

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.

1 approves rules and regulations governing such delegations and rescission of such
2 delegations. *See* 2. N.N.C. § 501 (B) (3).

3
4 **Section 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 B. 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.

7
8 **Section 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.