



23rd Navajo Nation Council

MEMORANDUM

To : Manuel Rico, Senior Programs and Projects Specialist
OFFICE OF LEGISLATIVE SERVICES

From : 1-5711
Tom Platero, Executive Director
OFFICE OF LEGISLATIVE SERVICES

Date : January 9, 2019

Subject : ***23rd Navajo Nation Council Expired Legislation***

Pursuant to 2 N.N.C. § 164 (A) (1), "The last day for consideration of resolutions shall be December 31st of the year immediately preceding the swearing in of the new Council", the following legislation need to be closed out and labeled as "expired":

NAVAJO NATION COUNCIL:

0399-17	0424-17	0098-18	0136-18
0183-18	0224-18	0328-18	0344-18
0356-18	0358-18	0367-18	0373-18
0385-18	0393-18	0404-18	0416-18
0422-18			

NAABIK'YATI' COMMITTEE:

0224-15	0361-16	0341-18	0406-18
0418-18	0427-18		

BUDGET AND FINANCE COMMITTEE:

0021-17	0392-17	0099-18	0261-18
0287-18	0398-18	0435-18	0436-18

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE:

0414-18	0419-18	0451-18
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LAW AND ORDER COMMITTEE:

0114-17	0031-18	0217-18	0307-18
0353-18	0360-18	0364-18	0437-18

RESOURCES AND DEVELOPMENT COMMITTEE:

0402-15	0104-16	0121-16	0183-16
0282-16	0296-16	0370-16	0384-16
0135-17	0176-17	0386-17	0400-17
0076-18	0395-18	0415-18	0443-18

Legislation need to be closed out as soon as possible. If you have any questions, please let me know.

CONCURRENCE:



Honorable LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

COPIES: Pete K. Atcitty, Chief of Staff, Office of the Speaker
Ed McCool, Acting Chief Legislative Counsel, Office of Legislative Counsel
Files

LEGISLATIVE SUMMARY SHEET

Tracking No. 0395-18

DATE: December 3, 2018

TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING 2 N.N.C. § 1603-1605 REGARDING THE NAVAJO AGRICULTURAL PRODUCTS INDUSTRY

PURPOSE: If approved, this resolution will amend the enabling legislation of the Navajo Agricultural Products Industry.

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: None
Website Posting Time/Date: 4:55pm 12/7/18
Posting End Date: 12/12/2018
Eligible for Action: 12/13/2018

Resources & Development Committee
Thence
Law & Order Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
23rd NAVAJO NATION COUNCIL - FOURTH YEAR, 2018

INTRODUCED BY

ANTON JOE STEPHENSON
(Primary Sponsor)

TRACKING NO. 0395-18

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER AND
NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL;
AMENDING 2 N.N.C. § 1603-1605 REGARDING THE NAVAJO AGRICULTURAL
PRODUCTS INDUSTRY

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).
- B. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation standing committee and a proposed resolution that requires final action by the Navajo Nation Council shall be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'iyáti' Committee. 2 N.N.C. § 700(A) and 2 N.N.C. § 164(A)(9).
- C. The Law and Order Committee is established as a standing committee of the Navajo Nation Council and has the authority to make recommendations to the Navajo Nation Council on proposed amendments to and enactments to the Navajo Nation Code. 2 N.N.C. §§ 500(A), 601(B)(14).

1 D. The Resources and Development Committee is established as a standing committee of the
2 Navajo Nation Council and has legislative oversight of the Navajo Agricultural Products
3 Industry. 2 N.N.C. §§ 600(A), 5 N.N.C. §§ 1604. *See also* CO-45-12.
4

5 **Section Two. Findings**

- 6 A. The Navajo Agricultural Products Industry ("NAPI") is an enterprise of the Navajo
7 Nation charged with operating and managing a commercial farm on lands held in trust for
8 the Navajo Nation under legislation authorizing the Navajo Indian Irrigation Project.
9 B. The NAPI Board requests that an amendment be made to rename NAPI's oversight to the
10 Resources and Development Committee. *See* Resolution of NAPI Board of Directors
11 attached hereto as **Exhibit A**.
12

13 **Section Two. Amending Navajo Nation Code Title 5**

14 The Navajo Nation amends the Navajo Nation Code, Title 5, as follows:
15

16 Title 5. Commerce and Trade
17 Chapter 9. Navajo Nation Enterprises
18 Subchapter 5. Navajo Agricultural Products Industry
19

20 ***

21 § 1603. Organization

22 A. Board of Directors for NAPI shall be appointed by the President of the Navajo
23 Nation and confirmed by the ~~Economic~~ Resources and Development Committee of the Navajo
24 Nation Council.

25 B. The Board of Directors shall set policy including, but not limited to, establishing
26 personnel policies, procurement policies and financial policies for NAPI. The Board of
27 Directors shall hire and supervise the Chief Executive Officer who shall hire under contract a
28 Chief Financial Officer. The Chief Financial Officer shall be accountable to the Board of the
29 Directors and to the Chief Executive Officer and shall be supervised by the Chief Executive
30 Officer in conformity with job descriptions established for the Chief Financial Officer and the

1 Chief Executive Officer, and with Navajo Agricultural Products Industry's approved policies
2 and procedures. The Chief Financial Officer shall submit all monthly, quarterly and annual
3 reports to the Chief Executive Officer and Board of Directors simultaneously.

4 C. The Chief Executive Officer shall administer the daily operations of NAPI. The
5 Chief Executive Officer shall be responsible and accountable to the Board of Directors and
6 shall employ necessary personnel in accordance with the personnel policies applicable to
7 NAPI.

8 D. No elected official of the federal, state or Navajo Nation government shall be a
9 member of the Board of Directors. No employee of the federal, state or Navajo Nation
10 government shall be a member of the Board of Directors.

11
12 § 1604. Legislative oversight

13 The Navajo Agricultural Products Industry shall operate under the legislative oversight of
14 the Economic Resources and Development Committee of the Navajo Nation Council, pursuant to
15 ~~2 N.N.C. § 724(E)~~. NAPI shall operate pursuant to a Plan of Operation recommended by the
16 NAPI Board of Directors in consultation with the President of the Navajo Nation and adopted by
17 the Economic Resources and Development Committee of the Navajo Nation Council.

18
19 § 1605. Amendments

20 Sections 1601 through 1605 may be amended from time to time by the Navajo Nation
21 Council upon the recommendation of the Economic Resources and Development Committee of
22 the Navajo Nation Council after consultation with the Navajo Agricultural Products Industry
23 Board of Directors and the President of the Navajo Nation.

24
25 **Section Five. Effective Date**

26 The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).
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28
29
30



**RESOLUTION OF THE
NAVAJO AGRICULTURAL PRODUCTS INDUSTRY
BOARD OF DIRECTORS**

Recommending an Amendment to Title 5, Navajo Nation Code and Recommending Revisions to the Plan of Operation of the Navajo Agricultural Products Industry; Approving the Amended and Restated Plan of Operation; and Respectfully Requesting the Navajo Nation President and the Resources and Development Committee to Recommend, and the Navajo Nation Council to Approve, Such Amendments.

WHEREAS:

1. The Navajo Agricultural Products Industry ("NAPI") is an enterprise of the Navajo Nation charged with operating and managing a commercial farm on lands held in trust for the Navajo Nation under legislation authorizing the Navajo Indian Irrigation Project; and
2. The NAPI enabling legislation, at 5 N.N.C. § 1604, provides that "NAPI shall operate pursuant to a Plan of Operation recommended by the NAPI Board of Directors in consultation with the President of the Navajo Nation and adopted by the Economic Development Committee of the Navajo Nation Council"; and
3. Article 19 of the NAPI Plan of Operation provides that "[t]he Plan of Operation may be amended from time to time by the Economic Development Committee of the Navajo Nation Council upon recommendation of the NAPI Board of Directors, and President of the Navajo Nation"; and
4. As stated in Title 5, Navajo Nation Code § 1604 Legislative Oversight; "The Navajo Agricultural Products Industry shall operate under the legislative oversight of the Economic Development Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 724 (E). The Economic Development Committee is now the Resources and Development Committee of the Navajo Nation Council. The NAPI Board requests that an amendment be made to rename NAPI's Oversight to the Resources and Development Committee where noted in Title 5 of the Navajo Nation Code and NAPI's Plan of Operation; and
5. Article 5 of the NAPI Plan of Operation describes the current process by which an open position on the Board of Directors may be filled, and also details the minimum requirements for Board Members, the notification procedures required to fill vacancies on the Board and the removal or resignation process required for Board Members. The NAPI Board requests that certain amendments be made to Article 5 in order to update the appointment process for Board Members, amend the qualifications required for the five (5) members of such Board, update the standards for removal of a Board member, and streamline the notification and procedures for filling vacancies on the Board of Directors; and
6. Article 6 of the NAPI Plan of Operation describes the Principal Officers of the NAPI Board of Directors. The NAPI Board requests that an amendment be made to Article 6 in order to remove the discretionary position of Treasurer, include a replacement procedure, and implement a procedure by which the Board may establish standing committees; and
7. Article 7 of the NAPI Plan of Operation details the powers and duties given to the Board of Directors. The NAPI Board requests that certain amendments be made to Article 7 in order to better clarify those powers and duties, streamline the process by which officers and agents shall be selected or appointed, remove a requirement that a prewritten provision shall be included in all contracts signed by NAPI, omit a limited waiver of NAPI's sovereign immunity, and remove a provision regarding limited liability companies and limited partnerships; and

8. Article 8 of the NAPI Plan of Operation provides guidelines for the Board of Directors' Meetings. The NAPI Board requests that certain amendments be made to Article 8 in order to require Directors to be physically present at regular meetings and require such regular meetings to occur quarterly; and

9. Article 16 of the NAPI Plan of Operation describes the circumstances under which immunity from suit may be authorized. The NAPI Board requests that certain amendments be made to Article 16 in order to authorize the Board of Directors to waive the defenses identified in the Plan of Operation in order to further the purposes of NAPI; and.

10. The NAPI Board requests that certain other technical changes be made to the NAPI Plan of Operation in order to update the document for readability and accuracy; and

11. The NAPI Board of Directors has considered the proposed amendment to Title 5 Navajo Nation Code, attached hereto as Exhibit "A" and the Plan of Operation, attached hereto as Exhibit "B", presented by management and deems its adoption to be in the best interest of NAPI and the Navajo Nation.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The NAPI Board of Directors hereby recommends an amendment to Title 5, of the Navajo Nation Code, attached hereto as Exhibit "A" and revisions to the Plan of Operation of the Navajo Agricultural Products Industry, attached hereto as Exhibit "B".

2. The NAPI Board of Directors hereby approves the amended and restated Plan of Operation of the Navajo Agricultural Products Industry, attached hereto as Exhibit "B"; and respectfully requests the President and Resources and Development Committee recommend that the Navajo Nation Council approve such amendments.

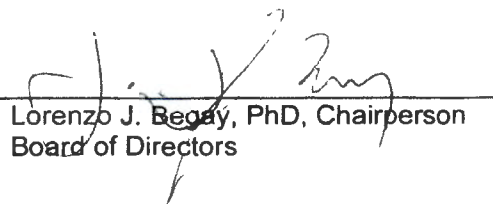
3. NAPI Management is authorized and directed to process a proposed resolution for the consideration of the Resources and Development Agreement in accordance with 2 N.N.C. § 164 (2005) to amend the NAPI Plan of Operation.

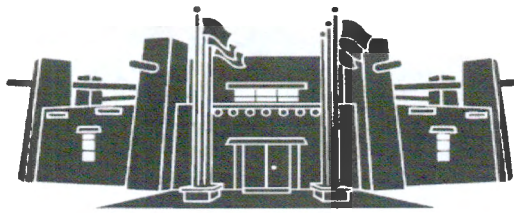
4. The NAPI Board of Directors hereby authorizes the Chief Executive Officer to take any and all actions necessary to carry out the purpose and intent of this Resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was considered by the Navajo Agricultural Products Industry Board of Directors at a special meeting at which a quorum was present at NAPI headquarters near Farmington, New Mexico, and that the same was passed by vote of 3 in favor, 0 opposed, and 0 abstained, this 17th day of October, 2017

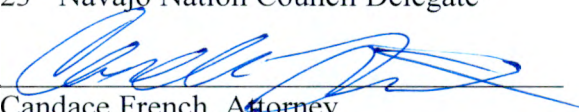
Motion: Peter Deswood, III
Second: Veronica D. Tso


Lorenzo J. Begay, PhD, Chairperson
Board of Directors



MEMORANDUM

TO: Honorable Alton Joe Shepherd
23rd Navajo Nation Council Delegate

FROM: 
Candace French, Attorney
Office of Legislative Counsel

DATE: December 3, 2018

RE: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, LAW
AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO
NATION COUNCIL; AMENDING 2 N.N.C. § 1603-1605 REGARDING
THE NAVAJO AGRICULTURAL PRODUCTS INDUSTRY

Per your request, attached is the above-reference proposed resolution and associated legislative summary sheet. Based on existing law, the resolution drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge.

The Office of Legislative Counsel recommends the appropriate standing committee(s) reviews 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 review the proposed resolution to ensure it is drafted to your satisfaction. If you approve, please sign as "Primary Sponsor" and submit it to the Office of Legislative Services where the proposed resolution will be given a tracking number and referred to the Office of the Speaker. If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0395-18_____

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating to Resources and Development, Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending 2 N.N.C. § 1603-1605 regarding the Navajo Agricultural Products Industry

Date posted: December 7, 2018 at 4:55pm

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0395-18

SPONSOR: Honorable Alton Joe Shepherd

TITLE: An Action Relating to Resources and Development, Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending 2 N.N.C. § 1603-1605 regarding the Navajo Agricultural Products Industry

Posted: December 7, 2018 at 4:55pm

5 DAY Comment Period Ended: December 12, 2018

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comment (1)	1. Manuel Rico, Policy Analyst; Office of Legislative Services. Recommendation of amendments.



**Legislative Reporter
Office of Legislative Services**

12/13/18 9:05am

Date/Time

12/11/2018

RE: 0395-18 - comments

RE: 0395-18

Manuel Rico <mrico@navajo-nsn.gov>

Mon 12/10/2018 2:31 PM

to comments <comments@navajo-nsn.gov>; legislation <legislation@navajo-nsn.gov>;

cc: Tom Platero <tomplatero@navajo-nsn.gov>;

Please attach the following as comments:

Amendments:

Pg. 1 of 3, line 30, "500 (A)" should be "600 (A)" as 500 refers to RDC

Pg. 2 of 3, line 3, "600 (A)" should be "500 (A)" as 600 refers to LOC

Recommendation:

Pg. 2 of 3, line 28, strike "the" in "Board of the Directors"

Manuel Rico
Policy Analyst
Office of Legislative Services
Navajo Nation
P: 928.871.7254
F: 928.871.7259

From: legislation
Sent: Friday, December 7, 2018 5:24 PM
To: Tom Platero <tomplatero@navajo-nsn.gov>
Cc: Manuel Rico <mrico@navajo-nsn.gov>; Raylene Holyan-Yazzie <rholyanyazzie@navajo-nsn.gov>
Subject: 0395-18

Good evening,

Legislation no. 0395-18 has been introduced to the 5 day comment period and is now available to view at <http://dibb.nnols.org/PublicReporting.aspx>

0395-18	An Action Relating to Resources and Development, Law and Order and Naabik'iyati Committees and the Navajo Nation Council; Amending 2 N.N.C. § 1603-1605 regarding the Navajo Agricultural Products Industry	Alton Joe Shepher
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Tracking Section
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