LEGISLATION NO: _0058-21_  SPONSOR: Otto Tso

TITLE: An Act Relating to Resources and Development, Budget and Finance, and Naa’bik’íyátí’ Committees, and the Navajo Nation Council; Approving Supplemental Funding from the Unreserved, Undesignated Fund Balance in the Amount of $1,244,913.00 for the Navajo Department of Criminal Investigations to Continue Providing Effective Services for the Navajo Nation; Waiving 12 N.N.C §§ 820 (E), (F), and (J)

Date posted: __March 25, 2021 at 9:53PM

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DATE: March 25, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAA'BIK'IYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF $1,244,913.00 FOR THE NAVAJO DEPARTMENT OF CRIMINAL INVESTIGATIONS TO CONTINUE PROVIDING EFFECTIVE SERVICES FOR THE NAVAJO NATION; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J)

PURPOSE: The purpose of this resolution is for the Navajo Nation to approve $1,244,913.00 in supplemental funding out of the UUFB for the Navajo Department of Criminal Investigations.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0058-24

AN ACT
RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND
FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO
NATION COUNCIL; APPROVING SUPPLEMENTAL FUNDING FROM THE
UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF
$1,244,913.00 FOR THE NAVAJO DEPARTMENT OF CRIMINAL
INVESTIGATIONS TO CONTINUE PROVIDING EFFECTIVE SERVICES
FOR THE NAVAJO NATION; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J)

BE IT ENACTED:

SECTION ONE. AUTHORITY
A. The Navajo Nation established the Law and Order Committee (“LOC”) as a Navajo
Nation Council standing committee, and as such gave LOC oversight over all
departments within the Navajo Division of Public Safety. 2 N.N.C. §§ 600(A),
600(C)(5).
B. The Navajo Nation established the Budget and Finance Committee (“BFC”) as a
Navajo Nation Council standing committee, and as such empowered BFC to review
and recommend to the Navajo Nation Council the management of all funds. 2 N.N.C.
§§ 300(A), and 301(B)(2).
C. The Navajo Nation Council established the Naabik’iyáti’ Committee as a Navajo Nation standing committee, and proposed legislation requiring final action by the Navajo Nation Council shall be assigned to the Naabik’iyáti’ Committee. 2 N.N.C. §§ 164(A)(9) and 700(A).

D. The Navajo Nation Council is the governing body of the Navajo Nation, with the authority to approve supplemental appropriations. 2 N.N.C. § 102(A), 12 N.N.C. § 820(L).

E. 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).”

F. The Title 12 Supplemental Appropriation requirements include:

1. All requests for annual operating funds and supplemental funds shall be submitted to the Office of Management and Budget (OMB) 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

A. This request for supplemental funding seeks the amount of $1,244,913.00 out of the
Unreserved, Undesignated Fund Balance, to assist the Navajo Department of Criminal
Investigations (“NDCI”) in continuing to provide its daily services in an efficient and
effective manner, while complying with required COVID-19 protocols. NDCI reports
that its FY2021 base funding allocation is not enough sufficient to meet NDCI’s
operational demands at all districts, due to increased financial burdens resulting from
the COVID-19 pandemic, with NDCI having to ensure proper safety protocols for its
staff and community members according to CDC and Navajo Nation guidelines.

B. The supplemental funding proposal, budget forms and related documents, including
Appendix K “Supplemental Funding Proposal Summary,” for NDCI are attached as
Exhibit A.

C. The Office of the Controller issued a memorandum dated March 17, 2021, to satisfy
the requirements in 12 N.N.C. § 820(L), attached as Exhibit B. The Controller has
identified the NDCI expenditures as RECURRING and therefore a waiver of 12
N.N.C. § 820(E), (F), and (J) is required.

D. The Office of Management and Budget issued a memorandum dated March 24, 2021,
to satisfy the requirements in 12 N.N.C. § 820(M), attached as Exhibit C.

SECTION THREE. APPROVING SUPPLEMENTAL FUNDING FROM THE
UNRESERVED, UNDESIGNATED FUND BALANCE

A. The Navajo Nation hereby approves $1,244,913.00 in supplemental funding from the
Unreserved, Undesignated Fund Balance for the Navajo Department of Criminal
Investigations.

B. This supplemental appropriation of $1,244,913.00 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.

SECTION FOUR. WAIVING 12 N.N.C. §§ 820(E), (F), AND (J)

The Navajo Nation Council hereby waives 12 N.N.C. §§ 820(E), (F) and (J) in order to allow funds out of the Unreserved, Undesignated Fund Balance to be used for recurring expenditures and government operations.

SECTION 5. 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.

SECTION 6. EFFECTIVE DATE

The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221.