

## LEGISLATION SUMMARY

TrackingNo. 0035-22

Date: February 2, 2022

Re: **AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING \$400,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUFb") TO PAY STATE PROPERTY TAXES AND GRAZING FEES FOR NAVAJO NATION FEE LANDS UNDER THE DEPARTMENT OF AGRICULTURE RANCH AND EASTERN LAND MANAGEMENT PROGRAM; WAIVING 12 N.N.C. §820(E), §820(F), AND §820(J) TO ALLOW USE OF UUFb FUNDS FOR RECURRING EXPENSES**

Purpose: allocating \$400,000 from the UUFb to the Department of Agriculture, Ranch and Eastern Land Management Program, to pay state property taxes and grazing lease fees for Navajo Nation-owned fee lands in Arizona and New Mexico.

OLC No. 21-142-1

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 02-22-22  
Eligible for Action: 02-23-22

Resources & Development Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'íyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL - Fourth Year, 2022

Introduced by:

  
Rick Nez  
(Prime Sponsor)

Tracking No. 0035-22

AN ACT

RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND  
FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO  
NATION COUNCIL; APPROVING \$400,000 FROM THE UNRESERVED,  
UNDESIGNATED FUND BALANCE ("UUFb") TO PAY STATE PROPERTY  
TAXES AND GRAZING FEES FOR NAVAJO NATION FEE LANDS UNDER  
THE DEPARTMENT OF AGRICULTURE RANCH AND EASTERN LAND  
MANAGEMENT PROGRAM; WAIVING 12 N.N.C. §820(E), §820(F), AND  
§820(J) TO ALLOW USE OF UUFb FUNDS FOR RECURRING EXPENSES

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation established the Resources and Development Committee as a Navajo Nation Council standing committee with oversight authority over all matters involving water, land, environment, agriculture, livestock, among other duties. 2 N.N.C. §500(C). The Resources and Development Committee also has responsibility for the Division of Natural Resources, under which the Department of Agriculture was established. 2 N.N.C. §501(C)(1).

B. The Navajo Nation established the Budget and Finance Committee as a Navajo Nation Council standing committee with the authority to recommend to the Navajo Nation Council

1 the management of all funds. 2 N.N.C. §164(A)(9), §300(A), and §301(B)(2).

2 C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation  
3 standing committee, and proposed legislation requiring final action by the Navajo Nation  
4 Council is assigned to the Naabik'íyáti' Committee. 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. § 102(A).  
6 As such, the Council “. . . may adopt and approve supplemental appropriations to the Annual  
7 Comprehensive Budget during the fiscal year. Supplemental appropriations of General Funds  
8 within the current fiscal year are permitted, if and when additional sources of revenues above  
9 and beyond the initial or current revenue projections are projected and which are also in  
10 excess of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L).

11 E. The restrictions on supplemental appropriations include:

12 1. Supplemental appropriations from non-recurring revenues shall be approved only for non-  
13 recurring expenses. 12 N.N.C. §820(F). The Controller determines which revenues are  
14 recurring and which are non-recurring. 12 N.N.C. §820(L).

15 2. The Navajo Nation shall budget all recurring operating expenses, including capital  
16 maintenance costs, from recurring revenues only; and long-term debt shall not be used to  
17 finance recurring operating expenses. 12 N.N.C. §820(E).

18 3. The Navajo Nation Code further provides, “. . . non-recurring revenues will be budgeted  
19 only after an examination by the Controller to determine whether or not the revenues are  
20 subsidizing an imbalance between recurring revenues and expenditures, and expenditures  
21 may be authorized only if a long-term (three-five year) forecast shows that the operating  
22 deficit will not continue. Otherwise, non-recurring revenues will be added to the  
23 Unreserved, Undesignated Fund Balance. This provision may be amended or waived by  
24 a two-thirds vote of the full Navajo Nation Council.” 12 N.N.C. §820(F).

25 4. All requests for supplemental funding shall be submitted to the Office of Management  
26 and Budget (“OMB”) for budget impact analysis. 12 N.N.C. §820(M).

## 27 28 **SECTION TWO. FINDINGS**

29 A. The Department of Agriculture (“DOA”) under the Division of Natural Resources has  
30 prepared a supplemental funding request and justification, seeking \$400,000 out of the

1 UUFB for the DOA's Ranch and Eastern Land Management Program to pay state property  
2 taxes and grazing lease fees assessed on Navajo Nation-owned fee lands in Arizona and New  
3 Mexico. **EXHIBIT A.** The required Budget Forms are attached hereto as **EXHIBIT B.**

4 B. The Office of Management and Budget has provided a budget impact analysis as required by  
5 12 N.N.C. § 820(M). **EXHIBIT C.**

6 C. The Office of the Controller was asked to provide a memorandum as required by 12 N.N.C.  
7 §820(L). This memorandum shall be provided to the assigned Committees and/or the Navajo  
8 Nation Council when this legislation is up for consideration.

9  
10 **SECTION THREE. ALLOCATING \$400,000 OUT OF THE UUFB FOR THE**  
11 **DEPARTMENT OF AGRICULTURE, RANCH AND EASTERN**  
12 **LAND MANAGEMENT PROGRAM, TO PAY STATE**  
13 **PROPERTY TAXES AND GRAZING LEASE FEES**

14 A. The Navajo Nation hereby allocates \$400,000 out of the UUFB to the Department of  
15 Agriculture, Ranch and Eastern Land Management Program, to pay Arizona and New  
16 Mexico property taxes and grazing lease fees assessed on Navajo Nation-owned fee lands in  
17 those states.

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

20 C. Pursuant to 12 N.N.C. §820(J), on September 30, 2022 this supplemental appropriation shall  
21 expire and any remaining funds not expended or encumbered shall revert to the UUFB,  
22 unless otherwise determined by the Navajo Nation Council.

23  
24 **SECTION FOUR. WAIVING 12 N.N.C. §820(E), §820(F), AND §820(J) TO ALLOW**  
25 **USE OF THE UUFB FOR RECURRING EXPENSES**

26 The Navajo Nation hereby waives 12 N.N.C. §820(E), §820(F), and §820(J) to allow use of the  
27 UUFB by the Department of Agriculture, Ranch and Eastern Land Management Program, to  
28 pay Arizona and New Mexico property taxes and grazing lease fees assessed on Navajo Nation-  
29 owned fee lands in those states, as shown in Exhibits A-B. This waiver is necessary because the  
30 UUFB expenditures for property taxes and grazing fees are considered recurring expenses.

1   **SECTION FIVE. EFFECTIVE DATE**

2   This Act shall become effective as provided in 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17).  
3

4   **SECTION SIX. SAVING CLAUSE**

5   If any portion of this Act is determined invalid by the Navajo Nation Supreme Court, or by a  
6   District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the  
7   remainder of this Act shall be the law of the Navajo Nation.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

THE NAVAJO NATION  
SUPPLEMENTAL FUNDING PROPOSAL SUMMARY

PART I. Business Unit No.: NEW Program Title: RANCH AND EASTERN LAND MANAGEMENT  
Division/Branch: Natural Resources/Exec. Amount Requested: \$400,000.00 Prepared By: Melinda Ciocco  
Phone No.: 928-871-7260 Email Address: melindaciocco@navajo-nsn.gov

## PART II. REASON FOR REQUEST AND STATEMENT OF NEED:


\$400,000.00 of the Undesignated Unappropriated Fund Balance (UFFB) will be appropriated to pay Arizona and New Mexico County property taxes and State grazing lease fees for fee lands within the Navajo Nation tribal ranches. The Arizona counties are Coconino, and Navajo and Yavapai. The New Mexico counties are Bernalillo, McKinley and San Juan. The current annual budget allocation for the Department of Agriculture's Ranch and Eastern Land Management Program is severely strained to pay property taxes and state grazing fees for tribal ranches while meeting program needs for operation and maintenance expenses, such as personnel, windmill/earth dam repairs, fencing, construction and repairs, leasing expenses and other operating expenses.

## PART III. LIST ALTERNATIVE FUNDING SOURCES BEING PURSUED AND CONTINGENCY PLAN IF REQUEST IS NOT FUNDED:

N/A

## PART IV. AFFIRMATION IS PROVIDED THAT THE BUDGET AND PROPOSAL INFORMATION IS COMPLETE AND ACCURATE AND THE APPROPRIATE BRANCH CHIEF RECOMMENDS APPROVAL AS A PRIORITY.

  
Sherylene Yazzie, Chief of Staff, Legislative Branch

 4/8/2021  
Hon. Seth Damon, Speaker, 24th NN Council

REVIEWED BY: Division Director's Signature / Date

RECOMMEND SUPPLEMENTAL: Branch Chief's Signature / Date

March 31, 2021

**JUSTIFICATION FOR USE OF UUFb TO  
PAY PROPERTY TAXES AND STATE GRAZING FEES  
FOR NAVAJO NATION TRIBAL RANCHES**

\$400,000 of the Undesignated Unappropriated Fund Balance (UUFb) will be appropriated to pay Arizona and New Mexico County property taxes and State grazing lease fees for fee lands within Navajo Nation tribal ranches. The Arizona counties are Coconino, Navajo and Yavapai. The New Mexico counties are Bernalillo, McKinley and San Juan. The current annual budget allocation for the Department of Agriculture's Ranch and Eastern Land Management Program is severely strained to pay property taxes and state grazing fees for tribal ranches while meeting program needs for operation and maintenance expenses, such as personnel, windmill/earth dam repairs, fencing construction and repairs, bull leasing expenses and other operating expenses.

In the 2020 Land Exchange between the Navajo Nation and the State of New Mexico, the Henderson Ranch and Slash B Ranch in Alamo, NM were relinquished to the State in return for State lands relinquished to the Navajo Nation by the State. The State agreed to lease-back the two ranches to the Navajo Nation. As a result, the Navajo Nation is now responsible to annually pay the State grazing fees of \$6,540.50 for the Henderson Ranch and \$28,199.88 for the Slash B Ranch, or a total of \$34,740.38. Additional State grazing lease fees are paid annually for other State grazing leases within tribal ranches and in Eastern Agency, as well as Arizona State grazing lease fees associated with tribal ranches in the Winslow Tract and Big Boquillas Ranch that are included in the \$400,000 appropriation.

The Office of the Speaker recommended that property taxes and state grazing fees for ALL Navajo Nation fee lands be paid annually as a fixed asset expense or UUFb appropriation in the annual budget process rather than being paid from department or program accounts. This effort will be collaborated with the Navajo Land Department in future budget deliberations.

FY 2021

**THE NAVAJO NATION  
PROGRAM BUDGET SUMMARY**

Page 1 of 3  
**BUDGET FORM 1**

<b>PART I. Business Unit No.:</b> NEW		<b>Program Title:</b> RANCH AND EASTERN LAND MANAGEMENT		<b>Division/Branch:</b> Natural Resources/Executive	
<b>Prepared By:</b> Melinda Ciocco		<b>Phone No.:</b> 928.871.7260		<b>Email Address:</b> melindaciocco@navajo-nsn.gov	


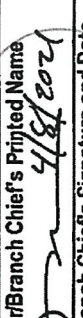
PART II. FUNDING SOURCE(S)	Fiscal Year / Term	Amount	% of Total	PART III. BUDGET SUMMARY			Fund Type Code	NNC Approved Original Budget	Proposed Budget	Difference (Column B - A)
UUF8	4/1/21-12/31/21	400,000.00	100%							
	10/1/20-9/30/21									
				2001	Personnel Expenses					0
				3000	Travel Expenses					0
				3500	Meeting Expenses					0
				4000	Supplies					0
				5000	Lease and Rental	1	0	400,000		400,000
				5500	Communications and Utilities					0
				6000	Repairs and Maintenance					0
				6500	Contractual Services					0
				7000	Special Transactions					0
				8000	Public Assistance					0
				9000	Capital Outlay					0
				9500	Matching Funds					0
				9500	Indirect Cost					0
				<b>TOTAL</b>					400,000	400,000

<b>PART IV. POSITIONS AND VEHICLES</b>		(D)	(E)
Total # of Positions Budgeted:			
Total # of Vehicles Budgeted:			

**PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.**

Sherylene Yazzie, Chief of Staff, Legislative Branch SUBMITTED BY: Program Manager's Printed Name  SUBMITTED BY: Program Manager's Signature and Date	Hon. Seth Damon, Speaker/24th Navajo Nation Council APPROVED BY: Division Director/Branch Chief's Printed Name  APPROVED BY: Division Director/Branch Chief's Signature and Date
---	--

**EXHIBIT B**

THE NAVAJO NATION  
PROGRAM PERFORMANCE CRITERIA

PART I. PROGRAM INFORMATION:		Ranch and Eastern Land Management								
Business Unit No.:	NEW	Program Name/Title:								
<b>PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:</b> RDCJY-032-19: The Navajo Nation Department of Agriculture (NNDa) Shall manage all aspects of Navajo agricultural resources for the optimum benefit of all Navajo people including future generations. The purpose of the Tribal Ranch Section is to manage Tribal ranch units, ranches and other programs.										
<b>PART III. PROGRAM PERFORMANCE CRITERIA:</b>			1st QTR		2nd QTR		3rd QTR		4th QTR	
			Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual
<b>1. Goal Statement:</b> Payment for AZ, NM, county property taxes and state grazing fees for fee lands within tribal ranches <b>Program Performance Measure:</b> This cost amount will pay this years annual payment for property taxes for all Navajo Nation tribal ranches							1			
<b>2. Goal Statement:</b> _____ <b>Program Performance Measure:</b> _____										
<b>3. Goal Statement:</b> _____ <b>Program Performance Measure:</b> _____										
<b>4. Goal Statement:</b> _____ <b>Program Performance Measure:</b> _____										
<b>5. Goal Statement:</b> _____ <b>Program Performance Measure:</b> _____										

PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.

Sherylene Yazzie, Chief of Staff

Program Manager's Printed Name

Hon. Seth Damon, Speaker 24th Navajo Nation Council

Division Director/Branch Chief's Printed Name

8/8/2021

Division Director/Branch Chief's Signature and Date

THE NAVAJO NATION  
DETAILED BUDGET AND JUSTIFICATION

PART I. PROGRAM INFORMATION:		Business Unit No.: <u>NEW</u>	
Program Name/Title: <u>Ranch and Eastern Land Management</u>			
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
5000 LEASE AND RENTAL	Payment on leased property/land: AZ & NM Property Taxes and AZ & NM State Grazing Lease Fees for tribal ranches		\$ 400,000.00
5130 Land			
5150 Leased Property/Land Tax	\$400,000.00	400,000	
Details			
TOTAL		400,000	400,000

# THE NAVAJO NATION

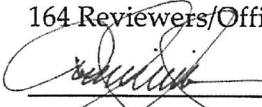
---

JONATHAN NEZ | PRESIDENT   MYRON LIZER | VICE PRESIDENT



## MEMORANDUM

TO : 164 Reviewers/Office of the Legislative Counsel

FROM :   
Dominic Beyal, Executive Director  
Office of Management and Budget

DATE : April 13, 2021

SUBJECT : Review of Funding Request from the Undesignated, Unreserved Fund Balance (UUFB) in the amount of \$400,000.00 for Property Taxes and Grazing Lease Fees for Tribal Ranches under the Ranch and Eastern Land Management Program.

The Office of Management and Budget (OMB) reviewed the proposed budget documents submitted by Office of Legislative Counsel; not by Division of Natural Resources. Pursuant to 12 NNC Section 820 (M) the following is noted:

1. The FY 2021 Budget Instructions Manual, Section XII is the Supplemental Funding Request Procedures. The procedures set guidance to leadership in considering supplemental funding including that the Branch Chiefs are to review and prioritize all supplemental requests. In the reviews, the Navajo Nation must weigh laws, priorities, legal mandates, matching funds, health and safety of the general public and emergencies during the course of the fiscal year. There is no indication this has been done.
2. Pursuant to the FY 2021 Budget Instructions Manual, Section XII, A., all requests for supplemental funding requests shall be submitted through the Navajo Nation official administrative review process prior to consideration by the appropriate legislative bodies. This document was not reviewed through the Executive Branch review process for proper review by the appropriate offices.
3. The FY 2021 Budget Resolution CN-88-20, Section Seven, directs the Office of the Controller to provide a report of the FY 2020 unexpended funds by December 1, 2020. The report is to be presented to the Navajo Nation Council to consider supplemental appropriations to programs with unexpended fund amounts as an alternative to carryovers. During the FY 2021 budget process, the oversight committees, via resolutions supported carryovers for 55 programs. What is the status of the directive?
4. During the Fiscal Year 2021 Budget Process, there was approximately \$134 million in Unmet Needs supported by the Legislative Oversight Committees. Leadership should use the Unmet Needs when considering supplemental funding requests. The Ranch and Eastern Land Management is not a part of the Unmet Needs listing.



Page Two (02)

Memo to 164 Reviewers/Office of Legislative Counsel

Re: UUFB Request for \$400,000 for Ranch and Eastern Land Management

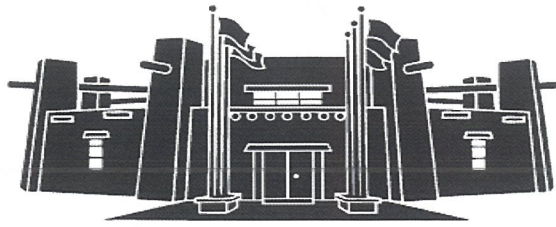
April 13, 2021

5. Review of Appendix K and budget forms.
  - a. Appendix K, Part IV and Budget Form 1, Part V, should be signed by the Executive Branch, DNR Division Director and OPVP indicating support and approval of the funding request.
  - b. Appendix K, Part II, should include the overall costs/obligation as a Statement of Need.
  - c. Budget Form 1, Part II, the Fiscal Year/Term, should be corrected to 10/01/2020 – 9/30/2021.
  - d. Budget Form 4, needs to be detailed. What is the amount to be paid to Arizona and New Mexico for property taxes and land lease fees? How is the \$400,000 determined?
6. The Ranch and Eastern Land Management operates through a proprietary fund where the operating costs are covered by revenues generated such as grazing fee payments, etc.
7. Further, the Ranch and Eastern Land Management is currently on sanctioned status by the Office of the Auditor General since 2016. The audit findings and corrective action plans should be taken into consideration as it affects the programs efforts to sustain itself (revenue generation).
8. In year's past, the property taxes and land lease fees used to be budgeted under the Fixed Costs budget. Since then the Division of Natural Resources has had a difficult time paying this obligation. Leadership should review this mandated obligation and consider funding the property taxes/land lease fees as a Fixed Costs during the annual budget process.
9. The FY 2021 2<sup>nd</sup> quarter expenditure reports for the Ranch and Eastern Land Management shows a low expenditure rate of 26.69%. The target should be 50% as of 2<sup>nd</sup> quarter end. The program budgeted \$320,000 for land lease and property taxes in FY 2021. The amount has not been expended to date. What are the true costs of the property taxes and land lease fees? That should be shown in Appendix K to determine the Unmet Need to avoid requests for additional funds in FY 2021.
10. Recommend the request go through the Executive Branch, 164 Review Process for proper review and recommendations.

Contact D.Sam, Senior Budget Analyst at (928) 871-6470 if there are any questions and/or concerns regarding this memorandum.

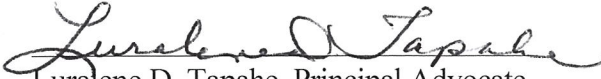
xc: Rudy Shebala, Division Director – Div. of Natural Resources  
Paulson Chaco, Chief of Staff – OPVP





## MEMORANDUM

To: Hon. Delegate Rick Nez, Chairman  
Resources and Development Committee  
24<sup>th</sup> Navajo Nation Council

From:   
Luralene D. Tapahe, Principal Advocate  
Office of Legislative Counsel

Date: February 2, 2022

Subject: **AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING \$400,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE ("UUF") TO PAY STATE PROPERTY TAXES AND GRAZING FEES FOR NAVAJO NATION FEE LANDS UNDER THE DEPARTMENT OF AGRICULTURE RANCH AND EASTERN LAND MANAGEMENT PROGRAM; WAIVING 12 N.N.C. §820(E), §820(F), AND §820(J) TO ALLOW USE OF UUF FUNDS FOR RECURRING EXPENSES**

---

Per your request, the Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents regarding your request that were submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

**Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.**

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-7166 or by email at: [LuraleneTapahe@navajo-nsn.gov](mailto:LuraleneTapahe@navajo-nsn.gov)  
Thank you for your cooperation.