Title: An Action Relating to Budget and Finance and Naabik’íyáti’ Committees, and the Navajo Nation Council; Establishing the Navajo Nation COVID-19 Response Donation Fund to house financial donation made to the Navajo Nation to assist in the fight against COVID-19 on the Navajo Nation; Waiving Navajo Nation Code set-aside provisions

Date posted: May 27, 2020 at 3:11PM

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DATE: May 25, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO RELATING TO BUDGET AND FINANCE AND NAABÍK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION COVID-19 RESPONSE DONATION FUND TO HOUSE FINANCIAL DONATIONS MADE TO THE NAVAJO NATION TO ASSIST IN THE FIGHT AGAINST COVID-19 ON THE NAVAJO NATION; WAIVING NAVAJO NATION CODE SET-ASIDE PROVISIONS

PURPOSE: This resolution, if approved, will adopt the Navajo Nation COVID-19 Response Donation Fund to house financial donations made to the Navajo Nation to combat COVID-19 on the Navajo Nation.

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
24th NAVAJO NATION COUNCIL — Second Year, 2020

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0126-20

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).
B. The Naabik'iyati' Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164 (A)(9).
C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated power to "[t]o the extent permitted by federal or Navajo Nation laws and regulations, the Committee shall appropriate, allocate, cancel, re-appropriate and review the use of the Navajo Nation funds received including but not
limited to all grants, contracts, gifts and other funds from all sources.” 2 N.N.C. § 301 (B)(3).

D. The Budget and Finance Committee also has the enumerated power “[t]o approve Fund Management Plans pursuant to the recommendations of the appropriate oversight committee and affected Division or Branch.” 2 N.N.C. § 301 (B)(14).

E. The Navajo Nation Appropriations Act states that “[f]unds received in excess of the initial or current revenue projection shall be deposited into the General Fund unless otherwise designated by the Navajo Nation Council.” 12 N.N.C. § 820 (K).

SECTION TWO. FINDINGS

A. COVID-19 is a dangerous and extremely contagious respiratory virus. The virus is pandemic and has reached the Navajo Nation. COVID-19 is spreading at an alarming rate within the Navajo Nation; as of May 13, 2020, the Navajo Nation has reported 488 cases of COVID-19 and 20 related deaths.


C. On March 11, 2020, the Navajo Nation Commission on Emergency Management, with the concurrence of the Navajo Nation President and Vice President, declared a Public Health State of Emergency on the Navajo Nation due to the presence of COVID-19 in areas surrounding the Navajo Nation. Resolution No. CEM 20-03-11. The President and Commission have issued other Public Health Emergency Orders: including: Order No. 2020-001 dated March 18, 2020 (declaring the outbreak of COVID-19 and limiting mass gatherings); Order No. 2020-002 dated March 19, 2020 (quarantining the Chilchinbeto Community); Order No. 2020-003 dated March 20, 2020 (ordering individuals living on the Navajo Nation to stay home and shelter in place except for essential activities, prohibiting visitors to the Navajo Nation, and closing all businesses on the Navajo Nation except essential businesses); Order No. 2020-004 dated March
29, 2020 (implementing a daily curfew from 8:00 p.m. to 5:00 a.m. for all Navajo Nation residents, extending the shelter in place order, and further limiting public gatherings); Order No. 2020-005 dated April 5, 2020 (implementing a 57-hour weekend curfew on April 10-13); Order No. 2020-006 dated April 16, 2020 (extending the weekend curfew for April 17-20 and April 24-27, and closing Navajo Nation essential businesses during curfew hours); Order No. 2020-007 (requiring face masks in public); and Order No. 2020-008 dated April 29, 2020 (extending the weekend curfew to May 11). The Navajo Nation Office of the President and Vice President issued Executive Order 002-20 on March 31, 2020 (closing all Navajo Nation offices except essential personnel through April 21); and Executive Order 003-20 on April 21, 2020 (extending the closure order to May 17, 2020).

D. After the Public Health State of Emergency was declared on the Navajo Nation, the Health Command Center (subsequently merged into the Unified Command Group) started receiving financial and property donations from individuals, businesses, non-profits, agencies, and enterprises to support the Nation’s COVID-19 response efforts.

E. To ensure that the Navajo Nation could promptly apply the donated funds and property to the COVID-19 response efforts, on March 20, 2020, the Navajo Nation Council approved Resolution No. CMA-08-20, attached as Exhibit A, minimizing the procedures for accepting donations during the COVID-19 emergency declaration. The President signed CMA-08-20 into law on March 26, 2020.

F. When the Nation accepts a donation, it also accepts the obligation to expend or use the donation for the purposes for which it was donated. The Navajo Nation Office of the Attorney General was designated to lead the “Donations Branch” within the Navajo Nation Health Command Operations Center and charged with maintaining the integrity of the COVID-19 response donation process.

G. To ensure that all financial donations received for the COVID-19 response efforts are expended only for COVID-19 response related efforts and can be accounted for and audited, the Navajo Nation finds it in the best interests of the Navajo Nation to establish the COVID-19 Response Donation Fund within the Navajo Nation Department of Emergency Management.
SECTION THREE. ESTABLISHING THE COVID-19 RESPONSE DONATION FUND

A. The Navajo Nation hereby establishes the COVID-19 Response Donation Fund within the Navajo Nation Department of Emergency Management.

B. The Navajo Nation Council hereby designates that all financial donations received by the Navajo Nation for its COVID-19 relief efforts that are not restricted by the donor for a specific purpose shall be deposited in the COVID-19 Response Donation Fund.

C. The Navajo Nation Council hereby designates that financial donations restricted by the donor for a specific purpose shall be deposited in the account(s) of the donor specified department or program or the account(s) of the department or program with the responsibility to accomplish the donor specified purpose.

D. The COVID-19 Response Donation Fund shall only be expended for COVID-19 relief efforts, including, but not limited to preparedness, emergency response, and recovery, that mitigate the harmful effects of the pandemic virus as prioritized by the Department of Emergency Management.

E. Notwithstanding the Budget Instruction Manual, COVID-19 Response Donation Funds shall be budgeted through an Executive Branch internal review and approval process that ensures the expeditious expenditure of such funds for their intended purpose, i.e., COVID-19 relief efforts.

F. COVID-19 Response Donation Fund funds shall not lapse pursuant to 12 N.N.C. § 820 (N).

G. The COVID-19 Response Donation Fund shall expire when all donations have been expended.

SECTION FOUR. WAIVING NAVAJO NATION CODE SET-ASIDE PROVISIONS

The Navajo Nation waives any and all provisions of the Navajo Nation Code that would extract a set-aside from financial donations made to the Nation for its COVID-19 relief efforts, including but not limited to the provisions in the Navajo Nation Permanent Fund, 12 N.N.C. §§901 et seq.; Navajo Nation Veterans Trust Fund, 12 N.N.C. §§ 1171 et seq.; Capital Outlay Match Funding Special Revenue Fund, 12 N.N.C. §§2001 et seq.; Navajo
SECTION FIVE. ADMINISTRATION AND MANAGEMENT OF THE COVID-19 RESPONSE DONATION FUND

A. The COVID-19 Donation Fund shall be managed and administered pursuant to a Fund Management Plan (FMP) developed by the Navajo Nation Department of Emergency Management, with the assistance of the Office of the Controller, and recommended by the Health Education and Human Services Committee and approved by the Budget and Finance Committee.

B. The COVID-19 Donation Fund FMP shall, at a minimum, include the following provisions:

1. Expenditures shall only be for COVID-19 relief efforts, including, but not limited to preparedness, emergency response, and recovery, that mitigate the harmful effects of the pandemic virus as prioritized by the Department of Emergency Management; such expenditures shall be made through an Executive Branch budgeting and approval process.

2. The Office of the Attorney General and Office of the Controller shall report donations received to the Naabik’iyáti’ Committee at the end of each Fiscal Year Quarter; and shall report any individual financial donation exceeding one hundred thousand dollars ($100,000) to the Speaker of the Navajo Nation within ten (10) days of receiving the donation.

3. The Department of Emergency Management shall report all COVID-19 Response Donation Fund expenditures to the Naabik’iyáti’ Committee at the end of each Fiscal Year Quarter.

SECTION SIX. AUDIT REQUIREMENTS

The COVID-19 Response Donation Fund shall be audited each year by the Nation’s independent auditors.
SECTION FIVE. EFFECTIVE DATE

This Action shall become effective in accord with 2 N.N.C. § 221(B).