

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, LAW AND ORDER, NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION CODE TITLE 24 BY ENACTING THE UNIFORM LOCAL TAX CODE

BE IT ENACTED:

Section One. Authority

- A. The Navajo Nation Council established the Resources and Development Committee (RDC) as a Navajo Nation standing committee and as such empowered RDC to review and to make recommendations to the Navajo Nation Council for final approval, resolutions regarding taxation proposals affecting business or commercial activities. 2 N.N.C. §§ 500 (A), 501 (B)(4)(d) (2012) *see also* CO-45-12.
- B. The Navajo Nation Council established the Budget and Finance Committee (B&F) as a Navajo Nation standing committee and as such empowered B&F to review and to recommend to the Navajo Nation Council resolutions regarding fund management. 2 N.N.C. §§ 300 (A), 301 (B)(2) (2012) *see also* CO-45-12.
- C. The Navajo Nation Council established the Law and Order Committee (LOC) as a Navajo Nation standing committee and as such empowered LOC to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 600 (A), 601 (B)(14) (2012) *see also* CO-45-12.
- D. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee. 2 N.N.C. § 164 (A)(9), *see also* CO-45-12.
- E. The Navajo Nation Council must review and approve enactments of positive law. 2 N.N.C. § 164(A).

Section Two. Findings

- A. The Navajo Tax Commission is empowered to review and study all sources of wealth and income within the Navajo Nation and the possible revenues from the taxation of those sources, in order to develop and appropriate, comprehensive system of taxation. 2 N.N.C. § 3353(A)(1).
- B. The Navajo Tax Commission is empowered to administer, and delegate the administration of, all Navajo taxes and, to that end, shall be empowered to adopt substantive and procedural rules and regulations, orders implementing its decisions and rulings, and instructions such as may be necessary to the proper and efficient administration of these laws. 24 N.N.C. § 103(A).
- C. Navajo Nation Chapters may adopt ordinances including local taxes pursuant to a local tax code developed by the Navajo Tax Commission and approved by the Navajo Nation Council. 26 N.N.C. § 103(E)(8).
- D. The Navajo Tax Commission approved the development of the local tax code as recommended by the Office of the Navajo Tax Commission. Resolution of the Navajo Tax Commission, TAX-16-231, attached as **Exhibit A**.
- E. The purpose of the recommended local tax code is to provide statutory rules applicable for all local taxes authorized in the Navajo Tax Code that may be imposed by governance certified Chapters through 26 N.N.C. § 103(E)(8).
- F. The Navajo Nation finds the following Navajo Nation Code amendment, Title 24, in the Navajo Nation's best interest.

Section Three. Amendments to Title 24 of the Navajo Nation Code

The Navajo Nation hereby amends Title 24 of the Navajo Nation Code, as follows:

NAVAJO NATION CODE ANNOTATED
TITLE 24. TAXATION
CHAPTER 2. UNIFORM LOCAL TAX CODE

§ 150 SHORT TITLE

This Chapter shall be called the Uniform Local Tax Code.

§ 151 PURPOSE

The purpose of this Chapter is to provide statutory rules applicable for all local taxes authorized in the Navajo Tax Code to be imposed by governance-certified chapters pursuant to Title 26 Section 103(E)(8) of the Navajo Nation Local Governance Act.

§ 152 ADMINISTRATION

- A. The Commission is empowered to administer, and delegate the administration of, all local taxes imposed by a governance-certified chapter pursuant to the Navajo Tax Code and Title 26 Section 103(E)(8) of the Navajo Nation Local Governance Act.
- B. The Commission's administration of local taxes shall be in accordance with the Uniform Tax Administration Statute, with all powers and authorities consistent therewith.
- C. The Commission shall retain a negotiated percentage not exceeding 5% of the local taxes it collects on behalf of a governance-certified chapter as a fee to offset the costs of administration, and remit the balance to the governance-certified chapter.

§ 153 LOCAL TAX ORDINANCES

- A. A governance-certified chapter may impose a local tax pursuant to a local tax ordinance duly adopted in accordance with Title 26 of the Navajo Nation Code, and approved by the Navajo Tax Commission under Section 153 of this Chapter.
- B. The chapter officials shall submit a draft local tax ordinance to the Office of Navajo Tax Commission for technical assistance review. The Executive Director or his/her designee shall, within thirty (30) days of receipt of the draft local tax ordinance, meet with chapter representatives to discuss any potential issues or concerns. The Commission shall review the proposed local tax ordinance for consistency with the Navajo Tax Code.
- C. The Navajo Tax Commission shall approve a local tax ordinance provided:
1. the local tax is specifically authorized for imposition by a governance-certified chapter under the Navajo Tax Code;
 2. the rate of the additional tax imposed is authorized by the Navajo Tax Code;

3. the tax is applied solely to the same activity, and in the same manner as, the correlating Navajo tax for which a local tax component has also been authorized under the Navajo Tax Code;
 4. the local tax does not displace the correlating Navajo tax;
 5. the ordinance includes a declaration that the local tax revenues the chapter receives under the ordinance are chapter funds for purposes of Title 26 Section 2003;
 6. the ordinance describes the manner in which the local tax revenues generated for the chapter shall be allocated;
 7. the ordinance includes a declaration that the local tax revenues generated and expended will be timely reported to the Office of Management and Budget to facilitate the budget process set forth in Title 26 Section 2003 and subject to audit by the Auditor General pursuant to Title 12; and
 8. there are no provisions or issues that may frustrate the ability of the Office of Navajo Tax Commission's ability to administer the local tax, such as provisions that are retroactive or otherwise inconsistent with the Navajo Tax Code or the prospect of boundary disputes with a neighboring chapter.
- D. Following the conclusion of the technical assistance process described in paragraph B, the chapter may proceed adopting the local tax ordinance pursuant to Title 26 Section 2001(H).
- E. Upon successful adoption of a local tax ordinance, the chapter shall submit the local tax ordinance to the Office of the Navajo Tax Commission for administration.

§ 154 TAXPAYER RIGHTS AND OBLIGATIONS

In addition to those rights and obligations described in this Chapter Two, the taxpayer shall have the same rights and obligations with respect to a given local tax as the taxpayer has with respect to the correlating Navajo tax. Failure to timely fulfill any such obligation with respect to an applicable local tax shall carry with it the same interest, penalties and costs as if such failure had been with respect to the correlating Navajo tax. A failure with respect to a local tax

obligation will be a separate offense from a similar failure with respect to the correlating Navajo tax.

§ 155 CONFIDENTIALITY RULES

For purposes of Section 134, "employee of the Office of the Navajo Tax Commission" shall include the duly elected leadership of a Chapter imposing a local tax under the Navajo Tax Code, provided that the information is limited to the local tax imposed.

§ 156 EFFECTIVE DATE

This Chapter shall take effect upon approval by the Navajo Nation Council and in accordance with 2 N.N.C. § 1005.

Section Four. Effective Date

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

Section Five. Codification

The provisions of the Act which amend or adopt new sections 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.

Section Six. Savings Clause

Should any portion of the amendment enacted herein be determined invalid by the Navajo Nation Supreme Court, or the District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions not determined invalid shall remain in 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 16 in favor and 00 opposed, on this 25th day of January 2018.

Jonathan L. Hale

Jonathan L. Hale, Speaker Pro Tem
23rd Navajo Nation Council

Feb 2, 2018

Date

Motion: Honorable Lee Jack, Sr.

Second: Honorable Leonard Pete

Speaker Pro Tem Hale 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 12th day of February 2018.

Russell Begaye

Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this _____ day of _____ 2018 for reason(s) expressed in the attached letter to the Speaker

Russell Begaye, President
Navajo Nation



RESOLUTION OF THE NAVAJO TAX COMMISSION

RECOMMENDING NAVAJO NATION COUNCIL APPROVAL OF THE LOCAL TAX CODE

WHEREAS:

1. Pursuant to 2 N.N.C. §3352 *et seq.*, the Navajo Tax Commission has the authority to develop the tax policy for the Navajo Nation; and
2. Pursuant to 2 N.N.C. §3353 (A)(1), the Navajo Tax Commission is authorized to “review and study all sources of wealth and income within the Navajo Nation and the possible revenues from the taxation of those sources, in order to develop an appropriate, comprehensive system of taxation”; and
3. Pursuant to 26 N.N.C. §103 (E)(8), the Navajo Tax Commission is authorized to develop a local tax code for approval by the Navajo Nation Council; and
4. The Office of the Navajo Tax Commission in coordination with the Navajo Nation Department of Justice secured the assistance of outside legal counsel to develop a local tax code; and
5. The Office of the Navajo Tax Commission has recommended that the Navajo Tax Commission approve the development of the Local Tax Code, attached as Exhibit “A” (hereinafter the “Local Tax Code”), and that the Navajo Tax Commission recommend to the Navajo Nation Council the approval of the Local Tax Code.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tax Commission approves the development of the Local Tax Code, attached as Exhibit “A”.
2. The Navajo Tax Commission recommends that the Navajo Nation Council approve the Local Tax Code, attached as Exhibit “A”.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tax Commission at a duly called meeting in St. Michaels, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 3 in favor and 0 opposed, with 0 abstaining, this 13th day of December, 2016.


Geraldine Kee-Yazzie, Chairperson
Navajo Tax Commission

Motioned: Pearline Kirk
Seconded: Wilbur Nelson, Jr.

150 SHORT TITLE

This Chapter shall be known as Chapter Two of the Navajo Tax Code, the Uniform Local Tax Code.

151 PURPOSE

The purpose of this Chapter is to provide statutory rules applicable for all local taxes authorized in the Navajo Tax Code to be imposed by governance-certified chapters pursuant to Title 26 Section 103(E)(8) of the Navajo Nation Local Governance Act.

152 ADMINISTRATION

A. The Commission is empowered to administer, and delegate the administration of, all local taxes imposed by a governance-certified chapter pursuant to the Navajo Tax Code and Title 26 Section 103(E)(8) of the Navajo Nation Local Governance Act.

153 LOCAL TAX ORDINANCES

A. A governance-certified chapter may impose a local tax pursuant to a local tax ordinance duly adopted in accordance with Title 26 of the Navajo Nation Code, and approved by the Navajo Tax Commission under Section 153 of this Chapter.

B. The chapter officials shall submit a draft local tax ordinance to the Office of Navajo Tax Commission for a technical assistance review. The Executive Director or his/her designee shall, within thirty (30) days of receipt of the draft local tax ordinance, meet with chapter representatives to discuss any potential issues or concerns. The Commission shall approve the proposed local tax ordinance for consistency with the Navajo Tax Code.

C. The Navajo Tax Commission shall approve a local tax ordinance provided:

1. the local tax is specifically authorized for imposition by a governance-certified chapter under the Navajo Tax Code;
2. the rate of the additional tax imposed is authorized by the Navajo Tax Code;
3. the tax is applied solely to the same activity, and in the same manner as, the correlating Navajo tax for which a local tax component has also been authorized under the Navajo Tax Code;
4. the local tax does not displace the correlating Navajo tax;
5. the ordinance includes a declaration that the local tax revenues generated under the ordinance are chapter funds for purposes of Title 26 Section 2003;

UNIFORM LOCAL TAX CODE

6. the ordinance describes the manner in which the local tax revenues generated for the chapter shall be allocated;
 7. the ordinance includes a declaration that the local tax revenues generated and expended will be timely reported to the Office of Management and Budget to facilitate the budget process set forth in Title 26 Section 2003 and subject to audit by the Auditor General pursuant to Title 12; and
 8. there are no provisions or issues that may frustrate the ability of the Office of Navajo Tax Commission's ability to administer the local tax, such as provisions that are retroactive or otherwise inconsistent with the Navajo Tax Code or the prospect of boundary disputes with a neighboring chapter.
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For purposes of Section 134, "employee of the Office of the Navajo Tax Commission" shall include the duly elected leadership of a Chapter imposing a local tax under the Navajo Tax Code, provided that the information is limited to the local tax imposed.

156 EFFECTIVE DATE

This Chapter shall take effect upon approval by the Navajo Nation Council and in accordance with 2 N.N.C. § 1005.

NAVAJO NATION

RCS# 951

Winter Session

1/25/2018
04:52:13 PM

Amd# to Amd#

Legislation No. 0405-17

PASSED

MOT Jack
SEC Pete

Amending Navajo Nation Code
Title 24 Enacting the Uniform
Local Tax Code

Yea : 16

Nay : 0

Excused : 0

Not Voting : 8

Yea : 16

Begay, K
Begay, NM
Begay, S
BeGaye, N

Bennett
Chee
Crotty
Damon

Daniels
Filfred
Jack
Perry

Pete
Slim
Smith
Witherspoon

Nay : 0

Excused : 0

Not Voting : 8

Bates
Brown

Hale
Phelps

Shepherd
Tso

Tsosie
Yazzie