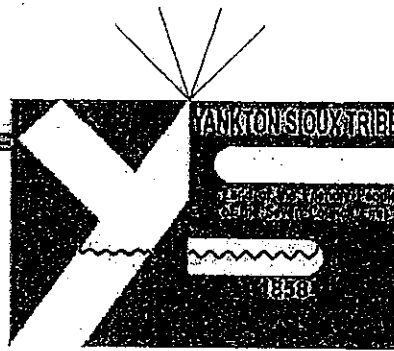


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**Business & Claims Committee:**

Robert Flying Hawk, CHAIRMAN  
Jason Cooke, VICE CHAIRMAN  
Kenneth Cook, TREASURER  
Glenford "Sam" Sully, SECRETARY

**B&CC Members:**

Greg Cournoyer Jr.  
Kip Spotted Eagle  
Derrick Marks  
Andrea Fischer  
Jody Zephier

**YANKTON SIOUX TRIBE**

**Business and Claims Committee**

**RESOLUTION NO. 2022-30**

- WHEREAS:** The Yankton Sioux Tribe is an unincorporated Tribe of Indians that is not subject to the Indian Reorganization Act of 1934; and
- WHEREAS:** The Yankton Sioux Tribe is an unincorporated Tribe of Indians operating under an amended Constitution and By-Laws approved on April 24, 1963; June 16, 1975; and March 23, 1990; and
- WHEREAS:** The Yankton Sioux Tribe's Business and Claims Committee is the elected body constituted for the purpose of conducting the business of and serving the best interest of the Yankton Sioux Tribe and its membership; and
- WHEREAS:** The American Rescue Plan Act of 2021 ("ARPA") was signed into law by President Biden on March 11, 2021, as emergency economic relief to individuals, businesses, and governmental units including Indian tribes in response to the COVID-19 global pandemic; and
- WHEREAS:** The ARPA provides \$20 billion in recovery funds to tribal governments under a program known as "Coronavirus State and Local Fiscal Recovery Funds" ("Funds" or "Fiscal Recovery Funds") whereby \$1 billion is distributed equally among all 574 federally recognized tribal governments and \$19 billion is allocated in a manner determined by the Secretary of the Treasury; and
- WHEREAS:** Through its interim final rule and additional guidance documents, the U.S. Department of the Treasury ("Treasury") determined it will issue two Fiscal Recovery Fund allocations to tribes based on (1) tribal enrollment data and (2) tribal employment data. Specifically, the \$1 billion portion and 65% of the \$19 billion will be allocated in the first distribution based on tribal enrollment data ("Enrollment Allocation") and that the remaining 35% of the \$19 billion in funds will be allocated in a second distribution based on tribal employment data ("Employment Allocation"); and
- WHEREAS:** The Yankton Sioux Tribe received the Enrollment Allocation on **June 7, 2021** in the amount of **\$43,825,050.13**; and
- WHEREAS:** The Yankton Sioux Tribe received the Employment Allocation on **August 16, 2021** in the amount of **\$8,968,599.79** for a total of **\$52,793,649.92**.

**WHEREAS:** The Funds should be used to provide additional resources to tribal governments to replace lost revenues, support immediate economic stabilization for households and businesses in Indian Country, and address systemic public health and economic challenges that have contributed to the inequal impact of the pandemic on tribal communities; and

**WHEREAS:** Through the enactment of the Tribal General Welfare Exclusion Act of 2014 and subsequent guidance, the United States Congress and the Internal Revenue Services ("IRS") has recognized the sovereign right of Indian tribal governments to provide financial assistance to its citizens under certain circumstances on a non-taxable basis; and

**WHEREAS:** The Business and Claims Committee asserts that all assistance provided under this Resolution and future ARPA-related resolutions is done so under the sovereign act of a federally-recognized Tribe under the General Welfare Doctrine and thus eligible for non-taxable treatment; and

**WHEREAS:** In Revenue Procedure 2014-35, the IRS provided for Safe Harbor Programs, including those providing assistance to individuals in exigent circumstances, under which the IRS will conclusively presume that individual need is met for each member receiving the benefit; and

**WHEREAS:** The assistance provided by the American Rescue Plan Act Disaster Relief Fund is intended to qualify for such favorable tax treatment under the General Welfare Doctrine to the fullest extent permitted at law including but not limited to IRS Code Section 139E, the IRS Safe Harbor Program, and the IRS General Test of General Welfare exclusion; and

**WHEREAS:** The Business and Claims Committee has determined that it is in the best interest of the tribe to adopt this resolution, which ensures compliance with the parameters on how any amount the Treasury may allocate to the Tribe from the Fiscal Recovery Funds may be used.

**I. Purpose**

- A.** The purpose of this Resolution is to establish a COVID-19 ARPA Disaster Relief Program to pay authorized costs incurred beginning March 3, 2021 and ending December 31, 2024;
- (i)** To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
  - (ii)** To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; and

(iii) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency;

(iv) To make necessary investments in water, sewer, or broadband infrastructure.

B. This Resolution shall not be strictly construed but shall be construed in accordance with Treasury guidance and according to the fair import of the terms used to promote fairness and accomplish the general purposes set forth herein.

## II. Definitions

For purposes of this Resolution, the following terms are defined as follows:

A. **“Eligible Expenses”** means any additional reasonable costs or expenses incurred by the Tribe as a result of or in connection with the COVID-19 public health crisis, and which may include, without limitation;

(i) Expenditures associated with payroll and employee benefits support, including but not limited to the expenditures for salary and benefits paid to employees placed on administrative leave and unemployment insurance costs.

(ii) Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, including but not limited to assistance or grants that were or will be issued under the Tribe’s ARPA Disaster Relief Program.

(iii) Expenses associated with actions to facilitate compliance with COVID-19 related laws and public health measures, including but not limited to necessary professional services such as legal, accounting, and emergency management services.

(iv) Expenditures related to the provision of grants to Tribally owned businesses to reimburse the costs of business interruption caused by required closures.

(v) Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the eligibility criteria established by the ARPA.

B. **“Fund Administrator”** means the Tribe’s Comptroller or such other officer of the Tribe appointed by the Business and Claims Committee to administer the COVID-19 Response and Relief Fund pursuant to this Resolution.

C. **“Covid-19 Response and Relief Fund”** means the relief fund established by the Tribe pursuant to Section 3 of this Resolution.

D. **“Tribe”** means the Yankton Sioux Tribe.

**III. Establishment of Covid-19 Response and Relief Fund; Appropriation.**

- A. The Tribe hereby establishes a COVID-19 ARPA Response and Relief Fund to pay costs authorized by this Resolution incurred beginning March 3, 2021 and ending December 31, 2024:
- (i) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; and
  - (ii) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; and
  - (iii) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
  - (iv) To make necessary investments in water, sewer, or broadband infrastructure.
- B. The Tribe hereby appropriates for the COVID-19 ARPA Response and Relief Fund the total sum amount that the United States Department of the Treasury may allocate to the Tribe from the amounts available in the State and Local Fiscal Recovery Funds provided by Treasury.
- C. The Fund Administrator shall establish one or more segregated deposit accounts for the maintenance of funds credited to the COVID-19 ARPA Response and Relief Fund. Any interest income generated by amounts in the COVID-19 Response and Relief Fund shall be credited thereto and shall be expended as provided in this Resolution. The Fund Administrator shall keep adequate records documenting all funds credited to the COVID-19 ARPA Response and Relief Fund and all payments of such funds authorized by this Resolution.

**IV. Payment of Governmental Costs and Expenses.**

- A. Amounts credited to the COVID-19 ARPA Response and Relief Fund may only be expended to pay or reimburse the Tribal government for Eligible Expenses incurred beginning March 3, 2021 and ending December 31, 2024:
- (i) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; and
  - (ii) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; and

(iii) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(iv) To make necessary investments in water, sewer, or broadband infrastructure.

B. All costs to be funded pursuant to this Section 4 shall be approved by the Business and Claims Committee and shall be appropriately documented and substantiated in records to be maintained by the Fund Administrator.

**NOW, THEREFORE BE IT RESOLVED** by virtue of its inherent authority as a sovereign Indian tribe and pursuant to the powers of the Business and Claims Committee, as enumerated in the Amended Constitution and By-Laws of the Yankton Sioux Tribe Business and Claims Committee to investigate and transact all Tribal business of a routine nature and in its capacity as a liaison delegation between the Tribe and Federal governments, that it hereby adopts this Resolution.

**BE IT FINALLY RESOLVED** that the Business and Claims Committee hereby authorizes and approves its Chairman or, in his absence, the Vice-Chairman, to execute any and all documents as may be necessary and appropriate to carry out the terms, conditions, and intent of this Resolution.

#### CERTIFICATION

**THIS IS TO CERTIFY AND AFFIRM**, the above and foregoing resolution was duly authorized and passed by the Yankton Sioux Tribe's Business and Claims Committee on the 19th day of April, 2022 at a meeting held at Wagner, South Dakota on the Yankton Sioux Reservation, by a vote of 5 in favor, 0 opposed, 1 abstain, 3 absent, **MOTION CARRIED.**



Robert Flying Hawk, Chairman  
Yankton Sioux Tribe  
Business and Claims Committee

ATTEST



Glenford "Sam" Sully, Secretary  
Yankton Sioux Tribe  
Business and Claims Committee