

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0036-26_

SPONSOR: Shawna Ann Claw

TITLE: An Action Relating to an Emergency for the Navajo Nation Council; Amending, Clarifying and Superseding Resolutions CD-54-24 and CJN-29-22 by Removing the Division of Community Development as Administrative Oversight Authority on all NNFRF Projects, Including Subrecipient Agreements; Clarifying the Office of the Controller and NNFRF office as Administrative Oversight Authority for NNFRF Projects that are Substantially Similar; and Clarifying that the Navajo Nation President Retains Authority to Execute New Contracts Regarding NNFRF Projects

Date posted: February 17, 2026 at 7:26PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0036-26

DATE: February 17, 2026

TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; AMENDING, CLARIFYING AND SUPERCEDING RESOLUTIONS CD-54-24 AND CJN-29-22 BY REMOVING THE DIVISION OF COMMUNITY DEVELOPMENT AS ADMINISTRATIVE OVERSIGHT AUTHORITY ON ALL NNFRF PROJECTS, INCLUDING SUBRECIPIENT AGREEMENTS; CLARIFYING THE OFFICE OF THE CONTROLLER AND NNFRF OFFICE AS ADMINISTRATIVE OVERSIGHT AUTHORITY FOR NNFRF PROJECTS; AUTHORIZING THE CONTROLLER TO MOVE FUNDS BETWEEN NNFRF PROJECTS THAT ARE SUBSTANTIALLY SIMILAR; AND CLARIFYING THAT THE NAVAJO NATION PRESIDENT RETAINS

PURPOSE: This proposed legislation will amend, clarify and supersede CJN-29-22 and CD-54-24 by removing the Division of Community Development as administrative oversight authority on all subrecipient agreements, clarifying the Office of the Controller and NNFRF office as administrative oversight authority for NNFRF projects; authorizing the Controller to move funds between NNFRF projects so long as the projects are substantially similar, and clarify that the Navajo Nation President will retain authority to execute new contracts regarding NNFRF projects.

FINAL AUTHORITY: Navajo Nation Council

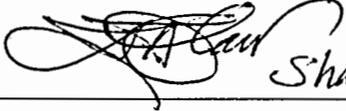
VOTE REQUIREMENT: 2/3 Vote of the Navajo Nation Council

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

25th NAVAJO NATION COUNCIL – Fourth Year, 2026

INTRODUCED BY


Shawna Aronclaw

(Prime Sponsor)



Tracking No. 0036-26

AN ACTION

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
AMENDING, CLARIFYING AND SUPERCEDING RESOLUTIONS CD-54-24 AND
CJN-29-22 BY REMOVING THE DIVISION OF COMMUNITY DEVELOPMENT AS
ADMINISTRATIVE OVERSIGHT AUTHORITY ON ALL NNFRF PROJECTS,
INCLUDING SUBRECIPIENT AGREEMENTS; CLARIFYING THE OFFICE OF THE
CONTROLLER AND NNFRF OFFICE AS ADMINISTRATIVE OVERSIGHT
AUTHORITY FOR NNFRF PROJECTS; AUTHORIZING THE CONTROLLER TO
MOVE FUNDS BETWEEN NNFRF PROJECTS THAT ARE SUBSTANTIALLY
SIMILAR; AND CLARIFYING THAT THE NAVAJO NATION PRESIDENT RETAINS
AUTHORITY TO EXECUTE NEW CONTRACTS REGARDING NNFRF PROJECTS

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation and may consider legislation regarding an emergency matter, 2 N.N.C. §§ 102(A) and 164(A)(16).
- B. "[M]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten

1 the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the
2 pressing public need for such resolution(s) and must be a matter requiring final action by
3 the Council.” 2 N.N.C. § 164(A)(16).

- 4 C. Due to the COVID-19 pandemic that started in early 2020 and the devastating economic
5 impacts that resulted nationwide, on March 11, 2021, President Joseph Biden signed into
6 law the American Rescue Plan Act ("ARPA"). ARPA provided \$362 billion for state,
7 local, and tribal governments, including \$20 billion designated for tribal governments.
- 8 D. In May of 2021, the U.S. Department of Treasury provided \$1,861,554,458.43 in ARPA
9 funds to the Navajo Nation.
- 10 E. Beginning in July of 2021, the Navajo Nation approved Resolution Nos. CJY-41-21,
11 BFS-31-21, CJN-29-22 and CMY-28-24 (each incorporated herein by this reference) that
12 create the "Navajo Nation Fiscal Recovery Fund" ("NNFRF") and manages the Navajo
13 Nation's federal ARPA allocation. "NNFRF" used herein also refers to the dollars in the
14 Navajo Nation Fiscal Recovery Fund.
- 15 F. According to federal ARPA restrictions, all NNFRF was to be obligated by December
16 31, 2024, and the Navajo Nation must fully expend all NNFRF by December 31, 2026,
17 or the Navajo Nation's ARPA funds will revert to the federal government.
- 18 G. Due to the impact of ARPA restrictions and the upcoming deadline to spend all NNFRF,
19 the Navajo Nation finds this Action as an emergency matter affecting critical government
20 services for the Navajo People and the sovereignty of the Navajo Nation, and this Action
21 must be approved without delay to meet urgent and pressing public needs.

22 23 **SECTION TWO. FINDINGS**

24 A. Under federal ARPA provisions and the U.S. Department of Treasury's Guidelines
25 governing all federal ARPA funding, the Navajo Nation must abide by the following when
26 managing its NNFRF:

- 27 1. Costs eligible for payment with ARPA funds must be incurred (obligated) by
28 December 31, 2024.
- 29 2. With regards to "obligate," the Department of Treasury's 2022 Final Rule dated
30 April 1, 2022 states: "[f]inancial obligations, when referencing a recipient's or

1 sub-recipient's use of funds under a Federal [ARPA] award, means orders placed
2 for property and services, contracts and sub-awards made, and similar
3 transactions that require payment."

4 3. According to the Department of Treasury, the "period of performance" for use of
5 ARPA funds expires on December 31, 2026. This means that all NNFRF must be
6 fully spent by December 31, 2026.

7 4. Any ARPA funds not obligated by December 31, 2024, or not fully expended for
8 eligible purposes by December 31, 2026, must be returned to the federal
9 government. This includes all unobligated and unexpended ARPA funds
10 provided to any subrecipients, vendors, or contractors.

11 B. This federal reversion mandate means that, with respect to all remaining NNFRF, the
12 Navajo Nation must timely accomplish: (1) the obligation of all NNFRF by the December
13 31, 2024 deadline; and (2) full expenditure of all NNFRF by the December 31, 2026
14 deadline.

15 C. As referenced and incorporated above, the Navajo Nation approved Resolution Nos.
16 CJY-41-21, BFS-31-21, CJN-29-22 and CMY-28-24 to create the NNFRF and to manage
17 the Navajo Nation's federal ARPA allocation received. Through one or more of these
18 resolutions, NNFRF was allocated to Navajo Nation entities ("Recipient Agencies") to
19 carry out NNFRF Expenditure Plans for projects, goods, and services across the Navajo
20 Nation. These Council-approved Expenditure Plans cover numerous Chapter Projects,
21 Delegate Region Projects, public health projects, hardship assistance payments, housing
22 and bathroom projects, broadband services, electricity line projects, water/wastewater
23 projects, and other ARPA-eligible purposes.

24 D. Unexpended NNFRF will revert to the federal government if the Navajo Nation does not
25 fully expend it by December 31, 2026. Removing timely processes and procedures that
26 are not federally required to meet this deadline is critical to prevent reversion of NNFRF
27 funds back to the federal government.

28 E. Federal requirements allowed for a comprehensive Interagency Agreement to be
29 approved and entered to obligate all remaining NNFRF by December 31, 2024. Such an
30 Interagency Agreement includes provisions ensuring that all NNFRF funds are expended

1 by the December 31, 2026 federal deadline to prevent reversion of those funds.

2 F. A comprehensive Interagency Agreement would: 1) ensure that the Navajo Nation meets
3 the December 31, 2024 funds obligation deadline; 2) provide flexibility for NNFRF
4 Expenditure Plans; and 3) expedite the transfer of remaining funds to other ARPA-
5 eligible purposes, to meet the December 31, 2026 deadline.

6 G. On December 16, 2024, the Navajo Nation Council by Resolution CD-54-24
7 (RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
8 APPROVING A COMPREHENSIVE INTERAGENCY AGREEMENT TO TIMELY
9 OBLIGATE CERTAIN NAVAJO NATION FISCAL RECOVERY FUNDS
10 ("NNFRF") BY THE U.S. DEPARTMENT OF TREASURY DEADLINE OF
11 DECEMBER 31, 2024; APPROVING OTHER NNFRF-RELATED ACTIONS)
12 approved a comprehensive Interagency Agreement for timely NNFRF obligations and
13 expenditure, amended Resolution CJN-29-22 to expedite NNFRF expenditure plan
14 modifications and funding transfer directives, approved administrative approval of
15 NNFRF Expenditure Plan modification and funding transfers, reassigned the NNFRF
16 Office to the Office of the Controller, and issued directives.

17 H. To further fulfill the purpose of streamlining and expediting the NNFRF process to
18 oversee the remaining NNFRF funds and to ensure that NNFRF does not get reverted,
19 the Navajo Nation finds that Resolutions CJN-29-22 and CD-54-24 should be amended
20 and clarified.

21
22 **SECTION THREE. AMENDING AND CLARIFYING RESOLUTIONS CJN-29-22**
23 **AND CD-54-24 BY REMOVING THE DIVISION OF COMMUNITY**
24 **DEVELOPMENT AS ADMINISTRATIVE OVERSIGHT AUTHORITY ON ALL**
25 **NNFRF PROJECTS, INCLUDING SUBRECIPIENT AGREEMENTS, AND**
26 **AUTHORIZING THE OFFICE OF THE CONTROLLER AND NNFRF OFFICE AS**
27 **ADMINISTRATIVE OVERSIGHT AUTHORITY ON ALL NNFRF PROJECTS AND**
28 **ALL SUBRECIPIENT AGREEMENTS**

29 A. Resolution CD-54-24 states: "For all Expenditure Plans approved in CJY-41-21, CJN-
30 29-22, and CMY-28-24, the administrative oversight assigned to the Office of the

1 President/Vice-President in said resolutions is hereby transferred to the Office of the
2 Controller, and each of the resolutions cited above are hereby amended accordingly to
3 provide for such transfer. The Office of the Controller shall hereafter have all authority
4 and responsibilities for the administration, management, and oversight of all remaining
5 NNFRF (unobligated or obligated), NNFRF Expenditure Plans and NNFRF
6 expenditures, including modifications thereto, governed by the EXHIBIT A Interagency
7 Agreement.” SECTION 3, No. C.

- 8 B. All Subrecipient Agreements that state the Division of Community Development is
9 administrative oversight authority, are hereby modified to remove the Division of
10 Community Development as administrative oversight authority and the Office of the
11 Controller and the NNFRF Office shall have all administrative oversight authority for all
12 NNFRF Projects, including Subrecipient Agreements.

13
14 **SECTION FOUR. AMENDING AND CLARIFYING RESOLUTIONS CJN-29-22 AND**
15 **CD-54-24 BY AUTHORIZING THE CONTROLLER TO MOVE FUNDS BETWEEN**
16 **NNFRF PROJECTS THAT ARE SUBSTANTIALLY SIMILAR**

17 The Navajo Nation hereby amends and clarifies Resolutions CJN-29-22 and CD-54-24 by
18 stating the Controller is authorized to move funds between NNFRF projects that are
19 substantially similar.

20
21 **SECTION FIVE. CLARIFYING RESOLUTION CD-54-24 BY STATING THE**
22 **NAVAJO NATION PRESIDENT HAS AUTHORITY TO EXECUTE NEW**
23 **CONTRACTS REGARDING NNFRF PROJECTS**

24 The Navajo Nation hereby clarifies Resolution CD-54-24 by stating the Navajo Nation
25 President has authority to execute new contracts regarding NNFRF Projects.

26
27 **SECTION SIX. WAIVER OF INCONSISTENT PROVISIONS**

28 The Navajo Nation hereby waives all provisions in Resolutions Nos. CJY-41-21, CJN-29-22,
29 CMY-28-24, BFS-31-21, CD-54-24 and all other Council or Standing Committee resolutions,
30 and all Executive Orders issued by the Navajo Nation President, to the extent necessary to

1 accomplish the letter, purposes, and intent of this Action.
2

3 **SECTION SEVEN. DIRECTIVES**

4 A. All NNFRF recipients are hereby directed to immediately assess whether any
5 modifications to their approved Expenditure Plans or Subrecipient Agreements are
6 needed to ensure that all NNFRF are fully expended by the December 31, 2026
7 Department of Treasury deadline. If modifications are needed, recipients shall promptly
8 submit written requests for Administrative Approval of proposed modifications, to
9 ensure the timely expenditure of all NNFRF by December 31, 2026.

10 B. The Office of the Controller and the NNFRF Office are directed to prioritize the review
11 of all proposed modifications.

12 C. Once a modification is approved by the Controller, the Office of the Controller and the
13 Office of Management and Budget shall take all necessary actions to accomplish NNFRF
14 dollar reallocations, if any, as permitted under the Interagency Agreement. Such actions
15 shall include the processing of budget transfers, preparing and executing amendments to
16 contracts or subrecipient agreements, and arranging for the encumbrance of funds.
17

18 **SECTION EIGHT. EFFECTIVE DATE**

19 This Action shall be effective in accordance with 2 N.N.C. § 221(B), 2 N.N.C. § 164(A)(17),
20 and 2 N.N.C. § 1005.
21

22 **SECTION NINE. AMENDMENTS**

23 Amendments to this Action shall only be approved by a 2/3 vote of all members of the Navajo
24 Nation Council and the approval of the Navajo Nation President pursuant to 2 N.N.C. §
25 164(A)(17) and 2 N.N.C. § 1005.
26

27 **SECTION TEN. SAVING CLAUSE**

28 If any part of this Action is determined invalid by the Navajo Nation Supreme Court, or by a
29 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, those
30 provisions of this Action not determined invalid shall remain the law of the Navajo Nation.