

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0050-22_

SPONSOR: Wilson C. Stewart, Jr.

TITLE: An Act Relating to an Emergency; Approving \$3,003,441 from the Unreserved, Undesignated Fund Balance ("UUFb") for the Navajo Election Administration for its Expenses in Preparation for the 2022 Navajo Nation Elections; Waiving 12 N.N.C. § 820(E), § 820(F), § 820(J), and § 820(L)

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LEGISLATION SUMMARY

TrackingNo. 0050-22

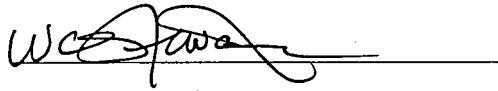
Date: March 8, 2022

Re: **AN ACT RELATING TO AN EMERGENCY; APPROVING \$3,003,441 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUFB”) FOR THE NAVAJO ELECTION ADMINISTRATION FOR ITS EXPENSES IN PREPARATION FOR THE 2022 NAVAJO NATION ELECTIONS; WAIVING 12 N.N.C. §820(E), §820(F), §820(J), AND §820(L)**

Purpose: to approve \$3,003,441 from the UUFB for the Navajo Election Administration to pay for its expenses in preparation for the upcoming 2022 Navajo Nation elections.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL - Fourth Year, 2022

Introduced by:


(Prime Sponsor)

Tracking No. 0050-22

AN ACT

RELATING TO AN EMERGENCY; APPROVING \$3,003,441 FROM THE
UNRESERVED, UNDESIGNATED FUND BALANCE (“UUFb”) FOR THE
NAVAJO ELECTION ADMINISTRATION FOR ITS EXPENSES IN
PREPARATION FOR THE 2022 NAVAJO NATION ELECTIONS;
WAIVING 12 N.N.C. §820(E), §820(F), §820(J), AND §820(L)

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 proposed legislation regarding an emergency matter. 2 N.N.C. §164(A)(16).
- B. “[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).
- C. At this time, the Navajo Nation Council is deeply concerned that the Navajo Election Administration (“NEA”) currently does not have enough funds in its budget to adequately

1 prepare for and properly conduct, all of the 2022 primary and general elections that will
2 be held across the Navajo Nation, or to fulfill its postelection duties to count all legitimate
3 votes cast and publish all election results.

4 D. The Navajo Nation Council therefore finds that the NEA's request for \$3,003,441 in
5 supplemental funding, as explained below, is indeed an emergency matter because the
6 NEA's lack of funds "directly threaten[s] the sovereignty of the Navajo Nation" and there
7 certainly exists a "pressing public need" for the requested funds.

8 E. The Navajo Nation Council is empowered to approve supplemental appropriations during
9 the current fiscal year if, and when, additional incoming revenue to the Navajo Nation is
10 expected to surpass initial or current revenue projections, and such revenue exceeds the 10%
11 minimum reserve mandated by §820(J). 12 N.N.C. §820(L).

12 F. The restrictions on supplemental appropriations, including all amounts from the UUFB,
13 include:

14 1. Payment of recurring government operating expenses shall be from recurring revenues,
15 and payment of nonrecurring expenses shall be from nonrecurring revenues such as UUFB
16 funds. 12 N.N.C. §820(E), §820(F).

17 2. Specifically, the UUFB shall not be used for recurring government expenditures or
18 operations. 12 N.N.C. §820(J), §820(L).

19 3. Nonrecurring revenues, such as UUFB funds, may be used only after the Controller
20 determines whether or not such revenues are subsidizing an imbalance between the
21 Navajo Nation's recurring revenues and expenditures, and government expenditures shall
22 only be authorized if a long-term (3-year to 5-year year) forecast shows that the operating
23 deficit will not continue; otherwise, nonrecurring revenues will be added to the
24 Unreserved, Undesignated Fund Balance. 12 N.N.C. §820(F).

25 4. The above provisions in Title 12 may be amended or waived by a two-thirds vote of the
26 full Navajo Nation Council. 12 N.N.C. §820(F), 12 N.N.C. §880.

27 5. In compliance with 12 N.N.C. §820(F) all UUFB funding requests must be reviewed by
28 the Controller. Such review is also required because the Controller determines which
29 revenues and expenses are recurring and which are non-recurring. 12 N.N.C. §820(L).

30 6. In compliance with 12 N.N.C. §820(M) all UUFB funding requests must be submitted to

1 the Office of Management and Budget (“OMB”) for a budget impact analysis.

2 7. Supplemental funding such as UUFB appropriations shall lapse at the end of the current
3 fiscal year unless the Navajo Nation Council decides otherwise. 12 N.N.C. §820(N).

4
5 **SECTION TWO. FINDINGS**

6 A. The Navajo Election Administration (“NEA”) is requesting \$3,003,441 out of the UUFB to
7 purchase office equipment and supplies, and to cover its operating expenses for the remainder
8 of FY2022. NEA believes this funding request should be viewed as an emergency matter,
9 because such expenses are necessary for NEA to adequately prepare for the upcoming 2022
10 Navajo Nation primary and general elections to be conducted across the Navajo Nation.

11 B. NEA has provided a memorandum regarding its need for the \$3,003,441 in additional
12 funding, explaining that NEA is currently using outdated and obsolete equipment and
13 software that are inadequate for the upcoming 2022 Navajo Nation elections. **EXHIBIT A.**

14 C. NEA has prepared appropriate Budget Forms regarding its funding request. **EXHIBIT B.**

15 D. The Controller has been asked to prepare a memorandum regarding this funding request, to
16 comply with 12 N.N.C. §820(F) and §820(L). This memorandum may be provided to the
17 assigned Committees and the Council when this legislation is up for consideration.

18 E. OMB was asked to prepare a budget impact analysis regarding this funding request, to
19 comply with 12 N.N.C. §820(M). This analysis may be provided to the assigned Committees
20 and the Council when this legislation is up for consideration.

21 F. The Navajo Nation has determined that this legislation constitutes an emergency, because
22 the requested funds are needed to ensure bona fide 2022 elections across the Navajo Nation,
23 as well as proper post-election procedures for the counting of all votes and the publication of
24 final election results; voting must be easily accessible to all eligible Navajo voters.

25
26 **SECTION THREE. APPROVAL OF \$3,003,441 FROM THE UUFB FOR THE NEA’S**
27 **EXPENSES IN PREPARATION FOR THE UPCOMING 2022**
28 **NAVAJO NATION ELECTIONS**

29 A. The Navajo Nation hereby approves a supplemental appropriation of \$3,003,441 out of the
30 UUFB for the Navajo Election Administration to cover its expenses in preparation for the

1 upcoming 2022 Navajo Nation primary and general elections, in accordance with the
2 attached EXHIBIT A and EXHIBIT B.

3 B. The \$3,003,441 in UUFB funds approved herein shall be from those revenues that exceed
4 the 10% minimum balance of the UUFB, which amount must be maintained according to
5 12 N.N.C. §820(J).

6 C. The \$3,003,441 approved herein shall **not** lapse at the end of Fiscal Year 2022, as would
7 otherwise occur pursuant to 2 N.N.C. §820(N), and all unexpended and/or unencumbered
8 amounts shall carry over to NEA's Budget for FY2023.

9
10 **SECTION FOUR. WAIVING 12 N.N.C. §820(E), §820(F), §820(J), and §820(L)**

11 The Navajo Nation hereby waives 12 N.N.C. §820(E), §820(F), §820(J), and §820(L) to allow
12 use of the \$3,003,441 in UUFB funds by NEA for its necessary expenditures in preparation for
13 the upcoming 2022 Navajo Nation primary and general elections. This waiver is necessary
14 because the proposed NEA expenditures are considered recurring government expenses.

15
16 **SECTION FIVE. EFFECTIVE DATE**

17 This Act shall become effective pursuant to 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17).

18
19 **SECTION SIX. SAVING CLAUSE**

20 If any portion of this Act is determined invalid by the Navajo Nation Supreme Court, or by a
21 District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the
22 remainder of this Act shall be the law of the Navajo Nation.