TITLE: An Action Relating to Budget and Finance and Naabik’íyáti’ Committees, and to the Navajo Nation Council; Approving the Navajo Nation Fiscal Year 2022 Comprehensive Budget; Waiving 12 N.N.C. §§ 820(I), § 860, § 840(B), 12 N.N.C. §§ 2001 et seq., and Resolution CF-07-11

Date posted: August 29, 2021 at 12:24AM

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DATE: August 28, 2021

TITLE OF LEGISLATION: AN ACTION RELATING TO THE BUDGET AND FINANCE AND NAABIK’ÍYÁTI’ COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING THE NAVAJO NATION FISCAL YEAR 2022 COMPREHENSIVE BUDGET; WAIVING 12 N.N.C. §§820(I), §860, §840(B), 12 N.N.C. §§2001 ET SEQ., AND RESOLUTION NO. CF-07-11

PURPOSE OF THIS LEGISLATION: to adopt the Fiscal Year 2022 Comprehensive Budget.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL - Third Year, 2021

INTRODUCED BY

(Primary Sponsor)

TRACKING NO. 0182-21

AN ACTION
RELATING TO THE BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL;
APPROVING THE NAVAJO NATION FISCAL YEAR 2022 COMPREHENSIVE BUDGET; WAIVING 12 N.N.C. §820(I), §860, §840(B), 12 N.N.C. §§2001 ET SEQ., AND RESOLUTION NO. CF-07-11

BE IT ENACTED:

SECTION 1. AUTHORITY
(A) The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
(B) The Naabik’íyáti’ Committee is assigned proposed resolutions that require final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).
(C) The Budget and Finance Committee makes recommendations concerning the budget and submits them to the Navajo Nation Council for deliberation and approval. 12 N.N.C. §840(A).

SECTION 2. ADOPTING THE NAVAJO NATION'S COMPREHENSIVE BUDGET FOR FISCAL YEAR 2022
The Navajo Nation hereby adopts the Navajo Nation Fiscal Year 2022 Comprehensive Budget as follows:
(A) SPECIAL FUNDS. In accordance with the Navajo Nation Appropriations Act and other statutory provisions, the Navajo Nation appropriates $50,118,000 for certain special funds for Fiscal Year 2022 ("FY2022"), which amount consists of the following allocations:

1. 12% or $22,479,000 into the Navajo Nation Permanent Trust Fund;
2. 4% or $7,493,000 into the Navajo Nation Veterans Trust Fund;
3. 2% or $3,746,000 into the Navajo Nation Land Acquisition Trust Fund;
4. $2,000,000 into the Capital Outlay Match Funding Special Revenue Fund;
5. $2,000,000 into the Navajo Nation Water Rights Claim Fund;
6. $12,400,000 into the Diné Higher Education Grant Fund.

(B) OVERALL FY2022 BUDGET. The Navajo Nation appropriates $1,515,807,711 for the Navajo Nation’s overall FY2022 Operating Budget, which amount consists of the following allocations (as shown in EXHIBIT A):

1. $173,299,815 into the General Fund account;
2. $25,000,000 into the Indirect Cost Funds account;
3. $3,019,319 into the General Wage Adjustment account;
4. $12,400,000 into the Higher Education Set-Aside account:
5. $3,500,000 into the External Funds Cash Match (General Fund) account;
6. $5,630,875 into the Personnel Lapse Fund account;
7. $91,828,678 into the Proprietary Funds account;
8. $104,652,922 into the Fiduciary Funds account;
9. $37,877,238 into the Special Revenue - Internal Funds account;
10. $1,058,598,864 into the Special Revenue - External Funds account.

(C) LEGISLATIVE BRANCH. The Navajo Nation appropriates $17,181,778 for the Navajo Nation’s Legislative Branch FY2022 Operating Budget, which amount consists of the following allocations (as shown in EXHIBIT B):

1. $15,732,069 into the General Fund account;
2. $1,192,091 into the Indirect Cost Funds account;
3. $256,618 into the General Wage Adjustment account;
4. $1,000 into the Proprietary Funds account;
5. $0 into the Fiduciary Funds account;
6. $0 into the Special Revenue - Internal Funds account;
7. $0 into the Special Revenue - External Funds account.

(D) JUDICIAL BRANCH. The Navajo Nation appropriates **$21,618,341** for the Navajo Nation’s Judicial Branch FY2022 Operating Budget, which amount consists of the following allocations (as shown in **EXHIBIT C**):

1. **$15,765,782** into the General Fund account;
2. **$144,564** into the Indirect Cost Funds account;
3. **$439,253** into the General Wage Adjustment account;
4. **$283,478** into the Personnel Lapse Fund account;
5. **$0** into the Proprietary Funds account;
6. **$0** into the Fiduciary Funds account;
7. **$0** into the Special Revenue - Internal Funds account;
8. **$4,985,264** into the Special Revenue - External Funds account.

(E) EXECUTIVE BRANCH. The Navajo Nation appropriates **$1,448,210,212** for the Navajo Nation’s Executive Branch FY2022 Operating Budget, which amount consists of the following allocations (as shown in **EXHIBIT D**):

1. **$124,193,371** into the General Fund account;
2. **$15,474,558** into the Indirect Cost Funds account;
3. **$2,323,448** into the General Wage Adjustment account;
4. **$12,400,000** into the Higher Education Set-Aside account;
5. **$3,500,000** into the External Funds Cash Match (General Fund) account;
6. **$2,347,397** into the Personnel Lapse Fund account;
7. **$91,827,678** into the Proprietary Funds account;
8. **$104,652,922** into the Fiduciary Funds account;
9. **$37,877,238** into the Special Revenue - Internal Funds account;
10. **$1,053,613,600** into the Special Revenue - External Funds account.

(F) FIXED COSTS. The Navajo Nation appropriates **$28,797,380** to pay FY2022 Fixed Costs for certain Navajo Nation Programs, which amount consists of the following allocations (as shown in **EXHIBIT E**):

1. **$17,608,593** into the General Fund account;
2. $8,188,787 into the Indirect Cost Funds account;
3. $3,000,000 into the Personnel Lapse Fund account;
4. $0 into the Proprietary Funds account;
5. $0 into the Fiduciary Funds account;
6. $0 into the Special Revenue - Internal Funds account;
7. $0 into the Special Revenue - External Funds account.

(G) CHAPTER NON-ADMINISTRATIVE COSTS. The Navajo Nation appropriates $12,675,211 to pay FY2022 Non-Administrative Costs for the 110 Navajo Nation Chapters; however, this appropriation shall not be used to pay Chapter expenses for the following: (1) stipend payments for Chapter officials’ attendance at Chapter meetings or similar events; (2) Chapter personnel costs (i.e., employee wages, salaries, and similar payments) that are considered permanent costs for the Chapter; or (3) travel expenses incurred by any Chapter officials or Chapter staff, regardless of the purpose of travel.

(H) CARRYOVERS. The Navajo Nation approves carryovers from Fiscal Year 2021 to FY2022, all remaining dollar amounts in the following accounts:

1. the External Funds Cash Match account (Business Unit No. 118024);
2. the Indirect Cost Funds account;
3. the Capital Improvement Projects Fund account;
4. the accounts of the various Programs as shown in EXHIBIT F; the Office of the Controller (“OOC”) shall ensure that all carryover funds approved herein are used specifically, and strictly for, those proposed line-item amounts shown in Exhibit F; the OOC shall also inform the Office of Management and Budget (“OMB”), in writing, of any cancelled or reduced open encumbrances for Fiscal Year 2021, so that the OMB can make the appropriate budget adjustments as necessary.

(I) PERSONNEL LAPSE FUND. The Office of the Controller has reported that the Personnel Lapse Fund account currently has a dollar amount of $6,108,718. The Navajo Nation appropriates $6,108,718 from the Personnel Lapse Fund account, which amount consists of the following allocations:

1. $2,630,875 to pay certain expenses for various Navajo Nation Programs, as
shown in EXHIBIT G; and

2. $3,477,853 to pay for a 3% General Wage Adjustment for all Navajo Nation employee wages and salaries for FY2022.

(J) WAIVERS OF NAVAJO NATION LAW.

1. Appropriations Act. To accommodate the two appropriations described in (I)1-2 above, the Navajo Nation hereby waives 12 N.N.C. §820(I) to the extent that this statutory provision mandates that excess and surplus funds held by the Navajo Nation at the end of the previous Fiscal Year must be deposited into the Unreserved, Undesignated Fund Balance account (“UUFB”).

2. Resolution No. CF-07-11. The Navajo Nation hereby waives Resolution No. CF-07-11 to the extent that its provisions establish a moratorium on Budget Revisions and/or Reallocations from the Personnel Lapse Fund account, requires funds from that account to be used for annual General Wage Adjustments or step increases and other salary adjustments to the Pay Plan established by the Department of Personnel Management, and also requires that any excess or surplus funds must be deposited into the UUFB.

3. Capital Improvement Plan. The Navajo Nation hereby waives 12 N.N.C. §820(I), §840(B), and §860 for the purpose of approving this Comprehensive Budget for FY2022, because the mandated Capital Improvement Plan is not available.

(K) CONDITIONS OF APPROPRIATION. The Navajo Nation Council and its Standing Committees, according to Title 2 and other provisions of the Navajo Nation Code, are responsible for ensuring that all Navajo Nation Divisions, Departments and Programs provide adequate, timely, and professional services to the Navajo Nation and the Navajo People. One pragmatic and effective method to carry out such responsibilities is to establish certain Conditions of Appropriation mandating the performance of specific tasks within a particular time period determined by the Navajo Nation Council. The Navajo Nation therefore approves and adopts the Conditions of Appropriation, as shown in EXHIBIT H, which Exhibit shall be attached to this legislation when finalized by the Office of Legislative Counsel.

(L) LEGISLATIVE CONCERNS. Related to the goals described in Paragraph (K) above, the Navajo Nation hereby approves the Legislative Concerns for Navajo Nation FY2022, as set
forth in the attached EXHIBIT I, which Exhibit shall be attached to this legislation when finalized by the Office of Legislative Counsel.

(M) EXPENDITURES NOT RESTRICTED BY BUDGET INFORMATION. The Navajo Nation hereby acknowledges that all dollar amounts and accounts as listed and described in the Navajo Nation FY2022 Comprehensive Budget are provided primarily for information purposes, as directed in the Budget Instructions Manual. Such dollar amounts and account descriptions should not be deemed to limit the expenditure authority for any Program, provided that additional funds are accepted or approved pursuant to 2 N.N.C. §164(B), 2 N.N.C. §301(B)(15), and 2 N.N.C. §701(A)(10).

(N) BIA ACCOUNT NO. PL7341701. The Navajo Nation hereby authorizes monthly drawdowns of all funds deposited into BIA Account, PL7341701, Navajo Tribe, Arizona/New Mexico, which funds are considered Navajo Nation General Funds as part of the overall revenue projection, and are used for the administrative support of the operations of the Navajo Nation Government.

(O) LAND ACQUISITION TRUST FUND. The Navajo Nation hereby waives certain provisions of the Navajo Nation Land Acquisition Trust Fund ("LATF"), specifically 16 N.N.C. §1 and §205, to the extent that such provisions do not allow the use of LATF funds for operational expenses for the Division of Natural Resources or its Departments and Programs. The Navajo Nation Council hereby appropriates LATF funds in the amount of $241,189 from B.U. 415000 - Land Acquisition Trust Fund, for the Division of Natural Resources, as shown in the attached EXHIBIT J.

(P) BUDGET DETAIL. The Navajo Nation hereby approves the FY2022 Budget Detail, as shown in the attached EXHIBIT K, which Exhibit shall be attached to this legislation when finalized by the Office of Management and Budget.

SECTION 3. DIRECTIVES

(A) Office of Management and Budget. The Navajo Nation hereby directs the Office of Management and Budget to recalculate all dollar amounts shown throughout this legislation, in order to verify that final monetary totals are accurate and conform to all amendments to this legislation, if any.
(B) Office of Legislative Services. The Navajo Nation hereby directs the Office of Legislative Services, in consultation with the Office of Legislative Counsel, to make technical edits to this legislation as necessary and appropriate to correct grammatical and/or scrivener’s errors, and to correct numerical errors, so long as such edits effectuate the Navajo Nation Council’s intent in approving this legislation.

(C) Division of Community Development. The Navajo Nation Council hereby directs the Division of Community Development to develop the Navajo Nation Capital Improvement Plan in accordance with 12 N.N.C. §860.

SECTION 4. EFFECTIVE DATE
The Navajo Nation FY2022 Comprehensive Budget approved and adopted herein shall be effective pursuant to 2 N.N.C. §164(A)(17) and §221(B).

SECTION 5. SAVING CLAUSE
If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court, or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, those remaining provisions of this legislation not determined invalid shall remain the law of the Navajo Nation.