

**LEGISLATIVE SUMMARY SHEET**  
**Tracking No. 0110-21**

**DATE:** July 8, 2021

**TITLE OF RESOLUTION:** AN ACTION RELATING TO BUDGET AND FINANCE AND NAABÍK'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

**PURPOSE:** This resolution, if approved, will establish the Navajo Nation Fiscal Recovery Fund (NNFRF) and the application process thereunder; waive application of certain provisions of the Appropriations Act to NNFRF funding; deem NNFRF procurements as emergency procurements to expedite the procurement process; authorize reimbursement of Síhasin Fund and UUFB allocations and appropriations; fund central support and regulatory costs upfront to establish the legal, financial and regulatory infrastructure necessary to support NNFRF Expenditure Plans; fund CARES Fund projects that were approved but not completed; and authorize the establishment of a NNFRF Office.

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

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 07-13-21  
Eligible for Action: 07-14-21

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24<sup>th</sup> NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

Primary Sponsor

TRACKING NO. 0110-21

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABÍK'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).

1 B. The Naabíł'íyáti' Committee is a standing committee of the Navajo Nation Council  
2 with the responsibility to hear proposed resolution(s) that require final action by the  
3 Navajo Nation Council. 2 N.N.C. § 164 (A)(9).

4 C. The Budget and Finance Committee is a standing committee of the Navajo Nation  
5 Council with the enumerated powers to review and recommend to the Navajo Nation  
6 Council the budgeting, appropriation, investment and management of all funds and to  
7 promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C.  
8 §§ 300 (B)(1) and (2).

## 9 10 **SECTION TWO. FINDINGS**

11 A. The World Health Organization (“WHO”) declared a Public Health Emergency of  
12 International Concern related to the outbreak of coronavirus (“COVID-19”), a highly  
13 contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S.  
14 Department of Health and Human Services declared a Public Health Emergency related  
15 to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global  
16 pandemic due to COVID-19 on March 11, 2020.

17 B. The Navajo Nation Commission on Emergency Management, with the concurrence of  
18 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency  
19 on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. *See*  
20 Resolution No. CEM 20-03-11 incorporated herein by reference. The Navajo Nation  
21 Department of Health has subsequently issued numerous Public Health Emergency  
22 Orders. Public Health Orders 2020-001 through 2021-014 are incorporated by  
23 reference. These Public Health Emergency Orders are available at [www.ndoh.navajo-](http://www.ndoh.navajonnsn.gov)  
24 [nsn.gov](http://www.ndoh.navajonnsn.gov).

25 C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life  
26 throughout the world, the United States and the Navajo Nation. As of July 7, 2021, the  
27 Navajo Nation Health Command Operations Center has confirmed 31,043 COVID-19  
28 cases and 1,374 COVID-related deaths on the Navajo Nation. COVID-19 variants have  
29 emerged that threaten to increase these numbers and continue the pandemic’s assault  
30 on the Navajo People.

- 1 D. The devastating effects of COVID-19 continue throughout the Navajo Nation,  
2 including employment losses, business closures, food and housing insecurity, and other  
3 economic disruptions.
- 4 E. On March 11, 2021, President Biden signed the American Rescue Plan Act (“ARPA”)  
5 into law. Section 9901 of ARPA established the Coronavirus State Fiscal Recovery  
6 Fund and the Coronavirus Local Fiscal Recovery Fund (together the “Fiscal Recovery  
7 Funds”) by amending Title VI of the Social Security Act, which provided \$362 billion  
8 for state, local, and tribal governments, including \$20 billion designated for tribal  
9 governments.
- 10 F. As of May 29, 2021, the United States Department of Treasury (“U.S. Treasury”)  
11 allocated \$1,861,554,458.43 to the Navajo Nation under the Fiscal Recovery Funds  
12 provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand  
13 the relief provided in the Coronavirus Aid, Relief, and Economic Security Act or  
14 CARES Act.
- 15 G. The Fiscal Recovery Funds are intended to support governmental efforts to mitigate  
16 and contain the spread of COVID-19, as well as to respond to the health, social and  
17 economic impacts of COVID-19 suffered by residents and businesses.
- 18 H. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were specifically  
19 intended to:
- 20 1. Respond to the COVID-19 public health emergency and its negative economic  
21 impacts, including assistance to households, small businesses, and non-profits;  
22 and/or aid to impacted industries such as tourism, travel, and hospitality;
  - 23 2. Respond to workers performing essential work during the COVID-19 public health  
24 emergency by providing premium pay to eligible workers of the tribal government.  
25 Under this category, the Navajo Nation can provide premium pay to government  
26 workers performing essential work, and can provide grants to eligible employers  
27 that have eligible workers who perform essential work;
  - 28 3. Provide government services to the extent of the reduction in Navajo Nation  
29 revenue due to the COVID-19 public health emergency, relative to revenues  
30 collected in the most recent full fiscal year prior to the emergency; and

1           4. Make necessary investments in water, sewer, or broadband infrastructure.

2           I. Pursuant to ARPA:

3           1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning  
4           the Navajo Nation must obligate funds by that date; and

5           2. The Fiscal Recovery Fund period of performance runs until December 31,  
6           2026, meaning funded projects must be completed by that date.

7           J. While its acceptance of the Fiscal Recovery Funds obligates the Navajo Nation to  
8           comply with ARPA and other federal laws and regulations, the Navajo Nation can and  
9           will fulfill these obligations while retaining and exercising its tribal sovereignty.

10  
11       **SECTION THREE. ESTABLISHMENT OF THE NAVAJO NATION FISCAL**  
12       **RECOVERY FUND**

13       A. There is hereby established the “Navajo Nation Fiscal Recovery Fund” (“NNFRF”).

14       B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the  
15       Navajo Nation as of May 29, 2021 from the U.S. Treasury under the Fiscal Recovery  
16       Funds provisions of ARPA, as well as any additional funds that the Navajo Nation may  
17       later receive from the United States under the Fiscal Recovery Funds provisions, shall  
18       be deposited into the NNFRF.

19       C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery  
20       Funds and investment earnings therein are deposited, and from which the Navajo  
21       Nation shall disburse funds for approved Expenditure Plans which comply with the  
22       criteria set forth in the Fiscal Recovery Funds provisions of ARPA.

23       D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds  
24       provided by the federal government and are not subject to the annual set-aside  
25       provisions set forth in the Navajo Nation Code.

26       E. The Navajo Nation Office of the Controller (“OOC”), acting upon the recommendation  
27       of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF  
28       in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury  
29       regulations and guidance, and applicable Navajo Nation Investment Policies;  
30       investment earnings, when realized, shall be deposited into the NNFRF.

1 F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and  
2 Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable  
3 federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly  
4 adopted procedures and agreements between the Navajo Nation and the federal  
5 government regarding the use of the Fiscal Recovery Funds.

6 G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF  
7 shall only be authorized through Expenditure Plan(s) duly adopted by a two-thirds (2/3)  
8 vote of all members of the Navajo Nation Council and approved by the President of the  
9 Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11) and  
10 (12).

11 H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that  
12 the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation  
13 have been used in accordance with the provisions of ARPA. The NNFRF shall be  
14 subject to an annual audit by the Navajo Nation's independent auditor. Either the  
15 Navajo Nation Council or the Navajo Nation President may require an audit at any  
16 time. The Controller shall be responsible for providing any and all records and financial  
17 reports required by the U.S. Treasury.

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

26  
27 **SECTION FOUR. NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE**  
28 **PLAN ELIGIBILITY DETERMINATIONS AND APPLICATION REQUIREMENTS**

29 A. The Office of Management and Budget ("OMB"), in consultation with OOC and  
30 Navajo Nation Department of Justice ("NNDJ"), shall develop NNFRF application

1 and review procedures, which shall include an NNFRF Expenditure Plan template, for  
2 adoption by the Budget and Finance Committee. OMB and OOC shall post the  
3 approved NNFRF application procedures, including an NNFRF Expenditure Plan  
4 template, and instructions on their respective websites.

5 B. NNDOJ shall do an initial determination of whether a NNFRF funding request satisfies  
6 the legal requirements of the Fiscal Recovery Funds provisions of ARPA and  
7 applicable Navajo Nation laws, regulations, and policies and procedures.

8 C. Navajo Nation Divisions and Offices, non-LGA-certified Chapters, LGA-certified  
9 Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit  
10 corporations and external entities seeking NNFRF funds shall comply with the  
11 requirements set forth in this legislation and with the requirements set forth in the  
12 NNFRF application procedures adopted by resolution of the Budget and Finance  
13 Committee ("BFC").

14 D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible  
15 Entity who shall be held accountable for the compliance, implementation, monitoring,  
16 and accounting of the proposed projects, proposals, services and/or related assistance.

17 E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and  
18 President, the Navajo Nation, with the assistance of NNDOJ, shall enter into a binding  
19 agreement, such as a, grant or sub-recipient agreement, with each Responsible Entity,  
20 other than Navajo Nation divisions and offices and non-LGA-certified chapters, to  
21 ensure that all Navajo Nation laws and regulations are followed and complied with at  
22 all times.

23 F. NNFRF Expenditure Plans involving construction activities shall include a  
24 contingency reserve consistent with industry standards adequate to cover projected  
25 inflation-based cost increases. The contingency reserve shall only be released by OOC  
26 to the Responsible Entity upon receipt of documented justification for the cost increase.  
27 After Expenditure Plan completion, any unused contingency funds shall be returned to  
28 the NNFRF.

29 G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo  
30 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**

OOO, 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 Naabík'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 Naabík'íyáti' Committee Resolutions No. NABIO-49-20 and NABID-63-20, as well as any



1 CARES Fund funding that was voluntarily returned to the Nation because the project  
2 approved by the Navajo Nation Council could not be completed by the federal CARES Act  
3 deadline(s). OMB, with the assistance of OOC, shall report the amount and status of such  
4 allocations to the Naabik'iyati' Committee and the Office of President and Vice-President  
5 no later than sixty (60) days after the effective date of this legislation.  
6

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

10 A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal  
11 Recovery Funds received by the Navajo Nation to fund central support service and  
12 regulatory costs.

13 B. The Office of the President and Vice-President shall be responsible for apportioning  
14 ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch  
15 programs and offices providing central support and regulatory services, including, the  
16 Office of the President and Vice-President, Office of the Controller, Office of  
17 Management and Budget, Department of Justice, Navajo Nation Washington Office,  
18 Division of Human Resources, Division of Community Development, and other  
19 Divisions and offices providing central support and/or regulatory services.

20 C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'iyati'  
21 Committee, shall be responsible for apportioning ten percent (10%) of the ten percent  
22 (10%) amount amongst Legislative Branch programs and offices providing central  
23 support services, including the Office of Legislative Services, Office of Legislative  
24 Counsel, Office of the Speaker, and Navajo Nation Council.

25 D. The programs and offices receiving NNFRF for central support and/or regulatory  
26 services shall use such funding to develop the legal, financial, organizational,  
27 managerial, administrative, regulatory, and reporting framework necessary to support  
28 the expeditious completion of NNFRF funded projects and the provision of NNFRF  
29 funded services.  
30

- 1 E. The detailed budgets for the NNFRF funding allocated here for central support and  
2 regulatory services shall be processed through the executive or administrative review  
3 process applicable to each Branch and shall not require further legislative action.  
4

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

- 7 A. After reimbursement of the Síhasin Fund and UUFB, allocations to the defunded  
8 Navajo Nation CARES Fund projects, and the release of the immediate disbursements  
9 provided for in this legislation, OOC shall only release and distribute NNFRF funds in  
10 conformance with duly adopted Expenditure Plans enacted by a two-thirds (2/3) vote  
11 of all members of the Navajo Nation Council and approved by the President of the  
12 Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11) and  
13 (12).
- 14 B. Expenditure Plan funds shall not be released to LGA-certified Chapters, Navajo Nation  
15 owned enterprises/authorities/corporations, non-profit corporations and/or external  
16 entities until a binding agreement, *e.g.*, grant or sub-recipient agreement, has been  
17 executed between the Navajo Nation and the respective Responsible Entity.
- 18 C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds  
19 are timed to balance Expenditure Plan needs with maximum investment earnings.
- 20 D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all  
21 applicable Navajo Nation and federal financial, accounting, and reporting laws and  
22 regulations are adhered to and strictly followed.
- 23 E. OOC and the respective Responsible Entity shall provide a written and oral report to  
24 the Naabík'íyáti' Committee and the Office of President and Vice-President on or about  
25 thirty (30) days after the end of each fiscal year quarter; such report will present an  
26 overview and status of all NNFRF funded projects, recommended modifications or  
27 adjustments to projects, and compliance challenges, if any.  
28  
29  
30

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

4 A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the  
5 purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly,  
6 only those provisions of the Appropriations Act, 12 N.N.C. § 800 *et seq.*, that are  
7 expressly applicable to externally restricted funds, and any future provisions in the  
8 Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the  
9 Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s)  
10 funded thereunder.

11 B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal  
12 Year Comprehensive Budget and the Navajo Nation hereby waives the application of  
13 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation],  
14 § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation,  
15 Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local  
16 Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded  
17 thereunder.  
18

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

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

25 Title Twelve

26 Fiscal Matters

27 Chapter 3. Navajo Nation Procurement Act

28 Subchapter 1. General Provisions

29 \*\*\*\*

30 **§ 334 Emergency Procurement**

1           A. Notwithstanding any other provision of law, the Director, Division of Finance,  
2           Purchasing Department, the head of a purchasing agency, or a designee of either  
3           officer may make or authorize others to make emergency procurement when there  
4           exists a threat to public health, welfare, or safety under emergency conditions as  
5           defined in regulations promulgated by the Budget and Finance Committee;  
6           provided that such emergency procurement shall be made with such competition  
7           as is practicable under the circumstances. A written determination of emergency  
8           shall be made by the executive director of the affected division, in concert with the  
9           Director, Division of Finance, Purchasing Department or authorized designee, and  
10          a representative of the Attorney General's Office (or the Office of Legislative  
11          Counsel for emergency procurements by the Legislative Branch). To the extent  
12          possible, certified entities under the Navajo Nation Business Opportunity Act, 5  
13          N.N.C. § 201 *et seq.*, shall receive preference in emergency procurement. The  
14          written determination and the selection of the particular contractor shall be  
15          included in the contract file. No oversight committee approval shall be required  
16          for these contracts.

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

26          \*\*\*\*

27          B. Until such time as the Budget and Finance Committee amends the Navajo Nation  
28          Procurement Rules and Regulations ("Procurement Regulations") adopted by BFD-  
29          192-03, procurements using NNFRF funds shall be deemed to satisfy the definition  
30          of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement

1 Regulations without further justification; and the written application and  
2 concurrence requirements set forth at Section VII (C) of the Procurement  
3 Regulations shall not apply to such procurements.

4 C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and  
5 responsible Priority One or Priority Two vendors responding to the Nation's  
6 solicitation for NNFRF funded goods, services, or construction and construction related  
7 services, who are qualified and able to meet the requirements of the procurement,  
8 including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the  
9 Procuring Party may contract with companies not included on the Business Source List  
10 maintained by the Business Regulatory Department, as long as such companies agree  
11 to comply with Navajo Nation laws, regulations, and policies, including the Navajo  
12 Preference in Employment Act and Navajo Business Opportunity Act.

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

18  
19 **SECTION ELEVEN. AUTHORIZING THE ESTABLISHMENT OF A NAVAJO**  
20 **NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE**  
21 **PRESIDENT AND VICE-PRESIDENT**

22 A. The Office of the President and Vice-President ("OPVP") is authorized to establish a  
23 temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§  
24 1005 (A) and (C) (14).

25 B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public  
26 on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities  
27 assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF  
28 eligibility determinations and other NNFRF matters by Executive Branch programs  
29 and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions  
30 of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF

1 funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the  
2 completion and implementation of NNFRF authorized projects and services; and  
3 assist/support OOC in monitoring the expenditure of NNFRF funds and submitting  
4 timely and accurate ARPA reports to the federal government.

5 C. Prior to its opening, OPVP shall present a plan of operation or similar structural  
6 document for the NNFRF Office to the Naabik'iyati' Committee. On or about thirty  
7 (30) days after the end of each fiscal year quarter, OPVP shall present a report to the  
8 Naabik'iyati' Committee on overall NNFRF Office operations, accomplishments, and  
9 challenges, along with recommended modifications or adjustments to projects and  
10 processes.

11 D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-  
12 owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the  
13 implementation, management, and monitoring of NNFRF funds.

14 E. In order to support the purposes and intent of the Navajo Nation Business Opportunity  
15 Act and Navajo Nation Preference in Employment Act, within 50 days after the  
16 enactment of this legislation, the NNFRF Office shall present a plan to the Budget and  
17 Finance and Naabik'iyati' Committees to provide bonding, insurance, and other needed  
18 support to grow the Navajo Nation economy through private sector contracting, using  
19 ARPA, NNFRF, and/or other Navajo Nation or external funding.

## 21 **SECTION ELEVEN. EFFECTIVE DATE**

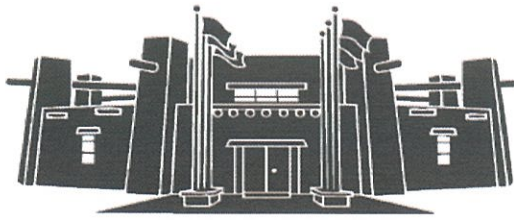
22 This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 221(B).

## 24 **SECTION TWELVE. SAVING CLAUSE**

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

## 30 **SECTION THIRTEEN. DIRECTIVES**

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

TO: Honorable Delegate Carl Slater, Sponsor  
Honorable Speaker Seth Damon, Co-Sponsor  
24<sup>th</sup> Navajo Nation Council

FROM:

Dana L. Bobroff, Chief Legislative Counsel  
Office of Legislative Counsel

DATE: July 8, 2021

SUBJECT: **AN ACTION RELATING TO BUDGET AND FINANCE AND NAABÍK'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**

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.



The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, “the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration.” 2 N.N.C. §164(A)(5).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.