

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0087-22\_

SPONSOR: Amber Kanazbah Crotty

**TITLE: An Action Relating to the Naabik'iyáti' Committee and Navajo Nation Council; Allocating \$1,070,298,867 of Navajo Nation Fiscal Recovery Funds for Regional and Chapter Projects; Approving the Navajo Nation Fiscal Recovery Fund Regional and Chapter Projects Expenditure Plan**

*Date posted:* April 21, 2022 at 6:40 PM

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LEGISLATIVE SUMMARY SHEET  
Tracking No. 0087-22

**DATE:** April 20, 2022

**TITLE OF RESOLUTION:** AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; ALLOCATING \$1,070,298,867 OF NAVAJO NATION FISCAL RECOVERY FUNDS FOR REGIONAL AND CHAPTER PROJECTS; APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND REGIONAL AND CHAPTER PROJECTS EXPENDITURE PLAN

**PURPOSE:** This resolution, if approved, will allocate \$1,070,298,867 of Navajo Nation Fiscal Recovery Funds for Regional and Chapters Projects with \$44,595,786 allocated to each Delegate Region.

**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: 04-26-22  
Eligible for Action: 04-27-22

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 24<sup>th</sup> NAVAJO NATION COUNCIL – Fourth Year, 2022

3 INTRODUCED BY

4    
5  
6 Primary Sponsor

7  
8 TRACKING NO. 0087-22

9  
10 AN ACTION  
11 RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION  
12 COUNCIL; ALLOCATING \$1,070,298,867 OF NAVAJO NATION FISCAL  
13 RECOVERY FUNDS FOR REGIONAL AND CHAPTER PROJECTS;  
14 APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND REGIONAL  
15 AND CHAPTER PROJECTS EXPENDITURE PLAN

16  
17 **BE IT ENACTED:**

18  
19 **SECTION ONE. AUTHORITY**

- 20 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).  
21 B. Navajo Nation Council Resolution No. CJY-41-21, attached as **Exhibit A**, mandates that  
22 Navajo Nation Fiscal Recovery Fund (“NNFRF”) Expenditure Plans be duly adopted by a  
23 two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the  
24 President of the Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C)  
25 (10), (11), and (12).  
26 C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council  
27 with the delegated responsibility to hear proposed resolution(s) that require final action  
28 by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

29  
30 **SECTION TWO. FINDINGS**

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

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

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

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

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

27 I. Pursuant to ARPA:

- 28 1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning  
29 that the Navajo Nation must obligate FRF funds by that date. Treasury’s Final  
30 Rule provides that “incurred” shall have the same meaning given to “financial

1 obligation” under the Uniform Guidance at 2 CFR 200.1: “*Financial*  
2 *obligations*, when referencing a recipient's or sub-recipient's use of funds  
3 under a Federal award, means orders placed for property and  
4 services, contracts and sub-awards made, and similar transactions that  
5 require payment”; and

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

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

18 K. On July 23, 2021, the Navajo Nation Council adopted Resolution No. CJY-41-21, attached  
19 as **Exhibit A**, establishing the Navajo Nation Fiscal Recovery Fund (“NNFRF”) into  
20 which the Navajo Nation’s allocation of \$2,079,461,464 has been deposited. In addition  
21 to establishing the NNFRF, CJY-41-21 also allocated two hundred forty-four million two  
22 hundred sixteen thousand four hundred fifty-one dollars (\$244,216,451) to fund de-funded  
23 CARES projects and to reimburse the Sihasín Fund and Unreserved Undesignated Fund  
24 Balance (“UUFB”) Fiscal Recovery Fund eligible projects.

25 L. CJY-41-21 also adopted an expenditure authorization and approval process for the  
26 allocation of funds from the NNFRF. In Section Four of CJY-41-21, the Navajo Nation  
27 Council mandated the Budget and Finance Committee to adopt application and review  
28 procedures, as well as an expenditure plan template, to be used by entities requesting  
29 Navajo Nation Fiscal Recovery Funds. In compliance with CJY-41-21’s mandate, the  
30 Budget and Finance Committee approved Resolution No. BFS-31-21 which established

1 mandatory Navajo Nation Fiscal Recovery Fund application procedures, forms, and an  
2 expenditure plan template. BFS-31-21 is incorporated herein by reference.

3 M. To ensure the Navajo Nation’s compliance with ARPA, Section Four of CJY-41-21 also  
4 directed the Navajo Nation Department of Justice (“DOJ”) to perform “an initial  
5 determination of whether a NNFRF funding request satisfies the legal requirements of the  
6 Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws,  
7 regulations, and policies and procedures.” Resolution No. BFS-31-21 incorporated DOJ’s  
8 initial determination into the mandatory NNFRF application procedures, forms, and an  
9 expenditure plan template, which requires, among other things, identification of the entity  
10 with Administrative Oversight over the Funding Recipient.

11 1. For purposes of the Navajo Nation Fiscal Recovery Fund, Administrative  
12 Oversight means having the authority to monitor the implementation of an  
13 approved FRF Expenditure Plan and the expenditure of awarded funds. The duties  
14 of the entity with Administrative Oversight are set forth in Section Seven of the  
15 FRF Procedures in exhibits 1 through 5 of BFS-31-21.

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

22 O. The Navajo Nation Council hosted twenty-six (26) Naabik’íyáti’ Committee Work  
23 Sessions, all open to the public, to hear from the Navajo People concerning their needs  
24 and priorities for projects and/or services funded through the Navajo Nation Fiscal  
25 Recovery Fund. In addition, Standing Committees of the Navajo Nation Council held  
26 more than forty (40) committee meetings, all open to the public, that have included  
27 NNFRF reports and infrastructure specific discussions.

28 P. The Navajo Nation Council and Office of the President and Vice-President concurred,  
29 based on their respective public consultation efforts, that it was in the best interest of the  
30 Navajo people to first enact a Navajo Nation Fiscal Recovery Fund Hardship Assistance

1 Expenditure Plan. To that end, the Navajo Nation Council adopted Resolution No. CD-  
2 62-21 providing \$557,000,000 in Hardship Assistance for Navajo members to mitigate  
3 the financial devastation caused by the COVID-19 pandemic. The President agreed  
4 with the Council and signed CD-62-21 into law on January 4, 2022.

- 5 Q. The Navajo Nation Council has determined, based on their public consultation efforts,  
6 that it is in the best interest of the Navajo people and Navajo communities to next fund  
7 local and regional projects and enact a comprehensive Navajo Nation Fiscal Recovery  
8 Fund Expenditure Plan for Regional and Chapter Projects in the total amount of one  
9 billion seventy million two hundred ninety-eight thousand eight hundred sixty-seven  
10 dollars (\$1,070,298,867) to be divided equally between the twenty-four (24) Delegate  
11 Regions in the amount of forty-four million five hundred ninety-five thousand seven  
12 hundred eighty-six dollars (\$44,595,786) per Delegate Region as set forth in **Exhibit**  
13 **C**.

14  
15 **SECTION THREE. APPROVAL OF THE REGIONAL AND CHAPTER PROJECTS**  
16 **EXPENDITURE PLAN**

- 17 A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund  
18 Regional and Chapter Projects Expenditure Plan set forth herein and in **Exhibit C**.
- 19 B. The Navajo Nation hereby approves total funding for the NNFRF Regional and Chapter  
20 Projects Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total  
21 amount of one billion seventy million two hundred ninety-eight thousand eight hundred  
22 sixty-seven dollars (\$1,070,298,867) to be divided equally between the twenty-four  
23 (24) Delegate Regions in the amount of forty-four million five hundred ninety-five  
24 thousand seven hundred eighty-six dollars (\$44,595,786) per Delegate Region, as set  
25 forth in **Exhibit C**, and allocated through Delegate Region Project Plans approved by  
26 Navajo Nation Council resolution and signed into law by the President of the Navajo  
27 Nation pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
- 28 C. For purposes of the NNFRF and the Regional and Chapter Projects Expenditure Plan,  
29 “Delegate Region” shall mean all the Navajo Nation chapters, both LGA Certified and  
30 non-LGA chapters, and Townships, represented by a Navajo Nation Council delegate.

1 D. The 12 N.N.C. § 820 (O) 50-50 Chapter Distribution Formula does not apply to the  
2 Regional and Chapter Projects Expenditure Plan and/or the Delegate Region Project Plans.  
3 The 50-50 Formula only applies to appropriations intended for distribution to all Chapters  
4 of the Navajo Nation. The Regional and Chapter Projects Expenditure Plan and Delegate  
5 Region Project Plan funding will be allocated to the Navajo Nation Central Government,  
6 specifically the Division of Community Development or other appropriation Navajo  
7 Nation Division or Department, to implement the projects rather than directly to the  
8 Chapters.

9 E. The Navajo Nation Central Government, specifically the Division of Community  
10 Development or other appropriation Navajo Nation Division or Department, shall manage  
11 and administer funds and Delegate Region Project Plans on behalf of Non-LGA-Certified  
12 Chapters. The Navajo Nation Central Government may award funding to LGA-Certified  
13 Chapters through sub-recipient agreements to implement and manage specific projects, but  
14 shall maintain Administrative Oversight over such funding and Delegate Region Project  
15 Plans.

16 1. LGA-Certified Chapters shall immediately return to the Office of the  
17 Controller all Chapter Project Plan funds that remain unobligated and  
18 unencumbered as of 5:00 p.m. on September 30, 2024.

19 2. LGA-Certified Chapters shall immediately return to the Office of the  
20 Controller all Chapter Project Plan funds that remain unexpended as of 5:00  
21 p.m. on September 30, 2026

22 F. Each Navajo Nation Council delegate shall select Fiscal Recovery Fund eligible projects  
23 within their Delegate Region to be funded by the NNFRF Regional and Chapter Projects  
24 Expenditure Plan through a Delegate Region Projects Plan. The total cost of projects  
25 selected by each Delegate shall not exceed their Delegate Region distribution of forty-four  
26 million five hundred ninety-five thousand seven hundred eighty-six dollars  
27 (\$44,595,786) as set forth in **Exhibit C**.

28 G. The projects selected by each Navajo Nation Council delegate shall be compiled into a  
29 Delegate Region Projects Plan for their respective Delegate Region and approved by  
30 Navajo Nation Council resolution and signed into law by the President of the Navajo

1 Nation pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

2 H. Delegates may select projects for their Delegate Region Projects Plan from the list of  
3 projects, attached as **Exhibit D**, that have already been submitted to NNDOJ for an initial  
4 eligibility determination and are not included in another enacted Expenditure Plan.  
5 Delegates may also add region specific funds to other previously enacted Project or  
6 Expenditure Plans. In addition, Delegates may also select projects that have *not* previously  
7 been submitted to NNDOJ for an initial eligibility determination, including proposed FRF  
8 chapter projects submitted to the Division of Community Development, although such  
9 projects will have to have a NNDOJ eligibility determination before they can be approved  
10 by the Navajo Nation Council.

11 I. The NNFRF Office, with the assistance of the Division of Community Development and  
12 other necessary Executive Branch Divisions and Departments, shall assist each Council  
13 Delegate in developing their respective Delegate Region Projects Plan, including the  
14 applicable BFS-31-21 Appendix A and Appendix B forms and supporting documents, for  
15 those projects that have not already received NNDOJ initial eligibility determinations.

16 J. The NNFRF Office shall, notwithstanding BFS- 31-21, act and sign in the place of the  
17 respective Administrative Oversight Division and submit each project included on the  
18 respective Delegate Region Projects Plan to NNDOJ for an initial eligibility determination  
19 as required under CJY-41-21. NNDOJ shall be allowed five (5) work days, in addition to  
20 BFS-31-21's five (5) days, to complete required initial eligibility determinations for  
21 Delegate Region Projects.

22 1. The NNFRF Office shall not be required to submit projects to NNDOJ that  
23 already have an initial eligibility determination, provided that there is no proposed  
24 change in the project scope of work, eligibility category, and/or the amount of  
25 funding requested for the project.

26 K. Each Delegate shall submit a comprehensive list of projects, including applicable BFS-31-  
27 21 Appendix A, Appendix B, and supporting documents for those projects that have not  
28 already received NNDOJ initial eligibility determinations, for their respective Delegate  
29 Region, totaling no more than their Delegate Region allocation of \$44,595,786 set forth in  
30 **Exhibit E**, to the NNFRF Office within ninety (90) days after this legislation is fully

1 enacted.

- 2 1. If the NNFRF Office has not received a comprehensive list of projects for a  
3 Delegate Region, including Appendix A, Appendix B and supporting  
4 documents for each project, within ninety (90) days after this legislation is fully  
5 enacted, the total allocation for that Delegate Region shall automatically revert  
6 to the Navajo Nation Fiscal Recovery Fund. Navajo Nation Council and  
7 President of the Navajo Nation action shall not be required for the reversion.

8 L. All Delegate Region Project Plans shall be subject to the following requirements and  
9 restrictions:

- 10 1. Delegate Region Projects shall fall under one of the allowable U.S. Treasury  
11 Expenditure Eligibility Categories set forth in **Exhibit B**.
- 12 2. Delegate Region Projects Plans may include NNFRF-eligible projects for  
13 programs to provide government services to Chapter members; to provide basic  
14 PPE to Chapter members; to provide food, fuel, firewood assistance to Chapter  
15 members negatively impacted by COVID-19; to construct projects such as  
16 COVID-19 mitigation renovations to Chapter houses, housing renovations, and  
17 house wiring; to plan and design projects; to hire consultants to assist with NNFRF-  
18 eligible programs and projects; to hire PEP workers, student workers and other  
19 temporary employees, or regular status employees to assist the Chapter  
20 governments in carrying out NNFRF-eligible programs and projects. Delegate  
21 Region Project Plans shall not include COVID-19 testing and vaccinations, or any  
22 cash assistance for Chapter members such as a hardship assistance program.
- 23 3. All pre-construction related projects included in a Delegate Region Project Plans  
24 shall be “project ready” meaning that a project’s planning and design work is able  
25 to begin once funding is received, and the expedited timeframe in which the project  
26 can be completed.
- 27 a. The Council Delegate, with the assistance of the NNFRF Office, shall  
28 complete a separate Division of Community Development (DCD) project  
29 evaluation form and supporting documents for each proposed pre-  
30 construction related project which shall include project-site readiness, valid

1 land withdrawal and permitting approvals, as well as the anticipated  
2 timeframe during which the project will be completed.

3 b. The NNFRF Office shall submit the fully completed form through the  
4 DCD Portal. If DCD is not the Administrative Oversight over the proposed  
5 project, the NNFRF Office shall also submit the project evaluation form  
6 and all supporting documents to the entity that will have Administrative  
7 Oversight over the proposed project.

8 4. Construction projects shall be “construction ready” meaning that a project’s  
9 planning and design work has been completed and construction is able to begin  
10 once funding is received, and the expedited timeframe in which the project can be  
11 completed.

12 a. The Council Delegate, with the assistance of the NNFRF Office, shall  
13 complete a separate DCD project evaluation form for each proposed  
14 construction project which shall include project site readiness, valid  
15 land withdrawal and permitting approvals, as well as the anticipated  
16 timeframe during which the project will be completed.

17 b. The NNFRF Office shall submit the fully completed form and all  
18 supporting documents through the DCD Portal. If DCD is not the  
19 Administrative Oversight over the proposed project, the NNFRF  
20 Office shall also submit the project evaluation form and all supporting  
21 documents to the entity that will have Administrative Oversight over  
22 the proposed project.

23 5. All proposed Delegate Region projects shall be sufficiently developed such that  
24 funding for the project(s) can be obligated and encumbered in the Nation’s  
25 Financial Management Information System (“FMIS”) by 5:00 p.m. on September  
26 30, 2024, and fully expended by 5:00 p.m. on September 30, 2026 or such earlier  
27 dates as may be determined by resolution of the Navajo Nation Council. This  
28 generally requires NEPA, ROW, and design work to be sufficiently advanced such  
29 that these pre-construction tasks can be completed in time to execute construction  
30 contracts and encumber funds by 5:00 p.m. on September 30, 2024.

- 1           6. The Administrative Oversight entity for each project shall be responsible for  
2           making the determination whether the proposed Delegate Region project is  
3           “project-ready” or “construction-ready”. If a proposed project is not deemed  
4           project-ready or construction-ready, the project shall not be eligible for inclusion  
5           in a Delegate Region Project Plan.
- 6           7. Each Delegate Region Project shall be subject to CJY-41-21’s NNDOJ initial  
7           eligibility determination.
- 8           8. Each Delegate Region Project shall identify its Administrative Oversight entity and  
9           its Oversight Committee(s).
- 10          9. Each Delegate Region shall be limited to a total of nine million one hundred fifty  
11          thousand dollars (\$9,150,000) of Revenue Replacement Projects (Expenditure  
12          Eligibility Categories 6.1: Provision of Government Services and 6.2 Non-federal  
13          Match for Other Federal Programs). The Office of the Controller may issue  
14          guidance that increases this amount in the next fiscal year.
- 15          10. Delegate Region Projects shall not include Sanitation Deficiency Systems Service  
16          (“SDS”) included on the Indian Health Service 2022 SDS List, attached as **Exhibit**  
17          **E**, or on any prior year Indian Health Services SDS List.
- 18          11. The Navajo Nation Council urges Delegate Region Project Expenditure Plans  
19          to include and prioritize Veteran Housing and other projects that will benefit  
20          Navajo veterans.
- 21          M. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve  
22          for NNFRF Regional and Chapter Projects construction projects shall be implemented  
23          on a case-by-case basis through resolution(s) approved by the Navajo Nation Council  
24          and enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11),  
25          and (12).

26  
27       **SECTION FOUR. ADMINISTRATION OF NAVAJO NATION FISCAL RECOVERY**  
28       **FUND EXPENDITURE PLANS**

- 29          A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through an  
30          immediate allocation under CJY-41-21 or subsequently approved NNFRF Expenditure

1 Plan, shall comply with all Navajo Nation laws, policies, regulations, rules, and  
2 procedures, specifically including, but not limited to, those governing the NNFRF and  
3 the expenditure of such funds, and any additional terms set forth in a grant, sub-  
4 recipient, or similar agreement.

5 B. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the  
6 Navajo Nation must obligate FRF funds by that date. For internal Navajo Nation purposes,  
7 the term “obligated” is defined in BFS-31-21, Section Three on page 3 of Exhibits 1  
8 through 5. Any NNFRF funds not obligated by the end of the third quarter of Fiscal Year  
9 2024 shall be reported to the Naabik’iyáti’ Committee and are subject to reversion to the  
10 NNFRF, by a resolution of the Naabik’iyáti’ Committee, and will then be available for  
11 reallocation to other NNFRF Expenditure Plans pursuant to resolution(s) of the Navajo  
12 Nation Council enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10),  
13 (11), and (12).

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

22 D. Awarded Navajo Nation Fiscal Recovery Funds shall only be obligated and expended on  
23 projects and/or services, including need-based projects and services, that were included as  
24 an immediate allocation under CJY-41-21 or are included in a NNFRF Expenditure Plan  
25 approved and adopted by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C.  
26 § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).

27 E. All proposed modifications to an approved FRF Expenditure Plan or an approved FRF  
28 Expenditure Plan budget shall comply with section 8 of exhibits 1 through 5 of BFS-31-  
29 21. Any increase in funding for an approved FRF Expenditure Plan shall require approval  
30 by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2

1 N.N.C. §§ 1005 (C) (10), (11), and (12). Proposed modifications of Expenditure Plans  
2 shall be submitted to the Navajo Nation Department of Justice (“DOJ”) for an eligibility  
3 determination review to ensure the proposed modification will be an eligible use of FRF.  
4 Modifications that change the purpose and intent of the Expenditure Plan or projects and  
5 services within the approved Expenditure Plan or that substantially change the scope of  
6 work of the Expenditure Plan shall require approval by the Navajo Nation Council. As set  
7 forth in BFS-31-21, DOJ shall make the determination whether Navajo Nation Council  
8 approval of the modification is required. After DOJ has reviewed the request for a  
9 modification of an approved Expenditure Plan and determined that legislative approval is  
10 not needed, or after the modification is approved by a Navajo Nation Council resolution  
11 enacted pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12),  
12 the Administrative Oversight entity acting on behalf of the Funding Recipient shall submit  
13 a budget revision request to OMB, if needed. The Budget Instruction Manual provisions  
14 regarding budget revision requests shall apply.

15 F. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, may be  
16 administratively moved between projects and/or services included within the same  
17 Expenditure Plan, as long as such projects and/or services share the same Expenditure  
18 Eligibility Category. DOJ shall verify that the projects and/or services share the same  
19 Expenditure Eligibility Category before any NNFRF funding is moved between projects  
20 and/or services.

21 G. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, cannot be moved  
22 between Expenditure Plans without approval by a 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 H. Approved Expenditure Plans for need-based projects and services, such as Bathroom  
25 Addition or Home Electricity Connection projects, may be administratively modified  
26 without Navajo Nation Council action as long as the total funding awarded for the  
27 Expenditure Plan is not increased and the new project or service is within the same  
28 Expenditure Eligibility Category.

29 I. To add projects or services to an approved Expenditure Plan when such projects and/or  
30 services are not need-based projects or services, shall require a DOJ initial eligibility

1 determination pursuant to BFS-31-21 and the addition must be approved through  
2 resolution by the Standing Committee(s) having oversight over the Expenditure Plan and  
3 the Budget and Finance Committee. If the new project and/or service increases the total  
4 funding awarded for the Expenditure Plan or does not share the same Expenditure  
5 Eligibility Category as the Expenditure Plan, BFS-31-21 must be fully complied with and  
6 the addition can only be added through Navajo Nation Council resolution enacted pursuant  
7 to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12) is required.

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

11 K. All entities receiving Navajo Nation Fiscal Recovery Funds shall follow and apply  
12 Generally Accepted Accounting Principles (GAAP), as established by the Governmental  
13 Accounting Standards Board (GASB) for governmental entities and by the  
14 Financial Accounting Standards Board (FASB) for public and private companies and non-  
15 profits, in reporting, recording, and accounting for such Funds.

16 L. All non-governmental entities, including Local Governance Act certified chapters, who  
17 receive more than five hundred thousand dollars (\$500,000) of Fiscal Recovery Funds in  
18 anyone year shall obtain an annual audit in accordance with the Single Audit Act  
19 Amendments of 1996), OMB Circular A-133, the and the OMB Circular Compliance  
20 Supplement and Government Auditing Standards.

21 M. Fraud, misuse of funds, violation of applicable Navajo Nation or federal laws and  
22 regulations, non-compliance with FRF agreements governing grants or sub-awards, and  
23 false statements or claims by any individual or entity receiving or administering Navajo  
24 Nation Fiscal Recovery Funds may result in administrative, civil, or criminal sanctions and  
25 penalties, debarment and suspension, ineligibility for future Navajo Nation awards or  
26 business opportunities, and the Navajo Nation may pursue any other legal action or remedy  
27 available by law.

28  
29 **SECTION FIVE. REPORTING**  
30

- 1 A. All entities receiving Navajo Nation Fiscal Recovery Funds shall keep and maintain  
2 accurate and complete financial data and records sufficient to demonstrate that the  
3 Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have  
4 been used by the reporting entity in accordance with the provisions of ARPA and timely  
5 relay such reports and records to the administrative oversight, Office of Controller,  
6 Office of Management and Budget, FRF Office, and legislative oversight as directed  
7 in the grant or sub-recipient agreements if any, and when requested. Such reports and  
8 records shall be maintained for at least seven (7) years after the project and/or service  
9 has been completed. The Office of the Controller shall be responsible for compiling  
10 and providing any and all records and financial reports required by the U.S. Treasury.
- 11 B. All entities receiving Navajo Nation Fiscal Recovery Funds through an approved  
12 Expenditure Plan shall report the status of their NNFRF allocations to their respective  
13 oversight committees at the end of each Fiscal Year quarter. The entity with  
14 Administrative Oversight over the Expenditure Plan shall review the quarterly report  
15 prior to its presentation and shall participate in the presentation to the oversight  
16 committee(s).
- 17 C. The Executive Director of the NNFRF Office, with the assistance of the Office of the  
18 Controller and Office of Management and Budget, shall report the status of all allocated  
19 Navajo Nation Fiscal Recovery Funds and NNFRF Expenditure Plans to the Budget  
20 and Finance and Naabik'iyáti' Committees at the end of each Fiscal Year quarter.

21  
22 **SECTION SIX. EFFECTIVE DATE**

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

25  
26 **SECTION SEVEN. AMENDMENTS**

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

1 **SECTION EIGHT. SAVING CLAUSE**

2 If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court,  
3 or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court,  
4 those provisions of this legislation not determined invalid shall remain the law of the Navajo  
5 Nation.

6  
7 **SECTION NINE. DIRECTIVES**

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