

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0149-24\_

SPONSOR: Dr. Andy Nez

**TITLE: An Act Relating to the Law and Order Committee, the Health, Education, and Human Services Committee, the Resources and Development Committee, the Budget and Finance Committee, and the Naabik'iyáti' Committee, and the Navajo Nation Council; Establishing the "Navajo Nation Environmental Remediation Fund" and Approving a 2% Annual Set-Aside from the General Fund to Pay for Remediation Activities at Contamination Sites Located on the Navajo Nation**

*Date posted:* July 02, 2024 at 7:54PM

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## SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0149-24

DATE: July 2, 2024

**RE: AN ACT RELATING TO THE LAW AND ORDER COMMITTEE, THE HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE, THE RESOURCES AND DEVELOPMENT COMMITTEE, THE BUDGET AND FINANCE COMMITTEE, AND THE NAABIK'IYATI' COMMITTEE, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE "NAVAJO NATION ENVIRONMENTAL REMEDIATION FUND" AND APPROVING A 2% ANNUAL SET-ASIDE FROM THE GENERAL FUND TO PAY FOR REMEDIATION ACTIVITIES AT CONTAMINATED SITES LOCATED ON THE NAVAJO NATION**

### **PURPOSE OF THIS LEGISLATION:**

to establish a new Fund to pay for environmental remediation at sites across the Navajo Nation, with an annual 2% set-aside from the General Fund.

### **FINAL AUTHORITY and VOTE REQUIREMENT:**

The Navajo Nation Council has final authority. A simple majority vote is required.

5-DAY BILL HOLD PERIOD                       
Website Posting Time/Date                       
Posting End Date: 07-07-24  
Eligible for Action: 07-08-24

Law & Order Committee  
Thence  
Health Education & Human Services Committee  
Thence  
Resources & Development Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyati' Committee  
Thence  
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 25th NAVAJO NATION COUNCIL - Second Year, 2024

3 Introduced by:

4   
5  
6 (Prime Sponsor)

7  
8 Tracking No. 0149-24  
9

10 AN ACT

11 RELATING TO THE LAW AND ORDER COMMITTEE, THE HEALTH,  
12 EDUCATION, AND HUMAN SERVICES COMMITTEE, THE RESOURCES  
13 AND DEVELOPMENT COMMITTEE, THE BUDGET AND FINANCE  
14 COMMITTEE, AND THE NAABIK'IYATI' COMMITTEE, AND THE  
15 NAVAJO NATION COUNCIL; ESTABLISHING THE "NAVAJO NATION  
16 ENVIRONMENTAL REMEDIATION FUND" AND APPROVING A 2% ANNUAL  
17 SET-ASIDE FROM THE GENERAL FUND TO PAY FOR REMEDIATION  
18 ACTIVITIES AT CONTAMINATED SITES LOCATED ON THE NAVAJO NATION  
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20 SECTION ONE. AUTHORITY

- 21 A. The Law and Order Committee is a standing committee of the Navajo Nation Council with  
22 legislative authority to review and make recommendations to the Council as to proposed new  
23 enactments under the Navajo Nation Code. 2 N.N.C. §601(B)(14).  
24 B. The Health, Education, and Human Services Committee is a standing committee of the  
25 Navajo Nation Council with legislative authority over matters involving environmental  
26 health. 2 N.N.C. §401(B)(6)(a).  
27 C. The Resources and Development Committee was established as a standing committee of the  
28 Navajo Nation Council with authority over matters involving the natural environment,  
29 including water, land, and environmental protection. 2 N.N.C. §500(C).  
30 D. The Resources and Development Committee has oversight authority over the Navajo Nation

1 Division of Natural Resources and its subordinate departments, including the Navajo  
2 Environmental Protection Agency (“NEPA”). 2 N.N.C. §501(C)(1).

3 E. The Budget and Finance Committee is a standing committee of the Navajo Nation Council  
4 authorized to review and recommend to the Council the management of all funds. 2 N.N.C.  
5 §164(A)(9); 2 N.N.C. §300(A); 2 N.N.C. §301(B)(2).

6 F. The Navajo Nation established the Naabik’íyáti’ Committee as a Navajo Nation Council  
7 standing committee, and all proposed legislation that requires final action by the Navajo  
8 Nation Council is assigned to the Naabik’íyáti’ Committee for its review and consideration.  
9 2 N.N.C. §164(A)(9); 2 N.N.C. §700(A).

10 G. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).  
11 As such, the Council has the authority to establish new funds for specific purposes that  
12 benefit the public’s general health, safety, and welfare.

13  
14 **SECTION TWO. FINDINGS**

15 A. In Resolution No. CF-07-08 the Navajo Nation Council established the Hazardous  
16 Substances Fund. See 4 N.N.C. §2701(A). Pursuant to Budget and Finance Committee  
17 Resolution No. BFJA-09-11, the Fund Management Plan for the Hazardous Substances Fund  
18 was approved.

19 B. Similar to the Hazardous Substances Fund, there is an urgent need to create an  
20 “Environmental Remediation Fund” (and a related Fund Management Plan), which Fund  
21 should be designated specifically for environmental assessment, cleanup, and remediation at  
22 former industrial sites located across the Navajo Nation. These contaminated sites present a  
23 significant danger to the public health and well-being, livestock and water supplies, as well  
24 as long-term harms to the natural environment.

25 C. Two major examples of the many contaminated sites are Red Lake and Sawmill. The NEPA  
26 has prepared a Fact Sheet explaining the contamination of the two former industrial sites  
27 located in Red Lake and Sawmill Chapters. Total cleanup and environmental remediation is  
28 expected to cost more than \$500,000,000 and last many years. **EXHIBIT 1.**

29 D. The U.S. EPA has provided an assessment report for the Sawmill site. **EXHIBIT 2.**

30 E. In addition to the Red Lake and Sawmill sites, there is extensive surface and groundwater

1 contamination at several other former business and industrial sites across the Navajo Nation,  
2 which sites urgently need assessment and remediation for the protection of the public health,  
3 that of livestock, and that of sacred plants, herbs, and the natural environment. **EXHIBIT 3.**

4 F. The NEPA has prepared a project Ranking Sheet for the ranking of those projects that should  
5 be prioritized. **EXHIBIT 4.**

6 G. The Navajo Nation finds that, rather than approving piecemeal funding for cleanup projects,  
7 establishing the new “Navajo Nation Environmental Remediation Fund” with an annual  
8 automatic set-aside of 2% of the General Fund, is in the best interest of the Navajo Nation  
9 and the Navajo People. Such Fund will provide an ongoing source of funding for extensive  
10 and long-term remediation projects, and shows the Navajo Nation’s firm commitment to  
11 protecting and preserving the natural environment for the long-term health and well-being of  
12 the Navajo People.

13  
14 **SECTION THREE. ESTABLISHING THE “NAVAJO NATION ENVIRONMENTAL**  
15 **REMEDATION FUND” AND APPROVING A 2% ANNUAL**  
16 **SET-ASIDE FROM THE GENERAL FUND TO PAY FOR**  
17 **REMEDATION ACTIVITIES AT CONTAMINATED SITES**  
18 **LOCATED ON THE NAVAJO NATION**

19 The Navajo Nation hereby establishes the “Navajo Nation Environmental Remediation Fund”  
20 as follows:

21 \* \* \* \*

22 **NAVAJO NATION CODE ANNOTATED**

23 **TITLE 4. ENVIRONMENT**

24 **CHAPTER 18. NAVAJO NATION ENVIRONMENTAL REMEDIATION FUND**

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26 **§2901. Establishment; purposes.**

27 There is hereby established a Navajo Nation financial account titled: “Navajo Nation  
28 Environmental Remediation Fund” (hereinafter referred to as “Fund”). The purpose  
29 of this Fund is to pay for the activities of the Navajo Environmental Protection  
30 Agency (“NEPA”), or NEPA’s contractors or agents, related to the assessment,

1 cleanup, and remediation of former business and industrial sites located on the  
2 Navajo Nation that are contaminated with dangerous chemicals, materials, or  
3 substances, and that pose a danger to human health, public welfare, livestock, crops,  
4 groundwater, and the natural environment.

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6 **§2902. Source of money for the Fund.**

7 This Fund shall consist of an annual allocation in the Navajo Nation's annual  
8 comprehensive budget legislation, of two-percent (2%) of the General Fund. This  
9 annual allocation shall be automatic and shall not require action of the Navajo Nation  
10 Council. Money received by the Navajo Nation from federal, state, or private grants  
11 or donations, may also be deposited into this Fund if such money is designated for  
12 any purpose related to environmental assessment, cleanup, or remediation.

13  
14 **§2903. Fund Management Plan.**

15 All allocations and expenditures of money from this Fund shall be in accordance with  
16 a Fund Management Plan approved by the Budget and Finance Committee. The Fund  
17 Management Plan shall not permit any other entity to receive allocations from this  
18 Fund for any purpose; this Fund is solely for use strictly by the NEPA for the purposes  
19 described in Section 2901.

20  
21 **§2904. NEPA administration; reporting.**

22 The NEPA shall administer this Fund and the NEPA Director shall report annually  
23 to the Navajo Nation Council on the sums deposited into the Fund, including the  
24 sources and uses thereof, and the use of any agents or contractors for assessment,  
25 cleanup, and/or remediation activities.

26  
27 **§2905. No reversion.**

28 Any money remaining in the Fund at the end of each fiscal year shall not revert to the  
29 General Fund but shall remain available for use by NEPA as provided in the approved  
30 Fund Management Plan.

1        **§2906. Restrictions.**

2        No money from this Fund shall be used for assessment, cleanup, or remediation of  
3        any facility owned by the federal government or its instrumentalities, or by any state  
4        government or its instrumentalities. Notwithstanding, nothing in this Paragraph shall  
5        prevent the NEPA from taking immediate corrective action at a facility where there  
6        is no solvent owner or operator or where immediate action is necessary to respond to  
7        an imminent and substantial threat to human health, livestock, groundwater, or the  
8        environment even if it is owned by the federal or state government. In such cases, the  
9        Navajo Superfund has the ability to cost recover.

10       \* \* \* \*

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12       **SECTION FOUR. DIRECTIVES**

13       A. Promptly upon the effective date of this Act, the Office of the Controller shall set up the new  
14       Environmental Remediation Fund financial account for the Navajo Nation, in accordance  
15       with normal bookkeeping procedures, and the annual 2% set-aside shall be included in the  
16       FY2025 Comprehensive Budget, and in every annual Comprehensive Budget thereafter so  
17       long as the Fund exists.

18       B. The Navajo Nation Council hereby directs the NEPA to prepare and present a Fund  
19       Management Plan to the Budget and Finance Committee, for the Committee's approval no  
20       later than December 31, 2024.

21       C. The Fund Management Plan shall include a provision allowing NEPA to receive funds upon  
22       approval of the Resources & Development Committee, and providing for budget transfers of  
23       funds already provided to NEPA to be approved by the Resources & Development  
24       Committee.

25       D. No funds shall be available for expenditure by NEPA until the Fund Management Plan is  
26       approved by the Budget and Finance Committee after recommendation by the Resources and  
27       Development Committee.

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29       **SECTION FIVE. EFFECTIVE DATE**

30       This Action shall become effective as provided in 2 N.N.C. §221(B), 2 N.N.C. §1005(C)(10),

1 and 2 N.N.C. §164(A)(17).  
2

3 **SECTION SIX. SAVING CLAUSE**

4 If any portion of this Action is determined invalid by the Navajo Nation Supreme Court, or by  
5 a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the  
6 remainder of this Action shall be the law of the Navajo Nation.  
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8 **SECTION SEVEN. CODIFICATION**

9 The provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall  
10 be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall  
11 incorporate such amended provisions in the next codification of the Navajo Nation Code.  
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