THE NAVAJO NATION LEGISLATIVE BRANCH INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0040-20____

SPONSOR: Kee Allen Begay, Jr.

TITLE: An Action Relating to the Resources and Development Committee; Delegating authority to the director of the Navajo Land Department to issue easements to the Navajo Tribal Utility Authority; Superseding certain provisions of RDCS-96-17 and RDCS-97-17

Date posted: February 24, 2020 at 5:16pm

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LEGISLATIVE SUMMARY SHEET Tracking No. 0040-20

DATE: February 20, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; DELEGATING AUTHORITY TO THE DIRECTOR OF THE NAVAJO LAND DEPARTMENT TO ISSUE EASEMENTS TO THE NAVAJO TRIBAL UTILITY AUTHORITY; SUPERSEDING CERTAIN PROVISIONS OF RDCS-96-17 AND RDCS-97-17

PURPOSE: This resolution, if approved, will delegate RDC's authority to approve NTUA utility easements to the Director of Navajo Land Department.

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.

OLC No. 20-029-1

	HOLD PERIOD: Resource & Development Col	mmittee
	sting Time/Date:	
	Date: $02 - 29 - 20$ Action: $03 - 01 - 20$	
EIIBIDIE IOI		
1	PROPOSED STANDING COMMITTEE RESOLUTION	
2	24 th NAVAJO NATION COUNCIL – Second Year, 2020	
3	INTRODUCED BY	
4		
5	(Prime Sponsor) Regay SPL	
6	(Prime Sponsor)	
7		
8	TRACKING NO0040-20	
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10	AN ACTION	
11	RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE;	
12	DELEGATING AUTHORITY TO THE DIRECTOR OF THE NAVAJO LAND	
13	DEPARTMENT TO ISSUE EASEMENTS TO THE NAVAJO TRIBAL UTILITY	
14	AUTHORITY; SUPERSEDING CERTAIN PROVISIONS OF RDCS-96-17 AND	
15	RDCS-97-17	
16		
17	BE IT ENACTED:	
18		
19	Section One. Authority	
20	A. The Resources and Development Committee is a standing committee of the Navajo	
21	Nation Council empowered to exercise oversight authority on matters involving	
22	communication and utilities, economic and community development, rights-of-ways,	
23	public utilities, telecommunication and housing. 2 N.N.C. §500 (C)	
24	B. The Resources and Development Committee is also empowered to exercise oversight	
25	authority over land and has the enumerated power to grant final approval for non-	
26	mineral leases and rights-of-way within the Navajo Nation. 2 N.N.C. §§ 500 (C) and	
27	501 (B) (2) (a).	
28	C. The Resources and Development Committee is further empowered to delegate its final	
29	approval authority for non-mineral leases and rights-of-way to appropriate Divisions	
30	for efficiency and streamlining of government processes provided the Committee first	

1		approves rules and regulations governing such delegations and rescission of such
2		delegations. See 2. N.N.C. § 501 (B) (3).
3		
4	Sectio	n Two. Findings
5	A.	The Navajo Nation has inherent authority to govern itself and its lands. The United
6		States recognizes the Navajo Nation's sovereignty and self-governance through the
7		Treaty of 1868, various statutes, contracts, and judicial decisions; this authority of self-
8		governance includes the power to regulate the use, sale, exchange and development of
9		Navajo Nation lands.
10	В.	In 2016, the United States Department of Interior updated its regulations concerning
11		the issuance of rights-of-ways over Indian land to include the following language: "you
12		do not need a right of way if you [a]re an independent legal entity wholly owned and
13		operated by the tribe that owns 100 percent of the trust or restricted interest in land."
14		25 C.F.R. § 169.4 (b) (3).
15	C.	According to the 2010 Census, Navajo Nation has over 300,000 enrolled tribal
16		members with 47% living on the Navajo Nation which extends over 27.425 square
17		miles and expands into the states of Arizona, New Mexico and Utah.
18	D.	The Navajo Nation lacks utility infrastructure; for example, even though Navajo Tribal
19		Utility Authority (NTUA) connects an average of 474 homes per year to the electrical
20		grid and has connected over 5,500 Navajo families since 2008, over 15,000 Navajo
21		families still lack access to electricity.
22	D.	The current Bureau of Indian Affairs review and approval process of rights-of-ways is
23		time consuming, burdensome, and ever changing; this bureaucracy has resulted in loss
24		of project funding and delays of providing Navajo residents with much needed utility
25		services.
26	E.	The Resource & Development Committee's delegation of authority to the Director of
27		the Navajo Land Department to issue easements, also known as right of ways, to NTUA
28		will be an exercise of self-governance and tribal sovereignty, and result in time and
29		cost savings.
30		

1	F.	As set forth in its enabling legislation at 21 N.N.C. §§ 1 et seq., NTUA is an
2		independent legal entity wholly owned by the Navajo Nation.
3	G.	The Resource & Development Committee finds that it is in the best interest of the
4		Navajo Nation for the Navajo Land Department to issue easements to the Nation's own
5		Utility on lands owned 100% by the Nation and in so doing, streamline the process for
6		issuing easements to the Navajo Tribal Utility Authority.
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8	Section	n Three. Approval and Superseding Resolution
9	A.	The Resources and Development Committee of the Navajo Nation Council hereby
10		approves the delegation of authority to the Director of the Navajo Land Department,
11		Division of Natural Resources, to approve easements on lands owned 100% by the
12		Navajo Nation.
13	B.	The Resource Development Committee hereby approves the Regulations attached
14		hereto as Exhibit A.
15	C.	The Resources and Development Committee hereby clarifies that this Resolution
16		supersedes and replaces any and all sections of Resolutions RDCS-96-17 and RDCS-
17		97-17 that concern the Navajo Tribal Utility Authority.
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