

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0201-20\_\_

SPONSOR: Eugenia Charles-Newton

**TITLE: An Action Relating To Health Education And Human Services, Budget And Finance, And Naabik'íyáti' Committees, And The Navajo Nation Council; Adding One Hundred Seventy-Five Million Dollars (\$175,000,000) To The CARES Fund Hardship Assitance Expenditure Plan Enacted By CJY-67-20**

**Date posted: August 20, 2020 at 6:11 PM**

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**LEGISLATIVE SUMMARY SHEET**  
Tracking No. 0201-20

**DATE:** August 19, 2020

**TITLE OF RESOLUTION: AN ACTION RELATING TO HEALTH EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ADDING ONE HUNDRED SEVENTY-FIVE MILLION DOLLARS (\$175,000,000) TO THE CARES FUND HARDSHIP ASSISTANCE EXPENDITURE PLAN ENACTED BY CJY-67-20**

**PURPOSE:** This resolution, if approved, will add \$175,000,000 to the CARES Fund Hardship Assistance Expenditure Plan adopted by CJY-67-20.

**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.**

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 08-25-20  
Eligible for Action: 08-26-20

Health Education & Human Services Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

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

3 INTRODUCED BY

4 

5 (Prime Sponsor)

6 TRACKING NO. 0201-20

7  
8 AN ACTION  
9  
10 RELATING TO HEALTH EDUCATION AND HUMAN SERVICES, BUDGET  
11 AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO  
12 NATION COUNCIL; ADDING ONE HUNDRED SEVENTY-FIVE MILLION  
13 DOLLARS (\$175,000,000) TO THE CARES FUND HARDSHIP ASSISTANCE  
14 EXPENDITURE PLAN ENACTED BY CJY-67-20  
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16  
17 BE IT ENACTED:

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19 SECTION ONE. AUTHORITY

- 20 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §  
21 102(A).  
22 B. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council  
23 with the responsibility to hear proposed resolution(s) that require final action by the  
24 Navajo Nation Council. 2 N.N.C. § 164(A)(9).  
25 C. The Budget and Finance Committee is a standing committee of the Navajo Nation  
26 Council with the enumerated powers to review and recommend to the Navajo Nation  
27 Council the budgeting, appropriation, investment and management of all funds and to  
28 promulgate rules and regulations related to contracting and financial matters. 2 N.N.C.  
29 §§ 300(B)(1) and (2).  
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1 D. The Health Education and Human Services Committee is a standing committee of the  
2 Navajo Nation Council empowered to provide legislative oversight on matters  
3 involving health, social services, and education. 2 N.N.C. § 400(C)(1)fi.  
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## 5 SECTION TWO. FINDINGS

6 A. The World Health Organization (WHO) declared a Public Health Emergency of  
7 International Concern related to the outbreak of coronavirus (COVID-19), a highly  
8 contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S.  
9 Department of Health and Human Services declared a Public Health Emergency related  
10 to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global  
11 pandemic due to COVID-19 on March 11, 2020.

12 B. The Navajo Nation Commission on Emergency Management, with the concurrence of  
13 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency  
14 on the Navajo Nation on March 11, 2020 due to COVID-19. Resolution No. CEM 20-  
15 03-11. The Navajo Nation Department of Health subsequently issued numerous Public  
16 Health Emergency Orders. Public Health Orders 2020-001 through 2020-014 are  
17 incorporated by reference into this resolution.

18 C. As of August 18, 2020, the Navajo Nation Health Command Operations Center has  
19 confirmed 9,486 COVID-19 cases and 484 COVID-related deaths on the Navajo  
20 Nation.

21 D. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and  
22 Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (the "CARES Act"),  
23 which, at Title V, §5001, entitled "Coronavirus Relief Funds," attached as **Exhibit 1-**  
24 **A**, sets aside \$8 billion in emergency aid for Tribal governments for the COVID-19  
25 pandemic.

26 E. The CARES Act provides the Coronavirus Relief Fund shall be used to cover only  
27 those costs that:

- 28 a. are necessary expenditures incurred due to the public health emergency  
29 with respect to COVID-19;

1           b. are not accounted for in the Tribal budget most recently approved as of  
2           March 27, 2020; and

3           c. are incurred from March 1, 2020 through December 30, 2020.

4           F. The U.S. Treasury on April 22, 2020 issued "Coronavirus Relief Fund Guidance for  
5           State, Territorial, Local, and Tribal Governments" ("Treasury Guidance") related to the  
6           permissible uses of the Coronavirus Relief Fund. **Exhibit 1-B.**

7           G. On May 28, 2020, the U.S. Treasury issued "Coronavirus Relief Fund Frequently  
8           Asked Questions" ("Treasury FAQ"), attached as **Exhibit 1-C.**

9           H. As of June 30, 2020, the Navajo Nation has received seven hundred fourteen million  
10           one hundred eighty-nine thousand six hundred thirty-one dollars and forty-seven cents  
11           (\$714,189,631.47) as the Nation's share of the U.S. Treasury's initial distributions of  
12           the Coronavirus Relief Fund.

13           I. The Navajo Nation has determined that immediately providing financial assistance to  
14           Navajo individuals and families who have are facing financial hardship due to the  
15           COVID-19 pandemic and attendant public health orders is necessary to  
16           comprehensively combat the devastating effects of COVID-19 and mitigate the future  
17           spread of the virus at the family and community level.

18           J. The purpose of the Navajo Nation CARES Fund Hardship Assistance Expenditure Plan  
19           enacted through Navajo Nation Council Resolution No. CJY-67-20, was to  
20           immediately provide emergency financial assistance to Navajo tribal members for  
21           purchasing Personal Protective Equipment, paying past due utility bills, rent,  
22           mortgages, isolation expenses, livestock-related expenses, education-related expenses  
23           and other financial burdens created by the COVID-19 pandemic and the public health  
24           emergency orders.

25           K. Resolution No. CJY-67-20 allocated only one thousand dollars (\$1,000) to the  
26           Hardship Assistance Expenditure Plan; Navajo Nation leadership has determined that  
27           amount of funding is woefully inadequate to address the COVID-19 caused financial  
28           devastation faced by Navajo families and individuals and believes it is necessary to  
29           increase that funding by one hundred seventy-five million dollars (\$175,000,000) as  
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1 set forth in the revised and amended Hardship Assistance Expenditure Plan set forth in  
2 **Exhibit 2.**

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4 **SECTION THREE. APPROVAL AND ADOPTION OF THE REVISED CARES**  
5 **FUND HARDSHIP ASSISTANCE EXPENDITURE PLAN**

- 6 A. The Navajo Nation hereby revises and amends the Navajo Nation CARES Fund  
7 Hardship Assistance Expenditure Plan enacted by Resolution No. CJY-67-20 as set  
8 forth in **Exhibit 2** and hereby approves an additional allocation of one hundred seventy-  
9 five million dollars (\$175,000,000) of Navajo Nation CARES Fund to the Hardship  
10 Assistance Plan as set forth in **Exhibit 2.**
- 11 B. The Coronavirus Relief Funds are externally restricted funds and the Navajo Nation  
12 Appropriations Act, 12 N.N.C. §§ 800 *et seq.*, as applicable to externally restricted  
13 funds, shall apply to the Expenditure Plans set forth herein; detailed Expenditure Plan  
14 budgets shall not be subject to further legislative approval and shall, instead, be  
15 developed and implemented through expedited budget procedures. The Office of  
16 Management and Budget shall process the detailed budgets in the most expeditious  
17 manner available to ensure that the funds are distributed within fifteen (15) days after  
18 enactment of this resolution.

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20 **SECTION FOUR. APPROVAL AND ADOPTION OF THE HARDSHIP**  
21 **ASSISTANCE EXPENDITURE PLAN ADMINISTRATION**

- 22 A. All entities receiving Navajo Nation CARES Fund funding herein shall ensure that all  
23 funds allocated under the Hardship Assistance Expenditure Plan are only expended for  
24 the purposes set forth in **Exhibit 2.**
- 25 B. All entities receiving Navajo Nation CARES Fund funding herein shall ensure that all  
26 funds allocated under their respective Expenditure Plans shall be incurred and  
27 expended by no later than December 30, 2020.
- 28 C. All entities receiving Navajo Nation CARES Fund funding herein shall ensure that no  
29 funds allocated under their respective Expenditure Plans are incurred or expended for  
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1 costs accounted for in the approved Fiscal Year 2020 Navajo Nation Comprehensive  
2 Budget approved by Navajo Nation Council Resolution No. CS-30-19.

3 D. The Office of the Controller shall release the funding allocated under the respective  
4 Expenditure Plans as soon as the expedited budget procedures are completed.

5 E. The CARES Fund Expedited Procurement Rules and Procedures, enacted through  
6 CJY-67-20, shall apply to procurement activities for the Expenditure Plan set forth  
7 herein.

8 F. The funds allocated under the Navajo Nation CARES Fund Expenditure Plan set forth  
9 herein shall be used exclusively and only for the permissible uses set forth in the  
10 following:

11 1. This Resolution approving the Navajo Nation CARES Fund Chapter Distribution s  
12 Expenditure Plan.

13 3. The Coronavirus Relief Fund which allows only those costs that:

14 a. are necessary expenditures incurred due to the public health emergency with  
15 respect to COVID-19;

16 b. are not accounted for in the Navajo Nation Fiscal Year 2020 Comprehensive  
17 Budget.

18 c. are incurred from March 1, 2020 through December 30, 2020;

19 4. Consistent with the eligible uses described in the Treasury Guidance which includes  
20 the following guidance:

21 a. expenditures must be incurred "due to" the public health emergency which  
22 means that expenditures must be used for actions taken to respond to the public  
23 health emergency; these expenditures may include expenditures incurred to  
24 allow the Tribal government to respond directly to the emergency, such as by  
25 addressing medical or public health needs, as well as expenditures incurred to  
26 respond to second-order effects of the emergency, such as by providing  
27 economic support to those suffering from employment or business interruptions  
28 due to COVID-19-related business closures;

29 b. expenditures must be "necessary"; the Department of the Treasury interprets  
30 this term broadly to mean that the expenditure is reasonably necessary for its

1 intended use in the reasonable judgment of the government officials responsible  
2 for spending Coronavirus Relief Fund payments;

- 3 c. expenditures may only be made to cover costs that were not accounted for in  
4 the budget most recently approved as of March 27, 2020. A cost meets this  
5 requirement if either (a) the cost cannot lawfully be funded using a line item,  
6 allotment, or allocation with the budget; *or* (b) the cost is for a substantially  
7 different use from any expected use of funds in such a line item, allotment, or  
8 allocation; and
- 9 d. expenditures must be for costs incurred during the period that begins on March  
10 1, 2020, and ends on December 30, 2020. A cost is "incurred" when the  
11 responsible unit of government has expended funds to cover the cost.

12 5. Consistent with the eligible uses described in the U.S. Treasury Frequently Asked  
13 Questions (FAQ).

14 6. Consistent with the eligible uses as may be described in any and all future guidance,  
15 rules, or regulations of the Department of the Treasury or the Department of the  
16 Interior related to the Coronavirus Relief Fund pursuant to Title V of the CARES  
17 Act.

18 7. Consistent with Navajo Nation laws, rules and regulations.

19 G. All entities receiving Navajo Nation CARES Act Expenditure Plan funding herein  
20 expressly agree and affirm that by drawing down or receiving any of the funds allocated  
21 under their respective Expenditure Plan:

- 22 a. the requested funds shall only be used for the purposes specified in Title V of  
23 the federal CARES Act and the Navajo Nation CARES Fund Act;
- 24 b. the administration, management, and implementation of this Expenditure Plan  
25 shall be consistent with the Navajo Nation CARES Fund Act, this legislation,  
26 and other applicable laws and regulations of the Navajo Nation; and
- 27 c. the costs to be covered under this Expenditure Plan are not included in the  
28 Navajo Nation Fiscal Year 2020 Comprehensive Budget, approved by Navajo  
29 Nation Council Resolution No. CS-30-19.

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- I. All entity recipients of Navajo Nation funds from the Navajo Nation CARES Fund must follow and apply Generally Accepted Accounting Principles (GAAP), as established by the Governmental Accounting Standards Board (GASB) for governmental entities, and by the Financial Accounting Standards Board (FASB) for public and private companies and non-profits.
- J. If the Department of Justice, Office of the Controller, and Office of Management and Budget concur that a proposed expenditure in the Expenditure Plan included herein is an ineligible cost under the Navajo Nation CARES Fund, Coronavirus Relief Fund or U.S. Treasury guidance, the amount of such proposed expenditure shall be returned to the Navajo Nation CARES Fund after written notice, including analysis, to the Office of the President and Vice-President and Naabik'iyáti' Committee.
- K. The Budget and Finance Committee and Health Education and Human Services Committee of the Navajo Nation Council shall serve as the oversight committees for the Navajo Nation Cares Fund Chapter Distribution Expenditure Plan.
- L. The Hardship Assistance Expenditure Plan and expenditures made there under shall be governed by and construed in accordance with the laws and regulations of the Navajo Nation.

**SECTION FIVE. AMENDMENT**

This Resolution may be amended by a two-thirds majority vote of the Navajo Nation Council subject to action of the President of the Navajo Nation under 2 N.N.C. § 221 (B) and the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009.

**SECTION SIX. EFFECTIVE DATE**

This Resolution is effective upon its approval pursuant to 2 N.N.C. § 221(B) and the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009.

**SECTION SEVEN. SAVING CLAUSE**

1     Should any provision of this legislation be determined invalid by the Navajo Nation  
2     Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo  
3     Nation Supreme Court, those portions of the legislation which are not determined invalid  
4     shall remain the law of the Navajo Nation.

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