

LEGISLATIVE SUMMARY SHEET

Tracking No. 0100-15

DATE: March 24, 2015

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING 5 N.N.C. § 204(A) THE NAVAJO BUSINESS OPPORTUNITY ACT TO CLASSIFY NAVAJO NATION OWNED BUSINESSES AND ENTERPRISES AS PRIMARY ONE NAVAJO OWNED BUSINESSES

PURPOSE: The purpose of this proposed resolution is to amend the Navajo Business and Opportunity Act to classify Navajo Nation owned and enterprises as "Primary One Navajo Owned Businesses."

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: 11:40am 3/26/15
Posting End Date: 3/30/2015
Eligible for Action: 3/31/2015

Law & Order Committee

THENCE

Naa'bik'íyáti' Committee

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Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL -- First Year, 2015

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0100-15

AN ACT

RELATING TO LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND
THE NAVAJO NATION COUNCIL; AMENDING 5 N.N.C. § 204(A) THE NAVAJO
BUSINESS OPPORTUNITY ACT TO CLASSIFY NAVAJO NATION OWNED
BUSINESSES AND ENTERPRISES AS PRIMARY ONE NAVAJO OWNED
BUSINESSES

BE IT ENACTED:

Section One. Findings and Purposes

- A. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 601(B)(14), reviews and makes recommendations to the Navajo Nation Council proposed amendments to the Navajo Nation Code.
- B. The Naabik'íyáti' Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 164(A)(9), reviews proposed legislation which requires final action by the Navajo Nation Council.
- C. The Resources and Development Committee, pursuant to 5 N.N.C. § 215 may recommend to the Navajo Nation Council amendments to the Navajo Business Opportunity Act.
- D. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. 2 N.N.C. § 164(A).

- 1 E. The Navajo Nation Council created the Navajo Engineering and Construction
2 Authority (NECA), The Navajo Times Publishing Company, Inc. (NTPC), Navajo
3 Agricultural Products Industry (NAPI), Navajo Tribal Utility Authority (NTUA),
4 Navajo Oil and Gas Company, Inc., (NOGC), Navajo Nation Hospitality Enterprises
5 (NNHE) and other businesses as wholly owned Navajo Nation owned business
6 enterprises and corporations.
- 7 F. The Navajo Nation business enterprises and corporations were created as
8 instrumentalities of the Navajo Nation and granted all powers and authorities
9 necessary and proper for the purpose of improving the economic, financial, and social
10 conditions of the Navajo Nation and Navajo People, and improving and enhancing
11 the Nation's natural, human, and economic resources.
- 12 G. The Navajo Nation owned enterprises and corporations have provided employment
13 opportunities for Navajo workers, business opportunities for Navajo owned
14 businesses, trained Navajo workers, helped to deliver government services to the
15 Navajo Nation, return to the Navajo Nation taxes and dividends, and generally have
16 improved the economic condition of the Navajo People and the Navajo Nation.
- 17 H. The Navajo Nation Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2) has
18 unintentionally created a barrier that threatens the Navajo Nation business
19 enterprises' continued contribution and critical role in nation building and moving the
20 Navajo Nation toward a self-sustaining economy and economic independence
21 sovereignty.
- 22 I. Navajo Nation Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2), have
23 classified all Navajo Nation owned business enterprises as Priority Two for the
24 purpose of bidding and bid openings.
- 25 J. As Priority Two Navajo-owned businesses, Navajo Nation business enterprises and
26 corporations are placed in a competitive disadvantage that seriously threatens the
27 financial vitality of the Navajo Nation business enterprises and corporations. In bid
28 openings, the business enterprises and corporations' bids are never opened if there is
29 a Navajo owned business that is classified as Priority One Navajo-owned business. In
30

1 many cases, the Navajo Nation business enterprise or corporation was the low bidder
2 and has demonstrated capacity, expertise, and experience for the project.

3 K. The governing boards for the Navajo Engineering and Construction Authority
4 (NECA), The Navajo Times Publishing Company, Inc. (NTPC), the Navajo
5 Agricultural Products Industry (NAPI), the Navajo Tribal Utility Authority (NTUA),
6 the Navajo Oil and Gas Company, Inc. (NOGC), the Navajo Nation Hospitality
7 Enterprises (NNHE), wholly owned Navajo Nation owned businesses and
8 corporations, have passed resolutions supporting and urging amendment of Navajo
9 Nation Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2). The Resolutions are
10 attached hereto and incorporated herein as Exhibit A through F, respectively.

11 L. The Navajo Nation Council Resources and Development Committee recommends
12 amendment of the Navajo Nation Business Opportunity Act, 5 N.N.C. § 204(A)(1)
13 and (2).

14 M. It is in the best interest of the Navajo Nation that Navajo Nation owned enterprises,
15 corporations and business be classified as Priority One Navajo-owned businesses.
16 Classification as Priority One Navajo-owned businesses will further allow the Navajo
17 Nation enterprises, corporations and business to provide for financial growth of the
18 Navajo Nation.

19
20 **Section Two. Amendments to Title Five, 5 N.N.C. § 204(A)(1) and (2)**

21
22 The Navajo Nation hereby amends Title 5, Navajo Nation Code Navajo Nation Business
23 Opportunity Act, 5 N.N.C. § 204(A)(1) and (2) as follows:

24
25 *****

26 NAVAJO NATION CODE ANNOTATED
27 TITLE 5. COMMERCE AND TRADE
28 CHAPTER 2. NAVAJO NATION BUSINESS OPPORTUNITY ACT

29
30 *****

1 § 204. Required Business and Contracting Preference Priorities; Certification
2 Requirements
3

4 A. Preference Priorities. The Navajo Nation shall certify all businesses pursuant to
5 the following Navajo business opportunity priority classification:
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7 1. Priority #1. Certification shall be granted to any one hundred percent
8 (100%) Navajo-owned and controlled business, having its principal place of business
9 on or off the Navajo Nation or one hundred percent (100 %) Navajo Nation owned
10 and controlled enterprises and corporations having their principal place of business on
11 or off the Navajo Nation.

12 2. Priority #2. Certification shall be granted to any fifty-one percent (51%) to
13 ninety-nine percent (99%) Navajo or fifty-one percent (51%) to one hundred percent
14 (100%) other Indian owned and controlled business ~~or one hundred percent (100%)~~
15 ~~Navajo Nation owned and controlled economic enterprise~~ having its principal place
16 of business on or off the Navajo Nation.
17

18 B. Obtaining a Priority Certification and Required Compliance. To receive a priority
19 certification under this Act, the business must satisfactorily demonstrate that the business
20 meets the requirements of § 204(A)(1) or (2).
21

22 *****

23 **Section Three. Effective Date**

24 The Act enacted herein shall be effective upon its approval pursuant to 2 N.N.C. §221.
25

26 **Section Four. Codification**

27 The provisions of this ordinance which amend or adopt new sections of the Navajo
28 Nation Code shall be codified by the Office of Legislative Counsel. The Office of
29 Legislative Counsel shall incorporate such amended provisions in the next codification of
30 the Navajo Nation Code.

1
2 **Section Five. Saving Clause**

3 Should any provisions of this ordinance be determined invalid by the Navajo Nation
4 Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo
5 Nation Supreme Court, those portions of this ordinance which are not determined invalid
6 shall remain the law of the Navajo Nation.
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NECA12-4-13

**RESOLUTION OF THE NAVAJO ENGINEERING
AND CONSTRUCTION AUTHORITY BOARD OF DIRECTORS**

**Approving and Recommending the Amendment of the
Navajo Business Opportunity Act, 5 N.N.C. § 204(A), to Classify Navajo
Engineering
and Construction Authority as a Priority One (1) Navajo-Owned Business; and
Related Actions.**

WHEREAS:

1. On June 13, 1972 by Resolution CJN-56-72, the Navajo Tribal Council created and established the Navajo Engineering and Construction Authority (NECA) as a wholly Navajo-owned business enterprise of the Navajo Nation for the benefit of the Navajo People; and
2. The Navajo Engineering and Construction Authority (NECA) is created and established to "engage in the general engineering and heavy construction industry," 5 N.N.C. § 1972 (A) (1), as amended; and
3. The NECA Board of Directors is delegated the authority and responsibility for the management and operation of NECA, 5 N.N.C. § 1972 (B) (1), as amended; and
4. The NECA is established to "engage in general engineering and heavy construction industry, to train Navajo People in the engineering and construction industry, including training in the management ... , to provide employment to the Navajo Nation, its enterprises and individual members, in engineering and construction and related businesses, and to be the premier heavy construction contractor serving the Navajo Nation and the public sector of the Four Corners area, emphasizing the values of excellence, service and employee development, ...", 5 N.N.C. §§ 1971, et seq.; and
5. Pursuant to 5 N.N.C. § 1972 (B)(12), as amended, the NECA is authorized by the Navajo Nation and therefore has the authority and responsibility to " enter into, make, perform, and carry out, or cancel, or rescind contracts for any lawful proposes set forth in 5 N.N.C. § 1972 including contracting for funds from whatever source without prior or subsequent approval or authorization by the Navajo Nation and to delegate so much of this authority as may be advisable to the General Manager or to the Chairman of the Board of Directors"; and
6. Pursuant to the authorization contained in 5 N.N.C. § 1972 (B)(12), as amended, the NECA has contracted federal highway construction projects on the Navajo Nation through the Bureau of Indian Affairs, Navajo Regional Office, Office of Highway Programs, Gallup, New Mexico, on an exclusive basis; and

7. As directed by the Navajo Nation Council at 5 N.N.C. §§ 1972, as amended, the NECA has become the premier heavy construction contractor in the Four Corners area with a substantial investment portfolio, unlimited bonding capacity, has trained countless Navajos in the construction fields, has an annual average work force of 400 employees, provided scholarships to Navajo college students, and has returned millions of dollars as a return on investment to the Navajo Nation; and

8. The NECA has met and exceeded the purposes for which the Navajo Tribal Council created it in 1972. NECA has proven to be extremely beneficial to the Navajo Peoples and a critical player in the Navajo Nation's nation building efforts. The NECA continues to be beneficial and critical to the Navajo Nation; and

9. By Navajo Nation Council Resolution CAP-13-13 (April 16, 2013) and signed into law on April 26, 2013, the Navajo Nation Council established the Navajo Division of Transportation (NDOT) as a division of the Navajo Nation government; and

10. The NDOT is created to "exclusively administer the Navajo Nation transportation programs within the Navajo Nation, to ensure an effective and efficient transportation operation to promote the improvement of the transportation system and to provide the necessary resources to accomplish the objectives..." 2 N.N.C. §§ 1371, et seq, as amended; and

11. The United States government recently approved and authorized NDOT as a direct recipient of the Federal Highway Trust Fund money for highway construction on the Navajo Nation; and

12. The NDOT can and has by-passed the BIA Navajo Regional Office for receipt of the Federal Highway Trust Fund designated for highway construction on the Navajo Nation; and

13. Pursuant to the Navajo Business Opportunity Act, 5 N.N.C. §§ 201, et seq., (hereinafter "NBOA") and in particular 2 N.N.C. § 205, as amended, the NDOT has begun to bid out highway construction projects on the Navajo Nation without regard to the 5 N.N.C. § 1972 (B)(12), as amended, and the NECA's highway construction contracting Opportunity law stated therein; and

14. The NDOT Executive Director is specifically authorized and directed to "Negotiate contracts, grants, and agreements appurtenant to the Navajo Nation Division of Transportation and subject to Navajo Nation laws, rules, and regulations" (*Emphasis added*); and

15. The NECA contracting authority on an exclusive basis codified at 5 N.N.C. § 1972 (B)(12), as amended, has not been amended or rescinded therefore is and

remains applicable Navajo Nation law with which the NDOT Executive Director must comply; and

16. Pursuant to 5 N.N.C. § 204, as amended, the NBOA classifies the NECA and all Navajo Nation owned enterprises as Priority 2 for purposes of bidding and bid opening; and

17. As a Priority 2 classified Navajo-owned business, the NECA can and does submit bids but NECA bids are not given consideration and are not even opened if there is a Priority 1 Navajo-owned company who submits a bid for the highway construction project; and

18. Recently, NDOT put out to bid a highway construction project on the Navajo Nation and awarded that project construction contract to an alleged Priority 1 Navajo-owned highway construction company even though NECA's bid was lower than that company's bid. The NECA's bid was not even opened because of NECA's classification as a Priority 2 under the NBOA; and

19. The NDOT's application of the NBOA bidding requirement puts NECA's business operation and financial viability in jeopardy and frustrates and undermines the purposes for which the Navajo Tribal Council created NECA in 1972; and

20. There is an obvious conflict and resulting uncertainty between the mandates contained in the NDOT's Plan of Operation, the NECA's Plan of Operation, and the NBOA.

21. The conflict in Navajo law needs to be resolved to give direction and certainty to the NDOT and NECA; and

22. Federal Highway Trust Fund moneys appropriated for highway construction on the Navajo Nation need to be committed and expended in an expeditious and efficient manner; and

23. The NECA is a competent Navajo-owned company that has demonstrated experience and history of constructing high quality highways and waterline/sewerlines and, further, has the capacity such as skilled employees, experienced management, unlimited bonding, and necessary equipment to build highways and construct waterlines/sewerline on the Navajo Nation; and

24. The NECA is the only Navajo Nation-owned business that relies on contracting in a competitive heavy construction industry market, consequently, the NECA is vastly different and unique from other Navajo Nation-owned business enterprises; and

25. It is in the best interest of the NECA that the Navajo Business Opportunity Act, 5 N.N.C. § 204(A), is amended to classify NECA as a Priority 1 Navajo-owned business to allow NECA to compete on a level playing field with all highway construction contractors consistent with the NBOA; and

26. Pursuant to 5 N.N.C. § 1981, as amended, the NECA Board of Director may amend the NECA Plan of Operation with the approval by the appropriate oversight committee of the Navajo Nation Council and final approval by the Navajo Nation Council.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Engineering and Construction Authority Board of Directors hereby approves and recommends to the Navajo Nation the amendment of the Navajo Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2), to classify Navajo Engineering and Construction Authority as a Priority 1 Navajo-owned and controlled business.

2. The Navajo Engineering and Construction Authority Board of Directors further approves and recommends the amendment of the Navajo Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2), as follows:

A. Preference Priorities. The Navajo Nation shall certify all businesses pursuant to the following Navajo business opportunity priority classification:

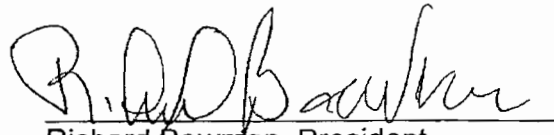
1. Priority #1. Certification shall be granted to any one hundred percent (100%) Navajo-owned and controlled business, having its principal place of business on or off the Navajo Nation including the Navajo Engineering and Construction Authority.

2. Priority #2. Certification shall be granted to any fifty-one percent (51%) to ninety-nine percent (99%) Navajo or fifty-one percent (51%) to one hundred percent (100%) other Indian owned and controlled business or with the exception provided in § 204(A)(1), one hundred percent (100%) Navajo Nation owned and controlled economic enterprise having its principal place of business on or the Navajo Nation.

3. The NECA Board of Directors further authorizes and directs the NECA General Manager and the NECA General Counsel to do any and all things necessary and proper to carry out the intent and purpose of this resolution including presentation to the appropriate oversight Committee of the Navajo Nation Council and to the Navajo Nation Council, if necessary.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Engineering and Construction Authority Board of Directors at a duly called meeting held in Talking Sticks - Scottsdale, Arizona, at which a quorum was present, and the same was adopted by a vote of 4 in favor, 0 opposed, 1 abstentions, and 1 no vote this 14th day of December 2013.


Richard Bowman, President
NECA Board of Directors

Motion by: Pete Ken Atcitty

Seconded by: Richard Begaye



**RESOLUTION OF THE
BOARD OF DIRECTORS
OF THE
NAVAJO TIMES PUBLISHING COMPANY, INC.**

No. BDMY-14-02

Recommending Amendments to the Navajo Business Opportunity Act, 5 N.N.C. § 205(A), to Classify the Navajo Times Publishing Company, Inc. and other Wholly Owned Navajo Nation Corporations, Enterprises, Authorities, Industries and Limited Liability Companies as a Priority One Businesses

WHEREAS:

1. Pursuant to "Resolved" & 1 of Navajo Nation Council Resolution No. CO-68-03 (Oct. 23, 2003), the Navajo Nation Council approved the incorporation of the Navajo Times Publishing Company, Inc., (the "NTPC") as a wholly owned corporation of the Navajo Nation under the Navajo Nation Corporation Code, 5 N.N.C. " 3100-3186, and the Navajo Nation issued a certificate of incorporation to the NTPC on November 20, 2003;
2. Pursuant to Resolution CO-68-03 (Oct. 23, 2003), the Navajo Nation Council established NTPC to "own and operate, directly or indirectly through the establishment of subsidiary operations, joint ventures, partnerships, or other business arrangements, a publishing company providing news/media in both print and electronic media, as well as other commercial printing and publication services that serve the interest of the community";
3. Pursuant to Resolution CJA-07-05 (Jan. 28, 2005), the Navajo Nation Council amended the Navajo Business Opportunity Act (the "NBOA"), 5 N.N.C. §§ 201-216;
4. Section 201 of the NBOA states among other things that the purpose of the NBOA is to: grant the first opportunity for contracting to Navajo and/or Indian owned and operated business; promote competitive bidding and contracting opportunities among Navajo businesses; develop a dynamic and self sustaining private sector for the Navajo Nation; and increase Navajo business and employment opportunities for the Navajo people;
5. Section 204(A)(2) of the NBOA provides two preference priorities to businesses, with Priority #1 being granted to any 100% Navajo owned and controlled business regardless of the location of their principal place of business; and Priority #2 being granted to "any 51% to 99% Navajo or 51% to 100% other Indian owned and controlled business or 100% Navajo Nation owned and controlled economic enterprise" regardless of the location of their principal place of business;
6. The Navajo Nation created many wholly owned corporations, enterprises, authorities, industries and limited liability companies (collectively, "Navajo Nation Enterprises") with specific mandates to develop the Nation's resources and capitalize on opportunities on the Navajo Nation that small business could not readily access or develop;

7. Those Navajo Nation Enterprises are now important components of the Navajo Nation economy and provide many benefits to Navajo individuals, including employment and small business contracting opportunities;

8. Providing the Navajo Nation Enterprises with a Priority #2 classification is inconsistent the Navajo Nation Council's mandates given to the Navajo Nation Enterprises to develop the Nation's resources and with the goals of full development of the Navajo Nation economy; and

9. It is in the best interest of all Navajo Nation Enterprises, including NTPC, that the NBOA be amended to classify all such Navajo Nation Enterprises as Priority #1 businesses, so that each can more fully satisfy the goals and objectives established for them by the Navajo Nation Council and participate in the full development of the Navajo Nation economy.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Board of Directors of the Navajo Times Publishing Company, Inc. hereby recommends to the Navajo Nation Council that the Navajo Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2) be amended as follows:

A. Preference Priorities. The Navajo Nation shall certify all businesses pursuant to the following Navajo business opportunity priority classification:

1. Priority #1. Certification shall be granted to any 100% Navajo-owned and controlled business and 100% Navajo Nation-owned corporations, enterprises, authorities, industries and limited liability companies, having its principal place of business on or off the Navajo Nation.
2. Priority #2. Certification shall be granted to any 51% to 99% ~~Navajo or 51% to 100% Navajo or~~ other Indian owned and controlled business ~~or 100% Navajo Nation-owned and controlled economic enterprise~~ having its principal place of business on or off the Navajo Nation.

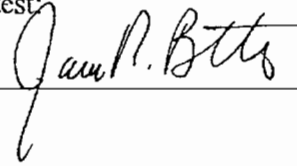
2. The Publisher/Chief Executive Officer is hereby authorized to take any and all necessary and proper steps to effect the letter and intent of this resolution, including collaborating with other similarly situated Navajo Nation-owned corporations, enterprises, authorities, industries and limited liability companies, and presentation to the appropriate oversight committees of the Navajo Nation Council and to the full Navajo Nation Council, if necessary.

CERTIFICATION

I hereby certify that the foregoing resolution was considered at a duly called meeting of the Board of Directors of the Navajo Times Publishing Company, Inc., at Albuquerque, NM on May 1, 2014, at which a quorum was present and that the same passed by vote of 4 in favor, 0 opposed, and 0 abstaining.


Paul DeMain, Chairperson

Attest:





**NAVAJO
PRIDE**



BDAP-14-14

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

Recommending Amendments to the Navajo Business Opportunity Act, 5 N.N.C. § 204(A) To Classify NAPI and other Wholly-Owned Navajo Nation Enterprises and Corporations as Priority One Navajo-Owned Businesses

WHEREAS:

1. The Navajo Agricultural Products Industry ("NAPI") is a wholly owned enterprise of the Navajo Nation charged with operating and managing a commercial farm on land held in trust by the United States for the Navajo Nation under legislation authorizing the Navajo Indian Irrigation Project ("NIIP"); and
2. The NAPI Board of Directors is specifically authorized "to perform such acts as are necessary, proper and lawful to accomplish the business purposes of NAPI," Plan of Operation Art. 7(A), and to engage in lobbying efforts to achieve the purposes of NAPI, *id.* Art. 7(B); and
3. NAPI's Enabling Legislation provides that NAPI's purposes include the promotion of the use of agricultural and related resources and of agribusiness development and the multiplier effect. 5 N.N.C. § 1603(A), (C) (2005); and
4. As NAPI not only produces crops for resale in the Navajo Nation but also expands its value-added capabilities, NAPI would benefit from the marketing and sales benefits that would result from its classification as a Priority 1 business under the Navajo Business Opportunity Act ("NBOA"), 5 N.N.C. § 201 *et seq.* (2005); and
5. Other Navajo Nation wholly-owned enterprises and corporations operating in unique competitive environments and demonstrating extraordinary experience and expertise (including without limitation the Navajo Engineering and Construction Authority or "NECA") would similarly benefit from such classification; and
6. It is in the best interest of NAPI and the Navajo Nation that the NBOA be amended to classify NAPI, NECA and similar wholly-owned Navajo Nation enterprises and corporations be classified as Priority 1 businesses so that each can more fully satisfy the goals and objectives established for them by the Navajo Nation Council.

NOW THEREFORE BE IT RESOLVED THAT:

1. The NAPI Board of Directors hereby recommend to the Navajo Nation Council the amendment to the Navajo Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2), to classify NAPI and NECA as Priority 1 Navajo-owned and controlled businesses, as follows:

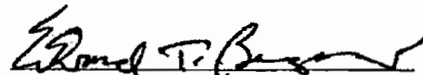
- A. Preference Priorities. The Navajo Nation shall certify all businesses pursuant to the following Navajo business opportunity priority classification:
1. Priority # 1. Certification shall be granted to any one hundred percent (100%) Navajo-owned and controlled business, having its principal place of business on or off the Navajo Nation including the Navajo Agricultural Products Industry and the Navajo Engineering and Construction Authority.
 2. Priority # 2. Certification shall be granted to any fifty-one percent (51%) to ninety-nine percent (99%) Navajo or fifty-one percent (51%) to one hundred percent (100%) other Indian owned and controlled business or subject to the exceptions provided in § 204(A)(1), one hundred percent (100%) Navajo Nation owned and controlled economic enterprise having its principal place of business on or off the Navajo Nation.

2. The Chief Executive Officer is authorized to take any and all necessary and proper steps to effect the letter and intent of this resolution, including collaborating with other similarly situated Navajo Nation enterprises and corporations, and presentation to the appropriate oversight Committee of the Navajo Nation Council and to the full Navajo Nation Council, if necessary.

CERTIFICATION

I hereby certify that the foregoing resolution was considered by the Navajo Agricultural Products Industry Board of Directors at a regularly called meeting at which a quorum was present at NAPI headquarters near Farmington, New Mexico, and that the same was passed by vote of 5 in favor, 0 opposed, and 0 abstained, this 7th day of April, 2014.

Motion: Ervin Chavez
Second: Elfonzo Nephew


Edward T. Begay, Chairman
Board of Directors



**RESOLUTION
OF THE MANAGEMENT BOARD
OF THE NAVAJO TRIBAL UTILITY AUTHORITY**

NTUA-29-14

**Recommending Amendments to the Navajo Business Opportunity Act, 5 N.N.C. §204(A) to
Classify Navajo Tribal Utility Authority and other Navajo Nation-Owned Enterprises and
Corporations as Priority One (1) Navajo-Owned Businesses**

WHEREAS:

1. The Management Board ("Board") of the Navajo Tribal Utility Authority ("NTUA" or "Authority") is delegated authority and responsibility for the management and operation of NTUA pursuant to 21 N.N.C. § 7(a)(1); and
2. NTUA's Plan of Operation provides that NTUA's purposes include the operation, maintenance, and promotion of existing utility systems furnishing electric, gas, water, sewer services, generation, telecommunications and information services. 21 N.N.C. § 5(A)(1); and
3. As NTUA not only furnishes utility services to all areas of the Navajo Nation but has also expanded into the competitive communications industry, NTUA would benefit from the marketing and sales benefits that would result from its classification as Priority 1 business under the Navajo Business Opportunity Act ("NBOA"), 5 N.N.C. §201 *et. seq.* (2005); and
4. Other Navajo Nation wholly-owned enterprises and corporations operating in competitive environments and offering unique expertise and experience within the Navajo Nation would similarly benefit from such classification; and
5. NTUA Management deems it in the best interest of NTUA that the NBOA be amended to classify the NTUA and similar wholly-owned Navajo Nation enterprises and corporations as Priority 1 businesses so that the NTUA and other Navajo Nation enterprises and corporations can use their expertise and experience to competitively bid on projects which follow and are governed by the NBOA.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Management Board of the Navajo Tribal Utility Authority hereby recommends to the Navajo Nation Council the amendment to the Navajo Business Opportunity Act, 5 N.N.C. §204(A)(1) and (2), to classify the NTUA and similar wholly-owned Navajo Nation enterprises and corporations as Priority 1 Navajo-owned and controlled business as follows:

- A. Preference Priorities. The Navajo Nation shall certify all businesses pursuant to the following Navajo business opportunity priority classification:

1. Certification shall be granted to any one hundred percent (100%) Navajo-owned and controlled business, having its principal place of business on or off the Navajo Nation or one hundred percent (100%) Navajo Nation owned and controlled enterprises and corporations having its principal place of business on or off the Navajo Nation.
2. Certification shall be granted to any fifty one percent (51%) to ninety-nine percent (99%) Navajo or fifty-one percent (51%) to one hundred percent (100%) other Indian owned and control business, having its principal place of business on or off the Navajo Nation.

2. The Management Board of the NTUA further authorizes the General Manager, or appropriate NTUA personnel, to take any and all necessary and proper steps to effect the intent contemplated under this resolution.

CERTIFICATION

I certify that the foregoing resolution was duly considered by the Management Board of the Navajo Tribal Utility Authority at a duly called meeting held in Fort Defiance, Arizona, at which a quorum was present and the same was approved by a vote of 5 in favor, 0 opposed, and 0 abstaining this 27th day of October, 2014.


Arash N. Moalemi, Secretary



**RESOLUTION OF THE
NAVAJO NATION OIL AND GAS COMPANY
BOARD OF DIRECTORS**

No. 253 **Recommending Amendments to the Navajo Business Opportunity Act, 5 N.N.C. § 204(A) To Classify NNOGC and other Wholly-Owned Navajo Nation Enterprises and Corporations as Priority One Navajo-Owned Businesses and Urging that the Navajo Nation Council Consider Legislation Granting NNOGC a Right of First Refusal to Assume Certain Easements and Business Site Leaseholds upon Their Expiration or Other Termination**

WHEREAS:

1. The Navajo Nation Oil and Gas Company ("NNOGC") is a wholly owned corporation of the Navajo Nation organized under section 17 of the Indian Reorganization Act, as amended, and charged with developing and operating a profitable integrated oil company for the benefit of the Navajo Nation; and

2. The NNOGC Board of Directors is specifically authorized to "engage in any lawful business with the powers permitted to a corporation organized pursuant to 25 U.S.C. § 477, NNOGC Charter of Incorporation ("Charter"), Art. VII(D); and

3. NNOGC's Charter states the purpose of the Company is to "own and operate, directly or through subsidiary corporations, joint ventures, associations, partnerships or otherwise, any oil and/or gas production, operating, refining, drilling, or marketing business; and any motor or fossil fuel, distributing, trucking, jobber, wholesale, or retailing and related business," Charter, Art. VII(A); and

4. NNOGC conducts all phases of the oil and gas industry either within or outside of Navajo Indian Country and would benefit from the marketing and sales benefits that would result from its classification as a Priority 1 business under the Navajo Business Opportunity Act ("NBOA"), 5 N.N.C. § 201 *et seq.* (2005), including contracting with other Navajo Nation enterprises and the Nation's own programs for mutual benefit; and

5. Other Navajo Nation wholly-owned enterprises and corporations operating in unique competitive environments and demonstrating extraordinary experience and expertise (including without limitation the Navajo Engineering and Construction Authority or "NECA" and the Navajo Agricultural Products Industry or "NAPI") would similarly benefit from such classification; and

6. Such classification would have the effect of facilitating cooperation among and mutual support from and for the Nation's enterprises and corporations and to enhance the ability of NNOGC to market fuel throughout the Navajo Nation under its "Navajo Petroleum" brand, consistent with the policy preferences expressed by the Resources and Development Committee of the Navajo Nation Council; and

7. It is in the best interest of NNOGC and the Navajo Nation that the NBOA be amended to classify NNOGC, NAPI, NECA and similar wholly-owned Navajo Nation enterprises and corporations as Priority 1 businesses so that each can more fully satisfy the goals and objectives established for them by the Navajo Nation Council; and

8. NNOGC has prospered in part by use of the right of first refusal ("ROFR") when mineral leases are proposed to be conveyed under 18 N.N.C. § 605, and NNOGC and the Navajo Nation as NNOGC's sole shareholder would be similarly benefitted if legislation were enacted granting NNOGC a similar ROFR with regard to oil and gas pipeline easements and expired or otherwise terminated gas station/convenience store business site leases held by non-members.

NOW THEREFORE BE IT RESOLVED THAT:

1. The NNOGC Board of Directors hereby recommend to the Navajo Nation Council the amendment to the Navajo Business Opportunity Act, 5 N.N.C. § 204(A)(1) and (2), to classify NNOGC, NAPI and NECA as Priority 1 Navajo-owned and controlled businesses, as follows:

A. Preference Priorities. The Navajo Nation shall certify all businesses pursuant to the following Navajo business opportunity priority classification:

1. Priority # 1. Certification shall be granted to any one hundred percent (100%) Navajo-owned and controlled business, having its principal place of business on or off the Navajo Nation including the Navajo Nation Oil and Gas Company, the Navajo Agricultural Products Industry and the Navajo Engineering and Construction Authority.
2. Priority # 2. Certification shall be granted to any fifty-one percent (51%) to ninety-nine percent (99%) Navajo or fifty-one percent (51%) to one hundred percent (100%) other Indian owned and controlled business or subject to the exceptions provided in § 204(A)(1), one hundred percent (100%) Navajo Nation owned and controlled economic enterprise having its principal place of business on or off the Navajo Nation.

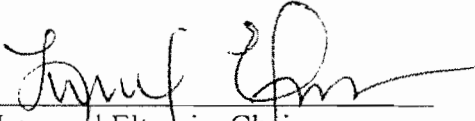
2. The Navajo Nation Council is respectfully urged to consider legislation to accord NNOGC a right of first refusal and other rights to acquire easements and related pipeline infrastructure in a manner similar to that accorded to the Nation and exercised in conjunction with NNOGC under 18 N.N.C. § 605, and to accord NNOGC similar rights related to expired or otherwise terminated gas station/convenience store business site leases previously owned by non-members.

3. The Chief Executive Officer is authorized to take any and all necessary and proper steps to effect the letter and intent of this resolution, including collaborating with other similarly situated Navajo Nation enterprises and corporations, and presentation to the appropriate

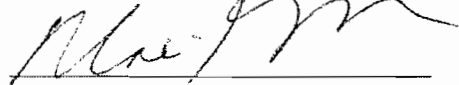
oversight Committee of the Navajo Nation Council and to the full Navajo Nation Council, if appropriate or necessary.

CERTIFICATION

I hereby certify that the foregoing resolution was considered by the Board of Directors of the Navajo Nation Oil and Gas Company, at a duly called meeting at which a quorum was present in Twin Arrows, Arizona, and that the same was passed by vote of 6 in favor, 0 opposed, and 0 abstained, this 26th day of October, 2014.


Lennard Eltsosie, Chairman
Board of Directors

Attest:


Mae-Gilene Begay
Secretary



**RESOLUTION OF THE
MANAGEMENT BOARD OF THE
NAVAJO NATION HOSPITALITY ENTERPRISE
Resolution No. 2014-2**

Recommending Amendments to the Navajo Business Opportunity Act, 5 N.N.C. 204 (A) to Classify Navajo Nation Hospitality Enterprise and other Navajo Nation-Owned Enterprises and Corporations as Priority One (1) Navajo-Owned Business.

WHEREAS:

1. The Management Board ("Board") of the Navajo Nation Hospitality Enterprise ("NNHE") is delegated authority and responsibility for the management and operation off NNHE
2. NNHE's purpose as outlined in their Plan of Operation, Section 1842, is for the conducting of hospitality operations. NNHE professionally and profitably operates the Quality Inn–Window Rock, Quality Inn–Tuba City, Quality Inn–Page and Navajo Travel Center, in the best interests of the Navajo Nation. NNHE possesses specialized experience in the tourism industry and tourism business performance as evidenced by its track record.
3. As NNHE owns and operates the hospitality operations, NNHE would benefit from the marketing and sales benefits that would result from its classification as Priority 1 business under the Navajo Business Opportunity Act ("NBOA"), 5 N.N.C. 201
4. Other Navajo Nation wholly-owned enterprises and corporations operating in competitive environments and offering unique expertise and experience with in the Navajo Nation would similarly benefit from such a classification.
5. NNHE Management deems it in the best interest of NNHE that the NBOA be amended to classify the NNHE and similar wholly-owned Navajo Nation enterprises and corporations as Priority 1 businesses so that the NNHE and other Navajo Nation enterprises and corporations can use their expertise and experience to competitively bid on projects which follow and are governed by NBOA.

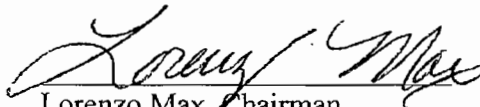
WHEREFORE, BE IT HEREBY RESOLVED:

1. The Management Board of NNHE hereby recommends to the Navajo Nation Council the amendment to the Navajo Business Opportunity Act, 5 N.N.C. 204 (A)(1) and (2), to classify the NNHE and similar wholly-owned Navajo Nation enterprises and corporations as Priority 1 Navajo-owned and controlled business as follows:
 - A. Preference Priorities. The Navajo Nation shall certify all business pursuant to the following Navajo business opportunity priority classification:

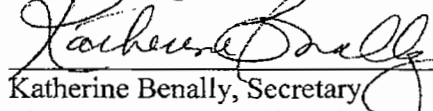
- i. Certification shall be granted to any one hundred percent (100%) Navajo – owned and controlled business, having its principal place of business on or off the Navajo Nation or one hundred percent (100%) Navajo Nation owned and controlled enterprises and corporations having its principal place on or off the Navajo Nation.
- ii. Certification shall be granted to any fifty one percent (51%) to ninety-nine percent (99%) Navajo or fifty one percent (51%) to one hundred percent (100%) other Indian owned controlled business, having its principal place of business on or off the Navajo Nation.

CERTIFICATION:

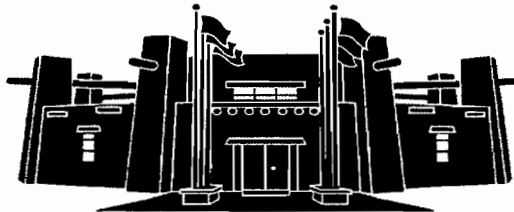
I hereby certify that the foregoing resolution adopted by the Navajo Nation Hospitality Enterprise Management Board at a duly called meeting at which a quorum was present the 24th Nov., 2014, in Glendale (Arizona), by vote of 4 in favor, 0 opposed and 0 abstaining.



Lorenzo Max, Chairman
NNHE Management Board



Katherine Benally, Secretary
NNHE Management Board



MEMORANDUM

To : Honorable Jonathan Hale
St. Michaels and Oaksprings Chapters

From : Mariana Kahn
Mariana Kahn, Attorney
Office of Legislative Counsel

Date : March 24, 2015

Re : PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT
RELATING TO LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES
AND THE NAVAJO NATION COUNCIL; AMENDING 5 N.N.C. § 204(A)
THE NAVAJO BUSINESS OPPORTUNITY ACT TO CLASSIFY NAVAJO
NATION OWNED BUSINESSES AND ENTERPRISES AS PRIMARY ONE
NAVAJO OWNED BUSINESSES

As requested, 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 drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of challenge. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

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.

Thank you for your service to the Navajo Nation.

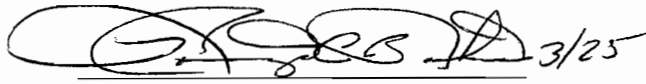
15-293-2



March 24, 2015

MEMORANDUM

TO : Honorable Members
Law and Order Committee
Naa'bik'iyati' Committee
Navajo Nation Council

FROM :  3/25
Hon. LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

SUBJECT : ASSIGNMENT OF LEGISLATION

Pursuant to 2 N.N.C § 164 (A)(4), this memorandum serves to inform and advise you that I assign the following legislation to the Law and Order Committee, Naabik'iyati' Committee and the Navajo Nation Council;

Legislation No. 0100-15

RELATING TO LAW AND ORDER AND NAA'BIK'IYATI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING 5 N.N.C. §204(A) THE NAVAJO BUSINESS OPPORTUNITY ACT TO CLASSIFY NAVAJO NATION OWNED BUSINESSES AND ENTERPRISES AS PRIMARY ONE NAVAJO OWNED BUSINESSES.

As the Committee assigned to consider the legislation, Legislation No. 0100-15 must be placed on the Law and Order Committee, Naa'bik'iyati' Committee and the Navajo Nation Council's agenda at the next regular meeting for final consideration.

ATTACHMENT: Legislation No. 0100-15

xc: Hon. Ben Shelly, *President*
The Navajo Nation
Harrison Tsosie, *Attorney General*
Mark Grant, *Controller*
Dominic Beyal, *Executive Director, OMB*
Honorable Jonathan L. Hale, Council Delegate (*Prime Sponsor*)

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0100-15_____

SPONSOR: Jonathan Hale

TITLE: An Action Relating To Law and Order and Naa'bik'iyati' Committees and the Navajo Nation Council; Amending 5 N.N.C. § 204(A) The Navajo Business Opportunity Act To Classify Navajo Nation Owned Businesses and Enterprises as Primary One Navajo Owned Businesses

Date posted: March 26, 2015 at 11:40am

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.: 0100-15

SPONSOR: Honorable Jonathan L. Hale

TITLE: Relating To Law and Order and Naa'bik'iyati' Committees and the Navajo Nation Council; Amending 5 N.N.C. § 204(A) The Navajo Business Opportunity Act To Classify Navajo Nation Owned Businesses and Enterprises as Primary One Navajo Owned Businesses

Posted: March 25, 2015 at 11:40 am

5 DAY Comment Period Ended: March 30, 2015

Digital Comments received: *No comments were received.*

1.711

Executive Director
Office of Legislative Services

3/31/2015 8:40 am

Date/Time

**LAW AND ORDER COMMITTEE
23rd NAVAJO NATION COUNCIL**

FIRST YEAR 2015

COMMITTEE REPORT

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation # 0100-15: An Action relating to Law and Order, NAABIK'YATI' Committees and the Navajo Nation Council; Amending 5 N.N.C. § 204 (A) The Navajo Business Opportunity Act to Classify Navajo Nation Owned Businesses and Enterprises as primary on Navajo Owned Businesses.

Has had it under consideration and reports the matter as DO PASS with no amendments

and thereafter the matter will be referred to **NAABIK' YATI' Committee.**

Respectfully submitted,



Edmund Yazzie Chairperson
Law and Order Committee of the
23rd Navajo Nation Council

Date: April 13th, 2015

Motion: Honorable Otto Tso

Second: Honorable Jonathan Perry

VOTE: 4-0

NOTE: A quorum of 5 members were present

NAABIK'ÍYÁTI' COMMITTEE REPORT

23rd NAVAJO NATION COUNCIL---FIRST YEAR 2015

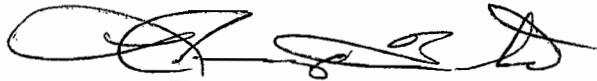
LEGISLATION 0100-15

Introduced by the Honorable Jonathan L. Hale

An Act relating to Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending 5 N.N.C. § 204(A) the Navajo Business Opportunity Act to classify Navajo Nation Owned Businesses and Enterprises as primary one Navajo Owned Businesses

TO RESOURCES AND DEVELOPMENT COMMITTEE:

The Naabik'iyati Committee, to whom has been referred Legislation **0100-15**, has had it under consideration and reports a **REFERRAL** Action. Legislation 0100-15 was referred back to the Resources and Development Committee for 60 Days to allow time for the committee to meet with the businesses and the enterprises. Dated this 16th Day of April 2015. (There was no discussion)



Honorable LoRenzo C. Bates, Chairperson
NAABIK'ÍYÁTI' COMMITTEE

Main Motion held by: Hon. Seth Damon

Second: Hon. Otto Tso

Referral Motion: Hon. Leonard Tsosie

Second: Hon. Benjamin L. Bennett

Vote: 9-0-0 (Quorum of 2 from each committee applied)



May 19, 2016

Honorable LoRenzo Bates, Speaker
NAVAJO NATION COUNCIL

RE: Legislation 0100-15 – **Amending 5 N.N.C. § 204(A)** and
Legislation 0113-15 – **Recommending Amending 5 N.N.C. § 204(A)**

Dear Mr. Speaker,

Upon meeting with Chief Legislative Counsel, Office of Legislative Services will be referring Legislation 0100-15 back to the Naabik'iyáti' Committee.

The Naabik'iyáti' Committee referred Legislation 0100-15 to the Resources and Development Committee on April 16, 2015. On August 13, 2015, the Resources and Development Committee took action on Legislation 0113-15, which would have recommended amending 5. N.N.C. § 204(A). The legislation failed by a vote of 0 in favor, 3 opposed and 1 abstained. The 0113-15 legislation recommends the amendment while 0100-15 approves the amendment. By voting down the recommendation, Resources and Development Committee met the requirements of the referral by the Naabik'iyáti' Committee. For reference purposes, attached are copies of the committee reports for Legislation 0100-15 and Legislation 0113-15.

If you have any questions, let me know.

Cordially,

A handwritten signature in blue ink, appearing to read "T. Platero".

Tom Platero
Executive Director

CONCURRENCE:

A handwritten signature in blue ink, appearing to read "Levon Henry".

Levon Henry, Chief Legislative Counsel
OFFICE OF LEGISLATIVE COUNSEL

NAABIK'ÍYÁTI' COMMITTEE REPORT

23rd NAVAJO NATION COUNCIL—FIRST YEAR 2015

LEGISLATION 0100-15

Introduced by the Honorable Jonathan L. Hale

An Act relating to Law and Order and Naabik'iyati' Committees and the Navajo Nation Council; Amending 5 N.N.C. § 204(A) the Navajo Business Opportunity Act to classify Navajo Nation Owned Businesses and Enterprises as primary one Navajo Owned Businesses

TO RESOURCES AND DEVELOPMENT COMMITTEE:

The Naabik'iyati Committee, to whom has been referred Legislation **0100-15**, has had it under consideration and reports a **REFERRAL** Action. Legislation 0100-15 was referred back to the Resources and Development Committee for 60 Days to allow time for the committee to meet with the businesses and the enterprises. Dated this 16th Day of April 2015. (There was no discussion)



Honorable LoRenzo C. Bates, Chairperson
NAABIK'ÍYÁTI' COMMITTEE

Main Motion held by: Hon. Seth Damon

Second: Hon. Otto Tso

Referral Motion: Hon. Leonard Tsosie

Second: Hon. Benjamin L. Bennett

Vote: 9-0-0 (Quorum of 2 from each committee applied)

**RESOURCES AND DEVELOPMENT COMMITTEE
23rd NAVAJO NATION COUNCIL**

FIRST YEAR 2015

COMMITTEE REPORT

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

Legislation # 0113-15: An Action Relating to the Resources and Development Committee; Recommending Amending 5 N.N.C. §204(A) The Navajo Business Opportunity Act to Classify Navajo Nation Owned Businesses and Enterprises As Primary One Navajo Owned Businesses. *Sponsor: Honorable Jonathan L. Hale*

- Has had it under consideration on April 13, 2014 and report the same TABLED with a directive to schedule a work session within 60-days with the NECA and all the enterprises mentioned in the legislations and other tribal programs NDOT, DED, NNDOJ and OLC. Topics for the work session to include the bidding process, bid opening and review of plan of operations of all the enterprises list on the legislation.
- RDC held a work session with NECA and all of the enterprises and tribal entities and discussed the pros and cons of the intent of the legislation.
- Legislation recalled for RDC's consideration on August 18, 2015.

and thereafter reports the legislation FAILED with a vote of 0-3-1. (Chair not voting. Committee members voting Against Legislation was: Walter Phelps, Benjamin Bennett and Leonard Pete. Davis Filfred did not vote.)

Respectfully submitted,



Alton Joe Shepherd, Chairperson
Resources and Development Committee of
the 23rd Navajo Nation Council

Date: August 13, 2015

MAIN MOTION: Leonard Tsosie

Second: Walter Phelps

Vote: **FAILED (FINAL VOTE: 0-3-1. Chair Not Voting)**

TABLE MOTION: Benjamin Bennett

Second: Walter Phelps

Vote: 4-0 (Leonard Tsosie, Walter Phelps, Benjamin Bennett and Leonard Pete voting in favor of tabling motion.) Chair not voting.

RECALL MOTION: Davis Filfred

Second: Leonard Pete

VOTE: 4-0-0 (CNV)