

LEGISLATIVE SUMMARY SHEET

Tracking No. 0289-16

DATE: August 25, 2016

TITLE OF RESOLUTION: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES; APPROVING RULES AND REGULATIONS FOR NON-EMERGENCY TRANSPORT SERVICES WITHIN THE NAVAJO NATION

PURPOSE: This resolution will approve Rules and Regulations for Non-Emergency Transport Services within the Navajo Nation.

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: Not in Bill
Website Posting Time/Date: 2:01 pm 8/26/16
Posting End Date: 8/31/16
Eligible for Action: 9/1/16

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Second Year, 2016

INTRODUCED BY


(Sponsor)

TRACKING NO. 0289-16

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES; APPROVING
RULES AND REGULATIONS FOR NON-EMERGENCY TRANSPORT SERVICES
WITHIN THE NAVAJO NATION

BE IT ENACTED:

Section One. Authority

A. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. It has oversight authority over the Navajo Nation Department of Health. 2 N.N.C. § 401(C).

B. The Navajo Nation Department of Health is authorized "to regulate health, human, and non-emergency medical transportation service provider." 2 N.N.C. §1604(I).

Section Two. Findings

A. There currently are numerous companies operating within the boundaries of the Navajo Nation providing non-emergency medical transportation services. There are no rules and regulations governing such services.

B. The Navajo Department of Health has developed rules and regulations governing non-emergency medical transportation services, attached as Exhibit "A."

1 **Section Three. Approving Non-Emergency Medical Transportation Services Rules**
2 **and Regulations**

3 The Navajo Nation hereby approves the attached Non-Emergency Medical
4 Transportation Services Rules and Regulations, marked as Exhibit "A."

5
6 **Section Four. Amendments**

7 Concerning the rules and regulations adopted herein, the Department of Health may
8 recommend amendments to the Health, Education and Human Services Committee.

**RULES AND REGULATIONS FOR NON-EMERGENCY
TRANSPORT SERVICES WITHIN THE NAVAJO NATION**

I. GOAL STATEMENTS

A. The Navajo Department of Health (NDOH) provides a wide range of preventative health education, community health services, behavioral health services, food and nutrition services, aging and support services, and public health emergency preparedness and response to the Navajo Population.

B. Non-Emergency Medical Transportation (NEMT) provides qualified individuals transportation services to their approved medical appointments. The service is funded by Medicaid programs, contract health funding, or private insurance plans. Individuals who qualify for NEMT services are identified with Arizona Health Care Cost Containment System (AHCCCS).

C. The intent of the Non-Emergency Medical Transportation (NEMT) rules and regulations developed by Navajo Nation Department of Health (NDOH) is to outline minimum safety standards of operations ~~in order~~ to provide services on the Navajo Nation. The minimum standards focus on areas of safety, insurability, employee rights and Navajo preference.

II. DEFINITIONS

A. Arizona Health Care Cost Containment System (AHCCCS): Arizona's Medicaid agency that offers health care programs to serve Arizona residents.

B. Compliance: The maintenance and full understanding of regulatory rules and requirements.

C. Minimum safety standards of operations: Basic safety standards prescribed by NDOH that must be adhered to, in order to ensure NEMT operations are safe and cause no harm.

D. Motor carrier: A person or persons who provide transportation services to passengers by commercial motor vehicles.

1 E. Non-emergency Medical Transportation (NEMT): shall mean approved service
2 providers who transport qualified individuals to their approved medical appointment.

3 F. Permit: Authorization and Consent

4 G. Proof of Financial Responsibility: Motor carrier insurance that is evidence to pay
5 for damages resulting from an accident.

6 H. Public health: shall mean the science of protecting and improving the health of
7 entire populations through education, promotion of healthy lifestyles, and research for
8 disease and injury prevention

9 10 **III. PRIORITIES**

11 The priorities of the Department of Health in implementing these rules and
12 regulations is to develop a system of qualifications that ensures that all NEMT companies
13 allowed to operate on the Navajo Nation meet the necessary minimal safety and
14 operational standards.

15 16 **IV. APPLICATION AND PERMIT REQUIREMENTS**

17 A. NEMT providers shall file with the NDOH an application containing the
18 following information and documents:

- 19 1. The applicant's name;
- 20 2. The applicant's d/b/a name, if applicable;
- 21 3. The applicant's principal place of business;
- 22 4. The applicant's business telephone number;
- 23 5. The applicant's electronic mail address, if applicable;
- 24 6. The applicant's federal tax identification number and the principal business
25 owner's social security number;
- 26 7. A description of the form of ownership, the names and addresses of all
27 principal owners and managers, and the date the business entity was created;
- 28 8. An appointment of an agent for service of process;
- 29 9. A list of all equipment to be used by the applicant, including all equipment
30 leases filed with and approved in accordance with these rules;

1 10. For each piece of equipment, an annual inspection form completed by a
2 qualified inspector within the preceding twelve (12) months that shows that
3 each motor vehicle proposed to be operated by the applicant meets the safety
4 requirements;

5 11. The applicant's written statement certifying that the driver meets the driver
6 qualifications of motor carrier safety requirements and that the applicant
7 maintains a driver qualification files on the driver;

8 12. A list of drivers and driver's license information for each driver including
9 state of issuance, license number, and class of license;13M. proof of public
10 liability insurance;

11 13. The applicant's written statement certifying that it has developed a drug and
12 alcohol testing program that will meet NDOH requirements

13 14. A copy of the applicant's written preventive maintenance program for each of
14 its motor vehicles;

15 15. A contact person and telephone number for NDOH to call in the event of a
16 complaint.

17 17. A notarized oath of the applicant attesting that all statements in the application
18 are true and correct.

19 18. Proof of Financial Responsibility.

20 **B. Navajo Nation Business License.** *Navajo Nation Business licenses obtained to*
21 *conduct business on the Navajo Nation. (NDOH note - Further Discussion Required)*
22

23 **V. PROOF OF FINANCIAL RESPONSIBILITY- INSURANCE**

24 Service Providers shall provide proof of insurance for vehicles used for non-
25 emergency transport services. More particularly:

26 A. Every motor carrier must file proof of financial responsibility with the Navajo
27 Nation.

28 B. The required financial responsibility must be in the exact legal and "doing
29 business as" name of the motor carrier.
30

1 C. The NDOH will accept the following documents as proof of the required public
2 liability financial responsibility:

3 1. A certificate showing the issuance of an insurance policy with the required
4 uniform endorsement by a company authorized to transact insurance business in
5 Arizona, New Mexico, Utah and Colorado on uniform filing form for public
6 liability insurance; or

7 2. A certified statement from the NNDH that the motor carrier has met all
8 requirements to be self-insured.

9 D. The NDOH will accept as proof of the required public liability financial
10 responsibility a certificate showing the issuance of an insurance policy with the
11 required uniform endorsement by a company authorized to transact insurance
12 business in any state of the United States on a uniform filing form.

13 E. Insurance Filings. Address for correct filing of insurance-related documents.
14 Current address - Insurance companies must mail original uniform filing to the
15 Navajo Nation.

16 F. The minimum limits of public liability insurance are as follows:

17 1. Motor carriers of persons providing service in vehicles with a seating capacity
18 of sixteen (16) persons or more, excluding the driver, must maintain a combined
19 single-limit public liability insurance policy of at least five million dollars
20 (\$5,000,000) per occurrence for bodily injury to or death of all persons injured or
21 killed and property damage.

22 2. Motor carriers of persons providing service in vehicles with a seating capacity
23 of seven (7) to fifteen (15) persons, excluding the driver, must maintain a
24 combined single-limit public liability insurance policy of at least one million five
25 hundred thousand dollars (\$1,500,000) per occurrence for bodily injury to or
26 death of all persons injured or killed and property damage.

27 3. Motor carriers of persons providing service in vehicles with a seating capacity
28 of six (6) persons or fewer, excluding the driver, must maintain a combined
29 single-limit public liability insurance policy of at least one million dollars
30

1 (\$1,000,000) per occurrence for bodily injury to or death of all persons injured or
2 killed and property damage.

3 G. Maximum Deductible. No motor carrier insurance policy shall have a deductible
4 in excess of five thousand dollars (\$5,000), except that the Navajo Nation may
5 approve a higher deductible for a motor carrier that files: a surety bond with the
6 Navajo Nation in an amount equal to the difference between five thousand dollars
7 (\$5,000) and the amount of the higher deductible; or

8 H. Cancellation of Insurance.

9 1. Required expiration date. All motor carrier insurance policies must be written
10 or endorsed with an expiration date "until canceled."

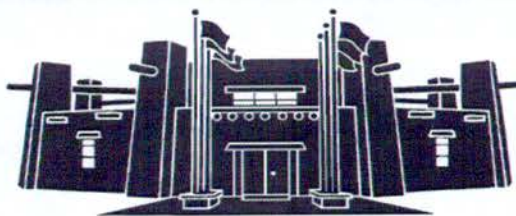
11 2. Intrastate. An intrastate motor carrier may cancel its insurance by having its
12 insurance company file with the Navajo Nation or its designee a uniform filing
13 form stating that the motor carrier's public liability insurance will expire in thirty
14 (30) days.

15 3. Interstate. An interstate motor carrier may cancel its insurance by having its
16 insurance company file with the Navajo Nation or its designee a uniform filing
17 form stating that the motor carrier's public liability insurance will expire in thirty
18 (30) days.

19 I. Automatic Suspension of Operating Authority. The NDOH may suspend the
20 operating authority of a motor carrier if it fails to continuously maintain the amounts
21 of financial responsibility required by this rule. If a motor carrier's operating
22 authority explicitly authorizes seasonal transportation service, the continuous
23 coverage requirement of this rule shall apply only during the seasonal period during
24 which the motor carrier is authorized to provide service.


25
26 Provider responsibilities and requirements

27 Covered Service and Service Limitations
28
29
30



MEMORANDUM

To : Hon. Jonathan Hale, Council Delegate
Navajo Nation Council

From : 
Ron Haven, Attorney
Office of Legislative Counsel

Date : August 25, 2016

Re : AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN
SERVICES; APPROVING RULES AND REGULATIONS FOR NON-
EMERGENCY TRANSPORT SERVICES WITHIN THE NAVAJO
NATION

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. It concerns rules and regulations regarding non-emergency medical transport within the Navajo Nation. You submitted drafted rules and regulations (presumably prepared by the Department of Health as required under 2 N.N.C. §1604(I)). I have reviewed these proposed rules and regulations, along with Ms. Christine Schwamberger of the Department of Justice, and have attempted to reorganize them without affecting substance. However, they remain incomplete. For example, the last two subject headings under *Provider Responsibilities and requirements* and *Covered Service and Service Limitations* are blank (areas which may be essential). Also, the rules and regulations make reference to *business licenses*, although we do not have a business licensing system (incorporation activities are something different). In any event, I am releasing the document at your direction although it is legally insufficient for reasons identified above.¹

As with all legislation, the bill prepared here can be subject to review by the courts in the event of proper challenge. Also, understand that the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

¹ NDOH should complete its rules, with assistance from NNDOJ. Upon completion, OLC can prepare the necessary bill.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

OLC # 16-535-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0289-16

SPONSOR: Jonathan Hale

TITLE: An Action Relating to Health, Education and Human Services; Approving Rules and Regulations for Non-Emergency Transport Services within the Navajo Nation

Date posted: August 26, 2016 at 2:01pm

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.

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

LEGISLATION NO.: 0289-16

SPONSOR: Honorable Jonathan L. Hale

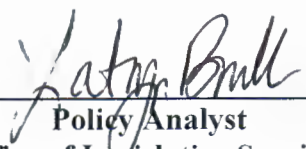
TITLE: An Action Relating To Health, Education and Human Services; Approving Rules and Regulations for Non-Emergency Transport Services within the Navajo Nation.

Posted: August 26, 2016 at 2:01pm

5 DAY Comment Period Ended: August 31, 2016

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



Policy Analyst
Office of Legislative Services

9/1/16 8:24am

Date/Time