

SUMMARY OF PROPOSED LEGISLATION

TrackingNo. 0003-23

Date: January 23, 2023

Re: AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; APPROVING \$3,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUFb”) FOR 110 CHAPTERS’ EMERGENCY FUND ACCOUNTS

Purpose of this Legislation:

to allocate \$3,000,000 from the UUFb for all 110 Chapters’ emergency funds (pursuant to 50/50 formula), to enable Chapters to quickly respond to weather-related emergencies.

OLC No. 23-013-1

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:

Casey A. Johnson (Prime Sponsor) *Oas D...* *N. U. B. H.* *[Signature]*

Tracking No. 0003-23

[Signature]

AN ACTION

RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL;
APPROVING \$3,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND
BALANCE (“UUF”) FOR 110 CHAPTERS’ EMERGENCY FUND ACCOUNTS

BE IT ENACTED:

SECTION ONE. AUTHORITY.

A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A). As such, the Council may consider emergency legislation. 2 N.N.C. §164(A)(16). “[M]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.” 2 N.N.C. §164(A)(16).

B. As the governing body of the Navajo Nation, the Council may approve supplemental appropriations during the fiscal year. “Supplemental appropriations of General Funds within the current fiscal year are permitted, if and when additional sources of revenues above and beyond the initial or current revenue projections are projected and which are also in excess of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L).

1 C. A “supplemental appropriation” is defined as: “[a]n appropriation of funds from the UUFB
2 during the fiscal year, outside of the annual Comprehensive Budget Process.” See Section
3 XIV.33 of the FY2023 Budget Instructions Manual.

4 D. The Title 12 restrictions on supplemental appropriations from the UUFB include:

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

22
23 **SECTION TWO. FINDINGS**

24 A. Due to the heavy rainfall and snowfall during Winter 2022-23, all 110 Navajo Nation
25 Chapters have a vital and urgent need for sufficient emergency funds to quickly respond to
26 weather-related emergencies at the local level.

27 B. On behalf of the 110 Chapters, the Division of Community Development (“DCD”) has
28 submitted a Supplemental Funding Proposal Summary (BIM-Appendix K), requesting
29 \$3,000,000 from the Unreserved, Undesignated Fund Balance to provide the Chapters with
30 such funds. **EXHIBIT A.** A “Section 164 Review” form is also attached under EXHIBIT A.

1 C. DCD has also provided the required Navajo Nation Budget Forms, attached hereto as
2 **EXHIBIT B**, and a list of the amount each Chapter will receive pursuant to the 50/50
3 distribution formula mandated in 12 N.N.C. §820(O), attached as **EXHIBIT C**.

4 D. The Controller's memorandum required by 12 N.N.C. §820(L), attached as **EXHIBIT D**,
5 indicates that the proposed expenditures are considered "non-recurring" expenses; therefore
6 approval of the requested UUFb funds complies with 12 N.N.C. §820(E) and §820(F).

7 E. The Office of Management and Budget has provided a budget impact analysis, as required
8 by 12 N.N.C. §820(M). **EXHIBIT E**.

9 F. This legislation is offered as an emergency measure because of the current "pressing public
10 need" for this funding for all 110 Chapters. These funds will enable Chapters to provide local
11 services to quickly mitigate dire weather-related emergencies and prevent potential disasters,
12 property damage, and injury or loss of life to people and livestock.

13
14 **SECTION THREE. APPROVING EMERGENCY FUNDS FOR CHAPTERS**

15 A. The Navajo Nation hereby approves \$3,000,000 from the Unreserved, Undesignated Fund
16 Balance for the 110 Navajo Nation Chapters. Each Chapter shall receive the designated dollar
17 amount as shown in **EXHIBIT C**, in accordance with 12 N.N.C. §820(O).

18 B. Pursuant to 12 N.N.C. §820(J), this UUFb appropriation shall be from that amount of funds
19 that exceeds the minimum fund reserve balance in the UUFb as determined by the
20 Controller.

21 C. As provided in 12 N.N.C. §820(N), the UUFb funds approved herein shall not lapse at the
22 end of Fiscal Year 2023, so long as each Chapter budgets these funds in the subsequent fiscal
23 year for the same emergency purposes.

24
25 **SECTION FOUR. EFFECTIVE DATE**

26 The provisions of this Action shall become effective in accordance with 2 N.N.C. §221(B) and
27 with 2 N.N.C. §164(A)(17).

28
29 **SECTION FIVE. SAVINGS CLAUSE**

30 If any provision of this Action is determined invalid by the Supreme Court of the Navajo Nation

1 or by any Navajo Nation District Court, without appeal to the Navajo Nation Supreme Court,
2 the remainder of this Action shall remain valid as the law of the Navajo Nation.

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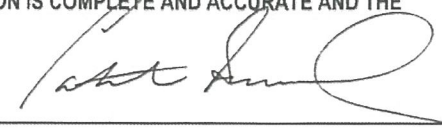
THE NAVAJO NATION
SUPPLEMENTAL FUNDING PROPOSAL SUMMARY

PART I. Business Unit No.:	<u>108014-108123</u>	Program Title:	<u>NN Chpater Emergency Funds</u>		
Division/Branch:	<u>DCD/Executive</u>	Amount Requested:	<u>\$3,000,000.00</u>	Prepared By:	<u>Lydell Davis</u>
Phone No.:	<u>928.871.7246</u>	Email Address:	<u>ldavis@nndcd.org</u>		

PART II. REASON FOR REQUEST AND STATEMENT OF NEED:
Provide financial resources to the Navajo Nation Chapters that are in need of Emergency funding. Emergency funding will be used for essential seasonal emergencies allowing Chapters to provide protective measures and remediation.

PART III. LIST ALTERNATIVE FUNDING SOURCES BEING PURSUED AND CONTINGENCY PLAN IF REQUEST IS NOT FUNDED:
UJFB

PART IV. AFFIRMATION IS PROVIDED THAT THE BUDGET AND PROPOSAL INFORMATION IS COMPLETE AND ACCURATE AND THE APPROPRIATE BRANCH CHIEF RECOMMENDS APPROVAL AS A PRIORITY.

 _____ REVIEWED BY: Division Director's Signature / Date	<u>1/20/23</u>	 _____ RECOMMEND SUPPLEMENTAL: Branch Chief's Signature / Date
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Document No. 020042

Date Issued: 01/19/2023

SECTION 164 REVIEW FORM

Title of Document: 2023 Winter Chapter Emergency Funds Contact Name: DAVIS, LYDELL FRANK

Program/Division: DIV. OF COMMUNITY DEVELOPMENT

Email: ldavis@nndcd.org Phone Number: 928.871.7246

Division Director Approval for 164A: _____

Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.

Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council

<input type="checkbox"/>	Statement of Policy or Positive Law:			Sufficient	Insufficient
	1. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)				
	1. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	2. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	3. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	

Section 164(B) Final approval rests with the President of the Navajo Nation

<input checked="" type="checkbox"/>	Grant/Funding Agreement or amendment:				
	1. Division: _____	Date: <u>1-20-23</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	2. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	3. OOC: <u>Robert White</u>	Date: <u>1/20/23</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	4. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	Subcontract/Contract expending or receiving funds or amendment:				
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	2. BRD: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	3. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	4. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	5. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:				
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	2. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	M.O.A. or Letter of Assurance expending or receiving funds or amendment:				
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	2. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	3. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	4. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	

THE NAVAJO NATION
PROGRAM PERFORMANCE CRITERIA

FY 2023

PART I. PROGRAM INFORMATION:	Business Unit No.: 108014-108123	Program Name/Title: NN Chapter Emergency Funds																																
PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:	CAP-34-08: To direct the Chapter Administration and management control system, by promoting efficiency and accountability to the Chapter membership, and to effectuate plans of action to improve the standard of living for the Chapter membership.																																	
PART III. PROGRAM PERFORMANCE CRITERIA:									<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">1st QTR</th> <th colspan="2">2nd QTR</th> <th colspan="2">3rd QTR</th> <th colspan="2">4th QTR</th> </tr> <tr> <th>Goal</th> <th>Actual</th> <th>Goal</th> <th>Actual</th> <th>Goal</th> <th>Actual</th> <th>Goal</th> <th>Actual</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		1st QTR		2nd QTR		3rd QTR		4th QTR		Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual								
1st QTR		2nd QTR		3rd QTR		4th QTR																												
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual																											
1. Goal Statement:	Secure NN Chapters with financial resources for community emergency response.																																	
Program Performance Measure/Objective:	Implement emergency management plan with financial resources appropriated.																																	
2. Goal Statement:	110																																	
Program Performance Measure/Objective:																																		
3. Goal Statement:																																		
Program Performance Measure/Objective:																																		
4. Goal Statement:																																		
Program Performance Measure/Objective:																																		
5. Goal Statement:																																		
Program Performance Measure/Objective:																																		
PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.																																		
					Soniatsa Jim-Martin, ASC Department Manager					Calvin Castillo, Executive Director																								
					Program Manager's Printed Name					Division Director/Branch Chief's Printed Name																								
					01/20/2023					1/20/23																								
					Program Manager's Signature and Date					Division Director/Branch Chief's Signature and Date																								

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

FY 2023

PART I. PROGRAM INFORMATION:		Business Unit No.:	
Program Name/Title:		108014-108123	
PART II. DETAILED BUDGET:		(B)	(C)
(A)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
8705	8000 ASSISTANCE Chapter 8715 Grant Chino Agency Chapters Eastern Agency Chapters Ft. Defiance Agency Chapters Northern Navajo Agency Chapters Western Navajo Agency Chapters	3,000,000 395,214.14 783,489.91 738,530.47 569,386.33 513,379.15 3,000,000.00	3,000,000
TOTAL		3,000,000	3,000,000

**Allocation of \$3,000,00 via 50/50 Formula for
Chapter Emergency Funds****CHINLE AGENCY**

BU:	Chapter:	Amount:
108014	Black Mesa	19,952.28
108015	Chinle	59,653.99
108016	Forest Lake	19,999.50
108017	Hardrock	23,470.30
108018	Lukachukai	27,590.40
108019	Many Farms	30,470.93
108020	Nazlini	24,119.60
108021	Pinon	33,988.95
108023	Rough Rock	23,375.86
108022	Round Rock	24,851.54
108024	Tachee/Blue Gap	24,450.15
108025	Tsaile/Wheatfields	30,400.10
108026	Tselani/Cottonwood	28,523.03
108027	Whippoorwill	24,367.51
	SUBTOTAL	395,214.14

**Allocation of \$3,000,00 via 50/50 Formula for
Chapter Emergency Funds**

EASTERN AGENCY

BU:	Chapter:	Amount:
108028	Alamo	26,409.86
108029	Baca/Prewitt	29,455.66
108030	Becenti	22,301.56
108031	Breadsprings	24,450.15
108033	Casamero Lake	20,955.74
108034	Chichiltah	32,064.67
108035	Churchrock	38,309.75
108036	Counselor	20,129.36
108037	Crownpoint	27,673.04
108038	Huerfano	33,717.43
108039	Iyanbito	23,293.22
108040	Lake Valley	18,689.09
108041	Littlewater	21,841.15
108042	Manuelito	23,316.83
108043	Mariano Lake	24,025.16
108044	Nageezi	25,595.28
108045	Nahodishgish	19,928.67
108046	Ojo Encino	21,368.93
108047	Pinedale	27,956.37
108048	Pueblo Pintado	19,125.90
108049	Ramah	28,652.89
108050	Red Rock	33,398.68
108051	Rock Springs	31,604.25
108052	Smith Lake	21,097.41
108053	Standing Rock	21,628.65
108032	To'hajiilee	27,011.93
108054	Thoreau	29,502.88
108055	Torreon	26,905.69
108056	Tsayatoh	24,603.62
108057	Whitehorse Lake	20,542.55
108058	Whiterock	17,933.56
	SUBTOTAL:	783,489.91

**Allocation of \$3,000,00 via 50/50 Formula for
Chapter Emergency Funds**

FORT DEFIANCE AGNECY

BU:	Chapter:	Amount:
108059	Cornfields	24,036.96
108060	Coyote Canyon	26,527.91
108061	Crystal	23,104.33
108062	Dilcon	29,361.22
108063	Fort Defiance	49,654.78
108064	Ganado	29,786.21
108065	Houck	28,298.73
108066	Indian Wells	25,465.42
108067	Jeddito	24,839.73
108068	Kinlichee	29,927.88
108069	Klagetoh	24,615.43
108070	Low Mountain	22,927.25
108071	Lower Greasewood	26,197.36
108072	Lupton	22,159.90
108073	Mexican Springs	24,155.02
108074	Naschitti	28,475.81
108085	Nahata Dzil	26,681.38
108075	Oak Springs	21,852.95
108076	Red Lake	21,699.48
108077	Sawmill	25,914.03
108078	Saint Michaels	43,220.81
108079	Steamboat	26,905.69
108080	Teesto	24,627.23
108081	Tohatchi	28,239.70
108082	Twin Lakes	32,312.58
108083	Whitecone	23,175.16
108084	Wide Ruins	24,367.51
	SUBTOTAL:	738,530.47

**Allocation of \$3,000,00 via 50/50 Formula for
Chapter Emergency Funds**

SHIPROCK AGENCY

BU:	Chapter:	Amount:
108086	Aneth	33,445.90
108087	Bechabito	20,967.55
108088	Burnham	20,247.41
108089	Cove	20,282.83
108090	Gadiiahi	20,530.74
108092	TseDaaKaan (Hogback)	29,550.11
108093	Mexican Water	22,218.92
108094	Nenahnezad	30,341.07
108095	Newcomb	20,873.10
108096	Red Mesa	29,101.50
108097	Red Valley	24,863.34
108098	Rock Point	28,877.19
108100	Sanostee	31,970.22
108099	San Juan	22,384.20
108101	Sheep Springs	21,770.32
108102	Shiprock	78,377.43
108103	Sweetwater	24,190.43
108104	TeecNosPos	26,575.13
108105	Two Grey Hills	23,966.13
108091	Upper Fruitland	38,852.80
	SUBTOTAL:	569,386.33

**Allocation of \$3,000,00 via 50/50 Formula for
Chapter Emergency Funds**

WESTERN NAVAJO AGENCY

BU:	Chapter:	Amount:
108106	Birdsprings	21,947.40
108107	Bodaway/Gap	27,708.46
108108	Cameron	24,214.04
108109	Chilchinbeto	24,084.18
108110	Coalmine Canyon	23,021.69
108111	Coppermine	23,694.60
108112	Dennehotso	28,263.31
108113	Inscription House	23,210.58
108114	Kaibeto	27,838.32
108115	Kayenta	45,617.32
108116	Lechee	26,704.99
108117	Leupp	28,652.89
108118	Navajo Mountain	21,616.85
108119	Oljato	32,584.10
108121	Shonto	29,089.69
108122	Tolani Lake	20,365.47
108120	Tonalea	30,258.43
108123	Toh Nanness Dizi	54,506.82
	SUBTOTAL:	513,379.15

GRAND TOTAL:	3,000,000.00
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Chinle Agency	395,214.14
Eastern Agency	783,489.91
Ft. Defiance Agency	738,530.47
Northern Navajo Agency	569,386.33
Western Navajo Agency	513,379.15
Grand Total:	3,000,000.00



DR. BUU NYGREN *PRESIDENT*
RICHELLE MONTOYA *VICE PRESIDENT*

The Navajo Nation | Yideeskáądi Nitsáhákees

Memorandum:

To: 2 NNC § 164 Reviewers
Delegates & 2 NNC '164 Reviewers
Navajo Nation Government
Robert Willie

From: Robert Willie, Accounting Manager
Office of the Controller

Date: January 20, 2023

Subject: 0164-020042- 2023 Winter Chapter Emergency Funds

The Office of the Controller has reviewed the above referenced document.

1. The unaudited balance of the UUFB as of January 12, 2023 is \$21,809,586.
2. Community Development is seeking \$3,000,000 from the UUFB for Emergency funding for seasonal emergencies allowing Chapters to provide protective measures and remediation.
3. This request would be considered **NON-RECURRING** for emergency for the Chapters.

If you should have any questions, please contact me at tribal extension X6496.



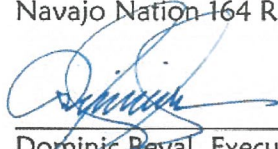


DR. BUU NYGREN *PRESIDENT*
RICHELLE MONTOYA *VICE PRESIDENT*

The Navajo Nation | Yideeskáądi Nitsáhákees

MEMORANDUM

TO: Navajo Nation 164 Reviewers

FROM: 
Dominic Beyer, Executive Director
Office of Management and Budget

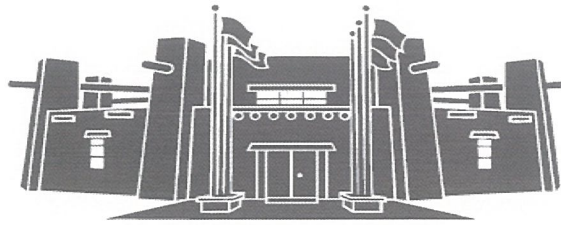
DATE: January 20, 2023

SUBJECT: Review of 164 document #020042, Division of Community Development for 110 Navajo Nation Chapters' emergency funds in amount of \$3,000,000 from UUFB.

Pursuant to 12 NNC 820 (M) OMB reviewed the subject document and provides the following information:


1. The budget has been corrected but the Supplemental Funding Proposal Summary is not signed by the Branch Chief. The corrected budget should be appended to any legislation. DCD should ensure this.
2. For the 24th Navajo Nation Council, OMB understands legislation to provide emergency funding to Chapters was initiated. It would have provided funds to restore balances to \$25,000 per Chapter. We understand the legislation died on 12/31/22.
3. This budget, now, simply allocates \$3 million in total. Using the 50/50 formula, without regard to current Chapter balances. OMB understands balances exist.

Contact OMB at (928) 871-6570 if there are any questions and/or concerns regarding this memorandum.



MEMORANDUM

To: Hon. Danny Simpson, Member
25th Navajo Nation Council

From: 
Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

Date: January 23, 2023

Subject: **AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; APPROVING \$3,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUF”) FOR 110 CHAPTERS’ EMERGENCY FUND ACCOUNTS**

The Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents regarding your request that were submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.

OLC has reviewed the appropriate standing committees’ authorities to consider this legislation, based on the standing committees’ powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-7166 or by email at: LuraleneTapahe@navajo-nsn.gov

Thank you for your cooperation.