

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0209-20__

SPONSOR: Kee Allen Begay, Jr.

TITLE: An Action Relating To Law And Order, Resources And Development, Health Education And Human Services, Budget And Finance, And Naabik'iyáti' Committees, And The Navajo Nation Council; Approving And Adopting Navajo Nation Cares Fund Expenditure Plans Encompassing College Student Relief, Grammar School Student Relief, Education, Elders Assistance, Headstart, Solar Projects, Solid Waste, Hardship Assistance, Housing Projects, Office Of The Controller, Office Of Management And Budget, Telecommunications And Information Technology, Economic Development, Winter Propane Services, And Public Health

Date posted: August 21, 2020 at 5:46 PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0209-20

DATE: August 21, 2020

TITLE OF RESOLUTION: RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT, HEALTH EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'IYATI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING AND ADOPTING NAVAJO NATION CARES FUND EXPENDITURE PLANS ENCOMPASSING COLLEGE STUDENT RELIEF, GRAMMAR SCHOOL STUDENT RELIEF, EDUCATION, ELDERS ASSISTANCE, HEADSTART, SOLAR PROJECTS, SOLID WASTE, HARDSHIP ASSISTANCE, HOUSING PROJECTS, OFFICE OF THE CONTROLLER, OFFICE OF MANAGEMENT AND BUDGET, TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY, ECONOMIC DEVELOPMENT, WINTER PROPANE SERVICES, AND PUBLIC HEALTH

PURPOSE: This resolution, if approved, will allocate \$176,463,909.37 of Navajo Nation CARES Funds.

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: 08-26-20
Eligible for Action: 08-27-20

Law & Order Committee
Thence
Resources & Development Committee
Thence
Health Education & Human Services Committee
Thence
Budget & Finance Committee
Thence
Naabik'iyati' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Second Year, 2020

Koe Allen Soyum Jr
(Prime Sponsor)

TRACKING NO. 0209-20

AN ACTION

**RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT,
HEALTH EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE,
AND NAABIK'IYATI' COMMITTEES, AND THE NAVAJO NATION COUNCIL;
APPROVING AND ADOPTING NAVAJO NATION CARES FUND
EXPENDITURE PLANS ENCOMPASSING COLLEGE STUDENT RELIEF,
GRAMMAR SCHOOL STUDENT RELIEF, EDUCATION, ELDERS
ASSISTANCE, HEADSTART, SOLAR PROJECTS, SOLID WASTE, HARDSHIP
ASSISTANCE, HOUSING PROJECTS, OFFICE OF THE CONTROLLER,
OFFICE OF MANAGEMENT AND BUDGET, TELECOMMUNICATIONS AND
INFORMATION TECHNOLOGY, ECONOMIC DEVELOPMENT, WINTER
PROPANE SERVICES, AND PUBLIC HEALTH**

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).

- 1 C. The Budget and Finance Committee is a standing committee of the Navajo Nation
2 Council with the enumerated powers to review and recommend to the Navajo Nation
3 Council the budgeting, appropriation, investment and management of all funds and to
4 promulgate rules and regulations related to contracting and financial matters. 2 N.N.C.
5 §§ 300 (B)(1) and (2).
- 6 D. The Health, Education, and Human Services Committee is a standing committee of the
7 Navajo Nation Council with oversight of education and general government services. 2
8 N.N.C. § 400 (C).
- 9 E. The Resources and Development Committee is a standing committee of the Navajo
10 Nation Council with oversight of communications and utilities, information technology,
11 chapter activities, and housing. 2 N.N.C. § 500 (C).
- 12 F. The Law and Order Committee is a standing committee of the Navajo Nation Council
13 with oversight over public safety matters. 2 N.N.C. § 600 (C).
- 14

15 SECTION TWO. FINDINGS

- 16 A. The World Health Organization (WHO) declared a Public Health Emergency of
17 International Concern related to the outbreak of coronavirus (COVID-19), a highly
18 contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S.
19 Department of Health and Human Services declared a Public Health Emergency related
20 to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global
21 pandemic due to COVID-19 on March 11, 2020.
- 22 B. The Navajo Nation Commission on Emergency Management, with the concurrence of
23 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on
24 the Navajo Nation on March 11, 2020 due to COVID-19. Resolution No. CEM 20- 03-
25 11. The Navajo Nation Department of Health subsequently issued numerous Public
26 Health Emergency Orders.
- 27 C. As of August 17, 2020, the Navajo Nation Health Command Operations Center has
28 confirmed 9,469 COVID-19 cases and 480 COVID-related deaths on the Navajo Nation.
- 29 D. The U.S. Congress on March 27, 2020, enacted the *Coronavirus Aid, Relief, and*
30 *Economic Security Act*, Pub. L. No. 116-136, 134 Stat. 281 (2020) (the "CARES Act"),

1 which, at Title V, § 5001, entitled "Coronavirus Relief Funds," attached as **Exhibit 1-A**,
2 which sets aside \$8 billion in emergency aid for Tribal governments for the COVID-19
3 pandemic.

4 E. The CARES Act provides the Coronavirus Relief Fund shall be used to cover those costs
5 that:

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

8 b. are not accounted for in the Tribal budget most recently approved as of March 27,
9 2020; and

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

11 F. The U.S. Treasury on May 28, 2020, issued updated "Coronavirus Relief Fund Guidance
12 for State, Territorial, Local, and Tribal Governments" ("Treasury Guidance") related to
13 the permissible uses of the Coronavirus Relief Fund, attached as **Exhibit 1-B**.

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

16 H. As of June 30, 2020, the Navajo Nation has received seven hundred fourteen million one
17 hundred eighty-nine thousand six hundred thirty-one dollars and forty-seven cents
18 (\$714,189,631.47) as the Nation's share of the U.S. Treasury's initial distributions of the
19 Coronavirus Relief Fund. As reported by the Controller, this combined fund has been set
20 up in a separate segregated account, i.e., the Navajo Nation CARES Fund, to prevent co-
21 mingling with other funds.

22 I. Navajo Nation Council Resolution No. CJN-47-20 allowed the President, Speaker, and
23 Chief Justice of the Navajo Nation, as the "Three Branch Chiefs", to jointly develop a
24 final expenditure plan(s) in accordance with the federal CARES Act and attendant tribal
25 and federal regulations, guidance, and agreements; and authorized the Three Branch
26 Chiefs to present a final expenditure plan(s) to the Budget and Finance Committee,
27 Naabik'iyáti' Committee, and the Navajo Nation Council for approval.

28 J. While the Three Branch Chiefs have reviewed proposed expenditure plans detailing
29 certain services and projects which are crucial in responding to the COVID-19 public
30 health emergency on the Navajo Nation and to mitigating the effects of the pandemic,

1 the Three Branch Chiefs have not, as of yet, formally developed or concurred on a final
2 expenditure plan pursuant to Resolution No. CJN-47-20.

- 3 K. Navajo Nation leadership has concluded that the Expenditure Plans and expenditures
4 set forth herein are urgent and necessary to respond to and mitigate the COVID-19
5 public health emergency until the Three Branch Chiefs have the opportunity to jointly
6 develop and concur on a final expenditure plan pursuant to Resolution No. CJN-47-20.
7

8 **SECTION THREE. ADOPTION AND APPROVAL OF NAVAJO NATION CARES**
9 **FUND EXPENDITURE PLANS**

10 A. The Navajo Nation hereby approves funding from the Navajo Nation CARES Fund in
11 the total amount of one hundred seventy-six million four hundred sixty-three thousand
12 nine hundred nine dollars and thirty-seven cents (\$176,463,909.37) and adopts the
13 Navajo Nation CARES Fund Expenditure Plans and additions to previously adopted
14 Expenditure Plans as follows:

- 15 1. The Navajo Nation Shopping Centers, Inc. Expenditure Plan, as set forth in **Exhibit**
16 **2**, in the amount of four million dollars (\$4,000,000) as financial assistance to Navajo
17 Nation Shopping Centers, Inc. (NNSCI) to provide tenant safety improvements to
18 mitigate COVID-19 spread among staff and customers; and for property safety
19 improvements at all ten (10) shopping center properties managed by NNSCI.
- 20 2. An addition of fifteen million four hundred fifty thousand three hundred twenty-three
21 dollars (\$15,450,323) to the Broadband-Telecommunications Project Expenditure
22 Plan adopted by CJY-67-20, incorporated herein, to provide residents of the Navajo
23 Nation with immediate connectivity and information sharing resources via satellite
24 internet services in proximity to all Navajo Nation Chapter Houses as set forth in
25 **Exhibit 3**; the rapid deployment of internet connectivity is necessary to respond to the
26 COVID-19 crisis. The funding shall be allocated to the Division of Community
27 Development which shall release the funding to the Dineh Investment – Verizon
28 partnership for the purposes set forth in **Exhibit 3** pursuant to a funding agreement
29 recommended by the Office of the Controller.
30

- 1 3. The Emergency Relief Education Expenditure Plan, as set forth in **Exhibit 4**, in the
2 amount of thirty-five million dollars (\$35,000,000) to the Department of Diné
3 Education to provide emergency relief and assistance to Navajo college graduate and
4 undergraduate students.
- 5 4. The Head Start COVID-19 Expenditure Plan, as set forth in **Exhibit 5**, in the amount
6 of four million three hundred thousand dollars (\$4,300,000) to the Department of Diné
7 Education to provide for COVID-19 response and mitigation necessities, including,
8 but not limited to, plexiglass/vinyl installations, shower curtains, software,
9 Information Technology, laptops and tablets, air ventilation purifiers and partition
10 installations for Head Start centers throughout the Navajo Nation.
- 11 5. The Education Hardship Assistance Expenditure Plan, as set forth in **Exhibit 6**, in the
12 amount of five million dollars (\$5,000,000) to the Division of Social Services to
13 provide and implement hardship assistance to eligible school age Navajo children, for
14 purchasing school supplies, such as iPad, laptop tablets, and/or school clothing, and
15 other financial burdens caused by the COVID-19 pandemic.
- 16 6. The Diné Education Technology Expenditure Plan, as set forth in **Exhibit 7**, in the
17 amount of three million dollars (\$3,000,000) to the Department of Diné Education to
18 enhance technological services and Information Technology Security for the
19 coordination of preparedness and response efforts of local education agencies with
20 state, local, tribal and territorial public health departments; and to improve coordinated
21 responses among entities to prevent, prepare for, and respond to coronavirus.
- 22 7. An addition of one million dollars (\$1,000,000) to the Broadband-
23 Telecommunications Project Expenditure Plan adopted by CJY-67-20, incorporated
24 herein, to the Department of Information Technology as administrative support to
25 procure professional services to oversee Broadband and telecommunication
26 developments to address technology use during the COVID-19 pandemic, as set forth
27 in **Exhibit 8**.
- 28 8. The Elderly and Developmental Disability Hardship Assistance Expenditure Plan, as
29 set forth in **Exhibit 9**, in the sum of ten million dollars (\$10,000,000) to the Division
30 of Social Services to provide emergency financial assistance to Navajo tribal

1 members who are vulnerable elders and individuals with developmental delays and
2 disabilities for purchasing Personal Protective Equipment, paying past due utility
3 bills, rent, mortgages, isolation expenses, and other financial burdens caused by the
4 COVID-19 pandemic and incurred since March 1, 2020.

5 9. An addition of fifteen million dollars (\$15,000,000) to the Solar Projects Expenditure
6 Plan adopted by CJY-67-20, incorporated herein, to Native Renewables, through the
7 Division of Community Development, for the development and installation of solar
8 projects within the exterior boundaries of the Navajo Nation as a means to
9 immediately provide electricity to underserved communities and households and
10 ensure there is access to electricity sufficient to comply with Center for Disease
11 Control COVID-19 prevention guidance and ensure the mitigation of the spread of the
12 pandemic as set forth in **Exhibit 10**; provided that no less than five million dollars
13 (\$5,000,000) shall be used for projects in the former Bennett Freeze Area. The
14 Division of Community Development shall release the funding to Native Renewables
15 for the purposes set forth in **Exhibit 10** pursuant to a funding agreement recommended
16 by the Office of the Controller.

17 10. The Propane and Natural Gas Expenditure Plan, as set forth in **Exhibit 11**, in the
18 amount of seven million four hundred sixty-seven thousand five hundred dollars
19 (\$7,467,500) to Nations Gas Technologies, Inc., through the Division of Community
20 Development, to provide for propane and natural gas services to homes within Navajo
21 Indian Country as a COVID-19 relief and mitigation service for the upcoming winter
22 season. The Division of Community Development shall release the funding to Nations
23 Gas Technologies, Inc. for the purposes set forth in **Exhibit 11** pursuant to a funding
24 agreement recommended by the Office of the Controller.

25 11. The First Responder In-Vehicle Internet Connectivity Expenditure Plan, as set forth
26 in **Exhibit 12**, in the amount of six hundred two thousand two hundred six dollars and
27 ten cents (\$602,206.10) to the Division of Public Safety to provide for in-vehicle
28 internet connectivity for Navajo Nation police, Fire, EMS and emergency
29 management with equipment from Sierra Wireless and service from FirstNet pursuant
30 to funding agreements recommended by the Office of the Controller.

- 1 12. The Housing Improvement Expenditure Plan, as set forth in **Exhibit 13**, in the amount
2 of twenty-five million dollars (\$25,000,000) to the Community Housing and
3 Infrastructure Department to implement a housing initiative by providing mobile or
4 modular homes to Navajo families in need of housing improvement, provided that no
5 less than \$5,000,000 shall be used by the Navajo-Hopi Land Commission Office for
6 housing improvement in the former Bennett Freeze Area.
- 7 13. The Solid Waste Expenditure Plan, as set forth in **Exhibit 14**, in the amount of five
8 million dollars (\$5,000,000) to the Division of Community Development to assist the
9 110 Navajo Nation Chapters in purchasing equipment, supplies/materials and
10 addressing minor improvements to transfer solid waste disposal. The implementation
11 of solid waste projects will enhance sanitation in Navajo communities and mitigate
12 the spread of COVID-19.
- 13 14. The Office of Controller Expenditure Plan, as set forth in **Exhibit 15**, in the amount
14 of Ten Million Dollars (\$10,000,000) to address the increase of resources and costs
15 imposed on the Office of the Controller by the COVID-19 pandemic and the receipt
16 of the federal CARES Funds.
- 17 15. The Office of Management and Budget Expenditure Plan, as set forth in **Exhibit 16**,
18 in the amount of six hundred fifty-three thousand million dollars (\$653,000) to address
19 the increase of resources and costs imposed on the Office of Management and Budget.
- 20 16. The Electronic Case Management Telework Expenditure Plan, as set forth in **Exhibit**
21 **17**, in the amount of five million dollars (\$5,000,000) to allow Navajo Division of
22 Social Services employees to transition to remotely serving over 15,000 clients
23 monthly without putting themselves, clients or others at risk to the spread and
24 transmission of COVID-19.
- 25 17. An addition of twenty-nine million nine hundred nine thousand eight hundred eighty
26 dollars and twenty-seven cents (\$29,990,880.27) to the Hardship Assistance
27 Expenditure Plan adopted by CJY-67-80, incorporated herein, to provide emergency
28 financial assistance to Navajo tribal members for purchasing Personal Protective
29 Equipment, paying past due utility bills, rent, mortgages, isolation expenses, livestock-
- 30

1 related expenses, education-related expenses and other financial burdens created by
2 the COVID-19 pandemic and the public health emergency orders.

- 3 B. The Coronavirus Relief Funds are externally restricted funds and the detailed
4 Expenditure Plan(s) budgets shall not be subject to further legislative approval and shall,
5 instead, be developed and implemented through expedited budget procedures. The entity
6 receiving funding shall present a detailed budget to the Office of Management and
7 Budget within five (5) days of enactment of this legislation. The Office of Management
8 and Budget shall process the detailed budgets in the most expeditious manner available
9 to ensure that the funds can be distributed to the receiving entity within ten (10) days of
10 receipt of the entity's detailed budget. The receiving entity shall regularly advise the
11 Office of Management and Budget on the use of the respective CARES Fund in a format
12 and at intervals determined by the Office of Management and Budget.
- 13 C. The progress of all Navajo Nation CARES Fund Expenditure Plans shall be reviewed by
14 the Budget and Finance and Naabik'iyáti' Committees during the month of October 2020.
15 The funding for any project that has not made enough progress to demonstrate that it will
16 be completed by December 30, 2020, will be reallocated to the Hardship Assistance
17 Expenditure Plan through Naabik'iyáti' Committee resolution.

18
19 **SECTION FOUR. APPROVAL AND ADOPTION OF EXPENDITURE PLAN**
20 **ADMINISTRATION**

- 21 A. All entities receiving Navajo Nation CARES Funds shall ensure that all funds allocated
22 appropriated under their respective Expenditure Plan are only expended for the purposes
23 set forth therein, including the federal CARES Act which allows only those costs that: a)
24 are necessary expenditures incurred due to the public health emergency with respect to
25 COVID-19; b) are not accounted for in the Navajo Nation Fiscal Year 2020
26 Comprehensive Budget; c) are incurred from March 1, 2020 through December 30, 2020.
- 27 B. The Office of the Controller shall release the funding allocated under the respective
28 Expenditure Plans within fifteen (10) days after the enactment of this legislation and the
29 division/department/program receiving the funding shall begin distributing or using the
30 funds within five (5) days of receipt.

- 1 C. All expenditures of Navajo Nation CARES Funds shall qualify as Emergency
2 Procurements eligible for expedited procurement procedures.
- 3 D. The expenditure of the CARES Act Fund shall be consistent with the eligible uses
4 described in the Treasury Guidance which includes the following guidance:
- 5 a. expenditures must be incurred "due to" the public health emergency which means that
6 expenditures must be used for actions taken to respond to the public health emergency;
7 these expenditures may include expenditures incurred to allow the Tribal government
8 to respond directly to the emergency, such as by addressing medical or public health
9 needs, as well as expenditures incurred to respond to second-order effects of the
10 emergency, such as by providing economic support to those suffering from
11 employment or business interruptions due to COVID-19-related business closures;
- 12 b. expenditures must be "necessary"; the Department of the Treasury interprets this term
13 broadly to mean that the expenditure is reasonably necessary for its intended use in
14 the reasonable judgment of the government officials responsible for spending
15 Coronavirus Relief Fund payments;
- 16 c. expenditures may only be made to cover costs that were not accounted for in the
17 budget most recently approved as of March 27, 2020. A cost meets this requirement
18 if either (a) the cost cannot lawfully be funded using a line item, allotment, or
19 allocation with the budget; or (b) the cost is for a substantially different use from any
20 expected use of funds in such a line item, allotment, or allocation; and
- 21 d. expenditures must be for costs incurred during the period that begins on March 1, 2020
22 and ends on December 30, 2020. In its guidance issued on June 30, 2020, Treasury
23 clarified that "for a cost to be considered to have been incurred, performance or
24 delivery must occur during the covered period, but payment of funds need not be made
25 during that time (though it is generally expected that this will take place within 90
26 days of a cost being incurred)".
- 27 E. All entities receiving Expenditure Plan funding herein expressly agree and affirm that by
28 drawing down or receiving any of the funds allocated under their respective Expenditure
29 Plan shall only be used for the purposes described herein and the administration,
30 management, and implementation of this Expenditure Plan shall be consistent with the

1 federal CARES Fund Act, U.S. Treasury Department regulations or guidelines, this
2 legislation, and other applicable laws and regulations of the Navajo Nation.

3 F. In the event that the entities or departments receiving the CARES Fund fail to comply
4 with expenditure provisions set forth in this legislation, the funds allocated to them will
5 revert back to the Navajo Nation CARES Fund, upon the Budget and Finance
6 Committee's acceptance of a report from the Office of Management and Budget.

7 G. All recipients of Navajo Nation CARES Fund must save all expenditure documents,
8 catalogue the documents in an organized manner and provide for duplicate copies for a
9 Navajo Nation or federal audit. If the recipient of the CARES Fund has sufficient means
10 or is equipped to do so, it shall follow and apply Generally Accepted Accounting
11 Principles (GAAP), as established by the Governmental Accounting Standards Board
12 (GASB) for governmental entities, and by the Financial Accounting Standards Board
13 (FASB) for public and private companies and non-profits.

14 H. The Office of Management and Budget, in consultation with other relevant departments
15 and programs, shall prepare a report, similar to an audit report for a federal fund use,
16 soon after December 30, 2020.

17 I. If a Branch Chief, in consultation with the Department of Justice, Office of the
18 Controller, and Office of Management and Budget, finds that a proposed expenditure by
19 their respective Branch is an ineligible or disallowable cost, the allocated funds shall be
20 returned to the Navajo Nation CARES Fund after written notice, including analysis of
21 such a determination, to the recipient of the Fund, the Branch Chief and the Budget and
22 Finance Committee.

23 J. The President, Speaker and Chief Justice of the Navajo Nation, as "Three Branch
24 Chiefs", shall receive reports on the status of expenditures of Navajo Nation CARES
25 Fund no later than October 31, 2020; thereafter, the Three Branch Chiefs may
26 recommend the deletion of certain expenditures for reasons that they have not been
27 timely spent. Upon report to the Budget and Finance Committee, any such expenditure
28 shall be deleted, and the unexpended fund shall revert to the Navajo Nation CARES
29 Fund. The Three Branch Chiefs may then recommend further expenditures of any
30 reverted funds.

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SECTION FIVE. AMENDMENT

This Resolution may be amended by a two-thirds majority vote of the Navajo Nation Council subject to final 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

The provisions of this action shall become effective pursuant to 2 N.N.C. § 221(B) the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009

SECTION SEVEN. SAVINGS CLAUSE

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