TITLE: An Action Relating to an Emergency for the Navajo Nation Council; Approving an Allocation of Supplemental Funding from the Unreserved, Undesignated Fund Balance in the Total Amount of Two-Million, Two-Thousand Dollars ($2,002,000) to the Navajo Nation Division of the Social Services for COVID-19 Related Burial Assistance; Waiving 12 N.N.C. §§ 820 (E), (F), and (J) of the Appropriations Act

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DATE: February 26, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; APPROVING AN ALLOCATION OF SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE TOTAL AMOUNT OF TWO-MILLION, TWO-THOUSAND DOLLARS ($2,002,000) TO THE NAVAJO NATION DIVISION OF SOCIAL SERVICES FOR COVID-19-RELATED BURIAL ASSISTANCE; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J) OF THE APPROPRIATIONS ACT

PURPOSE: The purpose of this emergency resolution is to approve a supplemental appropriation of $2,002,000 from the UUFB to the Division of Social Services for COVID-19-related burial assistance.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

AN ACTION
RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
APPROVING AN ALLOCATION OF SUPPLEMENTAL FUNDING FROM THE
UNRESERVED, UNDESIGNATED FUND BALANCE IN THE TOTAL AMOUNT
OF TWO-MILLION, TWO-THOUSAND DOLLARS ($2,002,000) TO THE NAVAJO
NATION DIVISION OF SOCIAL SERVICES FOR COVID-19-RELATED BURIAL
ASSISTANCE; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J) OF THE
APPROPRIATIONS ACT

BE IT ENACTED:

SECTION ONE. AUTHORITY
A. The Navajo Nation Council is the governing of body of the Navajo Nation. 2 N.N.C. §
102(A).
B. The Navajo Nation Code provides, “[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(16).
C. This Resolution is offered as an emergency due to the unprecedented number of burials required as a result of deaths related to COVID-19.

D. The Navajo Nation Council has the authority to approve supplemental appropriations. 12 N.N.C. § 820(L). Pursuant to 12 N.N.C. § 820(L), "[t]he Navajo Nation Council may adopt and approve supplemental appropriations to the Annual Comprehensive Budget 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)."

E. The Title 12 Finance Act Supplemental Appropriation requirements include:

1. All requests for annual operating funds and supplemental funds shall be submitted to the Office of Management and Budget for budget impact analysis. 12 N.N.C. § 820(M).

2. When the Controller identifies additional sources of revenues above and beyond the initial or current revenue projections, supplemental appropriations may be approved by the Navajo Nation Council. 12 N.N.C. § 820(L).

3. Supplemental Appropriations made from non-recurring revenues shall only be made for non-recurring operations or purposes, as set forth at § 820(F). The Controller of the Navajo Nation shall be responsible for the designation of recurring and non-recurring revenues. 12 N.N.C. § 820(L).

4. The Nation shall budget all recurring operating expenses, including capital maintenance, from recurring revenues. Long term debt shall not be used to finance recurring operating expenses. 12 N.N.C. §820(E).

5. The Navajo Nation Code provides, "[t]he Nation shall restrict non-recurring revenues to budget non-recurring expenditures. In addition, non-recurring revenues will be budgeted only after an examination by the Controller to determine whether or not the revenues are subsidizing an imbalance between recurring revenues and expenditures, and expenditures may be authorized only if a long-term (three-five year) forecast shows that the operating deficit will not continue. Otherwise, non-recurring revenues will be added to the Unreserved, Undesignated Fund balance. This provision may be amended or waived by a two-thirds vote of the full Navajo Nation Council." 12 N.N.C. § 820(F).
SECTION TWO. FINDINGS


C. As of February 25, 2021, the Navajo Nation Health Command Operations Center has confirmed 29,655 COVID-19 cases and 1,161 total confirmed COVID-19-related deaths on the Navajo Nation; COVID-19 cases and COVID-19-related deaths on the Navajo Nation have not subsided and continue to rise at an alarming rate.

D. The Navajo Nation Division of Community Development is requesting supplemental funding in the amount of $2,002,000 to provide financial assistance for the burial of 572 Navajo decedents, who passed away because of COVID-19-related complications. The Division’s budget justification documents regarding this requested funding are attached as Exhibit A.

E. The COVID-19 pandemic has created a public health disaster that the Navajo Nation is attempting to mitigate with relief funding. Failure to provide burial assistance will be a failure to provide disaster relief services to the Navajo people, and this resolution therefore requires emergency action by Navajo Nation leadership pursuant to 2 N.N.C. § 164 (A)(16).

F. The Office of Management and Budget has provided its review required pursuant to 12 N.N.C. 820(M). See memo attached as Exhibit B.
G. Due to the emergency nature of this legislation the Office of the Controller has yet to provide the information required pursuant to 12 N.N.C. § 820(L). The Controller can provide this information when the matter is heard before the Navajo Nation Council.

SECTION THREE. WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J), TO THE EXTENT THESE PROVISIONS PREVENT THE UNRESERVED, UNDESIGNATED FUND BALANCE TO BE USED TO FUND RECURRING EXPENDITURES

The Navajo Nation Council hereby waives 12 N.N.C. §§ 820(E), (F) and (J) in order to allow UUFN funds to be used for recurring expenditures.

SECTION FOUR. APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF TWO-MILLION, TWO-THOUSAND DOLLARS ($2,002,000) TO THE NAVAJO NATION DIVISION OF SOCIAL SERVICES

A. This supplemental appropriation of $2,002,000 shall be from that amount of funds that exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance as determined by the Office of the Controller, and as shown in Exhibit B.

B. The Navajo Nation hereby approves supplemental funding from the Unreserved, Undesignated Fund Balance to the Navajo Nation Division of Social Services in the amount of $2,002,000 for funds as indicated in the documents in Exhibit A.

SECTION FIVE. DIRECTIVES

The Navajo Nation Division of Social Services shall provide a written report regarding the expenditures under this resolution to the Health, Education and Human Services Committee at the end of each Quarter until all funds under this appropriation are expended.

SECTION SIX. SAVING CLAUSE

Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.