LEGISLATION NO: _0128-21_  SPONSOR: Pernell Halona

TITLE: An Act Relating to Health, Education, and Human Services, Budget and Finance, and Naabik’íyáti’ Committees, and the Navajo Nation Council; Approving $258,512.00 in Supplemental Funding Out of the Nation’s Unreserved, Undesignated Fund Balance for the Tohatchi Area of Opportunity & Services, Inc. to Provide Transportation Services for its Clients

Date posted: ___July 27, 2021 at 5:24PM

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DATE: July 26, 2021

TITLE OF LEGISLATION: AN ACT RELATING TO HEALTH, EDUCATION, AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING $258,512.00 IN SUPPLEMENTAL FUNDING OUT OF THE NATION'S UNRESERVED, UNDESIGNATED FUND BALANCE FOR THE TOHATCHI AREA OF OPPORTUNITY & SERVICES, INC. TO PROVIDE TRANSPORTATION SERVICES FOR ITS CLIENTS

PURPOSE OF THIS LEGISLATION: to approve $258,512.00 in UUFZ funds for the Tohatchi Area of Opportunity and Services, Inc. for the purchase of 8 new vehicles.

OLC No. 21-297-1
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0128-21

AN ACT

RELATING TO HEALTH, EDUCATION, AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK’ÍYÁTI’ COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING $258,512.00 IN SUPPLEMENTAL FUNDING OUT OF THE NATION’S UNRESERVED, UNDESIGNATED FUND BALANCE FOR THE TOHATCHI AREA OF OPPORTUNITY & SERVICES, INC. TO PROVIDE TRANSPORTATION SERVICES FOR ITS CLIENTS

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation established the Health, Education, and Human Services Committee (“HEHSC”) as a Navajo Nation Council standing committee, and as such gave HEHSC the authority to oversee all health and social service related activities of the Navajo Nation and its tribal organizations, enterprises, relating to the delivery of health, environmental health and social services . . . .” 2 N.N.C. §401(C)(2).

B. The Navajo Nation established the Budget and Finance Committee (“BFC”) as a Navajo Nation Council standing committee, and as such empowered BFC to review and recommend to the Navajo Nation Council the management of all funds. 2 N.N.C. §300(A), and §301(B)(2).
C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation standing committee, and proposed legislation requiring final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. §164(A)(9) and §700(A).

D. The Navajo Nation Council is the governing body of the Navajo Nation, with the authority to approve supplemental appropriations. 2 N.N.C. §102(A), 12 N.N.C. §820(L).

E. Pursuant to 12 N.N.C. §820(L), "[t]he 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)."

F. The Title 12 Supplemental Appropriation requirements include:

1. All requests for annual operating funds and supplemental funds shall be submitted to the Office of Management and Budget (OMB) for budget impact analysis. 12 N.N.C. §820(M).

2. When the Controller identifies additional sources of revenues above and beyond the initial or current revenue projections, supplemental appropriations may be approved by the Navajo Nation Council. 12 N.N.C. §820(L).

3. Supplemental Appropriations made from non-recurring revenues shall only be made for non-recurring operations or purposes, as set forth at §820(F). The Controller of the Navajo Nation shall be responsible for the designation of recurring and non-recurring revenues. 12 N.N.C. §820(L).

4. The Navajo Nation Code provides, "[t]he Nation shall restrict non-recurring revenues to budget non-recurring expenditures. In addition, non-recurring revenues will be budgeted only after an examination by the Controller to determine whether or not the revenues are subsidizing an imbalance between recurring revenues and expenditures, and expenditures may be authorized only if a long-term (three-five year) forecast shows that the operating deficit will not continue. Otherwise, non-recurring revenues will be added to the Unreserved, Undesignated Fund balance. This provision may be amended or waived by a two-thirds vote of the full Navajo Nation Council." 12 N.N.C. §820(F).
SECTION TWO. FINDINGS

A. This request for supplemental funding seeks the amount of $258,512.00 out of the Unreserved, Undesignated Fund Balance, to assist the Tohatchi Area of Opportunity & Services, Inc. ("TAOS") in providing transportation services to its intellectually and developmentally disabled clients.

B. TAOS, formerly known as A School for Me, Inc., was recognized as a Tribal Organization in 1982 by Resolution No. ACJN-69-82. TAOS provides assisted living services, adult habilitation, community-based support, employment support, and other critical services to adults and children with intellectual and developmental disabilities. TAOS serves many Navajo Nation communities.

C. In a memorandum from the TAOS Executive Director dated March 15, 2021, and in TAOS’ Grant Application document, TAOS explains that the organization urgently needs 8 new vehicles to replace nearly half of their aging, high-mileage, high-maintenance, fleet of 17 vehicles. Their current vehicles are old and unreliable and some have been deemed unsafe. These new vehicles are needed to provide ready and reliable transportation for clients to participate in community activities, attend medical appointments, job interviews, and other critical appointments, so they can be empowered to function as independently as possible. Exhibit A.

D. The supplemental funding proposal, budget forms and related documents, including Appendix K “Supplemental Funding Proposal Summary,” for TAOS are attached as Exhibit B and B-1.

E. The Office of the Controller issued a memorandum dated June 28, 2021, to satisfy the requirements in 12 N.N.C. §820(L), attached as Exhibit C. The Controller has identified TAOS’ proposed expenditures as NON-RECURRING. Therefore, this funding request fits within the requirements of 12 N.N.C. §820(F).

F. The Office of Management and Budget issued a memorandum dated June 25, 2021, to satisfy the requirements in 12 N.N.C. §820(M), attached as Exhibit D.

G. Various organizations and ten chapters have voiced their support for this funding for TAOS to obtain the needed vehicles. Exhibit E.
SECTION THREE. APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE

A. The Navajo Nation hereby approves $258,512.00 in supplemental funding from the Unreserved, Undesignated Fund Balance for the Tohatchi Area of Opportunity & Services, Inc.

B. This supplemental appropriation of $258,512.00 shall be from that amount of funds that exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance as determined by the Office of the Controller.

C. The $258,512.00 in funds allocated for TAOS shall be distributed to the Division of Community Development within twenty (20) days following enactment of this legislation.

D. Upon receipt of the funds, the Division of Community Development shall promptly purchase the 8 vehicles listed in Exhibit B-1 and arrange for delivery of the vehicles, and transfer of all vehicle titles, to TAOS.

E. After transfer of title to TAOS, TAOS shall be wholly responsible for the operation, maintenance, and repairs of the 8 vehicles, and shall obtain appropriate liability and other insurance covering use of the 8 vehicles. The Navajo Nation shall not be liable for any condition or event pertaining to the 8 purchased vehicles.

F. The Unreserved, Undesignated Fund Balance shall be reimbursed in the full amount allocated in this legislation, from prospective funds available to the Navajo Nation from any and all state and federal sources, including Congressional appropriations under the American Rescue Plan Act of 2021 or other COVID-19 related relief.

SECTION FOUR. SAVINGS CLAUSE

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

SECTION FIVE. EFFECTIVE DATE

The provisions of this Act shall become effective in accordance with 2 N.N.C. §221.
SECTION SEVEN. DIRECTIVE

Within ninety calendar days of the effective date of this legislation, the Division of Community Development shall provide a written report on the status of expenditures under this legislation, to the Naabik'iyati' Committee and to the Office of the President and Vice-President.