

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0110-21_

SPONSOR: Carl Slater

TITLE: An Action Relating to Budget and Finance and Naabik'iyáti' Committees, and Navajo Nation Council; Establishing the Navajo Nation Fiscal Recovery Fund and the Expenditure Authorization Process Thereunder; Waiving Certain Provisions of the Navajo Nation Appropriations Act; Amending 12 N.N.C. § 334 to Authorize Emergency Procurements; Authorizing Reimbursement of the Síhasin Fund and Undesignated Unreserved Fund Balance; Authorizing Central Support and Regulatory Cost Funding; Authorizing Funding to Complete Defunded Navajo Nation CARES Fund Expenditure Plans; Authorizing the Establishment of a Navajo Nation Fiscal Recovery Fund Office Within the Office of the President and Vice-President

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0110-21

DATE: July 8, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO BUDGET AND FINANCE AND NAABÍK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION FISCAL RECOVERY FUND AND THE EXPENDITURE AUTHORIZATION PROCESS THEREUNDER; WAIVING CERTAIN PROVISIONS OF THE NAVAJO NATION APPROPRIATIONS ACT; AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS; AUTHORIZING REIMBURSEMENT OF THE SÍHASIN FUND AND UNDESIGNATED UNRESERVED FUND BALANCE; AUTHORIZING CENTRAL SUPPORT AND REGULATORY COST FUNDING; AUTHORIZING FUNDING TO COMPLETE DEFUNDED NAVAJO NATION CARES FUND EXPENDITURE PLANS; AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

PURPOSE: This resolution, if approved, will establish the Navajo Nation Fiscal Recovery Fund (NNFRF) and the application process thereunder; waive application of certain provisions of the Appropriations Act to NNFRF funding; deem NNFRF procurements as emergency procurements to expedite the procurement process; authorize reimbursement of Síhasin Fund and UUFB allocations and appropriations; fund central support and regulatory costs upfront to establish the legal, financial and regulatory infrastructure necessary to support NNFRF Expenditure Plans; fund CARES Fund projects that were approved but not completed; and authorize the establishment of a NNFRF Office.

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.

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION

2 24th NAVAJO NATION COUNCIL – Third Year, 2021

3 INTRODUCED BY

4
5
6 Primary Sponsor

7 
8 TRACKING NO. 0110-21

9
10 AN ACTION

11 RELATING TO BUDGET AND FINANCE AND NAABÍK'ÍYÁTI'
12 COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING
13 THE NAVAJO NATION FISCAL RECOVERY FUND AND THE EXPENDITURE
14 AUTHORIZATION PROCESS THEREUNDER; WAIVING CERTAIN
15 PROVISIONS OF THE NAVAJO NATION APPROPRIATIONS ACT;
16 AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY
17 PROCUREMENTS; AUTHORIZING REIMBURSEMENT OF THE SÍHASIN
18 FUND AND UNDESIGNATED UNRESERVED FUND BALANCE;
19 AUTHORIZING CENTRAL SUPPORT AND REGULATORY COST FUNDING;
20 AUTHORIZING FUNDING TO COMPLETE DEFUNDED NAVAJO NATION
21 CARES FUND EXPENDITURE PLANS; AUTHORIZING THE
22 ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND
23 OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

24
25 **BE IT ENACTED:**

26
27 **SECTION ONE. AUTHORITY**

28 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §
29 102(A).
30

1 B. The Naabík'íyáti' Committee is a standing committee of the Navajo Nation Council
2 with the responsibility to hear proposed resolution(s) that require final action by the
3 Navajo Nation Council. 2 N.N.C. § 164 (A)(9).

4 C. The Budget and Finance Committee is a standing committee of the Navajo Nation
5 Council with the enumerated powers to review and recommend to the Navajo Nation
6 Council the budgeting, appropriation, investment and management of all funds and to
7 promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C.
8 §§ 300 (B)(1) and (2).

9
10 **SECTION TWO. FINDINGS**

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

17 B. The Navajo Nation Commission on Emergency Management, with the concurrence of
18 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency
19 on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. *See*
20 Resolution No. CEM 20-03-11 incorporated herein by reference. The Navajo Nation
21 Department of Health has subsequently issued numerous Public Health Emergency
22 Orders. Public Health Orders 2020-001 through 2021-014 are incorporated by
23 reference. These Public Health Emergency Orders are available at [www.ndoh.navajo-](http://www.ndoh.navajo-nsn.gov)
24 [nsn.gov](http://www.ndoh.navajo-nsn.gov).

25 C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life
26 throughout the world, the United States and the Navajo Nation. As of July 7, 2021, the
27 Navajo Nation Health Command Operations Center has confirmed 31,043 COVID-19
28 cases and 1,374 COVID-related deaths on the Navajo Nation. COVID-19 variants have
29 emerged that threaten to increase these numbers and continue the pandemic’s assault
30 on the Navajo People.

- 1 D. The devastating effects of COVID-19 continue throughout the Navajo Nation,
2 including employment losses, business closures, food and housing insecurity, and other
3 economic disruptions.
- 4 E. On March 11, 2021, President Biden signed the American Rescue Plan Act (“ARPA”)
5 into law. Section 9901 of ARPA established the Coronavirus State Fiscal Recovery
6 Fund and the Coronavirus Local Fiscal Recovery Fund (together the “Fiscal Recovery
7 Funds”) by amending Title VI of the Social Security Act, which provided \$362 billion
8 for state, local, and tribal governments, including \$20 billion designated for tribal
9 governments.
- 10 F. As of May 29, 2021, the United States Department of Treasury (“U.S. Treasury”)
11 allocated \$1,861,554,458.43 to the Navajo Nation under the Fiscal Recovery Funds
12 provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand
13 the relief provided in the Coronavirus Aid, Relief, and Economic Security Act or
14 CARES Act.
- 15 G. The Fiscal Recovery Funds are intended to support governmental efforts to mitigate
16 and contain the spread of COVID-19, as well as to respond to the health, social and
17 economic impacts of COVID-19 suffered by residents and businesses.
- 18 H. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were specifically
19 intended to:
- 20 1. Respond to the COVID-19 public health emergency and its negative economic
21 impacts, including assistance to households, small businesses, and non-profits;
22 and/or aid to impacted industries such as tourism, travel, and hospitality;
 - 23 2. Respond to workers performing essential work during the COVID-19 public health
24 emergency by providing premium pay to eligible workers of the tribal government.
25 Under this category, the Navajo Nation can provide premium pay to government
26 workers performing essential work, and can provide grants to eligible employers
27 that have eligible workers who perform essential work;
 - 28 3. Provide government services to the extent of the reduction in Navajo Nation
29 revenue due to the COVID-19 public health emergency, relative to revenues
30 collected in the most recent full fiscal year prior to the emergency; and

1 4. Make necessary investments in water, sewer, or broadband infrastructure.

2 I. Pursuant to ARPA:

3 1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning
4 the Navajo Nation must obligate funds by that date; and

5 2. The Fiscal Recovery Fund period of performance runs until December 31,
6 2026, meaning funded projects must be completed by that date.

7 J. While its acceptance of the Fiscal Recovery Funds obligates the Navajo Nation to
8 comply with ARPA and other federal laws and regulations, the Navajo Nation can and
9 will fulfill these obligations while retaining and exercising its tribal sovereignty.

10
11 **SECTION THREE. ESTABLISHMENT OF THE NAVAJO NATION FISCAL**
12 **RECOVERY FUND**

13 A. There is hereby established the “Navajo Nation Fiscal Recovery Fund” (“NNFRF”).

14 B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the
15 Navajo Nation as of May 29, 2021 from the U.S. Treasury under the Fiscal Recovery
16 Funds provisions of ARPA, as well as any additional funds that the Navajo Nation may
17 later receive from the United States under the Fiscal Recovery Funds provisions, shall
18 be deposited into the NNFRF.

19 C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery
20 Funds and investment earnings therein are deposited, and from which the Navajo
21 Nation shall disburse funds for approved Expenditure Plans which comply with the
22 criteria set forth in the Fiscal Recovery Funds provisions of ARPA.

23 D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds
24 provided by the federal government and are not subject to the annual set-aside
25 provisions set forth in the Navajo Nation Code.

26 E. The Navajo Nation Office of the Controller (“OOC”), acting upon the recommendation
27 of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF
28 in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury
29 regulations and guidance, and applicable Navajo Nation Investment Policies;
30 investment earnings, when realized, shall be deposited into the NNFRF.

1 F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and
2 Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable
3 federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly
4 adopted procedures and agreements between the Navajo Nation and the federal
5 government regarding the use of the Fiscal Recovery Funds.

6 G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF
7 shall only be authorized through Expenditure Plan(s) duly adopted by a two-thirds (2/3)
8 vote of all members of the Navajo Nation Council and approved by the President of the
9 Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11) and
10 (12).

11 H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that
12 the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation
13 have been used in accordance with the provisions of ARPA. The NNFRF shall be
14 subject to an annual audit by the Navajo Nation's independent auditor. Either the
15 Navajo Nation Council or the Navajo Nation President may require an audit at any
16 time. The Controller shall be responsible for providing any and all records and financial
17 reports required by the U.S. Treasury.

18 I. Within thirty (30) days of the effective date of this legislation, OOC shall set up an
19 online accountability platform on the NNOOC website that will enable the public to
20 observe the financial transactions conducted with NNFRF funds. To the maximum
21 extent possible and consistent with applicable Navajo Nation and federal laws
22 pertaining to confidential or proprietary information and documents, all checks,
23 electronic deposits, funds transfers, contracts and contract amendments, and other
24 documents supporting NNFRF expenditures shall be displayed on the platform and
25 made available for public view.

26
27 **SECTION FOUR. NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE**
28 **PLAN ELIGIBILITY DETERMINATIONS AND APPLICATION REQUIREMENTS**

29 A. The Office of Management and Budget (“OMB”), in consultation with OOC and
30 Navajo Nation Department of Justice (“NNDJ”), shall develop NNFRF application

1 and review procedures, which shall include an NNFRF Expenditure Plan template, for
2 adoption by the Budget and Finance Committee. OMB and OOC shall post the
3 approved NNFRF application procedures, including an NNFRF Expenditure Plan
4 template, and instructions on their respective websites.

5 B. NNDOJ shall do an initial determination of whether a NNFRF funding request satisfies
6 the legal requirements of the Fiscal Recovery Funds provisions of ARPA and
7 applicable Navajo Nation laws, regulations, and policies and procedures.

8 C. Navajo Nation Divisions and Offices, non-LGA-certified Chapters, LGA-certified
9 Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit
10 corporations and external entities seeking NNFRF funds shall comply with the
11 requirements set forth in this legislation and with the requirements set forth in the
12 NNFRF application procedures adopted by resolution of the Budget and Finance
13 Committee (“BFC”).

14 D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible
15 Entity who shall be held accountable for the compliance, implementation, monitoring,
16 and accounting of the proposed projects, proposals, services and/or related assistance.

17 E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and
18 President, the Navajo Nation, with the assistance of NNDOJ, shall enter into a binding
19 agreement, such as a, grant or sub-recipient agreement, with each Responsible Entity,
20 other than Navajo Nation divisions and offices and non-LGA-certified chapters, to
21 ensure that all Navajo Nation laws and regulations are followed and complied with at
22 all times.

23 F. NNFRF Expenditure Plans involving construction activities shall include a
24 contingency reserve consistent with industry standards adequate to cover projected
25 inflation-based cost increases. The contingency reserve shall only be released by OOC
26 to the Responsible Entity upon receipt of documented justification for the cost increase.
27 After Expenditure Plan completion, any unused contingency funds shall be returned to
28 the NNFRF.

29 G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo
30 Nation government program or office, including Navajo Nation-owned

1 enterprises/authorities/corporations, may include an allocation for administrative costs
2 at a rate not to exceed two percent (2%) of service or project cost to defray the costs of
3 implementing, administering and monitoring said Expenditure Plan and its underlying
4 services and projects.

5 H. Until the third quarter of 2024, NNFRF Expenditure Plans for direct financial
6 assistance to enrolled Navajo Nation members, not including business economic relief
7 or similar programs, shall be limited to ten percent (10%) of the total Fiscal Recovery
8 Funds received by the Navajo Nation. After the second quarter of 2024, unallocated or
9 unexpended NNFRF funds can be allocated for direct financial assistance to enrolled
10 members through resolution of the Navajo Nation Council and approval of the
11 President pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11) and (12).
12

13 **SECTION FIVE. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL**
14 **RECOVERY FUNDS TO REIMBURSE SÍHASIN FUND ALLOCATIONS AND**
15 **UNRESERVED UNDESIGNATED FUND BALANCE APPROPRIATIONS**

16 OOC, in consultation with OMB, shall immediately reimburse the Síhasin Fund and
17 Unreserved Undesignated Fund Balance (“UUFB”) from the NNFRF for any allocations
18 or appropriations wherein the approving Navajo Nation Council resolution authorized such
19 reimbursement and NNDOJ deems such reimbursement(s) legally defensible under the
20 Fiscal Recovery Funds provisions of ARPA. OMB shall report the amount and status of
21 such reimbursements to the Naabík'íyáti' Committee and the Office of President and Vice-
22 President no later than sixty (60) days after the effective date of this legislation.
23

24 **SECTION SIX. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL**
25 **RECOVERY FUNDS TO DEFUNDED NAVAJO NATION CARES FUND**
26 **PROJECTS**

27 The Navajo Nation hereby immediately allocates NNFRF funds to replace the Navajo
28 Nation CARES Fund funds that were reallocated to the Navajo Nation Hardship Assistance
29 Expenditure Plan pursuant to Navajo Nation Council Resolution No. CJY-67-20 and
30 Naabík'íyáti' Committee Resolutions No. NABIO-49-20 and NABID-63-20, as well as any

1 CARES Fund funding that was voluntarily returned to the Nation because the project
2 approved by the Navajo Nation Council could not be completed by the federal CARES Act
3 deadline(s). OMB, with the assistance of OOC, shall report the amount and status of such
4 allocations to the Naabik'iyati' Committee and the Office of President and Vice-President
5 no later than sixty (60) days after the effective date of this legislation.
6

7 **SECTION SEVEN. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL**
8 **RECOVERY FUNDS TO FUND CENTRAL SUPPORT AND REGULATORY**
9 **SERVICES**

- 10 A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal
11 Recovery Funds received by the Navajo Nation to fund central support service and
12 regulatory costs.
- 13 B. The Office of the President and Vice-President shall be responsible for apportioning
14 ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch
15 programs and offices providing central support and regulatory services, including, the
16 Office of the President and Vice-President, Office of the Controller, Office of
17 Management and Budget, Department of Justice, Navajo Nation Washington Office,
18 Division of Human Resources, Division of Community Development, and other
19 Divisions and offices providing central support and/or regulatory services.
- 20 C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'iyati'
21 Committee, shall be responsible for apportioning ten percent (10%) of the ten percent
22 (10%) amount amongst Legislative Branch programs and offices providing central
23 support services, including the Office of Legislative Services, Office of Legislative
24 Counsel, Office of the Speaker, and Navajo Nation Council.
- 25 D. The programs and offices receiving NNFRF for central support and/or regulatory
26 services shall use such funding to develop the legal, financial, organizational,
27 managerial, administrative, regulatory, and reporting framework necessary to support
28 the expeditious completion of NNFRF funded projects and the provision of NNFRF
29 funded services.
30

1 E. The detailed budgets for the NNFRF funding allocated here for central support and
2 regulatory services shall be processed through the executive or administrative review
3 process applicable to each Branch and shall not require further legislative action.
4

5 **SECTION EIGHT. AUTHORIZING THE OFFICE OF THE CONTROLLER TO**
6 **DISTRIBUTE FUNDS FROM THE NAVAJO NATION FISCAL RECOVERY FUND**

7 A. After reimbursement of the Síhasin Fund and UUFB, allocations to the defunded
8 Navajo Nation CARES Fund projects, and the release of the immediate disbursements
9 provided for in this legislation, OOC shall only release and distribute NNFRF funds in
10 conformance with duly adopted Expenditure Plans enacted by a two-thirds (2/3) vote
11 of all members of the Navajo Nation Council and approved by the President of the
12 Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11) and
13 (12).

14 B. Expenditure Plan funds shall not be released to LGA-certified Chapters, Navajo Nation
15 owned enterprises/authorities/corporations, non-profit corporations and/or external
16 entities until a binding agreement, *e.g.*, grant or sub-recipient agreement, has been
17 executed between the Navajo Nation and the respective Responsible Entity.

18 C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds
19 are timed to balance Expenditure Plan needs with maximum investment earnings.

20 D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all
21 applicable Navajo Nation and federal financial, accounting, and reporting laws and
22 regulations are adhered to and strictly followed.

23 E. OOC and the respective Responsible Entity shall provide a written and oral report to
24 the Naabík'iyáti' Committee and the Office of President and Vice-President on or about
25 thirty (30) days after the end of each fiscal year quarter; such report will present an
26 overview and status of all NNFRF funded projects, recommended modifications or
27 adjustments to projects, and compliance challenges, if any.
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30

1 **SECTION NINE. APPLICABILITY AND WAIVER OF NAVAJO NATION**
2 **APPROPRIATIONS ACT PROVISIONS TO NAVAJO NATION FISCAL**
3 **RECOVERY FUNDS**

4 A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the
5 purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly,
6 only those provisions of the Appropriations Act, 12 N.N.C. § 800 *et seq.*, that are
7 expressly applicable to externally restricted funds, and any future provisions in the
8 Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the
9 Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s)
10 funded thereunder.

11 B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal
12 Year Comprehensive Budget and the Navajo Nation hereby waives the application of
13 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation],
14 § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation,
15 Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local
16 Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded
17 thereunder.

18
19 **SECTION TEN. AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY**
20 **PROCUREMENTS FOR NAVAJO NATION FISCAL RECOVERY FUND**
21 **EXPENDITURES**

22 A. Until such time as Navajo Nation procurement laws and regulations are amended to
23 specifically support NNFRF procurements, the Navajo Nation hereby amends 12
24 N.N.C. § 334 as set forth below.

25 Title Twelve

26 Fiscal Matters

27 Chapter 3. Navajo Nation Procurement Act

28 Subchapter 1. General Provisions

29 ****

30 **§ 334 Emergency Procurement**

1 A. Notwithstanding any other provision of law, the Director, Division of Finance,
2 Purchasing Department, the head of a purchasing agency, or a designee of either
3 officer may make or authorize others to make emergency procurement when there
4 exists a threat to public health, welfare, or safety under emergency conditions as
5 defined in regulations promulgated by the Budget and Finance Committee;
6 provided that such emergency procurement shall be made with such competition
7 as is practicable under the circumstances. A written determination of emergency
8 shall be made by the executive director of the affected division, in concert with the
9 Director, Division of Finance, Purchasing Department or authorized designee, and
10 a representative of the Attorney General's Office (or the Office of Legislative
11 Counsel for emergency procurements by the Legislative Branch). To the extent
12 possible, certified entities under the Navajo Nation Business Opportunity Act, 5
13 N.N.C. § 201 *et seq.*, shall receive preference in emergency procurement. The
14 written determination and the selection of the particular contractor shall be
15 included in the contract file. No oversight committee approval shall be required
16 for these contracts.

17 B. Notwithstanding any other provision of law, procurements using Navajo Nation
18 Fiscal Recovery Funds may be authorized and executed as Emergency
19 Procurements at the discretion of the Procuring Party without further justification;
20 provided that such emergency procurement shall be made with such competition
21 as is practicable under the circumstances. To the extent possible, certified entities
22 under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., that
23 are able to complete the good or service within the Fiscal Recovery Fund's strict
24 deadlines shall receive preference in emergency procurement. No oversight
25 committee approval shall be required for these contracts.

26 ****

27 B. Until such time as the Budget and Finance Committee amends the Navajo Nation
28 Procurement Rules and Regulations (“Procurement Regulations”) adopted by BFD-
29 192-03, procurements using NNFRF funds shall be deemed to satisfy the definition
30 of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement

1 Regulations without further justification; and the written application and
2 concurrence requirements set forth at Section VII (C) of the Procurement
3 Regulations shall not apply to such procurements.

4 C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and
5 responsible Priority One or Priority Two vendors responding to the Nation's
6 solicitation for NNFRF funded goods, services, or construction and construction related
7 services, who are qualified and able to meet the requirements of the procurement,
8 including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the
9 Procuring Party may contract with companies not included on the Business Source List
10 maintained by the Business Regulatory Department, as long as such companies agree
11 to comply with Navajo Nation laws, regulations, and policies, including the Navajo
12 Preference in Employment Act and Navajo Business Opportunity Act.

13 D. Navajo citizens, Navajo-owned businesses and non-profits, Navajo business-support
14 organizations, such as the Dineh Chamber of Commerce, and Navajo Nation-owned
15 enterprises/authorities/corporations shall be provided a meaningful opportunity to
16 comment before amendments are made to Navajo Nation procurement laws and
17 regulations.

18
19 **SECTION ELEVEN. AUTHORIZING THE ESTABLISHMENT OF A NAVAJO**
20 **NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE**
21 **PRESIDENT AND VICE-PRESIDENT**

22 A. The Office of the President and Vice-President ("OPVP") is authorized to establish a
23 temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§
24 1005 (A) and (C) (14).

25 B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public
26 on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities
27 assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF
28 eligibility determinations and other NNFRF matters by Executive Branch programs
29 and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions
30 of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF

1 funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the
2 completion and implementation of NNFRF authorized projects and services; and
3 assist/support OOC in monitoring the expenditure of NNFRF funds and submitting
4 timely and accurate ARPA reports to the federal government.

5 C. Prior to its opening, OPVP shall present a plan of operation or similar structural
6 document for the NNFRF Office to the Naabik'iyati' Committee. On or about thirty
7 (30) days after the end of each fiscal year quarter, OPVP shall present a report to the
8 Naabik'iyati' Committee on overall NNFRF Office operations, accomplishments, and
9 challenges, along with recommended modifications or adjustments to projects and
10 processes.

11 D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-
12 owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the
13 implementation, management, and monitoring of NNFRF funds.

14 E. In order to support the purposes and intent of the Navajo Nation Business Opportunity
15 Act and Navajo Nation Preference in Employment Act, within 50 days after the
16 enactment of this legislation, the NNFRF Office shall present a plan to the Budget and
17 Finance and Naabik'iyati' Committees to provide bonding, insurance, and other needed
18 support to grow the Navajo Nation economy through private sector contracting, using
19 ARPA, NNFRF, and/or other Navajo Nation or external funding.

20
21 **SECTION ELEVEN. EFFECTIVE DATE**

22 This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 221(B).
23

24 **SECTION TWELVE. SAVING CLAUSE**

25 Should any provision of this legislation be determined invalid by the Navajo Nation
26 Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo
27 Nation Supreme Court, those provisions of the legislation which are not determined invalid
28 shall remain the law of the Navajo Nation.
29

30 **SECTION THIRTEEN. DIRECTIVES**

- 1 A. OMB, in consultation with OOC and DOJ, shall present proposed NNFRF application
2 and review procedures, including an NNFRF Expenditure Plan template, to the Budget
3 and Finance Committee within twenty (20) days after the effective date of this
4 legislation.
- 5 B. The Division of Natural Resources and General Land Development Department shall
6 present a proposed Plan of Operation for a "One-Stop Shop" to facilitate, review, and
7 approval of rights-of-ways, temporary construction permits, mission site permits,
8 leases, etc., to the Resources and Development Committee within forty-five (45) days
9 after the effective date of this legislation.
- 10 C. The Division of Human Resources and Department of Personnel Management shall
11 present proposed amendments to the Navajo Nation Personnel Policies Manual to, at a
12 minimum, facilitate the expeditious hiring of personnel with NNFRF funds to the
13 Health, Education, and Human Services Committee within sixty (60) days after the
14 effective date of this legislation.
- 15 D. OPVP, with the assistance of the Business Regulatory Department and OOC
16 Purchasing Section, shall present proposed amendments to the Navajo Nation's
17 procurement and business opportunity laws and regulations to, at a minimum, expedite
18 NNFRF procurements, to the Budget and Finance Committee within sixty (60) days
19 after the effective date of this legislation.
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