



**The Navajo Nation** **DR. BUU NYGREN** **PRESIDENT**  
**Yideeskáądi Nitsáhákees** **RICHELLE MONTOYA** **VICE PRESIDENT**

March 28, 2024

Honorable Crystalyne Curley, Speaker  
Office of the Speaker  
Navajo Nation Council  
P.O. Box 3390  
Window Rock, AZ 86515

*RE: Resolution CMA-15-24 An action relating to an Emergency and the Navajo Nation Council; Amending Navajo Nation Council Resolution no. CJY-41-21, Section seven, to comply with U.S. Treasury's Obligation deadlines*

Dear Honorable Delegates of the 25<sup>th</sup> Navajo Nation Council,

I am pleased to sign into law Resolution CMA-15-24. This resolution amends Navajo Nation law, Resolution No. CJY-41-21, so that the expenditure of certain American Rescue Plan (ARPA) Fiscal Recovery Funds are allowed to be spent consistent with federal law and regulations.

If the Council had not made this change, certain ARPA Fiscal Recovery Funds would have to be returned to the Navajo Nation this weekend. Importantly, this action means that we are ensuring that employees whose positions are currently funded with ARPA Fiscal Recovery Funds will be working beyond this weekend. We are saving over 100 jobs including the employees of the Navajo Nation's ARPA Office and many other employees throughout the Navajo Nation government.

I now look forward to the Council acting on Legislation No. 026-24 and on the creation of a new fund to ensure that we are properly managing the Nation's ARPA.

Finally, this legislation confirms that when the honorable Delegates and I work together, putting the needs of Diné first, we can achieve good things for the People. I look forward to continued collaboration and quick action.

Sincerely,

A handwritten signature in blue ink, appearing to be "Buu Nygren", written over a circular stamp or seal.

Dr. Buu Nygren, *President*  
**THE NAVAJO NATION**

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
25<sup>th</sup> NAVAJO NATION COUNCIL - SECOND YEAR, 2024

AN ACTION

RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION COUNCIL RESOLUTION NO. CJY-41-21, SECTION SEVEN, TO EXPAND THE ELIGIBLE USES OF NAVAJO NATION FISCAL RECOVERY FUNDS BY PROGRAMS AND OFFICES PROVIDING CENTRAL SUPPORT AND REGULATORY SERVICES AND TO COMPLY WITH THE RESPECTIVE U.S. TREASURY'S OBLIGATION DEADLINES

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. The Navajo Nation Code provides that "[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 the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council." 2 N.N.C. § 164(A)(16).
- C. This legislation is offered as an emergency because the Navajo Nation Fiscal Recovery Funds ("NNFRF") allocated in Resolution No. CJY-41-21, Section Seven, for NNFRF central support services and regulatory support services automatically revert to the NNFRF on March 31, 2024 if not expended or obligated pursuant to U.S. Treasury guidance. If this automatic reversion happens, the Navajo Nation's ability to provide COVID-19 recovery services to Navajo members will be compromised and the employment of Navajo members will be diminished.

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of International Concern related to the Coronavirus ("COVID-19"), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the

WHO declared a global pandemic due to COVID-19 on March 11, 2020.

- B. The COVID-19 has caused and continues to cause large scale infections and loss of life throughout the world, the United States, and the Navajo Nation. As of October 31, 2023, the Navajo Nation Health Command Operations Center has confirmed 87,075 COVID-19 cases and 2,224 COVID-related deaths on the Navajo Nation.
- C. 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 ("NNFRF") into which the Navajo Nation's allocation of federal American Rescue Plan Act ("ARPA") Fiscal Recovery Funds in the amount \$2,079,461,464 have been deposited. Resolution No. CJY-41-21 also adopted an expenditure authorization and approval process for the allocation of funds from the NNFRF.
- D. By accepting the ARPA Fiscal Recovery Funds, the Navajo Nation agreed to comply with rules and guidance issued by the U.S. Department of Treasury ("U.S. Treasury") concerning the use, expenditure and reporting of ARPA Fiscal Recovery Funds.
- E. Resolution No. CJY-41-21, Section Seven, established that, under Navajo law, NNFRF funding allocated for central support services and regulatory services will automatically revert to the NNFRF if not expended by March 31, 2024.
- F. The U.S. Treasury's 11/09/23 Interim Final Rule on Obligation of FRF authorized the use and expenditure of Fiscal Recovery Funds for personnel costs and other operating costs after the obligation deadline (12/31/2024) when the use and expenditure are related to compliance with federal laws, regulations, and the funding agreement (reporting and compliance requirements; Single Audit costs; record retention and internal control requirements; property standards; environmental compliance requirements; and civil rights and nondiscrimination requirements).
- G. To ensure that the Navajo Nation takes full advantage of all opportunities to expend NNFRF on costs deemed FRF eligible under U.S. Treasury rules and guidance, it is in the best interest of providing COVID-19 recovery services to the Navajo People to amend CJY-41-21 to comply with U.S. Treasury's rules and guidance, including the obligation and expenditure deadlines.

**SECTION THREE. AMENDING SECTION SEVEN OF NAVAJO NATION COUNCIL RESOLUTION NO. CJY-41-21**

To ensure that the Navajo Nation takes full advantage of all opportunities to expend Navajo Nation Fiscal Recovery Funds on costs deemed FRF eligible under U.S. Treasury rules and guidance, the Navajo Nation hereby amends Section Seven of Resolution No. CJY-41-21 as follows:

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

- A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal Recovery Funds received by the Navajo Nation to fund central support services and regulatory costs.
- B. The Office of the President and Vice-President shall be responsible for apportioning ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch programs and offices providing central support and regulatory services, including, the Office of the President and Vice-President, Office of the Controller, Office of Management and Budget, Department of Justice, Navajo Nation Washington Office, Division of Human Resources, Division of Community Development, and other Divisions and offices providing central support and/or regulatory services.
- C. The Speaker of the Navajo Nation Council, after consultation with the Naabík'iyáti' Committee, shall be responsible for apportioning ten percent (10%) of the ten percent (10%) amount amongst Legislative Branch programs and offices providing central support services, including the Office of Legislative Services, Office of Legislative Counsel, Office of the Speaker, and Navajo Nation Council.
- D. The programs and offices receiving NNFRF for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework, necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services.
- E. The detailed budgets for the NNFRF funding allocated here for central support and regulatory services shall be processed through the executive or administrative review

process applicable to each Branch and shall not require further legislative action.

~~F. Any central support and/or regulatory services funding unspent or unencumbered at the end of the second quarter of Fiscal Year 2024 shall be reallocated to the NNFR and be available for allocation to other NNFRF projects and services.~~

F. NNFRF funding for the offices and programs providing central support services and/or regulatory services must be obligated and expended pursuant to U.S. Treasury rules and guidance, as amended.

**SECTION FOUR. EFFECTIVE DATE**

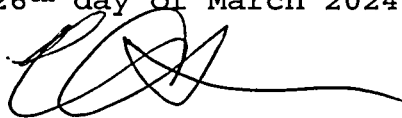
This Action shall become effective pursuant to 2 N.N.C. § 221(B) and 2 N.N.C. § 164(A) (17).

**SECTION FIVE. SAVING CLAUSE**

If any provision of this Act is determined invalid by the Supreme Court of the Navajo Nation or by any Navajo Nation District Court, without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall remain valid as the law of the Navajo Nation.

**CERTIFICATION**

I, hereby, certify that the foregoing resolution was duly considered by the 25<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 14 in Favor, and 00 Opposed, on this 26<sup>th</sup> day of March 2024.



Honorable Eugenia Charles-Newton, Speaker Pro Tem  
25<sup>th</sup> Navajo Nation Council

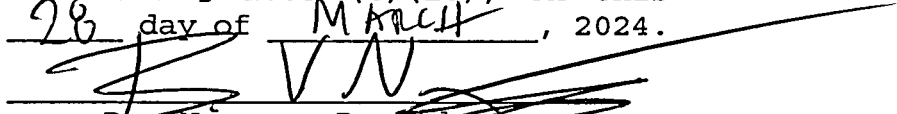
3/27/24  
Date

Motion: Honorable Norman M. Begay  
Second: Honorable Vince R. James

Speaker Pro Tem Eugenia Charles-Newton not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

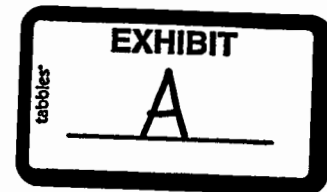
1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (10), on this 26 day of MARCH, 2024.

  
\_\_\_\_\_  
Buu Nygren, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Buu Nygren, President  
Navajo Nation

RESOLUTION OF THE  
 NAVAJO NATION COUNCIL  
 24<sup>th</sup> NAVAJO NATION COUNCIL - THIRD YEAR, 2021



AN ACTION

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

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. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated powers to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds and to promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C. §§ 300(B)(1) and (2).

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of International Concern related to the outbreak of coronavirus ("COVID-19"), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.
- B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared

a Public Health State of Emergency on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. See Resolution No. CEM 20-03-11 incorporated herein by reference. The Navajo Nation Department of Health has subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2021-014 are incorporated by reference. These Public Health Emergency Orders are available at [www.ndoh.navajonnsn.gov](http://www.ndoh.navajonnsn.gov).

- 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 July 7, 2021, the Navajo Nation Health Command Operations Center has confirmed 31,043 COVID-19 cases and 1,374 COVID-related deaths on the Navajo Nation. COVID-19 variants have 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, including employment losses, business closures, food and housing insecurity, and other economic disruptions.
- E. On March 11, 2021, President Biden signed the American Rescue Plan Act ("ARPA") into law. Section 9901 of ARPA established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds") by amending Title VI of the Social Security Act, which provided \$362 billion for state, local, and tribal governments, including \$20 billion designated for tribal governments.
- F. As of May 29, 2021, the United States Department of Treasury ("U.S. Treasury") allocated \$1,861,554,458.43 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 Coronavirus Aid, Relief, and Economic Security Act or CARES Act.
- G. The Fiscal Recovery Funds are intended to support governmental efforts 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.
- H. As set forth in Central Agency Council Resolution No. CAC 07/21-11, attached as Exhibit A, the Central Agency Council of the Navajo Nation supports the establishment of a Navajo Nation Fiscal Recovery Fund and the expenditure authorization process set forth herein.



- I. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were 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 of the tribal government. Under this category, the Navajo Nation can provide premium pay to government workers performing essential work, and can provide grants to eligible employers that have eligible workers who perform essential work;
  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 emergency; and
  4. Make necessary investments in water, sewer, or broadband infrastructure.
- J. Pursuant to ARPA:
1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning the Navajo Nation must obligate funds by that date; and
  2. The Fiscal Recovery Fund period of performance runs until December 31, 2026, meaning funded projects must be completed by that date.
- K. While its acceptance of the 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 tribal sovereignty.

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

- A. There is hereby established the "Navajo Nation Fiscal Recovery Fund" ("NNFRF").
- B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the Navajo Nation as of May 29, 2021 from the U.S.

Treasury under the Fiscal Recovery Funds provisions of ARPA, as well as any additional funds that the Navajo Nation may later receive from the United States under the Fiscal Recovery Funds provisions, shall be deposited into the NNFRF.

- C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery Funds and investment earnings therein are deposited, and from which the Navajo Nation shall disburse funds for approved Expenditure Plans which comply with the criteria set forth in the Fiscal Recovery Funds provisions of ARPA.
- D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds provided by the federal government and are not subject to the annual set-aside provisions set forth in the Navajo Nation Code.
- E. The Navajo Nation Office of the Controller ("OOC"), acting upon the recommendation of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury regulations and guidance, and applicable Navajo Nation Investment Policies; investment earnings, when realized, shall be deposited into the NNFRF.
- F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly adopted procedures and agreements between the Navajo Nation and the federal government regarding the use of the Fiscal Recovery Funds.
- G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF shall only be authorized through Expenditure Plan(s) 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).
- H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have been used in accordance with the provisions of ARPA. The NNFRF shall be subject to an annual audit by the Navajo Nation's independent auditor. Either the Navajo Nation Council or the Navajo Nation President may require an audit at any time. The Controller shall be responsible for providing any and all records and financial reports required by the U.S. Treasury.

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

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

- A. The Office of Management and Budget ("OMB"), in consultation with OOC and Navajo Nation Department of Justice ("NNDOJ"), shall develop NNFRF application and review procedures, which shall include an NNFRF Expenditure Plan template, for adoption by the Budget and Finance Committee. OMB and OOC shall post the approved NNFRF application procedures, including an NNFRF Expenditure Plan template, and instructions on their respective websites.
- B. The NNDOJ shall do 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.
- C. Navajo Nation Divisions and Offices, non-LGA-certified Chapters, LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and external entities seeking NNFRF funds shall comply with the requirements set forth in this legislation and with the requirements set forth in the NNFRF application procedures adopted by resolution of the Budget and Finance Committee ("BFC").
- D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible Entity who shall be held accountable for the compliance, implementation, monitoring, and accounting of the proposed projects, proposals, services and/or related assistance.
- E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and President, the Navajo Nation, with the assistance of NNDOJ, shall enter into a binding agreement, such as a, grant or sub-recipient agreement, with each Responsible Entity, other than Navajo Nation divisions and offices and non-

LGA-certified chapters, to ensure that all Navajo Nation laws and regulations are followed and complied with at all times.

- F. NNFRF Expenditure Plans involving construction activities shall include a contingency reserve consistent with industry standards adequate to cover projected inflation-based cost increases. The contingency reserve shall only be released by OOC to the Responsible Entity upon receipt of documented justification for the cost increase. After Expenditure Plan completion, any unused contingency funds shall be returned to the NNFRF.
- G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo Nation government program or office, including Navajo Nation-owned enterprises/authorities/corporations, may include an allocation for administrative costs at a rate not to exceed two percent (2%) of service or project cost to defray the costs of implementing, administering and monitoring said Expenditure Plan and its underlying services and projects.
- H. Until 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).

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

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

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

The Navajo Nation hereby immediately allocates NNFRF funds to replace the Navajo Nation CARES Fund funds that were reallocated to the Navajo Nation Hardship Assistance Expenditure Plan pursuant to Navajo Nation Council Resolution No. CJY-67-20 and Naabik'íyáti' Committee Resolutions No. NABIO-49-20 and NABID-63-20, as well as any CARES Fund funding that was voluntarily returned to the Nation because the project approved by the Navajo Nation Council could not be completed by the federal CARES Act deadline(s). OMB, with the assistance of OOC, shall report the amount and status of such allocations to the Naabik'íyáti' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

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

- A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal Recovery Funds received by the Navajo Nation to fund central support service and regulatory costs.
- B. The Office of the President and Vice-President shall be responsible for apportioning ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch programs and offices providing central support and regulatory services, including, the Office of the President and Vice-President, Office of the Controller, Office of Management and Budget, Department of Justice, Navajo Nation Washington Office, Division of Human Resources, Division of Community Development, and other Divisions and offices providing central support and/or regulatory services.
- C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'íyáti' Committee, shall be responsible for apportioning ten percent (10%) of the ten percent (10%) amount amongst Legislative Branch programs and offices providing central support services, including the Office of Legislative Services, Office of Legislative Counsel, Office of the Speaker, and Navajo Nation Council.
- D. The programs and offices receiving NNFRF for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services.
- E. The detailed budgets for the NNFRF funding allocated here for central support and regulatory services shall be processed through the executive or administrative review process

applicable to each Branch and shall not require further legislative action.

- F. Any central support and/or regulatory services funding unspent or unencumbered at the end of the second quarter of Fiscal Year 2024 shall be reallocated to the NNFRF and be available for allocation to other NNFRF projects and services.

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

- A. After reimbursement of the Síhasin Fund and UUFb, allocations to the defunded Navajo Nation CARES Fund projects, and the release of the immediate disbursements provided for in this legislation, OOC shall only release and distribute NNFRF funds in conformance with duly adopted Expenditure Plans enacted 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).
- B. Expenditure Plan funds shall not be released to LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and/or external entities until a binding agreement, e.g., grant or sub-recipient agreement, has been executed between the Navajo Nation and the respective Responsible Entity.
- C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds are timed to balance Expenditure Plan needs with maximum investment earnings.
- D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all applicable Navajo Nation and federal financial, accounting, and reporting laws and regulations are adhered to and strictly followed.
- E. OOC and the respective Responsible Entity shall provide a written and oral report to the Naabik'íyáti' Committee and the Office of President and Vice-President on or about thirty (30) days after the end of each fiscal year quarter; such report will present an overview and status of all NNFRF funded projects, recommended modifications or adjustments to projects, and compliance challenges, if any.

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

- A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly, only those provisions of the Appropriations Act, 12 N.N.C. § 800 et seq., that are expressly applicable to externally restricted funds, and any future provisions in the Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s) funded thereunder.
- B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal Year Comprehensive Budget and the Navajo Nation hereby waives the application of 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation], § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation, Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded thereunder.

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

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

Title Twelve  
Fiscal Matters  
Chapter 3. Navajo Nation Procurement Act  
Subchapter 1. General Provisions

\*\*\*\*

**§ 334. Emergency Procurement**

- A. Notwithstanding any other provision of law, the Director, Division of Finance, Purchasing Department, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations promulgated by the Budget and Finance Committee; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of emergency shall be made by the executive director of the affected division, in concert with the Director, Division of Finance, Purchasing Department or authorized designee, and a

representative of the Attorney General's Office (or the Office of Legislative Counsel for emergency procurements by the Legislative Branch). To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., shall receive preference in emergency procurement. The written determination and the selection of the particular contractor shall be included in the contract file. No oversight committee approval shall be required for these contracts.

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

\*\*\*\*

- B. Until such time as the Budget and Finance Committee amends the Navajo Nation Procurement Rules and Regulations ("Procurement Regulations") adopted by BFD-192-03, procurements using NNFRF funds shall be deemed to satisfy the definition of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement Regulations without further justification; and the written application and concurrence requirements set forth at Section VII (C) of the Procurement Regulations shall not apply to such procurements.
- C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and responsible Priority One or Priority Two vendors responding to the Nation's solicitation for NNFRF funded goods, services, or construction and construction related services, who are qualified and able to meet the requirements of the procurement, including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the Procuring Party may contract with companies not included on the Business Source List maintained by the Business Regulatory Department, as long as such companies agree to comply with Navajo Nation laws, regulations, and policies, including the Navajo Preference in Employment Act and Navajo Business Opportunity Act.



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

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

- A. The Office of the President and Vice-President ("OPVP") is authorized to establish a temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§ 1005(A) and (C) (14).
- B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF eligibility determinations and other NNFRF matters by Executive Branch programs and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the completion and implementation of NNFRF authorized projects and services; and assist/support OOC in monitoring the expenditure of NNFRF funds and submitting timely and accurate ARPA reports to the federal government.
- C. Prior to its opening, OPVP shall present a plan of operation or similar structural document for the NNFRF Office to the Naabik'iyáti' Committee. On or about thirty (30) days after the end of each fiscal year quarter, OPVP shall present a report to the Naabik'iyáti' Committee on overall NNFRF Office operations, accomplishments, and challenges, along with recommended modifications or adjustments to projects and processes.
- D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the implementation, management, and monitoring of NNFRF funds.
- E. In order to support the purposes and intent of the Navajo Nation Business Opportunity Act and Navajo Nation Preference in Employment Act, within fifty (50) days after the enactment of this legislation, the NNFRF Office shall present a plan to the Budget and Finance and Naabik'iyáti' Committees to provide

bonding, insurance, and other needed support to grow the Navajo Nation economy through private sector contracting, using ARPA, NNFRF, and/or other Navajo Nation or external funding.

#### SECTION ELEVEN. EFFECTIVE DATE

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

#### SECTION TWELVE. SAVING CLAUSE


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

#### SECTION THIRTEEN. DIRECTIVES

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

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 01 Opposed, on this 22<sup>nd</sup> day of July 2021.

  
Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

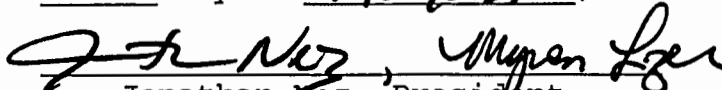
July 23, 2021  
DATE

Motion: Honorable Paul Begay, Jr.  
Second: Honorable Edison J. Wauneka

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 02 day of August, 2021.

  
Jonathan Nez, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

**NAVAJO NATION**

339

3/26/2024

Navajo Nation Council Special Session

02:39:54 PM

Amd# to Amd#

New Business: Item B.

PASSED

MOT Begay, N

#0067-24: Amending Navajo Nation

SEC James, V

Council Resolution #CJY-41-21

Section Seven, to Comply. . . .

**Yeas : 14**

**Nays : 0**

**Excused : 4**

**Not Voting : 5**

**Yea : 14**

Begay, H

Daniels, H

Nez, R

Slater, C

Begay, N

James, V

Parrish, S

Tolth, G

Crotty, A

Johnson, C

Simpson, D

Tso, O

Curley, C

Nez, A

**Nay : 0**

**Excused : 4**

Arviso, S

Claw, S

Jesus, B

Notah, N

**Not Voting : 5**

Aseret, L

Yanito, C

Yazzie, C

Yazzie, L

Simonson, G

**Presiding Speaker: Charles-Newton, E**