO NATION
Navajo Nation Tourism Fund
Combining Balance Sheet
November 30, 2022 (Unaudited)

Assets			
Current Assets:			
Cash and cash equivalents	$	(9,621)	
Investments		4,448,210	
Receivables:			
Accounts Receivable		7,269	
Total Current Assets		4,445,857	
Long Term Assets:			
Investments		1,835,042	
Total Long Term Assets		1,835,042	
Total Assets	$	6,280,899	
Liabilities and Fund Balances			
Liabilities:			
Accounts Payable	$	(24,683)	
Accruals		(0)	
Other Liabilities		(182,130)	
Total Liabilites		(206,813)	
Fund Balances:			
Unreserved		(5,484,119)	(1)
Committed		(455,946)	
Assigned		(134,020)	
Total Fund Balances		(6,074,085)	
Total Liabilites and fund balances	$	(6,280,899)	

THE NAVAJO NATION
Combining Statement of Revenues, Expenditures and Changes in Fund Balance
November 30, 2022 (Unaudited)

Revenues:		
Tax Revenue	$	(374,681)
Interest & Dividends		(11,434)
Fees & Permits		-
Other Revenue		39,264
Total Revenue		(346,851)
Expenditures:		
Total Expenditures		91,276
Excess (deficit) of revenues over expenditures		(255,575)
Transfers		-
Net change in fund balances		(255,575)

(1) - Unapproriated Balance Available

Prepared by General Accounting
12/06/2022

EXHIBIT F

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

October 17, 2022

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CS-45-22, *An Act Relating to the Resources and Development, Budget and Finance, Law and Order, and Naabik'íyáti Committees and the Navajo Nation Council; Allocating $900,000 from the Navajo Nation Tourism Fund (24 N.N.C. § 741) to the Division of Economic Development/Tourism Department to Cover the Tourism Department's Personnel and Operating Expenses for the Remainder of FY2022; Amending 24 N.N.C. § 741(B) to Allow All Revenue in the Tourism Fund to be Used By Any and All Navajo Nation Programs for Tourism-Related Purposes*

Dear Speaker Damon,

Thank you to the Navajo Nation Council and Delegate Wilson Stewart, Jr., and the Tourism Department for the work put into this legislation. We understand the loss of revenue experienced by the Tourism Department during the Covid-19 pandemic and appreciate the department's diligence in continuing operations during this time.

We are hopeful that with the approval of this funding allocation, and the amendment to 24 N.N.C. § 741 to expand use of the Tourism Fund, that the Tourism Department is on its way to revitalization of the tourism industry on the Nation. The amendment will also prioritize the annual fiscal year budget of the Tourism Department from the Tourism Fund and avoid supplemental funding requests in the future. Additionally, anticipated amendments to the fund management plan of the Tourism Fund will facilitate tourism promotion projects by the various Navajo Nation departments and in turn improve/preserve the Nation's areas of interest and contribute to economic development of the Nation.

Pursuant to the authority vested in the Navajo Nation President, I am signing into law CS-45-22.

Sincerely,

Jonathan Nez, *President*
THE NAVAJO NATION

Myron Lizer, *Vice President*
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, LAW AND ORDER, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING $900,000 FROM THE NAVAJO NATION TOURISM FUND (24 N.N.C. § 741) TO THE DIVISION OF ECONOMIC DEVELOPMENT/TOURISM DEPARTMENT TO COVER THE TOURISM DEPARTMENT'S PERSONNEL AND OPERATING EXPENSES FOR THE REMAINDER OF FY2022; AMENDING 24 N.N.C. § 741(B) TO ALLOW ALL REVENUE IN THE TOURISM FUND TO BE USED BY ANY AND ALL NAVAJO NATION PROGRAMS FOR TOURISM-RELATED PURPOSES

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee is a standing committee of the Navajo Nation Council with the authority to oversee the Division of Economic Development. 2 N.N.C. § 501(C)(1). The Navajo Tourism Department is within the Division of Economic Development. ACAU-196-87, CO-50-87, GSCAP-12-07, and RDCO-055-19.

B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council, 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).

C. The Budget and Finance Committee is also in charge of the Fund Management Plan for the Navajo Nation Tourism Fund, which Fund consists of revenue collected from the Navajo Nation's Hotel Occupancy Tax. 24 N.N.C. § 741(A) and § 741(B), Resolution No. BFO-56-93.

D. The Law and Order Committee is a standing committee of the Navajo Nation Council that reviews and makes recommendations to the Navajo Nation Council regarding proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14).

E. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council responsible for reviewing proposed resolutions requiring final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

F. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A). As such, the Council has the

authority to approve supplemental appropriations out of available accounts that contain sufficient funds for such appropriations. "The Navajo Nation Council may adopt and approve supplemental appropriations to the Annual Comprehensive Budget during the fiscal year. Supplemental appropriations of General Funds within the current fiscal year are permitted, if and when additional sources of revenues above and beyond the initial or current revenue projections are projected and which are also in excess of the reserve amount set forth at § 820(J)." 12 N.N.C. § 820(L).

G. The restrictions on supplemental appropriations include:

1. The Navajo Nation shall budget all recurring operating expenses, including capital maintenance costs, from recurring revenues only; and long-term debt shall not be used to finance recurring operating expenses. 12 N.N.C. § 820(E). The Controller determines which revenues are recurring and which are non-recurring. 12 N.N.C. § 820(L).

2. All requests for supplemental funding shall be submitted to the Office of Management and Budget ("OMB") for a budget impact analysis. 12 N.N.C. § 820(M).

SECTION TWO. FINDINGS

A. On January 1, 1993 the Navajo Nation's Hotel Occupancy Tax ("HOT") came into effect; the HOT is codified at 24 N.N.C. §§ 700 *et seq.* (as amended). Resolution No. CJY-27-92, CJY-52-95, CJA-06-09. The HOT statute provides that HOT revenues go into a special "Navajo Nation Tourism Fund" ("HOT/Tourism Fund"), and instructs that the Budget and Finance Committee has responsibility for the "Navajo Nation Tourism Fund Management Plan" ("FMP"). 24 N.N.C. § 741.

B. On October 5, 1993 the Budget and Finance Committee approved the FMP. The Committee Resolution No. BFO-56-93, with a copy of the FMP, is attached as **EXHIBIT A.**

C. In Navajo Nation Council Resolution No. CJA-06-09, signed into law on February 9, 2009, the HOT was amended to mandate that HOT revenues collected from within Navajo Tribal Parks can only be used by the Navajo Parks and Recreation Department for the maintenance and improvement of facilities within Tribal Parks. 24 N.N.C. § 741(B). **EXHIBIT B.**

D. The Division of Economic Development/Tourism Department is now requesting $900,000 in supplemental funds out of the HOT/Tourism Fund to mitigate the negative effects of the COVID-

19 pandemic that resulted in the loss of an estimated $115,500,000 of tourism-related revenue since the Spring of 2020, which revenue is normally used to fund the Tourism Department for the entire Fiscal Year. In the attached "Appendix K - Supplemental Funding Proposal Summary" the Tourism Department explains that it needs the $900,000 to cover its personnel and operating expenses for the remainder of FY2022. **EXHIBIT C.**

E. The Tourism Department has provided its required Budget Forms, including a "Program Budget Summary" and a "Detailed Budget and Justification," which pages are attached hereto as **EXHIBIT D.**

F. The Tourism Department has also provided a detailed "Listing of Positions and Assignments by Business Unit" and "Program Performance Criteria," attached as **EXHIBIT E.**

G. In accordance with 12 N.N.C. § 820(L), the Controller has provided a memorandum regarding this supplemental funding request, indicating that the HOT/Tourism Fund contains an unaudited amount of $4,217,157 as of August 31, 2021. **EXHIBIT F.** The Controller may be requested to provide a revised memorandum or verbal statement regarding this matter, when this legislation is considered by the Navajo Nation Council.

H. At the time of initial public posting of this legislation, the Office of Management and Budget had not reviewed this supplemental funding request. Therefore, to comply with 12 N.N.C. § 820(M), OMB may be requested to provide a budget impact analysis by memorandum or verbal statement, when this legislation is considered by the Navajo Nation Council.

I. Section 6 of the approved FMP generally governs the Tourism Department's annual budgeting and funding proposals for each fiscal year, whereby the Tourism Department requests and receives a HOT/Tourism Fund appropriation in the context of the Navajo Nation's Comprehensive Budget process. FMP, Section 6. **EXHIBIT A.**

J. However, for FY2022 the Tourism Department submitted three proposed budgets, and only one was approved; this has left the Department's personnel and operating expenses unfunded. **EXHIBIT C.** Therefore, the Tourism Department has needed to submit this supplemental funding request for the $900,000 amount from the HOT/Tourism Fund, in order to remain open and continue its activities for the rest of FY2022. **EXHIBIT C.**

K. Because this funding request is for a supplemental appropriation, those subsections of 12 N.N.C. § 820 pertaining to supplemental appropriations must be acknowledged and followed. Thus, the explanations in SECTION 2(G) and SECTION 2(H) above are included in this legislation.

L. Notably, the Controller has indicated in **EXHIBIT F**, and the Director of the Tourism Department has confirmed, that all HOT revenues collected both from within Navajo Tribal Parks and from locations outside the Tribal Parks, are deposited into the HOT/Tourism Fund without regard to the source of such revenues - the funds are simply comingled.

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

N. The Navajo Nation finds that, in order to approve the Tourism Department's supplemental funding request, the above-cited wording in 24 N.N.C. § 741(B) would need to be addressed. Furthermore, the above-cited provision appears overly restrictive and may unfairly impede the Tourism Department and other Navajo Nation programs from requesting and receiving appropriations using the HOT/Tourism Fund, even if such appropriations would clearly be used for tourism-related purposes.

O. The Navajo Nation finds it in the best interest of the Navajo Nation and the Navajo People to approve the Tourism Department's HOT/Tourism funding request in the amount of $900,000, as described herein, and to amend Section 741(B) of the HOT to allow all revenue in the HOT/Tourism Fund to be used by any and all Navajo Nation programs, so long as such use is for legitimate tourism-related purposes and is consistent with the provisions set forth in the FMP. Such amendment would not prevent the Navajo Parks and Recreation Department from requesting appropriations out of the HOT/Tourism fund if needed, but would simply allow the Tourism Department and other programs to request this money for approved tourism-related activities and goals.

SECTION THREE. ALLOCATING $900,000 FROM THE HOT/TOURISM FUND TO THE DIVISION OF ECONOMIC DEVELOPMENT/TOURISM DEPARTMENT TO COVER

THE TOURISM DEPARTMENT'S PERSONNEL AND OPERATING EXPENSES FOR THE REMAINDER OF FY2022

A. The Navajo Nation hereby allocates $900,000 out of the HOT/Tourism Fund to the Division of Economic Development/Tourism Department for the Tourism Department's personnel and operating expenses for the remainder of FY2022, as shown in **EXHIBITS C, D, and E.**

LAPSE

B. Pursuant to 12 N.N.C. § 820(N) this supplemental appropriation shall lapse on September 30, 2022 and all unused/unencumbered funds shall revert to the HOT/Tourism Fund, unless the Navajo Nation Council determines otherwise by resolution.

C. Upon approval by a Navajo Nation Council resolution, the HOT/Tourism Fund may be reimbursed up to the $3,600,000 amount approved in this legislation, from prospective funds available to the Navajo Nation from state or federal sources, including additional Congressional appropriations, if any, under the American Rescue Plan Act of 2021, or from other COVID-19-related relief.

SECTION FOUR. AMENDING 24 N.N.C. § 741(B) TO ALLOW ALL REVENUE IN THE TOURISM FUND TO BE USED BY ANY AND ALL NAVAJO NATION PROGRAMS FOR TOURISM-RELATED PURPOSES

The Navajo Nation hereby amends 24 N.N.C. § 741(B) in the Navajo Nation Code, as follows:

TITLE 24. TAXATION

CHAPTER 7, HOTEL OCCUPANCY TAX

* * * *

§ 741. Allocation

A. ~~Except as provided in Subsection B, the~~ The tax imposed by this Chapter is imposed for the purposes of generating revenue for Navajo Nation programs to use in promoting tourism and tourism development. To accomplish this end, this tax shall be retained in a special fund entitled the "Navajo Nation HOT/Tourism Fund" which shall be administered by the Navajo Tourism Department, and which shall, be used first to fund the Tourism Department's annual fiscal year budget, before any supplemental appropriations out of the HOT/Tourism Fund are

requested by the Tourism Department or any other Navajo Nation program.

B. eConsistent with the laws of the Navajo Nation and utilizing the prudent person rule, the HOT/Tourism Fund shall be ~~applied~~ used for the advancement of local tourism promotion, and to develop tourism-related projects throughout the Navajo Nation.

C. The Division of Economic Development and the Navajo Tourism Department are hereby authorized to develop and recommend to the Budget and Finance Committee of the Navajo Nation Council ~~the~~ a Fund's ~~m~~Management ~~p~~Plan for the HOT/Tourism Fund, including any amendments thereto. The Budget and Finance Committee shall have the final authority to approve/adopt and amend the Fund Management Plan.

~~B.~~ D. All budgeting, appropriations, and expenditures of any money in the HOT/Tourism Fund shall be ~~Any tax imposed by this Chapter that is collected within any duly established Navajo Tribal Park shall be retained within the Navajo Nation Tourism Fund for the exclusive use of the Navajo Parks and Recreation Department for maintenance and improvement of facilities within Navajo Tribal Parks,~~ in accordance with the ~~fund~~ Fund ~~m~~Management ~~p~~Plan. ~~for the Navajo Nation Tourism Fund, which shall be amended by the Budget and Finance Committee to accommodate this provision.~~

* * * *

SECTION FIVE. EFFECTIVE DATE

This Act shall become effective as provided in 2 N.N.C. § 221(B) and 2 N.N.C. § 164(A)(17).

SECTION SIX. SAVING CLAUSE

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

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 20 in Favor, and 00 Opposed, on this 29th day of September 2022.

Honorable Seth Damon, Speaker
24th Navajo Nation Council

Oct 7, 2022
DATE

Motion: Honorable Pernell Halona
Second: Honorable Jimmy Yellowhair

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 17 day of October, 2022.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2022 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this _____ day of _____, 2022.

Jonathan Nez, President
Navajo Nation

EXHIBIT G

TITLE 24. Taxation

Chapter 7. Hotel Occupancy Tax

* * * *

§ 741. Allocation

A. The tax imposed by this Chapter is imposed for the purposes of generating revenue for Navajo Nation programs to use in promoting tourism and tourism development. To accomplish this end, after certain mandatory allocations pursuant to other Navajo Nation statutory laws, the net revenue from this tax shall be deposited in a special fund titled the "Navajo Nation HOT/Tourism Fund" ("HOT/Tourism Fund").

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

C. Consistent with the laws of the Navajo Nation and utilizing the "prudent person rule," allocations and expenditures from the HOT/Tourism Fund shall be for tourism promotion and tourism-related activities and projects throughout the Navajo Nation, which activities and projects may include, but are not limited to, program personnel and operating expenses.

D. The Division of Economic Development and the Navajo Tourism Department are hereby authorized to develop and recommend to the Budget and Finance Committee a Fund Management Plan for the HOT/Tourism Fund, including any amendments thereto. The Budget and Finance Committee shall have the final authority to approve/adopt the Fund Management Plan for the HOT/Tourism Fund, and any amendments thereto.

E. All budgeting, funding requests, appropriations, allocations, and expenditures of money from the HOT/Tourism Fund, by the Navajo Tourism Department or any other Navajo Nation program, shall be in accordance with the current Fund Management Plan for the HOT/Tourism Fund, as approved/adopted or amended by the Budget and Finance Committee.

* * * *

Office of Legislative Counsel
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Hon. Crystalyne Curley, Speaker
25th Navajo Nation Council
2023 - 2027

MEMORANDUM

To: Hon. Eugenia Charles-Newton, Chairperson
Law & Order Committee
25th Navajo Nation Council

From: Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

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**

Per your request, the Office of Legislative Counsel has prepared the above-referenced proposed Legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon OLC's review of all supporting documents submitted, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-**7166** or by email at: LuraleneTapahe@navajo-nsn.gov

Thank you for your cooperation.