

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0119-23\_

SPONSOR: Shawna Ann Claw

**TITLE: An Action Relating to an Emergency; Approving \$833,532 From the Unreserved, Undesignated Fund (“UUFB”) For the Navajo Department of Emergency Management, Chinle Chapter, and Nazlini Chapter for Expenses Arising out of Flooding in and Around Chinle Chapter; Waiving 12 N.N.C.§820(E), §820(F), §820(J), and §820(L) To Allow use of UUFB Funds for Recurring Expenses**

*Date posted:* May 26, 2023 9:00 AM

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**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0119-23

**DATE:** May 24, 2023

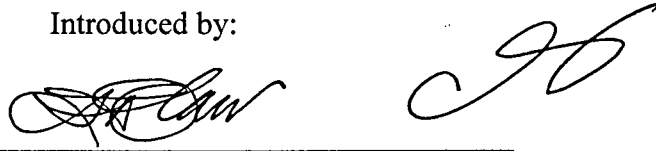
**TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY; APPROVING \$833,532 FROM THE UNRESERVED, UNDESIGNATED FUND (“UUFb”) FOR THE NAVAJO DEPARTMENT OF EMERGENCY MANAGEMENT, CHINLE CHAPTER, AND NAZLINI CHAPTER FOR EXPENSES ARISING OUT OF FLOODING IN AND AROUND CHINLE CHAPTER; WAIVING 12 N.N.C. §820(E), §820(F), §820(J), AND §820(L) TO ALLOW USE OF UUFb FUNDS FOR RECURRING EXPENSES**

**PURPOSE:** The purpose of this proposed resolution is to provide a supplemental appropriation for emergency assistance relief in and around Chinle Chapter.

**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
25<sup>th</sup> NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:



(Prime Sponsor)

Tracking No. 0119-23

**AN ACTION**

**RELATING TO AN EMERGENCY; APPROVING \$833,532 FROM THE UNRESERVED, UNDESIGNATED FUND (“UUF”) FOR THE NAVAJO DEPARTMENT OF EMERGENCY MANAGEMENT, CHINLE CHAPTER, AND NAZLINI CHAPTER FOR EXPENSES ARISING OUT OF FLOODING IN AND AROUND CHINLE CHAPTER; WAIVING 12 N.N.C. §820(E), §820(F), §820(J), AND §820(L) TO ALLOW USE OF UUF FUND FOR RECURRING EXPENSES**

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

1 pressing public need for such resolution(s) and must be a matter requiring final action by  
2 the Council.” 2 N.N.C. §164 (A)(16).

3 C. This resolution is being offered as an emergency due to the current and immediate need to  
4 provide disaster relief services to Navajo Nation communities, particularly those residents  
5 living in isolated and remote locations impacted by the severe winter weather conditions.  
6 The flooding in Chinle, which began April 21, 2023, the effects of which are still  
7 continuing, constitutes an emergency necessitating the use of disaster relief services  
8 throughout the area.

9 D. ~~The restrictions on supplemental appropriations, including all monies from the Navajo~~  
10 ~~Nation’s UUFB, include:~~

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

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

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

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

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

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

29  
30 **SECTION TWO. FINDINGS**

- 1 A. The Navajo Nation Commission on Emergency Management approved Resolution CEM  
2 23-01-19, attached as **Exhibit A**, declaring a State of Emergency for the Navajo Nation due  
3 to severe inclement winter weather conditions, including heavy snow, heavy winds,  
4 significant mud conditions, and flooding.
- 5 B. The Navajo Nation Commission on Emergency Management approved Resolution CEM  
6 23-04-25, attached as **Exhibit B**, declaring a State of Emergency for the Chinle Chapter,  
7 Navajo Nation, Apache County Arizona, for the areas significantly impacted by flooding  
8 due to snow accumulation, snow melt, and run-off, creating a public health and safety risk.
- 9 C. The Board of Supervisors for Apache County approved Resolution 2023-09, attached as  
10 **Exhibit C**, declaring a State of Emergency on April 24, 2023, due to impassable roadways  
11 from mud and water runoff that caused Apache County citizens within the Chinle Wash on  
12 the Navajo Nation to be stranded in their homes denying them access to food and medical  
13 assistance, putting their lives and well-being at risk.
- 14 D. This State of Emergency is ongoing and continues to impact Chinle Chapter, and other  
15 areas of the Navajo Nation, creating severe conditions requiring the Navajo Nation to  
16 provide the necessary resources to address the needs of the impacted communities, such as  
17 mobilized relief to mitigate further threats to human lives and to provide safety.
- 18 E. The Navajo Nation Department of Emergency Management (“DEM”) within the Navajo  
19 Department of Public Safety, requested a supplemental appropriation in the amount of  
20 \$78,532 to Business Unit 116019, Department of Emergency Management, and submitted  
21 Appendix K “Supplemental Funding Proposal Funding Summary,” along with Budget  
22 Forms 1, 2, and 4, with a memo justifying that supplemental funding is needed for the  
23 overall emergency response efforts all of which are included in **Exhibit D**. The  
24 supplemental funds will be used for personnel who are responding to the emergency for  
25 overtime and travel expenses, including mileage and lodging, as well as ATV/UTV  
26 supplies and to purchase diesel fuel for the mobile command unit.
- 27 F. The Office of the Controller (“OOC”) has provided a memorandum, dated May 17, 2023,  
28 attached as **Exhibit E**, to satisfy the requirements of 12 N.N.C. §820(F) and §820(L)  
29 indicating that DEM’s supplemental appropriation request for BU# 116019 is **recurring**  
30 and that the unaudited balance of the UUFB as of May 4, 2023 is \$15, 236, 298.

1 G. The OMB has provided a memorandum for DEM, dated May 11, 2023, attached as **Exhibit**  
2 **F**, regarding this funding request to satisfy the budget impact analysis requirement 12  
3 N.N.C. §820(M).

4 H. The DEM requested a supplemental appropriation of \$ 500,000 to Business Unit 116020,  
5 Emergency Management / Disaster Account, and submitted Appendix K “Supplemental  
6 Funding Proposal Funding Summary,” along with Budget Forms 1,2, and 4, all of which  
7 are included in **Exhibit G**. The supplemental funds in this Business Unit will be used for  
8 direct services and will be used to purchase food, water, propane, fire wood, fuel for  
9 equipment, and other supplies needed for emergencies.

10 I. The OOC reviewed DEM’s request for Business Unit 116019 and prepared a memo, dated  
11 May 17, 2023, which is attached as **Exhibit E**. The OOC determined DEM’s request for a  
12 supplemental appropriation in Business Unit 116020 is **recurring** and noted the unaudited  
13 balance in the UUFb as of May 4, 2023 is \$15,236,298. The Office of Management and  
14 Budget (“OMB”) reviewed DEM’s submission and noted its comments in a memo dated  
15 May 12, 2023, attached as **Exhibit F**.

16 J. Chinle Chapter requested a supplemental appropriation of \$220,000 into Business Unit  
17 108015 and submitted Appendix K, “Supplemental Funding Proposal Funding Summary,”  
18 along with Budget Forms 1, 2, and 4, all of which are included in **Exhibit H**, along with a  
19 letter from Chinle Chapter’s President and a Chapter Resolution indicating the need for the  
20 funding.

21 K. The OMB memo related to Chinle Chapter’s request for a supplemental appropriation,  
22 dated May 12, 2023, is attached as **Exhibit I**. The OOC memo related to Chinle Chapter’s  
23 request, as previously noted, is attached as **Exhibit E**, and noted that the supplemental  
24 funding request is **non-recurring**.

25 L. Nazlini Chapter requested a supplemental appropriation of \$ 35,000 into Business Unit  
26 108020 and submitted Appendix K, “Supplemental Funding Proposal Funding Summary,”  
27 along with Budget Forms 1, 2, and 4, all of which are included in **Exhibit J**.

28 M. The OMB memo related to Nazlini’s Chapter’s request for a supplemental appropriation,  
29 dated May 12, 2023, is attached as **Exhibit K**. The OOC memo related to Chinle Chapter’s  
30

1 request, as previously noted, is attached as **Exhibit E**, and noted that the supplemental  
2 funding request is **non-recurring**.

3 N. The Navajo Nation Council has determined that approving the requested UUFB funds for  
4 the Navajo Department of Emergency Management, Chinle Chapter, and Nazlini Chapter is  
5 an urgent and critical priority for the Navajo Nation.

6  
7 **SECTION THREE. APPROVAL OF \$78, 532 FROM THE UUFB TO THE NAVAJO**  
8 **DEPARTMENT OF EMERGENCY MANAGEMENT, BUSINESS UNIT # 116019**

9 A. The Navajo Nation Council approves \$78,532 from the UUFB to the Department of  
10 Emergency Management, Business Unit # 116019 as indicated in **Exhibit D**.

11 B. The approved UUFB funds shall be from those revenues that exceed the 10% minimum  
12 balance of the UUFB which must be maintained according to 12 N.N.C. §820(J).

13  
14 **SECTION FOUR. APPROVAL OF A SUPPLEMENTAL APPROPRIATION**  
15 **FROM THE UUFB FOR THE NAVAJO DEPARTMENT OF EMERGENCY**  
16 **MANAGEMENT, EMERGENCY MANAGEMENT / DISASTER ACCOUNT IN THE**  
17 **AMOUNT OF \$500,000.**

18 A. The Navajo Nation Council approves \$500,000 from the UUFB to Navajo DEM  
19 Emergency Management / Disaster Account, Business Unit # 116020, as indicated in  
20 **Exhibit G**.

21 B. The approved UUFB funds shall be from those revenues that exceed the 10% minimum  
22 balance of the UUFB which must be maintained according to 12 N.N.C. §820(J).

23  
24 **SECTION FIVE. APPROVAL OF SUPPLEMENTAL APPROPRIATION TO**  
25 **CHINLE CHAPTER IN THE AMOUNT OF \$220,000**

26 A. The Navajo Nation Council approves a supplemental appropriation to Chinle Chapter,  
27 Business Unit 108015 in the amount of \$220,000 as indicated in **Exhibit H**.

28 B. The approved UUFB funds shall be from those revenues that exceed the 10% minimum  
29 balance of the UUFB which must be maintained according to 12 N.N.C. §820(J).

1 **SECTION SIX. APPROVAL OF SUPPLEMENTAL APPROPRIATION TO NAZLINI**  
2 **CHAPTER IN THE AMOUNT OF \$35,000**

- 3 A. The Navajo Nation Council approves a supplemental appropriation to Nazlini Chapter,  
4 Business Unit 108015 in the amount of \$35,000, as indicated in **Exhibit J**.  
5 B. The approved UUFB funds shall be from those revenues that exceed the 10% minimum  
6 balance of the UUFB which must be maintained according to 12 N.N.C. §820(J).  
7

8 **SECTION SEVEN. DIRECTIVES TO CHINLE CHAPTER CONCERNING FLOOD**  
9 **MITIGATION AND OTHER FUTURE EMERGENCY PLANNING**

- 10 A. The Navajo Nation Council notes that Chinle Chapter has not completed its Emergency  
11 Management Plan as requested in Resolution RDCMY-47-17. As Chinle Chapter is in a  
12 floodplain and flood mitigation is a priority, Chinle Chapter shall complete an  
13 Emergency Management Plan as requested in Resolution RDCMY-47-17 before the  
14 end of Fiscal Year 2023.  
15 B. Additionally, Chinle Chapter shall submit an Emergency Housing Policy (the "Policy")  
16 to distribute the \$100,000 appropriated for emergency housing assistance to repair  
17 homes damaged due to the flooding that occurred in Chinle before any distribution of  
18 the funds for housing repair is distributed.  
19 C. Chinle Chapter shall prepare the Policy with the assistance of the Division of  
20 Community Development. Furthermore, the Policy shall be approved by the Resources  
21 and Development Committee ("RDC") and shall include the application form the  
22 Chapter will use to determine eligibility for assistance and list of documents that are  
23 required to be submitted with the application. Before Chinle Chapter disburses funds  
24 under the Policy, it shall obtain two approval signatures on the application, the Chapter  
25 Manager and one of the Chapter officials.  
26

27 **SECTION EIGHT. DIRECTIVES TO EXECUTIVE BRANCH DIVISIONS**  
28 **CONCERNING CHINLE CHAPTER'S EMERGENCY HOUSING REPAIR**  
29 **FUNDING**

30 The OOC, OMB, Division of Community Development, and Department of Justice are



1 directed that before disbursement to Chinle Chapter for the \$100,000 designated for  
2 emergency home repairs, Chinle Chapter shall secure RDC's approval of the Policy  
3 referenced in Section 7(B) and (C) above. The purpose is to ensure the designated funds are  
4 being spent in accordance with sound fiscal management principles. Until such time as  
5 Chinle Chapter's Policy is approved by RDC, the \$100,000 designated for home repairs shall  
6 not be distributed.

7  
8 **SECTION NINE. WAIVING 12 N.N.C. §820(E), §820(F), §820(J), and §820(L) TO**  
9 **ALLOW USE OF UUFb FUNDS FOR RECURRING EXPENSES**

10 The Navajo Nation hereby waives 12 N.N.C. §820(E), §820(F), §820(J), and §820(L) to allow  
11 use of the UUFb to Navajo DEM Business Units 116019 and 116020, as shown in **Exhibits D**  
12 **and G**. These waivers are necessary because the proposed UUFb expenditures are considered  
13 recurring government expenses.

14  
15 **SECTION TEN. EFFECTIVE DATE**

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

17  
18 **SECTION ELEVEN. SAVING CLAUSE**

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