

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0093-20\_\_\_\_\_

SPONSOR: Seth Damon

**TITLE:** An Action Relating to an Emergency for the Navajo Nation; Temporarily suspending 2 N.N.C. § 162 (A); Canceling the 2020 Navajo Nation Council Spring Session

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**LEGISLATIVE SUMMARY SHEET**

**Tracking No.** 0093-20

**DATE:** April 16, 2020

**TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; TEMPORARILY SUSPENDING 2 N.N.C. § 162 (A); CANCELING THE 2020 NAVAJO NATION COUNCIL SPRING SESSION**

**PURPOSE:** The purpose of this legislation is to cancel the 2020 Navajo Nation Council Spring Session.

**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 24th NAVAJO NATION COUNCIL -- Second Year, 2020

3 INTRODUCED BY

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5  
6 (Prime Sponsor)

7  
8 TRACKING NO. 0093-20

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10 AN ACTION  
11 RELATING TO AN EMERGENCY FOR THE NAVAJO NATION;  
12 TEMPORARILY SUSPENDING 2 N.N.C. § 162 (A); CANCELING THE 2020  
13 NAVAJO NATION COUNCIL SPRING SESSION  
14

15 BE IT ENACTED:

16  
17 SECTION ONE. AUTHORITY

- 18 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §  
19 102(A).
- 20 B. The Navajo Nation Council shall have the authority to promulgate rules, regulations  
21 and procedures for the conduct of its meetings and that of its committees. 2 N.N.C. §  
22 101 (E).
- 23 C. Pursuant to 2 N.N.C. § 164 (A)(16):  
24 "Matters constituting an emergency shall be limited to the cessation of law  
25 enforcement services, disaster relief services, fire protection services or other direct  
26 services required as an entitlement under the Navajo Nation or Federal law, or  
27 which directly threaten the sovereignty of the Navajo Nation. Such an emergency  
28 matter must arise due to the pressing public need for such resolution(s) and must  
29 be a matter requiring final action by the Council." 2 N.N.C. §164 (A) (16).  
30

- 1 D. Ensuring the health and safety of all residents within the Navajo Nation is an inherent  
2 attribute of the Navajo Nation's sovereignty.
- 3 E. Decisions and determinations concerning the actions necessary to operate the Navajo  
4 Nation government while ensuring the health and safety of all employees and officials  
5 is an inherent attribute of the Navajo Nation's sovereignty.

6

7 **SECTION TWO. FINDINGS**

- 8 A. COVID-19 is a dangerous and extremely contagious respiratory virus. The COVID-  
9 19 virus is pandemic and is spreading at an alarming rate within the Navajo Nation; as  
10 of April 15, 2020, the Navajo Nation has reported 921 cases of COVID-19 and 38  
11 related deaths.
- 12 B. The World Health Organization declared a Public Health Emergency of International  
13 Concern on January 30, 2020; the United States Department of Health and Human  
14 Services declared a Public Health Emergency related to the COVID-19 outbreak on  
15 January 31, 2020; and the World Health Organization officially declared a pandemic  
16 due to COVID-19 on March 11, 2020.
- 17 C. On March 11, 2020, the Navajo Nation Commission on Emergency Management, with  
18 the concurrence of the President and Vice President of the Navajo Nation, declared a  
19 Public Health State of Emergency due to the outbreak of COVID-19 in areas  
20 surrounding the Navajo Nation. Acknowledging the establishment of the Health  
21 Command Center by the Navajo Nation Department of Health, the Commission stated,  
22 "Locally, it is acknowledged and understood that the threat of COVID-19 needs to be  
23 mitigated to reduce risk of exposure to the Navajo People and the resultant  
24 consequential public health impacts." CEM-20-03-11, attached as **Exhibit A**.
- 25 D. On March 20, 2020, Public Health Emergency Order No. 2020-003 was issued limiting  
26 mass gatherings and ordering all individuals living on the Navajo Nation to stay home  
27 (Shelter in Place). See **Exhibit B**. The same order prohibits visitors to the Navajo  
28 Nation, and requires the closure of all businesses on the Navajo Nation except  
29 "essential businesses."
- 30

- 1 E. On March 29, 2020, Public Health Emergency Order No. 2020-004 was issued  
2 implementing a curfew from 8:00 p.m. to 5:00 a.m. on all Navajo Nation residents.  
3 The Shelter in Place order of March 20, 2020 was also indefinitely extended. **Exhibit**  
4 **C.**
- 5 F. On March 31, 2020, the President issued Executive Order No. 002-20 extending the  
6 Declaration of a State of Emergency due to COVID-19 on the Navajo Nation,  
7 extending the closure of Navajo Nation government offices and related entities.  
8 **Exhibit D.**
- 9 G. On March 24, 2020, the Chief Justice of the Navajo Nation issued Administrative Order  
10 14-2020 ordering, among other things, that the courts of the Navajo Nation shall  
11 operate with minimum personnel on-site to provide essential court operations and  
12 permit judicial employees to work from home where practicable. **Exhibit E.**
- 13 H. On March 18, 2019, the Speaker of the Navajo Nation Council, closed all Legislative  
14 Branch programs until further notice to mitigate the spread of COVID-19. **Exhibit F.**
- 15 I. Title Two of the Navajo Nation Code states that “[s]tates that there shall be four regular  
16 sessions of the Navajo Nation Council each year. Such sessions shall commence at 10  
17 a.m. on the fourth Monday of January, and the third Monday of April, July and October  
18 of each year.” 2 N.N.C. § 162 (A).
- 19 J. The 2020 Navajo Nation Council Spring Session is scheduled for April 20 – 24, 2020.
- 20 K. It takes more than thirty (30) Legislative Branch employees, not including Council  
21 Delegates and Legislative District Assistants, to produce a Navajo Nation Council  
22 regular session; although the numbers vary, participation of Executive and Judicial  
23 Branch employees as agents for legislations and advisors to the Council is also  
24 necessary to produce a Navajo Nation Council session.
- 25 L. Given the Declarations of Emergency, Public Health Orders, government office  
26 closures, and stay at home orders, the Navajo Nation Council finds it necessary to  
27 temporarily suspend 2 N.N.C. § 162 (A) and cancel the Navajo Nation Council Spring  
28 Session to mitigate the spread of COVID-19 to Navajo Nation employees and officials.
- 29 M. The Navajo Tribal Council Resolution, CD-68-89, attached as **Exhibit G**, which  
30 reorganized the Navajo Nation Government into three branches, “authorizes and directs

1 that any amendment to the [CD-68-89] adopted Title Two amendments shall require  
2 two-thirds (2/3) vote of the full membership of the Navajo Tribal Council . . . [and]  
3 these amendments shall be presented at the regular session of the Navajo Tribal  
4 Council.” CD-68-89, Resolved Clause 6.

5 N. The CD-68-89 amendments to 2 N.N.C. § 162 (A) read as follows:

6 “There shall be four regular sessions of the Navajo Nation Council each year.  
7 Such sessions shall commence at 10:00 on the third Monday of January, April,  
8 July and October of each year.” **Exhibit G.**

9 O. Given that the CD-68-89 amendments do not change the requirement that there be a  
10 Navajo Nation Council regular session in April, the temporary suspension of 2 N.N.C.  
11 § 162 (A) to cancel the 2020 Spring Session is not limited by CD-68-89 Clause 6’s  
12 restriction that CD-68-89 Title Two amendments be presented at the regular session of  
13 the Navajo Tribal Council, as long as the President is allowed to exercise his authorities  
14 pursuant to 2 N.N.C. § 221 (B) and § 1005 (C) (10) – (12). See *Judy v. White*, 9 Nav.  
15 R. 325, 345 (With the exception of resolutions addressing matters internal to the Navajo  
16 Nation Council and its Committees, Council resolutions affecting CD-68-89 Title Two  
17 provisions must follow a process by which they are reviewed and signed by  
18 representatives of at least two of the branches.)

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20 **SECTION THREE. SUSPENDING 2 N.N.C. § 162 (A)**

21 The Navajo Nation Council hereby suspends 2 N.N.C. § 162 (A) as necessary to cancel the  
22 2020 Navajo Nation Council Regular Session (aka Spring Session) slated to start on April  
23 20, 2020.

24  
25 **SECTION FOUR. APPROVING THE CANCELATION OF THE 2020 NAVAJO**  
26 **COUNCIL SPRING SESSION**

27 The Navajo Nation Council hereby cancels the 2020 Navajo Nation Council Regular  
28 Session (aka Spring Session) slated to start on April 20, 2020 and end on April 24, 2020.

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30 **SECTION FIVE. EFFECTIVE DATE**

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

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3 **SECTION SIX. SAVINGS CLAUSE**

4 Should any provision of this Action be determined invalid by the Navajo Nation Supreme  
5 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation  
6 Supreme Court, the remainder of the Action shall remain the law of the Navajo Nation.  
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