

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0220-20\_\_

SPONSOR: Wilson C. Stewart, Jr.

**TITLE: An Action Relating To The Budget And Finance, Resources And Development, And Naabik'iyáti' Committees, And Navajo Nation Council; Approving The Purchase Of Property Offered For Sale To The Navajo Nation By The Owner Of 11 D Street, S.E., Washington, D.C.; Approving The Expenditure Of Fund Principal Of The Land Acquisition Trust Fund To The Purchase Property; Approving The Expenditure Of Fund Principal Of The Land Acquisition Trust Fund To Pay For Repair And Renovation Of The 11 D Street Property**

**Date posted: September 8, 2020 at 7:20 PM**

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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0220-20

**DATE:** September 8, 2020

**TITLE OF RESOLUTION:** AN ACTION RELATING TO THE BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT, AND NABIK'IYATI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING THE PURCHASE OF PROPERTY OFFERED FOR SALE TO THE NAVAJO NATION BY THE OWNER OF 11 D STREET, S. E., WASHINGTON D.C.; APPROVING THE EXPENDITURE OF FUND PRINCIPAL OF THE LAND ACQUISITION TRUST FUND TO THE PURCHASE PROPERTY; APPROVING THE EXPENDITURE OF FUND PRINCIPAL OF THE LAND ACQUISITION TRUST FUND TO PAY FOR REPAIR AND RENOVATION OF THE 11 D STREET PROPERTY

**PURPOSE:** The purpose of the resolution is to approve expenditure of the Land Acquisition Trust Fund "fund principal" in the amount of \$5,140,281.50 for the purchase, closing costs, renovation, architect design, and construction; to waive Section VI. (C) of the Navajo Nation Land Acquisition Rules and Regulations. The expenditure of principle of the Navajo Nation Land Acquisition Trust Fund requires a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

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

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 09-13-20  
Eligible for Action: 09-14-20

Budget & Finance Committee  
Thence  
Resources & Development Committee  
Thence  
Committee  
Thence  
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 24<sup>th</sup> NAVAJO NATION COUNCIL -- Second Year, 2020

3 INTRODUCED BY

4 Wilson Johnson  
5 (Prime Sponsor) *RICK NEZ - co-sponsor*

8 TRACKING NO. 0220-20

10 AN ACTION  
11 RELATING TO THE BUDGET AND FINANCE, RESOURCES AND  
12 DEVELOPMENT, AND NABIK'IYATI' COMMITTEES, AND NAVAJO NATION  
13 COUNCIL; APPROVING THE PURCHASE OF PROPERTY OFFERED FOR SALE  
14 TO THE NAVAJO NATION BY THE OWNER OF 11 D STREET, S. E.,  
15 WASHINGTON D.C.; APPROVING THE EXPENDITURE OF FUND PRINCIPAL  
16 OF THE LAND ACQUISITION TRUST FUND TO THE PURCHASE PROPERTY;  
17 APPROVING THE EXPENDITURE OF FUND PRINCIPAL OF THE LAND  
18 ACQUISITION TRUST FUND TO PAY FOR REPAIR AND RENOVATION OF  
19 THE 11 D STREET PROPERTY

21 BE IT ENACTED:

22 **Section One. Authority**

- 23 A. Pursuant to 16 N.N.C. § 4 the Resources and Development Committee, on the  
24 recommendation of the Budget and Finance Committee, will grant final approval  
25 for acquisition or disposition of real property(ies) between the sum of  
26 \$5,000,000.00 and up to and including \$20,000,000.00 per calendar year. CAU-44-  
27 16 (August 10, 2016).  
28 B. The Resources and Development Committee, after a recommendation by the  
29 Budget and Finance Committee shall approve price, acreage and location for the  
30 acquisition or disposition of real property; be limited to the total expenditures of

1 \$20,000,000 per calendar year and issue a resolution for approval or disapproval of  
2 such acquisition or disposition of real property. See 16 N.N.C. § 4, CAU-44-16  
3 (August 10, 2016); Navajo Nation Land Acquisition Rules and Regulations,  
4 IV(B)(1)(2)(3), RDCO-78-16 (Oct. 25, 2016).

5 C. Proposed legislation that requires final action by the Navajo Nation Council shall be  
6 assigned to the standing committees have authority over the subject matter and the  
7 Naabik'iyáti' Committee. 2 N.N.C. § 164 (A)(9).

8 D. Pursuant to 16 N.N.C. § 204, the Fund principal shall not be expended except  
9 pursuant to a two-thirds vote of the full membership of the Navajo Nation Council.

10  
11 **Section Two. Findings**

12 A. The Navajo Nation Acquisition of Lands Act, 16 N.N.C. §2. (A) (5), states "The  
13 Navajo Nation's major purposes in acquiring new lands shall be to: . . . (5) Provide  
14 land necessary for approved Navajo Nation economic development." 16 N.N.C. §2  
15 (A) (5), Resolution No. CAU-44-16.

16 B. The Navajo Nation shall acquire and dispose of real property subject to land  
17 acquisition regulations as approved by the Resources and Development Committee  
18 of the Navajo Nation Council. 16 N.N.C. § 3, Resolution No. CAU-44-16.

19 C. The Resources and Development Committee approved the Navajo Nation Land  
20 Acquisition Rules and Regulations ("Rules and Regulations") on October 25, 2016,  
21 by approving Resources and Development Committee Resolution No. RDCO-78-  
22 16.

23 D. The Navajo Nation Land Acquisition Rules and Regulations authorize the  
24 Executive Director of the Division of Natural Resources ("DNR") to:

- 25 1. Strategize and evaluate properties for acquisition or disposition through  
26 coordination with appropriate Divisions, Chapters, and Enterprises;
- 27 2. Conduct a preliminary assessment of the property in terms of location, value to  
28 the Navajo Nation, title, and environmental issues;
- 29 3. Coordinate with interested Divisions or Chapters to complete the assessment of  
30 the property for acquisition or disposition;

- 1           4. Hire consultants, such as but not limited to, real estate brokers and agents to
- 2           assist the Navajo Nation in the acquisition or disposition of real property;
- 3           5. Negotiate the purchase price for the subject property; and
- 4           6. Authorize the Navajo Land Department to conduct additional administrative
- 5           duties that are not already identified herein.

6           *See Rules and Regulations, III, Authorization, (B)(1-6).*

7           E. The Rules and Regulations provide, among other provisions, that the “Navajo

8           Nation should purchase fee simple title to real property that is insurable. All steps

9           should be taken to obtain clear and marketable title that is free of questions of fact,

10          free of questions of law, free of any clouds on title, not subject to liens, and vested

11          in the seller of the property, except in special circumstances that are deemed to

12          benefit the Navajo Nation. The purchase price for the land must be fair and

13          reasonable.” *See Rules and Regulations, V, Real Property Purchase Requirements,*

14          (B)(C).

15          F. The Rules and Regulations provide general procedures for the purchase of real

16          property where the Navajo Land Department shall conduct a preliminary inspection

17          involving an on-site inspection of the property to identify the land, any title issues,

18          inventory, readily identifiable environmental concerns, or any other issue that may

19          exist and shall review preliminary title documents, if available, for identification of

20          any liens, encumbrances, or title issues. *See Rules and Regulations, VI, General*

21          *Procedure for Purchase of Real Property, (C)(1)(2).*

22          G. 16 N.N.C. § 201 established the Land Acquisition Trust Fund (“LATF”) to be

23          managed by the Navajo Land Department for the purchase of lands for the Navajo

24          Nation in accordance with the Navajo Nation Land Acquisition Act, 16 N.N.C. §1

25          *et seq.* and Policy and Procedures adopted by the Resources and Development

26          Committee of the Navajo Nation Council.

27          H. The Division of Natural Resources approved the 11 D Street, S. E., Washington

28          D.C. land acquisition on May 7, 2020. The agreed purchase price with the Seller is

29          \$4,800,000.00 plus closing costs. *See Real Estate Purchase Approval*

30

1 Memorandum dated May 7, 2020 and Offer to Purchase Letter dated May 12, 2020,  
2 which are attached hereto and incorporated herein by this reference as **Exhibit "A."**

3 I. The Navajo Nation Washington Office ("NNWO") maintains a presence in  
4 Washington, D.C. and exists as an extension of the Navajo Nation government to  
5 represent the Navajo Nation government's concerns to the United States Congress,  
6 White House, and federal agencies, to advance issues of critical importance to the  
7 Navajo Nation people as authorized by 2 N.N.C. §1151. The NNWO memorandum  
8 dated June 16, 2020 recommending the real estate purchase is attached as **Exhibit**  
9 **"B."**

10 J. Over the Memorial Day Holiday, the current office building utilized by the Navajo  
11 Nation Washington Office was severely damaged by water from a broken water  
12 tank located on top of the building. The NNWO is in desperate need of office space  
13 immediately and this land acquisition would address that need. In order for the  
14 NNWO to occupy the proposed 11 D Street facility, minor repairs and preparations  
15 for opening the NNWO will be needed. The renovation expenses are expenses  
16 outside of this real estate purchase. The Navajo Nation Washington Office wishes  
17 to hire a General Contractor or their equivalent in the amount of \$100,000 to make  
18 minimal repairs to bring the office to code and occupy the building immediately.  
19 The NNWO has submitted a memorandum dated July 8, 2020 requesting that DNR  
20 utilize funds from the LATF to pay renovation and repairs costs and a cost estimate,  
21 which is attached hereto as **Exhibit "C."**

22 K. The Navajo Nation, from November 2003 through December 2019, has spent  
23 approximately over \$3,500,000 in office space rental. The current monthly rent is  
24 approximately \$24,691.62 and is adjusted each year depending on a variety of  
25 market variables, including a minimal three percent (3%) annual escalation. This  
26 land and office building acquisition will be a solid investment for the future of the  
27 Navajo Nation, provides quick and easy access to Congress, enhances Tribal-  
28 Federal Government Affairs, provides a suitable facility, and alleviates the future  
29 expense of paying rent, which is also a cost savings to the Navajo Nation.  
30

1           Moreover, this facility will be the first American Indian Tribal Embassy established  
2           in our Nation's Capital.

3           L. The Resources and Development Committee and the Budget and Finance  
4           Committee, by their respective approval, recommend and approve price, acreage  
5           and location of the property in Washington, D.C.

6           M. The Resources and Development Committee, the Budget and Finance Committee,  
7           and Naabik'iyáti' Committee, by their respective approval, recommend the  
8           purchase of the property in Washington, D.C. utilizing the expenditure of Fund  
9           Principal funds from the Land Acquisition Trust Fund, plus closing costs and  
10          expenses.

11          N. The Resources and Development Committee must approve the waiver of Section  
12          VI. (C) (Preliminary Inspection) the Navajo Nation Land Acquisition Rules and  
13          Regulations requiring an on-site inspection report from the Navajo Land  
14          Department for this real property land acquisition, which was not possible because  
15          of the travel prohibitions set forth by Executive Orders and Emergency Public  
16          Health Orders issued because of the COVID 19/Corona Virus Pandemic.

17          O. The property offered for sale includes a 3,728 square feet, two-unit, two story,  
18          mixed use building, situated on a 0.15-acre site, at 11 D. Street, Washington, D.C.,  
19          whose fair market value was appraised at \$4,300,000 as of February 28, 2020. The  
20          Appraisal Report, which also provides maps, property description, land status, and  
21          photographs of the property, is attached hereto and incorporated herein as **Exhibit**  
22          **"D."** There is room to expand the improvements to the Property.

23          P. The Navajo Nation Washington Office wishes to hire an architect to convert the  
24          acquired property into the Navajo Nation Embassy. The Navajo Nation Embassy  
25          should be reflective of the Navajo people so a Navajo architect would be  
26          subcontracted to help infuse Navajo thought and culture into design elements of the  
27          Embassy. Such services would be procured in the amount of \$150,000 to design  
28          and produce renderings that would be submitted to the District of Columbia for  
29          needed permits and construction. *See Exhibit "C."*

30

- 1 Q. Principal Funds are available from the Land Acquisition Trust Fund Business Unit  
2 415000 to purchase the property. A copy of the funds availability from Office of  
3 Controller is attached hereto and incorporated herein as **Exhibit "E."**
- 4 R. On May 26, 2020, the Controller of the Office of the Controller advised the  
5 Division of Natural Resources that the ". . . unaudited unreserved amount available  
6 for use in the fund balance is \$167,410,942. However, 16 N.N.C. § 204 would  
7 govern this amount as it would be Fund Principal." The Controller further  
8 concluded that ". . . the budget available for purchase of Real Property is  
9 \$1,344,180.67; the 16 N.N.C. §205 Expenditure of Fund Income would govern this  
10 portion as this amount is income that should be used for land acquisition."  
11 Memorandum from Controller to DNR Executive Director, dated May 26, 2020, is  
12 attached hereto and incorporated herein by this reference as **Exhibit "E."** Pursuant  
13 to 16 N.N.C. § 4 (Resolution No. CAU-44-16; Aug. 10, 2016), the Executive  
14 Director of the Division of Natural Resources ". . . is . . . delegated a limited grant  
15 of final approval for the acquisition . . . of real property(ies) not to exceed an  
16 accumulated sum of \$5,000,000 per calendar year."
- 17 S. The last land acquisition approved by the Executive Director was approved on  
18 December 27, 2019 for an amount below the \$5,000,000 limit, within calendar year  
19 2019. For calendar year 2020, the 11 D Street, S.E., Washington D.C., Property  
20 was approved for a purchase price within the Executive Director's purchase  
21 authority limit. The Controller advised the Executive Director that ". . . At the time  
22 of calculating the FY 2020 Budget, our office used FY2018 interest income of  
23 \$5,042,124.40." See **Exhibit "E."** It appears that Land Acquisition Trust Fund  
24 expenditure availability was calculated based upon the FY 2020 Budget, rather than  
25 on a calendar year basis. In any event, the Controller has advised the Division of  
26 Natural Resources that there are insufficient funds available to purchase the  
27 Washington D.C. property, unless the Land Acquisition Trust Fund Principal is  
28 authorized to purchase the aforementioned Property.
- 29 T. Navajo Land Department Land Acquisition Trust Fund, FY2020 BU 415000, does  
30 not have sufficient income funds to cover the purchase cost. However, the Land



1 Acquisition Trust Fund "Fund Principal" has sufficient funds, the expenditure of  
2 which requires two-thirds (2/3) approval votes by the Navajo Nation Council  
3 pursuant to Title 16 N.N.C. § 204.

4 U. The Commercial Real Estate Purchase Agreement is attached as **Exhibit F**.

5 V. Executive Official Review Document No. 014560 is attached as **Exhibit G**.

6 W. The Navajo Nation finds that the acquisition of this property is in the best interests  
7 of the Navajo Nation which will provide property necessary for advocating the  
8 position of the Navajo Nation, efforts to access funding for Navajo government  
9 services, and to display the sovereignty of the Navajo Nation.

10  
11 **Section Three. Approval**

12 A. The Navajo Nation Council hereby approves the expenditure of the Land  
13 Acquisition Trust Fund "fund principal" in the amount of \$4,800,000.00 for the  
14 purchase of the 11 D. Street, S.E., Washington, D.C., plus any closing costs  
15 (\$90,281.50), the renovation and repair of the Property to occupy the building that  
16 will house NNWO (\$100,000) and the cost to hire architects to design the Navajo  
17 Nation Embassy (\$150,000). Total amount for the purchase, closing costs,  
18 renovation, architect design, and construction is \$5,140,281.50.

19 B. The Budget and Finance Committee of the Navajo Nation Council hereby  
20 recommends that the Resources and Development Committee approve the purchase  
21 of the real property offered for sale to the Navajo Nation, located at 11 D Street, S.  
22 E, Washington D.C.

23 C. The Resources and Development Committee of the Navajo Nation Council hereby  
24 approves the purchase of the real property offered for sale to the Navajo Nation,  
25 located at 11 D. Street, S. E., Washington D.C. and waives Section VI. (C)  
26 (Preliminary Inspection) the Navajo Nation Land Acquisition Rules and  
27 Regulations requiring the Navajo Land Department conduct a preliminary on-site  
28 inspection for this real property land acquisition.

29 D. The Navajo Nation directs the Division of Natural Resources Executive Director to  
30 initiate and complete the requirements for the purchase of real property before

1 October 31, 2020, through the Commercial Real Estate Purchase Agreement  
2 negotiated in this matter, with related documents as described in the Navajo Nation  
3 Land Acquisition Rules and Regulations, VI. General Procedure for Purchase of  
4 Real Property, (E) Purchase Agreement and Opening Escrow.  
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