

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0257-21_

SPONSOR: Seth Damon

TITLE: An Action Relating to the Naabik'iyáti' Committee and Navajo Nation Council; Allocating \$1,166,003,000 of Navajo Nation Fiscal Recovery Funds; Approving the Navajo Nation Fiscal Recovery Fund Expenditure Plans for Water and Wastewater Projects, Broadband Projects, Home Electricity Connection Projects, Housing and Housing Renovation Projects, Bathroom Addition Projects, and Hardship Assistance

Date posted: November 24, 2021 at 6:16PM

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0257-21

DATE: November 24, 2021

TITLE OF RESOLUTION: RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING \$1,166,003,000 OF NAVAJO NATION FISCAL RECOVERY FUNDS; APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE PLANS FOR WATER AND WASTEWATER PROJECTS, BROADBAND PROJECTS, HOME ELECTRICITY CONNECTION PROJECTS, HOUSING AND HOUSING RENOVATION PROJECTS, BATHROOM ADDITION PROJECTS, AND HARDSHIP ASSISTANCE

PURPOSE: This resolution, if approved, will allocate \$1,166,003,000 of Navajo Nation Fiscal Recovery Funds for Water and Wastewater projects, Broadband projects, Home Electricity Connection projects, Housing and Housing Renovation projects (including Veterans), Bathroom Addition projects, and Hardship Assistance.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 11-29-21
Eligible for Action: 11-30-21

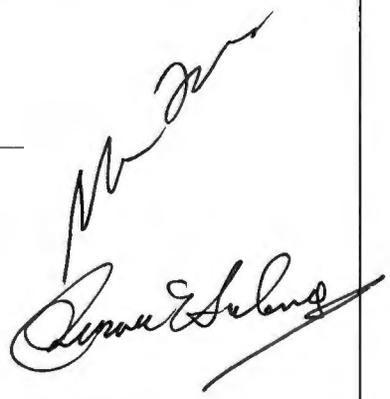
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

Primary Sponsor

TRACKING NO. 0257-21



AN ACTION
RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
COUNCIL; ALLOCATING \$1,166,003,000 OF NAVAJO NATION FISCAL
RECOVERY FUNDS; APPROVING THE NAVAJO NATION FISCAL RECOVERY
FUND EXPENDITURE PLANS FOR WATER AND WASTEWATER PROJECTS,
BROADBAND PROJECTS, HOME ELECTRICITY CONNECTION PROJECTS,
HOUSING AND HOUSING RENOVATION PROJECTS, BATHROOM ADDITION
PROJECTS, AND HARDSHIP ASSISTANCE

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. Navajo Nation Council Resolution No. CJY-41-21, attached as **Exhibit A**, mandates that Navajo Nation Fiscal Recovery Fund (“NNFRF”) Expenditure Plans be duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
- C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council with the delegated responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

1 **SECTION TWO. FINDINGS**

- 2 A. The World Health Organization (“WHO”) declared a Public Health Emergency of
3 International Concern related to the Coronavirus (“COVID-19”), a highly contagious and
4 sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and
5 Human Services declared a Public Health Emergency related to the COVID-19 outbreak
6 on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on
7 March 11, 2020.
- 8 B. The Navajo Nation Commission on Emergency Management, with the concurrence of
9 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on
10 the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. *See* Resolution No.
11 CEM 20-03-11, incorporated herein by reference. The Navajo Nation Department of
12 Health has subsequently issued numerous Public Health Emergency Orders. Public Health
13 Orders 2020-001 through 2021-020 are incorporated herein by reference. These Public
14 Health Emergency Orders are available at www.ndoh.navajo-nsn.gov.
- 15 C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life
16 throughout the world, the United States, and the Navajo Nation. As of November 19, 2021,
17 the Navajo Nation Health Command Operations Center has confirmed 38,742 OVID-19
18 cases and 1,518 COVID-related deaths on the Navajo Nation. COVID-19 variants have
19 recently emerged that threaten to increase these numbers and continue the pandemic’s
20 assault on the Navajo People.
- 21 D. The devastating effects of COVID-19 continue throughout the Navajo Nation and extend
22 beyond the health and life devastation to wide scale negative financial effects, such as
23 employment losses, business closures, food and housing insecurity, and other economic
24 disruptions.
- 25 E. In response to the pandemic, on March 11, 2021, Unites States President Joseph Biden
26 signed the American Rescue Plan Act (“ARPA”) into law. Section 9901 of ARPA
27 amended Title VI of the Social Security Act to add section 602, which established the
28 Coronavirus State Fiscal Recovery Fund, and section 603, which established the
29 Coronavirus Local Fiscal Recovery Fund (together the “Fiscal Recovery Funds” or “FRF”)
30 and provided \$362 billion for state, local, and tribal governments, including \$20 billion

1 specifically designated for tribal governments.

2 F. As of November 1, 2021, the United States Department of Treasury has allocated two
3 billion seventy-nine million four hundred sixty-one thousand four hundred sixty-four
4 dollars (\$2,079,461,464) to the Navajo Nation under the Fiscal Recovery Funds provisions
5 of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief
6 provided in the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act),
7 Public Law 116–136, 134 Stat. 281 (2020), and are intended to mitigate and contain the
8 spread of COVID-19, as well as to respond to the health, social and economic impacts of
9 COVID-19 suffered by residents and businesses.

10 G. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds are specifically intended
11 to:

- 12 1. respond to the COVID-19 public health emergency and its negative economic
13 impacts, including assistance to households, small businesses, and non-profits;
14 and/or aid to impacted industries such as tourism, travel, and hospitality;
- 15 2. respond to workers performing essential work during the COVID-19 public
16 health emergency by providing premium pay to eligible workers;
- 17 3. provide government services to the extent of the reduction in Navajo Nation
18 revenue due to the COVID-19 public health emergency, relative to revenues
19 collected in the most recent full fiscal year prior to the COVID-19 public health
20 emergency; and
- 21 4. make necessary investments in water, sewer, and/or broadband infrastructure.

22 H. The U.S. Department of Treasury has issued guidance requiring that the use and
23 expenditure of Fiscal Recovery Funds must fall under one of the four categories above and
24 that funding recipients must report each expenditure under one of the sixty-six (66)
25 “Expenditure Eligibility Categories” set forth in Appendix 1 to the U.S. Department of
26 Treasury’s Compliance and Reporting Guidance for State and Local Fiscal Recovery
27 Funds, attached herein as **Exhibit B**.

28 I. Pursuant to ARPA:

- 29 1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning
30 that the Navajo Nation must obligate FRF funds by that date. Treasury’s

1 Interim Final Rule provides that “incurred” shall have the same meaning given
2 to “financial obligation” under the Uniform Guidance at 2 CFR 200.1:
3 “*Financial obligations*, when referencing a recipient's or sub-recipient's use
4 of funds under a Federal award, means orders placed for property and
5 services, contracts and sub-awards made, and similar transactions that
6 require payment.”; and

- 7 2. The Fiscal Recovery Fund period of performance runs from March 3, 2021
8 until December 31, 2026, meaning that all FRF-funded projects must be
9 completed and funds must be fully expended by December 31, 2026.
- 10 3. Costs incurred by the Navajo Nation prior to March 3, 2021 are not eligible.
- 11 4. Any funds not obligated or expended for eligible uses by the dates above in
12 sections I (1) and (2) must be returned to Treasury, including any unobligated
13 or unexpended funds that have been provided to sub-recipients and contractors
14 as part of the award closeout process.

15 J. While its acceptance of Fiscal Recovery Funds obligates the Navajo Nation to comply with
16 ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these
17 obligations while retaining and exercising its sovereignty in allocating and disbursing
18 Fiscal Recovery Funds.

19 K. On July 23, 2021, the Navajo Nation Council adopted Resolution No. CJY-41-21, attached
20 as **Exhibit A**, establishing the Navajo Nation Fiscal Recovery Fund (“NNFRF”) into
21 which the Navajo Nation’s allocation of \$2,079,461,464 has been deposited. CJY-41-21
22 also adopted an expenditure authorization and approval process for the allocation of funds
23 from the NNFRF.

24 L. In Section Four of CJY-41-21, the Navajo Nation Council mandated the Budget and
25 Finance Committee to adopt application and review procedures, as well as an expenditure
26 plan template, to be used by entities requesting Navajo Nation Fiscal Recovery Funds. The
27 Budget and Finance Committee approved Resolution No. BFS-31-21 which established
28 mandatory Navajo Nation Fiscal Recovery Fund application procedures, forms, and an
29 expenditure plan template. BFS-31-21 is incorporated herein by reference.

30 M. To ensure the Navajo Nation’s compliance with ARPA, Section Four of CJY-41-21 also

1 directed the Navajo Nation Department of Justice (“DOJ”) to perform “an initial
2 determination of whether a NNFRF funding request satisfies the legal requirements of the
3 Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws,
4 regulations, and policies and procedures.” Resolution No. BFS-31-21 incorporated DOJ’s
5 initial determination into the mandatory NNFRF application procedures, forms, and an
6 expenditure plan template, which requires, among other things, identification of the entity
7 with administrative oversight over the Funding Recipient. Administrative oversight means
8 having the authority to monitor the implementation of an approved FRF Expenditure Plan
9 and the expenditure of awarded funds. The duties of the entity with administrative
10 oversight are set forth in Section Seven of the FRF Procedures in exhibits 1 through 5 of
11 BFS-31-21.

- 12 N. The Office of the President and Vice-President, in coordination with the Division of
13 Community Development (“DCD”), presented ARPA and Fiscal Recovery Fund
14 information at each of the five (5) Agency Council Meetings to hear from the Navajo
15 People concerning their needs and priorities for projects and/or services funded through
16 the NNFRF. In addition, DCD has met with Navajo Nation Chapters, individually and
17 collectively, on more than fifty (50) occasions to discuss NNFRF matters.
- 18 O. The Navajo Nation Council hosted twenty-six (26) Naabik’íyáti’ Committee Work
19 Sessions, all open to the public, to hear from the Navajo People concerning their needs
20 and priorities for projects and/or services funded through the Navajo Nation Fiscal
21 Recovery Fund. In addition, Standing Committees of the Navajo Nation Council held
22 more than twenty (20) committee meetings, all open to the public, that have included
23 NNFRF reports and infrastructure specific discussions.
- 24 P. The Navajo Nation Council and Office of the President and Vice-President concur that,
25 based on their respective public consultation efforts, it is in the best interest of the Navajo
26 people and Navajo communities to first enact comprehensive Navajo Nation Fiscal
27 Recovery Fund Expenditure Plans for Water and Wastewater projects, Broadband projects,
28 Home Electricity Connections projects, Housing and Housing Renovations projects,
29 Bathroom Addition projects, and Hardship Assistance in total amount of one billion one
30 hundred sixty-six million three thousand dollars (\$1,166,003,000), as set forth in **Exhibits**

1 C through H which are incorporated herein.
2

3 **SECTION THREE. APPROVAL OF WATER AND WASTEWATER PROJECTS**
4 **EXPENDITURE PLANS**

5 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery
6 Fund Water and Wastewater Projects Expenditure Plans set forth in **Exhibits C and C-**
7 **1 through C-10.**

8 B. The Navajo Nation hereby approves total funding for the NNFRF Water and
9 Wastewater Projects Expenditure Plans from the Navajo Nation Fiscal Recovery Fund
10 in the total amount of three hundred one million three thousand dollars (\$301,003,000)
11 and allocates the funding as follows:

12 1. Thirty-eight million three hundred thousand dollars (\$38,300,000) to the
13 Department of Water Resources for Drinking Water Transmission and
14 Distribution Projects (Expenditure Eligibility Category 5.11), as set forth in
15 **Exhibit C-1**, with administrative oversight by the Division of Natural
16 Resources (“DNR”) and legislative oversight by the Resources and
17 Development Committee.

18 2. Ten million seven hundred thousand dollars (\$10,700,000) to the Department
19 of Water Resources for Drinking Water Source Projects (Expenditure
20 Eligibility Category 5.13), as set forth in **Exhibit C-2**, with administrative
21 oversight by the Division of Natural Resources and legislative oversight by the
22 Resources and Development Committee.

23 3. One million dollars (\$1,000,000) to the Department of Water Resources for
24 Drinking Water Storage Projects (Expenditure Eligibility Category 5.14), as set
25 forth in **Exhibit C-3**, with administrative oversight by the Division of Natural
26 Resources and legislative oversight by the Resources and Development
27 Committee.

28 4. Fifty-seven million seven hundred forty-five thousand three hundred fifteen
29 dollars (\$57,745,315) to the Navajo Tribal Utility Authority for Centralized
30 Wastewater Treatment Projects (Expenditure Eligibility Category 5.1) as set

1 forth in **Exhibit C-4**, with administrative oversight by the Division of
2 Community Development (“DCD”) and legislative oversight by the Resources
3 and Development Committee.

4 5. Forty-one million two hundred forty-two thousand six hundred eighty-five
5 dollars (\$41,242,685) to the Navajo Tribal Utility Authority for Centralized
6 Wastewater Collection and Conveyance Projects (Expenditure Eligibility
7 Category 5.2) as set forth in **Exhibit C-5**, with administrative oversight by the
8 Division of Natural Resources and legislative oversight by the Resources and
9 Development Committee.

10 6. Ten million thirty thousand dollars (\$10,030,000) to the Navajo Tribal Utility
11 Authority for Drinking Water Treatment Projects (Expenditure Eligibility
12 Category 5.10), as set forth in **Exhibit C-6**, with administrative oversight by
13 the Division of Natural Resources and legislative oversight by the Resources
14 and Development Committee.

15 7. Ninety-seven million nine hundred forty thousand seven hundred sixty-one
16 dollars (\$97,940,761) to the Navajo Tribal Utility Authority for Drinking Water
17 Transmission and Distribution Projects (Expenditure Eligibility Category 5.11),
18 as set forth in **Exhibit C-7**, with administrative oversight by the Division of
19 Natural Resources and legislative oversight by the Resources and Development
20 Committee.

21 8. Eighteen million nine hundred eighty-two thousand dollars (\$18,982,000) to the
22 Navajo Tribal Utility Authority for Drinking Water Source Projects
23 (Expenditure Eligibility Category 5.13), as set forth in **Exhibit C-8**, with
24 administrative oversight by the Division of Natural Resources and legislative
25 oversight by the Resources and Development Committee.

26 9. Fourteen million two hundred fifty thousand dollars (\$14,250,000) to the
27 Navajo Tribal Utility Authority for Drinking Water Storage Projects
28 (Expenditure Eligibility Category 5.14), as set forth in **Exhibit C-9**, with
29 administrative oversight by the Division of Natural Resources and legislative
30 oversight by the Resources and Development Committee.

1 10. Nine million eight hundred nine thousand two hundred thirty-nine dollars
2 (\$9,809,239) to the Navajo Tribal Utility Authority for Drinking Water Cistern
3 Projects (Expenditure Eligibility Category 5.15), as set forth in **Exhibit C-10**,
4 with administrative oversight by the Division of Natural Resources and
5 legislative oversight by the Resources and Development Committee.

6 C. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve
7 for NNFRF Water and Wastewater construction projects shall be implemented on a
8 case-by-case basis through resolution(s) approved by the Navajo Nation Council and
9 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

10
11 **SECTION FOUR. APPROVAL OF BROADBAND PROJECTS EXPENDITURE**
12 **PLANS**

13 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
14 Broadband Projects Expenditure Plan set forth in **Exhibits D** and **D-1** through **D-6**.

15 B. The Navajo Nation hereby approves total funding for the NNFRF Broadband Projects
16 Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of two
17 hundred eight million dollars (\$208,000,000) and allocates the funding as follows:

18 1. Thirty-one million eight hundred fifty-two thousand six hundred forty-two dollars
19 (\$31,852,642) to the Navajo Tribal Utility Authority for Broadband “Last Mile”
20 projects (Expenditure Eligibility Category 5.16), as set forth in **Exhibit D-1**, with
21 administrative oversight by the Division of General Services and joint legislative
22 oversight by the Health Education Human Services and Resources and
23 Development Committees.

24 2. Sixty-eight million one hundred forty-seven thousand three hundred fifty-eight
25 dollars (\$68,147,358) to the Navajo Tribal Utility Authority for Broadband
26 “Middle Mile” projects (Expenditure Eligibility Category 5.17), as set forth in
27 **Exhibit D-2**, with administrative oversight by the Division of General Services and
28 joint legislative oversight by the Health Education Human Services and Resources
29 and Development Committees.

30 3. Twenty-five million (\$25,000,000) to the Navajo Tribal Utility Authority for

1 Broadband “Last Mile” Grants to Various Carriers (Not Including NTUA) projects
2 (Expenditure Eligibility Category 5.16), as set forth in **Exhibit D-3**, with
3 administrative oversight by the Division of General Services and joint legislative
4 oversight by the Health Education Human Services and Resources and
5 Development Committees.

6 4. Twenty million dollars (\$20,000,000) to the Navajo Tribal Utility Authority for
7 Broadband Grants to Various Carriers (Not Including NTUA) projects
8 (Expenditure Eligibility Category 5.17), as set forth in **Exhibit D-4**, with
9 administrative oversight by the Division of General Services and joint legislative
10 oversight by the Health Education Human Services and Resources and
11 Development Committees.

12 5. Fifty-five million dollars (\$55,000,000) to the Division of Public Safety authority
13 for Broadband Emergency Communication project(s) (Expenditure Eligibility
14 Category 1.12), as set forth in **Exhibit D-5**, with administrative oversight by the
15 Office of the President and Vice-President and joint legislative oversight by the
16 Law and Order and Resources and Development Committees.

17 6. Eight million dollars (\$8,000,000) to the Department of Information Technology
18 for Broadband CyberSecurity project(s) (Expenditure Eligibility Category 1.12),
19 as set forth in **Exhibit D-6**, with administrative oversight by the Division of
20 General Services and joint legislative oversight by the Health Education Human
21 Services and Resources and Development Committees.

22 C. The eligibility criteria for Broadband “Last Mile” Grants to Various Carriers (Not
23 Including NTUA) projects (Expenditure Eligibility Category 5.16) is included in **Exhibit**
24 **D-3**. The eligibility criteria for Broadband Grants to Various Carriers (Not Including
25 NTUA) (Expenditure Eligibility Category 5.17) is included in **Exhibit D-4**.

26 D. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve
27 for NNFRF Broadband construction projects shall be implemented on a case-by-case
28 basis through resolution(s) approved by the Navajo Nation Council and enacted
29 pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

30

1 **SECTION FIVE. APPROVAL OF HOME ELECTRICITY CONNECTION PROJECTS**
2 **EXPENDITURE PLAN**

- 3 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
4 Home Electricity Connection Projects Expenditure Plan set forth in **Exhibits E and E-1**.
- 5 B. The Navajo Nation hereby approves total funding for the NNFRF Home Electricity
6 Connection Projects Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in
7 the total amount of two hundred million dollars (\$200,000,000) and allocates the funding
8 as follows:
- 9 1. Two hundred million dollars (\$200,000,000) to the Navajo Tribal Utility Authority
10 for Housing Support Services – Connecting Homes to Electricity Projects
11 (Expenditure Eligibility Category 3.12), as set forth in **Exhibit E-1**, with
12 administrative oversight by the Division of Community Development and
13 legislative oversight by the Resources and Development Committee.
- 14 C. The Home Electricity Connections Projects Expenditure Plan is need-based. The eligibility
15 criteria for receiving services under the Expenditure Plan is included in **Exhibit E-1**.
- 16 D. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve
17 for NNFRF Home Electricity Connections construction projects shall be implemented
18 on a case-by-case basis through resolution(s) approved by the Navajo Nation Council
19 and enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and
20 (12).

21
22 **SECTION SIX. APPROVAL OF HOUSING AND HOUSING RENOVATION**
23 **PROJECTS EXPENDITURE PLANS**

- 24 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
25 Housing and House Renovations Expenditure Plans set forth in **Exhibits F and F-1 through**
26 **F-3**.
- 27 B. The Navajo Nation hereby approves total funding for the NNFRF Housing and Housing
28 Renovation Expenditure Plans from the Navajo Nation Fiscal Recovery Fund in the total
29 amount of one hundred million dollars (\$100,000,000) and allocates the funding as
30 follows:

- 1 1. Forty million dollars (\$40,000,000) to the Community Housing and Infrastructure
2 Department for Housing Support Services – New Housing Projects (Expenditure
3 Eligibility Category 3.11), as set forth in **Exhibit F-1**, with administrative oversight
4 by the Division of Community Development and legislative oversight by the
5 Resources and Development Committee.
 - 6 2. Ten million dollars (\$10,000,000) to the Community Housing and Infrastructure
7 Department for Housing Support Services – Housing Renovation Projects
8 (Expenditure Eligibility Category 3.12), as set forth in **Exhibit F-2**, with
9 administrative oversight by the Division of Community Development and
10 legislative oversight by the Resources and Development Committee.
 - 11 3. Fifty million dollars (\$50,000,000) to the Navajo Nation Veterans Administration
12 Veterans Housing Program for Housing Support Services – New Housing Projects
13 (Expenditure Eligibility Category 3.11) as set forth in **Exhibit F-3**, with
14 administrative oversight by the Navajo Nation Veterans Administration and
15 legislative oversight by the Health Education and Human Services Committee.
- 16 C. The Housing Projects Expenditure Plan and Housing Renovation Projects Expenditure
17 Plan assigned to the Community Housing and Infrastructure Department are need-based.
18 To the fullest extent possible, all new housing shall be accessible to persons with physical
19 disabilities and shall meet the standards and specifications within the Americans with
20 Disabilities Act. The eligibility criteria for receiving services under both Expenditure Plans
21 shall be approved by the Resources and Development Committee through resolution.
- 22 D. The Housing Projects Expenditure Plan assigned to the Navajo Nation Veterans
23 Administration Veterans Housing Program is need-based. To the fullest extent possible, all
24 new housing shall be accessible to persons with physical disabilities and shall meet the
25 standards and specifications within the Americans with Disabilities Act. The eligibility
26 criteria for receiving services under that Expenditure Plan shall be approved by the Health
27 Education and Human Services Committee through resolution, upon recommendation of
28 the Navajo Nation Veterans Advisory Council.
- 29 E. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve
30 for Housing and House Renovation construction projects shall be implemented on a

1 case-by-case basis through resolution(s) approved by the Navajo Nation Council and
2 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
3

4 **SECTION SEVEN. APPROVAL OF NAVAJO NATION FISCAL RECOVERY FUND**
5 **BATHROOM ADDITIONS EXPENDITURE PLAN**

- 6 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
7 Bathroom Additions Expenditure Plan set forth in **Exhibits G and G-1**.
- 8 B. The Navajo Nation hereby approves total funding for the NNFRF Bathroom Additions
9 Plans from the Navajo Nation Fiscal Recovery Fund in the total amount of one hundred
10 fifty million dollars (\$150,000,000) and allocates the funding as follows:
- 11 1. One hundred fifty million dollars (\$150,000,000) to the Navajo Tribal Utility
12 Authority for Public Health Services - Bathroom Additions (Expenditure
13 Eligibility Category 1.12), as set forth in **Exhibit G-1**, with administrative
14 oversight by the Division of Community Development and legislative oversight by
15 the Resources and Development Committee.
- 16 C. The Bathroom Additions Expenditure Plan assigned to the Navajo Tribal Utility Authority
17 is need-based. The application process and criteria are included in **Exhibit G-1**.
- 18 D. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve
19 for NNFRF Bathroom Addition construction projects shall be implemented on a case-
20 by-case basis through resolution(s) approved by the Navajo Nation Council and enacted
21 pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
22

23 **SECTION EIGHT. APPROVAL OF NAVAJO NATION FISCAL RECOVERY FUND**
24 **HARDSHIP ASSISTANCE EXPENDITURE PLAN**

- 25 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
26 Hardship Assistance Expenditure Plan set forth in **Exhibit H**.
- 27 B. The Navajo Nation hereby approves total funding for the NNFRF Hardship Assistance
28 Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of two
29 hundred seven million dollars (\$207,000,000) and allocates the funding as follows:
- 30 1. Two hundred seven million dollars (\$207,000,000) to the Office of the Controller

1 for Household Assistance – Cash Transfers (Expenditure Eligibility Category 2.3),
2 as set forth in **Exhibit H**, with administrative oversight by the Office of the
3 President and Vice-President and legislative oversight by the Budget and Finance
4 Committee.

5
6 **SECTION NINE. ADMINISTRATION OF NAVAJO NATION FISCAL RECOVERY**
7 **FUND EXPENDITURE PLANS**

- 8 A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through an
9 immediate allocation under CJY-41-21 or subsequently approved NNFRF Expenditure
10 Plan, shall comply with all Navajo Nation laws, policies, regulations, rules, and
11 procedures, specifically including, but not limited to, those governing the NNFRF and
12 the expenditure of such funds, and any additional terms set forth in a grant, sub-
13 recipient, or similar agreement.
- 14 B. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the
15 Navajo Nation must obligate FRF funds by that date. For internal Navajo Nation purposes,
16 the term “obligated” is defined in BFS-31-21, Section Three on page 3 of Exhibits 1
17 through 5. Any NNFRF funds not obligated by the end of the third quarter of Fiscal Year
18 2024 shall be reported to the Naabik’iyáti’ Committee and are subject to reversion to the
19 NNFRF, by a resolution of the Naabik’iyáti’ Committee, and will then be available for
20 reallocation to other NNFRF Expenditure Plans pursuant to resolution(s) of the Navajo
21 Nation Council enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10),
22 (11), and (12).
- 23 C. Projects and/or services funded with Navajo Nation Fiscal Recovery Funds must be
24 completed and all NNFRF funds fully spent by December 31, 2026.
- 25 D. Navajo Nation Fiscal Recovery Fund Expenditure Plan funds shall be available for use by
26 a funding recipient that is a branch, division, department, or other unit of the Navajo Nation
27 central government as soon as a detailed budget has been administratively approved and
28 the Office of Management and Budget has entered such budget into the Financial
29 Management Information System.
- 30 E. The Office of the Controller shall release Navajo Nation Fiscal Recovery Fund

1 Expenditure Plan funds to a funding recipient that is external to the Navajo Nation central
2 government, including Local Government Act certified chapters, Navajo Nation owned
3 entities, and other external entities, pursuant to the fund distribution schedule
4 recommended by the Navajo Nation government entity with administrative oversight and
5 approved by the Office of the Controller and included in a fully executed grant, sub-
6 recipient, or similar agreement deemed legally sufficient by the Navajo Nation Department
7 of Justice.

8 F. Awarded Navajo Nation Fiscal Recovery Funds shall only be obligated and expended on
9 projects and/or services, including need-based projects and services, that were included as
10 an immediate allocation under CJY-41-21 or are included in a NNFRF Expenditure Plan
11 approved and adopted by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C.
12 § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

13 G. All proposed modifications to an approved FRF Expenditure Plan or an approved FRF
14 Expenditure Plan budget shall comply with section 8 of exhibits 1 through 5 of BFS-31-
15 21. Any increase in funding for an approved FRF Expenditure Plan shall require approval
16 by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2
17 N.N.C. §§ 1005 (C) (10), (11), and (12). Proposed modifications of Expenditure Plans
18 shall be submitted to the Navajo Nation Department of Justice (“DOJ”) for an eligibility
19 determination review to ensure the proposed modification will be an eligible use of FRF.
20 Modifications that change the purpose and intent of the Expenditure Plan or projects and
21 services within the approved Expenditure Plan or that substantially change the scope of
22 work of the Expenditure Plan shall require approval by the Navajo Nation Council. As set
23 forth in BFS-31-21, DOJ shall make the determination whether Navajo Nation Council
24 approval of the modification is required. After DOJ has reviewed the request for a
25 modification of an approved Expenditure Plan and determined that legislative approval is
26 not needed, or after the modification is approved by a Navajo Nation Council resolution
27 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12),
28 the Administrative Oversight entity acting on behalf of the Funding Recipient shall submit
29 a budget revision request to OMB, if needed. The Budget Instruction Manual provisions
30 regarding budget revision requests shall apply.

- 1 H. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, may be
2 administratively moved between projects and/or services included within the same
3 Expenditure Plan. DOJ shall verify that the projects and/or services share the same
4 Expenditure Eligibility Category before any NNFRF funding is moved between projects
5 and/or services.
- 6 I. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, cannot be moved
7 between Expenditure Plans without approval by a Navajo Nation Council resolution
8 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
- 9 J. Approved Expenditure Plans for need-based projects and services, such as Bathroom
10 Addition or Home Electricity Connection projects, may be administratively modified
11 without Navajo Nation Council action as long as the total funding awarded for the
12 Expenditure Plan is not increased and the new project or service is within the same
13 Expenditure Eligibility Category.
- 14 K. To add projects or services to an approved Expenditure Plan when such projects and/or
15 services are not need-based projects or services, shall require a DOJ initial eligibility
16 determination pursuant to BFS-31-21 and the addition must be approved through
17 resolution by the Standing Committee(s) having oversight over the Expenditure Plan and
18 the Budget and Finance Committee. If the new project and/or service increases the total
19 funding awarded for the Expenditure Plan or does not share the same Expenditure
20 Eligibility Category as the Expenditure Plan, BFS-31-21 must be fully complied with and
21 the addition can only be added through Navajo Nation Council resolution enacted pursuant
22 to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12) is required.
- 23 L. The Emergency Procurement provisions set forth in CJY-41-21, Section Ten, shall apply
24 to all NNFRF Expenditure Plans enacted herein, as well as to all American Rescue Plan
25 Act and Fiscal Recovery Fund procurements by the Navajo Nation and its entities.
- 26 M. All entities receiving Navajo Nation Fiscal Recovery Funds shall follow and apply
27 Generally Accepted Accounting Principles (GAAP), as established by the Governmental
28 Accounting Standards Board (GASB) for governmental entities and by the
29 Financial Accounting Standards Board (FASB) for public and private companies and non-
30 profits, in reporting, recording, and accounting for such Funds.

1 N. Fraud, misuse of funds, violation of applicable Navajo Nation or federal laws and
2 regulations, non-compliance with FRF agreements governing grants or sub-awards, and
3 false statements or claims by any individual or entity receiving or administering Navajo
4 Nation Fiscal Recovery Funds may result in administrative, civil, or criminal sanctions and
5 penalties, debarment and suspension, ineligibility for future Navajo Nation awards or
6 business opportunities, and the Navajo Nation may pursue any other legal action or remedy
7 available by law.
8

9 **SECTION TEN. FUTURE ALLOCATION OF UNALLOCATED NAVAJO NATION**
10 **FISCAL RECOVERY FUNDS TO HARDSHIP ASSISTANCE EXPENDITURE PLAN**

11 A. Section Four of CJY-41-21 also mandates that “[u]ntil the third quarter of 2024, NNFRF
12 Expenditure Plans for direct financial assistance to enrolled Navajo Nation members, not
13 including business economic relief or similar programs, shall be limited to ten percent
14 (10%) of the total Fiscal Recovery Funds received by the Navajo Nation. After the
15 second quarter of 2024, unallocated or unexpended NNFRF funds can be allocated for
16 direct financial assistance to enrolled members through resolution of the Navajo Nation
17 Council and approval of the President pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§
18 1005 (C) (10), (11) and (12).”

19 B. All Navajo Nation Fiscal Recovery Funds that have not been allocated to a NNFRF
20 Expenditure Plan through a Navajo Nation Council resolution enacted pursuant to CJY-
21 41-21 by the end of the second quarter of Fiscal Year 2024 may be re-allocated to the
22 NNFRF Hardship Assistance Expenditure Plan through Navajo Nation Council resolution
23 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

24 C. The allocation of unallocated NNFRF funds to the NNFRF Hardship Assistance
25 Expenditure Plan shall require a separate or revised expenditure plan be submitted to the
26 Navajo Nation Department of Justice for an eligibility determination.
27

28 **SECTION ELEVEN. REPORTING**

29 A. All entities receiving Navajo Nation Fiscal Recovery Funds shall keep and maintain
30 accurate and complete financial data and records sufficient to demonstrate that the

1 Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have
2 been used by the reporting entity in accordance with the provisions of ARPA and timely
3 relay such reports and records to the administrative oversight, Office of Controller,
4 Office of Management and Budget, FRF Office, and legislative oversight as directed
5 in the grant or sub-recipient agreements if any, and when requested. Such reports and
6 records shall be maintained for at least seven (7) years after the project and/or service
7 has been completed. The Office of the Controller shall be responsible for compiling
8 and providing any and all records and financial reports required by the U.S. Treasury.

9 B. All entities receiving Navajo Nation Fiscal Recovery Funds through an approved
10 Expenditure Plan shall report the status of their NNFRF allocations to their respective
11 oversight committees at the end of each Fiscal Year quarter. The entity with
12 administrative oversight over the Expenditure Plan shall review the quarterly report
13 prior to its presentation and shall participate in the presentation to the oversight
14 committee(s).

15 C. The Executive Director of the NNFRF Office, with the assistance of the Office of the
16 Controller and Office of Management and Budget, shall report the status of all allocated
17 Navajo Nation Fiscal Recovery Funds and NNFRF Expenditure Plans to the Budget
18 and Finance and Naabik'íyáti' Committees at the end of each Fiscal Year quarter.

19
20 **SECTION TWELVE. EFFECTIVE DATE**

21 This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 164 (A)(17) and 2
22 N.N.C. §§ 1005 (C) (10), (11), and (12).

23
24 **SECTION THIRTEEN. AMENDMENTS**

25 Amendments to this legislation shall only be adopted by a two-thirds (2/3) vote of all
26 members of the Navajo Nation Council and approval of the President of the Navajo Nation
27 pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

28
29 **SECTION FOURTEEN. SAVING CLAUSE**

30 If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court,

1 or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court,
2 those provisions of this legislation not determined invalid shall remain the law of the Navajo
3 Nation.

4
5 **SECTION FIFTEEN. DIRECTIVES**

6 All Navajo Nation government programs, offices, and divisions, as well as Navajo Nation
7 owned entities, specifically including those programs, offices, divisions, and Navajo Nation
8 owned entities receiving Navajo Nation Fiscal Recovery Funds, shall prioritize the
9 implementation and completion of NNFRF projects and/or services.

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