

SUMMARY OF PROPOSED LEGISLATION

TrackingNo. 0236-22

Date: December 6, 2022

Re: AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, LAW AND ORDER, BUDGET AND FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING \$900,000 FROM THE TOURISM FUND TO THE TOURISM DEPARTMENT FOR ITS PERSONNEL AND OPERATING EXPENSES FOR FY2023; AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE TOURISM FUND TO BE USED BY ALL PROGRAMS FOR TOURISM-RELATED PURPOSES; RESCINDING RESOLUTION NO. CS-45-22

Purpose of this Legislation:

to approve \$900,000 from the HOT/Tourism Fund for the Tourism Department/DED to cover the Department's personnel and operating expenses for FY2023; amending the HOT statute to allow the HOT/Tourism Fund to be used by all programs; rescinding the previous resolution on this same matter - Resolution No. CS-45-22

OLC No. 22-386-1

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 12-11-22
Eligible for Action: 12-12-22

Resources & Development Committee

Thence

Law & Order Committee

Thence

Budget & Finance Committee

Thence

Naabik'iyáti' Committee

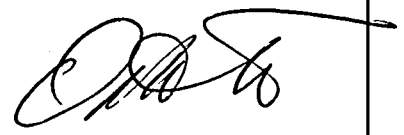
Thence

Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL - Fourth Year, 2022

Introduced by:

(Prime Sponsor)



Tracking No. 0236-22

AN ACT

**RELATING TO THE RESOURCES AND DEVELOPMENT, LAW
AND ORDER, BUDGET AND FINANCE, AND NAA'BIK'ÍYÁTI'
COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING
\$900,000 FROM THE TOURISM FUND TO THE TOURISM DEPARTMENT
FOR ITS PERSONNEL AND OPERATING EXPENSES FOR FY2023;
AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE TOURISM
FUND TO BE USED BY ALL PROGRAMS FOR TOURISM-RELATED
PURPOSES; RESCINDING RESOLUTION NO. CS-45-22**

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and 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 and Order Committee is a standing committee 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).

C. The Budget and Finance Committee is a standing committee with the responsibility to review

1 and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and
2 management of all funds. 2 N.N.C. §301(B)(2).

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

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

9 F. The Navajo Nation Council is the governing body of the Navajo Nation, and generally
10 approves allocations from the Tourism Fund, in accordance with Section 6 of the Fund
11 Management Plan for the Tourism Fund. 2 N.N.C. §102(A). Resolution No. BFO-56-93.

12 13 **SECTION TWO. FINDINGS**

14 A. On January 1, 1993 the Hotel Occupancy Tax came into effect, and is codified at 24 N.N.C.
15 §700 - §741 (as amended). See Resolution Nos. CJY-27-92, CJY-52-95, CJA-06-09. Section
16 741 of the HOT statute provides that HOT revenues go into the Tourism Fund (that is, net
17 HOT revenues after certain statutory allocations under other Navajo Nation laws). Section
18 741 also instructs that the Budget and Finance Committee is responsible for the Fund
19 Management Plan ("FMP") for the Tourism Fund. 24 N.N.C. §741.

20 B. On October 5, 1993 the Budget and Finance Committee approved the FMP for the Tourism
21 Fund, in Resolution No. BFO-56-93. **EXHIBIT A.**

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

26 **EXHIBIT B.**

27 D. The Tourism Department, under the Division of Economic Development, is requesting
28 \$900,000 from the Tourism Fund to mitigate the negative effects of the COVID-19 pandemic
29 that resulted in the loss of an estimated \$115,500,000 of tourism-related revenue since the
30 Spring of 2020. The Tourism Department explains that it needs the \$900,000 to cover its

- 1 personnel and operating expenses for FY2023. **EXHIBIT C.**
- 2 E. The Tourism Department has provided completed Budget Forms. **EXHIBIT D.**
- 3 F. The Tourism Department has also provided a detailed “Listing of Positions and Assignments
4 by Business Unit” and “Program Performance Criteria.” **EXHIBIT E.**
- 5 G. The Controller has provided a memorandum regarding this funding request, indicating the
6 amount of funds available in the Tourism Fund. **EXHIBIT F.**
- 7 H. The Navajo Nation Council previously approved the Tourism Department’s funding request
8 in Resolution No. CS-45-22, and President Jonathan Nez signed CS-45-22 into law on
9 October 17, 2022. However, due to an oversight, the approved allocation lapsed and the funds
10 reverted to the Tourism Fund on September 30, 2022. **EXHIBIT G.**
- 11 I. Notably, all HOT revenues collected both from within Navajo Tribal Parks and from
12 locations outside the Tribal Parks, are deposited into the Tourism Fund without regard to the
13 source of such revenues - the funds are simply comingled.
- 14 J. Because of this comingling there is no way to distinguish which dollars in the Tourism Fund
15 are available for programs other than the Navajo Parks and Recreation Department. Thus,
16 approval of the Tourism Department’s funding request would appear to violate 24 N.N.C.
17 §741(B), which states: “[a]ny tax imposed by this Chapter that is collected within any duly
18 established Navajo Tribal Park shall be retained within the Navajo Nation Tourism Fund *for*
19 *the exclusive use of the Navajo Parks and Recreation Department*”
- 20 K. The Navajo Nation finds that, in order to approve the Tourism Department’s funding request,
21 the above-cited wording in 24 N.N.C. §741(B) must be addressed. Furthermore, the above-
22 cited provision appears overly restrictive and may unfairly impede the Tourism Department
23 and other Navajo Nation programs from requesting and receiving allocations from the
24 Tourism Fund, even if such funds would be used for tourism-related purposes.
- 25 L. The Navajo Nation finds it in the best interest of the Navajo Nation and the Navajo People
26 to approve the Tourism Department’s funding request as described herein, and to amend
27 Section 741(B) of the HOT statute to allow all revenue in the Tourism Fund to be used by
28 any and all Navajo Nation programs, so long as such use is for legitimate tourism-related
29 purposes and is consistent with the provisions set forth in the FMP. Such amendment would
30 not prevent the Navajo Parks and Recreation Department from requesting allocations out of

1 the Tourism Fund if needed, but would merely allow the Tourism Department and other
2 programs to request this money for approved tourism-related activities and goals.

3
4 **SECTION THREE. ALLOCATING \$900,000 FROM THE TOURISM FUND TO THE**
5 **TOURISM DEPARTMENT FOR ITS PERSONNEL AND**
6 **OPERATING EXPENSES FOR FY2023**

7 A. The Navajo Nation hereby allocates \$900,000 from what will become known as the
8 “HOT/Tourism Fund” to the Division of Economic Development/Tourism Department for
9 the Tourism Department’s personnel and operating expenses for FY2023, as shown in
10 **EXHIBITS C, D, and E.**

11 B. The Tourism Department shall expend the approved \$900,000 strictly in accordance with the
12 amended Fund Management Plan for the HOT/Tourism Fund, which amended FMP will
13 amend the original version of the Tourism Fund approved in BFO-56-93 and will be
14 hereinafter approved by the Budget and Finance Committee within 60 calendar days after
15 the effective date of this Act. See **SECTION FIVE. DIRECTIVE** herein.

16 C. The \$900,000 approved in this Act shall not become available to, and shall not be used by,
17 the Tourism Department until the effective date of the amended FMP for the HOT/Tourism
18 Fund, as approved by the Budget and Finance Committee.

19 D. The HOT/Tourism Fund may be reimbursed the amount of funds approved herein, from
20 funds available to the Navajo Nation from any and all state, federal, or other sources.

21
22 **SECTION FOUR. AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE**
23 **TOURISM FUND TO BE USED BY ALL PROGRAMS FOR**
24 **TOURISM-RELATED PURPOSES**

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

26 **TITLE 24. Taxation**

27 **Chapter 7. Hotel Occupancy Tax**

28 * * * *

29 **§ 741. Allocation**

30 A. ~~Except as provided in Subsection B, the~~ The tax imposed by this Chapter is imposed

1 for the purposes of generating revenue for Navajo Nation programs to use in promoting
2 tourism and tourism development. To accomplish this end, after certain mandatory
3 allocations pursuant to other Navajo Nation statutory law, the net revenue from this tax
4 shall be deposited and retained in a special fund entitled the "Navajo Nation
5 HOT/Tourism Fund" ("HOT/Tourism Fund"). ~~which shall be administered by the~~
6 ~~Navajo Tourism Department, and which shall,~~

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

12 C. e~~Consistent with the laws of the Navajo Nation and utilizing the "prudent person rule,"~~
13 ~~be applied for the advancement of allocations from the HOT/Tourism Fund shall be~~
14 used strictly for local tourism promotion; and to develop tourism-related projects
15 throughout the Navajo Nation.

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

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

27 E. All budgeting, funding requests, appropriations, allocations, and expenditures of
28 money from the HOT/Tourism Fund, by the Tourism Department or any other program,
29 shall be in accordance with the approved Fund Management Plan, as amended.

30 * * * *

1 **SECTION FIVE. DIRECTIVE**

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

7
8 **SECTION SIX. RESCINDING RESOLUTION NO. CS-45-22**

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

13
14 **SECTION SEVEN. CODIFICATION**

15 The provisions included in this Act that amend or adopt new sections of Title 24 of the Navajo
16 Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
17 Counsel shall incorporate such amended provisions in the next codification of the Navajo
18 Nation Code. A clean copy of the Title 24 amendments as shown in **SECTION FOUR** herein
19 (with no strikeouts or underlining) is attached as **EXHIBIT H**.

20
21 **SECTION EIGHT. EFFECTIVE DATE**

22 This Act shall become effective according to 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17),
23 except that the approved \$900,000 allocation to the Tourism Department shall be effective as
24 provided in **SECTION THREE (C)** of this Act.

25
26 **SECTION NINE. SAVING CLAUSE**

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



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. Subsection 700 et seq. (Exhibit "B"); and

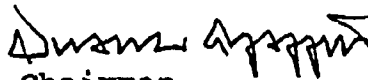
8. Pursuant to Resolution EDCAU-72-93 as attached hereto as Exhibit "E", the Economic Development Committee recommended to the Budget and Finance Committee, the approval of the Navajo Nation Tourism Fund Management Plan; and

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

FMP

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.

FMP

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.

FMP

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 Nation Tourism Fund's management plan to the Budget and Finance Committee of the Navajo Nation Council.



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

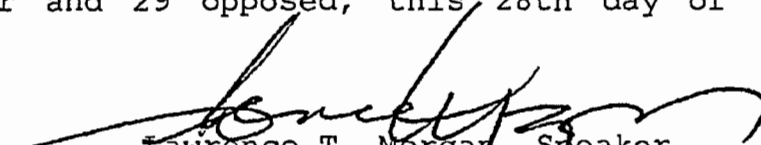
The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

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.

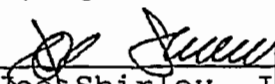

Lawrence T. Morgan, Speaker
Navajo Nation Council

02 Feb 09
Date

Motion: Peterson B. Yazzie
Second: Leonard Chee

ACTION BY THE NAVAJO NATION PRESIDENT:

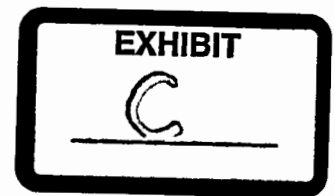
1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this 9 day of Feb 2009.


Dr. Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2009 for the reason(s) expressed in the attached letter to the Speaker.

Dr. Joe Shirley, Jr., President

Appendix K



THE NAVAJO NATION SUPPLEMENTAL FUNDING PROPOSAL SUMMARY

PART I. Business Unit No.: <u>510003</u>		Program Title: <u>Tourism</u>	
Division/Branch: <u>Economic Development</u>	Amount Requested: <u>\$900,000</u>	Prepared By: <u>Arval T. McCabe</u>	
Phone No.: <u>928-810-8501</u>	Email Address: <u>arvalmccabe@navajo-nsn.org</u>		

PART II. REASON FOR REQUEST AND STATEMENT OF NEED:

2020 to present the Tourism industry continues to be hit by the Covid 19 Pandemic. This affects the funding source for the Hospitality Occupancy Tax (HOT) for the operation of the Navajo Tourism Department. Since the state of the pandemic the department has not been fully funded. FY 2022 Budget: 128,576 FY 2023 Budget: \$400,000. The overall impact of the pandemic has been severe and has caused the Navajo Nation Tourism Industry to loss an estimated \$115,500,000 revenue due to the closure of more than a year. We continue to operate with a low budget; therefore, I am making this request.

The Tourism Department will also be funding projects that continue to be unfunded and they are needed to assist communities with development and improvement of the many destinations that we make available to our visitors. Some of those projects are Dinosaur Tracks, marketing the Tuba City area, assist with the Shiprock Pinnacle with becoming a new development for the chapters that surround it.

Funds are also needed to meet the goals and objectives for the FY 2023. This well include supplies, software, Co-Ops with the three states (AZ/NM/UT). The Tourism Department continues to promote the Navajo Nation as a TOP destination in all advertisements.

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

The Tourism Department continue to apply for grants with the states and the Federal Government. The department did submit two requests for funding to the Navajo Nation 24th Council of which one was approved and the other table and dropped. The approved Legislation 0007-22 HOT Fund was signed and submitted to Navajo OMB but was not entered due to the FY 2022 was indicated on the budget forms, therefore I was told it was not going to be addressed. The other Legislation 0003-22 UUFB was table and removed since one legislation had already been approved.

We continue to work with grants to assist with funding.

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.

10/19/2022	25 OCT 22

REVIEWED BY: Division Director's Signature / Date	RECOMMEND SUPPLEMENTAL: Branch Chief's Signature / Date
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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	PART III. BUDGET SUMMARY				Fund Type Code	Original Budget	Proposed Budget	Difference or Total
HOT/Tourism Fund		10/01/2022-09/30/2023	900,000.00	100%					5	128,097	241,321	(113,224)
					2001 Personnel Expenses				5	11,426	26,999	(15,573)
					3000 Travel Expenses				5	0	0	0
					3500 Meeting Expenses				5	33,542	27,692	5,850
					4000 Supplies				5	10,000	6,775	3,225
					5000 Lease and Rental				5	8,711	7,991	720
					5500 Communications and Utilities				5	5,500	14,000	(8,500)
					6000 Repairs and Maintenance				5	86,822	189,419	(102,597)
					6500 Contractual Services				5	115,902	145,803	(29,901)
					7000 Special Transactions							0
					8000 Public Assistance				5	0	240,000	(240,000)
					9000 Capital Outlay					0		0
					9500 Matching Funds					0		0
					9500 Indirect Cost							0
					TOTAL					\$400,000.00	\$900,000.00	(500,000)

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

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

SUBMITTED BY: _____	Arval T. McCabe	APPROVED BY: _____	Douglas Capitan, Delegated (D) Director
Program Manager's Printed Name	Arval T. McCabe	Division Director / Branch Chief's Printed Name	Arval T. McCabe
Program Manager's Signature and Date	<i>Arval T. McCabe</i> 12/16/2022	Division Director / Branch Chief's Signature and Date	<i>Arval T. McCabe</i> 12/16/2022

EXHIBIT

D

THE NAVAJO NATION
PROGRAM PERFORMANCE CRITERIA

FY 2023

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:												
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												
1st QTR		2nd QTR		3rd QTR		4th QTR						
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	
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.												
1st QTR		2nd QTR		3rd QTR		4th QTR						
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	
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.												
1st QTR		2nd QTR		3rd QTR		4th QTR						
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	
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.												
1st QTR		2nd QTR		3rd QTR		4th QTR						
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	
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												
1st QTR		2nd QTR		3rd QTR		4th QTR						
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	
30		30		30		30						
PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.												
<div style="display: flex; justify-content: space-between;"> <div> <p>Program Manager's Printed Name</p> <p><i>Arval T McCabe</i></p> <p>Program Manager's Signature and Date</p> <p>12/16/2022</p> </div> <div> <p>Douglas Capitan, Delegated (D) Director</p> <p>Division Director/Branch Chief's Printed Name</p> <p><i>DAC</i> 12/06/2022</p> <p>Division Director/Branch Chief's Signature and Date</p> </div> </div>												

THE NAVAJO NATION
LISTING OF POSITIONS AND ASSIGNMENTS BY BUSINESS UNIT

SUB ACCT	POS NO	JOB TYPE	POSITION TITLE	EMP ID	WRKSITE CODE	FY 2021 ACTUAL		FY 2022 PROPOSED	
						G/S	SALARY	HOURS	BUDGET

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

FY 2023

PART I. PROGRAM INFORMATION: Program Name/Title: _____		Tourism Department		Business Unit No.: _____		New	
PART II. DETAILED BUDGET:							
(A)		(B)		(C)		(D)	
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)			Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)		
	2001 PERSONNEL EXPENSES				241,321		
	Employees salary and fringe benefits. Adjustments/Salary increase not paid by the Personnel Lapse Fund. Merit Payment for eligible personnel.						
2110	REGULAR			168,309			
	.2120 One Regular Full-Time positions						
	.2120 .50 Regular Full-Time Cost Share						
2900	2900 - Fringe Benefits			73,012			
	2900 Regular 168,309 43.38%						
TOTAL				241,321	241,321		

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

FY 2023

PART I. PROGRAM INFORMATION:		Business Unit No.:		New	
Program Name/Title:		Tourism Department			
PART II. DETAILED BUDGET:					
(A)	(B)	(C)	(D)		
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)		
3000 TRAVEL EXPENSES	Monthly mileage and fleet rental. Meals, lodging and air fare directly related to program business and other miscellaneous travel expenses.		26,999		
3110	FLEET .3111 - Monthly/Permi: (Group A, Class XIII Sedan) \$431/month x 12 months = \$5,172 .3113 - Mileage: (Group A) 2,000 miles x 0.23 mi. x 12 months = \$5,520 6% Sales Tax Total \$5,482 \$331 \$5,851	11,333			
3210	VEHICLE RENTAL (OFF RESERVATION) 3220 - Vehicle Rental (off reservation) \$400	400			
3230	PERSONAL TRAVEL .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	11,255			
3810	AIR .3320 - Commercial Air \$4,001	4,001			
TOTAL		26,999	26,999		

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

PART I. PROGRAM INFORMATION:		Business Unit No.: _____		New	
Program Name/Title: _____		Tourism Department			
PART II. DETAILED BUDGET:					
(A)		(B)		(C)	
Object Code (LOD 6)		Object Code Description and Justification (LOD 7)		Total by DETAILED Object Code (LOD 6)	
4000 SUPPLIES		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.		6,775	
4120		OFFICE SUPPLIES		5,000	
		.4130 General Office Supplies		\$5,000	
4200		NON CAPITAL ASSETS		3,000	
		.4210 Non Cap Furniture and Equipment		\$1,000	
		.4230 Non Cap Computer Equipment		\$2,000	
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		27,692	
				6,775	

PART I. PROGRAM INFORMATION:			
Program Name/Title:		Business Unit No.:	New
Tourism Department			
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
5000	LEASE AND RENTAL Office space lease for 12 months. Rental of meeting room and media equipment for committee, work sessions and special meetings. Trade		6,775
5110	BUILDING (Lease) .5120 Office Space: Lease with Division of Economic Development at \$16587/Yearly Rate		
5360	EQUIPMENT .5170 Office Equipment	447	
5160	BUILDING SPACE .5320 Meeting Space: Staff meetings \$150/8 mos .5330 Storage Space: \$83.50 mo x 12 mo .5340 Booth/Trade Show Rental .5350 Other Space Rental	6,328	
5500	COMMUNICATIONS AND UTILITIES Basic telephone services and line charges, install telephone hardware, installation and service changes for DSL line. Internet service/connectivity		7,991
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	1,996	
5570	INTERNET .5600 Internet Services: 6 staff X \$83.26 X 12 = \$5,995	5,995	
TOTAL		14,766	14,766

**THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION**

Page 8 of 11
BUDGET FORM 4

FY 2023

PART I. PROGRAM INFORMATION:			
Program Name/Title: _____		Business Unit No.: _____ New	
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
	6000 REPAIRS AND MAINTENANCE Furniture/Equipment repairs and maintenance for supplies and services; and computer services maintenance.		14,000
6300	TECHNOLOGY .6310 Computer Hardware R&M .6320 Software Support .6330 Communication R&M \$6,000 \$6,000 \$2,000	14,000	
TOTAL		14,000	14,000

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

PART I. PROGRAM INFORMATION: Program Name/Title: _____		Business Unit No.: _____		New
PART II. DETAILED BUDGET:				
(A)	(B)	(C)	(D)	
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)	
6500	CONTRACTUAL SERVICES 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.	130,590	189,419	
6520	CONSULTING .6530 Fees .6540 Expenses	\$90,590 \$40,000		
6810	ARCHITECTURE/DESIGN (NON CAP) .6813 Fees .6814 Expenses	\$8,000 \$3,329	11,329	
6820	GEO TECH SERVICES (NON CAP) .6823 Fees .6824 Expenses	\$5,000 \$2,500	7,500	
6830	OTHER TECHNICAL SERVICES .6840 Feasibility Studies .6845 Environmental Assessment/Survey	\$20,000 \$20,000	40,000	
TOTAL		189,419	189,419	

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

PART I. PROGRAM INFORMATION: Program Name/Title: _____ Tourism Department _____ Business Unit No.: _____ New _____			
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
7110	7000 SPECIAL TRANSACTIONS Program initiatives; staff development career enhancements; insurance premiums. Promotional items, appreciation gifts, contribution, catering, PROGRAMS .7130 Promotional Items \$22,501 .7140 Gifts and Awards \$20,000 .7150 Charitable Contributions \$33,000 .7180 Catering \$4,000 .7190 Refreshments \$2,000	81,501	145,803
7410	MEDIA .7440 Print Advertising \$40,269 NTD partners with the Arizona Office of Tourism, Utah Tourism Department, & NM Tourism Department in .7450 Radio Advertising \$16,434 NTD utilized radio stations to publish tourist related events with KYAT from Gallup, NM, KNDN from Farmington,	56,703	
7510	TRAINING & PROFESSIONAL DUES .7520 Training and Registration Fees \$5,090 .7550 Mandatory Professional Dues \$694	5,784	
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 =	1,815	
TOTAL		145,803	145,803

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

PART I. PROGRAM INFORMATION: Program Name/Title: _____		Tourism Department		Business Unit No.: 510003	
PART II. DETAILED BUDGET:					
(A)		(B)		(C)	
Object Code (LOD 6)		Object Code Description and Justification (LOD 7)		Total by DETAILED Object Code (LOD 6)	
9000 CAPITAL OUTLAY		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.		240,000	
9020 INFRASTRUCTURE				90,000	
.9036 Communications		\$10,000			
.9038 Waterlines		\$30,000			
.9040 Power lines		\$30,000			
.9042 Water/Wastewater		\$20,000			
9050 BUILDING				150,000	
.9060 Construction in Progress		\$150,000			
		TOTAL		240,000	
				240,000	

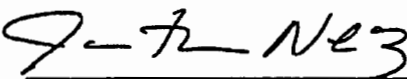
THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



MEMORANDUM

TO: ALL CONCERNED

FROM: 
Jonathan Nez, President
THE NAVAJO NATION

DATE: November 04, 2022

SUBJECT: DELEGATION OF AUTHORITY – Division of Economic Development

Please be informed that effective Monday, November 07, 2022, Mr. Douglas Capitan will be delegated as the Division Director for the Division of Economic Development until further notice.

Mr. Capitan shall be responsible for the administration and management of the Division of Economic Development. This shall include the supervision of all personnel, which includes ensuring compliance with all applicable Navajo Nation laws and policies.

Your cooperation will be greatly appreciated. If you have any questions, please reach out to Paulson Chaco, Chief of Staff at (928) 871-7000 or by email at paulsonchaco@navajo-nsn.gov. Ahéhee'.

ACKNOWLEDGED:


Douglas Capitan, Department Manager I
NNDED/Support Services Department

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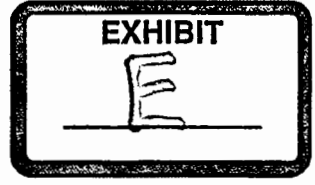
FY 2022

THE NAVY'S 17th NATION
LISTING OF POSITIONS AND ASSIGNMENTS BY BUSINESS UNIT

[Signature]
DPM Certified Date 1/14/2021

SUB ACCT	POS NO	JOB TYPE	POSITION TITLE	EMP ID	WORK SITE	FY 2021 ACTUAL			HOURS	FY 2022 PROPOSED	
						Q/S	H/R	SALARY		BUDGET PERIOD	BUDGET
11003 - PDD-TOURISM PROGRAM											
1104	244554	1230	Department Manager	15501	STM	BJ68A	29.52	51,637.76	2,088	10/01/2021 - 09/30/2022	51,639.00
1108	256453	3402	Senior Economic Development Specialist	12743	SRN	BJ66C	26.37	55,060.56	2,088	10/01/2021 - 09/30/2022	55,061.00
1109	244169	3407	Marketing Specialist KAS	299393	STM	BJ66A	24.84	51,865.92	2,088	10/01/2021 - 09/30/2022	51,865.00
1110	244170	3407	Marketing Specialist C	181993	STM	BJ66A	24.84	51,865.92	2,088	10/01/2021 - 09/30/2022	51,865.00
1111	244167	3407	Marketing Specialist	163874	STM	BJ66A	24.84	51,865.92	2,088	10/01/2021 - 09/30/2022	51,865.00
1112	160760	1260	Administrative Assistant	241718	STM	BJ62A	18.06	37,709.28	1,044	10/01/2021 - 09/30/2022	16,865.00
2110 - SUBTOTAL: \$									291,152.00		
BUSINESS UNIT TOTAL: \$									291,152.00		

\$210,659



THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



Memorandum:

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

Robert Willie

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.

NAVAJO NATION OFFICE OF THE CONTROLLER

P.O.BOX 3150 • WINDOW ROCK, AZ 86515 • PHONE: (928) 871-6398 • FAX: (928) 871-6026

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

EXHIBIT A

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

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	<u>39,264</u>
Total Revenue	(346,851)
Expenditures:	
Total Expenditures	<u>91,276</u>
Excess (deficit) of revenues over expenditures	(255,575)
Transfers	<u>-</u>
Net change in fund balances	<u>(255,575)</u>

(1) - Unappropriated Balance Available

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'iyáti 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

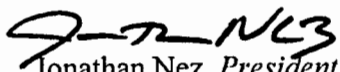
Dear Speaker Damon,

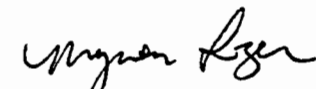
Thank you to the Navajo Nation Council and Delegate Wilson Stewart, Jr., and the Tourism Department for the work put into this legislation. We understand the loss of revenue experienced by the Tourism Department during the Covid-19 pandemic and appreciate the department's diligence in continuing operations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

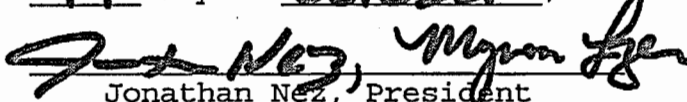
Sept 7, 2022
DATE

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.

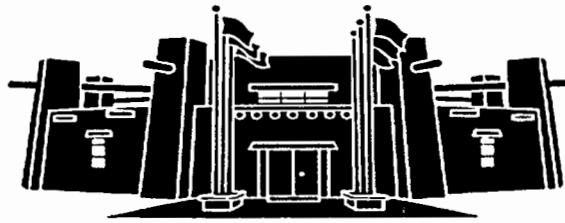
Jonathan Nez, President
Navajo Nation

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

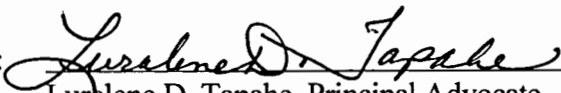
§ 741. Allocation

- 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 law, the net revenue from this tax shall be deposited and retained in a special fund titled the "Navajo Nation HOT/Tourism Fund" ("HOT/Tourism Fund").
- B. On an annual basis, funds from the HOT/Tourism Fund shall be allocated and expended first to cover the 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 Tourism Department or other Navajo Nation programs.
- C. Consistent with the laws of the Navajo Nation and utilizing the "prudent person rule," allocations from the HOT/Tourism Fund shall be used strictly for local tourism promotion and tourism-related projects throughout the Navajo Nation.
- 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 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, and/or amend, the Fund Management Plan.
- E. All budgeting, funding requests, appropriations, allocations, and expenditures of money from the HOT/Tourism Fund, by the Tourism Department or any other program, shall be in accordance with the approved Fund Management Plan, as amended.



MEMORANDUM

To: Hon. Eugenia Charles-Newton, Chair
Law & Order Committee
24th Navajo Nation Council

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

Date: December 6, 2022

Subject: **AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, LAW AND ORDER, BUDGET AND FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ALLOCATING \$900,000 FROM THE TOURISM FUND TO THE TOURISM DEPARTMENT FOR ITS PERSONNEL AND OPERATING EXPENSES FOR FY2023; AMENDING 24 N.N.C. §741 TO ALLOW REVENUE IN THE TOURISM FUND TO BE USED BY ALL PROGRAMS FOR TOURISM-RELATED PURPOSES; RESCINDING RESOLUTION NO. CS-45-22**

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 review of all supporting documents regarding your request that were submitted to OLC, 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.