

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0107-22_

SPONSOR: Eugene Tso

TITLE: An Act Relating to the Budget and Finance, Health, Education and Human Services, and Naabik'iyáti' Committees, and the Navajo Nation Council; Approving \$13,334,871 from the Unreserved, Undesignated Fund Balance ("UUFb") for the Renovations Necessary at Certain Navajo Nation Government Facilities to Provide Access to Persons with Disabilities; and Waiving 12 N.N.C. § 820(M) Regarding OMB Review

Date posted: June 29, 2022 at 8:36PM

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0107-22

Date: June 29, 2022

Re: AN ACT RELATING TO THE BUDGET AND FINANCE, HEALTH, EDUCATION, AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING \$13,334,871 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUFB") FOR THE RENOVATIONS NECESSARY AT CERTAIN NAVAJO NATION GOVERNMENT FACILITIES TO PROVIDE ACCESS TO PERSONS WITH DISABILITIES; AND WAIVING 12 N.N.C. §820(M) REGARDING OMB REVIEW

Purpose of this Legislation:

to appropriate \$13,334,871 from the UUFB to the Division of General Services/ Facilities Maintenance Department to renovate Navajo Nation government buildings, structures, and facilities to make them accessible to persons with disabilities.


OLC No. 22-126-1

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

Naabik'iyáti' Committee
Thence
Navajo Nation Council

Introduced by:



(Prime Sponsor)

Tracking No. 0107-22

AN ACT

**RELATING TO THE BUDGET AND FINANCE, HEALTH, EDUCATION,
AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE
NAVAJO NATION COUNCIL; APPROVING \$13,334,871 FROM THE
UNRESERVED, UNDESIGNATED FUND BALANCE ("UUFb") FOR THE
RENOVATIONS NECESSARY AT CERTAIN NAVAJO NATION GOVERNMENT
FACILITIES TO PROVIDE ACCESS TO PERSONS WITH DISABILITIES;
AND WAIVING 12 N.N.C. §820(M) REGARDING OMB REVIEW**

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation established the Budget and Finance Committee as a Navajo Nation Council standing committee, and authorized the Committee to review and recommend to the Navajo Nation Council the management of all funds, which includes the Navajo Nation's Unreserved, Undesignated Fund Balance ("UUFb"). 2 N.N.C. §164(A)(9); 2 N.N.C. §300(A); 2 N.N.C. §301(B)(2).

B. The Health, Education, and Human Services Committee is a Navajo Nation Council standing committee with oversight authority over the Division of General Services. 2 N.N.C. §401(A); 2 N.N.C. §401(C)(1).

C. The Navajo Nation established the Naabik'iyáti' Committee as a Navajo Nation Council

1 standing committee, and all proposed legislation that requires final action by the Navajo
2 Nation Council is assigned to the Naabik'iyáti' Committee for its review and consideration.
3 2 N.N.C. §164(A)(9); 2 N.N.C. §700(A).

4 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
5 As such, the Council “. . . may adopt and approve supplemental appropriations to the Annual
6 Comprehensive Budget during the fiscal year. Supplemental appropriations of General Funds
7 within the current fiscal year are permitted, if and when additional sources of revenues above
8 and beyond the initial or current revenue projections are projected and which are also in
9 excess of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L). Generally,
10 supplemental funding is appropriated from the UUFB.

11 E. The Title 12 restrictions on supplemental appropriations from the UUFB, include:

12 1. Payment of recurring government operating expenses shall be from recurring
13 revenues, and payment of nonrecurring expenses shall be from nonrecurring revenues
14 such as UUFB funds. 12 N.N.C. §820(E); 12 N.N.C. §820(F).

15 2. Specifically, the UUFB shall not be used for recurring government expenditures or
16 operations. 12 N.N.C. §820(J); 12 N.N.C. §820(L).

17 3. Nonrecurring revenues such as UUFB funds may be used only after the Controller
18 determines whether or not such revenues are subsidizing an imbalance between the
19 Navajo Nation's recurring revenues and expenditures, and government expenditures
20 shall only be authorized if a long-term (3-year to 5-year year) forecast shows that the
21 operating deficit will not continue; otherwise, nonrecurring revenues will be added to
22 the Unreserved, Undesignated Fund Balance. 12 N.N.C. §820(F).

23 4. The above provisions in Title 12 may be amended or waived by a two-thirds vote of
24 the full membership of the Navajo Nation Council. 12 N.N.C. §820(F); 12 N.N.C.
25 §880.

26 5. Pursuant to 12 N.N.C. §820(F) all UUFB funding requests must be reviewed by the
27 Controller. Such review is also required because the Controller determines which
28 revenues and expenses are recurring and which are non-recurring. 12 N.N.C. §820(L).

29 6. Pursuant to 12 N.N.C. §820(M) all UUFB funding requests must be submitted to the
30 Office of Management and Budget (“OMB”) for a budget impact analysis.

1 **SECTION TWO. FINDINGS**

2 A. The Facilities Maintenance Department within the Division of General Services (“FMD”) is
3 requesting \$13,334,871 from the UUFB in order to pay for the costs to renovate existing
4 Navajo Nation government public facilities to make them accessible to disabled persons.

5 **EXHIBIT A.**

6 B. This substantial task affecting dozens of Navajo Nation government buildings and facilities
7 across the Navajo Nation was mandated by the Navajo Nation Council in Resolution No.
8 CJY-63-18, wherein the Council adopted the “Navajo Nation Civil Rights Of Individuals
9 With Disabilities Act of 2018” (“CRIDA”). Resolution No. CJY-63-18 is attached hereto as

10 **EXHIBIT B.**

11 C. The CRIDA specifically provides:

12 §4508. Government Services

13 No otherwise qualified person with a disability shall, by reason of such disability,
14 be denied or excluded from the benefit of any service, program or activity offered
15 by any governmental or public entity on the Navajo Nation, unless no reasonable
16 accommodations can be made which will afford access to and participation in
17 such service, program or activity. 10 N.N.C. §4508.

18 D. FMD is now requesting \$13,334,871 from the UUFB to pay for the extensive renovations
19 needed for the Navajo Nation government to come into compliance with the CRIDA, because
20 no funding was allocated when CJY-63-18 was approved back in 2018.

21 E. FMD has provided an Appendix K “Supplemental Funding Proposal Summary” for its
22 UUFB request. **EXHIBIT C.**

23 F. FMD has also provided completed and signed Budget Forms 1, 2, and 4, for its UUFB
24 request. **EXHIBIT D.**

25 G. A comprehensive list of all Navajo Nation government facilities needing renovation for
26 CRIDA compliance, and the cost of such work for each building and other structure, broken
27 down by Agency, is attached at **EXHIBIT E.**

28 H. The Office of the Controller’s memorandum required by 12 N.N.C. §820(L) is attached as
29 **EXHIBIT F.** The Controller has indicated that FMD’s proposed expenditures are considered
30 “non-recurring” expenses.

1 **SECTION THREE. APPROPRIATING \$13,334,871 FROM THE UUFB FOR THE**
2 **RENOVATIONS NECESSARY AT CERTAIN NAVAJO NATION**
3 **GOVERNMENT FACILITIES TO PROVIDE ACCESS TO**
4 **PERSONS WITH DISABILITIES; AND WAIVING 12 N.N.C.**
5 **§820(M) REGARDING OMB REVIEW**

6 A. The Navajo Nation hereby allocates \$13,334,871 from the UUFB to the Division of General
7 Services/Facilities Maintenance Department for its use in performing (or administering
8 contracts for) necessary renovations to certain Navajo Nation government buildings,
9 structures, and facilities, as shown in the attached **EXHIBITS C, D, and E.**

10 B. This supplemental appropriation shall be from those funds that exceed the minimum fund
11 reserve balance in the UUFB required by 12 N.N.C. §820(J), as determined by the Controller.

12 C. The Navajo Nation hereby waives the requirement for OMB review of this UUFB funding
13 request pursuant to 12 N.N.C. §820(M), and approves the requested \$13,334,871 in UUFB
14 funds despite the lack of OMB's budget impact analysis.

15 D. This supplemental appropriation shall not lapse at the end of the fiscal year, as would
16 otherwise occur pursuant to 12 N.N.C. §820(N). However, any UUFB funds not spent or
17 encumbered within thirty-six (36) months of the date the funds are provided to the FMD shall
18 immediately revert to the UUFB, unless otherwise approved by both the Health, Education,
19 and Human Services Committee and the Naabik'iyáti' Committee of the Navajo Nation
20 Council.

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22 **SECTION FIVE. EFFECTIVE DATE**

23 This Act shall become effective as provided in 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17).
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25 **SECTION SIX. SAVING CLAUSE**

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