

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0124-23_

SPONSOR: Seth Damon

TITLE: An Action Relating to an Emergency for the Navajo Nation Council; Approving \$2,439,257 from the Unreserved, Undesignated Fund Balance (“UUFB”) for the Office of the President/Vice-President, the Office of the Controller, and the Five DALTCS Agency Offices, to Cover Program Expenses for the Remainder of FY2023; Waiving 12 N.N.C § 820(E), § 820(F), § 820(J), and § 820(L) to Allow Use of the UUFB for Recurring Expenses

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0124-23

DATE: May 31, 2023

RE: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; APPROVING \$2,439,257 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUFb”) FOR THE OFFICE OF THE PRESIDENT/VICE-PRESIDENT, THE OFFICE OF THE CONTROLLER, AND THE FIVE DALTCS AGENCY OFFICES, TO COVER PROGRAM EXPENSES FOR THE REMAINDER OF FY2023; WAIVING 12 N.N.C. §820(E), §820(F), §820(J), AND §820(L) TO ALLOW USE OF THE UUFb FOR RECURRING EXPENSES



Purpose of this Legislation:

TO APPROVE \$2,439,257 FROM THE UUFb FOR THE OFFICE OF THE PRESIDENT/VICE-PRESIDENT, THE OFFICE OF THE CONTROLLER, AND THE FIVE DALTCS AGENCY OFFICES, TO COVER PROGRAM EXPENSES FOR THE REMAINDER OF FY2023; WAIVING 12 N.N.C. §820(E), §820(F), §820(J), AND §820(L) TO ALLOW USE OF THE UUFb FOR RECURRING EXPENSES

OLC No. 23-266-1

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:


(Prime Sponsor) 

Tracking No. 0124-23

AN ACTION

**RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
APPROVING \$2,439,257 FROM THE UNRESERVED, UNDESIGNATED
FUND BALANCE (“UUFb”) FOR THE OFFICE OF THE PRESIDENT/
VICE-PRESIDENT, THE OFFICE OF THE CONTROLLER, AND THE
FIVE DALTCS AGENCY OFFICES, TO COVER PROGRAM EXPENSES FOR
THE REMAINDER OF FY2023; WAIVING 12 N.N.C. §820(E), §820(F), §820(J),
AND §820(L) TO ALLOW USE OF THE UUFb 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 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, . . . 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

1 the current fiscal year are permitted, if and when additional sources of revenues above and
2 beyond the initial or current revenue projections are projected and which are also in excess
3 of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L).

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

7 D. Further Title 12 restrictions on supplemental appropriations, including all amounts from the
8 UUFB include:

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

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

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

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

21 5. Pursuant to 12 N.N.C. §820(F) all UUFB funding requests must be reviewed by the
22 Controller, to ensure compliance with 12 N.N.C. §820(L).

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

25 E. This resolution is being offered as an emergency action because the Office of the
26 President/Vice-President, the Office of the Controller, and the five Agency Offices of the
27 Department of Aging and Long-Term Care Services (“DALTCS”), located in Chinle,
28 Shiprock, Tuba City, Crownpoint, and Fort Defiance, all require additional funding to cover
29 their operating expenses for the remainder of FY2023. These Offices are critical to the daily
30 operation of the Navajo Nation government and the provision of daily government services

1 to the public generally, and to the five communities named above. Without the requested
2 funding, these Offices will be unable to continue providing urgently needed government
3 services for the public health and welfare, which services are needed on a daily basis. They
4 would be forced to substantially limit their functions, lay off significant numbers of staff,
5 and significant work of the Navajo Nation government may come to a standstill.

6
7 **SECTION TWO. FINDINGS**

8 A. The Office of the President/Vice-President is requesting a total of \$2,439,257 from the UUFB
9 for three Executive Branch programs that need this funding to continue operating for the
10 remainder of FY2023. **EXHIBIT 1.**

11 B. The Office of the President/Vice-President is requesting \$750,000 from the UUFB to cover its
12 travel and other operating expenses for the remainder of FY2023. The required Budget Forms
13 1, 2, and 4, along with Appendix K “Supplemental Funding Proposal Summary” for the
14 proposed expenditures of the Office of the President/Vice-President, are attached as
15 **EXHIBIT A.**

16 C. The Office of the Controller has provided a memorandum regarding the proposed expenditures
17 of the Office of the President/Vice-President, as required by 12 N.N.C. §820(L). This
18 memorandum indicates that the proposed expenditures are *recurring*. **EXHIBIT B.**

19 D. The Office of Management and Budget has provided a memorandum regarding the proposed
20 expenditures of the Office of the President/Vice-President. 12 N.N.C. §820(M). **EXHIBIT C.**

21 E. The Office of the Controller is requesting \$291,257 from the UUFB to cover its program
22 expenses for the remainder of FY2023. The required Budget Forms, along with Appendix K
23 “Supplemental Funding Proposal Summary” for the proposed expenditures of the Office of the
24 Controller, are attached as **EXHIBIT D.**

25 F. The Office of the Controller has provided a memorandum regarding the proposed expenditures
26 of the Office of the Controller, as required by 12 N.N.C. §820(L). This memorandum indicates
27 that the proposed expenditures are *recurring*. **EXHIBIT E.**

28 G. The Office of Management and Budget has provided a memorandum regarding the proposed
29 expenditures of the Office of the Controller. 12 N.N.C. §820(M). **EXHIBIT F.**

30 H. The five DALTCS Agency Offices are requesting \$1,398,000 from the UUFB to cover

1 program expenses for the remainder of FY2023. The required Budget Forms, along with
2 Appendix K “Supplemental Funding Proposal Summary” for the proposed expenditures of the
3 DALTCS Offices, are attached as **EXHIBIT G**.

4 I. The Office of the Controller has provided a memorandum regarding the proposed expenditures
5 of the Office of the Controller, as required by 12 N.N.C. §820(L). This memorandum indicates
6 that the proposed expenditures are *recurring*. **EXHIBIT H**.

7 J. The Office of Management and Budget has provided a memorandum regarding the proposed
8 expenditures of the Office of the Controller. 12 N.N.C. §820(M). **EXHIBIT I**.

9 K. The total amount in UUFB funds requested by the above-named Executive Branch programs
10 at this time is \$2,439,257.

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12 **SECTION THREE. APPROVING \$2,439,257 FROM THE UUFB FOR THE OFFICE**
13 **OF THE PRESIDENT/VICE-PRESIDENT, THE OFFICE OF THE**
14 **CONTROLLER, AND THE FIVE DALTCS AGENCY OFFICES,**
15 **TO COVER PROGRAM EXPENSES FOR THE REMAINDER OF**
16 **FY2023**

17 A. The Navajo Nation hereby approves \$2,439,257 from the UUFB to the Office of the
18 President/Vice-President, the Office of the Controller, and the five DALTCS Agency Offices
19 located in Chinle, Shiprock, Tuba City, Crownpoint, and Fort Defiance, as shown in the
20 attached **EXHIBIT A**, **EXHIBIT D**, and **EXHIBIT G**.

21 B. This supplemental appropriation shall be from those funds that exceed the minimum fund
22 reserve balance in the UUFB required by 12 N.N.C. §820(J), as determined by the Controller.

23 C. Immediately upon the effective date of this Action, the approved UUFB funds shall be
24 promptly transferred into those budget line items as indicated in the respective programs’
25 budget forms and Appendix K forms, attached hereto as **EXHIBIT A**, **EXHIBIT D**, and
26 **EXHIBIT G**.

27 D. Pursuant to 12 N.N.C. §820(N)(1)(b) and 12 N.N.C. §820(N)(4), the UUFB funds provided to
28 the Office of the President/Vice-President, the Office of the Controller, and the five DALTCS
29 Agency Offices, as approved herein, shall lapse at the end of FY2023, unless otherwise
30 provided by a 7/8 vote of all Council delegates.

1 **SECTION FOUR. WAIVING 12 N.N.C. §820(E), §820(F), §820(J), and §820(L) TO**
2 **ALLOW USE OF UUFb FUNDS FOR RECURRING EXPENSES**

3 The Navajo Nation hereby waives 12 N.N.C. §820(E), §820(F), §820(J), and §820(L) to allow
4 use of the UUFb for the proposed expenditures of the Office of the President/Vice-President, the
5 Office of the Controller, and the five DALTCS Agency Offices, as approved herein. Such
6 waivers are necessary because the proposed UUFb expenditures are considered recurring
7 government expenses.

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9 **SECTION FIVE. EFFECTIVE DATE**

10 This Action shall become effective as provided in 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17).
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12 **SECTION SIX. SAVING CLAUSE**

13 If any portion of this Action is determined invalid by the Navajo Nation Supreme Court, or by a
14 District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the
15 remainder of this Action shall be the law of the Navajo Nation.
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