

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0096-23_

SPONSOR: Otto Tso

TITLE: An Action Relating to an Emergency and the Navajo Nation Council; Approving \$1,000,000 from the Unreserved, Undesignated Fund Balance for Emergency Response Operations and Equipment to Support the Current State of Emergency, Declared in Resolution CEM 23-01-19

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0096-23

DATE: May 3, 2023

TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; APPROVING \$1,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE FOR EMERGENCY RESPONSE OPERATIONS AND EQUIPMENT TO SUPPORT THE CURRENT STATE OF EMERGENCY, DECLARED IN RESOLUTION CEM 23-01-19

PURPOSE: This resolution, if approved, provides \$1,000,000 from the UUFb for emergency response operations and equipment in support of the current state of emergency declared in resolution CEM 23-01-19.

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
25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:

(Prime Sponsor)



Tracking No. 00916-23

AN ACTION

**RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL;
APPROVING \$1,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND
BALANCE FOR EMERGENCY RESPONSE OPERATIONS AND EQUIPMENT TO
SUPPORT THE CURRENT STATE OF EMERGENCY, DECLARED IN
RESOLUTION CEM 23-01-19**

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 approve supplemental appropriations whenever additional sources of revenues above current revenue projections are anticipated and such revenues exceed the required reserve amount. 12 N.N.C. §820(L).
- B. The Navajo Nation Council may approve emergency legislation to address any matter “constituting an emergency [that] 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).

1 C. This resolution is being offered as an emergency due to the current and immediate need to
2 provide disaster relief services, including search and rescue operations, to Navajo Nation
3 communities impacted by the severe winter weather conditions.

4 D. The restrictions on supplemental appropriations, including all monies from the Navajo
5 Nation's Unreserved, Undesignated Fund Balance ("UUFB"), include:

- 6 1. Payment of recurring government operating expenses shall be from recurring revenues,
7 and payment of nonrecurring expenses shall be from nonrecurring revenues such as UUFB
8 funds. 12 N.N.C. §820(E), §820(F).
- 9 2. Specifically, the UUFB shall not be used for recurring government expenditures or
10 operations. 12 N.N.C. §820(J), §820(L).
- 11 3. Nonrecurring revenues such as UUFB funds may be used only after the Controller
12 determines whether or not such revenues are subsidizing an imbalance between the
13 Navajo Nation's recurring revenues and expenditures, and government expenditures shall
14 only be authorized if a long-term (3-year to 5-year year) forecast shows that the operating
15 deficit will not continue; otherwise, nonrecurring revenues will be added to the
16 Unreserved, Undesignated Fund Balance. 12 N.N.C. §820(F).
- 17 4. The above provisions in Title 12 may be amended or waived by a two-thirds vote of the
18 full Navajo Nation Council. 12 N.N.C. §820(F), 12 N.N.C. §880.
- 19 5. In compliance with 12 N.N.C. §820(F) all UUFB funding requests must be reviewed by
20 the Controller. Such review is also required because the Controller determines which
21 revenues and expenses are recurring and which are non-recurring. 12 N.N.C. §820(L).
- 22 6. In compliance with 12 N.N.C. §820(M) all UUFB funding requests must be submitted to
23 the Office of Management and Budget ("OMB") for a budget impact analysis.
- 24 7. Supplemental funding such as UUFB appropriations shall lapse at the end of the current
25 fiscal year unless the Navajo Nation Council decides otherwise. 12 N.N.C. §820(N).

26
27 **SECTION TWO. FINDINGS**

28 A. On January 19, 2023, the Navajo Nation Commission on Emergency Management
29 ("NNCEM") issued a declaration of a state of emergency in Resolution CEM 23-01-19,
30 attached as **Exhibit A**.

1 B. A state of emergency was declared and the NNCEM Resolution was issued because
2 “communities within the Navajo Nation are experiencing impacts from the sever inclement
3 winter weather conditions, including, but not limited to, heavy snow, high winds, significant
4 mud conditions and flooding, particularly impacting residents living in isolated and remote
5 locations of the Navajo Nation.”

6 C. This state of emergency is ongoing and continues to impact the Navajo Nation, creating
7 severe conditions requiring the Navajo Nation to provide the needed resources to address the
8 needs of the impacted communities.

9 D. The Navajo Nation Division of Public Safety (“NNDPS”) is requesting \$1,000,000 in UUFB
10 funds to pay for search and rescue operations, including emergency response equipment, as
11 requested in the memoranda attached as **Exhibit B**.

12 E. The NNDPS has submitted completed Budget Forms for its proposed expenditures, attached
13 as **Exhibit C**, as well as the required Appendix K “Supplemental Funding Proposal
14 Summary,” attached as **Exhibit D**.

15 F. The Controller has provided a memorandum, dated February 24, 2023, attached as **Exhibit**
16 **E**, indicating this proposed funding request is non-recurring and in compliance with 12
17 N.N.C. §820(F) and §820(L).

18 G. The Office of Management and Budget has provided a memorandum, dated May 3, 2023,
19 attached as **Exhibit F**, regarding this funding request to satisfy the budget impact analysis
20 requirement 12 N.N.C. §820(M).

21 H. The Navajo Nation Council has determined that approving the requested UUFB funds for
22 the NNDPS is an urgent and critical priority for the Navajo Nation.

23
24 **SECTION THREE. APPROVAL OF \$1,000,000 FROM THE UUFB FOR**
25 **EMERGENCY SEARCH AND RESCUE OPERATIONS,**
26 **INCLUDING EMERGENCY RESPONSE EQUIPMENT**

27 A. The Navajo Nation hereby approves \$1,000,000 from the UUFB to assist in emergency
28 search and rescue operations and acquire emergency response equipment as a response to the
29 current state of emergency.

30 B. The approved UUFB funds shall be from those revenues that exceed the 10% minimum

1 balance of the UUFb which must be maintained according to 12 N.N.C. §820(J).

2 C. The approved UUFb funds shall not lapse at the end of Fiscal Year 2022, as would otherwise
3 occur pursuant to 2 N.N.C. §820(N), so long as such funds are used for the emergency
4 operations and equipment, as provided for herein.

5
6 **SECTION FOUR. EFFECTIVE DATE**

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

8
9 **SECTION FIVE. SAVING CLAUSE**

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