

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0265-23\_

SPONSOR: Seth Damon

**TITLE: An Action Relating to the Budget and Finance, Health, Education and Human Services, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Waiving Section X (B)(1)(e) of the Navajo Nation Personnel Policies Manual; Approving \$3,535,773 from the Unreserved, Undesignated Fund Balance to the Office of the Controller for the Payout of Excess Annual Leave to all Executive Branch and Legislative Branch Employees**

*Date posted:* December 13, 2023 at 8:07PM

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**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0265-23

**DATE:** December 13, 2023

**TITLE OF RESOLUTION:** AN ACTION RELATING TO THE BUDGET AND FINANCE, HEALTH, EDUCATION AND HUMAN SERVICES, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; WAIVING SECTION X (B)(1)(e) OF THE NAVAJO NATION PERSONNEL POLICIES MANUAL; APPROVING \$3,535,773 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE TO THE OFFICE OF THE CONTROLLER FOR THE PAYOUT OF *EXCESS* ANNUAL LEAVE TO ALL EXECUTIVE BRANCH AND LEGISLATIVE BRANCH EMPLOYEES

**PURPOSE:** This resolution, if approved, will payout excess annual leave (above 320 hours) to all Executive and Legislative Branch employees payed through General Funds and/or external funds..

**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

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

Introduced by:

\_\_\_\_\_  
(Prime Sponsor)

*NMB*

Tracking No. 0265-23

**AN ACTION**

**RELATING TO THE BUDGET**

**AND FINANCE, HEALTH, EDUCATION AND HUMAN SERVICES, AND**

**NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO**

**NATION COUNCIL; WAIVING SECTION X (B)(1)(e) OF THE NAVAJO NATION**

**PERSONNEL POLICIES MANUAL; APPROVING \$3,535,773 FROM THE**

**UNRESERVED, UNDESIGNATED FUND BALANCE TO THE OFFICE OF THE**

**CONTROLLER FOR THE PAYOUT OF *EXCESS* ANNUAL LEAVE TO ALL**

**EXECUTIVE BRANCH AND LEGISLATIVE BRANCH EMPLOYEES**

**BE IT ENACTED:**

**SECTION ONE. AUTHORITY**

A. The Budget and Finance Committee ("BFC") is a standing committee of the Navajo Nation Council with the authority to review and recommend to the Navajo Nation Council the management of all funds. 2 N.N.C. § 300(A), and § 301(B)(2).

B. The Health, Education and Human Services Committee ("HEHSC") is a standing committee of the Navajo Nation Council. 2 N.N.C. § 401(A). HEHSC is the oversight for the Division of Human Resources with the authority to implement, amend, and ensure compliance with, Navajo Nation employment laws and policies, including leave policies for Navajo Nation employees. 2 N.N.C. §§ 401(B)(1), 401(C)(1), and

1 401(C)(3).

2 C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council  
3 with the delegated responsibility to hear proposed legislation requiring final action by  
4 the Navajo Nation Council. 2 N.N.C. § 164(A)(9) and § 700(A).

5 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C.  
6 §102(A). As such, the Council “. . . may adopt and approve supplemental  
7 appropriations to the Annual Comprehensive Budget during the fiscal year.  
8 Supplemental appropriations of General Funds within the current fiscal year are  
9 permitted, if and when additional sources of revenues above and beyond the initial or  
10 current revenue projections are projected and which are also in excess of the reserve  
11 amount set forth at § 820(J).” 12 N.N.C. § 820(L).

12 E. Title 12 of the Navajo Nation Code places additional restrictions on supplemental  
13 appropriations from the Unreserved, Undesignated Fund Balance (“UUFB”),  
14 including:

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

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

20 3. Nonrecurring revenues such as UUFB funds may be used only after the  
21 Controller determines whether or not such revenues are subsidizing an  
22 imbalance between the Navajo Nation's recurring revenues and expenditures,  
23 and government expenditures shall only be authorized if a long-term (3-year  
24 to 5-year year) forecast shows that the operating deficit will not continue;  
25 otherwise, nonrecurring revenues will be added to the UUFB. 12 N.N.C.  
26 §820(F).

27 4. The above provisions in Title 12 may be amended or waived by a two-thirds  
28 vote of the full membership of the Navajo Nation Council. 12 N.N.C. §820(F);  
29 12 N.N.C. §880.

30 5. Pursuant to 12 N.N.C. §820(F), all UUFB funding requests must be reviewed

1 by the Controller. The Controller ensures compliance with all provisions of 12  
2 N.N.C. §820(L).

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

7 **SECTION TWO. FINDINGS**

8 A. The Navajo Nation Personnel Policies Manual (“PPM”), as amended, was approved on  
9 June 3, 2020 by the Health, Education and Human Services Committee in Resolution  
10 No. HEHSCJN-08-20. The PPM sets forth the rights, benefits, and duties expected of  
11 Executive and Legislative Branch employees. PPM, Section I(A). The PPM applies to  
12 all employees of the Executive and Legislative Branches of the Navajo Nation  
13 government, regardless of funding source or employment status. PPM, Section I(B).

14 B. The PPM may be amended from time to time by the Health, Education and Human  
15 Services Committee at the recommendation of the Division of Human Resources,  
16 which includes the Department of Personnel Management. PPM Section I(D).

17 C. Section X(B)(1)(e) of the PPM states:

18 **X. LEAVE ADMINISTRATION**

19 ...

20 **B. Paid Leave**

21 1. Annual Leave

22 ...

23 e. Carryover

24 At the end of each leave year, all hours in excess of 320 hours shall be  
25 forfeited. Forfeited hours shall not be paid.

26 ...

27 D. The Coronavirus (“COVID-19”) attacked the Navajo Nation in early 2020 and has  
28 since resulted in 87,075 confirmed cases and 2,224 deaths. In response to the COVID-  
29 19 attack, the Emergency Management Commission issued a Public Health State of  
30 Emergency for the Navajo Nation (CEM-20-03-11) on March 11, 2020.

- 1 E. Due to the demands of responding to the COVID-19 pandemic and continuing to  
2 provide services to a devastated populace, including recovery services and projects,  
3 many Navajo Nation employees were not and are not able to utilize the annual leave  
4 hours that they have earned. The Health, Education and Human Services Committee  
5 was very concerned that many Navajo Nation employees would be losing hundreds of  
6 their earned annual leave hours. In response, HEHSC passed resolutions HEHSCJA-  
7 01-22 and HEHSCD-12-22, attached as **Exhibits A and B**, allowing employees to carry  
8 over all of their unused accrued annual leave for calendar years 2021 and 2022.
- 9 F. The carryover of accrued annual leave for 2021 and 2022 is set to expire at the end of  
10 the 2023 employee leave year, i.e., the last 2023 pay period ending on January 12, 2024.  
11 At that time, Executive and Legislative Branch employees will forfeit and lose  
12 hundreds of hours of annual leave that they have duly earned. The forfeiture of duly  
13 earned leave will be unconscionable during this unprecedented time of hardship.
- 14 G. Recovery from the COVID-19 pandemic is still affecting communities throughout the  
15 Navajo Nation and stressing the government's continued provision of desperately  
16 needed services, particularly first responder and community/public health services.  
17 Staffing shortages prevent Navajo Nation employees from utilizing their accrued  
18 annual leave to manage their own health and recovery and that of their family members.  
19 Those employees with the most leave hours subject to loss are the first responders and  
20 community/public health employees who have not been able to use their annual leave  
21 hours due to severe staffing shortages which are out of their control, as well as such  
22 employee's dedication to providing vital services to the Navajo populace.
- 23 H. The Navajo Nation Department of Personnel Management has provided a breakdown,  
24 attached as **Exhibit C**, of the estimated accrued annual leave subject to forfeiture after  
25 the last 2023 leave year, pay period ending on January 12, 2024, by Executive and  
26 Legislative Branch employees paid through General Funds and/or external funding.  
27 The Judicial Branch is not included as the Judicial Branch Personnel Policies do not  
28 include or require forfeiture of accrued annual leave.
- 29 I. The budget forms for the Supplemental Appropriation from the Undesignated  
30 Unreserved Fund Balance are attached as **Exhibit D**.

1 J. The Controller has provided a memorandum, as required by 12 N.N.C. §820(L). The  
2 Controller has identified the proposed one-time payout of excess accrued annual leave  
3 expenditures as *nonrecurring*. **Exhibit E**.

4 K. The Office of Management and Budget has provided a budget impact statement  
5 required by 12 N.N.C. §820(M). **Exhibit F**.

6 L. HEHSC Resolution No. HEHSCD-12-22 specifically states that “[a]fter December 31,  
7 2023 annual leave accrued by an employee in excess of 320 hours shall then be  
8 forfeited, unless a further carryover is approved by the Health, Education and Human  
9 Services Committee or the Navajo Nation Council.” For purposes of employee well-  
10 being, morale, retention, and appreciation, the Navajo Nation Council finds that it is in  
11 the best interests of the Navajo Nation to waive Section X (B)(1)(e) of the Navajo  
12 Nation Personnel Policies Manual to provide all Executive and Legislative Branch  
13 employees with a *one-time* payout of their accrued annual leave in excess of three  
14 hundred twenty (320) hours as of the last 2023 leave year pay period ending January  
15 12, 2024.

16  
17 **SECTION THREE. WAIVING SECTION X (B)(1)(e) OF THE NAVAJO NATION**  
18 **PERSONNEL POLICIES MANUAL**

19 A. The Navajo Nation hereby waives Section X (B)(1)(e) of the Navajo Nation Personnel  
20 Policies Manual as necessary to provide Executive and Legislative Branch employees  
21 with a *one-time* payout of their accrued annual leave in excess of three hundred twenty  
22 (320) hours as of the end of the 2023 leave year pay period ending January 12, 2024.

23 B. The Navajo Nation hereby approves the carryover of 2023 annual leave by an employee  
24 in excess of 320 hours if necessary to provide Executive and Legislative Branch  
25 employees with a *one-time* payout of their accrued annual leave in excess of three  
26 hundred twenty (320) hours as of the end of the 2023 leave year, pay period ending  
27 January 12, 2024.

28  
29 **SECTION FOUR. APPROVING \$3,535,773 FROM THE UNRESERVED**  
30 **UNDESIGNATED FUND BALANCE TO THE OFFICE OF THE CONTROLLER**

1 A. The Navajo Nation hereby approves three million five hundred thirty-five thousand  
2 seven hundred seventy-three dollars (\$3,535,773) from the Unreserved, Undesignated  
3 Fund Balance (“UUFB”) to the Navajo Nation Office of the Controller for the purpose  
4 of making a *one-time* payout of accrued annual leave in excess of 320 hours to  
5 Executive and Legislative Branch employees funded through General Funds and/or  
6 external funds, as set forth in **Exhibits C and D**.

7 B. Pursuant to 12 N.N.C. §820(J), the approved \$3,535,773 shall be from that amount of  
8 funds that exceeds the 10% minimum fund balance of the UUFB, as determined by the  
9 Office of the Controller.

10 C. The Office of the Controller and Department of Personnel Management shall  
11 collectively ensure that all eligible employees receive payout of their excess annual  
12 leave by no later than the end of the second quarter of FY 2024, unless otherwise  
13 extended by the Budget and Finance Committee.

14 D. After consultation with the Office of Management and Budget and Department of  
15 Personnel Management, the Office of the Controller is authorized to administratively  
16 transfer funds between accounts as necessary to execute the requirements and purposes  
17 of this supplemental appropriation.

18 D. Pursuant to 2 N.N.C. § 820(N), approved UUFB funds not expended or encumbered  
19 by the end of the current fiscal year lapse and revert to the General Fund.

20  
21 **SECTION FIVE. EFFECTIVE DATE**

22 This Action shall become effective at the end of the 2023 leave year, pay period ending  
23 January 12, 2024, and as provided in 2 N.N.C. § 221(B) and 2 N.N.C. § 164(A)(17).

24  
25 **SECTION SIX. SAVING CLAUSE**

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

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30 **SECTION SEVEN. DIRECTIVES**



1 The Office of the Controller and Department of Personnel Management shall issue  
2 guidance to the Office of the President & Vice-President and Office of the Speaker of the  
3 Navajo Nation Council, by no later than January 31, 2024, on any program information  
4 necessary to implement the one-time payment of excess annual leave to Executive and  
5 Legislative Branch employees.

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