

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0084-20\_\_\_\_\_

SPONSOR: Seth Damon

**TITLE: An Action Relating to an Emergency for the Navajo Nation; 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; Replenishing the CMA-06-20 supplemental appropriation to the COVID-19 emergency funds program; Waiving Navajo Nation Code set-aside provisions**

*Date posted: April 10, 2020 at 12:46pm*

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**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0084-20

**DATE:** April 10, 2020

**TITLE OF RESOLUTION: RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; 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; REPLENISHING THE CMA-06-20 SUPPLEMENTAL APPROPRIATION TO THE COVID-19 EMERGENCY FUNDS PROGRAM; WAIVING NAVAJO NATION CODE SET-ASIDE PROVISIONS**

**PURPOSE:** This resolution, if approved, will establish the COVID-19 Relief Donation Fund to house financial donations made to the Nation for its COVID-19 response efforts.

**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. 0084-20

**AN ACTION**

**RELATING TO AN EMERGENCY FOR THE NAVAJO NATION;  
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; REPLENISHING THE CMA-06-20 SUPPLEMENTAL  
APPROPRIATION TO THE COVID-19 EMERGENCY FUNDS PROGRAM;  
WAIVING NAVAJO NATION CODE SET-ASIDE PROVISIONS**

**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 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).

- 1 C. The Budget and Finance Committee also has the enumerated power “[t]o approve Fund  
2 Management Plans pursuant to the recommendations of the appropriate oversight  
3 committee and affected Division or Branch.” 2 N.N.C. § 301 (B)(14).
- 4 D. The Navajo Nation Appropriations Act states that “[f]unds received in excess of the  
5 initial or current revenue projection shall be deposited into the General Fund unless  
6 otherwise designated by the Navajo Nation Council.” 12 N.N.C. § 820 (K).
- 7 E. Pursuant to 2 N.N.C. § 164 (A)(16):
- 8 “Matters constituting an emergency shall be limited to the cessation of law  
9 enforcement services, disaster relief services, fire protection services or other direct  
10 services required as an entitlement under the Navajo Nation or Federal law, or  
11 which directly threaten the sovereignty of the Navajo Nation. Such an emergency  
12 matter must arise due to the pressing public need for such resolution(s) and must  
13 be a matter requiring final action by the Council.” 2 N.N.C. §164 (A) (16).
- 14 F. Ensuring the health and safety of all residents and employees within the Navajo Nation  
15 is an inherent attribute of sovereignty.
- 16

## 17 **SECTION TWO. FINDINGS**

- 18 A. COVID-19 is a dangerous and extremely contagious respiratory virus. The virus is  
19 pandemic and has reached the Navajo Nation. COVID-19 is spreading at an alarming  
20 rate within the Navajo Nation; as of April 9, 2020, the Navajo Nation has reported 488  
21 cases of COVID-19 and 20 related deaths.
- 22 B. The World Health Organization declared a Public Health Emergency of International  
23 Concern on January 30, 2020; the United States Department of Health and Human  
24 Services declared a Public Health Emergency related to the COVID-19 outbreak on  
25 January 31, 2020; and the World Health Organization officially declared a pandemic  
26 due to COVID-19 on March 11, 2020.
- 27 C. The Navajo Nation Commission on Emergency Management, with the concurrence of  
28 the President and Vice President of the Navajo Nation, on March 11, 2020 declared a  
29 Public Health State of Emergency due to the outbreak of COVID-19 in areas  
30 surrounding the Navajo Nation. Acknowledging the establishment of the Health

1 Command Center by the Navajo Nation Department of Health, the Commission stated,  
2 “Locally, it is acknowledged and understood that the threat of COVID-19 needs to be  
3 mitigated to reduce risk of exposure to the Navajo People and the resultant  
4 consequential public health impacts.” CEM-20-03-11, attached as **Exhibit A**.

5 D. On March 18, 2020, the Navajo Office of Environmental Health and Protection  
6 Program within the Navajo Nation Department of Health issued a Public Health Order  
7 declaring the outbreak of COVID-19 within the Navajo Nation; the order limited mass  
8 gatherings. See **Exhibit B**.

9 E. On March 20, 2020, Public Health Emergency Order No. 2020-003 was issued,  
10 ordering all individuals living on the Navajo Nation to stay home (Shelter in Place).  
11 See **Exhibit C**. The same order prohibits visitors to the Navajo Nation, and requires  
12 the closure of all businesses on the Navajo Nation except “essential businesses.”

13 F. On March 29, 2020, Public Health Emergency Order No. 2020-004 was issued  
14 implementing a curfew from 8:00 p.m. to 5:00 a.m. on all Navajo Nation residents.  
15 The Shelter in Place order of March 20, 2020 was also indefinitely extended. **Exhibit**  
16 **D**.

17 G. On March 6, 2020, the Governor of the State of Utah declared a State of Emergency  
18 due to the outbreak of coronavirus (COVID 19). **Exhibit E**.

19 H. On March 11, 2020, the Governor of the State of Arizona issued a Declaration of  
20 Emergency due to the outbreak of coronavirus (COVID 19). **Exhibit F**.

21 I. On March 11, 2020, the Governor of the State of New Mexico declared a state of Public  
22 Health Emergency due to the outbreak of coronavirus (COVID 19); the Public Health  
23 Emergency was renewed and expanded on April 6, 2020. **Exhibit G**.

24 J. On March 20, 2020, the Navajo Nation Council approved Resolution No. CMA-06-20,  
25 attached as **Exhibit H**, awarding the Department of Health four million dollars  
26 (\$4,000,000) from the Undesignated Unreserved Fund Balance to respond to the  
27 COVID-19 pandemic on the Navajo Nation. The President signed CMA-06-20 into  
28 law on the same day.

29 K. After the Public Health State of Emergency was declared on the Navajo Nation, the  
30 Health Command Center started receiving financial and property donations from

1 individuals, businesses, non-profits, agencies, and enterprises to support the Nation's  
2 COVID-19 response efforts.

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

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

13 N. To ensure that all financial donations received for the COVID-19 response efforts are  
14 expended only for COVID-19 response related efforts and can be accounted for and  
15 audited, the Navajo Nation finds it in the best interests of the Navajo Nation to establish  
16 the COVID-19 Response Donation Fund within the Navajo Department of Health.

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18 **SECTION THREE. ESTABLISHING THE COVID-19 RESPONSE DONATION**  
19 **FUND**

20 A. The Navajo Nation hereby establishes the COVID-19 Response Donation Fund within  
21 the Navajo Nation Department of Health.

22 B. The Navajo Nation Council hereby designates that all financial donations, from any  
23 source and in any amount, received by the Nation for its COVID-19 relief efforts shall  
24 be deposited in the COVID-19 Response Donation Fund.

25 C. The COVID-19 Response Donation Fund shall only be expended for COVID-19 relief  
26 efforts, including, but not limited to preparedness, emergency response, and recovery,  
27 that mitigate the harmful effects of the pandemic virus as prioritized by the Navajo  
28 Department of Health and the replenishment of supplemental appropriation funding to  
29 the COVID-19 Emergency Funds Program.

1 D. Provisions of the Budget Instruction Manual that impede the expeditious expenditure  
2 of funds for their intended purpose, i.e., COVID-19 relief efforts, shall not apply to the  
3 COVID-19 Response Donation Fund.

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

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

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9 **SECTION FOUR. WAIVING NAVAJO NATION CODE SET-ASIDE PROVISIONS**

10 The Navajo Nation waives any and all provisions of the Navajo Nation Code that would  
11 extract a set-aside from financial donations made to the Nation for its COVID-19 relief  
12 efforts, including but not limited to the provisions in the Navajo Nation Permanent Fund,  
13 12 N.N.C. §§901 *et seq.*; Navajo Nation Veterans Trust Fund, 12 N.N.C. §§ 1171 *et seq.*;  
14 Capital Outlay Match Funding Special Revenue Fund, 12 N.N.C. §§2001 *et seq.*; Navajo  
15 Nation Water Rights Claim Fund, 12 N.N.C. §§ 2101 *et seq.*; Diné Higher Education Grant  
16 Fund, 12 N.N.C. §§2301 *et seq.*; and Land Acquisition Fund, 16 N.N.C. §§201 *et seq.*.

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18 **SECTION FIVE. ADMINISTRATION AND MANAGEMENT OF THE COVID-19**  
19 **RESPONSE DONATION FUND**

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

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

- 26 1. The first four million dollars (\$4,000,000) of donations shall be used to  
27 replenish the \$4,000,000 supplemental appropriation made from the  
28 Undesignated Unreserved Fund Balance pursuant to CMA-06-20.  
29 2. After the \$4,000,000 is returned to the Undesignated Unreserved Fund Balance,  
30 expenditures shall only be for COVID-19 relief efforts, including, but not

1 limited to preparedness, emergency response, and recovery, that mitigate the  
2 harmful effects of the pandemic virus as prioritized by the Navajo Department  
3 of Health; such expenditures shall be made through an Executive Branch  
4 budgeting and approval process.

- 5 3. The Office of the Attorney General and Office of the Controller shall report  
6 donations received to the Naabik'iyáti' Committee at the end of each Fiscal  
7 Year Quarter; and shall report any individual financial donation exceeding one  
8 hundred thousand dollars (\$100,000) to the Speaker of the Navajo Nation  
9 within ten (10) days of receiving the donation.
- 10 4. The Office of the Controller shall provide the Naabik'iyáti' Committee notice  
11 when the Undesignated Unreserved Fund Balance has been replenished for the  
12 CMA-06-20 \$4,000,000 supplemental appropriation.
- 13 5. The Department of Health shall report all COVID-19 Response Donation Fund  
14 expenditures to the Naabik'iyáti' Committee at the end of each Fiscal Year  
15 Quarter.
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17 **SECTION SIX. AUDIT REQUIREMENTS**

18 In addition to audit by the Nation's independent auditors as part of the annual audit, the  
19 COVID-19 Response Donation Fund shall be audited each year by the Office of the  
20 Auditor General.

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22 **SECTION FIVE. EFFECTIVE DATE**

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

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