TITLE: An Act Relating to the Law and Order, Budget and Finance, and Naabik’íyáti’ Committees, and the Navajo Nation Council: Approving Supplemental Funding from the Unreserved, Undesignated Fund Balance in the Amount of $1,244,915.00 for the Navajo Judicial Branch and $600,000 to the Navajo Election Administration to Address Fiscal Year 2022 Unmet Needs; Waiving 12 N.N.C. §§ 820(E), (F), and (J)

Date posted: __September 4, 2021 at 10:40PM

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DATE: September 2, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO THE LAW AND ORDER, BUDGET AND FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDE SIGNATED FUND BALANCE IN THE AMOUNT OF $1,244,915.00 FOR THE NAVAJO JUDICIAL BRANCH AND $600,000 TO THE NAVAJO ELECTION ADMINISTRATION TO ADDRESS FISCAL YEAR 2022 UNMET NEEDS; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J)

PURPOSE: This resolution, if approved, will provide supplement funding from the UUFFB to the Judicial Branch in the amount of $1,244,915 and to the Navajo Election Administration in the amount of $600,000.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0190-21

AN ACT

RELATING TO THE LAW AND ORDER, 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 $1,244,915.00 FOR THE NAVAJO JUDICIAL BRANCH AND $600,000 TO THE NAVAJO ELECTION ADMINISTRATION TO ADDRESS FISCAL YEAR 2022 UNMET NEEDS; 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 as a Navajo Nation Council standing committee with oversight over all departments within the Judicial Branch. 2 N.N.C. §§ 600(A) and (C) (1).

B. The Navajo Nation established the Budget and Finance Committee as a Navajo Nation Council standing committee with the enumerated power to 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'íyáti' Committee as a Navajo Nation standing committee with oversight over offices, programs, commissions, boards
or task forces, such as the Navajo Election Administration, operating under the
Legislative Branch. 2 N.N.C. §§ 700(A) and 701 (A)(5).

D. The Naabik'íyáti' Committee is also mandated to hear proposed legislation requiring
final action by the Navajo Nation Council. See 2 N.N.C. § 164(A)(9).

E. 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) and 12 N.N.C. §
820(L).

F. 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).”

G. 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. The Administrative Director of the Judicial Branch has issued a memorandum dated
July 28, 2021, attached as Exhibit A, seeking supplemental funding in the amount of
$1,244,915.00 out of the Unreserved, Undesignated Fund Balance, to address the
Navajo Judicial Branch’s Unmet Needs; the request is inclusive of the changes in fringe
benefits and insurance policy rates.

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

C. The Office of the Controller issued a memorandum dated August 20, 2021, to satisfy
the requirements in 12 N.N.C. § 820(L), attached as Exhibit C. The Controller has
identified the Judicial Branch 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 August 20, 2021,
to satisfy the requirements in 12 N.N.C. § 820(M), attached as Exhibit D.

E. To mitigate the reduction of any branch’s budget allocation and the accompanying
reduction in services, the President of the Navajo Nation, Speaker of the Navajo Nation
Council, and Navajo Nation Chief Justice agreed at their Three Branch Chiefs meeting
in June of 2021 that it would be in the best interests of the Navajo Nation if the Unmet
Needs for the Judicial Branch and Election Administration were funded through an
Unreserved, Undesignated Fund supplemental appropriation.

F. The Supreme Court of the Navajo Nation has stated that the “Election Code itself – as
a matter of law – mandates the expenditure of funds necessary to the operation of the
Election Code. We therefore hold sufficient funds are to be appropriated as a matter of law because the Navajo Nation is legally obligated to expend funds to carry into effect the Election Code.” *Tsosie v. Navajo Board of Election Supervisors*, SC-CV-68-14.

G. The Office of the Speaker issued two memoranda dated July 29, 2001, attached as **Exhibit E**, seeking supplemental funding in the amount of $600,000 out of the Unreserved, Undesignated Fund Balance, to address the Election Administration’s Unmet Needs to provide continued election services and the facilitation of the upcoming Fiscal Year 2022 elections.

H. The supplemental funding proposal, budget forms and related documents, including Appendix K “Supplemental Funding Proposal Summary,” for the Election Administration are attached as **Exhibit F**.

I. The Office of the Controller issued a memorandum dated August 20, 2021, to satisfy the requirements in 12 N.N.C. § 820(L), attached as **Exhibit G**. The Controller has identified the Election Administration expenditures as RECURRING and therefore a waiver of 12 N.N.C. § 820(E), (F), and (J) is required.

J. The Office of Management and Budget issued a memorandum dated August 20, 2021, to satisfy the requirements in 12 N.N.C. § 820(M), attached as **Exhibit H**.

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

A. The Navajo Nation hereby approves $1,244,915.00 in supplemental funding from the Unreserved, Undesignated Fund Balance for the Navajo Judicial Branch.

B. This supplemental appropriation of $1,244,915.00 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.

C. The Navajo Nation hereby approves $600,000.00 in supplemental funding from the Unreserved, Undesignated Fund Balance for the Navajo Election Administration.

D. This supplemental appropriation of $600,000 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.
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 action 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 action 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 (B) and 2 N.N.C. § 164 (A) (17).