

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0190-21\_

SPONSOR: Seth Damon

**TITLE: An Act Relating to the Law and Order, Budget and Finance, and Naabik'iyáti' 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**

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)

Written comments may be mailed to:

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**LEGISLATIVE SUMMARY SHEET**  
**Tracking No. 0190-21**

**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, 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)

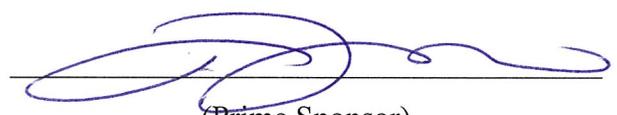
**PURPOSE:** This resolution, if approved, will provide supplement funding from the UUFb to the Judicial Branch in the amount of \$1,244,915 and to the Navajo Election Administration in the amount of \$600,000.

**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.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24<sup>th</sup> 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'iyáti' Committee as a Navajo Nation standing committee with oversight over offices, programs, commissions, boards

1 or task forces, such as the Navajo Election Administration, operating under the  
2 Legislative Branch. 2 N.N.C. §§ 700(A) and 701 (A)(5).

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

5 E. The Navajo Nation Council is the governing body of the Navajo Nation with the  
6 authority to approve supplemental appropriations. 2 N.N.C. § 102(A) and 12 N.N.C. §  
7 820(L).

8 F. Pursuant to 12 N.N.C. § 820(L), “[t]he Navajo Nation Council may adopt and approve  
9 supplemental appropriations to the Annual Comprehensive Budget during the fiscal  
10 year. Supplemental appropriations of General Funds within the current fiscal year are  
11 permitted, if and when additional sources of revenues above and beyond the initial or  
12 current revenue projections are projected and which are also in excess of the reserve  
13 amount set forth at § 820(J).”

14 G. The Title 12 Supplemental Appropriation requirements include:

15 1. All requests for annual operating funds and supplemental funds shall be submitted  
16 to the Office of Management and Budget (OMB) for budget impact analysis. 12  
17 N.N.C. § 820(M).

18 2. When the Controller identifies additional sources of revenues above and beyond  
19 the initial or current revenue projections, supplemental appropriations may be  
20 approved by the Navajo Nation Council. 12 N.N.C. § 820(L).

21 3. Supplemental Appropriations made from non-recurring revenues shall only be  
22 made for non-recurring operations or purposes, as set forth at § 820(F). The  
23 Controller of the Navajo Nation shall be responsible for the designation of recurring  
24 and non-recurring revenues. 12 N.N.C. § 820(L).

25 4. The Nation shall budget all recurring operating expenses, including capital  
26 maintenance, from recurring revenues. Long term debt shall not be used to finance  
27 recurring operating expenses. 12 N.N.C. §820(E).

28 5. The Navajo Nation Code provides, “[t]he Nation shall restrict non-recurring  
29 revenues to budget non-recurring expenditures. In addition, non-recurring revenues  
30 will be budgeted only after an examination by the Controller to determine whether

1 or not the revenues are subsidizing an imbalance between recurring revenues and  
2 expenditures, and expenditures may be authorized only if a long-term (three-five  
3 year) forecast shows that the operating deficit will not continue. Otherwise, non-  
4 recurring revenues will be added to the Unreserved, Undesignated Fund balance.  
5 This provision may be amended or waived by a two-thirds vote of the full Navajo  
6 Nation Council.” 12 N.N.C. § 820(F).

7  
8 **SECTION TWO. FINDINGS**

- 9 A. The Administrative Director of the Judicial Branch has issued a memorandum dated  
10 July 28, 2021, attached as **Exhibit A**, seeking supplemental funding in the amount of  
11 \$1,244,915.00 out of the Unreserved, Undesignated Fund Balance, to address the  
12 Navajo Judicial Branch’s Unmet Needs; the request is inclusive of the changes in fringe  
13 benefits and insurance policy rates.
- 14 B. The supplemental funding proposal, budget forms and related documents, including  
15 Appendix K “Supplemental Funding Proposal Summary,” for the Judicial Branch are  
16 attached as **Exhibit B**.
- 17 C. The Office of the Controller issued a memorandum dated August 20, 2021, to satisfy  
18 the requirements in 12 N.N.C. § 820(L), attached as **Exhibit C**. The Controller has  
19 identified the Judicial Branch expenditures as RECURRING and therefore a waiver of  
20 12 N.N.C. § 820(E), (F), and (J) is required.
- 21 D. The Office of Management and Budget issued a memorandum dated August 20, 2021,  
22 to satisfy the requirements in 12 N.N.C. § 820(M), attached as **Exhibit D**.
- 23 E. To mitigate the reduction of any branch’s budget allocation and the accompanying  
24 reduction in services, the President of the Navajo Nation, Speaker of the Navajo Nation  
25 Council, and Navajo Nation Chief Justice agreed at their Three Branch Chiefs meeting  
26 in June of 2021 that it would be in the best interests of the Navajo Nation if the Unmet  
27 Needs for the Judicial Branch and Election Administration were funded through an  
28 Unreserved, Undesignated Fund supplemental appropriation.
- 29 F. The Supreme Court of the Navajo Nation has stated that the “Election Code itself – as  
30 a matter of law – mandates the expenditure of funds necessary to the operation of the

1 Election Code. We therefore hold sufficient funds are to be appropriated as a matter of  
2 law because the Navajo Nation is legally obligated to expend funds to carry into effect  
3 the Election Code.” *Tsosie v. Navajo Board of Election Supervisors*, SC-CV-68-14.

- 4 G. The Office of the Speaker issued two memoranda dated July 29, 2001, attached as  
5 **Exhibit E**, , seeking supplemental funding in the amount of \$600,000 out of the  
6 Unreserved, Undesignated Fund Balance, to address the Election Administration’s  
7 Unmet Needs to provide continued election services and the facilitation of the  
8 upcoming Fiscal Year 2022 elections.
- 9 H. The supplemental funding proposal, budget forms and related documents, including  
10 Appendix K “Supplemental Funding Proposal Summary,” for the Election  
11 Administration are attached as **Exhibit F**.
- 12 I. The Office of the Controller issued a memorandum dated August 20, 2021, to satisfy  
13 the requirements in 12 N.N.C. § 820(L), attached as **Exhibit G**. The Controller has  
14 identified the Election Administration expenditures as RECURRING and therefore a  
15 waiver of 12 N.N.C. § 820(E), (F), and (J) is required.
- 16 J. The Office of Management and Budget issued a memorandum dated August 20, 2021,  
17 to satisfy the requirements in 12 N.N.C. § 820(M), attached as **Exhibit H**.

18  
19 **SECTION THREE. APPROVING SUPPLEMENTAL FUNDING FROM THE**  
20 **UNRESERVED, UNDESIGNATED FUND BALANCE**

- 21 A. The Navajo Nation hereby approves \$1,244,915.00 in supplemental funding from the  
22 Unreserved, Undesignated Fund Balance for the Navajo Judicial Branch.
- 23 B. This supplemental appropriation of \$1,244,915.00 shall be from that amount of funds  
24 that exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance  
25 as determined by the Office of the Controller.
- 26 C. The Navajo Nation hereby approves \$600,000.00 in supplemental funding from the  
27 Unreserved, Undesignated Fund Balance for the Navajo Election Administration.
- 28 D. This supplemental appropriation of \$600.000 shall be from that amount of funds that  
29 exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance as  
30 determined by the Office of the Controller.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**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).