LEGISLATIVE SUMMARY SHEET
Tracking No. 0126-20

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.

OLC No. 20-189-1

5-DAY BILL HOLD PERIOD: _____
Website Posting Time/Date: 3:11pm 05-27-20
Posting End Date: 06-01-20
Eligible for Action: 06-02-20

Budget & Finance Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

(Prime Sponsor)

OTTO TSO

TRACKING NO. 0126-20

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

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 Naabík'íyáti' 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.

B. The World Health Organization declared a Public Health Emergency of International Concern on January 30, 2020; the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the World Health Organization officially declared a pandemic due to COVID-19 on March 11, 2020.

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

Nation Water Rights Claim Fund, 12 N.N.C. §§ 2101 *et seq.*; Diné Higher Education Grant Fund, 12 N.N.C. §§2301 *et seq.*; and Land Acquisition Fund, 16 N.N.C. §§201 *et seq.*.

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'íyáti' 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'íyáti' 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).

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

EXHIBIT
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A

March 26, 2020

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CMA-08-20, *An Action Relating to an Emergency; Approving Minimized Procedures for Accepting Donations During the COVID-19 Emergency Declaration; Temporarily Waiving Certain Provisions of 2 N.N.C. §1010*

Dear Speaker Damon,

Pursuant to the authority vested in the Navajo Nation President, I am signing CMA-08-20 into law.

With the state of emergency for public health purposes it is a blessing that our Navajo Nation enterprises step up to help our people, their relatives, with a donation. We could anticipate more donations coming to the Navajo Nation to help those in need. To make sure these donations are timely accepted and put to good use I agree there should be steps taken at this time to address the process. This is an unprecedented time for the Navajo Nation and in normal circumstance I would be concerned about the waiver by the Navajo Nation Council of the authority of the Office of the President and Vice President; however, I must keep in mind the needs of our People. For this reason, I am signing CMA-08-20 into law with its limited application during this emergency period.

Thank you to Speaker Damon and the 24th Navajo Nation Council.

Sincerely,

Jonathan Nez, President
THE NAVAJO NATION

Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION
RELATING TO AN EMERGENCY; APPROVING MINIMIZED PROCEDURES FOR ACCEPTING DONATIONS DURING THE COVID-19 EMERGENCY DECLARATION; TEMPORARILY WAIVING CERTAIN PROVISIONS OF 2 N.N.C. § 1010

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 Navajo Nation Council has the authority to direct where additional revenues are deposited. Pursuant to 12 N.N.C. § 820 (K), "[f]unds received in excess of the initial or current revenue projection shall be deposited into the General Fund Unreserved, Undesignated Fund balance unless otherwise designated by the Navajo Nation Council."

C. The President of the Navajo Nation shall, for and on behalf of the Navajo Nation, accept or decline gifts of property, provided, that any such acceptance or refusal of a gift of an estimated value in excess of one thousand dollars ($1,000) shall be with the concurrence of the Naabik'iyáti' Committee [formerly Government Services Committee]. 2 N.N.C. § 1010.

D. Pursuant to 2 N.N.C. §164 (A)(16) "[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council."

SECTION TWO. FINDINGS

A. In light of the Navajo Nation's Emergency Declaration, attached as **Exhibit A**, regarding the outbreak of the COVID-19 virus, as well as the emergency services required to mitigate its effects, there is a great need to expedite access to all available resources, financial and otherwise, to address the

health and safety of the Navajo people and their communities during the pandemic emergency.

B. Under 2 N.N.C. § 1010, the Navajo Nation cannot spend donated funds or use donated property with an estimated value in excess of one thousand dollars ($1,000) until the donation has been accepted by the President and concurred to by the Naabik'íyáti' Committee.

C. Temporarily shortening the times and steps necessary for the Nation to accept a monetary or property donation is a reasonable approach to providing the Nation expedited access to resources, financial and otherwise, to address the health and safety of the Navajo people and their communities during the pandemic emergency.

SECTION THREE. TEMPORARILY WAIVING 2 N.N.C. § 1010

The Navajo Nation hereby temporarily replaces 2 N.N.C. § 1010's reference to the Naabik'íyáti' Committee with Speaker of the Navajo Nation Council and temporarily waives 2 N.N.C. § 1010's requirement that the Naabik'íyáti' Committee concur with the President's acceptance or refusal of a gift of an estimated value in excess of one thousand dollars ($1,000)

SECTION FOUR. APPROVING TEMPORARY PROCEDURES TO ACCEPT DONATIONS

A. The Navajo Nation Council hereby authorizes the Speaker to act alone, without resolution, on behalf of the Naabik'íyáti' Committee to concur with the President's acceptance or refusal of a gift to the Navajo Nation with an estimated value in excess of one thousand dollars ($1,000) pursuant to 2 N.N.C. § 1010.

B. The Controller is hereby required to notify the President and Speaker of any financial donation made by a donor who owes money to the Navajo Nation; if the donor is in arrears as to the money owed to the Nation, the Controller shall apply the donated funds to clear the arrears before depositing the donated funds into the General Fund Unreserved, Undesignated Fund balance pursuant to 12 N.N.C. § 820 (K).

SECTION FIVE. EFFECTIVE DATE

The provisions of this Action shall become effective in accord with 2 N.N.C. § 221 (B) and shall expire when the Declaration of Emergency is lifted.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 22 in Favor, and 00 Opposed, on this 20th day of March 2020.

Honorable Seth Damon, Speaker
24th Navajo Nation Council

3-23-2020
DATE

Motion: Honorable Raymond Smith, Jr.
Second: Honorable Pernell Halona

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

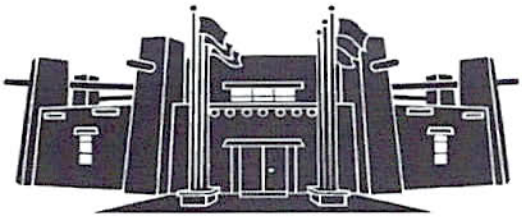
1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 26th day of March, 2020.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2020 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

TO: Honorable Chairwoman Eugenia Charles-Newton
24th Navajo Nation Council

FROM: Dana Bobroff
Dana L. Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

DATE: May 25, 2020

SUBJECT: **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**

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0126-20__ **SPONSOR: Eugenia Charles-Newton**

TITLE: An Action Relating to 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**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq.*