

LEGISLATIVE SUMMARY SHEET

Tracking No. 0116-20

DATE: May 13, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO BUDGET AND FINANCE AND NAABÍK'ÍYÁTT' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION CARES FUND TO BE COMPRISED OF THE SHARE OF THE CORONAVIRUS RELIEF FUND RECEIVED FROM THE UNITED STATES PURSUANT TO THE FEDERAL CARES ACT; AUTHORIZING THE PRESIDENT OF THE NAVAJO NATION TO ESTABLISH AN EXPENDITURE PLAN(S) IN ACCORDANCE WITH THE FEDERAL CARES ACT AND OTHER LAWS; AUTHORIZING THE FORMATION OF THE DIKOS NTSAAÍGÍÍ-19 RELIEF FUND WORK GROUP; PROVIDING FOR AUDIT OF THE FUND AND REPORTING TO THE FEDERAL GOVERNMENT

PURPOSE: This resolution, if approved, will adopt the Navajo Nation CARES Fund Act that authorizes the President to develop expenditure plans for the Nation's share of the federal CARES Act, Title V, 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.

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

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

INTRODUCED BY

Primary Sponsor

TRACKING NO. 0116-20

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABÍK'ÍYÁTI'
COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING
THE NAVAJO NATION CARES FUND TO BE COMPRISED OF THE SHARE
OF THE CORONAVIRUS RELIEF FUND RECEIVED FROM THE UNITED
STATES PURSUANT TO THE FEDERAL CARES ACT; AUTHORIZING THE
PRESIDENT OF THE NAVAJO NATION TO ESTABLISH AN EXPENDITURE
PLAN(S) IN ACCORDANCE WITH THE FEDERAL CARES ACT AND OTHER
LAWS; AUTHORIZING THE FORMATION OF THE DIKOS NTSAAÍGÍÍ-19
RELIEF FUND WORK GROUP; PROVIDING FOR AUDIT OF THE FUND AND
REPORTING TO THE FEDERAL GOVERNMENT

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'iyáti' 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 powers to review and recommend to the Navajo Nation

1 Council the budgeting, appropriation, investment and management of all funds and to
2 promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C.
3 §§ 300 (B)(1) and (2).
4

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, at times, fatal respiratory virus, on January 30, 2020; the U.S.
9 Department of Health and Human Services declared a Public Health Emergency
10 related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a
11 global pandemic due to COVID-19 on March 11, 2020. The pandemic has reached
12 the Navajo Nation.
- 13 B. On March 11, 2020, the Navajo Nation Commission on Emergency Management,
14 with the concurrence of the Navajo Nation President and Vice President, declared a
15 Public Health State of Emergency on the Navajo Nation due to the presence of
16 COVID-19 in areas surrounding the Navajo Nation. Resolution No. CEM 20-03-11.
17 The President and Commission have issued other Public Health Emergency Orders:
18 including: Order No. 2020-001 dated March 18, 2020 (declaring the outbreak of
19 COVID-19 and limiting mass gatherings); Order No. 2020-002 dated March 19, 2020
20 (quarantining the Chilchinbeto Community); Order No. 2020-003 dated March 20,
21 2020 (ordering individuals living on the Navajo Nation to stay home and shelter in
22 place except for essential activities, prohibiting visitors to the Navajo Nation, and
23 closing all businesses on the Navajo Nation except essential businesses); Order No.
24 2020-004 dated March 29, 2020 (implementing a daily curfew from 8:00 p.m. to 5:00
25 a.m. for all Navajo Nation residents, extending the shelter in place order, and further
26 limiting public gatherings); Order No. 2020-005 dated April 5, 2020 (implementing a
27 57-hour weekend curfew on April 10-13); Order No. 2020-006 dated April 16, 2020
28 (extending the weekend curfew for April 17-20 and April 24-27, and closing Navajo
29 Nation essential businesses during curfew hours); Order No. 2020-007 (requiring face
30 masks in public); and Order No. 2020-008 dated April 29, 2020 (extending the

1 weekend curfew to May 11). The Navajo Nation Office of the President and Vice
2 President issued Executive Order 002-20 on March 31, 2020 (closing all Navajo
3 Nation offices except essential personnel through April 21); and Executive Order
4 003-20 on April 21, 2020 (extending the closure order to May 17, 2020).

5 C. As of May 13, 2020, the Navajo Nation Health Command Operations Center
6 confirmed a total of 3,392 COVID-19 cases on the Navajo Nation and 119 related
7 deaths, these numbers continue to increase.

8 D. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and
9 Economic Security Act ("CARES Act"), Pub. L. No. 116-136, 134 Stat. 281 (2020).
10 The federal CARES Act, at Title V, § 5001, entitled "Coronavirus Relief Funds," set
11 aside \$8 billion in emergency aid for Tribal governments to address the COVID-19
12 pandemic. The federal CARES Act is attached as **Exhibit A**.

13 E. On April 22, 2020, the U.S. Treasury issued "Coronavirus Relief Fund Guidance for
14 State, Territorial, Local, and Tribal Governments" (hereinafter "Treasury's
15 Guidance") related to the permissible uses of the Coronavirus Relief Fund. See,
16 **Exhibit B**. Examples of eligible expenditures and ineligible expenditures are included
17 in Treasury's Guidance. After litigation in *Confederated Tribes of the Chehalis*
18 *Reservation v. Mnuchin*, Case No. 1:20-cv-01002-APM, in which the Navajo Nation
19 participated as a party, on May 5, 2020, the U.S. Departments of Treasury and
20 Interior issued a joint press release announcing that the U.S. Treasury would
21 distribute 60% of the \$8 billion, or \$4.8 billion, to Tribal governments. Of this, the
22 Navajo Nation's share from the federal Coronavirus Relief Fund initially distributed
23 from the U.S. Treasury on or about May 5, 2020 is \$600,559,530.10. The funds have
24 been deposited into Navajo Nation accounts.

25 F. The federal CARES Act expressly provides that Coronavirus Relief Fund shall be
26 used to cover costs that are necessary expenditures incurred due to the public health
27 emergency with respect to COVID-19 and related purposes. The Navajo Nation may
28 need to expand the scope of the relief fund in providing services to residents of the
29 Navajo Nation. For example, water and telecommunication developments are not
30 specifically mentioned in the federal CARES Act or Treasury's Guidance, but it is

1 needed to provide Navajo families with water and communication as part of the effort
2 to combat the COVID-19 pandemic. Further, Navajo Nation needs to prepare for a
3 possible second wave of COVID-19. Navajo families are running into lockdowns of
4 towns bordering the Navajo Nation and cannot shop as they wish. The Navajo Nation
5 may need to use federal CARES Act fund to provide relief to Navajo families to shop
6 for necessary commodities when border towns are locked down; Navajo Nation may
7 have to provide needed relief to Navajo families to obtain fuel, food, sanitizing
8 products, personal protective equipment, and other necessary supplies. The President
9 should be allowed to negotiate with the federal government to provide for needed
10 relief to Navajo families.

11 G. Like the States, the pandemic was not expected by the Navajo Nation and no funds
12 were appropriated in anticipation of the pandemic response. Thus, federal CARES
13 Act funds are not general fund revenues. They are limited emergency federal funds
14 provided by the federal government to the Navajo Nation. Existing laws of the
15 Navajo Nation cannot accommodate the rapid expenditure of the federal CARES Act
16 funds and special expending and auditing procedures need to be devised.

17 H. Because the funds are not projected revenue, they should not be subject to any
18 provisions of the Navajo Nation Code which requires a portion of funds to be set-
19 aside and deposited into any other fund of the Navajo Nation.

20 I. The Navajo Nation Council further finds that because the Coronavirus Relief Fund
21 can only be used for expenditures through December 30, 2020, procurements
22 expending these funds must be expedited. The President should provide proposed
23 regulations within ten days to the Budget and Finance Committee for approval. The
24 proposed regulations shall provide for expedited expenditure of the CARES Act
25 funds and accounting of the funds.

26 J. Since the restructuring of Navajo Nation government in 1989, the Navajo Nation is
27 facing a pandemic for the first time requiring social distancing, hygiene practices,
28 healthcare treatment at a distance, distant educational learning, provision of food,
29 water, fuel, and other supplies to quarantined or curfewed Navajo families and other
30 issues of first impression. Navajo Nation has to decrease the number of infectious

1 cases, take measures for the safeguarding of Navajo population, construct
2 infrastructure to treat patients, provide for water to homes, institute telemedicine and
3 telehealth, establish distance learning, development of businesses on Navajoland,
4 reconfigure work stations and offices for employees, and to supplement governmental
5 efforts like providing or selling food, water, personal protective equipment, and other
6 necessary supplies.

7 K. The Navajo Nation Council finds it in the best interests of the Navajo Nation to enact
8 the "Navajo Nation CARES Fund Act".
9

10 **Section Three. Establishment and Expenditure of the Navajo Nation CARES Fund**

- 11 A. There is established the "Navajo Nation CARES Fund" (hereinafter "Fund").
- 12 B. The Navajo Nation hereby designates that the monies that the Navajo Nation has
13 received, and will later receive, from the United States pursuant to the federal
14 CARES Act, shall be deposited into the Navajo Nation CARES Fund.
- 15 C. Any monies deposited into the Fund shall be used in accordance with Title V of the
16 CARES Act, Treasury's Guidance and any further guidance, rulemaking and
17 regulations, whether federal or Navajo Nation, and agreements between the Navajo
18 Nation and the federal government on the use of the Fund.
- 19 D. The Fund shall be a continuing account and shall not lapse on an annual basis
20 pursuant to 12 N.N.C. § 820(N).
- 21 E. Purpose. The purpose of the Fund is to serve as a depository into which the
22 Coronavirus Relief Funds appropriated by the United States for the benefit of the
23 Navajo Nation under Title V of the CARES Act are deposited, and from which the
24 Navajo Nation shall expend funds as stated herein.
- 25 F. Expenditures of the Fund. Pursuant to Section Five (A) and (C) below, the President
26 shall develop and prepare all expenditure plans. The President shall incorporate the
27 needs of the Executive Branch in an expenditure plan for the Executive Branch. The
28 President shall incorporate the needs of the Legislative Branch, after consulting with
29 the Speaker of the Navajo Nation Council, in an expenditure plan for the Legislative
30 Branch. The President shall incorporate the needs of the Judicial Branch, after

1 consulting with the Chief Justice, in an expenditure plan for the Judicial Branch.
2 Such expenditure plans shall be in accordance with Title V of the federal CARES
3 Act, U.S. Treasury guidance and any other guidelines or regulations as stated herein
4 in paragraph C above.

5 G. Expenditure plans shall not be considered as appropriations and shall not be subject to
6 the Navajo Nation Appropriations Act, 12 N.N.C. §§ 800 *et seq.* or its underlying
7 policies and regulations, including the Budget Instructions Manual.

8 H. Audit. The Controller shall keep records sufficient to demonstrate that the
9 Coronavirus Relief Funds appropriated by the U.S. Congress to the Navajo Nation
10 have been used in accordance with the federal CARES Act and § 601(d) of the Social
11 Security Act. The Fund shall be subject to annual audit by the Navajo Nation's
12 independent auditor. The Navajo Nation Council and/or the Navajo Nation President
13 may require an interim audit at any time. The Controller is responsible for providing
14 any and all records required by the U.S. Department of Treasury.
15

16 **Section Four. Authorizing Immediate Expenditures**

17 A. The Navajo Nation Council hereby authorizes the immediate expenditure of
18 \$50,559,530.10 from the Fund by the Health Incident Command Center, within the
19 Department of Health, for the following purposes:

- 20 1. Personal Protective Equipment (PPE) and related items in the amount of
21 \$8,000,000 for Navajo Nation government employees, volunteers, enterprises;
- 22 2. Food, Water and Basic Necessities care packages and related items in the
23 amount of \$10,000,000;
- 24 3. Payroll expenses in the amount of \$5,000,000;
- 25 4. Disinfection of public areas, Government Buildings, and other Navajo Nation
26 facilities in the amount of \$10,000,000;
- 27 5. Reconfiguring Navajo Nation offices for the safe return of Government
28 Employees in the amount of \$10,000,000;
- 29
- 30

1 6. Computer hardware and software for Navajo Nation government offices to
2 improve telework capabilities for Government Employees in the amount of
3 \$2,000,000

4 7. Assistance to P.L. 93-638 healthcare facilities on the Navajo Nation in the
5 amount of \$3,000,000, provided that if this amount is not expended or
6 necessary then it shall be incorporated into the other categories in this section
7 at the option of the President; and

8 8. Expenses to facilitate the procurement and/or improvement of the Navajo
9 Nation's Financial System to process Navajo Nation CARES Fund
10 expenditures in the amount of \$2,559,530.10.

11 B. The Office of the Controller shall assist in the budgeting and expenditure of these
12 funds and shall be responsible for ensuring that any expenditures meet the
13 requirements of the Coronavirus Relief Fund, Treasury Guidance and the Navajo
14 Nation CARES Fund Act.

15 C. These immediate expenditures shall not be part of an initial expenditure plan and may
16 be supplemented in future expenditure plans at the recommendation of the Work
17 Group.

18 D. Failure to expend these funds by August 31, 2020, shall result in such funds being
19 redeposited into the Navajo Nation CARES Fund.

20
21 **Section Five. Authorizing the President to Introduce Legislation into the Legislative**
22 **Process**

23 For the purposes set forth in this legislation, the President is authorized under 2 N.N.C. §
24 164 (A)(1) to introduce a proposed legislation, specifically including expenditure plan
25 legislation(s), to the Standing Committees and the Navajo Nation Council.

26
27 **Section Six. Authorizing the Navajo Nation President to Form the Dikos Ntsaaígíí-19**
28 **Relief Fund Work Group to Assist in Creating Expenditure Plan(s)**

29 A. The President is hereby authorized to form the Dikos Ntsaaígíí-19 Relief Fund Work
30 Group (Work Group) and shall be comprised of four members from the Executive

1 Branch, four members from the Legislative Branch, and four members from the
2 Judicial Branch; and may include representatives from Navajo chapters and persons
3 who have certain expertise. The Work Group shall be tasked with creating an
4 expenditure plan(s).

5 B. The President may appoint Federal Advisory Representatives as consulting members
6 to the Work Group including, but not limited to, representatives from the following
7 Federal Agencies: Bureau of Indian Affairs – Navajo Region, Indian Health Service,
8 Bureau of Indian Education, Army Corps of Engineers, Homeland Security,
9 Department of Energy, Federal Communications Commission, Environmental
10 Protection Agency, and the Federal Emergency Management Agency.

11 C. The Work Group is to present an expenditure plan(s) for expending the Fund to the
12 President within 15 days after the enactment of this legislation.

13 D. The President shall then present a final expenditure plan(s) to expend \$550,000,000,
14 as well as future deposits in the Fund, to the Budget and Finance Committee,
15 Naabiki'yati' Committee, and the Navajo Nation Council for approval.

16 E. The President may also submit other proposed legislation to the respective Standing
17 Committees and Navajo Nation Council necessary to expedite the implementation of
18 the expenditure plan.

19 F. The Office of the Controller shall produce a report within 30 days from the enactment
20 of this legislation of total COVID-19 expenditures the Navajo Nation has spent from
21 March 1, 2020 to date. This amount will be deducted from the remaining balance the
22 Work Group must produce an expenditure plan for. The amount presented must
23 qualify as an expenditure under Coronavirus Relief Fund and the U.S. Treasury
24 Guidelines.

25 G. The Work Group term shall expire six (6) months after the enactment of the last
26 public health emergency order and the Work Group shall prepare and present a final
27 report to the Navajo Nation Council and the Navajo Nation President and Vice
28 President.

1 **Section Seven. Authorizing Expenditures for Waterline, Electricity, Telecommunication**
2 **and Other Projects to Combat Covid-19.**

3 As allowed by the Coronavirus Relief Fund and the U.S. Treasury Guidelines and/or
4 Navajo Nation agreements with the federal government, the President may incorporate
5 waterline, electricity, telecommunication projects and other infrastructure projects into
6 the expenditure plan(s) using the \$550,000,000 and implement and construct such
7 eligible projects under the authority of the Navajo Nation CARES Fund Act.
8

9 **Section Eight. Prevailing Law; Allowing for Expedited Procurement Rules and Procedures.**

10 A. To ensure that Navajo Nation expenditures using Coronavirus Relief Funds are
11 expended by December 31, 2020 as required by the U.S. Treasury and
12 notwithstanding any provision of Navajo Nation law to the contrary, the provisions of
13 this legislation shall take priority and govern the expenditure of funding from the
14 Coronavirus Relief Fund. As determined by the Attorney General of the Navajo
15 Nation, any contradicting financial, procurement, preference, construction, or other
16 general laws of the Navajo Nation, as well as any attendant regulations, shall yield to
17 the Navajo Nation CARES Fund Act so that the funds may be expended in a timely
18 manner and purchases and construction occur in an expeditious manner.

19 B. The President may introduce legislation regarding any laws that need to be waived to
20 accomplish the purposes of the Navajo Nation Cares Fund Act and notify the Navajo
21 Nation Council of the measures that have been taken to mitigate the law being
22 waived.
23

24 **Section Nine. Effective Date**

25 This Act is effective upon its approval pursuant to 2 N.N.C. § 221(B).
26

27 **Section Ten. Savings Clause**

28 Should any provision of the Navajo Nation CARES Fund Act ("Act") or the expenditure
29 plan(s) thereunder be determined invalid by the Navajo Nation Supreme Court, or a
30 District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court,

1 those portions of the Act or expenditure plan which are not determined invalid shall
2 remain the law of the Navajo Nation.
3

4 **Section Eleven. Directives**

5 A. The Controller, with the support of the Attorney General, is directed to enter into a
6 contract with a firm to provide consulting services in a capacity similar to an
7 independent inspector general or auditor general to determine whether expenditures
8 of the CARES Act funding are in compliance with the permissible uses of the
9 appropriated funding as set forth in the federal CARES Act, Treasury's Guidance, the
10 Navajo Nation CARES Fund Act and the applicable Expenditure Plan; to notify the
11 Navajo Nation division, department, program, chapter, or entity to which the
12 appropriations are allocated if any expenditures are ineligible under the CARES Act
13 and to provide written reports to the Naabik'iyáti' Committee and the President of the
14 Navajo Nation of all ineligible expenditures.

15 B. Upon submission of an expenditure plan by the Office of the President and Vice
16 President and approval by the Budget and Finance Committee, the Office of
17 Management and Budget is directed to develop expedited budget procedures,
18 including forms, if necessary, for the expeditious expenditure of Navajo Nation
19 CARES Fund Act funding. Thereafter, the Office of the Controller, Department of
20 Justice, Office of Management and Budget and Office of Legislative Counsel are
21 directed to develop an expenditure plan template within ten (10) days of the
22 enactment of this legislation.
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maximum total compensation received by the officer or employee from the air carrier or contractor in calendar year 2019; and

(3) no officer or employee of the eligible business whose total compensation exceeded \$3,000,000 in calendar year 2019 may receive during any 12 consecutive months of such period total compensation in excess of the sum of—

(A) \$3,000,000; and

(B) 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee from the eligible business in calendar year 2019.

(b) **TOTAL COMPENSATION DEFINED.**—In this section, the term “total compensation” includes salary, bonuses, awards of stock, and other financial benefits provided by an air carrier or contractor to an officer or employee of the air carrier or contractor.

SEC. 4117. TAX PAYER PROTECTION.

The Secretary may receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by recipients of financial assistance under this subtitle which, in the sole determination of the Secretary, provide appropriate compensation to the Federal Government for the provision of the financial assistance.

SEC. 4118. REPORTS.

(a) **REPORT.**—Not later than November 1, 2020, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Financial Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the financial assistance provided to air carriers and contractors under this subtitle, including a description of any financial assistance provided.

(b) **UPDATE.**—Not later than the last day of the 1-year period following the date of enactment of this Act, the Secretary shall update and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate the report described in subsection (a).

SEC. 4119. COORDINATION.

In implementing this subtitle the Secretary shall coordinate with the Secretary of Transportation.

SEC. 4120. DIRECT APPROPRIATION.

Notwithstanding any other provision of law, there is appropriated, out of amounts in the Treasury not otherwise appropriated, \$32,000,000,000 to carry out this subtitle.

TITLE V—CORONAVIRUS RELIEF FUNDS

SEC. 5001. CORONAVIRUS RELIEF FUND.

(a) **IN GENERAL.**—The Social Security Act (42 U.S.C. 301 et seq.) is amended by inserting after title V the following:

“TITLE VI—CORONAVIRUS RELIEF FUND

“SEC. 601. CORONAVIRUS RELIEF FUND.

“(a) **APPROPRIATION.**—

“(1) **IN GENERAL.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to States, Tribal governments, and units of local government under this section, \$150,000,000,000 for fiscal year 2020.

“(2) **RESERVATION OF FUNDS.**—Of the amount appropriated under paragraph (1), the Secretary shall reserve—

“(A) \$3,000,000,000 of such amount for making payments to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

“(B) \$8,000,000,000 of such amount for making payments to Tribal governments.

“(b) **AUTHORITY TO MAKE PAYMENTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), not later than 30 days after the date of enactment of this section, the Secretary shall pay each State and Tribal government, and each unit of local government that meets the condition described in paragraph (2), the amount determined for the State, Tribal government, or unit of local government, for fiscal year 2020 under subsection (c).

“(2) **DIRECT PAYMENTS TO UNITS OF LOCAL GOVERNMENT.**—If a unit of local government of a State submits the certification required by subsection (e) for purposes of receiving a direct payment from the Secretary under the authority of this paragraph, the Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount described in subsection (c)(5) and pay such amount directly to such unit of local government.

“(c) **PAYMENT AMOUNTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), the amount paid under this section for fiscal year 2020 to a State that is 1 of the 50 States shall be the amount equal to the relative population proportion amount determined for the State under paragraph (3) for such fiscal year.

“(2) **MINIMUM PAYMENT.**—

“(A) **IN GENERAL.**—No State that is 1 of the 50 States shall receive a payment under this section for fiscal year 2020 that is less than \$1,250,000,000.

“(B) **PRO RATA ADJUSTMENTS.**—The Secretary shall adjust on a pro rata basis the amount of the payments for each of the 50 States determined under this subsection without regard to this subparagraph to the extent necessary to comply with the requirements of subparagraph (A).

“(3) **RELATIVE POPULATION PROPORTION AMOUNT.**—For purposes of paragraph (1), the relative population proportion amount determined under this paragraph for a State for fiscal year 2020 is the product of—

“(A) the amount appropriated under paragraph (1) of subsection (a) for fiscal year 2020 that remains after the application of paragraph (2) of that subsection; and

“(B) the relative State population proportion (as defined in paragraph (4)).

“(4) **RELATIVE STATE POPULATION PROPORTION DEFINED.**—For purposes of paragraph (3)(B), the term “relative State population proportion” means, with respect to a State, the quotient of—

“(A) the population of the State; and

“(B) the total population of all States (excluding the District of Columbia and territories specified in subsection (a)(2)(A)).

“(5) **RELATIVE UNIT OF LOCAL GOVERNMENT POPULATION PROPORTION AMOUNT.**—For purposes of subsection (b)(2), the term “relative unit of local government population proportion amount” means, with respect to a unit of local government and a State, the amount equal to the product of—

“(A) 45 percent of the amount of the payment determined for the State under this subsection (without regard to this paragraph); and

“(B) the amount equal to the quotient of—

“(i) the population of the unit of local government; and

“(ii) the total population of the State in which the unit of local government is located.

“(6) **DISTRICT OF COLUMBIA AND TERRITORIES.**—The amount paid under this section for fiscal year 2020 to a State that is the District of Columbia or a territory specified in subsection (a)(2)(A) shall be the amount equal to the product of—

“(A) the amount set aside under subsection (a)(2)(A) for such fiscal year; and

“(B) each such District’s and territory’s share of the combined total population of the District of Columbia and all such territories, as determined by the Secretary.

“(7) **TRIBAL GOVERNMENTS.**—From the amount set aside under subsection (a)(2)(B) for fiscal year 2020, the amount paid under this section for fiscal year 2020 to a Tribal government shall be the amount the Secretary shall determine, in consultation with the Secretary of the Interior and Indian Tribes, that is based on increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments.

“(8) **DATA.**—For purposes of this subsection, the population of States and units of local governments shall be determined based on the most recent year for which data are available from the Bureau of the Census.

“(d) **USE OF FUNDS.**—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

“(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);

“(2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

“(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

“(e) **CERTIFICATION.**—In order to receive a payment under this section, a unit of local government shall provide the Secretary with a certification signed by the Chief Executive for the unit of local government that the local government’s proposed uses of the funds are consistent with subsection (d).

“(f) **INSPECTOR GENERAL OVERSIGHT; RECOUPMENT.**—

“(1) **OVERSIGHT AUTHORITY.**—The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section.

“(2) **RECOUPMENT.**—If the Inspector General of the Department of the Treasury determines that a State, Tribal government, or unit of local government has failed to comply with subsection (d), the amount equal to the amount of funds used in violation of such subsection shall be booked as a debt of such entity owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the general fund of the Treasury.

“(3) **APPROPRIATION.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of the Treasury, \$35,000,000 to carry out oversight and recoupment activities under this subsection. Amounts appropriated under the preceding sentence shall remain available until expended.

“(4) **AUTHORITY OF INSPECTOR GENERAL.**—Nothing in this subsection shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

“(g) **DEFINITIONS.**—In this section:

“(1) **INDIAN TRIBE.**—The term “Indian Tribe” has the meaning given that term in section

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4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

"(2) LOCAL GOVERNMENT.—The term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 500,000.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(4) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

"(5) TRIBAL GOVERNMENT.—The term 'Tribal government' means the recognized governing body of an Indian Tribe."

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 601(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the requirements contained in Public Law 116-94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 256).

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. COVID-19 BORROWING AUTHORITY FOR THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—In this section—

(1) the term "COVID-19 emergency" means the emergency involving Federal primary responsibility determined to exist by the President under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)) with respect to the Coronavirus Disease 2019 (COVID-19); and

(2) the term "Postal Service" means the United States Postal Service.

(b) ADDITIONAL BORROWING AUTHORITY.—Notwithstanding section 2005 of title 39, United States Code, or any other provision of law, if the Postal Service determines that, due to the COVID-19 emergency, the Postal Service will not be able to fund operating expenses without borrowing money—

(1) the Postal Service may borrow money from the Treasury in an amount not to exceed \$10,000,000,000—

(A) to be used for such operating expenses; and

(B) which may not be used to pay any outstanding debt of the Postal Service; and

(2) the Secretary of the Treasury may lend up to the amount described in paragraph (1) at the request of the Postal Service, upon terms and conditions mutually agreed upon by the Secretary and the Postal Service.

(c) PRIORITIZATION OF DELIVERY FOR MEDICAL PURPOSES DURING COVID-19 EMERGENCY.—Notwithstanding any other provision of law, during the COVID-19 emergency, the Postal Service—

(1) shall prioritize delivery of postal products for medical purposes; and

(2) may establish temporary delivery points, in such form and manner as the Postal Service determines necessary, to protect employees of the Postal Service and individuals receiving deliveries from the Postal Service.

SEC. 6002. EMERGENCY DESIGNATION.

(a) IN GENERAL.—The amounts provided under this division are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(b) DESIGNATION IN SENATE.—In the Senate, this division is designated as an emergency requirement pursuant to section 412(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

The following sums are hereby are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, and for other purposes, namely:

TITLE I AGRICULTURAL PROGRAMS

OFFICE OF THE SECRETARY

For an additional amount for the "Office of the Secretary", \$9,500,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus by providing support for agricultural producers impacted by coronavirus, including producers of specialty crops, producers that supply local food systems, including farmers markets, restaurants, and schools, and livestock producers, including dairy producers: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", \$750,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That the funding made available under this heading in this Act shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Agriculture to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$55,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for necessary expenses for salary costs associated with the Agriculture Quarantine and Inspection Program: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For an additional amount for "Marketing Services", \$45,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including necessary expenses for salary costs associated with commodity grading, inspection, and audit activities: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", \$33,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for support of temporary and intermittent workers, relocation of inspectors, and, notwithstanding 21 U.S.C. 468, 695 and 1053 and 7 U.S.C. 2219a, costs of overtime inspectors under the Federal Meat Inspec-

tion Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FARM PRODUCTION AND CONSERVATION PROGRAMS

FARM SERVICE AGENCY

For an additional amount for "Salaries and Expenses", \$3,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including necessary expenses to hire temporary staff and overtime expenses: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT PROGRAMS

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

For an additional amount for "Rural Business Program Account", \$20,500,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, for the cost of loans for rural business development programs authorized by section 310B and described in subsection (g) of section 310B of the Consolidated Farm and Rural Development Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For an additional amount for "Distance Learning, Telemedicine, and Broadband Program", \$25,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq.: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For an additional amount for "Child Nutrition Programs", \$8,800,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for "Supplemental Nutrition Assistance Program", \$15,810,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That of the amount provided under this heading in this Act, \$15,510,000,000 shall be placed in a contingency reserve to be allocated as the Secretary deems necessary to support participation should cost or participation exceed budget estimates to prevent, prepare for, and respond to coronavirus: *Provided further*, That of the amount provided under this



**Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020**

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.¹

The guidance that follows sets forth the Department of the Treasury's interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred "due to" the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be "necessary." The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
 - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures²

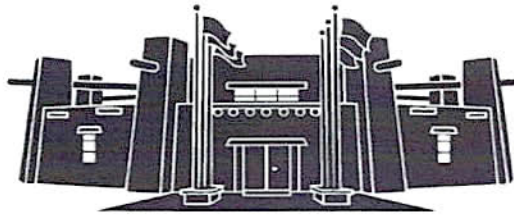
The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.³
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

² In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

³ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

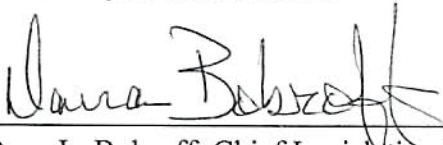
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.



MEMORANDUM

TO: Honorable Edmund Yazzie
24th Navajo Nation Council

FROM:


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

DATE: May 14, 2020

SUBJECT: AN ACTION RELATING TO BUDGET AND FINANCE AND NAABÍK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION CARES FUND TO BE COMPRISED OF THE SHARE OF THE CORONAVIRUS RELIEF FUND RECEIVED FROM THE UNITED STATES PURSUANT TO THE FEDERAL CARES ACT; AUTHORIZING THE PRESIDENT OF THE NAVAJO NATION TO ESTABLISH AN EXPENDITURE PLAN(S) IN ACCORDANCE WITH THE FEDERAL CARES ACT AND OTHER LAWS; AUTHORIZING THE FORMATION OF THE DIKOS NTSAÁÍGÍÍ-19 RELIEF FUND WORK GROUP; PROVIDING FOR AUDIT OF THE FUND AND REPORTING TO THE FEDERAL GOVERNMENT

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: _0116-20__

SPONSOR: Edmund Yazzie

TITLE: An Action Relating to Budget and Finance and Naabik'ívatí' Committees, and the Navajo Nation Council; Establishing the Navajo Nation CARES Fund to be comprised of the share of the Coronavirus Relief Fund received from the United States pursuant to the Federal CARES Act; Authorizing the President of the Navajo Nation to establish an Expenditure Plan(s) in accordance with the Federal CARES Act and other laws; Authorizing the formation of the Dikos Ntsaaígíí-19 Relief Fund Work Group; Providing for Audit of the Fund and reporting to the Federal Government

Date posted: May 14, 2020 at 6:45PM

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.*