

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0213-23_

SPONSOR: George H. Tolth

TITLE: An Action Relating to an Emergency and the Navajo Nation Council; Approving \$3,000,000 from the Unreserved, Undesignated Fund Balance ("UUFB") for 110 Chapters' Emergency Fund Accounts; Waiving 12 N.N.C. § 820 (E) and § (F)

Date posted: August 25, 2023 at 2:08PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0213-23

DATE: August 25, 2023

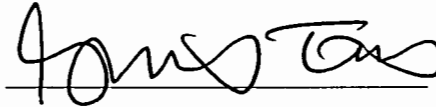
TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; APPROVING \$3,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUF”) FOR 110 CHAPTERS’ EMERGENCY FUND ACCOUNTS; WAIVING 12 N.N.C. § 820 (E) AND § (F)

PURPOSE: This resolution, if approved, will appropriate \$3,000,000 from the UUF for 110 Chapters’ Emergency Fund Accounts using the 50/50 formula.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each Council Delegate 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. 0213-23

AN ACTION

**RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL;
APPROVING \$3,000,000 FROM THE UNRESERVED, UNDESIGNATED FUND
BALANCE (“UUFB”) FOR 110 CHAPTERS’ EMERGENCY FUND ACCOUNTS;
WAIVING 12 N.N.C. § 820 (E) AND § (F)**

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 emergency legislation. 2 N.N.C. §164(A)(16). “[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).
- B. As the governing body of the Navajo Nation, the Council may approve supplemental appropriations 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

1 of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L).

2 C. A “supplemental appropriation” is defined as: “[a]n appropriation of funds from the UUFB
3 during the fiscal year, outside of the annual Comprehensive Budget Process.” See Section
4 XIV.33 of the FY2023 Budget Instructions Manual.

5 D. The Title 12 restrictions on supplemental appropriations from the 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) and §820(F).

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

11 3. UUFB funds may be used only after the Controller determines whether or not such
12 revenues are subsidizing an imbalance between the Navajo Nation’s recurring revenues
13 and expenditures, and government expenditures shall only be authorized if a long-term
14 (3-year to 5-year year) forecast shows that the operating deficit will not continue;
15 otherwise, nonrecurring revenues are added to the UUFB account. 12 N.N.C. §820(F).

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

18 5. Pursuant to 12 N.N.C. §820(F) all UUFB funding requests must be reviewed by the
19 Controller. Such review is also required because the Controller determines which
20 revenues and expenses are recurring and which are non-recurring. 12 N.N.C. §820(L).

21 6. Pursuant to 12 N.N.C. §820(M) all UUFB funding requests must be submitted to the
22 Office of Management and Budget (“OMB”) for a budget impact analysis.

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24 **SECTION TWO. FINDINGS**

25 A. Due to the dangerously high temperatures encountered throughout the Navajo Nation
26 recently, the Commission on Emergency Management issued CEM-23-07-25,
27 DECLARING A STATE OF EMERGENCY FOR THE NAVAJO NATION DUE TO
28 EXTREME HEAT, attached as **Exhibit A**.

29 B. In addition to the extreme heat, the monsoon season is fast approaching and the Navajo
30 Nation has historically faced dangerous flooding this time period. All 110 Navajo Nation

1 Chapters have a vital and urgent need for sufficient emergency funds to quickly respond to
2 the extreme heat, potential flooding and other weather-related emergencies at the local level.

3 C. On behalf of the 110 Chapters, the Division of Community Development submitted a
4 Supplemental Funding Proposal Summary (BIM-Appendix K), attached as **Exhibit B**,
5 requesting \$3,000,000 from the Unreserved, Undesignated Fund Balance distributed
6 pursuant to the 50/50 formula mandated by 12 N.N.C. § 820(O).

7 D. The Division of Community Development has also provided the required Navajo Nation
8 Budget Forms, attached hereto as **Exhibit C**, and a list of the amount each Chapter will
9 receive pursuant to the 50/50 distribution formula mandated in 12 N.N.C. §820(O), attached
10 as **Exhibit D**.

11 D. The Controller's memorandum required by 12 N.N.C. §820(L), attached as **Exhibit E**,
12 indicates that the proposed expenditures are considered "recurring" expenses; therefore, a
13 waiver of 12 N.N.C. §§ 820 (E) and (F) is required to effectuate this supplemental
14 appropriation.

15 E. The Office of Management and Budget has provided a budget impact analysis, as required
16 by 12 N.N.C. §820(M). **Exhibit F**.

17 F. This legislation is offered as an emergency measure because of the current "pressing public
18 need" for this funding for all 110 Chapters. These funds will enable Chapters to provide local
19 services to quickly mitigate dire weather-related emergencies and prevent potential disasters,
20 property damage, and injury or loss of life to people and livestock.

21 22 **SECTION THREE. WAIVING 12 N.N.C. § 820 (E) AND § 820 (F) CHAPTERS**

23 A. The Appropriations Act states that "[t]he Nation shall budget all recurring operating
24 expenses, including maintenance of capital facilities, from recurring revenues" and that
25 "[t]he Nation shall restrict non-recurring revenues to budget non-recurring expenditures." 12
26 N.N.C. §§ 820 (E) and (F).

27 B. The Appropriations Act further states that 12 N.N.C. § 820 (F) can only be waived by a
28 two-thirds vote of the full Council.

29 C. The Navajo Nation hereby waives 12 12 N.N.C. §§ 820 (E) and (F), as necessary, to
30 effectuate this supplemental appropriation to the 110 Chapters.

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SECTION FOUR. APPROVING EMERGENCY FUNDS FOR CHAPTERS

- A. The Navajo Nation hereby approves \$3,000,000 from the Unreserved, Undesignated Fund Balance for the 110 Navajo Nation Chapters. Each Chapter shall receive the designated dollar amount as shown in **Exhibit D**, in accordance with 12 N.N.C. §820(O).
- B. Pursuant to 12 N.N.C. §820(J), this UUFB appropriation shall be from that amount of funds that exceeds the minimum fund reserve balance in the UUFB as determined by the Controller.
- C. As provided in 12 N.N.C. §820(N), as amended by CD-72-22, the UUFB funds approved herein shall not lapse at the end of Fiscal Year 2023, so long as each Chapter budgets these funds in the subsequent fiscal year for the same emergency purposes.

SECTION FIVE. EFFECTIVE DATE

The provisions of this Action shall become effective in accordance with 2 N.N.C. §221(B) and with 2 N.N.C. §164(A)(17).

SECTION FIVE. SAVINGS CLAUSE

If any provision of this Action is determined invalid by the Supreme Court of the Navajo Nation or by any Navajo Nation District Court, without appeal to the Navajo Nation Supreme Court, the remainder of this Action shall remain valid as the law of the Navajo Nation.