TITLE: 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

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

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.
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.
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’íyáti’ 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).
SECTION TWO. FINDINGS


C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life throughout the world, the United States, and the Navajo Nation. As of November 19, 2021, the Navajo Nation Health Command Operations Center has confirmed 38,742 COVID-19 cases and 1,518 COVID-related deaths on the Navajo Nation. COVID-19 variants have recently emerged that threaten to increase these numbers and continue the pandemic’s assault on the Navajo People.

D. The devastating effects of COVID-19 continue throughout the Navajo Nation and extend beyond the health and life devastation to wide scale negative financial effects, such as employment losses, business closures, food and housing insecurity, and other economic disruptions.

E. In response to the pandemic, on March 11, 2021, United States President Joseph Biden signed the American Rescue Plan Act ("ARPA") into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which established the Coronavirus State Fiscal Recovery Fund, and section 603, which established the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds" or "FRF") and provided $362 billion for state, local, and tribal governments, including $20 billion.
specifically designated for tribal governments.

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

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

1. respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;

2. respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

3. provide government services to the extent of the reduction in Navajo Nation revenue due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year prior to the COVID-19 public health emergency; and

4. make necessary investments in water, sewer, and/or broadband infrastructure.

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

I. Pursuant to ARPA:

1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the Navajo Nation must obligate FRF funds by that date. Treasury’s
Interim Final Rule provides that “incurred” shall have the same meaning given to “financial obligation” under the Uniform Guidance at 2 CFR 200.1: “Financial obligations, when referencing a recipient's or sub-recipient's use of funds under a Federal award, means orders placed for property and services, contracts and sub-awards made, and similar transactions that require payment.”; and

2. The Fiscal Recovery Fund period of performance runs from March 3, 2021 until December 31, 2026, meaning that all FRF-funded projects must be completed and funds must be fully expended by December 31, 2026.

3. Costs incurred by the Navajo Nation prior to March 3, 2021 are not eligible.

4. Any funds not obligated or expended for eligible uses by the dates above in sections I (1) and (2) must be returned to Treasury, including any unobligated or unexpended funds that have been provided to sub-recipients and contractors as part of the award closeout process.

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

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

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

M. To ensure the Navajo Nation’s compliance with ARPA, Section Four of CJY-41-21 also
directed the Navajo Nation Department of Justice ("DOJ") to perform "an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures." Resolution No. BFS-31-21 incorporated DOJ's initial determination into the mandatory NNFRF application procedures, forms, and an expenditure plan template, which requires, among other things, identification of the entity with administrative oversight over the Funding Recipient. Administrative oversight means having the authority to monitor the implementation of an approved FRF Expenditure Plan and the expenditure of awarded funds. The duties of the entity with administrative oversight are set forth in Section Seven of the FRF Procedures in exhibits 1 through 5 of BFS-31-21.

N. The Office of the President and Vice-President, in coordination with the Division of Community Development ("DCD"), presented ARPA and Fiscal Recovery Fund information at each of the five (5) Agency Council Meetings to hear from the Navajo People concerning their needs and priorities for projects and/or services funded through the NNFRF. In addition, DCD has met with Navajo Nation Chapters, individually and collectively, on more than fifty (50) occasions to discuss NNFRF matters.

O. The Navajo Nation Council hosted twenty-six (26) Naabik’íyáti’ Committee Work Sessions, all open to the public, to hear from the Navajo People concerning their needs and priorities for projects and/or services funded through the Navajo Nation Fiscal Recovery Fund. In addition, Standing Committees of the Navajo Nation Council held more than twenty (20) committee meetings, all open to the public, that have included NNFRF reports and infrastructure specific discussions.

P. The Navajo Nation Council and Office of the President and Vice-President concur that, based on their respective public consultation efforts, it is in the best interest of the Navajo people and Navajo communities to first enact comprehensive Navajo Nation Fiscal Recovery Fund Expenditure Plans for Water and Wastewater projects, Broadband projects, Home Electricity Connections projects, Housing and Housing Renovations projects, Bathroom Addition projects, and Hardship Assistance in total amount of one billion one hundred sixty-six million three thousand dollars ($1,166,003,000), as set forth in Exhibits
C through H which are incorporated herein.

SECTION THREE. APPROVAL OF WATER AND WASTEWATER PROJECTS EXPENDITURE PLANS

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

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

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

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

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

4. Fifty-seven million seven hundred forty-five thousand three hundred fifteen dollars ($57,745,315) to the Navajo Tribal Utility Authority for Centralized Wastewater Treatment Projects (Expenditure Eligibility Category 5.1) as set
forth in **Exhibit C-4**, with administrative oversight by the Division of Community Development ("DCD") and legislative oversight by the Resources and Development Committee.

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

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

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

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

9. Fourteen million two hundred fifty thousand dollars ($14,250,000) to the Navajo Tribal Utility Authority for Drinking Water Storage Projects (Expenditure Eligibility Category 5.14), as set forth in **Exhibit C-9**, with administrative oversight by the Division of Natural Resources and legislative oversight by the Resources and Development Committee.
10. Nine million eight hundred nine thousand two hundred thirty-nine dollars ($9,809,239) to the Navajo Tribal Utility Authority for Drinking Water Cistern Projects (Expenditure Eligibility Category 5.15), as set forth in Exhibit C-10, with administrative oversight by the Division of Natural Resources and legislative oversight by the Resources and Development Committee.

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

SECTION FOUR. APPROVAL OF BROADBAND PROJECTS EXPENDITURE PLANS

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

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

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

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

3. Twenty-five million ($25,000,000) to the Navajo Tribal Utility Authority for
Broadband “Last Mile” Grants to Various Carriers (Not Including NTUA) projects (Expenditure Eligibility Category 5.16), as set forth in Exhibit D-3, with administrative oversight by the Division of General Services and joint legislative oversight by the Health Education Human Services and Resources and Development Committees.

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

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

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

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

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

SECTION SIX. APPROVAL OF HOUSING AND HOUSING RENOVATION
PROJECTS EXPENDITURE PLANS
A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
Housing and House Renovations Expenditure Plans set forth in Exhibits F and F-1 through
F-3.
B. The Navajo Nation hereby approves total funding for the NNFRF Housing and Housing
Renovation Expenditure Plans from the Navajo Nation Fiscal Recovery Fund in the total
amount of one hundred million dollars ($100,000,000) and allocates the funding as
follows:
1. Forty million dollars ($40,000,000) to the Community Housing and Infrastructure Department for Housing Support Services – New Housing Projects (Expenditure Eligibility Category 3.11), as set forth in Exhibit F-1, with administrative oversight by the Division of Community Development and legislative oversight by the Resources and Development Committee.

2. Ten million dollars ($10,000,000) to the Community Housing and Infrastructure Department for Housing Support Services – Housing Renovation Projects (Expenditure Eligibility Category 3.12), as set forth in Exhibit F-2, with administrative oversight by the Division of Community Development and legislative oversight by the Resources and Development Committee.

3. Fifty million dollars ($50,000,000) to the Navajo Nation Veterans Administration Veterans Housing Program for Housing Support Services – New Housing Projects (Expenditure Eligibility Category 3.11) as set forth in Exhibit F-3, with administrative oversight by the Navajo Nation Veterans Administration and legislative oversight by the Health Education and Human Services Committee.

C. The Housing Projects Expenditure Plan and Housing Renovation Projects Expenditure Plan assigned to the Community Housing and Infrastructure Department are need-based. To the fullest extent possible, all new housing shall be accessible to persons with physical disabilities and shall meet the standards and specifications within the Americans with Disabilities Act. The eligibility criteria for receiving services under both Expenditure Plans shall be approved by the Resources and Development Committee through resolution.

D. The Housing Projects Expenditure Plan assigned to the Navajo Nation Veterans Administration Veterans Housing Program is need-based. To the fullest extent possible, all new housing shall be accessible to persons with physical disabilities and shall meet the standards and specifications within the Americans with Disabilities Act. The eligibility criteria for receiving services under that Expenditure Plan shall be approved by the Health Education and Human Services Committee through resolution, upon recommendation of the Navajo Nation Veterans Advisory Council.

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

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

SECTION EIGHT. APPROVAL OF NAVAJO NATION FISCAL RECOVERY FUND
HARDSHIP ASSISTANCE EXPENDITURE PLAN
A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund
   Hardship Assistance Expenditure Plan set forth in Exhibit H.
B. The Navajo Nation hereby approves total funding for the NNFRF Hardship Assistance
   Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of two
   hundred seven million dollars ($207,000,000) and allocates the funding as follows:
   1. Two hundred seven million dollars ($207,000,000) to the Office of the Controller
for Household Assistance – Cash Transfers (Expenditure Eligibility Category 2.3),
as set forth in Exhibit H, with administrative oversight by the Office of the
President and Vice-President and legislative oversight by the Budget and Finance
Committee.

SECTION NINE. ADMINISTRATION OF NAVAJO NATION FISCAL RECOVERY
FUND EXPENDITURE PLANS

A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through an
immediate allocation under CJY-41-21 or subsequently approved NNFRF Expenditure
Plan, shall comply with all Navajo Nation laws, policies, regulations, rules, and
procedures, specifically including, but not limited to, those governing the NNFRF and
the expenditure of such funds, and any additional terms set forth in a grant, sub-
recipient, or similar agreement.

B. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the
Navajo Nation must obligate FRF funds by that date. For internal Navajo Nation purposes,
the term “obligated” is defined in BFS-31-21, Section Three on page 3 of Exhibits 1
through 5. Any NNFRF funds not obligated by the end of the third quarter of Fiscal Year
2024 shall be reported to the Naabik’íyáti’ Committee and are subject to reversion to the
NNFRF, by a resolution of the Naabik’íyáti’ Committee, and will then be available for
reallocation to other NNFRF Expenditure Plans pursuant to resolution(s) of the Navajo
Nation Council enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10),
(11), and (12).

C. Projects and/or services funded with Navajo Nation Fiscal Recovery Funds must be
completed and all NNFRF funds fully spent by December 31, 2026.

D. Navajo Nation Fiscal Recovery Fund Expenditure Plan funds shall be available for use by
a funding recipient that is a branch, division, department, or other unit of the Navajo Nation
central government as soon as a detailed budget has been administratively approved and
the Office of Management and Budget has entered such budget into the Financial
Management Information System.

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

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

G. All proposed modifications to an approved FRF Expenditure Plan or an approved FRF
Expenditure Plan budget shall comply with section 8 of exhibits 1 through 5 of BFS-31-21. Any increase in funding for an approved FRF Expenditure Plan shall require approval
by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2
N.N.C. §§ 1005 (C) (10), (11), and (12). Proposed modifications of Expenditure Plans
shall be submitted to the Navajo Nation Department of Justice ("DOJ") for an eligibility
determination review to ensure the proposed modification will be an eligible use of FRF.
Modifications that change the purpose and intent of the Expenditure Plan or projects and
services within the approved Expenditure Plan or that substantially change the scope of
work of the Expenditure Plan shall require approval by the Navajo Nation Council. As set
forth in BFS-31-21, DOJ shall make the determination whether Navajo Nation Council
approval of the modification is required. After DOJ has reviewed the request for a
modification of an approved Expenditure Plan and determined that legislative approval is
not needed, or after the modification is approved by a Navajo Nation Council resolution
enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12),
the Administrative Oversight entity acting on behalf of the Funding Recipient shall submit
a budget revision request to OMB, if needed. The Budget Instruction Manual provisions
regarding budget revision requests shall apply.
H. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, may be administratively moved between projects and/or services included within the same Expenditure Plan. DOJ shall verify that the projects and/or services share the same Expenditure Eligibility Category before any NNFRF funding is moved between projects and/or services.

I. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, cannot be moved between Expenditure Plans without approval by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

J. Approved Expenditure Plans for need-based projects and services, such as Bathroom Addition or Home Electricity Connection projects, may be administratively modified without Navajo Nation Council action as long as the total funding awarded for the Expenditure Plan is not increased and the new project or service is within the same Expenditure Eligibility Category.

K. To add projects or services to an approved Expenditure Plan when such projects and/or services are not need-based projects or services, shall require a DOJ initial eligibility determination pursuant to BFS-31-21 and the addition must be approved through resolution by the Standing Committee(s) having oversight over the Expenditure Plan and the Budget and Finance Committee. If the new project and/or service increases the total funding awarded for the Expenditure Plan or does not share the same Expenditure Eligibility Category as the Expenditure Plan, BFS-31-21 must be fully complied with and the addition can only be added through Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12) is required.

L. The Emergency Procurement provisions set forth in CJY-41-21, Section Ten, shall apply to all NNFRF Expenditure Plans enacted herein, as well as to all American Rescue Plan Act and Fiscal Recovery Fund procurements by the Navajo Nation and its entities.

M. All entities receiving Navajo Nation Fiscal Recovery Funds shall follow and apply Generally Accepted Accounting Principles (GAAP), as established by the Governmental Accounting Standards Board (GASB) for governmental entities and by the Financial Accounting Standards Board (FASB) for public and private companies and nonprofits, in reporting, recording, and accounting for such Funds.
N. Fraud, misuse of funds, violation of applicable Navajo Nation or federal laws and regulations, non-compliance with FRF agreements governing grants or sub-awards, and false statements or claims by any individual or entity receiving or administering Navajo Nation Fiscal Recovery Funds may result in administrative, civil, or criminal sanctions and penalties, debarment and suspension, ineligibility for future Navajo Nation awards or business opportunities, and the Navajo Nation may pursue any other legal action or remedy available by law.

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

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

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

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

SECTION ELEVEN. REPORTING

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

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

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

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

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

SECTION FOURTEEN. SAVING CLAUSE
If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court,
or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, those provisions of this legislation not determined invalid shall remain the law of the Navajo Nation.

SECTION FIFTEEN. DIRECTIVES

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