

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0109-26

SPONSOR: Carl R. Slater

TITLE:

An Act Relating to the Law and Order, Resources and Development, Budget and Finance, and Naabik'íyáti' Committees, and the Navajo Nation Council; Amending Council Resolution CJA-05-26 Which Enacted the "Capital Development Financing Act" at 12 N.N.C. §§ 3201 Et Seq. and Established the "Capital Development Financing Fund" ("CDFF"); Authorizing Refinancing, Restructuring, and Reimbursement Financing Transactions Secured By the CDFF; Appropriating \$75,546,678.33 From the Unreserved, Undesignated Fund Balance ("UUFb") to the Navajo Nation Broadband Office and Approving the Broadband Infrastructure Projects Expenditure Plan; Authorizing Use of First Financial Proceeds Secured with the CDFF to Reimburse the UUFb; Approving Such Broadband Projects for Inclusion in the First CDFF Financing Project Listing and Appropriating and Additional \$169,071,259.67 of CDFF Financing Proceeds For Broadband Projects for a Total of \$244,617,938.00.

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0109-26

DATE: June 2, 2026

TITLE OF RESOLUTION: AN ACT RELATING TO THE LAW AND ORDER, RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; AMENDING COUNCIL RESOLUTION CJA-05-26 WHICH ENACTED THE "CAPITAL DEVELOPMENT FINANCING ACT" AT 12 N.N.C. §§ 3201 *ET SEQ.* AND ESTABLISHED THE "CAPITAL DEVELOPMENT FINANCING FUND" ("CDFP"); AUTHORIZING REFINANCING, RESTRUCTURING, AND REIMBURSEMENT FINANCING TRANSACTIONS SECURED BY THE CDFP; APPROPRIATING \$75,546,678.33 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUF") TO THE NAVAJO NATION BROADBAND OFFICE AND APPROVING THE BROADBAND INFRASTRUCTURE PROJECTS EXPENDITURE PLAN; AUTHORIZING USE OF FIRST FINANCING PROCEEDS SECURED WITH THE CDFP TO REIMBURSE THE UUF; APPROVING SUCH BROADBAND PROJECTS FOR INCLUSION IN THE FIRST CDFP FINANCING PROJECT LISTING AND APPROPRIATING AN ADDITIONAL \$169,071,259.67 OF CDFP FINANCING PROCEEDS FOR BROADBAND PROJECTS FOR A TOTAL OF \$244,617,938.00.

PURPOSE: This proposed resolution, if adopted, will authorize refinancing, restructuring, and reimbursement financing transaction secured by the Capital Development Financing Fund. The proposed resolution, if adopted, will also adopt the Broadband Infrastructure Projects Expenditure Plan funded through a UUF reimbursable appropriation for the first year in the amount of \$75,546,678. Future year funding in the amount \$169,071,259, plus reimbursement to the UUF of the first year funding shall be secured through the first CDFP financing proceeds.

FINAL AUTHORITY: Navajo Nation Council

VOTE REQUIREMENT: 2/3 majority

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each Council Delegate to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: At Mulet
Website Posting Time/Date: _____
Posting End Date: 06/08/26
Eligible for Action: 06/09/26

Law & Order Committee
Thence
Resources & Development Committee
Thence
Budget & Finance Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 25th NAVAJO NATION COUNCIL – Fourth Year, 2026

4 Introduced by:

5
6 
7 (Prime Sponsor)

9 Tracking No. 0109-26

11 AN ACT

12 RELATING TO THE LAW AND ORDER, RESOURCES AND DEVELOPMENT,
13 BUDGET AND FINANCE, AND NABIK'ÍYÁTI' COMMITTEES, AND THE
14 NAVAJO NATION COUNCIL; AMENDING COUNCIL RESOLUTION CJA-05-
15 26 WHICH ENACTED THE “CAPITAL DEVELOPMENT FINANCING ACT”
16 AT 12 N.N.C. §§ 3201 *ET SEQ.* AND ESTABLISHED THE “CAPITAL
17 DEVELOPMENT FINANCING FUND” (“CDFS”); AUTHORIZING
18 REFINANCING, RESTRUCTURING, AND REIMBURSEMENT FINANCING
19 TRANSACTIONS SECURED BY THE CDFS; APPROPRIATING \$75,546,678.33
20 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUF”) TO
21 THE NAVAJO NATION BROADBAND OFFICE AND APPROVING THE
22 BROADBAND INFRASTRUCTURE PROJECTS EXPENDITURE PLAN;
23 AUTHORIZING USE OF FIRST FINANCING PROCEEDS SECURED WITH
24 THE CDFS TO REIMBURSE THE UUF; APPROVING SUCH BROADBAND
25 PROJECTS FOR INCLUSION IN THE FIRST CDFS FINANCING PROJECT
26 LISTING AND APPROPRIATING AN ADDITIONAL \$169,071,259.67 OF CDFS
27 FINANCING PROCEEDS FOR BROADBAND PROJECTS FOR A TOTAL OF
28 \$244,617,938.00.

1 BE IT ENACTED:
2

3 **SECTION ONE. AUTHORITY**

4 A. The Law and Order Committee is a standing committee of the Navajo Nation Council
5 with the enumerated power to review and make recommendations to the Navajo
6 Nation Council on proposed amendments to enactments to the Navajo Nation Code. 2
7 N.N.C. § 601(B)(14).

8 B. The Resources and Development Committee is a standing committee of the Navajo
9 Nation Council with oversight authority over chapter activities, information
10 technology, and telecommunications, as well as the responsibility to promote, review,
11 coordinate, and approve projects to be financed by funds designated for capital
12 improvement. 2 N.N.C. §§ 500(C) and (C)(5).

13 C. The Budget and Finance Committee is a standing committee of the Navajo Nation
14 Council with the enumerated powers to review and recommend to the Navajo Nation
15 Council the budgeting, appropriation, investment, and management of all funds and to
16 promulgate rules and regulations related to contracting and financial matters. 2
17 N.N.C. §§ 300 (B)(1) and (2).

18 D. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council
19 with the responsibility to hear proposed resolution(s) that require final action by the
20 Navajo Nation Council. 2 N.N.C. § 164(A)(9).

21 E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §
22 102(A).

23 F. The Navajo Nation Council may adopt and approve supplemental appropriations to
24 the Annual Comprehensive Budget during the fiscal year. Supplemental
25 appropriations of General Funds within the current fiscal year are permitted, if and
26 when additional sources of revenues above and beyond the initial or current revenue
27 projections are projected and which are also in excess of the reserve amount set forth
28 at 12 N.N.C. § 820(J). 12 N.N.C. § 820(L).

29 G. Title 12 of the Navajo Nation Code places additional restrictions on supplemental
30 appropriations from the UUFB, including:

- 1 1. Payment of recurring government operating expenses shall be from recurring
2 revenues, and payment of nonrecurring expenses shall be from nonrecurring
3 revenues. 12 N.N.C. §§ 820(E) and 820(F).
- 4 2. Specifically, the UUFB shall not be used for recurring government
5 expenditures or operations. 12 N.N.C. §§ 820(J) and 820(L).
- 6 3. Nonrecurring revenues may be used only after the Controller determines
7 whether or not such revenues are subsidizing an imbalance between the
8 Navajo Nation's recurring revenues and expenditures, and government
9 expenditures shall only be authorized if a long-term (3-year to 5-year) forecast
10 shows that the operating deficit will not continue; otherwise, nonrecurring
11 revenues will be added to the UUFB. 12 N.N.C. § 820(F).
- 12 4. The above provisions in Title 12 may be amended or waived only by a two-
13 thirds vote of the full membership of the Navajo Nation Council. 12 N.N.C. §
14 820(F) and 12 N.N.C. § 880.
- 15 5. All UUFB funding requests must be reviewed by the Controller to ensure
16 compliance with 12 N.N.C. § 820(L). 12 N.N.C. § 820(F).
- 17 6. All UUFB funding requests must be submitted to the Office of Management
18 and Budget for a budget impact analysis. 12 N.N.C. § 820(M).

19 20 **SECTION TWO. FINDINGS**

21 A. The intent and purpose of this Action is to amend Council Resolution CJA-05-26
22 (hereinafter "CJA-05-26"), which enacted the Capital Development Financing Act
23 (the "CDFA"), codified at 12 N.N.C. §§ 3201 *et seq.*, and established the Capital
24 Development Financing Fund ("CDFF"). The CDFFA provides that the CDFF is to be
25 pledged as the sole source of security and repayment for financing the acquisition,
26 development and construction of Capital Projects, as those projects are defined in the
27 CDFFA. The amendment to the CDFFA is for the purpose of adding a definition of
28 "Financing Transaction" in order to clarify that "Financing Transaction" includes
29 refinancing and restructuring transactions.

1 B. Additionally, the intent and purpose of this Action is: (1) to appropriate
2 \$75,546,678.33 from the UUFB to the Navajo Nation Broadband Office for the
3 Broadband Infrastructure Projects Expenditure Plan; (2) to approve the Broadband
4 Infrastructure Projects Expenditure Plan attached hereto as Exhibit A; (3) to approve
5 the broadband projects for inclusion in the CDFP Capital Development Strategic Plan
6 and the first Financing Project Listing; (4) to authorize the use of the first Financing
7 Proceeds secured with the CDFP to reimburse the UUFB; and (5) to appropriate an
8 additional \$169,071,259.67 of CDFP Financing Proceeds for broadband projects
9 included in Year 2, Year 3, and Year 4 of the Broadband Infrastructure Projects
10 Expenditure Plan.

11 C. The Navajo Nation Council hereby finds that the financing transactions contemplated
12 by the CDFA, codified at 12 N.N.C. §§ 3201 *et seq.*, included refinancing and
13 restructuring transactions and reimbursement financing. However, for greater clarity,
14 Navajo Nation Council finds that the CDFA should now be amended to include a
15 definition of “Financing Transaction” that expressly includes refinancing and
16 restructuring transactions and transactions to finance reimbursement of advance
17 funding from other sources.

18 D. In 2022, the Navajo Nation enacted CJN-29-22, incorporated herein by reference,
19 which allocated one hundred twenty million dollars (\$120,000,000) of Navajo Nation
20 Fiscal Recovery Funds (“NNFRF”) to the NNFRF Broadband Infrastructure Projects
21 Expenditure Plan. In 2024, the Navajo Nation enacted CMY-28-24, incorporated
22 herein by reference, to comply with the U.S. Treasury expenditure deadlines and
23 reallocated unobligated NNFRF from Broadband Projects to the Revenue
24 Replacement Reserve General Fund Committed Fund Balance. In 2026, the Navajo
25 Nation amended CMY-28-24 through CJA-05-26 to retain funds in the Revenue
26 Replacement Reserve for Delegate Region Project Plans, and to specify that “[t]he
27 first allocation of Trust Fund Financing Proceeds shall be for broadband
28 infrastructure projects qualifying under the criteria of the Trust Fund as Eligible
29 Capital Projects eligible to be included in the Capital Development Strategic Plan and
30 a Financing Project Listing[.]” CJA-05-26 Section Three (D).

- 1 E. The Navajo Nation Broadband Office has developed a plan for capital development
2 of broadband infrastructure projects on the Navajo Nation. This plan, referred to as
3 the Broadband Infrastructure Projects Expenditure Plan, is attached hereto as **Exhibit**
4 **A**. The Navajo Nation Broadband Office is requesting a total of \$244,617,938.00 to
5 fund such projects over a period of four years.
- 6 F. The Navajo Nation Council now finds that there is an urgent need to fund and to
7 accelerate delivery of high-priority broadband infrastructure projects on the Nation.
8 The Navajo Nation Council determines it is most efficient to now utilize funds from
9 the UUFB to provide immediate funding for these broadband infrastructure projects
10 rather than delaying the development of these projects for the time necessary to fund
11 the projects through the CDFF, which will require the arrangement of financing and
12 the approval of the Capital Development Strategic Plan and the first Financing
13 Projects Listing.
- 14 G. The Navajo Nation Council finds it is in the best interest of the Navajo Nation to
15 approve the Broadband Infrastructure Projects Expenditure Plan set forth in **Exhibit**
16 **A**.
- 17 H. The Navajo Nation Council finds it is in the best interest of the Navajo Nation to find
18 that the projects in the Broadband Infrastructure Projects Expenditure Plan for Years
19 1 through 4 are “Eligible Capital Projects” under the CDFA, and that such broadband
20 projects shall be included in the Capital Development Strategic Plan and Database,
21 and in the first Financing Project Listing.
- 22 I. The Navajo Nation Council finds it is in the best interest of the Navajo Nation that
23 CMY-28-24, as amended by CJA-05-26, should again be amended to provide that,
24 under the CDFA, the first allocation of Trust Fund Financing Proceeds shall be for
25 broadband infrastructure projects eligible to be included in the Capital Development
26 Strategic Plan and a Financing Project Listing in the amount of \$244,617,938.00,
27 including \$75,546,678.33 to reimburse the UUFB for the appropriation of temporary
28 funding for Year 1 projects in the Broadband Infrastructure Projects Expenditure
29 Plan, and \$169,071,259.67 of Financing Proceeds to fund projects for Years 2, 3, and
30 4 in the Broadband Infrastructure Expenditure Plan.

- 1 J. The Navajo Nation Council finds it is in the best interest of the Navajo Nation to
2 approve an appropriation of \$75,546,678.33 from the UUFB to the Navajo Nation
3 Broadband Office for Year 1 projects in the Broadband Infrastructure Projects
4 Expenditure Plan.
- 5 K. The Navajo Nation Council finds it is in the best interest of the Navajo Nation to
6 approve an appropriation of \$75,546,678.33 from the first Financing Proceeds
7 secured by the CDFF under the CDFA; and once the first financing transaction is
8 completed and Financing Proceeds are secured by the CDFF, such Financing
9 Proceeds shall be used to reimburse the UUFB in the amount of \$75,546,678.33 for
10 Year 1 projects in the Broadband Infrastructure Projects Expenditure Plan.
- 11 L. The Navajo Nation Council finds it is in the best interest of the Navajo Nation to
12 approve an additional appropriation of Financing Proceeds from the first financing
13 transaction in the amount of \$169,071,259.67 to the Navajo Nation Broadband Office
14 for projects in Years 2 through 4 of the Broadband Infrastructure Projects
15 Expenditure Plan.
- 16 M. The Broadband Office has provided the required budget forms for the supplemental
17 appropriation from the UUFB, along with Appendix J – Supplemental Funding
18 Proposal Summary. Budget Forms are attached as **Exhibit B**.
- 19 N. The Controller has provided a memorandum, as required by 12 N.N.C. § 820(L). The
20 Controller has identified the project funding to the Broadband Office for broadband
21 projects in Year 1 as non-recurring expenditures. The Controller’s memo is attached
22 as **Exhibit C**.
- 23 O. The Office of Management and Budget has provided budget impact analysis
24 memorandum, as required by 12 N.N.C. § 820(M). The OMB memo is attached as
25 **Exhibit D**.
- 26 P. Chapter resolutions supporting the Broadband Infrastructure Projects from Forest
27 Lake and Tselani-Cottonwood Chapter are attached as **Exhibit E**.

28
29 **SECTION THREE. AMENDING THE CAPITAL DEVELOPMENT FINANCING**
30 **ACT.**

1 The Navajo Nation hereby amends Title 12 of the Navajo Nation Code, 12 N.N.C. §§
2 3201 *et seq.*, as follows:

3
4 ****

5 **TITLE 12. FISCAL MATTERS**
6 **CHAPTER 32. CAPITAL DEVELOPMENT FINANCING ACT**

7
8 **§ 3201. Short Title**

9 This Act shall be titled the “Capital Development Financing Act” (hereinafter “Act”).

10 **§ 3202. Establishment**

11 There is established the “Capital Development Financing Fund” (hereinafter “Fund”).

12 A. The Navajo Nation allocates the balance of the Revenue Replacement Reserve funds
13 to this Fund, minus the amount set forth in Section 3 of this Act, which shall remain
14 in the Revenue Replacement Reserve to fund Delegate Region Projects.

15 B. The Navajo Nation may make additional appropriations to the Fund from any other
16 sources of revenue that become available to the Nation.

17 C. Any monies deposited into or appropriated to the Fund, regardless of source, shall be
18 used only as provided in this Chapter.

19 D. Financing Proceeds transferred to the Nation and not held by a bond trustee or
20 banking institution as may be required by documents governing such financings, shall
21 not be deposited into the Fund. Instead, such Financing Proceeds shall be deposited
22 into a separate Navajo Nation account administered by the Office of the Controller
23 and used solely for paying the costs of projects financed with such proceeds. Any
24 proceeds not immediately expended to pay project costs shall be invested in
25 investments permitted by the financing documents and in accordance with the Navajo
26 Nation Master Investment Policy.

27 E. The Fund and the Finance Proceeds Account are not subject to 12 N.N.C. § 820(N)
28 and shall be continuing accounts that do not lapse or revert at the end of the fiscal
29 year.

1 **§ 3203. Purpose**

2 The Fund is established for the purpose of providing a dedicated source of security and
3 repayment for transactions entered into for the financing, refinancing, or reimbursement
4 of financing, for the acquisition, planning, design, architecture, engineering, project
5 management, development and construction of Eligible Capital Projects in order to
6 improve the quality of life for the Navajo People for generations to come.

7
8 **§ 3204. Definitions**

9 All capitalized terms used in this Act shall have the particular meaning set forth below,
10 unless specifically explained otherwise. Terms that are not capitalized shall have their
11 ordinary and plain meaning, unless otherwise explained herein.

12 A. “Capital Development Strategic Plan and Database” shall mean a multi-year plan and
13 comprehensive database that identifies and responds to the current and future capital
14 development needs of the Navajo People and the Navajo Nation, as well as the
15 Nation’s short-term and long-term priorities for capital development. The Capital
16 Development Strategic Plan and Database shall catalogue and track all Navajo Nation
17 Capital Projects, regardless of funding source or responsible entity, that are already
18 funded and are planned or in-progress, and shall also include a listing of proposed
19 Eligible Capital Projects that qualify to be funded in the future with financing secured
20 through this Fund. The database may also incorporate and include projects in need of
21 funding from other Navajo Nation multi-year infrastructure and/or Capital Project
22 plans, such as the Capital Improvement Plan, Judicial-Public Safety Facilities Fund,
23 Sihasin Fund, Permanent Fund, etc. The database shall segregate Capital Projects
24 between those that qualify for financing through the Fund and those that do not
25 qualify.

26 The Capital Development Strategic Plan and Database shall be developed as follows:

27 1. The Office of the Controller, with support from the Division of Community
28 Development and other internal experts, shall be responsible for developing and
29 maintaining the Capital Development Strategic Plan and Database and evaluating
30 Capital Projects for inclusion in the Strategic Plan and Database. The Office of

1 the Controller may engage external experts to assist in this process, if funding is
2 available.

3 2. The Office of the Controller shall review and evaluate proposed Capital Projects
4 which have been recommended by Navajo Nation Council Delegates, and
5 determine whether such projects qualify for inclusion in the Strategic Plan and
6 Database and whether such projects are Eligible Capital Projects that qualify for
7 financing through the Fund;

8 3. The Office of the Controller shall provide a written report to the Resources and
9 Development Committee semi-annually, at the end of the second and fourth
10 quarter of each Navajo Nation Fiscal Year, regarding the Strategic Plan and
11 Database.

12 4. While all Capital Projects included on a Financing Project Listing shall have been
13 listed in the Strategic Plan and Database, the inclusion of a Capital Project in the
14 Strategic Plan and Database does not guarantee that the project will be funded or
15 included on a Financing Project Listing.

16 B. "Capital Projects" for the purposes of this Act are long-term assets with a cost greater
17 than the current Navajo Nation capitalization and useful life thresholds in the
18 following categories:

19 1. public works such as roads, bridges, dams, waterways, railways, airports, fire
20 stations and similar facilities, as well as repairs, upgrades, renovations and
21 expansions of existing public works;

22 2. public utilities and related infrastructure for power transmission and distribution,
23 natural gas, water and wastewater, and telecommunications and repairs,
24 renovations and expansions of existing public utilities; schools, parks and
25 community facilities, hospitals and health clinics, waste disposal plants, judicial
26 and public safety buildings, and government buildings, as well as repairs,
27 upgrades, renovations and expansions of existing facilities; and

28 3. any other physical asset, building, or equipment that is designed to provide long-
29 term benefits to the public and that improves the quality of life of the Navajo
30 People.

1 C. "Costs of Issuance" shall mean all expenses related to the issuance and ongoing
2 administration of any Financing Transaction~~financing transaction~~, including but not
3 limited to, costs incurred for bond trustees, bond and other legal counsel, financial
4 advisers, banks, underwriters, placement agents and broker dealers, rating agencies,
5 accountants, attorneys' fees, and other professional services needed in connection
6 with any proposed and/or consummated financing.

7 D. "Eligible Capital Projects" shall mean the acquisition, planning, design, architecture,
8 engineering, development, and construction of Capital Projects which satisfy all
9 criteria set forth below in order to be eligible to be financed with the proceeds of
10 Financing Transactions~~financing transactions~~ secured by the Fund. The criteria for
11 Capital Projects to be considered Eligible Capital Projects for inclusion on Financing
12 Project Listings include:

- 13 1. The Capital Project falls under one or more of the Nation's "Capital Development
14 Priorities," which are priorities based on the critical needs of the Navajo Nation
15 and the Navajo People for the acquisition, planning, design, architecture,
16 engineering, project management, development, and construction, of various
17 types or categories of Capital Projects and shall guide and inform the
18 development of Financing Project Listings. The Nation's Capital Development
19 Priorities (in no particular order) include:
 - 20 a. broadband infrastructure projects;
 - 21 b. water and wastewater projects;
 - 22 c. road projects;
 - 23 d. energy and utility infrastructure development projects;
 - 24 e. affordable housing development projects;
 - 25 f. government buildings and facilities;
 - 26 g. Local Capital Projects by or on behalf of Chapters; and
 - 27 h. other types of Regional Capital Projects or Navajo Nation-wide Capital
28 Projects that benefit the Nation as a whole.
- 29 2. The useful life of the Capital Project, as determined by the Controller or designee,
30 shall be a minimum of ten (10) years and shall be no less than the length of the

1 term of the applicable Financing Transaction~~finaneing transaaction~~ that provides
2 the proceeds to finance such project.

- 3 3. The Capital Project shall have minimum project costs of at least \$10 million.
- 4 4. The Capital Project is confirmed to be ready to commence construction within six
5 (6) months of the closing of any Financing Transaction~~finaneing transaaction~~
6 secured by the Fund.
- 7 5. The project site has no land restriction problems.
- 8 6. Required clearances and permitting have been completed.
- 9 7. The Capital Project is logistically feasible and viable.
- 10 8. The funding requested is sufficient to complete the Capital Project, or other
11 funding sources for shortfall are already secured.
- 12 9. The Controller, in consultation with necessary advisors and consultants, has
13 determined in writing that the Capital Project is capable of being completed
14 within the term of the financing or within an industry-standard time period, which
15 time term or time periods may vary based on the specific project type, location,
16 scope, complexity, and other project and industry factors.

17 E. "Finance Proceeds Account" shall mean a separate Navajo Nation account to hold
18 Financing Proceeds, which shall be administered by the Office of the Controller.

19 F. "Financing Proceeds" shall mean proceeds of loans, bonds, or other financings
20 secured by the Fund through Financing Transactions~~finaneing transaactions~~. Financing
21 Proceeds shall be used solely for paying the costs of Eligible Capital Projects and
22 other eligible costs pursuant to § 3212.

23 G. "Financing Project Listing" shall mean the list of Eligible Capital Projects established
24 under § 3209 of this Chapter.

25 H. "Financing Transaction" means any transaction to incur debt secured by the Fund,
26 including without limitation, loans, lines of credit, bonds, and other debt structures,
27 entered into for the financing, refinancing, restructuring, or reimbursement of
28 financing, of the purposes set forth in § 3203 of this Act.

- 1 I. "Fund Income" shall consist of all investment earnings (from interest, dividends,
2 earnings from sales, etc.) generated and realized through the investment of the Fund
3 Principal.
- 4 J. "Fund Principal" shall consist of all deposits made to the Fund pursuant to § 3202 of
5 this Chapter and any other amounts deposited into the Fund and designated as Fund
6 Principal by the Controller.
- 7 K. "Local Capital Projects" shall mean Capital Projects to be performed in a Navajo
8 Nation Chapter or Township that solely or primarily benefit residents of such Chapter
9 or Township, such as a Chapter house, a senior center, a Chapter warehouse, housing
10 and bathroom additions for Chapter members, etc.
- 11 L. "Navajo Nation-wide Capital Projects" shall mean large scale Capital Projects that
12 provide benefits and service to multiple Agencies or regions on the Navajo Nation,
13 such as water and wastewater, major roads, and broadband or other utility
14 infrastructure that cross multiple Chapter and Township boundaries and can be
15 widely utilized by many residents of and visitors to the Navajo Nation.
- 16 M. "Regional Capital Projects" shall mean Capital Projects that may be based in one or
17 more locations within the Navajo Nation that will have a public benefit for residents
18 in multiple Navajo Nation Chapters and Townships within a Navajo Nation Council
19 Delegate's District, or across multiple Delegate Districts, or at a Navajo Nation
20 Agency level.

21
22 **§ 3205. Investment of the Fund**

- 23 A. All monies deposited into the Fund shall be subject to the Navajo Nation's Master
24 Investment Policy, as amended, and an investment sub-policy for the Fund
25 recommended by the Navajo Nation Investment Committee and approved by the
26 Budget and Finance Committee, and shall be invested as soon as practicable in
27 accordance with the degree of care exercised by reasonable and prudent managers of
28 investments intended to produce maximum growth of the investments with a high
29 degree of safety necessary to fulfill the purposes and objectives of the Fund.
30

1 B. Management of the investments may be delegated to third party Investment Managers
2 by written contracts recommended by the Navajo Nation Investment Committee,
3 approved by the Budget and Finance Committee, and executed by the Navajo Nation
4 President.

5
6 **§ 3206. Securing Financing with the Fund**

7 A. The Controller of the Navajo Nation, in consultation with financial consultants, legal
8 counsel, and other advisors with requisite expertise, shall identify and evaluate
9 financing opportunities such as loans, bonds and other debt structures available for
10 Financing Transactions~~financing transaetions~~ authorized by this Act. The Controller
11 shall report to the Budget and Finance Committee regarding the Controller's findings
12 and determinations regarding options to secure financing with the Fund.

13 B. The Controller is delegated the authority to negotiate the terms and conditions of any
14 Financing Transactions~~financing transaetions~~.

15 C. As authorized by 2 N.N.C. § 102(G), the Budget and Finance Committee is delegated
16 the authority to approve such Financing Transactions~~financing transaetions~~ and
17 transaction documents recommended by the Controller, including those that require
18 limited waivers of Navajo Nation sovereign immunity as authorized in §3207
19 hereunder, as long as the Attorney General has opined in writing that the language
20 waiving sovereign immunity is legally sufficient to protect the Navajo Nation's
21 interests.

22 D. The Office of the Controller shall recommend and the Budget and Finance Committee
23 shall approve financing-specific project criteria, if any, for each Financing
24 Transaction~~financing transaction~~, which may include project evaluation procedures,
25 type and length of financing, categories of Capital Projects, balance between Local,
26 Regional, and Navajo Nation-wide Capital Projects, parameters for distribution
27 among Delegate Regions, etc.

28 E. While the Budget and Finance Committee shall have the delegated authority to
29 approve Financing Transactions~~financing transaetions~~, including financing-specific
30 project criteria and transaction documents recommended by the Controller, the

1 Navajo Nation Council shall approve the Financing Project Listing for each
2 Financing Transaction~~financing transaction~~ subject to final action by the Navajo
3 Nation President pursuant to 2 N.N.C. § 221(B) and 2 N.N.C. § 1005 (C)(10) - (11).

4 F. The Financing Transactions~~financing transactions~~ authorized hereunder shall not be
5 general obligations of the Navajo Nation, nor shall such transactions include a pledge
6 of the full faith and credit of the Navajo Nation. The Financing Transactions~~financing~~
7 ~~transactions~~ authorized hereunder shall be secured exclusively by the Fund Principal
8 and/or Fund Income and no recourse shall be had to any other assets of the Navajo
9 Nation.

10 G. The Navajo Nation President is authorized to execute and deliver any and all
11 documents necessary for any Financing Transaction~~financing transaction~~ after the
12 Budget and Finance Committee enacts a resolution approving such Financing
13 Transaction~~financing transaction~~ and such documents.

14
15 **§ 3207. Limited Waiver(s) of Sovereign Immunity; Delegation to the Budget and**
16 **Finance Committee**

17 A. The Navajo Nation Council grants and authorizes limited waivers of sovereign
18 immunity and consents to the arbitration of disputes that are or may be required by,
19 and included in, any Financing Transaction~~financing transaction~~ entered into by the
20 Nation under the terms of this Act, subject to the limitations set forth herein, and
21 delegates to the Budget and Finance Committee the authority to finally approve and
22 authorize the specific terms and conditions of such limited waivers of sovereign
23 immunity and consents to arbitration.

24 B. The purpose of the grant and authorization of limited waivers of sovereign immunity
25 for the transactions authorized by this Act is to allow lending parties to such
26 transactions to enforce the transaction documents against the Navajo Nation when,
27 and if, necessary.

28 C. The Navajo Nation Council delegates authority to the Budget and Finance
29 Committee, with the advice of the Navajo Nation Department of Justice and bond
30 counsel, to approve the terms and conditions of any limited waiver of sovereign

1 immunity granted and authorized by this Act that is to be included in any financing
2 agreement in form and substance sufficient to permit the resolution of disputes, the
3 commencement of actions or proceedings, to permit the arbitration of disputes and to
4 make any financing agreements entered into under this Act the legally valid, binding
5 and enforceable agreements of the Navajo Nation, subject to the following
6 limitations:

- 7 1. The limited waiver of sovereign immunity shall apply only to the parties to the
8 financing agreements, their successors and assigns;
- 9 2. The limited waiver of sovereign immunity shall contain only those provisions that
10 are customarily required in commercial financing transactions with federally
11 recognized Indian tribes;
- 12 3. The limited waiver of sovereign immunity and dispute resolution provisions shall
13 specify the law applicable to the financing agreements, which may include federal
14 law where applicable and the law of Arizona, New Mexico, Utah, or New York,
15 as necessary or appropriate;
- 16 4. The limited waiver of sovereign immunity shall specify consent to jurisdiction of
17 the courts of the United States district courts located in the states of Arizona, New
18 Mexico, Utah or New York and all courts of appeal therefrom, the state courts of
19 Arizona, New Mexico, Utah, or New York and all courts of appeal therefrom, and
20 the courts of the Navajo Nation, as may be necessary or appropriate for a
21 particular Financing Transaction~~financing transaction~~, and;
- 22 5. The limited waiver of sovereign immunity may also specify arbitration as a dispute
23 resolution process and shall provide the manner in which such arbitration shall be
24 conducted.

25 D. The grant, consent, authorization and direction for waivers of the Navajo Nation's
26 sovereign immunity in this Act are separate from and independent of the Navajo
27 Nation's Sovereign Immunity Act, the Navajo Nation's Arbitration Act and any other
28 law of the Navajo Nation that may be in conflict with the provisions of this Act and
29 the intent hereof, which conflicting laws are hereby deemed inapplicable to this Act
30

1 and any transaction entered into by the Navajo Nation under the authority granted by
2 this Act.

3 E. The final terms and conditions of any limited waiver of sovereign immunity
4 authorized and granted by this Act and approved by the Budget and Finance
5 Committee shall constitute the law of the Navajo Nation for purposes of the
6 interpretation, enforcement or performance of any financing agreements entered into
7 under this Act.

8 F. Any limited waiver of sovereign immunity granted under this Act shall limit the
9 liability of the Nation to the Fund. No other assets of the Navajo Nation shall be
10 available to pay any obligation secured by the Fund.

11
12 **§ 3208. Limited Application of Appropriations Act and Bond Financing Act**

13 A. Section 12 N.N.C. §§ 820(H) of the Appropriations Act, regarding long-term debt,
14 shall not apply to any obligation of the Nation that is secured by the Fund.

15 B. The Bond Financing Act at 12 N.N.C. § 1300 *et seq.* shall not apply to this Act, the
16 Fund, financing transactions under this Act, nor Eligible Capital Projects financed in
17 accordance with this Act.

18
19 **§ 3209. Financing Project Listing**

20 Prior to consummating any Financing Transaction~~financing transaction~~ secured by the
21 Fund, a Financing Project Listing, consisting only of Eligible Capital Project(s), shall be
22 prepared, approved and incorporated into the expenditure of the proceeds of such
23 Financing Transaction~~financing transaction~~.

24 A. The Financing Project Listing for each Financing Transaction~~financing transaction~~
25 shall be developed by the Office of the Controller, with support from internal experts
26 and external consultants, and shall be recommended to the Resources and
27 Development Committee and Navajo Nation Council for approval subject to action
28 by the Navajo Nation President pursuant to 2 N.N.C. § 221(B) and 2 N.N.C. § 1005
29 (C)(10) - (11). In determining what Eligible Capital Projects to include in the
30 proposed Financing Project Listing, the Office of the Controller shall:

- 1 1. Consider and evaluate only Eligible Capital Projects that are already included in
- 2 the Capital Development Strategic Plan and Database and for which the financing
- 3 can be repaid within the useful life of the Eligible Capital Project.
- 4 2. Hire or engage technical experts to assist in the evaluation of such Eligible
- 5 Capital Projects, and the costs of such experts may be paid with Fund Income.
- 6 3. Recommend a Financing Project Listing to the Resources and Development
- 7 Committee and Navajo Nation Council.
- 8 B. Projects included on a Financing Project Listing shall not be changed or modified
- 9 once a financing has been consummated ~~without~~ except upon the recommendation of
- 10 the Resources and Development Committee and the approval of the Budget and
- 11 Finance Committee.
- 12 C. Each Financing Project Listing shall establish a priority for the Eligible Capital
- 13 Projects on the list. The priority of the Eligible Capital Projects on the list will dictate
- 14 which Eligible Capital Projects will be funded in the event that the proceeds of any
- 15 Financing Transaction~~financing transaction~~ are insufficient to fund all of the Eligible
- 16 Capital Projects on any Financing Project Listing.

17

18 **§ 3210. Expenditure of Fund Principal**

- 19 A. Until the later of (i) fifteen (15) years after the date of this Act, or (ii) the date on
- 20 which any debt issued under this Act is no longer outstanding, the Fund Principal
- 21 shall only be used as follows:
- 22 1. To be invested pursuant to the Nation's Master Investment Policy and its
- 23 applicable sub-policies to generate investment income.
- 24 2. To be pledged to secure financings, the proceeds of which shall be used for the
- 25 purpose of funding Eligible Capital Projects on any Financing Project Listing.
- 26 3. To pay debt secured by the Fund at maturity (unless such debt is refinanced).
- 27 4. To repay debt secured by the Fund pursuant to any optional redemption date,
- 28 mandatory redemption date, optional prepayment date, mandatory prepayment
- 29 date, mandatory purchase date or other date upon which payment of all or a
- 30 portion of such debt (whether optional or mandatory) is due or any date on which

1 the making of a payment may be in the best interests of the Navajo Nation to
2 properly manage the Fund Principal and the debt secured by the Fund Principal.

- 3 5. To pay all or a portion of any debt, or any fees or other payments required by any
4 documents governing any Financing Transactions~~financing transaetions~~ secured
5 by Fund Principal upon the occurrence or continuance of an event of default.
- 6 6. To pay any other amounts due by virtue of the terms and conditions of any
7 documents governing any transaction secured by the Fund.
- 8 7. To the extent that Fund Income is insufficient to pay any and all scheduled debt
9 service payments due and payable on any Financing Transaction~~finaneing~~
10 ~~transaetion~~, to pay such scheduled debt service.
- 11 8. To the extent that Fund Income is insufficient therefore, to pay any and all
12 administration/management expenses of the Fund or expenses arising from any
13 proposed or consummated transactions secured by the Fund Principal.

14 B. Upon the later of (i) fifteen (15) years after the date of this Act, or (ii) the date on
15 which any debt issued under this Act is no longer outstanding, the Fund Principal
16 may be used for purposes other than those in § 3210(A) only if approved pursuant to
17 a resolution adopted by a seven-eighths (7/8) vote of the full membership of the
18 Navajo Nation Council, subject to action of the President of the Navajo Nation under
19 2 N.N.C. § 221(B) and 2 N.N.C. § 1005 (C)(10) - (11). This provision is not subject
20 to amendment or waiver under § 3215 of this Chapter.

21
22 **§ 3211. Expenditure of Fund Income**

23 A. Fund Income shall only be used, as needed, to:

- 24 1. Pay any and all debt service on transactions secured by the Fund, including any
25 fees required to be paid under any documents governing such transactions.
- 26 2. To pay expenses incurred for:
 - 27 a. the solicitation, negotiation, documentation and consummation of any
28 transaction secured by the Fund;

- b. advisors or other consultants related to any Financing Transaction~~finaneing transaaction~~ or the investment and management of the Fund Principal and the Fund Income;
- c. administrative or other management functions related to the Fund, including Office of the Controller staff personnel costs, or any transaction secured by the Fund; and/or
- d. experts to assist in the evaluation of whether Capital Projects satisfy the eligibility criteria set forth at § 3204(D) for Eligible Capital Projects.

B. To the extent that Fund Income exceeds the amount necessary to pay the debt service and costs authorized to be paid with Fund Income under this Section, such excess Fund Income shall be reinvested to earn additional income. The Controller may allocate Fund Income to Fund Principal to the extent that Fund Income exceeds the amount needed to pay scheduled debt service payments and other anticipated costs authorized by this Section for a minimum of five (5) years.

C. Until the later of (i) 15 years after the date that the Fund is enacted, or (ii) the date on which no transactions secured by the Fund Principal remain outstanding, Fund Income shall not be allocated or expended for direct funding of Capital Projects or other purposes without approval by a seven eighths (7/8) vote of the full membership of the Navajo Nation Council subject to action of the President of the Navajo Nation under 2 N.N.C. § 221 (B) and 2 N.N.C. § 1005 (C)(10) - (11). This provision is not subject to amendment or waiver under § 3215 of this Chapter.

§ 3212. Expenditure of Financing Proceeds

A. Proceeds of any Financing Transactions~~finaneing transaactions~~ secured by the Fund that are distributed directly to the Navajo Nation and are not held by a bond trustee or banking institution as may be required by the terms of such financings, shall not be comingled with, or invested together with, Fund Principal or Fund Income. Such proceeds shall be deposited into a separate Finance Proceeds Account administered by the Office of the Controller and shall be used to (i) pay the costs of the Eligible

1 Capital Projects financed with such proceeds, and (ii) shall be invested in investments
2 permitted by the financing documents.

3 B. Any earnings generated by the investment of the financing proceeds shall be
4 segregated and accounted for and shall be used only for the purposes allowed by the
5 terms of the financing to which the proceeds relate.

6 C. The proceeds of any Financing Transactions~~financing transactions~~ secured by the
7 Fund shall only be used for:

- 8 1. Costs of Issuance;
- 9 2. ongoing costs related to each financing; and
- 10 3. refinancing or restructuring any Financing Transaction under the Act;
- 11 4. reimbursing Navajo Nation trust funds or other funding sources for funds that
12 were appropriated for and expended on Eligible Capital Projects that are included
13 on the Capital Development Strategic Plan and Database and that are selected for
14 a Financing Project Listing under the Act; and
- 15 5. project costs, including the costs of acquisition, planning, design, architecture,
16 engineering, project management, development, and construction of Eligible
17 Capital Projects authorized by a Financing Project Listing that complies with §
18 3209 of this Chapter.

19 D. The proceeds of any Financing Transactions~~financing transactions~~ secured by the
20 Fund shall not be expended for any purpose other than those purposes specifically set
21 forth in this Chapter. This provision is not subject to amendment or waiver under §
22 3215 of this Chapter.

23
24 **§ 3213. Annual Audit**

25 The Fund shall be subject to a detailed audit annually by the Navajo Nation's
26 independent auditors and audited financial statements shall be included in an annual
27 report to the Navajo Nation Council.

28
29 **§ 3214. Fund Expenses**

- 1 A. All expenses associated with the administration and management of the Fund shall be
2 paid first from realized Fund Income, if sufficient, and then from the Fund Principal.
3 Such expenses shall include investment advisory and management fees, financial
4 advisor fees, legal fees, audit costs, and other related expenses, including the cost of
5 technical experts to evaluate project eligibility and develop a comprehensive project
6 database, all pursuant to duly approved contracts for such services.
- 7 B. In order to protect Fund Principal from being unduly diminished by Fund expenses,
8 the Controller shall forecast an annual cap on Fund expenses to be approved by the
9 Budget and Finance Committee by the start of each Fiscal Year.
- 10 C. All expenses for debt service, financing fees, and other costs related to securing
11 financing with the Fund shall be paid first from realized Fund Income, if sufficient,
12 and then from Fund Principal.
- 13 D. The Controller shall have the authority to approve use of Fund Income, and Fund
14 Principal, when necessary, to pay debt service or other payments required pursuant to
15 duly approved and executed Financing Transaction~~finaneing transaetion~~ documents.
16 The Controller shall also have the authority to approve use of the Finance Proceeds
17 Account and Fund Principal if the Fund Income is insufficient, to pay expenses
18 associated with the administration and management of the Fund.

19
20 **§ 3215. Non-impairment; Amendments and Waivers; Conflicts and Inconsistencies**

- 21 A. The Navajo Nation shall not pass or adopt any resolutions, ordinances or other laws
22 of any nature, including any waivers or amendments to this Act, that shall impair the
23 contractual rights of any party to any Financing Transaction~~finaneing transaetion~~
24 authorized by and entered into by the Navajo Nation under this Act, including any
25 lender or any bondholder of any Financing Transaction~~finaneing transaetion~~ entered
26 into under this Act.
- 27 B. So long as an amendment or waiver does not impair the contractual rights of any
28 party to any Financing Transaction~~finaneing transaetion~~, including any lender or any
29 bondholder of any Financing Transaction~~finaneing transaetion~~, this Act or provisions
30 of this Act may be amended or waived by a seven eighths (7/8) vote of the full

1 membership of the Navajo Nation Council subject to action of the President of the
2 Navajo Nation under 2 N.N.C. § 221 (B). Sections 3210, 3211, and 3212 shall not be
3 subject to amendment or waiver.

4 C. Any laws or regulations of the Navajo Nation that are contrary to or inconsistent with
5 the provisions of this Act or with any financing agreements entered into under this
6 Act are inapplicable to this Act and any financing documents entered into under the
7 authority of this Act to the extent of any such conflict or inconsistency.

8
9
10 **§ 3216. Termination**

11 The Fund shall terminate when all Fund Principal, Fund Income, and financing secured
12 by the Fund, have been fully expended, provided, however, that the Fund shall not be
13 terminated while any financing is outstanding.

14
15 ****

16
17 **SECTION FOUR. AMENDING COUNCIL RESOLUTIONS CMY-28-24 AND CJA-**
18 **05-26 REGARDING FUNDING FOR BROADBAND INFRASTRUCTURE**
19 **PROJECTS.**

20 A. CMY-28-24 Section Five (E), as amended by CJA-05-26 Section Three (D),
21 provides:

22 “... The first allocation of Trust Fund Financing Proceeds shall be for
23 broadband infrastructure projects qualifying under the criteria of the
24 Trust Fund as Eligible Capital Projects eligible to be included in the
25 Capital Development Strategic Plan and a Financing Project Listing as
26 set forth in the Capital Development Financing Act in an amount up to
27 \$77,888,986; ...”

28 B. The Navajo Nation maintains its intent to fund Broadband Infrastructure Projects with
29 the first Financing Proceeds secured with the CDFF. Therefore, CMY-28-24 Section
30

1 Five (E), as amended by CJA-05-26 Section Three (D), is hereby amended as
2 follows:

3 “... The first allocation of Trust Fund Financing Proceeds shall be for
4 broadband infrastructure projects qualifying under the criteria of the
5 Trust Fund as Eligible Capital Projects eligible to be included in the
6 Capital Development Strategic Plan and a Financing Project Listing as
7 set forth in the Capital Development Financing Act in ~~an~~the amount
8 ~~up to \$77,888,986~~ of \$244,617,938.00, which shall include
9 \$75,546,678.33 of Financing Proceeds to reimburse the UUFB for the
10 appropriation of temporary funding for Year 1 projects in the
11 Broadband Infrastructure Expenditure Plan, and \$169,071,259.67 of
12 Financing Proceeds to fund projects for Years 2, 3, and 4 in the
13 Broadband Infrastructure Projects Expenditure Plan; ...”

14
15 **SECTION FIVE. APPROVING AN APPROPRIATION OF \$75,546,678.33 FROM**
16 **THE UNRESERVED, UNDESIGNATED FUND BALANCE TO THE NAVAJO**
17 **NATION BROADBAND OFFICE FOR YEAR 1 PROJECTS IN THE**
18 **BROADBAND INFRASTRUCTURE PROJECTS EXPENDITURE PLAN.**

- 19 A. The Navajo Nation hereby approves the Broadband Infrastructure Projects
20 Expenditure Plan set forth in **Exhibit A**.
- 21 B. The Navajo Nation hereby approves an appropriation of \$75,546,678.33 from the
22 UUFB to the Navajo Nation Broadband Office for Year 1 Projects in the Broadband
23 Infrastructure Projects Expenditure Plan.
- 24 C. Pursuant to 12 N.N.C. § 820(J), the approved \$75,546,678.33 shall be from that
25 amount of funds that exceeds the 10% minimum fund balance of the UUFB, as
26 determined by the Office of the Controller.
- 27 D. The appropriated UUFB funds shall be disbursed to the Navajo Nation Broadband
28 Office within thirty (30) calendar days after the effective date of this Action.
- 29
30

1 E. The portion of the \$75,546,678.33 from the UUFB that remain unspent and
2 unencumbered at the end of the Navajo Nation fiscal year shall lapse and revert to the
3 General Fund pursuant to 12 N.N.C. § 820(N).

4 F. The UUFB shall be reimbursed in the amount of the appropriation approved herein,
5 using funds available to the Navajo Nation from Financing Proceeds secured by the
6 CDFP in the first financing transaction of the CDFP in accordance with Section Six
7 below.

8
9 **SECTION SIX. APPROVING AN APPROPRIATION OF \$244,617,938.00, FROM**
10 **THE FIRST FINANCING PROCEEDS SECURED WITH THE CDFP FOR THE**
11 **BROADBAND INFRASTRUCTURE PROJECTS EXPENDITURE PLAN,**
12 **INCLUDING \$75,546,678.33 TO REIMBURSE THE UUFB FOR EXPENDITURES**
13 **OF THE NAVAJO NATION BROADBAND OFFICE FOR YEAR 1 PROJECTS IN**
14 **THE BROADBAND INFRASTRUCTURE EXPENDITURE PLAN, AND**
15 **INCLUDING \$169,071,259.67 FOR BROADBAND INFRASTRUCTURE**
16 **EXPENDITURE PLAN PROJECTS FOR YEARS 2, 3, AND 4.**

17 A. The Navajo Nation hereby approves an appropriation of \$244,617,938.00, from the
18 first allocation of Financing Proceeds secured by the CDFP, to the Navajo Nation
19 Broadband Office for broadband infrastructure projects in Years 1 through 4 of the
20 Broadband Infrastructure Projects Expenditure Plan, as follows:

- 21 1. The Navajo Nation hereby approves an appropriation of \$75,546,678.33 of
22 Financing Proceeds from the first Financing Transaction secured by the CDFP, to
23 the Navajo Nation Broadband Office, which funds shall be used to reimburse the
24 UUFB for temporary funding advanced in the amount of \$75,546,678.33 to fund
25 projects in Year 1 of the Broadband Infrastructure Projects Expenditure Plan. The
26 Office of the Controller shall reimburse the UUFB following the Budget and
27 Finance Committee's approval of the financing and within thirty (30) calendar
28 days after the Navajo Nation President's execution of the Financing Transaction
29 documents.

1 2. The Navajo Nation hereby approves an additional appropriation of
2 \$169,071,259.67 of Financing Proceeds from the first Financing Transaction
3 secured by the CDFP, to the Navajo Nation Broadband Office, which funds shall
4 be used to fund projects in Year 2, Year 3, and Year 4 of the Broadband
5 Infrastructure Projects Expenditure Plan.

6 B. The Navajo Nation hereby determines and approves that the projects included in the
7 Broadband Infrastructure Projects Expenditure Plan for Years 1 through 4 shall be
8 considered "Eligible Capital Projects" under the CDFP. Such broadband projects
9 shall be included in the Capital Development Strategic Plan and Database, and in the
10 first Financing Project Listing.

11
12 **SECTION SEVEN. DIRECTIVES**

- 13 A. The Office of the Controller, with the approval of the Budget and Finance Committee,
14 shall take all required measures to seek and to obtain Financing Proceeds in the first
15 Financing Transaction secured by the CDFP in an amount greater than or equal to the
16 \$244,617,938.00 appropriated through this Action.
- 17 B. The Office of the Controller shall add the projects in Years 1 through 4 of the
18 Broadband Infrastructure Projects Expenditure Plan to the Capital Development
19 Strategic Plan and Database and shall categorize the projects within such expenditure
20 plan as "Eligible Capital Projects" under the CDFP, which are to be included in the
21 first Financing Project Listing with Financing Proceeds secured by the CDFP.
- 22 C. The Office of the Controller shall cause the disbursement of \$75,546,678.33 from the
23 UUFB to the Navajo Nation Broadband Office within thirty (30) calendar days after
24 the effective date of this Action.
- 25 D. The Office of the Controller shall reimburse the UUFB in the amount of
26 \$75,546,678.33 from the Financing Proceeds of the first Financing Transaction
27 secured by the CDFP following the Budget and Finance Committee's approval of the
28 financing and within thirty (30) calendar days after the Navajo Nation President's
29 execution of the Financing Transaction documents.

1 **SECTION EIGHT. EFFECTIVE DATE**

2 This Action shall become effective upon its approval pursuant to 2 N.N.C. § 221(B), 2
3 N.N.C. § 1005 (C)(10) - (11), and 2 N.N.C. § 164(A)(17).
4

5 **SECTION NINE. CODIFICATION**

6 The provisions of this Act which amends or adopts new sections of the Navajo Nation
7 Code shall be codified by the Office of Legislative Counsel. The Office of Legislative
8 Counsel shall incorporate such amended provisions in the next codification of the Navajo
9 Nation Code.
10

11 **SECTION TEN. SAVING CLAUSE**

12 Should any provision of this legislation or the Capital Development Financing Act be
13 determined invalid by the Navajo Nation Supreme Court, or a District Court of the
14 Navajo Nation without appeal to the Navajo Nation Supreme Court, those portions of the
15 legislation or Act which are not determined invalid shall remain the law of the Navajo
16 Nation.
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