

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0062-23_

SPONSOR: Brenda Jesus

TITLE: An Action Relating to the Health, Education and Human Services, Budget and Finance, and Naabik'iváti' Committees and to the Navajo Nation Council; Approving \$1,573,288 from the Unreserved, Undesignated Fund Balance to the Division of Social Services for a Grant to St. Michaels Association for Special Education

Date posted: April 05, 2023 at 10:31PM

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0062-23

Date: April 5, 2023

Re: **AN ACTION RELATING TO THE HEALTH, EDUCATION, & HUMAN SERVICES, BUDGET & FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$1,573,288 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE TO THE DIVISION OF SOCIAL SERVICES FOR A GRANT TO ST. MICHAELS ASSOCIATION FOR SPECIAL EDUCATION**

Purpose of this Legislation:

to approve \$1,573,288 from the Sihasin Fund for the Division of Social Services for a grant to the St. Michaels Association for Special Education; approving the related Expenditure Plan.

OLC No. 23-125-1

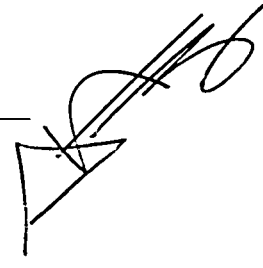
5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 04-10-23
Eligible for Action: 04-11-23

Health Education & Human Services Committee
Thence
Budget & Finance Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 25th NAVAJO NATION COUNCIL - First Year, 2023

3 Introduced by:

4 _____
5
6 (Prime Sponsor)



7
8 Tracking No. 0062-23

9
10 AN ACTION

11 RELATING TO THE HEALTH, EDUCATION, & HUMAN SERVICES, BUDGET
12 & FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO
13 NATION COUNCIL; APPROVING \$1,573,288 FROM THE UNRESERVED,
14 UNDESIGNATED FUND BALANCE TO THE DIVISION OF SOCIAL SERVICES
15 FOR A GRANT TO ST. MICHAELS ASSOCIATION FOR SPECIAL EDUCATION

16
17 BE IT ENACTED:

18
19 SECTION ONE. AUTHORITY

- 20 A. The Health, Education, and Human Services Committee (“HEHSC”) is a standing committee
21 of the Navajo Nation Council with the authority to oversee education matters on the Navajo
22 Nation. 2 N.N.C. §401(C)(2). HEHSC also has oversight responsibility for the Division of
23 Social Services. 2 N.N.C. §401(C)(1).
- 24 B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council
25 with the authority to review and recommend to the Navajo Nation Council the management
26 of all funds. 2 N.N.C. §300(A), and §301(B)(2).
- 27 C. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation
28 standing committee, and proposed legislation requiring final action by the Council shall be
29 assigned to the Naabik'iyáti' Committee. 2 N.N.C. §164(A)(9) and §700(A).
- 30 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).

1 As such, the Council “. . . may adopt and approve supplemental appropriations to the Annual
2 Comprehensive Budget during the fiscal year. Supplemental appropriations of General Funds
3 within the current fiscal year are permitted, if and when additional sources of revenues above
4 and beyond the initial or current revenue projections are projected and which are also in
5 excess of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L).

6 E. The Title 12 restrictions on supplemental appropriations, including all amounts from the
7 Unreserved, Undesignated Fund Balance (“UUFb”), include:

- 8 1. Payment of recurring government operating expenses shall be from recurring revenues,
9 and payment of nonrecurring expenses shall be from nonrecurring revenues such as UUFb
10 funds. 12 N.N.C. §820(E); 12 N.N.C. §820(F).
- 11 2. Specifically, the UUFb shall not be used for recurring government expenditures or
12 operations. 12 N.N.C. §820(J); 12 N.N.C. §820(L).
- 13 3. Nonrecurring revenues such as UUFb funds may be used only after the Controller
14 determines whether or not such revenues are subsidizing an imbalance between the
15 Navajo Nation’s recurring revenues and expenditures, and government expenditures shall
16 only be authorized if a long-term (3-year to 5-year year) forecast shows that the operating
17 deficit will not continue; otherwise, nonrecurring revenues will be added to the UUFb. 12
18 N.N.C. §820(F).
- 19 4. The above provisions in Title 12 may be amended or waived by a two-thirds vote of the
20 full membership of the Navajo Nation Council. 12 N.N.C. §820(F); 12 N.N.C. §880.
- 21 5. Pursuant to 12 N.N.C. §820(F), all UUFb funding requests must be reviewed by the
22 Controller. Such review is also required because the Controller determines which
23 revenues and expenses are recurring and which are non-recurring. 12 N.N.C. §820(L).
- 24 6. Pursuant to 12 N.N.C. §820(M) all UUFb funding requests must be submitted to the
25 Office of Management and Budget (“OMB”) for a budget impact analysis.

26
27 **SECTION TWO. FINDINGS**

28 A. The St. Michaels Association for Special Education (“SMASE”) is seeking \$1,573,288 in
29 Navajo Nation funds to address detrimental effects from the COVID-19 pandemic, including
30 the closure of its Education Department. SMASE requests the funds in order to stabilize its

1 current operations, maintain services to its 17 Navajo clients, increase client enrollment,
2 continue employing 36 staff members and hire 11 new employees, and to maintain and
3 increase needed services in the St. Michaels community. Regarding this funding request,
4 SMASE has provided a Proposal dated March 30, 2023. **EXHIBIT A.**

5 B. SMASE has provided a Resolution from its Board of Directors approving and supporting
6 this funding request. **EXHIBIT B.** SMASE has also provided the required Navajo Nation
7 Grant Application and Navajo Nation Budget Forms. **EXHIBIT C.**

8 C. The Navajo Nation Division of Social Services has provided a memo explaining that it will
9 serve as the Navajo Nation fiscal agent for the grant to SMASE. **EXHIBIT D.**

10 D. The Fort Defiance, Sawmill, and Red Lake Chapters have approved resolutions supporting
11 SMASE's funding request. **EXHIBIT E.**

12 E. The Controller has provided a memorandum, as required by 12 N.N.C. §820(L). The
13 Controller has identified the proposed SMASE expenditures as *nonrecurring*. **EXHIBIT F.**

14 F. The Office of Management and Budget has provided a budget impact statement required by
15 12 N.N.C. §820(M). **EXHIBIT G.**

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17 **SECTION THREE. APPROVING \$1,573,288 FROM THE UNRESERVED,**
18 **UNDESIGNATED FUND BALANCE TO THE DIVISION OF**
19 **SOCIAL SERVICES FOR A GRANT TO ST. MICHAELS**
20 **ASSOCIATION FOR SPECIAL EDUCATION**

21 A. The Navajo Nation hereby approves \$1,573,288 from the Unreserved, Undesignated Fund
22 Balance to the Navajo Nation Division of Social Services ("DSS") for a grant to the St.
23 Michaels Association for Special Education, for the purposes explained in the attached
24 **EXHIBITS A, B, C, and D.**

25 B. Pursuant to 12 N.N.C. §820(J), the approved \$1,573,288 shall be from that amount of funds
26 that exceeds the 10% minimum fund balance of the Unreserved, Undesignated Fund Balance,
27 as determined by the Office of the Controller.

28 C. Normally under 2 N.N.C. §820(N), approved UUFB funds not expended or encumbered by
29 the end of the current fiscal year lapse and revert to the UUFB. However, with this Action the
30 Navajo Nation Council determines that the \$1,573,288 approved herein shall not lapse or

1 revert so long as SMASE continues to use the funds as explained in the attached **EXHIBITS**
2 **A, B, C, and D.**

3 D. No later than 30 business days after the effective date of this Action, the Controller shall
4 transfer the UUFb funds approved herein to DSS. DSS shall then promptly enter into a Grant
5 Agreement approved by the Controller and executed by SMASE and the Navajo Nation. Said
6 Grant Agreement shall establish a payment or drawdown plan, a fund management plan, or
7 other relevant procedures regarding SMASE's expenditure of the approved UUFb funds.

8 E. The UUFb funds approved herein shall be used by SMASE strictly for the purposes described
9 in the attached **EXHIBITS A, B, C, and D.** As a condition of receiving the UUFb funds,
10 upon request SMASE shall allow the Navajo Nation full access to its financial records related
11 to the UUFb funds provided to SMASE, for the purpose of the Navajo Nation's review and
12 audit of SMASE's expenditures of UUFb funds.

13 F. By October 31, 2023, SMASE shall submit a written report, and a verbal report if so requested,
14 explaining its "to date" expenditures of the approved UUFb funds, to DSS and the Health,
15 Education, and Human Services Committee. SMASE shall present further such reports to DSS
16 and the HEHSC by the end of each fiscal year Quarter until all UUFb funds approved herein
17 have been expended.

18
19 **SECTION FOUR. EFFECTIVE DATE**

20 This Action shall become effective as provided in 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17).
21

22 **SECTION FIVE. SAVING CLAUSE**

23 If any provision of this Action is determined invalid by the Navajo Nation Supreme Court or a
24 District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the
25 remainder of this Action shall remain the law of the Navajo Nation.
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