

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0111-24_

SPONSOR: Crystalyne Curley

TITLE: An Action Relating to Budget and Finance Committee, Naabik'iyáti' Committee and Navajo Nation Council; Recapturing and Reallocating Navajo Nation Fiscal Recovery Fund ("NNFRF") Expenditure Plans; Obligating Revenue Replacement Funding in a Committed Fund Balance within the General Fund; Amending Certain Sections of CJY-41-21, CJN-29-22 and CD-62-21

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0111-24

DATE: May 3, 2024

TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; RECAPTURING AND REALLOCATING NAVAJO NATION FISCAL RECOVERY FUND ("NNFRF") EXPENDITURE PLANS; OBLIGATING REVENUE REPLACEMENT FUNDING IN A COMMITTED FUND BALANCE WITHIN THE GENERAL FUND; AMENDING CERTAIN SECTIONS OF CJY-41-21, CJN-29-22 AND CD-62-21.

PURPOSE: If adopted, this legislation will recapture (also known as claw-back) \$744,581,583 of unobligated and unexpended NNFRF funds; reallocate (1) \$521,857,353 of the recaptured funds to the General Fund for Revenue Replacement purposes, with the remaining recaptured funds reallocated to NNFRF Wastewater Treatment facilities, additional NNFRF housing, and NNFRF personnel. The legislation also prioritizes the allocation of the Revenue Replacement General Funds to the Delegate Region Projects that were deemed unobligated under NNFRF.

Final Authority: Navajo Nation Council

Vote Required: 2/3 majority of the membership of the Navajo Nation Council

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

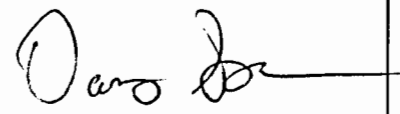
5-DAY BILL HOLD PERIOD Al Millett
Website Posting Time/Date _____
Posting End Date: 5/19/24
Eligible for Action: 5/20/24

Budget & Finance Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED RESOLUTION OF THE NAVAJO NATION COUNCIL
25TH NAVAJO NATION COUNCIL— Second Year, 2024

INTRODUCED BY

Primary Sponsor



TRACKING NO. 0111-24

AN ACTION

RELATING TO THE BUDGET AND FINANCE COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; RECAPTURING AND REALLOCATING NAVAJO NATION FISCAL RECOVERY FUND ("NNFRF") EXPENDITURE PLANS; OBLIGATING REVENUE REPLACEMENT FUNDING IN A COMMITTED FUND BALANCE WITHIN THE GENERAL FUND; AMENDING CERTAIN SECTIONS OF CJY-41-21, CJN-29-22 AND CD-62-21

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'iyáti Committee is a standing committee of the Navajo Nation Council with responsibility to recommend resolutions to the Navajo Nation Council. 2 N.N.C. §§ 700 (A) and 701 (A)(3).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council empowered with oversight authority over the budget, finance, investment, bonds, contracting, insurance, audits, accounting, taxes, loans, and chapter budget and finance and is empowered to review and recommend to the Navajo Nation Council the

1 budgeting, appropriation, investment, and management of all funds. 2 N.N.C. §§300
2 (A), 300 (C) and 301(B)(2).

3 D. Navajo Nation Council Resolution No. CJY-41-21, incorporated herein by reference,
4 and Navajo Nation Council Resolution No. CJN-29-22, incorporated herein by
5 reference, can only be amended by a two-thirds (2/3) vote of all members of the Navajo
6 Nation Council and approved by the President of the Navajo Nation pursuant to 2
7 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005(C)(10), (11), and (12). CJN-29-22, Section
8 Seventeen.

9
10 **SECTION TWO. FINDINGS**

11 A. The U.S. Department of Health and Human Services declared a Public Health
12 Emergency related to the Coronavirus (“COVID-19”), a highly contagious and
13 sometimes fatal respiratory virus, outbreak on January 31, 2020; and the World Health
14 Organization (“WHO”) declared a global pandemic due to COVID-19 on March 11,
15 2020.

16 B. The Navajo Nation Commission on Emergency Management, with the concurrence of
17 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency
18 on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. *See*
19 Resolution No. CEM 20-03-11, which is incorporated herein by reference.

20 C. The COVID-19 pandemic has caused and continues to cause large-scale infections and
21 loss of life throughout the Navajo Nation. As of February 29, 2024, the Navajo Nation
22 Health Command Operations Center has confirmed 89,106 COVID-19 cases and 2,268
23 COVID-related deaths on the Navajo Nation.

24 D. In response to the pandemic, United States President Joseph Biden signed the American
25 Rescue Plan Act (“ARPA”) into law on March 11, 2021. 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
29 “FRF”), which allocated twenty billion dollars (\$20,000,000,000) for tribal
30 governments.

1 E. As of April 12, 2022, the United States Department of Treasury allocated two billion
2 seventy-nine million four hundred sixty-one thousand four hundred sixty-four dollars
3 (\$2,079,461,464) to the Navajo Nation under the Fiscal Recovery Funds provisions of
4 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
6 Act), and are intended to mitigate and contain the spread of COVID-19, as well as to
7 address the health, social and economic impacts of COVID-19 suffered by residents
8 and businesses.

9 F. Pursuant to Section 9901 of ARPA, as amended by the Consolidated Appropriations
10 Act of 2023 (“2023 CAA”), incorporated herein by reference, Fiscal Recovery Funds
11 are specifically intended to:

- 12 1. respond to the COVID-19 public health emergency and its negative economic
13 impacts, including assistance to households, small businesses, and non-profits;
14 and/or aid to impacted industries such as tourism, travel, and hospitality;
- 15 2. respond to workers performing essential work during the COVID-19 public
16 health emergency by providing premium pay to eligible workers of the recipient
17 that perform such essential work, or by providing grants to eligible employers
18 that have eligible workers who perform essential work;
- 19 3. provide government services to the extent of the reduction in Navajo Nation
20 revenue due to the COVID-19 public health emergency, relative to revenues
21 collected in the most recent full fiscal year prior to the COVID-19 public health
22 emergency;
- 23 4. make necessary investments in water, sewer, and/or broadband infrastructure;
- 24 5. provide emergency relief from natural disasters or the negative economic
25 impacts of natural disasters;
- 26 6. fund projects eligible under the twenty-six (26) surface transportation programs
27 specified in the 2023 CAA, herein referred to as “Surface Transportation
28 Projects”; and/or
- 29 7. fund projects eligible under Title I of the Housing and Development Act of
30 1974, incorporated herein by reference and herein referred to as “Title I

1 Projects”.

2 G. Pursuant to ARPA, Section 9901, Fiscal Recovery Fund costs must be incurred,
3 meaning funds must be obligated, by December 31, 2024. The Fiscal Recovery Fund
4 period of performance runs from March 3, 2021, until December 31, 2026. FRF-funded
5 projects, with the exception of Surface Transportation Projects and Title I Projects,
6 must have their FRF funds fully expended by December 31, 2026. FRF-funded Surface
7 Transportation Projects and Title I Projects must have their FRF funds fully expended
8 by September 30, 2026. Any NNFRF funds not obligated or expended for eligible uses
9 by the dates set forth above, including unexpended obligated funds that have been
10 provided to contractors, grantees, and sub-recipients, must be returned to the U.S.
11 Treasury.

12 H. For the purposes herein, the word “obligation” is deemed to be consistent with the U.S
13 Treasury definition of “obligation”. In addition, the term “obligated”, “obligation” or
14 “obligate”, as used herein, is deemed to be consistent with the Navajo Nation definition
15 of “encumber”, “encumbrance” or “encumbered” within the Navajo Nation’s FMIS
16 system, Navajo Nation accounting policies and procedures, and as reported in Navajo
17 Nation financial statements.

18 I. By accepting the Fiscal Recovery Funds, the Navajo Nation agrees to comply with rules
19 and guidance issued by the U.S. Department of Treasury concerning the use,
20 expenditure and reporting of Fiscal Recovery Funds.

21 J. On July 23, 2021, the Navajo Nation Council adopted Resolution No. CJY-41-21,
22 incorporated herein by reference, establishing the Navajo Nation Fiscal Recovery Fund
23 ("NNFRF") into which the Navajo Nation's allocation of \$2,079,461,464 has been
24 deposited. Resolution No. CJY-41-21 also adopted an expenditure authorization and
25 approval process for the allocation of funds from the NNFRF.

26 K. The Navajo Nation Council and the President of the Navajo Nation agreed that critical
27 infrastructure, including water, sewer, housing, broadband, and utilities, must be built
28 by the Navajo Nation government to respond to COVID-19 and improve the quality of
29 life of the Navajo People, and that the government must provide programs and projects
30

1 necessary to assist Navajo members and Navajo-owned businesses to recover from the
2 ongoing COVID-19 pandemic.

3 L. In July of 2022, the Navajo Nation Council and President of the Navajo Nation enacted
4 Navajo Nation Council Resolution No. CJN-29-22 allocating money to Chapter and
5 Regional Projects; Public Safety Emergency Communication, E911, and Rural
6 Addressing Projects; Cyber Security; Public Health Projects; Economic Development
7 Projects; Hardship Assistance; Water and Wastewater Projects; Broadband Projects;
8 Home Electricity Connection and Electric Capacity Projects; Housing Projects and
9 Manufactured Housing Facilities; Bathroom Addition Projects; and Construction
10 Contingency Funding in the total amount of one billion seventy million two hundred
11 ninety-eight thousand eight hundred sixty-seven dollars (\$1,070,298,867).

12 M. Since July of 2022, Navajo Nation programs and staff have worked diligently to
13 obligate the NNFRF funds allocated in CJN-29-22. However as of March 31, 2024,
14 approximately \$929,000,000 of NNFRF funds remained unobligated and/or unspent.
15 With the U.S. Treasury deadline to obligate NNFRF funds fast approaching, it is
16 imperative that the Navajo Nation government immediately obligate the remaining
17 NNFRF funds. As used herein, “obligate” shall encompass what the Navajo Nation’s
18 internal processes label as “encumber”.

19 N. In order to maximize the opportunities available with NNFRF funds and to manage the
20 funds in a fiscally responsible manner, it is imperative that the Navajo Nation
21 government immediately (1) establish a Revenue Replacement Reserve within the
22 General Fund, whose fund balance shall be considered “Committed” as defined in the
23 Navajo Nation audit report; (2) reallocate NNFRF funds to the Revenue Replacement
24 Reserve; and (3) allocate Revenue Replacement Reserve funds to NNFRF projects that
25 will be challenged to meet the U.S. Treasury deadlines.

26 O. The purpose of the Revenue Replacement Reserve is to house NNFRF funds that are
27 reimbursing the Navajo Nation for the expenditure of General Fund monies spent
28 providing governmental services to the Navajo People between March 1, 2021 and the
29 present, on payroll, fringe benefits, operating, and qualifying capital expenditures.
30 Once NNFRF funds are reallocated into the Revenue Replacement Reserve, the funds

1 are obligated under U.S. Treasury rules and will be deemed to have satisfied Fiscal
2 Recovery Fund and Treasury rules and guidance as an eligible use meeting all
3 obligation and expenditure deadlines and requirements. The eligible governmental
4 service expenditures supporting the General Fund reimbursement totals approximately
5 five hundred twenty-one million eight hundred fifty-seven thousand three hundred
6 fifty-three dollars (\$521,857,353), as calculated by the Controller and reviewed by the
7 Nation's independent auditors.

8 P. Navajo Nation Council Resolution No. CJN-29-22, Section Fifteen (C), assigns the
9 Budget and Finance Committee the responsibility to review the status of NNFRF and
10 NNFRF Expenditures at the end of each Fiscal Year quarter.

11 Q. In order to determine which NNFRF funds should be reallocated, the Budget and
12 Finance Committee held numerous meetings with the Office of the Controller, NNFRF
13 Office, Office of President and Vice-President, Department of Justice, Administrative
14 Oversight Entities, and program staff to assess the status and progress of all NNFRF
15 projects. During its review, the Budget and Finance Committee prioritized government
16 services and infrastructure needs of the Nation including regional and chapter projects,
17 housing, water, electricity, and broadband and identified NNFRF projects that appear
18 unlikely to be able to obligate their NNFRF funds by the U.S. Treasury deadlines. A
19 summary of the recaptured amounts and reallocations are incorporated herein as
20 **Exhibit 1.**

21 R. Based on its assessment, the Budget and Finance Committee recommends that five
22 hundred twenty-one million eight hundred fifty-seven thousand three hundred fifty-
23 three dollars (\$521,857,353) of NNFRF funds currently allocated to certain projects be
24 immediately reallocated to the Revenue Replacement Reserve for the purpose of
25 reimbursing the General Fund for expenditures in providing qualified government
26 services as described by U.S. Treasury revenue loss provisions. *See Exhibit 1.*

27 S. Based on its prioritization of government services and infrastructure needs of the
28 Nation including regional and chapter projects, housing, water, electricity, and
29 broadband, the Budget and Finance Committee further recommends that the Revenue
30

1 Replacement Reserve then be used to support the General Fund funding of the
2 following as set forth and detailed in Section Five below:

- 3 1. the unobligated and unspent portions of Delegate Region Project Plans in
4 the amount of \$150,075,413;
- 5 2. the unobligated and unspent portions of CJN-29-22's Broadband Projects
6 Expenditure Plan in an amount up to \$77,888,986;
- 7 3. the unobligated and unspent portions of CJN-29-22's E911 Projects
8 Expenditure Plan in the amount of \$28,790,175;
- 9 4. the unobligated and unspent portions of CJN-29-22's DALTAC Plan in the
10 amount of \$2,270,970 for vehicle purchases; and
- 11 5. \$100,000,000 for new Delegate Region projects, subject to (1) equity
12 adjustment for CJN-29-22 Section 11 NNFRF obligations and expenditures;
13 and (2) development of Delegate Region project listings.

14 The Budget and Finance Committee did not make a recommendation as to the
15 remaining \$162,831,809. However, the sponsor of the legislation, Speaker Crystalyne
16 Curley, recommends that the remaining \$162,831,809 be allocated as follows:
17 \$14,310,432 for a new Legislative Branch Administration Building and \$148,521,377
18 for new Delegate Region projects.

19 T. The Navajo Nation Council has determined that the recaptures and reallocations
20 summarized in **Exhibit 1** are the surest way to take full advantage of the FRF funds
21 awarded to the Navajo Nation and to ensure compliance with U.S. Treasury deadlines.

22 23 **SECTION THREE. RECAPTURE OF FUNDING FROM NAVAJO NATION** 24 **FISCAL RECOVERY FUND EXPENDITURE PLANS**

25 A. To ensure that the Navajo Nation takes full advantages of all opportunities to use
26 federal Fiscal Recovery Funds awarded to the Nation to expand government services
27 to the Navajo People and build vital infrastructure on the Navajo Nation; and to ensure
28 that Navajo Nation Fiscal Recovery Funds are not left unexpended and returned to the
29 federal government due to the challenges to timely obligate such funds by U.S.
30 Treasury's stringent deadlines, the Navajo Nation hereby recaptures seven hundred

1 forty-four million five hundred eighty-one thousand five hundred eighty-three dollars
2 (\$744,581,583) of unobligated and unspent Navajo Nation Fiscal Recovery Funds
3 appropriated through Navajo Nation Council Resolutions No. CJY-41-21 and CJN-29-
4 22. A summary of the recaptured amounts is incorporated herein as **Exhibit 1**.

5 B. The recaptured funds shall revert to the NNFRF and be immediately reallocated, as set
6 forth in Section Four below, for reimbursing the Nation for revenue it expended
7 providing government services, and to NNFRF projects that have a high probability of
8 being obligated and expended by U.S. Treasury deadlines.

9 C. The Budget and Finance Committee shall review the recaptured amounts at the end of
10 each quarter and adjust the recaptured amounts set forth in **Exhibit 1** for any
11 subsequently obligated or expended NNFRF.

12 D. The Office of the Controller and NNFRF Office shall ensure that all recaptured funds
13 are properly closed out and reported pursuant to U.S. Treasury rules and guidance.
14

15 **SECTION FOUR. REALLOCATION OF RECAPTURED FUNDING TO NAVAJO**
16 **NATION FISCAL RECOVERY FUND EXPENDITURE PLAN(S) AND FOR**
17 **REVENUE REPLACEMENT PURPOSES**

18 A. To maximize the opportunities available with Navajo Nation Fiscal Recovery Funds
19 (“NNFRF”) in a fiscally responsible manner, the Navajo Nation hereby reallocates a
20 total of seven hundred forty-four million two hundred nineteen thousand six hundred
21 ninety-six dollars (\$744,219,696) of Navajo Nation Fiscal Recovery Funds,
22 appropriated through Navajo Nation Council Resolutions No. CJY-41-21 and CJN-
23 29-22, to projects and purposes that have a higher likelihood of being obligated and
24 expended by U.S. Treasury deadlines. A summary of the reallocations are
25 incorporated herein as **Exhibit 1**. As indicated on **Exhibit 1**, \$361,887 remains for
26 future allocation.

27 B. To implement the reallocation of one hundred thirty-seven million three hundred
28 sixty-two thousand three hundred forty-three thousand (\$137,362,343) for
29 wastewater infrastructure, the Navajo Nation hereby approves the addition of
30

1 \$137,362,343 to CJN-29-22's Wastewater Projects Expenditure Plan, as set forth in
2 **Exhibit 2.**

3 C. To implement the reallocation of seventy million dollars (\$70,000,000) to the
4 Community Housing and Infrastructure Department ("CHID") for housing, the
5 Navajo Nation hereby approves expenditure of that amount pursuant to the
6 Memorandum of Agreement for the purposes of plan, design, construction, and
7 project management for new housing on the Navajo Nation, as set forth as **Exhibit**
8 **3.**

9 D. To implement the reallocation of fifteen million dollars (\$15,000,000.) for NNFRF
10 central support services and regulatory personnel costs through December 31, 2026,
11 the Navajo Nation hereby approves expenditure of that amount pursuant to the
12 Memorandum of Agreement set forth in **Exhibit 4.**

13 E. As stated in Section Three above, the Budget and Finance Committee shall review
14 the recaptured amounts at the end of each quarter and adjust the recaptured amounts
15 set forth in **Exhibit 1.** If the adjustment of the recaptured amounts also requires
16 adjustment of the reallocations set forth in **Exhibit 1,** the Budget and Finance
17 Committee shall recommend the adjusted reallocations to the Naabik'íyáti
18 Committee for approval.

19 F. To implement the reallocation of five hundred twenty-one million eight hundred
20 fifty-seven thousand three hundred fifty-three dollars (\$521,857,353) for reimbursing
21 the Nation for revenue it expended providing government services, the Navajo Nation
22 hereby approves the transfer of \$521,857,353 of Navajo Nation Fiscal Recovery
23 Funds to a committed fund balance within the Navajo Nation's General Fund.
24

25 **SECTION FIVE. ESTABLISHING THE REVENUE REPLACEMENT RESERVE**
26 **AS A COMMITTED FUND BALANCE WITHIN THE GENERAL FUND**

27 A. To ensure that the Navajo Nation takes full advantage of all opportunities to expend
28 Fiscal Recovery Funds allowed for revenue replacement, specifically including the
29 reimbursement of prior General Fund expenditures, the Controller of the Navajo Nation
30

1 shall establish the Revenue Replacement Reserve as a committed fund balance within
2 the Navajo Nation's General Fund.

3 B. The Revenue Replacement Reserve shall be initially funded through the revenue
4 replacement of five hundred twenty-one million eight hundred fifty-seven thousand
5 three hundred fifty-three dollars (\$521,857,353) transferred from the Navajo Nation
6 Fiscal Recovery Fund through the reallocation set forth in Section Four above and by
7 the realized earnings from the investment of Navajo Nation Fiscal Recovery Funds as
8 authorized pursuant to CJY-41-21, Section Seven.

9 C. The Revenue Replacement Reserve shall be a committed fund balance within the
10 General Fund used to fund certain CJN-29-22 expenditure plans and projects with
11 General Funds that need additional time for obligation and/or full expenditure beyond
12 what is allowed under U.S. Treasury rules and guidance for Fiscal Recovery Funds.
13 The General Fund Revenue Replacement Reserve is a committed fund balance within
14 the Navajo Nation's General Fund and therefore not subject to U.S. Treasury rules and
15 guidance. Expenditure Plans and projects funded through the Revenue Replacement
16 Reserve are not subject to U.S. Treasury's stringent obligation and expenditure
17 deadlines.

18 D. The purpose for establishing the Revenue Replacement Reserve as a committed fund
19 balance is to house and protect (reserve) the revenue replacement funds while the legal
20 and financial infrastructure supporting a permanent statutory Trust Fund intended to
21 leverage funding for government services and long-term infrastructure development is
22 established.

23 E. Until such time as the statutory Trust Fund described above is established, there shall
24 be no direct appropriations from the Revenue Replacement Reserve. Once the statutory
25 Trust Fund is fully established, the unobligated and unspent Delegate Region Projects
26 converted from the NNFRF in the amount of \$150,075,413 shall be included in the first
27 allocation of Trust Fund funding. The second allocation of Trust Fund funding shall be
28 for the unobligated and unspent portions of CJN-29-22's Broadband Projects
29 Expenditure Plan in an amount up to \$77,888,986; the unobligated and unspent portions
30 of CJN-29-22's E911 Projects Expenditure Plan in the amount of \$28,790,175; and the

1 unobligated and unspent portions of CJN-29-22's DALTAC Plan in the amount of
2 \$2,270,970 for vehicle purchases. The third allocation of Trust Fund funding shall be
3 for \$14,310,432 for a Legislative Branch Administrative Building; and \$248,521,377
4 for new Delegate Region projects, subject to (1) equity adjustment for CJN-29-22
5 Section 11 NNFRF obligations and expenditures; and (2) development of Delegate
6 Region project listings.

7 F. Until the statutory Trust Fund is established, the Controller is authorized to use the
8 Unreserved Undesignated Fund Balance ("UUFb") to temporarily fund any immediate
9 encumbrances for approved Delegate Region Projects that were previously funded
10 through NNFRF. If more fiscally prudent, the Controller may establish and use a
11 revolving line of credit, instead of the UUFb, with Budget and Finance Committee
12 approval if the amount is fifteen million dollars or less and does not require a waiver
13 of sovereign immunity. Any line of credit that is over fifteen million dollars, or requires
14 a waiver of sovereign immunity, must be approved by the Navajo Nation Council. Once
15 established, the statutory Trust Fund shall reimburse the UUFb or line of credit, if
16 utilized.

17 G. The Office of the Controller shall be responsible for ensuring that any disbursements
18 from the Revenue Replacement Reserve are timed to balance project needs with
19 principal retention and maximum leveraging opportunities.

20 H. The Office of the Controller, in consultation with the Office of Management and
21 Budget ("OMB") and Department of Justice, shall develop and publish internal
22 procedures, if necessary, to implement and maintain the General Fund Revenue
23 Replacement Reserve until such time as a statutory Trust Fund is established.

24 I. The Office of the Controller shall invest in the Revenue Replacement Reserve pursuant
25 to an investment policy recommended by the Navajo Nation Investment Committee
26 and approved by the Budget and Finance Committee.

27 J. Realized earnings from the investment of the Revenue Replacement Reserve and from
28 the investment of Navajo Nation Fiscal Recovery Funds shall be deposited in the
29 Revenue Replacement Reserve. Such investment earnings shall not be available for
30

1 appropriation until a statutory Trust Fund is recommended by the Budget and Finance
2 Committee and approved by the Navajo Nation Council.

3
4 **SECTION SIX. DELEGATE REGION PROJECT PLANS FUNDED THROUGH**
5 **THE GENERAL FUND REVENUE REPLACEMENT RESERVE**

- 6 A. To provide more flexibility and increase the time available to complete Delegate
7 Region Project Plans, the Navajo Nation reallocated *unobligated and unspent*
8 Delegate Region Project Plan funds from the NNFRF to the Revenue Replacement
9 Reserve. Delegate Region Project Plans funded through the Revenue Replacement
10 Reserve are not subject to U.S. Treasury rules and guidance. .
- 11 B. Those portions of Delegate Region Project Plans that are currently obligated shall
12 continue to be funded through the NNFRF and are subject to U.S. Treasury rules and
13 guidance.
- 14 C. The transfer of Delegate Region Project Plan funding from the NNFRF to the
15 Revenue Replacement Reserve shall not increase or decrease the eight million eight
16 hundred two thousand three hundred forty dollars (\$8,802,340) dollars allocated to
17 each Delegate Region pursuant to CJN-29-22, Section Three (K).
- 18 D. The Office of the Controller, with the assistance of the NNFRF Office and Office of
19 Management and Budget, shall administratively implement the transfer of
20 unobligated and unspent Delegate Region Project Plans from the NNFRF to the
21 Revenue Replacement Reserve. The transfer shall keep the Delegate Region Project
22 Plans intact.
- 23 E. Delegate Region Project Plans funded through the Revenue Replacement Reserve
24 shall be limited to the following purposes, unless otherwise excepted through
25 resolution of the Navajo Nation Council: Projects for programs to provide
26 government services to Chapter members; to provide basic PPE to Chapter members;
27 to provide food, fuel, firewood assistance to Chapter members; for construction
28 projects such as renovations to Chapter houses, new housing construction, housing
29 renovations, and house wiring; to plan and design projects; to hire consultants to
30 assist with eligible programs and projects; to hire PEP workers, student workers and

1 other temporary employees, or regular status employees to assist the Chapter
2 governments in carrying out eligible programs and projects. Delegate Region Project
3 Plans shall not include vaccinations or any cash assistance for Chapter members, such
4 as a hardship assistance program.

- 5 F. Until such time as the Navajo Nation adopts a statutory Trust Fund, *see* Section Six
6 above, Delegate Region Project Plans funded through the General Fund Revenue
7 Replacement Reserve shall only be amended by resolution of the Budget and Finance
8 Committee when recommended by the Resource and Development Committee.

9
10 **SECTION SEVEN. AUTOMATIC REVERSION OF UNOBLIGATED AND**
11 **UNSPENT NAVAJO NATION FISCAL FUNDS TO THE HARDSHIP ASSISTANCE**
12 **EXPENDITURE PLAN; AMENDING CJY-41-21 AND CD-62-21**

- 13 A. Notwithstanding any other provision of Navajo law, any and all Navajo Nation Fiscal
14 Recovery Funds not obligated by November 1, 2024, shall automatically revert to the
15 NNFRF Hardship Assistance Expenditure Plan without the need for legislative
16 action. To ensure compliance with U.S. Treasury guidance, a Memorandum of
17 Agreement will be entered into between the Navajo Nation Council and the Office of
18 Controller for the Hardship Assistance Program.

- 19 B. To implement the automatic reversion of NNFRF to the Hardship Assistance
20 Expenditure Plan, Section Four (H) of Resolution No.CJY-41-21 is hereby rescinded
21 as follows:

22 ~~H. Until the third quarter of 2024, NNFRF Expenditure Plans for direct~~
23 ~~financial assistance to enrolled Navajo Nation members, not including~~
24 ~~business-economic relief or similar programs, shall be limited to ten (10%)~~
25 ~~of the total Fiscal Recovery Funds received by the Navajo Nation. After~~
26 ~~the second quarter of 2024, unallocated or unexpended NNFRF funds can~~
27 ~~be allocated for direct financial assistance to enrolled members can be~~
28 ~~allocated for direct financial assistance to enrolled members through~~
29 ~~resolution of the Navajo Nation Council and approval of the President~~

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

3 C. To implement the automatic reversion of NNFRF to the Hardship Assistance
4 Expenditure Plan, Section Five (D) and (E) of Resolution No.CD-62-21 is hereby
5 rescinded as follows:

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

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

17
18 **SECTION EIGHT. AMENDING CJN-29-22, SECTION TWELVE, TO CLARIFY**
19 **APPLICATION OF THE BUDGET INSTRUCTION MANUAL**

20 To ensure that internal Navajo Nation regulations and procedures do not unnecessarily
21 delay the obligation and expenditure of NNFRF, CJN-29-22, Section Twelve (A), is hereby
22 amended as follows:

23 A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through
24 an immediate allocation under Resolution CJY-41-21 or subsequently approved
25 NNFRF Expenditure Plan, shall comply with all Navajo Nation laws, policies,
26 regulations, rules, and procedures, specifically including, but not limited to,
27 those governing the NNFRF and the expenditure of such funds, and any
28 additional terms set forth in a grant agreement, sub-recipient agreement, or
29 similar agreement.
30

1 1. Notwithstanding the above, the Navajo Nation Budget Instruction
2 Manual (“BIM”) shall not apply in its entirety to the obligation or
3 expenditure of NNFRF.

4 2. Instead, the Office of the Controller, in consultation with the Office of
5 Management and Budget, NNFRF Office, and NNDOJ, shall
6 administratively:

7 i. determine which BIM provisions, as written or modified, are
8 applicable to the expeditious obligation and expenditure of
9 NNFRF;

10 ii. determine if additional provisions are necessary for the
11 expeditious obligation and expenditure of NNFRF; and

12 iii. publish such determination(s) in one comprehensive document
13 on the Office of Management and Budget, NNFRF Office, and
14 Division of Community Development websites.

15
16 **SECTION NINE. DELEGATE REGION PROJECT PLAN MODIFICATION(S)**

17 A. Modifications to enacted NNFRF Delegate Region Project Plans that do not change the
18 purpose or intent of the enacted Delegate Region Project Plan, including the movement
19 of funding between projects, shall be processed administratively when requested by the
20 respective Council Delegate and approved by the Department of Justice, NNFRF
21 Office, and Administrative Oversight Entity.

22 B. Modifications to enacted NNFRF Delegate Region Project Plans that seek to change a
23 U.S. Treasury Expenditure Category shall be processed administratively when
24 requested by the respective Council Delegate and approved by the Department of
25 Justice, NNFRF Office, Administrative Oversight Entity, and Office of the Controller.

26 C. The NNFRF Office, in consultation with the Office of the Controller and
27 Administrative Oversight Entities, shall develop and publish the procedures for
28 requesting administrative approval of modifications to enacted NNFRF Expenditure
29 Plans and Delegate Region Project Plans.

30

1 **SECTION TEN. DEADLINE CLARIFICATIONS**

2 A. Unless specifically set forth above, the Navajo Nation shall comply with U.S. Treasury
3 deadlines, as amended, governing the obligation and expenditure of Fiscal Recovery
4 Funds.

5 B. This section and provision shall supersede any and all NNFRF reallocation, obligation,
6 encumbrance, review, and expenditure deadlines set forth in any other Navajo Nation
7 Council or Standing Committee resolutions, including but not limited to CJY-41-21,
8 CJN-29-22, CD-62-21, and BFS-31-21, as amended.

9
10 **SECTION ELEVEN. EFFECTIVE DATE**

11 The provisions of this Action shall become effective in accordance with 2 N.N.C. §164(A)(17)
12 and 2 N.N.C. §221(B).

13
14 **SECTION TWELVE. SAVINGS CLAUSE**

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

18
19 **SECTION THIRTEEN. DIRECTIVES**

20 A. All programs, offices, departments and divisions shall prioritize the expenditure of
21 obligated Navajo Nation Fiscal Recovery Funds in order to meet U.S. Treasury rules,
22 guidance, and expenditure deadlines.

23 B. All programs, offices, departments and divisions shall identify an employee who shall
24 fully assist the Office of the Controller and NNFRF Office in the close-out and
25 reporting of any and all funds recaptured above. The identified employee's name shall
26 be submitted to the Director of the NNFRF Office by May 15, 2024. The Office of the
27 Controller and NNFRF Office shall report any assistance delays to the Budget and
28 Finance Committee at the end of each quarter.

29 C. The Department of Justice, in consultation with the Office of the Controller, NNFRF
30 Office, Office of President and Vice-President, and Division of Community

1 Development, shall recommend amendments to the procurement regulations to the
2 Budget and Finance Committee for approval by no later than May 31, 2024. A primary
3 purpose the regulations shall be to mitigate the risk of delayed expenditures of NNFRF
4 that will result in the Navajo Nation returning funds to the U.S. Treasury due to missed
5 deadlines.

6 D. The Office of the Controller, in consultation with the Department of Justice, shall
7 develop internal Fiscal Recovery Fund specific accounting procedures necessary to
8 mitigate the risk of delayed expenditures or reporting of NNFRF that will result in the
9 Navajo Nation returning funds to the U.S. Treasury due to missed deadlines or
10 reporting deficiencies. The Office of the Controller shall present such procedures to the
11 Budget and Finance Committee prior to implementation.

12 E. By the end of May 2024, the Investment Committee shall develop a financing and
13 investment strategy for the statutory Trust Fund intended to succeed the Revenue
14 Replacement Reserve; and report such strategy to the Budget and Finance Committee
15 for inclusion in the statutory Trust Fund.

16 F. The President and Speaker of the Navajo Nation Council shall take all steps necessary
17 to expeditiously execute and implement the Memoranda of Agreement set forth in
18 Section Four above.

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